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REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the use of renewable and low-carbon fuels in maritime transport and amending Directive 2009/16/EC <ul style="list-style-type: none">• Progress report / Policy debate

The Presidency has foreseen a progress report and a policy debate for the TTE Council (Transport) of 9 December 2021 on the above proposal. In order to inform Ministers about the progress made to date and to steer an exchange of views on substantial issues, the Presidency has prepared a progress report (in Annex I) and a policy paper (in Annex II).

The Coreper/Council will be invited to take note of the progress report set out in Annex I. The Council will be invited to address the issues set out in Annex II.

I. INTRODUCTION

The Commission submitted the above proposal to the European Parliament and to the Council on 14 July 2021 as part of the ‘Fit for 55’ package¹ aimed at making the EU's climate, energy, land use, transport and taxation policies fit for achieving the EU target of a net domestic reduction of at least 55% in greenhouse gas emissions by 2030 compared to 1990.

The objective of the ‘Fit for 55’ package is to deliver on the targets agreed in the European Climate Law² so as to fundamentally transform the economy and society for a fairer, greener and more prosperous future. Reducing emissions in the next decade is crucial to Europe becoming the world's first climate-neutral continent by 2050 and making the European Green Deal a reality.

In order to reach the goal of putting the EU on a path to becoming climate neutral by 2050, a reduction of approximately 90% in transport emissions would be needed. The above proposal would play a significant role in this, since its main objective is to increase the demand and a consistent use of renewable and low-carbon fuels in the maritime sector, while ensuring the smooth operation of maritime traffic and avoiding distortions in the internal market. Notably, its main provisions focus on the following aspects:

- (i) setting reduction targets for the greenhouse gas intensity of energy used on-board by ships;
- (ii) laying down requirements for the use of on-shore power supply or zero-emission energy at berth for ships applicable as of 2030;

¹ The package consists of twelve Commission proposals in the field of energy, environment, taxation, trade and transport; additional proposals in the field of energy policy are still expected before the end of this year. Three legislative proposals are directly related to transport policies: the above proposal (i.e. the proposed Regulation on the use of renewable and low-carbon fuels in maritime transport – ‘FuelEU Maritime’), the proposed Regulation on the use of Sustainable Aviation fuels in the aviation industry (‘ReFuel Aviation’) and the proposed Regulation on the deployment of alternative fuels infrastructure (‘AFIR’).

² 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).

(iii) establishing the principles on counting biofuels, biogas, renewable fuels of non-biological origin and recycled carbon fuels within the greenhouse gas intensity reduction targets;

(iv) establishing the FuelEU certificate of compliance and the obligation for ships to carry it; and

(v) introducing monitoring, reporting, verification, inspection, and enforcement procedures, and financial provisions (including penalties for ships for non-compliance as well as the allocation of said penalties to the Innovation Fund).

The file also presents interlinkages with other proposals of the ‘Fit for 55’ package. In particular, the definition of fuels referred to therein as well as some parameters used for their counting (e.g. greenhouse gas saving criteria as well as the certification of renewable and low carbon fuels) come from the Renewable Energy Directive (RED)³. Some provisions relating to electricity supply in maritime ports are closely linked to the proposed Regulation on the deployment of alternative fuels infrastructure – ‘AFIR’⁴. It should also be recalled that the pace of decarbonisation in the sector will be significantly influenced by the revision of the ETS⁵ that now also addresses maritime transport and introduces a carbon pricing mechanism.

II. WORK AT OTHER INSTITUTIONS

The European Parliament has designated the Committee on Transport and Tourism (TRAN) as the committee responsible⁶ for the FuelEU Maritime proposal and Mr Jörgen Warborn (SE, EPP) has been appointed as its rapporteur.

³ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018).

⁴ Proposal for a Regulation of the European Parliament and of the Council on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU of the European Parliament and of the Council - doc. 10877/21 + ADD 1 -7.

⁵ Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757 - doc. 10875/21 + ADD 1 – 7).

⁶ ITRE and ENVI parliamentary committees will act under associated committee procedure (rule 57 of the European Parliament's Rules of Procedure).

The European Economic and Social Committee and the Committee of the Regions did not adopt their opinions on the proposal yet.

III. WORK WITHIN THE COUNCIL AND ITS PREPARATORY BODIES

During the Slovenian Presidency, a significant number of meetings at the level of the Working Party on Shipping have dealt with the FuelEU Maritime proposal. To date, eleven meetings have been devoted to a thorough article-by-article examination of the proposal, its impact assessment and interlinkages with other proposals of the ‘Fit for 55’ package.

Additionally, the FuelEU Maritime proposal has been addressed in the framework of a broader exchange of views on the three transport-related files of the ‘Fit for 55’ package which was held at the meeting of the Permanent Representatives Committee on 12 November 2021.

The Slovenian Presidency has also prepared a report (doc. 13977/21) aiming to provide an overall state of play and overview of progress made not only on this proposal but overall on the "Fit for 55" package. The report focuses on the horizontal aspects of the package, such as interlinkages between proposals, and the main issues raised in discussions so far. That report has been distributed to all Council formations responsible for the different proposals of the package as a background document.

IV. MAIN POLITICAL ISSUES AND PROGRESS

Discussions have proved that the Member States attach significant importance to the proposal, sharing its rationale and objectives. However, they have also shown that the proposal is perceived to be complex, from both technical and political points of view and that further time for proper examination by the Member States would be needed. During the discussions, many delegations have indeed regularly indicated their general or parliamentary scrutiny reservations on the proposal.

The main political issues underlined during the discussions relate to the following aspects:

- 1) the scope, on the one hand the "substantive" scope (i.e. application to all ships above a gross tonnage of 5000) and, on the other hand, the "geographical" scope (i.e. the application of the proposed Regulation to ships in respect to 50% of the energy used on voyages departing from/arriving to a port under the jurisdiction of a Member State, where the last/next port is under the jurisdiction of a third country);
- 2) the greenhouse gas intensity reduction targets;
- 3) the on-shore power supply (OPS) requirements;
- 4) the use of renewable and low-carbon fuels as well as rules on their counting for the purpose of reaching the greenhouse gas intensity reduction targets; and
- 5) the governance of the proposal (including enforcement and penalty aspects).

In the light of the above, the Slovenian Presidency did not deem appropriate to work towards a compromise addressing substantial or controversial issues at this stage and it rather focused on a compromise text limited to editorial or technical aspects⁷ which was presented and examined at the level of the Working Party on Shipping.

V. CONCLUSIONS

Based on the work carried out so far, the Presidency draws the following conclusions:

1. while the Member States largely agree with most of the objectives of the draft Regulation, they need more time for examining it properly; and
2. further work is therefore necessary, in order to make substantial progress on this proposal.

In the light of the above, the Permanent Representatives Committee and the Council are invited to take note of this progress report regarding the FuelEU Maritime proposal.

⁷ Doc. 12813/21.

Policy paper to steer the discussion at the TTE Council (Transport) of 9 December 2021

Maritime transport is an essential vector for EU internal and external trade and connectivity. Although the sector unequivocally represents a significant driver of economic growth and brings substantial economic and social benefits to the EU, it also has an impact on the environment and human health. Despite progress in recent years, the maritime sector still relies almost entirely on fossil fuels and constitutes a significant source of greenhouse gases and other harmful pollutant emissions.

The European Climate Law⁸ aims at cutting greenhouse gas emissions by at least 55% by 2030 and puts the EU on a path to becoming climate neutral by 2050, when a 90% reduction in transport emissions would be expected. To facilitate reaching that goal, a number of legislative initiatives was adopted within the "Fit for 55" package in July 2021. The "**FuelEU Maritime**" proposal⁹ is part of the basket of measures aimed at addressing emissions from the maritime sector. Notably, this initiative sets rules to reduce the greenhouse gas intensity of the energy used on-board by ships arriving at, within or departing from ports under the jurisdiction of EU Member States, while promoting an increased use of renewable and low-carbon fuels in maritime transport.

During the Slovenian Presidency, the proposal and its impact assessment have been thoroughly analysed at the level of the Working Party on Shipping. The discussion has clearly shown that the Member States attach significant importance to this proposal, sharing its rationale and objectives. Nevertheless, its highly technical nature and the complexity of some provisions require careful attention and further examination. In the light of this, the Presidency considers that an exchange of views at the level of the TTE Council (Transport) would be beneficial. The Member States are therefore invited to share their views as regards the following aspects of the proposal:

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).

⁹ Proposal for a Regulation on the use of renewable and low-carbon fuels in maritime transport and amending Directive 2009/16/EC (doc. 10327/21 + ADD 1 – 3).

1. *the way the two main measures regarding the limit to the yearly greenhouse gas intensity of the energy used on-board by a ship and the use of on-shore power supply or zero-emission energy at berth are built, including the international dimension and implications;*
 2. *the overall governance to apply and enforce the proposed regulation (e.g. monitoring and reporting activities, verification procedures, penalties, etc.).*
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