

## Position of European Shipowners | ECSA on the inclusion of emissions from offshore ships in the EU MRV Regulation and EU ETS Directive

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### Executive summary

#### Key challenges

- The current EU MRV and EU ETS framework is not fit for purpose for the offshore industry, and implementation of the EU ETS from 1 January 2027 will be highly detrimental to the sector.
- The current list of vessel types used to define the scope of the offshore sector is both incomplete and ambiguous.
- The current definition of a "port of call" does not adequately reflect the realities of offshore operations. This relates to the definitions of cargo, crew, Industrial and Special Personnels, and the use of UN/LOCODE.

#### ES|ECSA's proposed solutions

- The scope of the offshore sector should be defined by its activities complemented with a "negative" list of exempted vessels.
- The concept of a "virtual" port should be further investigated and included in the regulatory framework.
- A comprehensive approach to these issues can be most effectively achieved through the application of future IMO measures.

If these solutions are not adopted as soon as possible in 2026, ES|ECSA calls on the Commission to temporarily "stop the clock" on the inclusion of the offshore segment under the EU ETS until the revision of the Directive, which should start in the second half of 2026, is completed.

### Introduction

The EU ETS Directive will apply to offshore ships of or above 5,000 GT from 2027. Since 1 January 2025, these offshore ships, but also of the smaller ones (between 400 and 5,000 GT), already report emissions in the EU MRV system.

European Shipowners | ECSA (ES|ECSA) is deeply concerned that **the current EU MRV and EU ETS framework is not fit for purpose** in capturing the unique operational characteristics of this significant segment of the shipping industry, and calls on the Commission to **temporarily "stop the clock" on the inclusion of the offshore segment** under the EU ETS. **With the EU ETS coming into effect on 1 January 2027** for offshore vessels above 5,000 GT, **this inadequacy is expected to result in significant negative impacts, and in the distortion of the level playing field in the sector, placing European offshore operators at a competitive disadvantage.** These issues would be more effectively addressed at international level, within a global regulatory framework at the International Maritime Organization (IMO).

The inclusion of offshore vessels in the EU ETS was agreed at the end of political negotiations and was thus not accompanied by a legal impact assessment of the Commission. This inclusion is therefore proving very difficult to implement in practice, because the current list of vessel types used to define the scope of the offshore sector is both incomplete and ambiguous, and because the current definition of a "port of call" does not adequately reflect the realities of offshore operations. ES|ECSA is concerned that this flawed framework will lead to unintended and disproportionate consequences for the European offshore industry, also noting the lack of a phase-in approach for offshore vessels' reported emissions.

Several key issues remain unaddressed, despite the efforts of the Commission to give guidance on the EU MRV implementation. After discussions with stakeholders in the Commission's expert group on short-term clarifications under the MRV Regulation and potential long-term solutions to apply the EU ETS Directive to offshore activities, the Commission published [amendments to the MRV/ETS Maritime Guidance Document no.1 \(GD1\)](#). However, guidance documents are not legally binding, but rather interpret the legislation regarding requirements for shipping companies. Only the EU ETS Directive, the MRV Maritime Regulation and their implementing and delegated acts are legally binding. Only a revision of the Directive would allow proper correction to the MRV/ETS frameworks.

ES|ECSA notes with concern that many of the comments and proposals previously submitted and discussed extensively within the ESSF have not been reflected in the updated GD1. As a result, **the offshore sector continues to face the same unresolved challenges that have been repeatedly brought to the Commission's attention since the adoption of the revised EU MRV and ETS legislations.**

If the solutions proposed by ES|ECSA below are not adopted as soon as possible in 2026, on the basis of EU ETS Directive Article 3gg point 3 on market distortion risks, **ES|ECSA calls on the Commission to temporarily "stop the clock" on the inclusion of the offshore segment under the EU ETS until the revision of the Directive, which should start in the second half of 2026, is completed.** This would allow the MRV framework to be stabilised and fully adapted to offshore operations before the ETS obligations enter into force for this shipping segment.

## **Key challenges**

### *Incomplete and ambiguous list to cover the offshore sector*

The Commission Delegated Regulation (EU) 2024/3214 of 16 October 2024 on the rules for the monitoring of greenhouse gas emissions from offshore ships and the zero-rating of sustainable fuels (hereafter the delegated act) fails to cover the full spectrum of vessels operating within the offshore sector. By omitting several relevant ship types, the delegated act leaves many vessels outside the scope of EU MRV and ETS. As a result, new technologies and ship types are therefore not foreseen. Including these at a

later stage one by one is inefficient and creates legal and commercial uncertainty for operators.

The vessels list included in the delegated act is based on the STATCODE5 ship types. This commercial classification does not align with existing statutory maritime definitions or with the specific operational characteristics of offshore vessels. For instance, both GISIS and Equasis use STATCODE5 ship type coding system, yet a single vessel may be classified differently in each system.

ES|ECSA wishes to draw attention to the submission by the International Marine Contractors Association (IMCA) to the IMO which provides examples of a more accurate representation of vessel types active in the sector<sup>1</sup>. Additional examples were included in an Industry White Paper<sup>2</sup> submitted to the UK Government in the context of offshore worker visa policies. These sources demonstrate the challenges in capturing the sector through rigid vessel-type classifications and emphasise that the Commission's list does not align with the vessel categories identified and utilised by industry experts, leading to ambiguity in which offshore vessels are included in the delegated act, and which are not. This ambiguity may lead to diverging practices among Member States, undermining uniform implementation and possibly exposing shipowners to legal risk.

Moreover, offshore vessels are often defined more accurately by the nature of their activities rather than by a fixed classification. For example, a multipurpose vessel may be capable of installing cables (using a cable carousel), placing rocks (equipped with a hopper, fallpipe, and cranes), and serving as a mother vessel for a cable-burial tool deployed on the seabed. Consequently, the classification of the vessel may change depending upon the activity in which the vessel is engaged.

These examples highlight the inherent complexity of defining the offshore fleet solely by vessel type. Such ambiguity risks inconsistent enforcement and threatens to undermine a level playing field within the offshore industry.

In summary, the Commission's list presents several critical issues:

- It is incomplete and ambiguous.
- It shifts the burden of interpretation onto verifiers, leading to inconsistent implementation across different verification bodies. It should not be up to class societies to make decisions about the scope of application of a statutory instrument.
- It risks uneven enforcement, thereby distorting the level playing field in the maritime industry.
- The accompanying guidance document lacks legal authority and still allows for 'creative' classification of ship types by those looking to bypass the rules.

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<sup>1</sup> [MEPC 74/INF.35](#)

<sup>2</sup> White Paper: Impacts of visas for Offshore Workers on industry members and offshore energy development, operation and costs. Renewable UK, OEUK, Scottish Renewables, Workboat Association, Global Underwater Hub, NOF, International Marine Contractors Association. 3 May 2024.

### *Definition of port of call*

The current definition of 'port of call' fails to adequately reflect the unique operational realities of the offshore sector and needs to be revised.

To fully understand the limitations, it is necessary to examine more closely how the terms 'cargo', 'crew', 'passengers', and 'UN/LOCODE' are defined and applied in this context.

#### 1) Understanding the term 'cargo'

MRV requires shipping companies to monitor and report data, for each voyage, on GHG emissions and other parameters, such as cargo carried and transport work. Transport work is determined by multiplying the distance travelled with the amount of cargo carried.

However, the offshore sector does not typically carry commercial cargo under a bill of lading. Instead, it carries 'installation items' for installation offshore and ancillary items required to complete the work.

For instance, this definition is included in IMCA's standard Transport & Installation contract for offshore wind: *'Installation items' shall mean all topsides, jackets, piles, cables, scour protection and associated items provided by the 'company' and any materials provided by 'contractor group' for incorporation into or attachment to the 'installation items'. All to be transported and installed by the 'contractor'.*

The latest update of GD1 considers installation items and equipment transported onboard for loading/unloading in offshore operations as cargo, irrespective of whether a bill of lading is accompanying those. This interpretation is not consistent with the established understanding under MRV, which is designed to regulate vessels transporting cargo (or passengers) *for commercial purposes*. Such an expanded definition of cargo risks being replicated in other legislative instruments and still fails to clarify the status of dredged sludge or aggregates.

Without evidence of loading/unloading of cargo, verifiers cannot determine what constitutes a port of call. More accurate wording of cargo in the offshore segment is therefore needed to allow for triggering a port of call under MRV. Moreover, an alternative and more appropriate indicator should be identified to calculate transport work for offshore vessels, reflecting their specific operational characteristics.

#### 2) Understanding the term 'crew'

The Commission's approach refers to defining the 'crew' to encompass those who provide navigation and maintenance or services for other persons on board.

However, offshore operations often involve large technical teams, exceeding typical crew numbers, whose classification impacts how emissions are assessed and attributed.

In the industry, the term 'project crew' is used for those who are not engaged in navigation or maintenance but are 'specialised persons' with expert knowledge on how to perform complex work offshore. They are responsible for special equipment such as cranes capable of lifting 10,000 tonnes, rigging equipment to install wind turbine components 150 meters above sea level, complex dynamic positioning systems, mechanical handling systems capable of upending and installing steel piles weighing 3,000 tonnes, mechanical underwater trenching machines and ploughs to bury cables on the seabed, complex underwater remotely operated trenching vehicles, and survey and geotechnical sampling equipment. Without these specialised personnel, no offshore project can be executed, and no offshore installation can be maintained.

However, based on the updated GD1, the 'project crew' cannot be considered as 'crew', but is considered as 'passengers' instead.

### 3) Understanding the term 'passengers' and the status of Industrial and Special Personnel

Similarly to the preceding issue, the latest update of GD1 considers Special Personnel and Industrial Personnel as 'passengers'.

This is contrary to the SOLAS Convention which defines a passenger as: 'Every person other than a Master, crew member or other persons employed or engaged in any capacity on board on ships' business'.

In fact, Special Personnel and Industrial Personnel are other persons employed or engaged on board on ships' business and therefore cannot be considered as 'passengers'.

Furthermore, the following international approved definitions should be considered to revise the current Commission framework:

- International Conventions (Maritime Labour Convention (MLC)) and Codes (Special Purpose Ships (SPS) Code / mandatory Industrial Personnel (IP) Code) provide that technicians (i.e. aft deck crew) are not passengers, but non-seafarers, Special Personnel or Industrial Personnel.
- The SPS Code defines Special Personnel as all persons who are not passengers or members of the crew or children of under one year of age and who are carried on board in connection with the special purpose of that ship or because of special work being carried out aboard that ship. Wherever in this Code the number of Special Personnel appears as a parameter, it should include the number of passengers carried on board which may not exceed 12.
- The IP Code defines Industrial Personnel as all persons transported or accommodated on board for the purpose of offshore industrial activities performed on board other ships and/or offshore facilities.

When defining crew and passengers, it is undesirable to have directly contradictory definitions in different regulatory frameworks. The definitions should be revised directly in the MRV Regulation.

#### 4) Use of UN/LOCODE

The use of UN/LOCODE is not sufficiently widespread and does not prove to be a comprehensive solution for the following reasons:

- The use of UN/LOCODE is not a universal practice;
- UN/LOCODEs are only attributed to an offshore installation after it is built. This means that they are not applicable to sites under survey or construction. This fails to cover vessels performing construction works;
- Many types of offshore vessels (for instance dredgers, cable layers, jack-ups) will rarely work with or at installations assigned a UN/LOCODE;
- The lengthy approval process and biannual release cycle for UN/LOCODE updates risk creating distortions, as stops at facilities for which a UN/LOCODE is still pending would not trigger a port of call, undermining the level playing field.

That being said, when UN/LOCODEs are available, they provide a very clear way of identifying 'virtual' port calls. A comprehensive list of accepted UN/LOCODEs should be made available to shipping companies and verifiers.

#### Example

A European offshore operator deploys a vessel from an EU port to a project site located outside the EU. The departure from the European port may count as a port of call if crew members are embarked there. However, while working at the project site, no 'port of call' is triggered since no cargo is loaded or unloaded, no crew is embarked or disembarked, and no passengers are relieved at a port. Additionally, the project site does not have a UN/LOCODE. As a result, all emissions generated during the project fall within the scope of the EU ETS.

In contrast, a non-European offshore contractor operating the same project from a non-EU port would not be subject to equivalent reporting or compliance obligations.

An additional UN/LOCODE-related issue concerns offshore installations assigned a UN/LOCODE under "XZ – international waters", located in the exclusive economic zone of an EEA State. According to GD1, these are treated as EEA ports of call. This raises legal concerns regarding the compatibility of this definition with the United Nations Convention on the Law of the Sea (UNCLOS). Under UNCLOS, these offshore installations and their safety zones do not constitute ports or territory. Therefore, extending the geographical scope of the EU ETS to these installations and putting obligations to foreign-flagged vessels calling at these installations risks going beyond the coastal-State jurisdiction and undermining UNCLOS.

In conclusion, these challenges create a serious distortion of the level playing field and place European offshore operators at a competitive disadvantage.

**ES|ECSA calls on the Commission to undergo a proper legal impact assessment on the inclusion of offshore vessels in the ETS.**

## Proposed solutions

### *Adoption of a negative list and a definition of offshore activities*

To address the identified issues, ES|ECSA calls on the Commission to change the current list of offshore vessel types to a negative list of exempted vessels and a definition of offshore activities.

Instead of specifying ship types in the list, the delegated act should define offshore activities that are covered by the legislation, complemented with a short list of exempted vessels. This approach would ensure a more inclusive and future-proof regulatory framework, capturing all relevant vessels unless explicitly exempted. An activity-based definition would provide greater clarity, facilitating a harmonised interpretation and consistent application across all Member States and verifiers.

ES|ECSA wishes to exclude, from the scope of the maritime ETS, installation vessels engaged in mobile rigging and vessels engaged in floating production and/or storage, as their activities are already included in the EU ETS as land-based industries (under stationary installations). Double counting should be avoided by all means.

### *Introducing the concept of a 'virtual' port*

The concept of a 'virtual' port should be further explored as a potential solution to the abovementioned issues. This 'virtual' port can be anchored in the framework of work permits for offshore projects, when activities are located in European territorial waters or exclusive economic zone, since such projects are always governed by contracts and require official permits. These documents define the project's location and boundaries, allowing the designated project area to serve as a 'virtual' port.

ES|ECSA suggests a revised definition<sup>3</sup> of a "port of call" for offshore vessels as a 'virtual' port where a ship stops:

- To carry out offshore activities, or
- To load or unload cargo, or
- To embark or disembark passengers, or
- To relieve the crew.

Where UN/LOCODEs are available, they should be used to identify the virtual port. In cases where such codes are not assigned, the coordinates or descriptions found in contracts or permits should be used to establish the 'virtual' port. A voyage could then be defined as the trip between the 'virtual' port and a 'traditional' port, or vice versa, or between two 'virtual' ports.

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<sup>3</sup> Within this definition, further clarity needs to be given to the status of Special and Industrial Personnel.

By recognising entry into a defined offshore work area as a virtual port of call, challenges related to defining cargo, crew, and passengers can be more effectively addressed or rendered irrelevant.

### Example

Taking the revised definition of a "port of call" into account, any offshore operator deploying a vessel, no matter its type, to a project site located in EU waters, to carry out offshore activities, will fall in scope of EU MRV/ETS.

The project site will be considered as a 'virtual' port, based on the official permits defining the project's location and boundaries.

### Conclusion

**ES|ECSA stresses the urgent need for further clarification of key definitions affecting the offshore sector.** The most pressing concerns include the incomplete and ambiguous classification of vessels as well as the unclear and unenforceable definition of a port of call. As the sector is already negotiating contracts extending through 2030, it is essential that compliance costs are clearly understood at the tendering stage and clarity is ensured urgently.

**Clear and harmonised definitions will help prevent misinterpretation, reduce the risk of uneven enforcement, and protect the level playing field to safeguard the competitiveness of European offshore operators.**

ES|ECSA remains committed to constructive engagement and has already put forward workable, operationally sound solutions. European shipowners want to work together with EU policymakers towards building a sensible approach that will ensure the ETS framework is robust, implementable, and aligned with both environmental objectives and the competitiveness of the European offshore industry.

If the above proposed solutions are not adopted in 2026, ES|ECSA calls on the Commission to temporarily "stop the clock" on the inclusion of the offshore segment under the EU ETS until the revision of the Directive, which should start in the second half of 2026, is completed.

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