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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 12.10.2023 amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for monitoring greenhouse gas emissions and other relevant information from maritime transport

Delegations will find attached document C(2023) 6728 final.

Encl.: C(2023) 6728 final



Brussels, 12.10.2023
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COMMISSION DELEGATED REGULATION (EU) .../...

of 12.10.2023

amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for monitoring greenhouse gas emissions and other relevant information from maritime transport

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2023/957 amending Regulation (EU) 2015/757 on the monitoring, reporting and verification of greenhouse gas emissions from maritime transport, and amending Directive 2009/16/EC was published in the *Official Journal of the European Union* on 16 May 2023 and entered into force on 5 June 2023.

The aim of the Regulation is to amend 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.

According to its Article 4, companies shall determine their ship's greenhouse gas emissions in accordance with any of the monitoring methods set out in Annex I, and monitor other relevant information, in accordance with the rules set out in Annex II of the Regulation.

According to Article 5(2), the Commission is empowered through delegated acts to amend the methods set out in Annex I and the rules set out in Annex II in order to take into account the inclusion of CH₄ and N₂O emissions, as well as the inclusion of greenhouse gas emissions from offshore ships.

According to the same Article 5(2), the Commission is also empowered to adopt delegated acts to, *inter alia*, align Annexes I and II to this Regulation with the implementing acts adopted under Article 14(1) of Directive 2003/87/EC and to amend Annexes I and II to this Regulation in order to ensure the effective operation of the EU Emissions Trading System (EU ETS) established pursuant to Directive 2003/87/EC.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission established the Expert Group on Climate Change Policy on 27 March 2018. For the preparation of this Delegated Regulation, meetings of the Expert Group on Climate Change Policy were held on 17 April, 4 May and 31 May 2023. The Commission also consulted the European Sustainable Shipping Forum through joint meetings with the Expert Group on Climate Change Policy, held on 4 May and 31 May 2023.

The documents relevant to the meetings have been transmitted simultaneously to the European Parliament and the Council, as foreseen in the Common Understanding on Delegated Acts annexed to the Interinstitutional Agreement on Better Law Making¹. The observations expressed by the expert group were taken into account when preparing the draft Delegated Regulation.

Furthermore, online feedback on the text of the Delegated Regulation was collected on the Better Regulation Portal for four weeks between 02/08/2023 and 30/08/2023. 22 contributions were submitted, 2 from citizens, 7 from companies, 4 from non-governmental organisations, 7 from business associations and 2 on behalf of environmental organisations.

Stakeholders overall welcomed the Delegated Regulation, and some of those, including non-governmental and business associations, suggested a review of the default slippage coefficient values for methane, further consideration of fugitive emissions, and the application of global

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¹ Interinstitutional Agreement Between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p.1).

warming potential values over 20 years. The Commission has not implemented these suggestions as the default emission factors are aligned with the ones set out in the 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. These values have been discussed and agreed in dedicated expert groups. In addition, the global warming potential values follow the approach used in the EU ETS.

Several companies and business associations active in the maritime sector made suggestions concerning derogations and emissions accounting foreseen under Annex II to Regulation (EU) 2015/757, notably in relation to fuels complying with the sustainability criteria and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001 of the European Parliament and of the Council on the promotion of the use of energy from renewable sources, and where the company uses Renewable Fuels of Non-Biological Origin (RFNBO) and Recycled Carbon Fuel (RCF). The Commission has not implemented these suggestions as those rules have been discussed and agreed in dedicated expert groups. Furthermore, the rules under Annex II to Regulation (EU) 2015/757 are established in accordance with Directive 2003/87/EC, with a view to align with the rules applicable to other sectors covered by the EU Emissions Trading System.

The Commission took good note that several stakeholders underlined the need to further develop guidelines, exchange of information and/or procedures to support the implementation of the Delegated Regulation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Regulation aims at updating Annexes I and II to Regulation (EU) 2015/757 to ensure the effective operation of the EU Emissions Trading System (EU ETS) established pursuant to Directive 2003/87/EC, align Annexes I and II with the implementing acts adopted under Article 14(1) of Directive 2003/87/EC and to take into account the inclusion of CH₄ and N₂O emissions in the scope of Regulation (EU) 2015/757.

COMMISSION DELEGATED REGULATION (EU) .../...

of 12.10.2023

amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for monitoring greenhouse gas emissions and other relevant information from maritime transport

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of greenhouse gas emissions from maritime transport, and amending Directive 2009/16/EC², and in particular Article 5(2) thereof,

Whereas:

- (1) Regulation (EU) 2015/757 lays down rules for the accurate monitoring, reporting and verification of greenhouse gas emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State, in order to promote the reduction of greenhouse gas emissions from maritime transport in a cost-effective manner.
- (2) Annex I to Regulation (EU) 2015/757 lays down the methods for monitoring CO₂ emissions on the basis of fuel consumption. Annex II to Regulation (EU) 2015/757 lays down the rules for the monitoring of other relevant information.
- (3) Regulation (EU) 2023/957 of the European Parliament and of the Council³ amended Regulation (EU) 2015/757, in particular to provide for the inclusion of maritime transport activities in the EU Emissions Trading System (the ‘EU ETS’) and for the monitoring, reporting and verification of methane (CH₄) and nitrous oxide (N₂O) emissions.
- (4) Part A of Annex I to Regulation (EU) 2015/757 provides that CO₂ emissions are to be calculated by multiplying emission factors by fuel consumption. Part A should be amended to provide revised formulae to take into account the inclusion of CH₄ and N₂O emissions within the scope of Regulation (EU) 2015/757. Since CH₄ emissions can originate from amounts of fuels not combusted but released into the atmosphere as slipped emissions, the formulae under Part A of Annex I should be revised to take

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² OJ L 123, 19.5.2015, p.55.

³ 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).

account of this possibility. In the light of technological and scientific developments in the maritime sector and most notably the future uptake of new fuel types, the list of standard fuels and emissions factors provided in Part A of Annex I should be updated.

- (5) Part B of Annex I to Regulation (EU) 2015/757 sets out monitoring methods to determine fuel consumption. To ensure the proper and effective operation of the EU ETS, it is necessary to differentiate between the calculation approach for greenhouse gas emissions provided for under methods A, B, and C set out in Part B of that Annex, and the measurement approach provided for under method D set out in that Part.
- (6) To further support the robustness of the monitoring system, in particular in light of the inclusion of maritime transport emissions in the EU ETS, and in accordance with the common principles for monitoring and reporting set in Article 4 of Regulation (EU) 2015/757, companies should establish procedures for data flow and control activities and include the relevant descriptions of such procedures in the monitoring plan referred to in Article 6 of that Regulation. Companies should further be provided with rules for the treatment of data gaps covering cases of missing data or temporary non-applicability of the monitoring plan. A new Part C on data management and control should therefore be added to Annex I to Regulation (EU) 2015/757.
- (7) Part B of Annex II to Regulation (EU) 2015/757 details rules on the monitoring of other relevant information on an annual basis by companies, in accordance with Article 10 of that Regulation. The amendments to Regulation (EU) 2015/757 introduced by Regulation (EU) 2023/957 brought CH₄ and N₂O within the scope of Regulation (EU) 2015/757. The indicators to monitor the average energy efficiency of ships need to be adapted accordingly and further be expressed as CO₂-equivalent values.
- (8) Article 10 of Regulation (EU) 2015/757 lists the parameters that companies are to monitor on an annual basis to comply with their reporting obligations pursuant to Article 11 of that Regulation. Article 10, point (k), of that Regulation states that companies are to monitor, on an annual basis, the total aggregated emissions of greenhouse gases covered by Directive 2003/87/EC of the European Parliament and of the Council⁴ in relation to maritime transport activities in accordance with Annex I to that Directive. That monitoring is to be carried out in accordance with Part A of Annex I to Regulation (EU) 2015/757 and Part B of Annex II to that Regulation. It is necessary to add a new Part C to Annex II, setting out the rules for the monitoring on an annual basis of a ship's total aggregated greenhouse gas emissions. It is further appropriate to establish rules on the monitoring of the necessary information to justify the application of any relevant derogation from Article 12(3) of Directive 2003/87/EC provided for in Article 12(3-e) to (3-b) of that Directive.
- (9) For a given ship, the emissions of greenhouse gases covered by Directive 2003/87/EC might differ from the emissions of greenhouse gases covered by Regulation (EU) 2015/757, including because of the geographical scope referred to in Article 3ga of Directive 2003/87/EC. The rules for the monitoring of a ship's total aggregated emissions of greenhouse gases pursuant to Article 10, point (k) of Regulation (EU) 2015/757 should be based on the revised formulae in Part A of Annex I to that Regulation. To take into account the rules on the greenhouse gas emissions covered by

⁴ 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 (OJ L 275, 25.10.2003, p. 32).

Directive 2003/87/EC, Annex II to Regulation (EU) 2015/757 should provide for a set of derogations to be applied to the revised formulae in Part A of Annex I to that Regulation, as well as the order for their application as presented therein. To align Annex II to Regulation (EU) 2015/757 with the implementing acts adopted under Article 14(1) of Directive 2003/87/EC, rules should be established for the treatment of biomass, renewable fuels of non-biological origin and recycle carbon fuel, as a derogation to the general rule. Further derogations should be established to reflect the inclusion of maritime transport greenhouse gas emissions in the EU ETS, notably concerning the application of the geographical scope referred to in Article 3ga of Directive 2003/87/EC, the treatment of greenhouse gas emissions falling within the scope of Article 12(3a) and (3b) of that Directive, the treatment of greenhouse gas emissions falling within the scope of Article 12(3-d), (3-c) and (3-b) of that Directive, the application of the derogation provided for in Article 12(3-e) of that Directive, and the phase-in requirements provided for in Article 3gb of that Directive.

- (10) Regulation (EU) 2015/757 should therefore be amended accordingly.
- (11) Maritime transport greenhouse gas emissions will be included in the EU ETS from the reporting period starting on 1 January 2024 and methane and nitrous oxide emissions will be included in the scope of Regulation (EU) 2015/757 from the reporting period starting on 1 January 2024. It is therefore appropriate for the provisions of this Regulation to apply from 1 January 2024,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) Annex I is replaced by the text in Annex I to this Regulation;
- (2) Annex II is amended in accordance with Annex II to this Regulation.

Article 2

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

It shall apply from 1 January 2024.

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

Done at Brussels, 12.10.2023

For the Commission
The President
Ursula VON DER LEYEN