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Opinion

Title **Impact Assessment on: Impact Assessment on the Communication on a European Port Policy (2007/TREN/008) (draft version of 10 August 2007)**

Lead DG **DG Transport and Energy**

1) Impact Assessment Board Opinion

(A) Context

This proposal for a Communication follows withdrawal of the proposal for a Directive on market access to port services (COM (2004) 654), and is presented as one of the sectoral actions foreseen as part of the proposed European Maritime Policy (2007/FISH/001).

(B) Positive aspects

The report provides a considerable amount of background information on recent policy developments in the area of ports policy, and covers a wide range of relevant economic, social and environmental policy angles.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments will be transmitted directly to the author DG.

General recommendation: The IA report should be improved on a number of important issues. The assessment of the options for spatial planning should be deepened and presented more clearly. More clarity is also needed with regard to subsidiarity issues in general, but especially with regard to the granting of terminal concessions, issues related to port labour, and the 'image' of ports. The presentation of the options and their impacts should be clarified and partly reorganised. The Board notes that, during the meeting, DG TREN agreed to amend the IA report on several of these aspects and strongly recommends that a revised impact assessment

report be submitted to enable the Board to give an appraisal of the implementation of its recommendations¹.

(1) The way the IA report sets out the need for Community level action needs to be substantially strengthened. The argument in the IA report should go beyond a reference to Art. 70 TEC and an overview of the compatibility of the goals of the proposal with various other EU policies, including those of the withdrawn proposal for a Directive (COM (2004) 654), by carrying out the necessity and value added test. It should more clearly elaborate on which part of these policies should fall under the responsibility of port authorities and stakeholders or local and national governments and what sets this industry apart from others to require EU-level involvement; it also confounds such an assessment with the distinct issue of setting objectives. It remains unclear why the notion of the 'image' of ports should be an EU concern.

(2) The effects of the presented policy options on workers in ports should be better analysed and presented. While the report clearly indicates that the objective should be to "promote more flexible employment patterns and social dialogue" it only analyses the costs and benefits of achieving more flexibility without indicating the mechanism by which this should be achieved nor what the rationale is for EU intervention. The analysis of measures addressing skill levels and health and safety requirements needs to be reinforced and its value added presented more clearly.

(3) The presentation of options and their impacts should be clarified. The cost/benefit analysis carried out for a generalised legislative approach on p. 23 appears to be illogical given the rejection of legislative options earlier in the analysis. The IA report would also gain considerably in clarity if the total expected impacts could be presented - option by option - for integral policy alternatives and not just by themes. The status of the alternative scenario for spatial planning presented in the report should be clarified - currently, it is not clear whether this alternative scenario is considered as a viable option and which market failure it would address. This scenario should also be accompanied by an assessment of the costs that the actual implementation of this policy might entail (especially for investment in infrastructural development).

(4) The relation between the proposal and other current or future EU and national policy initiatives should be better explained. The IA report should show the complementarity between the present initiative and the most relevant elements of the future EU Maritime Policy, and it should specifically address the impact of proposals concerning connecting transport facilities (such as inland waterways and railways) on the expected effectiveness of policies to promote port development. The report should clarify what concrete deficiencies the current legislative framework has and which changes (other than measures to improve enforcement) would be needed.

(D) Procedure and presentation

The Inter-service Steering Group appears not to have been sufficiently involved in the impact assessment. The brochure on the results of stakeholder consultations that is referred to on p. 3 of the IA report does not appear to address the issues suggested in the

¹ More detailed suggestions for improvement have been made available to DG TREN separately by individual members of the Board.

main text and does not fulfil the requirements concerning feedback according to the Commission's Minimum Standards for Consultation. It is recommended to delete that link, and instead add a more adequate summary of reactions of consulted parties.

2) IAB scrutiny process

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Author DG	TREN-G-2
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