



## EUROPEAN COMMISSION

Brussels, 8.11.2013  
C(2013) 7417 final

*Dear President,*

*The Commission would like to thank the Sejm for its Reasoned Opinion concerning the proposal for a Regulation on market access to port services and financial transparency of ports {COM(2013) 296 final}.*

*The Commission would like to draw the attention of the Sejm to the fact that more than half of the traffic transiting through ports is of EU and transnational relevance. Ports have been recognised by the EU legislator as an integral part of the trans-European network. The development of trans-European corridors will expand the hinterland of the major ports beyond borders, reinforcing their trans-national character. Moreover the ports of the trans-European network are already competing with each other across the intra-EU borders.*

*In this context attracting investors requires undistorted competition between the ports of the trans-European network, including between those which are located in different Member States. Since the ports of the trans-European network are located in different Member States, this could not be achieved by the Member States alone, hence the proposal to introduce common rules on the financial transparency which is a prerequisite for an effective application of the State aid policy.*

*As regards the quality and modernisation of port services, the current legal framework at European level which is applicable to the access to the market mainly relies on the application by the Court of Justice on a case by case basis of Article 49 of the Treaty on the functioning of the European Union on the freedom of establishment. This inevitably leads to a certain degree of legal uncertainty which in itself constitutes an obstacle to a fair market access.*

*However the Commission concurs with the analysis of the Sejm according to which the organisation of the port services must take into account the local and regional dimensions, including the possible environmental conditions of the sea areas concerned. This is why the Commission's proposal is not based on a "one-size-fits-all" approach but on the contrary leaves to the Member States and the port authorities the possibility to choose the rules best suited to their needs amongst a comprehensive regulatory tool box, and to apply them with full legal certainty.*

*Ms Ewa KOPACZ  
President of the Sejm  
Ul. Wiejska 4/6  
PL – 00-902 WARSAW*

*Finally, the Commission would like to point out that this proposal is enshrined in the Single Market Act II which was endorsed by the European Council in March 2013 as part of the EU growth strategy. The implementation of this Regulation is also needed for ensuring the smooth and successful implementation of the new TEN-T Guidelines and of the "Connecting Europe Facility" financial instrument as of year 2014.*

*The Commission hopes that these clarifications address the concerns raised by the Sejm in its Reasoned Opinion and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*