

SHIP FINANCING

ECSCA Input on Social Taxonomy

ECSCA would like to contribute to the European Commission's work on a potential sustainable finance taxonomy and in particular to the work on social taxonomy.

ECSCA is of the view that this initiative must have a clear scope, it must be clear whether and how taxonomy can be implemented in practise in the social context and, most importantly, the appropriate legal basis for social taxonomy should be also identified.

Secondly, ECSCA is of the view that, even if the details about the legal foundation and practical implementation of social taxonomy were to be sorted, social taxonomy should in any case follow a sectoral approach recognizing that the maritime industry, unlike other global industries, is already regulated by International Conventions in the field of social/labour.

Finally, ECSCA believes that the taxonomy for sustainable finance in the maritime sector should be guided by overarching principles. This should be the case with a potential social taxonomy, too.

The shipping industry is looking forward to providing technical expertise

The European Commission's proposal for an EU "Taxonomy Regulation" aims at developing a unified classification system on which activities can be considered

¹ [The Oxford Economics' Study on the Economic Contribution of the EU shipping industry to the European economy, growth and jobs.](#)

environmentally sustainable for financial services. The understanding of ECSCA is that the purpose of this legislative proposal and the related TEG's Technical Report on EU Taxonomy is to channel investments into economic activities, where these economic activities are considered sustainable. The Taxonomy file is linked – either directly (i.e. through funding and financing) or indirectly (i.e. through the technical definitions) - to almost every part of the real economy, including the shipping sector¹.

76% of the EU's external trade is shipped by sea and 40% of the world fleet is controlled by European shipowners. Shipping is at the very heart of global trade as 90% of all goods are transported by sea. The European shipping industry is a success story with global presence and a geostrategic asset for the EU.

With its diverse fleet of container ships, tankers, passenger ships, bulk carriers, offshore service vessels and many other specialised ships, the EU shipping industry contributes a total of EUR 149 billion to the EU's annual GDP. The sector directly employs over 685,000 workers at sea and on shore. It supports over 1.3 million workers through indirect and induced employment

The Taxonomy definitions will directly impact the cost and the availability of finance for the European shipping industry, which is a capital intensive industry and many vessels are one of a kind.

Hence, ECSCA would like to initiate a dialogue with the European Regulators and provide technical expertise.

Legal basis on social matters

ECSCA would like to draw the attention to the fact that any discussion under the

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Taxonomy is based on Article 114 of the TFEU. It is therefore essential to ensure that any discussion or initiative pertaining to social policies is built on the appropriate legal basis. In this respect, it is important to recall that according to the TFEU – Title X on Social Policy – the Union can only propose actions to complement Member States activities in the social field as social /labour law is a national prerogative. Consequently, it is beyond doubt that Taxonomy regulation cannot seek to introduce harmonisation in the social field.

First step should be to understand how minimum safeguards will be measured and implemented under the Taxonomy

Under the current legislative process defined by the Taxonomy Regulation, the definition of the environmental taxonomy requires compliance with minimum safeguards. Such minimum requirements – in the social domain - should be *“procedures implemented by an undertaking that is carrying out an economic activity to ensure the alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.”* (Article 18)

ECSA is greatly concerned about the reference to minimum requirements under the regulation since compliance with ILO and OECD non-binding instruments – unlike environmental requirements - is harder to measure. ECSA will seek reassurance during the discussion that the Taxonomy regulation does not go beyond what is permitted under Article 114 of the TFEU and that the competencies of EU in the

social and human right fields are not overstepped.

Before developing further sustainable objectives to be considered at a later stage – i.e. not under the mandate of the current Taxonomy Regulation – it is essential to test the effectiveness of the current taxonomy framework in practice. This is especially important given that the current environmental taxonomy framework was specifically developed for environmental objectives, and these are of a very different nature compared to social objectives in terms of their foundations. It is important to consider that the environmental Taxonomy is expected to be science based whereas social objectives are based on international norms and conventions.

Furthermore, it is essential to remember the overall objective of the Taxonomy and, hence, what dimensions of sustainability should be addressed based on this defined aim. A tool which has been developed to increase the transparency in the financial sector, for example, may not necessarily be adequate for companies, while an asset based taxonomy framework may not be appropriate to be copied for undertakings' internal procedures.

Under the social taxonomy a sectoral approach should be followed

Under the current legislative process defined by the Taxonomy Regulation, the definition of the environmental taxonomy recognises that different sectors have different characteristics and different foundations. ECSA is of the view that the specific characteristics of the shipping industry when defining the potential measures for its taxonomy should be taken into account. This could include, but is not limited to the following characteristics:

- The shipping industry is characterised by a diversity of ship types representing different proportions of the world fleet:

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containers, bulk carriers, tankers, passenger ships, (offshore) service vessels. This diversity entails a variety of maritime jobs as well as skillsets.

- The shipping industry is characterised by a diversity of operations of its fleet : tramp shipping - liner shipping, deep sea - short sea shipping. The particularities of these modes of maritime transport should be taken into account.
- The shipping industry is capital intensive: access to competitive (green) financing within Europe should be a priority and the global level playing field should be ensured.
- The shipping sector is unique with respect to social rules and standards. Shipping, in fact, is a global industry regulated by international rules /minimum social standards laid down in the Maritime Labour Convention (MLC 2006) and its successive amendments. Additionally, large parts of the MLC rules and standards have been transposed into EU legislation. Enforcement of these standards is also ensured through EU legal instruments (Directives).

Furthermore, since 2015 seafarers are comprised within the scope of five EU labour law Directives. Therefore, additional EU social law is now applicable to seafarers: protection of employees in the event of the insolvency of their employer; information and consultation of employees, approximation of Member States laws on collective redundancies and on safeguarding employees' rights in the event of transfers of undertakings.

In light of the diversity of the shipping industry and the already existing international conventions which are, in this area, unique among the other sectors,

ECSA strongly calls for a sectoral approach under the social taxonomy discussions.

Sustainable corporate governance and due diligence is not fit for the taxonomy

ECSA is following closely the developments around the upcoming proposals on sustainable corporate governance and due diligence and is aware of potential overlaps between this initiative and the taxonomy. While at this initial stage it is too early to comment on the details, ECSA would like to stress that, as those initiatives are not yet defined, they may not be fit by definition for the aim of the taxonomy and should therefore be kept separate

Guiding principles

ECSA urges the European Commission – when defining a maritime taxonomy – to incorporate regulatory measures which recognise the specific characteristics of the shipping industry.

For this reason, ECSA established a set of guiding principles for a social taxonomy (Annex I), which are essential to be followed when

- i. the social elements of the Taxonomy Framework are discussed;
- ii. a new maritime taxonomy definition is established; and/or
- iii. an existing maritime taxonomy definition is reviewed.

In order to reach the long term goals and take the international nature of the sector effectively into account, ECSA finds it vital that the EU maritime taxonomy is updated based on developments at the international regulatory level.

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