



Brussels, 22.9.2016
C(2016) 5900 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 22.9.2016

amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the methods for monitoring carbon dioxide emissions and the rules for monitoring other relevant information

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC ('the MRV shipping Regulation') was adopted on 29 April 2015 and entered into force in July 2015.

The primary objective of the MRV Regulation is '*to promote the reduction of CO₂ emissions in a cost effective manner*' (Article 1). This is to be achieved by establishing a robust system for monitoring and reporting verified data on annual fuel consumption, CO₂ emissions and other energy-efficiency-related parameters from ships above 5 000 gross tonnage calling at EU ports, from 1 January 2018 onwards.

Under Article 5 (1) of the MRV shipping Regulation, companies are required to determine their ships' CO₂ emissions in accordance with any of the monitoring methods set out in Annex I, and monitor other relevant information in accordance with the rules set out in Annex II to the Regulation.

The first sentence of Article 5(2) of the MRV shipping Regulation states that the Commission is '*empowered through delegated acts to amend the methods set out in Annex I and the rules set out in Annex II, in order to take into account relevant international rules as well as international and European standards*'.

The second sentence of Article 5(2) of the MRV shipping Regulation states that the Commission is '*also empowered to refine the elements of the monitoring methods in the light of technological and scientific developments*'.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In line with its usual practice of consulting experts during the preparatory phase of delegated acts, the Commission asked the European Sustainable Shipping Forum (ESSF) plenary to set up a Shipping MRV monitoring subgroup.

The Shipping MRV monitoring subgroup gathered among others experts from Member States' national administrations, environmental NGOs, international and European shipping associations, other relevant entities as classification societies and greenhouse gas monitoring and reporting voluntary initiatives.

The subgroup held five meetings between July 2015 and May 2016 to identify relevant international standards and European and international rules, but also relevant scientific and technical developments which could trigger amendments to Annexes I and II to Regulation (EU) 2015/757. The subgroup sent its draft recommendations to the ESSF plenary and these recommendations have been endorsed at its meeting on 28 June 2016.

The minutes, background papers and presentations from the Shipping MRV monitoring subgroup meetings are available on the Commission website¹.

A specific session with Member States' experts was held on 29 June to present and discuss the content of this delegated act.

Online feedback on the draft Delegated Regulation was collected for four weeks (28 July – 25 August 2016). Feedback was given by six organisations; five of them representing the

¹ http://ec.europa.eu/clima/events/articles/0108_en.htm

shipping sector have also participated in the ESSF Shipping MRV monitoring subgroup. Most of them repeated views which had already been shared at the subgroup's meetings or raised issues which were out of the scope of this delegated act.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Regulation is intended to update Annexes I and II to Regulation (EU) 2015/757 by considering relevant international standards and rules and scientific and technical developments as follows:

- it lays down the emission factors to be used to determine CO₂ emission as set at international level in the IMO in Resolution MEPC 245 (66) 2014: Guidelines on the method of calculation of the attained Energy Efficiency Design Index (EEDI) for new ships;
- it adds the possibility for companies using fuel monitoring methods A and C to determine actual density on the basis of the density measured by an accredited fuel test laboratory in line with ISO 3675:1998;
- it requires 'time spent at sea' and 'distance travelled' under Annex II, section A, points (a) and (b) to be calculated on a 'berth-to-berth' basis in line with relevant international expert recommendations;
- it provides for the actual mass of cargo to be used as an additional option to determine cargo weight for ro-ro ships under point (e) of paragraph 1 of Part A of Annex II to Regulation (EU) 2015/757, as provided for in the IMO Guidelines for voluntary use of the ship Energy Efficiency Operational Indicator (EEOI) and EN 16258 (2012).

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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/EC², and in particular Article 5(2) thereof,

Whereas:

- (1) Regulation (EU) 2015/757 lays down rules for the accurate monitoring, reporting and verification of carbon dioxide (CO₂) emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State, in order to promote the reduction of CO₂ emissions from maritime transport in a cost effective manner.
- (2) Annex I to Regulation (EU) 2015/757 lays down the methods for monitoring CO₂ emissions on the basis of fuel consumption. Annex II to Regulation (EU) 2015/757 lays down the rules for ‘monitoring of other relevant information’.
- (3) Part A of Annex I to Regulation (EU) 2015/757 provides that CO₂ emissions should be calculated by multiplying emission factors and fuel consumption which is determined by monitoring methods A (BDN and periodic stock takes of fuel tanks), B (bunker fuel tank monitoring on board) and C (flow meters for applicable combustion processes) set out in Part B of that Annex. The IMO Resolution³ on Guidelines on the method of calculation of the attained Energy Efficiency Design Index for new ships lays down a set of default values for emissions factors for standard fuels used on board ships. These default values can be used to calculate CO₂ emissions from shipping. Having ships apply these default values to monitor and report their CO₂ emissions in accordance with Annex I to Regulation (EU) 2015/757 ensures both a lean regulatory approach and harmonised implementation.
- (4) Monitoring methods A, B and C address the determination of fuel uplift (bunkering) or amount of fuel remaining in the tanks from volume to mass, using actual fuel density values. Pursuant to point (c) of the fifth subparagraph of paragraph 2 of Part B of Annex I, companies using monitoring method B can determine actual density on the

² OJ L 123, 19.5.2015, p. 55.

³ MEPC 245 (66) 2014.

basis of the density measured in a test analysis conducted by an accredited fuel laboratory, if available. Extending that possibility to companies using monitoring methods A and C would ensure harmonised implementation of these three monitoring methods, in line with ISO standard 3675:1998⁴. It would also fully reflect industry practices and increase the comparability of fuel consumption monitored using the three methods concerned.

- (5) The ‘berth-to-berth’ concept would provide more clarity and a harmonised approach to the exact starting and ending point of voyages. This would refine the parameters used to monitor the time spent at sea and distance travelled, as specified under points (a) and (b) of paragraph 1 of Part A of Annex II to Regulation (EU) 2015/757, and reflect industry practices.
- (6) IMO Guidelines for voluntary use of the ship Energy Efficiency Operational Indicator⁵ and CEN standard EN 16258 (2012)⁶ provide ro-ro ships with a possibility to monitor and report cargo carried on the basis of the actual cargo mass. Adding this additional parameter to those laid down in point (e) of paragraph 1 of Part A of Annex II to Regulation (EU) 2015/757 would better reflect industry practices and therefore make monitoring easier.
- (7) In line with the Commission usual practice of consulting experts during the preparatory phase of delegated acts, a ‘Shipping MRV monitoring subgroup’ gathering experts from Member States, industry and civil society was set up under the umbrella of the European Sustainable Shipping Forum (ESSF). The subgroup identified a number of international and European standards and international rules and scientific and technical developments and recommended that they be covered by this Regulation. The subgroup’s draft recommendations on these aspects were endorsed by the ESSF plenary on 28 June 2016.
- (8) Annexes I and II to Regulation (EU) 2015/757 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EU) 2015/757 are amended in accordance with the Annex to this Regulation.

Article 2

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.

⁴ ISO 3675:1998 crude petroleum and liquid petroleum products - Laboratory determination of density - Hydrometer method.

⁵ MEPC.1/Circ.684 IMO Guidelines for voluntary use of the ship Energy Efficiency Operational Indicator.

⁶ Methodology for calculation and declaration of energy consumption and GHG emissions of transport services (freight and passengers).

Done at Brussels, 22.9.2016

For the Commission
The President
Jean-Claude JUNCKER