SECTORAL SOCIAL DIALOGUE COMMITTEEE

PORTS

THURSDAY 9 NOVEMBER 2023

WORKING GROUP

TIME: 14:30 – 18:30

DRAFT MINUTES

**Participants to the meeting:**

Social Partners:

FEPORT

ESPO

ETF

EDC

IDC

Other representatives:

EC SD Head of Unit, Mr. Jörg Tagger

DG CLIMA

DG COMP

DG MOVE

1. **Approval of the agenda**

The agenda of the meeting was approved.

1. **Minutes of the previous meeting**

The minutes of the previous meeting held on July 3rd , 2023, were adopted.

1. **Formal adoption of the Guidelines on fumigated containers**

With the presence of the Head of Social Dialogue, Mr. Jörg Tagger in representation of the DG EMPL director.

Brief introduction of the chair of the meeting board regarding the delayed adoption process of the final Guidelines on fumigated containers' document, followed by Mr. Tagger emphasizing the Commission's belief in the Social Dialogue model as part of the EU's social model. While Social Partners are consulted on new legislative initiatives related to the Social Dialogue, they maintain their autonomy in participation and negotiations within the Sectoral Social Dialogue

FEPORT has recalled that this guidance is a significant achievement of the social partners and all the work involved. In this regard, it is hoped that it will serve as a starting point for future collaborations on other types of useful tools that can benefit European ports. However, FEPORT has raised a question regarding the status of the document's adoption: will it be adopted by the EU institutions, or will it remain a practical document to be consulted? In response to this question, the Head of Unit of the Social Dialogue recalled that while this guidance is an internal agreement between the Social Partners of the SSDC Ports, the Social Partners should request the Commission to propose the adoption of the decision to the Council (in practice, this is a directive proposed by the Commission). It has been agreed to print a copy of the Guidelines for the next SSDC Ports meeting to discuss the possibility of it being signed by all parties.

Taking the opportunity of Mr. Tagger's presence, FEPORT mentioned another issue not included in the agenda: the reduction of Social Dialogue reimbursements. By reducing reimbursements by half in 2024 and promoting online participation, it will lead to a decrease in participation and interaction. Although Mr. Tagger understands our concern, he reminds us that this reduction has been approved by President Von Der Leyen and it is not specific to Social Dialogue but applies to all meetings organized by the Commission. From the perspective of EDC, they believe that everyone needs to make efforts considering the urgent need to reduce emissions. The reduction of meetings and reimbursements by half also means fewer face-to-face interactions and less time to work together, resulting in reduced efficiency as resources are limited, while the Commission aims to promote Social Dialogue.

1. **Women inclusion in the port sector and how to reduce the gender gap**

With regard to this topic, the first exchange between the social partners took place during a meeting on October 25th. Although no conclusion was reached, a second meeting will be held in the coming weeks to move forward with this issue.

EDC expressed its comments on the initiative, which is back in the SSDC Ports despite being worked on a few years ago and having defined common lines. EDC highlighted that during the first working group meeting, it was not possible to determine the objective or reach a common definition of port workers. From EDC's perspective, the current context is not appropriate, considering the development of women's work in ports. Despite being an important topic, the main concern and priority is to maintain workers' employment. While EDC delegates were participating in this meeting, other EDC members were attending a separate meeting discussing the delocalization of investments in EU ports to North Africa ports, which should be the focus of our attention as the Commission has implemented it into law without consulting the Social Partners. In the meantime, EDC reminded that this topic is already addressed in the daily port work through collective bargaining, which ensures equal work and equal pay.

ETF shares the same position, acknowledging the importance of women in ports as a topic for the Social Dialogue. However, at the moment, there are other priorities to work on in the SSDC. This does not mean that the SSDC will not focus on women in ports in the future. ETF suggests that this point should be reviewed from a different perspective and within a different timeframe. Referring to the conference organized in Livorno in May, ETF has received a manifesto of intentions from Livorno, expressing their willingness to include more women in ports at the local level first and then extend it to the European level. The aim of this initiative is to maintain awareness on this topic and find a balance between local infrastructures and working methods. The ESPO president is also involved in this project.

IDC also shared its position regarding this topic. The organization agrees to postpone the work if necessary but believes it would be better to address this topic and not exclude women from the equation.

From FEPORT's point of view, incorporating this topic means considering future needs. The organization suggests using data from previous studies, with the objective of complementing the existing data through a questionnaire and sharing best practices. Recognizing the current challenges of the sector, FEPORT emphasized the need to understand the potential attractiveness of the port sector and the importance of improving the inclusion of women in the workforce by implementing inclusive policies. FEPORT has also emphasized that access to employment is a fundamental right.

ESPO's opinion is that the maritime sector has been unable to attract more women to the regular workforce. The port sector faces competition worldwide and requires the most talented individuals. ESPO considers this topic a priority and sees no reason why stakeholders should not come together to address it.

The social partners discussed the definition of the study objective. The first objective is to understand the low representation of women in ports. The second objective is to identify and address the underlying problems that contribute to the low share of women in ports. The final objective is to work on finding solutions to improve the inclusion of women in the sector. They agreed to utilize the materials and research conducted by ETF as a starting point and to gather information on best practices from different member states, taking into account the diversity among them. There were different opinions regarding the proposal to postpone the discussions. The chair of the board suggested working first on clarifying the objectives and to resume the discussion in the next meeting.

1. **EU requirements for the safe loading and unloading of bulk carriers: update by the Commission on the status of transposition**

DG Move provided a brief update on the loading and unloading procedures. The cycle of visits to ensure Member States' compliance with the Directive is ongoing and is expected to be completed by the end of 2024. The results of the inspections and the horizontal control assessment will then be presented to the SDDC Ports.

ETF emphasized that the Port State Control (PSC) is currently the only document regulating the safety of working on ships. Unfortunately, it is not used enough due to a lack of time or staff. ETF also raised concerns about safety gaps, such as non-EU crew members not being trained in EU safety parameters and differences between national legislations. ETF also queried how many Member States have implemented and are complying with the regulation.

DG Move confirmed that this item is on the agenda and will be addressed in the next SSDC Ports meeting by the colleague responsible for inspections.

As a reply, DG COMP acknowledges that while it may be late, the key message is that the CBER was perceived to have exerted more power in the market than it was originally intended. This was not the intended purpose of the CBER. From DG MOVE's perspective, it may be too late to change the structure of the sector, but it is now clear that liners are subject to the same level of scrutiny as any other European sector. The job is considered complete as far as the CBER is concerned. Positions of abuse and anti-competitive behaviors do not originate from the CBER. Given the identified dysfunctions, the focus now is on addressing them in a way that these can be considered as infringements of EU antitrust rules.

FEPORT raised the question of whether the EU has the same authority as the US to intervene in antitrust policies and whether a monitoring system for alliances is being considered and expressed its concern about the fact that there will be no longer a legal framework clearly listing prohibited and non-prohibited behaviours from alliances.Considering that we are in a global market where competitiveness rules are urgent, DG COMP confirmed that they are cooperating with third countries, including the UK, to exchange information with competition authorities outside of the EU framework. A new recommendation will be forthcoming. Regarding alliances, they have never been covered by the CBER according to the three global agencies. As for the monitoring of alliances, they confirm that they will monitor their work on a 1:1 basis and assess its effects on competition. The maritime sector remains a priority, and the focus now is on identifying possible anticompetitive behaviors by carriers that may have impacted various stakeholders in the sector.

1. **Request of an exchange with DG CLIMA about delegated acts on EU ETS**

With the presence of Ms. Ngoc-Lan Lang, Policy Officer Climate action in shipping and aviation, DG Clima, to give an overview of the adopted ETS regulation in the maritime sector.

**Main lines of the presentation:**

EU Directive 2023/959 (amending the ETS Directive) and EU Regulation 2023/957 (amending the MRV regulation) were published in the Official Journal of the European Union on May 16th, 2023, entering into force on June 5th, 2023.

* Several implementing and delegated acts need to be adopted for a timely implementation of the inclusion of the shipping sector in the EU ETS
* The Maritime Formation of the Climate Change Expert Group – CCEG – composed of Member States’ authorities is the main forum of discussion for the adaptation of these acts, being the European Sustainable Shipping Forum regularly consulted.
* Total of 8 maritime specific acts (3 delegated and 5 implementing acts)
* Revision of 2 delegated acts pursuant to the ETS Directive (publication expected at the end of 2023)

In reference of the implementing acts pursuant to the ETS Directive:

* Risk of evasion – non-EU neighbouring container transshipment (published on oct. 27th 2023)
* Rules for the administration of shipping companies by administering authorities (pending publication)
* List of shipping companies which perform a maritime activity under the EU ETS with their attribution to the administering authority responsible (to be published by Feb. 2024)
* List of islands and of transnational maritime routes under public service contract or obligation subject to derogations under the EU ETS (to be published by Jan. 2024)

In reference to the implementing acts pursuant the MRV Regulation:

* Templates for monitoring plans, emissions reports, documents of compliance and reports at company level (published in the OJEU on Nov. 7th, 2023)

In reference to the delegated acts pursuant to the MRV Regulation:

* Rules and methods for the monitoring og the GHG emissions (to be published by Dec. 2023)
* Rules on verification and accreditation in relation to maritime transport emissions (to be published in Dec. 2023)
* Rules on the reporting of aggregated emissions data at company level (to be published by Dec. 2023)

Social partners have expressed their concerns about the implementation of the EU ETS. While they fully support the objective, they have also highlighted the negative impacts the Directive is already having on the EU maritime sector. These include the diversion of cargoes to non-EU countries, resulting in carbon leakage and environmental impact. There is also concern about the anticipated increase in road transport from January 2024 when the EU ETS for road transport comes into force in 2028. Additionally, the loss of competitiveness of EU ports is a concern, particularly in the South of Europe and Mediterranean ports, leading to economic and social consequences.

The social partners have requested a reconsideration of the timelines and the inclusion of a complementary study on the immediate impacts within the industry in the next six months. Social partners have also called for the involvement of all industry stakeholders in this study. In particular, FEPORT reiterated that monitoring is not a short-term solution to the real risks of cargo diversion resulting from the decision of shipping lines to call non-EU ports to avoid ETS. FEPORT submitted the idea of an additional assessment of the impact of ETS on ports that could be carried out immediately.

DG CLIMA has informed that the implementation cannot be postponed by DG CLIMA alone but requires a proposal from the European Parliament and the European Council to the Commission.

DG CLIMA has emphasized that the risk of evasion is taken seriously, as it has environmental, social, and economic consequences as well as an impact on the competitiveness of EU ports. Measures are in place to prevent relocation of activities and to monitor the behavior of ports. The social partners have raised concerns about the tools needed to mitigate these impacts, including the need for a monitoring system with key indicators. However, it is noted that it may already be too late, as rerouting and the development of new facilities outside of EU ports are already happening. DG CLIMA has assured that the objective is not to make EU ports lose competitiveness and that they are implementing what the European Parliament and the European Council have agreed upon. They have pledged to monitor any evasive behavior. It is viewed as an opportunity for EU ports to gain a competitive advantage by becoming green ports. ESPO has highlighted that funds for infrastructures will only be received in 2025, which may be later than the implementation of the EU ETS, potentially causing delays. The social partners have expressed the opinion that if shipping lines do not contribute to the revenues, there may not be enough funds available. They emphasize that funds are essential at the social level and that without economic relays, conflicts similar to those experienced in 2003 and 2006 may arise again, despite the commitment of all parties involved to avoid such conflicts. The social partners have inquired about the conditions to access the funds, but DG MOVE is not aware of these conditions.

The Chair of the Board has concluded that the questions raised by the social partners should be shared with the DG CLIMA office, and regular exchanges between the social partners and DG CLIMA should be maintained.

* Point not included in the agenda:

Nick proposal in reference to the situation in Gaza: Dockers unions should boycott the weapons cargo which destination is the conflict. The common action of Social Partners could be to define a date to stop for one hour with the moto “People should be free and not be killed” and to use a joint draft on it.

Social Partners will take this request to their members and inform accordingly.

1. **Update on Eurofound’s Representativeness Study**

De to the complexity of the sector, there were many challenges to make the questionnaire. A draft is ready and will be checked with all social partners between Nov. 20th and Nov. 24th and be adjusted according to the comments.

Eurofund correspondents will start collecting data from January to March 2024, and in May the first collected data will be shared to check if they are the real picture of each social partner. Then other representative study, maritime transport, will be carried out on a similar schedule and results of both will be published in the late 2025.

1. **AOB**

Diana Crumpana, European Commission, gave an overview of the next year program for Social Partners and the SSDC Ports:

* The Social Partners summit next year in Val Duchesse – details remain to be sent.
* Announcements from experts working group engendered by DG Move will be share through an email the Commission (sent on Nov. 9th evening: <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&do=groupDetail.groupDetail&groupID=3732>).
* SSDC Ports meeting dates for next year have been announced and confirmed (1st meeting 1st of March online, 2nd meeting 2nd of July hybrid, 3rd meeting 25th of November in person)

End of the meeting