

MARITIME INDUSTRIES FORUM

Recommendations on Natura 2000

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Recent experiences have shown that the development of the Natura 2000 network continues to jeopardise infrastructure projects in particular port extension plans or dredging activities in the European Union. Moreover, more problems are likely to arise in the new Member States, which are at earlier stages in the implementation of the Birds and Habitats Directives.

In this context, the Maritime Industries Forum wishes to express the following **concerns to the European Commission and the EU Member States** concerning the implementation of these Directives:

I. Lack of integration between EU transport and environment policies

There exists a fundamental inconsistency between European Transport and Environment policies.

On the one hand, the European Commission promotes the development of transport modes, such as Short Sea Shipping, which are less damaging to the environment than road transport. Maritime transport is indeed far less polluting than road transport in terms of carbon and particulate emissions as well as in terms of hydrocarbon consumption.

On the other hand, EU environmental legislation, and notably Natura 2000, impedes certain infrastructural and maintenance works in ports and in ship repair/maintenance yard facilities, which are necessary, respectively, to respond to the growing demand for maritime transport and to ensure high safety levels of vessels sailing in EU waters, as encouraged by the EU Institutions.

In order to provide an appropriate and attractive context in the EU to shifting traffic from road to sea, essential investments must be made in ports. They need to expand and build adequate infrastructures and facilities to accommodate the growing volumes of transport.

Furthermore, the growth in demand for maritime transport also translates into needs for increasingly larger ships. This implies that the shipyards have to adapt their infrastructures in order to give proper and adequate access to the sea for these newly built ships. They also need to respond to the maintenance needs for an increasing number of vessels. In this prospect the shipyards are facing the same expansion needs and problems as the ports.

The MIF calls on the EU Commission, Parliament and Council of Ministers to make fundamental policy choices : whilst recognising and supporting that respect for the habitat can be integrated with port development, nature protection objectives may, in certain cases, have to be balanced with economic goals to achieve a sustainable EU transport system.

II. Lack of integration between environmental and economical needs

In order to achieve sustainable development in the EU, it is essential to integrate socio-economic and environmental interests.

While the need to combine both objectives is now more generally recognised (Cf. more recent pieces of legislation such as the Water Framework Directive), this principle was not fully integrated in the Birds and Habitats Directives which were drafted more than 15 years ago.

The implementation of the Natura 2000 network is taking place from a strict nature protection perspective. It is often detrimental to the development of many activities, notably in the sector of waterborne transport, despite the benefits these could bring to society, in socio-economic terms.

It is recalled that the total European maritime cluster produces a value added of about 111 billion Euro and provides employment to about 2,5 million people. Moreover, 90% of Europe's trade with the rest of the world is waterborne as almost half of intra-European trade.

As a result, the MIF calls on the European Commission to urgently assess the potential socio-economic impacts of Natura 2000, so as to make sure that the maritime and port industry can fulfil its role for the European economy and trade, without being burdened with undue environmental constraints.

III. Lack of consistency in the Directive implementation

The implementation of the Birds and Habitats Directives is not consistent throughout the EU. Certain concepts are not clear (e.g. "likely significant effect", "adverse effect", "over riding public interest") and are interpreted in a different manner from Member State to Member State. Therefore, depending on the interpretation taken by each regulator at national level, these texts may be applied in a more or less strict manner.

For complex biotopes such as estuaries, the scientific criteria referred to in the Directive are either not existing or have not been spelled out. Again, this leads to inconsistencies in implementation.

These differences in the application of the Directives lead to distortion of competition because infrastructure development is subject to stricter conditions in certain ports and shipyards than in others.

In order to ensure an equal treatment of all port activities, the MIF calls on the European Commission to monitor the implementation process of the Birds & Habitats Directives and to steer it towards a harmonised approach in all Member States. It also urges it to clarify concepts of article 6 in order to ensure a common interpretation throughout the EU.

IV. Difficulties in carrying out a specific project in a Natura 2000 site

The MIF would like to make the following recommendations to the national regulators, when assessing a specific plan/project in a Natura 2000 designated area, so as to avoid that such projects are subject to excessive administrative burdens, delays and legal uncertainties:

- The competent authorities should carry out the assessment process in a rapid, simple and transparent manner. Notably, not too many different regulatory bodies should be involved and they should be in permanent communication between themselves (notably the transport and environment administrations). Also, information requirements for the project planner should not be too detailed.
- The elements to conclude that there are overriding public interests to realise a port project (infrastructural- or dredging works) must be defined more clearly and explicitly. Notably, in assessing the “over-riding public interest” character of a maritime transport project, its contribution for the EU or local economy/trade should be taken into account, as well as the fact that its development can be combined with compensation measures to respect the habitats. Also, the TEN status of the project should be a decisive factor.
- The lack of capacity, which most European ports are faced with, must be taken into account in the assessment of possible alternatives.
- The environmental impact assessment (EIA) of the port project should also take into account macro-environmental aspects (such as the environmental benefits of taking cargo off the roads).
- Pre-existing commitments and legal user rights must be taken into account, and notably whether the project was already foreseen in the port’s strategic planning, before the Natura 2000 designation.
- Compensation of stakeholders should be provided in case the project is delayed or hampered.
- When considering the environmental impacts of dredging activities, decision-makers should take into account :
 - the fact that dredging is essential to maintain safe navigation in the port area or to provide new facilities to meet customers’ needs;
 - the wider environmental benefits of dredging, in facilitating waterborne transport;

- the vital role of dredging in allowing ports to keep pace with maritime transport needs and to support local, national and regional economies.

The MIF calls upon the Commission and the Parliament to pave the way for improvement in environmental legislation, notably by amending Art. 6 of the Habitats Directive with clear criteria on balancing environmental and socio-economic goals and by adding provisions on dealing with established rights of property for owners and users.