



ECASBA EUROPEAN SEMINAR 2023

BRUSSELS

20th JUNE 2023

VAT ON TRANSPORT SERVICES
JESPER SEBBELIN, DSPO/BJARNE LØF HENRIKSEN, DSA

Committee on Petitions

Petition No 0276/2022 by Ine Lejeune (Belgian), on behalf of Danish Shipping, on VAT exemption on the transportation of exported goods.



Bjarne Løf Henriksen
Head of EU Representation

Ine Lejeune, Attorney,
Ine Lejeune bv

Monday 26 June 2023

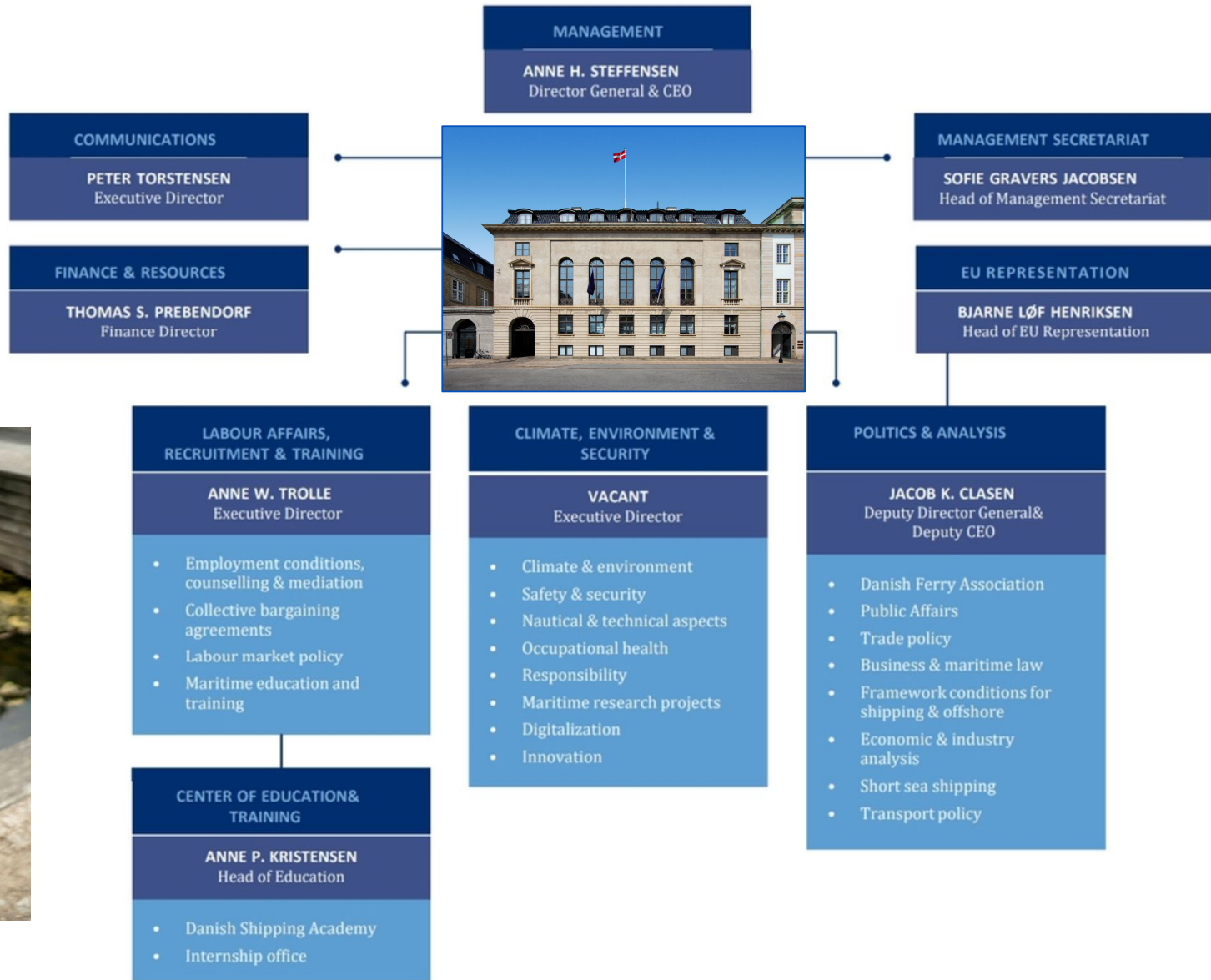


DanishShipping

Who we are?

1. Top 10 global shipping nation
2. Denmark's largest export business
3. Industry organisation
4. Employer's organisation







ZITON



EVERGAS



DanPilot



TERNTANK
Shipping, Chartering &
Ship Management



Sub-sea-Services



NORDIC SHIPHOLDING



Rederiet M. H. Simonsen



BALTIC SHIPPING COMPANY A/S



T.K.B. SHIPPING A/S

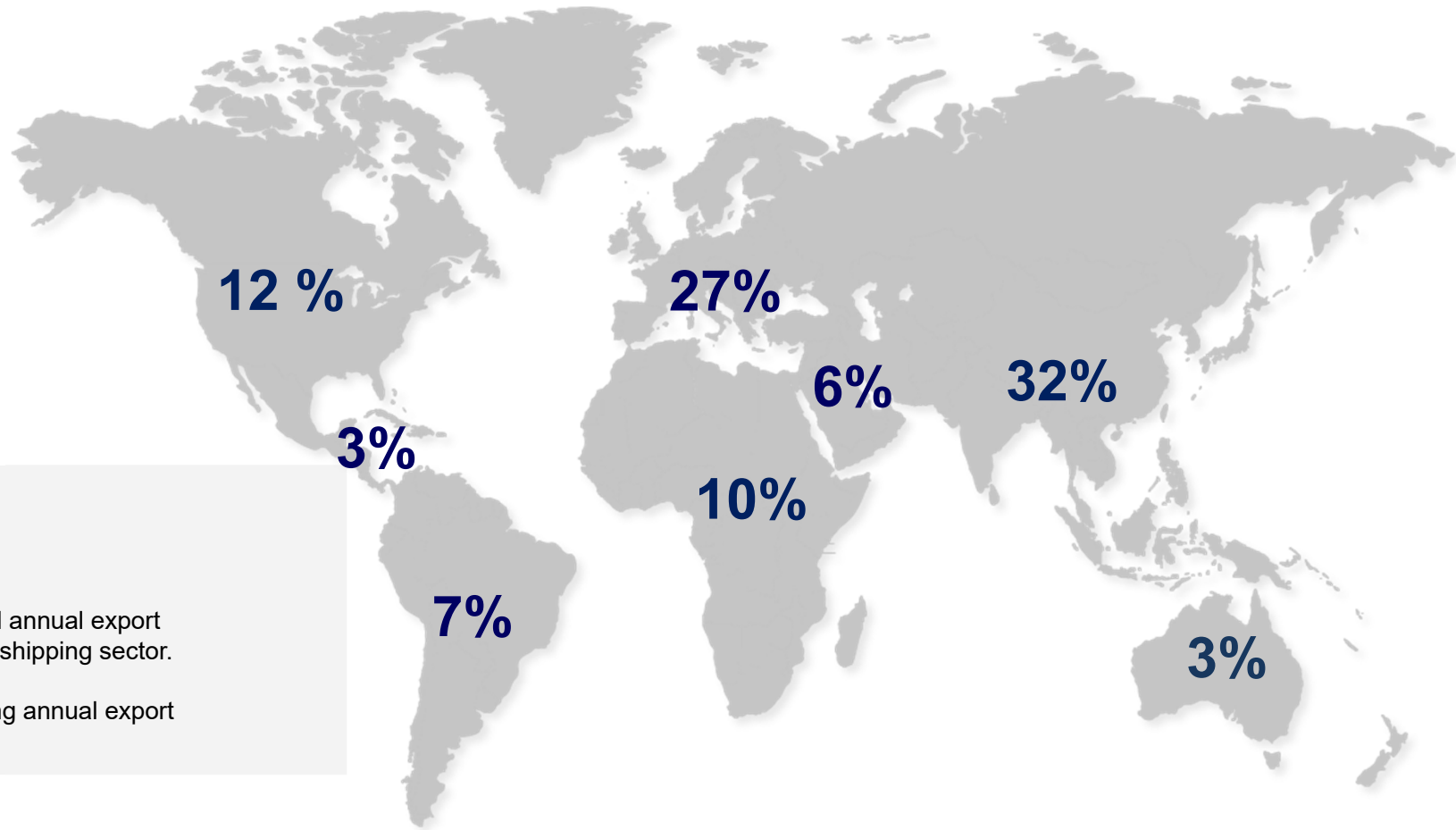


Bunkering knowledge



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Danish shipping is a global industry



Overview of 2021 global annual export earnings for the Danish shipping sector.

Source: Danish Shipping annual export statistics.

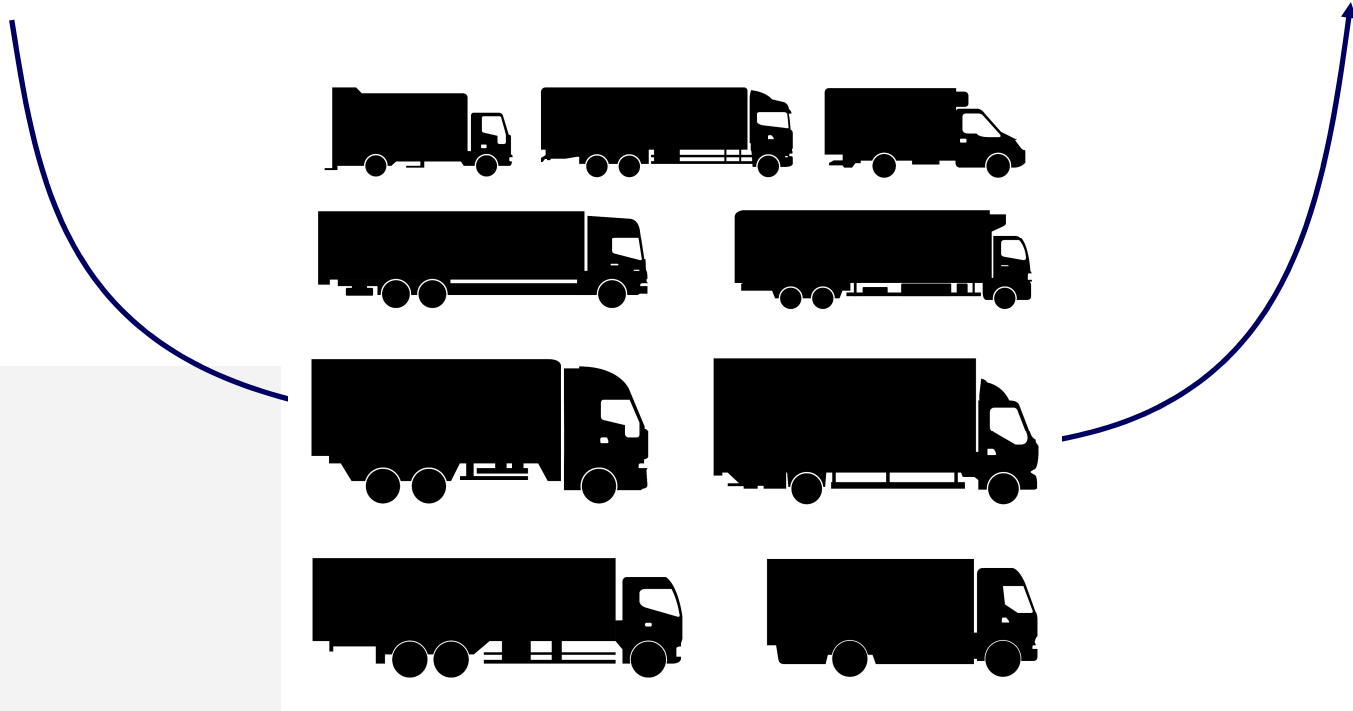


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Our petition

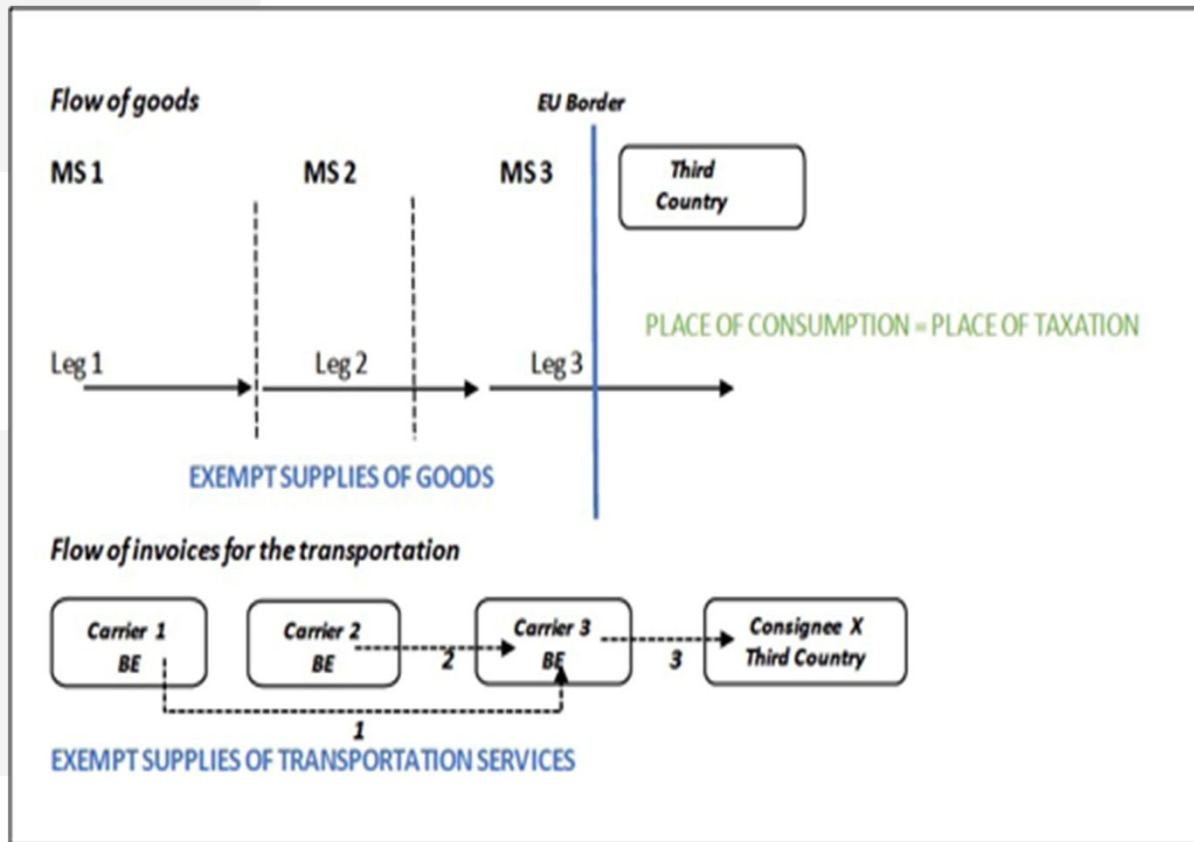


- Our petition: [Petition No 0276/2022 on VAT exemption on the transportation of exported goods](#)
- 51 supporters of our Petition, representing the entire value chain of transport services in Europe, VAT advisors (in-house and external, including the International VAT Association) and other businesses.
- European Parliament (ECON + FISC):
 - 1) lodge complaints against MS measures and
 - 2) reconsider EC guidelines in VAT Committee.
- PETI dialogue 26 June 2023 15h30
- (webstreamed: <https://www.europarl.europa.eu/committees/en/peti/meetings/webstreaming>)
- Associations to call Member State Financial Ministries to action
- Joint industry letter to show industry support





The exemption for the transportation of goods to be exported (Article 146 (1)(e) and Article 153 of the VAT Directive)



- All legs of the transportation service
- Provided by the principal, sub-subcontractors, disclosed and undisclosed agents
- Proof of export: any means, not restricted to customs declaration
- CJEU:
 - A OY (C-33/16 of 4 May 2017), A OY (C-33/11 of 19 July 2012), BDV Hungary Trading (C-563/12 of 19 December 2013)
 - Cartrans Spedition (C-495/17 of 8 November 2018) confirmed by: Vinš, (C-275/18 of 28 March 2019), Unitel (C-653/18 of 17 October 2019), Bakati (C-656/19, 17 December 2020)
- Exit Summary Declaration (EXS) (Article 271 Union Customs Code):
 - Direct link to the export of the goods
 - Lodged electronically by the 'carrier' at the customs office of departure or exit of the EU
 - 'Carrier' means in customs the active mode of transport, which could be a ship, train, truck or plane



The Guideline of the VAT Committee of 12 April 2019 ('L.Č IK judgment, C-288/16 of 29 June 2017): infringement of Articles 146(1)(e) and 153 of the VAT Directive further to the CJEU case law and Article 271 UCC

- ~~All~~ 1 legs of the transportation service
- Provided to ~~the principal, sub-subcontractors, disclosed and undisclosed agents~~ the exporter (the consignee or consignor) of the goods
- Proof of export ~~by any means, not~~ by the transporter holding the customs declaration
- CJEU:
 - L.Č.: not providing freight-forwarding services, no license for international transport, 'lending' drivers to a carrier holding an international carriage license
 - ~~A OY (C-33/16 of 4 May 2017), A OY (C-33/11 of 19 July 2012), BDV Hungary Trading (C-563/12 of 19 December 2013)~~
 - ~~Cartrans Spedition (C-495/17 of 8 November 2018) confirmed by Vinš, (C-275/18 of 28 March 2019)~~

Status of Implementation of the Wrong VAT Committee Guideline

Implemented in 14 Member States NOT in:

- Belgium (suspended awaiting the outcome of the Petition Committee to consult the VAT Committee)
- Bulgaria
- Cyprus
- France
- Greece
- Ireland
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Spain

Impact of Implementation of the Wrong VAT Committee Guideline

Cash flow impact and risk of bad debtors

Belgium, Cyprus, the Czech Republic, Latvia, Malta, Romania and Poland (use-and enjoyment):

- VAT on 'domestic transport' for a non-EU principal
- Refund to non-EU principal? (reciprocity)
- Distortion of competition: redirecting transports by non-EU principal to other MS

Logistics shared services centres: not the seller of the exported goods, not having the export document

Changes to: billing systems, self-billing, financial and VAT reporting, IT costs, training

Distortion of competition: large versus SME transporters (mostly sub-contractors)

Non-harmonised implementation:

- Barrier to digitalisation
- Mistakes: (cross-border) disputes
- Fraud (currently none existence)
- Diversion of business to MS implementing Article 146(1)(e) correctly

INCREASED COSTS ARE PASSED ON IN THE COMMERCIAL CHAIN: NEGATIVE IMPACT ON GLOBAL COMPETITIVENESS OF EU BUSINESS

Questions



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