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General Secretariat

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**WK 10572/2022 ADD 1**

**LIMITE**

**CLIMA**

**ENV**

**ENER**

**TRANS**

**COMPET**

**ECOFIN**

**CODEC**

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## **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 9732/22
Subject:	Fit for 55 package (ETS revision): EP amendments on ETS maritime - comments from a delegation

In follow-up to the WPE on 5 July 2022 on the EP amendments in relation to ETS maritime and the call for comments in WK 9732/22, delegations will find attached contributions from EL.

**GREECE****Comments**

Recitals					
Cluster	AMN°	New	Recital N°	Summary	Comments by Greece
Other	426	n	14	Reference to the targets of the European Climate Law Regulation 2021/1119 (ECL)	Support General Approach
Scope	427	y	14anew	Reference to the Paris Agreements and to the IMO Greenhouse Gas Study. Call on Commission to assess and report to the EP and Council by 2024	Support General Approach
MRV Reg.	428	n	15	Includes ships of 400 gross tonnage and above into MRV regulation (EU 2015/757) from 2024, yet with less administrative burden than ships of 5000 gross tonnage and above. Inclusion of these smaller ships into the EU ETS as from 2027	Against. Support General Approach
Other	429	n	16	Reference to recent developments in the IMO, urges EU to make progress on the international development of IMO	Support General Approach
Review clause	430	y	16a	Contemplates on the role of evasive ports in neighbouring non-EU countries and urges the Commission to biennially report on implementation of this Directive and possible evasive trends. Report to be accompanied by a legislative proposal where applicable	Support General Approach – Flexibility can be shown to EP proposal
Compliance obligations	431	n	17	Reference to the state of play at IMO. Sets up the full surrendering of allowances from 2024. Allows “reciprocal” derogation from the coverage of 100% of emissions from extra-EU voyages if third countries do not implement such system under IMO or have bilateral agreement with the EU (based on cap and trade system such as EU ETS). As from 2027, coverage of 100% of the emissions from voyages to and from third countries (i.e. extra-EU voyages) with derogation provisions to cover only 50% of these emissions under certain conditions	Against. Support General Approach
Other	432	y	17anew	Reference to the Paris Agreement and situation of the low-income, lower-middle income and Least Developed Countries regarding climate change	Flexibility can be shown to EP proposal

Other	433	y	17bnew	Call on facilitation of acceptance of the EU ETS-Maritime by third countries and on the strengthening of international cooperation in that area. Also call on EU to strengthen global measures through IMO	Flexibility can be shown to EP proposal only as regards strengthening international cooperation and global measures
Derogations and exemptions	437	y	17fnew	Introduces time-limited derogation of ice-class ships. Calls on specific support of ice-class ships innovation through the Ocean Fund.	Support
Scope	438	n	18	Adjustment of geographical scope of emissions covered in the EU ETS in case of the adoption of an IMO global market-based measure. If IMO global measures would not be sufficient, the EU ETS shall (continue to) cover 100% of all emissions	Against. Support General Approach

Recitals					
Cluster	AM N°	New	Recital N°	Summary	Comments by Greece
Review clause	439	n	19	Reference to the targets of the European Climate Law Regulation 2021/1119 in the recital related to the review of the functioning of the ETS maritime	Support
Compliance obligations	440	n	20	Justification for the introduction of a mandatory clause on the transfer of ETS compliance costs in the contractual arrangements between a shipping company and a commercial operator	Support
Use of revenues	441	y	20anew	Establishment of the Ocean Fund	Positive study reservation.
Administering authority	442	n	21	Yearly updates of the list of shipping companies performing maritime activities (instead of the biennial update proposed by COM).To be noted that there is no corresponding amendment in the operative part of the text.	We support, in principle, the text agreed by the Council. Flexible for further discussion
Administering authority	443	n	24	Stronger call on EMSA to assist the administering authorities with MRV, exchanging information and developing guidelines ('should' instead of 'could')	Positive study reservation
MRV Reg.	487	n	67	Call on Commission to adopt delegated acts to amend MRV rules in view of the extension of the scope of the MRV Regulation tonon-CO2 emissions (CH4 and N2O)	Against. Support General Approach

Articles						
Cluster	AM N°	New	Article N°	Directive 2003/87/EC	Summary	Comments by Greece
Anti-evasion measures	491	y	1	3(1) point va(new)	New definition of voyage (referring to the definition under the MRV Maritime Regulation, itself amended to include movement by offshore vessels)	Support
Anti-evasion measures	492	y	1	3 (1) point wa(new)	New definition of “non-transshipment port” - port in non-EU country at a distance of less than 300 nautical miles from an EU port, where the share of transshipment activities of one type cargo must exceed 60%of total traffic	Support general approach. We would like however to listen to EP logic.
Anti-evasion measures	493	y	1	3 (1) point wb(new)	New definition of “transshipment operation”-cargo , container or good is unloaded from a ship to the port for the sole purpose of loading it onto another ship	Support general approach
Anti-evasion measures	494	y	1	3 (1) point wc(new)	New definition of “port of call”-where ship stops for selected reasons, similar to those under the MRV Maritime Regulation. By contrast to the definition under the MRV Maritime Regulation, stops in non-EU transshipment ports do not count as “port of call” for ETS purposes	Support general approach
Other	495	n	1	3(1)pointy	Clarification of wording of the “fuel” definition	Study reservation
Scope	497	n	1	3a (1)	Extension of the EU ETS scope to vessels between 400 and 5000 gross tonnage from 2027.New reporting and review clause (by 31 December 2024):COM to report on the impact of other GHG emissions and of particles with a global warming potential from shipping	Against. Support General Approach
Scope	498	n	1	3g	Until 31 December 2026, same geographical scope as under the COM proposal (e.g.50%extra-EU voyages). As from 2027,extension of the EU ETS geographical scope to 100% of the emissions from extra-EU voyages (subject to derogations set out in the new Article 3gaa)	Against. Support General Approach
Compliance obligations	499	n	1	3ga	No phase-in–obligation to surrender 100% of emission allowances corresponding to the verified emissions from 2024	Against. Support General Approach

Scope	500	y	1	3gaa(new)	Para.1: new obligation for the COM to engage with third countries on measures to reduce GHG emissions from shipping. Para2: COM empowered to adopt delegated acts providing for derogations from the 100% coverage of extra-EU voyages in case of measures equivalent to the EU ETS by third countries and international organizations to address the climate impact of maritime transport or in case of the inclusion by a Least Developed Country or Small Island Developing State of emissions under its nationally determined contribution under the Paris Agreement.	Against. Support General Approach
Use of revenues	501	y	1	3gab(new)	Sets up the Ocean Fund, its criteria, management, purpose and focus. Para.2: establish a pooling mechanism for the surrender of allowances by SMEs.	Positive study reservation.

Articles						
Cluster	AMN o	New	Article N°	Directive 2003/87/EC	Summary	Comments by Greece
Compliance obligations	502	y	1	3gda(new)	Contractual arrangements between shipping companies and commercial operators: mandatory clause on the transfer of ETS compliance costs to the commercial operator.	Support general approach. We are flexible for consolidating the provision with certain elements from the EP wording.
Review clause	503	n	1	3ge(1)	Within 12 months of the adoption of a market-based measure at IMO, Commission to present a report to the EP and Council with support of European Scientific Advisory Board on Climate Change, taking into account various factors, including the ambition of the measure but also externalities (monitor transport prices, market distortions, etc.).Call on Commission to consider possible AMs to this directive in relation to IMO development of market based measure.	Against. Support General Approach
Review clause	504	n	1	3ge(2)	Commission to report biennially on the implementation of this Directive+monitor adverse impacts (transport costs, market distortions, connectivity, etc.)	Flexibility for further discussion
Anti-evasion measures	505	n	1	3gea(new)	Protection against evasion - By way of derogation from Article 3g(1) (i.e. coverage of 50% of emissions from extra-EU voyages until 31 December 2026), coverage of 100% of emissions from extra-EU voyages between an EU port and a third country port located less than 300 nautical miles from an EU port.	Against. Support General Approach.
Derogations and exemptions	561	y	1	1a+1b	Time-limited derogation (until 31 December 2029) for ice-class vessels (derogation when navigating in ice conditions and 5% deduction on their surrender obligations when sailing in open water) and time-limited derogation (55% discount until 2030) for voyages between a port in an outermost region and a port located in the same Member State as that outer most region.COM to present by 31/12/2027 a report to EP and Council on the impact of ending that OMR derogation.	As regards the proposed derogations and exemptions by the EP we are flexible for further discussion. As regards the time limited derogation for the vessels performing maritime cabotage and voyages in OMRs, we support the text agreed in the General Approach.
MRV Reg.	607	n	3(1)poin t1	title	Amendment of the title of the EU MRV Maritime Regulation to reflect that non-CO2 GHG emissions are covered	Against

			new			
MRV Reg.	608	y	3 (1)point 1anew		Replacing CO2 with 'green house gas emissions' throughout the Regulation, there by reflecting the extension of the scope of emissions covered to methane(CH4) and nitrous oxide (N2O) emissions	Against. Support General Approach
MRV Reg.	609	n	3	1	Replacing CO2 with 'green house gas emissions 'in Article1,reflecting the extension of the scope of emissions covered to CH4 and N20 emissions	Against
MRV Reg.	610	n	3	2	Extends the scope of the MRV Maritime Regulation to ships between 400 and 5000 gross tonnage+simpler reporting for ships below 5000 gross tonnage	Against
MRV Reg.	611	n	3	2(2)	Specifies that the Regulation shall not apply to ships for civil protection and search and rescue ships	Support



Articles						
Cluster	AMN o	New	Article N°	Directive 2003/87/EC	Summary	Comments by Greece
MRV Reg.	612	y	3	3(1)pointa	In the definition section, replaces 'CO2 emissions' with 'greenhouse gas emissions', namely carbon dioxide(CO2),methane(CH4) and nitrous oxide(N2O)	Against
MRV Reg.	613	n	3	3(1)pointb	Amendment of the definition of "port of call" to exclude stops in a "non EU transshipment port"	Negative reservation. We share the goal of the measure but we support the text agreed by the Council
MRV Reg.	614	n	3	3(1)pointc	Amendment of the "voyage" definition to include movements from offshore vessels	Against
MRV Reg.	615	y	3	5(2anew)	Call on Commission to determine methods for reporting GHGs emissions other than CO2 by delegating act	Against
MRV Reg.	616	n	3	6(4)	Additional MRV obligations for shipping companies that wish to benefit from the ice-class vessels derogations (namely as regards the content of the monitoring plan)	Flexible for further discussion
MRV Reg.	617	y	3	9(1)	Additional MRV obligations for shipping companies that wish to benefit from the ice-class vessels derogations (namely as regards the monitoring obligations)	Flexible for further discussion
MRV Reg.	618	n	3	10(2)	Additional MRV obligations for shipping companies that wish to benefit from the ice-class vessels derogations (namely as regards the monitoring of GHG emissions from ice navigation)	Support General Approach
MRV Reg.	619	n	3	23(2)sub2	Delegation of powers to the Commission related to DA ensuring the functioning of the ETS for five years, renewable (instead of an indefinite period of time as proposed by the COM)	Support.

Scope	625	n	Annex I	Annex I	Extending the scope of GHGs covered by the EU ETS to methane(CH <sub>4</sub> ) and nitrous oxide(N <sub>2</sub> O) (in addition to carbon dioxide(CO <sub>2</sub> ) and types of activities covered to movements of offshore vessels (in addition to passenger and cargo transport for commercial purposes).Providing for derogations from the EU ETS obligations in relation to (a)PSO/PSCs voyages, (b)humanitarian voyages,(c)search and rescue voyages,(d)voyages with 'force majeure'.	Against. As regards derogations we support General Approach
Derogations and exemptions	628	y	Annex I – point 4 a(new)	New Annex Va	Detailing the formula to be applied for the (optional) surrendering of a readjusted amount of allowances for ice class ships	Flexible for further discussion

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