**Questionnaire for Member States**

**A. General**

*Ownership and operation*

1. Please provide the following information for each core port identified in Annexe II of the draft Regulation on the guidelines for the development of the trans-European network (the list is attached) and for each of the 5 largest intermodal platforms in your country in terms of annual throughput (uploaded and downloaded) or traffic volume: a) whether ownership is public or private (where mixed, please also indicate percentages); b) the legal status of the port owner and of the port manager; c) whether the port manager also operates the infrastructure, or the operation is entrusted to separate entities; d) whether it is a freight, passenger or mixed port; e) the annual throughput (cargo and/or passengers); f) whether the port manager has financial autonomy, i.e. capacity to raise and use its own resources independently of the public budget.
2. Please provide a separate list of the private-owned ports in your country (in case of mixed ownership, those ports where the private owners have control).
3. Are there regulatory barriers to private investment in port infrastructures in your country?
4. Are intermodal platforms different from sea and inland ports in terms of ownership and operation models? If so, are there any economic reasons for the differences?
5. Which port services are provided in your country by port management bodies,[[1]](#footnote-1) and which port services are provided by other public or private operators[[2]](#footnote-2)?
6. Please indicate which port services can typically be offered on a profitable basis. Accordingly, which port services cannot be offered without state support? Clarify what port services are considered as a part of a public service required by the State.
7. Please detail the revenue sources of the management bodies of ports in your country and the typical share that port infrastructure charges[[3]](#footnote-3) represent in the revenues of ports in your country.
8. List the types of fees/dues/taxes which are charged by the port managing bodies in your country, indicating how these fees/dues/taxes are set and changed/updated. Are there any derogations from port fees/charges available in your jurisdiction? If so, please list the applicable derogations, and explain their rationale.
9. Please provide a concise explanation of the procedures for the conclusion of concession or other type of contracts (e.g. land lease contracts) with port service providers (such as terminal operators) and the method for establishing the concession/contract fees. Are concession/contract fees linked to traffic volume indicators? If so, are there any penalties applied for not meeting the agreed traffic volume indicators? Please give examples.
10. Please explain whether it is common practice for port service providers to negotiate prices with individual users or to apply uniform (list) charges.

*Market developments and the approach to infrastructure investments*

1. Where do you see the major competition challenges for ports in the medium-term (in the next 5 years) and long-term (after the next 5 years)?
2. Please explain the extent to which port users are able to and do switch between ports. Please explain which types of trade/port users are particularly "mobile". Please indicate, for the three largest ports in your country, the main users who have switched away to other ports in the past 5 years and explain why they have switched. Please indicate the volume that these users represented and, if known, the port to which they switched.

**B. Public funding of infrastructure investments**

1. Do you consider that the application of criteria similar to the approach set out for public investment in airport infrastructures in the draft EU Aviation Guidelines[[4]](#footnote-4) would be suitable for port investments? Please provide reasons for your answer.
2. Please indicate what port services are considered to be within the public remit in your country. How are these activities defined and regulated in your country? Please differentiate if necessary between ports and intermodal platforms.
3. Do ports in your country keep separate accounts for services within the public remit?
4. Please indicate the usual sources of funding for each type of port infrastructure. Which types of infrastructure normally require state support for their construction, replacement and/or maintenance? Please, explain why.
5. Does the need for public funding of new port infrastructure or replacement and maintenance of existing port infrastructure vary according to the size of the port?
6. Please explain whether in your view the investment in, and operation of ports is associated with market failures, which prevent an efficient level of port services to be provided by private operators, without state support.
7. Based on your experience, please indicate whether there are wider benefits, i.e. positive externalities, to the region associated with the presence and the operation of a port. Which are the main entities that benefit from such externalities? Accordingly, are there negative externalities stemming from the presence and operations of a port and which are the affected entities?
8. Please indicate the level of capacity utilisation at ports in your country for the different types of trade (containers, bulk-carriers, oil, gas and chemicals tankers, car and special cargoes, ferry passengers, cruise-ship passengers). In your opinion, is there a problem/possible problem of overcapacity and/or congestion in the ports sector? Please explain your answer. Please also describe any major future developments in terms of port capacity in your country.
9. Would you find necessary/appropriate an approach looking at the impact of a new investment on existing capacities, such as the one developed in recitals 81 and 82 of the draft Aviation Guidelines?
10. How could maximum aid intensities based on traffic volume/ throughput thresholds, similar to those specified in recital 92 of the draft Aviation Guidelines, be defined for ports? Which metrics should be used for defining similar traffic volume thresholds for ports (for example tonnes of cargo, perhaps also differentiating by types of cargo, number of passengers, etc.)?
11. What would be, in your view, the period over which infrastructure investments of commercial nature become profitable? Are there differences in this respect to be made between the types of cargo transport hosted/number of passengers transported, and by traffic volumes?
12. In your experience, in the absence of state support, do investments to expand existing port capacities have a negative present value? (i.e. the discounted revenue flow during the lifetime of the investment is not sufficient to cover the cost of the investment) If so, please briefly explain the economic reasons.
13. To what extent there is a requirement or common practice among port authorities in your country to base their investment decisions on a business plan, i.e. an assessment of the expected profitability of the investment project relative to its costs over the lifetime of the investment.
14. Please indicate, for the different types of port infrastructure, the usual amortisation period and the required rate of return on the investment.
15. Do you consider that a discount rate of 5% is appropriate for calculating the funding gap of an infrastructure investment project?[[5]](#footnote-5) If not, how would you choose the discount rate for the purposes of calculating the funding gap for such investments, and why?
16. Please explain to what extent the port infrastructure is substitutable between the different types of cargo (containers, bulk cargo, oil, etc.).

**C. Operating costs**

1. Are the revenues of port service providers in your country generally sufficient to cover their operating costs (including the cost of depreciation and their cost of finance (e.g. interest on debt)? Are the revenues of port service providers generally sufficient to cover operating costs excluding the cost of depreciation and the cost of finance? If not, please explain why and how they finance the continuation of their activity. In particular, please indicate if any port service providers in your country receive public funding in order to cover their operating costs? If so, please list the cases and explain. If so, do port service providers typically operate under fixed funding (e.g. specifying the amount of public funding for a certain number of years) or under flexible budgets (e.g. where the public funding is increased in function of the losses incurred)?
2. Do you consider that there is any need to allow operating aid for port service providers on a limited and transitional basis, e.g. for a maximum duration of 10 years? If so, please explain for what type of services.

**D. Services of general economic interest**

31. Please indicate if in your country there are cases of public compensation being paid to port
managers and/or to port service providers for services of general economic interest. If so,
please list the cases, and indicate if the compensation is provided on the basis of the 2005 SGEI
Decision[[6]](#footnote-6) or on the basis of the 2012 SGEI package.[[7]](#footnote-7)

**E. Corporate taxation of ports**

*Overview of the corporate income taxation system applicable to the managing bodies of the port and to providers of port services (e.g. holders of terminal concession or lease contracts)*

1. Please provide a comprehensive description of the corporate income tax regime in your Member State (including tax base, tax rate, taxable entities, main objective, etc.). Please provide a copy of the relevant laws, regulations, guidelines or implementing rules, or a link to the institutional website that provides direct access to the relevant documents.
2. Are the managing bodies of the ports and the providers of port services in your Member State subject to the general corporate income tax regime or is there a specific corporate tax regime for ports (either for all or for certain ports)? Please provide a comprehensive description of this specific regime and provide a copy of the relevant supporting documents containing the corporate tax provisions applicable to ports.
3. In case that there is a specific corporate tax regime for ports, does it apply equally to all ports or are there differences in its application? If so, please specify which are the differences.

35. In case there is a specific corporate tax regime for ports, please explain which authorities at
national, federal, regional or local level hold the competence on enacting the corporate tax
regime applicable to ports.

*Individual tax situation of a port*

36. Corporate tax exemption applicable to managing bodies of ports and the providers of port
services

1. Do ports benefit from a total or partial corporate tax exemption? Please specify which ports benefit from the exemption.
2. If so, who is the beneficiary of the tax exemption? Is it the owner of the port or the operator of the port activities?
3. If so, since when is the corporate tax exemption in place?
4. Has the corporate tax exemption been subject to amendments since its entering into force? If so, please describe the amendments, indicating since when they are in place?

37. Tax rulings applicable to ports

1. Do tax rulings exist laying down the individual tax situation of a certain port?
2. If so, for which ports?
3. Since when do the tax rulings apply?
4. Please provide a copy of the tax rulings.

38. Corporate tax rate

1. What is the corporate income tax rate applicable to ports?
2. Can the applicable tax rate be reduced in specific circumstances? If so, please provide an example of a possible scenario where the tax reduction might be applied.
3. Can the effective tax rate vary in practice from the statutory tax rate due to other factors than those based on accounting requirements? If so, what is the estimated range of the effective tax rate?

39. Other corporate tax reliefs

1. Are there any other corporate tax allowances such as bonuses, tax deductible expenses, etc. that are/can be granted to ports in your Member States?
2. Can the taxable base be reduced for corporate tax purposes specifically for ports in your Member State? Please provide an example how the taxable base is calculated.

40. Justifications

a) If there are any corporate tax advantages for ports please explain what you consider to be the main justification for such advantages.

1. "Managing body of the port" means any public or private body which, whether or not in conjunction with other activities, has as its objective under national law or instruments the administration and management of the port infrastructures, port traffic, the coordination and, where appropriate, the control of the activities of the operators present in the port concerned (definition in the Commission Proposal for a Regulation on the market access of port services and the financial transparency of ports - see ftn.5 above). [↑](#footnote-ref-1)
2. Typical port services include bunkering, cargo handling, dredging, mooring, passenger services, port reception facilities, pilotage and towage. [↑](#footnote-ref-2)
3. "Port infrastructure charge" means a fee collected for the direct or indirect benefit of the managing body of the port and paid by the operators of waterborne vessels or cargo owners for the use of facilities and services that allow vessels entry and exit in and out of the port, including the waterways giving access to those ports, as well as access to the processing of passengers and cargo. Handling charges levied by terminal operators are not considered port infrastructure charges. [↑](#footnote-ref-3)
4. See the text of the draft Aviation Guidelines, available at:

<http://ec.europa.eu/competition/consultations/2013> aviation guidelines/aviation guidelines en.pdf. [↑](#footnote-ref-4)
5. The 'funding gap' is defined as the difference between the discounted eligible investment costs and the discounted revenues to be obtained by the owner of the infrastructure from the commercial exploitation of the infrastructure over a reference period of 25 years. [↑](#footnote-ref-5)
6. Commission Decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, Official Journal L 312, 29.11.2005, p. 67-73. [↑](#footnote-ref-6)
7. The legislation in the package is available at:

<http://ec.europa.eu/competition/state> aid/ legislation/sgei.html. [↑](#footnote-ref-7)