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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	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 - Preparation for the trilogue

In view of preparing the trilogue scheduled for 16 December 2022, delegations will find attached a consolidated version of the MRV Regulation.

Consolidated MRV text agreed as part of maritime package

REGULATION (EU) 202../...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime
transport activities in the EU Emissions Trading System and of other greenhouse gases than
CO₂**

(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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 152, 6.4.2022, p. 175.

² OJ C 301, 5.8.2022, p. 116.

³ Position of the European Parliament of ... (not yet published in the Official Journal) and
decision of the Council of ...

Whereas:

- (1) *[Recitals (1) to (7) are of general nature and would be relevant for both the Regulation and the Directive. They could thus be included in adapted form in both acts.]*
- (x) *[In parallel to the adoption of this Regulation, Directive 2003/87/EC is being amended to include the maritime transport sector in the EU ETS in order to ensure that that sector contributes to the increased climate objectives of the Union as well as to the objectives of the Paris Agreement.]*
- (x) It is **therefore** necessary to amend Regulation (EU) 2015/757 to take into account the inclusion of the maritime transport sector in the EU ETS. Regulation (EU) 2015/757 should be amended to oblige companies to report aggregated emissions data at company level and to submit for approval their verified monitoring plans and aggregated emissions data at company level to the responsible administering authority. **To ensure coherence in administration and enforcement, the entity responsible for compliance with Regulation (EU) 2015/757 should be the same as the entity responsible for compliance with Directive 2003/87/EC.** In addition, the Commission should be empowered to adopt delegated acts to amend the methods for monitoring emissions and the rules on monitoring, including for the purpose of taking into account the inclusion of **methane (CH₄) and nitrous oxide (N₂O)** within the scope of Regulation (EU) 2015/757, as well as any other relevant information set out in Regulation (EU) 2015/757, to ensure the effective functioning of the EU ETS at administrative level and to supplement Regulation (EU) 2015/757 with the rules for the approval of monitoring plans and changes thereof by administering authorities, with the rules for the monitoring, reporting and submission of the aggregated emissions data at company level and with the rules for the verification of the aggregated emissions data at company level and for the issuance of a verification report in respect of the aggregated emissions data at company level. The data monitored, reported and verified under Regulation (EU) 2015/757 might also be used for the purpose of compliance with other Union law requiring the monitoring, reporting and verification of the same ship information.

- (x) In order to ... [objective], the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of ... [content and scope]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁴. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (x) Since the objectives of this Regulation, namely ***[to provide for monitoring, reporting and verification rules that are necessary for an extension of the EU ETS to maritime transport activities and to provide for the monitoring, reporting and verification of emissions of additional greenhouse gases]***, cannot be sufficiently achieved by the Member States but can rather, by reason of ... [scale or effects of the action], be better achieved at Union level, 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 those objectives.
- (x) Regulation (EU) 2015/757 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

⁴ OJ L 123, 12.5.2016, p. 1.

Article 1
Amendments to Regulation (EU) 2015/757

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

(-1) the title is replaced by the following:

‘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/EC’;

(-1a) throughout the Regulation, except in Articles 1 and 2, Article 3, point (a), and Article 21(5) and Annexes I and II, the term ‘CO₂’ is replaced by ‘greenhouse gas’ and any necessary grammatical changes are made;

(-1b) Article 1 is replaced by the following:

‘Article 1
Subject matter

This Regulation 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.’;

(-1c) 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 the greenhouse gas emissions released during their voyages *for transporting, for commercial purposes, cargo or passengers* 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.

- 1a. From 1 January 2025, this Regulation shall also apply to general cargo ships ***below 5 000 gross tonnage but not below 400 gross tonnage*** in respect of the greenhouse gas emissions released during their voyages ***for transporting cargo for commercial purposes*** 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 ***and to offshore ships below 5000 gross tonnage but not below 400 gross tonnage in respect of the greenhouse gas 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.***
- 1b. ***From 1 January 2025, this Regulation shall apply to offshore ships of 5 000 gross tonnage and above in respect of the greenhouse gas 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.***
- 1c. ***The greenhouse gasses covered by this Regulation are:***
- (a) ***carbon dioxide (CO₂);***
 - (b) ***with regard to emissions from 2024 onwards, methane (CH₄); and***
 - (c) ***with regard to emissions from 2024 onwards, nitrous oxide (N₂O).***

Where this Regulation refers to total aggregated emissions of greenhouse gases or total aggregated greenhouse gas emitted, it shall be understood as referring to the total aggregated amounts of each gas separately.

(1) Article 3 *is amended as follows*:

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

‘(a) “greenhouse gas emissions” means the release of the greenhouse gasses covered by this Regulation in accordance with Article 2(1c) by ships;’;

(b) *points (b), (c), (d) and (m) are replaced by the following*:

(b) “port of call” means a port of call as defined in Article 3, point (wa), of Directive 2003/87/EC of the European Parliament and of the Council

(c) “voyage” means any movement of a ship that originates from or terminates in a port of call

(d) “company” means the shipping company as defined in Article 3, point (v), of Directive 2003/87/EC;

(m) “reporting period” means the period from 1 January until 31 December of any given calendar year; for voyages starting and ending in two different calendar years, the respective data shall be accounted under the calendar year concerned;’;

(c) *the following points (q) and (r) are added*:

‘(q) “administering authority” means the administering authority in respect of a shipping company referred to in Article 3gd of Directive 2003/87/EC of the European Parliament and of the Council;*

- (r) “aggregated emissions data at company level” means the sum of the *greenhouse gas emissions relating to gases listed in Annex I to Directive 2003/87/EC with regard to maritime transport activities in accordance with Annex I to that Directive and to be reported under that Directive*, in respect of all ships under its responsibility during the reporting period.

* Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275 25.10.2003, p. 32).’;

- (2) in Article 4, the following paragraph 8 is added:

‘8. Companies shall report the aggregated emissions data at company level of the ships under their responsibility during a reporting period pursuant to Article 11a.’;

- (3) in Article 5, paragraph 2 is replaced by the following:

‘2. The Commission is empowered to adopt delegated acts in accordance with Article 23 to amend *Annexes I and II to this Regulation, in order to take into account the inclusion of methane and nitrous oxide emissions, as well as the inclusion of emissions from offshore ships, in the scope of this Regulation, amendments of Directive 2003/87/EC, as well as to align those Annexes with the [implementing acts] adopted under Article 14(1)* of that Directive, relevant international rules as well as international and European standards. The Commission is also empowered to adopt delegated acts in accordance with Article 23 to amend Annexes I and II to this Regulation in order to refine the elements of the monitoring methods set out therein, in the light of technological and scientific developments and in order to ensure the effective operation of the EU ETS established pursuant to Directive 2003/87/EC.

The Commission shall adopt the delegated acts to take into account the inclusion of methane and nitrous oxide emissions in the scope of this Regulation, as referred to in the first subparagraph of this paragraph, by 1 October 2023. The methods for monitoring such emissions shall be based on the same principles as the methods for monitoring CO₂ emissions as set out in Annex I, with any adjustments necessary to reflect the nature of the relevant greenhouse gas emissions. The methods set out in Annex I and the rules set out in Annex II shall, where appropriate, be aligned with the methods and rules set out in Regulation [xxx/yyyy] on [FuelEU Maritime, 2021/0210 (COD)].

(4) Article 6 is amended as follows:

(-a) paragraph 3, point (b) is replaced by the following:

‘(b) the name of the company and the address, telephone and e-mail details of a contact person and the IMO unique company and registered owner identification number;’;

(a) paragraph 5 is replaced by the following:

‘5. Companies shall use standardised monitoring plans based on templates and monitoring plans shall be submitted using automated systems and data exchange formats. Those templates, including the technical rules for their uniform application and automatic transfer, shall be determined by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 24(2).’;

(b) the following paragraphs 6, 7 and 8 are added:

- ‘6. ***By 1 April 2024***, companies shall submit to the responsible administering authority a monitoring plan for each of their ships falling under the scope of this Regulation, which shall first be assessed as being in conformity with this Regulation by the verifier ***and which shall reflect the inclusion of methane and nitrous oxide emissions in the scope of this Regulation.***
7. Notwithstanding paragraph 6, for ships falling under the scope of this Regulation for the first time after ***1 January 2024***, ***companies*** shall submit a monitoring plan in conformity with the requirements of this Regulation to the responsible administering authority without undue delay and no later than three months after each ship's first call in a port under the jurisdiction of a Member State.
8. ***By ...*** [two years ***after*** the date of entry into force of ***this amending Regulation***], the responsible administering authorities shall approve the monitoring plans submitted by companies in accordance with the rules laid down in the delegated acts adopted by the Commission pursuant to the second subparagraph. For ships falling under the scope of [revised ETS Directive] for the first time after ***1 January 2024***, the responsible administering authority shall approve the submitted monitoring plan within four months after the ship's first call in a port under the jurisdiction of a Member State in accordance with the rules laid down in the delegated acts adopted by the Commission pursuant to the second subparagraph.

By 1 October 2023, the Commission shall adopt delegated acts in accordance with Article 23 to amend Articles 6, 7, 8, 9 and 10 of this Regulation concerning the rules for monitoring plans to take account of the inclusion of methane and nitrous oxide emissions, as well as emissions from offshore ships, in the scope of this Regulation.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation concerning rules for the approval of monitoring plans by administering authorities.’;

(5) Article 7 is amended as follows:

(a) in paragraph 4, the second sentence is replaced by the following:

‘Following the assessment, the verifier shall notify the company whether those modifications are in conformity. The company shall submit its modified monitoring plan to the responsible administering authority once it has received a notification from the verifier that the monitoring plan is in conformity.’;

(b) the following paragraph 5 is added:

‘5. The administering authority shall approve modifications of the monitoring plan under paragraph 2, points (a), (b), (c), (d), in accordance with the rules laid down in the delegated acts adopted by the Commission pursuant to the second subparagraph of this paragraph.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation concerning rules for the approval of changes in the monitoring plans by administering authorities.’;

(6) in Article 10, first subparagraph, the following point (k) is added:

‘(k) total aggregated *emissions of greenhouse gases covered by Directive 2003/87/EC in relation to maritime transport activities in accordance with Annex I to that Directive* to be reported under *that* Directive —in relation to maritime transport activities, *together with the necessary information to justify the application of any relevant derogation from Article 12(3) of that Directive provided for in Article 12, paragraphs 3-e, 3-d, 3-c and 3-b thereof*.’;

(6a) *in Article 11, paragraph 1 the following subparagraph is added:*

‘Starting from 2025 and by 31 March of each year, companies shall submit to their responsible administering authority, to the authorities of the flag States concerned for ships flying the flag of a Member State and to the Commission an emissions report for the entire reporting period for each ship under their responsibility, which has been verified as satisfactory by a verifier in accordance with Article 13. The administering authority may require companies to submit their emissions reports by a date earlier than 31 March, but not earlier than by 28 February.’;

(6b) *in Article 11, paragraph 2 is replaced by the following:*

‘2. Where there is a change of company, the previous company shall submit to their responsible administering authority, to the authorities of the flag States concerned for ships flying the flag of a Member State, to the new company and to the Commission, as close as practical to the day of the completion of the change and no later than three months thereafter, a verified report covering the same elements as the emissions report referred to in paragraph 1, but limited to the period corresponding to the activities carried out under its responsibility.’;

(6c) *in Article 11, the following paragraph is added:*

‘4. By 1 October 2023, the Commission shall adopt delegated acts in accordance with Article 23 to amend the provisions of this Regulation concerning the rules for reporting as laid down in Articles 11, 11a and 12 to take account of the inclusion of methane and nitrous oxide emissions, as well as emissions from offshore ships, in the scope of this Regulation.’;

(7) the following Article 11a is inserted:

‘Article 11a

Reporting and submission of the aggregated emissions data at company level

1. Companies shall determine the aggregated emissions data at company level during a reporting period, based on the data of the emissions report and the report referred to in Article 11(2) for each ship that was under their responsibility during the reporting period, in accordance with the rules laid down in the delegated acts adopted pursuant to paragraph 4.
2. From 2025, the company shall submit to the responsible administering authority by 31 March of each year the aggregated emissions data at company level that covers the emissions in the reporting period to be reported under Directive 2003/87/EC in relation to maritime transport activities, in accordance with the rules laid down in the delegated acts adopted pursuant to paragraph 4 and that is verified in accordance with Chapter III of this Regulation (the ‘verified aggregated emissions data at company level’).
3. The administering authority may require companies to submit the verified aggregated emissions data at company level by a date earlier than 31 March, but not earlier than by 28 February.
4. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation with the rules for the monitoring and reporting of the aggregated data at company level and the submission of the aggregated emissions data at company level to the administering authority.’;

(8) Article 12 is amended as follows:

(a) the title is replaced by the following:

‘Format of the emissions report and reporting of aggregated emissions data at company level’;

(b) paragraph 1 is replaced by the following:

‘1. The emissions report and the reporting of aggregated emissions data at company level shall be submitted using automated systems and data exchange formats, including electronic templates.’;

(9) Article 13 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The verifier shall assess the conformity of the emissions report and the report referred to in Article 11(2) with the requirements laid down in Articles 8 to 12 and Annexes I and II.’;

(b) the following paragraphs 5 and 6 are added:

‘5. The verifier shall assess the conformity of the aggregated emissions data at company level with the requirements laid down in the delegated acts adopted pursuant to paragraph 6.

Where the verifier concludes, with reasonable assurance, that the aggregated emissions data at company level are free from material misstatements, the verifier shall issue a verification report stating that the aggregated emissions data at company level have been verified as satisfactory in accordance with the rules laid down in the delegated acts adopted pursuant to paragraph 6.

6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation with the rules for the verification of the aggregated emissions data at company level and the issuance of a verification report.’;

(10) Article 14 is amended as follows:

(a) in paragraph 2, point (d) is replaced by the following:

‘(d) the calculations leading to the determination of the overall **greenhouse gas** emissions and of the total aggregated ***emissions of greenhouse gases covered by Directive 2003/87/EC in relation to maritime transport activities in accordance with Annex I to that Directive*** to be reported under ***that*** Directive **—**in relation to maritime transport activities;’;

(b) the following paragraph 4 is added:

‘4. When considering the verification of the aggregated emissions data at company level, the verifier shall assess the completeness and the consistency of the reported data with the information provided by the company, including its verified emissions reports and the report referred to in Article 11(2).’;

(11) in Article 15, the following paragraph 6 is added:

‘6. In respect of the verification of aggregated emissions data at company level, the verifier and the company shall comply with the verification rules laid down in the delegated acts adopted pursuant to the second subparagraph. The verifier shall not verify the emissions report and the report referred to in Article 11(2) of each ship under the responsibility of the company.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation with the rules for the verification of aggregated emissions data at company level, including the verification methods and verification procedure.’;

(12) in Article 16, paragraph 1 is replaced by the following:

- ‘1. Verifiers that assess the monitoring plans, the emissions reports and the aggregated emissions data at company level, and issue verification reports and documents of compliance referred to in this Regulation shall be accredited for activities under the scope of this Regulation by a national accreditation body pursuant to Regulation (EC) No 765/2008.’;

(13) in Article 20, paragraph 3 is replaced by the following:

- ‘3. In the case of ships that have failed to comply with the monitoring and reporting requirements for two or more consecutive reporting periods and where other enforcement measures have failed to ensure compliance, the competent authority of the Member State of the port of entry may, after giving the opportunity to the company concerned to submit its observations, issue an expulsion order which shall be notified to the Commission, EMSA, the other Member States and the flag State concerned. As a result of the issuing of such an expulsion order, every Member State, with the exception of the Member State whose flag the ship is flying, shall refuse entry of the ship concerned into any of its ports until the company fulfils its monitoring and reporting obligations in accordance with Articles 11 and 18. Where the ship flies the flag of a Member State ***and enters or is found in one of its ports,*** the Member State concerned shall, after giving the opportunity to the company concerned to submit its observations, ***detain*** the ship ~~—~~until the company fulfils its obligations. ~~—~~

Where a ship that flies the flag of a Member State is found to have failed to comply with the monitoring and reporting requirements referred to in the first subparagraph while in one of the ports of the Member State whose flag the ship is flying, the Member State concerned may, after giving the opportunity to the company concerned to submit its observations, issue a flag detention order until the shipping company fulfils its obligations. It shall inform the Commission, EMSA and the other Member States thereof.

The fulfilment of those obligations shall be confirmed by the notification of a valid document of compliance to the competent national authority which issued the expulsion order. This paragraph shall be without prejudice to international maritime rules applicable in the case of ships in distress.”;

(13a) *in Article 20(5), the following subparagraph is added:*

‘The possibility to derogate under this paragraph shall not apply to a Member State whose responsible authority is the administering authority of a shipping company.’;

(13b) *in Article 21(2), point (a) is replaced by the following:*

‘(a) the identity of the ship (name, company, IMO identification number and port of registry or home port)’;

(13c) *in Article 21, paragraph 5 is amended as follows:*

‘5. The Commission shall every two years assess the maritime transport sector's overall impact on the global climate including through non-CO₂-related emissions or effects from other greenhouse gases and of particles with a global warming potential not covered by this Regulation.’;

(13d) *the following Article is inserted:*

‘Article 22a

Review

The Commission shall, no later than 31 December 2024, review this Regulation, taking into account in particular further experience gained in its implementation notably in view of including ships below 5000 gross tonnage but not below 400 gross tonnage in the scope of this Regulation with a view to a possible subsequent inclusion thereof in Directive 2003/87/EC or to proposing other measures to reduce greenhouse gas emissions from such ships. The review shall, if appropriate, be accompanied by a proposal to amend this Regulation.”

(14) Article 23 is amended as follows:

'(a) in paragraph 2, the following subparagraph is added:

‘The power to adopt delegated acts referred to in ~~in~~ Articles 6(8), 7(5), 11a(4), 13(6) and 15(6) shall be conferred on the Commission for *a* period of *five years* from the entry into force of [revised MRV Regulation]. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*’;

(b) in paragraphs 3 and 5, the words “Articles 5(2), 15(5), 16(3)” are replaced by the words “Articles 5(2), 6(8), 7(5), 11a(4), 13(6) 15(5), 15(6) and 16(3)”.

(c) *paragraph 5 the following subparagraph is added:*

‘However, the last sentence of the first subparagraph shall not apply to delegated acts adopted by 1 October 2023 pursuant to Article 5(2), second subparagraph, Article 6(8), second subparagraph, Article 11(4) and Article 15(5).’;

Article 2

Entry into force and application

- 1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.***
- 2. It shall apply from ... [the date of entry into force]. However, Article 1 (1), point (b), shall apply from 1 January 2024.***

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

Done at ..., ...

For the European Parliament
The President

For the Council
The President
