

## **Decision**

**of the Bundesrat**

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### **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) 296 final; Council doc. 10154/13**

At its 945th sitting on 13 May 2016, pursuant to Sections 3 and 5 EUZBLG, the Bundesrat adopted the following position:

1. The Bundesrat welcomes the Council's negotiations, in the trilogue procedure, on the Commission's proposal for a Regulation and on the comments and proposed amendments from the European Parliament and the Council Working Party.
2. The Bundesrat maintains its criticism of the chosen legal form, and remains of the opinion that the Commission's aims would be better achieved through a Directive.
3. The Bundesrat welcomes the insertion of recitals 21a and 22b by the European Parliament, calling for the Commission to set up a revised framework on State aid to ports, and in particular asking the Commission to clarify in writing the notion of State aid with regard to the financing of port infrastructure, and to exclude infrastructure for public access and defence.
4. The Bundesrat also welcomes the agreement between the European Parliament and the Council to exclude 'dredging' (Article 1(2)(c) of the Commission proposal) and 'pilotage' (Article 1(2)(g) of the Commission proposal) from the scope of the Regulation. However, the Bundesrat also calls for the Regulation to exclude disposal of ships' waste ('port reception facilities', Article 1(2)(f)).

<sup>1</sup> First Bundesrat Decision of 20 September 2013, Bundesrat document 439/13 (Decision)

5. The Bundesrat welcomes the proposed amendments to the public tendering procedure for port service providers. In this regard, it would be preferable to have a version that does not broaden the applicable law on concessions and contracts to the detriment of ports. The Bundesrat also welcomes the extension of the provisions on training and health and safety for port workers.
6. The Bundesrat continues to oppose non-constructive restrictions on European competition, in particular in relation to infrastructure charges, and supports calls to prevent an obligation to disclose fee differences resulting from individual negotiations.
7. The Bundesrat remains of the opinion that establishing new administrative structures counteracts the stated aim of reducing bureaucracy, and continues to oppose the establishment of additional bodies. The Bundesrat therefore supports the proposed amendments that call for additional bureaucratic structures to be removed.
8. The Bundesrat also considers that the Regulation should not apply to privately owned ports or to ports outside the core TEN network.
9. The Bundesrat is of the view that competition between European ports works well and that the proposed Regulation does not contribute towards improving ports. Allowing for the above reservations, the Bundesrat does not oppose the approval of the draft Regulation by the German Government. However, the Government is asked to make sure that the Regulation does not lead to further regulation of ports. The Bundesrat calls on the German Government to take its decisions into consideration in further negotiations.
10. The Bundesrat is submitting this position directly to the Commission.