Port services: market access and financing of maritime ports

2001/0047(COD) - 05/11/2002 - Council position

The Council, with a qualified majority, has introduced a number of amendments to the Commission's amended proposal without, however, changing its main objective of establishing clear rules and setting up an open and transparent procedure for access to port services. The common position also takes largely into account the views of the European Parliament in its first reading. The main elements of the common position are the following: - the freedom to provide port services : as a rule, the freedom to provide port services should prevail and restrictions that hamper access to this market should be removed. In the view of the Council, no specific service should be excluded from the scope of the directive. However, a common legislative framework should also be compatible with the differing situations of ports in the Community, with respect to, inter alia, their location, size and public service obligations. Equally, it is important, in the opinion of the Council, that the freedom to provide services does not jeopardise maritime safety and the protection of the environment, nor reduce social standards and conditions of employment; - the access to provide port services may therefore be subject to constraints related to the capacity of a port or its available space, the safety of maritime traffic and requirements relating to safety, environmental protection and/or public service obligations. Where such constraints exist, providers of port services should be selected through a transparent and non-discriminatory procedure; - the application of common rules : the Council believes that the application of common rules regulating the freedom to provide port services should be proportionate and not impose undue administrative burdens on the sector. It therefore agrees that the obligatory application of the directive should be limited to ports of a certain size, whilst allowing Member States to apply the directive to other ports as well; - in order to clarify the scope of the Directive and with a view to the coherence of Community legislation in the field of transport, the scope has been defined with reference to the ports categorised as "international seaports (category A)" in the Community guidelines for the trans-European networks. It is also made clear that the traffic taking place in parts of a port which are not open to general commercial traffic should not have to be taken into consideration. However, Member States are free to apply the directive to ports below this category. Finally, in order not to put disproportionate burdens on some ports, Member States are given the possibility to exclude ports with significant seasonal traffic from the scope of the directive; - pursuant to the general objective of the directive, the Council shares the view that self-handling should be allowed, whenever possible, on the same conditions as port services in general and should not be subject to other limitations than those prevailing for the same or comparable port services. However, as stressed in the common position, self-handling should not hamper the overall efficiency of the port or lead to lower occupational, social and health standards; - the Council finds it important that Member States are allowed to submit the granting of an authorisation to provide port services, including self-handling, to a number of criteria concerning the service provider's professional qualifications and economic situation, safety, environmental and social and employment considerations and public service requirements. Equally, Member States should be able to regulate access to the occupation, for instance by means of certificates to be acquired by examination. In this respect, it should be noted that the common position enables Member States to establish particularly strict criteria as regards the granting of an authorisation to provide pilotage services; - with respect to employment, working conditions and social protection, the Council's common position stresses that the freedom to provide port services must in no way affect the application of national legislation or lead to lower social standards; - the Council shares Parliament's view that the duration of an authorisation granted to a service provider in accordance with the selection procedure should allow for a commercially viable period of operation. Therefore, it wishes to prolong the duration of the authorisation period to 10 years in cases where no significant investments are involved. Similarly, in cases where significant investments in moveable assets are involved, the authorisations can run up to 15 years, and for the significant investments in immovable assets (and expensive investments in movable assets) the maximum duration of the authorisation has been set at 36 years. In a similar way, the Council wishes to

establish transitional measures for existing authorisations which ensure maximum legal certainty and do not disturb investment policies in the sector.