Position of the European Sea Ports Organisation on the proposal for a Regulation establishing a European Maritime Single Window environment

24/09/2018

The European Sea Ports Organisation (ESPO) welcomes the Commission's proposal for a Regulation establishing a European Maritime Single Window environment (COM 2018 278 Final), replacing the Reporting Formalities Directive (2010/65). In particular, ESPO welcomes the fact that the proposal rightly acknowledges the merits of the existing reporting systems, and thus the investments made, and wishes to build further upon them.

For European ports, the main focus should lay on the harmonisation of data definitions and data sets. In that respect the proposal should show more ambition. ESPO therefore believes that, if this aspect of the proposal is strengthened, this new proposal can be an important step towards further reducing the administrative burden and facilitating trade.

Reporting formalities when ships call at EU ports are necessary for competent authorities as well as other stakeholders to play their respective roles. International, EU and national law requires port authorities to ask for a number of reporting formalities in order to ensure safe, secure and efficient port operations.

In ESPO's position paper of 22 March 2018[1], European ports outlined their priorities in order to improve the efficiency and attractiveness of the maritime transport and port sector. In essence, European ports believe that efforts should be strengthened on harmonizing the different reporting data elements[2] by ensuring that same data sets can be reported to each competent authority in the same way. Furthermore, for ports it is of paramount importance that the reporting is done through resilient and robust, yet flexible systems that ensure the reliability of data and allow for a multichannel approach, allowing the use of port community systems.

ESPO's position on the main aspects of the Commission's proposal:

1. Harmonisation of data is a first priority (articles 3 and 4)

The first priority for European ports is to simplify administrative procedures and strengthen the efforts on harmonisation of the different reporting data elements by ensuring that the same data sets can be reported to each competent authority in the same way. Only when justified by specific local circumstances, additional data at the level of the port should be required.

---

[1] https://www.espo.be/news/espo-outlines-its-priorities-for-the-revision-of-t

[2] A data element is a single item that is part of a data set. Consequently, a data set has one or more data elements. For example, port authorities require from the shipowner the Actual Time of Arrival (ATA) of the vessel prior to calling at the port. The ATA should be considered as the data set, which is entails a number of data elements, among which : ship call reference number (UCRN), actual date, actual time and location.

In this context, ESPO **welcomes the establishment of a harmonised data set**. However, there is still work to be conducted to define the data set in detail - both data elements and data definitions. For instance, maritime and customs authorities don't share the same definition for the data element "mooring place". Customs don't consider a ship that is at anchor as being moored; hence the ship is not at its mooring place. For maritime authorities, a ship at anchor can be considered at its mooring place. In this respect, ESPO recommends that the Commission should support actively the development of the **IMO independent data reference model** (available after IMO/FAL43 in April 2019)[3] and adopt it as soon as possible.

But, even with a harmonized maximum data set, one should realize that in some cases ports might need to ask additional data to respond to exceptional circumstances. In this respect, ESPO welcomes that the proposal allows Member States to introduce or amend data requirements (article 4). ESPO however believes that this **flexibility should also be extended to individual competent authorities,** as they are responsible for assessing the risks involved in clearing the ship, its cargo, its passengers and/or the crew.

Finally, ESPO calls for **cooperation between maritime and customs authorities** at both national and EU level and urges them to harmonize their reporting requirements. For example, 'timing' and 'updates' of notifications could be aligned, and underlying issues such as use of same data elements by different authorities for different purposes could be solved.

2. Ensuring a multichannel approach for reporting (articles 5 and 6)

ESPO welcomes that the proposal builds upon the existing National Single Windows, while also allowing the reporting to be carried out through the Port Community Systems (PCS). The proposal rightly acknowledges the well functioning of PCS's and the investments already made.

ESPO believes that any proposal from the Commission should be **technology neutral** and should focus on data harmonization instead of prescribing technical solutions. Technological development is currently moving fast and there is a risk that once the reporting interface module is developed by the Commission, it could very rapidly be outdated by new developments in the market. Therefore, ESPO believes that it should be left to the industry to select and implement its own particular solutions as part of an open environment.

Furthermore, if a National Single Window is supposed to store and redistribute data, it should have a **governance mechanism** based on a proper legal basis. Such a National Single Window should have the competences and responsibilities to store and distribute the data to the respective authorities. If not, the single window environment will not result in trade facilitation and simplification, but will just shift the burden from the ship side to the competent authorities.

The proposal should also ensure that the National Single Windows provide for a **"two-way communication"** between the shipowners and relevant authorities in order to prevent delays in the clearance processes, and to prevent failures or inaccuracies in submitting the required information. The National Single Windows should allow competent authorities to provide response messages to the declarants, where appropriate. Any system should allow the authority which is the final receiver to **follow up with the source of the information** to cope with the dynamic character of maritime transport operations.

---

[3] http://www.imo.org/en/OurWork/Facilitation/FALCommittee/Facilitation/FAL%2041-17%20-%20Table%20of%20contents%20%28Secretariat%29.pdf

The proposal provides for the shipowner or his representative to use digital spreadsheets (article 5, § 4), harmonized at EU level, through which declarants can provide their information to the National Single Windows. ESPO would like to express its concerns with regards to the use of spreadsheets to fulfill reporting obligations, as spreadsheets are generally considered not secure and there are concerns about their compatibility with the General Data Protection Regulation (2016/679). Furthermore, ESPO believes that the development of digital spreadsheets should be left to the private market, which already provides for solutions in this respect.

3. Making the "reporting once principle" work (article 7)

ESPO considers the "reporting once principle" a valid means to achieve the objectives of the EMSWe proposal, provided that it covers the re-use of standardised data that do not change between subsequent port calls and takes into consideration the limited amount of data to be reused between authorities at a given port call.

Between two port calls, the condition of the ship and its cargo, stocks and waste are changing, and data concerned need to be updated or amended. The **majority of ship reporting formalities can therefore be considered as "dynamic".** Moreover, when considering the data to be submitted to the different receiving authorities in a given port (country), ESPO is of the opinion that there seems to be only a very **limited amount of overlapping requirements** (same data asked by different authorities). Furthermore, when the same data is reused by different authorities, it should be clear for those authorities that the reporting party is the responsible party and that the data concerned is meant to be processed by those authorities.

Finally, setting up a **governance mechanism** for governing the rights and rules on access and use of data, in a harmonised and clear manner, is an important precondition for sharing and re-using data by different authorities, as well as by National Single Window operators.

_____

The European Sea Ports Organisation (ESPO) represents the port authorities, port associations and port administrations of the seaports of 23 Member States of the European Union and Norway at political level. ESPO has also observer members in Iceland, Ukraine and Israel. ESPO is the principal interface between the European seaport authorities and the European institutions. In addition to representing the interests of European ports, ESPO is a knowledge network which brings together professionals from the port sector and national port organizations. ESPO was created in 1993.