



Council of the European Union
General Secretariat

**Interinstitutional files:
2021/0211 (COD)**

Brussels, 18 May 2022

WK 6796/2022 ADD 5

LIMITE

CLIMA

ENV

ENER

TRANS

CODEC

IND

MI

AVIATION

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

CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 5954/2022
Subject:	Fit for 55 package - ETS: Comments from a delegation

Following the call for comments set out in WK 5954/2022, delegations will find attached comments from the NL delegation regarding ETS maritime.

Written comments from the NL to the ETS-maritime file, in particular consolidated ETS-maritime, st07815-re01.22

The Netherlands would like to thank the presidency for its constructive work on the ETS-maritime file and for structuring the debate with guiding documents and with the consolidated version of the ETS-maritime proposal (st07815-re01.en22).

The Netherlands still has some comments that we think are valuable for the endeavor to reach agreement on a compromise that will help the industry to deliver on the climate goals that the EU has set itself.

In that respect we would like to draw attention to the fact that the emissions of the segment between 400 and 5000 GT represent more of an EU responsibility under the Paris Agreement than any other segment. We consider that this responsibility requires the EU to make sure that these ships will, like the above 5000 GT segment, be obliged to green, and be able to profit in much the same way from the ETS-maritime and FUEU maritime instruments closing the gap between the cost of operating on fossil and more sustainable options. Not least to give a good example to the IMO.

The logical first step to allow for a smooth administrative process is including them under the MRV Regulation. A regulation that the industry is perfectly capable of dealing with and that will also be manageable for smaller ships that often belong to the same shipping companies as bigger ships. Including them in MRV will also allow the EC to make an analysis of the feasibility and cost-effectiveness based on proper data. This analysis can feed into the review, offering the opportunity to the EU to decide to go ahead with their inclusion as planned, or decide whether a further delay would be appropriate.

The second step, the inclusion in ETS with a two-year delay after the entry into force of ETS-maritime for the above 5000 GT ships (mirroring the phased approach) will further improve the manageability of the process.

We wish to refer to our earlier proposals on the extension of the scope to 400 GT (WK 1510/2022 ADD 2), and the accompanying argumentation, but for ease of reference will include the proposed amendments in these comments.

Art 3ga

(1)

Shipping companies **above 5000 GT** shall be liable to surrender allowances according to the following schedule:

- (a) 20 % of verified emissions reported for [...] **[the first full year after the deadline of transposition of this amending Directive]**;
- (b) 45 % of verified emissions reported for [...] **[the second full year after the deadline of transposition of this amending Directive]**;
- (c) 70 % of verified emissions reported for [...] **[the third full year after the deadline of transposition of this amending Directive]**;
- (d) 100 % of verified emissions reported for [...] **[the fourth full year after the deadline of transposition of this amending Directive]** and each year thereafter.

(2)

Shipping companies **between 400 and 5000 GT** shall be liable to surrender allowances according to the following

schedule:

- (a) 20 % of verified emissions reported for [...] **[the *third* full year after the deadline of transposition of this amending Directive]**;
- (b) 45 % of verified emissions reported for [...] **[the *fourth* full year after the deadline of transposition of this amending Directive]**;
- (c) 70 % of verified emissions reported for [...] **[the *fifth* full year after the deadline of transposition of this amending Directive]**;
- (d) 100 % of verified emissions reported for [...] **[the *sixth* full year after the deadline of transposition of this amending Directive]** and each year thereafter.

Art 3gaa

The Netherlands prefers to stick to the original proposal of the EC. However, in order to bridge differences and strike a deal including the extension of the scope to 400 GT, the NL is ready to consider provisions for the transfer of the costs, provided the proposal of CY is accepted that this has no consequences for the definition of the Responsible Entity under ETS, and that administrations do not have a role to play in supervising and enforcing these provisions. To clarify the latter, we suggest the following amendments to the text:

Provisions for transfer of the costs of the ETS from the shipping company to another Entity

When the responsibility for the purchase of the fuel and/or the operation of the ship is assumed, pursuant to a contractual agreement, by a commercial operator other than the shipping company, that commercial operator [may] [shall] be liable through the contractual agreement for reimbursing the shipping company for the costs of the amount of allowances corresponding to the emissions of the ship for the duration of the contractual agreement. Operation of the ship for the purposes of this Article means determining the cargo carried, the itinerary, the routing and/or the speed of the ship. Such an agreement has no effect on the obligation for the definition of the shipping company as the Responsible Entity to surrender its allowances as required under this Directive, nor for the responsibilities of the administering authority.

Art 3gd

We can support the amendments to this article. However, we have one question and one further amendment.

The question concerns the time after the publication of the new list that remains for the new administering authority to take care of business. The period between 1 February and 31 March would seem rather short. To solve this issue it would perhaps be better to change the administering authority by 1 January the next year.

In respect to the extension of the scope to ships between 400gt and 5000gt under point 2 of this article add the following paragraph between 2(a) and 2(b):

For shipping companies only operating ships below 5000gt falling under the maritime activities as listed in Annex I, these shipping companies will be added to the list mentioned in paragraph 2(a) of the article before 1 February [202x] two years after the entry into force of this directive.

Article 3h – scope

Para 10 shall be amended to include the amount of allowances for the 400 to 5000 GT segment, corrected in the same way as the other maritime allowances.

Recital 19b

(19b) Shipping emissions from vessels below 5000 gross tonnage represent around 10MT of CO2 emissions concerning a relatively large number of ships. The inclusion of these vessels within MRV is required before their inclusion in the ETS, also for reasons of administrative practicability. Their subsequent inclusion with a two year delay [in the future] will improve the effectiveness of the ETS and potentially reduce evasive behaviours with the use of vessels below the 5000 threshold. [Therefore,]No later than 31 December 2026, the Commission should present a report to the European Parliament and to the Council in which it should examine the feasibility and cost-effectiveness of the inclusion in this Directive of emissions from ships below 5000 tonnage.

MRV Regulation 2015/757

Article 2

Scope

1. *This regulation applies to ships above ~~5000gt~~ 400gt in respect of CO2 emissions released during their voyages ... etc*

Article 6, paragraph 7

7. *Notwithstanding paragraph 6 for ships falling under the scope of this Regulation for the first time after the entry into force of [date of entry into force of the revised ETS Directive], companies shall submit a monitoring plan in conformity with the requirements of this Regulation to the responsible administering authority without undue delay and ~~no later than three months after~~ at the latest at each ship's first call in a port under the jurisdiction of a Member State.*

Explanation

With the entry into force of ETS-shipping, MRV becomes much more important, with huge financial impacts. Being able to check if a first entrant, especially one that does not belong to a shipping company already registered to the EU-ETS, is complying from the start becomes much more important. Just like is the case in aviation, it seems logical to request the submission of a monitoring plan at the time of the first entry.

Article 8

Monitoring of activities within a reporting period

Add the following sentence to this article:

The monitoring requirements for companies concerning ships under their responsibility smaller than 5000gt will apply from 1 January 2024.

Article 11

Content of emission report

After point 1 add the following sentence:

This requirement will apply from [2025] for each ship below 5000gt under the responsibility of a company.

