

Sale of Trust Ports

The targeted consultation on the criteria that the Government considers particularly relevant to the consideration of the appropriateness of sale of a major trust port in England or Wales under the Ports Act 1991, that I announced on 16 May 2011 [Hansard Column 4WS], has now closed and I have considered the responses received.

The following paragraphs set out the revised policy which the Secretary of State expects to follow when considering an application under the Ports Act 1991 for the sale of a major trust port in England or Wales. This covers the consideration of any proposal for a transfer scheme submitted under section 9 or 10 of the 1991 Act, together with the exercise of the Secretary of State's functions in respect of the subsequent sale of the port to which the scheme relates. The Secretary of State also intends to have particular regard to the policy considerations set out below before making a transfer scheme himself under section 12 of the 1991 Act or subsequently approving the sale of a port to which such a scheme relates.

1. Essential Criteria

Community participation

The Secretary of State will not approve an application for the sale of a trust port under the 1991 Act unless the sale is considered likely to deliver an enduring and significant level of community participation in the port. Such participation could take a variety of forms, but must include the ability to influence the port's long term development and may include the right to receive a share in the profits of the port, or the future increase in its value. It does not necessarily require a community role in the operation of the port.

Future investment in, and development of, the port

The Secretary of State will not approve an application unless the sale is considered likely to deliver an ownership model with the capability and access to capital to meet future investment needs and to exploit development potential of the port.

Fair price

The Secretary of State will not approve an application unless the sale is considered likely to represent good value for money, having regard not only to Exchequer proceeds and market conditions, but also to other benefits including those to the community and the wider economy.

Fair competition

The Secretary of State will not approve an application that is likely to deliver an ownership model which results in unsatisfactory levels of competition in the relevant sector.

2. Highly Desirable criteria

Transport networks

It is highly desirable for an application to be likely to deliver an ownership model which will cause the port to be operated so as to contribute to reliable, resilient and efficient transport networks.

Sale process

It is highly desirable that the sale should be conducted in such a way as to give all bona fide prospective purchasers a fair and equitable opportunity to participate.

3. Desirable criteria

Employee involvement

It is desirable for an application to be likely to deliver port employee participation in the ownership of the port, such as the right to receive equity shares or a share in its future success¹.

¹ This is without prejudice to the Ports Act 1991 section 5(3) requirement to have particular regard to the desirability of encouraging the disposal of the whole or a substantial part of the equity share capital of the successor company to managers or other persons employed by the port company etc.