

# Ports Policy – your views invited

DfT's discussion document for the Ports Policy Review

May 2006

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Published by the Department for Transport.

Printed in the UK March 2006 on paper containing 80 per cent post consumer waste and 20 per cent TCF pulp.

Product code 67ALM02626

# CONTENTS

	Page
<b>GLOSSARY AND ABBREVIATIONS</b>	7
<b>EXECUTIVE SUMMARY</b>	9
The General Policy Framework	9
Examining the Growth in Demand	10
Impacts of Ports and Port Development	10
The Policy and Regulatory Framework	11
<b>1. Introduction</b>	13
The Policy Context	14
Scotland	16
How to respond	16
<b>2. Principles for Government involvement</b>	18
General principles	18
Market failure and state intervention	18
<b>3. Forecasting demand</b>	20
MDST Cargo Forecasts	20
Economic growth	21
Sectoral projections – non-unitised	22
Sectoral projections – unitised	23
MDS Transshipment Study	23
Passenger Traffic	24
<b>4. National, regional and local impacts</b>	28
Ports and the national economy	28
Ports and international trade	28
Wales	29
Northern Ireland	30
Ports as contributors to regional and local economic development	31
Ports employment, and local/regional regeneration	31
The English regions	32
Port Master Plans and integrated land-use and economic development planning	34
Questions	35

<b>5. Inland connections</b>	<b>38</b>
Coastal shipping and inland waterways	38
Port development and infrastructure funding	39
Regional Funding Allocations (RFAs)	40
Transport Innovation Fund (TIF)	40
Sustainable Distribution Fund (SDF)	41
European funding sources	41
Planning-gain supplement	41
Congestion – road pricing and rail pathing	42
Questions for discussion	42
<b>6. Safety, security and the environment</b>	<b>44</b>
Safety and security	44
Ports and the environment	44
Environment and ongoing operations	45
Noise	45
Local air pollution	46
Waste	47
Global emissions	47
<b>7. Securing fair competition</b>	<b>48</b>
Competition	48
The European regulatory system	48
State aid guidelines and the financing of seaports	49
Ports and resilience of the supply chain	50
<b>8. Accountability and opportunity in a diverse sector</b>	<b>51</b>
Issue (i) Making the most of the opportunities at smaller ports	52
Issue (ii) Government’s ability to ensure full compliance by trust ports with the high standards of governance specified in the 1999 Review	53
Issue (iii) Government’s relationship with the largest trust ports	54
Issue (iv) Aligning supervision of municipal ports with changed local government structures	56
Supervision of statutory harbour authority powers	57

<b>9. Making the planning system work more effectively</b>	59
Scope of this chapter	59
Harbour consents process in each territory	59
Habitats	61
Marine Bill	61
<b>10. Summary of questions and process</b>	63
List of questions	63
How and when to respond	69
<b>ANNEXES</b>	70
<b>A GENERAL BACKGROUND AND STATISTICAL SUMMARY</b>	71
Policy and legislative framework	72
Statistical background	73
<b>B SAFETY AND SECURITY</b>	74
Safety in docks	74
Marine safety in harbours and approaches	75
Maritime security	77
Civil contingency	78
Border controls and vehicle checks	79
<b>C RESULTS FROM PORT DEMAND FORECAST AND TRANSHIPMENT STUDIES</b>	80
<b>D GOVERNMENT CODE OF PRACTICE – CONSULTATION CRITERIA</b>	92
<b>E INITIAL REGULATORY IMPACT ASSESSMENT</b>	93



## GLOSSARY AND ABBREVIATIONS

The acronyms, abbreviations and terms listed below are either used in this discussion document, or may be commonly encountered elsewhere in port-related publications.

ABP	Associated British Ports
AQMA	Air Quality Management Area
BMP	Border Management Programme
BTDB	British Transport Docks Board (now defunct)
CAGR	Compound Annual Growth Rate
CNRS	Company-Neutral Revenue Support
DCLG	Department for Communities and Local Government (formerly ODPM)
Defra	Department for the Environment, Food and Rural Affairs
DfT	Department for Transport
DRDNI	Department for Regional Development, Northern Ireland
ERDF	European Regional Development Fund
EU	European Union
feederling	use of relatively small ships to distribute goods by transshipment ( <i>q.v.</i> ) from a large hub port to a set of (typically) smaller ports
FFG	Freight Facilities Grant
GBFM	Great Britain Freight Model
GDP	Gross Domestic Product
GSE	Greater South-East (of England): London, the South-East and East
GVA	gross value-added
HEO	Harbour Empowerment Order
HMC	Harbour Management Committee
HMRC	Her Majesty's Revenue and Customs
HRO	Harbour Revision Order
HSE	Health and Safety Executive
interlining	transfer of goods through a port from one deep-sea ship to another – a particular form of transshipment
IMO	International Maritime Organisation
ISPS	International Ship and Port Facility Security
LAPPC	Local Air Pollution Prevention and Control
LNG	Liquefied Natural Gas
lo-lo	lift-on/lift-off (containers)

MARPOL	International Convention for the Prevention of Pollution from Ships
MCA	Maritime and Coastguard Agency
MDS, MDST	MDS Transmodal (consultants)
Mtkm	million tonne-kilometres
NMSP	National Maritime Security Programme
NTS	National Transport Strategy (for Scotland); National Traffic Survey
ODPM	Office of the Deputy Prime Minister
OFT	Office of Fair Trading
PGS	Planning-Gain Supplement (proposed funding mechanism)
PHA	Port Health Authority
PLA	Port of London Authority
PMSC	Port Marine Safety Code
PSA	Passenger Shipping Association; Public Service Agreement
RES	Regional Economic Strategy
ro-ro	roll-on/roll-off (freight and/or passenger ferry transport)
RSS	Regional Spatial Strategy
RTS	Regional Transport Strategy
SAC	Special Area of Conservation
SDF	Sustainable Distribution Fund
SLM	sensitive lorry-mile
SPA	Special Protection Area
TENs	Trans-European Networks
teu	twenty-foot equivalent unit (standard measure of container volume; forty-foot containers (2 teu) are increasingly prevalent)
TIF	Transport Innovation Fund
tkm	tonne-kilometres
trade cars	road vehicles being exported or imported
transhipment	transfer of goods (usually containers) from one ship to another through a port
VOSA	Vehicle and Operator Services Agency

## EXECUTIVE SUMMARY

1. Shipping drives global development. Ports are our gateways to the global distribution network. Trade accounts for nearly 30% of our GDP. With an open economy, the UK's economic fortunes today and tomorrow depend more than ever on our access to efficient, reliable and resilient worldwide connections.

2. Current interest in port development and acquisition is both a sign of confidence in our economy and a manifestation of the rapid growth in global trade. The market is demonstrating that it can and will invest in the future. But ports have wider impacts upon our economy, our society and our environment, at national, regional and local levels. The Government is necessarily involved. Our role currently focuses on 'market failure' – a term which does not imply criticism of the market, but merely conveys the fact that markets cannot solve all our problems on their own. The question for this review is: have we got this right? Have we correctly identified the issues which require Government intervention? Are we intervening when we need to, in the right ways?

3. This consultation document invites your views on the future of our ports, looking ahead to about 2030. It focuses on the Government's relationship with the ports industry in England, Wales and Northern Ireland. (Ports policy for Scotland is being examined in a separate consultation on the National Transport and Freight Strategies being developed by the Scottish Executive.)

4. The key issues examined in this document include:

- the likely future demand for port capacity;
- how to ensure that the market response to that demand reflects the objectives of sustainable development
- how far the Government should reflect regional development objectives in encouraging the future provision of ports capacity;
- how the Government can help smaller ports, which in many cases are owned by trusts or local authorities, to realise their potential as businesses and for the benefit of their wider communities.

### *The General Policy Framework*

5. Chapters 1 and 2 place these issues within the policy context set out in *The Future of Transport*<sup>1</sup>. In a sector which must respond to the wider market, in which commercial investment drives development, we start from the principle that Government intervention should aim to remedy demonstrable market failures. Existing methods of intervention, such as the land use planning system and environmental regulation, should change only where:

<sup>1</sup> *The Future of Transport – White Paper Cm 6234*, DfT, July 2004.

- they fail to deal adequately with market failure, or
- there is scope to simplify or relax controls while delivering wider economic, social and environmental objectives.

### *Examining the Growth in Demand*

6. Chapter 3 and Annex C summarise long-term forecasts of demand for each main freight market sector which have been produced for the Department by MDS Transmodal. These forecasts should help to inform assessments of future capacity requirements, including on connecting roads and railways. The forecasts predict sustained growth at national level in container and ro-ro traffic, significant growth in motor vehicle imports, high growth in certain bulk commodity traffics (notably liquefied natural gas or LNG) and generally moderate growth or decline in other bulk sectors (though there will continue to be changes in the pattern of demand, e.g. for coal imports, through individual ports).

7. This assessment tends to confirm the strategic economic importance of container terminal and ro-ro port capacity, and of inland road and rail connections to take unitised traffic in lo-lo and ro-ro forms.

8. Because of its strategic importance, MDS Transmodal have produced for us a more specialised report on the transshipment of containers, which is also covered and summarised in Chapter 3 and Annex C.

### *Impacts of Ports and Port Development*

9. Chapters 4, 5 and 6 deal with the broader impacts of port activity at national, regional and local levels. In Chapter 4 we address:

- the importance of ports to international trade and economic development, including the Government's strategic interests in competition and resilience. We consider that the current regulatory framework provides sufficient safeguards for competition between ports;
- the importance of ports to regional development, examining transport and wider arguments for Government involvement, with questions on the nature and scope of possible interventions and their justification;
- the Government's role in respect of smaller ports, again with questions about the case and criteria for possible interventions.

10. Chapter 5 examines the issues relating to road, rail and inland waterway connections to ports, including their funding. Among the questions asked are:

- Should more be done to encourage short sea shipping?
- Are the external impacts of ports adequately dealt with through regulation, development funding and by other means?
- How far can or should port developers fund inland transport networks, which necessarily offer open access to many users?
- Are port development issues sufficiently taken into account in network providers' investment criteria and priorities?

11. We consider recent experience, current policy and parallel consultations on the issue of developer contributions to inland transport networks.

12. Chapter 6 covers the environmental impacts of activities at and around ports. These are mainly local in nature. International shipping has global environmental impacts, but these are outside the scope of this review. We discuss noise, local emissions and waste as impacts of port operations and ask whether these are dealt with adequately under present arrangements. (Habitats considerations often dominate when major port developments are proposed, but the salient questions here relate more to the application of the EU habitats Directive, and are dealt with in Chapter 9.)

13. Safety and security are important considerations too, but the review does not invite substantive comments on these issues. We consider that the existing policy framework is largely effective and discussion is confined to the background, set out in Annex B.

### *The Policy and Regulatory Framework*

14. Having examined the areas of potential market failure, we invite views on the effectiveness of the main Government interventions today.

- Chapter 7 takes an overview of competition in the ports sector and its regulation. The potential impacts of EU competition policy measures are also covered.
- Building on the findings of the Municipal Ports Review and our earlier Review of Trust Ports, Chapter 8 examines issues raised by the differing ownership structures for UK ports and looks at the historic legacy of port safety legislation.
- Lastly, in Chapter 9 we ask what scope there may be to improve the workings of the planning system for ports. (It is beyond the scope of this review to re-examine the land use planning framework, which has recently been reformed.)

15. The debate on these issues is open to everyone. We are interested in your comments, whether or not you have specialised knowledge of the ports industry. The broad, strategic questions are shown in bold type. The more detailed questions may be of greater interest if you have prior knowledge of the ports industry, though our consultation is by no means restricted to those with such knowledge. A summary of the questions may be found in Chapter 10. You may respond by e-mail or by post (see paragraph 10.2 for details).

16. You may also wish to consider and respond to the separate consultation document on the Government's Marine Bill, published on 29 March.

# 1. Introduction

1.1 The White Paper, *The Future of Transport*<sup>2</sup>, set out the Government's long-term strategy for transport. This is based around three central themes:

- **sustained investment:** spending by the Department for Transport will rise by an annual average of 4.5% between 2005-06 and 2007-08, and is planned to continue to grow in real terms through to 2015;
- **improvements in transport management:** for example, the reorganisation of the rail industry set out in the White Paper, *The Future of Rail*, is improving performance and driving down cost; and the Highways Agency is taking steps to improve management of traffic flows on the motorway network;
- **planning ahead:** the White Paper, *The Future of Aviation*, set out a clear long-term vision around which the UK's aviation industry can plan ahead; Sir Rod Eddington is considering how transport can contribute most effectively to national productivity over the period to 2030; and the Government is leading the debate on how road pricing can help tackle congestion.

1.2 This will help us to forecast and manage the pressures that a growing economy and an increasing demand for travel will bring for our transport infrastructure over the next 20 to 30 years, in a way which recognises that simply providing ever more capacity – even where this is feasible – is not always the answer. And it will help local authorities, businesses and individuals to plan more effectively and to make better choices.

1.3 The ports sector is a vital part of our transport infrastructure, enabling international trade and promoting competition and productivity through global supply chains. As globalisation increases, along with the contribution made by international trade to our GDP, the ports sector will play an increasingly important role in the economy.

1.4 For this reason, the Government undertook in the *Future of Transport* to review the policy framework for ports, to ensure that it encourages the future development of a port sector which has the capacity to support growth.

1.5 This review, it was then intended, would begin once decisions had been taken on the three container terminal applications then outstanding – for London Gateway, Felixstowe South and Bathside Bay – the applicants for which were entitled to expect that their cases would be dealt with under currently-established policy. Felixstowe South was approved on 1 February, and Bathside Bay on 29 March. It has not yet been possible to determine the London Gateway application, although Government announced last July that it was minded to approve the proposal. We do not want to delay the Review: our view is that we need to press on with addressing important questions affecting ports policy for the longer term.

<sup>2</sup> Cm 6234, July 2004, see especially para 7.28

### *The Policy Context*

1.6 The UK ports sector is a thriving industry, largely in the private sector. But it is one which interacts with Government in numerous important ways, including:

- national, regional and local strategies;
- planning decisions, which will be made in the context of those strategies;
- management of the national road and rail networks; and
- grants programmes.

1.7 And there are closely related Government duties and commitments. We are committed to bringing forward a Marine Bill, aiming to introduce a new framework for the seas, based on marine spatial planning, that balances conservation, energy and resource needs. (This is discussed further below at 9.19.)

1.8 It is important to ensure, therefore, that the Government has a clear and coherent policy framework with regard to ports, to enable the sector to manage its business and plan ahead effectively. We must bring together our three central themes so that the industry can make best use of existing port capacity and invest appropriately, within a clear policy framework, to respond to demand in growing sectors.

1.9 This framework will need to balance the needs of a growing economy in the global market-place with the need to improve quality of life. It will need to acknowledge the growing contribution made by international trade to GDP and productivity and ensure that the challenges of growth can be met, while also meeting long-term social and environmental goals. This framework must be consistent with the guiding principles of sustainable development. It needs actively to promote economic growth, particularly through international trade, so as to achieve our long-term social and environmental goals. It will also need to take account of the importance of continual improvement in safety and security.

1.10 *Modern Ports* (2000) distilled the Government's and Devolved Administrations' ongoing policy, in advance of a full-scale review. *Modern Ports* emphasised the need to make good use of existing port assets (including currently non-operational land), and included commitments:

- “to make regulation add value rather than unnecessary cost, ensuring that different regulators co-ordinate their overall demands;
- “to promote agreed national standards and good practice for port management and port operations alike, without detracting from the legal responsibilities of harbour authorities and other port interests;

- “to promote training and the recognition of skills for those who work in the ports industry at all levels – not just those engaged by harbour authorities; and
- “to maintain a balanced policy on development which aims to make the best use of existing and former operational land, secures high environmental standards, but supports sustainable projects for which there is a clear need.”

1.11 *Modern Ports* included a series of port case studies which illustrated the diversity of ports around our coastlines. You may find these useful background for responding to this discussion document. And we have recently published a compendium of statistics, *Focus on Ports*, which sets the statistical scene.

1.12 Although only six years have elapsed since *Modern Ports*, subsequent and current developments in the maritime world mean that it is not too soon for a systematic review of policy in this area. In particular, globalisation, and with it international seaborne trade, has grown apace. Increased imports of manufactured goods have contributed greatly to this. And in parallel, there have been structural and institutional changes: in the regional planning framework, for example, and in the structure of the railways. It is important that the Government should thoroughly examine the implications of such developments for existing ports policy.

1.13 In addition, Sir Rod Eddington has been asked to work with the Department for Transport and HM Treasury to advise the Secretary of State for Transport and the Chancellor on the long-term impact of transport decisions on the UK’s productivity, stability and growth. He will provide his advice to Ministers in summer 2006. We shall take careful account of the recommendations when they appear.

1.14 So, this discussion document invites your views on what we regard as the most significant issues for Government relations with the UK ports sector in the medium to longer term, in particular:

- the **future** need for port capacity: your response to our consultants’ demand forecasts (Chapter 3 and Annex C);
- the **planning** dimension: what is the right policy, regulatory and transport decision making framework at national and regional level to facilitate a market response to that demand which optimises the benefits for sustainable economic development and sustainable distribution, and ensures timely and appropriate decisions?  
This includes:
  - whether the system sufficiently accommodates the positive and negative external effects of market decisions;
  - how far Government should intervene to influence port development in each English region, in Wales and in Northern Ireland (from paragraph 4.17), and

- is there scope to improve the workings of the planning system as it affects ports (Chapter 9)?;
- the **inland access** dimension: how should we provide the right conditions to deliver efficient logistics, with due regard to congestion and environmental consequences (from paragraph 5.1)?; and
  - whether the Government’s land-side priorities take sufficient account of the needs of the ports industry and the wider economic benefits of port development;
- the **local ports** dimension: what more can be done to get the best from the smaller trust and municipal ports around our coastlines (Chapter 8).

We also need to take account of how policy should maintain **flexibility** to adapt to as-yet unforeseen changes in circumstance.

- **Q1-1 Do you agree with the main focus of the review and the main issues to be covered by it? If not, what other aims or issues should be covered?**

## *Scotland*

1.15 In Scotland the majority of ports policy and harbour functions is devolved. The Scottish Executive has, therefore, concluded that the consultation<sup>3</sup> on the Scottish National Transport Strategy (NTS) provides the most appropriate means for consultation on ports policy in Scotland, particularly in view of the clear linkages with the freight strategy that will be developed within the NTS.

## *How to respond*

1.16 We want to know your views – whether you are an interested member of the public, a port operator or service provider, a shipper, shipping line, road or rail haulier, a local authority or other public sector body, or any other interested party.

1.17 You don’t need to study a library-full of reports and studies to make an informed response. You already have the most important background knowledge: your own experience.

1.18 At **Annex A**, we set out some background information about the ports industry, its recent development, and administrative structure. At **Annex C** we include a summary of the demand forecasts which our consultants, MDS Transmodal, have produced.

1.19 This document presents all the issues on which we are seeking views. We and our consultants have produced some further relevant documents, as we describe later. We have also listed web-sites of some of the main stakeholders, though there are many other interested parties, so this does not purport to be comprehensive.

3 <http://www.scotland.gov.uk/Resource/Doc/112254/0027311.pdf>

1.20 We have aimed to set out the **broad, general questions in bold type**. Subsidiary or more detailed questions are indented, in normal type.

1.21 You may choose to respond by post, or by e-mail. The deadline for responses is **1 September 2006**. The address for postal responses is:

Mrs Sabina Ali/Mr Mike Davey  
Department for Transport  
2/31 Great Minster House  
76 Marsham Street  
London  
SW1P 4DR

marking the envelope “PPR RESPONSE” at the top-left corner,

or you can e-mail your response to:

portsconsult@dft.gsi.gov.uk.

1.22 When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

1.23 The information you send us may need to be passed to colleagues within DfT and other Departments or devolved administrations, and published or summarised in a summary of responses to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation’s IT system, unless you specifically include a request to the contrary in the main text of your submission to us. Please therefore ensure that if you want your name or response to be kept confidential, you state this clearly in your response. (Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.)

1.24 We shall also be holding public seminar events in London, Leeds, Cardiff and Belfast.

1.25 Although a separate Scottish event is not envisaged as part of this consultation, DfT will participate for its reserved interests in any stakeholder event in Scotland held in connection with the ports element of the National Transport Strategy (NTS). Scottish port authorities and other stakeholder interests will wish to note that the Executive is consulting separately on ports policy within the context of the NTS. Scottish readers are, however, welcome to respond to this discussion document, in so far as it deals with cross-cutting and reserved issues.

## 2. Principles for Government involvement

### General principles

2.1 The preceding chapter has largely discussed demand for port capacity. If in principle there is no reason why the demand for import and export capacity should not be met nationally, we need to consider what is the right policy approach and framework – taking account of economic, social and environmental objectives, and how they may mesh with the Government's regional policy objectives. The discussion below suggests some of the themes which may be relevant. (After paragraph 4.17 we look at how far response should vary by region.)

2.2 So, we are not talking here of a crude model of Government predicting demand and then providing the extra capacity to meet it. It is ultimately for the market to weigh supply and demand. But the market operates within the overall framework of law and of policy in the environmental, regional, planning and other fields. The central question, then, is whether the market can capture all the important impacts of port development, and how Government should set a framework which helps this to happen.

### *Market failure and state intervention*

2.3 Market failure occurs when people do not take account of all the social costs and benefits associated with their actions, and may in some circumstances justify government intervention. Integral to this issue is how best to ensure that businesses and their customers pay the full costs of their decisions. Our aim should be to ensure that those making decisions on where to locate logistical operations, where to ship goods and what modes of transport to use in doing so, are confronted by prices or regulations which reflect not only the financial costs of producing and transporting the goods, but also the effects of these activities on third parties – such as those living near ports, or those experiencing congestion from HGVs.

2.4 Opponents of globalisation argue that the current system of international trade fails fully to internalise all the costs it imposes on its participants. This Review can only usefully consider whether there is market failure at more local levels. It might be argued that the market does not sufficiently consider, for example, the comparative road congestion effects of the location decisions of ports or any other generator of traffic. On the other hand, others may argue that the planning system, by requiring developer contributions to infrastructure, sufficiently 'internalises' the decisions, or at least goes a long way towards doing so.

2.5 However, externalities (impacts not taken into account in market decisions) can be positive as well as negative. We know that ports, individually and collectively, are vital to the economy. A more difficult question is whether it can best be left to the market to capture and reflect that importance, or if there are economic, social or environmental benefits beyond those considered by the market, for example in the differential impacts on regeneration associated with port development in one locality as opposed to another. If so there is an issue of whether and how Government should intervene to ensure these benefits are maximised. For example, there may be 'agglomeration' or 'cluster' benefits to the economy when various inter-related businesses congregate near ports, beyond those which are reflected in profits and rentals.

### 3. Forecasting demand

3.1 Central to this Review is the need to understand likely future pressures on ports capacity in the UK: by how much do we expect traffic to grow, and in which sectors will that growth be concentrated? Only then may we move on to assess how far the industry should be left to determine, competitively, the capacity that the nation needs, and how far there might be a need for a more active role by Government.

3.2 There is already some pressure on port capacity in certain trades, and most notably containers, as evidenced by occasional queuing at peak times of the year, and increasing ‘demurrage’ costs to port operators. With this in mind, DfT commissioned the first officially-sanctioned national forecasts of demand since the days of the National Ports Council in the 1970s.

#### *MDST Cargo Forecasts*

3.3 The consultants, MDS Transmodal, have prepared forecasts of demand to 2030 in the major cargo sectors. (We did not ask them to forecast demand in the passenger ferry and cruise sectors. These are discussed separately below.) These forecasts are UK-wide, and in so far as they relate to Scotland will be relevant to the National Transport Strategy there.

3.4 The consultants’ forecasts for UK port traffic show that:

- economic growth in an increasingly globalised economy will increase the volume of freight passing through UK ports;
- structural changes in the UK economy and the growing importance of trade with Europe and Asia will lead to increasing demand, in particular at those ports which have roll-on roll-off (ro-ro) freight and container services;
- how international freight moves between ports and inland origins and destinations will increasingly impact on local and national road and rail networks.

3.5 In addition, we have concluded that economic growth will increase demand for the passenger cruise sector but that other passenger volumes are more dependent on the competitiveness of the ferry sector with airlines.

3.6 For full details of the cargo forecasts, you can consult the MDS report. Here, we briefly summarise some of the findings. **Annex C** collates the conclusions in greater detail for the main traffic sectors.

3.7 First, though, a note of caution. It is very important to bear in mind the difficulty of forecasting 25 years ahead, and our consultants have fully acknowledged this. The forecast trends are subject to substantial uncertainty, and fluctuations around the trends are to be expected. Where regional breakdowns have been shown, the volatility of the forecasts is greater still.

3.8 One must also bear in mind that these are forecasts of demand, assuming no capacity limitation. To equate them to forecasts of actual traffic, it would have to be assumed that sufficient capacity will be available at UK ports to accept the traffic in aggregate. At national level, for most sectors, especially high value/low weight cargoes, this is probably a reasonably safe assumption. This is because, as MDS explain in their report, the extra transport costs (being a small proportion of the end-product price) are unlikely to affect demand materially. An additional reason may be that it should be possible to provide the requisite capacity at one location or another without great dislocation or unacceptable environmental implications, although ultimately this can only be determined on a case-by-case basis. In the container sector, however, such problems can be greater for major new developments, and the forecasts for this sector also need to be viewed in the context of the transshipment study's findings, which we summarise below.

### *Economic growth*

3.9 The growth of maritime freight transport demand is linked to economic growth in general and specifically to structural changes within the UK economy, tending towards slower growth in most of the bulk commodities passing through our ports and sustained growth of imports in manufactured goods, supplementing those which continue to be produced domestically. Reductions to barriers to trade in Europe and with the rest of the world will influence these trends.

3.10 Overall demand for seaborne cargo in the UK is at present largely import-driven, and expected to remain so. Import volumes will depend on a great many factors in practice, including national income (GDP), labour and other costs in countries exporting to the UK, technical change, changes in people's tastes and preferences, and so forth.

#### **Respondents' views on the forecasts will be welcome.**

3.11 In the following table of forecasts by tonnage, container traffic is forecast to grow more rapidly (average 4% over the period to 2030) in volume terms – teu<sup>4</sup> – than the projected growth in tonnage, as average tonnes per container are projected to continue to decline over time. This will therefore bring about pressures, for instance in terms of dockside storage capacity, beyond what the tonnage increase alone would imply.

4 20ft equivalent units – see Glossary

**Table: Summary of central forecasts**

		<i>M tonnes</i>				average annual growth
		2004	2010	2020	2030	
Liquid Bulk – major ports	GB	264	256	277	290	0.36%
	NI	3	4	4	4	
	UK	267	260	281	294	
Dry Bulk & general cargo – major ports	GB	139	137	148	151	0.32%
	NI	7	7	7	8	
	UK	146	144	155	159	
Bulk – other ports	UK	15	15	15	15	
Unitised – includes Channel Tunnel	GB	146	183	248	322	3.09%
	NI	12	14	17	20	
	UK	158	197	265	342	
All cargo – includes Channel Tunnel	UK	586	616	716	810	1.25%

### *Sectoral projections – non-unitised<sup>5</sup>*

3.12 These broad summary figures can mask important differences in trends in sub-sectors. For example, the compound annual forecast growth rate to 2030 of only +0.4% per year in liquid bulk could tend to obscure the projection, within this, of +2.6% per year in GB imports of oil products – a near doubling over the period. This could have potentially significant implications for developments at regional and (given their sometimes specialised nature) local level. Details are discussed further in the MDS report.

3.13 For liquefied natural gas (LNG) specifically, MDS' projection is more dramatic still, with compound growth for GB at +6.4% per year or, focusing on imports alone, +15.6% per year over the period to 2030. The range of potential sites for LNG imports is limited, and location decisions will be in part contingent on work currently in progress within the Department of Trade and Industry (DTI).

3.14 In contrast, overall coal traffic is projected to be broadly flat up to 2030, though changes in the pattern of coal flows could be regionally significant, and bulk freight tonne-mileage on rail may be sensitive to such changes. Important coal ports include Immingham, Teesport, Bristol and Mersey in England and Port Talbot in Wales, as well as Hunterston in Scotland.

3.15 The Government is, in parallel with this ports policy review, also undertaking a major strategic Energy Review, following the White Paper *Our Energy Future* published in 2003. We shall take account of any emerging findings from the Energy Review that may be relevant to forecasting port cargoes and ports policy.

<sup>5</sup> Unitised cargoes are items, usually manufactured goods, consolidated in sea-going containers, lorries or other such receptacles. Non-unitised cargoes are all other types, principally bulk items.

3.16 In non-unitised sub-sectors outside the energy sector, however, a flatter growth profile is expected, so that on central forecasts the potential implications for capacity requirements and hence the potential influence of regional policy emerging from this Review, are less far-reaching. Nevertheless, ports policy should ensure that the sector can deliver the country's needs in critical areas such as energy.

### *Sectoral projections – unitised*

3.17 The forecasts show a sustained trend of significant overall growth in the lo-lo and ro-ro<sup>6</sup> unitised sectors, and this will have capacity implications both for port terminals (and associated dredging) and inland haulage. For that reason, we expect this Review to focus on the adequacy of future capacity at the port itself and in the land and sea approaches.

3.18 Container terminal capacity in the greater South East (GSE)<sup>7</sup> is already set to increase in the light of recent decisions (see below) but the consultants' forecasts suggest that demand growth over the period to 2030 is likely to generate further capacity requirements. The high- and low-side uncertainties – as in any long-range forecasts – are highlighted, implying that any policy framework needs to be sufficiently flexible to adapt. And, as container traffic can switch ports more easily than can other traffic sectors, important regional policy issues are at the forefront of the Review. Below, we open the debate on these regional issues (for lo-lo containers and more generally) and explain our consultants' findings on the largely container-specific issue of transshipment.

3.19 Demand for ro-ro is, as the table of central forecasts shows, expected to grow almost as strongly. And the impact in absolute terms is likely – for obvious geographical reasons – to continue to be strongly concentrated in the south of England: the main concentration is through Dover; but also at Portsmouth and elsewhere. Away from the south coast, Irish Sea traffic is among the flows expected to maintain growth. There are obviously potential implications for road congestion and pollution in the hinterlands of the ro-ro ports, which need to be carefully considered.

### *MDS Transshipment Study*

3.20 We also asked MDS Transmodal (in association with DTZ Pbeda) to report on a narrower but related issue: the prospects for transshipment – as opposed to direct services – in the north-west European container sector, and the significance of this activity for the UK economy. The scale of transshipment, either in the UK or at hub ports elsewhere, will be an important determinant of the port capacity the country needs. We wanted to understand how much it costs UK industry as a whole to be served *via* transshipment hubs rather than by direct services; and conversely, what value there might be in developing the transshipment role of UK container ports.

3.21 Transshipment is the transfer of containers through a port onward by sea to a further destination. It occurs because there is a limit to the number of port calls which a large deep-sea container-ship can cost-effectively make. This means that many port destinations can only be served indirectly by feeder services.

<sup>6</sup> lift-on/lift-off (by crane at container terminals) and roll-on/roll-off (by cargo ferry).

<sup>7</sup> Defined as London, the South-East and Eastern Regions.

3.22 The MDS study focused primarily on transshipment through UK ports, but this cannot be divorced from the question of transshipment through foreign ports to UK destinations. This is because the potential for transshipment depends on availability of suitable deep-sea capacity which in turn will influence the amount of goods reaching the UK through third-country transshipment and short-sea shipping.

3.23 In order to complete their work in time to inform this discussion document, the consultants had to prepare much of their report while the outcomes of the container terminal applications for Felixstowe South and Bathside Bay were unknown. This means that some of their scenarios may now seem artificial. However, they have been retained in the final report because of the light they shed on the workings of the container business, alongside a scenario that reflects the decisions, up to the time of writing, to approve two of these three cases and their planned outcome in terms of extra capacity.

3.24 Among the main conclusions from this study are that, *in general*:

- deep-sea shipping lines, in the Far East trades, are particularly reluctant to make direct calls outside the GSE as this adds substantially to voyage time and hence costs for traffic bound elsewhere in northern Europe;
- consequently, if capacity in the deepwater ports of the GSE is constrained, they will be more likely to omit the UK call than to re-route to a northern or western port, with the UK-bound traffic then being transhipped through a continental port;
- greater use of coastal or feeder services does not necessarily mean more rail use in total, as greater diversity of port-calls and proximity to inland destinations tends to weaken rail share, it also adds to UK import and export costs overall.

3.25 These *are* generalizations, to which there would be exceptions at the level of shipper, port and/or shipping line. For example, some Far East vessels may tranship or ‘interline’ in the Mediterranean to vessels serving transatlantic or South Atlantic ports, which may find a call on the west coast of Britain more feasible than those plying NW Europe. And there may be switching of containers onto ro-ro services, especially if port congestion becomes more commonplace.

3.26 Further commentary is provided at Annex C, and of course in the MDS report itself.

### *Passenger Traffic*

3.27 The MDS remit did not include passenger traffic. Here we give a brief survey of the current position and significance for future policy, drawing on preliminary discussions with stakeholders including the Passenger Shipping Association (PSA) and VisitBritain.

3.28 Passenger traffic broadly divides into two sectors, ferry and cruise, which have experienced starkly contrasting fortunes over recent years and are expected to continue to do so.

3.29 The **ferry** market has declined steeply since around 1994, primarily for two reasons: firstly competitive pressure from low cost air carriers, serving not only coastal destinations but also inland locations creating new ‘mini-break’ alternatives to traditional port hinterlands; and secondly, the demise of duty-free shopping on most routes. Where these factors are not relevant, as for short domestic crossings such as to and from the Isle of Wight, passenger ferry traffic has generally been sustained.

3.30 In line with the analysis underlying *The Future of Air Transport* White Paper, we expect to see continuing growth in air passenger numbers, including strong growth and further diversification of destinations in the low cost sector. Although this growth includes generation of increased trip-making, it is also likely to include some further abstraction of ferry passengers. And, no reversal in duty-free policy is expected.

3.31 The **cruise** market has witnessed very different developments. Patronage for direct cruise, as well as fly-cruise, holidays has climbed steeply. Current marketing initiatives are seeking, with apparent success, to broaden the appeal of sea-cruising to younger adults and families, as against the traditional dominance of older age-groups.

3.32 Taking the passenger sectors together, the Department does not detect major policy implications in relation to capacity. Carrying passengers on primarily ro-ro cargo vessels may be one way to make ferries more cost-effective, and where this is done appropriate safety and security measures at sea and at the port are required. Otherwise, it is a question of recognising the declining need for passenger ferry terminal capacity, and yet ensuring that the market can respond if for any reason growth were to resume again.

3.33 On the cruise side, berthing capacity for the largest ships is currently limited to Southampton, Dover and Harwich. Elsewhere, there is burgeoning demand for ‘turnaround’ facilities at various regional ports, and potential at various regional ports for enhanced inward tourism. Despite the absence of national forecasts for the cruise sector – and the difficulty of making such forecasts – it appears that many regional and local planning authorities will view any necessary capacity requirements sympathetically, and that these can generally be accommodated in an environmentally sympathetic manner. However, we would welcome comment on this.

3.34 Further details of traffic statistics can be found in *Focus on Ports* and in the Department’s Maritime Statistics publications.

## *Spatial implications*

3.35 The above analysis has the following spatial implications:

- in most of the non-unitised sectors the flat projections indicate little change in the regional shares of this trade. However, given the Government's energy commitments to increase security, diversify supply and reduce carbon emissions there is set to be a rapid growth in the LNG sector which is likely to be concentrated in ports in the south of England and Wales;
- as UK North Sea crude oil production falls very significantly by 2020 there will be a growth in demand for transshipment points for oil imports. Some Scottish ports could act as transshipment points for the holding of crude oil prior to the shipment of the imported crude oil to main estuarial UK refineries;
- container terminal capacity in the greater South East is set to increase in the light of recent decisions. Assuming this capacity is developed, there will be only limited need for additional deep sea container capacity until after 2020. However, in the meantime there may be scope for growth in container feeder traffic via continental ports through the northern ports in view of the capacity-constrained road and rail networks in southern England;
- ro-ro traffic growth is likely to continue to be strongly concentrated in the south of England although Irish Sea traffic is expected to maintain growth; and
- while the ferry market is expected to continue to decline there is likely to be continuing growth in the cruise market to the benefit of Southampton, Dover and Harwich. The growing demand for 'turnaround' facilities means that some of the regional ports may gain traffic too.

3.36 In general terms, this trend-based analysis suggests that the Greater South East of England will continue to partake more in absolute terms than any other area from the likely increase in ports traffic, although unitised traffic is projected to grow proportionately strongly in all regions. However, MDS recognise that increasing road and rail congestion may dampen down some of this growth.

3.37 To summarise, issues for discussion are:

- **Q3-1 Do you consider that the MDS freight forecasts represent a sound basis for the policy review?** Have you views specifically in respect of:
  - Q3-1a lo-lo containers?
  - Q3-1b ro-ro traffic?
  - Q3-1c bulk traffic, including energy products?

– Q3-1d trade (imported and exported) cars?

– Q3-1e other commodities?

[Please give reasons for your agreement or disagreement.]

- **Q3-2 Do you consider the pattern of varying growth rates by region to be sustainable?**
- **Q3-3 What comments do you have on the transshipment study's findings?**

For example:

- Q3-3a Is it right to believe that deep-sea services from the Far East are reluctant to make direct calls outside the Greater South East? If not, why not?;
- Q3-3b In what circumstances would there be step change in coastal transshipment from the GSE to other UK ports?

[If you are involved in the container logistics industry, you may wish to illustrate your views by reference to your own recent experiences in dealing with ports.]

- **Q3-4 Do you agree or disagree with our assessment of the passenger ferry and cruise market prospects and their limited implications for policy?**

## 4. National, regional and local impacts

### Ports and the national economy

#### *Ports and international trade*

4.1 With 95% of trade by weight entering and leaving the country by sea, it is self-evident that ports are critical links in the logistics chain. And the Government is committed to securing the economic gains from free and fair international trade. So, if there were serious impediments *at national level* to the provision of port capacity required to secure the gains from international trade, there would be a strong case for intervention to ensure the orderly progress of trade.

4.2 At the broadest level, though, commercial incentives appear sufficient at present to induce the industry to come forward with capacity enhancement proposals, despite the substantial costs required to obtain all necessary consents and the prospective need for contributions to road and/or rail infrastructure. But we need to be fully satisfied that the market is operating effectively, and that owners of the major port sites are not unfairly exploiting their position.

4.3 Since *Modern Ports* (DETR, 2000) was published, the Government has committed to seek to improve regional economic performance in England, as expressed in the following joint Public Service Agreement (PSA) objective of HM Treasury, ODPM (now DCLG) and the DTI:

to: “make sustainable improvements in the economic performance of all English regions by 2008, and over the long term reduce the persistent gap in growth rates between the regions, demonstrating progress by 2006 ...”

Wales, Scotland and Northern Ireland also aspire to achieve growth-rates experienced in south-east England.

4.4 *Modern Ports* had little to say about the regional dimension so, as part of this Review, we should consider whether, and how far, ports policy can and should contribute to the achievement of these objectives in England and across the UK, taking account of the trend-based spatial implications of projected demand summarised in chapter 2. Ports have impacts on employment (discussed further below) and on road/rail congestion (discussed in the next Chapter). The focus will tend to fall on the most capacity-critical sectors – in particular:

- **containers** and the extent to which provision should be made for further development of deep-sea terminal capacity in South and East England, beyond currently outstanding decisions, in line with demand, and the steer which Government might give for more deep-sea or feeder capacity elsewhere in Great Britain;

- **short-sea ro-ro** traffic and the scope for attracting more of this to northern ports, potentially producing savings in sensitive lorry miles within the UK; and
- the balance of costs and benefits to the economy if trade travels *via transshipment* entrepots outside the UK.

4.5 The regional dimension is perhaps less significant for other sectors, such as dry and liquid bulks. Here the Greater South East of England is much less dominant, and in overall terms projected growth is lower. By tonnage, around a third of total national cargo passes through northern ports, a proportion similar to that in the Greater South-East.

4.6 Issues relating to the detailed *operation* of the planning system, as distinct from its strategic elements, are discussed in Chapter 9.

4.7 In a market-driven sector, a traffic could not for long be forced into a particular port or region if the economics of doing so were inherently unviable. All this sets a context for considering ports in relation to regional policy and planning.

## *Wales*

4.8 The Welsh Assembly Government is keen to maximise the contribution of port development to Wales' economy. Ports policy for Wales, other than for small fishery harbours, is reserved. The Assembly Government does however take a close interest in port developments, given the role of ports as both transport interchanges and economic drivers. These linkages are reflected in the Assembly Government's wider transport<sup>8</sup>, economic development<sup>9</sup> and spatial<sup>10</sup> policies.

4.9 The Welsh Assembly Government is currently working to develop a Wales Transport Strategy, which in due course will replace the Transport Framework for Wales. The Wales Transport Strategy will link closely with Regional Transport Plans prepared by each transport consortium and the Wales Spatial Plan. It will include a separate freight strategy which will reflect the outcome of this ports policy review.

8 The Transport Framework for Wales, November 2001.

9 Wales: A Vibrant Economy, The Welsh Assembly Government's Strategic Framework for Economic Development, November 2005.

10 People, Places, Futures, The Wales Spatial Plan, November 2004.

### **Welsh ports**

Wales is well endowed with ports. In South Wales, the ports at Newport, Cardiff, Barry, Port Talbot and Swansea handle a wide range of cargoes from raw materials through to containers. The degree of diversification varies considerably; Newport is a general cargo port, while Port Talbot (one of the few deep water harbours in the UK) is utilised primarily by Corus for importing iron ore and coal. Similarly, in South West Wales, Milford Haven, one of the larger UK trust ports, handles mainly petroleum products.

A major investment programme is currently under way to develop two Liquefied Natural Gas (LNG) terminals (at Milford Haven) which in due course are expected to account for up to 30 per cent of the UK's gas consumption. In North East Wales, the Port of Mostyn handles general cargo.

Wales has four ferry ports with services to Ireland, namely Swansea, Pembroke Dock, Fishguard and Holyhead. These ports are on the trans-European transport network, reflecting their strategic importance. Ports and ferries have been upgraded in recent years, reflecting the growth in freight traffic across the Irish Sea.

The Welsh Assembly Government is currently developing a freight strategy as part of the forthcoming Wales Transport Strategy. It is keen to encourage the transfer of freight from road to rail, as well as to coastal and short-sea shipping. The Assembly Government administers the Freight Facilities Grant (FFG) scheme in Wales.

In terms of surface access, the Welsh Assembly Government has made clear the priority it attaches to investment in the gateways to Wales. The trunk road forward programme includes a number of schemes which will help to improve access to ports, including the new M4 motorway around Newport as well as improvements to the A477 and A40 in West Wales. In North Wales, significant investment has been undertaken to complete the upgrading of the A55, strengthening the strategic role of Holyhead. Further improvements are planned to improve access into the Port from the A55.

### ***Northern Ireland***

4.10 The Department for Regional Development in Northern Ireland (DRDNI) is responsible for ports policy and the legislative framework within which ports operate in Northern Ireland. There are five commercial ports in Northern Ireland – four public trusts ports (Belfast, Londonderry, Warrenpoint, Coleraine) and one in private ownership (Larne).

4.11 Ports policy in Northern Ireland recognises the crucial role the ports have in terms of the Northern Ireland economy. They serve as vital gateways, not only for trade between the island of Ireland and Great Britain, mainland Europe and elsewhere, but for passenger and tourist traffic as well. With about 95% of external trade handled by them, modern efficient ports are vital to Northern Ireland's economic prospects. And the ports must remain competitive with those south of the Border.

4.12 There are increasing demands on port capacity throughout Ireland, including that arising from the growth in container traffic and the increasing size of ships. The Department for Regional Development is working with the Northern Ireland ports to understand better the constraints and pressures and available opportunities to address the issues surrounding port capacity on the island of Ireland and to encourage the ports industry to identify how it might best address this issue.

4.13 The strategic importance of Northern Ireland's commercial ports and their role as gateways is recognised in Northern Ireland's Regional Development Strategy (2001-2025) and Regional Transportation Strategy (2002-2012). The strategies reflect a hub, corridor and gateway approach to future development and recognise the importance of regional gateways as suitable locations for major economic development, freight distribution activities and additional employment generation. Within this, the ports sector has a major part to play in implementing the spatial development strategy for the region.

## Ports as contributors to regional and local economic development

### *Ports employment, and local/regional regeneration*

4.14 Ports employ far fewer people today than they used to thirty and more years ago. Evidence on employment in the ports sector, and jobs relating to it both on- and off-site, is presented in the Department's port manpower study, *Port Employment and Accident Rates*<sup>11</sup>. (This report estimates that some 54,000 employees (full-time equivalent) work in directly related jobs on the port estate, with a further 20,000 working elsewhere. Further estimates are given of indirectly-related employment.) And *general guidance* on appraising the effects of transport on gdp and wider economic benefits is also available on our website<sup>12</sup>.

4.15 In the MDS transshipment study, our consultants have made certain assumptions, based on previous research, about the indirect and induced employment effects of ports, which are comparable with these findings.

4.16 The **fishing** industry retains importance at some ports, and is significant in several regions' economies, though it very seldom encounters critical harbour-capacity problems. The UK catching sector lands over £540 million in catches each year, resulting in £800-1200m of economic activity in the UK. The industry directly and indirectly supports over 26,000 jobs in the UK – a substantial figure given the national total of some 74,000 directly employed on port-related activities.

11 SB(05)32, [www.dft.gov.uk/stellent/groups/dft\\_transstats/documents/page/dft\\_transstats\\_610514.pdf](http://www.dft.gov.uk/stellent/groups/dft_transstats/documents/page/dft_transstats_610514.pdf)

12 [www.dft.gov.uk/stellent/groups/dft\\_econappr/documents/page/dft\\_econappr\\_038893.pdf](http://www.dft.gov.uk/stellent/groups/dft_econappr/documents/page/dft_econappr_038893.pdf)

## *The English regions*

4.17 There is now a much stronger regional policy element in the sanctioning of port development in England. The Planning and Compulsory Purchase Act 2004 introduced the new regionally-based structure for Town and Country Planning which is now being implemented. Central to these arrangements are Regional Spatial Strategies (RSS) and their component Regional Transport Strategies (RTS) and the Regional Economic Strategies (RES), which in turn strongly influence plans at the local level. The RSSs<sup>13</sup> will be subject to cyclical review over the years to 2030. All relevant RSSs already acknowledge the importance of seaports.

4.18 One of the ways the Government looks to reduce the gap in growth rates across regions is by supporting inter-regional growth strategies. These are long-term plans focused on achieving economic growth by ensuring regions work together delivering policies best delivered at the pan-regional level, being driven forward by Regional Development Agencies (RDAs) working together with partners, including the Regional Assemblies. Such growth strategies are being developed in the North (The Northern Way<sup>14</sup>), and in the Midlands (SMART Growth: the Midlands Way<sup>15</sup>) and in the South West (The Way Ahead: Pioneering Sustainable Communities<sup>16</sup>).

4.19 The policy statement resulting from this review will form a material consideration for the preparation and revision of regional plans, so it is essential that the regional dimension should be thoroughly explored. The question is, how explicitly should the regional dimension be specified in a revised ports policy.

4.20 The Northern Way is an independently chaired and RDA-led initiative with the primary aim of enhancing productivity in the North East, North West and Yorkshire and Humberside regions, to close the £30bn productivity gap between the North and the UK average.

4.21 The Northern Way has set itself a target<sup>17</sup> to increase the throughput of northern ports as a contribution to closing the productivity gap and to maximise the sector's contribution to economic growth.

4.22 A ports-specific study<sup>18</sup> by MDS Transmodal and Regeneris Consulting for the Northern Way has produced useful data on the inland distribution of cargo, complementing the preparatory studies for this ports policy Review. Its main findings and recommendations, which will be considered alongside responses to this discussion document from each nation and region, are briefly summarised in the text-box.

13 In London the Mayor's 'London Plan' fulfils a similar role to the RSSs and is also subject to regular review.

14 <http://www.thenorthernway.co.uk/index.html>

15 <http://www.advantagewm.co.uk/downloads/smart-growth--the-midlands-way.pdf>

16 <http://www.thewayahead.info>

17 To increase the northern ports' tonnage share from 32% to 35% by 2010, and its share of ship arrivals from 22% to 25% over the same period.

18 The Northern Way: Evidence-Based Review of the Growth Prospects of the Northern Ports, MDS Transmodal and Regeneris Consulting, 2006.

## **The Northern Way and its economic potential**

The MDS/Regeneris report finds that currently around half of freight transport devoted to the inland distribution of imports and exports to and from southern ports has origins or destinations in the North of England or in Scotland and there is a crucial role for the North's ports to play in the country's distribution network, promoting national competitiveness.

The report argues that measures to increase traffic through the North's ports, especially short sea ro-ro and feeder traffic, would play an important part in improving the UK's overall transport infrastructure, would enhance national as well as northern competitiveness and would help the national distribution network by reducing HGV kilometres on Britain's road network overall and reducing congestion in the South and Midlands.

The report argues that this switch in traffic could be most effectively achieved through full congestion charging, the cost of which to industry should be balanced against the greater journey time reliability and reduced generalised costs of freight transport due to reduced congestion.

The report recommends actions to promote the northern ports including that:

- regional and local planning authorities continue to support port development and explicitly recognize the potential of northern ports to support long term growth;
- there should be integrated land-use and economic development plans for the major northern ports and their surrounding areas (in partnership with the ports themselves), providing a strategic basis for the development of the ports, related employment uses and surface access over the next 20-25 years;
- work needs to be done to ensure that a strategic and co-ordinated approach is adopted to tackling the long term investment priorities for road and rail infrastructure, aspects of which need to be coordinated at a pan-regional level;
- adequate sites for economic development should be available to meet the needs and opportunities of ports over the next 15-20 years with partners working together to identify and progress site development opportunities;
- there is potential for a more ambitious cluster approach to encouraging port and port-related development involving the whole transport chain;
- a pan-regional cluster development forum should be investigated as a means of sharing good practice in port related economic development and planning activity;
- a more co-ordinated approach to skills development and the ports and logistics sector;
- Regional Skills Partnerships should investigate skills and future employment needs; and
- the opportunities of future ports growth should be further built into existing regeneration activity.

4.23 The consultants' suggestion, referenced in the second bullet point of the box above, implies another tier of plan-making additional to the existing arrangements. An alternative might be to consider whether the port authorities, RDAs, Regional Assemblies and other partners in every region should be invited to consider working on integrated studies which would inform both the RSS and RES. The relevant local Development Plan Documents might then consider the need to expand the port estate into surrounding areas, including by safeguarding appropriate sites for future port related development, and provide large sites for distribution uses.

4.24 These integrated land-use and economic development studies might focus on how to secure regional shares of the growth in port traffic. However, they might also involve regional or local authorities seeking to attract existing port traffic from elsewhere in the country. We also want to consider whether central Government should constrain actions by regional or local authorities, aimed at this latter approach. Such measures might constitute healthy inter-regional competition, complementing in the interests of public policy objectives the commercial competition that already exists. On the other hand, they might simply distort a previously fair and efficient market.

### *Port Master Plans and integrated land-use and economic development planning*

4.25 In this context, airports policy may provide a useful precedent. Following the recommendations of *The Future of Air Transport White Paper*, the Department for Transport and the devolved administrations published guidance on the preparation by airports of Master Plans. In essence, their purpose is to inform those involved in the preparation and implementation of regional and local development plans as to the strategy of the airport up to a medium-term time horizon of ten years or so. Master Plans, which are currently in various stages of development, do not have a formal status in the planning system, but have been generally welcomed as providing greater clarity as to the intentions and aspirations of the airport in relation to its hinterland.

4.26 A similar approach may or may not be suitable for ports. The Port of Dover, for example, which already has air quality problems and is set to continue growing with significant potential consequences for local road and rail traffic and for land use and amenity, has now produced just such a document, and an online summary.

4.27 Another possibility, which might be in addition to any Master Plans, would be the integrated land-use and economic development studies, informing both the RSS and RES – see also 4.17 above. We would also need to consider appropriate thresholds.

4.28 Below, we invite your views as to the value of recommending ports more generally to prepare Master Plans and where necessary subject them to a sustainability appraisal; and whether these should be along similar lines to those being developed and implemented for airports, recognising that ports operate in an even more competitive environment. If there are resource constraints on the ability to do both, you may wish to comment on whether it would be more fruitful for the ports authorities to engage with the local planning authorities in the production of the local Development Plan Documents discussed above.

## Questions

[Please specify whether you are responding from a UK-wide standpoint, in relation to your own country or region, or both.]

- **Q4-1 Drawing on experience from your own locality, do ports significantly stimulate wider local employment and regeneration? In what circumstances?**
  - Q4-1a When jobs are newly created in a port, do you consider that likely to be at the expense of jobs in other ports, or elsewhere in the economy? Does your answer depend on the port's locality, or on the type of traffic, or on whether public subsidy is involved?
- **Q4-2 What are the regional and territorial issues that national policy should address and how should it do so?**
  - Q4-2a For example, should a national policy set out how Government wants to see ports develop in each region? Or leave regional bodies to make the case for port development, if they wish to do so? [The latter approach might still be consistent with setting indicative and non-prescriptive regional targets (see options 4.29(d) and (e) below).]
  - Q4-2b Are the Regional Spatial/Transport Strategies and the Regional Economic Strategies already providing sufficient guidance on the role of ports in each region? If not what are their major deficiencies?
  - Q4-2c Do you consider that port authorities (of more than a size which might be specified) should be recommended to prepare and maintain Master Plans along the lines which we have recommended for airports?

4.29 To help focus consideration of this broad issue, it may be useful to consider five levels of progressively greater levels of possible future Government intervention to pursue regional policy objectives:

- (a) as a minimum, taking the wholly market-led approach as in *Modern Ports*, but adding guidance on assessing non-transport benefits of port development such as reducing unemployment in a regeneration area;
- (b) a commitment to aim towards fuller incentives to take account of the external (outside the market) effects of port use, both positive and negative – for example, evolution towards national road pricing (see Chapter 5) with careful attention paid to the appropriate levels of charging for port-related HGV traffic;
- (c) removing any obvious constraints on port expansion outside the South and East. The focus might, for example, be on the need to address local access bottlenecks, or on the pollution legacy of past industrial activity – often a constraint on development of brownfield sites at northern ports;

- (d) indicative targets for the percentage of capacity or of port traffic growth that Government wants to see take place away from the South and East; or, more specifically,
  - (e) setting indicative targets for each region or devolved administration, to provide the context for each Regional Economic Strategy and Regional Spatial Strategy or equivalent. Each target would need to be evidence-based, agreed with the ports, RDA, and Regional Assembly for that region as being achievable and helpful, and aimed at securing a regional share of the growth in capacity or port traffic rather than at attracting existing port traffic from elsewhere in the country. This would require further work (and extensive consultation) in order to derive the targets considered most appropriate.
- **Q4-3 In broad terms, which of these approaches to the regional dimension do you favour most, and why?**

Considering each level of intervention respectively:

- (a) What form of guidance would be most helpful?
- (b) How, if at all, should any special characteristics of port traffic be taken into account?
- (c) Where are the critical physical or other constraints on port development, especially outside the Greater South East? What should be done about these? Is the cost of doing so acceptable?
- (d) If you believe indicative targets would be appropriate, how should they be set?
- (e) If specific indicative targets should be set for each region, what criteria should be used to derive them, and how long would it take to achieve consensus across all regions?
- Q4-3(f) What, if anything, should Government do to help the achievement of regional indicative targets, if they *are* set? [Please refer to your answer to Q4-3(c) if appropriate.]

And a further question specific to Northern Ireland:

- Q4-3(g) What opportunities or threats do the ports in Northern Ireland face in competition with the Republic of Ireland ports? How might any opportunities be built on and threats addressed?

4.30 We have considered the case for going further still, with Government stipulating particular locations or even sites where it would wish to see development take place. And indeed, on major questions of runway capacity, we took just such a view in *The Future of Air Transport* White Paper. However, the circumstances of seaports are different, and we do not regard such direction as necessary or desirable for this industry. An equivalent exercise for ports would also take several years. In contrast to the airports situation, competing port operators have not been deterred from bringing forward major planning applications for capacity expansion. Identifying only certain port locations as suitable for development would be far more likely to be challenged by competitors losing out than was the case for the more concentrated airports sector. And the great majority of those operators explicitly oppose a highly locally-directive approach.

- Q4-3(h) Nonetheless, we would consider views as to whether the arguments on balance continue to favour ruling out a ports strategy that is location-specific.

## 5. Inland connections

5.1 Ports cannot function without effective inland transport links. And here the Government has important duties to fulfil in respect of inland links, as the policy-maker for the railway system and for roads, and as the highway authority for the strategic road network.

5.2 The Government's task is to provide a framework which delivers efficient, reliable and safe road and rail networks, to support the economy and ensure the efficient movement of both people and goods.

5.3 The 2004 *Future of Transport* White Paper sets out the Government's strategy to achieve this. On the road network, this strategy is built around three central themes:

- sustained investment, adding new capacity where it makes economic, social and environmental sense to do so;
- improved management, to ease congestion and lock-in the benefits of new capacity;
- planning ahead by, for instance, leading a debate on the benefits of road pricing as a tool to manage the growing demand for transport.

5.4 For both networks, this will help to improve journey reliability, critical to ports and their customers needing to distribute freight quickly and effectively. DfT's strategies for road and rail aim to address the needs of freight flows, but do not give any special weighting for port traffic.

### *Coastal shipping and inland waterways*

5.5 Coastal shipping flows within Great Britain help to reduce congestion on journeys to and from ports by inland modes of transport. The Government wishes to see freight moved by alternatives to road where this makes sense and provides financial support where appropriate. The Government also supports the efforts of bodies such as Sea and Water<sup>18</sup> to promote the transport of goods by coastal and short-sea shipping, and inland by waterways.

5.6 Inland waterways also have a role in some parts of the country, notably South Yorkshire; both inland waterways and coastal shipping can receive support through grant mechanisms administered by DfT. From 2007, this will be administered through the DfT's Sustainable Distribution Fund. However, the funds available are modest and transshipment *via* foreign ports is often more efficient for unitised traffic. Coastal shipping, over the foreseeable future, may offer no more than 'niche' opportunities in the unitised field, even allowing for prospective increases in deep water port capacity in the GSE. But with that proviso, there will be diverse views as to just how large that 'niche' might be.

18 Sea and Water ([www.seaandwater.org](http://www.seaandwater.org)) is an organization dedicated to promoting inland waterway, coastal and short-sea shipping as alternatives to land transport by removing obstacles, promulgating good practice and representing users in policy discussions.

## *Port development and infrastructure funding*

5.7 Government already funds a substantial programme of transport infrastructure improvements which will benefit all transport users including those accessing ports. Regional Spatial Strategies and the recently introduced Regional Funding Allocations provide a framework for identifying and prioritising new infrastructure investments, although final decisions on funding remain with Government.

5.8 With the Highways Agency and railway undertakings, we provide guidance on funding of road and rail connections to ports. In essence, new developments, which by expanding the amount of port traffic trigger a need for expanding road or rail infrastructure capacity, should be expected to pay for such expansion through developer contributions. To some extent it means that the developer contributions reflect externalities, including congestion and environmental pollution, though the process is indirect.

5.9 Where developers' proposals will create a need for new infrastructure that is not envisaged by these plans, the Government expects them to meet the costs of providing this infrastructure. In the case of roads, the Highways Agency establishes what triggers the need for road improvements or expanding road infrastructure capacity, and then seeks full cost recovery from whoever is responsible, through developer contributions. The Agency will work with developers to ascertain what demand management measures, if any, can be put in place to negate or reduce the need for infrastructure improvements.

5.10 Rail freight operators pay for access to the network, broadly speaking, as incremental users. Where expansion of rail freight, including through ports, generates a demand for capital works which would not otherwise be commercially viable for the network provider (normally Network Rail), the freight users collectively will be expected to pay for such additional works 'up front'. This can, however, raise difficult questions for negotiation in view of the general requirements for subsequent open access to the network.

5.11 The recent decisions on Felixstowe South and Bathside Bay have illustrated the current DfT and Government approach. The primary contribution is expected to come from the port promoter, sufficient to offset the infrastructure requirements expected to be placed upon the network by virtue of the development: in other words, the end result should be 'nil detriment' to the network operator, on behalf of its users, customers and/or taxpayers.

5.12 Some developers have argued that new capacity is in practice usually added in the form of substantial indivisible elements: a new lane on a road, for example, or gauge clearance for a major rail route. This can produce both practical difficulties in imposing such large costs on a port operator, and perceptions of unfairness where the investment brings benefit to non-port-users as well as to port traffic.

5.13 We do recognise that, in some circumstances, Government has a role in supporting the costs of road and rail infrastructure where these deliver wider benefits. Below, we discuss a number of mechanisms, existing and under development (or about to be renewed), which aim to help improve strategic planning and funding arrangements to deliver clear objectives and priorities:

- Regional Funding Allocations (RFAs), to help ensure decisions on funding better reflect the priorities for each *region* set out in economic and spatial strategies;
- the Transport Innovation Fund (TIF), to help catch *national productivity* benefits;
- the Sustainable Distribution Fund (SDF) to catch *environmental and decongestion* benefits (using sensitive lorry miles (SLMs) as an indicator);
- we also touch briefly on EU funding sources which can contribute to a limited extent in suitable cases, provided that distortions of competition can be avoided; and we mention
- consultation on changes to developer contribution mechanisms, including the possible use of planning-gain supplement (PGS) and therefore to planning obligations and highways (s106 & s278) agreements.

### *Regional Funding Allocations (RFAs)*

5.14 The Government announced in July 2005 long term regional allocations covering transport, housing and economic development and asked regions to provide advice on the priorities within these allocations. These allocations will enable the regions to plan ahead on a more realistic base; and more closely to align their strategies across these interrelated and interdependent areas of activity. The RFAs will also enhance the regions' input into Government policy development and public spending decisions.

5.15 The RFA advice was received at the end of January and will influence decisions on local authority major road and public transport schemes and major Highways Agency schemes. Guidance on the preparation of RFA advice and information on the advice received from each region is available on the DfT web site<sup>19</sup>.

### *Transport Innovation Fund (TIF)*

5.16 The TIF aims to support the funding of regional, inter-regional and local schemes that are beneficial to national productivity. (It will also give the Department's delivery partners incentives to develop and deploy smarter, innovative local and regional transport strategies. It will support the costs of new transport packages that combine demand management measures such as road pricing with modal shift and better bus services, and support local mechanisms which raise new funding for transport schemes.)

19 [http://www.dft.gov.uk/stellent/groups/dft\\_localtrans/documents/divisionhomepage/039134.hcsp](http://www.dft.gov.uk/stellent/groups/dft_localtrans/documents/divisionhomepage/039134.hcsp)

5.17 Initial information on the objectives and operation of the Fund was published in July 2005, with more detailed *guidance* on the operation of the Fund in January 2006: this has been published on the DfT web-site<sup>20</sup>. Funding becomes available from 2008/09, and the total Fund is expected to grow to some £2.5bn a year by 2015.

### *Sustainable Distribution Fund (SDF)*

5.18 The Department will merge the current mode-shift grant schemes that it operates into a single *Sustainable Distribution Fund (SDF)* from April 2007. This will include the existing Waterborne Freight Grant, Water Freight Facilities Grants, the replacement schemes for rail Track Access Grants and Company-Neutral Revenue Support (CNRS) and rail Freight Facilities Grant (FFG) schemes, the latter being currently unavailable in England due to budgetary constraint. The main purpose is to support transfer of traffic from road to rail or water where this is justified by the external benefits of doing so.

5.19 In future, the nature and level of support given by the SDF for mode-shift schemes is likely to be affected by the introduction of road-pricing. It is not possible to determine the effect of this until the nature and extent of road pricing affecting port traffic flows becomes clearer. For the time being, the Government intends to proceed as announced with the SDF.

### *European funding sources*

5.20 European funding, both for access to ports and, exceptionally, investment in ports themselves, is currently available through a variety of channels (including the European Regional Development Fund (ERDF), Trans-European Networks (TENs), and the Marco Polo initiative for short-sea shipping). UK applicants for funding from these sources need to satisfy the Government as to their compatibility with fair competition between ports; and the Department for Transport, with ODPM/DCLG, has issued guidance as to the evaluation required to satisfy us on this point. We propose to maintain the current guidance to this effect.

### *Planning-gain supplement*

5.21 The PGS consultation process is separately considering whether and to what extent PGS might help to secure appropriate funding for road connections to ports (among other facilities) by, for example, avoiding complex multi-party negotiations. This has strong links to the Government's cross-cutting review of infrastructure funding announced in the 2005 Pre-Budget Report, as part of the Comprehensive Spending Review 2007. Advantages and disadvantages of the PGS approach were discussed in the consultation document, still available for reference on the HM Treasury web-site<sup>21</sup> although the consultation has closed. We will consider the potential of this proposal for improving the way in which port developers contribute to infrastructure requirements.

20 [www.dft.gov.uk/stellent/groups/dft\\_about/documents/page/dft\\_about\\_611056.hcsp](http://www.dft.gov.uk/stellent/groups/dft_about/documents/page/dft_about_611056.hcsp)

21 [www.hm-treasury.gov.uk/media/F59/D3/pbr05\\_planninggain\\_449.pdf](http://www.hm-treasury.gov.uk/media/F59/D3/pbr05_planninggain_449.pdf)

## *Congestion – road pricing and rail pathing*

5.22 Looking ahead over the years until 2030 and beyond, the Government expects to see **road** pricing playing an increasing part in its strategy to deal with congestion.

5.23 However, it is too early to predict in any detail what the level and format of charges will be if and as road-pricing becomes more widespread. As with other vehicles, lorries both cause and experience congestion, and it may not be a simple matter, on any given link, to evaluate what the effect of congestion charging at various levels is likely to be. So we cannot at this stage be sure what a general road-pricing scheme would look like, and what impact it might have on the capacity of access routes to ports and on current arrangements for developer contributions.

5.24 **Rail** can be a congested mode too, although of course train-paths are controlled and allocated through the access regime. But freight to and from ports has to compete with passenger trains for space on the network, and in general strategic terms, passenger flows receive the higher priority.

5.25 The capability of the network raises important questions for competition between ports and for our ability to encourage modal shift. A prominent rail funding issue over recent years relates to the upgrading of strategic parts of the network to satisfy the ‘W10’ loading gauge, which permits the increasingly common 9’6”-high containers to be carried on conventional rail flats, avoiding the need for special vehicles. But rail capacity issues can of course take other forms, and bulk as well as unitised traffic is affected. Such issues bring into consideration the possibility of Government taking a more active role to promote mode shift, and to encourage competition.

## *Questions for discussion*

- **Q5-1 What do you consider to be the strengths and weaknesses of the approach to port development consents whereby related road or rail enhancements are identified and their funding agreed?**
  - Q5-1a Ahead of any transition to road-pricing, are the incidental (external) effects of ports adequately addressed under present policy?
  - Q5-1b Should developing ports be required to fund the incremental road and rail infrastructure to accommodate the increased traffic expected to be directly brought about by the development? If not, how should it be funded?
  - Q5-1c If ports pay for (a) road and (b) rail enhancement, should port users receive access on preferential terms (assuming this can lawfully be given) – for example, by priority lanes on the roads, reserved train-paths, or reduced access charges on rail?

- **Q5-2 Is Government doing enough to encourage traffic already using ports to make more use of rail and if not, what further measures might be taken?**
- **Q5-3 Similarly, could Government, at acceptable cost, stimulate a step-change in use of inland waterways and coastal shipping to reduce HGV mileage? How?**
- **Q5-4 Do current evaluation methods for inland transport investment take sufficient account of the status of major ports as strategic points of entry and exit for UK trade?**

## 6. Safety, security and the environment

### *Safety and security*

6.1 Safety and security are, and must remain, the prime concern both of Government and of port managers and employees. The Government intends to continue, for the foreseeable future, broadly its present policies in this area.

6.2 We believe there are no fundamental issues at stake around the general approach to safety and security in ports. **Annex B** sets out the broad policy and administrative background, and you are welcome to comment if you wish to do so.

6.3 The Transport Select Committee<sup>22</sup> had made important recommendations in this area. The Government's response, since then, is described in Annex B and includes the publication last year of a Transport Statistics Bulletin on *Port Employment and Accident Rates* (see also 4.14 above).

6.4 Chapter 8, which deals with ports governance questions, does however highlight one important question raised in Annex B, given the possibility of new legislation to address weaknesses in the regulatory regime for port marine safety.

### *Ports and the environment*

6.5 Our goal is development of the ports sector that is compatible with the Government's social and environmental objectives.

6.6 Ports can produce environmental effects when under development, in the form of alterations to marine and shoreline habitats for example, and in noise, dust, lorry traffic and waste produced in the construction process, and in their use. They are subject to legal requirements (for instance under the habitats and Environmental Impact Assessment Directives, discussed below) which require environmental effects to be taken into account when requesting permission to develop.

6.7 The Government's policy towards port development continues to be set within the overall context of its environmental objectives and its policy on sustainable development. Application of the UK's environmental obligations and objectives contributed to the rejection of the proposed container terminal development at Dibden Bay, Southampton. The Government has also permitted approval to be granted to other applications only after thorough consideration of environmental impacts, and mitigation of these impacts as necessary and appropriate.

6.8 It is perhaps important to stress that the purpose of the environmental legislation is not and never has been to prevent appropriate development. Approvals to develop outnumber refusals. In the context of the Government's desire for better regulation however we need to be sure that the burdens in terms of cost and time being placed on developers are proportionate and are not preventing new proposals from coming forward.

22 Ninth Report from the Transport Committee: Ports: Session 2002-03, HC 783.

6.9 Recent experience suggests that the major developments coming forward are consistent with the Government's objectives for sustainable development. For example, Hutchison Ports UK has agreed to a substantial habitat replacement scheme to offset damage which will inevitably be caused to existing habitats when the Bathside Bay container terminal is developed, and ABP similarly will provide compensatory habitat on the Humber for the Quay 2005 development at Hull.

6.10 What we cannot be sure of, however, is whether smaller scale developments are being deterred by the process, as distinct from the substance, of the requirements of the Directive and Regulations.

6.11 A consistency issue related to the application of EU Directives is whether they are applied throughout the EU, the 'level playing field' argument. The Government's general approach is that we have a duty to transpose and apply EU Directives properly. In now applying the *Water Framework Directive* (2000/60/EC), the UK is placing great weight upon agreeing with other Member States a common implementation strategy.

### *Environment and ongoing operations*

6.12 Existing ports are also subject to wide-ranging environmental regulation. Below, we discuss some of the most prominent environmental effects or 'externalities'.

6.13 The Department for Transport's website contains wide-ranging advice to ports on environmental matters. Little of this advice emanates from the DfT itself, as the industry has been active in producing its own material and in working collaboratively with others such as English Nature. The Government has seen its own role, in keeping with its overall market-led approach to the industry, as one of making ports aware of their obligations while trying to avoid unnecessary or inappropriate burdens. (Planning guidance and advice issued by ODPM/DCLG and the Devolved Administrations, is also relevant.)

6.14 Ports have done much in recent years to improve their environmental management systems and equally, in general, the Government has not been made aware of serious deficiencies.

6.15 Conversely, there has been some concern at the prospects of ports' fundamental operations being hindered by environmental requirements. An example of this is the impact of the habitats Directive on maintenance dredging. The Directive requires an appropriate assessment to be undertaken when framing proposals for dredging which could affect a 'Natura 2000' site. On this issue, the ports, Government and English Nature are developing a protocol to provide assistance to operators and regulators seeking, or giving, approval for maintenance dredging activities which might affect Natura 2000 sites. As noted at 6.11 above, the forthcoming implementation of the Water Framework Directive represents another important task for industry, including the ports industry.

### *Noise*

6.16 Ports are a source of noise – from working machinery, handling of cargo or harbour dredging – with consequent impacts upon the local residents. Noise can also result from

the traffic, road and rail, to and from a port. Like other industries, ports are subject to legal controls in respect of noise and will be included in the coverage of strategic noise maps required by EC *Directive on the Assessment and Management of Environmental Noise* (2002/49/EC).

### *Local air pollution*

6.17 Ports can be a source and concentrator of sources of local air pollution due to localised activities involving ships, lorries, locomotives and static equipment. We need to consider whether current arrangements for dealing with these effects are appropriate. Port Health Authorities<sup>23</sup> have responsibility for regulating any LAPPC (Local Air Pollution Prevention and Control) processes in their area, and for avoiding the creation of statutory nuisances. Cargoes known to cause dust pollution – for instance, cement and aggregates – may require specific remedial action. Industrial activities such as this, whether permitted under LAPPC or not, will inevitably affect the local air quality as a source of air pollution. These effects fall into three categories: pollution caused by cargoes, by vehicles and by ships. The last two are discussed briefly below.

6.18 Ports can concentrate large volumes of HGV traffic, and as a result air quality can be a problem at the largest ports. Congestion and stop-start driving conditions can exacerbate the situation. Overall, emissions of some important pollutants (in particular, nitrogen oxides and particulates) from road transport have been falling, despite increases in traffic, largely due to technical improvements in engine and catalyst design. This has been driven by a progressive tightening of emissions standards at EU level. And new, yet tighter emission standards are currently being negotiated in the EU.

6.19 Where local authorities predict that pollutant concentration limits will be exceeded, an Air Quality Management Area (AQMA) is designated and action must be taken to tackle the problem. There are specific problems with nitrogen dioxide and particles across a few parts of the UK, particularly in major urban centres and along busy roads. New emission standards also apply to new rail locomotives.

6.20 Emissions of air pollutants from ships (especially sulphur dioxide (SO<sub>2</sub>)) entering port and using coastal routes, estuaries and inland waterways, could have a health impact on populations nearby. Regulation in this area is covered by the *International Convention for the Prevention of Pollution from Ships* (1973, substantially modified by Protocol in 1978 and commonly known as MARPOL 73/78)<sup>24</sup> which was negotiated at the International Maritime Organization (IMO). The Government is working with the shipping industry to tackle emissions problems where they arise, through the strengthening of emissions standards (notably through the restriction of the sulphur content of marine fuels). Directive 2005/33/EC on the sulphur content of marine fuels will also have a role in controlling sulphur dioxide emissions from ships. The UK is in the process of implementing this Directive.

23 PHA services are provided by local authorities and their duties also include infectious disease control, inspection of foodstuffs and other cargo, and other matters.

24 [http://www.imo.org/Conventions/contents.asp?doc\\_id=678&topic\\_id=258](http://www.imo.org/Conventions/contents.asp?doc_id=678&topic_id=258)

## Waste

6.21 Ports must ensure that reception facilities are available for the types of waste which are generated on board ship. Following domestic legislation in 1997, the UK in 2003 implemented the Directive on port reception facilities for ship-generated waste and cargo residues (Directive 2000/59/EC). The UK is currently consulting on further draft Regulations which will extend the port waste reception facilities regime to cover sewage which is generated on board ship.

### Global emissions

The Department for Transport has developed policy initiatives to address greenhouse gas emissions from land transport, reflecting Kyoto Protocol and Energy White Paper targets<sup>25</sup>, and to promote the incorporation of aviation into the EU emissions trading scheme.

However, emissions from international shipping are excluded from Annex I of the Kyoto Protocol. The issue was remitted to the IMO which is considering technical and operational ways of achieving reduction in carbon emissions from international shipping. The current focus of IMO work lies in promoting the use of new guidelines for the CO<sub>2</sub> emission indexing of shipping. The UK is actively supporting this process. UK flag ships will be encouraged to participate in these trials, which will help identify a ship's greenhouse gas index with the information obtained useful for assessing climate change impacts.

- **Q6-1 Air pollution in or around ports, relating to shipping or road traffic can be a cause for concern. Do you have any suggestions for further action to tackle the problem at local, national or international level?**
- **Q6-2 Are ports adequately meeting their general environmental duties and if not, in what ways are they not doing so?**
- **Q6-3 Do you have any suggestions for further areas where Government might facilitate practical compliance with environmental duties?**
  - Q6-3a Are marine environmental effects sufficiently taken into account, and where necessary remedied, when decisions are taken through the Harbours Act and general planning systems on port and port-related development?
  - Q6-3b Do those ports with which you are familiar take appropriate steps to limit the effects of noise arising from (i) construction work and (ii) ongoing activities?

25 see chapter 10 of the Future of Transport White Paper – [http://www.dft.gov.uk/stellent/groups/dft\\_about/documents/page/dft\\_about\\_031279.hcsp](http://www.dft.gov.uk/stellent/groups/dft_about/documents/page/dft_about_031279.hcsp)

## 7. Securing fair competition

### *Competition*

7.1 A central tenet of UK ports policy has been to ensure effective competition between ports to give shippers real choice. Ports in the UK generally do operate in a competitive environment, but not a perfectly competitive one:

- there is a geographically limited range of sites highly suited to deepwater berthing;
- some bulk traffics require specialist equipment for loading and unloading, while others require little such equipment and are comparatively footloose;
- there are local and international economies of scale and scope in container handling which tend to favour large terminals, particularly in the deep-sea sub-sector;
- shipping lines, as clients of the ports, operate in an imperfectly competitive international market.

7.2 Competition issues are not material considerations in the exercise of planning functions for ports by the Secretary of State for Transport or the Secretary of State for Communities and Local Government. Rather, it is for competition authorities – domestically, the Office of Fair Trading (OFT) in the first instance – to determine whether there is cause to investigate *prima facie* anti-competitive situations. The OFT (and the Competition Commission) have not hitherto found there to be evidence of abuse of market power in the ports sector, nor have they as yet intervened to prevent merger activity (acquisitions of Mersey Docks and Harbour Co. and of P&O Ports having lately been cleared).

7.3 However, this Review should consider whether there are any likely threats to the continuation of genuine inter-port competition. Three factors need to be considered. Firstly, the availability of capacity to allow genuine choice among geographically suitable ports. Secondly, availability of adequate inland infrastructure to handle that traffic. And thirdly, there is the question, largely specific to the container sector, of ports' ability to compete for transshipment traffic. This market encompasses both sides of the North Sea: continental container hubs provide an important, and welcome, competitive element.

### *The European regulatory system*

7.4 At European level, the Commission has competence under the Treaty of Rome (as amended) where large-scale competition issues, going beyond individual Member States, arise. The Government's view is that any proposals for fresh sector-specific intervention at EU level, in relation to intra-port competition or charges for example, should be subject to stringent tests as to the existence of market-failure, and to regulatory impact assessment.

7.5 Mainly because of the prevalence of publicly-owned landlord ports on the Continent, the Commission's attempts to promote competition across the EU ports sector have focused on intra-port measures such as the two draft ports service Directives (rejected by the Parliament) and other new regulation under contemplation at the time of writing. The UK has made it clear that better evidence of market failure and proper impact assessment is needed before we could accept major new regulatory interventions of this kind.

7.6 We expect the Commission to clarify, through the course of a major consultation expected this year, its intentions on regulation for the ports sector. We will strive to ensure that the debate at EU level is informed by the findings emerging from this review exercise in the UK.

- **Q7-1 Is effective competition adequately secured by current arrangements?**
  - Q7-1a With reference to any experience you may have had in dealing with ports, do you consider there is a need for more specific economic regulation provisions for the UK ports industry? If so, what do you think would be appropriate?

### *State aid guidelines and the financing of seaports*

7.7 The Community position on state aids to ports is enshrined in the general Treaty rules on this subject (Articles 86 & 87). Construction of ports infrastructure represents a general measure of economic policy – a “public good” which can normally be legitimately accepted as an exception to Treaty rules prohibiting state aid.

7.8 However, existing UK ports policy (as set out in *Modern Ports*) states that –

“port developments and port operations should not in general need public subsidy. Public money is not well spent distorting competition between ports for example, where a port is seeking to win business to replace lost traffic and use surplus capacity. Subsidy tends to spread the problems caused by excess capacity. It can be damaging to otherwise healthy neighbouring ports”.

Any applications to the UK government for public funding for UK ports infrastructure are carefully screened in the light of this.

7.9 UK policy clearly recognises that, unlike those in many other EU Member States, UK ports – with the exception, as noted, of deep-sea container traffic – tend to compete in a closed island environment with significant overlap in their spheres of economic influence. This means that it would be comparatively easy for public intervention to destabilise the competitive balance of our internal market. However, unlike the rest of the United Kingdom, Northern Ireland shares a land border with another EU member state, and has a limited number of commercial ports to satisfy the market requirements. As a result, each of the NI ports operates in close competition not only with each other, but with the Republic of Ireland. Ports policy in Northern Ireland recognises the vital role which all of the NI ports play in relation to the NI economy, both in terms of their local areas and Northern Ireland as a whole.

7.10 We also need to make sure that differences in the constitutional status or ownership of ports do not distort the market. Chapter 8 discusses competition issues as they relate to the mixed company/trust/municipal forms of port tenure in the UK.

- **Q7-2 Do you believe that the UK's views on application of state aid to the ports sector (as set out at 7.8 above) are appropriate?**
  - Q7-2a Is there any justification for the UK to amend its domestic stance on the application of public funding to UK ports? If so, in what way?

### *Ports and resilience of the supply chain*

7.11 The importance of ports to national trade and the economy implies that there is a national interest in ensuring the collective robustness and resilience of ports to large-scale disruption (whether natural or by human intervention), perhaps going beyond what the market will ordinarily provide.

7.12 In particular, it might be argued that – subject to environmental acceptability – there is a public interest in the over-provision of port capacity at national level, or at least in avoiding the risks of under-provision (given the inherent uncertainty of forecasts) in order to provide an element of redundancy and greater responsiveness in the event of disruption. Aiming for surplus capacity is, arguably, also important in supporting a genuinely competitive market for shippers.

- **Q7-3 Should Government take measures to help ensure resilience of national ports capacity to major natural or human interruption?**
  - Q7-3a If so, how, and in which traffic sectors?
  - Q7-3b Is there a more general public interest in avoiding risks of under-provision of port capacity, in order to ensure that ports operate in a strongly competitive environment?

## 8. Accountability and opportunity in a diverse sector

8.1 The private-sector company ports account for the greater part of commercial activity at ports around our coastline. But a wide range of ports, large and small, operates under other forms of tenure. And these ports not only serve international and domestic trade and passenger flows, but also provide vital services in areas including conservancy, environmental protection, leisure and amenity.

8.2 While, then, the greater part of the ports sector by value operates on an essentially profit-maximising basis, many smaller (and some large) ports, accounting for some 30% of total traffic, are structured either as independent non-profit-making trusts, or as undertakings of a local authority; and they may pursue non-commercial as well as commercial objectives. We need to be sure that this diversity in the structure of the industry works in the best interest of port customers.

8.3 Trust ports are independent statutory bodies established under individual local legislation, often dating back to the 19<sup>th</sup> century when railway companies were also being granted analogous powers. They are run by boards, appointed in accordance with the local statutory provisions, who reinvest any surpluses for the exclusive benefit of the port and its users. *Focus on Ports* sets out key facts about the trust port sector.

8.4 The Government's 1999 review of the role and status of trust ports (*'Modernising Trust Ports'*) concluded that the trust port concept continued to perform a valuable role in support of the local, regional and national economies. The central feature should be an independent Board appointed on a fit-for-purpose basis acting in the interests of, and intended to be accountable to, all stakeholders. That review confirmed that this Government would not use the Ports Act 1991 powers to compulsorily privatise the largest trust ports, and focused instead on improving trust port governance such that all meet high standards of openness and accountability. The resultant programme, involving co-operation between the sector and Government, is now largely complete.

8.5 Quite separately, there are 62 municipal ports in England and Wales, each operated as a department of the owning authority and subject to local government rules and financing requirements. Most of these ports have the powers of a statutory harbour authority constituted under local Acts and Orders. As noted at paragraph 8.25 below, a review of municipal ports is being published in parallel with this document.

8.6 Although private sector ports operate as companies under the Companies Acts, a large proportion of them are, or have as a subsidiary through which they act, a body corporate created by local legislation which exercises the statutory powers of a harbour authority: e.g. the power to regulate navigation within their jurisdiction, to charge harbour dues, etc. In so far as a private sector port is operating under this statutory regime, it is subject to the same legal requirements (for example, as to appeals against harbour dues under section 31 of the Harbours Act 1961) as trust ports and municipal ports which also act through statutory harbour authorities.

8.7 There are five main issues to explore arising from this diversity of tenure, discussed below.

### *Issue (i) Making the most of the opportunities at smaller ports*

8.8 There are over 600 harbours and wharves in the UK, of which nearly 100 are commercially active. The largest 20 of these account for some 87% of total traffic, but successful small port operations also generate wealth, and may give rise to twice as many induced or indirect jobs as are actually employed at the port itself<sup>26</sup>. It is therefore important that every opportunity be taken to realise the potential of well-located harbours.

8.9 There is, however, evidence that several factors hold back the development of smaller ports. These include:

- a lack of awareness of the value added by ports on the part of public bodies such as regional, sub-regional and local development agencies;
- the difficulty of accommodating public seedcorn investment to support port operations in the context of a competitive commercial ports industry;
- for some trust port boards, too narrow an interpretation of the stakeholders to whom the trust is accountable: the focus must not be on existing users alone;
- local opposition to port development, particularly where waterfront sites have recently been used for new housing rather than industrial activity;
- problems with access to funding, potentially affecting company as well as trust and municipal ports. Development costs can climb sharply if local road or rail access improvements are also needed, but trusts can only borrow on their income stream; the local government finance regime constrains municipal ports; and company ports may struggle to produce a sufficiently robust business case.

8.10 The future of a harbour site may sometimes best centre on ceasing commercial port operations and maximising the value of the waterfront site for other development such as a marina (for example, Watchet in Somerset), housing or non-port-related commercial enterprise. There are several such ports where, even with an imaginative approach to the potential revenue generation, it has to be concluded that the port's income will remain insufficient for it to continue to meet its statutory purpose as a harbour open to commercial traffic. A port in financial difficulty might be tempted to neglect or reduce the priority of its safety-related functions, such as proper maintenance of navigation channels.

8.11 If closure is indeed the only option, there is as noted in *Modern Ports* a large legislative hurdle to clear. The functions and responsibilities of a harbour authority can only be wholly wound up through primary legislation: the authority must obtain a fresh Act of Parliament, as a Harbour Revision Order under section 14 of the Harbours Act 1964 enables only a partial closure. But this is a costly process, and a 'problem port' is hardly likely to be in a position to sponsor the necessary Bill. And, even if closure is achieved,

<sup>26</sup> (See the *Port Employment and Accident Rates* Statistical Bulletin)

there may well be some residual liability for clearing up any environmental damage which might have occurred through the long history of the port's operation.

8.12 So far, DfT has seldom intervened to seek solutions for 'problem ports'. Our policy rationale has been (see para 7.8 above) that such problems are not a consequence of market failure, which Government might be expected to address; ports must stand or fall on their ability to attract viable traffic. At the same time, in particularly difficult local situations Government may step in with financial or other assistance, where this is the only way to secure non-transport benefits such as regeneration.

- **Q8-1 What steps should the Government take to help realise the potential of smaller ports, and to aid transition away from port activity if and where necessary?**
  - Q8-1a Should Government be more active in removing obstacles to the change of use of existing moribund ports?
  - Q8-1b Should the Secretary of State be given powers to close a harbour through an Order under harbours legislation?

### *Issue (ii) Securing trust port governance to the 1999 Review standards*

8.13 Accountability has been the main focus of our recent work with the trust ports. Since 2000, we have succeeded in ensuring that the great majority of trust ports adhere to the model set out in our *Guide to Good Governance* in which:

- the Board and senior officers are appointed in line with Nolan principles, and in relation solely to the skills required;
- the trust's annual report and accounts and significant internal documents (such as Board minutes) are publicly available;
- the port maintains an open and direct relationship with all its stakeholders, not just harbour users.

8.14 Complying with the *Guide* should mean that a trust port meets the obligations the Government aimed to place upon it. However, the ports remain independent statutory bodies and are only formally accountable to their boards. Even board members appointed by the Secretary of State or by a local authority are accountable only to the Board. Some stakeholders have argued that this is a significant shortfall, and that trust ports cannot effectively be held to account.

8.15 *Modernising Trust Ports* sets out 'neighbourhood watch' principles under which concerns by stakeholders about action by a trust that is inconsistent with the guidance should be referred to DfT if they cannot be resolved with the port itself. We state a commitment to ensure that a trust does not take decisions in an arbitrary or unaccountable manner, but the Secretary of State has no practicable power to enforce

compliant actions by the trust other than to reconstitute the authority or regulate its procedures, for the purpose of securing harbour efficiency, through a Harbour Constitution Order under section 15 of the Harbours Act 1964.

8.16 A particular issue of fair competition and accountability arises where trust ports have powers to precept local authorities. A small number of ports retain such powers, which may be used for example to fund flood defence works. It is worth considering whether such powers continue to be appropriate.

### *Questions for discussion*

- **Q8-2 Is there evidence of a widespread ‘accountability deficit’ in the trust port sector?**
  - Q8-2a How far might that problem be addressed through enhancing existing voluntary measures within the trust sector?
  - Q8-2b Should those trust ports, which currently have powers to precept on local authorities, continue to have such powers?
  - Q8-2c Is there a case for an external regulatory function, either through providing the Secretary of State with new powers to direct trust ports, or by bringing the trust ports under some independent regulatory regime?

### *Issue (iii) Government’s relationship with the largest trust ports*

8.17 Six of the largest trust ports in England and Wales are now classed by the Office of National Statistics (ONS) as public sector bodies for Government accounting purposes. This classification also relates to the trust ports in Northern Ireland, and the impact is the subject of a separate discussion paper soon to be issued by the DRDNI (see box).

8.18 In 2004 Government accepted an ONS ruling that those trust ports picked up by the privatisation power in the Ports Act 1991 – with turnover over a certain threshold, currently £7.2m – and some other ports where a majority of Board members are appointed by central or local Government, count as part of the public sector for accounting purposes.

8.19 That means that all new borrowings by six substantial ports (Dover, Harwich, Milford Haven, Poole, Shoreham and Tyne) must now be covered by DfT’s budget allocation, even though Government has no mechanisms to control the finances of the ports. The classification does not sit easily alongside the well-established concept of the independent trust, and we have encouraged the ports in question to seek a means by which they can be properly classified outside the public sector.

8.20 The six ports therefore applied last year for Harbour Revision Orders (HROs) to put them outside the ONS criteria, by disapplying the privatisation power for each port and by reducing to a minority the number of board members appointed by the Secretary of State. However, these applications have not yet proceeded to public inquiries, because this

Ports Policy Review appears to provide a more effective forum for considering the issues that the adjustment to the ports' status would raise.

8.21 Six more, much smaller trust ports (Chichester, Hope Cove, Littlehampton, Langstone, Orford, and Sandwich) are also picked up by the ruling as the local authority in question appoints the majority of their board members. Because they have no significant borrowings, no action has been taken in response ahead of resolution of the position of the major trust ports. But the same method of resolution could apply.

8.22 A seventh major port affected – London – has already moved back out of public sector classification, by changing the arrangements for board appointments<sup>27</sup>. That leaves the six other large ports currently in what we consider an unsustainable position, needing either to revert to non-public sector status for Government accounting purposes, or to become subject to new controls from DfT.

8.23 The attempt to achieve private sector status through the HROs was opposed by the major company ports and by the official Opposition, who challenged in particular the loss of financial accountability which would result, and the trust ports' alleged potential to compete unfairly with company ports. We need to establish how far the ports market is in practice distorted by insufficient scrutiny of investment at trust ports, and to assess the effectiveness of the current arrangements for these ports' accountability to stakeholders.

8.24 *Focus on Ports* summarises the functions of each of the six ports. It should be noted that the arbitrary nature of this grouping of ports, and their diversity in traffic flow and constitutional arrangements, means it is likely that some concerns will be specific to individual ports. *Modernising Trust Ports* examined the accountability arrangements in detail, but did not address questions of competition with other parts of the industry.

- Q8-3a Is there any reason not to disapply the compulsory privatisation powers in the Ports Act 1991 (see para 8.4 above) by harbour revision order (HRO), given the present Government's assurances that those powers would not be used?
- Q8-3b Is the planned outcome of the proposed HROs – trust ports as bodies operating outwith Government influence but accountable to local stakeholders through existing mechanisms – a durable status for the six trust ports?
- Q8-3c Can the six ports, once reaffirmed in this status, operate fairly alongside competitors constituted as private-sector companies with shareholders?
- Q8-3d Should the 'HRO process' be extended to the (further six) much smaller ports?

27 This was also done by a HRO, in 2005 – in this case, without opposition.

### **Trust Ports in Northern Ireland**

Against the background and aims of *Modern Ports: A UK Policy*, published in 2000, Government's role in Northern Ireland has been to encourage continued development of the ports by creating the right climate through legislation to enable them to operate efficiently and effectively, promoting a successful, sustainable and competitive ports sector.

A review of the public trust ports in **Northern Ireland** completed in 1998 confirmed their strategic importance and the need to ensure that the ports were able to remain competitive and to play their full part in the development of the local economy. The review identified a need to improve the public accountability of trust ports; to extend their commercial powers; and to ease the existing financial controls under which they currently operate.

The Department for Regional Development (DRDNI) has been implementing a programme of reform of trust ports in Northern Ireland with the intention of placing them on the best possible footing to meet the challenges ahead. This consists of a package of measures, some voluntary, some requiring legislation, but all focussed on ensuring that greater commercial freedom for local trust ports is balanced with proper public accountability.

DRDNI has already enacted legislation in relation to public accountability and has been developing proposals for new primary legislation to extend further the powers of Northern Ireland trusts ports and to modernise the existing harbours legislation.

The ruling by the Office for National Statistics that trust ports should be treated as public corporations for public expenditure purposes has fed through to the legislative programme following the trust ports review. This and related issues are the subject of a separate discussion paper being issued by the DRDNI.

### *Issue (iv) Aligning supervision of municipal ports with changed local government structures*

8.25 Following our work on *Modernising Trust Ports*, we have also been examining, jointly with DCLG and NAW, the accountability, governance and finance of the municipal ports sector. We are issuing in parallel the report of this review, *Opportunities for ports in local authority ownership*, which sets out the challenges for local authority-owned port operations and recommends a number of measures which the local authorities and the port managers may pursue together to align successful port operations more effectively with the new structures and obligations placed on local authorities. The central recommendation is that local authorities should consider restructuring the governance of the larger municipal ports into a harbour management committee (HMC), resembling the structure of a trust port, and introducing a degree of operational independence from the parent authority and enhancing direct stakeholder input. This approach, modelled on the success of medium-sized trust ports, is already being adopted at Whitstable and Workington.

8.26 The Review does not, however, address the role of municipal ports as part of the wider ports industry. Most of the 62 municipal ports serve only leisure or fisheries markets, and only a handful are commercially significant. They are subject to the tight constraints of local government finance, and so are arguably less free than trust ports to invest in expansion that might impact on neighbouring company-owned ports. Conversion to HMC status would not lower the appraisal hurdles that investment would have to clear.

8.27 Nonetheless, we need to be confident that municipal ports continue to justify their place in a mixed ports sector, and that local authority involvement does not distort the market for ports services. Indeed, there might be scope for synergies in a local authority's interest in ports through increasing its oversight of the activities of trust ports in its area. We should consider whether there might be merit in a greater alignment of approach to trust and municipal ports, strengthening their contribution as a 'social' ports sector alongside the purely commercial company ports.

- **Q8-4 Do the recommendations in the Municipal Ports Review satisfactorily address the range of governance issues and enable municipal ports to perform to their full potential?**

### *Supervision of statutory harbour authority powers*

8.28 Unless provided for in the port's own local legislation, the only specific statutory control (in England, Wales and Scotland) over the exercise of statutory powers by harbour authorities is harbour users' right of appeal (under section 31 of the Harbours Act 1964) to the Secretary of State (or, in Scotland, to the Scottish Ministers) over the reasonableness of harbour dues levied by the port. In Northern Ireland the equivalent provision is found in Section 7 of the Harbours Act (Northern Ireland) 1970. There is no appellate body (other than the High Court through judicial review) which considers complaints against statutory harbour authorities, and they are not included in any ombudsman schemes.

8.29 Economic regulation of ports is restricted to the section 31 power, plus general oversight by the Office of Fair Trading and the Competition Commission; there is no sector-specific regulatory regime for ports (see above, paragraph 7.1ff).

8.30 There are very few applications to the Secretary of State under section 31, and although there have been a number of references to the OFT, mainly in relation to company-owned ferry ports, there has been no evidence of abuse of market power in the ports sector and no suggestion that the existing powers of the competition authorities are insufficient to deal with any such abuses. There have, however, been a number of disputes on administrative rather than economic actions by a trust where efforts to broker a voluntary solution have failed, and the objector is left dissatisfied by Government's inability to enforce compliance with the *Guide*.

8.31 Safety is a further aspect of port operations where the Government has been keen to place maximum responsibility on port operators themselves, rather than develop complex regulatory regimes. The powers and duties of harbour authorities in respect of safety within the harbour area have been codified in the Port Marine Safety Code (PMSC).

8.32 As, however, it has been difficult to assure ourselves that all authorities are complying with the PMSC, there may be a case for legislating to give the Secretary of State a reserve power of direction, to be used only when a harbour authority is acting unsafely. We have also identified scope for modernising some detailed aspects of harbour authorities' powers over such functions as pilotage. These issues are considered further at **Annex B**.

8.33 Included in Annex B is a proposal for reforming the approach to harbour byelaws in the context of port safety. The Government recognises that the current process of harbour byelaw confirmation, requiring the Secretary of State's approval to any new byelaws or changes to existing ones, can be cumbersome and result in unnecessary delay in the process. Reform of byelaw procedures therefore could also include a general deregulatory approach whereby, with any appropriate safeguards, the Secretary of State withdraws from the approval role.

- **Q8-5 In your experience, are the arrangements for supervision of harbour authorities' powers adequate? If not, what changes would you like to see made?**
  - Q8-5a Is there a case for an external regulatory function, either through providing the Secretary of State with new powers to direct statutory harbour authorities, or by bringing the trust ports under some independent regulatory [or ombudsman] regime, to deal with problems caused by a statutory harbour authority's exercise, or failure to exercise, of its statutory functions?
  - Q8-5b Do you support the suggestion of new legislation bringing in a reserve power of direction for the Secretary of State in port safety and modernising other aspects of harbour authorities' powers, including a power for them to issue general directions to shipping?
  - Q8-5c Do you support the proposal that the Secretary of State should withdraw from his byelaw approval role?

## 9. Making the planning system work more effectively

### *Scope of this chapter*

9.1 In Chapter 4 above, we looked at the general framework for regional and local planning under the Planning and Compulsory Purchase Act 2004. And in Chapter 6, we briefly discussed the main generic environmental factors which can be significant both in operations and when framing and assessing applications for new port development.

9.2 In this Chapter, we look in a little more detail at the applicable legislation and required process, and invite your views on the scope for making the system work more efficiently and effectively, without compromising on the need for fairness to all parties concerned.

### *Harbour consents process in each territory*

9.3 Ports are unusual within the planning system, in that applications for development approval consents at the sea-land interface are typically made under the Harbours Act 1964, (see also 9.14 below), and consent is granted (where appropriate) through harbour revision or empowerment orders (HRO/HEO).

9.4 Under the Act, for ports in England and Wales, where an objection to a HRO/HEO application has been made and is not withdrawn, an inquiry is held. Decision-making powers in the light of the inspector's report then lie with the Secretary of State for Transport. Procedures have been adopted which are otherwise similar to those in the mainstream planning system. The Department has recently issued new *guidance to applicants*<sup>28</sup> on the process they need to follow.

9.5 Corresponding powers and duties in Scotland and Northern Ireland are devolved (in the latter case, administered by DRDNI/DoENI during the Assembly's suspension). The remainder of this chapter relates principally to England, but also to Wales and Northern Ireland where applicable.

9.6 With major applications in England, there is usually accompanying land-side development for which consent under Town and Country Planning legislation is also required. In England, the Secretary of State for Communities and Local Government is the associated decision-maker following inquiry, and the two Departments liaise as necessary in the consideration and decision process. In Wales, the National Assembly for Wales takes decisions on applications under Town and Country Planning legislation and separate inquiry procedure rules also apply.

9.7 The importance in the planning process of Regional Spatial Strategies, including their constituent Regional Transport Strategies (RSS/RTS), was noted in chapter 4.

28 Harbour Orders Guide, DfT, March 2006.

[http://www.dft.gov.uk/stellent/groups/dft\\_shipping/documents/page/dft\\_shipping\\_611467.hcsp](http://www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_611467.hcsp)

9.8 The Government has already done a great deal to address concerns about the planning processes in general. The Planning and Compulsory Purchase Act 2004 provides a clearer procedural framework to improve the consideration of individual projects as they come forward for determination in the planning system; and has introduced improved arrangements for compulsory purchase and compensation.

9.9 In July 2005 new inquiry procedure rules for major infrastructure projects (such as larger ports) were brought into effect. The changes are bringing significant benefits to the inquiry process, particularly reducing the time taken at the public inquiry stage. Other recent changes to the development control system will also help speed up the process for all applications determined by the Secretary of State for Communities and Local Government.

9.10 The new procedures will take some time before their effectiveness can be fully assessed. Meanwhile, it is worth asking what other changes could help all parties to the process in ports cases.

9.11 For example, one significant issue in major ports applications, which can raise difficulty both for applicants and objectors, is the question of possible alternatives to the proposal – developments which might deliver comparable benefits from the regional, national or even supra-national standpoint. These may need to be considered in domestic planning law as well as where specifically required under the habitats Directive. Some such possibilities might be within and others outside the promoter's control. Our guide, *A Project Appraisal Framework for Ports* (DfT, 2003) sets out guidance in this area.

9.12 The *Project Appraisal Framework for Ports* was produced following a commitment in *Modern Ports* (para 2.4.13). This guidance recognises that civil seaport developments are a private sector responsibility, and is intended to assist those seeking planning consents – and other parties to the process – and to ensure that the appropriate supporting information and analysis is provided. For example, it provides guidance as to the identification and comparison of alternative ways of providing the port capacity under consideration – as we have seen, this can be a particularly important consideration where habitats issues are engaged.

- **Q9-1 Do you have any views on whether the project appraisal framework requires revision?**

9.13 The mechanics of the decision process beyond inquiry can also raise concerns. During consideration following receipt by the Secretary of State of an inspector's report, new issues and representations may arise. To ensure fairness to all parties, we must communicate such matters to all the parties, allowing time for consideration (or the inquiry itself might need to be re-opened.) And the longer such iterations have to proceed, the greater the probability of new issues coming to light.

9.14 The main mechanisms for decisions on port development affecting tidal waters to be made are contained in the Harbours Act 1964. Other mechanisms for enabling ports development include the Town and Country Planning Acts, the Transport and Works Act, licensing for dredging under the Food and Environment Protection Act 1985, and works

licensing and tidal works approvals under local harbours legislation. Broader environmental considerations are brought into play along with these mechanisms by way of the European Directives on Environmental Impact Assessment and on Habitats, and arguably are thoroughly considered through the system.

## *Habitats*

9.15 The *habitats* Directive (Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna) was referred to at paragraphs 6.6ff. above. This, with the UK's *transposing regulations*<sup>29</sup>, has introduced a legal framework for the consideration of developments (plans or projects within the meaning of the Directives) which might adversely affect Special Areas of Conservation (SACs) or Special Protection Areas (SPAs). As all involved – Government, advisers, ports – gain more experience in operating with the Directives, so greater understanding – and just as importantly, greater willingness to work together towards achieving sustainable solutions – has emerged.

9.16 Where a port development is expected to have such an adverse effect, it is necessary to consider whether there are alternative solutions. If not, consideration should then be given to whether there are “imperative reasons of overriding public interest” (‘IROPI’) which justify it proceeding, on condition that compensatory measures are implemented where appropriate.

9.17 Consideration of individual cases, in which the habitats Directive is engaged, could be speeded up if the assessment of ‘IROPI’ could be based on undisputed criteria. This is essentially a question of policy, in the first instance, and may be clarified by this Review process. But, procedural issues too are important to anyone involved in applying for development consent, or in opposing such applications.

9.18 Defra has recently launched a consultation<sup>30</sup> on the proposed Offshore Marine Conservation (Natural Habitats, &c) Regulations 2006. This follows an earlier consultation, in 2003. The consultation closes on 30 June.

## *Marine Bill*

9.19 The Government is also committed to bringing forward a Marine Bill to facilitate the sustainable development of the marine environment and improve the current framework for managing marine activities and protecting the seas and coasts. Defra issued a consultation package<sup>31</sup> on 29 March 2006. In particular, four aspects relevant to this Review are being considered:

- a system of marine spatial planning to provide a more holistic and forward-looking approach to promoting sustainable development;

29 The Conservation (Natural Habitats, &c.) Regulations 1994 (SI 1994/2716)

30 <http://www.defra.gov.uk/corporate/consult/offshore-marine-2006/index.htm>

31 <http://www.defra.gov.uk/corporate/consult/marinebill/index.htm>

- options for the simplification and streamlining of the current complex, time-consuming and costly marine consenting regime;
- options for improving the framework for the protection of marine ecosystems, species and habitats; and
- the possibility of a new Marine Management Organisation and its purpose, and responsibilities.

9.20 All these issues have an impact on ports and the process for approving their development, and there are overlaps with questions discussed in this paper. To minimise the burden on consultees, **Government agreed that the Marine Bill consultation would seek views on these issues.**

9.21 Where the responses cover issues relating to ports, Government will ensure they are also considered as part of the ports policy review. Respondents wishing nevertheless to send their comments to both consultations, perhaps because the overlaps render separation difficult or simply because it is easier for them, should feel free to do so.

### *Questions for discussion*

- **Q9-2 What more should the Government do to help applicants and other stakeholders in ports planning cases?**

(You may perhaps wish to consider separately (i) pre-inquiry preparations, (ii) the inquiry itself and (iii) post-inquiry handling of negotiations and of new information. Please draw on any experience you may have, but avoid discussing the merits of any pending case.)

- Q9-2a Are environmental effects sufficiently taken into account, and where necessary remedied, when decisions are taken through the Harbour Revision Order and Town and Country Planning systems on port and port related development?
- Q9-2b Does the ***Project Appraisal Framework for Ports*** provide adequate and appropriate guidance for those involved in port development cases on how to assess alternatives? Should there be a national set of criteria, as well as existing regional and local development plan criteria, against which planning applications for port development should be judged? (Such criteria could include consideration of the full inland transport freight costs and impact on local labour markets and the extent to which the port development would contribute to any regional indicative ports targets set by government as a suggested policy option in Chapter 4.) If national criteria are not the way forward, how might the guidance be improved?

## 10. Summary of questions and process

### *List of questions*

10.1 The questions set out in each chapter above are repeated in the list that follows. Remember, the main questions in **bold** are our broader, more general ones, and you may wish to limit your responses to these. The subsidiary questions (here in *italics*) are more detailed and/or technical.

	Page
• <b>Q1-1 Do you agree with the main focus of the review and the main issues to be covered by it? If not, what other aims or issues should be covered?</b>	16
• <b>Q3-1 Do you consider that the MDS freight forecasts represent a sound basis for the policy review? Have you views specifically in respect of:</b>	26
– Q3-1a <i>lo-lo containers?</i>	26
– Q3-1b <i>ro-ro traffic?</i>	26
– Q3-1c <i>bulk traffic, including energy products?</i>	26
– Q3-1d <i>trade (imported and exported) cars?</i>	27
– Q3-1e <i>other commodities?</i>	27
• <b>Q3-2 Do you consider the pattern of varying growth rates by region to be sustainable?</b>	27
• <b>Q3-3 What comments do you have on the transshipment study's findings?</b>	27
– Q3-3a <i>Is it right to believe that deep-sea services from the Far East are reluctant to make direct calls outside the Greater South East? If not, why not?</i>	27
– Q3-3b <i>In what circumstances would there be step change in coastal transshipment from the GSE to other UK ports?</i>	27
• <b>Q3-4 Do you agree or disagree with our assessment of the passenger ferry and cruise market prospects and their limited implications for policy?</b>	27
• <b>Q4-1 Drawing on experience from your own locality, do ports significantly stimulate wider local employment and regeneration? In what circumstances?</b>	35
– Q4-1a <i>When jobs are newly created in a port, do you consider that likely to be at the expense of jobs in other ports, or elsewhere in the economy? Does your answer depend on the port's locality, or on the type of traffic, or on whether public subsidy is involved?</i>	35

- **Q4-2 What are the regional and territorial issues that national policy should address and how should it do so?** 35
- Q4-2a *For example, should a national policy set out how Government wants to see ports develop in each region? Or leave regional bodies to make the case for port development, if they wish to do so? [The latter approach might still be consistent with setting indicative and non-prescriptive regional targets (see options 4.29(d) and (e) below).]* 35
- Q4-2b *Are the Regional Spatial/Transport Strategies and the Regional Economic Strategies already providing sufficient guidance on the role of ports in each region? If not what are their major deficiencies?* 35
- Q4-2c *Do you consider that port authorities (of more than a size which might be specified) should be recommended to prepare and maintain Master Plans along the lines which we have recommended for airports?* 35
- **Q4-3 In broad terms, which of these approaches to the regional dimension do you favour most, and why?** 36
  - (a) *What form of guidance would be most helpful?* 36
  - (b) *How, if at all, should any special characteristics of port traffic be taken into account?* 36
  - (c) *Where are the critical physical or other constraints on port development, especially outside the Greater South East? What should be done about these? Is the cost of doing so acceptable?* 36
  - (d) *If you believe indicative targets would be appropriate, how should they be set?* 36
  - (e) *If specific indicative targets should be set for each region, what criteria should be used to derive them, and how long would it take to achieve consensus across all regions?* 36
  - Q4-3(f) *What, if anything, should Government do to help the achievement of regional indicative targets, if they are set? [Please refer to your answer to Q4-3(c) if appropriate.]* 36
  - Q4-3(g) *What opportunities or threats do the ports in Northern Ireland face in competition with the Republic of Ireland ports? How might any opportunities be built on and threats addressed?* 36
  - Q4-3(h) *Nonetheless, we would consider views as to whether the arguments on balance continue to favour ruling out a ports strategy that is location-specific.* 37

- **Q5-1 What do you consider to be the strengths and weaknesses of the approach to port development consents whereby related road or rail enhancements are identified and their funding agreed?** 42
  - Q5-1a *Ahead of any transition to road-pricing, are the incidental (external) effects of ports adequately addressed under present policy?* 42
  - Q5-1b *Should developing ports be required to fund the incremental road and rail infrastructure to accommodate the increased traffic expected to be directly brought about by the development? If not, how should it be funded?* 42
  - Q5-1c *If ports pay for (a) road and (b) rail enhancement, should port users receive access on preferential terms (assuming this can lawfully be given – for example, by priority lanes on the roads, reserved train-paths, or reduced access charges on rail)?* 42
- **Q5-2 Is Government doing enough to encourage traffic already using ports to make more use of rail and if not, what further measures might be taken?** 43
- **Q5-3 Similarly, could Government, at acceptable cost, stimulate a step-change in use of inland waterways and coastal shipping to reduce HGV mileage? How?** 43
- **Q5-4 Do current evaluation methods for inland transport investment take sufficient account of the status of major ports as strategic points of entry and exit for UK trade?** 43
- **Q6-1 From your own experience, have regulators found the right balance between human and natural environmental impacts?** 47
- **Q6-2 Are ports adequately meeting their general environmental duties and if not, in what ways are they not doing so?** 47
- **Q6-3 Do you have any suggestions for further areas where Government might facilitate practical compliance with environmental duties?** 47
  - Q6-3a *Are marine environmental effects sufficiently taken into account, and where necessary remedied, when decisions are taken through the Harbours Act and general planning systems on port and port-related development?* 47
  - Q6-3b *Do those ports with which you are familiar take appropriate steps to limit the effects of noise arising from (i) construction work and (ii) ongoing activities?* 47

- **Q7-1 Is effective competition adequately secured by current arrangements?** 49
  - Q7-1a *With reference to any experience you may have had in dealing with ports, do you consider there is a need for more specific economic regulation provisions for the UK ports industry? If so, what do you think would be appropriate?* 49
- **Q7-2 Do you believe that the UK's views on application of state aid to the ports sector (as set out at 7.8 above) are appropriate?** 50
  - Q7-2a *Is there any justification for the UK to amend its domestic stance on the application of public funding to UK ports? If so, in what way?* 50
- **Q7-3 Should Government take measures to help ensure resilience of national ports capacity to major natural or human interruption?** 50
  - Q7-3a *If so, how, and in which traffic sectors?* 50
  - Q7-3b *Is there a more general public interest in avoiding risks of under-provision of port capacity, in order to ensure that ports operate in a strongly competitive environment?* 50
- **Q8-1 What steps should the Government take to help realise the potential of smaller ports, and to aid transition away from port activity if and where necessary?** 53
  - Q8-1a *Should Government be more active in removing obstacles to the change of use of existing moribund ports?* 53
  - Q8-1b *Should the Secretary of State be given powers to close a harbour through an Order under harbours legislation?* 53
- **Q8-2 Is there evidence of a widespread 'accountability deficit' in the trust port sector?** 54
  - Q8-2a *How far might that problem be addressed through enhancing existing voluntary measures within the trust sector?* 54
  - Q8-2b *Should those trust ports, which currently have powers to precept on local authorities, continue to have such powers?* 54
  - Q8-2c *Is there a case for an external regulatory function, either through providing the Secretary of State with new powers to direct trust ports, or by bringing the trust ports under some independent regulatory regime?* 54

- Q8-3a *Is there any reason not to disapply the compulsory privatisation powers in the Ports Act 1991 (see para 8.4 above) by harbour revision order (HRO), given the present Government’s assurances that those powers would not be used?* 55
- Q8-3b *Is the planned outcome of the proposed HROs – trust ports as bodies operating outwith Government influence but accountable to local stakeholders through existing mechanisms – a durable status for the six trust ports?* 55
- Q8-3c *Can the six ports, once reaffirmed in this status, operate fairly alongside competitors constituted as private-sector companies with shareholders?* 55
- Q8-3d *Should the ‘HRO process’ be extended to the [further six] much smaller ports?* 55
- **Q8-4 Do the recommendations in the Municipal Ports Review satisfactorily address the range of governance issues and enable municipal ports to perform to their full potential?** 57
- **Q8-5 In your experience, are the arrangements for supervision of harbour authorities’ powers adequate? If not, what changes would you like to see made?** 58
  - Q8-5a *Is there a case for an external regulatory function, either through providing the Secretary of State with new powers to direct statutory harbour authorities, or by bringing the trust ports under some independent regulatory [or ombudsman] regime, to deal with problems caused by a statutory harbour authority’s exercise, or failure to exercise, of its statutory functions?* 58
  - Q8-5b *Do you support the suggestion of new legislation bringing in a reserve power of direction for the Secretary of State in port safety and modernising other aspects of harbour authorities’ powers, including a power for them to issue general directions to shipping?* 58
  - Q8-5c *Do you support the proposal that the Secretary of State should withdraw from his byelaw approval role?* 58
- **Q9-1 Do you have any views on whether the project appraisal framework requires revision?** 60
- **Q9-2 What more should the Government do to help applicants and other stakeholders in ports planning cases?** 62

- Q9-2a *Are environmental effects sufficiently taken into account, and where necessary remedied, when decisions are taken through the Harbour Revision Order and Town and Country Planning systems on port and port related development?* 62
  
- Q9-2b *Does the Project Appraisal Framework for Ports provide adequate and appropriate guidance for those involved in port development cases on how to assess alternatives? Should there be a national set of criteria, as well as existing regional and local development plan criteria, against which planning applications for port development should be judged? Should this include the requirements mentioned in paragraph 9.13 above? If national criteria are not the way forward, how might the guidance be improved?* 62

## *How and when to respond*

**10.2 Please send your response by 1 September 2006 to:**

**Mrs Sabina Ali /Mr Mike Davey  
2/31 Great Minster House  
76 Marsham Street  
London  
SW1P 4DR**

**marking the envelope “PPR RESPONSE” at the top-left corner,**

**or by e-mail to [portsconsult@dft.gsi.gov.uk](mailto:portsconsult@dft.gsi.gov.uk)**

## *Disclosure of responses*

10.3 In due course, the Department may wish, or be asked, to copy or disclose responses to others. Please make it clear if you would object to us copying or disclosing all or part of your response. We will make your response publicly available unless you ask us not to. Even if you do ask us not to do so, you should be aware that, under the provisions of the Freedom of Information Act, your response may, after due consultation of the balance between the public interest and the interests of confidentiality, be held to be disclosable if requested.

10.4 All responses will be included in any summary of results, although individuals will not be identified. Names and addresses may be held in an electronic database of interested parties for the purpose of distributing future documents on similar issues. However, any such details on a database will not be given to a third party.

10.5 If you wish to view individual responses after the consultation period has ended, these will be available for public viewing for a period of six months at the DfT Library and Information Centre, Ashdown House, 123 Victoria Street, London SW1E 6DE. The Library is open Monday to Friday during office hours. Anyone wishing to inspect the responses is requested to telephone the Librarian on 020 7944 3039 to make an appointment (without which it will not be possible to gain admittance).

## **ANNEXES**

- A General background and statistical summary
- B Safety and Security
- C Results from port demand forecast and transshipment studies
- D Code of practice on consultation
- E Initial RIA

# ANNEX A

## GENERAL BACKGROUND AND STATISTICAL SUMMARY

A1.1 Ports' essential role has long remained the same: to provide safe haven for the efficient loading and unloading of vessels engaged in trade both overseas and within the British Isles.

A1.2 The development of aviation (and of the Channel Tunnel) has brought one conspicuous change. For international passenger transport, seaborne transport no longer dominates the scene. However, for freight it continues to do so, accounting for approximately 95% of tonnage imported into the UK.

The terms 'port', 'harbour', 'dock', 'quay', 'wharf', 'jetty' and so on, are widely used with various overlapping definitions, broad or narrow, in mind. 'Harbour' and 'harbour authority' have been accorded specific definitions in legislation, notably the Harbours Act 1964 which defines a harbour as

“any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river or inland waterway navigated by sea-going ships, and includes a dock, wharf and in Scotland a ferry or boat slip being a marine work ...”

In this definition, therefore, ports seem to form a subset of harbours. For the purpose of the review, however, we will use the term 'port' in its broader common usage, to mean a dock or collection of docks, wharves *etc.* under common management at least for commercial shipping purposes. Where any ambiguity might arise in a particular context, we have tried to clarify terms.

A1.3 Our coastlines contain over 800 harbours, ranging widely in their size, scope and in the nature of traffic handled.

A1.4 UK ports have inherited a diversity of ownership and control structures, but in broad terms fall into three categories:

- private ports, wholly or effectively in the private sector, which, though numerically a minority, account for the bulk of the ports sector by value and throughput;
- trust ports, run and financed according to their particular constitutions, which include commercially significant ports such as the Port of Tyne, Dover, Milford Haven, Aberdeen and Belfast as well as the major estuarial conservancies of Gloucester and the Port of London; and
- municipal ports, which, though mostly small-scale, include large commercial ports such as Portsmouth and Sullom Voe.

A1.5 This present configuration of the sector, which has been evident since the 1990s, came about following the privatization of the former British Transport Docks Board (BTDB), and the formation of Associated British Ports (ABP); the abolition of the National Dock Labour Scheme (1989) and the subsequent privatization of some former trust ports.

### *Policy and legislative framework*

A1.6 Ports are constituted and operate according to a range of legislative instruments, including their own private Acts and UK public legislation, notably including the Harbours Act 1964, as well as European legislation (discussed further below).

A1.7 As explained at para 1.10 of the main document, *Modern Ports* (2000) set out what remains current United Kingdom policy in relation to ports, working within this framework.

### *Government responsibilities*

A1.8 In **England** and, for most purposes, in **Wales**, civil ports policy (including decisions on applications for harbour revision or empowerment orders) is the responsibility of the Department for Transport. However, other departments also have relevant responsibilities – for example, the Department for the Environment, Food and Rural Affairs (Defra) has responsibility for certain marine planning matters alongside its general environmental remit; while the Department for Community and Local Government (DCLG) is broadly speaking responsible for ‘landside’ planning policy matters in England. And in Wales, most planning and transport policy issues are devolved; the Transport (Wales) Act 2006 devolves further functions and duties in the transport field.

A1.9 The **Scottish Parliament** has competence to legislate on devolved ports and transport matters in Scotland. The Scottish Executive is accountable to the Scottish Parliament and will develop policies on ports which best suit Scotland’s needs, bearing in mind the UK Government’s responsibilities for reserved matters. The Executive is responsible for all ports in Scotland and this involves, among other things, the Harbours Act 1964 and relevant parts of the Pilotage Act 1987 and the Ports Act 1991. There are several ports and harbour related matters which are reserved, including shipping, ports and marine safety and security and navigation.

A1.10 In **Northern Ireland** the Department for Regional Development (DRDNI) is at present responsible for ports policy and for the legislative framework within which ports operate. The statutory framework is distinct from that in Great Britain: ports are regulated by the Harbours (Northern Ireland) Act 1970; the Ports (Northern Ireland) Order 1994; and the Harbours (Northern Ireland) Order 2002. Because of the physical separation from the rest of the United Kingdom Northern Ireland’s ports are crucial to Northern Ireland’s social and economic well-being. They serve as vital gateways, both for trade between Northern Ireland and Great Britain and further afield, as well as for passenger and tourist traffic.

## Statistical background

A1.11 *Modern Ports* was accompanied by a statistical compendium, *Focus on Ports*. We have updated the Focus in advance of this discussion document. It is available on the Department's website<sup>32</sup>. Headline statistics are also reproduced in the table below.

A1.12 This table, excerpted from the *Focus*, summarises recent trends:

	Million tonnes							
	1985	1990	1995	2000	2001	2002	2003	2004
Liquid bulk	273	256	290	294	277	273	263	269
Dry bulk	93	118	116	114	124	116	124	123
Containers <sup>1</sup>	24	35	48	52	52	51	51	57
Ko-ro	33	52	66	86	84	88	88	93
Other cargo	26	31	29	28	30	30	29	31
Total	449	492	548	573	566	558	556	573

<sup>1</sup> Table excludes some container traffic travelling on ro-ro vessels after 1995

Source: DfT

A1.13 Last November, we also published a Transport Statistics Bulletin on *Port Employment and Accident Rates*. Among its main findings were:

- some 54,000 employees (full-time equivalents) work in directly related jobs on the port estate in the UK, and around 20,000 employees in directly related jobs off the port estate. So in total, around 74,000 people work directly on port related activities in the UK, either on or off the port estate; and
- the accident rate for direct businesses on port is estimated to be 1.2 accidents per 100 employees on average, annually (a range of 1.0 – 1.5 per cent). The accident rate is lower than estimated by Ports Skills and Safety for their members (2.8% in 2004), since PSSSL are thought to have a narrower coverage of port employment activities and concentrate on companies more directly involved with port operations (cargo handlers for example), where employees are more at risk.

A1.14 As well as these recent reports, other statistical data on ports (including the Maritime Statistics series) are available in published hard copy form, and on the Department's web-site.

<sup>32</sup> [www.dft.gov.uk/stellent/groups/dft\\_transstats/documents/downloadable/dft\\_transstats\\_611028.pdf](http://www.dft.gov.uk/stellent/groups/dft_transstats/documents/downloadable/dft_transstats_611028.pdf). This is a large file and caution should be exercised in downloading, especially if by a non-broadband connection.

## ANNEX B

### SAFETY AND SECURITY

B1.1 The starting point for Government's oversight of the ports industry must be to ensure that they are, so far as possible, safe and secure places to work and to visit. *Modern Ports* set out, in Chapter 4, the Government's approach to safety and security. We believe that the framework described there remains essentially sound, and so we do not intend to undertake a point-by-point re-examination of policy in this area. We summarise here the principal measures already in place.

#### Safety

##### *Safety in docks*

B1.2 When the Transport Select Committee reported on ports issues in 2003, it described the sector as 'the most dangerous land-based industry in the UK'. This was informed by the unacceptably high accident rate for docks employment. This data was in part based on an incomplete understanding of the extent of dock employment, which the Committee itself highlighted. In the report mentioned in the discussion document at 4.14, DfT has now published new data estimating that the accident rate is in fact under half that reported hitherto.

B1.3 Even aside from that technical adjustment, good progress is being made by the industry in tackling the safety problem, helped now by a more focused approach from the Health & Safety Executive. The HSE, who have enforcement responsibility for the safety of dock workers, passengers and other visitors, and materials passing through ports up to the quayside or jetty, are now implementing a 'revitalising Health and Safety Strategy'. As this affects the HSE's ports role, this entails agreeing priorities with the industry and trade unions, and increased effort on targeting those ports with poor safety records.

B1.4 But the prime responsibility for delivering high safety standards rests with the industry itself. Port Skills and Safety Ltd (PSSL) is the ports industry's organisation tasked with promoting health, safety, skills and standards. Formed in 2002, PSSL represents the interests of port employers, but it works closely with trade unions and Government bodies such as DfT, the HSE and the Maritime and Coastguard Agency (which is an executive agency of the Department for Transport), who have the remit for marine-side safety. All these partners have a shared commitment to attain and maintain high standards of health and safety and a highly skilled and productive workforce in the ports sector. This is particularly important for the much smaller dock workforce we now have; the current 54,000 figure is only a fifth of the level of 40 years ago. But port operations are now much more intensive, and higher skill levels are needed to work with the range of technologies, including containers, ro-ro ferries, car transporters, and bulk handling equipment.

B1.5 The main progress on docks safety has been through PSSL's **Safer Ports Initiative**. Working from a baseline of reported 2001 accident data, it has exceeded its Phase 1 targets of reducing the incidence of 'fatal and major injury accidents' by 10% by the end of 2005, with an actual outturn of just under 22% by 2004; there has been comparable

success on the parallel target on other significant accidents. All the stakeholders are now focusing on how best to maintain this record in Phase 2, launched in May 2006.

### *Marine safety in harbours and approaches*

B1.6 Marine operations in ports are hazardous, but they can be conducted safely, provided that the hazards and risks have been properly assessed and that appropriate systems are operated. Port marine operations also bring some risk of environmental damage. Overlooking risk to save money in the short term ultimately costs more and will lose business in the long run. But UK ports generally have a good safety record, and serious accidents are rare – a tribute to the professionalism of those who undertake and oversee port operations

B1.7 Navigational safety in UK harbour waters is the responsibility of statutory harbour authorities, drawing on obligations and powers set out in a mixture of national statutes and local Acts and Orders specific to each port. The local legislation in particular may be a century old or more and no longer suited to the type and size of vessels now in use. Rather than devote substantial time and effort to overhauling this complex legislative inheritance, Government has concentrated on providing an up-to-date overarching non-statutory framework to which the whole industry is expected to adhere.

B1.8 DfT introduced in 2000 the Port Marine Safety Code (PMSC)<sup>33</sup> as a national standard for every aspect of port marine safety. Developed in close conjunction with the ports and shipping industries, it aims for the widest possible adoption of good practice, building on the legal powers and duties which harbour authorities as ‘duty holders’ have to manage their harbours safely.

B1.9 A review of the implementation of the PMSC concluded that the code was already achieving its objectives, with a marked improvement in port marine safety standards already: thorough risk assessments were being carried out as a matter of course, and there was a new emphasis on safety management bringing in staff as well as harbour users. There has also now been progress in agreeing National Occupational Standards for marine professionals.

B1.10 However, we recognise the need for further work in two main areas:

- compliance with the code: The Government is concerned that the standards set out in the PMSC are not being applied consistently. In its latest review of the extent of compliance, the Maritime Coastguard Agency (MCA) has found that some harbour authorities have not affirmed their compliance. We have not so far sought formal powers for the MCA to audit compliance with the code, and instead have been working on the basis that a compliance statement issued by the duty holder was a sufficient assurance of compliance. The MCA normally intervenes only once it becomes aware of failures in order to ensure marine safety, but this is not as effective as being able to act where necessary on the general operations of a

<sup>33</sup> *Port Marine Safety Code: A Sea Change for Port Safety*; published 2004.

problem harbour. The Transport Safety Bill of 2001 proposed that the Secretary of State's powers should be enhanced by a reserve power to issue directions to harbour authorities who are evidently acting unsafely. This power would only be exercised after due consultation, and as a matter of 'last resort', but does raise concerns about undermining the primary responsibility of the harbour authority itself.

- **other gaps and anomalies in the legislation:** In addition to the possible reserve power for the Secretary of State, recent experience on port safety has highlighted several weaknesses in the current legislative structure. We believe the main priorities are:
  - a power for all harbour authorities to issue general directions to better regulate shipping within the harbour; Some harbour authorities have already taken this power by means of Harbour Revision Orders, but a standard approach would ensure a national standard of effectiveness;
  - modernising provisions on pilotage powers and improving control of Pilotage Exemption Certificates;
  - reforming the approach to harbour byelaws: the byelaw making powers of many harbour authorities derived from the Harbours Docks and Piers Clauses Act 1847, and the procedures for making and confirming byelaws either from that Act or from procedures set out in local legislation, frequently applying by analogy the procedures for making and confirming local authority byelaws. We consider that the substance of provision which can be made by harbour byelaws may need updating (for instance in response to expanded powers to issue general directions as suggested above, and to enable a modern national standard of regulation, as envisaged in *A Guide to Good Practice on Port Marine Operation*. With appropriate safeguards, this might include withdrawal of the Secretary of State from the confirmation process;
  - ensuring that port marine safety legislation provides an effective basis for the transition to greater reliance on e-navigation – using new technologies to provide an integrated approach to marine navigation.

B1.11 The Government is considering a package of measures along these lines to ensure that statutory harbour authorities are better able to deliver effective marine safety and thus be wholly consistent with the Government's commitment to better regulation. In Northern Ireland, outside of those matters which are dealt with on a UK wide basis, the existing and proposed legislative measures should provide a package capable of addressing the above matters in relation to marine safety issues.

# Security

## Maritime security

B1.12 Until 2004, the UK's maritime security regime was provided by the Aviation and Maritime Security Act 1990, and applied only to passenger vessels and roll-on/roll off services and the ports that serve them. But in the light of 11 September 2001, the IMO agreed the new International Ship and Port Facility Security (ISPS) Code, which was incorporated by the European Commission into Regulation in 2004.

B1.13 The UK's National Maritime Security Programme (NMSP) applies ISPS and now covers all maritime operations, concentrating regulation on passenger ships carrying more than twelve passengers and on cargo vessels over 500 gross tonnes on international voyages, as well as the port facilities that serve them. The significantly tighter standards in ISPS have been fully accepted by the UK industry, and wholly funded by it and its customers. DfT's Transport Security and Contingency Directorate has now approved port facility security plans covering some 550 individual port facilities in the UK. The UK regime has been sufficiently rigorous to accommodate the recently adopted EC Directive which enhances security throughout ports, and which the UK is now implementing as an extension of the NMSP.

B1.14 There is well-established and effective dialogue between the Department and the ports and shipping industries, and frequent consultation on implementation takes place both at national level and as part of the programme of compliance inspection and DfT participation in port security committees. We want to help the industry deliver on its undoubted commitment to achieve the highest necessary levels of port security. Implementation at individual port level will depend on local circumstances, and the tools available to the port. In a number of ports this includes a dedicated Port Police Force (see *box*).

### Ports police

The majority of ports in England and Wales are policed by Home Office local forces and funded through business rates. Local forces do not provide a dedicated port service but respond to incidents when called, and as competing pressures allow. Security staff are employed by the port authority, funded through port dues, to undertake routine security and patrol duties.

Seven ports in England and Wales operate independent police forces. These are: Dover, Liverpool, Bristol, Felixstowe, Tees and Hartlepool, Tilbury, and Falmouth. In Northern Ireland, there are forces at Belfast and Larne.

The size of these forces varies across ports, with the largest force consisting of 65 officers at Liverpool and the smallest, of four, at Falmouth. There are 196 port police officers in total.

**Ports police** *(continued)*

Ports police constables are full time employees of the relevant port authority and have the same powers, protections, and privileges and are subject to the same liabilities as Home Office constables. These forces are privately funded through a charge raised as part of the port dues on customers of port facilities. The level of policing provided is determined by the port authority.

Compared to local police forces and the BTP, the range of duties of the ports police is generally relatively limited and routine. Their duties focus mainly (with the exception of Bristol, Dover and Liverpool) on the patrolling and protection of property, and controlling access to ports and movement within them. Controls on entry, drug smuggling and anti-terrorism are the responsibility of other bodies including HM Customs, Immigration, and Special Branch, although the port police do provide support to these groups when required.

Work is currently underway to assess the implications for the ports police of the proposed major restructuring of county police forces. There are also outstanding questions, best addressed at local level, around anomalies in the terms and conditions of employment as ports police officers.

### *Civil contingency*

B1.15 The crucial role of our ports as gateways for essential UK trade has already been noted. It is therefore vital that any temporary disruption to ports' ability to service traffic flows is kept to a minimum, and so the Government takes an active role in overseeing contingency planning by the industry.

B1.16 We have been working with the industry to ensure that each main port has a contingency plan that provides for a range of scenarios and that allows it to continue to operate a service in the event of disruption arising wherever possible. Such scenarios include the loss of primary power, loss of personnel, and total closure of their facilities – perhaps through blockage of the harbour approach. In all cases ports will need to consider the respective roles of their own service providers as well as of their customers, whether shipping lines or logistics companies.

B1.17 Some major ports now have a statutory role in contingency planning for major incidents. The Civil Contingencies Act 2004 requires emergency services and other organisations to establish contingency plans to meet emergencies as defined in the Act, and identifies two layers of responders: supporting the front-line Category 1 responders (e.g. emergency services) are Category 2 responders, which generally includes the ports themselves); these are required to provide information and assistance to Category 1 responders when dealing with and planning for emergencies.

## *Border controls and vehicle checks*

B1.18 Ports are among the principal immigration and customs gateways into the UK. A prime aim of Government is to ensure that its regulations are enforced on an equitable basis at ports by its gatekeepers for the wider benefit of the UK. This forms part of the government's Better Regulation initiatives.

B1.19 As originally stated in Modern Ports and most recently, in the Home Office's 2004 White Paper *One Step Ahead – a 21st century strategy to defeat organised criminals*, enforcement activities by Government agencies need to be discussed, where practicable, with ports, port service providers and port users such as hauliers to ensure efficient, well-balanced regulatory activities across the ports sector.

B1.20 This requires a shared approach to problems and risk between agencies and ports alike. *One Step Ahead* recommended pursuing a co-operative approach between agencies (in particular HM Revenue and Customs (HMRC), Immigration and Nationality Directorate, and Special Branch), as opposed to a single border agency.

B1.21 However, our ports are host not only to border control agencies but also to domestic agencies, such as the Vehicle and Operator Services Agency (VOSA), MCA and Health and Safety Executive (HSE), which also have vital roles to play in maintaining a safe operating environment. Government needs to ensure the success of all these enforcement activities while allowing ports to operate as efficiently as possible without distorting inter port competition.

B1.22 To achieve this, and to maintain Government's commitment to work with industry for better regulation avoiding unnecessary burdens and costs, we are encouraging development of voluntary and shared approaches through initiatives such as collective Memoranda of Understanding between port authorities and the regulatory bodies operating within their estate. The Home Office has established a Border Management Programme (BMP) to support better regulation and other initiatives including the development of e-borders programme which seeks to secure advanced freight and passenger information.

## ANNEX C

### RESULTS FROM PORT DEMAND FORECAST AND TRANSHIPMENT STUDIES

#### *Introduction*

C1.1 This annex summarises results from the two studies undertaken by MDS Transmodal. Together they take a view on expected demand, current capacity and the impact of new capacity, particularly in the container sector, in order to examine the economic implications of policy alternatives. **Please note that these results remain provisional subject to views expressed in this discussion document.**

#### *Port demand forecasts*

C1.2 The Department for Transport commissioned MDS Transmodal to develop national port demand forecasts, disaggregated by major traffic/commodity sector. The forecasts were disaggregated by the English government office regions, Scotland, Wales and Northern Ireland. The forecasts assume demand grows in response to foreseeable or assumed changes in national income and other factors. Demand growth is assumed to be unconstrained by port capacity, or relative changes in prices of transport services.

C1.3 In aggregate UK port traffic, measured by tonnes of cargo, is forecast to grow by an average of 1% per annum between now and 2030. There are, however, significant commodity and regional variations within this forecast. The forecasting methods and results for each major traffic/commodity are presented below. Port cargoes can be characterised as unitised traffic carried in container vessels or roll-on roll-off ferries; or non-unitised traffic, which divides between liquid bulk and dry bulk.

**Table C.1: Port traffic forecasts, 2004-2030**

		<i>M tonnes</i>				
		2004	2010	2020	2030	average annual growth (CAGR)
Liquid Bulk – major ports	GB	264	256	277	290	0.36%
	NI	3	4	4	4	
	UK	267	260	281	294	
Dry Bulk & general cargo – major ports	GB	139	137	148	151	0.32%
	NI	7	7	7	8	
	UK	146	144	155	159	
Bulk – other ports	UK	15	15	15	15	
Unitised – includes Channel Tunnel	GB	146	183	248	322	3.09%
	NI	12	14	17	20	
	UK	158	197	265	342	
All cargo – includes Channel Tunnel	UK	586	616	716	810	1.25%

## Notes

- MDS Transmodal central scenario. The MDS report also includes a low/high range for unitised traffics to reflect forecasting uncertainty.
- GDP growth of between 2.25-2.5% per annum.
- the “unitised” and “all cargo” categories include goods through the Channel Tunnel (15 million tonnes, 2004, 13% by rail, 87% by accompanied goods vehicle).
- Northern Ireland is treated separately within the modelling because, as a geographically distinct entity, data sources and models differ from those for Great Britain, and the Irish ports north and south of the border compete for traffic.

C1.4 There are three principal stages within the MDS forecasting methodology for **unitised (container and ro-ro) traffic**. First, an econometric model of trade flows by country and commodity predicts UK demand in tonnes. Second, a transport model, the Great Britain Freight Model (GBFM), assigns UK trade by sea mode and route, and by UK region. (GBFM also determines inland distribution, assuming port, road, and rail capacity is unconstrained.) Third, a model of unit loads provides conversion factors from tonnes to units and TEU. This takes account of the imbalance between inbound and outbound cargo, the changing commodity mix which affects the volume to weight ratio of trade, and the increasing use of 40 foot boxes causing more consignments to “weigh out before they cube out” – in other words, more boxes will be consigned containing less than their notional capacity, reducing the average weight per TEU.

C1.5 Port traffic forecasts for the **non unitised cargoes** were developed by carrying out market studies on each major cargo category. Evidence was gathered from desk research and consultation with key shippers, trade associations and government departments.

### *Forecasts by traffic/commodity sector*

C1.6 The Department’s consultants forecast that overall tonnage of UK **unitised freight** will grow by 25 % between 2004 and 2010 and by a further 74% to 2030, equivalent to a long-running average growth rate of 3%. In absolute terms the most substantial growth will be in unitised trade, particularly imports, with Europe and East Asia. Unitised trade between Great Britain, Ireland and the near continent is expected to continue to be dominated by ro-ro trailer movements. There may be further switching off ro-ro traffic on the North Sea from trailers to containers, but these units will remain on the same ships and pass through the same ro-ro port terminals. Unitised trade between the United Kingdom and the rest of the world will continue to be dominated by containerised lift-on lift-off movements.

Table C.2: Unitised cargo forecasts, 2004-2030, million units or TEU

		<i>M tonnes</i>				average annual growth
		2004	2010	2020	2030	
Containers – in units	GB	4.3	5.9	8.1	11.3	3.8%
	NI	0.1	0.2	0.2	0.3	2.7%
	UK	4.5	6.0	8.3	11.6	3.7%
% change p.a.		2004-10		2010-20	2020-30	
		5.2%		3.2%	3.4%	
		2004	2010	2020	2030	average annual growth
Containers – in TEU	GB	7.1	10.0	14.2	19.7	4.0%
	NI	0.2	0.3	0.4	0.5	3.0%
	UK	7.3	10.3	14.6	20.2	4.0%
% change p.a.		2004-10		2010-20	2020-30	
		5.8%		3.5%	3.4%	
		2004	2010	2020	2030	average annual growth
Ro-ro – in units	GB	7.6	9.4	12.6	16.2	2.9%
	NI	0.7	0.9	1.1	1.4	2.6%
	UK	8.4	10.2	13.8	17.6	2.9%
% change p.a.		2004-10		2010-20	2020-30	
		3.4%		3.0%	2.5%	

### Note

- Ro-ro includes Channel Tunnel volumes. The MDS modelling treats the Channel Tunnel as capacity that competes directly with maritime roll-on roll-off services on the busiest short sea routes.

C1.7 **Containerised port traffic** as measured in 20 foot equivalent units (TEUs) is forecast to grow in the consultants' central forecast by an average of 6% per annum between 2004 and 2010. Between 2010 and 2030 the rate of growth is forecast to slow to an average of 3% per annum.

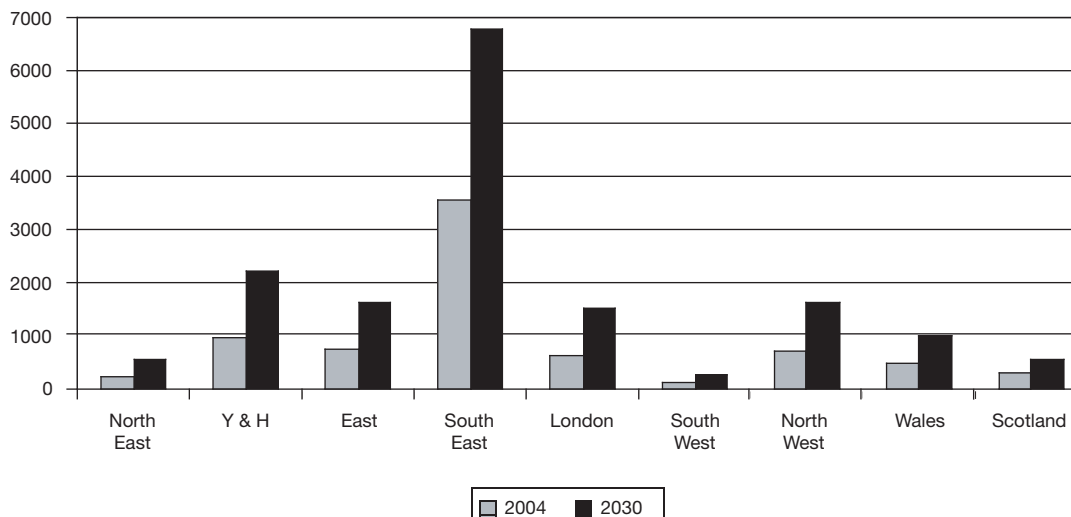
C1.8 Containerised trade is forecast to grow more with Asia than with any other world region (although rates of growth with Eastern Europe and the Mediterranean are also expected to be around the upper end of the range). Volumes will increase from 3.2 million TEU in 2004 to 10.2 million TEU by 2030. Trade with Asia will then account for 52% of TEU volumes, up from 46% today. Political change within China could have a negative short-term impact on GB port traffic. However, there are no structural reasons in factor markets to render Chinese trade growth inherently unsustainable, and in the event of disruption other economies would provide alternative sources of trade. Moreover, China's increasing integration in the world economy makes significant disruption increasingly unlikely.

**Table C.3: Container traffic, 2004-2030 Great Britain, by world region, thousand TEU,**

	2004	2010	2020	2030	CAGR
Ireland	120	190	281	362	4.34%
NW Europe	907	1,328	1,808	2,380	3.78%
Nordic	350	543	692	713	2.77%
Mediterranean	519	734	1,013	1,548	4.29%
E Europe	73	115	190	244	4.77%
Africa Excl Med	349	469	627	896	3.69%
N America	830	1,035	1,338	1,894	3.23%
C&S America	523	681	886	1,115	2.95%
W Asia	539	765	1,101	1,454	3.89%
E Asia	2,722	3,944	5,960	8,774	4.60%
Oceania	153	206	271	348	3.22%
<b>Total TEU</b>	<b>7,086</b>	<b>10,009</b>	<b>14,167</b>	<b>19,728</b>	<b>4.02%</b>

C1.9 The weight of cargo carried by **Ro-ro trailer traffic** it is expected to grow by 23% between 2004 and 2010 and a further 72% in the period to 2030. North-west Europe will remain the most important origin and destination, but the highest growth rate is expected with Eastern Europe favouring ports in the north-east of England. In absolute terms the growth in ro-ro traffic is heavily concentrated in the east of England, London and the South East (the Greater South East); of the 8.5 million additional units expected by 2030, an extra 5.2 million will pass through the Greater South East, but the relative share of the three regions is forecast to decline from 65% in 2004 to 62% in 2030. This reflects slower expected growth in the core North West European market.

**GB Roll-on/Roll-off traffic, by GB Port Range, unconstrained by transport capacity**



C1.10 Growth in unitised trade of 3% per annum will be associated with a significant growth in lorry traffic. MDS estimate that **unitised lorry traffic to and from GB ports** accounts for 25 billion tonne kilometres in 2004, some 16% of all GB lorry freight tonne kilometres. The high share is related to the fact that the average length of haul for unitised port cargoes is approximately double the average for overall GB road haulage.

**Average lengths of haul (approx.)**

Port container road traffic	140km
Port container rail movements	250km
Port ro-ro road traffic	260km
All GB HGV road traffic	90km

C1.11 Approximately half of this demand for road capacity occurs within and across the southeast, the East of England and London (the ‘Greater South East’). Unitised lorry tonne kilometres to and from GB ports is forecast to double by 2030 and to increase its share of all GB lorry freight kilometres to 24%. This is an unconstrained forecast which assumes an increase in the volumes of containers moving to and from ports by rail.

**Table C.4: Road distribution of port\* traffic, Great Britain, 2004-2030**

	2004	2010	2020	2030
Unitised, road, Mtkm	25,130	30,147	40,210	51,589
Bulk, road, Mtkm	25,866	26,895	31,048	31,326
Total GB HGV** Mtkm	158,596	171,403	190,379	212,557
Unitised/Total	16%	18%	21%	24%
Avg length of haul, unitised, km	209	200	197	195

\* including Channel Tunnel Mtkm = million tonne-kilometres

\*\* including non port traffic

C1.12 Imported oil, gas and coal for industrial and electricity generating uses are staple bulk commodities for many UK ports. Future demand for these commodities is linked to the outcome of the Government’s **Energy Review** launched in January 2006. At this stage of the Ports Policy Review we cannot prejudge the outcome of the Energy Review. The MDS forecasts take account of the Government’s energy White Paper “Our Energy Future” published in 2003, and on other published DTI sources. In broad terms, the present port traffic forecasts assume that increasing demand for electricity will be met by extending the life of existing coal-fired power stations and greater use of other forms of electricity generation, principally gas, without nuclear new-build though including some allowance for renewables. The forecasts therefore represent, to this extent, an ‘upper limit’ on demand for port bulk fuel traffics, as any nuclear new-build would tend to abstract power generators’ demand from other fuel sources.

C1.13 The major movements of **liquefied gas** through UK ports have historically been of liquid petroleum gas (LPG). However, in future there is likely to be significant growth in the volume of liquefied natural gas (LNG) imported. From less than one million tonnes in 2004, imports will grow to 31 million by 2015. Two new LNG import terminals at Milford Haven and further expansion of the Isle of Grain import facility will handle additional LNG volumes. Other projects are being planned, but given uncertainties around the planning process, the consultants have not factored those facilities into their forecasts up to 2030.

C1.14 Major UK ports handled 558 million tonnes of cargo in 2004 and of this total almost 44% were **crude oil** or **petroleum products**. Demand for crude oil is directly related to the demand for oil products and to the amount of refining capacity available in the UK. The consultants forecasts reflect an expected increase in the use of diesel fuel with petrol continuing to lose market share and a significant increase in demand for aviation fuel in line with expected growth in passenger numbers. Beyond 2020, the consultants forecast that annual growth rates from all petroleum products will slow as environmental legislation encourages the use of hybrid vehicles, and road pricing, if introduced as assumed in this particular scenario, reduces total use of road vehicles. It also reflects the view that aviation demand is likely to be more saturated after 2020, leading to slower annual growth. With UK refining capacity likely to remain constant the increase in demand for petroleum products will largely be addressed by increased imports of petroleum product. This would require a near doubling of storage capacity for oil products by 2030 if storage time of product remains the same as now. Any reduction in storage time would reduce the need for additional tank storage facilities at ports. Our consultants foresee no need for additional berth capacity.

C1.15 UK North Sea crude oil production is assumed to fall significantly by around 2020, hence, exports of UK crude oil will fall being replaced by crude oil imports. Crude oil export storage facilities at ports such as at Sullom Voe and Flotta could act as a transshipment point for the holding of crude oil prior to the shipment of the imported crude oil to main estuarial UK refineries. Overall the Department's consultants believe present crude oil transport infrastructure should suffice for demand growth forecast for the period to 2030.

**Table C.5: Port traffic forecasts, selected commodities, million tonnes, 2003-2030**

	2004	2030	CAGR
Liquefied Gas Imports	0.7	30.6	15.6%
Oil Product Imports	24.1	46.7	2.6%
Crude Oil Imports	43.9	77.9	2.6%
Crude Oil Exports	57.1	5.9	-8.4%
Coal Imports	37.0	37.2	0.0%
Vehicle Imports	3.0	3.4	0.5%
Vehicle Exports	2.0	2.3	0.5%
Other Liquid Bulk	12.3	13.3	0.3%
Agricultural Products	10.6	10.0	-0.2%
Other Dry Bulks	40.2	42.1	0.2%
Forest Products	10.0	12.3	0.8%
Iron & Steel	9.8	10.3	0.2%
General Cargo	6.6	7.7	0.6%

C1.16 The major **coal** traffic is imported steam coal for electricity generation (about 80% of the demand for coal in the UK), followed by coking coal which is a key raw material for the manufacture of steel. In line with government forecasts of electricity generation by fuel used, coal is expected to decline in importance. Electricity generated from coal will fall reducing the quantity of coal consumed for power generation. However, as domestic sources of coal decline, the UK will become increasingly reliant on imported coal. Demand for coal for industrial and domestic purposes will decline over the forecast period. UK port facilities are likely to be able to handle the forecast volumes of coal imports.

C1.17 With construction output expected to grow strongly and the mechanical engineering and metal goods industry expected to decline, a key to potential future variability in **iron and steel** consumption is likely to be the future of UK automotive output. If the UK vehicle production industry continues its strong growth during the forecast period, then steel consumption could be higher than the consultants have forecast. However if UK car production declines with production moving to Eastern Europe, for instance, then steel consumption and import port traffic could be lower. In general, however, UK ports have adequate capacity to handle the iron and steel trade, although investment will be needed in undercover storage facilities and quayside services to take the weight of stacked steel.

C1.18 About two thirds of port bulk cargoes, such as crude oil, coal and iron ore, are consumed or produced within dock estates. The remaining third, 140 million tonnes of bulk cargoes in 2004, requires **inland distribution**. MDS assume that over the forecasting period the inland origin and destinations for each bulk cargo commodity remain the same and the relative costs of inland transport by road and rail are constant. Hence, for any individual cargo type there is no change in the mode split between road and rail. Road is by far the dominant mode, accounting for almost 93% of total tonne kilometres in 2004, rising to 95% in 2030 due to a greater increase in the port throughput of cargo categories where rail has a relatively low market share.

**Table C.6: Inland distribution of GB bulk freight, by mode, 2004-2030 (millions)**

	2004	2010	2020	2030	% Change 2004–2030
Road tonnes	123	125	134	133	+8%
Rail tonnes	17	15	17	17	0%
Total tonnes	140	140	151	150	+7%
Road tkm	25,866	26,895	31,048	31,326	+21%
Rail tkm	1,860	1,636	1,753	1,729	-7%
Total tkm	27,727	28,531	32,800	33,065	+19%
Road vehicle km	2,317	2,385	2,637	2,591	+12%

### *Transshipment*

C1.19 The market for container port services, specifically the transshipment of containers through ports, was assessed in more detail in a separate study by MDS Transmodal and DTZ Pieda. Transshipment is the transfer of containers at a port from one vessel to another and it is closely linked to the overall relationship between capacity and demand growth.

C1.20 Demand for container port services is forecast to grow by about 4% per annum UK ports to 2030 and at higher rates of growth in other regions of the world. In response to growing demand the TEU capacity of the container ship fleet has increased five fold since 1990 and is expected to expand by a further 45% in the next three years. Most of this extra capacity has been concentrated in very large new ships with capacities of more than 5000 TEU. The economies of scale of large ships favour the consolidation of cargoes, streamlining of calling patterns, and hence potential growth in transshipment volumes.

C1.21 The UK represents a large domestic market such that roughly 70% of deep sea containership services for North West Europe currently call directly at a UK port. This leaves any UK bound boxes in the remaining 30% of services to be transhipped at a non UK port. Only a handful of UK ports are capable of handling the largest deep sea container vessels. These ports currently operate at or near their capacity at peak periods. Efficiency improvements can yield some increased capacity at these ports, however only the construction of major new terminals or ports can provide the UK with significant new capacity. The consultants used cost and transport modelling to assess the impact of different new capacity scenarios on transshipment behaviour.

C1.22 The shipping lines, particularly those operating Asian services, are reluctant to make direct calls to UK ports outside the greater southeast of England as this adds substantially to voyage time and hence costs for traffic bound elsewhere in northern Europe. Consequently, if capacity in the deep-water container ports of the southeast is constrained, the shipping lines seem more likely to omit the UK call than re-route to a northern or western port, with the UK bound traffic being transhipped through a continental port. Some shippers, notably B&Q and Asda, have adopted this re-route position as a matter of policy in order to improve reliability, to secure on port facilities, or improve access to inland distribution centres.

### *Additional southeast capacity*

C1.23 One of the scenarios assessed the impact of planned new container port capacity at London Gateway, Felixstowe South and Bathside Bay. Together these schemes would more than double the annual capacity of container ports in the southeast of England to 11 million TEU. This capacity will be sufficient to accommodate the forecast growth in direct call demand to about 2020 and provide capacity for significant volumes of third country transshipment at UK ports peaking around 2015.

C1.24 If domestic demand continues to grow as forecast by MDS this will begin to displace transshipment activity from around 2015. Growing volumes of UK bound traffic will be transhipped at ports on the continent and delivered directly to UK feeder ports. Transshipment adds to delivery costs such that the averaged delivery cost per TEU will increase between 2015 and 2030 by 5% as capacity becomes constrained. Even with the planned additional southeast capacity extensive new feeder berths will need to be built by 2030. MDS estimate about 7000 m of new feeder berth capacity would be required by 2030 in the southeast as well as on the Humber, Tees and in Scotland.

**Table C.7: MDS transshipment report: additional southeast capacity scenario**

Year	2004	2010	2015	2020	2025	2030
Demand (1000 TEUs)	5,635	7,834	9,578	11,196	13,317	16,029
UK SE Deep Sea Supply (1000 TEUs)	5,259	9,456	11,010	11,010	11,010	11,010
UK Non-SE Deep Sea Supply (1000 TEUs)	1,708	1,867	1,867	1,867	1,867	1,867
Delivery cost (£m)	£1,153	£1,521	£1,820	£2,124	£2,540	£3,184
Delivery cost/TEU (£)	£205	£194	£190	£190	£191	£199
<b>Port Throughputs (1000 TEUs)</b>						
UK Deep Sea SE Ports	4,983	6,742	8,156	9,280	10,698	10,831
UK Deep Sea Non-SE Ports	0	0	0	0	0	0
Transshipment Potential (SE)	277	2,714	2,854	1,730	312	179
Transshipment Potential (Non-SE)	0	0	0	0	0	0
Total Feeder Ports/ Continental Transshipment	652	1,092	1,422	1,916	2,619	5,198
<b>Inland Distribution</b>						
Road (1000 TEUs)	4,480	6,315	7,701	9,077	10,872	13,697
Rail (1000 TEUs)	1,155	1,519	1,877	2,119	2,445	2,332
Road (million TEUkm)	782	1,032	1,271	1,467	1,730	1,971
Rail (million TEUkm)	415	540	670	754	871	823
Total (million TEUkm)	1,197	1,572	1,942	2,221	2,601	2,794
Rail % of deep sea port throughput	23%	23%	23%	23%	23%	22%

Note: this scenario assumes full construction of London Gateway, Felixstowe South and Bathside Bay

C1.25 Growing domestic volumes at the southeast of England container ports have the potential to increase the volume of container boxes handled by rail. If rail retains its current market share of inland distribution rail volumes could double by around 2020. However, as the southeast ports become capacity constrained after 2020 increased feeder ports to Scotland and the North of England will constrain rail's potential market share. Rail distribution from feeder ports is less attractive than from southeast ports because volumes are smaller and distance to inland market is less.

### *Issues at non-south-east ports*

C1.26 Ports on the west coast of Britain, principally Liverpool, already serve the north Atlantic trade. MDS consider it is possible that shipping lines will wish to make increased use of large post-Panamax container vessels to serve the Asia-Mediterranean-North West Europe-North American trades to exploit the deepening of US ports but will find it difficult to fill the vessels without adding additional markets. One commercially viable option would be to divert such vessels via the West Coast of Britain as a substitute for the direct

north Atlantic services that currently serve Britain.

C1.27 MDS also investigated whether development of interlining terminals, say in Iberian ports, with feeder services to UK regional ports were commercially viable. However, the conclusion of the cost based analysis was that extensive interlining undertaken at remote ports would tend to add more to cost than the savings made in the time and port entry charges on large ships.

### *Macroeconomic impacts*

C1.28 The impacts of new container port capacity on trade, earnings, competitiveness and employment are highlighted by the relatively small, but still significant, differences between the capacity scenarios modelled by MDS.

C1.29 The modelling assumed that differences in UK deep water port capacity have no impact on the generation of traffic volumes. This is, we think, a reasonable assumption for this modelling exercise. Costs at ports are presently estimated, on average, at only about 1.2% of the value of traded goods in deep sea container vessels.

C1.30 The earnings of the UK transport industry (ports, road hauliers and the rail industry) are greater with extra deepwater capacity in the southeast because capacity constraints force transshipment at and loss of earnings to continental ports. The competitiveness of UK industry is improved by extra deepwater port capacity in the southeast as this results in average delivery costs per TEU which are up to 10% lower than if extra capacity is not constructed.

C1.31 DTZ Pieda forecast that employment directly and indirectly related to container port activity will increase by about 10,000 employees between 2004 in 2030. If capacity at southeast deepwater ports were constrained then a greater proportion of additional employment would be linked to feeder ports and occur in non southeast regions.

### *Assumptions*

C1.32 The main modelling exercise has tested 5 scenarios with variants, being:

1. **No further deep-sea capacity** in Great Britain.
2. **The development of Greater South-East<sup>34</sup> capacity**, (a) at both Bathside Bay and Felixstowe South terminals and (b) also at London Gateway.
3. Instead, **the development of deep-sea terminals in Scotland and the North-East, North-West and South-West regions of England.**
4. **The development of both Greater South-East and regional deep-water terminals** (a) at Felixstowe South and Bathside Bay plus terminals in the North-West and South-West and (b) also at London Gateway.

<sup>34</sup> Defined as the South East, London and East of England Government Office regions.

5. As a variation on scenario 4, modelling **constrained capacity on the Continent**, reflecting a significant increase in the rate charged for Continental transshipment from £80 to £120 per container, reflecting a shortfall in capacity on the Continent from 2020 onwards.

## Results

C1.33 Among the main conclusions from this study are that, *in general*:

- the trend for large ('post-panamax'<sup>35</sup>) container ships to form an increasing proportion of the world fleet will continue;
- deep-sea shipping lines, in the Far East trades, are particularly reluctant to make direct calls outside the Greater South-East of England as this adds substantially to voyage time and hence costs for traffic bound elsewhere in northern Europe;
- consequently, if capacity in the deepwater ports of the SE is constrained, they will be more likely to omit the UK call than to re-route to a northern or western port, with the UK-bound traffic then being transhipped through a continental port;
- some UK shippers, notably B&Q and Asda, have adopted this re-route pattern as a matter of policy in order to improve reliability, to secure on-port facilities, or improve access to inland distribution centres;
- however, greater use of coastal or feeder services does not necessarily mean a favourable outcome in environmental or congestion terms for inland transport generally, as greater diversity of port-calls and proximity to inland destinations tends to weaken the financial attractiveness of rail, reducing its share of the port-connecting traffic as rail share falls when consolidated volumes are smaller and distance to inland markets is less;
- partly because of this phenomenon, the net inland transport advantages of constraint in the Greater SE would tend to be more than offset by the additional economic costs at sea – though factors outside our consultants' terms of reference, for example in the field of regional policy, might be considered to outweigh this;
- it is difficult to assess the scope for coastal transshipment from the greater SE to other UK ports as, while this is currently very limited, a step change *may* be possible if volumes grow to justify regular services;
- there may be future constraints on continental ports as well – though there is some scope for traffic to tranship (including 'interlining' onto other, perhaps transatlantic, deep-sea ships) *via* Mediterranean ports (such as Malta, Algeciras or Gioia Tauro), or to switch to ro-ro services, especially if NW European ports become congested, making western UK ports potentially more attractive for Far East traffics.

<sup>35</sup> 'Panamax' means the largest size of vessel which can navigate the Panama Canal. 'Post-Panamax' refers to a vessel larger than this.



## ANNEX D

### GOVERNMENT CODE OF PRACTICE – CONSULTATION CRITERIA

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about who may be affected, what questions are being asked, and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

A full version of the code can be found at:

[www.cabinet-office.gov.uk/regulation/consultation/code.asp](http://www.cabinet-office.gov.uk/regulation/consultation/code.asp)

If you have any complaints about this consultation process please contact:

Andrew D. Price  
Better Regulation Unit  
Zone 9/09  
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105 Victoria-street  
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# ANNEX E

## Initial Regulatory Impact Assessment

### *Title of Proposal*

1. This RIA supports the publication of the Ports Policy Review discussion document.

### *Purpose and intended effect of measure*

2. *This document provides a high-level assessment – in line with Government commitments to incorporate impact assessment throughout the policy development process – of the impact of possible enhancement of the policy framework for ports. Any individual regulatory measures introduced in the policy framework would, themselves, be subject to further consultation and RIAs as appropriate.*

### **The Objective**

3. The Ports Policy Review is not looking at a single policy issue affecting the sector. Rather, it addresses the Government's strategic *framework* for the sustainable development of ports to 2030, against the background of wider Government objectives. It covers all ports in England, Wales and Northern Ireland, with devolved ports policy matters in Scotland to be dealt with through the Scottish Executive's forthcoming National Transport Strategy. Ports policy in Wales is largely a reserved<sup>1</sup> matter. One particular policy issue, powers relating to trust ports, will shortly be the subject of a separate consultation in Northern Ireland, given the different context there.

4. Specifically, the Review includes, but is not limited to, coverage of the following broad strategic issues:

- ports capacity and forecast demand by traffic sector;
- national and regional planning framework, given the economic, social and environmental significance of ports;
- provision of road and rail access to ports;
- how far the domestic/international regulatory framework addresses any evidence of market failure in the ports sector;
- how effectively this 'mixed sector' of private, trust and municipal ports is working, and whether there is anything more Government can do to help make the most of small ports;

1 ('non-transferred')

- whether differing arrangements as between the UK and other North European states may produce harmful competitive distortions, and the scope for promoting more equitable arrangements if warranted;
- the consequences for effectiveness of the ports sector of the diversity of ownership structures (company, trust and municipal ports); and
- how best to achieve the full potential of smaller ports.

## The background

5. The UK's ports are essential gateways for trade and travel. Collectively, **573 million tonnes** of freight passed through UK ports in 2004, along with **27 million international sea passengers**. Freight has grown significantly in recent years, notably in the container market where the number of units grew by **14% between 2000 and 2004** (see *Focus on Ports: 2006*<sup>2</sup>). It has been estimated that around 95% by volume and 75% by value of the UK's international trade is transported by sea. In 2004 total UK imports across all transport modes were valued at £249 billion and exports at £191 billion. The growth rates in unitized traffic, trending well above GDP growth, have been due in large measure to a boom in imports from East Asia, especially outsourced manufactured goods.

6. Ports are significant sources of direct and indirect employment. The recently published report on *Port Employment and Accident Rates*, published by the Department for Transport<sup>3</sup>, estimated that some 74,000 people (specifically full-time equivalents, FTE) worked in activities directly related to ports. Companies based on the port estate but not directly involved in port operations employ approximately 17,500 FTE. Many thousand more jobs outside the port result from companies providing goods and services to ports and by the spending of port employees.

7. There is no single model for port ownership. The majority of large ports are privately owned and financed (all but six of the largest by tonnage), though there are some major ports operated by trusts or local authorities. The way in which they operate varies too, with some UK ports adopting a vertically integrated model, running all or the majority of the services in the port; others operate a landlord/agent structure, with leases given to port service providers by the port operator.

8. The existing ports policy framework published in 2000, *Modern Ports*, was a joint statement by the then DETR<sup>4</sup> and all three devolved administrations. The current review will produce a revised strategic framework for England, Wales and Northern Ireland. Northern Ireland and, to a lesser extent, Wales have devolved powers in relation to ports and the review will need to consider how best to integrate the particular interests and policy objectives of the respective administrations.

2 [http://www.dft.gov.uk/stellent/groups/dft\\_transstats/documents/page/dft\\_transstats\\_611027.hcsp](http://www.dft.gov.uk/stellent/groups/dft_transstats/documents/page/dft_transstats_611027.hcsp)

3 [http://www.dft.gov.uk/stellent/groups/dft\\_transstats/documents/page/dft\\_transstats\\_610514.pdf](http://www.dft.gov.uk/stellent/groups/dft_transstats/documents/page/dft_transstats_610514.pdf), Transport Statistics Bulletin SB(05)32, November 2005.

4 Department of the Environment, Transport and the Regions.

9. In discussion with colleagues from the devolved administrations, substantial preparatory work has been undertaken or commissioned by the Department for Transport ahead of the formal consultation process. This work has included:

- A *national unconstrained demand forecast* for each of the three main traffic sectors (container, dry bulk and liquid bulk), and other cargo sub-sectors, helping us to understand the extent of potential capacity shortfalls at ports and in their surface access links.
- A *study of benefits and costs of container transshipment* to the UK economy. This has helped to increase our understanding of the competitive global and regional marketplace in which deep water container ports operate, and the types of capacity increase which UK importers and exporters are likely to demand in future.
- A thorough *revision of 'Focus on Ports'*, the sectoral, UK-wide, overview that the Department first published alongside Modern Ports. This summarizes the statistical context for the operation of UK ports.

10. The findings from all three pieces of work have now been published and are available on the departments website.

### **Rationale for government intervention**

11. The Government has, for more than a decade, taken a more hands-off approach to the ports sector than to most other transport sectors. However, there is increasing focus on ports' role in the UK economy, not only in their primary economic role as facilitators of trade, but also in the support they provide to the growth of regional economies. This is in part due to a marked shift in consumption and production patterns which is resulting in ever-greater demand for port capacity. The market has succeeded in bringing forward some new capacity, but the process has focused attention on the complexity of ports' interaction with land and transport planning.

12. The Government has a strong interest in ensuring the continued sustainable development of the ports sector and related transport infrastructure to support our developing economy, and wishes to consider the level of intervention necessary to achieve this. This must take account of how effectively the market operates and whether it takes sufficient account of the impact its activities exert on wider society and the environment (externalities).

13. The Review recognises that, if the market is seen to be failing to operate efficiently, then a public policy intervention may be appropriate, notably around the issues of capacity, surface access to ports and regional policy objectives.

14. The Government needs to ensure that a revised policy framework considers the positive and negative externalities associated with ports, and to bring forward appropriate interventions in the event that the market is failing to address the sector's wider impact on society and the environment. These externalities include:

- impacts on protected habitats and species;
- marine and atmospheric pollution due to ports traffic (shipping, road and rail);
- congestion caused by ports traffic, particularly HGVs;
- employment and regeneration considerations; and
- land and marine-side safety.

15. The Review will not necessarily lead to new regulatory or non-regulatory measures. The Government is mindful of the need to ensure that any obligations placed on private and publicly-operated ports are proportionate to the policy objective, and its overall commitment to better regulation.

### *Consultation*

16. As a first stage in the pre-consultation process, in April/May 2005, we undertook a round of informal discussions with some of the principal stakeholders, including the ports industry, its main customers, and environmental NGOs, aimed at evaluating the existing *Modern Ports* policy framework. The findings showed a clear majority view that the market-led approach remained generally appropriate for the ports sector, but also much appetite for a more strategic national framework, with greater clarity on the connecting transport infrastructure. This exercise provided a useful snapshot of stakeholder views and helped to develop our thinking as to the questions that should be raised in the discussion document.

17. Since then we have carried out a series of *ad hoc* meetings with these and other stakeholders, widening the range of interests to include regional bodies and trade unions. This process has included a seminar to discuss the initial results emerging from the Container Port Transshipment Study commissioned by the Government. This has helped us to further develop the discussion document.

18. This process of stakeholder engagement will continue during the formal consultation phase, with industry seminars as well as regional roadshow events taking place in London, Leeds Cardiff and Northern Ireland.

## Options

19. In terms of the high-level options available to the Government in developing a national ports policy, this is a question of *degree*: the extent to which Government policy should be prescriptive in a sector which has become increasingly market-, rather than Government-led.

20. The discussion document, in general, does not posit specific policy proposals or options, with respect to regional policy objectives. However, chapter 4 (at para 4.29) proposes five progressively deeper levels of Government intervention which could help to deliver regional policy objectives. These options will be discussed below with reference made to other policy areas covered by the discussion document, such as capacity provision and surface access considerations.

21. Any revised policy framework will have to update *Modern Ports* to reflect changes in the industry and developments in regional planning as well as domestic and European legislation. It could also be expanded to include policy development and guidance on a number of fronts as it relates to ports, including regional economic performance, national productivity, ports governance, surface access to ports and the planning process. Any related policy options developed post-consultation could themselves be subject to separate consultation and impact assessment as appropriate.

22. The Final RIA will include further consideration, including quantitative analysis, of any policy proposals that reach maturity during and post-consultation.

### Option 1 – “Do nothing”

23. The base case is to make no change to the policy framework, leaving *Modern Ports* as the primary statement of that framework.

### Option 2 – Update Modern Ports with new guidance on non-transport benefits of port development

24. A minimal approach from the regional planning point of view. This could build on the approach taken in *A Project Appraisal Framework for Ports* (April 2003)<sup>5</sup> and work done by DCLG looking at assessing the impacts of spatial interventions<sup>6</sup>, providing further guidance to planners, developers, and ports themselves on how non-transport benefits should be assessed. Regeneration and induced employment have particular significance with regard to regional economic objectives.

25. More generally, the provision of additional guidance pitched at a regional level is arguably more pressing now than in 2000, given the continuing development of the regional planning regime; spatial, transport and economic strategies are being further developed in all regions, addressing the planning and infrastructural needs of regional ports.

5 [http://www.dft.gov.uk/stellent/groups/dft\\_shipping/documents/page/dft\\_shipping\\_508251.hcsp](http://www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_508251.hcsp)

6 [http://www.odpm.gov.uk/pub/221/AssessingtheimpactsofspatialinterventionsThe3RsguidancePDF768Kb\\_id1142221.pdf](http://www.odpm.gov.uk/pub/221/AssessingtheimpactsofspatialinterventionsThe3RsguidancePDF768Kb_id1142221.pdf)

### **Option 3 – introduce measures to internalise the full costs of the externalities of port use**

26. This would be an appropriate response if we concluded that the market is failing to take account of the impact of ports' economic activity on society and the environment; and that it was feasible to internalise these market failures. As with option 2, this approach would also address ports' role in wider Government objectives, but it goes wider, to consider the impacts of a port's daily operation, notably the impact of HGV traffic generated by the port in congestion and pollution terms. In the long-term, road pricing could address this in the broader context of a charging regime that applies to all traffic.

### **Option 4 – removing constraints to port expansion outside the South and East of England**

27. This would require further analysis, but tackling local access issues such as bottlenecks on the road and rail networks outside the Greater South East, would be a factor, though of course such constraints exist throughout the country. The Northern Way, a partnership of the three northern regions, is developing/has developed an evidence based looking at key access and growth issues to 2030 for the major northern ports as part of its work on the North's connectivity. This will help to inform the policy development process and Government will continue to work with other regional partners to ensure that policy is grounded on sound evidence.

28. This approach might also consider, beyond the production of supplementary guidance, the specific regeneration considerations present in formerly industrial areas and what Government's role would be in facilitating investment and related employment opportunities.

### **Option 5 – setting indicative targets for the percentage of capacity of port traffic growth outside of the South and East of England**

29. These targets would specifically address the joint DCLG/DTI/HMT Regional Economic Performance PSA target, which recognises that benefits would accrue to the UK economy as a whole if the economic performance of less prosperous regions can be brought up to the level of the UK average. It would be left to the regions themselves to best interpret how these would best inform the development of Regional Economic and Regional Spatial Strategies.

### **Option 6 – setting indicative targets for the share of capacity or of port traffic at a regional or supra-regional level**

30. The forecasting and transshipment studies published as part of the consultation included regional analyses. The forecasting study looked at future trends in unitised and non-unitised traffic for ports and related inland traffic, broken down by Government Office Region. Setting indicative supra-regional or regional targets could provide a context for future revisions to Regional Economic and Regional Spatial Strategies and factors to be taken into account in considering planning applications. Each target would need to be evidence-based; there would also need to be broad agreement amongst the port authorities, RDA, and Regional Assembly for that region that they are achievable and helpful in securing a regional share of the *growth* in capacity or port traffic rather than attracting existing port traffic from elsewhere in the country.

31. Going further and coupled with analysis of various scenarios in the transshipment study, this could also give the Government some initial basis at least upon which to take a more directive approach to port location. In the absence of full congestion charging additional HGV traffic associated with port development would not be charged in relation to specific costs imposed on the network. A Government-imposed port-specific approach would not address this problem and is likely to be a far less efficient resource allocation mechanism than a market-based approach set within a facilitating framework of national and regional policy.

### *Costs and benefits*

32. *Given the open-ended nature of this consultation, which is looking at broader policy issues rather than detailed proposals at this stage, the Costs and Benefits section can only be completed at this stage for our high-level proposals for dealing with regional policy objectives. Even then, this is only possible at a high level of abstraction and in qualitative terms.*

### **Business sectors affected**

33. Ports have an integral role to play in the overall supply chain and its related transport infrastructure. As such, any policy framework targeted at ports will have a knock-on effect for the logistics industry as well as road, rail and shipping sectors. As facilitators of trade, ports are also of critical importance to industry and commerce, encompassing all the major sectors of the economy, from retail, petrochemical and manufacturing, to agriculture and tourism. Fishing is still an important industry at some ports, making a wide use of port facilities.

34. Beyond these sectors, ports that accommodate short-sea passenger/combined ferry services and cruise ships also contribute to the tourism sector and many ports are (or have the potential to be) used for leisure purposes on both marine and land sides.

### **Other sectors and groups affected**

35. A policy approach which reflects the labour market impacts of port development could have a positive impact on the more deprived sections of the community in some regions with high levels of economic inactivity, poor skills and low incomes. Therefore, a more interventionist approach could have a positive impact on particular social groupings. In terms of employment or investment, a more directive approach to ports policy which went beyond options 5 and 6 could, however, have an unintended impact at a regional and community level; in which case the final RIA would need to consider this in some detail.

36. Many commercially significant ports are not located in wholly rural areas, so a revised policy framework for ports is unlikely to have a significant direct impact for rural communities in many ports' hinterlands. However, the requirements of the EC Habitats Directive to provide compensatory sites and the economic significance of smaller ports are both issues of potential concern for rural areas, and any related policy proposals will need to be 'rural-proofed' in the final RIA.

## Costs

37. **Option 1** – if the current policy framework was left in place, there would be no direct adverse impact on the industry in the short term, although there might be implications for wider society (outlined above) and the economy in general, compared to any of the other options. There may well be opportunity costs, as important issues facing the industry would be left unresolved such as the current consents process for new developments. This is lengthy and complex, with a protracted process of negotiation required to assess factors such as: new capacity requirements, the environmental impact of a proposal, consideration of alternatives under the Habitats Directive and the planning system, traffic impacts and associated infrastructure needs, mitigation measures; and so on.

38. Above and beyond new port developments, the issue of who is expected to pay for surface access improvements, sometimes at some distance from the port itself, might not be adequately resolved without a revised policy framework.

39. **Option 2** – no notable costs from a revised policy framework with a scope limited to the production of further guidance to aid regional decision-making. Clearly, policy signals aimed at better informing the regional and local planning processes, could have a negative impact, if they were to be ill-considered or not exposed to sufficient consultation and scrutiny.

40. **Option 3** – clearly, any policy interventions aiming to internalise the full costs of port use would need to be carefully designed to avoid the risk of unintended consequences. If road pricing develops on a national scale, the pricing mechanism should take account of the reliance that ports and hauliers place on certain strategic roads for their business.

41. **Option 4** – there could be costs associated with this policy approach, and we would need to ensure that the Review drew on a sufficiently robust evidence base to ensure that interventions would have the intended outcomes. We would not expect to conclude that this policy line ought to be pursued *at the expense* of ports in the South and East, but we must recognise that to some extent UK ports are competing to supply a finite marketplace.

42. **Option 5** – setting non-prescriptive indicative targets at this level of detail should not impose large costs, although the extent to which such targets are given material consideration in the planning process could potentially have some impact, in terms of opportunity-costs and abortive project development costs, on new development being brought forward in the South and East of England.

43. Moreover, if growth in Northern ports is partly realised through transshipment, there *could* be a negative overall effect on the UK economy *if* this meant the UK losing deep sea traffic to continental ports, and UK businesses consequently incurring higher charges in accessing imports.

44. **Option 6** — as for option 5, the extent to which indicative targets are given weight at planning enquiries could be disadvantageous for port development being brought forward in regions with lower target levels and for the UK economy as a whole. Furthermore, substantial work would be required to establish accurate, evidence-based targets initially and then to ensure that they are updated periodically to ensure their continued accuracy.

45. In terms of road traffic patterns brought about by a highly regionally prescriptive policy framework, Annex C of the discussion document outlines MDS Transmodal's modelling results. These suggest that, in the transshipment scenarios studied, inland traffic impacts do not support the view that sensitive lorry mileage would be reduced nationally where cargo volumes are redistributed to northern ports.

46. Given the data required to underpin a defensible location-specific approach, considerable further analysis, modelling and subsequent consultation would be required. The costs entailed for Options 5 and 6 would be very substantial, but cannot be accurately quantified at this stage.

## Benefits

47. **Option 1** — no perceived additional benefits in terms of ensuring a sustainable future for the ports industry and the wider benefits this will bring in economic, social and environmental terms, though a rapid determination that the Government is broadly content with the existing policy framework would provide early certainty for the industry.

48. **Option 2** — introducing new or supplementary guidance on the non-transport impacts of port development, would help ensure that due recognition is given to the wider benefits that port development can bring in terms of regional development and national productivity, and how these processes interact. For example, specific, additional guidance on taking account of labour market impacts in port development decisions could have some regional economic benefit. Some regions, notably the three comprising the Northern Way<sup>7</sup>, have already looked at the economic importance of ports. A clearer picture of the economic role of ports from a national perspective will help both national and regional spatial planning and also point to how the two processes should interact.

49. This approach could also give developers greater certainty as to how to bring forward an optimal development in terms of wider Government objectives (this benefit also accrues for options 3-5 as the policy approach becomes increasingly prescriptive).

50. **Option 3** — there can also be negative externalities associated with ports' activities, and the policy review should consider whether the right pricing signals are, or can be, given to industry to ensure that these are given sufficient weight when determining where cargo is landed, and how this is then distributed. Depending on the Government's long-term response to this issue, particularly as this relates to inland distribution, ultimately this could bring benefit in the form of reduced congestion, fewer lorry miles and a decrease in air pollution. By decentralizing decision-making to the industry itself, the informational burden on central Government would be less than in other options considered here.

<sup>7</sup> <http://www.thenorthernway.co.uk/>

51. **Option 4** – the biggest potential gains from this approach would take the form of economic benefit for those English regions that are underperforming economically. This accords with the joint DCLG/DTI/HMT PSA target referred to above. Benefits could accrue to some regions if Government intervention to facilitate port expansion outside the South and East of England, actually led to successful development in these areas which would not otherwise have occurred.

52. **Option 5** – the benefit of setting high-level targets for the percentage of capacity or of port growth outside of the South and East, would depend on the extent to which this in itself facilitated the intended change(s) in the regional rates of port-related economic growth. Further work would be required to reflect a high-level supra-regional target in *regional* strategies and policy goals if the potential benefit is to be realised.

53. The targets could also provide a criterion for material consideration in determining planning applications for port development which might help speed up the decision-making process although at such an aggregate level, this may be of only limited benefit to this process.

54. **Option 6** – there would be two principal benefits of setting an indicative target for each region supported by an evidence base and agreed with the port authorities, RDA and Regional Assembly for that region. The first would be to have an attainable goal at which the Regional Economic and Spatial Strategies and any integrated sub-regional economic development and planning strategy would aim. This would include accommodating port development needs as part of an integrated approach to transport planning. The second, as for option 5, would be to provide a criterion for material consideration in determining planning applications for port development. Regional-level targets would be of more benefit for consideration in the planning process, helping to inform what the impact of a development might be on other regions.

55. Some ports themselves would be the prime beneficiaries of a target-based approach if it were to effectively pick ‘winners’ from further analysis of desirable port type and location – though this would almost certainly be at the expense of other ports.

### Unintended consequences

56. Decisions have been made recently on two major container terminal development applications. One major case, the proposed development at London Gateway, has yet to be determined. Further proposals have recently been submitted, or are expected.

57. Care will need to be taken by the promoters, the Planning Inspectorate and the Government in ensuring that Review considerations are factored in, if and when necessary, as these proposals progress.

## Small Firms Impact Assessment

58. *In the absence of developed policy proposals, this section sets out the overall context for small firms working in the ports and related sectors. A quantitative assessment will be provided as appropriate in the final RIA.*

60. In total there are more than 650 ports in the UK for which statutory harbour authority powers have been granted, of which around 120 are commercially active. A new ports policy framework is likely to have most impact on the large to medium-sized ports in the latter category rather than the large number of quays, piers and other facilities which are only of local significance and therefore not directly subject to the strategic economic, environmental, planning, capacity and accessibility issues on which the new policy framework is likely to focus. This said, the Government is well aware of the disproportionate burden on small businesses if new regulatory measures were to be developed, and the final RIA will examine this issue as necessary.

61. Ports themselves are host to a diverse range of business activities which can be categorised as small firms, from pilotage to cargo and passenger handling. ONS estimates indicate that there could be over 2000 such firms operating in 650 ports which lease land and/or equipment from the port owner under a fixed-term contract. Ports too host a variety of indirect activities and support others off the port estate, including importers/exporters, freight forwarders, shipping agents, and warehousing. Some 62% of port-related companies employed fewer than 10 people as estimated in DfT's *Port Employment and Accident Rates* study. Again, the policy effects on these firms is likely to be indirect by way of the direct implications of policy on the port operations as a whole.

62. This said, a policy framework with a strong regionally prescriptive element, could potentially have a significant impact on investment and employment if policy weakened or strengthened existing ports and their development. The overall net economic effects could then be felt by either existing small, as well as large, firms. This could also have implications for *competition*. As explained above, any such impacts cannot be quantified at this stage.

## Competition Assessment

63. For the reasons cited at paragraph 32 we cannot at this stage assess the impact of the new policy framework on competition but will do so when considering developed policy proposals in the final RIA.

## Enforcement, sanctions and monitoring

64. This section will be completed in the final RIA, once specific policy proposals have been developed.



