

Brief
On
Summary of developments
In the EU and the EU Fit for 55 policy package
November - December 2023

EU ETS

The revised EU ETS and EU MRV legislation will apply from 1st January 2024.

Background

Ten consultations were published on the EU ETS delegated and implementing acts including the rules for the administration of shipping companies.

Summary of developments

The following **implementing acts were published** in the Official Journal:

- Commission Implementing Regulation (EU) 2023/2297 of 26 October 2023 identifying neighbouring container transshipment ports pursuant to Directive 2003/87/EC of the European Parliament and of the Council. The text is available [here](#)
- Commission Implementing Regulation (EU) 2023/2449 of 6 November 2023 laying down rules for the application of Regulation (EU) 2015/757 of the European Parliament and of the Council as regards templates for monitoring plans, emissions reports, partial emissions reports, documents of compliance, and reports at company level, and repealing Commission Implementing Regulation (EU) 2016/1927. The text is available [here](#)
- Commission Implementing Regulation (EU) 2023/2599 of 22 November 2023 laying down rules for the application of Directive 2003/87/EC as regards the administration of shipping companies by administering authorities in respect of a shipping company. The text is available [here](#)

In October 2023, three **delegated acts were adopted** by the Commission. They are now being reviewed by the European Parliament and the Council before their final publication:

- Commission Delegated Regulation on supplementing Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for reporting and submission of the aggregated emissions data at company level. The text is available [here](#)
- Commission Delegated Regulation on amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for monitoring greenhouse gas emissions and other relevant information from maritime transport. The text is available [here](#)
- Commission Delegated Regulation on the verification activities, accreditation of verifiers and approval of monitoring plans by administering authorities. The text is available [here](#)

*More information can be found in our circular: **ref: 1229 -F/TC > (EU REGULATION) EU ETS and EU MRV updated summary***

Next steps

- Only one delegated act has not been published by the Commission yet: The delegated act on rules on approval and verification activities and accreditation of verifiers in relation to maritime transport emissions.

- The publications of the delegated acts open a scrutiny period of two months, during which the Parliament or the Council can oppose its entry into force or request an extension of the scrutiny period. Once adopted, they will be published in the EU Official Journal and will enter into force shortly afterwards.
- **By 1 February 2024**, the Commission will publish **the first attribution list**. If not on the list (e.g. new company), the shipping company will have to register at THETIS-MRV, assign ships, and request for the Attribution. Then, every two years a new list is published.

INNOVATION FUND

Background

The Innovation Fund 2023 calls were launched on 23 November. The criteria for maritime projects are:

- Breakthrough innovative technologies, including energy efficiency, sustainable alternative fuels, electrification, as well as zero-emission propulsion technologies, such as wind technologies, including innovative infrastructure in the maritime sector, notably for EU container transshipment ports.
- European added value and resilience of the EU maritime sector is defined by *“the project’s ability to strengthen the EU’s maritime transport value chain, including port activities (e.g. delivery of renewable alternative fuels in container transshipment ports) and leading to positive impacts on competitiveness and job creation in the European sector”*.
- For projects concerning investments on ships, at least 30% of annual port calls of the ship must be in EU/EEA ports or the ship should perform service or support activities in EU/EEA ports.
- For port infrastructure investments, such as renewable fuel bunkering, the ports must be in EU/EEA countries.
- A specific bonus will be awarded to maritime projects that demonstrates their potential to decarbonise the maritime sector and reduce its climate impact. More about the conditions and the specific bonus for maritime projects under the EU Innovation Fund here: [call-fiche_innovfund-2023-nzt_en.pdf \(europa.eu\)](#)

The documents concerning the 5 different calls under the EU Innovation Fund can be found [here](#).

Summary of developments

- There are **no dedicated calls for the maritime sector**.
- DG CLIMA will look at the projects/applications under the Innovation Fund 2023 calls to see what could be funded next. They do not seem to be eager to open dedicated maritime calls in 2024.
- For projects concerning **investments on ships, at least 30% of annual port calls of the ship must be in EU/EEA ports**. To prove that the vessels comply with this criteria, MRV records can be given. If it is a new build, evidence needs to be given, e.g. the proposed route if the vessel replaces an existing one.
- **“Ship building or refurbishment outside of the EU” are not considered eligible** under the call.
- The Innovation Fund will thus **only fund shipbuilding in EU/EEA**. Similarly, the installation of a marine equipment would need to take place in EU/EEA.
- They highlighted the importance of defining well the project boundaries and explain where the innovation lies. The innovation could be to design a new engine. If the building of the engine is covered by the application to the Innovation Fund, it will **have to take place in Europe**.

Next steps

The deadline to submit a project proposal is 9 April 2024 at 17:00 (CET). The evaluation of the projects will take place between April and October 2024. The evaluation results will be available in November 2024. The signature of the grant agreement should take place in February 2025.

FUEL EU MARITIME

Background

FuelEU Maritime is the EU's strategy to phase out fossil fuels from shipping and boost the uptake of alternative fuels in the sector. The proposed regulation introduces increasingly stringent limits on carbon intensity of the energy used by vessels from 2025, which should oblige them to use alternative fuels.

Summary of Developments

With regards to how low-GHG fuels used in international voyages should be counted towards the yearly average GHG intensity of the energy used on-board DG MOVE's interpretations has been chosen by the Commission.

- DG MOVE's interpretation is that **all low GHG fuels purchased and used to ensure compliance with FuelEU should be counted when calculating the annual total reduction in GHG intensity of the energy used onboard under FuelEU, irrespective where they were used**. Operators shall report the fuels accordingly in FuelEU Report. Verifiers shall calculate the GHG Intensity of the Energy used onboard taking this rule into consideration. Current ongoing implementation work, in particular in respect of the provisions for verification activities under FuelEU, is also taking this interpretation into consideration.

Next steps

The Commission is working on the delegated and implementing acts. The new regulation will apply from 1 January 2025, except for articles 8 and 9 which will apply from 31 August 2024.

EUROPEAN LIST OF SHIP RECYCLING FACILITIES

Background

The European List is regularly revised to include new facilities that adhere to the regulations and exclude those that no longer comply.

Summary of Developments

The 12th update of the European List of ship recycling facilities was **published** in the EU Official Journal. This Implementing Decision (EU) 2023/2726 entered into force on 10th of December.

The European List now contains 45 ship-recycling facilities, including 35 yards in Europe (EU, Norway and UK), 9 yards in Türkiye and 1 yard in the USA. The text can be found [here](#).

The main developments are:

- inclusion of two Turkish yards and one yard located in the USA
- The date of expiry of inclusion of one listed Finish yard located and five Norwegian listed yards are extended.
- three facilities located in Denmark, the Netherlands, and Norway are removed because they are no longer in the ship recycling business.

EU TAXONOMY

Background

The aim of the EU Taxonomy is to help improve the flow of money towards sustainable activities across the European Union.

Summary of Developments

The following **EU Taxonomy delegated acts** have been **published** in the official journal of the EU:

- the amendments to the first Taxonomy Environmental Delegated Act (TDA1), which defines the technical screening criteria for economic activities – **including maritime transport** -

making substantial contribution to climate change mitigation and adaptation. The legal text is available [here](#).

- the second Taxonomy Environmental Delegated Act (TDA2) which defines the technical screening criteria for some economic activities making a substantial contribution to one or more of the non-climate environmental objectives (i.e. to sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems). Maritime transport is not addressed under this delegated act for the time being. The legal text is available [here](#).

CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE

Background

The Directive aims to enhance the protection of the environment and human rights in the EU and globally. The Directive will set obligations for large companies regarding actual and potential adverse impacts on human rights and the environment, with respect to their activities in their value chains.

Summary of Developments

A provisional agreement on the Corporate Sustainability Due Diligence directive (CSDDD) was reached by the Council and the European Parliament on 14 December. The text can be found [here](#).

Application:

- The CSDDD will **apply to companies with more than 500 employees** and a worldwide **annual turnover of more than €150 million**.
- For **non-EU companies** the Directive will apply if they have a **€150 million net turnover generated in the EU**, three years from the entry into force of the directive.
- The Commission will have to publish a list of non-EU companies that fall under the scope of the directive.

Obligations:

- The provisional agreement clarifies the obligations for companies described in **Annex I**, a list of specific rights and prohibitions which constitutes an adverse human rights impact when they are abused or violated.
- The directive requires companies to **adopt a plan** ensuring that their business model and strategy are compatible with the Paris agreement on climate change.
- National supervisory bodies will be able to sanction companies if they find that they do not properly implement their due diligence procedures. **The sanctions can go as high as 5%** of a company's global turnover.
- The deal also includes the obligation for companies to carry out meaningful engagement including a dialogue and consultation with affected stakeholders, as one of the measures of the due diligence process. As a last resort, companies that identify adverse impacts on environment or human rights by some of their business partners will have to end those business relationships when these impacts cannot be prevented or ended.

Next steps

The provisional agreement reached **still needs to be officially adopted by the EU Council and the European Parliament**. It will then be transposed into national legislation.

MARITIME SAFETY PACKAGE

Background

On 1st June, the Commission published the Maritime Safety Package, including the updated EMSA mandate that seeks to align the Agency's activities for a sustainable and smart mobility strategy adopted in December 2020 and with the "Fit for 55" package, among other objectives, and which proposes the revision among other Directives related to :

More information can be found in our circulars:

- *Ref 0810- F>Summary of developments in EU and the EU Fit for 55 policy package- June/ July 2023*
- *Ref: 1031- F>Summary of developments in EU and the EU Fit for 55 policy package- October 2023*

Summary of Developments

The main elements of the Council's general approaches and the Parliament's reports are as follows:

Port State Control

- **CII : The Council has removed the CII from the list of environmental parameters** of the ship risk profile. The Parliament proposes to remove the CII until the IMO has concluded its revision. When the revision is finalised, the Commission would adopt a delegated act to amend the annexes of the Directive to include the new CII in the environmental parameters.
- **Electronic certificates : The Council removed electronic certificates from the list of parameters of the ship risk profile.** Under the Flag State directive, **the Parliament proposes to make electronic certificates mandatory for all Member States as early as possible** after the entry into force of the revision and no later than three years afterwards. As a consequence, e-certificates would be reflected in the ship risk profile of ships flying the flag of a Member States, which issue such certificates, until e-certificates become compulsory under the Flag State Directive.
- **Hong Kong Convention (HKC):The Council and the Parliament added the HKC to the list of conventions listed under the environmental parameters of the ship risk profile.**

Ship-source pollution

- In the Parliament's and the Council's positions, there is **a better alignment of the Exhaust Gas Cleaning System definition with MARPOL** in comparison with the Commission's proposal, as advocated by ECSA. Moreover, both co-legislators proposed that the publication of ships' identification will occur only when all legal proceedings are completed (Article 10c(1)).

Next Steps

The Council and the Parliament will now start the trilogues negotiations, with the objective to finish these revisions before the Parliamentary elections of May 2024.

ENVIRONMENTAL CRIME DIRECTIVE

Background

The Directive aims to crack down on environmental crime, fulfilling a key commitment of the European Green Deal. The proposal intends to make protection of the environment more effective by obliging Member States to take criminal law measures. It defines new environmental crimes, sets a minimum level for sanctions and strengthens the effectiveness of law enforcement cooperation.

Summary of Developments

After six months of trilogue negotiations, the EU co-legislators finalised the elements of the revised ECD. The final text is not yet publicly available. Members may contact the secretariat should they need more information.

Below some relevant points that might impact shipping:

- Recital 9e: Concerning **the offence on recycling of ships** falling within the scope of Regulation (EU) 1257/2013, **the obligations** set out in that Regulation **only lay on ship owners**, as defined in Article 3(1), point 14, of that Regulation.
- Recital 11b: With regard to the criminal offences provided for in the ECD, the notion of at least serious negligence should be interpreted in accordance with national law, taking into account relevant case law of the Court of Justice of the European Union.

- Article 3(2) f): imposes **criminal penalties for the shipment of waste**, within the meaning of Article 2(35) of Regulation 1013/2006 when such shipment concerns a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked.
- Article 3(2) g): imposes **criminal penalties for the recycling of ships** falling within the scope of Regulation 1257/2013, without complying with the requirements referred to in Article 6(2), point (a) of that Regulation, which impose recycling at ship recycling facilities which are included in the European List established under Article 16 of that Regulation.
- Article 3(2) h): imposes **criminal penalties for the ship-source discharge of polluting substances** falling within the scope of Article 3 of Directive 2005/35 (SSPD) of the European Parliament and of the Council, into any of the areas referred to in Article 3(1) of that Directive, provided that such ship-source discharge does not satisfy the exceptions set in Article 5 of that Directive, and which causes or is likely to cause deterioration in the quality of water or damage to the marine environment.
- Article 3 (3): Member States shall ensure that the conduct referred to shipment of waste (Article 3(2) f)) and ship source pollution (Article 3(2) h)) constitutes a criminal offence when committed with at least serious negligence.

Next steps:

The agreement still needs to be confirmed by both co-legislators before going through the formal adoption procedure. The indicative plenary sitting date at the Parliament is 26 February 2024. At Council level, **4-5 March 2024** has been put forward as a preliminary date for the Justice and Home Affairs Council **where the ECD might be tabled for adoption.**

NET ZERO INDUSTRY ACT (NZIA)

Background

On 16 March 2023, the Commission submitted to the European Parliament and the Council a proposal for a Regulation establishing a framework of measures for strengthening Europe’s net-zero technology products manufacturing ecosystem (Net Zero Industry Act). The NZIA aims to establish a framework of measures for strengthening Europe’s net-zero technology products deployment and manufacturing capacity. More particularly:

- The proposal aims to foster the Union’s manufacturing capacity of net-zero technologies by lowering administrative burden and facilitating public procurement.
- In addition, the proposal set a list of “strategic Net Zero Technologies” which would be granted additional benefits, and for which a benchmark for manufacturing capacity is set to meet at least 40% of the EU’s annual deployment needs by 2030.
- In this context, the proposal also sets out a specific target for CO2 carbon capture and storage, with an annual injection capacity of at least 50 million tonnes of CO2 to be achieved by 2030.

Summary of Developments

The Council’s at its session on 7 December 2023, **recognized the need to boost the production on sustainable alternative fuels for maritime** (and aviation). Sustainable alternative fuels are defined in Art 1(ad) as fuels destined for the maritime sector as identified in applying the criteria defined in Articles 10(1) and 10(2) of the FuelEU Maritime Regulation. Aviation fuels are also included in the definition with related criteria. Notably, the Council also adds “renewable fuels of non-biological origin technologies” to the list.

Next steps

Inter-institutional negotiations with the European Parliament, the Council and the Commission are ongoing in view of **finalising the text by end of February 2024.**

OTHER DEVELOPMENTS

NEW ZEALAND FREE TRADE AGREEMENT

The European Parliament voted in favour of the free trade agreement (FTA) between the EU and New Zealand. The deal removes 100% of New Zealand's tariffs on EU exports immediately and 91% of EU tariffs on products coming the other way, rising to 97% after seven years. In particular, the deal is the first ever to integrate new sustainability commitments as it includes a sanctionable "trade and sustainable development" chapter in case of serious violations of core labour and climate commitments. The deal is now pending ratification by New Zealand and is expected to enter into force by mid-2024. The text of the agreement can be found [here](#).

EMSA REPORT ON MARINE CASUALTIES AND INCIDENTS HAS BEEN PUBLISHED

The European Maritime Safety Agency (EMSA) has recently published its yearly Marine Casualties and Incidents report. Below a brief summary:

- In 2022 2510 marine casualties were reported showing a reduction by 182 incidents compared to 2021 and 84.
- The number of very serious marine casualties decreased from 58 in 2021 to 44 in 2022, continuing a trend of reduction from a peak of 106 in 2018.
- Passenger and cargo ships exhibited higher average occurrence indicators, with service ships having the lowest.
- The North Atlantic and Mediterranean Sea were identified as the geographical areas with the highest numbers of marine casualties and incidents.
- 2022 resulted in a significant reduction in reported pollution, with less pollution to the air and a significant decrease in pollution by cargo.

The report can be found here : [EMSA: Annual Overview of Marine Casualties and Incidents 2023](#).

TRANSIT FEES AND SANITARY DUES

The Directorate General of Health for Border and Coastal Areas of Türkiye published its official announcement on Wednesday 6 December 2023 of a raising of Sanitary Dues by around 300%, effective as of 1 January 2024.

More information can be found in our circular *ref: 1208-F-23091 - Transit fees and Sanitary Dues - Suez Canal and Türkiye*