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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 22 September 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT Union submission to the 77<sup>th</sup> session of the International Maritime Organization's Marine Environment Protection Committee commenting on document MEPC 77/7/xx on the Revision of the Initial IMO Greenhouse Gas Strategy and MEPC 77/7/3 concerning a Resolution on zero emissions no later than 2050

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Delegations will find attached document SWD(2021) 272 final.

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Brussels, 22.9.2021  
SWD(2021) 272 final

**COMMISSION STAFF WORKING DOCUMENT**

**Union submission to the 77<sup>th</sup> session of the International Maritime Organization's  
Marine Environment Protection Committee commenting on document MEPC 77/7/xx  
on the Revision of the Initial IMO Greenhouse Gas Strategy and MEPC 77/7/3  
concerning a Resolution on zero emissions no later than 2050**

## **Union submission to the 77<sup>th</sup> session of the International Maritime Organization's Marine Environment Protection Committee commenting on document MEPC 77/7/xx on the Revision of the Initial IMO Greenhouse Gas Strategy and MEPC 77/7/3 concerning a Resolution on zero emissions no later than 2050**

### **PURPOSE**

This Staff Working Document contains a draft Union commenting paper to the International Maritime Organization's (IMO) 77<sup>th</sup> session of the Marine Environment Protection Committee. The IMO has scheduled MEPC 77 from 22 to 26 November 2021.

The draft submission comments on MEPC 77/7/xx by US *et al* suggesting to revise the Initial IMO GHG Strategy and MEPC 77/7/3 by Kiribati *et al* calling for an MEPC resolution on reducing emissions from shipping. The commenting paper evaluates both papers favourably. In addition, the commenting paper introduces key aspects of the European Union's carbon emission reduction aims.

### **EU COMPETENCE**

Regulation (EU) 2015/757<sup>1</sup> (EU MRV Regulation) establishes the legal framework for an EU system to monitor, report and verify (MRV) CO<sub>2</sub> emissions and energy efficiency from shipping. The regulation aims to deliver robust and verifiable CO<sub>2</sub> emissions data, inform policy makers and stimulate the market uptake of energy efficient technologies and behaviours. It does so by addressing market barriers such as the lack of information. It entered into force on 1 July 2015.

Any IMO measure on GHG matters, which will unequivocally require the monitoring, verification and reporting of GHG emissions from shipping, would affect the EU MRV Regulation. Therefore, the EU has exclusive competence for GHG emissions in shipping.

Beyond this, the EU Climate Law<sup>2</sup> sets a binding Union climate target of a reduction of net greenhouse gas emissions—emissions after deduction of removals—by at least 55% by 2030 compared to 1990. It also includes the aim of climate neutrality by 2050 and an aspirational goal for net negative emissions after this time.

In addition, on 14 July 2021, the Commission adopted the *Fit for 55* package of proposals to reduce GHG emissions. *Fit for 55* includes a number of Commission's proposals that specifically target the shipping sector. This comprises the revision of the EU Emission Trading System (ETS)<sup>3</sup> to include the maritime transport sector (and the corresponding amendments to the EU MRV Regulation).

*Fit for 55* also contains the FuelEU maritime proposal<sup>4</sup>, which focuses on the use of renewable and low-carbon fuels in the maritime sector and mandates the uptake thereof by the ships calling EU ports. Under the case-law<sup>5</sup>, the risk of affectation concerns not only the rules as they stand, but also their foreseeable future development. These legislative initiatives further lead to the exclusive competence

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<sup>1</sup> 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. 55–76

<sup>2</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'); OJ L 243, 9.7.2021, p. 1–17

<sup>3</sup> COM(2021) 551 - Proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757

<sup>4</sup> COM(2021) 562 - 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.

<sup>5</sup> Opinion 1/03 of the Court of Justice of 7 February 2006, Lugano Convention, point 126.

of the EU for GHG emission in shipping.<sup>6</sup>

In light of all of the above, the present draft Union submission falls under EU exclusive competence.<sup>7</sup> Therefore, only the Union may act in the IMO to propose measures on GHG emissions. This Staff Working Document is presented to establish an EU position on the matter and to transmit the document to the IMO prior to the required deadline of 1 October 2021.<sup>8</sup>

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<sup>6</sup> See in particular Commission proposal COM(2021) 551 referred to in footnote 3. It introduces a reporting and review provision (Article 3 ge) into Directive 2003/87 regarding possible amendments in relation to the adoption by the International Maritime Organization of a global market-based measure to reduce greenhouse gas emissions from maritime transport. The existence of such a review provision confirms the existence of a risk of affectation of the existing and foreseeable EU acquis.

<sup>7</sup> An EU position under Article 218(9) TFEU is to be established in due time should the IMO Maritime Safety Committee eventually be called upon to adopt an act having legal effects as regards the subject matter of the said draft Union submission. The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*' (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64). The present submission, however, does not produce legal effects and thus the procedure for Article 218(9) TFEU is not applied.

<sup>8</sup> The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

## REDUCTION OF GHG EMISSIONS FROM SHIPS

### Commenting on document on MEPC 77/7/xx and MEPC 77/7/3

#### Submitted by the European Commission on behalf of the European Union

#### SUMMARY

*Executive summary:* This document comments favourably on and supports the aims set out in proposals MEPC 77/7/xx by US *et al* suggesting to expedite the revision of the Initial IMO GHG Strategy and MEPC 77/7/3 by Kiribati *et al* calling for an MEPC resolution on reducing emissions from shipping. In addition, the commenting submission introduces key aspects of the European Union's GHG emission reduction goals.

*Strategic direction, if applicable:*

*Output:*

*Action to be taken:* Paragraph 12

*Related documents:* MEPC 77/7, MEPC 77/7/xx and MEPC 77/7/3

#### Introduction

1 This document is submitted in line with paragraph 6.12.5 of the Guidelines on the IMO and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee, and their subsidiary bodies (MSC-MEPC.1/Circ.5). It comments on the document submitted by the United States *et al* on the Revision of the Initial IMO Greenhouse Gas Strategy and on the one from Kiribati *et al* concerning a resolution on reducing emissions from shipping.

#### Aim

2 This paper comments favourably on the request of the United States in MEPC 77/7/xx, supporting the process the document suggests and the objectives it puts forward.

3 In addition, it comments positively, and in line with the relevant EU policies, on the general aims for reducing emissions from shipping put forward in the initiative for a resolution by Kiribati in MEPC 77/7/3 suggested for adoption by MEPC 77.

## Background

4 In MEPC 77/7/xx, the United States *et al* suggest to revise the Initial IMO GHG Strategy, focusing on the need to increase the ambition for emission reductions by 2030 and 2050. The submission also suggests to introduce levels of ambition for 2040 to be on track for the revised 2050 objective. The co-sponsors propose that MEPC adopt a 2050 level of ambition of zero total annual GHG emissions from the international shipping sector.

5 In MEPC 77/7/3, Kiribati *et al* initiate a resolution committing to reduce greenhouse gas emissions from shipping in line with the overall targets set by the Paris Agreement. The draft resolution annexed to the submission states the emissions from shipping should equal zero by 2050 at the latest.

## Discussion

6 The European Union has committed to an economy-wide GHG emissions reduction target under the Paris Agreement, which has been translated into the European Climate Law<sup>9</sup>. This makes the EU climate objectives—at least 55% net GHG emission reductions by 2030 below 1990 levels and climate neutrality by 2050—legally binding. To ensure that shipping contributes its fair share in achieving these goals, the European Commission has proposed specific measures targeting maritime transport (part of the *Fit for 55*<sup>10</sup> package), which yet have to be adopted by the Council of the EU and the European Parliament.

7 The European Union is of the view that the review of the 2018 Initial IMO Strategy on reduction of GHG emissions from ships should be launched swiftly. This should be done with the aim of increasing its level of ambition and reducing GHG emissions from international shipping as soon as possible, in line with the Paris Agreement goals. This is necessary to set a clear signal to the market and to further stimulate the production, deployment and uptake of renewable and low-carbon fuels and technologies worldwide.

8 In this context, the European Union supports the urgent need to launch the process of revising the Initial IMO Strategy and its level of ambition, with the aim to set the sector on the path towards decarbonisation, as set out in the relevant EU policies on the reduction of GHG emissions from shipping. The revision of the strategy should take into account data on actual levels of emissions, emissions reduction options for international shipping, and the reports of the Intergovernmental Panel on Climate Change (IPCC), as relevant. It must also take into account the constraints of developing countries, especially Small Islands Developing States and Least Developed Countries, ensuring the needed technological cooperation and financial support.

9 The European Union also supports the need to set intermediate goals for GHG emissions reduction from international shipping. This is subject to their evaluation in periodic intervals and on a scientific basis. Setting such milestones would facilitate implementing IMO mid- and long-term measures as well as National Actions Plans in accordance with the Resolution MEPC.327(75). This, among others, encourages member States to initiate early actions to enable reducing GHG emissions from ships without awaiting the entry into force of IMO measures.

10 The European Union considers that the goals of the IMO Strategy on reduction of GHG emissions from ships should remain technology-neutral. This means without favouring or excluding any specific renewable and low-carbon fuels or technologies. This is without

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<sup>9</sup> Regulation (EU) 2021/1119 of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law')

<sup>10</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_3541](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3541)

prejudice to discussions on concrete mid- and long-term decarbonisation measures, where targeted incentives may need to be considered.

### **Proposal**

11 The European Union supports the proposals contained in MEPC 77/7/xx by US *et al* and MEPC 77/7/3 by Kiribati *et al* in line with the EU's ambition to achieve climate neutrality by 2050.

### **Action requested of the Committee**

12 The Committee is invited to consider the above comments and the proposals contained in the documents mentioned in paragraph 11.