

**Answer to the public consultation on the adoption of the
Proposal for amending Regulation (EU) 2015/757 in order to take
appropriate account of the global data collection system for ship fuel oil
consumption data - COM(2019) 38 final**

The European Community Shipowners' Associations (ECSA) and the International Chamber of Shipping (ICS) welcome the revision of Regulation (EU) 2015/757, thereafter the MRV Regulation, attempting to align the EU MRV with the global IMO Data Collection System (IMO DCS). ECSA nonetheless regrets that the European Commission did not opt for a full alignment with the IMO DCS.

No full alignment with one international data collection system

Article 22 of the EU MRV Regulation provides that *"in the event that an international agreement on a global monitoring, reporting and verification system for greenhouse gas emissions (...) is reached, the Commission shall review this Regulation and shall, if appropriate, propose amendments to this Regulation in order to ensure alignment with that international agreement."*

As the proposal of the European Commission¹ explains, *"in 2016, following the entry into force of the Paris Agreement and the adoption of the EU MRV Regulation, the IMO Marine Environment Protection Committee (MEPC) adopted amendments to the MARPOL Convention establishing the legal framework for a global data collection system for fuel oil consumption of ships ("global IMO DCS"). Details and implementing modalities of the global IMO DCS were agreed later on through "guidelines" adopted by MEPC 70 in October 2016 and by MEPC 71 in July 2017. Under the global IMO DCS, monitoring obligations start in 2019, with reporting in 2020. As a result, from January 2019 ships performing EEA-related maritime transport activities will have to fulfil monitoring and reporting requirements under both the EU MRV Regulation and the global IMO DCS."*

In this proposal, the European Commission states that: *"The proposed modifications to the EU MRV Regulation are widely in line with the interests expressed by stakeholders on their replies to the online public consultation and the targeted e-survey."* However, during the public consultation on the proposed inception impact assessment conducted between the 21st of June 2017 and the 19th of July 2017, the majority of the stakeholders were in favour of the full alignment of the two schemes. The current choice of the European Commission thus does not reflect the result of this public consultation.

The amendments proposed by the European Commission do not fully align the EU MRV with the IMO DCS, as emphasized by international shipping organizations in their public interventions and by the EU MRV regulation itself.

¹ (COM(2019) 38 final)

Danger of jeopardising effective global actions to reduce CO₂ worldwide

IMO adopted an initial strategy to reduce GHG emissions from international shipping in April 2018, the initial strategy is subject to revision in 2023. This established a roadmap for decarbonising the sector, and will reduce CO₂ emissions per tonne mile by at least 40% by 2030, while pursuing efforts towards 70% by 2050, compared to 2008, and to reduce GHG emissions overall by at least 50% by 2050, compared to 2008. The shipping industry is fully committed to delivering the goals of the initial strategy. IMO is already considering concrete short-term CO₂ reduction measures (which should enter into force by 2023), as well as mid-to long-term measures to achieve the 2050 goals. IMO will soon commence a fourth GHG Study which will accurately quantify CO₂ emissions from international shipping. All of this is in addition to IMO's ongoing work to promote greater efficiency of ships, such as the EEDI regulation which has delivered faster and deeper CO₂ reductions from ships than was ever anticipated, with some ships having improved energy efficiency by more than 40% if compared to the original reference lines.

To strengthen this commitment by industry, a clear engagement is also needed by the EU Commission and EU Member States which reflects that they trust, strengthen and support the IMO and its CO₂ reduction strategy. Whereas a non-alignment by the EU to the IMO DCS gives non-European member states of IMO an impression that the European Commission does not recognise or value IMO's work to reduce GHG emissions from international shipping, and could jeopardise further global co-operation and action.

Multiple reporting requirements for the shipping industry to be prevented

The EU MRV established an unwelcome precedent of unilateral legislation deviating from the UN network of IMO regulation, other countries have unfortunately already followed suit by establishing their own national MRV regulations, such as the Chinese "Regulation on Data Collection for Energy Consumption of Ships" which came into force on the 1st of January 2019. Such a patchwork of differing national and regional regulations is what IMO aims to avoid, as the international shipping sector and in fact the international trade in general is very vulnerable to immediate distortion of competition by such a patchwork. The EU deep sea fleet, which operates globally will be particularly hit by the repercussions of the European Commission's precedent as can already be seen with the Chinese MRV system invoked at the end of last year. A clear commitment by Europe is needed to strengthen the international regulation of shipping through IMO, to avoid a plethora of unilateral regulation of shipping and therefore a single, global and robust data collection system, the IMO DCS.

Main remaining differences between the EU MRV and the IMO DCS

The **proposed only partial alignment** leads to burdensome double monitoring and reporting requirements. Ships will have to fulfil monitoring and reporting requirements under both the EU MRV Regulation and the IMO DCS, disadvantaging EU shipowners and ships calling EU/EEA ports, in particular as regards to:

- **Metrics** - The metrics which the EU requires ships to monitor and report (including non-EU flag ships calling at EU/EEA ports) differs substantially

from those required under the IMO regime, even though reporting of cargo carried becomes voluntary and DWT is introduced as a new reporting item under EU MRV. Instead of "actual cargo carried", the IMO DCS collects data solely on the "cargo carrying capacity". Whereas the EU MRV introduces the new regulation that "actual cargo carried" is to be monitored on a voluntary basis, the EU MRV still foresees that "cargo carried" is made publicly available by the EU Commission. Also, the "transport work" still needs to be monitored and reported under the EU MRV - even though "cargo carried" as part of the transport work is to be monitored on a voluntary basis only - whereas under the IMO DCS, "transport work" is not to be monitored at all.

- **Verification** - The EU MRV requires the use of verifier bodies authorised by national accreditation bodies associated with the EU Emissions Trading System (EU ETS), rather than Recognized Organizations (primarily classification societies) authorised to work on behalf of Flag Administrations as is the case for the IMO DCS. The EU ETS is significantly different from the IMO DCS and EU MRV since emissions reported under the EU ETS are the basis for calculating direct economic obligations for the reporting companies. In the IMO DCS and EU MRV the CO₂ emissions data is collected in order to monitor and quantify emissions to inform future policy decision making.
- **Role of the verifiers** – With concern it is noted that due to the involvement of external verifier bodies under the EU MRV regime, the data security cannot be guaranteed. Under the EU MRV, sensible data is by regulation to be provided by the shipping company to third party verifier bodies, without any guarantee how those (mostly commercially orientated) verifying bodies later make use of the knowledge gained through the analysis of such data. Whereas under the IMO DCS the sensibility of the data transfer is recognised and out of this reason regulated under strict confidentiality rules, EU MRV opens the door for data misuse and creation of competitive disadvantages for EU shipping companies.
- **Per voyage reporting obligation** - While the IMO DCS only envisages annualised reporting, the EU MRV system provides for a per voyage report (with only strict exceptions). This is especially burdensome for ships engaged in shortsea shipping services (SSS), both tramp and regular, which may have to submit many reports per year. This is clearly against the declared interest of the EU institutions for reducing administrative burden on SSS operators which have recently been reiterated with the positive agreement on the EU Single Maritime Window. The EU MRV system should require annual reporting.
- **Reporting templates** – the EU and IMO reporting templates are different, increasing the workload, administrative burden and costs for shipowners as well as for ships officers.
- **Data confidentiality** – The IMO DCS which anonymises data submitted via the respective Flag State is a warrant for a fair competition. Publishing data which would allow not only the verifying bodies (see above) but also competitors also from non-EU countries to analyse vessel utilisation will

result in a market and competition distortion unheard of. Competing companies would be able to accurately analyse competitors' costs and operating models, triggering destructive competition and possibly resulting in establishment of monopolies.

Publication of data and risks of market distortion

The industry fully supports and is committed to monitoring its greenhouse gas emissions, but it has fundamental objections to the publication of non-anonymised ship specific data. The EU MRV Regulation requires the European Commission to publish the data complete with company and individual ship identifiers, so that it can easily be used by third parties with the specific intent of affecting the commercial market. Under the IMO DCS emissions data submitted to IMO by the flag State is anonymised since the purpose of the data is simply to quantify the industry's CO₂ emissions to facilitate further policy decisions. The publication requirement of the EU MRV:

- Falsely suggests the comparability of ship operation data, failing to recognise that data is subject to constant variation and external circumstances which are beyond the influence of any shipowner;
- Would create a "naming and shaming" system affecting individual ships, which has been opposed many times during the initial legislative process of the EU MRV regulation in 2015 and which in most cases would be completely unjustified; and
- Would disadvantage EU shipowners' and trigger regional systems which could require less transparency and with data not being made publicly available.

The European Commission argues in its 2019 Impact Assessment (page 31, para 3): *"Keeping the EU MRV levels of transparency is fundamental for most categories of stakeholders (citizens, NGOs, academia, verifiers, etc.), with the shipping sector being more sceptical about its usefulness. In any case, harmonizing this feature of the EU MRV is not a priority for the sector (especially in the case if actual cargo carried is not to be reported)." We wonder what "citizens, NGOs, academia, verifiers, etc." actually gain from such information being publicly available, as none of these actors have any decisive powers over chartering ships, operating ships, regulating the efficiency of such ships or of deciding if cargo should be transported on efficient or non-efficient ships. ECSA therefore believes that such argumentation cannot be the base for an introduction of a publication or transparency requirement under EU MRV. Due to the distorting effects the publication requirement of the EU MRV has on the competition of EU shipping companies especially with shipping companies from non-EU countries, ECSA requests that any publication on a per vessel basis should be stalled at least until the end of the legislative process of this proposal, in order not to prejudice further consultative steps.*

Advantages of full alignment of the EU MRV and IMO DCS

Full alignment would not only serve the purpose of creating an internationally unified reliable data base for ships CO₂ emissions, it would also be in line with the

better regulation agenda of the European Commission, which aims for targeted regulation in order to achieve its objectives and bring benefits at minimum cost to the European economy. It has been calculated that double verification requirements will incur an additional cost to the EU shipping industry of 5000 euro per vessel per year. **Full alignment and harmonisation** of the EU MRV with the IMO DCS would mean that:

- The EU MRV Regulation is amended to provide for reporting exactly the same data monitored under the IMO DCS on an annual basis;
- The verification procedures of the IMO DCS will be used within the EU MRV Regulation; and
- The monitoring plan templates and reporting formats, procedures and systems are identical for both systems.

Conclusion

ECSA would like to reiterate its position and calls once again for the full alignment of the EU MRV Regulation with the IMO DCS. The EU MRV should be fully aligned to the IMO data collection system with common verification requirements and data being anonymised before publication. This would remove the administrative burden imposed on the industry and ensure an international level playing field, as required by the European fleet, while at the same time still allowing all to monitor the impact of the measures taken to reduce the GHG emissions globally.