

【欧州】 【Common】 【海事】

Common - “Fit for 55” package: European Parliament and Council adopt final version of Regulation on sustainable maritime fuels (FuelEU Maritime Initiative)

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【概要 : Summary】

Based on the EU’s commitments under the Paris Agreement and the European Green Deal target to reach climate neutrality by 2050 and a 90% reduction of GHG emissions from transport, the European Climate Law set a new mid-term GHG emission reduction target for 2030 to reduce GHG emissions by at least 55% by 2030. Accordingly, the European Commission presented the “Fit for 55” package on 14 July 2021, consisting of several legislative proposals to deliver on the strengthened 2030 GHG emission reduction target. Regarding the decarbonisation of maritime transport, there are mainly two legislative proposals relevant for reducing GHG emissions in maritime transport. Besides the introduction of an Emissions Trading System (EU-ETS) for maritime transport, the FuelEU Maritime initiative Regulation (COM (2021) 562 final) intends to shift the fuel mix in the maritime transport sector towards the use of sustainable, renewable, and low-carbon fuels. The FuelEU Maritime initiative COM (2021) 562 final applies to commercial vessels of 5,000 gross tonnes and above, regardless of their flag, excluding fishing ships and will make it mandatory for those ships to use a gradually increasing amount of low-carbon fuels. The proposal also mandates

the use of onshore power supply (OPS) in EU ports for ships at berth, among others, to accelerate the sector’s decarbonisation.

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 co-legislators agreed to gradually reduce the GHG intensity of the energy used on board of the ships covered from 2% in 2025 and finally reaching an 80% reduction by 2050. The co-legislators also agreed to introduce measures to encourage the use of the renewable fuels of non-biological origin (RFNBO). Moreover, the European Commission will have specified obligations to monitor the implementation of the measures and to review the Regulation by 2028. By that time, it should be decided whether also smaller ships will be included under the emission-cutting requirements.

On 11 July 2023, the European Parliament’s Plenary voted in favour of the provisional agreement’s text and on 25 July 2023, the Council of the European Union adopted the agreed legislative text. The Regulation will be published in the EU’s Official Journal and then enter into force, binding in its entirety and directly applicable in all EU Member States as of 1 January 2025.

【記事 : Article】

1. Background of the FuelEU Maritime initiative proposal

Considering the EU's commitments under the Paris Agreement and the European Green Deal ((COM/2019/640 final) target to reach climate neutrality in the EU by 2050, including the introduction of a target of reducing GHG emissions from transport by 90% by 2050, a new mid-term target of reducing GHG emissions at least by 55% by 2030 was introduced (Regulation (EU) 2021/1119). To achieve this new mid-term target, the European Commission presented the “Fit for 55” package on 14 July 2021, including proposals on the reduction of GHG emissions in maritime transport (European Commission 2023).

While maritime transport accounts for around 75% of EU external trade and 31% of EU internal trade in terms of volume, ships also generated 13.5% of all GHG emissions in the EU, after road transport (71%) and aviation (14.4%) in 2018 (COM(2021) 562 final, 2021/0210 (COD)). Despite a significant decrease in 2020 during the COVID-19 pandemic, shipping is expected to further grow in the next decades, based on rising demand for primary resources and container transport (European Commission 2023). The main concern is a further increase of GHG emissions from maritime transport, as the sector so far relies entirely on fossil fuels. Therefore, it is essential to substitute fossil fuels with renewable and low-carbon fuels in maritime transport, while ensuring fair competition in the EU maritime transport market, because marine fuels account for a substantial share of ship operators' costs (European Parliament 2021, COM (2021) 562 final).

Accordingly, the main objective of the proposal FuelEU Maritime initiative (COM (2021) 562 final) is to gradually introduce renewable and low-carbon fuels in maritime transport to thereby reduce the GHG emissions from the maritime sector (COM (2021) 562 final).

2. The Commission's proposal on the FuelEU Maritime initiative (COM (2021) 562 final)

The FuelEU Maritime initiative (COM (2021) 562 final) presented by the European Commission on 14 July 2021, aims at reducing the GHG intensity of energy used on-board of ships. This objective is intended to be achieved by gradually increasing the share of renewable and low-carbon fuels in the fuel mix of maritime transport (FuelEU). The introduction of a limit on GHG intensity of the energy used on-board is intended to support the uptake of sustainable maritime fuels.

The proposal lays down rules to gradual increase the use of renewable and low-carbon fuels in maritime transport across the EU, without introducing barriers to the single market by setting a maximum limit on the GHG content of energy used by ships calling at European ports (COM (2021) 562 final, European Parliament 2021). The FuelEU Maritime initiative covers all energy used on board of the ships covered (gross tonnage above 5000), whether they are at an EU port or on voyages between EU ports. It also covers 50% of the energy used on voyages departing from or arriving at an EU port (COM (2021) 562 final).

Furthermore, from January 2030 onwards, container ships and passenger ships at EU ports will also have to connect to onshore power supply (OPS) and use it for all energy needs while at berth, with some exceptions (European Parliament 2023a). Thereby, the FuelEU Maritime Initiative proposal not only intends to reduce the GHG intensity on board of ships, but it also establishes requirements for the use of on-shore power supply or zero-emission energy at berth for specific ship types, with some exemptions (COM (2021) 562 final, European Parliament 2021, 2023c).

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, European Parliament 2023a).

The initiative also establishes common principles for monitoring compliance by building on the existing system of monitoring, verification and reporting of GHG emissions from the sector, different from and additional to the existing EU MRV system (COM (2021) 562 final, European Parliament 2021). It establishes the requirements for a valid FuelEU compliance certificate and outlines harmonised penalties for non-compliance with the requirements (COM (2021) 562 final, European Parliament 2021). Finally, it requires the European Commission to report to the European Parliament and the Council on the application of this Regulation, at least every five years.

3. The Council and the European Parliament's provisional agreement on the FuelEU Maritime Regulation

Regarding the decision-making of the EU's co-legislators on the proposal COM (2021) 562 final, the Council of the European Union adopted its general approach on 2 June 2022 and the European Parliament's plenary followed with its vote on 19 October 2022, thereby establishing their negotiation positions for finding a compromise agreement on the new FuelEU Maritime Regulation (TRAN Committee 2022, European Parliament 2023b). The Council's general approach retained 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 EU 2022). However, the Council also introduced some amendments, and intended to amend the scope of the requirements for onshore power supply. It provided a better framework for the exemptions, to ensure consistency with the deployment of the Regulation on alternative fuels infrastructure (AFIR, COM/2021/559 final) and to give the EU Member States the option to extend the obligations (Council of the EU 2022).

Furthermore, the Council improved and strengthened the role of companies, verifiers, and the public authorities regarding the monitoring, reporting and verification procedures (Council of the EU 2022). Moreover, the Council 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 EU 2022). The Council also added provisions applying to transshipment ports for container vessels to limit the danger of carbon leakage and temporary provisions regarding the specific geographical circumstances of outermost regions and of navigation in ice conditions, among others (Council of the EU 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 EU 2022).

Considering the position of European Parliament on the proposal for FuelEU Maritime initiative (COM(2021) 562 final), based on its vote on 19 October 2022, it supported the level of ambition proposed by the Commission as well as the definitions of ship types covered 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 MEPs supported a review clause that would allow to fully align the EU rules with future international rules decided at IMO level (TRAN Committee 2022). While keeping the Commission's proposed cuts for 2025 and 2030, the Parliament 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 European Parliament favoured a cut of 20% as of 2035, 38% from 2040, 64% as of 2045 and 80% as of 2050 (European Parliament 2022b). Regarding the onshore power

supply (OPS), the Parliament intended to fully align the relevant provisions in FuelEU Maritime with the Alternative Fuel Infrastructure Regulation (AFIR) (COM/2021/559 final). The obligation to connect to OPS supply should apply to ships calling on ports falling within the scope of AFIR. Furthermore, 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 FuelEU Maritime Regulation to increase the energy efficiency of ships and ports, and to support investment aimed at helping decarbonise maritime transport, and the development of zero-emission propulsion technologies (European Parliament 2022b).

4. European Parliament and Council's approval of the final version of the FuelEU Maritime Regulation

In the Council and Parliament's trilogue negotiations, the co-legislators had to find the final legislative compromise text on the proposed Regulation on the use of renewable and low-carbon fuels in maritime transport and amending Directive 2009/16/EC (COM (2021) 562 final, 2021/0210 (COD)). A trilogue provisional political agreement on the FuelEU Maritime initiative was reached on 23 March 2023 (European Parliament 2023a, ESO 2023).

According to the Council, the agreement will ensure a level playing field and make sure that fuel suppliers, ships and maritime operators will have sufficient time to adapt for the new conditions so the maritime sector will deliver on the climate targets (Council of the EU 2023a). While the text of the provisional agreement retains the main aspects of the Commission's proposal, the co-legislators made some important amendments. Meanwhile, on 26 April 2023, the Council of the European Union's permanent representatives Committee (Coreper) had sent a

letter to the European Parliament TRAN Committee's chairperson, in which it confirmed that should the European Parliament adopt its position at first reading in the form set out in the COREPER's letter attached version, the Council would approve the European Parliament's position in the wording, which corresponds to the European Parliament's position confirming the legislation as agreed in the co-legislators' political agreement (Council of the EU. General Secretariat 2023).

On 11 July 2023, the European Parliament Plenary's MEPs adopted the new rules on the Regulation on the FuelEU Maritime initiative. On 25 July 2023, the approval by the Council of the European Union followed (Council of the EU 2023b). Based on the final legislative text as adopted by the European Parliament and the Council, the new Regulation will contain the provisions to ensure the gradual decrease of the GHG intensity of fuels used by the shipping sector.

The GHG intensity of the energy used on board of a ship is evaluated on a well-to-wake scope (ABS REGULATORY NEWS 2023). For each reporting year, starting in 2025, the energy used on board of ships covered by the FuelEU Maritime Regulation must be below the reference GHG intensity, which will decrease over time compared to 2020 levels. Article 4 paragraph 2 of the Regulation sets the reference value of limit at 91,16 grams of CO₂ equivalent per MJ of 2020, determined by the reported data, based on the Regulation (EU) 2015/757 (European Parliament 2023e, ABS REGULATORY NEWS 2023).

Considering the timeline for compliance with the new limits, by 31 August 2024, shipping companies shall submit to their verifier a monitoring plan for each of their ships to monitor and report the amount, type and emission factor of energy used onboard (ABS REGULATORY NEWS 2023, European Parliament 2023e). Thereafter, from 1 January 2025, shipping companies shall begin monitoring according to the submitted and verified

monitoring plan and by 31 January 2026 and onwards, shipping companies shall submit to their verifier a ship specific FuelEU report (European Parliament 2023e).

The GHG intensity is expected to decrease starting with 2% in 2025, 6% as of 2030, 14,5% as of 2035, 31% as of 2040, 62% as of 2045 and will finally reach 80% by 2050 (Council of the EU 2023b, European Parliament 2023b). In particular, the MEPs succeeded in raising the 2035 target from 13% as suggested in the Commission proposal to 14.5% as of 2035 (European Parliament 2023b, Council of the European Union 2023). These limits will apply to ships above 5000 gross tonnage, which are in principle responsible for 90% of CO₂ emissions, and to all energy used on board, in or between EU ports, as well as to 50% of energy used on voyages where the departure or arrival port is outside of the EU or in EU outermost regions (European Parliament 2023d).

Furthermore, the co-legislators agreed to introducing provisions on measures to encourage the use of the so-called renewable fuels of non-biological origin (RFNBO) with a high decarbonisation potential into the Regulation's final legislative text (Council of the EU 2023a). The 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, the RFNBO will amount to less than 1% in fuel mix (European Parliament 2023c, 2023d, Council of the EU 2023b).

To significantly reduce air pollution in ports, container ships and passenger ships will be obliged to use onshore power supply for all electricity needs while moored at the quayside in major EU ports as of 2030, with a view to mitigating air pollution in ports (European Parliament 2023d, Council of the EU 2023b).

They also agreed to exclude fossil fuels from the certification process regarding the certification of fuels among others (Council of the EU 2023a, 2023b).

Moreover, the final text of the Regulation will include the option for ships to voluntarily pool their compliance balance with one or more other ships. This voluntary pooling mechanism will give the opportunity to ships to meet the GHG intensity limits on average in a pool with other ships (Council of the EU 2023b).

The Regulation will also contain amended provisions on revenues generated from the penalties (‘FuelEU penalties’) regarding their allocation to projects to support the decarbonisation of the maritime sector (Council of the EU 2023a, 2023b).

The Regulation will further include specifications of the Commission's monitoring obligations on the implementation of the provisions. By 2028, the European Commission is expected 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 2023b, Council of the EU 2023b)).

The Regulation will also contain provisions on introducing time limited exceptions for the specific treatment of the outermost regions, small islands, and areas economically dependent on their connectivity to maritime transport (Council of the EU 2023b).

After the European Parliament and the Council of the EU have formally adopted the final legislative text, it will be published in the Official Journal of the European Union and enter into force 20 days after its publication (European Commission 2023). The Regulation's provisions will apply from 1 January 2025, except for Article 8 on the Monitoring plan and Article 9 on the Modifications to the monitoring plan, which will apply from 31 August 2024 (Council of the EU 2023b).

5. Conclusion

The FuelEU Maritime initiative is one of the proposals put forward under the ‘Fit for 55’

package on 14 July 2021. The new Regulation on FuelEU maritime initiative aims to put maritime transport on the trajectory of the EU's climate targets for 2030 and 2050 by limiting the GHG intensity of the energy used on-board of ships and by supporting the uptake of sustainable maritime fuels. Based on the FuelEU Maritime Regulation, the annual GHG intensity of the energy used by a ship should gradually decrease by increasing the share of renewable and low-carbon fuels in the fuel mix of maritime transport (FuelEU).

The European Parliament and Council of the European Union found a provisional political agreement on a compromise text for the FuelEU Maritime Regulation on 23 March 2023. The main compromises were then adopted by the co-legislators in July 2023. They agreed to gradually increase the reduction targets of GHG intensity of energy used on board of ships, from reducing it by 2% as of 2025, and to reach 80% as of 2050, based on the reference value of 2020.

In the negotiations between the co-legislators, the increase of the reduction targets from 1 January 2035, and the introduction of measures to encourage the use of the so-called renewable fuels of non-biological origin (RFNBO) were achieved, as well as an amendment of the requirements for onshore power supply (OPS) and provisions in coherence with the Alternative Fuel Infrastructure Regulation (AFIR).

The Commission is also tasked to review the legislation in 2028, which is of importance to allow for a possible extension of emission-cutting requirements to smaller ships and also to create the opportunity to fully align the EU rules with future international rules.

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