



EUROPEAN COMMISSION

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C(2013) 7416 final

Dear President,

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

In respect of the compatibility with the principle of proportionality, the proposal for a regulation seeks to introduce two basic principles in all the ports which form part of the Trans-European Transport Network (TEN-T). In summary, those principles are:

- Fair market access to providers of port services under clear, non-discriminatory and transparent conditions;*
- Respect of financial transparency rules in the use of public funds in ports and transparent infrastructure charging rules.*

The key goals are to help modernise ports and attract new investments. This can however only be achieved by ensuring fair competition between ports and port service providers and by providing legal clarity on the conditions to access the market. From this point of view, after a careful analysis, the Commission has come to the conclusion that the instrument of a regulation may be more appropriate than a directive. A regulation, which is directly applicable and applies in its entirety, is more likely to encourage a more uniform implementation, hence harmonised conditions of competition, and to offer a clearer legal framework for stakeholders. Moreover the adoption of a directive would have involved the need to develop national legislation implementing those rules which, however, in the Commission's view, are of straightforward application. The administrative burden this would have created for both the Commission and Member States would have been disproportionate.

As regards the proposed delegated powers contained in paragraph 5 of Article 14, the main aim is to define common classifications of vessels that can be used by those ports which wish to promote greener maritime transport by applying differentiated infrastructure charges. Today, Single Market exchanges using sea-ports can be impinged by the fact that the same vessel is treated differently across EU ports because of lack of harmonisation of technical standards and/or use of different parameters, in terms of dimensions, tonnage, capacity, power, environmental performance, etc. Ship-owners need consistent price signals across

*Mr Bogdan BORUSEWICZ
President of the Senat
Ul. Wiejska 6
PL – 00-902 WARSAW*

borders and the current proliferation of such classifications undermines their willingness to invest in cleaner vessels.

Therefore rather than creating new standards, the aim is to facilitate the harmonisation of existing classifications, aligning those as much as possible to international ones.

It should also be noted that the delegation of powers can be revoked by the co-legislator at any point in time.

Finally, the Commission would like to express a sense of urgency in the adoption of the proposed Regulation. The implementation of this Regulation is needed for ensuring the smooth and successful implementation of the new TEN-T Guidelines and of the "Connecting Europe Facility" financial instrument as of 2014 and eventually to contribute to the EU growth strategy.

The Commission hopes that these clarifications address the concerns raised by the Senat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*