



**ETA (EUROPEAN TUGOWNERS ASSOCIATION) response to the Draft Report 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.**

**REGULATION (COM (2013) 0296 –C7-0144/2013-2013/0157 (COD)**

**December 2013**

**1. The ETA: the sole representative of the European Towage Industry**

With 82 towage operators in membership, registering 700 harbour tugs, engaged in ship-handling in TEN-T and other ports within 21 different European countries, the ETA (European Tugowners' Association) has a strong and wide spread membership encompassing local one tug companies to well over 100 tug global operators.

Throughout the last decade, the landscape in the towage sector has changed in order to respond to the needs and demands of the shipping industry and ports' users at large and to the policy requirements of the regulating authorities in both member states and outwith.

This meant that the industry has had to continuously restructure itself to embrace new work practices and higher standards of service and safety levels enabling our subscribing tug owners and operators to better compete within both European and non-European ports.

The industry dynamics that evolved witnessed hefty investment in capacity including in manpower, tugs and related machinery & equipment modernization, all of which certainly contributed to raise industry performance and efficiency.

Throughout this industry metamorphosis the towage sector experienced some loss of small towage operators as these were either pushed out of business or, where confined to small ports, were acquired by larger industry players leading to a concentration of smaller companies into large ones. This process was upstream and towage service providers, ETA members and others, certainly did not sit on their laurels to see through and adapt for the legislative, technological and market induced changes.

Today the challenges being posed by the European ports in terms of density and infrastructure as well as by the ever larger vessels employed by shipping companies on trade routes worldwide, call for the deployment in service of more powerful tugs, albeit with ships requiring assistance from fewer tugs, and in turn compelling towage operators, irrespective of their size diversity to heavily invest and modernize their fleet.

ETA's annual survey year on year confirms this tendency, showing the shifting of the European tug fleet to more powerful tugs with more than 70% of the tugs being of 2,500hp or more and some 45% over 3,500hp.

European harbour towage providers have faced a very competitive environment, in ports where the demand for their services has been large enough to make it viable, throughout the last ten years and have achieved a thorough re-engineering of their operations by means of heavy investment in fleet upgrading, labour qualification and modernisation of their working practices.

In its Position Paper of June 2013 the ETA reflected the strong opposition of its members to the attempt of this new legislation (“Port Package III”) by the European Commission to regulate towage services after the rejection in the European Parliament of the two previous attempts. [vide [attachment 1](#)]

## **2. Response to the amendments proposed by Rapporteur MEP Knut Fleckenstein**

The ETA’s Executive Committee respects the efforts made by the Rapporteur to “save what could be saved” of the Draft Proposal by trying to mitigate the negative effects of overregulation, for example but not exhaustively with regard to:

- the supervisory body in ports
- the port users committee and its role
- the emphasis on scarcity of land and water space + market size as a valid criterion to limit the number of service provider
- the need to ensure the provision of safe, secure or environmentally sustainable port operations
- the suggestion to the Commission to come forward with clear rules on State Aid including port infrastructure.

However, none of these amendments takes away the fundamental objections from the ETA members that this Draft does not comply with the principles of subsidiarity and proportionality nor does it have any positive impact on competition in the towage sector of the TEN-T ports.

On the contrary, as far as the towage sector is concerned and in the firm opinion of our members, the proposed Regulation negates the Commission’s goals to stamp out any inefficiencies in the European ports and for them the newly proposed legislative framework comes at considerable cost. This is particularly so for the smaller towage operators, as it puts at risk the sustainability of their investment, inhibits further investment and consequently seriously threatens port safety. For the small EU border ports the Regulation also overlooks the risk of competition from non-EU ports.

For this and other reasons cited in ETA’s position paper, our members strongly repudiate this latest regulatory initiative and in the most unequivocal manner hereby make it clear that as towage owners/operators they will have none of it.

This opinion is clearly strengthened by the fact that the Draft Regulation, in its amended form leaves out from the provisions of Chapter II on market access:

- Cargo handling (including Port Labour)
- Passenger services
- Pilotage
- Dredging



In doing so, the Regulation would regulate market access to 4 out of 8 port services captured in the recitals of the Draft and 2 out of 3 technical-nautical services.

This constitutes a striking confirmation that in particular these provisions, like several others are disproportionate, as the legislation lacks any relevance and would overregulate a limited number of services.

Moreover the ETA sees its case strengthened that the Draft Regulation, even more so in its amended draft proposal, is totally inconsistent with the premise that port costs would be positively influenced by more competition in port services, now even limited to very few and those being relatively the least costly of all the port services contributing to port charges.

By not excluding towage from the chapter on market access as a service highly relevant for navigational safety, port towage is not recognized for its vital role in safe operations and environmental protection in ports, these being the sole raison d'être of our industry.

Clearly this is a message portraying either a gross misunderstanding of the port services chain logic where safety or navigational considerations are concerned or sheer insensitivity not to acknowledge that, like pilotage, towage services contribute in no uncertain terms towards maritime safety and environmental protection.

Therefore the Executive Committee of the ETA strongly protests against what would come down to marginalization and denigration in EU Law of the European Towage Industry's contribution to safeguarding the functioning of European Ports.

It maintains its position that the Draft Proposal should be rejected or withdrawn by the Commission and calls on the Chairman and the Members of the TRAN Committee to advise the Plenary accordingly.

Brussels, 16 December 2013