



Council of the European Union
General Secretariat

Brussels, 17 March 2022

Interinstitutional files:
2021/0210 (COD)

WK 3927/2022 ADD 2

LIMITE

TRANS
MAR
ENV
ENER

IND
COMPET
ECO
RECH
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Shipping
N° Cion doc.:	10327/21 INIT + ADD1-3
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 from the Member States - Germany

Delegations will find, attached, comments from **Germany** on the above subject.

Comments from Germany on negotiation blocks D-sanctions and A2- flexibility mechanism of the proposal FuelEU Maritime based on document WK 2900/22

This does not represent a conclusive position of Germany. We reserve the right to make further comments.

Germany would like to give at first some general comments followed by more detailed notes directly in the document WK 2900/20 starting on page 3.

Block D-Sanctions:

Article 20:

- Germany welcomes the proposed wording "Remedial Penalties" in article 20 to better delineate the penalties in Articles 20 and 23.
- We also welcome the introduction of a multiplication factor in Art. 20 (1).
- Germany cannot support the proposed introduction of a "competent authority of the administering state" and its role pursuant to Article 20 (2a) new and (2b) new. For the involvement of an authority at that stage of the procedure described in Art. 20 for payments of "Remedial Penalties" would - from our perspective - lead to a considerable administrative burden as well as to delays in the process. This is why in our view also the new Definition in Art. 3 (ff) should be deleted.

Moreover, in our view, the inclusion of state agencies at that stage would call into question the entire construct of the proposed regulation, which is based on accredited verifiers. This, in turn, would entail further significant need for change throughout the text.

Germany advocates for an efficient procedure for the payment of "Remedial Penalties". This is why Art. 15.2(d) should be maintained and should not be deleted.

Further, on the envisaged better oversight on verifiers and accreditation bodies, Germany believes that such an improvement of the processes can be achieved through an intelligent use of the database and, if necessary, additional checks by the accreditation bodies on the verifiers.

- Regarding Article 20 (2), Germany prefers the text as originally proposed by the Commission, as we are not sure how the electrical power demand at berth can be accurately determined if the ship failed to connect to onshore power supply. This Remedial Penalty and its dissuasive effect should fulfil the purpose of ensuring a level playing field between ships that connect to OPS and the ones that do not connect to OPS. For this purpose, the determination of the exact amount of electrical energy used by auxiliary engines of the ship is not relevant.

Article 21:

- We refer to our serious concerns already raised regarding the compatibility of Art. 21 with the EU's own resources system and the budget autonomy of the Member States (see doc. WK 13353/2021). Again, we would like to ask the Council Legal Service to submit a written opinion on this matter, in particular taking into account the opinion of the Council Legal Service regarding the proposal for a budgetary instrument for convergence and competitiveness (BICC) (13116/1/19 Rev 1, para. 4). There, the Legal Service of the Council stated that secondary legislation cannot legally oblige Member States to compel them to contribute to the Union that goes beyond the framework of their financial obligations as defined by the own resources system. It must be ensured that there is no inadmissible, obligatory transfer of funds from the member state level to the EU level.

Block A2 : Banking/Pooling (articles 17 and 18)

- The introduction of the flexibility mechanism is generally welcomed by Germany.
- However, the concessions for flexibility regulations should not lead to the creation of loopholes and should not slow down the transition to newer and cleaner technologies.
- This is why, in our view, a company should only be allowed to offset a compliance deficit for the reporting period by a compliance surplus from the compliance balance of the same vessel (Article 17) if the compliance surplus was achieved through the use of renewable fuels of non-biological origin (RFNBOs), advanced biofuels or emission-free technologies. The same condition should apply for a compliance surplus from an individual ship to be accounted for in the compliance balance of a pool of two or more ships (Article 18). A compliance surplus achieved through fossil fuels should not be eligible under Article 17 and 18.

On the following pages the comments above and further details are transferred and directly included in the document WK 2900/22.

Changes suggested to the text are additionally linked to a comment in the document part. Sometimes, we provide additional explanatory text, for the purpose of further clarification and providing background on specific subjects.

2021/0210 (COD)

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**

(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 100(2) 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
procedure,

Whereas:

¹ OJ C , , p. .

² OJ C , , p. .

- PUBLIC
- (1) Maritime transport accounts for around 75% of EU external trade and 31% of EU internal trade in terms of volume. At the same time, ship traffic to or from ports in the European Economic Area accounts for some 11% of all EU CO₂ emissions from transport and 3-4% of total EU CO₂ emissions. 400 million passengers embark or disembark annually in ports of Member States, including around 14 million on cruise ships. Maritime transport is therefore an essential component of Europe's transport system and plays a critical role for the European economy. The maritime transport market is subject to strong competition between economic actors in the Union and beyond for which a level playing field is indispensable. The stability and prosperity of the maritime transport market and its economic actors rely on a clear and harmonised policy framework where maritime transport operators, ports and other actors in the sector can operate on the basis of equal opportunities. Where market distortions occur, they risk putting ship operators or ports at a disadvantage compared to competitors within the maritime transport sector or in other transport sectors. In turn, this can result in a loss of competitiveness of the maritime transport industry, and a loss of connectivity for citizens and businesses
- (2) To enhance the Union's climate commitment under the Paris Agreement and set out the steps to be taken to achieve climate neutrality by 2050, and to translate the political commitment into a legal obligation, the Commission adopted the (amended) proposal for a Regulation of the European Parliament and of the Council on establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 (European Climate Law)³ as well as the Communication 'Stepping up Europe's 2030 climate ambition'⁴. This also integrates the target of reducing greenhouse gas (GHG) emissions by at least 55% compared to 1990 levels by 2030. Accordingly, various complementary policy instruments are needed to motivate the use of sustainably produced renewable and low-carbon fuels, included in the maritime transport sector. The necessary technology development and deployment has to happen by 2030 to prepare for much more rapid change thereafter.⁽³⁾ In the context of fuel transition to renewable and low carbon fuels and substitute sources of energy, it is essential to ensure the proper functioning of and fair competition in the EU maritime transport market regarding marine fuels, which account for a substantial share of ship operators' costs. Differences in fuel requirements across Member States of the Union can significantly affect ship operators' economic performance and negatively impact competition in the market. Due to the international nature of shipping, ship operators may

³ COM(2020) 563 final

⁴ COM(2020) 562 final

easily bunker in third countries and carry large amounts of fuel. This may lead to carbon leakage and detrimental effects on the competitiveness of the sector if the availability of renewable and low carbon fuels in maritime ports under the jurisdiction of a Member State is not accompanied by requirements for their use that apply to all ship operators arriving at and departing from ports under the jurisdiction of Member States. This Regulation should lay down measures to ensure that the penetration of renewable low-carbon fuels in the marine fuels market takes place under the conditions of fair competition on the EU maritime transport market.

- (4) In order to produce an effect on all the activities of the maritime transport sector, it is appropriate that this Regulation covers a share of the voyages between a port under the jurisdiction of a Member State and port under the jurisdiction of a third country. This Regulation should thus apply to half of the energy used by a ship performing voyages arriving at a port under the jurisdiction of a Member State from a port outside the jurisdiction of a Member State, half of the of the energy used by a ship performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, the entirety of the energy used by a ship performing voyages arriving at a port under the jurisdiction of a Member State from a port under the jurisdiction of a Member State, and the energy used at berth in a port under the jurisdiction of a Member State. Such coverage of a share of the energy used by a ship in both incoming and outgoing voyages between the Union and third countries ensures the effectiveness of this Regulation, including by increasing the positive impact on the environment of such framework. Simultaneously, such framework limits the risk of evasive port calls and the risk of delocalisation of transshipment activities outside the Union. In order to ensure smooth operation of maritime traffic, a level playing field among maritime transport operators and among ports, and avoid distortions in the internal market, all journeys arriving or departing from ports under jurisdiction of Member States, as well as the stay of ships in those ports should be covered by uniform rules contained in this Regulation.

- PUBLIC
- (5) The rules laid down in this Regulation should apply in a non-discriminatory manner to all ships regardless of their flag. For reasons of coherence with Union and international rules in the area of maritime transport, this Regulation should not apply to warships, naval auxiliaries, fish-catching or fish-processing ships, or government ships used for non-commercial purposes.
- (6) The person or organisation responsible for the compliance with this Regulation should be the shipping company, defined as the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for the Safe Operation of Ships and for Pollution Prevention. This definition is based on the definition of ‘company’ in Article 3, point (d) of Regulation (EU) 2015/757 of the European Parliament and of the Council⁵, and in line with the global data collection system established in 2016 by the International Maritime Organization (IMO). In line with the polluter pays principle, the shipping company could, by means of a contractual arrangement, hold the entity that is directly responsible for the decisions affecting the greenhouse gas intensity of the energy used by the ship accountable for the compliance costs under this Regulation. This entity would normally be the entity that is responsible for the choice of fuel, route and speed of the ship. (7) In order to limit the administrative burden, in particular that of smaller operators, this Regulation should not apply to wooden ships of a primitive build and ships not propelled by mechanical means and focus on ships with a gross tonnage above 5 000. Even though these latter ships represent only approximately 55% of all ships calling at ports under the Regulation (EU) 2015/757 of the European Parliament and of the Council, they are responsible for 90% of the carbon dioxide (CO₂) emissions from the maritime sector.

⁵ Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

- (8) The development and deployment of new fuels and energy solutions requires a coordinated approach to match supply, demand and the provision of appropriate distribution infrastructure. While the current European regulatory framework already partly addresses fuel production with Directive (EU) 2018/2001 of the European Parliament and of the Council⁶ and distribution with Directive 2014/94/EU of the European Parliament and of the Council⁷, there is also a need for a tool that establishes increasing levels of demand of renewable and low-carbon maritime fuels.⁽⁹⁾ While instruments such as carbon pricing or targets on the carbon intensity of activity promote improvements in energy efficiency, they are not suited to bring about a significant shift towards renewable and low-carbon fuels in the short and medium term. A specific regulatory approach dedicated to the deployment of renewable and low-carbon marine fuels and substitute sources of energy, such as wind or electricity, is therefore necessary.
- (10) Policy intervention to stimulate demand of renewable and low-carbon maritime fuels should be goal-based and respect the principle of technological neutrality. Accordingly, limits should be set on the greenhouse gas intensity of the energy used on-board by ships without prescribing the use of any particular fuel or technology.
- (11) Development and deployment of renewable and low carbon fuels with a high potential for sustainability, commercial maturity and a high potential for innovation and growth to meet future needs should be promoted. This will support creating innovative and competitive fuels markets and ensure sufficient supply of sustainable maritime fuels in the short and long term to contribute to Union transport decarbonisation ambitions, while strengthening Union's efforts towards a high level of environmental protection. For this purpose, sustainable maritime fuels produced from feedstock listed in Parts A and B of Annex IX of Directive (EU) 2018/2001, as well as synthetic maritime fuels should be eligible. In particular, sustainable maritime fuels produced from feedstock listed in Part B of Annex IX of Directive (EU) 2018/2001 are essential, as currently the most commercially mature technology to decarbonise maritime transport already in the short term.

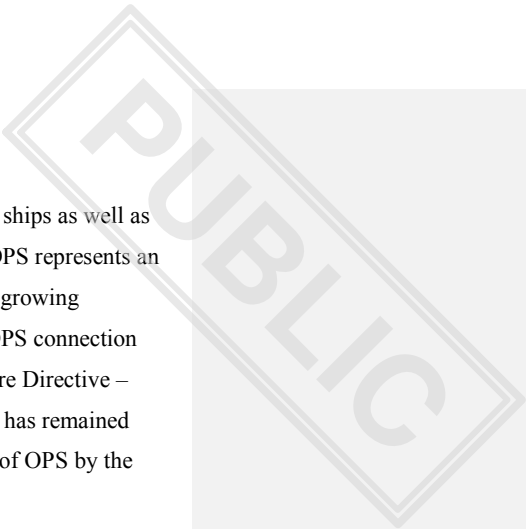
⁶ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2001, p. 82).

⁷ Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1).

- (12) Indirect land-use change occurs when the cultivation of crops for biofuels, bioliquids and biomass fuels displaces traditional production of crops for food and feed purposes. Such additional demand increases the pressure on land and can lead to the extension of agricultural land into areas with high-carbon stock, such as forests, wetlands and peatland, causing additional greenhouse gas emissions and loss of biodiversity. Research has shown that the scale of the effect depends on a variety of factors, including the type of feedstock used for fuel production, the level of additional demand for feedstock triggered by the use of biofuels, bioliquids and biomass fuels, and the extent to which land with high-carbon stock is protected worldwide. The level of greenhouse gas emissions caused by indirect land-use change cannot be unequivocally determined with the level of precision required for the establishment of emission factors required by the application of this regulation. However, there is evidence that all fuels produced from feedstock cause indirect land-use change to various degrees. In addition to the greenhouse gas emissions linked to indirect land-use change – which is capable of negating some or all greenhouse gas emissions savings of individual biofuels, bioliquids or biomass fuels – indirect land-use change poses risks to biodiversity. This risk is particularly serious in connection with a potentially large expansion of production determined by a significant increase in demand. Accordingly, no feed and food crop-based fuels should be promoted. Directive (EU) 2018/2001 already limits and sets a cap on the contribution of such biofuels, bioliquids and biomass to the GHG emissions savings targets in the road and rail transport sector considering their lower environmental benefits, lower performance in terms of greenhouse reduction potential and broader sustainability concerns.

- PUBLIC
- (13) However, this approach must be stricter in the maritime sector. The maritime sector has currently insignificant levels of demand for food and feed crops-based biofuels, bioliquids and biomass fuels, since over 99% of currently used marine fuels are of fossil origin. Therefore, the non-eligibility of food and feed crop-based fuels under this Regulation also minimises any risk to slow down the decarbonisation of the transport sector, which could otherwise result from a shift of crop-based biofuels from the road to the maritime sector. It is essential to minimise such a shift, as road transport currently remains by far the most polluting transport sector and the maritime transport currently uses predominantly fuels of fossil origin. It is therefore appropriate to avoid the creation of a potentially large demand of food and feed crops-based biofuels, bioliquids and biomass fuels by promoting their use under this Regulation. Accordingly, the additional greenhouse gas emissions and loss of biodiversity caused by all types of feed and food crop-based fuels require that these fuels be considered to have the same emission factors as the least favourable pathway.
- (14) The long lead times associated to the development and deployment of new fuels and energy solutions for maritime transport require rapid action and the establishment of a clear and predictable long-term regulatory framework facilitating planning and investment from all the stakeholders concerned. A clear and stable long-term regulatory framework will facilitate the development and deployment of new fuels and energy solutions for maritime transport, and encourage investment from stakeholders. Such framework should define limits for the greenhouse gas intensity of the energy used on-board by ships until 2050. Those limits should become more ambitious over time to reflect the expected technology development and increased production of marine renewable and low carbon fuels.
- (15) This Regulation should establish the methodology and the formula that should apply to calculate the yearly average greenhouse gas intensity of the energy used on-board by a ship. This formula should be based on the fuel consumption reported by ships and consider the relevant emission factors of these fuels. The use of substitute sources of energy, such as wind or electricity, should also be reflected in the methodology.

- PUBLIC
- (16) In order to provide a more complete picture of the environmental performance of the various energy sources, the GHG performance of fuels should be assessed on a well-to-wake basis, taking into account the impacts of energy production, transport, distribution and use on-board. This is to incentivise technologies and production pathways that provide a lower GHG footprint and real benefits compared to the existing conventional fuels.
 - (17) The well-to-wake performance of renewable and low-carbon maritime fuels should be established using default or actual and certified emission factors covering the well-to-tank and tank-to-wake emissions. The performance of fossil fuels should however only be assessed through the use of default emission factors as provided for by this Regulation.
 - (18) A comprehensive approach on all the most relevant GHG emissions (CO₂, CH₄ and N₂O) is necessary to promote the use of energy sources providing a lower GHG footprint overall. In order to reflect the global warming potential of methane and nitrous oxides, the limit set by this Regulation should therefore be expressed in terms of 'CO₂ equivalent'.
 - (19) The use of renewable energy sources and alternative propulsion, such as wind and solar energy, greatly reduces the greenhouse gas intensity of the overall ship energy use. The difficulty to accurately measure and quantify these energy sources (intermittence of the energy use, direct transfer as propulsion, etc.) should not impede their recognition in the overall ship energy use through means of approximations of their contribution to the ship's energy balance.
 - (20) Air pollution produced by ships (sulphur oxides, nitrogen oxides and particulate matter) at berth is a significant concern for coastal areas and port cities. Therefore, specific and stringent obligations should be imposed to reduce emissions at berth from ships that draw power from their engines during their stay in port. According to the data collected within the framework of Regulation (EU) 2015/757 in 2018, passenger ships and containerships are the ship categories producing the highest amount of emissions per ship at berth. Accordingly, emissions from these categories of ships should be addressed as a priority.

- 
- (21) The use of on-shore power supply (OPS) abates air pollution produced by ships as well as reduces the amount of GHG emissions generated by maritime transport. OPS represents an increasingly clean power supply available to ships at berth, in view of the growing renewables share in the EU electricity mix. While only the provision on OPS connection points is covered by Directive 2014/94/EU (Alternative Fuels Infrastructure Directive – AFID), the demand for and, as a result, the deployment of this technology has remained limited. Therefore specific rules should be established to mandate the use of OPS by the most polluting ships.
- (22) In addition to OPS, other technologies might be capable of offering equivalent environmental benefits in ports. When the use of an alternative technology is demonstrated to be equivalent to the use of OPS, a ship should be exempted from its use of OPS.
- (23) Exceptions to the use of OPS should also be provided for a number of objective reasons, certified by the managing body of the port of call and limited to unscheduled port calls for reasons of safety or saving life at sea, for short stays of ships at berth of less than two hours as this is the minimum time required for connection, and for the use of on-board energy generation under emergency situations.
- (24) Exceptions in case of unavailability or incompatibility of OPS should be limited after ship and port operators have had sufficient time to make the necessary investments, in order to provide the necessary incentives for those investments and avoid unfair competition. As of 2035, ship operators should plan carefully their port calls to make sure that they can carry out their activities without emitting air pollutants and GHG at berth and compromise the environment in coastal areas and port cities. A limited number of exceptions in case of unavailability or incompatibility of OPS should be maintained in order to provide the possibility for occasional last-minute changes in port call schedules and calls in ports with incompatible equipment.

- (25) A robust monitoring, reporting and verification system should be put in place by this Regulation in order to trace compliance with its provisions. Such system should apply in a non-discriminatory way to all ships and require third party verification in order to ensure the accuracy of the data submitted within this system. In order to facilitate achieving the objective of this Regulation, any data already reported for the purpose of Regulation (EU) 2015/757 should be used, when necessary, for verifying compliance with this Regulation in order to limit administrative burden imposed on companies, verifiers and maritime authorities.
- (26) Companies should be responsible for monitoring and reporting the amount and type of energy used on-board by ships in navigation and at berth, as well as other relevant information, such as information on the type of engine on board or presence of wind assisting technologies, with a view to showing compliance with the limit on the greenhouse gas intensity of the energy used on-board by a ship set out by this Regulation. To facilitate the fulfilment of these monitoring and reporting obligations and the verification process by the verifiers, similarly to Regulation (EU) 2015/757, companies should document the envisaged monitoring method and provide further details on the application of the rules of this Regulation in a monitoring plan. The monitoring plan, as well as its subsequent modifications, if applicable, should be submitted to the verifier.
- (27) Certification of fuels is essential to achieve the objectives of this Regulation and guarantee the environmental integrity of the renewable and low-carbon fuels that are expected to be deployed in the maritime sector. Such certification should be undertaken by means of a transparent and non-discriminatory procedure. With a view to facilitating certification and limiting the administrative burden, the certification of biofuels, biogas, renewable fuels of non-biological origin and recycled carbon fuel should rely on the rules established by Directive (EU) 2018/2001. This approach of certification should also apply to fuels bunkered outside the Union, which should be considered as imported fuels, in a similar way as Directive (EU) 2018/2001. When companies intend to depart from the default values provided for by that Directive or this new framework, this should only be done when values can be certified by one of the voluntary schemes recognised under Directive (EU) 2018/2001 (for well-to-tank values) or by means of laboratory testing or direct emissions measurements (tank-to-wake).

- (28) Verification by accredited verifiers should ensure the accuracy and completeness of the monitoring and reporting by companies and the compliance with this Regulation. In order to ensure impartiality, verifiers should be independent and competent legal entities and should be accredited by national accreditation bodies established pursuant to Regulation (EC) No 765/2008 of the European Parliament and of the Council⁸. (29) Based on the data and information monitored and reported by companies, the verifiers should calculate and establish the yearly average greenhouse gas intensity of energy used on-board by a ship and the ship's balance with respect to the limit, including any compliance surplus or deficit, as well as the respect of the requirements to use on-shore power supply at berth. The verifier should notify this information to the company concerned. Where the verifier is the same entity as the verifier for the purpose of Regulation (EU) 2015/757, such notification could be done together with the verification report under that Regulation. Such information should be then reported by the company concerned to the Commission.
- (30) The Commission should establish and ensure the functioning of an electronic database that registers the performance of each ship and ensures its compliance with this Regulation. In order to facilitate reporting and limit administrative burden to companies, verifiers and other users, this electronic database should build upon the existing THETIS-MRV module and take into account the possibility to reuse information and data collected for the purpose of Regulation (EU) 2015/757.
- (31) Compliance with this Regulation would depend on elements that could be beyond control of the company, such as issues related to fuel availability or fuel quality. Therefore, companies should be allowed the flexibility of rolling-over a compliance surplus from one year to another or borrowing an advance compliance surplus, within certain limits, from the following year. The use of OPS at berth, being of high importance for local air quality in port cities and coastal areas should not be eligible for similar flexibility provisions.

⁸ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008).

- PUBLIC
- (32) In order to avoid technology lock-in and continue supporting the deployment of most performant solutions, companies should be allowed to pool the performances of different ships and use the possible over-performance of one ship to compensate for the under-performance of another ship. This creates a possibility to reward overcompliance and incentivates investment in more advanced technologies. The possibility to opt for pooled compliance should remain voluntary and subject to agreement of the concerned companies.
 - (33) A document of compliance ('FuelEU certificate of compliance') issued by a verifier following the procedures established by this Regulation, should be kept on board ships as evidence of compliance with the limits on the greenhouse gas intensity of the energy used on-board by a ship with the requirements on the use of OPS at berth. Verifiers should inform the Commission of the issuance of such documents.
 - (34) The number of non-compliant port calls should be determined by verifiers in accordance with a set of clear and objective criteria taking into account all the relevant information, including time of stay, the amount of each type and energy consumed, and the application of any excluding conditions, for each port call in the Union. This information should be made available by the companies to the verifiers for the purpose of determining compliance.
 - (35) Without prejudice to the possibility of complying through the flexibility and pooling provisions, the ships that do not meet the limits on the yearly average greenhouse gas intensity of the energy used on-board shall be subject to a penalty that has dissuasive effect. The penalty should be proportionate to the extent of the non-compliance and remove any economic advantage of non-compliance, thus preserving a level playing field in the sector. It should be based on the amount and cost of renewable and low-carbon fuel that the ships should have used to meet the requirements of the Regulation.

- (36) The penalty imposed for each non-compliant port call should be proportionate to the cost of using the electricity and at sufficient level to have a dissuasive effect from the use of more polluting energy sources. The penalty should be based on the power installed on board the vessel, expressed in megawatts, multiplied by a fixed penalty in EUR per hour of stay at berth. Due to lack of accurate figures on the cost of providing OPS in the Union, this rate should be based on the EU average electricity price for non-household consumers multiplied by a factor of two to account for other charges related to the provision of the service, including among others connection costs and investment recovery elements.
- (37) The revenues generated from the payment of penalties should be used to promote the distribution and use of renewable and low-carbon fuels in the maritime sector and help maritime operators to meet their climate and environmental goals. For this purpose these revenues should be allocated to the the Innovation Fund referred to in Article 10a(8) of Directive 2003/87/EC.
- (38) Enforcement of the obligations relating to this Regulation should be based on existing instruments, namely those established under Directive 2009/16/EC of the European Parliament and of the Council⁹ and Directive 2009/21/EC of the European Parliament and of the Council¹⁰. The document confirming compliance of the ship with the requirements of this Regulation should be added to the list of certificates and documents referred to in Annex IV to Directive 2009/16/EC.(39) Given the importance of consequences that the measures taken by the verifiers under this Regulation may have for the companies concerned, in particular regarding the determination of non-compliant port calls, calculation of the amounts of penalties and refusal to issue a FuelEU certificate of compliance, those companies should be entitled to apply for a review of such measures to the competent authority in the Member State where the verifier was accredited. In the light of the fundamental right to an effective remedy, enshrined in Article 47 of the Charter of Fundamental Rights of the European Union, decisions taken by the competent authorities and the managing bodies of the port under this Regulation should be subject to judicial review, carried out in accordance with the national law of the Member State concerned.
- (40) In order to maintain a level playing field through the efficient functioning of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of

⁹ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

¹⁰ Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ L 131, 28.5.2009, p. 132).

the European Union should be delegated to the Commission in respect of amendment of the list of well-to-wake emission factors, amendment of the list of the applicable zero-emission technologies or criteria for their use, to establish the rules on conducting the laboratory testing and direct emissions measurements, adaptation of the penalty factor, accreditation of verifiers, adaptation of the penalty factor, and modalities for the payment of penalties. 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 on Better Law-Making of 13 April 2016. 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.

- (41) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹¹. When establishing by means of implementing acts the templates for standardised monitoring plans, including the technical rules for their uniform application, the Commission should take into account the possibility of reusing information and data collected for the purpose of Regulation (EU) 2015/757.(42) Given the international dimension of the maritime sector, a global approach to limiting the greenhouse gas intensity of the energy used by ships is preferable as it could be regarded as more effective due to its broader scope. In this context, and with a view to facilitating the development of international rules within the International Maritime Organisation (IMO), the Commission should share relevant information on the implementation of this Regulation with the IMO and other relevant international bodies and relevant submissions should be made to the IMO. Where an agreement on a global approach is reached on matters of relevance to this Regulation, the Commission should review the present Regulation with a view to aligning it, where appropriate, with the international rules.
- (43) The uptake of renewable and low-carbon fuels and substitute sources of energy by ships arriving at, within or departing from ports under the jurisdiction of a Member State across the Union, is not an objective that can be sufficiently achieved by the Member States without risking to introduce barriers to the internal market and distortions of competition between ports and between maritime operators. This objective can be better achieved by introducing uniform rules at Union level that create economic incentives for maritime operators to continue operating unimpededly while meeting obligations on the use of renewable and low-carbon fuels. Accordingly, 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 that objective,

¹¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

HAVE ADOPTED THIS REGULATION:

1. CHAPTER I

GENERAL PROVISIONS

Article 1

Objective and purpose

This Regulation lays down uniform rules imposing:

(a) the limit on the greenhouse gas ('GHG') intensity of energy used on-board by a ship arriving at, staying within or departing from ports under the jurisdiction of a Member State and

(b) the obligation to use on-shore power supply or zero-emission technology in ports under the jurisdiction of a Member State,

in order to increase consistent use of renewable and low-carbon fuels and substitute sources of energy **in maritime transport** across the Union, while ensuring ~~the~~ **its** smooth operation and avoiding distortions in the internal market.

Article 2

Scope

This Regulation applies to all ships above a gross tonnage of 5000, regardless of their flag in respect to:

(a) the energy used during their stay within a port of call under the jurisdiction of a Member State,

(b) the entirety of the energy used on voyages from a port of call under the jurisdiction of a Member State to a port of call under the jurisdiction of a Member State, and

(c) a half of the energy used on voyages departing from or arriving to a port of call under the jurisdiction of a Member State, where the last or the next port of call is under the jurisdiction of a third country.

This Regulation does not apply to warships, naval auxiliaries, fish-catching or fish-processing ships, wooden ships of a primitive build, ships not propelled by mechanical means, or government ships used for non-commercial purposes.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) 'greenhouse gas emissions' means the release of carbon dioxide (CO₂), methane (CH₄) and nitrous oxides (N₂O) into the atmosphere;
- (b) 'biofuels' means biofuels as defined in Article 2, point (33), of Directive (EU) 2018/2001;
- (c) 'biogas' means biogas as defined in Article 2, point (28), of Directive (EU) 2018/2001;
- (d) 'recycled carbon fuels' means recycled carbon fuels as defined in Article 2, point (35), of Directive (EU) 2018/2001;
- (e) 'renewable fuels of non-biological origin' means renewable fuels of non-biological origin as defined in Article 2, point (36), of Directive (EU) 2018/2001;
- (f) 'food and feed crops' means food and feed crops as defined in Article 2, point (40), of Directive (EU) 2018/2001;
- (g) 'zero-emission technology' means a technology ~~fulfilling the requirements of Annex III~~ that does not imply, ~~when used to provide energy~~, the release of the following greenhouse gases and air pollutants into the atmosphere by ships: carbon dioxide (CO₂), methane (CH₄), nitrous oxides (N₂O), sulphur oxides (SO_x), nitrogen oxides (NO_x) and particulate matter (PM);
- (h) 'substitute sources of energy' means renewable wind or solar energy generated on-board or electricity supplied from on-shore power supply;
- (i) 'port of call' means a port of call as defined in Article 3, point (b) of Regulation (EU) 2015/757;

- (j) 'voyage' means voyage as defined in Article 3, point (c) of Regulation (EU) 2015/757;
- (k) 'company' means company as defined in Article 3, point (d) of Regulation (EU) 2015/757;
- (l) 'gross tonnage' (GT) means GT as defined in Article 3, point (e) of Regulation (EU) 2015/757;
- (m) 'ship at berth' means ship at berth as defined in Article 3, point (n) of Regulation (EU) 2015/757;¹²
- (n) 'energy use on-board' means the amount of energy, expressed in mega joules (MJ), used by a ship for propulsion and for the operation of any on-board equipment, at sea or at berth;
- (o) 'greenhouse gas intensity of the energy used on-board' means the amount of greenhouse gas emissions, expressed in grams of CO₂ equivalent established on a well-to-wake basis, per MJ of energy used on-board;
- (p) 'well-to-wake' means a method for calculating emissions that takes into account the greenhouse gas impact of energy production, transport, distribution and use on-board, including during combustion;
- (q) 'emission factor' means the average emission rate of a greenhouse gas relative to the activity data of a source stream, assuming complete oxidation for combustion and complete conversion for all other chemical reactions;
- (r) 'on-shore power supply' means the system to supply electricity to ships at berth, at low or high voltage, alternate or direct current, including ship side and shore side installations, when feeding directly the ship main distribution switchboard for powering hotel, service workloads or charging secondary batteries;

(r2) **'electrical power demand at berth' means ...¹³ the actual demand in electricity from a ship at berth for powering all energy needs based on electricity on board, including but not limited to hotel, service, cargo handling and maintenance workloads, as well as charging batteries;**

(r3) — 'established total electrical demand of the ship at berth' means the higher value, expressed in kilowatts/hours, of the total demand in electricity of the ship at berth, including hotel and cargo handling workloads, provided in its Electrical load balance or Electrical load study in the sense of the Publication IEC 60092 – Electrical Installations in Ships.

¹² The Presidency notes that further reflection on this definition will be needed, in particular in relation to Article 5, so that the scope of the obligations is clarified.

¹³ A definition might be needed since the term is now used in the text; nevertheless, further work is needed in this respect.

Kommentiert [A1]: GER suggests to delete „actual“ because the „actual demand“ can vary very much depending on the energy consumption used on board in any different minute.
The energy that is supplied by the OPS can be captured and reported.

Kommentiert [A2]: In our view this needs to be deleted.
This would mean, that a verified electrical load balance table as a certificate would be on board or must be existent. This is not the case. The background for a Load balance table is just for layout purpose, but not for the intended use here.

In case this should go forward, we need to assume a lump-sum factor of the total installed auxiliary power (e.g. 5% as for EEDI auxiliary conditions).

- (s) 'verifier' means a legal entity carrying out verification activities, which is accredited by a national accreditation body pursuant to Regulation (EC) No 765/2008 and this Regulation;
- (t) 'reporting period' means reporting period as defined in Article 3, point (m) of Regulation (EU) 2015/757;
- (u) 'FuelEU certificate of compliance' means a certificate specific to a ship, issued to a company by a verifier, which confirms that that ship has complied with this Regulation for a specific reporting period;
- (v) 'passenger ship' means a ship **as defined in Article 2, point (i) of Directive 2016/802** ~~that carries more than 12 passengers, including cruise ships, high speed passenger crafts, and ships with facilities to enable road or rail vehicles to roll on and roll off the vessel;~~
- (w) 'containership' means a ship designed exclusively for the carriage of containers in holds and on deck;
- (x) 'non-compliant port call' means a port call of during which the ship does not comply with the requirement of Article 5(1), and none of the exceptions provided for in Article 5(3) apply;
- (y) 'least favourable pathway' means the most carbon-intensive production pathway used for any given fuel;
- (z) 'CO₂ equivalent' means the metric measure used to compute the emissions from CO₂, CH₄ and N₂O on the basis of their global-warming potential, by converting amounts of CH₄ and N₂O to the equivalent amount of carbon dioxide with the same global warming potential;
- (aa) 'compliance balance' means the measure of a ship's over- or under-compliance with regards to the limits to the yearly average greenhouse gas intensity of the energy used on-board by a ship, which is calculated in accordance with Annex V **Part A**;
- (bb) 'compliance surplus' means a compliance balance with a positive value.
- (cc) 'compliance deficit' means a compliance balance with a negative value;
- (dd) 'total pool compliance balance' means the sum of the compliance balances of all ships included in the pool.

(ee) 'managing body of the port' means any public or private body as defined in Article 2(5) of Regulation (EU) 2017/352 of the European Parliament and of the Council¹⁴.¹⁵

~~(ff) —'administering State' means the administering authority in respect of a shipping company referred to in Article 3rd of Directive 2003/87/EC of the European Parliament and of the Council.~~

Kommentiert [A3]: As commented on Article 20 Germany cannot support the proposed introduction of a "competent authority of the administering state". That is why this definition has to be deleted in our view.

CHAPTER II

REQUIREMENTS ON ENERGY USED ON-BOARD BY SHIPS

Article 4

Greenhouse gas intensity limit of energy used on-board by a ship

1. The yearly average greenhouse gas intensity of the energy used on-board by a ship during a reporting period shall not exceed the limit set out in paragraph 2.
2. The limit referred to in paragraph 1 shall be calculated by reducing the reference value of [X grams of CO₂ equivalent per MJ]* by the following percentage:
 - -162% from 1 January 2025; -6% from 1 January 2030;
 - -13% from 1 January 2035;
 - -26% from 1 January 2040;
 - -59% from 1 January 2045;
 - -75% from 1 January 2050.

¹⁴ Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ L 57, 3.3.2017, p. 1).

¹⁵ ~~The need of this definition might be reconsidered depending on the final drafting of Article 5(5).~~

¹⁶ ~~Please note that all symbols "minus" have been deleted.~~

[Asterix: The reference value, which calculation will be carried out at a later stage of the legislative procedure, corresponds to the fleet average greenhouse gas intensity of the energy used on-board by ships in 2020 determined on the basis data monitored and reported in the framework of Regulation (EU) 2015/757 and using the methodology and default values laid down in Annexes I and II to this Regulation.]

3. The greenhouse gas intensity of the energy used on-board by a ship shall be calculated as the amount of greenhouse gas emissions per unit of energy according to the methodology specified in Annex I.
4. The Commission is empowered to adopt delegated acts in accordance with Article 26 to amend Annex II in order to include the well-to-wake emission factors related to any new sources of energy or to adapt the existing emission factors to ensure consistency with future international standards or the legislation of the Union in the field of energy.

Article 5

Additional zero-emission requirements of energy used at berth

1. From 1 January 2030, a ship ~~at berth~~ **moored at the quayside** in a port of call under the jurisdiction of a Member State shall connect to on-shore power supply and use it for ~~its all energy~~ **electrical power demand needs** while at berth.
2. Paragraph 1 shall apply to:
 - a. containerships;
 - b. passenger ships.
3. Paragraph 1 shall not apply to ships:
 - (a) that are ~~moored at at berth~~ **the quayside** for less than two hours, calculated on the basis of hour of departure and arrival monitored in accordance with Article 14;
 - (b) that use zero-emission technologies **for their electrical power demand at berth, while moored at the quayside;** as specified in Annex III

- (c) that have to make an unscheduled **and not systematic** port call for reasons of safety or saving life at sea, **due to unforeseen circumstances beyond the control of the owner or master**;
- (d) that are unable to connect to on-shore power supply due to unavailable connection points in a port **or to insufficient available power to satisfy the ship's required electrical power demand at berth**;
- (e) that are unable to connect to on-shore power supply because the shore installation at the port is not compatible with the on-board on-shore power equipment, **provided that the installation for shore-connection onboard the ship is in accordance with recognized international standards**;
- (f) which, for a limited period of time, require the use of on-board energy generation, under emergency situations representing immediate risk to life, the ship, the environment or for other reasons of force majeure.

3bis. A ship that uses zero-emission technologies as a substitute to on-shore power supply, in application of paragraph 3(b) above, shall declare it to the competent authority of the Member State of the port [one hour] after its mooring at the quayside is complete at the latest, using the form set out in Annex IIIbis¹⁷. 4. The Commission is empowered to adopt **implementing** ~~delegated~~ acts in accordance with Article 27, paragraph 3 ~~6 to~~ amend Annex III in order to **establish the list and technical specifications of the technologies considered as zero emission technologies within the meaning of Article 3(g), for the uniform implementation of this Regulation. The Commission shall regularly update the list in the light of the scientific and technical progress to assess if new technologies can be considered as zero-emission technologies within the meaning of this Regulation.** ~~insert references to new technologies in the list of applicable zero-emission technologies or criteria for their use, where these new technologies are found equivalent to the technologies listed in that Annex in the light of scientific and technical progress.~~

5. The ~~managing body~~ **competent authority of the Member State** of the port of call **or any entity duly authorized by the Member State** shall determine whether the exceptions set

¹⁷ **The Presidency is considering to further examine the inclusion of this new declaration within any existing requirement for the ship when calling in a port.**

in paragraph 3 apply and issue or refuse to issue the certificate in accordance with the requirements set out in Annex IV.

5bis. When a certificate is issued or refused for exceptions listed in paragraph 3, points (d) or (e), the competent authority or the duly authorized entity shall report this action to the compliance database referred to in Article 16.

5ter. From 1 January 2030, in ports mentioned in Article 9 of AFIR¹⁸ equipped to provide the required shore-side electricity to supply a given ship type, the exceptions provided for in paragraph 3, points (d) and (e), shall not be applied to a ship of that given type, in total, more than five times or 10% of its total number of port calls in these ports, whichever is the highest, during one reporting period. A port call shall not be counted for the purpose of compliance with this provision where the company demonstrates that it could not have reasonably known that the ship will be unable to connect for the reason referred to in paragraph 3, points (d) and (e).⁶ From 1 January 2035, the exceptions listed in paragraph 3, points (d) and (e), may not be applied to a given ship, in total, more than five times during one reporting year. A port call shall not be counted for the purpose of compliance with this provision where the company demonstrates that it could not have reasonably known that the ship will be unable to connect for reasons referred to in paragraph 3, points (d) and (e).

76. Emergency situations resulting in the need to use on-board generators, referred to in paragraph 3, point (f), shall be documented, and reported by the ship to the managing body competent authority of the Member State of the port or the duly authorized entity, and not regarded by any means as incompliance by the ship.

7. A Member State may decide, that in a port or a port area located in its jurisdiction, ships at anchorage as defined in Article 2(7) of Directive 2009/16/EC are covered by the same obligations made to ships moored at the quayside in this Article. The Member State shall notify its decision to the Commission a year prior to its application, which must start at the beginning of a reporting period. The Commission shall publish the information in the Official Journal of the European Union and provide an updated list of the concerned ports which shall be easily accessible.

¹⁸ Correct title to be added later.

CHAPTER III

COMMON PRINCIPLES AND CERTIFICATION

Article 6

Common principles for monitoring and reporting

1. In accordance with Articles 7 to 9, companies shall, for each of their ships, monitor and report on the relevant data during a reporting period. They shall carry out that monitoring and reporting within all ports under the jurisdiction of a Member State and for any voyages to or from a port under the jurisdiction of a Member State.
2. Monitoring and reporting shall be complete and cover the energy used on-board by ships **at any time**, while the ships are at sea as well at berth. Companies shall apply appropriate measures to prevent any data gaps within the reporting period.
3. Monitoring and reporting shall be consistent and comparable over time. To that end, companies shall use the same monitoring methodologies and data sets subject to modifications assessed by the verifier. Companies shall enable reasonable assurance of the integrity of the data to be monitored and reported.
4. Companies shall obtain, record, compile, analyse and document monitoring data, including assumptions, references, emission factors and activity data, in a transparent and accurate manner, so that the verifier can determine the greenhouse gas intensity of the energy used on-board by ships.
5. In undertaking the monitoring and reporting activities set out in Articles 7 to 9 and 14 of this Regulation, information and data collected for the purpose of Regulation (EU) 2015/757 shall be used where appropriate.

Article 7

Monitoring plan

1. By 31 August 2024¹⁹, companies shall submit to the verifiers a monitoring plan for each of their ships indicating the method chosen from among those set out in Annex I to monitor

¹⁹ **To be checked in conjunction with the date of the entry into force. Possible alignment with para 2 of this Article to be further considered.**

and report the amount, type and emission factor of energy used on-board by ships and other relevant information.

2. For ships falling under the scope of this Regulation for the first time after 31 August 2024, companies shall submit a monitoring plan to the verifier without undue delay and no later than two months after each ship's first call in a port under the jurisdiction of a Member State.
3. The monitoring plan shall consist of a complete and transparent documentation and shall contain at least the following elements:
 - (a) the identification and type of the ship, including its name, its IMO identification number, its port of registry or home port, and the name of the ship-owner;
 - (b) the name of the company and the address, telephone and e-mail details of a contact person;
 - (c) a description of the energy conversion systems installed on-board, and the related power capacity expressed in megawatt (MW);

- (d) a description, **for ships within the scope of Article 5,** that the ship has installed and **certified of the standards and characteristics of the** equipment to allow connection to onshore power supply, at a specified voltage and frequency, including the gear specified in IEC/IEEE 80005-1 (High Voltage) and IEC/IEEE 80005-3 (Low Voltage) or is equipped with **or of the substitute sources of energy or a zero emission technology** or a zero-emission technology as specified in Annex III;

(d2) the value of the established total electrical demand of the ship at berth, which shall be approved by a recognised organization as defined in Regulation (EC) No 391/2009 on common rules and standards for ship inspection and survey organisation.

- (e) a description of the intended source(s) of energy to be used on-board while in navigation and at berth to comply with the requirements set out in Articles 4 and 5;
- f) a description of the procedures for monitoring the fuel consumption of the ship as well as the energy provided by substitute sources of energy or a zero-emission technology **as specified in Annex III**;
- ~~(g) well-to-wake emission factors referred to in Annex II;~~
- (h) a description of the procedures used to monitor the completeness of the list of voyages;
- (i) a description of the procedures used for determining activity data per voyage, including the procedures, responsibilities, formulae and data sources for determining and recording the time spent at sea between the port of departure and the port of arrival and the time spent at berth;
- (j) a description of the procedures, systems and responsibilities used to update any of the data contained in the monitoring plan over the reporting period;
- (k) a description of the method to be used to determine surrogate data for closing data gaps;
- (l) a revision record sheet to record all the details of the revision history.

4. Companies shall use standardised monitoring plans based on templates. The Commission shall, by means of implementing acts, determine those templates, including the technical rules for their uniform application. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

Kommentiert [A4]: GER votes for a deletion of the insert (d2).

As we understand it verifiers as provided here follow the MRV-regulation, meaning the accreditation scheme for MRV and stipulated here. Therefore, we cannot support the proposed link to Regulation (EC) No 391/2009.

Further, this value cannot be easily and unambiguously drawn from the electrical load balance table, even not for a RO.

Article 8

Modifications to the monitoring plan

1. Companies shall check regularly, and at least annually, whether a ship's monitoring plan reflects the nature and functioning of the ship and whether any of the data it contains can be improved.
2. Companies shall modify the monitoring plan in any of the following situations:
 - (a) where a change of company occurs;
 - (b) where new energy conversion systems, new types of energy, including substitute sources of energy or a zero-emission technology ~~as specified in Annex III~~ are in use;
 - (c) where a change in availability of data, due to the use of new types of measuring equipment, new sampling methods or analysis methods, or for other reasons, may affect the accuracy of the data collected;
 - (d) data resulting from the monitoring method applied has been found to be incorrect;
 - (e) where any part of the monitoring plan is identified as not being in conformity with the requirements of this Regulation and the company is required by the verifier to revise it.
3. Companies shall notify to the verifiers without undue delay any proposals for modification of the monitoring plan.
4. Modifications of the monitoring plan referred to in paragraph 2, points (b), (c) and (d) of this Article shall be subject to assessment by the verifier. Following the assessment, the verifier shall notify the company concerned whether those modifications are in conformity with Article 6.

Article 9

Certification of biofuels, biogas, renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels

1. Where biofuels, biogas, renewable fuels of non-biological origin and recycled carbon fuels, as defined in Directive (EU) 2018/2001, are to be taken into account for the purposes referred to in Articles 4(1) of this Regulation, the following rules apply:

- (a) greenhouse gas emission factors of biofuels and biogas that comply with the sustainability and greenhouse gas saving criteria set out in Article 29 of Directive (EU) 2018/2001 shall be determined according to the methodologies set out in that Directive;
 - (b) greenhouse gas emissions factors of renewable fuels of non-biological origin and recycled carbon fuel that comply with the greenhouse gas emission savings thresholds set out in ~~Article 27(3)~~ of Directive (EU) 2018/2001 shall be determined according to the methodologies set out in that Directive;
 - (c) biofuels and biogas that do not comply with point (a) or that are produced from food and feed crops shall be considered to have the same emission factors as the least favourable fossil fuel pathway for this type of fuel;
 - (d) renewable fuels of non-biological origin and recycled carbon fuels that do not comply with point (b) shall be considered to have the same emission factors as the least favourable fossil fuel pathway for this type of fuels.
2. Companies shall provide accurate and reliable data on the GHG emission intensity and the sustainability characteristics of biofuels, biogas, renewable fuels of non-biological origin and recycled carbon fuel, as verified by a scheme that is recognised by the Commission in accordance with Article 30(5) and (6) of the Directive (EU) 2018/2001.

3. Companies shall be entitled to divert from the ~~established~~ default values for the tank-to-wake emission factors **defined in Annex II** provided that actual values are certified by means of laboratory testing or direct emissions measurements. The Commission is empowered to adopt delegated acts in accordance with Article 26, in order to supplement this Regulation by establishing the rules on conducting the laboratory testing and direct emissions measurements.

CHAPTER IV

VERIFICATION AND ACCREDITATION

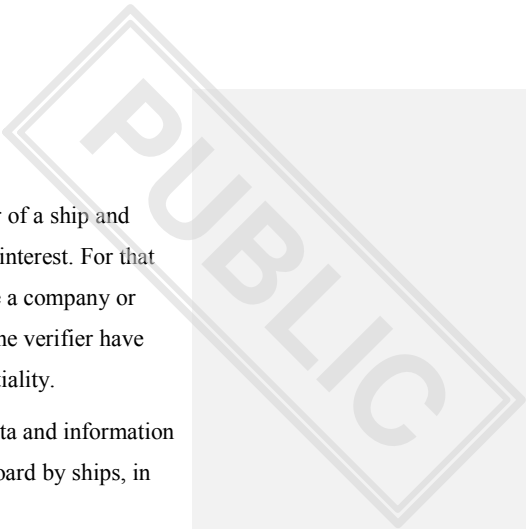
Article 10

Verification activities

1. The verifier shall assess the conformity of the monitoring plan with the requirements laid down in Articles 6 to 9. Where the verifier's assessment identifies non-conformities with those requirements, the company concerned shall revise its monitoring plan accordingly and submit the revised plan for a final assessment by the verifier before the reporting period starts. The company concerned shall agree with the verifier on the timeframe necessary to introduce those revisions. That timeframe shall in any event not extend beyond the beginning of the reporting period.
2. The verifier shall assess the conformity of the information reported with the requirements laid down in Articles 6 to 9 and Annexes I ~~and II~~, **as well as the requirements set out in the implementing act referred to in Article 5, paragraph 4 and III** before performing the operations set out in Article 15(2).
3. Where the verification assessment identifies incorrect statements or non-conformities with this Regulation, the verifier shall inform the company concerned thereof in a timely manner. That company shall then amend the incorrect statements or non-conformities so as to enable the verification process to be completed in time.

Article 11

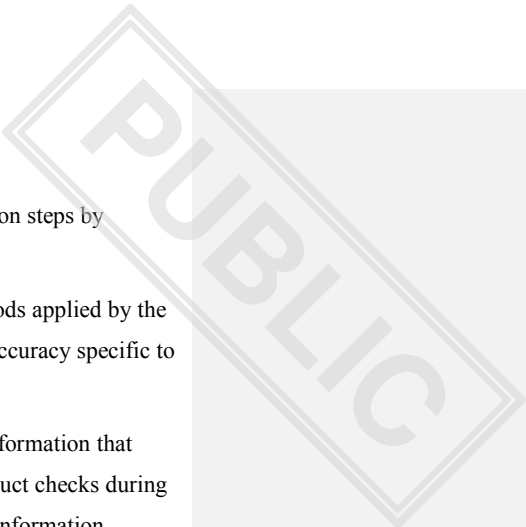
General obligations and principles for the verifiers

- 
1. The verifier shall be independent from the company or from the operator of a ship and shall carry out the activities required under this Regulation in the public interest. For that purpose, neither the verifier nor any part of the same legal entity shall be a company or ship operator, the owner of a company, or be owned by them, nor shall the verifier have relations with the company that could affect its independence and impartiality.
 2. The verifier shall assess the reliability, credibility and accuracy of the data and information relating to the amount, type and emission factor of the energy used on-board by ships, in particular:
 - (a) the attribution of fuel consumption and the use of substitute sources of energy to voyages;
 - (b) the reported fuel consumption data and related measurements and calculations;
 - (c) the choice and the employment of emission factors;
 - (d) the use of on-shore power supply or the presence of exceptions certified in accordance with Article 5(5).
 3. The assessment referred to in paragraph 2 shall be based on the following considerations:
 - (a) the reported data are coherent in relation to estimated data that are based on ship tracking data and characteristics such as the installed engine power;
 - (b) the reported data are free of inconsistencies, in particular when comparing the total volume of fuel purchased annually by each ship and the aggregate fuel consumption during voyages;
 - (c) the collection of the data has been carried out in accordance with the applicable rules; and
 - (d) the relevant records of the ship are complete and consistent.

Article 12

Verification procedures

1. The verifier shall identify potential risks related to the monitoring and reporting process by comparing reported amount, type and emission factor of the energy used on-board by ships with estimated data based on ship tracking data and characteristics such as the installed engine power. Where significant deviations are found, the verifier shall carry out further analyses.

- 
2. The verifier shall identify potential risks related to the different calculation steps by reviewing all data sources and methodologies used by the company.
 3. The verifier shall take into consideration any effective risk control methods applied by the company concerned to reduce levels of uncertainty associated with the accuracy specific to the monitoring methods used.
 4. The company concerned shall provide the verifier with any additional information that enables it to carry out the verification procedures. The verifier may conduct checks during the verification process to determine the reliability of reported data and information.

Article 13

Accreditation of verifiers

1. Verifiers shall be accredited for activities under the scope of this Regulation by a national accreditation body pursuant to Regulation (EC) No 765/2008.
2. Where no specific provisions concerning the accreditation of verifiers are laid down in this Regulation, the relevant provisions of Regulation (EC) No 765/2008 shall apply.

3. The Commission is empowered to adopt delegated acts in accordance with Article 26, in order to supplement this Regulation by establishing further methods and criteria of accreditation of verifiers. The methods specified in those delegated acts shall be based on the principles for verification provided for in Articles 10 and 11 and on relevant internationally accepted standards.

CHAPTER V

RECORDING, VERIFICATION, REPORTING AND ASSESMENT OF COMPLIANCE

Article 14

Monitoring and recording

1. **As of 1 January 2025**, ~~By~~ based on the monitoring plan referred to in Article 7, and following the assessment of that plan by the verifier, companies shall record, for each ship arriving in or departing from, and for each voyage to or from a port of call under the jurisdiction of a Member State, the following information:
- (a) port of departure and port of arrival including the date and hour of departure and arrival and time spent at berth;
 - (b) for each ship that the requirement of Article 5(1) applies, the connection to and use of on-shore power or the existence of any of the exceptions listed in Article 5(3);
 - (c) the amount of each type of fuel consumed at berth and at sea;
 - (d) the well-to-wake emission factors for each type of fuel consumed at berth and at sea, broken down by well-to-tank, tank-to-wake and fugitive emissions, covering all relevant greenhouse gases;
 - (e) the amount of each type of substitute source of energy consumed at berth and at sea.

2. Companies shall record the information and data listed in paragraph 1 on annual basis in a transparent manner, that enables the verification of compliance with this Regulation by the verifier.
3. By ~~310 March~~ **28 February** of each year, companies shall provide to the verifier the information referred to in paragraph 1 **for the reporting period corresponding to the previous calendar year.**

Kommentiert [A5]: GER would like to ask the Presidency why this date should be changed and if this is compatible with the procedures in the MRV-regulation.

3bis Companies ~~which had borrowed an advance compliance surplus for the previous reporting period~~ shall also notify to the verifier each ship which had no voyage to or from a port of call under the jurisdiction of a Member State during that reporting period, ~~and which had borrowed an advance compliance surplus for the previous reporting period.~~

Kommentiert [A6]: GER would like to propose a restructuring of this sentence.

Additionally, we would like to raise another topic, which has not been addressed up to now and could be a loophole if not addressed:
If a ship is not compliant and does not pay the corresponding penalty, it can become subject to enforcement in the year after the reporting period. Is this enforcement limited in time? Otherwise it would be theoretically possible that a ship has no certificate of compliance for a special reporting period but does not enter an EU port in the following year. In this "second" year this would mean, the ship does not have to report. Would the incomppliance (and with this e.g. the possibility for an expulsion order) expire then?
From our point of view there should be no expiration date for an incomppliance. A clarification in this context would be helpful.

4. **In case 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.**

Article 15

Verification and calculation

- Following the verification laid down in Articles 10 to 12, the verifier shall assess the quality, completeness and accuracy of the information provided by the company in accordance with Article 14(3).
- On the basis of the information verified according to paragraph 1, the verifier shall:
 - calculate, using the method specified in Annex I, the yearly average greenhouse gas intensity of the energy used on-board by the ship concerned;
 - calculate, using the formula specified in Annex V **Part A**, the ship's compliance balance;
 - calculate the number of non-compliant port calls in the previous reporting period including the time spent ~~at berth~~ **moored at the quayside and, where applicable in accordance with Article 5(8), at anchorage,** for each ~~non-compliant~~ port call **non compliant with the requirements set in Article 5.**

(d) ~~calculate the amount of the penalties referred to in Article 20(1) and (2).~~

(d) calculate the amount of the penalties referred to in Article 20(1) and (2).

Kommentiert [A7]: GER does not support the introduction of a „competent authority of the administering state“. So this subparagraph has to be kept here.

3. **By 15 April of the year following the reporting period, t** The verifier shall notify **in the**
compliance database referred to in Article 16 ~~to the company~~ the information referred to
in paragraph 2.

Kommentiert [A8]: GER would like to ask the presidency if this date will also have indirect influence on MRV regulation?

Article 16

Compliance database and reporting

1. The Commission shall develop, ensure functioning and update an electronic compliance database for the monitoring of compliance with Articles 4 and 5. The compliance database shall be used to keep a record of the compliance balance of the ships and the use of the flexibility mechanisms set out in Articles 17 and 18 **and any relevant action related to the implementation of this Regulation**. It shall be accessible to the companies, the verifiers, the competent authorities and the Commission.
2. The Commission shall, by means of implementing acts, lay down the rules for access rights and the functional and technical specifications of the compliance database. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

Article 17

Banking and borrowing of compliance surplus between reporting periods

1. Where the ship has a compliance surplus for the reporting period, the company may bank it to the same ship's compliance balance for the following reporting period. The company shall record the banking of the compliance surplus to the following reporting period in the compliance database subject to approval by its verifier. The company may no longer bank the compliance surplus once the FuelEU certificate of compliance has been issued.
2. Where the ship has a compliance deficit for the reporting period, the company may borrow an advance compliance surplus of the corresponding amount from the following reporting period. The advance compliance surplus shall be added to the ship's balance in the reporting period and **subtracted from the same ship's balance in the following reporting period. The amount to be subtracted in the following reporting period shall be equal to the advance compliance surplus multiplied by 1.1 shall be subtracted from the same ship's balance in the following reporting period.** The advance compliance surplus may not be borrowed:
 - (a) for the amount exceeding by more than 2% the limit set out in Article 4(2), multiplied by the energy consumption of the ship calculated in accordance with Annex I;
 - (b) for two consecutive reporting periods.

3. By 30 April of the year following the reporting period, the company shall record the advance compliance surplus, following approval by its verifier, in the compliance database.

4. When a ship with an advance compliance surplus for a reporting period does not have any port call in the Union during the following reporting period, the company shall pay the remedial penalty mentioned in Article 20(2b) initially avoided by means of borrowing this advance compliance surplus, multiplied by 1.1.

Article 18

Pooling of compliance

1. The compliance balances of two or more ships, **as calculated in application of Article 15(2)** which are verified by the same verifier, may be pooled for the purposes of fulfilling the requirements of Article 4. A ship's compliance balance may not be included in more than one pool in the same reporting period.
 2. **By 31 March of the year following the reporting period To that end,** the company shall notify **in the compliance database the inclusion of** to the verifier the intention of ~~including~~ the ship's compliance balance in a pool **and the allocation of the total compliance balance of the pool to each individual ship** for the immediately preceding reporting period.
- 2bis.** In the case where the ships participating in the pool are controlled by two or more companies, the **notification, including the allocation of the total compliance balance of the pool to the ships, shall be validated by all the** companies ~~concerned shall make a joint notification.~~
- 2ter.** **A pool is valid only if the total pool compliance balance is compliant with the requirements set out in Article 4 and if ships which had a compliance deficit before being included in the pool do not have a higher compliance deficit after their inclusion.**
3. **By 30 April of the year following the reporting period, the pool shall be recorded in the compliance database by the verifier.** The composition of the pool shall not change after **30 April of the year following the reporting period** that date.
 4. **In case of pooled compliance under paragraph 1 of this Article, and for the purposes of Article 15(2)(b), the company may decide how to allocate the total compliance balance of**

the pool to each individual ship, provided that the total pool compliance balance is respected. In case where the ships participating in the pool are controlled by two or more companies, the total compliance balance of the pool shall be allocated in accordance with the method specified in the joint notification. **A ship shall not be included in a pool if it does not comply with the obligation set out in Article 22.**

5. If the **total pool compliance balance** pool average compliance balance results in the compliance surplus for an individual ship, Article 17(1) applies.
6. Article 17(2) does not apply to a ship participating in the pool.
7. The company may no longer include the ship's compliance balance in a pool once the FuelEU certificate of compliance has been issued.

Article 19

FuelEU certificate of compliance

1. By 30 June of the year following the **end of a** reporting period, the verifier shall issue a FuelEU certificate of compliance for the ship concerned, provided that the ship does not have a compliance deficit, after possible application of Articles 17 and 18, **and** does not have non-compliant port calls and, **where applicable, has paid the penalties referred to in Article 20.**
2. The FuelEU certificate of compliance shall include the following information:
 - (a) identity of the ship (name, IMO identification number and port of registry or home port);
 - (b) name, address and principal place of business of the ship-owner;
 - (c) identity of the verifier;
 - (d) date of issue of this certificate, its period of validity and the reporting period it refers to.
3. The FuelEU certificate of compliance shall be valid for **the a** period of 18 months after the end of the reporting period, **or expire if a new certificate is issued in the meantime.**
4. The verifier shall inform the Commission and the flag State, without delay, of the issuance of any FuelEU certificate of compliance.

5. The Commission shall adopt implementing acts establishing models for the FuelEU certificate of compliance, including electronic ~~templates~~ models. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27(2).

Article 20

Remedial Penalties²⁰

04. Where on ~~1 May 30 April~~ of the year following the reporting period the ship has a compliance deficit ~~and for each non-compliant port call~~, the company shall pay a **remedial** penalty.

1. The verifier shall calculate the amount of the **remedial** penalty ~~for the compliance deficit~~ on the basis of the formula specified ~~in~~ Annex V **Part B. When a ship has a compliance deficit for two ~~three consecutive reporting periods or more, that amount shall be multiplied²¹ by $1 + (n-1)/10$, where n is the number of consecutive reporting periods for which a remedial penalty shall be paid.~~²²**

2. ~~The company shall pay a penalty for each non-compliant port call.~~ The verifier shall calculate the amount of the **remedial** penalty ~~for each non-compliant port call~~ by multiplying the amount of ~~EUR 250-1,5²³~~ by ~~the established total electrical demand of the ship at berth~~ ~~megawatts of power installed on board for electrical power demand needs while at berth~~ and by the number of ~~completed~~**rounded up** hours spent at berth ~~moored at the quayside and, where applicable in accordance with Article 5(8), at anchorage~~

2a. ~~The verifier shall notify the amounts referred to in paragraphs 1 and 2 to the competent authority of the administering State of the company before 15 May~~

²⁰ ~~The Presidency is aware of the concerns expressed by some Member State about the pertinence of the term "penalties". Further reflection is needed in this respect.~~

²¹ ~~This formula triggers a multiplication of the "regular" penalty amount by 1,1 the second consecutive year where a penalty is applied, 1,2 the third consecutive year, 1,3 the fourth consecutive year, and so forth.~~

²² ~~The Presidency is aware of the questions raised by some Member States on this Article and of their will to better involve the administrations in the process. Further reflection is needed in this respect.~~

²³ ~~This factor has been changed taking into account: 1/ the fact that the new power taken into account is around 6 times smaller in average than in the initial proposal, and 2/ the fact that this power is now expressed in kW as specified in the new definition (r3) and not in megawatts. $250 \cdot 6 / 1000 = 1,5$~~

Kommentiert [A9]: From GER point of view this is not practicable.

We suggest to use a fixed percentage applied to the installed auxiliary diesel power as basis for the calculation (e.g. 5% which is drawn from EEDI discussions).

Kommentiert [A10]: GER does not support the introduction of a "competent authority of the administering State".

through the compliance database. This notification shall be accompanied by a report underlying the main elements supporting the calculation of those amounts.

Kommentiert [A11]: GER believes that this is captured already in the verification report

2b. Before 31 May, and after consulting the verifier where appropriate, the competent authority of the administering State shall validate and notify the remedial penalties to the company. The competent authority of the administering State shall inform the verifier of the payment of the remedial penalties without delay.

Kommentiert [A12]: GER does not support this approach and therefore suggests to delete paragraph 2b.

3. Notwithstanding Article 19(1), the verifier shall issue a FuelEU certificate of compliance once the penalties referred to in paragraphs 1 and 2 of this Article have been paid
Notwithstanding Article 19(1), the verifier shall issue a FuelEU certificate of compliance once the penalties referred to in paragraphs 1 and 2 of this Article have been paid²⁴. The actions referred to in this Article as well as the proof of the financial payments in accordance with Article 21 shall be recorded without delay in the database referred to in Article 16 FuelEU certificate of compliance.

Kommentiert [A13]: As GER does not support paragraph 2b the deletion of the parts in paragraph 3 cannot be supported neither. GER would like to keep the previous version.

4. The Commission is empowered to adopt delegated acts in accordance with Article 26 to amend Annex V in order to adapt the factor defined in cells 7 of the table in Part B of that Annex and used in the formula referred to in paragraph 1 of this Article, based on the developments in the cost of energy, and to amend the amount factor of the fixed penalty laid down in paragraph 2 of this Article, taking into account the developments in the cost of energy based on the indexation of the average cost of electricity in the Union.

If payment is received and recorded in the database, the verifier is able to issue the compliance certificate.

~~5.²⁵ Any Member State without maritime ports in its territory and which has closed its national ship register or has no ships flying its flag that fall within the scope of this Regulation, and as long as no such ships are flying its flag, may derogate from the provisions of this Article. Any Member State that intends to avail itself of that derogation shall notify the Commission at the latest on XXXXX. Any subsequent change shall also be communicated to the Commission.~~²⁶

²⁴ This deletion is linked to the new addition in Article 19(1)

²⁵ The Presidency intends to accommodate this aspect but wonders whether this paragraph is correctly placed here. Would it not be more appropriate in Article 23? Indications from the delegation sought.

²⁶ The following recital could be also added: "(XX) Member States that have no maritime ports in their territory and which have no ships flying their flag and falling under the scope of this Regulation, or which have closed their national ship registers, should be able to derogate from the provisions of this Regulation relating to penalties, as long as no such ships are flying their flag".

Article 21

Kommentiert [A14]: We refer to our serious concerns – see our comments regarding Art. 21 above in general remarks.

Allocation of remedial penalties to support renewable and low-carbon fuels in the maritime sector

1. The remedial penalties referred to in Article 20(1) and 20(2) shall be allocated to support common projects aimed at the rapid deployment of renewable and low carbon fuels in the maritime sector. Projects financed by the funds collected from the remedial penalties shall stimulate the production of greater quantities of renewable and low carbon fuels for the maritime sector, facilitate the construction of appropriate bunkering facilities or electric connection ports in ports, and support the development, testing and deployment of the most innovative European technologies in the fleet to achieve significant emission reductions.
2. The revenues generated from remedial penalties referred to in paragraph 1 shall be allocated to the Innovation Fund referred to in Article 10a(8) of Directive 2003/87/EC. These revenues shall constitute external assigned revenue in accordance with Article 21(5) of the Financial Regulation, and shall be implemented in accordance with the rules applicable to the Innovation Fund.
3. **The Commission is empowered to adopt implementing acts in accordance with Article 27, paragraph 3 in order to specify the modalities for the payment of the remedial penalties referred to in paragraph 2 of this Article. The Commission is empowered to adopt delegated acts in accordance with Article 26 to supplement this Regulation concerning the modalities for the payment of the penalties referred to in Article 20(1) and 20(2).**

Article 22

Obligation to carry a valid FuelEU certificate of compliance on-board

1. **By 30 June of the year following the end of a reporting period, the ships calling at a port under the jurisdiction of a Member State, arriving at, within or departing from a port under the jurisdiction of a Member State, and which have carried out voyages during that reporting period, shall carry on-board, in paper or electronic form, a valid FuelEU certificate of compliance.**
2. The Fuel EU certificate of compliance issued for the ship concerned in accordance with Article 19 shall constitute evidence of compliance with this Regulation.

Article 23

Enforcement

1. Member States shall lay down the rules on sanctions applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by [dd/mm/20xx], and shall notify to the Commission without delay any subsequent amendments.
2. Each Member State shall ensure that any inspection of a ship in a port under its jurisdiction carried out in accordance with Directive 2009/16/EC includes checking that a valid FuelEU certificate of compliance is carried on board.
3. Where a ship has failed to present a valid FuelEU certificate of compliance 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 call may, **in respect of a ship not flying the flag of that Member State and** after giving the opportunity to the company concerned to submit its observations, issue **a banan-expulsion order**. **In case (1) the competent authority of the Member State of the port of call decides to issue a banan-expulsion order, it** shall notify **the expulsion order** to the Commission, the other Member States and the flag State concerned. Every Member State, with the exception of any Member State whose flag the ship is flying, shall refuse entry of the ship which is subject to the **banan-expulsion order** into any of its ports until the company fulfils its obligations. Where the ship flies the flag of a Member State **and enters one of its ports or is found with such failure while in one of its ports**, the Member State concerned shall, after giving the opportunity to the company concerned to submit its observations, order a flag detention until the company fulfils its obligations.
4. The fulfilment of those obligations shall be confirmed by the notification of a valid FuelEU certificate of compliance to the competent national authority which issued the **banan-expulsion order**. This paragraph shall be without prejudice to the provisions of international law applicable in the case of ships in distress.
5. Sanctions against a specified ship by any Member State shall be notified to the Commission, to the other Member States and to the flag State concerned.

~~6. Any Member State without maritime ports in its territory, which has closed its national ship register or has no ships flying its flag that fall within the scope of this~~

Kommentiert [A15]: In the past GER already suggested to include the possibility of a detention order to guarantee a good and effective enforcement system. Therefore, we would like to ask the Presidency and the Council Legal Service whether the detention as enforcement instrument could be included in this article.

~~Regulation and as long as no such ships are flying its flag, and which has no accredited verifier may derogate from the provisions of this Article. Any Member State that intends to avail itself of that derogation shall notify the Commission at the latest on XXXXX. Any subsequent change shall also be communicated to the Commission.²⁷~~

Article 23b

Derogations

~~A Member State which has no maritime ports in its territory, has closed its national ship register, has no ships flying its flag that fall within the scope of this Regulation and has no accredited verifier within the meaning of Article [13] shall not apply this Regulation as long as any of the above mentioned situation occurs.]~~

Article 24

Right to review

1. The companies shall be entitled to apply for a review of the calculations and measures addressed to them by the verifier under this Regulation, including the refusal to issue a FuelEU certificate of compliance pursuant to Article 19(1). **The application for review shall be lodged, within one month of the notification of the result of calculation or of the measure by the verifier, with the competent authority of the Member State in which the verifier has been accredited.**
2. **The companies shall be entitled to apply for a review of the decisions taken under this Regulation by the managing body of the port²⁸.** The application for review shall be lodged, within one month of the notification of the **decision, with the competent authority of the Member State of the port of call** ~~result of calculation or of the measure~~ by the verifier, with the competent authority of the Member State in which the verifier has been accredited. The decision of the competent authority shall be subject to judicial review

²⁷ The following recital could be also added: "(XX) Member States that have no maritime ports in their territory and which have no ships flying their flag and falling under the scope of this Regulation or which have closed their national ship registers, and which have not accredited any verifier, should be able to derogate from the provisions of this Regulation relating to sanctions, as long as no such ships are flying their flag".

²⁸ Adjustments to this provision might be needed depending on the final drafting of Article 5(5).

3. The decisions taken under this Regulation by the **competent authority** managing body of the port shall be subject to judicial review **by a court of the Member State concerned, respectively in which the verifier has been accredited or of the port of call.**

Article 25

Competent authorities

Member States shall designate one or more competent authorities as responsible for the application and enforcement of this Regulation ('competent authorities'). They shall communicate their names and contact information to the Commission. The Commission shall publish on its website the list of competent authorities.

CHAPTER VI

DELEGATED AND IMPLEMENTING POWERS AND FINAL PROVISIONS

Article 26

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 4(46), 5(4), 9(3), 13(3), 20(4), and 21(3) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Regulation].
3. The delegation of power referred to in Articles 4(47), 5(4), 9(3), 13(3), 20(4), and 21(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 4(47), 5(4), 9(3), 13(3), 20(4), and 21(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 27

Committee procedure

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from ships (COSS) established by Regulation (EC) 2099/2002 of the European Parliament and of the Council²⁹. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the Committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

²⁹ Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships (OJ L 324, 29.11.2002, p. 1).

Article 28

Report and review³⁰

1. The Commission shall report to the European Parliament and the Council, by 1 January 2030, **and every five years thereafter**, the results of an evaluation on the functioning of this Regulation and the evolution of the technologies and market for renewable and low-carbon fuels **and zero emission technologies** in maritime transport and its impact on the maritime sector in the Union. The Commission shall consider possible amendments **including but not limited** to:
 - (a) the limit referred to in Article 4(2);
 - (b) the ship types **and situations** to which Article 5(1) applies;
 - (c) the exceptions listed in Article 5(3).

Article 29

Amendments to Directive 2009/16/EC

The following point shall be added to the list set out in Annex IV to Directive 2009/16/EC: '51. The FuelEU certificate of compliance issued under Regulation (EU) xxxx on the use of renewable and low-carbon fuels in maritime transport'.

³⁰

The Presidency is aware that some Member States requested an IMO-related review clause. Further reflection is needed in this respect; an addition could be considered along the following lines: "2. The Commission shall consider possible amendments in relation to the adoption by the International Maritime Organization of a global low-GHG fuel standard for maritime transport. In the event of the adoption of such a measure, the Commission shall present a report to the European Parliament and to the Council examining such measure. Where appropriate, the Commission may follow to the report with a legislative proposal to the European Parliament and to the Council to amend this Regulation as appropriate."

Article 30

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. It shall apply from 1 January 2025.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

METHODOLOGY FOR ESTABLISHING THE GREENHOUSE GAS INTENSITY LIMIT ON THE ENERGY USED ON-BOARD BY A SHIP

For the purpose of calculating the greenhouse gas intensity limit of the energy used on-board a ship, the following formula, referred to as Equation (1) shall apply:

GHG intensity index	WtT	TtW
$GHG_{intensity} index \left[\frac{gCO_2eq}{MJ} \right] =$	$\frac{\sum_i^{n_{fuel}} M_{i,j} \times CO_{2eqWtT,i} \times LCV_i + \sum_k^c E_k \times CO_{2eq_{electricity,k}}}{\sum_i^{n_{fuel}} M_{i,j} \times LCV_i + \sum_k^c E_k}$	$\frac{\sum_i^{n_{fuel}} \sum_j^{n_{engine}} M_{i,j} \times \left[\left(1 - \frac{1}{100} C_{engineslipj} \right) \times (CO_{2eqTtW,j}) + \left(\frac{1}{100} C_{engineslipj} \right) \times CO_{2eqTtW_{slippage,j}} \right]}{\sum_i^{n_{fuel}} M_{i,j} \times LCV_i + \sum_k^c E_k}$

Equation (1)

where the following formula is referred to as Equation (2):

$$CO_{2eq,TtW,j} = \left(C_{fCO_2,j} \times GWP_{CO_2} + C_{fCH_4,j} \times GWP_{CH_4} + C_{fN_2O,j} \times GWP_{N_2O} \right)_i$$

Equation (2)

Term	Explanation
i	Index corresponding to the fuels delivered to the ship in the reference period
j	Index corresponding to the fuel <u>consumer combustion</u> units on board the ship. For the purpose of this Regulation the <u>consumer</u> units considered are the main engine(s), auxiliary engine(s) and fixed oil boilers , <u>fuels cells, waste incinerators</u>
k	Index corresponding to the <u>electrical charging connection</u> points (c) where electricity is supplied per connection point.
c	Index corresponding to the number of electrical charging points
m	Index corresponding to the number of <u>energy fuel</u> consumers
$M_{i,j}$	Mass of the specific fuel i oxidised in consumer j [gFuel]
E_k	Electricity delivered to the ship <u>per electrical charging connection point k if more than one</u> [MJ]
$CO_{2eqWtT,i}$	WtT GHG emission factor of fuel i [gCO _{2eq} /MJ]
$CO_{2eq_{electricity,k}}$	WtT GHG emission factor associated to the electricity delivered to the ship at berth <u>per electrical charging connection point k</u> [gCO _{2eq} /MJ]
LCV_i	Lower Calorific Value of fuel i [MJ/gFuel]
$C_{engineslipj}$	<u>Engine fuel slippage</u> (non-combusted fuel) coefficient as a percentage of the mass of the fuel i used by combustion unit j [%]. <u>C_{slip} includes fugitive emissions (emissions before the “engine”) and slipped emissions (unburnt fuel,</u>

	<u>measured after the “engine”.</u>
$C_{fCO_2,j}, C_{fCH_4,j}, C_{fN_2O,j}$	TtW GHG emission factors by combusted fuel in combustion unit j [gGHG/gFuel]
$CO_{2eq,TtW,j}$	TtW CO ₂ equivalent emissions of combusted fuel i in fuel consumer combustion unit j [gCO ₂ eq/gFuel] $CO_{2eq,TtW,j} = \left(C_{fCO_2,j} \times GWP_{CO_2} + C_{fCH_4,j} \times GWP_{CH_4} + C_{fN_2O,j} \times GWP_{N_2O} \right)_i$
$C_{sfCO_2,j}, C_{sfCH_4,j}, C_{sfN_2O,j}$	TtW GHG emissions factors by slipped fuel towards combustion unit j [gGHG/gFuel]
$CO_{2eq,TtWslippage,j}$	TtW CO ₂ equivalent emissions of slipped fuel i towards combustion unit j [gCO ₂ eq/gFuel] $CO_{2eq,TtWslippage,j} = \left(C_{sfCO_2,j} \times GWP_{CO_2} + C_{sfCH_4,j} \times GWP_{CH_4} + C_{sfN_2O,j} \times GWP_{N_2O} \right)_i$ <u>where: $C_{sfCO_2,j}$ and $C_{sfN_2O,j}$ are set to zero.</u>
$GWP_{CO_2}, GWP_{CH_4}, GWP_{N_2O}$	CO ₂ , CH ₄ , N ₂ O Global Warming Potential over 100 years, <u>which are:</u> $GWP_{CO_2} = 1$; $GWP_{CH_4} = 29,8$; $GWP_{N_2O} = 273$

In the case of fossil fuels, the default values in Annex II shall be used.

For the purpose of this regulation the term $\sum_k^c E_k \times CO_{2eq,electricity,k}$ in the numerator of Equation (1) shall be set to zero.

Method for determining [M_i]

The [M_i] mass of fuel shall be determined using the amount reported in accordance with the framework of the reporting under Regulation (EU) 2015/757 for voyages falling within the scope of this Regulation based on the chosen monitoring methodology by the company.

Method for determining WtT GHG factors

~~For non fossil fuels, wherever values different from the default values in Annex II are used, these shall be based on relevant Bunker Delivery Notes (BDNs), for the fuels delivered to the ship in the reference period, for at least equal quantities of fuels as the one determined as being consumed in scope of the regulated journey in accordance with point A.~~

The WtT GHG ($CO_{2eqWtT,i}$) of the fuels (which are not fossils fuels) are established in Directive (EU) 2018/2001. The actual values, contained in the Directive that shall be used for the purpose of this Regulation, in accordance with the methodology, are those without combustion³¹. For those fuels for which pathways are not included in the Directive and for fossil fuels, the WtT GHG emission factors ($CO_{2eqWtT,i}$) default values are contained in Annex II.

³¹ Reference is made to Directive (EU) 2018/2001, Annex V.C.1.(a) to the term e_a ‘emissions from the fuel in use’

For non-fossil fuels, wherever values different from the default values in Annex II are used, these shall be based on relevant Bunker Delivery Notes (BDNs), and need to be certified by an accredited certifier (under the relevant provisions made in Directive (EU 2018/2001) for the fuels delivered to the ship in the reference period, for at least equal quantities of fuels as the one determined as being consumed in scope of the regulated journey.

Fuel Bunker Delivery Note (BDN)

For the purposes of this regulation, relevant BDNs of fuels used on board shall contain at least the following information:

- product identification
- fuel mass [t]
- fuel volume [m³]
- fuel density [kg/m³]
- WtT GHG emission factor for CO₂ (carbon factor) [gCO₂/gFuel] and for CO_{2eq} [gCO_{2eq}/gFuel] and related certificate³²
- Lower Calorific Value [MJ/g] **of the fuel batch, including blends.**

BDN Electricity

For the purposes of this regulation, relevant BDNs for electricity delivered to the ship shall contain at least the following information:

- supplier: name, address, telephone, email, representative
- receiving ship: IMO number (MMSI), ship name, ship type, flag, ship representative
- port: name, location (LOCODE), terminal/ berth
- ~~connection~~ **electrical charging** point: OPS-SSE connection point, connection point details
- ~~connection~~ **electrical charging** time: date/time of commencement/finalisation
- energy supplied: power fraction allocated to supply point (if applicable) [kW], electricity consumption (kWh) for the billing period, peak power information (if available)
- metering

Method for determining TtW GHG factors

The TtW emissions are determined on the basis of the methodology contained in this Annex as provided in Equation (1) and Equation (2)

For the purpose of this Regulation, the TtW GHG emission factors ($CO_{2eq,TtW,j}$) that shall be used to determine the GHG emissions are contained in Annex II. The CO₂ ~~ef~~ factors shall be the ones established in Regulation (EU) 2015/757 and are reported in ~~the~~ **Table 1 of Annex II** for easy reference. For fuels whose factors are not included in the said regulation, default factors as contained in Annex II shall be used.

³² This value is not required in case of fossil fuels referred to in Annex II. For all other fuels, including blends of fossil fuels, this value should be made available together with a separate certificate identifying the fuel production pathway.

In accordance with its compliance monitoring plan referred to in Article 6 7 and upon assessment by the verifier, other methods, such as direct CO_{2eq} measurement, laboratory testing, may be used if it enhances the overall accuracy of the calculation.

Method for determining TtW fugitive emissions

Fugitive emissions are emissions caused by the amount of fuel that does not reach the combustion chamber of the combustion unit or that is not consumed by the energy converter because they are uncombusted, vented, or leaked from the system. For the purpose of this Regulation, fugitive emissions are taken into account as a percentage of the mass of the fuel used by the engine. The default values are contained in Annex II.

1. Methods for determining the reward factors linked to substitute sources of energy

In case substitute sources of energy are installed on board, a reward factor for substitute sources of energy can be applied. In case of wind power such reward factor is determined as follow:

Reward factor for substitute sources of energy- WIND (f_{wind})	$\frac{P_{Wind}}{P_{Tot}}$
0,99	0,1
0,97	0,2
0,95	$\geq 0,3$

Where:

P_{Wind} is the installed power of a wind propulsion system

P_{Tot} is the total installed power on board of the ship

The ship GHG intensity index is then calculated by multiplying the result of Equation (1) by the reward factor.

2. Verification and Certification

Fuel Class	WtT	TtW
------------	-----	-----

Fossil	Default values shall be used as provided in Table 1 of this Regulation	<p>MRV Regulation CO₂ carbon factors shall be used for fuels for which such factor is provided</p> <p>For all other emissions factors, default values can be used as provided in Table 1 of this Regulation, alternatively</p> <p>Certified values by mean of laboratory testing or direct emissions measurements</p>
Sustainable Renewable Fuels (Bio Liquids, Bio Gases, e-Fuels)	<p>CO_{2eq} values as provided in RED II (without combustion) can be used for all fuels whose pathways are included in RED II, alternatively</p> <p>RED II approved certification scheme, <u>including voluntary schemes,</u> can be used</p>	<p>Emissions factors, default values can be used as provided in Table 1 of this Regulation, alternatively</p> <p>Certified values by mean of laboratory testing or direct emissions measurements.</p>
Others (including electricity)	<p>CO_{2eq} values as provided in RED II (without combustion) can be used for all fuels whose pathways are included in RED II, alternatively</p> <p>RED II approved certification scheme, <u>including voluntary schemes,</u> can be used</p>	<p>Emissions factors, default values can be used as provided in Table 1 of this Regulation, alternatively</p> <p>Certified values by mean of laboratory testing or direct emissions measurements.</p>

ANNEX II

DEFAULT EMISSION FACTORS³³

The emissions factors for fossils fuels contained in ~~this Annex~~ the table below shall be used for the determination of the greenhouse gas intensity index referred to in Annex I of this Regulation.

The WtT emissions factors of liquid and gaseous biofuels, biogas, renewable fuels of non-biological origin and recycled carbon fuels shall be determined according to the methodologies set out in Annex 5 part C of Directive (EU) 2018/2001, the WtT emissions factors for said Directive the latter are included in this Annex.

In the table:

1. TBM stands for To Be Measured
2. N/A stands for Not Available
3. The dash means not applicable

Table 1 – Default factors

1	2	3	4	5	6	7	8	9
	WtT			TtW				
Class / Feedstock	Pathway name	LCV $\left[\frac{MJ}{g}\right]$	CO_{2eqWtT} $\left[\frac{gCO_{2eq}}{MJ}\right]$	Energy Converter Class	C_{fCO_2} $\left[\frac{gCO_2}{gFuel}\right]$	C_{fCH_4} $\left[\frac{gCH_4}{gFuel}\right]$	C_{fN_2O} $\left[\frac{gN_2O}{gFuel}\right]$	C_{slip} As % of the mass of the fuel used by the engine
Fossil	HFO ISO 8217 Grades RME to RMK	0,0405	13,5	ALL ICEs	3,114 MEPC245 (66) Regulation (EU) 2015/757	0,00005	0,00018	-
				Gas Turbine				
				Steam Turbines and Boilers				
				Aux Engines				
	LSFO	0,0405	13,2, crude 13,7 blend	ALL ICEs	3,151	0,00005	0,00018	-
				Gas Turbine				

³³ The Presidency is aware of the questions raised/concerns expressed by the Member States as regards this Annex. Therefore, a more in-depth reflection will be needed in this respect.

1	2	3	4	5	6	7	8	9
	WtT			TtW				
				Steam Turbines and Boilers				
				Aux Engines				
	ULSFO	0,0405	13,2	ALL ICEs	3,114	0,00005	0,00018	-
	VLSFO	0,041	13,2	ALL ICEs	3,206 MEPC245 (66) MRV Regulation	0,00005	0,00018	-
	LFO ISO 8217 Grades RMA to RMD	0,041	13,2	ALL ICEs	3,151 MEPC245 (66) Regulation (EU) 2015/757	0,00005	0,00018	-
	MDO MGO ISO 8217 Grades DMX to DMB	0,0427	14,4	ALL ICEs	3,206 MEPC245 (66) Regulation (EU) 2015/757	0,00005	0,00018	-
	LNG	0,0491	18.5 20.9	LNG Otto (dual fuel medium speed)	2,755 MEPC245 (66) Regulation (EU) 2015/757	0	0,00011	3,1
				LNG Otto (dual fuel slow speed)				1,7
				LNG Diesel (dual fuel slow speed)				0,2
				LBSI				N/A -
	LPG	0,046	7,8	All ICEs	3,03 Butane 3,00 Propane MEPC245 (66) Regulation (EU) 2015/757	TBM	TBM	
	H2 (natural gas)	0,12	132	Fuel Cells	0	0	-	N/A
				ICE	0	0	TBM	

1	2	3	4	5	6	7	8	9
	WtT			TtW				
	NH3 (natural gas)	0,0186	121	No engine	0	0	TBM	-
	Methanol (natural gas)	0,0199	31,3	All ICEs	1,375 MEPC245 (66) Regulation (EU) 2015/757	TBM	TBM	-
Liquid biofuels	Ethanol E100	0,0268	Ref. to Directive (EU) 2018/2001	All ICEs	1,913 MEPC245 (66) Regulation (EU) 2015/757	TBM	TBM	-
	Bio-diesel Main products / wastes / Feedstock mix	0,0372	Ref. to Directive (EU) 2018/2001	ALL ICEs	2,834	0,00005 TBM	0,00018 TBM	-
	HVO Main products / wastes / Feedstock mix	0,044	Ref. to Directive (EU) 2018/2001	ALL ICEs	3,115	0,00005	0,00018	-
	Bio-LNG Main products / wastes / Feedstock mix	0,05	Ref. to Directive (EU) 2018/2001	LNG Otto (dual fuel medium speed)	2,755 MEPC245 (66), Regulation (EU) 2015/757	0 0,00005	0,00011 0,00018	3,1
				LNG Otto (dual fuel slow speed)				1,7
				LNG Diesel (dual fuels)				0.2
				LBSI				N/A
Gas biofuels	Bio-H2 Main products / wastes / Feedstock mix	0,12	N/A	Fuel Cells	0	0	0	-
				ICE	0	0	TBM	

1	2	3	4	5	6	7	8	9
	WtT			TtW				
Renewable Fuels of non-Biological Origin (RFNBO) - (e-fuels)	e-diesel	0,0427	Ref. to Directive (EU) 2018/2001)	ALL ICEs	3,206 MEPC245 (66) Regulation (EU) 2015/757	0,00005	0,00018	-
	e-methanol	0,0199	Ref. to Directive (EU) 2018/2001	All ICEs	1,375 MEPC245 (66) Regulation (EU) 2015/757	0,00005	0,00018	-
	e-LNG	0,0491	Ref. to Directive (EU) 2018/2001	LNG Otto (dual fuel medium speed)	2,756 MEPC245 (66) Regulation (EU) 2015/757	0	0,00011	3.1
				LNG Otto (dual fuel slow speed)				1,7
				LNG Diesel (dual fuels)				0.2
				LBSI				N/A
	e-H2	0,12	3,6	Fuel Cells	0	0	0	-
				ICE	0	0	TBM	
	e-NH3	0,0186	0	No engine	0	N/A	TBM	N/A
	<u>e-LPG</u>							
	<u>E-DME</u>							
Others	Electricity	-	106,3 EU ENERGY MIX 2020 72 EU ENERGY MIX 2030	OPS	-	-	-	-

Column 1 identifies the class of the fuels namely Fossils, Liquid Biofuels, Gaseous Biofuels, e-Fuels;

Column 2 identifies the name or the pathway of the relevant fuels within the class. For the Liquid Biofuels, Gaseous Biofuels, RFNBO (e-Fuels) the values for the WtT section shall be taken from

Directive (EU) 2018/2001 (without combustion³⁴); for fossils fuels only the default values in the table shall be used.

Column 3 contains the Lower Calorific Value of the fuels expressed in [MJ/g].

Column 4 contains the CO_{2eq} emissions values in [gCO_{2eq}/MJ]. For fossils fuels only the default values in the table shall be used. For all other fuels, (except were expressly indicated), values shall be calculated by using the methodology or the default values as per in Directive (EU) 2018/2001 deducted of the combustion emissions considering full oxidation of the fuel³⁵.

Column 5 identifies the main types/classes of energy converters such as 2 and 4 strokes Internal Combustion Engines (ICE) Diesel or Otto cycle, gas turbines, fuels cells etc.

Column 6 contains the emission factor C_f for CO₂ in [gCO₂/gfuel]. Emissions factors values as specified in the Regulation (EU) 2015/757 (or IMO MEPC245 (66) as amended) shall be used. For all those fuels not contained in Regulation (EU) 2015/757, the default values contained in the table should be used. Values certified ~~by a~~ by an accredited ~~trusted~~ certifier (under the relevant provisions made in Directive (EU) 2018/2001) can be used in place of the default values.

Column 7 contains the emission factor C_f for methane in [gCH₄/gfuel]. Default values as contained in the table shall be used. Values certified by an accredited certifier ~~mean of testing~~ can be used in place of the default values. For LNG fuels C_f for methane are set to zero.

Column 8 contains the emission factor C_f for nitrous oxide in [gN₂O/gfuel]. Default values as contained in the table shall be used. Values certified by an accredited certifier ~~mean of testing~~ can be used in place of the default values.

Column 9 identifies the part of fuel lost as fugitive and slip emissions (C_{slip}) measured ~~d~~ as % of mass of fuel used by the specific energy converter. Default values as contained in the table shall be used. Values certified by an accredited certifier ~~mean of testing~~ can be used in place of the default values. For fuels such as LNG for which the fugitive emissions (slip) exists, the amount of fugitive emissions as presented in Table 1 is expressed in % of the mass of fuel used (Column 9). The values contained in Column 9 shall be used, in accordance with equation (1). The values of C_{slip} in Table (1) are calculated at 50% of the full engine load.

³⁴ Reference is made to Directive (EU) 2018/2001, Annex V.C.1.(a) to the term e_u ‘emissions from the fuel in use’. The methodology proposed in this Regulation accounts for the combustion of the fuels in the TtW part. For bio-derived fuels, the combustion emissions shall be subtracted by the WtT value. The e_u term is therefore zero for fossil fuels, while the value of the stoichiometric combustion for the bio-derived fuels should be subtracted in the WtT.

³⁵ Reference is made to Directive (EU) 2018/2001, Annex V.C.1.(a) to the term e_u ‘emissions from the fuel in use’

ANNEX III

CRITERIA FOR THE USE OF ZERO EMISSION TECHNOLOGY AS REFERRED TO IN ARTICLES 5(3)(b) and 7(3), points (d) and (f)

The following table provides a list of zero emission technologies as referred to in Article 5(3)(b), as well as, specific criteria for their use as applicable.

<u>Zero emission technology</u>	<u>Criteria for use</u>
<u>Fuel cells</u>	<u>Fuel cells used on board for power generation while at berth should be fully powered by renewable and low carbon fuels.</u>
<u>On board Electricity Storage</u>	<u>The use of on board electricity storage is allowed irrespective on the source of energy that produced the stored power (on board generation or on shore in case of battery swapping).</u>
<u>On board Electricity production from wind and solar energy</u>	<u>Any ship that is capable to sustain energy electricity production needs power demand at berth through the use of wind and solar energy.</u>

The use of these zero emission technologies shall continuously achieve emissions that are equivalent to the emissions reductions that would be achieved by using on shore power supply.

DECLARATION FOR THE USE OF ZERO EMISSION TECHNOLOGIES IN APPLICATION OF ARTICLE 5(3bis)

For the purposes of this Regulation, the declaration referred to in Article 5(3bis) shall contain at least the following information:

(1) Ship identification

(a) IMO number

(b) Ship name

(c) Call sign

(d) Ship type

(e) Flag

(2) Port of call

(3) Location/terminal name

(4) Arrival date and time (ATA)

(5) Departure date and time (ATD)

(6) The declaration by a responsible officer of the ship that the ship uses a zero-emission technology compliant with the implementing act taken in application of Article 5.4, while moored at the quayside for its electrical power demand during the full duration of its port call:

(a) Type of zero-emission technology used, as set out in the implementing act taken in application of Article 5.4:

.....
.....
.....

(b) Identification of technology and information enabling the control of its use onboard by competent authorities:

.....
.....
.....
.....
.....
.....
.....

(7) Details of the responsible officer

(a) Name

(b) contact (phone, email)

(8) Date of issue

ANNEX IV

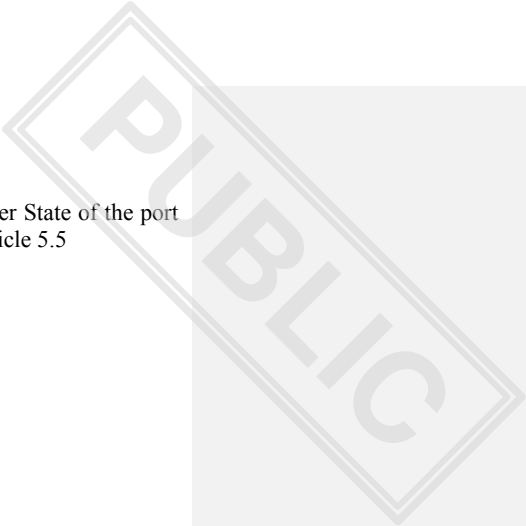
CERTIFICATE TO BE ISSUED ~~BY THE MANAGING BODY OF THE PORT OF CALL~~ IN CASES WHERE SHIPS CANNOT MAKE USE OF OPS FOR JUSTIFIED REASONS (ARTICLE 5(5)) - MINIMUM ELEMENTS TO BE INCLUDED IN THE CERTIFICATE

For the purposes of this Regulation, the certificate referred to in Article 5(5) shall contain at least the following information:

1. Ship identification
 - 1.a.1.a. IMO number
 - 1.a.1.b. Ship name
 - 1.a.1.c. Call sign
 - 1.a.1.d. Ship type
 - 1.a.1.e. Flag
2. Port of call
3. Location/terminal name
4. Arrival date and time (ATA)
5. Departure date and time (ATD)

The confirmation ~~from the managing body of the port~~ that the ship was found among any of the following cases:

- the ship made an unscheduled port call for reasons of safety or saving life at sea (Article 5(~~2~~ **3**), point (c))
- the ship was unable to connect to on-shore power supply due to unavailable connection points in the port (Article 5(~~2~~ **3**), point (d))
- the on-shore power supply equipment on board was found to be incompatible with the shore installation at the port (Article 5(~~2~~ **3**), point (e))
- that the ship used, for a limited period of time on-board energy generation, under emergency situations representing immediate risk to life, the ship, or the environment (Article 5(~~2~~ **3**), point (f)).

- 
6. Details of the representative from the competent authority of the Member State of the port or the entity duly authorized to issue this certificate in application of Article 5.5
 - 6.a.1.a.Name
 - 6.a.1.b.contact (phone, email)
 7. Date of issue

ANNEX V

FORMULAS FOR CALCULATING THE COMPLIANCE BALANCE AND **REMEDIAL** PENALTY LAID DOWN IN ARTICLE 20(1)

A. Formula for calculating the ship's compliance balance

For the purpose of calculating the compliance balance of a ship the following formula shall apply:

Compliance balance [gCO _{2eq} /MJ] =	$(\text{GHGIE}_{\text{target}} - \text{GHGIE}_{\text{actual}}) \times \left[\sum_i^{n_{\text{fuel}}} M_i \times \text{LCV}_i + \sum_i^l E_i \right]$
---	---

Where:

gCO_{2eq}	Grams of CO ₂ equivalent
GHGIE _{target}	Greenhouse gas intensity limit of the energy used on-board a ship according to Article 4(2) of this Regulation
GHGIE _{actual}	Yearly average of the greenhouse gas intensity of the energy used on-board a ship calculated for the relevant reporting period

B. Formula for calculating the **remedial** penalty laid down in Article 20(1)

The amount of the **remedial** penalty laid down in Article 20(1) shall be calculated as follows:

Penalty =	$\frac{(\text{Compliance balance} / \text{GHGIE}_{\text{actual}}) \times \text{conversion factor from MJ to tonnes of VLSFO (41.0 MJ/kg)} \times \text{EUR 2400}}{ \text{Compliance balance} }$ $\frac{ \text{Compliance balance} }{\text{GHGIE}_{\text{actual}} \times 41000} \times 2400$
-----------	--

1. <u>Penalty</u>	2. <u>Is in EUR</u>
3. <u>abs(Compliance balance)</u>	4. <u>Is the absolute value of the compliance balance</u>
5. <u>41000</u>	6. <u>Is 1 metric ton of VLSFO that is equivalent to 41000 MJ</u>

7. 2400

8. Is the amount to be paid in EUR per
equivalent metric ton of VLSFO