

Challenges for Implementing Environmental Measures and Legislation

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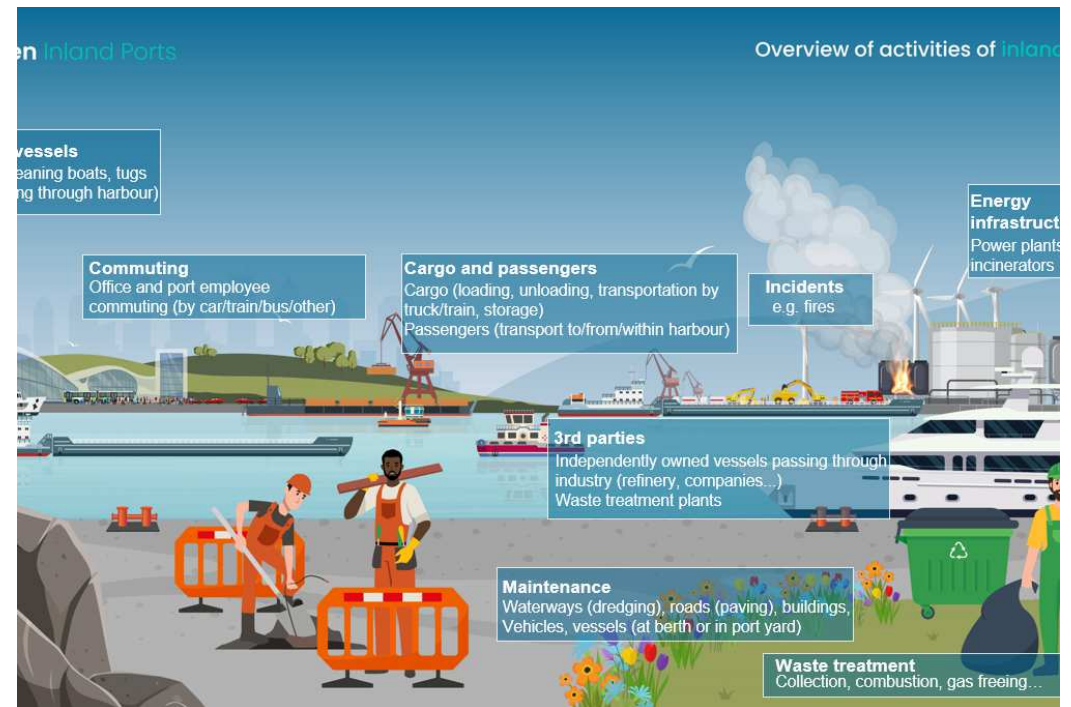




**Interactive Session 1 – Challenges for
Implementing Environmental
Measures and Legislation**
Frank Stevens (Erasmus School of Law)

The legal framework

- Ports and port activities clearly have an impact on the environment
- Question – Is there a legal framework, or are (inland) ports the legal Wild West where anything goes?
 - E.g. cranes, stackers, straddle carriers, ...
 - Emission limits?



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The legal framework

- Legally relevant categories of port activities:
 - Emissions to air
 - Directive 2010/75/EC on industrial emissions, Directive (EU) 2015/2193 on emissions from medium combustion plants, Regulation (EU) 2016/1628 on emission limits for non-road mobile machinery, Directive (EU) 2016/802 relating to the sulphur content of certain liquid fuels, Regulation (EU) 2019/1242 setting emissions standards for heavy-duty vehicles, Directive 2008/50/EC on ambient air quality, ...
 - Emissions to water
 - Water Framework Directive 2000/60/EC, Marine Strategy Framework Directive 2008/56/EC
 - Emissions of energy (noise, light)
 - Environmental noise Directive 2002/49/EC
 - Waste
 - Waste Framework Directive 2008/98/EC, Directive (EU) 2019/883 on port reception facilities, CDNI Convention
 - Use of space (ecosystems, biodiversity)
 - Habitats Directive 92/43/EEC, Birds Directive 2009/147/EC, Convention on Biodiversity, Nature Restoration Law proposal

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The legal framework

- Input requested:
- Are there "**gaps**"?
 - Is the framework complete, or are inland ports / port users missing legal tools?
- Are there "**obstacles**"?
 - Does the existing legal framework create difficulties for inland ports / port users?
 - on different levels:
 - EU level
 - National (regional) level

The **sheer complexity** of what needs to be done to get a shore connection in place was mentioned by numerous ports in our discussions.

A ports primary business is ensuring the safe navigation of users through the provision of suitable infrastructure and in many cases, pilotage. Cargo terminals are logistics specialists whose business is the efficient movement of cargo through the terminal. The energy system is complicated and even preliminary investigations can be expensive and time consuming.

"I don't know why anybody would be against [shore power], but there are so many nagging issues that add up to big barriers and when this isn't your primary business it can be very off putting"

BPA Member during phone interview

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The legal framework

- "**obstacles**"
 - EU level
 - e.g. unclear definitions, difficulties of interpretation, conflicting objectives of different pieces of legislation, etc.
 - e.g. ports need space to install alternative fuels infrastructure or to handle waste, but habitats / birds / biodiversity rules make this difficult or impossible
 - National (regional) level
 - (pre-)existing national or regional legislation, in areas not covered by EU environmental law
 - "gold-plating", member States going further than a Directive requires
 - Competition with EU ports: is the playing field level?
 - Competition with non-EU ports



Obligation to provide third-party access to terminals stops investments

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**Interactive Session 1 – Interactive Exchange
of Expert Opinions from the Audience**
Moderation by CE Delft

