



Common position paper of European Port Sector Organisations on the review of the Seveso II Directive 96/82/EC

This position paper on the review of the Seveso II Directive is supported by the European Port Sector Organisations: ESPO, FEPORT and EFIP.

- Since 1993, the European Sea Ports Organisation, ESPO (www.espo.be), represents port authorities, port administrations and port associations of the maritime EU Member States and Norway and has observer members in Croatia, Iceland and Israel, ensuring that seaports have a clear voice in the European Union.
- Since 1993, the Federation of European Private Ports Operators, FEPORT (www.feport.be), represents the interests of the maritime terminal operators and stevedoring companies in the European seaports.
- Since 1994, the European Federation of Inland Ports, EFIP (www.inlandports.be), represents more than 200 inland ports in 18 countries the European Union, Moldova, Switzerland and Ukraine.

Rationale of the Seveso review

Recently the Commission announced a review of the Seveso II Directive 96/82/EC, the provisions of which have remained essentially unchanged since its adoption. The Directive would have to be amended due to changes to the EU system of classification of hazardous substances to which the Directive refers.

Current status regarding ports

Council Directive 96/82/EC contains an exclusion (Article 4 (c)) for “the transport of dangerous substances and intermediate temporary storage by road, rail, internal waterways sea or air, outside the establishments covered by this Directive, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards”. This has the effect of excluding some transport related activities (e.g. the intermediate/temporary or short term storage) within ports and marshalling yards from the scope of the Seveso II Directive. However it is clear that the Directive will apply to other activities within ports (e.g. the storage related to industrial port activities and the long term storage related to transport activities in ports) and marshalling yards where dangerous substances are present in quantities equal to or in excess of the quantities listed in Annex I of the Directive.

Input to the review

In order to provide input to the review process the Commission has conducted a couple of studies to date. On what the port sector is concerned, the study F-Seveso “Study of the effectiveness of the Seveso II directive” that was commissioned by DG Environment and



run by the European Virtual Institute for Integrated Risk Management (EU-VRi) identifies and assesses a list of 7 recommendations with an eye on the improvement of safety and the better implementation of the Directive. The study and its argumentation are based on a web-based questionnaire(s) and on selected follow-up interviews. Between the recommendations, the “*extending of the scope of the Directive to other installations such as pipelines, railway stations and harbours*” is being examined.

The European port sector organisations acknowledge that the study itself assesses this potential measure as being controversial (with only few people suggesting it), far too costly and providing little or no added value. Hence, it is rather surprising to see that the study nevertheless recommends it as a long term measure to be considered due to its assessed “high impact” in “terms of reduction of major accidents”. The study provides neither evidence nor argumentation on the perceived “high impact”. The appearing statement that “having a consistent framework and level of requirements will benefit safety and reduce the number of major accidents” seems to be based only on general comments. In addition, it should be noticed that a consistent approach is also achievable by applying similar rules and requirements. In fact, harmonised rules and requirements equivalent to the Seveso ones do already apply to port operations.

Rationale for maintaining the current status regarding ports

The European port sector organisations believe that the current status of affairs regarding the exclusion of ports from the scope of the Seveso II Directive needs to be maintained. The arguments for that remain the same as they were 10 years ago when they were positively adopted by the European Commission. For the smooth functioning of the European market, the task of the European Commission has been to install a harmonised legal framework in which trade can function. Port trade is by its very nature international and because of this, the maritime community, has always made a plea that the harmonised rules and regulations that apply are international ones and not simply unique to Europe.

As far as maritime transport is concerned, including transit via the port and intermediate storage of hazardous goods, the regulatory framework surrounding ports is based on harmonised legislation drawn-up and adopted by the United Nations agencies, notably, the IMO - the International Maritime Organisation. This framework and more detailed national legislation are based on IMO Recommendations on the Safe Transport, Storage and Handling of Dangerous Substances in Port Areas. The IMO recommendations are implemented by local port authorities and all storage sites for dangerous goods need to be approved by the port authorities. The approval is granted after consultation with the appropriate national and local authorities. Those instruments fully address the safe handling and intermediate storage of hazardous cargo arguably at similar safety levels as the Seveso ones. In addition also the ISPS Code (IMO) has a direct impact on the safety of dangerous cargo in transit. The ISPS Code is a mandatory IMO instrument and was developed to cover security issues. However, the Code has a direct positive effect on the safe intermediate storage of goods. For the various cargo handling installations the ISPS



Code requires a set of risk analysis, approved security plans, exercises and audits. In conclusion, the existing transport related Community and International laws provide in our view a “relevant and significant equivalence” for the control measures of the Seveso II Directive.

The main difference between the IMO recommendations and the Seveso Directive is in fact the classification of the different hazardous substances. Harmonisation is an interesting option, but should be envisaged at international level in order to avoid an excessive administrative and operational burden on the port sector, which would also face immense cost implications besides the administrative complexity.

For completeness sake, it should also be mentioned that the business interest of ports and terminals is the efficient handling and forwarding of cargo streams and not the storage of goods. The overall aim is the optimisation of cargo handling and therefore the minimisation of the required time for intermediate storage. However, a port is a complex composed of various establishments, some of which may well qualify as establishments, where Seveso II applies. This may be the case for instance for berths and terminals where dangerous goods are received in bulk. In these cases Seveso has always been applied and will continue to be applied. This however does not imply that safety will be improved by expanding the area of application to the entire port area, where the risk is not equal and alternative measures are already in place.

Conclusion

The European port sector organisations strongly advice that the current scope of the Seveso II Directive remains unchanged for ports as transport links. An inclusion of ports within the scope of the Directive will only have administrative, operational, and financial implications to the port sector without having any real positive impact on enhancing safety and on reducing accidents.

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