

【欧州】 【Common】 【海事】

Common - “Fit for 55” package: European Parliament and the Council of the European Union reach provisional agreement on the FuelEU Maritime proposal

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【概要 : Summary】

Based on the EU's commitment under the Paris Agreement and the European Green Deal ((COM/2019/640 final) target to reach climate neutrality by 2050 and a 90% reduction of GHG emissions from transport, the European Climate Law (Regulation (EU) 2021/1119) established the framework for achieving climate neutrality by introducing new mid-term targets for 2030 of reducing GHG emissions at least by 55% by 2030. Accordingly, several pieces of EU legislation had to be aligned with this new mid-term target and the European Commission presented the “Fit for 55” package on 14 July 2021 to deliver on the increased level of reducing the GHG emissions by at least 55% by 2030.

The proposal FuelEU Maritime COM (2021) 562 final seeks to accelerate the maritime sector's decarbonisation by a stepwise reducing of the GHG intensity and the uptake of low-carbon fuels. It applies to commercial vessels of 5,000 gross tonnes and above, regardless of their flag, excluding fishing ships. The proposal (COM(2021) 562) supports the shift towards low carbon maritime fuels by changing the approach from using heavy fuel oil to the use of sustainable, renewable, and low-carbon fuels in the fuel mix of international maritime transport.

The proposal also mandates the use of onshore power supply (OPS) in EU ports for ships at berth. The increasing demand for and consistent use of renewable and low-carbon fuels in the maritime sector in the EU is expected to drive the maritime transport sector's decarbonization and sustainability.

On 23 March 2023, the European Parliament and the Council of the European Union reached a provisional political agreement on the FuelEU Maritime proposal. The main achievements based on agreement between the Council and the Parliament include the gradual reduction of GHG intensity of the energy used on board from 2% in 2025 to 80% in 2050 with a stricter reduction of 14.5% in 2035 compared to the original proposal and the introduction of measures to encourage the use of the renewable fuels of non-biological origin (RFNBO).

Moreover, the European Commission will have further specified obligations to monitor the implementation of the measures and to review the Regulation by 2028. By that time, it will be decided whether to extend emission-cutting requirements to smaller ships or to increase the share of the energy used by ships coming from non-EU countries, among others.

【記事 : Article】**1. Background of the proposal on the FuelEU Maritime initiative COM (2021) 562 final**

Based on the EU's commitment under the Paris Agreement and the European Green Deal ((COM/2019/640 final) target to reach climate neutrality by 2050 and a 90% reduction of GHG emissions from transport, the European Climate Law (Regulation (EU) 2021/1119) establishes the framework for achieving climate neutrality by introducing new mid-term targets for 2030 of reducing GHG emissions at least by 55% by 2030. Accordingly, the European Commission presented the "Fit for 55" package on 14 July 2021 to deliver on the 2030 target of reaching a GHG emissions reduction of at least 55%, compared to 1990 levels. This also includes the reduction of GHG emissions in maritime transport, which is an essential component of Europe's transport system and plays a critical role for the European economy (European Commission 2023). Maritime transport accounts for around 75% of EU external trade and 31% of EU internal trade in terms of volume (2021/0210 (COD

However, at the same time, regarding the EU's transport sector's GHG emissions, in 2018, ships generated 13.5% of all GHG emissions, after road transport (71%) and aviation (14.4%) (COM(2021) 0562). Despite a decrease in 2020 during the COVID-19 pandemic, shipping is expected to grow in the next decades, based on rising demand for primary resources and container transport (European Commission 2023). The main concern in this scenario is the fuel mix in the maritime sector, which relies entirely on fossil fuels.

Therefore, the FuelEU Maritime initiative intends to increase the use of renewable and low-carbon fuels and to support innovation to address the environmental impact of the shipping sector, which will be also important for reaching the EU's climate objectives under the Paris Agreement and the European Green Deal (European Commission 2023).

Therefore, the "Fit for 55" package of legislative proposals also includes a proposal on the FuelEU Maritime initiative (COM(2021) 562 final), which aims to establish a common EU regulatory framework to increase the share of renewable and low-carbon fuels in the fuel mix of maritime transport without creating barriers to the single market (European Parliament 2021).

The proposed Regulation lays down rules to reduce the GHG intensity of energy used on-board by ships arriving at, within or departing from ports of an EU Member State. The FuelEU Maritime Initiative also establishes requirements for the use of on-shore power supply or zero-emission energy at berth for specific ship types and lists possible exceptions (European Parliament 2021). Thereby, it obliges passenger ships and container ships to use on-shore power in ports under the jurisdiction of an EU Member State, unless they can demonstrate that they use an alternative zero-emission technology, among others (European Parliament 2021). Furthermore, it also lays down the conditions to the issue a FuelEU certificate of compliance. While the geographical scope is identical to the EU-ETS, this regulation would take into account GHG emissions from the whole supply chain ("well-to-wake") (European Parliament 2021).

The limit on GHG intensity of the energy used on-board is introduced to support the uptake of sustainable maritime fuels. According to the Commission's proposal, reductions of annual average GHG intensity of all energy used on board would start in 2025 with an improvement of 2% compared to a 2020 baseline, followed by a -6% reduction from 1 January 2030; -13% from 1 January 2035; -26% from 1 January 2040; -59% from 1 January 2045; -75% from 1 January 2050 (COM (2021) 562 final).

The 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

(COM(2021) 0562) is expected to be a key legislation for reducing GHG emissions in maritime transport, by gradually increasing the use of renewable and low carbon fuels, and to introduce other measures to drive the maritime transport sector's decarbonization and sustainability, thereby reaching climate neutrality at the latest by 2050 and the goals of the Paris Agreement (European Parliament 2022b, COM(2021) 562 final).

2. The Council of the European Union's general approach and the European Parliament's negotiation position

Regarding the legislative procedure on the FuelEU Maritime initiative (COM(2021) 562 final) proposal, the Council of the European Union adopted its general approach at their Transport, Telecommunications and Energy Council meeting on 2 June 2022. Given the wide range of technologies used in the maritime sector, the Council underlined the importance of technology neutrality and therefore the maritime transport, to focus on fuel demand to meet the EU's 2030 and 2050 climate targets (Council of the European Union 2022).

The Council's general approach retains the main aspects of the Commission's proposal, including the scope, and the targets for reducing the GHG intensity of energy used on board ships (Council of the European Union 2022). However, the general approach also contains some amendments, as the Council intended to amend the scope of the requirements for onshore power supply, to provide a better framework for the exemptions, to ensure consistency with the Regulation on the deployment of alternative fuels infrastructure (AFIR) and to give the EU Member States the option to extend the obligations (Council of the European Union 2022). Furthermore, the Council improved and strengthened the role of companies, verifiers, and the public authorities regarding the monitoring, reporting and verification procedures

aiming at a more robust governance system (Council of the European Union 2022). The Council also intended to revise the provisions on calculating the GHG intensity and the resulting penalties and fines to clarify their scope and prevent their circumvention (Council of the European Union 2022).

Moreover, some temporary provisions have been added to take account of the Member States' specific geographical circumstances and of navigation in ice conditions. Provisions have also been added regarding the outermost regions (Council of the European Union 2022). Also, the provisions applying to transshipment ports for container vessels, which were not included in the original Commission proposal, have been added to limit the danger of carbon leakage (Council of the European Union 2022). Finally, the Council of the European Union has added provisions to stimulate demand for the most environmentally friendly sustainable fuels, in particular renewable fuels of non-biological origin (RFNBOs) (Council of the European Union 2022).

Considering the position of European Parliament on the proposal for FuelEU Maritime initiative (COM(2021) 562 final), the Committee on Transport and Tourism (TRAN Committee) as lead Committee and the Committee on Environment, Public Health, and Safety (ENVI Committee) and the Committee on Industry, Research and Energy (ITRE Committee) as associated committees on the dossier with Jürgen Warborn as rapporteur took more time and only on 19 October 2022, the European Parliament voted in plenary on the proposal (TRAN Committee 2022).

Starting the process on 4 April 2022, the TRAN rapporteur Jürgen Warborn put forward his draft report, supporting the level of ambition proposed by the Commission as well as the ship type and the geographical scope of the proposal.

However, since the regulation was intended to be also a tool in the negotiations with IMO on global GHG standards, the rapporteur proposed a review clause that would allow to fully align the EU

rules with future international rules decided at IMO level (TRAN Committee 2022).

Regarding the onshore power supply (OPS), rapporteur Warborn insisted that the relevant provisions in FuelEU Maritime and Alternative Fuel Infrastructure Regulation (AFIR) (COM/2021/559 final) must be fully aligned. The obligation to connect to OPS supply should apply to ships calling on ports falling within the scope of AFIR. Furthermore, he wants to oblige the Commission to present measures offsetting the new compliance costs and he does not follow the Commission's approach that considers biofuels and biogas produced from food and feed crops to have the same emission factors as the least favourable fossil fuels (TRAN Committee 2022). Moreover, Warborn refused to grant the European Commission the powers to adopt delegated acts to adapt penalties, emission factors and references to new technologies.

The ENVI Committee and the ITRE Committee presented their opinion and amendments on the proposal as associated Committees under the Rule 57 to the TRAN Committee on 20 June 2022 and 28 June 2022, respectively (ENVI 2022, ITRE 2022).

However, despite the planned vote in the TRAN Committee meeting on 11-12 July 2022, the vote on the draft report on the FuelEU Maritime proposal was postponed to October 2022 (European Parliament n.d.). This situation of delay in the European Parliament meant also that the trilogue negotiations with the Council of the European Union and the Commission were delayed, thereby postponing the entire legislative process on the proposal of FuelEU Maritime.

On 3 October 2022, the TRAN Committee adopted rapporteur Jörgen Warborn's report on the proposal COM (2021) 562 final. While keeping the Commission's proposed cuts for 2025 and 2030, the TRAN Committee favoured higher cuts to GHG intensity of energy used on board ships from 2035 onwards. In contrast to the Commission's proposal with reduction levels of 13% (2035), 26%

(2040), 59% (2045) and 75% (2050), the TRAN Committee favoured a cut of 20% as of 2035, 38% from 2040, 64% as of 2045 and 80% as of 2050 (European Parliament 2022b, Soone 2023). It also intended to introduce a target of 2% for the use of renewable fuels of non-biological origin from 2030. A dedicated Ocean Fund should be established to earmark revenues generated from the auctioning of maritime allowances within the EU-ETS and revenues from the financial penalties provided for in the Regulation to increase the energy efficiency of ships and ports, and to support investment aimed at helping decarbonise maritime transport, including the production and deployment of sustainable alternative fuels and the development of zero-emission propulsion technologies (European Parliament 2022b).

Finally, on 19 October 2022, the European Parliament's plenary adopted by 451 votes to 137, with 54 abstentions the amendments to the proposal COM (2021) 562 final (European Parliament 2022a). After this vote, the dossier was referred to the TRAN Committee responsible for interinstitutional negotiations with the Council of the European Union.

3. The European Parliament and Council's political agreement on the COM(2021) 562 final proposal

On 23 March 2023, the European Parliament and the Council of the European Union reached a provisional political agreement on the FuelEU Maritime Initiative proposal COM (2021) 562 final) (Council of the European Union 2023). FuelEU Maritime takes a technology-neutral approach, allowing for the development of new fuel technologies and thereby offers operators the freedom of choice regarding the technology to use based on ship-specific or operation-specific profiles (European Commission 2023). The FuelEU Maritime will provide legal certainty for ship operators and fuel producers and help kick-start

the large-scale production of sustainable maritime fuels (European Commission 2023).

The new rules will introduce an additional zero-emission requirement at berth, mandating the use of OPS or alternative zero-emission technologies in ports by passenger ships and containerships (European Commission 2023). The Regulation will also provide for a voluntary pooling mechanism under which ships will be allowed to pool their compliance balance with one or more other ships. Based on this pooling concept, it will be the pool that has to meet the GHG intensity limits on average (European Commission 2023).

Besides the increase of the reduction targets for the GHG intensity of energy used on board by ships as from 1 January 2035 and the introduction of measures to encourage the use of the renewable fuels of non-biological origin (RFNBO), the main compromises and amendments the Parliament and Council reached include a provisional agreement on cleaner maritime fuels, include an increase of the gradual reduction of GHG emissions by cutting the amount of GHG intensity in the energy (below 2020 level of 91.16 grams of CO₂ per MJ) by 2% as of 2025, 6% as of 2030, 14,5% as of 2035, 31% as of 2040, 62% as of 2045 and 80% as of 2050 (European Parliament 2023). In particular, the MEPs succeeded in raising the 2035 target from 13% to 14.5% during the negotiations with the Council (European Parliament 2023, Council of the European Union 2023).

The Council of the European Union also agreed to the compromise because the EU Member States seem convinced that the FuelEU Maritime will ensure a level playing field and give fuel suppliers, ships, and maritime operators sufficient time to adapt for the new conditions to deliver on the EU's climate targets for 2030 and on the European Green Deal's targets (Council of the European Union 2023).

Further compromises and amendments include the introduction of a time limited exceptions for the specific treatment of the outermost regions,

small islands, and areas economically highly dependent on their connectivity. The compromise also encompasses the reduction factors for ice classed ships, as well as ships navigating in ice. Ships fuel mix will have to have at least 2% of RFNBO specific renewable fuels usage target as of 2034 if the Commission reports that in 2031 RFNBO amount to less than 1% in fuel mix (European Parliament 2023). They also agreed on amendments regarding the requirements for onshore power supply (OPS) and provisions relating to zero-emission technologies based on the underlying principle that the system should be coherent with the Alternative Fuel Infrastructure Regulation (AFIR) (Council of the European Union 2023). Furthermore, they agreed to excluding fossil fuels from the certification process but also improving the provision to make the process more future proof.

Moreover, they amended the provisions on revenues generated from the penalties under the FuelEU regulation and their allocation to projects to support decarbonisation of the maritime sector with an enhanced transparency mechanism and agreed to further specify the Commission's obligations to monitor the implementation of the regulation in the relevant report and to introduce a review clause (Council of the European Union 2023). Accordingly, by 2028, the European Commission is expected to review the rules to decide whether to extend emission-cutting requirements to smaller ships or to increase the share of the energy used by ships coming from non-EU countries (European Parliament 2023).

The political agreement is expected to ensure the increase in the demand for and consistent use of renewable and low-carbon fuels in maritime transport, which is expected to lead to a reduction of GHG emission levels in the maritime sector (Council of the European Union 2023).

According to the Council of the European Union (2023), the main objective of the FuelEU Maritime

initiative is to increase the demand for and consistent use of renewable and low-carbon fuels and to reduce the GHG emissions from the maritime sector, while ensuring the smooth operation of maritime transport and avoiding market distortions. This objective should be reached by this amended proposal for the FuelEU Maritime regulation.

The provisional political agreement is now still subject to formal approvals by the two co-legislators, including the Council Committee of Permanent Representatives and Parliament's TRAN Committee, and then the Parliament and Council as a whole, respectively (European Parliament 2023). On the Council's side, the Swedish presidency intends to submit the text to the Member States' representatives (Coreper) as soon as possible with a view to adopt the legislation at one of the upcoming Councils (Council of the European Union 2023).

The provisional political agreement now needs to be formally approved by the European Parliament and the Council. Once the political agreement is formally adopted by the two co-legislators, the new rules will be published in the Official Journal of the European Union and enter into force 20 days after its publication (European Commission 2023).

4. Conclusion

The main objective of the proposal COM (2021) 562 final on the FuelEU Maritime initiative is to help decarbonising the maritime transport sector by setting maximum limits on the yearly GHG intensity of the energy used by a ship.

On 23 March 2023, the European Parliament and the Council of the European Union announced to have reached a political agreement on the new FuelEU Maritime regulation. By gradually reducing the GHG intensity of fuels used by the shipping sector will gradually decrease over time, from a 2% reduction in 2025 to as much as 80% reduction in the maritime transport sector is expected to

decarbonise. The main compromises reached between the European Parliament and Council in their political agreement include time limited exceptions for the specific treatment of the outermost regions, small islands, and areas economically highly dependent on their connectivity, reduction factors for ice classed ships, as well as ships navigating in ice, the increase of the reduction targets for the GHG intensity of energy used on board by ships as from 1 January 2035 and introducing measures to encourage the use of the so-called renewable fuels of non-biological origin (RFNBO). The also agreed on amending the requirements for onshore power supply (OPS) and provisions relating to zero-emission technologies based on the underlying principle that the system should be coherent with the Alternative Fuel Infrastructure Regulation (AFIR) among others. The Commission is also asked to review the legislation in 2028, which is of importance also to allow for decisions on possible extensions of emission-cutting requirements to smaller ships but also to create the opportunity to fully align the EU rules with future international rules.

However, lately there occurred a very unusual situation regarding the adoption of proposal COM (2021) 556 final on phasing out the new registration of passenger cars and light duty vehicles, which run on combustion engines from 2035 onward. Some Member States rejected to give their final accord on this already agreed compromise. Therefore, it remains to be seen if this political agreement on the FuelEU Maritime proposal will be formally adopted by both co-legislators, without any last-minute rejection. However, since the FuelEU Maritime initiative takes a goal-based and technology-neutral approach, also regarding the development of new fuel technologies, it can be expected that the 27 EU Member States will formally adopt the already accepted political agreement with the European Parliament.

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