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Committee on Transport and Tourism

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2013/0157(COD)

11.11.2013

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports  
(COM(2013)0296 – C7-0144/2013 – 2013/0157(COD))

Committee on Transport and Tourism

Rapporteur: Knut Fleckenstein

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports**

**(COM(2013)0296 – C7-0144/2013 – 2013/0157(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0296),
  - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0144/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Spanish Congress of Deputies and the Spanish Senate, the French National Assembly, the Italian Senate, the Latvian Parliament, the Maltese Parliament, the Polish Sejm and the Polish Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of 11 July 2013<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of .....<sup>2</sup>,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Employment and Social Affairs (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> Not yet published in the Official Journal.

<sup>2</sup> Not yet published in the Official Journal.

## Amendment 1

### Proposal for a regulation

#### Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) In order to address the challenges facing the maritime transport sector, it is essential that the actions set out in the Commission's communication entitled 'Ports: an engine for growth' be implemented in tandem with this Regulation. The complexity of administrative procedures for customs clearance, resulting in delays in ports, represents a major obstacle to the competitiveness of short-sea shipping and the efficiency of Union ports.***

Or. en

*Justification*

*The Regulation should be considered and implemented as part of a wider approach. It is useful to explicitly mention the challenge of a missing internal market in the maritime transport sector as the main obstacle to competitiveness of short sea shipping and the efficiency of ports.*

## Amendment 2

### Proposal for a regulation

#### Recital 4

*Text proposed by the Commission*

*Amendment*

(4) The overwhelming majority of Union maritime traffic transits through the seaports of the trans-European transport network. In order to achieve the aim of this Regulation in a proportionate way without imposing any unnecessary burden on other ports, this Regulation should apply to the **ports** of the trans-European transport network, each of which playing a significant role for the European transport system either because it handles more than

(4) The overwhelming majority of Union maritime traffic transits through the seaports of the trans-European transport network. In order to achieve the aim of this Regulation in a proportionate way without imposing any unnecessary burden on other ports, this Regulation should apply **only** to the **seaports** of the trans-European transport network, each of which is playing a significant role for the European transport system either because it handles

0.1% of the total EU freight or the total number of passengers or because it improves the regional accessibility of island or peripheral areas, without prejudice, however, to the possibility of Member States deciding to apply this Regulation to other ports as well. Pilotage services performed in the deep sea do not have a direct impact on the efficiency of the ports as they are not used for the direct entry and exit of the ports and therefore do not need to be included in this Regulation.

more than 0.1% of the total EU freight or the total number of passengers or because it improves the regional accessibility of island or peripheral areas, without prejudice, however, to the possibility of Member States deciding to apply this Regulation to other ports as well. Pilotage services performed in the deep sea do not have a direct impact on the efficiency of the ports as they are not used for the direct entry and exit of the ports and therefore do not need to be included in this Regulation.

Or. en

### *Justification*

*In order to avoid any confusion, the Rapporteur has amended all the references from “ports identified in the TEN-T” to “seaports identified in the TEN-T”, which is the correct scope of this Regulation. It is worth noting that Member States may also decide to make it applicable to other ports, not necessarily included in the TEN-T guidelines, on a voluntary basis.*

## **Amendment 3**

### **Proposal for a regulation**

#### **Recital 5**

#### *Text proposed by the Commission*

(5) The objective of Article 56 of the Treaty on the Functioning of the European Union is to eliminate restrictions on freedom to provide services in the Union. In accordance with Article 58 of the Treaty on the Functioning of the European Union ***should be achieved within the framework of*** the provisions of the Title relating to transport, more specifically Article 100 (2).

#### *Amendment*

(5) The objective of Article 56 of the Treaty on the Functioning of the European Union (TFEU) is to eliminate restrictions on freedom to provide services in the Union. In accordance with Article 58 of the TFEU, ***freedom to provide services in the field of transport is governed by*** the provisions of the Title relating to transport, more specifically Article 100 (2) of the TFEU.

Or. en

### *Justification*

*This amendment takes into account the official wording of the TFEU.*

## Amendment 4

### Proposal for a regulation Recital 6

#### *Text proposed by the Commission*

(6) The self-provision of service which entails shipping companies or providers of port services to employ staff of their own choice and to provide themselves port services is regulated in a number of Member States for safety or social reasons. The stakeholders consulted by the Commission when preparing its proposal highlighted that imposing a generalised allowance of the self-provision of service at Union level would require additional rules on safety and social issues in order to avoid possible negative impacts in these areas. It **appears** therefore **appropriate at this stage** not to regulate this issue at Union level and **to leave it** to the Member States to regulate the self-provision of port services or not. Therefore, this Regulation should only cover the provision of port services for remuneration.

#### *Amendment*

(6) The self-provision of service which entails shipping companies or providers of port services to employ staff of their own choice and to provide themselves port services is regulated in a number of Member States for safety or social reasons. The stakeholders consulted by the Commission when preparing its proposal highlighted that imposing a generalised allowance of the self-provision of service at Union level would require additional rules on safety and social issues in order to avoid possible negative impacts in these areas. It **is** therefore not **appropriate** to regulate this issue at Union level and **it should instead be left** to the Member States to regulate the self-provision of port services or not. Therefore, this Regulation should only cover the provision of port services for remuneration.

Or. en

#### *Justification*

*It is necessary to state that self-handling should not be regulated at Union level at all. Given that the social provisions for such a market opening are not in place, it is not appropriate to make a reference stating the prospects of future inclusion.*

## Amendment 5

### Proposal for a regulation Recital 7

#### *Text proposed by the Commission*

(7) In the interest of efficient, safe and environmentally sound port management, the managing body of the port should be able to require that port service providers

#### *Amendment*

(7) In the interest of efficient, safe and environmentally sound port management, the managing body of the port should be able to require that port service providers



can demonstrate that they meet minimum requirements to perform the service in an appropriate way. These minimum requirements should be limited to a clearly defined set of conditions concerning the professional qualifications of the operators, ***including in terms of training, and the equipment required insofar as these requirements are transparent, non-discriminatory, objective and relevant for the provision of the port service.***

can demonstrate that they meet minimum requirements to perform the service in an appropriate way. These minimum requirements should be limited to a clearly defined set of conditions concerning the professional qualifications of the operators, ***the equipment needed in order to provide the relevant port service and compliance with maritime safety requirements.*** These conditions should take into account environmental requirements as well as national social standards.

Or. en

#### *Justification*

*The list of criteria for minimum requirements is exhaustive and the amendment aligns the Recital with the respective Article. Next to professional qualifications, maritime safety and environmental concerns, social standards should also play a role when choosing the service provider.*

## **Amendment 6**

### **Proposal for a regulation Recital 9**

#### *Text proposed by the Commission*

(9) The procedure to grant ***with*** the right to provide port services ***when*** compliance with minimum requirements is required should be transparent, objective and non-discriminatory and should allow the providers of port services to start the provision of their port services in a timely manner.

#### *Amendment*

(9) The procedure to grant the right to provide port services ***where*** compliance with minimum requirements is required should be transparent, objective and non-discriminatory and should allow the providers of port services to start the provision of their port services in a timely manner.

Or. en

#### *Justification*

*This recital was amended in order to provide a clearer and more comprehensive text.*

## Amendment 7

### Proposal for a regulation

#### Recital 10

*Text proposed by the Commission*

(10) Since ports are constituted of limited geographical areas, access to the market could, in certain cases, be subject to limitations relating to the scarcity of land or ***in case the*** land is reserved for certain ***type*** of activities in accordance with a formal development plan which plans in a transparent way the land use and with relevant national legislation such as those related to town and country planning objectives.

*Amendment*

(10) Since ports are constituted of limited geographical areas, access to the market could, in certain cases, be subject to limitations relating to the scarcity of land or, ***where*** land is reserved for certain ***types*** of activities, in accordance with a formal development plan which plans in a transparent way the land use and with relevant national legislation such as those related to town and country planning objectives.

Or. en

*Justification*

*Not every port works with a formal development plan and if they do the plans do not usually make reference to the maximum number of providers for a given space.*

## Amendment 8

### Proposal for a regulation

#### Recital 10 a (new)

*Text proposed by the Commission*

*Amendment*

***(10a) Due to the significant variations in the size of ports, the economic capacity and the amount of space available for operations on the water also need to be taken into account when limiting the number of providers of port services. Moreover, it should be possible to limit access to the market so as to ensure safe, secure or environmentally sustainable port operations.***

Or. en

## *Justification*

*Space-related constraints of the water area in the port and its market capacity should be taken into account. In smaller ports there might be not enough activity for several providers. Another possible reason for limiting the number of providers must be safety, security and environmental concerns in order to guarantee smooth port operations.*

### **Amendment 9**

#### **Proposal for a regulation**

##### **Recital 13**

*Text proposed by the Commission*

(13) The ***selection*** procedure for providers of port ***service in the case*** the number of those providers is limited should ***follow the principles and approach determined in Directive .../... [concession]***<sup>7</sup>, ***including the threshold and method for determining the value of the contracts as well as the definition of substantial modifications and the elements related to the duration of the contract.***

*Amendment*

(13) The procedure for ***selecting*** providers of port ***services where*** the number of those providers is limited should ***be open to all interested parties and should be non-discriminatory.***

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<sup>7</sup> ***Proposal for a Directive on the award of concession contracts (COM 2011) 897 final***

Or. en

## *Justification*

*The selection procedure as set out in the Directive on the award of concession contracts should only be applicable when contracts are awarded as a concession. In cases of other types of contracts, the selection procedure shall follow the principles laid down in this Regulation.*

### **Amendment 10**

#### **Proposal for a regulation**

##### **Recital 14**

*Text proposed by the Commission*

(14) ***The*** recourse to public service

*Amendment*

(14) The recourse to public service

obligations leading to a limitation in the number of providers of a port service should only be justified for reasons of public interest in order to ensure the accessibility of the port service to all users, the availability of the port service all year long *or* the affordability of the port service to certain category of users.

obligations leading to a limitation in the number of providers of a port service should only be justified for reasons of public interest in order to ensure the accessibility of the port service to all users, the availability of the port service all year long, the affordability of the port service to ***a certain category of users, and safe, secure or environmentally sustainable port operations.***

Or. en

#### *Justification*

*The managing body of the port should be allowed to decide on imposing public service obligations in order to allow for existing practices to be kept in the future. In addition, public service obligations should be possible to ensure safe, secure and environmentally sustainable port operations.*

### **Amendment 11**

#### **Proposal for a regulation**

#### **Recital 18**

##### *Text proposed by the Commission*

(18) The competent authorities designated in a Member State should have the choice to decide to provide port services with public service obligations themselves or to entrust ***directly*** the provision of such services directly to an internal operator. In the case that a competent authority decides to provide the service itself, this may cover the provision of services through agents employed by the competent authority or commissioned by the competent authority. When such limitation is applied in all the TEN-T ***ports*** in the territory of a Member State, the Commission should be informed. In the cases where the competent authorities in a Member State prevail on such a choice, the provision of port services by the internal operators should be confined only to the port or ports for which those internal operators were designated.

##### *Amendment*

(18) ***The managing body of the port concerned or*** the competent authorities designated in a Member State should have the choice to decide to provide port services with public service obligations themselves or to entrust the provision of such services directly to an internal operator. In the case that a competent authority decides to provide the service itself, this may cover the provision of services through agents employed by the competent authority or commissioned by the competent authority. When such limitation is applied in all the TEN-T ***seaports*** in the territory of a Member State, the Commission should be informed. In the cases where the competent authorities in a Member State prevail on such a choice, the provision of port services by the internal operators should be confined only to the

Moreover, in such cases, the port service charges applied by such an operator should be subject to **supervision by the independent supervisory body**.

port or ports for which those internal operators were designated. Moreover, in such cases, the port service charges applied by such an operator should be subject to independent **supervision**.

Or. en

### *Justification*

*The managing body of the port or the competent authority should have the competence to decide on providing a specific service itself. Also, in order to avoid any confusion, the Rapporteur has amended all the references from “ports identified in the TEN-T” to “seaports identified in the TEN-T”, which is the correct scope of this Regulation.*

## **Amendment 12**

### **Proposal for a regulation**

#### **Recital 19**

##### *Text proposed by the Commission*

(19) Member States should retain the power to ensure an adequate level of social protection for the staff of **undertaking** providing port services. This Regulation **shall** not affect the application of the social and labour rules of the Member States. In cases of limitation of the number of port service providers, where the conclusion of a port service contract may entail a change of port service operator, **it should be possible for** the competent authorities **to ask the** chosen service operator to apply the provisions of Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses<sup>11</sup>.

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<sup>11</sup> OJ L 82, 22.3.2001, p. 16.

##### *Amendment*

(19) Member States should retain the power to ensure an adequate level of social protection for the staff of **undertakings** providing port services. This Regulation **should** not affect the application of the social and labour rules of the Member States. In cases of limitation of the number of port service providers, where the conclusion of a port service contract may entail a change of port service operator, the competent authorities **should require the** chosen service operator to apply the provisions of Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses<sup>11</sup>.

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<sup>11</sup> OJ L 82, 22.3.2001, p. 16.

Or. en

### *Justification*

*With regards to the transfer of staff, Member States should be requested to grant staff the rights which they would have been entitled to if there had been a transfer in the meaning of Directive 2001/23/EC.*

### **Amendment 13**

#### **Proposal for a regulation Recital 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) According to Resolution A.960 of the International Maritime Organization (IMO), each pilotage area needs highly specialised experience and local knowledge on the part of the pilot. Given that the IMO recognises the appropriateness of regional or local administration of pilotage, pilotage should be exempt from the market access provisions laid down in Chapter II of this Regulation.***

Or. en

### *Justification*

*Pilotage should be excluded from the chapter on market access as it is a service highly relevant for navigational safety. In its Resolution A.960, the IMO has recognized the important role that maritime pilots play in promoting maritime safety and protecting the marine environment. Furthermore, the IMO does not intend to become involved with the certification or the licensing of pilots or with the systems of pilotage practiced in various states, so it seems unjustified that the Union should.*

### **Amendment 14**

#### **Proposal for a regulation Recital 22**

*Text proposed by the Commission*

*Amendment*

(22) It is necessary to impose on the managing body of the port which receives public funds, when it is also acting as a service provider, an obligation to keep

(22) It is necessary to impose on the managing body of the port which receives public funds, when it is also acting as a service provider, an obligation to keep

separate accounts for activities carried out in their capacity as managing body of the port from those carried out on a competitive basis in order to ensure a level playing field, transparency in the allocation and use of public funds and to avoid market distortions. In any case compliance with the State aid rules should be ensured.

separate accounts for **publicly funded** activities carried out in their capacity as managing body of the port from those carried out on a competitive basis in order to ensure a level playing field, transparency in the allocation and use of public funds and to avoid market distortions. In any case compliance with the State aid rules should be ensured.

Or. en

#### *Justification*

*The separation of accounts should be limited to the specific publicly funded activity/investment with regard to other services. This Regulation should not establish an obligation to have separate accounts for each and every service, when the port only receives public funds in one specific area.*

### **Amendment 15**

#### **Proposal for a regulation Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

***(22a) Seaports with a turnover beneath the threshold laid down in Directive 2006/111/EC should meet the transparency obligations contained in Article 12 of this Regulation in a proportionate way, without having to suffer a disproportionate administrative burden.***

Or. en

#### *Justification*

*Small ports should only have to apply the provisions on transparency in proportion to the administrative burden. The threshold should be in accordance with Directive 2006/111/EC on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings.*

## Amendment 16

### Proposal for a regulation Recital 22 b (new)

*Text proposed by the Commission*

*Amendment*

***(22b) The Commission should clarify the notion of State aid with regard to the financing of port infrastructure, taking into consideration the non-commercial nature of public access and defence infrastructure. This includes infrastructure for rail and road land access connections to the national transport system, infrastructure necessary for utilities in the port area, and all infrastructure that allows access to a port area, including maritime access, navigable channels and defence works. These types of infrastructure should be accessible to all potential users on equal and non-discriminatory terms and fall within the State's responsibility to meet the general needs of the population.***

Or. en

*Justification*

*To create a level playing field among ports, clear rules on State aid are essential. The Commission is currently modernising the State aid guidelines and should take the specific features of port infrastructure into account.*

## Amendment 17

### Proposal for a regulation Recital 23

*Text proposed by the Commission*

*Amendment*

(23) Port service charges applied by providers of port services which are not designated in accordance with an open, transparent and non-discriminatory procedure entail a higher risk of price abuse ***given their monopolistic or***

(23) Port service charges applied by providers of port services which are not designated in accordance with an open, transparent and non-discriminatory procedure entail a higher risk of price abuse. The same is true for charges levied



*oligopolistic situation and the fact that their market cannot be contested.* The same is true for charges levied by internal operators *in* the meaning of *this Regulation*. For those services, in the absence of fair market mechanisms, arrangements should be established to ensure that the charges *they levy reflect the normal conditions* of the *relevant market* and are set in a transparent and non-discriminatory way.

by internal operators *within* the meaning of *Article 9(1)*. For those services, in the absence of fair market mechanisms, arrangements should be established to ensure that the charges *levied are not disproportionate to the economic value* of the *services provided* and are set in a transparent and non-discriminatory way.

Or. en

#### *Justification*

*The scope of Article 13 has to be more precise. The charges should not be disproportionate to the value of the service provided.*

### **Amendment 18**

#### **Proposal for a regulation Recital 24**

##### *Text proposed by the Commission*

(24) *In order to be efficient*, the port infrastructure charges of each individual port should be set in a transparent and autonomous way in accordance with that port's own commercial and investment strategy.

##### *Amendment*

(24) *The role of the managing body of a port is, inter alia, to facilitate trade and to act as an intermediary between regional industry and transport operators. Therefore, in the interests of efficiency*, the port infrastructure charges of each individual port should be set in a transparent and autonomous way in accordance with that port's own commercial and investment strategy.

Or. en

#### *Justification*

*The evolving role of the managing body of the port should be emphasised when referring to the need for autonomous charges setting. The ports need a certain degree of autonomy in pursuing a specific trade profile, in establishing a link to the regional economy, to attract some traffic over others, etc.*

## Amendment 19

### Proposal for a regulation Recital 25

*Text proposed by the Commission*

(25) **The** variation of port infrastructure charges should be allowed **in order** to promote short sea shipping and to attract waterborne vessels having an environmental performance or energy and carbon efficiency of the transport operations, notably the off-shore or on-shore maritime transport operations, that is better than average. This should help to contribute to the environmental and climate change policies and the sustainable development of the port and its surroundings notably by **contributing to reducing** the environmental footprint of **the** waterborne vessels calling and staying in the port.

*Amendment*

(25) The variation of port infrastructure charges **is an important tool for the managing body of the port and** should be allowed. **Port infrastructure charges may vary in order, for example,** to promote short sea shipping and to attract waterborne vessels having an environmental performance or energy and carbon efficiency of the transport operations, notably the off-shore or on-shore maritime transport operations, that is better than average. This should help to contribute to the environmental and climate change policies and the sustainable development of the port and its surroundings, notably by **helping to reduce** the environmental footprint of waterborne vessels calling and staying in the port.

Or. en

*Justification*

*This new wording allows port managers to be more flexible to strategically set and follow its economic strategy.*

## Amendment 20

### Proposal for a regulation Recital 27

*Text proposed by the Commission*

(27) In order to ensure **the proper and effective application of this Regulation, an independent supervisory body, which could be an already existing body, should** be designated **in every Member State.**

*Amendment*

(27) In order to ensure **that an independent complaints mechanism is in place, one or more bodies providing independent supervision should be designated in every Member State. Already existing bodies, such as competition authorities, courts, ministries or departments within**

**ministries not linked to the managing body of the port could be designated for this purpose.**

Or. en

*Justification*

*Article 17 should focus more on the function of complaint handling and dispute settlement than on the setup of an independent supervisory mechanism. Rather than prescribing one body per Member State, independent supervision (whichever form it takes) should be ensured by the Member State.*

**Amendment 21**

**Proposal for a regulation  
Recital 28**

*Text proposed by the Commission*

(28) The different independent **supervisory bodies** should exchange information on their work **and cooperate in order to ensure a uniform application of this Regulation.**

*Amendment*

(28) The different **bodies providing independent supervision** should **cooperate with each other and** exchange information on their work **in cases concerning cross-border disputes and complaints.**

Or. en

*Justification*

*It is sufficient to provide for cooperation concerning cross-border disputes and complaints (Article 17 (4)).*

**Amendment 22**

**Proposal for a regulation  
Recital 29**

*Text proposed by the Commission*

(29) In order to **supplement and amend certain non-essential elements of this Regulation and in particular to promote the uniform application of environmental charging**, reinforce the Union-wide coherence of environmental charging **and to ensure common charging principles in**

*Amendment*

(29) In order to reinforce the Union-wide coherence of environmental charging, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of common classifications of vessels **and** fuels. **When adopting such delegated acts,**

*relation to the promotion of short sea shipping*, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of common classifications of vessels, fuels *and types of operations according to which to vary the infrastructure charges and common charging principles for port infrastructure charges. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.* The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

*the Commission should take into account the Environmental Ship Index (ESI) and the progress made by the World Ports Climate Initiative (WPCI). These classifications should serve only as a basis for allowing variations of port infrastructure charges and should not affect the competence of the managing body of a port to set the level of the port infrastructure charges autonomously, in accordance with the applicable rules.* The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and *to the* Council.

Or. en

#### *Justification*

*The Commission's power to adopt delegated act should be strictly limited. Common classifications of vessels and fuels should be set in line with international standards. Types of operations according to which the charges can vary should be at the discretion of the port, as well as the setting of the charges.*

### **Amendment 23**

#### **Proposal for a regulation**

##### **Recital 30**

*Text proposed by the Commission*

*(30) In order to ensure uniform conditions for the implementation of this Regulation implementing powers relating to appropriate arrangements for the exchange of information between independent supervisory bodies should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council*

*Amendment*

*deleted*

*of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers<sup>13</sup>.*

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<sup>13</sup> *OJ L 55, 28.2.2011, p. 13.*

Or. en

*Justification*

*This amendment is in line with the deletion of Article 18.*

**Amendment 24**

**Proposal for a regulation**

**Recital 31**

*Text proposed by the Commission*

(31) Since the objectives of this Regulation, namely ensuring the modernisation of port services and the appropriate framework to attract necessary investments in all the **ports** of the trans-European transport network, cannot be sufficiently achieved by the Member States because of the European dimension, international and cross-border nature of port and related maritime business and can therefore, by reason of the need for a European level playing field, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

*Amendment*

(31) Since the objectives of this Regulation, namely ensuring the modernisation of port services and the appropriate framework to attract necessary investments in all the **seaports** of the trans-European transport network, cannot be sufficiently achieved by the Member States because of the European dimension **and the** international and cross-border nature of port and related maritime business, and can therefore, by reason of the need for a European level playing field, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

Or. en

### *Justification*

*In order to avoid any confusion, the Rapporteur has amended all the references from “ports identified in the TEN-T” to “seaports identified in the TEN-T”, which is the correct scope of this Regulation. It is worth noting that Member States may also decide to make it applicable to other ports, not necessarily included in the TEN-T guidelines, on a voluntary basis.*

### **Amendment 25**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) dredging;**

**deleted**

Or. en

### *Justification*

*Dredging does not constitute a port service offered to the users. It is rather maintenance work of the port infrastructure to keep the port accessible, which is the responsibility of the port managing body or the competent authority. Therefore this Regulation should not apply to dredging services. (Comparable service to ice-breaking, which is not included).*

### **Amendment 26**

#### **Proposal for a regulation**

#### **Article 2 – point 2**

*Text proposed by the Commission*

*Amendment*

2. ‘cargo handling services’ means the organisation and handling of cargo between the carrying waterborne vessel and the shore be it for import, export or transit of the cargo, including the processing, transporting and temporary storage of the cargo on the relevant cargo handling terminal and directly related to the transporting of the cargo, but excluding warehousing, stripping, repackaging or any other value added services related to the handled cargo;

2. ‘cargo handling services’ means the organisation and handling of cargo between the carrying waterborne vessel and the shore, be it for import, export or transit of the cargo, including the processing, **lashing**, transporting and temporary storage of the cargo on the relevant cargo handling terminal and directly related to the transporting of the cargo, but excluding warehousing, stripping, repackaging or any other value-added services related to the handled cargo;

*Justification*

*Cargo handling services should include "lashing" (the fastening of the containers onboard the vessels).*

**Amendment 27****Proposal for a regulation  
Article 2 – point 3***Text proposed by the Commission**Amendment*

**3. 'dredging' means the removal of sand, sediment or other substances from the bottom of the waterway access to a port in order to allow waterborne vessel to have access to the port and comprises both the initial removal (capital dredging) and the maintenance dredging in order to keep the waterway accessible;**

*deleted**Justification*

*Dredging does not constitute a port service offered to the users. It is rather maintenance work of the port infrastructure to keep the port accessible, which is the responsibility of the port managing body or the competent authority. Therefore this Regulation should not apply to dredging services and should not define the term "dredging". (Comparable service to ice-breaking, which is not included).*

**Amendment 28****Proposal for a regulation  
Article 2 – point 5***Text proposed by the Commission**Amendment*

5. 'managing body of the port' means any public or private body which, whether or not in conjunction with other activities, has as its objective under national law or instruments the administration and management of the port infrastructures, **port traffic**, the coordination and, where

5. 'managing body of the port' means any public or private body which, whether or not in conjunction with other activities, has as its objective under national law or instruments the administration and management of the port infrastructures, the coordination and, where appropriate, the

appropriate, the control of the activities of the operators present in the port concerned;

***carrying-out, organisation or control of the activities of the operators present in the port concerned and the administration and management of the port traffic*** in the port concerned;

Or. en

*Justification*

*Administration and management of port traffic should follow after "if appropriate" because it is not a duty of port authorities in each Member State.*

**Amendment 29**

**Proposal for a regulation  
Article 2 – point 6**

*Text proposed by the Commission*

6. ‘mooring’ means the ***berthing and unberthing services required for a waterborne vessel being anchored or otherwise fastened to the shore in the port or in the waterways access to the port;***

*Amendment*

6. ‘mooring’ means the ***tying of a waterborne vessel to the berth or the quayside in order to immobilise the vessel, thereby allowing passengers and other persons, goods or cargo to be safely moved onto or from the waterborne vessel;***

Or. en

*Justification*

*Mooring should be confined to the commercial mooring in the port on the berth or the quay, as the accessways might not be administered by the ports and for example mooring within locks does not constitute commercial mooring.*

**Amendment 30**

**Proposal for a regulation  
Article 2 – point 9**

*Text proposed by the Commission*

9. ‘port infrastructure charge’ means a fee collected for the direct or indirect benefit of the managing body of the port and paid by the operators of waterborne vessels or

*Amendment*

9. ‘port infrastructure charge’ means a fee collected for the direct or indirect benefit of the managing body of the port and paid by the operators of waterborne vessels or



cargo owners for the use of facilities and services that allow vessels entry and exit in and out of the port, including the waterways giving access to *those ports*, as well as access to the processing of passengers and cargo;

cargo owners for the use of facilities and services that allow vessels entry and exit in and out of the port, including the waterways giving access to *the port where such waterways are under the administration and management of the port itself*, as well as access to the processing of passengers and cargo;

Or. en

*Justification*

*Waterways giving access to ports should only be included in the charging when they are actually administered by the respective port.*

**Amendment 31**

**Proposal for a regulation**  
**Article 2 – point 12**

*Text proposed by the Commission*

12. ‘port service contract’ means a formal and legally binding agreement between a provider of port *service* and *a* competent authority whereby *this* body designates a provider of port *service* to provide port services following a procedure to limit the number of providers of port services;

*Amendment*

12. ‘port service contract’ means a formal and legally binding agreement between a provider of port *services* and *the managing body of the port or the* competent authority, whereby *that managing* body *or competent authority* designates a provider of port *services* to provide port services following a procedure to limit the number of providers of port services;

Or. en

*Justification*

*The agreement could also be between the port managing body and the service provider (the managing body of the port should have the power to limit the number of service providers in accordance with Article 6).*

**Amendment 32**

**Proposal for a regulation**  
**Article 2 – point 16**

*Text proposed by the Commission*

*Amendment*

16. 'seaport' means an area of land and water made up of such works and equipment so as to permit, principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of *these* goods and the embarkation and disembarkation of passengers; ***and any other infrastructure necessary for transport operators within the port area;***

16. 'seaport' means an area of land and water made up of such works and equipment so as to permit, principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of *those* goods and the embarkation and disembarkation of passengers ***and other persons;***

Or. en

*Justification*

*The last part "any other infrastructure necessary for transport operators within the port area" should be deleted, as it is very ambiguous and does not add any clarification to the definition.*

**Amendment 33**

**Proposal for a regulation**

**Article 4 – paragraph 2 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) the compliance with national social standards.***

Or. en

*Justification*

*The list of criteria for minimum requirements is exhaustive. Next to professional qualifications, maritime safety and environmental concerns, social standards should also play a role when choosing the service provider.*

**Amendment 34**

**Proposal for a regulation**

**Article 4 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. In the cases provided for in paragraph 1,

5. In the cases provided for in paragraph 1,

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the minimum requirements referred to in paragraph 2 and the procedure for the granting of the right to provide port services under those requirements shall **have been** published by the managing body of the port by 1 July **2015** or **for** minimum requirements **being** applicable after that date at least three months before the date on which those requirements **would** become applicable. Providers of port services shall be informed in advance of any change in the criteria and of the procedure.

the minimum requirements referred to in paragraph 2 and the procedure for the granting of the right to provide port services under those requirements shall **be** published by the managing body of the port by 1 July **2018** or, **in the case of** minimum requirements applicable after that date, at least three months before the date on which those requirements become applicable. Providers of port services shall be informed in advance of any change in the criteria and of the procedure.

Or. en

#### *Justification*

*The Regulation will most likely not enter into force before 2014-2015. Therefore, in Article 25, the date from which the Regulation is applicable should be changed to 2018 (instead of 2015) in order for the Member States to make the necessary changes. Coherently all respective dates have been changed from 2015 to 2018.*

### **Amendment 35**

#### **Proposal for a regulation**

#### **Article 6 – paragraph 1 – point a**

##### *Text proposed by the Commission*

(a) the scarcity or reserved use of land provided that the managing body can demonstrate that the land constitutes **an essential** port facility **to provide the** port **service** and that the limitation is in accordance with the formal development plan of the port as agreed by the management body of the port and where appropriate any other public competent authorities **according to** the national legislation;

##### *Amendment*

(a) the scarcity or reserved use of land, provided that the managing body can demonstrate that the land constitutes **a** port facility **which is essential for the provision of** port **services** and that the limitation is, **where applicable**, in accordance with the formal development plan of the port as agreed by the management body of the port and where appropriate any other public competent authorities **in conformity with** the **relevant** national legislation;

Or. en

#### *Justification*

*Not every port works with a formal development plan and if they do the plans do not usually*

*make reference to the maximum number of providers for a given space.*

### **Amendment 36**

#### **Proposal for a regulation**

#### **Article 6 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) the scarcity of waterside space where this constitutes an essential element of the ability to provide the port service concerned in a safe and efficient way;***

Or. en

*Justification*

*It is appropriate to add scarcity of space on the water-side as a reason to limit the number of providers, as service providers need sufficient space for their operations on the water in order to conduct them in a safe manner.*

### **Amendment 37**

#### **Proposal for a regulation**

#### **Article 6 – paragraph 1 – point a b (new)**

*Text proposed by the Commission*

*Amendment*

***(ab) specific market constraints due to the economic capacity of the port;***

Or. en

*Justification*

*In addition to space-related constraints, the size of the port and its market capacity (number of calls) should be taken into account. In smaller ports there might be not enough activity for several providers.*

### **Amendment 38**

#### **Proposal for a regulation**

#### **Article 6 – paragraph 1 – point a c (new)**

*Text proposed by the Commission*

*Amendment*

***(ac) the need to ensure the provision of safe, secure or environmentally sustainable port operations;***

Or. en

*Justification*

*Another possible reason for limiting the number of providers must be safety, security and environmental concerns in order to guarantee smooth port operations.*

### **Amendment 39**

#### **Proposal for a regulation Article 6 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. When a managing body of a port provides port services itself or through a legally distinct entity which it directly or indirectly controls, the Member State may entrust the adoption of the decision limiting the number of providers of port services to an authority which is independent from the managing body of the port. If the Member State does not entrust the adoption of the decision limiting the number of providers of port services to such an authority, the number of providers shall not be **less** than two.

4. When a managing body of a port provides port services itself or through a legally distinct entity which it directly or indirectly controls, the Member State may entrust the adoption of the decision limiting the number of providers of port services to an authority which is independent from the managing body of the port. If the Member State does not entrust the adoption of the decision limiting the number of providers of port services to such an authority, the number of providers shall not be **fewer** than two, **without prejudice to paragraph 1.**

Or. en

*Justification*

*The number of providers should not be less than two, unless any of the reasons listed in Article 6 suggest a limitation to a single provider.*

### **Amendment 40**

#### **Proposal for a regulation Article 7 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The managing body of the port or the competent authority shall communicate to all interested parties information concerning the envisaged organisation of the selection procedure and an indicative completion deadline, as well as any modification of such procedure or deadline.***

Or. en

*Justification*

*In order for the selection procedure to be transparent and non-discriminatory, all interested parties need to receive the necessary information.*

#### **Amendment 41**

##### **Proposal for a regulation Article 7 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. If the estimated value of the port service exceeds the threshold defined in paragraph 3, the rules on the award procedure, the procedural guarantees and the maximum duration of the concessions as set out in Directive .... / .... [concession] shall apply.***      ***deleted***

Or. en

*Justification*

*The selection procedure as set out in the Directive on the award of concession contracts should only be applicable when contracts are awarded as a concession. In cases of other types of contracts, the selection procedure shall follow the principles laid down in this Regulation.*

#### **Amendment 42**

##### **Proposal for a regulation Article 7 – paragraph 3**

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*Text proposed by the Commission*

*Amendment*

**3. The threshold and the method to determine the value of the port service shall be those of the relevant and applicable provisions of Directive ..../.... [concession].**

**deleted**

Or. en

*Justification*

*The selection procedure as set out in the Directive on the award of concession contracts should only be applicable when contracts are awarded as a concession. In cases of other types of contracts, the selection procedure shall follow the principles laid down in this Regulation.*

#### **Amendment 43**

##### **Proposal for a regulation**

##### **Article 7 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. The duration of the port service contract shall be limited. The managing body of the port, or where appropriate the competent authority, shall determine that duration on the basis of the service to which the contract relates. The calculation shall include both initial investments and investments during the length of the contract.**

Or. en

*Justification*

*The duration of the contracts should be in proportion to the estimated investments.*

#### **Amendment 44**

##### **Proposal for a regulation**

##### **Article 7 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. For the purposes of this Regulation, a substantial modification within the meaning of Directive ..../... [concession] of the provisions of a port service contract during its term shall be considered as a new port service contract and shall require a new procedure as referred to in paragraph 2.**

**deleted**

Or. en

*Justification*

*The selection procedure as set out in the Directive on the award of concession contracts should only be applicable when contracts are awarded as a concession. In cases of other types of contracts, the selection procedure shall follow the principles laid down in this Regulation.*

#### **Amendment 45**

##### **Proposal for a regulation Article 7 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. Paragraphs 1 to 5 of this Article shall not apply in the cases referred to in Article 9.

6. Paragraphs 1 to **4a** of this Article shall not apply in the cases referred to in Article 9**(1)**.

Or. en

*Justification*

*The specific Paragraphs should not apply to an internal operator providing services under PSO.*

#### **Amendment 46**

##### **Proposal for a regulation Article 7 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. This Regulation is without prejudice to**

**7. Where contracts for the provision of**



Directive .../... [concession]<sup>15</sup>, Directive .../...[public utilities]<sup>16</sup> and Directive .../... [public procurement]<sup>17</sup>

***port services take the form of service concessions within the meaning of Directive .../... [concession]<sup>15</sup>, the provisions of that Directive shall apply. This Regulation is without prejudice to Directive .../... [public utilities]<sup>16</sup> and Directive .../... [public procurement]<sup>17</sup>.***

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<sup>15</sup> Proposal for a Directive on the award of concession contracts (COM 2011) 897 final

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<sup>15</sup> Proposal for a Directive on the award of concession contracts (COM 2011) 897 final

<sup>16</sup> Proposal for a Directive on procurement by entities operating in the water, energy, transport and postal services sectors (COM/2011/0895 final)

<sup>16</sup> Proposal for a Directive on procurement by entities operating in the water, energy, transport and postal services sectors (COM/2011/0895 final)

<sup>17</sup> Proposal for a Directive on public procurement (COM/2011/0896 final)

<sup>17</sup> Proposal for a Directive on public procurement (COM/2011/0896 final)

Or. en

#### *Justification*

*The selection procedure as set out in the Directive on the award of concession contracts should only be applicable when contracts are awarded as a concession. In cases of other types of contracts, the selection procedure shall follow the principles laid down in this Regulation, or other relevant legislation.*

### **Amendment 47**

#### **Proposal for a regulation Article 8 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. **Member States** may decide to impose public service obligations related to port services on providers in order to ensure the following:

##### *Amendment*

1. **The managing body of the port or the competent authority** may decide to impose public service obligations related to port services on providers in order to ensure the following:

Or. en

#### *Justification*

*The managing body of the port should be allowed to decide on imposing public service*

*obligations in order to allow for existing practices to be kept in the future.*

#### **Amendment 48**

##### **Proposal for a regulation**

##### **Article 8 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) the safety, security or environmental sustainability of port operations.***

Or. en

*Justification*

*Public service obligations should be possible to ensure safe, secure and environmentally sustainable port operations.*

#### **Amendment 49**

##### **Proposal for a regulation**

##### **Article 9 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

***-1. The managing body of the port or the competent authority itself, or a legally distinct entity over which it exercises a control similar to that exercised over its own departments, may provide a port service without any restrictions, provided that the provisions of Chapter II of this Regulation apply equally to all operators providing the service concerned. In such cases, the provider of the port service shall be deemed, for the purposes of this Regulation, to constitute an internal operator.***

Or. en

*Justification*

*The managing body of the port or the competent authority should have the competence to decide on providing a specific service itself, under the same conditions as other providers.*

## Amendment 50

### Proposal for a regulation Article 9 – paragraph 1

*Text proposed by the Commission*

1. In the cases provided for in Article 6 (1) (b), the competent authority may decide to provide a port service under public service obligations itself or to impose such obligations directly on a legally distinct entity over which it exercises a control similar to that exercised over its own departments. ***In such a case, the port service provider shall be considered as an internal operator for the purpose of this Regulation.***

*Amendment*

1. In the cases provided for in Article 6 (1) (b), the ***managing body of the port or the*** competent authority may decide to provide a port service under public service obligations itself or to impose such obligations directly on a legally distinct entity over which it exercises a control similar to that exercised over its own departments.

Or. en

*Justification*

*In many Member States, the managing body of the port has the power to decide on public service obligations.*

## Amendment 51

### Proposal for a regulation Article 9 – paragraph 2

*Text proposed by the Commission*

2. The competent authority shall be ***considered as*** exercising a control ***of*** a legally distinct entity similar to that exercised ***to*** its own departments only if it ***exercises*** a decisive influence ***over*** both the strategic objectives and the significant decisions of the ***controlled*** legal entity.

*Amendment*

2. ***The managing body of the port or the*** competent authority shall be ***deemed to be*** exercising a control ***over*** a legally distinct entity similar to that exercised ***over*** its own departments only if it ***exerts*** a decisive influence ***on*** both the strategic objectives and the significant decisions of that legally distinct entity ***concerned***.

Or. en

*Justification*

*In many Member States, the managing body of the port has the power to decide on public*

*service obligations.*

## **Amendment 52**

### **Proposal for a regulation Article 9 – paragraph 3**

*Text proposed by the Commission*

3. **The** internal operator shall be **confined** to perform the assigned port service only in the port(s) for which the **assignment to provide the** port service has been **attributed** to him.

*Amendment*

3. **In the cases provided for in point (b) of Article 6(1), an** internal operator shall be **permitted** to perform the assigned port service only in the port(s) for which the **provision of that** port service has been **assigned** to him.

Or. en

*Justification*

*This amendment takes into account the modified description of the internal operator.*

## **Amendment 53**

### **Proposal for a regulation Article 10 – paragraph 2**

*Text proposed by the Commission*

2. Without prejudice to national and Union law including collective agreements between social partners, the managing bodies of the port **may** require the designated provider of port services appointed in accordance with the procedure established by Article 7, in the case where this provider is different from the incumbent provider of port services, to grant staff previously taken on by the incumbent provider of port services the rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC.

*Amendment*

2. Without prejudice to relevant Union and national law including rules on collective agreements between social partners, the managing bodies of the port **shall** require the designated provider of port services appointed in accordance with the procedure established by Article 7, in the case where this provider is different from the incumbent provider of port services, to grant staff previously taken on by the incumbent provider of port services the rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC.

Or. en

### *Justification*

*With regards to the transfer of staff, Member States should be requested to grant staff the rights which they would have been entitled to if there had been a transfer in the meaning of Directive 2001/23/EC.*

## **Amendment 54**

### **Proposal for a regulation Article 11**

#### *Text proposed by the Commission*

This Chapter and the transitional provisions of Article 24 shall not apply to cargo handling services **and** passenger services.

#### *Amendment*

This Chapter and the transitional provisions of Article 24 shall not apply to cargo handling services, passenger services **and pilotage**.

Or. en

### *Justification*

*Pilotage should be excluded from the chapter on market access as it is a service highly relevant for navigational safety. In its Resolution A.960, the IMO has recognized the important role that maritime pilots play in promoting maritime safety and protecting the marine environment. Furthermore, the IMO does not intend to become involved with the certification or the licensing of pilots or with the systems of pilotage practiced in various states, so it seems unjustified that the Union should.*

## **Amendment 55**

### **Proposal for a regulation Article 12 – paragraph 2 – introductory part**

#### *Text proposed by the Commission*

2. Where the managing body of the port that receives public funds provides port services itself, it shall keep the accounts of **each port service activity** separate from the accounts of its other activities, in such a way that:

#### *Amendment*

2. Where the managing body of the port that receives public funds provides port services itself, it shall keep the accounts of **that publicly funded activity or investment** separate from the accounts of its other activities, in such a way that:

Or. en

### *Justification*

*The separation of accounts should be limited to the specific publicly funded activity/investment with regard to other services. This Regulation should not establish an obligation to have separate accounts for each and every service, when the port only receives public funds in one specific area.*

### **Amendment 56**

#### **Proposal for a regulation Article 12 – paragraph 4**

##### *Text proposed by the Commission*

4. The managing body of the port shall keep the information concerning the financial relations as referred to in paragraphs 1 and 2 of this Article at the disposal of the Commission and of the **competent independent supervisory body as referred to in** Article 17 for five years from the end of the fiscal year to which the information refers.

##### *Amendment*

4. The managing body of the port shall keep the information concerning the financial relations as referred to in paragraphs 1 and 2 of this Article at the disposal of the Commission and of the **body designated pursuant to** Article 17 for five years from the end of the fiscal year to which the information refers.

Or. en

### *Justification*

*In order to avoid misunderstandings, the new wording used in Article 17 should be taken into account.*

### **Amendment 57**

#### **Proposal for a regulation Article 12 – paragraph 5**

##### *Text proposed by the Commission*

5. The managing body of the port shall make available to the Commission and the **competent independent supervisory body, upon request**, any additional information that they deem necessary in order to complete a thorough appraisal of the data submitted and to assess compliance with this Regulation. The information shall be transmitted within two months from the

##### *Amendment*

5. The managing body of the port shall, **in the event of a formal complaint and upon request**, make available to the Commission and **to the body designated pursuant to Article 17** any additional information that they deem necessary in order to complete a thorough appraisal of the data submitted and to assess compliance with this Regulation. The information shall be

date of the request.

transmitted within two months from the date of the request.

Or. en

#### *Justification*

*In order to avoid misunderstandings, the new wording used in Article 17 should be taken into account. The information referred to should only be made available in case of a formal complaint and upon request.*

### **Amendment 58**

#### **Proposal for a regulation Article 13 – paragraph 1**

##### *Text proposed by the Commission*

1. The charges for the services provided by an internal operator as referred to in Article 9 and the charges levied by providers of port service, in ***cases of limitation of the number of providers which have not been designated on the basis of procedures which are open, transparent and non-discriminatory***, shall be set in a transparent and non-discriminatory way. These charges shall reflect the conditions on a competitive relevant market and shall not be disproportionate to the economic value of the service provided.

##### *Amendment*

1. The charges for the services provided by an internal operator, as referred to in Article 9(1), and the charges levied by providers of ***a*** port service in ***accordance with point (b) of Article 6(1)***, shall be set in a transparent and non-discriminatory way. These charges shall, ***as far as possible***, reflect the conditions on a competitive relevant market and shall not be disproportionate to the economic value of the service provided.

Or. en

#### *Justification*

*The scope of Article 13 has to be more precise. The criteria that the charges reflect the competitive relevant market should only be one option, not an obligation, but should not be disproportionate to the value of the service provided.*

### **Amendment 59**

#### **Proposal for a regulation Article 13 – paragraph 3**

*Text proposed by the Commission*

3. The port service provider shall make available to the **competent independent supervisory body as referred to in Article 17, upon request**, information on the elements serving as a basis to determine the structure and the level of the port service charges that falls under the application of paragraph 1 of this Article. This information shall include the methodology used for setting the port charges with regard to the facilities and services to which these port service charges relate **to**.

*Amendment*

3. The port service provider shall, **in the event of a formal complaint and upon request**, make available to the **body designated pursuant to Article 17** information on the elements serving as a basis to determine the structure and the level of the port service charges that falls under the application of paragraph 1 of this Article. This information shall include the methodology used for setting the port service charges with regard to the facilities and services to which these port service charges relate.

Or. en

*Justification*

*The information referred to should only be made available in case of a formal complaint and upon request.*

**Amendment 60**

**Proposal for a regulation  
Article 14 – paragraph 3**

*Text proposed by the Commission*

3. In order to contribute to an efficient infrastructure charging system, the structure and the level of port infrastructure charges shall be **defined** in an autonomous way by the managing body of the port according to its own commercial strategy and investment plan **reflecting competitive conditions of the relevant market and** in accordance with State aid rules.

*Amendment*

3. In order to contribute to an efficient infrastructure charging system, the structure and the level of port infrastructure charges shall be **determined** in an autonomous way by the managing body of the port according to its own commercial strategy and investment plan **and** in accordance with State aid **and competition** rules.

Or. en

*Justification*

*State aid and competition rules should be respected, while leaving the room for commercial negotiations.*



## Amendment 61

### Proposal for a regulation Article 14 – paragraph 4

*Text proposed by the Commission*

4. Without prejudice to paragraph 3, port infrastructure charges may vary in accordance with commercial practices ***related*** to frequent users, or in order to promote a more efficient use of the port infrastructure, short sea shipping or a high environmental performance, energy efficiency or carbon efficiency of transport operations. The criteria used for such a variation shall be relevant, objective, transparent and non-discriminatory and ***in due respect of*** the competition rules. ***The resulting variation shall in particular be available to all relevant port service users on equal terms.***

*Amendment*

4. Without prejudice to paragraph 3, port infrastructure charges may vary in accordance with ***the port's economic strategy and relating inter alia*** to frequent users, or in order to promote a more efficient use of the port infrastructure, short sea shipping or a high environmental performance, energy efficiency or carbon efficiency of transport operations. The criteria used for such a variation shall be relevant, objective, transparent and non-discriminatory, and ***shall comply with the State aid and*** competition rules.

Or. en

*Justification*

*The managing body of the port should be granted greater flexibility to set charges according to its business strategy and commercial practices, not only limited to frequent users.*

## Amendment 62

### Proposal for a regulation Article 14 – paragraph 5

*Text proposed by the Commission*

5. The Commission shall be empowered to adopt, where necessary, delegated acts in accordance with the procedure referred to in Article 21 concerning common classifications of vessels, ***fuels and types of operations*** according to which the infrastructure charges can vary ***and common charging principles for port***

*Amendment*

5. The Commission shall be empowered to adopt, where necessary, delegated acts in accordance with the procedure referred to in Article 21 concerning common classifications of vessels ***and fuels*** according to which the port infrastructure charges can vary.

*infrastructure charges.*

Or. en

*Justification*

*The Commission's power to adopt delegated act should be strictly limited. Common classifications of vessels and fuels should be set in line with international standards. Types of operations according to which the charges can vary should be at the discretion of the port, as well as the setting of the charges.*

**Amendment 63**

**Proposal for a regulation  
Article 14 – paragraph 6**

*Text proposed by the Commission*

6. The managing body of the port shall inform port users and the representatives or associations of port users about the structure and the criteria used to determine the amount of the port infrastructure charges, ***including the total costs and revenues serving as a basis to determine the structure and the level of the port infrastructure charges***. It shall inform users of the port infrastructures of any changes in the amount of the port infrastructure charges or in the structure or criteria used in order to determine such charges at least three months in advance.

*Amendment*

6. The managing body of the port shall inform port users and the representatives or associations of port users about the structure and the criteria used to determine the amount of the port infrastructure charges. It shall inform users of the port infrastructures of any changes in the amount of the port infrastructure charges or in the structure or criteria used in order to determine these port infrastructure charges at least three months in advance.

Or. en

*Justification*

*It is important to reduce the administrative burden and to preserve the port's commercial strategy.*

**Amendment 64**

**Proposal for a regulation  
Article 14 – paragraph 7**

*Text proposed by the Commission*

7. The managing body of the port shall make available to the **competent independent supervisory body** and to the Commission, **upon request**, the information referred to in paragraph 4 **and the detailed costs and revenues**, serving as a basis to determine the structure and the level of the port infrastructure charges and the methodology used for setting the port infrastructure charges with regard to the facilities and services to which these port charges relate **to**.

*Amendment*

7. The managing body of the port shall, **in the event of a formal complaint and upon request**, make available to the **body designated pursuant to Article 17** and to the Commission the information referred to in paragraph 4, serving as a basis to determine the structure and the level of the port infrastructure charges and the methodology used for setting the port infrastructure charges with regard to the facilities and services to which these port infrastructure charges relate.

Or. en

*Justification*

*In order to avoid misunderstandings, the new wording used in Article 17 should be taken into account. The information referred to should only be made available in case of a formal complaint and upon request.*

**Amendment 65**

**Proposal for a regulation  
Article 15 – paragraph 1**

*Text proposed by the Commission*

1. The managing body of the port shall establish a committee of representatives of operators of waterborne vessels, cargo owners or other port users which are requested to pay an infrastructure charge or a port service charge or both. **This committee shall be called the ‘port users’ advisory committee’.**

*Amendment*

1. The managing body of the port shall **ensure that adequate consultation mechanisms are in place. To that end, it may either** establish a **port users’ advisory committee consisting** of representatives of operators of waterborne vessels, cargo owners or other port users which are requested to pay a port infrastructure charge or a port service charge or both, **or ensure consultation through bodies of a different composition already established within the port, provided that there is adequate consultation of all** users.

Or. en

### *Justification*

*The adequate consultation of users should be ensured, but whether to setup this consultation through the port users committee or through other arrangements should be up to the port.*

### **Amendment 66**

#### **Proposal for a regulation Article 15 – paragraph 2**

##### *Text proposed by the Commission*

2. The managing body of the port shall ***consult on an annual basis prior to the setting of*** port infrastructure charges ***the port users' advisory committee on the structure and level*** of such charges. The providers of port services as referred to in Article 6 and in Article 9 shall consult on an annual basis prior to the setting of port service charges ***the port users' advisory committee*** on the structure and level of such charges. The managing body of the port shall provide adequate facilities for such consultation and shall be informed of the results of the consultation by the providers of port services.

##### *Amendment*

2. The managing body of the port shall ***provide the port users with adequate information about the structure and criteria used to determine the*** port infrastructure charges. ***It shall consult the port users in the event of substantial changes to the port infrastructure charges prior to the setting*** of such charges. The providers of port services as referred to in Article 6 and in Article 9 shall consult ***the port users***, on an annual basis ***and*** prior to the setting of port service charges, on the structure and level of such charges. The managing body of the port shall provide adequate facilities for such consultation and shall be informed of the results of the consultation by the providers of port services.

Or. en

### *Justification*

*Concerning infrastructure charges, users should only be informed about the structure of the charges and consulted in the event of substantial changes.*

### **Amendment 67**

#### **Proposal for a regulation Article 17 – title**

##### *Text proposed by the Commission*

Independent ***supervisory body***

##### *Amendment*

Independent ***supervision***

*Justification*

*This Article should focus more on the function than on the setup of an independent supervisory mechanism.*

**Amendment 68**

**Proposal for a regulation**  
**Article 17 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that ***an independent supervisory body monitors and supervises*** the application of this Regulation ***in*** all the seaports covered by this Regulation on the territory of each Member State.

*Amendment*

1. Member States shall ensure that ***effective mechanisms are in place to handle complaints arising from*** the application of this Regulation ***for*** all the seaports covered by this Regulation on the territory of each Member State. ***To that end, the Member States shall designate one or several bodies to handle different types of complaints or cover different geographical areas.***

*Justification*

*It is important to clarify that Member States can have several bodies providing independent supervision and that the supervision should focus on the handling of complaints.*

**Amendment 69**

**Proposal for a regulation**  
**Article 17 – paragraph 2**

*Text proposed by the Commission*

2. The independent ***supervisory body*** shall be legally distinct from and functionally independent of any managing body of the port or providers of port services. Member States that retain ownership or control of ports or port managing bodies shall ensure ***an*** effective structural separation between the functions relating to ***the supervision***

*Amendment*

2. The independent ***supervision*** shall be ***carried out in a manner which is*** legally distinct from and functionally independent of any managing body of the port or providers of port services. Member States that retain ownership or control of ports or port managing bodies shall ensure ***that there is*** effective structural separation

**and monitoring of this Regulation** and the activities associated with that ownership or control. The independent **supervisory body** shall **exercise its powers impartially and transparently** and **with due respect to** the right to freely conduct business.

between the functions relating to **the handling of complaints** and the activities associated with that ownership or control. The independent **supervision** shall **be impartial and transparent** and **shall duly** respect the right to freely conduct business.

Or. en

#### *Justification*

*This paragraph should focus more on the function than on the setup of an independent supervisory mechanism.*

### **Amendment 70**

#### **Proposal for a regulation Article 17 – paragraph 3**

##### *Text proposed by the Commission*

3. The **independent supervisory body** shall **handle the complaints lodged by** any party with a legitimate interest **and the disputes brought before it** arising in connection with the application of this Regulation.

##### *Amendment*

3. The **Member States** shall **ensure that** any party with a legitimate interest **has the right to be, and is, informed about how to lodge a complaint** arising in connection with the application of this Regulation.

Or. en

#### *Justification*

*It is the responsibility of the Member States to inform parties about the complaint mechanisms.*

### **Amendment 71**

#### **Proposal for a regulation Article 17 – paragraph 4**

##### *Text proposed by the Commission*

4. In the event that the dispute arises between parties established in different Member States, **the independent supervisory body of** the Member State of the port where the dispute is presumed to have its origin shall have competence to

##### *Amendment*

4. In the event that the dispute arises between parties established in different Member States, the Member State of the port where the dispute is presumed to have its origin shall have competence to **resolve** the dispute. **The Member States concerned**

*solve* the dispute.

***shall cooperate with each other and exchange information concerning their work.***

Or. en

*Justification*

*Institutionalized cooperation between the various bodies providing independent supervision would increase bureaucracy with little added value. As this Regulation will be directly applicable in the Member States, a network to ensure its application seems superfluous. As there could be various bodies within one Member State, the feasibility of such an institutionalized network is also questionable. It is sufficient to provide for cooperation concerning cross-border complaints.*

**Amendment 72**

**Proposal for a regulation  
Article 17 – paragraph 5**

*Text proposed by the Commission*

5. ***The*** independent ***supervisory body*** shall have the right to require managing bodies of the ports, providers of port services and port users to submit information needed to ensure monitoring and supervision of the application of this Regulation.

*Amendment*

5. ***In the event that a formal complaint is lodged by any party with a legitimate interest, the relevant body providing independent supervision*** shall have the right to require managing bodies of the ports, providers of port services and port users to submit information needed to ensure monitoring and supervision of the application of this Regulation.

Or. en

*Justification*

*The designated bodies in the Member States should only have the right to require information in case of a formal complaint.*

**Amendment 73**

**Proposal for a regulation  
Article 17 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The independent supervisory body may issue opinions at the request of a competent authority in the Member State on any issues in relation to the application of this Regulation.**

**deleted**

Or. en

*Justification*

*The role of the designated bodies should be confined to the handling of complaints and the settlement of disputes.*

#### **Amendment 74**

##### **Proposal for a regulation Article 17 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. The independent supervisory body** may consult **the** port users' advisory committee of the port concerned **when dealing with the complaints or disputes.**

**7. When dealing with complaints or disputes, the relevant body providing independent supervision** may consult **those members of the** port users' advisory committee of the port concerned **which are affected by the complaint or dispute.**

Or. en

*Justification*

*This wording limits the consultation to only those parties that are involved in the complaint or dispute.*

#### **Amendment 75**

##### **Proposal for a regulation Article 17 – paragraph 8**

*Text proposed by the Commission*

*Amendment*

**8. The decisions of the independent supervisory body** shall have binding effects, without prejudice to judicial

**8. The decisions of the relevant body providing independent supervision** shall have binding effects, without prejudice to



review.

judicial review.

Or. en

*Justification*

*In order to avoid misunderstandings, the new wording should be coherent in all of Article 17.*

**Amendment 76**

**Proposal for a regulation  
Article 17 – paragraph 9**

*Text proposed by the Commission*

9. Member States shall notify to the Commission the ***identity of the independent supervisory bodies*** by 1 July 2015 at the latest and subsequently any modification thereof. The Commission shall publish and update the list of the ***independent supervisory*** bodies on its website.

*Amendment*

9. Member States shall notify to the Commission the ***mechanisms and procedures put in place to comply with paragraph 1 and 2 of this Article*** by 1 July 2018 at the latest and, subsequently, any modification thereof. The Commission shall publish and update the list of the ***relevant*** bodies ***providing independent supervision*** on its website.

Or. en

*Justification*

*The Regulation will most likely not enter into force before 2014-2015. Therefore, in Article 25, the date from which the Regulation is applicable should be changed to 2018 (instead of 2015) in order for the Member States to make the necessary changes. Coherently all respective dates have been changed from 2015 to 2018.*

**Amendment 77**

**Proposal for a regulation  
Article 18**

*Text proposed by the Commission*

***Article 18***

***Cooperation between independent supervisory bodies***

***1. The independent supervisory bodies shall exchange information about their***

*Amendment*

***deleted***

*work and decision-making principles and practices in order to facilitate a uniform implementation of this Regulation. For this purpose, they shall participate and work together in a network that convenes at regular intervals and at least once a year. The Commission shall participate, coordinate and support the work of the network.*

*2. The independent supervisory bodies shall cooperate closely for the purposes of mutual assistance in their tasks, including in carrying out investigations required to handle complaints and disputes in cases involving ports in different Member States. For this purpose, an independent supervisory body shall make available to another such body, after a substantiated request, the information necessary to allow that body to fulfil its responsibilities under this Regulation.*

*3. The Member States shall ensure that the independent supervisory bodies shall provide the Commission, after a reasoned request, with the information necessary for it to carry its tasks. The information requested by the Commission shall be proportionate to the performance of those tasks.*

*4. Where information is considered confidential by the independent supervisory body in accordance with Union or national rules on business confidentiality, the other national supervisory body and the Commission shall ensure such confidentiality. This information may only be used for the purpose which it was requested.*

*5. Based on the experience of the independent supervisory bodies and on the activities of the network referred to in paragraph 1, and in order to ensure efficient cooperation, the Commission may adopt common principles on the appropriate arrangements for the exchange of information between*

*independent supervisory bodies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(2).*

Or. en

*Justification*

*Institutionalized cooperation between the various bodies providing independent supervision would increase bureaucracy with little added value. As this Regulation will be directly applicable in the Member States, a network to ensure its application seems superfluous. As there could be various bodies within one Member State, the feasibility of such an institutionalized network is also questionable. It is sufficient to provide for cooperation concerning cross-border complaints (Article 17 (4)).*

**Amendment 78**

**Proposal for a regulation  
Article 19 – paragraph 1**

*Text proposed by the Commission*

1. Any party with a legitimate interest shall have the right to appeal against the decisions or individual measures taken under this Regulation by the competent authorities, by the managing body of the port or by **the independent supervisory body** to an appeal body which is independent of the parties involved. This appeal body may be a court.

*Amendment*

1. Any party with a legitimate interest shall have the right to appeal against the decisions or individual measures taken under this Regulation by the competent authorities, by the managing body of the port or by **a body designated pursuant to Article 17** to an appeal body which is independent of the parties involved. This appeal body may be a court.

Or. en

*Justification*

*In order to avoid misunderstandings, the new wording used in Article 17 should be taken into account.*

**Amendment 79**

**Proposal for a regulation  
Article 20 – paragraph 1**

*Text proposed by the Commission*

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 1 July **2015** at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Amendment*

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 1 July **2018** at the latest and shall notify it without delay of any subsequent amendment affecting them.

Or. en

*Justification*

*The Regulation will most likely not enter into force before 2014-2015. Therefore, in Article 25, the date from which the Regulation is applicable should be changed to 2018 (instead of 2015) in order for the Member States to make the necessary changes. Coherently all respective dates have been changed from 2015 to 2018.*

**Amendment 80**

**Proposal for a regulation**  
**Article 21 – paragraph 2**

*Text proposed by the Commission*

2. The power to adopt delegated acts referred to in Article 14 shall be conferred on the Commission for ***an indeterminate period of time.***

*Amendment*

2. The power to adopt delegated acts referred to in Article 14 shall be conferred on the Commission for ***a period of five years from ...*** \*. ***The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.***

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\* ***OJ.: Please enter the date: the date of***

**entry into force of this Regulation.**

Or. en

*Justification*

*The delegation of power to the Commission should be limited to a period of five years, which may be extended if certain conditions are complied with, for example that a report must be drafted and that Parliament and the Council do not oppose it. This amendment takes into account the new standard wording for delegated acts.*

**Amendment 81**

**Proposal for a regulation**

**Article 22**

*Text proposed by the Commission*

*Amendment*

**Article 22**

**deleted**

**Committee procedure**

**1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.**

**2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.**

Or. en

*Justification*

*Article 22 on the committee procedure is superfluous because the provision for implementing acts in Article 18 have been deleted.*

**Amendment 82**

**Proposal for a regulation**

**Article 23**

*Text proposed by the Commission*

*Amendment*

No later than three years after the entry into force of this Regulation, the Commission shall present a **report to the**

**For the purposes of evaluating the functioning and effect of this Regulation, two reports shall be presented to the**

**European Parliament and the Council on the functioning and effect** of this Regulation, accompanied, if appropriate, by relevant proposals.

**European Parliament and the Council.** No later than three years after the entry into force of this Regulation, the Commission shall present a **mid-term report and no later than six years after the entry into force** of this Regulation, **the Commission shall present a report** accompanied, if appropriate, by relevant proposals.

Or. en

#### *Justification*

*To issue a report, accompanied by relevant proposals for changes to this Regulation only three years after entry into force does not leave enough time for a proper evaluation on whether the provisions of this Regulation have the desired effect. Therefore it is proposed to have a mid-term review after three years and the final report (possibly accompanied by new proposals) after six years.*

### **Amendment 83**

#### **Proposal for a regulation Article 24 – paragraph 2**

##### *Text proposed by the Commission*

2. Port service contracts concluded before [date of adoption of the Regulation] which do not meet the conditions provided in paragraph 1 shall remain valid until they expire but not after 1 July **2025**.

##### *Amendment*

2. Port service contracts concluded before ... \* which do not meet the conditions provided **for** in paragraph 1 shall remain valid until they expire but not after 1 July **2023**.

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**\* OJ: Please enter a date: date of adoption of the Regulation.**

Or. en

#### *Justification*

*It is important to allow for a transitional period, however this period should not be too long otherwise the implementation of the Regulation will not establish a level-playing field.*

## **Amendment 84**

### **Proposal for a regulation Article 25 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

It shall apply with effect from 1 July **2015**.

It shall apply with effect from 1 July **2018**.

Or. en

#### *Justification*

*The Regulation will most likely not enter into force before 2014-2015. Therefore, in Article 25, the date from which the Regulation is applicable should be changed to 2018 (instead of 2015) in order for the Member States to make the necessary changes. Coherently all respective dates have been changed from 2015 to 2018.*

## EXPLANATORY STATEMENT

### Background

The Commission's proposal seeks to contribute to the goal of a more efficient, interconnected and sustainable functioning of the TEN-T by creating a framework which improves the performance of ports and helps them to cope with changes in transport and logistics requirements.

The main objectives of the proposal include modernising port services and operations and creating framework conditions to attract investments in ports. In this Regulation, the Commission aims to counteract weak competitive pressure and possible market abuses, in order to increase the efficiency of port services.

Cargo handling and passenger services have been excluded from Chapter II on market access, which are often organised by means of concession contracts and thus fall under the scope of the Directive on the award of concession contracts. Therefore this Regulation is to be considered in combination with the Directive .../... (concession)

An important condition for fair competition between ports on a level playing field is a clear framework on State aid rules. The Commission is currently engaged in the modernisation of State aid with regards to the financing of infrastructure and will adopt guidelines probably beginning of 2014.

This proposal is in line with other important EU policies and objectives such as the White Paper on Transport, the Connecting Europe Facility and the Blue Belt Initiative.

This Regulation will apply to all the seaports identified in the TEN-T guidelines and, according to the Commission, will avoid additional burden for those ports already functioning well, whilst creating the conditions for the other ports to deal with their structural challenges.

### Rapporteur's position

The Rapporteur supports the Commission's proposal in many aspects, however he wishes to propose a number of amendments intended to improve the proposal.

In order to avoid any confusion, the Rapporteur has amended all the references from "ports identified in the TEN-T" to "*seaports* identified in the TEN-T", which is the correct scope of this Regulation. It is worth noting that Member States may also decide to make it applicable to other ports, not necessarily included in the TEN-T guidelines, on a voluntary basis.

The reference to "dredging" has been removed from this Regulation because the Rapporteur supports the view that it is not a service offered directly to the user, but a means to guarantee access to the port, usually in the form of maintenance dredging comparable to ice-breaking. Therefore the managing body of the port should be free to decide on how to organise dredging and it should not be fall under the scope of this Regulation.



Social provisions governing the port labour regime have been left out of this Regulation and moved to the sectoral Social Dialogue, which has started on 19 June 2013. Nonetheless, the Rapporteur considers it important to add national social standards to the list of minimum criteria. Furthermore, the competent authority should strengthen the employees' rights in the case of a transfer of undertakings or businesses.

In addition to land constraints in the port and in cases of public service obligations, the Rapporteur believes that space constraints on the water and the size of the market should also be considered as valid reasons to limit the number of service providers, in order to take into account the various sizes and geographic characteristics of ports. If a limitation of providers is necessary to ensure safe, secure, or environmentally friendly port operations, the managing body should be enabled to decide on such.

The Rapporteur believes that pilotage should also be exempted from the provisions in Chapter II of this Regulation due to its high relevance for safe and secure port operations. Its organisation should be up to the Member States and it should not be aligned with the new rules on market access.

On infrastructure charging, the Rapporteur has amended the proposal in a way to enable the ports to set the charges autonomously according to their business strategy. To that end, he is restricting the Commission's power for delegated acts to the promotion of green shipping. Furthermore, he increases the room for commercial negotiations between the port managing body and the port user, whilst complying with certain key principles.

The Commission's power to adopt delegated acts should be strictly limited to the classifications of vessels and fuels. The Commission should take into account the Environmental Ship Index (ESI) and the progress made by the World Ports Climate Initiative (WPCI) so that the common classification of vessels and fuels are set in line with international standards. The classification schemes should serve only as a basis for granting price variations but should not affect the port managing body's competence to set the level of the charges autonomously, according to the applicable rules.

The Rapporteur supports the idea of consulting the port users. However, this exchange is a common practice in many ports already today. Therefore a "one-size-fits-all" set-up should be avoided and different arrangements should be possible as long as all users are consulted adequately.

The Rapporteur refers to "independent supervision" rather than the independent supervisory body to shift the emphasis from the set-up of this body towards the tasks such a body should exercise. Through his amendments, he clarifies that, where applicable, existing bodies can continue to fulfil this role without any added bureaucratic burden.

In order to take into account a realistic timetable, whilst understanding the importance of a rapid implementation, the Rapporteur has amended the date of entry into force of this Regulation to 1 July 2018.

In conclusion, the Rapporteur has improved the aspects of the Commission's proposal which

he is in agreement with. With his amendments he is emphasising the need for the managing body of the port's autonomy in order to act according to its economic strategy, while certain key principles must be respected. Additionally, the Rapporteur is avoiding an increase in administrative burden in connection with the application of this Regulation. All in all, this Regulation should create legal certainty for the ports and have a positive impact on the successful functioning of the TEN-T network.