

Anexo SHELL-HSSE-13627-2023_3

FPSO Fluminense Towage Route

(Versão traduzida do documento Rota planejada para reboque do FPSO Fluminense até o estaleiro MARS)

Annex S
FPSO Fluminense Towage Route
(English Version)

(Portuguese Version submitted 31st July 2023)

Towing Route

1. Introduction

This Annex presents the planned route for towing the FPSO Fluminense to the recycling yard in Denmark, as well as the analysis of the countries' situation regarding their characterization as "transit countries" or not, along this route, within the scope of the Basel Convention.

2. Planned Towing Route

Figure 1 shows the planned route for towing the FPSO Fluminense. The FPSO will be towed from Brazil to Denmark across the Atlantic Ocean, with a bunkering stop for the tugs, close to the Canary Islands, but with no stop of the FPSO at any port along the route to its destination.

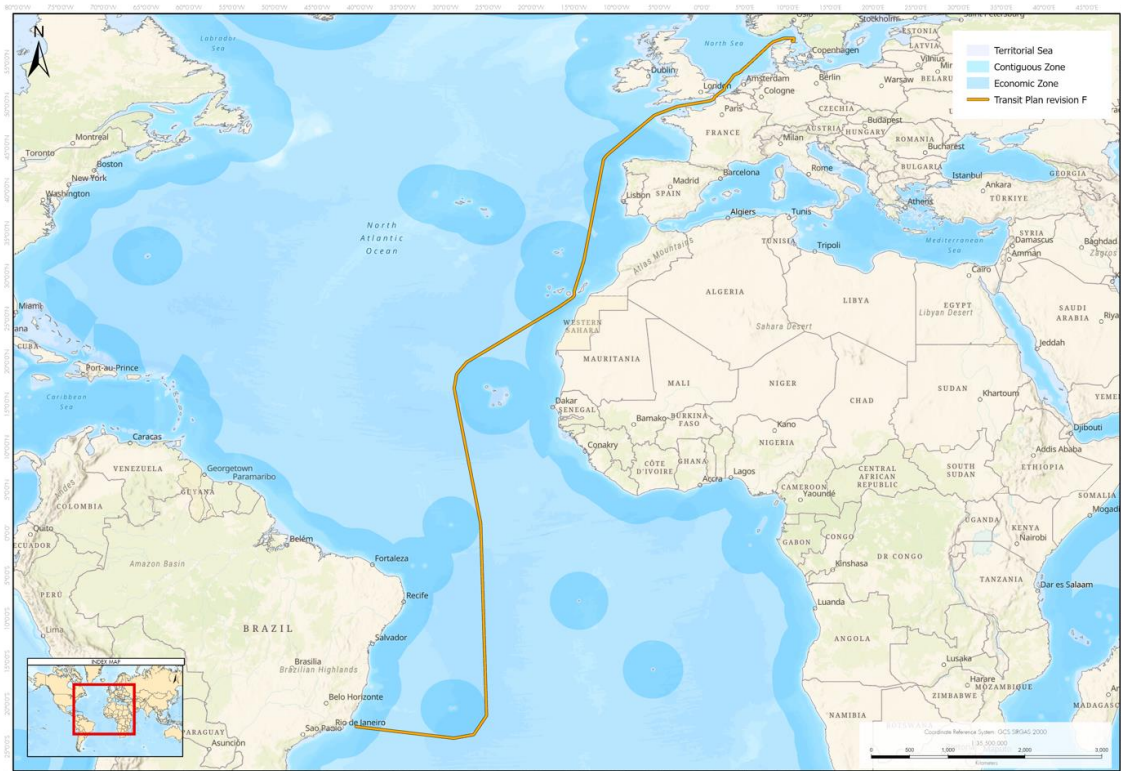


Figure 1 – Planned towing route

The route will pass near Spain, Portugal, France, United Kingdom, Belgium, Netherlands, Germany and Denmark, as presented above, but without characterizing the situation as "transit countries" according to the Basel Convention, as will be explained below.

- **Considerations about passing through the “Territorial Sea”**

The countries that are on the route of the FPSO Fluminense follow the definitions provided by the United Nations Convention on the Law of the Sea (UNCLOS), which defines the Territorial Sea as the area subject to the sovereignty of those countries, including its civil and criminal jurisdictions. The term “jurisdictional waters” is not used by this legislation nor by the countries listed on the route.

Therefore, the definition of Territorial Sea according to UNCLOS is limited to 12 nautical miles from the coast, as shown in Figure 2.

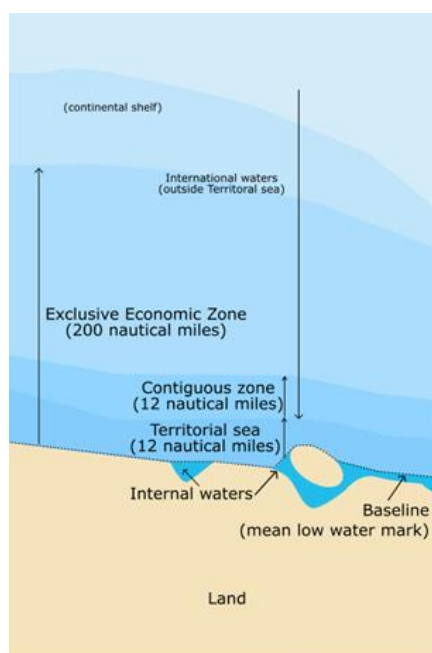


Figure 2 – Indicative scheme of the boundaries of Territorial Sea and Exclusive Economic Zone

The figures below show in more detail the towing route and the Territorial Sea of the mentioned countries - Canary Islands (Spain) in Figure 3, and Spain, Portugal, France, United Kingdom, Belgium, Netherlands, Germany and Denmark in Figure 4.

As previously informed, the route of FPSO Fluminense does not include stopping at any ports along the way. It also does not include passing through the Territorial Sea of the countries indicated in the route, with the exception of the English Channel, which is geographically limited; however, the countries involved, France¹ and the United Kingdom², defined that a transit situation is only characterized when there is a “call at port”, that means, the FPSO stops at one of its ports, which is not the case.

¹ UNEP-CHW-ICC-TRANSTF-GUID-Art6Para4-Questionnaire-SUBM-2021-France.English (1).pdf (available for download at <https://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities202021/Transittransboundarymovements/tabid/8182/Default.aspx> - Section Responses received from Parties)

² UNEP-CHW-ICC-TRANSTF-GUID-Art6Para4-Questionnaire-SUBM-2021-UK.English (1).pdf (available for download at <https://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities202021/Transittransboundarymovements/tabid/8182/Default.aspx> - Section Responses received from Parties)

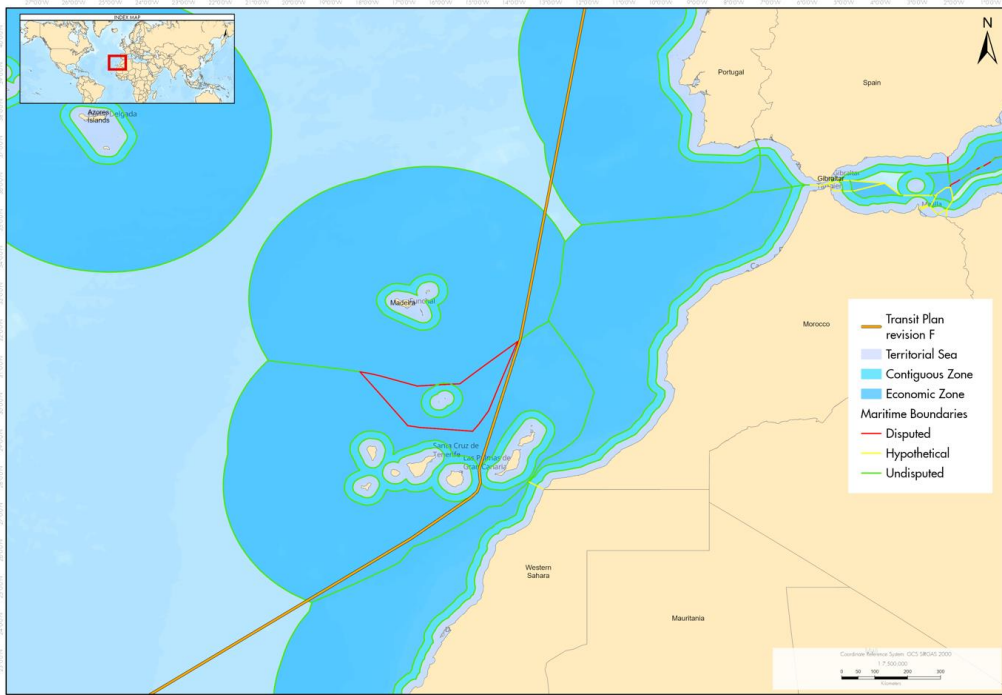


Figure 3 - Territorial Sea of the Canary Islands (Spain)

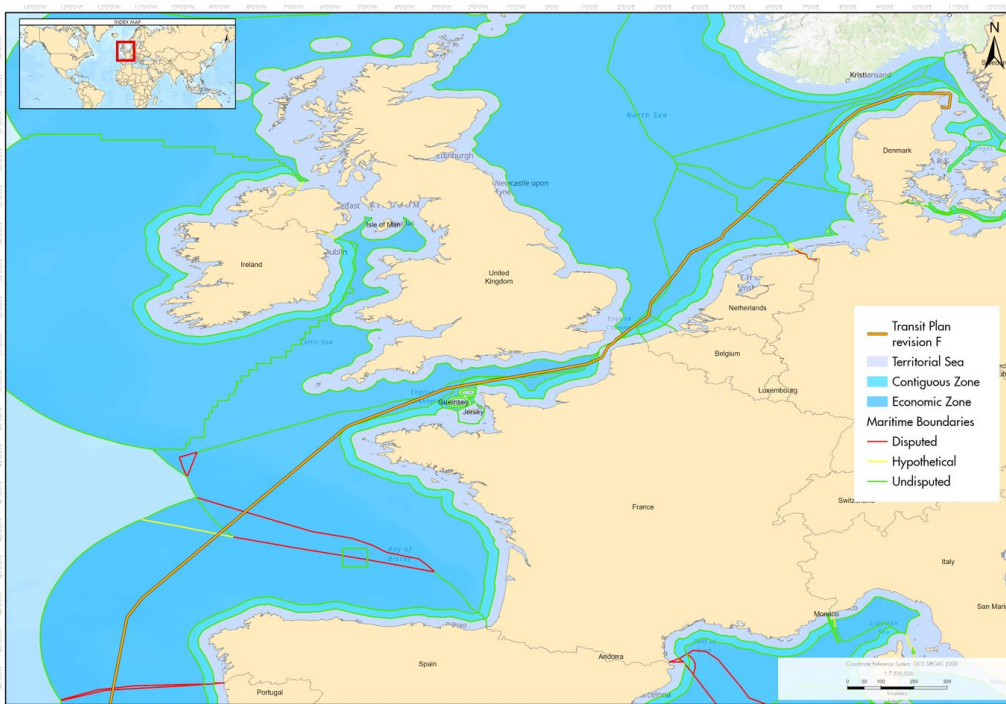


Figure 4 - Territorial Seas of Spain, Portugal, France, United Kingdom, Belgium, Netherlands, Germany and Denmark.

Portugal, France, United Kingdom, Belgium, Netherlands and Germany understand that the meaning of a “transit” situation for a ship transporting waste is characterized only when the ship stops at port, regardless of the area traveled by the waste (FPSO), according to responses from these States to the consultation carried out by the Basel Convention Committee in 2019 (<https://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities202021/Transittransboundarymovements/tabid/8182/Default.aspx>). Therefore, these countries are not characterized as transit countries according to the Convention criteria, and their own interpretations regarding the definition of “State of Transit”.

Furthermore, it is important to emphasize that the parties present at the 15th Conference of the Parties of the Basel Convention held in Geneva, in June 2022³, recognized, once again, clearly the no need for transit notification for the country that has informed through the Secretariat that its definition of “Transit Country” only includes situations where there is a stop at ports.

Spain informs that it does not have its own definition for a country of transit for the purposes of the Basel Convention and indicates the definition of international resolution EC 1013/2006 of the European Parliament of June 14th, 2006, as a preference for notification if there is traffic through its Territorial Sea (12 nautical miles). The planned route for the FPSO Fluminense does not include passage through the Spanish Territorial Sea, therefore not characterizing Spain as a transit country.

- **Considerations about passing through Exclusive Economic Zone (EEZ)**

Conservatively, it was also assessed whether the possibility of the route passing through the EEZ would constitute a transit situation.

The route includes passing through the EEZ of Spain, Portugal, France, the United Kingdom, Belgium, the Netherlands and Germany.

However, there is no characterization of the transit situation for any of these countries as reported by these States to the responsible committee of the Basel Convention (<https://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities202021/Transittransboundarymovements/tabid/8182/Default.aspx>).

3. Conclusion

Based on the analysis presented, it was found that there are no countries considered as “transit countries”, according to the criteria of the Basel Convention and internal definitions of the countries themselves, along the route planned for the towing of the FPSO Fluminense from Brazil to the recycling shipyard in Denmark, as reported in the Field N° 15 of the Basel Convention Notification Form.

³ Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal - Fifteenth meeting Geneva, 26–30 July 2021 and 6–17 June 2022 – View paragraphs 27-29 in UNEP-CHW.15-12-Rev.2-Add.2-Rev.1.English.pdf