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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	Fit for 55 package - ETS revision: WPE meeting on 23 May 2022 - Presidency steering note - additional suggestions (splitting related to the MRV regulation and ETS directive)

As announced in the Presidency steering note for the WPE on 23 May 2022 (WK 7351/2022), delegations will find attached additional suggestions outlining the required changes in both the MRV regulation and the ETS Directive to make the former a self-standing amending regulation in order to provide for the inclusion of maritime shipping activities in the EU ETS.

Annexe à la Note d'orientation de la Présidence pour la Réunion du groupe de travail

Environnement du 23 mai 2022

Comme expliqué dans la note de cadrage pour la réunion du 23 mai (WK 7351/2022), la Présidence suggère la scission de la proposition de Directive ETS en deux actes.

Les co-législateurs adopteront donc deux actes différents : un Règlement contenant les modifications du Règlement MRV proposé par la Commission dans l'Article 3 de la proposition et une Directive avec les modifications de la Directive ETS (Article 1 de la proposition) et la Décision 2015/1814 concernant la réserve de stabilité du marché (Article 2 de la proposition).

Le Règlement nommé ci-dessous *"Regulation of the European Parliament and of the Council amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime shipping activities in the EU ETS"* pourra prendre la forme présentée dans l'annexe de cette note.

Cette scission pour des raisons juridiques nécessitera également des changements techniques des dispositions finales, notamment les Articles 6 et 8 de la proposition de Directive. Une indication des changements nécessaires est également présentée dans l'annexe de cette note.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime shipping activities in the EU ETS

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

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

Acting in accordance with the ordinary legislative procedure³,

Whereas:

<u>Adapted recitals from the proposed ETS Directive:</u>

- *Recitals (1) to (7) are of general nature and would be relevant for both the Regulation and the Directive. They could thus be included in adapted form in both acts.*
- *New recital explaining the relationship between the amending regulation and the Directive could be inserted in both acts. For the Regulation it could read:*

¹ OJ C [...], [...], p.[...].

² XXX

³ XXX

- (x) **In parallel to the adoption of this Regulation, Directive 2003/87/EC is being amended to include the maritime transport sector in the EU ETS in order to ensure this sector contributes to the increased climate objectives of the Union as well as to the objectives of the Paris Agreement.**
- *Recitals in the proposed Directive relevant only for the amendments to the MRV Regulation should be moved and adapted:*
- (67) It is **therefore** necessary to amend Regulation (EU) 2015/757 to take into account the inclusion of the maritime transport sector in the EU ETS. Regulation (EU) 2015/757 should be amended to oblige companies to report aggregated emissions data at company level and to submit for approval their verified monitoring plans and aggregated emissions data at company level to the responsible administering authority. In addition, the Commission should be empowered to adopt delegated acts to amend the methods for monitoring CO₂ emissions and the rules on monitoring, as well as any other relevant information set out in Regulation (EU) 2015/757, to ensure the effective functioning of the EU ETS at administrative level and to supplement Regulation (EU) 2015/757 with the rules for the approval of monitoring plans and changes thereof by administering authorities, with the rules for the monitoring, reporting and submission of the aggregated emissions data at company level and with the rules for the verification of the aggregated emissions data at company level and for the issuance of a verification report in respect of the aggregated emissions data at company level. The data monitored, reported and verified under Regulation (EU) 2015/757 might also be used for the purpose of compliance with other Union law requiring the monitoring, reporting and verification of the same ship information.
- (x) [pm recitals on additional provisions, e.g. the extension of scope to non-CO₂ GHGs, as appropriate]
- *Standard recitals e.g. on subsidiarity and the amendments of the acts would have to be included in both acts. For the Regulation it could read:*
- (x) Since the objectives of this Directive to **provide for the necessary monitoring, reporting and verification rules necessary for an extension of the EU ETS to maritime shipping activities and to provide for the monitoring, reporting and verification of additional greenhouse gases** cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in

that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

(x) Regulation (EU) 2015/757 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 3 of the proposal becomes Article 1 of the amending Regulation.

Articles are not reproduced as the split would not affect their substance.

Article 1

Amendments to Regulation (EU) 2015/757

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

(1) in Article 3, the following points (q) and (r) are added:

[...]

A new provision on entry into force and application, corresponding to Article 6, 7 and 8 of the proposal, should be added to the amending Regulation. While the proposal does not contain a provision on deferred application of the changes to the MRV Regulation that is an option that could be included, e.g. to provide that some provisions only start to apply 1 January 2024.

Article 2

Entry into force and application

- 1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.**

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

The following changes would be needed in the amending *Directive*:

- recitals adapted, added or deleted as indicated above;

- Article 3 deleted (as all changes to the MRV Regulation are instead to be found in the amending Regulation; and

- the split reflected in the final provisions. The changes needed as a consequence of the split would be to Articles 6 and 8 that could be changed as follows:

Article 6

Date of application of Article 3

~~Article 3 shall apply from [date of entry into force of the revised ETS Directive].~~

[...]

Article 8

Addressees

This Directive is addressed to the Member States. ~~Article 3 shall, however, be binding in its entirety and directly applicable in all Member States.~~
