



**Florence School of Regulation**

*1<sup>ST</sup> EUROPEAN MARITIME TRANSPORT REGULATION SUMMARY  
(EMARITIMETRS)*

***“PORTS: HOW TO REGULATE LOGISTICS INTERFACES?”***

*A SUMMARY OF THE PRESENTATIONS AND OF THE DISCUSSION*

09<sup>th</sup> November 2012

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Forum Summary Document

# Ports: How to Regulate Logistics Interfaces?

**A summary of the presentations and of the discussions during the 1<sup>st</sup> European Maritime Transport Regulation Forum (EMaritimeTRF) held in Fiesole on 09<sup>th</sup> November 2012**

## Abstract

The present document summarises the content of the presentations delivered during the forum as well as the ensuing discussion. This report is divided in two sections: summaries of the presentations and the synthesis of the debates.

Presentations were delivered by representatives of many different types of stakeholders, including logistics and shipping operators, associations of stakeholders, other relevant actors, as well as by knowledgeable academics. Each of them offered his/her view on the state, challenges and future of the port industry and its regulation, based on the following initial questions formulated by the organisers:

- Who are currently the important actors in port regulation? And who should it be ideally?
- How do port regulations affect maritime and intermodal transport?
- How does the regulation of connecting transport modes (e.g. rail, road) affect the port activities?
- What actions can regulators take to ease the connectivity between maritime and land transport? How should governments help to promote maritime practices?
- Which are the challenges laying ahead?

Ports have always been competitive with one another but now it is supply chains that compete for cargo and the economic development that accompanies port enterprises. Today's competitive pressures come not only from business interests but also from shifting world trading patterns, maritime security threats, environmental regulations, and public and community demands and concerns including health and congestion. With all these issues, how are governments to help promote maritime practices at these logistic interfaces and maintain the competitive-driven efficiencies that private businesses bring to the transportation enterprise?

In a nutshell, the forum concluded that ports face a number of diverse and competing challenges, and trade routes show that economic activities know no borders. Ports are not just subjects of regulation, but also regulators themselves. Yet ports seem to be limited in their discretion; rather than acting, they are reacting to developments and requests by (integrated) transport operators. Due to the global nature of these challenges and the large number of interest groups, problems can be hard to solve unilaterally, meaning that supranational intervention is necessary, for example at the level of the European Union.

The presentations from the forum can be found on the web page of the Transport Area of FSR. To open it, go to <http://fsr.eui.eu>, choose "transport" from the top menu bar and then open "policy events". Clicking on the title of the forum will take you to the relevant page. Alternatively each presentation may be downloaded by clicking on the relevant icon in the first section of the present document.

The FSR-Transport team is happy to receive feedback and comments on this document, and our activities. To engage in a discussion please write to [FSR.Transport@eui.eu](mailto:FSR.Transport@eui.eu).

## Summaries of the presentations

The debate was kicked-off with the following research questions:

- Who are currently the important actors in port regulation? And who should it be ideally?
- How do port regulations affect maritime and intermodal transport?
- How does the regulation of connecting transport modes (e.g. rail, road) affect the port activities?
- What actions can regulators take to ease the connectivity between maritime and land transport? How should governments help to promote maritime practices?
- Which are the challenges laying ahead?

The following paragraphs include short summaries of each presentation, illustrating the main points made and matters treated, and have been compiled by the editors of this report. By clicking on a presentation's icon you may activate an internet link taking you to the full presentation, when available. Presentations are hosted on the FSR website by permission of the authors.



### Ports: How to Regulate Logistics Interfaces?

Prof. Matthias Finger, Director of FSR-Transport and of the chair of Management of Network Industries (MIR),  
École Polytechnique Fédérale Lausanne (EPFL)

In his introduction, Prof Finger started out by introducing the European University Institute, its history, functioning and position. He continued describing FSR-Transport's goal of contributing to the ongoing debate about the de- and re-regulation, as well as to the debate about the governance of the European transport sectors in general. In his welcoming speech, Prof Finger said that this forum was the first European Transport Regulation Forum focusing on maritime transport. In the past FSR-Transport held policy-events on rail, air and urban public transport, and it is gradually expanding its scope.

By way of introduction to the 1<sup>st</sup> European Maritime Transport Regulation Forum, Prof Finger made connections to the current situation in other transport modes. In network industries, multiple actors are present, each with different – sometimes contradicting – interests, trying to optimize their performance. However, what is often lacking is an actor who looks at the big picture, meaning the challenges lies in creating a well-functioning system that fits the needs of all actors. This raises the question of the contribution of policies, economic regulation, and safety regulation to performance. When speaking about regulation, it is important to bear in mind, that regulation tends to be backward oriented, addressing the status quo, which is why an important challenge of regulation is to create a system that is flexible with regard to future developments.

In his conclusion, Prof Finger presented the questions that would help to guide the forum's discussion. Additionally, he explained the forum's Chatham House Rules.



## **Ports: How to Regulate Logistics Interfaces?**

Dr Thomas Wakeman, Deputy Director,  
Stevens Institute of Technology

As a starting point Dr Wakeman recalled the deeper reason for this forum: the large growth of world trade, which has been much faster than GDP growth for several decades. The reasons for this are several; many of them are related to the easier and cheaper transportation of goods. World seaborne trade has more than tripled in the last 40 years, making it a key part of the global logistics network. This development goes along with the emerging of 6 mega-trading blocks: China, Europe, India, North America, Russia and South America.

Dr Wakeman pointed out that ports play an important role, but that they are only one node of the transport system, a system that is owned by several private and public stakeholders with different objectives. The exact cargo routing depends on several factors that can only be influenced by ports to a limited extent, including the question of what is the most cost-effective route, which option allows for highest speed, and which mode offers the greatest reliability. Unless the actors involved recognise that they are part of an international network of trade, it will be difficult to build an EU Port Policy.

Turning finally to the challenges of supply chains Dr Wakeman stressed the need for international solutions – as ports are in global competition – based on private-public collaboration.



**The View of the organisation for  
Economic Co-operation and  
Development (OECD)**

Olaf Merk, Head of the Port-Cities  
Programme, OECD

By way of introduction Mr Merk presented the OECD Port-Cities Programme. The aim of this programme is to assess the impact of ports on cities, and to identify ways of influencing this impact.

Mr Merk structured his presentation based on the forum's guiding questions, reformulating them and adding an additional question about the trade-offs of regulation. When speaking about regulation, he argued that it is important to know what exactly should be regulated. Mr Merk highlighted several aspects of ports that need attention: economic regulation, environmental regulation, social regulation, and safety and security.

The role of port authorities is twofold. On the one hand they act as a regulator (harbour master, concessions, and licences). On the other hand they enforce regulations that come from local, regional and central governments, as well as from supra-national bodies. Development around ports – such as port concentration, expansion of the hinterland, consolidation and globalisation of shipping and terminal industry – changes the need and the purpose of regulation, as well as its source. A case in point is the attempts of the EU to regulate ports.

Coming back to the scope of regulation (economic, environmental, social, safety and security), Mr Merk pointed out that trade-offs had to be made, because a completely “green port”, or a fully “secure port” would restrict economic performance. With the example of air quality, he illustrated how these and other issues affected shipping, port and hinterland activities. The regulation of other transport modes impact ports as well. As examples Mr Merk mentioned the [US Jones Act](#), and the liberalisation of railways (European ports have large railway shares in their hinterland).



## **The View of the British Ports Association**

David Whitehead, Director, British Ports Association

To begin with, Mr Whitehead introduced the British Ports Association, and offered some insights on the current situation of European ports. Mr Whitehead clearly distinguished between three corporate models: (i) the Anglo Saxon, where the port is fully in private hands, (ii) the Hanseatic model where the port is publicly owned, but the handling is done by private parties, and (iii) the Mediterranean model, which is (almost) completely public. Regarding the total tonnage handled per year, he pointed to a big difference between Northern and Southern European ports. Mr Whitehead explained that the Dutch ports were leading due to their large and well-connected hinterland. One of the reasons why southern European ports lag behind their northern European counterparts was, in his view, the concentration of European industry in the North.

During his speech Mr Whitehead presented statistics taken from a recent study on ports. He pointed out that shipping lines choose ports depending on vessel access; hinterland connections play a much less important role in the decision making. This indicates that ports face very flexible customers, who can easily change their routes depending on the extent their needs are met in various ports.

Speaking about regulation, Mr Whitehead declared that the European Commission's Blue Belt initiative would help to reduce bottle necks due to the drop of border controls for intra-EU maritime traffic. Current port legislation mainly focuses on individual aspects of its activities: security, waste management, environment and border controls, and planning.

Mr Whitehead concluded saying that a profound change in (maritime) transport patterns, required governments to play a pro-active role with a clear strategy. The need for state initiative stems from the variety of private and public actors in ports, and the lack of evident ownership of this governance problem.



## The view of a Logistics Company

Dr Eric Pfaffmann, Head of Maritime Transport, DB Schenker

Dr Pfaffmann presented DB Schenker as a specialised provider of logistics solutions, connecting the major European container seaports with economic centres in the hinterland. In 2011 maritime transport made up 38% of its intermodal revenues, which underlines the importance of ports for DB Schenker's logistics chain. In his presentation Dr Pfaffmann focused on explaining the challenges railway undertakings face when interacting with ports. The most important economic areas, in terms of volume, can be found in Europe's North East (Belgium, Germany, the Netherlands), while the Baltic ports are increasing its relevance for intermodal connections.

As an intermodal operator, DB Schenker's activities are strongly influenced by port and terminal access conditions. These access conditions differ widely among European ports creating challenges for all parties involved. In order to provide an efficient service, it is important to bring the assigned slots for rail infrastructure and terminal use in line. This, however, is difficult due to the number of actors involved in this process. As an illustration, Dr Pfaffmann mentioned the different regulatory problems intermodal operators face when requesting access. Railway operators often face high access fees, putting a one-sided burden on railway undertakings. That said, not all ports have (high) access charges. The Port of Rotterdam, for example, has no access fees at all; this competitive advantage is, according to Dr Pfaffmann, a reason for its success.

By way of conclusion, Dr Pfaffmann listed aspects that ports policy should address in order to create a well/functioning logistics chain. It is key to achieve a harmonised system, abolishing mayor differences in national legislation. This means (i) transparent and fair access to all ports and terminals; (ii) facilitated level playing field for competition between transport modes; (iii) investments into railway infrastructure both inside and outside the port areas; and (iv) establishing good and sustainable connections between ports and their hinterland transport systems.



## The View of a Shipping Company

Paul Kyprianou, External Relations Manager, Grimaldi Group

Mr Kyprianou offered some insight into the perspective of a shipping company on port regulations. Like previous speakers, he saw ports as part of an intermodal transport chain and argued that they play a crucial role for intra- and extra-EU trade. The regulation of ports involves multiple aspects and actors. Important issues include port services, infrastructure, the environment, safety, security, customs, and documentation. As this list of items indicates, the responsibility is spread over different levels of government (local, national, supranational), involving many different stakeholders.

Turning to the operation of port services, he explained that ship-owners encountered difficulties with high and non-transparent port services tariffs, cross-subsidisation of services, and a lack of adequate port space and facilities (especially in the Mediterranean). The first two problems also affect intermodal operators, which confirm the need for a more transparent charging system. In Mr Kyprianou's view the source of many of these problems is port regulations and practices which create inefficiencies. The services provided by actors in the port form part of the problem. These services are frequently compulsory and offered at high prices, suggesting a potential abuse of a dominant position.

Mr Kyprianou continued saying that the bureaucracy (in the form of time consuming administrative procedures, as well as the continued existence of customs checks in intra EU trade) as well as the lack of transparency represented an obstacle for the further development of maritime-based logistics solutions in Europe. In order to develop such services a level playing field is needed, based on the user-pays principle. This level playing field should not just apply to actors using the port, but also to other transport modes. Mr Kyprianou emphasised that there are no customs checks for land-based transport within the EU, but there are (costly and time consuming) checks for sea transport. And finally, private entities should be allowed to invest in port superstructures.



## The Role of Impact Assessment in EU Governance

Lorenzo Vannacci, Scientific Support Officer, European Commission, DG Joint Research Centre

Mr Vannacci gave a presentation about the policy-making processes within the European Union, and the difficulties in making port policy, due to the large variety of stakeholders involved and the large difference in the potential impact of policy choices in different EU Member States. He began by presenting the European Commission's in-house science service, the Joint Research Centre (JRC), its structure and its activities. The JRC's objective is to support the EU legislative process scientifically and in this way to improve investments, innovation and growth. In addition to these objectives, the improvement of the quality of legislation should also improve the state of public finances and ensure legal certainty.

Mr Vannacci continued, explaining that impact assessments are a cornerstone of the [EU better regulation policy](#) for the improvement and simplification of new and existing legislation. The impact assessments present a comprehensive analysis of the potential economic, social and environmental impacts of new legislation.

In line with previous speakers, Mr Vannacci confirmed that the review of port policy is a very complex process that incorporates input from many different kinds of stakeholders. To support this statement, he recalled [the previous unsuccessful initiative](#) in European Port Policy. Currently, the European Commission is working towards a new initiative for 2013, consisting of measures to help reduce the administrative burden in ports, proposals to improve the transparency of port financing, and proposals for measures regulating port services.



### Academic Contribution

Dr Thierry Vanelslander, Researcher and Lecturer at the Department of Transport and Regional Economics, University of Antwerp

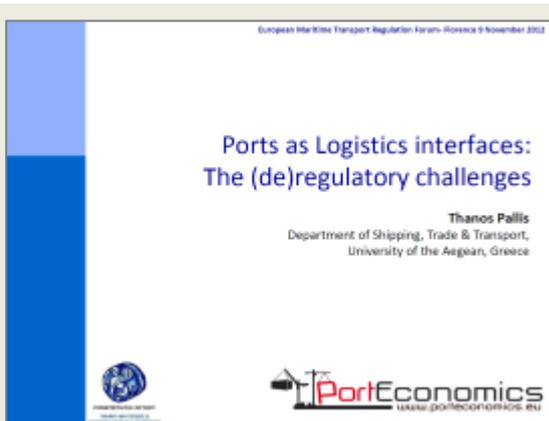
In his presentation Dr Vanelslander presented the results of his research on port activities, their governance and the competition around ports. According to Dr Vanelslander the maritime logistics chain can be divided in three sections: (i) maritime, (ii) port, and (iii) hinterland. All sections are potentially involving strong competition, and Dr Vanelslander showed with different examples that there are four types of port competition: (i) between port service providers, (ii) between ports within range, (iii) between port clusters, and (iv) between port ranges.

For a while already, the role and organisational form of ports is changing. This process is influenced by privatisation, but also by regulation based on strategic, social and economic arguments. Dr Vanelslander's analysis showed that ports were traditionally strongly supervised by national authorities and port authorities were strongly involved in management and operations (the so-called service ports); recently ports have tended to develop into privately acting entities with a weaker involvement of the port authority in management and operations.

The research also showed that the pricing of port services is only weakly linked to actual costs, but rather depends on vessel types, destination, location of operation in the port territory, processing time and season.

Dr Vanelslander also studied the market structure of the maritime sector, finding significant market concentration. He gave a large number of examples of new trends towards collaboration between shipping companies, terminal operating companies, port authorities, hinterland operators and hinterland terminal operators, both between companies at the same point in the logistics stream, and up- and downstream. For example, not only do ever fewer terminal operators control an ever larger part of the market, they are also constantly branching out into hinterland operations. It is unlikely that this trend will stop unless competition authorities intervene.

Dr Vanelslander saw the future of Port Authorities as facilitators, with decreased control, acting through concessions. In the future the sector will see privatisation, deregulation and concentration among shipping companies and terminal operator companies.



## Academic Contribution

Dr Athanasios Pallis, Assistant Professor,  
University of Aegean

Dr Pallis dedicated his presentation to the analysis of actors and challenges in ports, as well as to the factors influencing the development of port activities. He listed six important “game changers” forcing a change in the organisational structure of ports. These are (i) operational and spatial expansion, (ii) supply chain integration, (iii) specialisation, (iv) users markets concentration, (v) international terminal operators (stevedores), and (vi) environmental and societal pressures.

In his analysis of economic actors in ports, Dr Pallis found that there are increasing inter-firm relationships and new investors such as financial institutions and sovereign wealth funds. According to Dr Pallis there are two types of global port operators: On the one hand, there are horizontally integrated operators with port operations as core business, and investments in container terminals for expansion and diversification. Secondly, vertically integrated operators with maritime shipping as their main business, who invest in container terminals as a support function.

Turning to the challenges in ports, Dr Pallis mentioned the balancing of the actors’ relationships. Port service providers, shipping lines and shippers are becoming more powerful at the expense of port authorities and policy makers. Another challenge is to create a transparent system. Incumbents are, according to Dr Pallis, already in an advantageous position (because they have a better location in the port, a larger scale of operations, etc.), thus further distortion of competition has to be avoided. Other challenges are the cooperation among actors, the co-existence of ports and cities, ‘green’ issues, safety and security.

By way of conclusion, Dr Pallis observed that the governance and challenges of ports are “not a question of ownership, but one of strategy”.

## Highlights of the discussion

The following paragraphs report briefly on the discussions that took place during the forum. The debate is reported without identifying the authors of the remarks so as to comply with the Chatham House rule.

The discussions were led by the forum's guiding questions. The two topics that caught the most interest of the participants were 'the regulation of ports' and 'ports as part of the logistics chain'. This summary of the discussions has been organised around these two main discussion topics. It should be noted, however, that these two questions are to some extent interrelated: some forum participants expressed concern about the possibility that the EU's regulatory strategy might turn out to be too sector-oriented, thus interfering with a sensible organisation of the logistics chain, or that new regulations might cause the same problem by taking an overly aggressive approach towards preventing abuses of market power.

### The Regulation of Ports

To begin with, the discussants specified that when speaking about regulation they refer to specific and technical legislation, which addresses imperfect markets. It is a mechanism to make previously monopolistic markets function in a more competitive way. This definition is in line with the continental academic approach towards regulation, which states that the state is the organiser and markets just provide service that the government cannot provide otherwise (unlike the Anglo-Saxon approach, which sees markets as the best solution). It was also pointed out that in Europe regulation is introduced in the context of a battle for influence between levels of government: the EU tries to govern through regulation.

Usually, regulation is in place in order to create market incentives and to allow private actors to work. Port policies and regulation, however, (have to) address a number of specific objectives: to promote performance, to protect the environment, to safeguard social and labour conditions, and to combat market distortions. The challenge lies in balancing these objectives, no objective should be viewed in isolation.

The inability to pass an effective new port package shows how difficult this balancing is in the area of port regulation. In the past, the EU Institutions involved committed errors and the momentum for change was lost. However, the on-going discussions show that the logic behind past interventions did not change. Bearing this in mind, it is important that all European policy and regulations concerning ports should be gathered together in a package. The current regulatory uncertainty was created exactly by the wide diffusion of policies and regulations created by different actors, regarding different policy objectives.

Turning to the institutions and agencies involved in formulating port policies and regulation, it was observed that an important challenge lies in the tension between the entity that decides policy and the entity responsible for implementing it. Policies in the European Union are generally agreed on the basis of unanimity; the EU Institutions and Member States agree together on an approach. The problem is that local communities are not involved, which can cause difficulties in the national implementation, leading governments to refrain from carrying out previous agreements.

Ports are not just subjects of regulation, but also regulators themselves. Yet ports seem to be limited in their discretion; rather than acting, they are reacting to developments and requests by (integrated) transport operators. Again, it was explained that a port package could help to shift the power balance in favour of the port authorities.

### **Ports as economic part of a logistics chain.**

The forum's discussions were broad, touching on a couple of points regarding the position of ports in international trade, ports as a logistics interface, ports as a local (economic) factor and the position of maritime transport compared to other modes. A main message crystallising from the discussions was that ports are a multi-tier stakeholder-driven industry and should be viewed as part of a series of trade nodes. The large number of actors involved makes ports' activities complex to regulate and manage.

Ports are exposed to multiple forces, such as market changes (e.g. in the place of production, in consumer markets etc), but also technical changes. Ports have to react to these changes, but at the same time it seems that they are put under pressure by shipping lines, which can – by threatening to go to other ports – easily dictate conditions. In this way, ports' freedom of manoeuvre is limited and changes that are desirable for the maritime transport chain as a whole but of limited value for shipping lines are often postponed.

In Europe maritime transportation faces a competitive disadvantage compared to other transport modes, in the form of customs checks. Goods that are transported within the Schengen area by rail or road do not have to undergo checks at the border. Goods that are transported within the European Union by sea, however, do have to undergo such checks. In most European ports the biggest share of traded goods comes from elsewhere in Europe. Consequently, sea trade in Europe is confronted with unnecessary difficulties. The forum's participants emphasised that it is in the interest of ports and shipping lines that the legislation in this gets harmonised across modes.

Participants also asked for a level playing field in other respects, like charges and fees. In order to create true competition between the different transport modes, charges and fees have to be transparent and cross-subsidisation of services has to stop. As it was put by a number of forum participants, the charges and fees are often the result of the abuse of a dominant position, and upcoming legislations has to address this.

An eagerly discussed topic was the local dimension of large (infrastructure) projects. The Forum's participants mentioned that the port industry tends to be seen as a disturbing and destructive factor by the local population. Consequently, local communities often oppose necessary extensions of the port infrastructure and activities because of environmental and congestion concerns; and this despite the fact that ports do bring benefits to the local economy in form of job opportunities. This local opposition is a factor ports have to address if they are to compete in a global market. The key question is how to find the right policy, and at which level. Another attendee explained that when breaking it down, it comes to compensating the affected parties; yet the question how to go about this and whom to compensate remains.

Some participants called for and the process of concentration in and among ports to be stopped. One criticism was that the concentration of trade on few ports created risks for the logistics chains. For example a failure in a port could lead to a sudden stop to the flow of trade affecting consumption and production in a large area. Another argument against northern European ports serving the whole of Europe was that it would be more environmentally friendly if ships transported goods as closely as possible to its destination. After all, environmental regulation plays an important role in port regulation. And lastly, if one is to concentrate trade activities in only a few ports, these have to expand, which often triggers local opposition as previously discussed.

This criticism is in line with a claim stating that there is too much transportation, and the challenge is to reach the optimal amount. For these and other reasons the EU should rethink, participants said, whether these developments are beneficial for society as a whole.

In a nutshell, it can be said that ports face a number of diverse and competing challenges, and trade routes show that economic activities know no borders. Due to the global nature of these challenges and the large number of interest groups, problems can be hard to solve unilaterally, meaning that supranational intervention is necessary, for example at the level of the European Union.

## FSR-Transport: Events 2012/2013

Presentations from past events are available on the FSR website: <http://fsr.eui.eu>

Mode/Market	Title	Date
Rail	5th ERailTRF (European Rail Transport Regulation Forum)	5 October 2012
Maritime	1 <sup>st</sup> EMaritimeTRF (European Maritime Transport Regulation Forum)	9 November 2012
Intermodal	1 <sup>st</sup> EIntermodalTRF (European Intermodal Transport Regulation Forum)	7 December 2012
Post	2 <sup>nd</sup> EPostalRF (European Postal Regulation Forum)	15 February 2013
Urban	3 <sup>rd</sup> EUrbanTRF (European Urban Transport Regulation Forum)	18 March 2013
Air	4 <sup>th</sup> EAirTRF (European Air Transport Regulation Forum)	22 April 2013
Rail	6th ERailTRF (European Rail Transport Regulation Forum) <u>in Brussels</u>	May 2013
Network industries	2 <sup>nd</sup> Conference on the Regulation of Infrastructure Industries	7 June 2013
Intermodal	2 <sup>nd</sup> EIntermodalTRF (European IntermodalTransport Regulation Forum)	28 June 2013

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The Coordinator is the contact person for most matters, especially events and projects.

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