International Chamber of Shipping
Shaping the Future of Shipping

38 St Mary Axe, London EC3A 8BH

Tel +44 20 7090 1460
Fax +44 20 7090 1484

info@ics-shipping.org | ics-shipping.org

INCEPTION IMPACT ASSESSMENT FOR THE PROPOSED AMENDMENT OF THE EU EMISSIONS TRADING SYSTEM (DIRECTIVE 2003/87/EC)

Comments by International Chamber of Shipping (ICS)

Introduction

1. The International Chamber of Shipping (ICS) appreciates this opportunity to comment on the Inception Impact Assessment for the proposed Amendment of the EU Emissions Trading System (Directive 2003/87/EC), in particular the proposal to extend the EU ETS to maritime transport.

2. ICS is the global trade association for ship operators representing more than 80% of the world merchant fleet with the shipping industry's global regulators including the UN International Maritime Organization (IMO). ICS membership comprises the worlds' national shipowners' associations, including associations which are also members of the European Community Shipowners' Associations (ECSA).

3. The global shipping industry is committed to complete decarbonisation of this international transportation sector and the achievement of the ambitious greenhouse gas (GHG) reduction targets already adopted by IMO Member States, including all EU States, as part of the IMO Initial Strategy on reducing GHG emissions from ships, which was agreed in 2018.

ICS/ECSA study

4. In conjunction with ECSA, ICS has published a study by independent consultants: 'Implications of Application of the EU Emissions Trading System (ETS) to International Shipping, and Potential Benefits of Alternative Market-Based Measures (MBMs)'.

5. ICS encourages the Commission to analyse and take careful account of the information and important issues covered by this ECSA/ICS study, as it takes its initiative forward. In addition, ICS wishes to make the following remarks which we hope the Commission will find useful.

General remarks

6. ICS strongly disagrees with the contention in the Inception Impact Assessment that the administrative burdens of requiring shipping companies to purchase and trade in carbon allowances will be limited by building on Regulation (EU) 2015/757 (the EU MRV Regulation). Emissions trading has been designed for sectors such as electricity generation, steel and cement production, and is completely inappropriate for application to a sector such as international shipping which largely comprises companies that are Small and Medium sized Enterprises (SMEs). SMEs are a particular characteristic, inter alia, of the dry bulk and tanker sectors which comprise the majority of international shipping. A more pragmatic approach is therefore required, such as the European Parliament's recommendation to continue leaving road transport outside the scope of the EU ETS.

7. The different characteristics of the numerous ship types, contractual relationships and operators within the international shipping sector present a highly complex market that is unlikely to be effectively or appropriately addressed should the EU ETS be applied to shipping unilaterally.

8. As matter of principle, the global shipping industry is opposed to any proposal for unilateral or regional regulation of international shipping which undermines the authority of IMO, which has been given responsibility by UNFCCC Parties for regulating the reduction of international shipping's GHG emissions, as these cannot be attributed to individual national economies.

9. As the industry's global regulator, IMO is the only appropriate forum for the development of a market-based measure (MBM) applicable to international shipping. This is a position shared by most IMO Member States.

10. The development of a global MBM is already included as a mid-term candidate measure under IMO's Initial Strategy. When the Member States of IMO commence the development of an MBM, the preference of the global shipping industry is for a levy based system linked to fuel consumption/CO_2 emissions, as this is the form of MBM which the global industry has determined will be least likely to create unfair competition or distortion of global shipping markets. This is a position shared by many non-EU States, regardless of whether or not they may be currently in favour of applying MBMs to shipping.

11. ICS is very concerned, inter alia, that this EC initiative is being taken forward with little apparent understanding of the implications for the ongoing negotiations at IMO to eliminate GHG emissions from the sector globally, or the wider ramifications for the EU's relationships with its trading partners.

Impact on third countries

12. Estimates derived from the EC 2019 Annual Report on CO_2 Emissions from Maritime Transport, 19 May 2020, based on implementation of the EU MRV Regulation, suggest that the CO_2 emissions that might be affected – but not necessarily reduced – by the extension of the EU ETS to international shipping only represent about 15% of the global shipping sector's total emissions. Yet the proposed extension of the EU ETS to shipping risks derailing the negotiations at IMO which are seeking to decarbonise the entire global shipping sector.

13. Based on the current scope of the EU MRV regulation, some 50% of the affected shipping companies would be located in third countries, more than 60% of the revenue raised from the sale of allowances would be from the third country voyages, about 67% of the participating fleet would be ships registered in non-EU/EEA flag States, and more than 16,000 voyages outside of EU/EEA waters would need to be tracked annually. Ships registered with over 100 third countries' flag States would be affected, potentially in conflict with the United Nations Convention on the Law of the Sea.

14. ICS is aware that many third countries view the EC proposal as an extraterritorial impost on trade; these non-EU States being aware of the Commission's publicly declared intention (mention of which is omitted from the Inception Impact Assessment) to use the billions of euros per year that would be raised from the sale of carbon allowances to shipping companies, including non-EU companies, to finance EU recovery.

15. For example, a ship could begin its westbound voyage in China, before reaching Europe, where it could nevertheless have to purchase allowances for carbon emitted over the course of the voyage.

16. Countries outside the EU will doubtless view this extraterritorial initiative as a means of getting the rest of the world to pay for EU economic recovery, at a time when the EU needs to encourage global trade, not create new barriers.

17. A further concern is that if the EU goes ahead with this extraterritorial approach, intended to raise revenue for recovery, other nations around the world might feel entitled to emulate this unwelcome precedent, applying their own 'carbon charges' to international voyages, which originate or terminate at ports outside their territory, creating chaos and fragmentation of the global maritime regulatory framework.

Purchase of allowances will divert investment from zero-carbon technologies

18. If the EU is serious about helping the shipping industry transition to zero-carbon technologies it should not pursue this unilateral proposal. The money which will be taken out of the shipping industry to purchase carbon allowances, seemingly with the objective of supporting EU recovery, would be

far better spent, in-sector, on research and development and, once these zero-carbon technologies exist in a scale and form that can be applied to maritime transport (which is not the situation today), investment in their deployment.

19. Rather than incentivising the transition to zero-carbon technologies, the extension of the EU ETS to shipping will only serve to impede the process of decarbonisation of international shipping, putting the EU in conflict with the achievement of both IMO and UNFCCC climate change objectives.

No justification for unilateral action, as IMO is on track with its GHG Strategy

20. ICS disagrees with the statement in the Inception Impact Assessment that extending the EU ETS to shipping is somehow justified ‘in view of the increasing emissions from maritime transport’.

21. The Fourth IMO GHG Study, published in August 2020, demonstrates that total shipping GHG emissions globally were 7% lower in 2018 than in 2008, the baseline year set by IMO’s Initial Strategy, despite a 40% increase in maritime transport (tonnes of cargo moved one kilometre) and an improvement of about 30% in carbon intensity during the same period.

22. Moreover, in November 2020, with the support of EU States, IMO agreed to a mandatory package of additional technical and operational regulations to reduce the carbon intensity of the existing global fleet by at least 40% by 2030, compared to 2008, which will enter into force globally in 2023. This demonstrates that IMO is on track to achieve the ambitious target for 2030 which IMO Member States have previously agreed, as a milestone on the pathway to full decarbonisation.

23. Achievement of IMO’s 2030 target is also supported by the progressive tightening of the technical efficiency standards for new build ships, with the mandatory Energy Efficiency Design Index (EEDI), meaning that new ships delivered in 2022 must be at least 30% more carbon efficient than ships delivered before 2013, while large new containerships must be at least 50% more efficient.

24. The IMO Initial Strategy, to which EU States signed up in 2018, sets out a clear pathway to reduce the sector’s total GHG emissions by at least 50% by 2050 with full decarbonisation to follow as soon as possible.

25. In addition to listing the development of a global shipping market-based measure (MBM) as a candidate measure, to help ensure delivery of the agreed IMO targets, the IMO Strategy lists the establishment of an International Maritime Research Board (IMRB) as a short term measure, on which work can begin before 2023.

26. The purpose of the IMRB, a non-governmental research and development organisation to be overseen by IMO, will be to accelerate R&D of zero-carbon technologies. The industry, represented by its global trade associations, has made a detailed proposal for shipowners to finance the IMRB via a mandatory contribution per tonne of marine fuel purchased for consumption, which should generate about US$5 billion over a ten-year period.

27. At the IMO Marine Environment Protection Committee (MEPC 75) held from 16-20 November 2020, IMO Member States agreed to give this proposal further consideration at MEPC 76 in June 2021. While this proposed short term measure is not an MBM, the industry co-sponsors have suggested that the mechanism for the collection of the R&D contribution could provide the architecture for an IMO MBM when this is considered as a mid-term measure.

28. In view of the progress made by IMO since the adoption of its ground breaking GHG reduction strategy in 2018, ICS's principal concern is that the application of the EU ETS to shipping would be counterproductive to continuing progress at IMO and the further reduction of the sector's global emissions.

Extending EU ETS to shipping will derail global negotiations at IMO

29. The primary concern of the global industry is that unless this proposal is rejected or seriously modified, the incorporation of shipping into the EU ETS will have profound implications the future authority of IMO. This could potentially derail the concerted efforts by all IMO Member States, including European nations, to eliminate CO_2 emissions from shipping completely.

30. The shipping industry is opposed to any regional regulation that risks undermining global negotiations for reducing all CO_2 emissions from shipping worldwide and the comprehensive IMO Strategy for achieving this, to which all EU States signed up two years ago.

31. Recent discussions at IMO on further CO_2 reduction measures for the existing fleet have demonstrated that major non-EU economies are very much committed to the IMO process.

32. Without further action at the global level by IMO there is a serious risk that total emissions of the global sector might deviate from their current downward trajectory.

33. The Inception Impact Assessment suggests that the EU-ETS could potentially help to achieve the EU's regional emission goals for shipping. But if this undermines global efforts to reduce the global sector's total emissions then would the achievement of these regional objectives really be considered a success?

34. The European Commission therefore needs to consider carefully the extent to which further progress at IMO might be damaged by inclusion of shipping into the EU ETS.

35. Emissions from international shipping are not required to be covered by the Nationally Determined Contributions for CO_2 reduction made by EU States under the Paris Agreement on climate change. Extending the EU ETS to shipping might therefore have little direct impact on the delivery of carbon commitments made by individual EU States. Nevertheless, inclusion of ships trading internationally into the EU ETS could set a concerning precedent that might see negotiations at IMO delayed, or even derailed. Many non-EU governments might reasonably ask why they should continue to spend political capital negotiating further global measures if EU States are actively pursuing their own unilateral agenda.

Risk of trade disputes

36. ICS notes that, in May 2020, the economic damage from the COVID-19 pandemic led the European Commission to advocate a plan that specifically identified the extension of the EU ETS to shipping and aviation, including the sale of carbon allowances, as a major source of revenue worth billions of euros a year to support EU recovery. This was again referred to as part of the post-COVID recovery package agreed to by a Summit of EU Member State leaders in July 2020.

37. ICS further notes that the EU's primary interest in applying the EU ETS to shipping seems to be to use the shipping industry as a source of revenue to support the EU budget and the economic recovery of its Member States.

38. We therefore anticipate that non-EU governments will have serious concerns about this unilateral proposal which they are likely to view as an extraterritorial 'tax' on international trade.

39. ICS fears this proposal will increase the risk of trade disputes with non-EU nations, especially if this proposal is perceived to be no more than a revenue raising exercise, rather than an attempt to reduce total global emissions from international shipping.

40. ICS recalls that previous attempts to apply the EU ETS to international aviation created significant disputes with the EU's trading partners, including China, India and the United States, forcing the EU to back down when faced with possible trade sanctions including the potential cancellation of Airbus orders.

41. The subsequent application of the EU ETS to intra-EU aviation, while generating revenue for EU States, has not resulted in any reduction to total emissions from this sector, in contrast to shipping whose absolute GHG

emissions have reduced significantly throughout the same period despite an increase in maritime trade.

42. The EU therefore needs to decide whether using shipping (including non-EU shipping companies) to support its financial requirements is more important than the environmental goal, already agreed by EU States, of supporting efforts to decarbonise shipping at the global level through implementation of IMO's Initial GHG Strategy.

Additional remarks

43. As these are preliminary comments, we have not elaborated upon the many other negative implications of extending the EU ETS to shipping which the Commission needs to consider. Apart from undermining future progress at IMO, there is a high risk of carbon leakage: increasing CO_2 emissions from shipping outside the scope of the EU ETS, leading to serious market distortion. To limit the need to purchase allowances, many ships would likely tranship cargo in ports just outside the EU, for example the expanding port of Tangiers, or indeed ports in the United Kingdom which after 2020 may be outside the scope of the EU ETS.

44. These issues are explored in detail in the ECSA/ICS Study which is referred to above.

45. Notwithstanding the global shipping industry's serious concerns, and total opposition, to the extension of the EU ETS to international shipping, ICS looks forward to contributing constructively to further consultations as the Commission take forward this initiative.

26 November 2020