ESPO Criteria for a Market-Based Measure

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ESPO and European ports welcome Europe's ambition to be the world's first net zero emission area by 2050. Achieving the ambitions of the European Green Deal for 2030 and 2050 should be the driver of EU policy. This is especially true for the shipping sector, where finding the most effective ways to deliver on the Green Deal will require ambitious action on the European level. Given the international nature of the shipping sector, such regional measures must be coupled by a global perspective if market-based measures are to succeed. ESPO believes that any European proposals such as an Emission Trading Scheme (ETS), a levy or an innovation fund must be thoroughly examined in view of safeguarding the competitiveness of the EU port sector. At the same time, the ongoing IMO discussions on short-term measures illustrate the need for the EU to take the lead in maritime climate policy.

As stated in the Valetta Declaration, well-connected and modern ports play a key role in supporting the greening of transport. In this context, European ports welcome the introduction of a market-based measure intended to significantly reduce emission reductions from shipping, where the focus of legislation should be on reducing total CO_2 emissions in the shipping sector in the most effective way. Regardless of the exact market-based measure to be proposed, it should abide by a number of criteria in order to deliver on this overarching goal. The most important of these is that a market-based measure must deliver real and effective GHG reductions in the shipping sector, whilst revenues should be reinvested in the European maritime sector to enable the decarbonisation of shipping, and significant investments must be dedicated to achieving actual deployment and use of sustainable alternative fuels and designated infrastructure in ports. A potential market-based measure that delivers on our criteria is a dedicated European investment fund, which can be based on the revenues from a maritime EU ETS or an emission levy.

A market-based measure must deliver real and effective GHG reductions in the shipping sector.

In order to deliver on the Green Deal ambitions, a market-based measure must put a price tag on emissions, and abide by the principle of the polluter pays. The focus of the measure should be on reducing total GHG emissions from shipping in the most effective way, which is provided by a goal-based and technology-neutral approach. A market-based measure will only deliver effective emission reductions if generated revenues are reinvested in greening the maritime sector.

As a consequence, a market-based measure should be based on flag neutrality, and apply a broad scope that maximises the emissions covered by the measure. In order to avoid the risk of carbon-leakage and negative effects on competitiveness, the measure could rely on updated provisions as part of existing legislation on the monitoring, reporting and verification (MRV) of CO_2 emissions from maritime transport (2015/757). Importantly, the governance mechanism for a market-based measure must not create additional enforcement or administrative burdens for European ports, as they do not have a mandate to act as Member State administrations, tax collectors or enforcers of European law.

Revenues should be reinvested in the European maritime sector to enable the decarbonisation of shipping, and significant investments must be dedicated to achieving actual deployment and use of sustainable alternative fuels and designated infrastructure in ports.

European ports believe that a well-functioning market-based measure must reward emission reductions from ships, and halt the continued or increased growth of emissions from shipping. In order to ensure the greening of the sector, the revenues generated by the measure must therefore be dedicated to delivering on the decarbonisation of the maritime sector. According to the European Commission in its 2017 study “Delivering TEN-T, Facts & Figures” European seaports (EU-27) currently face substantial investment needs of around 48 €billion (5 €billion annually) for the period 2018 – 2027. As a climate policy rather than a taxation policy, a well-designed market-based measure should generate decreasing revenues over time, as it brings about the effective and significant reduction of emissions from the maritime sector.

European legislation, including a market-based measure, must provide the maritime sector with the tools necessary to achieve the goals of reduced emissions, uptake of sustainable alternative fuels, and the deployment and use of sustainable alternative fuels infrastructure (including bunkering) in Europe. Amongst other things, this entails significant investments in ports and the maritime sector at large, where the revenues generated by a maritime market-based measure should go towards creating business cases for the necessary investments required by the ambitions set out in the European Green Deal.

This will require a long-term perspective and the earmarking of funds as part of European investment instruments dedicated to maritime decarbonisation. These funds should go towards projects that can deliver real and direct emission reductions in the sector. The emphasis should be on bridging the initial cost-gap present in the sector between business as usual and necessary greening efforts. Running on a project-basis, selected projects must demonstrate real value for money in terms of delivering significant emission reductions in relation to the size of the investment, and other similar projects. Coalitions and framework agreements between the shipping sector, ports and other relevant stakeholders should be encouraged in order to maximise value for money. Furthermore, projects that are scalable and possible to implement across Europe should be favoured. Concretely, investments should focus on enabling the actual deployment and use of alternative fuels and designated infrastructure (including bunkering) in Europe, as well as supporting demonstration and test projects in the EU.

To ensure that investments are made where they are needed the most, European ports favour earmarking investments for areas of key importance such as emission reductions in ports, and digitalisation aimed at increasing efficiency and reducing emissions. In recognition of the fact that maritime stakeholders face different investment needs, a distinction should be made between operational (on-board) investments and infrastructure investments on land. To ensure the effective use of revenues generated by a maritime market-based measure, investment choices should rely on scientific evidence and the best available data in the sector.

A market-based measure must maintain and strengthen the regional and global competitiveness of the EU maritime sector and maintain the level playing field, especially when it comes to transhipments.

European ports believe that the scope and governance model of a market-based measure must be designed in such a way that it avoids creating market distortions and negative competitiveness effects in Europe. A market-based measure applied on a regional basis must not only apply flag neutrality, but also cover incoming and outgoing voyages from individual vessels calling on one or several ports in the European Economic Area (EEA). As a principle, investments dedicated to decarbonising the sector based on the revenues generated by shipping covered by European legislation should benefit the maritime sector in Europe.

There will also be a need to mitigate the negative impact on competitiveness that could result from the introduction of a regional market-based measure, especially in relation to transhipment ports, who are in a fierce competition with non-EU neighbouring ports. This is especially the case for Mediterranean ports and ports in the North Sea (post-Brexit). The transhipment business is highly cost-sensitive, and relies on economies of scale. Important

European transhipment ports are often located on the fringes of the European Economic Area, with major non-EU competitors located in close vicinity. Transhipment ports are highly connected to other continents and major transport hubs, and rely on a system of feeders that connect to short sea shipping routes and form part of important European supply chains. This makes transhipment ports strategically and economically important, and they are often key components of TEN-T corridors.

In this context, a regional market-based measure on the European level that does not sufficiently account for transhipments could have a disproportionate negative effect on key European transhipment ports in certain parts of the EU by affecting both transhipments into the EU, and transhipments to non-EU markets. In one scenario, a high or fluctuating carbon price would produce carbon leakage and negative competitiveness effects for European ports as ships reroutes their port calls or move their physical operations to a port outside of the EEA to avoid paying the EU carbon price. This scenario would not lead to the expected emissions reductions, nor would it generate funds for necessary investments in infrastructure and maritime decarbonisation. In another scenario, a low carbon price fails to deliver significant reductions of shipping emissions, whilst the administrative burden and uncertainty associated with a fluctuating carbon price under a market- based measure creates costs that make EU transhipment ports less competitive.

In both scenarios, shipping lines may choose to divert their traffic to ports outside the EEA, substituting calls on European transhipment ports for ports outside the EU. Apart from the negative economic and climate implications of such developments, it could also result in environmental dumping as ships divert their port calls to non-EU ports with less stringent environmental legislation compared to EU ports.

Therefore, the implications of a market-based measure on transhipments should therefore be investigated and accounted for when developing a regional market-based measure. In addition to reviewing the definition of a port call under the EU MRV Regulation, this might require the introduction of compensation mechanisms or incentives for European transhipment ports, transition periods, bilateral agreements with neighbouring transhipment ports, or connections with the forthcoming carbon border adjustment mechanism. ESPO would call for the examination of possible options in close cooperation with the potentially affected ports with a view to finding a solution.

A market-based measure must avoid creating additional administrative burden for ports.

European ports are at the crossroads of supply chains, and they are clusters of transport, energy, industry, and blue economy. They are landlords, service providers, and strategic partners in the greening of ports. However, their license to operate does not include enforcement and taxation responsibilities in the context of EU climate policy. Therefore, the design and governance of a market-based measure should adhere to the governance structure already in place in the EU MRV Regulation and avoid placing additional enforcement or administrative burdens on European ports. This in line with a measure aimed at monitoring and reporting by individual vessels. In accordance with existing legislation, necessary enforcement mechanisms should be the responsibility of flag and port States.

Ensure legal certainty and future-proof legislation by creating a cohesive regulatory framework for the maritime sector.

The proposal for a maritime market-based measure will have direct implications for the use of sustainable alternative fuels, and the deployment of dedicated sustainable alternative fuel infrastructure. In order to create legal certainty and avoid split incentives in the sector, the proposal must abide by the Better Regulation principles. Therefore, the proposal must be compatible, and aligned with, current and future legislation applicable in the maritime sector, specifically the FuelEU Maritime Initiative, the Alternative Fuels Infrastructure Directive, the EU MRV Regulation, and the Energy Taxation Directive. This will be enabled by ensuring that the impact of any proposal is adequately assessed and evaluated.

European ports support a market-based measure that can be extended or replicated on the global level. If the measure is to encourage the introduction of ambitious market-based measures on the global level, the proposal must form part of a larger global approach dedicated to meeting the goals set for 2050 by the IMO.

Based on these criteria, European ports find that there are some possible and viable options for a market-based measure.

- *European ports agree that there is a need for a dedicated European investment fund based on the revenues from a market-based measure.*
- *The fund could be combined with a dedicated separate maritime EU ETS, or with an emission levy.*
- *In line with ongoing discussions in the European Parliament, a combined EU ETS and emission levy funding a dedicated investment fund for the maritime sector could be explored.*

The European Sea Ports Organisation (ESPO) represents the port authorities, port associations and port administrations of the seaports of 22 Member States of the European Union and Norway at political level. ESPO has also observer members in Iceland, Israel, Ukraine and the United Kingdom. ESPO is the principal interface between the European seaport authorities and the European institutions. In addition to representing the interests of European ports, ESPO is a knowledge network which brings together professionals from the port sector and national port organisations. ESPO was created in 1993.