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CONTRIBUTION

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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 - comments by Greece |

Delegations will find attached comments by Greece on the above 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 (COM(2021) 562 final/ 14.07.2021)

Comments by Greece - Priorities and points of concern

General Comments

Greece would like to thank the Presidency for the opportunity to submit written comments on the proposed FuelEU Maritime Regulation.

As stressed during the SWP, the objectives of the proposal are welcomed. However, Greece would strongly prefer the **swift introduction of a global fuel standard with a similar architecture** which would appropriately address the demand side, whilst alleviating the concerns stemming from the currently inadequate (in terms of both regulation and substance) supply side. This discrepancy renders energy transition of the maritime transport industry challenging and inequitable, pending the development and commercialization of innovative technologies and fuels.

Shifting to sustainable low and zero emission fuels is a highly complex issue, which will be resolved with **research, development and deployment (R&D&D) of safe and quality-certified alternative fuels and technologies and further radical changes in their supply chain**, so that they become available at the necessary geographical scale and at reasonable prices. In this respect, port and bunkering infrastructure worldwide is of the utmost importance for the maritime industry, particularly for all kinds of ocean-going ships: this infrastructure is needed for the global trade of zero-carbon fuels as well as for decarbonising maritime transport itself. We cannot see how the said Regulation is going to motivate the fuel production and supply chain, as well as port operators outside the EU, to run costly investments projects, under the **risk of stranded investments due to current lack of predictability of the number and nature of the most viable solutions for each shipping mode**.

For this reason, the Prime Minister of Greece proposed to the President of the European Commission, the establishment of an EU Research Centre for Alternative Marine Fuels and Technologies. This agency will address coordination failures among stakeholders and help de-risk investments in alternative marine fuels and technologies. The Centre would also be responsible for delivering guidelines on mature alternative fuels and technologies, including on the infrastructure needs, as well as roadmaps and timelines for the transition.

Notwithstanding, Greece would like to submit the following specific suggestions and proposals (of either general or technical nature) that will need to be addressed, in order to make the current proposal more workable and alleviate some of the concerns mentioned above.

Key issues to be addressed

a) Suppliers' compliance with the fuel standards

The proposal -unfairly and unjustifiably- makes the fuel user responsible for delivering emissions' reductions and ascertaining the quality and quantity of alternative fuels bunkered around the world, including the WtT emissions, the production and distribution pathway of which lies beyond the fuel users.

The fuel user is also rendered responsible for the information contained in the BDN. It is highly questionable how this can be ensured for fuel suppliers outside the EU. In any case, the BDN should be aligned with the one required under MARPOL.

Greece would like to suggest posing the legal responsibility for the carbon intensity of the fuel provided to ships at the fuel suppliers, as is the case in other transport sectors and the well-established paradigm of the MARPOL and EU sulphur regulations which apply to each and every specific marine bunkering. As we see it, this issue cannot be resolved otherwise but by means of international rules, as those the EU MS have proposed at IMO. Allocation of Fuel Lifecycle Label with default GHG emission factors, based on feedstock and production pathways, will enable categorisation of low carbon and zero carbon alternative fuels, including sustainable biofuels, and the quantitative calculation WtT of their emissions. Otherwise, distortion of competition between EU and non-EU fuel suppliers, with the latest being able by-passing the EU requirements, is highly possible. This may also be a significant source of carbon leakage and unfair competition between EU and non-EU ports, specifically in neighbouring countries.

Until a clearer picture on how the situation develops globally is achieved, Greece would like to suggest considering the possibility of limiting the scope of the Regulation by **excluding the extra-EU voyages or, as a minimum, excluding the incoming voyages from the extraterritorial application of the Regulation.**

b) Unavailability/ Incompatibility of fuels on non-EU ports

In case the scope of the Regulation remains unchanged (i.e. with the proposed extraterritorial application), a degree of flexibility should be retained for the cases that biofuel compatible with the ship's machinery cannot be obtained or it is not available in the non-EU port of call before the incoming voyage. Greece suggests that in such cases a **biofuel non-availability report (BFONAR) should be provided, to the effect that the said in-coming voyage would not count.** We assume that alternative fuels will be made available in sufficient quantities in EU ports, thus making use of BFONAR unnecessary for out-going voyages.

c) Responsibility of the commercial operator of the ship

The proposal has, in line with "the polluter pays" principle, recognized the structural role of the ship's commercial operator who is, at least in the bulk/tramp sector, responsible for the **choice of the ship's fuel and the related cost**, as well as the route, cargo and speed (*see recital 6*). However, one of the main concerns is the fact that the option of passing through the compliance requirements and cost under this Regulation to the entity which is responsible for the decisions affecting the CO₂ emissions of the ship, is left merely on the contractual arrangements of the involved parties. Taking into account the reality in international bulk/tramp shipping and with a view to enhance the effectiveness of the Regulation, Greece suggests **to place the compliance burden, by law, on the party that buys the fuel, with a given carbon intensity, to perform the transport activity for profit** and this legal responsibility should be placed in the operative part of the Regulation¹. Greece is cognizant of some associated organizational difficulties, but is of the view that this is the only way to address the core of the issue (i.e. achieve emissions' reductions at source, by disincentivising the real polluter). In that sense, the Regulation fails to address the complexities at source, by simply transferring them to the contractual relationships and/or to future litigations. Finally, when it comes to penalties for non compliance (as well as in surrendering allowances under the EU ETS), the chosen option is in clear contradiction with the polluter pays principle, enshrined in Article 191 TFEU. The above considerations are also relevant in the context of the EU ETS revision, to include maritime transport.

¹ The flexibility "offered" through the annual average approach (process control approach) is worthless in bulk/tramp shipping, as tramp ships have several commercial operators (who are responsible for the ship's carbon footprint) throughout a year. In contrast, the well-established product control approach (e.g. MARPOL Annex VI and Directive 2016/802/EU sulphur regulations) directly render the commercial operator responsible for choosing the right fuel, if available, regardless of its cost, every time he/she purchases fuel for the ship.

d) Definitions (Article 3)

Greece is of the view that the definition “ship at berth” (article 3, point (m)) needs to be redrafted in order to exclude the “ships at anchorage”. For the time being, mobile and floating solutions are under development. The issue of including “ships at anchorage” could be considered at a later stage, under the review process (article 28), when the respective technologies will be matured enough.

e) Lack of compatible OPS at ports (Article 5)

Greece believes that the exception from the mandatory use of OPS when infrastructure is not available in the port and when ship’s equipment is incompatible with the ports’ OPS installation should not expire in 2035 and the said provision needs to be redrafted. The issue of abolishing exceptions could be considered at a later stage, under the review process (article 28), on the grounds of the evolution of technologies.

f) Monitoring and reporting (Article 14)

Greece is of the view that –in line with the provisions of Article 14 of the Regulation (EU) 2015/757- a new paragraph has to be included in Article 14 of the Fuel EU Regulation, as follows: of the Article 11 of the includes

“Where there is a change of company, the new company shall ensure that each ship under its responsibility complies with the requirements of this Regulation in relation to the entire reporting period during which it takes responsibility for the ship concerned.”

g) Penalties

In case of non-compliant port call (par. 2 of Article 20), Greece proposes that the respective penalties have to be calculated on the basis of the “*megawattours of energy used at port*” and not on the basis of the “*megawatt of power installed on board*”.

h) Review clause

Last but not least, Greece proposes to strengthen the review clause (article 28) by including in the operative part of the Regulation a clear requirement to align it with international rules, once an agreement on a global fuel standard is reached at the IMO.

As consideration of the individual articles is ongoing, Greece retains its general scrutiny reservation on the entire text.