



Position of the European Sea Ports Organisation (ESPO)

**on the proposal for a Council Directive restructuring the Union framework for
the taxation of energy products and electricity**

(recast)

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The European Sea Ports Organisation (ESPO) **fully supports the European Green Deal ambition** and the 2030 and 2050 goals enshrined in the EU Climate Law. The transport sector as a whole has an important role in helping to lower EU greenhouse gas emissions, which should be achieved whilst guaranteeing a level playing field with other modes and avoiding a modal shift.

The **greening of the shipping sector is a priority**. The development and deployment of new fuels and energy solutions for the maritime sector is the most important pillar of this greening process.

ESPO believes that tax incentives can be an important instrument to encourage the development and use of cleaner marine fuels and discourage the use of fossil marine fuels in Europe. In that regard, ESPO welcomes the review of Europe's energy taxation policy.

For ports it is important that a reviewed energy taxation policy is based on the polluter pays principle and effectively reduces shipping emissions, whilst delivering the energy transition of the shipping sector.

This objective can be reached if clear rules are developed in view of exempting clean fuels and technologies from taxation. If the shipping sector can however circumvent the taxation on fossil fuels by bunkering in ports outside Europe, emission reductions will not be achieved, and indirectly port business might move outside Europe.

The ETD should serve to support the deployment and use of alternative fuels in Europe through a workable and **future-proof legislative framework that provides legal and investment certainty for ports**.

European ports call for a permanent EU-wide tax exemption for electricity provided to ships at berth (shore side electricity)

The ETD Commission proposal gives Member States the option to give a total or partial tax exemption to electricity directly supplied to vessels berthed in ports (Article 15, paragraph 5). Currently, Member States have to ask the Commission to apply such an exemption and if authorisation is given it counts for six years.

By eliminating this burdensome procedure for the Member States, the Commission proposal is definitely a step in the right direction. However, ESPO believes that a stronger and clearer incentive in favour of shore side electricity should be given through an EU-wide permanent and total tax exemption for shore side electricity (SSE).

Such an EU wide tax exemption for SSE would also be in line with the strict requirements introduced in the proposals for an Alternative Fuels Infrastructure Regulation and a FuelEU Maritime Regulation.

By applying the tax exemption on the EU-level, the ETD would finally also ensure a level playing field in the maritime sector, since ports in all maritime EU Member States would benefit from the same exemption.

A tax on fossil marine fuels can be a strong tool to boost the energy transition, but circumvention of the policy must be avoided.

Article 15 of the ETD Commission proposal states that the tax on marine fuels will apply to ‘intra-EU waterborne navigation’, which means navigation between two ports located in the Union, including domestic navigation. Member States can unilaterally exempt or apply the same levels of taxation to extra-EU waterborne navigation. Since energy taxes in the EU are levied at the point of release of energy, in practice the tax for marine fuels will need to be paid when ships bunker in EU ports. Under the current proposal, the Commission has stated that the tax should be levied on all fuel bunkered in a port in the EU if the vessel is heading to another port in the EU, before leaving the Union. The bunker tax would not be applied when the ship is sailing from an EU port directly to ports outside the EU.

Currently, marine fuels benefit from a tax exemption on the European level. The same is often true on the international level.

ESPO would like to express different reservations regarding the scope of the current Commission proposal to tax marine fuels:

- It is unclear how the proposed scope of the ETD proposal will work in practice. Vessels can sail for weeks without having to bunker. If vessels are bunkering in a port in the EU, they bunker enough fuels to meet their needs both inside and outside the EU if their destination is outside the EU. Unlike aircrafts, ships do not bunker at each port call, due to their large bunker capacities. A large container vessel can take in enough fuel at one port to sail from Asia to Europe and back without bunkering. The proposed tax regime could simply push ships to bunker in ports outside the EU (Russia, Gibraltar, and in other UK ports) or outside Europe upon arrival or departure to/from the EU, or even at offshore bunkering sites outside the EU (without any safety and environmental regulations, or supervision of ship-to ship bunkering activities).
- As bunker prices are extremely volatile, the introduction of an energy tax on marine fuels could easily result in a relocation of bunkering activities.

- The choice of bunkering locations is largely determined by shipping operators or ship owners based on the price differences between bunker locations. Fuel costs are a large share of the operational costs for shipping companies and profit margins are slim. As such, potential cost savings with respect to bunkering are relevant. As a result of large bunker capacities, ships do not need to bunker at each port, instead, the most inexpensive bunker location on the route can be chosen. With the proposed revision of the ETD, it will be difficult for EU ports to stay competitive with ports outside the EU and offer similar bunker prices. This is likely to result in a relocation of bunkering activities to non-EU ports. Since ships try to combine bunkering with their loading/unloading activities, more attractive bunkering places might (re)gain some business to the detriment of ports in the EU.
- It is not clear who is the entity responsible for administering the levying of the tax on marine fuels. This ambiguity could lead to issues. For example, when national tax authorities have a different interpretation of the responsible entity and the moment/point of taxation.
- Appropriate solutions will have to be found to address the risks of deviation of certain EU port calls to ports outside the EU. Since intra-EU bunkered fuels will be taxed according to the ETD proposal, Europe's ports fear that vessels will reroute, where possible, to avoid bunkering in the EU. Transhipment outside the EU would give vessels the opportunity to feed cargo into EU ports without falling under the bunker tax regime. This risk becomes even bigger if the new tax on marine fuels introduced in the ETD is combined with the proposal for an EU Emission Trading System (ETS). Such an evasion of EU port calls would happen without any gains in terms of emissions (carbon leakage). If vessels are filling their tank in non-EU countries where fuels are not taxed, this could produce carbon leakages, hamper the competitive position of EU bunkering ports, and lead to a loss of economic activities in the EU. Safeguarding the competitiveness of the EU ports and maritime sector is key.
- Leaving it up to the Member States to decide whether to extend the taxation of bunkering to international voyages (outside the EU) could hamper the level playing field among Member States, and could result in a patchwork of different national tax systems. Safeguarding the level playing field is made even more important when considering that the bunker market transcends national borders.
- Conventional marine fuels will still be used to some extent during a transitional period due to a lack of market-ready alternatives (in particular for deep-sea vessels). This means that the unilateral regional taxation of marine fuels, even at a minimum rate at EU-level, will not incentivise vessels to shift to other fuels but rather incentivise vessels to tank outside the EU in the short term.

For all these reasons, ESPO:

1. Asks the Commission to promote global measures aligned with the principle of polluter pays aimed at international maritime transport.
2. **Asks for a full impact assessment of the implications of the current geographical scope of the proposal on carbon and business leakage**, outlining the risk and impact of tankering and rerouting on both delivering the Fit for 55 ambitions and ensuring the competitiveness of EU markets and ports.
3. Finds that depending on the outcome of the impact assessment, policymakers should review Article 15 in such a way that only the share of marine fuels “used” for intra-EU voyages is subject to taxation, with a view of limiting the risk of evasion. ESPO would therefore suggest that taxation is applied on the fuel consumed during navigation rather than applying it to all fuel bunkered when a vessel will call on another port in the EU.

- Data on fuel consumption reported by ships calling on ports in the EU under the EU MRV Regulation could be used to calculate the share of total bunkered fuels to be taxed. However, the workings of this system would need to be further developed.
4. Urges the European Commission to provide clear guidance on how tax authorities should distinguish between fuels used in intra- and extra-EU waterborne navigation to avoid market distortions between EU Member States that may arise due to differences in national implementation.
 5. Supports an extension of the time-limited tax exemption for sustainable fuels outlined in Article 15.1 in order to stimulate their uptake and use in the maritime sector. This is especially important given that most of these fuels are still in early stages of development, meaning that more than ten years will be needed to make them become broadly available at scale. A potential extension of the tax exemption could be considered as part of a mid-term review in 2026 or 2027. Member States should also be encouraged to further incentivise the deployment and use of alternative fuels.

Port managing bodies should not be made responsible for implementing the ETD taxation regime

The implementation of the requirements put forward in the ETD proposal will be the responsibility of EU Member States. Depending on the governance model for ports in the specific Member State, the implementation should not directly include the port managing body.

Avoiding undue administrative burden for the port is key in the ETD. Ports in Europe should not become green accountants for the shipping sector. To remain competitive and efficient, the Fit for 55-package should not lead to unduly complicated calculations, compliance procedures and administrative burden connected to port calls in Europe.

European ports look forward to continue working with the European Commission, the European Parliament and EU Member States to ensure an effective Energy Taxation policy that stimulates the decarbonisation of the maritime sector without distorting the playing field level among Member States and between the EU and its neighbours. ESPO and its members remain fully available to discuss how the proposal can deliver this.



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.