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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	11770/24
Subject:	Draft Union submission to the International Maritime Organization's 17th Intersessional Working Group on GHG on the basic functions of a fund in any regulation(s) in the context of the IMO net-zero framework – Presidency compromise

In view of the Shipping Working Party meeting on 8 July 2024, delegations will find attached a Presidency compromise proposal.

Changes compared to the Commission proposal are indicated in **bold underline** (added text) and ~~strikethrough~~ (deleted text).

General scrutiny reservation: all delegations.

Deadline for submission to IMO: **9 August 2024**.

INTERSESSIONAL MEETING OF THE
WORKING GROUP ON REDUCTION OF
GHG EMISSIONS FROM SHIPS
17th session
Agenda item X2

ISWG-GHG 17/X2/x
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FURTHER CONSIDERATION OF THE DEVELOPMENT OF CANDIDATE MID-TERM MEASURE(S)

Outline of basic functions of a fund in the context of the IMO net-zero framework

Submitted by Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands (Kingdom of the), Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the European Commission, ~~acting jointly in the interest of the European Union~~

SUMMARY

Executive summary: All current proposals for new IMO regulations to incentivise the decarbonisation of international shipping involve collection of payments. This document outlines what the relevant basic functions of such a system may be and explores some options for its management. While there are lessons to be drawn from the establishment of existing international funds, such as e.g. the Green Climate Fund, experience shows that it could be more feasible to establish a new system under the umbrella of the IMO, rather than using any of the existing funds. The co-sponsors recommend to proceed with the development of a fund structure in parallel with the development and adoption of a basket of mid-term measures. Interested parties are invited to contribute to the further detailing of the functions and of how they could be organized.

Strategic direction, if applicable: 3

Output: 3.2

Action to be taken: Paragraph 26

Related documents: Resolution MEPC.377(80), ISWG-GHG 13/4/11, ISWG-GHG 16/2/3, ISWG-GHG 16/2/12, ISWG-GHG 16/2/13, ISWG-GHG 16/2/16, MEPC 75/7/4, MEPC 81/16/Add.1

Introduction

1 MEPC 80 adopted the 2023 IMO Strategy on Reduction of GHG Emissions from Ships (the Strategy), as laid out in resolution MEPC.377(80). The Strategy states that a basket of candidate measure(s), delivering on the reduction targets, should be developed and finalized comprised of both a technical element, namely a goal-based marine fuel standard regulating the phased reduction of the marine fuel's GHG intensity, and an economic element on the basis of a maritime GHG emissions pricing mechanism.

2 In advancing the development of the basket of mid-term measures, MEPC 81 agreed a draft possible outline of a new “IMO net-zero framework”, identifying possible chapters and regulations in MARPOL Annex VI that may have to be amended. The draft outline is set out in annex 12 to the report from MEPC 81 (MEPC 81/16/Add.1).

3 All current proposals for a basket of mid-term measures have in common that they entail some form of collection of payments and administration of revenues. Regardless of its concrete design, the IMO net-zero framework will require certain basic functions to be established in order to collect payments from responsible entities, as well as to manage, oversee and distribute the collected revenue.

4 By consequence, a system for collection and management of the transactions will be necessary and the IMO and/or the IMO Member States will have some role to play in its organization. Focusing on regulatory elements to incentivise the transition to net-zero in chapter 5 of the IMO net-zero framework, which involves collection of payments, this document seeks to describe what the relevant basic functions of such a system may be and explores some options for its management.

Collection of payments requires a recipient and exchange of information between involved actors

5 It has been suggested in previous discussions and submissions that revenue from any underlying IMO regulatory measures for decarbonisation of shipping (mid-term measures) that the Fund will implement (hereafter ‘IMO regulation’) should be collected and managed in one or more funds, under the mandate of the IMO or another entity. Suggestions have also been made for the management of such a fund. On this basis, it is possible to identify basic functions that are necessary regardless of the final choice and design of the regulation.

6 While the precise roles and procedures of involved players are still under consideration, there will evidently be a need for an entity that can receive the payments. A proposal on how to do this with limited administrative burden has been included in previous submissions, such as ISWG-GHG 16/2/3 by ICS.

7 Documents previously submitted to the intersessional working group suggest that exchange of information regarding the payments could be a basic function carried out by a fund. The entities responsible for payments would expect to obtain confirmation as proof of their payments. Administrations require robust data regarding the status of payments from responsible entities under their jurisdiction. There is also a need to keep logs or archives of all payments to enable checks to be carried out. Several documents submitted to date propose some kind of platform or database for this purpose, e.g. ISWG-GHG 16/2/3 (ICS), ISWG-GHG 16/2/12 (Japan), ISWG-GHG 16/2/13 (Brazil et al) and ISWG-GHG 16/2/16 (Canada).

Management of collected revenue requires firm governance that is adaptable to future developments

8 Ensuring sound governance and oversight of the collected revenues is an essential task that merits careful consideration, irrespective of whether a new fund is established or an existing fund or multiple funds are adjusted to accommodate the management of revenues stemming from IMO regulations.

9 In order to function properly and to ensure transparency, accountability and effectiveness, the governance structure should be firm with clear mandates. There could be merit in striving for separation of political decisions from the technical execution of the fund. This matter has already been touched upon in several submissions; e.g. by ICS et al (MEPC 75/7/4), ICS (ISWG-GHG 16/2/3), Japan (ISWG-GHG 16/2/12) and Brazil et al (ISWG-GHG 16/2/13).

10 While the governance structure needs to be firm, it must also be resilient and able to adapt to new circumstances and developments that may not be possible to foresee from the start, in recognition of the long period to realise the objectives of the Strategy.

11 Risk management and mitigation as well as appropriate auditing of the fund(s) are other essential functions required to uphold its legitimacy. This has also been highlighted in submissions by e.g. Brazil et al (ISWG-GHG 16/2/13) and Canada (ISWG-GHG 16/2/16). The procedures could be based on international standards; however, the exact standards to be used may depend on various aspects such as the legal personality of the fund.

12 Essentially, this fund would have the role of supporting the implementation of the IMO regulation and, through that, supporting the implementation of the Strategy. As responsible body for this line of work, the MEPC could set the strategic direction of the fund. A report from the fund to MEPC at regular intervals, for example annually, as suggested by e.g. Brazil et al (ISWG-GHG 16/2/13), could enable the IMO Member States to provide political oversight and directions to the fund.

13 Once established, the management of the fund could be responsible for setting up various funding purposes in order to distribute revenue in accordance with the objectives that have been agreed by the IMO, thus implementing the agreed IMO regulation. Subject to further policy decisions, the fund management could also fully or partly delegate the task of distribution of revenue to another entity, as appropriate. Daily operations, i.e. administering and distributing collected revenue, would be carried out by the level of the fund's organization dealing with technical execution or another entrusted entity, if so decided.

Table 1. Summary of the basic functions of a fund for any regulation(s) in the context of the IMO net-zero framework.

Collection of payments by ships	Central management/oversight of collected revenue	Distribution of revenue
<ul style="list-style-type: none"> • Receive payments • Issue confirmations of receipt of payments • Notify Administrations about overdue payments • Keep logs of payments 	<ul style="list-style-type: none"> • Establish sound governance and oversight • Establish appropriate auditing • Set up funding purposes according to agreed regulations • [Approve and audit entities to whom disbursement is delegated, if any] • Establish strategic risk management and mitigation • Report to MEPC • Administer collected revenues 	<ul style="list-style-type: none"> • Distribute revenue according to agreed funding purposes to eligible recipients (in line with procedures to be established)

Establishing a fund under the IMO's mandate would keep parties' control over revenues

14 It is also necessary to consider on which foundation a fund could be established. As already mentioned, there have been several proposals for setting up a new fund to manage and oversee the revenue that would be collected pursuant to IMO regulation. Among those are MEPC 77/7/4 (Marshall Islands and Solomon Islands), ISWG-GHG 16/2/3 (ICS), ISWG-GHG 16/2/12 (Japan) and ISWG-GHG 16/2/13 (Brazil et al.). There have also been proposals to use existing frameworks, e.g. ISWG-GHG 16/2/16 (Canada).

15 In this choice of path, there are a number of aspects to consider. A key consideration is, what control the IMO and its parties should have over the collected revenues and their use. If the control is kept under the umbrella of the IMO, then the IMO parties responsible for the regulations adopted would be able to decide and oversee the management and distribution of the revenues.

Establishing a fund fit for IMO's purpose utilising what has been achieved elsewhere

16 There are several reasons why the IMO should consider setting up a new fund for the purpose of the net-zero framework. Experience from international funds with a focus on climate or maritime objectives shows that there are no existing funds that could easily accommodate payments and revenue administration from future IMO regulation.

17 The IMO regulation is expected to collect payments mainly from commercial entities. Pending decision on an IMO regulation, the fund may be handling mandatory payments. On the contrary, many international funds, such as e.g. the Green Climate Fund (GCF), the Climate Investment Funds (CIF) and the Global Environmental Fund (GEF) receive voluntary donations and contributions, usually from States. While donations, as suggested by e.g. Brazil et al (ISWG-GHG 16/2/13), could also be contributing to the subject fund, the abovementioned difference should be taken into account.

18 While there are also examples of international funds that collect payments from the private sector (e.g. the Norwegian NOx Fund and the International Oil Pollution Compensation (IOPC) Funds) those **are generally much smaller and they** have a narrower focus and purpose than the possible IMO fund under discussion here. Lessons can certainly be drawn from their setup, but reduction of specifically NO_x emissions from a number of industries including shipping and compensation to victims of oil spills from oil tankers do not reflect the enhanced scope and needs that a global GHG fund would entail. Such a fund would support the implementation of the IMO Strategy by potentially addressing multiple different objectives under the IMO regulation.

19 Lessons learned from the GCF operation should account for the fact that the GCF has a much broader focus, covering climate mitigation and adaptation across sectors. For this reason, complex procedures have been put in place. The subject fund, on the other hand, would arguably be established under the umbrella of the IMO with a more defined goal, which would allow for a governance structure that is more agile and resilient to future developments.

20 Furthermore, the expected size of replenished revenue matters as well. Ranging from modest sums in the proposal by Brazil et al (ISWG-GHG 16/2/13) to approximately \$80 billion collected annually in proposal ISWG-GHG 13/4/11 by the Marshall Islands et al., there is a possibility that the revenue collected by the IMO would overshadow the regular monetary flows of any potentially relevant existing fund, were they to be merged. As a comparison, the GCF is currently the largest existing climate fund with **an income of** approximately \$402 billion per **year** replenishment.

21 In addition, it could prove very challenging to adjust the governance structure and procedures of an existing fund or funds under the mandate of other organizations to ensure IMO oversight and coherence with the strategic direction derived from the Strategy. Such a fund's governing body would either have to free up chairs for new members, or expand its number of seats. Setting up a new fund would of course also be challenging and take some time from decision point until the fund is operational. ~~Examples from international funds suggest that it could take more than two years.~~ Nevertheless, the overall assessment seems to indicate that this is a more feasible option, as it would not entail the complexity or recalibrating balances which would be required in case an existing fund or funds, set outside the IMO, was(were) used. The setup of a new fund would not exclude the possibility that other institutions are used for executing the distribution of revenue if so decided under the IMO regulation.

Conclusion

22 All current proposals for a basket of mid-term measures have in common that they entail some payments regardless of their concrete designs. By consequence, a system for collection and management of the payments would be necessary and the IMO and/or the IMO Member States will need to play some role in its organization.

23 The system will require certain basic functions to be established in order to collect payments, manage, oversee and distribute collected revenues. Table 1 introduces a collation of functions on the basis of previous submissions and experience from other funds. Interested parties are invited to contribute to the further detailing of the functions and how they could be organized.

24 The co-sponsors recommend to keep control over collected revenue under the umbrella of the IMO, in support of the implementation of the IMO-net-zero framework and of the Strategy. Differences in replenishment model, overall focus and potential size of revenue would make it difficult to use existing funds. Nonetheless, there are lessons that can be learned from what has been achieved elsewhere.

25 Considering the long timeframe to develop and establish a fund, and the urgency to address climate change, it is suggested to develop a fund structure in parallel with the development and adoption of the basket of mid-term measures.

Action requested of the Working Group

26 The Working Group is invited to consider this document, in particular the conclusion and the proposed way forward in paragraphs 22-25, and take action as appropriate.