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ETF answer to the public consultation on the possible extension of the General Block Exemption Regulation (State aid) ports – May 2016

1. As already declared in the past, the ETF advocates the need to clarify the application of state aid rules to the port sector. However, it is arguable that the inclusion of the port sector into the scope of the GBER will bring forward a clearer framework for investments, especially due to the regulation's limited period of validity.

2. Public investments in ports, even if limited to infrastructure, have implications on port capacity. The ETF has serious concerns about ports' overcapacity, especially in certain areas within the EU. In general, overcapacity leads to lower economic profitability for terminals, which, in turn, puts downward pressure on working conditions. These considerations should be included in the debate when determining which kind of public aid can be granted without notification.

3. When establishing the types of public investments that can be exempted from state aid, the Commission should also consider the return that those investments have for the port areas at large. For instance, when adapting port infrastructures in order to make a port ready for mega-vessels, it could be argued that, apart from vessels' owners, no one else would benefit from such public investments. Compared to smaller vessels, mega-ships have a lower added value to the economic profitability of terminals and create less value for port communities, as they require higher and more frequent investments in infrastructure and superstructure while at the same time imposing automation. This means that public money is invested to the sole benefit of ship-owners' economies of scales (and the shipping sector already enjoys public subsidies), while port employment decreases, roads around the ports are more easily congested and pollution around port areas increases. As a consequence, a decision on which kind of infrastructures can be supported by public money should take into account considerations on the real beneficiaries of the investments.

4. The Commission should therefore better clarify the definitions of 'infrastructure' and 'superstructure', also taking into account the above-mentioned criteria.

5. For the ETF the biggest concern in the draft regulation is the reference to the limitation of concessions periods. First of all, it is hard to understand why an article on concessions' duration is included in a regulation aimed at clarifying how public support can be given to ports. Secondly, it is difficult to see on which grounds concession periods should be limited by law: introducing limitations would not be in the interest of the sector, as it would create more uncertainty and would discourage investments. By looking at the current situation, it is clear that concession contracts are in general longer than 30 years, which is the threshold suggested in the Commission's draft, and this because longer periods are needed to recoup investments, in a context where technology gets obsolete more and more rapidly.

6. As a consequence of what stated under point 5, the reference to the duration of concession contract should be deleted from the regulation.