



**European Sea Ports Organisation (ESPO) and European Federation of Inland Ports (EFIP)'s
suggestions for amendments**

**on the draft report on the Regulation (2023/0271) on the use of railway infrastructure capacity in
the single European Railway area**

Europe's ports are instrumental in effectively boosting rail freight in Europe. As the entry and exit points of Europe's land-based transport flows, European seaports and inland ports play a crucial role in multimodal transport and in achieving Europe's modal shift objectives. Europe's ports are happy to see that the draft report of the rapporteur, Tilly Metz, acknowledges this role and recognises the responsibility that port authorities can have as infrastructure managers and in rail capacity allocation, which was rather absent in the Commission's proposal.

Efficient rail operations and links between the port area and the main rail network, as well as within the port, are essential to maximise the potential of rail freight transport in Europe. Of equal importance is the need to prioritise freight trains in granting capacity on the rail network, particularly on congested sections. Currently, freight trains generally 'lose' from the passenger train in the allocation of slots, which considerably impedes the effective shift towards rail freight transport in Europe.

Increasing the modal split of rail has become a necessity for many European seaports and inland ports. As most authorities assume both public and economic responsibilities, they actively address societal challenges beyond the port area and often employ strategies to increase their rail freight share. Yet, **the management of the port rail network differs considerably from port to port, leading to a complex and diverse picture of railway governance systems inside European ports.** While in some Member States, the port authority is solely responsible for the development and management of the rail infrastructure and traffic management, other ports in other Member States share such responsibility with the national rail infrastructure manager. In other ports, the national rail infrastructure manager bears the sole responsibility for the rail infrastructure within the port. In light of these complex management structures, **a close cooperation between the port authority and the rail infrastructure manager is indispensable** to ensure efficient operations and seamless connectivity between the port rail network and the national network.

In order to effectively maximise the use of rail freight transport in Europe, Europe's seaports and inland ports stress the necessity to provide for adequate and structural cooperation with European rail infrastructure managers on port-rail related matters in the proposed Regulation (2023/0271). **EFIP**

and ESPO therefore support the draft report’s addition of Article 55a(new) that establishes a formal means of consulting port authorities and other operational stakeholders, via both the European Operational Stakeholder Platform (EOSP) and the service facilities operators advisory group (amendment 145). **Yet, the draft report foresees primarily a consultative role for ports and does not provide for any actual role for ports and other operational stakeholders in the final decision-making,** creating the risk that the consultative bodies will not be able to exert any influence on the final decisions taken by ENIM. These decisions can detrimentally impact port rail operations as ports try to coordinate multiple modes across their area. Given the potential harmful impact, Europe’s ports call upon the co-legislators to ensure that whenever ENIM takes decisions that impact ports and port rail networks, ENIM must secure their consent as part of the consultative bodies. This will ensure that there is an incentive to find an agreement between the infrastructure managers and these bodies. In the eyes of both ESPO and EFIP, these proposals should ensure the creation of a decisive and future-proof rail capacity governance system.

In light of the above, ESPO and EFIP call upon the Members of the European Parliament to consider the below proposals for amendments to the rapporteur’s draft report:

Article 53		
Coordination between infrastructure managers		
Article 54.3		
Commission proposal	Rapporteur’s draft report	ESPO/EFIP proposal
<p>3. ENIM shall take account of the feedback provided by concerned parties in accordance with paragraph 2 when adopting the final opinion or recommendation. Where ENIM fails to take into account significant elements of the feedback provided, it shall provide the reasons for doing so.</p>	<p>3. ENIM shall take account of the feedback provided by concerned parties in accordance with paragraph 2 when adopting the final opinion or recommendation. Where ENIM fails to take into account significant elements of the feedback provided, it shall justify its reasons for doing so.</p>	<p>3. ENIM shall take account of the feedback provided by concerned parties in accordance with paragraph 2 when adopting the final opinion or recommendation. Where ENIM fails to take into account significant elements of the feedback provided, it shall justify its reasons for doing so. <i>When ENIM takes a decision likely to have an impact on the advisory groups as established in Article 55a(new), ENIM shall secure prior consent of the respective advisory group(s).</i></p>
<p>Justification:</p> <p>The decisions of ENIM have the potential to seriously impact and disrupt the operations and development of European ports. The currently proposed consultation process could result in the voice of ports being a mere “dead letter” which is disproportional given the potential impact. Decisions that impact ports should only be taken through a proportionate and consequential process.</p>		

Article 55a (new) Consultative bodies to ENIM		
Article 55a(2)		
Commission proposal	Rapporteur's draft report	ESPO/EFIP proposal
	<p>2. ENIM shall set up an advisory group made up of operators of service facilities and terminals linking to the extended TEN-T Network including, where necessary, multimodal capacity stakeholder like sea and inland waterway ports and owners of other rail-related service facilities. This advisory group may issue an opinion on any proposal by ENIM which has direct consequences for investment and the management of terminals. It may also issue own-initiative opinions.</p>	<p>2. ENIM shall set up an advisory group made up of operators of service facilities and terminals linking to the extended TEN-T Network including, where applicable necessary, multimodal capacity stakeholder like sea and inland waterway ports and owners of other rail-related service facilities. This advisory group may issue an opinion on any proposal by ENIM which has direct consequences for investment and the management of terminals and/or of the multimodal capacity stakeholders like sea and inland waterway ports and owners of other rail-related service facilities. It may also issue own-initiative opinions. These opinions shall be taken into account by ENIM. When ENIM takes a decision that has direct consequences for the investments and the management of terminals and/or of the multimodal capacity stakeholders, ENIM shall secure prior consent of the respective operator(s).</p>
<p>Justification:</p> <p>The draft proposal of this amendment is a laudable initiative. However the opinions of such a body should not be a mere exercise in inconsequentiality but carry an actual weight.</p>		

Article 55a(4)		
Commission proposal	Rapporteur's draft report	ESPO/EFIP proposal
	<p>4. ENIM shall draw up and publish guidelines for coordinating the consultation with the above groups and shall publish on its website an overview of the activities undertaken pursuant to this article.</p>	<p>4. ENIM <i>in cooperation with the above groups</i> shall draw up and publish guidelines for coordinating the consultation with the above groups and shall publish on its website an overview of the activities undertaken pursuant to this article.</p>
<p>Justification:</p> <p>Guidelines for consultation should not be created unilaterally by the entity that will be consulted. The advisory groups should have a role in cooperatively setting the rules on consultation in order to ensure that an effective and representative forum is created.</p>		