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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
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Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2015/757 in order to take appropriate account of the global data collection system for ship fuel oil consumption data - Mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 4 February 2019 the Commission submitted a proposal for a Regulation amending Regulation (EU) 2015/757 on the monitoring, reporting and verification of CO_2 from maritime transport in order to take appropriate account of the IMO global data collection system for ship fuel oil consumption data (IMO DCS) agreed in 2016.

2. The proposal aims to ensure a streamlining of these two systems in order to minimise administrative burdens for shipping companies and administrations as much as possible, while preserving the key objectives of the EU MRV shipping Regulation. To this end the Commission proposes a partial alignment of the EU MRV rules to the global IMO DCS. Certain definitions and monitoring parameters are to be aligned, whereas notably the provisions on per voyage monitoring and on verification and publication of data remain as in the current EU MRV Shipping Regulation.

Under the EU MRV Shipping Regulation monitoring and reporting started from 2018, whereas under the global IMO DCS, monitoring started in 2019, with reporting in 2020.

3. The proposal has been discussed at a number of meetings of the Environment Working Party, latest on 7 October 2019 on the basis of a revised Presidency compromise text[1].

4. In the European Parliament, Ms. Jutta PAULUS (Greens/EFA, DE) was appointed rapporteur for the proposal on behalf of the ENVI Committee. No Parliament timetable has been communicated yet.

5. The European Economic and Social Committee delivered its opinion at its session on 15-16 May 2019. The Committee of Regions decided not to give an opinion.

II. MAIN OUTSTANDING ISSUES

6. During discussions in the working Party, there has been broad support for the Commission's approach to opt for a partial alignment to the global IMO DCS. However, some delegations have argued for full alignment with the global IMO DCS, in particular as regards the issue of publication of data but also as regards the verification procedure and monitoring parameters. On the other hand, a large number of delegations have objected to the alignment to the IMO DCS as regards one specific issue, i.e. making the reporting of cargo carried (Article 9) voluntary.

7. Against this background, the Presidency in its revised compromise text proposed to revert to compulsory reporting of cargo carried. Not least given the limited experience with the monitoring of CO_2 emissions from ships, it also proposed a review clause (Article 22a) whereby the Commission shall review the functioning of the Regulation, notably in light of experience gained with its implementation as well as that of the global IMO DCS. It further proposed recitals elaborating inter alia on the Paris Agreement commitments (in line with recently agreed legislative acts) and on the decisions taken within IMO. In addition, a number of further more technical amendments to the text were proposed.

[1] Document 12244/19.

8. At the meeting of the Working Party on 7 October, most delegations expressed full or overall support to the Presidency compromise. However, some delegations continued to have reservations or suggestions relating to the text, notably:

- Some delegations continue to call for full alignment with the global IMO DCS, notably arguing that publication of data per ship will be harmful for the competitiveness of the European shipping industry. They argue that data published will be misleading, in particular for those types of shipping activities where the ship is not operated by the ship owner who in these cases has no control over some of the parameters that determine the fuel consumption and CO_2emissions. Instead they propose to amend Article 21 so that only aggregated data per ship type is made public and to suppress publication of certain data. They maintain reservations on other issues, including the verification procedure as well as mandatory reporting of cargo carried and parts of the additional recitals proposed by the Presidency. They would also prefer to include a deadline in the review clause.

  Conversely, other delegations oppose decreasing the level of transparency. However, some delegations acknowledge the concerns expressed and one delegation has subsequently made a proposal to amend Article 21 (2) e) and f) so that in addition to the annual average values the "range value" of the fuel consumption and CO_2emissions would be published to provide a more nuanced picture of a ship's CO_2 emissions and fuel consumption performance.

- One delegation, supported by some delegations, proposes that the Commission assess progress made in CO_2 emission reductions of the shipping sector towards achieving the targets in the initial IMO GHG strategy as well as EU climate objectives, the long term objectives of the Paris Agreement and reports of IPCC, UNFCCC and EEA. Other delegations oppose or have doubts on such reporting, arguing that it goes beyond the scope of this Regulation.

9. In light of the above, the Presidency has decided to maintain its compromise proposal.

III. CONCLUSION

The Permanent Representatives Committee is invited to examine the outstanding issues on the basis of the text set out in the Annex[2] with a view to agreeing on a mandate for negotiations with the European Parliament.

As provided by the Presidency's note on openness and transparency of 6 September 2019[3], the Presidency suggests that, if no objections are raised, the mandate endorsed by the Committee shall be made public, in accordance with the Council's Rules of Procedure.

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[2] Changes to the Commission proposal are underlined. Deletions are marked […].
[3] Document 11999/19.

ANNEX

2019/0017 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2015/757 in order to take appropriate account of the global data collection system for ship fuel oil consumption data

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[4],

Having regard to the opinion of the Committee of the Regions[5],

Acting in accordance with the ordinary legislative procedure[6],

Whereas:

(1) Maritime transport has an impact on the global climate, as a result of carbon dioxide (CO_2) emissions from shipping. In 2015, it emitted 13% of the total Union greenhouse gas emissions from transport[7]. International maritime shipping remains the only means of transportation not included in the Union's commitment to reduce greenhouse gas emissions.

4 OJ C […],[…], p.[…].
5 XXX
6 XXX
7 https://www.eea.europa.eu/data-and-maps/indicators/transport-emissions-of-greenhouse-gases/transport-emissions-of-greenhouse-gases-10.

(2) All sectors of the economy should contribute to the reduction of greenhouse gas emissions […] as expressed in Regulation (EU) 2018/842 of the European Parliament and of the Council[8] and Directive (EU) 2018/410 of the European Parliament and of the Council[9].

(3) The European Parliament's Resolution of February 2014 on a 2030 framework for climate and energy policies called on the Commission and the Member States to set a binding Union 2030 target of reducing greenhouse gas emissions by at least 40% compared to 1990 levels. The European Parliament also noted that all sectors of the economy would need to contribute to the reduction of greenhouse gas emissions if the Union is to deliver its fair share of global efforts.

(4) In its Conclusions of 24 October 2014, the European Council endorsed a binding Union target of an at least 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990. The European Council also stated the importance of reducing greenhouse gas emissions and risks related to fossil fuel dependency in the transport sector and invited the Commission to examine further instruments and measures for a comprehensive and technology-neutral approach, including for the promotion of emissions reduction, renewable energy sources, and energy efficiency in transport.

(5) Building on the 2011 Union White paper on transport[10], in 2013 the Commission adopted a strategy for progressively integrating maritime emissions into the Union's policy for reducing greenhouse gas emissions[11].

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8 Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

9 Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

10 https://ec.europa.eu/transport/sites/transport/files/themes/strategies/doc/2011_white_paper/white-paper-illustrated-brochure_en.pdf.

11 COM (2013) 479.

(6) In April 2015, the European Parliament and the Council adopted Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport [12] (the "EU MRV Regulation"), which was complemented in 2016 with two Delegated Regulations[13] and two Implementing Regulations[14]. The aim of the EU MRV Regulation is to collect data on shipping emissions for further policymaking and to incentivise emission reductions by providing information on ships' efficiency to relevant markets. The EU MRV Regulation obliges companies to monitor, report and verify the fuel consumption, CO_2 emissions and energy efficiency of their ships on voyages to and from European Economic Area (EEA) ports on an annual basis, starting from 2018. It also applies to CO_2 emissions within EEA ports. […]

(7) Article 22 of the EU MRV Regulation states that the Commission will, in the event of an international agreement on a global monitoring, reporting and verification system, review the EU MRV Regulation and, if appropriate, propose amendments in order to ensure alignment with that international agreement.

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12 Regulation (EU) 2015/757 of the European Parliament and the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Directive 2009/16/EC, *(OJ L 123, 19.5.2015, p. 55)*.

13 Commission Delegated Regulation (EU) 2016/2072 on the verification activities and accreditation of verifiers pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport (*OJ L 320, 26.11.2016, p. 5);* Commission Delegated Regulation (EU) 2016/2071 of 22 September 2016 amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the methods for monitoring carbon dioxide emissions and the rules for monitoring other relevant information (*OJ L 320, 26.11.2016, p. 1)*.

14 Commission Implementing Regulation (EU) 2016/1927 of 4 November 2016 on templates for monitoring plans, emissions reports and documents of compliance pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on monitoring, reporting and verification of carbon dioxide emissions from maritime transport (OJ L 299, 5.11.2016, p. 1–21); Commission Implementing Regulation (EU) 2016/1928 of 4 November 2016 on determination of cargo carried for categories of ships other than passenger, ro-ro and container ships pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport (OJ L 299, 5.11.2016, p. 22–25).

(8) Under the Paris Agreement that was adopted in December 2015 at the 21st Conference of the Parties of the United Nations Framework Convention on Climate Change (UNFCCC)[15], the Union and its Member States have undertaken an economy-wide reduction target. The Paris Agreement sets out, inter alia, a long-term goal in line with the objective to keep the global average temperature increase well below 2 °C above pre-industrial levels and to pursue efforts to keep it to 1.5 °C above pre-industrial levels. The scientific findings reported in October 2018 by the Intergovernmental Panel on Climate Change in its special report on the impacts of global warming of 1.5 °C above pre-industrial levels and related global greenhouse gas emission pathways unequivocally confirm the negative impacts of climate change. That special report concludes that emissions reductions in all sectors are crucial to limit global warming.

(8a) Efforts to limit international maritime emissions through the International Maritime Organisation (IMO) are under way and should be encouraged. The IMO adopted[16] in October 2016 a data collection system for fuel oil consumption of ships ("the global IMO DCS").

(9) Considering the co-existence of these two monitoring, reporting and verification systems, the Commission assessed pursuant to Article 22 of the EU MRV Regulation how to align the two systems so as to reduce administrative burden for ships, while preserving the objectives of the EU MRV Regulation.

(10) The impact assessment indicated that a partial alignment of the two monitoring, reporting and verification systems could contribute to reducing the administrative burden for shipping companies, while preserving the key objectives of the EU MRV Regulation.

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15 Paris Agreement (*OJ L 282, 19.10.2016, p. 4–18).*

16 IMO Resolution MEPC.278(70) amending MARPOL Annex VI.

(10a) A partial alignment should […] not modify the governance, overall scope, verification, transparency or CO_2 reporting requirements of the EU MRV Regulation as it would severely undermine its objectives and affect its capacity to inform future policy-making decisions and to incentivise the uptake of energy efficiency measures and behaviours in shipping. The amendments to the EU MRV Regulation should therefore limit the alignment with the global IMO DCS in relation to ships covered, definitions, monitoring parameters, monitoring plans and templates.

(11) Amendments to the EU MRV Regulation should ensure that the same legal entities are responsible for monitoring during similarly calculated reporting periods where ships' activities fall under both systems. Thus definitions concerning companies and reporting periods including reporting in case of change of companies should be amended to take into account the IMO provisions.

(12) Global IMO DCS provisions on data to be monitored and reported annually should be taken into account so as to ensure that streamlined data is collected for ships' activities falling under both systems. In order to do so, the parameter "deadweight tonnage" should be reported […]. "Time spent at sea" should be replaced by the global IMO DCS definition of "hours underway". Finally, calculation of "distance travelled" should be based on global IMO DCS [17] to reduce administrative burden.

[17] IMO Resolution MEPC 282 (70).

(13) Content of monitoring plans should be streamlined so as to take into consideration the global IMO DCS except for the parts of the plan which are necessary to ensure that only Union-related data are monitored and reported under the EU MRV Regulation. Therefore, any "*per voyage*" provisions should remain as part of the monitoring plan. […] Appropriate emission factors for biofuels and alternative non-fossil fuels should be included in the monitoring plans and Commission Regulation 2016/2071[18] should therefore be revised in order to determine default emission factors.

(14) The deferred date of application is necessary to ensure that on-going monitoring, reporting and verification are implemented consistently for the reporting period.

(14a) The IMO adopted in April 2018 an Initial Strategy on Reduction of Greenhouse Gas Emissions from Ships. It defines an emission reduction objective of at least 50% by 2050 compared to 2008 annual greenhouse gas emissions coupled with a vision for the decarbonisation of the sector. It also sets an objective to reduce carbon intensity, as an average across international shipping, by at least 40% by 2030, pursuing efforts towards 70% by 2050, compared to 2008. Moreover, the Initial Strategy includes a list of possible short-, mid- and long-term further measures to achieve such objectives.

(14b) In its Conclusions on Climate Diplomacy of 18 February 2019, the Council calls on the IMO to implement its Initial Strategy on Reduction of Greenhouse Gas Emissions from Ships consistent with the temperature goals of the Paris Agreement.

[18] Commission Delegated Regulation (EU) 2016/2071 of 22 September 2016 amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the methods for monitoring carbon dioxide emissions and the rules for monitoring other relevant information OJ L 320, 26.11.2016, p. 1–4.

(14c) According to the Initial IMO Strategy, short-term measures to reduce the emissions could be agreed between 2019 and 2023. In 2023, a revised strategy including short-, mid- and long-term further measures with implementation schedules is also to be adopted in IMO. In line with Directive (EU) 2018/410, the Commission should review and report to the European Parliament and to the Council on the progress achieved in the IMO towards an ambitious emission reduction objective, and on accompanying measures to ensure that the sector duly contributes to the efforts needed to achieve the objectives agreed under the Paris Agreement.

(14d) The Commission should review the functioning of Regulation (EU) 2015/757, taking into account further experience gained in the implementation of this Regulation and the implementation of the global IMO DCS, as well as other relevant developments aimed at reducing greenhouse gas emissions from maritime transport.

(15) The objective of Regulation (EU) 2015/757 is to monitor, report and verify CO_2 emissions from ships calling at EEA ports as the first step of a staged approach to reduce greenhouse gas emissions. This cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level. The global IMO DCS should be taken into account and this Regulation ensures the continued comparability and reliability of collected data based on a single set of requirements. The Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(16) Regulation (EU) 2015/757 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2015/757 is amended as follows:

(0) In Article 2, paragraph 1 is replaced by the following:

" 1. This Regulation applies to ships of 5,000 gross tonnage and above in respect of CO_2 emissions released during their voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State."

(1) Article 3 is amended as follows:

(a) point (d) is replaced by the following:

"(d) 'company' means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by […] the International Management Code for the Safe Operation of Ships and for Pollution Prevention";

(b) point (m) is replaced by the following:

"(m) 'reporting period' means the period from 1 January until 31 December inclusive. For voyages starting and ending in two different calendar years, the respective data shall be accounted under the calendar year concerned;";

(c) new points (p), (r) and (s) are added:

"(p) 'deadweight tonnage' means the difference in tonnes between the displacement of a ship in water of relative density of 1025 kg/m3 at the summer load draught and the lightweight of the ship. The summer load draught should be taken as the maximum summer draught as certified in the stability booklet approved by the Administration or an organisation recognised by it.";

(r) 'fuel oil consumer' means any consumer of fuel oil on board a ship, including the main engines, auxiliary engines, gas turbines, boilers and inert gas generators;

(s) 'fuel oil' means any fuel delivered to and intended for combustion purposes for propulsion or operation on board a ship, including gas, distillate and residual fuels;"

(2) Article 6 is amended as follows:

(a) paragraph 3 is amended as follows:

(i) points (a), (b) and (c) are replaced by the following:

"(a) the ship particulars, including name, IMO identification number, type of the ship and the name of the company;";

"(b) a description of the ship's engines and other fuel oil consumers and fuel oil types;";

"(c) emissions factors […] for each fuel oil type;".

(ii) point (d) is deleted;

(iii) point (g) is deleted;

(iv) in point (h), point (iii) is replaced by the following:

"(iii) the procedures, responsibilities, formulae and data sources for determining and recording hours underway;";

(v) point (i) is replaced by the following:

"(i) data quality control measures, including procedures to identify […] and address data gaps and the procedures and responsibilities to update the list of fuel oil consumers and fuel oil types over the reporting period;";

(b) paragraph 4 is replaced by the following:

"4. The monitoring plan may also contain information on the ice class of the ship and/or the procedures, responsibilities, formulae and data sources for determining and recording the distance travelled and the hours underway when navigating through ice." [19]

(3) In Article 9, paragraph 1, point (e) […] is replaced by the following:

"(e) hours underway;";

[…]

[19] Only change in paragraph is the replacement of "time spent at sea" with "hours underway".

(4) In Article 10, point (h) is replaced by the following:

"(h) total hours underway;";

(5) Article 11 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Where there is a change of company, the previous company shall submit to the Commission and to the authorities of the flag State concerned, on the day of completion of the change or as close as practical […] thereto and no later than three months thereafter, a report covering the same elements as the emissions report but limited to the period corresponding to the activities carried out under its responsibility. The new company shall ensure that each ship under its responsibility complies with the requirements of this Regulation in relation to the period corresponding to the activity carried out under its responsibility";

(b) a new point (xi) is added to paragraph 3(a):

"(xi) deadweight tonnage of the ship;";

(6) In Article 21(2), point (g) is replaced by the following:

"(g) the annual total hours underway;";

(6a) In Article 22, paragraph 3 is deleted.

(6b) A New article 22a is inserted:

Article 22a

Review

The Commission shall review the functioning of this Regulation, taking into account further experience gained in the implementation of this Regulation and the implementation of the global IMO DCS, as well as other relevant developments aimed at reducing greenhouse gas emissions from maritime transport. The review may, if appropriate, be accompanied by a proposal to amend the Regulation.

(7) Annex II is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union.*

It shall apply from 1 January following the year of entry into force of this act.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX to the ANNEX

In Annex II, Part A is amended as follows:

(1) Point 1 is amended as follows:

(a) point (a), the second sentence is replaced by the following:

"Hours underway shall be calculated as aggregated duration while the ship is underway under its own propulsion;";

(b) point (b), the first sentence is replaced by the following;

"the distance travelled shall be calculated as distance over ground.";