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The Interaction between Regional and International Maritime Emissions Regulations

Greentech and Shipping Forum

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INTRODUCTION

Two Key Aspects

1. How do international and regional regulations interact: Co-existence, Deferral or Conflict?
2. The impact on regulated entities: The Compliance Burden

IMO's (international) Energy Existing Ship Index (EEXI) and Carbon Intensity Indicator (CII) Regulations
EU's (regional) Emissions Trading System

Mandate? – Paris Agreement (hold increase in the global average temperature to “*well below 2°C above pre-industrial levels*” and pursue efforts “*to limit the temperature increase to 1.5°C above pre-industrial levels*”)

IMO Intersessional Working Group on Reduction of GHG Emissions from Ships – **June 2023**

IMO Marine Environment Protection Committee Meeting (MEPC80) – **July 2023**

IMO Review – **By 1 January 2026**



IMO MARPOL ANNEX VI (EEXI AND CII)

- Technical and Operational measures targeting vessel's energy efficiency
- Applies from 1 January 2023
- Applies globally
- Vessel falls below required metric = Non-compliance
- No mandated method of compliance

OVERVIEW OF REGULATIONS

EU EMISSIONS TRADING SYSTEM

- 'Cap and trade' carbon market applying to several sectors across EU
 - Proposal to apply to maritime transport from 2024 onwards
 - Applies to:
 - 100% of emissions from intra-EU voyages
 - 50% of emissions from extra-EU voyages
 - Shipping company's failure to surrender requisite amount of emission allowances = Non-compliance
 - No mandated method of compliance
-



HOW DO REGULATIONS INTERACT?

Article 3ge

Reporting and review

1. In the event of the adoption by the International Maritime Organization (IMO) of a **global market-based measure** to reduce greenhouse gas emissions from maritime transport, the Commission shall review this Directive in light of that adopted measure.

To this end, the Commission shall present a report to the European Parliament and to the Council **within 18 months of the adoption of such a measure** and before it becomes operational. In that report the Commission shall examine the global market-based measure as regards:

- (a) **its ambition in light of the objectives of the Paris Agreement;**
- (b) *its overall environmental integrity, including compared to the provisions of this Directive covering maritime transport; and*
- (c) **any issue related to the coherence between the EU ETS and that measure.**

Where appropriate, the Commission may accompany that report with a legislative proposal to amend this Directive in a manner that is consistent with the Union 2030 climate target and the climate-neutrality objective as set out in Regulation (EU) 2021/1119 and with the aim of preserving the environmental integrity and effectiveness of Union climate action, to ensure coherence between the implementation of a global market-based measure adopted by the IMO and the EU ETS, **while avoiding any significant double burden.**



HOW DO REGULATIONS INTERACT?

Article 3ge (continued)

1a. In the event that the **International Maritime Organization does not adopt by 2028** a global market-based measure to reduce greenhouse gas emissions from maritime transport in line with the objectives of the Paris Agreement and **at least to a level comparable to that resulting from the Union measures** taken under this Directive, the Commission shall present a report to the European Parliament and to the Council in which it shall examine the need to apply the allocation of allowances and surrender requirements **in respect of more than fifty percent (50 %) of the emissions from ships performing voyages between a port of call under the jurisdiction of a Member State and a port of call outside the jurisdiction of a Member State, in light of the objectives of the Paris Agreement.** In that report, the Commission shall in particular consider progress at IMO level and examine whether any third country has a market-based measure equivalent to this Directive and assess the risk of an increase in evasive practices, including through a shift to other modes of transport or a shift of port hubs to ports outside the Union.

Where appropriate, the report shall be accompanied by a legislative proposal to amend this Directive. ...

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WHAT IF...

- The IMO adopts a global carbon levy on bunker fuel (e.g. USD100 per tonne of CO2 emitted)?
- EU ETS is expanded pursuant to Art. 3ge(1a)?

HOW DO REGULATIONS INTERACT?





THE COMPLIANCE BURDEN

WHO IS REGULATED?

The vessel itself (IMO Regulations)

Shipowner or the vessel's technical manager (EU Regulations)

HOW?

- Coherent compliance
- Additional administrative burdens
- Consequential effects?

RISKS?

- Double burden
- Passing on compliance costs



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CONCLUSION

Co-existence (for now)?

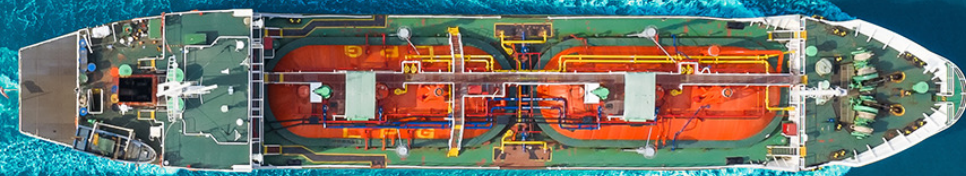
- MEPC80
- IMO market-based measure?

Coherence may still mean burdens on regulated entity

- Double burden?
- Administrative burden



THANK YOU



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Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only.

It should not be considered as legal advice.

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Johanna is an associate in the London Shipping Litigation Team.

She has acted for owners, charterers, offshore contractors, salvors and P&I Clubs on a variety of disputes arising from charterparties, bills of lading, piracy, collisions and groundings. The majority of Johanna's work involves multi-jurisdictional litigation and arbitration.

As well as dispute resolution, Johanna also has expertise in public international law and advises on maritime boundary issues under the UN Convention on the Law of the Sea. In addition, Johanna advises on international and regional environmental regulations affecting the maritime sector, including the IMO's and EU's carbon emissions reduction initiatives.

During her training, Johanna undertook six-month international secondments to the firm's Geneva and Monaco offices, where she was involved in a range of contentious commodities and shipping matters, as well as ship sale transactions.

Johanna is qualified in England and Wales and is a native Swedish speaker.



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