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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	30 July 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the International Maritime Organization during the second extraordinary session of the Marine Environment Protection Committee on the adoption of amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL)

Delegations will find attached document COM(2025) 431 final.

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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Maritime Organization during the second extraordinary session of the Marine Environment Protection Committee on the adoption of amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL)

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf at the second extraordinary session of the International Maritime Organization's Marine Protection Environment Committee (MEPC/ES.2), scheduled to take place from 14 to 17 October 2025.

During that session, MEPC is envisaged to adopt amendments to Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL).

2. CONTEXT OF THE PROPOSAL

2.1. The Convention on the International Maritime Organization

The Convention on the International Maritime Organization (IMO) establishes the IMO. The IMO's purpose is to provide a forum for co-operation in the field of regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade. It furthermore aims to encourage the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships, promoting a level playing field. It also deals with related administrative and legal matters.

The Convention entered into force on 17 March 1958.

All Member States are parties to the Convention. The Union is not a party to the Convention.

The International Convention for the Prevention of Pollution from Ships was concluded in 1973 (MARPOL Convention) is an IMO Convention, which entered into force on 2 October 1983. All Member States are parties to MARPOL and 25 Member States are also parties to Annex VI[1], which entered into force on 18 May 2005. The Union is not a party to MARPOL.

2.2. The International Maritime Organization

The International Maritime Organization (IMO) is the United Nations' specialised agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships. It is the global standard-setting authority for the safety, security, and environmental performance of international shipping. Its main role is to create a regulatory framework for the shipping industry that is fair and effective, universally adopted and universally implemented.

Membership in the IMO is only open to States. The European Commission's relations with IMO are based today on the IMO Resolution A.1168(32) which prescribes the procedures and terms for the cooperation between IMO and intergovernmental organisations. Based on this IMO Resolution and further arrangements since 1974, the European Commission is participating as an observer in all the IMO Committee and Sub-Committee meetings.

IMO's Marine Environment Protection Committee (MEPC) consists of all the IMO Members and meets at least once a year. It addresses environmental issues under the scope of the Organization as regards the control and prevention of ship-source pollution covered by the MARPOL treaty, including oil, chemicals carried in bulk, sewage, garbage and emissions from ships to air, including air pollutants and greenhouse gas emissions. Other matters

[1] Austria and Hungary have not yet ratified Annex VI of MARPOL.

covered include ballast water management, anti-fouling systems, ship recycling, pollution preparedness and response, and identification of special areas and particularly sensitive sea areas.

Pursuant to Article 38(a) of the IMO Convention, the Marine Environment Protection Committee performs any duties assigned to them by the IMO Convention, the IMO Assembly or the IMO Council, or any duty within the above scope which may be assigned to them by or under any other international instrument and accepted by the IMO. Decisions of the Marine Environment Protection Committee, and of its subsidiary bodies, are adopted by a majority of their Members.

MEPC/ES. 2 will adopt amendments to MARPOL in accordance with article 16 paragraph (2) subpoints (b), (c) and (d) of the Convention. These provisions stipulate that:

(b) any amendment proposed and circulated as above shall be submitted to an appropriate body by the Organization for consideration;

(c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the appropriate body;

(d) amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting.

In accordance with article 16(2)(f), an amendment shall be deemed to have been accepted in the following circumstances:

(ii) an amendment to an Annex to the Convention shall be deemed to have been accepted in accordance with the procedure specified in sub-paragraph (f)(iii) unless the appropriate body, at the time of its adoption, determines that the amendment shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet. Nevertheless, at any time before the entry into force of an amendment to an Annex to the Convention, a Party may notify the Secretary-General of the Organization that its express approval will be necessary before the amendment enters into force for it. The latter shall bring such notification and the date of its receipt to the notice of Parties;

(iii) an amendment to an Appendix to an Annex to the Convention shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of its adoption, which period shall be not less than ten months, unless within that period an objection is communicated to the Organization by not less than one-third of the Parties or by the Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet whichever condition is fulfilled;

Based on the below provisions under article 16(2)(g), the amendment shall enter into force under the following conditions:

(i) in the case of an amendment to an Article of the Convention, to Protocol II, or to Protocol I or to an Annex to the Convention not under the procedure specified in sub- paragraph (f)(iii), the amendment accepted in conformity with the foregoing provisions shall enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it;

(ii) in the case of an amendment to Protocol I, to an Appendix to an Annex or to an Annex to the Convention under the procedure specified in sub-paragraph (f)(iii), the amendment deemed to have been accepted in accordance with the foregoing conditions shall enter into force six months after its acceptance for all the Parties with the exception of those which,

before that date, have made a declaration that they do not accept it or a declaration under sub-paragraph (f)(ii), that their express approval is necessary.

2.3. The envisaged act of the IMO's Marine Environment Protection Committee

On 14 to 17 October 2025, during its second extraordinary session, MEPC is to adopt amendments to Annex VI of MARPOL concerning the:

designation of the North-East Atlantic as a new Emission Control Area (ECA) (regulations 13 and 14 and Appendix VII of MARPOL Annex VI);

accessibility of the IMO Ship Fuel Oil Consumption Database (IMO DCS) and review clause of the short-term GHG reduction measure (regulations 20, 25, 27 and 28); and

IMO Net-Zero Framework (new chapter 5).

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF IN THE EXTRAORDINARY SESSION OF THE MARINE ENVIRONMENT PROTECTION COMMITTEE

3.1. Amendments to regulations 13 and 14 and Appendix VII of MARPOL Annex VI

The EU Member States and the European Commission, together with the UK, Iceland, Denmark (Greenland), Faroes Islands submitted a document to MEPC 83, proposing to designate the North-East Atlantic Ocean as an Emission Control Area for sulphur oxides, particulate matter and nitrogen oxides, pursuant to MARPOL Annex VI. The Commission has been actively taking part to the preparatory work together with the littoral states under the coordination of the delegation of Portugal.

The Technical Group on the Designation of Particular Sensitive Sea Areas (PSSAs) and Special Areas had determined that the proposed ECA satisfied the criteria set forth in Section 3 of Appendix III to MARPOL Annex VI. Having noted the outcome of the technical group, MEPC 83 approved the designation of an ECA for the control of SOx, PM and NOx, for the North-East Atlantic Ocean with a view to adoption at the extraordinary MEPC session in October 2025 (MEPC/ES.2). These amendments have been circulated through IMO Circular Letter No.5005 of 11 April 2025.

The Union should support the proposal set out in the revised draft amendments to designate the North-East Atlantic Ocean as an Emission Control Area for sulphur oxides, particulate matter and nitrogen oxides, pursuant to MARPOL Annex VI, because it will contribute to preventing, reducing, and controlling NO_x, SO_x and PM emissions from ships to achieve related health and environmental benefits while keeping the economic impact to the maritime sector manageable.

3.2. Amendments to regulations 20, 25, 27 and 28 of MARPOL Annex VI

MEPC 82 had established the Correspondence Group on the review of the short-term GHG reduction measure, under the joint coordination of Brazil, Japan and the European Commission.

At its first meeting, the Intersessional Working Group on Air Pollution and Energy Efficiency (ISWG-APEE 1) considered among other topics the accessibility of IMO Ship Fuel Oil Consumption Database (IMO DCS) data for analysis and the review clause of the short-term GHG reduction measure.

With regard to the accessibility of IMO DCS data, ISWG-APEE 1 considered the report of the Correspondence Group, which had agreed to improve the IMO DCS data accessibility at Phase 1. Following considerations, the Group prepared draft amendments to regulation 27 of MARPOL Annex VI.

MEPC 83 instructed the APEE Working Group among others to finalize draft amendments to MARPOL Annex VI and associated guidelines regarding IMO DCS accessibility.

Having noted that the Working Group had further considered the draft amendments to regulation 27 of MARPOL Annex VI and to associated guidelines regarding IMO DCS accessibility prepared by ISWG-APEE 1, MEPC 83 approved draft amendments to regulation 27 of MARPOL Annex VI on IMO DCS accessibility, with a view to adoption at the extraordinary MEPC session in October 2025 (MEPC/ES.2). These amendments have been circulated by the IMO Secretariat through IMO Circular Letter No.5005 of 11 April 2025.

The Union submitted a proposal on the matter (ISWG-GHG 13/7), asking to amend the DCS related to the granularity of data, additional data and accessibility. The draft amendments are coherent with ISWG-GHG 13/7 in relation to increased accessibility.

The Union's position at ISWG-APEE 1 and MEPC 83 was to support the draft amendments to regulation 27.

The Union should support these amendments because they will further improve the accessibility of IMO DCS data to ensure the robust implementation of the CII framework and to facilitate its review.

With regard to the clauses on the review of the short-term measure, ISWG-APEE 1 prepared draft amendments to regulations 20, 25 and 28 of MARPOL Annex VI, using the annex to document MEPC 83/6/11, prepared by the Correspondence Group on an update of the reference to the IMO Strategy and on the Review of the Short-term GHG Reduction Measure, as a basis.

MEPC 83 approved the draft amendments to regulations 20, 25 and 28 of MARPOL Annex VI with a view to adoption at the extraordinary MEPC session in October 2025 (MEPC/ES.2). These amendments have been circulated by the IMO Secretariat through IMO Circular Letter No.5005 of 11 April 2025.

The Union's position at ISWG-APEE 1 and MEPC 83 was to support the draft amendments as presented in MEPC 83/6/11.

The Union should support these amendments because they are consequential to the adoption of the 2023 GHG IMO Strategy and consequential to the finalization of the review of the Short Term Measures by the IMO and allows for further review of these regulations.

3.3. Introduction of the new chapter 5 to MARPOL Annex VI

At MEPC 76 in 2021, the Committee approved a Workplan for mid- and long-Term measures. During the discussions in subsequent MEPC and ISWG-GHG sessions, delegates' divergent views progressively neared on outstanding aspects such as the timeline leading international shipping to zero GHG emissions, the possible inclusion of upstream emissions from fuel production and distribution, the nature (economic or technical) of the measures and the number and possible combination of measures necessary to achieve any overarching objective.

MEPC 80 agreed to initiate Phase III of the Work Plan on the development of mid-term measures, with a view to be approved by MEPC 83 (Spring 2025). Adoption during an

extraordinary MEPC (six months after MEPC 83 – autumn 2025) has been agreed in order to come into force 16 months after adoption (2027).

ISWG-GHG 16 held ahead of MEPC 81 discussed ways how to develop the basket of candidate mid-term measures to achieve the targets of the 2023 IMO GHG Strategy. ISWG-GHG 17 further developed the basket of candidate mid-term measure(s) and, in particular, agreed to use the possible draft amendments to MARPOL Annex VI on the net-zero framework as the basis for further consideration. This progress was noted by MEPC 82.

During ISWG-GHG 18, further discussion took place on how to develop the basket of candidate mid-term measures to achieve the targets of the 2023 IMO GHG Strategy by further developing the draft amendments to MARPOL Annex VI on the 'IMO net-zero framework. Although there was willingness to achieve consensus several issues remained open and there was still strong disagreement as regards the economic element. The majority of delegations, including the Union, advocated for a levy mechanism, while other delegations favoured a flexible economic mechanism revolving around the GHG intensity levels of fuel. During and immediately after ISWG-GHG 18, IMO Parties tabled two distinct proposals to compose divergences.

ISWG-GHG 19 continued the work on the development of an IMO net-zero framework, which continued during MEPC 83 at the Working Group on Reduction of GHG Emissions from Ships. Following extensive discussion, the Working Group finalized and agreed to the draft amendments to MARPOL Annex VI on the IMO net-zero framework.

During the consideration of the reports of ISWG-GHG 19 and the Working Group on Reduction of GHG Emissions from Ships, one IMO Party requested a roll-call vote in relation to the approval of the draft amendments to MARPOL Annex VI on the IMO net-zero framework. The roll-call voted resulted in 63 affirmative, 16 negative votes casted, while approximately 25 abstained.

Thus, MEPC 83 approved the draft amendments to MARPOL Annex VI on the IMO net-zero framework with a view to adoption at the extraordinary MEPC session in October 2025 (MEPC/ES.2). These amendments have been circulated through IMO Circular Letter No.5005 of 11 April 2025.

The Union supported and submitted various documents proposing the development of a Greenhouse Gas Fuel Standard (GFS) and a GHG-pricing levy. The Union has been playing a major role in the negotiations during the various sessions of MEPC and ISWG-GHG for the development of the net-zero framework. IMO’s net-zero framework includes a new global fuel standard for ships and a global pricing mechanism for emissions.

The Union should support the new Chapter 5 because it comprises provisions designed to reduce greenhouse gas (GHG) emissions from international shipping aimed at achieving net-zero greenhouse gas (GHG) emissions by 2050. It will also constitute a strong foundation for the required energy transition of shipping. Its goal is to achieve the targets set out in the 2023 IMO Strategy on the Reduction of GHG Emissions from Ships, accelerate the introduction of zero and near-zero GHG fuels, technologies and energy sources, and support a just and equitable transition.

4. RELEVANT EU LEGISLATION AND EU COMPETENCE

4.1. Relevant EU legislation

4.1.1. Amendments to regulations 13 and 14 and Appendix VII of MARPOL Annex VI

Directive (EU) 2016/802 aims to reduce emissions of sulphur dioxide from certain liquid fuels[2]. It seeks to prevent and control air pollution caused by noxious emissions resulting from the combustion of liquid fuels with high sulphur content, which harm human health, the environment, and contribute to acid deposition. Article 6 and Article 13 as well as Annex I refer to the rules laid down in MARPOL Annex VI on maximum sulphur content in ship's fuels and SOx emissions of ships in EU waters.

The Marine Strategy Framework Directive[3] requires Member States to take the necessary measures to achieve or maintain 'good environmental status' in the marine environment by 2020. Good environmental status means "the environmental status of marine waters where these provide ecologically diverse and dynamic oceans and seas which are clean, healthy, and productive within their intrinsic conditions, and the use of the marine environment is at a level that is sustainable, thus safeguarding, the potential uses and activities by current and future generations" (Article 3(5) of the Marine Strategy Framework Directive). Determining good environmental status requires, inter alia, that human-induced eutrophication is minimised, especially adverse effects thereof, such as losses in biodiversity, ecosystem degradation, harmful algae blooms and oxygen deficiency in bottom waters. Reducing nitrogen inputs originating from maritime shipping through the application of the Tier III requirements following from the designation of the Northeast Atlantic as NECA, will support the EU Member States bordering those seas with achieving 'good environmental status' under the Marine Strategy Framework Directive.

The Ambient Air Quality Directive[4] (revised in 2024) sets, inter alia, limit values for NO_2 with the aim of avoiding, preventing or reducing harmful effects on human health and/or the environment caused by air pollution. The Ambient Air Quality Directive recognizes that in order to achieve the objectives set out in that Directive, it is particularly important to combat emissions of pollutants at source in particular by measures which would limit the exhaust emissions of the engines of various mobile and stationary sources through engine or fuel quality standards. The Union has put in place various pieces of legislation regulating emissions by means of engine standards for various road transport modes (cars, trucks and vans through the Euro standards[5]) and non-road mobile machinery sources (inland waterway vessels and locomotives through the Non-Road Mobile Machinery Directive[6].

Therefore, the amendments to regulations 13 and 14 and Appendix VII of MARPOL Annex VI on the adoption of an Emission Control Area are capable of decisively affecting the content of Directive (EU) 2016/802. This is because the establishment of an Emission Control Area within EU Member States would affect the application of this Directive as its Article 6, Article 13 and its Annex I refer to the rules laid down in MARPOL Annex VI on maximum sulphur content in ship's fuels and SOx emissions of ships in EU waters.

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2 OJ L 132, 21.5.2016, p. 58.

3 OJ L 164, 25.6.2008, p. 19.

4 OJ L 152, 11.6.2008, p. 1

5 Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information [OJ L 171, 29.6.2007, p. 1] and Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information [OJ L 188, 18.7.2009, p. 1]

6 OJ L 59, 27.2.1998, p. 1

4.1.2. Amendments to regulations 20, 25, 27 and 28 of MARPOL Annex VI

Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport[7] (EU MRV Regulation) establishes the legal framework for an EU system to monitor, report and verify (MRV) GHG emissions. The regulation aims to deliver robust and verifiable GHG emissions data and energy efficiency indicators, inform policy makers and stimulate the market uptake of energy efficient technologies and behaviours. It does so by addressing market barriers such as the lack of information. It entered into force on 1 July 2015. Improving the accessibility of the IMO Ship Fuel Oil Consumption Database (IMO DCS) to the general public and introducing the review clause of the short-term GHG reduction measure are aimed to reduce the carbon intensity of international shipping in a manner consistent with the level of ambition set out in the IMO Strategy on reduction of GHG emissions from ships. Improving the consistency/quality of data reported under DCS in the IMO DCS and expanding data access for the general public has implications to the collection and reporting of ship fuel oil consumption data, and therefore could affect the monitoring, verification and reporting of GHG emissions from shipping under the EU MRV Regulation.

The EU Climate Law[8] sets a binding Union climate targets (compared to 1990) of a reduction of net greenhouse gas emissions—emissions after deduction of removals—by at least 55% by 2030 and by 90% by 2040 (proposal by the Commission). It also includes the aim of climate neutrality by 2050 and an aspirational goal for net negative emissions after this time.

Based on the Commission's proposals of the *Fit for 55* package to reduce GHG emissions, the EU legislators adopted the following legal acts specifically targeting GHG emissions from the shipping sector:

- the revision of the EU Emission Trading System (ETS) Directive 2003/87/EC[9] by Directive (EU) 2023/959[10] to extend the EU ETS to the maritime transport sector to apply as of 1 January 2024, (together with the necessary amendments to the EU MRV Regulation,[11] to revise monitoring and reporting rules, also through the revision of the relevant implementing and delegated acts).
- Regulation (EU) 2023/1805 focuses on the use of renewable and low-carbon fuels in the maritime sector[12] (FuelEU Maritime Regulation) and mandates the uptake thereof by ships calling at EU ports to apply as of 1 January 2025.

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7 OJ L 123, 19.5.2015, p. 55

8 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'); OJ L 243, 9.7.2021, p. 1–17

9 Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (Text with EEA relevance) OJ L 275, 25.10.2003, p. 32–46

10 Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system, OJ L 130, 16.5.2023, p. 134–202

11 Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023 amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types, OJ L 130, 16.5.2023, p. 105–114

12 OJ L 234, 22.9.2023, p. 48

Compliance with the new obligations stemming from the extension of the EU Emission Trading System (ETS) to maritime transport and the FuelEU Maritime Regulation will build on the monitoring, reporting, and verification system established by the EU MRV Regulation.

These EU acts are in turn strongly linked with the IMO measures on GHG such as the IMO Data Collection System, the Energy Efficiency Existing Ship Index (EEXI), and the Carbon Intensity Indicator (CII) aiming to collect and publish information on fuel consumption and on the technical and operational energy efficiency of ships on a per-ship basis.

Any IMO measure on GHG matters, which will require the monitoring, verification and reporting of GHG emissions from shipping, could affect the EU MRV Regulation as well as the EU ETS Directive and the FuelEU Maritime Regulation.

Therefore, the amendments to regulations 20, 25, 27 and 28 of Annex VI of MARPOL concerning the accessibility of the IMO Ship Fuel Oil Consumption Database (IMO DCS) and the review clause of the short-term GHG reduction measure are capable of decisively affecting the requirements applicable under Regulation (EU) 2015/757, Regulation (EU) 2023/1805 and Directive (EU) 2023/959.

4.1.3. Introduction of the new chapter 5 to MARPOL Annex VI

Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC[13] establishes the legal framework for an EU system to monitor, report and verify GHG emissions and energy efficiency from shipping (MRV Regulation). The regulation aims to deliver robust and verifiable GHG emissions data, inform policy makers and stimulate the market uptake of energy efficient technologies and behaviours. It does so by addressing market barriers such as the lack of information.

The EU Climate Law[14] sets a binding Union climate targets (compared to 1990) of a reduction of net greenhouse gas emissions—emissions after deduction of removals—by at least 55% by 2030 and by 90% by 2040 (proposal by the Commission). It also includes the aim of climate neutrality by 2050 and an aspirational goal for net negative emissions after this time.

Based on the Commission's proposals of the *Fit for 55* package to reduce GHG emissions, the EU legislators adopted the following legal acts specifically targeting GHG emissions from the shipping sector:

- the revision of the EU Emission Trading System (ETS) Directive 2003/87/EC[15] by Directive (EU) 2023/959[16] to extend the EU ETS to the maritime transport sector to apply as of 1 January 2024, (together with the necessary amendments

[13] OJ L 123, 19.5.2015, p. 55.

[14] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'); OJ L 243, 9.7.2021, p. 1–17

[15] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (Text with EEA relevance) OJ L 275, 25.10.2003, p. 32–46

[16] Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system, OJ L 130, 16.5.2023, p. 134–202

to the EU MRV Regulation,[17] to revise monitoring and reporting rules, also through the revision of the relevant implementing and delegated acts).

- Regulation (EU) 2023/1805[18] (FuelEU Maritime Regulation) focuses on the use of renewable and low-carbon fuels in the maritime sector and mandates the uptake thereof by ships calling at EU ports to apply as of 1 January 2025.

Compliance with the new obligations stemming from the extension of the EU ETS to maritime transport and the FuelEU Maritime Regulation will build on the monitoring, reporting, and verification system established by the EU MRV Regulation.

Both the EU ETS Directive and the FuelEU Maritime Regulation contain review clauses for the event that IMO adopts a global fuel standard or a market-based measure. More precisely:

- The FuelEU Maritime Regulation in its Article 30(5) stipulates that in the event of the adoption by the IMO of a global GHG fuel standard or global GHG intensity limits for the energy used on board by ships, the Commission shall present a report to the European Parliament and to the Council. In that report, the Commission shall examine that global measure as regards its ambition in light of the objectives of the Paris Agreement and its overall environmental integrity. It shall also examine any issue related to the possible articulation or alignment of this Regulation with that global measure, including the need to avoid duplicating regulation of GHG emissions from maritime transport at Union as well as international level. Where appropriate, that report may be accompanied by a legislative proposal to amend this Regulation, consistent with the Union economy-wide GHG emission commitments, and with the aim of preserving the environmental integrity and effectiveness of the Union climate action.
- the EU ETS Directive in its Article 3gg(1) stipulates that In the event of the adoption by IMO of a global market-based measure to reduce greenhouse gas emissions from maritime transport, the Commission shall review this Directive in light of that adopted measure. To that end, the Commission shall submit a report to the European Parliament and to the Council within 18 months of the adoption of such a global market-based measure and before it becomes operational. In that report, the Commission shall examine the global market-based measure as regards: (a) its ambition in light of the objectives of the Paris Agreement; (b) its overall environmental integrity, including in comparison with the provisions of this Directive covering maritime transport; and (c) any issue related to the coherence between the EU ETS and that measure. Where appropriate, the Commission may accompany the report with a legislative proposal to amend this Directive in a manner that is consistent with the Union 2030 climate target and the climate-neutrality objective set out in Regulation (EU) 2021/1119, and with the aim of preserving the environmental integrity and effectiveness of Union climate action, in order to ensure coherence

[17] Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023 amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types, OJ L 130, 16.5.2023, p. 105–114

[18] Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC, OJ L 234, 22.9.2023, p. 48–100

between the implementation of the global market-based measure and the EU ETS, while avoiding any significant double burden.

Any IMO measure on GHG matters, which will require the monitoring, verification and reporting of GHG emissions from shipping, could affect the EU MRV Regulation as well as the EU ETS Directive and the FuelEU Maritime Regulation.

Therefore, the new chapter 5 to Annex VI of MARPOL on the IMO Net-zero framework is capable of decisively affecting the requirements applicable under Regulation (EU) 2015/757, Regulation (EU) 2023/1805 and Directive (EU) 2023/959.

4.2. EU competence

The subject matter of the envisaged acts concerns an area for which the Union has exclusive external competence by virtue of the last limb of Article 3(2) TFEU, as the envisaged acts are liable to 'affect common rules or alter their scope'.

5. LEGAL BASIS

5.1. Procedural legal basis

5.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *'the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.'*

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement.[19]

The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It concerns, in particular, the situation where the international agreement that sets up the body provides that its decisions shall be binding upon the parties. This is the case for instance when the international agreement grants the body the power to amend certain aspects of the agreement or its annexes.

5.1.2. Application to the present case

The IMO's Marine Environment Protection Committee is a body set up by an agreement, the Convention on the International Maritime Organization.

The envisaged acts which this IMO committee is called upon to adopt are amendments to the MARPOL Convention's Annex VI. Such amendments will be binding under international law in accordance with Article 1 of the MARPOL Convention.

The envisaged acts do not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

[19] Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraph 64.

5.2. Substantive legal basis

5.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

5.2.2. Application to the present case

IMO is the United Nations specialized agency set up by a Convention, the IMO Convention, with responsibility for the safety and security of shipping and the prevention of marine and atmospheric pollution by ships.

According to the IMO Convention, the purpose of the Organization is to provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning the maritime safety, efficiency of navigation and prevention and control of marine pollution from ships.

IMO's MEPC Committee will adopt amendments to Annex VI of the MARPOL Convention, which is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes.

These amendments focus on preventing, reducing, and controlling emissions from international shipping, while promoting global connectivity through maritime transport.

The above-mentioned amendments to Annex VI to the MARPOL Convention pursue several objectives in the areas of maritime transport and environment which are inseparably linked without one being secondary and indirect in relation to the other. Therefore, the substantive legal basis of the decision has to include the corresponding substantive legal bases, namely both Articles 100(2) and 192(1) TFEU.

5.3. Conclusion

The legal basis of the proposed decision should be Article 100(2) and 192(1) TFEU, in conjunction with Article 218(9) TFEU.

2025/0242 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Maritime Organization during the second extraordinary session of the Marine Environment Protection Committee on the adoption of amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) and 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Convention on the International Maritime Organization ('IMO') entered into force on 17 March 1958.

(2) The IMO is a specialised agency of the United Nations with responsibility for the safety and security of shipping and the prevention of marine and atmospheric pollution by ships. All Union Member States are members of the IMO. The Union is not a member of the IMO.

(3) Pursuant to Article 38(a) of the Convention on the IMO, the Marine Environment Protection Committee (MEPC) performs such functions as are or may be conferred upon the IMO by or under international conventions for the prevention and control of marine pollution from ships, particularly with respect to the adoption and amendment of regulations or other provisions. MEPC during its second extraordinary meeting will adopt amendments to MARPOL in accordance with article 16 paragraph (2) subpoints (b), (c) and (d).

(4) The IMO's Marine Environment Protection Committee, in its second extraordinary session from 14 to 17 October 2025, is to adopt amendments to Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL) on the designation of the North-East Atlantic as a new Emission Control Area (regulations 13 and 14 and Appendix VII), on the accessibility of the IMO Ship Fuel Oil Consumption Database (IMO DCS) and review clause of the short-term GHG reduction measure (regulations 20, 25, 27 and 28), and on the IMO Net-Zero Framework (new chapter 5).

(5) The envisaged acts of the MEPC will have legal effects.

(6) It is therefore appropriate to establish the position to be taken on the Union's behalf during the extraordinary session of the IMO's Marine Protection Environment Committee, as the envisioned acts are capable of decisively influencing the contents of Union law, namely Directive (EU) 2016/802 relating to a reduction in the sulphur

content of certain liquid fuels[1], Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport[2], Directive (EU) 2023/959 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system[3], Regulation (EU) 2023/1805 on the use of renewable and low-carbon fuels in maritime transport[4].

(7) Therefore, the Union should support the amendments to regulations 13 and 14 and Appendix VII to Annex VI of MARPOL because it will contribute to preventing, reducing, and controlling NO_x, SO_x and PM emissions from ships to achieve related health and environmental benefits while keeping the economic impact to the maritime sector manageable. The Union shall also support the amendments to regulation 27 of Annex VI of MARPOL, because they will further improve the accessibility of IMO DCS data to ensure the robust implementation of the CII framework and to facilitate its review. The Union shall support the amendments to regulations 20, 25, 27 and 28 of Annex VI of MARPOL, because they are consequential to the adoption of the 2023 GHG IMO Strategy and to the finalization of the review of the Short-Term Measures by the IMO and allow for further review of these regulations. The Union should also support the introduction of the new chapter 5 to Annex VI of MARPOL, because it comprises provisions designed to reduce greenhouse gas (GHG) emissions from international shipping aimed at achieving net-zero greenhouse gas (GHG) emissions by 2050. It will also constitute a strong foundation for the required energy transition of shipping. Its goal is to achieve the climate targets set out in the 2023 IMO Strategy on the Reduction of GHG Emissions from Ships, accelerate the introduction of zero and near zero GHG fuels, technologies and energy sources, and support a just and equitable transition.

(8) The Union's position is to be expressed by the Member States of the Union that are members of the IMO, and by the Commission, acting jointly, in the interest of the European Union.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union’s behalf in the second extraordinary session of the International Maritime Organization’s (‘IMO’) Marine Environment Protection Committee shall be to agree to the adoption of:

(a) the amendments to regulations 13 and 14 and Appendix VII to Annex VI of MARPOL concerning the designation of the North-East Atlantic as a new Emission Control Area (ECA),

(b) the amendments to regulations 20, 25, 27 and 28 of Annex VI of MARPOL concerning the accessibility of the IMO Ship Fuel Oil Consumption Database (IMO DCS) and review clause of the short-term GHG reduction measure, and

1 OJ L 132, 21.5.2016, p. 58
2 OJ L 123, 19.5.2015, p. 55
3 OJ L 130, 16.5.2023, p. 134
4 OJ L 234, 22.9.2023, p. 48

(c) the introduction of the new chapter 5 to Annex VI of MARPOL concerning the IMO Net-Zero Framework.

Article 2

The position referred to in Article 1 shall be expressed by the Commission and by the Member States of the Union that are members of the IMO's Marine Environment Protection Committee, acting jointly in the interest of the Union.

Article 3

This Decision is addressed to the Commission and the Member States.

Done at Brussels,

For the Council
The President