



Contribution of the European Sea Ports Organisation
to the online public consultation on the EU ETS implementing regulation
identifying neighbouring container transshipment ports

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The European Sea Ports Organisation (ESPO) welcomes in principle the inclusion of maritime in the EU Emissions Trading System (ETS) as part of the decarbonisation of shipping. ESPO recognises that putting a price tag on the emissions produced by ships can be a powerful instrument to encourage the greening of the shipping sector.

But as repeatedly voiced during the legislative process on the EU ETS maritime, ESPO continues to see a serious risk of evasion from the maritime ETS, which poses both a threat to the credibility and robustness of the EU ETS for maritime and jeopardises the future of certain EU ports.

While the problem of carbon and business leakage was recognised in the final EU ETS agreement, the solutions put forward are far from being sufficient to eliminate the risks. The principle to not consider as a “port of call”, in the counting of the ETS charges, the calls to transshipment ports neighbouring the EU is only a partial solution to the problem.

Indeed, even when one applies the transshipment clause to certain non-EU transshipment ports, these non-EU ports remain in a more favourable situation than the nearby EU transshipment ports, since in the case of the non-EU port, the entire voyage to a port of call in the EU would be charged at 50% whereas if the transshipment port is an EU port, this last leg would be counted for 100% of the emissions¹.

Secondly, with the 65% threshold, only a small part of the evasion behaviour will be captured, leaving the possibility to the shipping lines to call at many other non-EU neighbouring ports and thus reducing the ETS charges to the shorter leg.

The economic rationale that will be chosen by shipping lines is evident.

In that context, ESPO welcomes the opportunity to provide feedback on the draft implementing regulation identifying neighbouring container transshipment ports, as part of the online public consultation.

¹ By way of example, during a voyage from Shanghai to Rotterdam (non-EU/EU voyage), if a container ship calls at the port of Algeciras (EU transshipment port), the first leg (Shanghai-Algeciras) would count 50% of its GHG emissions and then 100% of emissions would be counted for the second leg (Algeciras-Rotterdam). Conversely, a transshipment call in Tanger Med or Port Said will lead to only 50% of the GHG emissions of the entire journey being counted (non-EU to EU). Even worse consequences can be seen for non-EU/non-EU voyage (transcontinental), when 0% of GHG emissions will be counted in the case of a ship departing from Shanghai (non-EU port) calling at either Tanger Med or Port Said with a final destination in New York (non-EU port), whereas 50% of GHG emissions of the entire journey will be counted if the stopover is made in Algeciras (EU port).

Although the evasion risk is recognised in the Directive, being less than four months away from the start date of application of the ETS maritime, ESPO members see the risks of evasion being materialised.

The ramping up of investments in additional TEU capacity in terminals in ports and new terminals in neighbouring countries, including investments realised by major shipping lines in these ports, as well as the profiling of these ports and terminals as ports with a more favourable regime, reinforce the idea that shipping lines, where relevant, are preparing their way out of the EU ETS maritime.

ESPO very much regrets that to see an EU legislation that the disadvantages Europeans interests without the needed added value for the environment.

More concretely, ESPO would like to share the following concerns and points of information with the Commission:

1. ESPO fully agrees with the identification of Tanger Med and East Port Said as major transhipment ports. A call at these ports should not be counted and the ETS charges should be calculated ignoring this call. This very short list of identified ports (Tanger Med and East Port Said) will however not be enough to ensure that evasion cannot take place.
2. While only a limited number of ports have transshipment volumes exceeding 65% of their business, the available capacity to step up transshipment volumes up to over 65% is present in many more ports than the current two identified. Therefore, as part of the monitoring of evasive behaviour and calls, the Commission should not only look at the current transshipment volumes but also consider the current transshipment infrastructure capacity as well as the transshipment capacity which will be available as a result of planned or ongoing investments. Overall, ESPO believes that the 65% threshold should be lowered to limit carbon and business leakage. Another possible solution would be to conceptualise clusters of ports in an entire country or in a specific region where, if any of the ports within the cluster exceeds the (65%) threshold, they would all be categorised as neighbouring transshipment ports or included in the list of potential evasive ports for the Commission to monitor.
3. ESPO insists on an early warning and permanent evaluation of the evasion risk, instead of an evaluation every two years, as this two-year evaluation might come too late. The monitoring should already take place ahead of the application date, as rerouting and evasion movements are already in preparation or happening now. Once evasion is established, and trading routes have changed, it will be very difficult to reverse the negative developments. The Commission intends to use automatic identification system (AIS) data and data from customs (to assess whether there are changes in maritime traffic) and the value of the goods imported and exported via EU ports, as indicators of potential evasion. However, these indicators only identify evasion after it has already taken place. The Commission should therefore use additional parameters that allow the early detection of evasive port calls and reconfigurations of shipping routes before they become irreversibly entrenched.
4. Finally, ESPO asks the Commission to provide criteria used to categorise third countries as effectively applying measures equivalent to the EU ETS or not. As it stands now, it is not clear which non-EU neighbouring countries are being considered.

To conclude, while ESPO recognises the importance of the EU ETS Directive and supports its aim, ports continue to regret that this legislative framework disadvantages EU ports vis-à-vis non-EU ports. While

it is difficult to prove a direct causal link between certain rerouting and developments of terminals outside the EU, the level and intensity of recent developments in non-EU ports strengthen the concern of many European affected ports on the possible adverse effect of the EU ETS without the expected environmental benefit. On top of losing transshipment capacity and the corresponding jobs, Europe risks losing oversight and control of the entire supply chain.

Given the current situation and developments and the serious consequences of the implementation of this legislation for the competitiveness and future of some European ports, ESPO hopes for an open, continuous and constructive dialogue with the Commission allowing to map adverse impacts and signal evasion at a very early stage, in view of achieving an ETS that delivers the ambitions it has been designed for.



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 Albania, Iceland, Israel, Montenegro, 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.