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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Implementation of ETS (Directive 2023/959): Issues of concern for the maritime freight transport
	– Information from the Italian, Greek and Portuguese delegations

Delegations will find in the Annex an information note from the Italian, Greek and Portuguese delegations on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 16 October 2023.

**Implementation of ETS (Directive 2023/959):
Issues of Concern for Maritime Freight Transport**

- Information from the Italian, Greek and Portuguese delegations -

The governments of Italy, Greece and Portugal would like to point out that:

- in the absence of a globally applicable mechanism similar to ETS, the current EU provisions on the application of the ETS system in the maritime sector risk leading to very serious consequences in terms of carbon leakage and the loss of competitiveness by EU ports of call in freight transport with container transshipment, giving rise to a consequent strategic risk for the entire European logistics system;
- the identified mitigating mechanisms (namely the exclusion of non-EU ports located less than 300 nautical miles from EU ports of call from the definition of ports of call) are by no means sufficient to compensate for the serious loss of competitiveness mentioned above and, additionally, to tackle the unintended and undesirable effect of an overall increase in greenhouse gas (GHG) emissions from maritime traffic;
- it therefore appears necessary to identify alternative solutions to this significant and critical issue.

Directive (EU) 2023/959 specifies that each year, starting in 2025, every passenger or cargo ship for commercial purposes with a tonnage above 5,000 tons will gradually be required to surrender an increasing percentage (up to 100% in 2027) of the CO₂ allowances corresponding to the GHG emissions released over the maritime routes sailed between EU ports.

In cases where maritime transport, particularly of goods, takes place on routes that have non-EU ports as their point of origin or destination, that requirement is reduced by 50%.

Pursuant to Article 3ga(2) of the Directive, in the event of stopovers and transshipment in non-EU ports of call on such routes, the leg over which the surrender of allowances is calculated - which is in any case reduced by 50% - is considered to begin from the port of origin, as if the stopover had not occurred.

The application of the aforementioned rule will not, however, be sufficient to mitigate the risk of carbon leakage and solve the competitiveness problem between neighbouring EU and non-EU ports, given that, in the case of transshipment via an EU port, a 100% surrender of quotas is applied on the intra-EU routes that should be covered from the EU port of call to the EU port of destination/origin.

We are concerned that the application of the current ETS maritime rules, without correction, will lead to:

- (a) a clear competitive disadvantage for European ports, particularly those in Southern Europe, which compete with many North African ports. The disincentive for freight traffic to call at EU ports is even greater in the case of arrivals and destinations that lie entirely outside the European Union, in which case the failure to call at EU ports allows the ETS mechanism to be bypassed altogether. The strategic value of European ports of call for international and intercontinental freight routes is thus at risk, with serious consequences for the entire European logistics sector and for employment in that sector;
- (b) a definite risk that the traffic rerouting policies that commercial operators adopt will paradoxically have the undesirable effect of increasing GHG emissions.

The governments of Italy, Greece and Portugal therefore call upon the European Commission to clarify the possible list of measures it intends to adopt in order to mitigate the risks identified above and the procedure for deploying such measures, should those risks materialise.

Given the urgency of this matter, we also call upon the European Commission and the Member States to share relevant information that could help monitor the situation, thereby making it possible to adopt corrective measures as soon as possible, in order to avoid the serious economic, social and environmental consequences that would result from the application of the current rules.