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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	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 - Outcome of the European Parliament's proceedings (Strasbourg, 7 to 10 March 2016)

I. INTRODUCTION

The rapporteur, Mr Knut FLECKENSTEIN (S&D), presented a report on the proposal for a Regulation, on behalf of the Committee on Transport and Tourism, containing 136 amendments.

In addition, 20 amendments had bee tabled by political groups or groups of 40 or more MEPs (amendment 137 by EFDD, 138 - 145 by Greens/EFA, 150 - 156 by ECR, and amendments 146 - 149 by 40 or more MEPs). Amendment 148 was a proposal to reject the Commission proposal.

II. DEBATE

The debate on the proposal took place on 7 March 2016.

The rapporteur, Mr Knut FLECKENSTEIN (S&D, DE), opened the debate. He:

- was convinced that the current proposal was better than the previous failed proposals and could be supported and that negotiations with the Council should begin:
  - it was clearly a different proposal not abusing the wish for more competitiveness in order to pursue liberal ideologies. It did not focus on compulsory market opening at any price, rather on better organisation of ports and even with a limitation on service providers where necessary and appropriate;
  - the proposal dealt with strengthening competitiveness, more transparency, autonomy of ports, non bureaucratic monitoring, contained clauses in relation to securing decent jobs (including training);
- welcomed the co-operation and pragmatic approach of the Commissioner and the wide consultation of stakeholders;
- underlined that organisations representing ports were in favour of his report but acknowledged that not all were convinced. The UK ports felt that they should not be concerned, as they were private ports; the PL terminal operators were against because of the increased transparency; the ship owners were not enthusiastic because the proposal would prevent them from using cheap labour;
- stated that in order to get a successful outcome of negotiations, both sides, i.e. also the Council, had to show flexibility and Commissioner Vestager had to come up with a reasonable proposal on block exemptions in the context of state aid to ports.

Commissioner BULC:

- welcomed the report by the TRAN Committee and hoped that trilogues could start soon, recalling that the NL Presidency was keen on negotiating the file;
- underlined that the proposal was a 2016 priority file for the Commission as ports played a crucial role for the transport system and the economy. Ports were valuable assets that should be preserved and strengthened which was the aim of the Commission's proposal:

- the regulation would ensure financial transparency in the use of public funds in ports, ensuring a level playing field between European ports. The Commission was working on the general block exemption regulation which should exempt certain port investments from state aid rules and focus the Commission's work on critical cases. A first draft had been published the same day for consultation;
- it would bring more clarity for the organisation and tendering of port services and change the current situation, where policy was de facto created on a case-by-case basis by the European Court of Justice, only according to the Treaty principles;
- it was important for the decarbonisation strategy - making ports more attractive was essential to developing alternatives to congested motorways and avoiding unnecessary land and sea traffic;

- highlighted the broad support for the proposal – in the TRAN Committee, by all major organisations representing the European port sector, the trade unions, port authorities, port terminal operators and port service providers;
- supported fully social dialogue as well as better training and safety for workers;
- stressed that the regulation did not impose a one-size-fits-all approach as every port in Europe is different. It was compatible with all forms of organisations, including private ports. It did not impose one model;
- in response to some of the criticism of the proposal, stated that she was willing to look at the provisions on the port charges in trilogues, and to find solutions on the private ports (however, this should not lead to abuse of dominant positions or distortion of competition), as well as to clarify certain social provisions.

On behalf of EPP, Ms Elissavet VOZEMBERG-VRIONIDI (EL):

- recalled that ports were one of the most important drivers for growth as a huge amount of EU trade in the EU went through sea channels;
- welcomed the proposal as contributing to the European economy and the internal market, highlighting that it aimed at improving the overall quality of port services by modernising them, including through increasing financial transparency and reducing legal uncertainty. There would be more autonomy for ports as concerns port charges, increasing competition between EU ports and vis-à-vis ports in third countries. The situation of smaller ports was taken into account, alleviating them from some of the red tape.

On behalf of S&D, Ms Lucy ANDERSON (UK):

- stated that on behalf of the Labour MEPs, she recommended to reject the proposal. They were not opposed to the idea of progressive balanced EU measures on ports. However, the proposal – despite commendable efforts of the rapporteur and even as amended by TRAN – did not achieve this. There were good provisions on training and on encouraging good practice on minimum requirements for tendering but it was not enough overall;
- criticised specifically:
  - the provisions to regulate port charges that would still be an administrative burden for ports and would not give legal clarity;
  - that there had been no updated impact assessment since 2012 despite the new IIA;
  - that the right for trade unions to take legitimate industrial action was not sufficiently protected in Article 8, and Article 10 failed to provide for the compulsory transfer of staff;
  - that there was no requirement for ports to specifically consult environmental experts and local communities.

On behalf of ECR, Mr Peter VAN DALEN (NL):

- called the result achieved between the rapporteur and the EPP, ALDE and ECR groups excellent, also thanks to the pragmatic approach taken:
  - less bureaucracy and fewer social burdens on ports than in the original proposal;
  - ports could decide on how to organise themselves. Europe was adapting to the situation in the different regions of the Member States, not the other way round;
  - compulsory market opening was no longer on the agenda;
  - an exemption for the private ports, thereby taking specifically into account the situation of the UK ports;
- believed that rejecting the proposal would be unwise. The risk would then be that the competition rules would be fully applied to ports which would lead to problems. He therefore called upon all, including his own group, to support the proposal.

On behalf of ALDE, Ms Gesine MEISSNER (DE):

- recalled that the diversity of ports in Europe made it very difficult to put together a balanced ports package. This was the third attempt and she hoped that it would be successful this time round;
- believed that the rapporteur had got the balance right and had found a true middle ground, also demonstrated by the statements made by the S&D and ECR speakers: for one the social rights did not go far enough, for the other they went a bit too far;

- stated that equally not all in ALDE were happy due to the exemptions contained in the proposal (handling services and pilots not included, caveats on certain other services) but it was considered a basis for moving ahead;
- underlined that it was important to progress the file in order to establish some common rules, financial transparency and a little more competition in the sector with good conditions for the employees as well as incentives to invest in ports. The proposal did achieve that.

On behalf of EUL/NGL, Mr Stelios KOULOGLOU (EL):

- welcomed the improvements to the Commission proposal that initially was only about the organisation of ports and financial transparency. With the help of stakeholders, in particular trade unions, this was now a different proposal, which could be supported;
- argued that it provided a good level of protection for workers on health and safety, strengthening their right to education and training, and serving as a barrier against further attacks on working conditions;
- highlighted that it also dealt with the environmental sustainability of port services.

On behalf of the Greens /EFA, Mr Keith TAYLOR (UK):

- labelled the proposal as undeveloped and ineffective, calling upon MEPs to reject the report;
- stated that despite scaling down its ambitions the port services regulation had yet again failed to tackle the real issues in Europe's ports, foremost the achievement of greater sustainability in the transport sector. Here the Greens would have liked to embed seaports into the wider framework of a sustainable transport policy that addressed a wide range of aspects;
- acknowledged the provisions on financial transparency, however deemed them insufficient in ensuring legal certainty for the sector. This was due to the strong link between financial transparency and the Commission's envisaged state-aid guidelines and/or block exemptions for the ports. The latter should have been developed in parallel to the ports proposal and not only be adopted in 2017.

On behalf of EFDD, Ms Jill SEYMOR (UK):

- referred to the port services regulation as not required or wanted in the UK because the UK - unlike most of continental Europe - had very competitive ports, most being private;
- stated that with the Brexit referendum on 23 June, the people of the UK would vote to leave and be free from the excessive rules, regulations and red tape imposed by the EU and re-join the rest of the world.

On behalf of EFN, Ms Marie-Christine ARNAUTU (FR):

- called the liberalisation of port service a an old serpent in the European sea, already with two failed attempts behind it;
- found the proposal of the Commission unacceptable. On one hand, it tried to make uniform the grand European ports that were organised in different ways, and thereby preventing the Member States and the port operators from framing their services in accordance with experience. On the other hand, it put the accent on the necessity to liberalise certain services under the pretext of competitiveness and attracting investments. The affects would be harmful in preventing Member States for security reasons to demand that certain services be run nationally;
- acknowledged that certain amendments made by the TRAN committee were positive but on balance it would be an empty shell. Why should there be harmonisation at any costs and did we really want that our ports bit by bit be taken over by foreign investors like the port of Piraeus? Her group would be voting against the Commission's proposal and against the report of the Committee.

The subsequent speakers equally mostly focused their interventions on the diversity of ports in the EU, liberalisation of port services and social protection. While most speakers followed the speakers on behalf of the groups, some took a different line:

- Mr Luis de GRANDES PASCUAL (EPP, ES) stated that the ES delegation of the EPP group would vote against the report as it was not compatible with the current organisation of ports in Spain, not in line with the general interest and not respecting the constitutional provisions of the Member States.

- Ms Elżbieta Katarzyna ŁUKACIJEWSKA (EPP, PL) contested the view that the Polish ports had issues with transparency. The issue was that the regulation did not take account of the specific nature of the ports in the EU and assumed that one common European approach was better than action taken at the level of Member States. She could not agree with this and the Polish delegation would vote against.
- Ms Inés AYALA SENDER (S&D, ES) stated that her vote could not be positive because of the envisaged exemptions for state aid. She had hoped that the new port rules would get rid of the unfair competition between the northern ports, which were historically rich because they were financed massively with state aid, and the southern ports, that had not benefitted from such state aid. In addition, the provisions on port charges would create problems for the Spanish system.
- Ms Jacqueline Foster (ECR, UK) stated that the UK and PL Members of the group would support the rejection of the proposal. Competition between ports was a greater driver for efficiency than prescriptive regulation on ports' internal operations. The Commission's proposal was overly-bureaucratic and did not fit well in the UK system of privatised and market-driven ports.
- Ms Rosa D'AMATO (EFDD, IT) spoke in favour of the proposal, stating that it in a satisfactory way took into account the differences between Member States and also enriched the ports policy with a social dimension.

II. VOTE

When it voted on 8 March 2016, the plenary adopted the 136 amendments voted by the Committee. No other amendments were adopted. 243 MEPs supported amendment 148 to reject the Commission proposal.

The vote on the legislative resolution was postponed to a later session, thereby not closing the European Parliament's first reading and leaving open the possibility of reaching an agreement in first reading. The matter was then referred back to the Committee on International Trade, pursuant to Rule 61 (2) of the European Parliament's Rules of Procedure.

The amendments adopted are set out in the Annex hereto[1].

[1] The Parliament's amendments have been marked up to indicate the changes made to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

ANNEX
(08.03.2016)

Market access to port services and financial transparency of ports ***I

Amendments adopted by the European Parliament on 8 March 2016 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))[2]

(Ordinary legislative procedure: first reading)

Amendment 1

Proposal for a regulation
Title

Text proposed by the Commission	*Amendment*
Proposal for a	Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing a framework ***on market access to*** port services and financial transparency of ports	establishing a framework ***for the organisation of*** port services and ***for*** financial transparency of ports
(Text with EEA relevance)	(Text with EEA relevance)

Amendment 2

Proposal for a regulation
Recital 1 a (new)

Text proposed by the Commission	*Amendment*
	(1a) Ports are able to contribute to the long-term competitiveness of European industries in world markets while adding value and jobs in all Union coastal regions. In order to address the challenges facing the maritime transport sector, such as inefficiencies in the sustainable transport and logistics chain, it is essential that the actions set out in the

[2] The matter was referred back to the committee responsible for reconsideration pursuant to Rule 61(2), second subparagraph (A8-0023/2016).

Commission's communication entitled 'Ports: an engine for growth' on administrative simplification be implemented in tandem with this Regulation. The complexity of administrative procedures for customs clearance, resulting in delays at ports, represents a major obstacle to the competitiveness of short sea shipping and the efficiency of Union ports.

Amendment 3

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) A high level of simplification of customs procedures can represent a major economic advantage for a port in terms of competitiveness. In order to avoid unfair competition of ports and to reduce customs formalities which might seriously harm the Union's financial interests, port authorities should adopt a proper and effective risk-based policy approach in order to avoid the distortion of competition. Member States and the Commission should effectively monitor these procedures on a regular basis, and the Commission should evaluate whether it is necessary to take appropriate measures to tackle unfair competition.

Amendment 4

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	(4) The overwhelming majority of Union maritime traffic transits through the ***maritime ports*** of the trans-European transport network. In order to achieve the aim of this Regulation in a proportionate way without imposing any unnecessary

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 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.	burden on other ports, this Regulation should ***only*** apply to the ***maritime 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 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. ***However***, ***this Regulation should give Member States the possibility to decide whether or not to apply this Regulation to maritime ports of the comprehensive trans-European transport network located in the outermost regions. Member States should also have the possibility of introducing derogations in order to avoid disproportionate administrative burdens for those maritime ports of the comprehensive trans-European transport network the annual traffic of which does not justify the full application of this Regulation***. 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.

Amendment 5

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission	*Amendment*
	(4a) This Regulation does not impose a specific port management model to the managing bodies of ports. Provided that rules relating to market access and financial transparency are respected, existing port management models established at national level in the Member States can be maintained in accordance with Protocol No. 26 to the Treaty on the Functioning of the European Union.

Amendment 6

Proposal for a regulation
Recital 5

Text proposed by the Commission	*Amendment*
(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).	***deleted***

Amendment 7

Proposal for a regulation
Recital 6

Text proposed by the Commission	*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 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.	***deleted***

Amendment 8

Proposal for a regulation
Recital 7

Text proposed by the Commission	*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.	(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, ***the equipment needed in order to provide the relevant port service, the availability of the service and the compliance with maritime safety requirements. These minimum*** requirements ***should also take into account environmental requirements as well as national social standards and the good repute*** of the port service ***provider***.

Amendment 9

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission	*Amendment*
	(7a) All service providers, and especially those that are new market entrants, should demonstrate their ability to serve a minimum number of vessels with their own staff and equipment. Service providers should apply the relevant provisions and rules including applicable labour laws, applicable collective agreements, and quality requirements of the port concerned.

Amendment 10

Proposal for a regulation
Recital 7 b (new)

Text proposed by the Commission	*Amendment*
	(7b) In determining whether a service provider has satisfied the requirement of good repute, the Member State should consider whether there are compelling grounds to doubt the good repute of the provider of port services, its manager, and any other relevant persons as may be determined by Member State, such as convictions or penalties in any Member States for serious offences or infringement of the applicable Union and national law, including in the following fields: social law, labour law, occupational safety law, health law and environmental law.

Amendment 11

Proposal for a regulation
Recital 7 c (new)

Text proposed by the Commission	*Amendment*
	(7c) In accordance with Council Regulation (EEC)No 3577/92[1a] and the judgment of the Court of Justice of 11 January 2007 in Case C-251/04, Commission v Hellenic Republic[1b], according to which it cannot be inferred that towage can be assimilated to maritime transport service, it is possible for reasons of maritime safety and the protection of the environment for minimum requirements to stipulate that the vessels used for towage or mooring operations be registered in, and fly the flag of the Member State of the port concerned.
	[1a] Council Regulation (EEC) No 3577/92

	of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage)(OJ L 364, 12.12.1992, p. 7).
	[1b] Judgment of the Court of Justice of 11 January 2007 in Case C-251/04, Commission v Hellenic Republic, C-251/04, ECLI:EU:C:2007:5.

Amendment 12

Proposal for a regulation
Recital 10

Text proposed by the Commission	*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 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.	***deleted***

Amendment 13

Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission	*Amendment*
	(10a) The Union's port system is highly diverse and includes many different models for the organisation of port services. Accordingly, a single system would not be appropriate. The managing body of the port or the competent authority should be able to limit the number of providers of a port service, if circumstances so require.

Amendment 14

Proposal for a regulation
Recital 11

Text proposed by the Commission	*Amendment*
(11) Any intention to limit the number of port service providers should be published in advance by the ***competent authority and should be fully justified, in order to give the interested parties the opportunity to comment***. The criteria for any limitation should be objective, transparent and non-discriminatory.	(11) Any intention to limit the number of port service providers should be published in advance by the ***managing body of the port or the competent authority***. The criteria for any limitation should be objective, transparent and non-discriminatory.

Amendment 15

Proposal for a regulation
Recital 12

Text proposed by the Commission	*Amendment*
(12) ***In order to be open and transparent, the*** procedure to ***select the*** providers of port services and its result should be made public and ***full documentation should be communicated to*** interested parties.	(12) ***The*** procedure to ***choose*** providers of port services and its result should be made public and ***should be non-discriminatory, transparent, and open to all*** interested parties.

Amendment 16

Proposal for a regulation
Recital 13

Text proposed by the Commission	*Amendment*
(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][7], 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.	***deleted***

[7] ***Proposal for a Directive on the award of concession contracts (COM 2011) 897 final***

Amendment 17

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission	*Amendment*
	(13a) In its interpretative communication of 1 August 2006 on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives (2006/C 179/02), the Commission has provided a clear framework for the selection procedures which fall outside the scope of the Public Procurement Directives and are not awarded in the form of concessions.

Amendment 18

Proposal for a regulation
Recital 14

Text proposed by the Commission	*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.	(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***,*** the affordability of the port service to ***a*** certain category of users***, or safe, secure or environmentally sustainable port operations***.

Amendment 19

Proposal for a regulation
Recital 18

Text proposed by the Commission	*Amendment*
(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. Moreover, in such cases, the port service charges applied by such an operator should be subject to ***supervision by the*** independent ***supervisory body***.	(18) ***The managing body of the port or the*** competent authorities designated in a Member State should have the choice to decide to provide port services 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 ***maritime ports*** in the territory of a Member State, the Commission should be informed. In the cases where the competent authorities in a Member State ***provide a port service under public service obligations***, 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. Moreover, in such cases, the port service charges applied by such an operator should be subject to independent ***supervision***.

Amendment 20

Proposal for a regulation
Recital 19

Text proposed by the Commission	*Amendment*
(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	(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 ***should*** not affect the application of the social and labour rules of the Member States ***and should take into account Article 28 of the Charter of Fundamental Rights of the European Union.*** Where the conclusion of a port service contract may entail a change of port service operator, ***the competent authority should, in case of transfer of staff, require*** the chosen

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[11] .	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[11].
[11] OJ L 82, 22.3.2001, p. 16.	[11] OJ L 82, 22.3.2001, p. 16.

Amendment 21

Proposal for a regulation
Recital 19 a (new)

Text proposed by the Commission	*Amendment*
	(19a) In a highly complex and competitive sector, such as port services, training of new recruits and the lifelong training of staff are essential for ensuring port workers' health and safety, the quality of services and the competitiveness of Union ports. Member States should take the necessary measures to ensure relevant training is provided for every worker in the port sector. The EU-level Sectoral Social Dialogue Committee for Ports should be in a position to develop guidelines for the establishment of training requirements to ensure a high quality of education and training of port workers, to minimise the risk of accidents and to take account of the future needs of the sector in light of technological and logistical changes imposed by customers' demands.

Amendment 22

Proposal for a regulation
Recital 19 b (new)

Text proposed by the Commission	*Amendment*
	(19b) The European port sector is facing a number of challenges that are capable

	of having an impact both on its competitiveness and on its social dimension. Those challenges include the following: the increasing size of vessels, the competition from non-Union ports, increasing market power as a result of alliances between shipping lines, the need to negotiate, in a timely fashion, new working patterns and to provide adequate training for technological innovation, as well as to minimise its social impact, the growing volumes which are more and more clustered, the lack of adequate investments on hinterland infrastructures, the removal of administrative barriers to the internal market, the changing energy landscape and growing societal and environmental pressure. Member States, together with the social partners, should address these challenges and take measures with the aim of safeguarding both the competitiveness of the sector and of preventing precarious working conditions in ports, despite the fluctuations in demand for port labour.

Amendment 23

Proposal for a regulation
Recital 19 c (new)

Text proposed by the Commission	*Amendment*
	(19c) All models for the organisation of port labour that secure quality jobs and safe working conditions should be supported by the Commission and the Member States. Any necessary adjustments should only be promoted through negotiations between the social partners, and the Commission should duly take into account the results of such negotiations.

Amendment 24

Proposal for a regulation
Recital 19 d (new)

Text proposed by the Commission	*Amendment*
	(19d) Automation and technological innovation offer the opportunity to improve efficiency and safety of ports. Before introducing significant changes, employers and port workers´ unions should cooperate in order to guarantee the necessary training and re-training and to find shared solutions to reduce the negative effects of such progress on occupational health and safety and on employability.

Amendment 25

Proposal for a regulation
Recital 20

Text proposed by the Commission	*Amendment*
(20) ***In many ports, the market access for providers of cargo-handling and terminal passenger services is granted by means of public concession contracts. This type of contracts will be covered by the Directive ..../…[concessions]. Consequently,*** Chapter II of this Regulation should not apply to the provision of cargo-handling and passenger services***, but Member States should remain free to decide to apply nevertheless the rules of this Chapter to these two services.*** For ***other*** types of contracts used by public authorities for granting market access to cargo handling and terminal passenger services, the Court of Justice of the European Union has confirmed that the competent authorities are bound by the principles of transparency and non-discrimination when concluding these contracts. These principles are fully applicable as regards the provision of any port service.	(20) Chapter II of this Regulation should not apply to the provision of cargo-handling and passenger services. For types of contracts, ***other than public concession contracts***, used by public authorities for granting market access to cargo handling and terminal passenger services, the Court of Justice of the European Union has confirmed that the competent authorities are bound by the principles of transparency and non-discrimination when concluding these contracts. These principles are fully applicable as regards the provision of any port service.

Amendment 26

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 not be subject to Chapter II of this Regulation.

Amendment 27

Proposal for a regulation
Recital 21 a (new)

Text proposed by the Commission	*Amendment*
	(21a) The Connecting Europe Facility provides that ports in the Trans-European Transport Network are able to benefit from Union subsidies during the ongoing 2014-2020 period. Furthermore, the Commission intends to set up a revised framework on state aid to ports and, given that Directive 2014/23/EU of the European Parliament and of the Council[1a] also establishes a new legislative framework for concession contracts which will also affect port services provided under a concession agreement, strict rules on the transparency of financial flows need to be introduced in this Regulation to prevent unfair competition between ports in the Union or dumping.

[1a] Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of

concession contracts (OJ L 94, 28.3.2014, p. 1).

Amendment 28

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 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.	(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 ***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.

Amendment 29

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission	*Amendment*
	(22a) Maritime ports with a turnover below the threshold provided for in Commission Directive 2006/111/EC should meet the transparency obligations contained in Article 12 of this Regulation in a proportionate way, without being subjected to a disproportionate administrative burden.

Amendment 30

Proposal for a regulation
Recital 22 b (new)

Text proposed by the Commission	*Amendment*
	(22b) With a view to ensuring fair competition and to reducing administrative burdens, the Commission should, in writing, clarify the notion of State aid with regard to the financing of port infrastructures, taking into consideration the fact that public access and defence infrastructure, whether maritime or on land , which is accessible to all potential users on equal and non-discriminatory terms, and infrastructure that is linked to the operation of Services of General non-economic Interest, have a non-economic nature since their goals are predominantly public in nature; such infrastructures fall within the State's responsibility to meet the general needs of the population.

Amendment 31

Proposal for a regulation
Recital 22 c (new)

Text proposed by the Commission	*Amendment*
	(22c) Moreover, the Commission should, in a timely manner and in consultation with the sector, identify which public investments in port infrastructure fall within the scope of Commission Regulation (EU) No 651/2014 (General Block Exemption Regulation)[1a].

[1a] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

Amendment 32

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 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.	(23) Port service charges applied by providers of port services which are not designated in accordance with an open, transparent and non-discriminatory procedure and the ***charges applied by providers of pilotage services, which are not exposed to effective competition, entail a higher risk of price abuse***. 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.

Amendment 33

Proposal for a regulation
Recital 24

Text proposed by the Commission	*Amendment*
(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.	(24) ***The role of the managing body of the port is, inter alia, to facilitate trade and to act as an intermediary between regional industry and transport operators. Therefore, in the interest 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.

Amendment 34

Proposal for a regulation
Recital 25

Text proposed by the Commission	*Amendment*
(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.	(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, for example,*** 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 35

Proposal for a regulation
Recital 26

Text proposed by the Commission	*Amendment*
(26) ***Adequate facilities should be in place to ensure*** that the users of the ports which are requested to pay a port infrastructure charge and/or a port service charge are regularly consulted when the port infrastructure charge and the port service charge are defined and changed. The managing bodies of the ports should also regularly consult other stakeholders on key issues related to the sound development of the port, its performance and its capacity to attract and generate economic activities such as the coordination of port services within the port area and the efficiency of the connections with the hinterland and of the administrative procedures in ports.	(26) ***It*** should ***be ensured*** that the users of the ports which are requested to pay a port infrastructure charge and/or a port service charge are regularly consulted when the port infrastructure charge and the port service charge are defined and changed. The managing bodies of the ports should also regularly consult other stakeholders on key issues related to the sound development of the port, its performance and its capacity to attract and generate economic activities such as the coordination of port services within the port area and the efficiency of the connections with the hinterland and of the administrative procedures in ports. ***The managing body of the port should engage private investors, who make large significant investments in ports, in***

sustainable consultation regarding port development plans.

Amendment 36

Proposal for a regulation
Recital 27

Text proposed by the Commission	*Amendment*
(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***.	(27) In order to ensure ***that an independent complaints mechanism is in place, one or more bodies providing*** independent ***supervision should be designated by each Member State. It should be possible for*** already existing ***bodies, such as competition authorities, courts, ministries or departments within ministries not linked to the managing body of the port, to*** be designated ***for this purpose***.

Amendment 37

Proposal for a regulation
Recital 28

Text proposed by the Commission	*Amendment*
(28) ***The*** different ***independent supervisory bodies*** should exchange information on their work ***and cooperate in order to ensure a uniform application of this Regulation***.	(28) ***In cases concerning cross-border disputes and complaints, the*** different ***bodies providing independent supervision*** should ***cooperate with each other and*** exchange information on their work

Amendment 38

Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission	*Amendment*
	(28a) Port labour relations have a large influence on the functioning of the ports. The EU-level Sectoral Social Dialogue Committee for Ports therefore gives the social partners a framework to establish

	results regarding work organisation and working conditions, such as health and safety, training and qualifications, Union policy on low sulphur fuels, and the attractiveness of the sector to young workers and female workers.

Amendment 39

Proposal for a regulation
Recital 29

Text proposed by the Commission	*Amendment*
(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 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.	***deleted***

Amendment 40

Proposal for a regulation
Recital 30

Text proposed by the Commission	*Amendment*
(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 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[13].	***deleted***
[13] OJ L 55, 28.2.2011, p. 13.	

Amendment 41

Proposal for a regulation
Recital 30 a (new)

Text proposed by the Commission	*Amendment*
	(30a) The Commission is invited to submit a legislative proposal concerning Pilotage Exemption Certificates (PECs) in order to encourage their use in all Member States so as to improve efficiency in ports, and in particular to stimulate short sea shipping, where safety conditions allow it. The specific requirements on the basis of which PECs are to be issued should be defined by the Member States after a risk assessment and should take into account local conditions. The requirements should be transparent, non-discriminatory and proportionate.

Amendment 42

Proposal for a regulation
Recital 31

Text proposed by the Commission	*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 ***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.	(31) Since the objectives of this Regulation, namely ensuring ***a framework for the organisation*** of port services and the appropriate framework to attract necessary investments in all the ***maritime 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. ***Union ports should be protected against third countries ports which are not subject to the same organisation and operation criteria of this Regulation.***

Amendment 43

Proposal for a regulation
Recital 31 a (new)

Text proposed by the Commission	*Amendment*
	(31a) Port labour relations have a significant influence on the activities and functioning of the ports. Therefore the EU-level Sectoral Social Dialogue Committee for Ports should be able to provide the Union social partners with a framework for the possible adoption of common results regarding social issues related to port labour relations. The Commission should, where necessary, facilitate and support the negotiations, as well as provide technical assistance to

	them, while respecting the autonomy of the social partners. The Union social partners should have the possibility to report on any progress made, if they so wish, to enable that the Commission to take into account their outcomes when reporting on the effects of this Regulation.

Amendment 44

Proposal for a regulation
Article 1 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) a clear framework for ***access to the market*** of port services;	(a) a clear framework for ***the organisation*** of port services;

Amendment 45

Proposal for a regulation
Article 1 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) common rules on the financial transparency and charges to be applied by managing bodies or providers of port services.	(b) common rules on the financial transparency and charges to be applied by managing bodies or providers of port services ***covered by this Regulation***.

Amendment 46

Proposal for a regulation
Article 1 – paragraph 2 – point c

Text proposed by the Commission	*Amendment*
(c) dredging;	***deleted***

Amendment 47

Proposal for a regulation
Article 1 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission	*Amendment*
	In addition, Article 12(2) of this Regulation shall also apply to dredging.

Amendment 48

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission	*Amendment*
3. This Regulation shall apply to all ***seaports*** of the trans-European transport network, ***as defined*** in Annex ***I*** of Regulation ***XXX [regulation on the TEN-T Guidelines]***.	3. This Regulation shall apply to all ***maritime ports*** of the trans-European transport network, ***listed*** in Annex ***II*** of Regulation ***(EU) No 1315/2013 of the European Parliament and the Council***[1a].
	[1a] Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

Amendment 49

Proposal for a regulation
Article 1 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. This Regulation is without prejudice to any port structure which respects the principles referred to in paragraphs 1(a) and 1(b).

Amendment 50

Proposal for a regulation
Article 1 – paragraph 3 b (new)

Text proposed by the Commission	*Amendment*
	3b. Member States may decide not to apply this Regulation to maritime ports of the comprehensive trans-European transport network located in the outermost regions as referred to in Article 349 TFEU. When Member States decide not to apply this Regulation to such maritime ports, they shall notify that decision to the Commission.

Amendment 51

Proposal for a regulation
Article 2 – paragraph 1 – 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, unlashing, stowing,*** transporting and temporary storage of the cargo on the relevant cargo handling terminal and directly related to the transporting of the cargo, but excluding ***unless the Member State determines otherwise,*** warehousing, stripping, repackaging or any other value added services related to the handled cargo;

Amendment 52

Proposal for a regulation
Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission	*Amendment*
	2 a. ‘competent authority’ means any public or private body which, on behalf of a local, regional or national level, is entitled to carry out under national law or

	instruments activities related to the organisation and management of port activities, in conjunction with or alternatively to the managing body of the port;

Amendment 53

Proposal for a regulation
Article 2 – paragraph 1 – 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;	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 ***and is not a port service offered to the user***;

Amendment 54

Proposal for a regulation
Article 2 – paragraph 1 – 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 appropriate, ***the*** control of the activities of the operators present in the port concerned;	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 ***authorised by*** national law or instruments the administration and management of the port infrastructures ***and***, ***where appropriate,*** the coordination ***carrying-out, organisation or*** control of the activities of the operators present in the port concerned***, the administration of and management of port traffic and the development of the port area***;

Amendment 55

Proposal for a regulation
Article 2 – paragraph 1 – point 6

Text proposed by the Commission	*Amendment*
6. 'mooring' means the berthing ***and*** un-berthing 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***;	6. 'mooring' means the ***safe*** berthing***,*** un-berthing ***and shifting*** services required for a waterborne vessel;

Amendment 56

Proposal for a regulation
Article 2 – paragraph 1 – point 8

Text proposed by the Commission	*Amendment*
8. 'pilotage' means the guidance service of a waterborne vessel by a pilot or a pilotage station in order to allow for a safe entry or exit of the vessel in the waterways access to the port;	8. 'pilotage' means the guidance service of a waterborne vessel by a pilot or a pilotage station in order to allow for a safe entry or exit of the vessel in the waterways access to the ***port or safe navigation within*** the port;

Amendment 57

Proposal for a regulation
Article 2 – paragraph 1 – point 9

Text proposed by the Commission	*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;	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 ***infrastructures,*** facilities and services that allow vessels entry and exit in and out of the port, including the waterways giving access to ***the port, if such waterways fall within the legal competence of the managing body of the port***, as well as access to the processing of passengers and cargo***, but excluding land lease rates and charges having equivalent effect***;

Amendment 58

Proposal for a regulation
Article 2 – paragraph 1 – point 12

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

Amendment 59

Proposal for a regulation
Article 2 – paragraph 1 – 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. ‘***maritime port***’ means ***a delimited*** area of land and water***, managed by the managing body of the port and*** made up of ***infrastructures and facilities*** 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 ***staff***;

Amendment 60

Proposal for a regulation
Article 2 – point 17

Text proposed by the Commission	*Amendment*
17. ‘towage’ means the assistance to a waterborne vessel by means of a tug in order to allow for a safe entry or exit of the port by providing assistance to the manoeuvring of the waterborne vessel;	17. ‘towage’ means the assistance to a waterborne vessel by means of a tug in order to allow for a safe entry or exit of the port ***or safe navigation within the port*** by providing assistance to the manoeuvring of

the waterborne vessel;

Amendment 61

Proposal for a regulation
Article 2 – paragraph 1 – point 18

Text proposed by the Commission	*Amendment*
18. ‘waterway access to a port' means water access to the port from the open sea, such as port approaches, fairways, rivers, sea canals and fjords.	18. ‘waterway access to a port’ means water access to the port from the open sea, such as port approaches, fairways, rivers, sea canals and fjords***, if such a waterway falls within the legal competence of the managing body of the port***.

Amendment 62

Proposal for a regulation
Chapter II – title

Text proposed by the Commission	*Amendment*
Market access	***Organisation of port services***

Amendment 63

Proposal for a regulation
Article 3

Text proposed by the Commission	*Amendment*
Article 3	***deleted***
Freedom to provide services	
1. Freedom to provide services in seaports covered by this Regulation shall apply to the providers of port services established in the Union under the conditions set out in this Chapter.	
2. Providers of port services shall have access to essential port facilities to the extent necessary for them to carry out their activities. The terms of the access shall be fair, reasonable and non-	

discriminatory.

Amendment 64

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission	*Amendment*
	Article 3 a
	Freedom to organise port services
	1. With regard to this Regulation, the organisation of port services covered by this Chapter may be subject to:
	(a) minimum requirements to port service providers;
	(b) limitations of the number of providers;
	(c) public service obligations;
	(d) internal operators;
	(e) free open access to the market of port services.
	2. When organising port services as foreseen in paragraph 1 the conditions put forward in this Chapter shall be respected.

Amendment 65

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission	*Amendment*
1. ***The*** managing body of the port may require that providers of port services comply with minimum requirements to perform the corresponding port service.	1. ***Without prejudice to the possibility of imposing public service obligations, provided for in Article 8, the*** managing body of the port ***or the competent authority*** may require that providers of port services***, including subcontractors,*** comply with minimum requirements to perform the corresponding port service.

Amendment 66

Proposal for a regulation
Article 4 – paragraph 2 – introductory part

Text proposed by the Commission	*Amendment*
2. The minimum requirements provided for in paragraph 1 ***may only*** relate***, where applicable,*** to:	2. The minimum requirements provided for in paragraph 1 relate to:

Amendment 67

Proposal for a regulation
Article 4 – paragraph 2 – point b

Text proposed by the Commission	*Amendment*
(b) the equipment needed to provide the relevant port service in normal and safe conditions and the capacity to maintain this equipment at the ***appropriate*** level;	(b) the equipment needed to provide the relevant port service in normal and safe conditions ***in a continuous manner*** and the ***technical and financial*** capacity to maintain this equipment at the ***required*** level;

Amendment 68

Proposal for a regulation
Article 4 – paragraph 2 – point b a (new)

Text proposed by the Commission	*Amendment*
	(ba) the availability of the port service to all users, at all berths and without interruptions day and night, throughout the year;

Amendment 69

Proposal for a regulation
Article 4 – paragraph 2 – point c

Text proposed by the Commission	*Amendment*
(c) the compliance with requirements on	(c) the compliance with requirements on

the maritime safety or the safety and security of the port or access to it, its installations, equipment and persons;	the maritime safety or the safety and security of the port or access to it, its installations, equipment***, workers*** and ***other*** persons;

Amendment 70

Proposal for a regulation
Article 4 – paragraph 2 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) the compliance with national social and labour legislation of the Member State of the port concerned, including the terms of collective bargaining agreements;

Amendment 71

Proposal for a regulation
Article 4 – paragraph 2 – point d b (new)

Text proposed by the Commission	*Amendment*
	(db) the good repute of the port service provider, as determined by the Member State.

Amendment 72

Proposal for a regulation
Article 4 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Under no circumstances shall the implementation of this Regulation constitute grounds for a reduction in the level of minimum requirements for the provision of port services that have already been imposed by Member States or competent authorities.

Amendment 73

Proposal for a regulation
Article 4 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Where the minimum requirements include specific local knowledge or acquaints with local conditions, the managing body of the port shall ensure that adequate access to ***relevant training*** exists, under transparent and non-discriminatory conditions***, unless adequate access to such training is ensured by the Member State***.	4. Where the minimum requirements include specific local knowledge or acquaints with local conditions, the managing body of the port shall ensure that adequate access to ***information*** exists, under transparent and non-discriminatory conditions.

Amendment 74

Proposal for a regulation
Article 4 – paragraph 5

Text proposed by the Commission	*Amendment*
5. In the cases provided for in paragraph 1, 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.	5. In the cases provided for in paragraph 1, 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 ***...***[*] 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.

[*] ***OJ: Please insert the date: 24 months after the entry into force of this Regulation***

Amendment 75

Proposal for a regulation
Article 4 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. In order to ensure maritime safety and the protection of the environment, the Member State or the competent authority may require that the ships used for towage or mooring operations are registered in and fly the flag Member State of the port concerned.

Amendment 76

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The managing body of the port shall treat providers of port services equally and shall act in a transparent manner.	1. The managing body of the port ***or the competent authority*** shall treat providers of port services equally and shall act in a transparent***, objective, non-discriminatory and proportionate*** manner.

Amendment 77

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The managing body of the port shall grant or refuse the right to provide port services on the basis of the minimum requirements established in accordance with Article 4 within ***one month*** from receiving a request for the granting of such a right. Any refusal shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.	2. The managing body of the port ***or the competent authority*** shall grant or refuse the right to provide port services on the basis of the minimum requirements established in accordance with Article 4***. It shall do so*** within ***a reasonable time, and in any event not exceeding four months,*** from receiving a request for the granting of such a right and the necessary documents. Any refusal shall be duly justified on the basis of objective, transparent, non-

discriminatory and proportionate criteria.

Amendment 78

Proposal for a regulation
Article 6 – paragraph -1 (new)

Text proposed by the Commission	*Amendment*
	- 1. In the cases referred to in Article 9 of this Regulation, where the managing body of the port is not a contracting authority within the meaning of Directive 2014/24/EU of the European Parliament and of the Council[1a], this Article shall not apply.
	[1a] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

Amendment 79

Proposal for a regulation
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. ***By way of derogation from Article 3***, the managing body of the port may limit the number of providers of port service for a given port service for one or several of the following reasons:	1. ***Without prejudice to the existing different models for the organisation of port services***, the managing body of the port ***or the competent authority*** may limit the number of providers of port service for a given port service for one or several of the following reasons:

Amendment 80

Proposal for a regulation
Article 6 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(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;	(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 ***decisions or plans*** agreed by the management body of the port and where appropriate any other public competent authorities ***in conformity with*** national legislation;

Amendment 81

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;

Amendment 82

Proposal for a regulation
Article 6 – paragraph 1 – point a b (new)

Text proposed by the Commission	*Amendment*
	(ab) the inability of the characteristics of the port traffic to enable multiple providers of port services to operate in economically satisfactory conditions in the port;

Amendment 83

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;

Amendment 84

Proposal for a regulation
Article 6 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Any limitation of providers for a port service shall follow a selection procedure, which shall be open to all interested parties, non-discriminatory and transparent. The managing body of the port shall communicate to all interested parties all necessary information concerning the organisation of the selection procedure and the submission deadline, as well as all relevant award criteria and requirements. The submission deadline shall be long enough to allow interested parties to make a meaningful assessment and prepare their application, under normal circumstances the minimum limit shall be 30 days.

Amendment 85

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	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 ***shall take necessary measures to avoid conflicts of interest. In absence of such measures,*** the number of providers shall not be less than two***, unless any of the reasons set out***

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.	***in paragraph 1 justifies a limitation to a single provider***.

Amendment 86

Proposal for a regulation
Article 7

Text proposed by the Commission	*Amendment*
Article 7	***deleted***
Procedure for the limitation of the number of providers of port services	
1. Any limitation of the number of providers for a port service in accordance with Article 6 shall follow a selection procedure which shall be open to all interested parties, non-discriminatory and transparent.	
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.	
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].	
4. The selected provider or providers and the managing body of the port shall conclude a port service contract.	
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.	

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

7. This Regulation is without prejudice to Directive …/… [concession][15] , Directive …./….[public utilities][16] and Directive …/… [public procurement][17]

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[15] Proposal for a Directive on the award of concession contracts (COM 2011) 897 final

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

[17] Proposal for a Directive on public procurement (COM/2011/0896 final)

Amendment 87

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

Text proposed by the Commission	*Amendment*
1. ***Member States*** may decide to impose public service obligations related to port services on providers in order to ensure the following:	1. ***The Member States shall designate the competent authority within their territory, which may be the managing body of the port, entitled*** to ***implement*** public service obligations related to port services on providers in order to ensure ***at least one of*** the following:

Amendment 88

Proposal for a regulation
Article 8 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) the availability of the service to all users;	(b) the availability of the service to all users***, where appropriate on equal terms***;

Amendment 89

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 ports operations;

Amendment 90

Proposal for a regulation
Article 8 – paragraph 1 – point c b (new)

Text proposed by the Commission	*Amendment*
	(cb) the provision of adequate transport services to the public and territorial cohesion.

Amendment 91

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The Member States shall designate the competent authorities within their territory to impose such public service obligations. The managing body of the port may be the competent authority.	***deleted***

Amendment 92

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission	*Amendment*
4. When the competent authority designated in accordance with ***paragraph 3*** is different from the managing body of the port, that competent authority shall	4. When the competent authority designated in accordance with ***paragraph 1 of this Article*** is different from the managing body of the port, that competent

exercise the powers provided for in ***Articles 6 and 7*** concerning the limitation of the number of providers of port services based on public service obligations.	authority shall exercise the powers provided for in ***Article 6*** concerning the limitation of the number of providers of port services based on public service obligations.

Amendment 93

Proposal for a regulation
Article 8 – paragraph 5

Text proposed by the Commission	*Amendment*
5. If a ***competent authority*** decides to impose public service obligations in all ***the seaports*** covered by this Regulation in a Member State, it shall notify these obligations to the Commission.	5. If a ***Member State*** decides to impose public service obligations in all ***the maritime ports*** covered by this Regulation in a Member State, it shall notify these obligations to the Commission.

Amendment 94

Proposal for a regulation
Article 8 – paragraph 6

Text proposed by the Commission	*Amendment*
6. In the event of a disruption of port services for which public service obligations are imposed or when an immediate risk of such a situation occurs, the competent authority may take an emergency measure. The emergency measure may take the form of a direct award so as to attribute the service to a different provider for a period up to one year. During that time period, the competent authority shall either launch a new procedure to select a provider of port service ***in accordance with Article 7*** or shall apply Article 9.	6. In the event of a disruption of port services for which public service obligations are imposed or when an immediate risk of such a situation occurs, the competent authority may take an emergency measure. The emergency measure may take the form of a direct award so as to attribute the service to a different provider for a period up to one year. During that time period, the competent authority shall either launch a new procedure to select a provider of port service or shall apply Article 9. ***Collective industrial action taking place in accordance with national legislation of the respective Member State and/or applicable agreements between the social partners shall not be considered a disruption of port services for which emergency measures may be taken.***

Amendment 95

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	1. ***The managing body of the port or*** the competent authority may decide to provide a port service itself or ***through*** a legally distinct entity over which it exercises a control similar to that exercised over its own departments, ***provided that Article 4 applies equally to all operators providing the service concerned***. In such a case, the port service provider shall be considered as an internal operator for the purpose of this Regulation.

Amendment 96

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission	*Amendment*
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.	2. ***The managing body of the port or*** 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 legal entity ***concerned***.

Amendment 97

Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission	*Amendment*
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	3. ***In the cases provided for in Article 8, the*** internal operator shall be confined to perform the assigned port service only in the port(s) for which the assignment to

to him.	provide the port service has been attributed to him.

Amendment 98

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission	*Amendment*
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.	2. Without prejudice to national and Union law***,*** including ***representative*** collective agreements between social partners, the ***competent authority shall*** require the designated provider of port services to grant staff ***working conditions on the basis of binding national, regional or local social standards. In*** case ***of a transfer of staff due to a change of service*** provider***, the staff*** previously taken on by the incumbent provider of port services ***shall be granted*** the ***same*** rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC.

Amendment 99

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission	*Amendment*
3. ***Where*** managing bodies of the port require providers of port services to comply with ***certain*** social standards as ***regards the provision of relevant port services***, tender documents and port service contracts shall list the staff concerned and give transparent details of their contractual rights and the conditions under which employees are deemed to be linked to the port services.	3. ***The*** managing bodies of the port ***or the competent authority shall*** require ***all*** providers of port services to comply with ***all*** social ***and labour*** standards as ***set out in Union and/or national law, as well as applicable collective agreements in accordance with national customs and traditions. When, in the context of the provision of relevant port services, a transfer of staff occurs,*** , tender documents and port service contracts shall list the staff concerned and give transparent details of their contractual rights and the conditions under which employees are

deemed to be linked to the port services.

Amendment 100

Proposal for a regulation
Article 10 a (new)

Text proposed by the Commission	*Amendment*
	Article 10 a
	Training and labour protection
	1. The employer shall ensure that its employees receive the necessary training to acquire a sound knowledge of the conditions in which their work is conducted and that they are properly trained to tackle the hazards which the work may entail.
	2. In full respect of the autonomy of social partners, the EU-level Sectoral Social Dialogue Committee for Ports is invited to develop guidelines for the establishment of training requirements to prevent accidents and ensure the highest level of safety and health for workers. Such training requirements shall be regularly updated in order to reduce on an ongoing basis the occurrence of accidents at the workplace.
	3. The social partners are invited to develop models which ensure a balance between the fluctuation in the demand for port work and flexibility required by port operations, on the one hand, and continuity and protection of employment, on the other hand.

Amendment 101

Proposal for a regulation
Article 11

Text proposed by the Commission	*Amendment*
This Chapter and the transitional provisions of Article 24 shall not apply to	This Chapter***, with the exception of Article 10a,*** and the transitional provisions of

cargo handling services ***and*** passenger services.	Article 24 shall not apply to cargo handling services**,** passenger services ***and pilotage***.

Amendment 102

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

Text proposed by the Commission	*Amendment*
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 :	2. Where the managing body of the port that receives public funds provides port services ***or dredging*** 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 :

Amendment 103

Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	When a managing body of the port, or an association of ports, carries out dredging itself and receives public funds for this activity, it shall not carry out dredging in other Member States.

Amendment 104

Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The public funds referred to in paragraph 1 shall include share capital or quasi-capital funds, non-refundable grants, grants only refundable in certain circumstances, award of loans including overdrafts and advances on capital injections, guarantees given to the managing body of the port by public authorities***, dividends paid out and profits***	3. The public funds referred to in paragraph 1 shall include share capital or quasi-capital funds, non-refundable grants, grants only refundable in certain circumstances, award of loans including overdrafts and advances on capital injections, guarantees given to the managing body of the port by public authorities or any other form of public

retained or any other form of public financial support.

financial support.

Amendment 105

Proposal for a regulation
Article 12 – paragraph 4

Text proposed by the Commission	*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 ***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.	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.

Amendment 106

Proposal for a regulation
Article 12 – paragraph 5

Text proposed by the Commission	*Amendment*
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 date of the request.	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 transmitted within two months from the date of the request.

Amendment 107

Proposal for a regulation
Article 12 – paragraph 7 a (new)

Text proposed by the Commission	*Amendment*
	7a. Member States may decide that paragraph 2 of this Article shall not apply to their ports of the comprehensive network which do not meet the criteria in point (a) or point (b) of Article 20(2) of Regulation (EU) No 1315/2013 in case of disproportionate administrative burdens, provided that any public funds received, and their use for providing port services, remain fully transparent in the accounting system. Where the Member States so decide, they shall inform the Commission thereof before their decision takes effect.

Amendment 108

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	1. The charges for the services provided by an internal operator ***under a public service obligation,*** the charges ***for pilotage services that are not exposed to effective competition and the charges*** levied by providers of port services, ***referred to in 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.

Amendment 109

Proposal for a regulation
Article 13 – paragraph 3

Text proposed by the Commission	*Amendment*
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.	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 charges with regard to the facilities and services to which these port service charges relate to.

Amendment 110

Proposal for a regulation
Article 14 – paragraph 3

Text proposed by the Commission	*Amendment*
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.	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 in accordance with State aid ***and competition*** rules.

Amendment 111

Proposal for a regulation
Article 14 – paragraph 4

Text proposed by the Commission	*Amendment*
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	4. Without prejudice to paragraph 3, port infrastructure charges may vary in accordance with ***the port's economic strategy and the port's spatial planning policy*** related***, inter alia,*** to ***certain***

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.***	***categories of*** 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 ***fair,*** non-discriminatory ***as to nationality and shall comply with State aid and*** competition rules. ***The managing body of the port may take into account external costs when setting the charges. The managing body of the port may vary the infrastructure charges in accordance with commercial practices.***

Amendment 112

Proposal for a regulation
Article 14 – paragraph 5

Text proposed by the Commission	*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, fuels and types of operations according to which the infrastructure charges can vary and common charging principles for port infrastructure charges.	***deleted***

Amendment 113

Proposal for a regulation
Article 14 – paragraph 6

Text proposed by the Commission	*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***, 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	6. The managing body of the port shall inform port users and the representatives or associations of port users ***in a transparent manner*** 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

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.	in order to determine such charges at least three months in advance. ***The managing body of the port shall not be required to disclose differentiations in the charges that are a result of individual negotiations.***

Amendment 114

Proposal for a regulation
Article 14 – paragraph 7

Text proposed by the Commission	*Amendment*
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.	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 of this Article*** 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 115

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission	*Amendment*
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'.	***deleted***

Amendment 116

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission	*Amendment*
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.	2. The managing body of the port shall ***ensure that adequate mechanisms for the consultation of port users, including relevant interconnected transport operators, are in place. It shall consult port users in the event of substantial changes to*** port infrastructure charges***. The providers of port services shall provide*** port users ***with adequate information about*** the structure ***of port service charges and the criteria used to determine them***. ***Internal operators providing services under a public service obligation and*** the providers of port services as referred to in Article 6 ***(1b)*** shall consult ***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 ***mechanisms*** for such consultation and shall be informed of the results of the consultation by the providers of port services. ***It shall be possible to impose the obligations mentioned in this paragraph to bodies, including those with a distinct composition, that are already established within the port.***

Amendment 117

Proposal for a regulation
Article 16 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. The managing body of the port shall regularly consult stakeholders such as undertakings established in the port, providers of port services, operators of	1. The managing body of the port shall regularly consult ***the relevant*** stakeholders operating in the port area ***as well as public administrations responsible for transport***

waterborne vessels, cargo owners, land transport operators ***and public administrations*** operating in the port area on the following:	***infrastructure planning, where appropriate*** on the following:

Amendment 118

Proposal for a regulation
Article 16 – paragraph 1 – point c a (new)

Text proposed by the Commission	*Amendment*
	(ca) the consequences of planning and of spatial planning decisions in terms of environmental performance;

Amendment 119

Proposal for a regulation
Article 16 – paragraph 1 – point c b (new)

Text proposed by the Commission	*Amendment*
	(cb) measures to ensure and improve safety in the port area, including health and safety of port workers and information on access to training of port workers.

Amendment 120

Proposal for a regulation
Article 17 – title

Text proposed by the Commission	*Amendment*
Independent ***supervisory body***	Independent ***supervision***

Amendment 121

Proposal for a regulation
Article 17 – paragraph 1

Text proposed by the Commission	*Amendment*
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.	1. Member States shall ensure that ***effective mechanisms are in place to handle complaints for*** all the ***maritime ports*** covered by this Regulation on the territory of each Member State. ***To that end, the Member States shall designate one or more bodies.***

Amendment 122

Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission	*Amendment*
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 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.	2. The independent ***supervision*** shall be ***carried out in a manner which excludes conflicts of interest and 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 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.

Amendment 123

Proposal for a regulation
Article 17 – paragraph 3

Text proposed by the Commission	*Amendment*
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.***	3. ***Member States shall ensure that port users and other relevant stakeholders are informed of where and how to lodge a complaint, including an indication of the bodies authorised to handle complaints***

	referred to in Articles 12(5), 13(3) and 14(7).

Amendment 124

Proposal for a regulation
Article 17 – paragraph 4

Text proposed by the Commission	*Amendment*
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 solve the dispute.	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 solve the dispute. ***The Member States concerned shall cooperate with each other and exchange information concerning their work.***

Amendment 125

Proposal for a regulation
Article 17 – paragraph 5

Text proposed by the Commission	*Amendment*
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***.	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 ***the necessary information***.

Amendment 126

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	***deleted***

of this Regulation.

Amendment 127

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.	***deleted***

Amendment 128

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

Amendment 129

Proposal for a regulation
Article 17 – paragraph 9

Text proposed by the Commission	*Amendment*
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.	9. Member States shall notify to the Commission ***mechanisms and procedures put in place to comply with paragraphs 1 and 2 of this Article by ...*** [*] ***and shall notify it without delay of any subsequent*** modification thereof. The Commission shall publish and update the list of the ***relevant*** bodies on its website.

[*] ***OJ: Please insert the date: 24 months after the entry into force of this Regulation.***

Amendment 130

Proposal for a regulation
Article 18

Text proposed by the Commission	*Amendment*
Article 18	***deleted***
Cooperation between independent supervisory bodies	
1. The independent supervisory bodies shall exchange information about their 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).

Amendment 131

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission	*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 the ***independent supervisory body*** to an appeal body which is independent of the parties involved. This appeal body may be a court.	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 ***body designated pursuant to Article 17*** to an appeal body which is independent of the parties involved. This appeal body may be a court.

Amendment 132

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission	*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	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.	those provisions to the Commission by ...* and shall notify it without delay of any subsequent amendment affecting them.
	_____
	* ***OJ: Please insert the date: 24 months after the entry into force of this Regulation.***

Amendment 133

Proposal for a regulation
Article 21

Text proposed by the Commission	*Amendment*
Article 21	***deleted***
Exercise of the delegation	
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	
2. The power to adopt delegated acts referred to in Article 14 shall be conferred on the Commission for an indeterminate period of time.	
3. The delegation of power referred to in Article 14 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	
5. A delegated act adopted pursuant to Article 14 shall enter into force only if no objection has been expressed either by the European Parliament or the Council	

within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Amendment 134

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.	

Amendment 135

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 European Parliament and the Council ***on the functioning and effect*** of this Regulation, accompanied, if appropriate, by relevant proposals.	***For the purpose of evaluating the functioning and effect*** of this Regulation, ***periodic reports*** shall ***be presented*** to the European Parliament and the Council***. By …****, ***the Commission shall present a first report and periodic reports every three years thereafter*** accompanied, if appropriate, by relevant proposals. ***The reports of the Commission shall take into account any progress achieved by the EU-level Sectoral Social Dialogue Committee for Ports.***

	**** OJ: please insert the date: four years after the date of entry into force of this Regulation.***

Amendment 136

Proposal for a regulation
Article 25

Text proposed by the Commission	*Amendment*
This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
It shall apply with effect ***from 1 July 2015***.	It shall apply with effect from ***...***[*] .
	[*] ***OJ: Please insert the date: 24 months after the entry into force of this Regulation.***