

Brief
On
Summary of developments
EU and the EU Fit for 55 policy package
March 2023

EU ETS

Background

The texts following the provisional agreement resulting from the interinstitutional negotiations of the EU ETS and the EU MRV, were adopted on the 9th of February by the Environment Committee of the Parliament.

Next Steps

The vote in plenary is scheduled in April. The text will then be published in the Official Journal and enter into force 20 days afterwards. By end of October 2023, the Commission will have to prepare the delegated and implementing acts related to the inclusion of shipping in the EU ETS.

FUEL EU MARITIME

Background

FuelEU Maritime is the EU's strategy to phase out fossil fuels from shipping and boost the uptake of alternative fuels in the sector. On 14 July 2021, the European Commission presented the FuelEU maritime proposal within its Fit for 55 package. The proposed regulation introduces increasingly stringent limits on carbon intensity of the energy used by vessels from 2025, which should oblige them to use alternative fuels.

- It **applies to commercial vessels of 5 000 gross tonnes and above**, regardless of their flag (fishing ships are exempted).
- It covers all energy used on board when the ship is at an EU port and on voyages between EU ports, and 50% of the energy used on voyages departing from or arriving to an EU port.
- The **responsibility for compliance lies with the shipping company**, as the Commission wishes to create demand which might otherwise not materialise.
- The **proposal introduces** common principles for monitoring, reporting, verification and accreditation, **different from and additional to the existing EU MRV system**.
- It also outlines harmonised **penalties for non-compliance** with the requirements on both the carbon intensity content and the connection to onshore electricity.

Summary of Developments

The EU Parliament and the Council reached a **provisional agreement on FuelEU Maritime**.

The main elements of the provisional agreement related to Bulk Carriers are as follows:

Scope

- 100% of the energy which ships above 5000GT use on voyages between two EU ports or while berthed in an EU port, and
- 50% of the energy they use on trips between an EU port and a non-EU port.

- a review clause in 2028 to assess if higher share of the energy used by ships coming from non-EU countries.

The greenhouse gas intensity limits of energy used on-board by a ship are:

- **2% from 1 January 2025;**
- **6% from 1 January 2030;**
- 14,5% from 1 January 2035;
- 31% from 1 January 2040;
- 62% from 1 January 2045;
- 80% from 1 January 2050.

Renewable Fuels of Non-Biological Origin (RFNBOs)

- The provisional agreement sets a 2% RFNBO target as of 2034 if the Commission reports that in 2031 RFNBO amount to less than 1% of the average fuel mix.
- A multiplier is introduced from 2025 to 2034 to incentive ships to use RFNBOs.

Penalties

- The co-legislators have included the fuel suppliers in the article on the penalties.
- In addition, the provisions on revenues generated from the penalties under the FuelEU regulation were modified. They will be allocated to projects to support decarbonisation of the maritime sector.

Next steps:

The text of this provisional agreement is not available yet and will be released in due course. The agreement will need to be approved first by the Council Committee of Permanent Representatives and the Parliament's Transport and Tourism Committee, and then by the Parliament's plenary and the Council

RENEWABLE ENERGY DIRECTIVE (RED III)

Background

The EU renewable energy directive (RED) was adopted in 2009 to deliver a minimum 20 % share of renewable energy sources (RES) in EU final energy consumption by 2020. The RED was substantially revised (recast) in 2018 to deliver the EU objective of a minimum 32 % share of RES in final energy consumption by 2030. As part of the European Green Deal, the EU adopted even more ambitious climate goals, setting a target of -55 % greenhouse (GHG) emissions by 2030 and a long term goal of net zero GHG emissions by 2050 and the 'fit for 55' package adopted by the European Commission on 14 July 2021 included a significant revision of the RED. It would also further **strengthen the sustainability of biofuels**, prohibiting the use of all biomass from primary and highly biodiverse forests and the use of stumps and roots, and would oblige Member States to design RES support schemes in accordance with the biomass cascading principle.

Summary of Developments

The Council and the Parliament reached a provisional political agreement on the Renewable Energy Directive (RED III).

The main elements of the provisional agreement are as follows:

Targets for the Transport sector:

The provisional agreement gives the possibility for Member States to choose between:

- a binding target of 14.5% reduction of greenhouse gas intensity in transport from the use of renewables by 2030, or

- a binding target of at least 29% share of renewables within the final consumption of energy in the transport sector by 2030.
- The provisional agreement sets a binding combined **sub-target of 5,5% for advanced biofuels** (generally derived from non-food-based feedstocks) **and** renewable fuels of non-biological origin (**RFNBOs - mostly renewable hydrogen and hydrogen-based synthetic fuels**) in the share of renewable energies supplied to the transport sector.
- In addition, there is a minimum requirement of 1% of RFNBOs in the share of renewable energies supplied to the transport sector in 2030.

Link with FuelEU Maritime

The outcome of the provisional agreement on RED III shows that the EU is putting the **emphasis on RFNBOs**. The targets set by RED III **give guidance on the uptake of certain fuels in some sectors, including shipping**, and will be taken into account in the Innovation Fund's calls.

Even if food and feed crop-based fuels can be used in the transport sector under RED III, they are not eligible under FuelEU Maritime and will receive the same emission factors as the least favourable fossil fuel pathway.

Next steps

The outcomes of the FuelEU Maritime agreement, of the RED III negotiations and of the upcoming negotiations on the Net Zero Industrial Act will demonstrate which fuels will be prioritised in the EU for the different sectors.

This provisional political agreement will need to be approved first by the Council Committee of Permanent Representatives and the Parliament's Industry, Research and Energy Committee, and then by the Parliament's plenary and the Council. The text of this provisional agreement is not available yet.

ALTERNATIVE FUELS INFRASTRUCTURE REGULATION (AFIR)

Background

The 2014 Alternative Fuels Infrastructure Directive required EU countries to develop national policy frameworks (NPFs) for developing publicly available refuelling and recharging points for alternative fuel vehicles and vessels. The Fit for 55 package included the proposal to revise the 2014 Directive on alternative fuels infrastructure. The Commission proposed to repeal the directive and **replace it with a regulation**.

The new Regulation sets out provisions for Member States as follows:

- to ensure installation of a minimum shore-side electricity supply for certain seagoing ships (seagoing container and passenger ships) in maritime ports and for inland waterway vessels;
- requires Member States to ensure an appropriate number of LNG refuelling points in maritime TEN-T ports and to identify relevant ports through their national policy frameworks;

Summary of Developments

The Parliament and the Council reached a provisional agreement on the Alternative Fuels Infrastructure Regulation (AFIR).

The main elements of the provisional agreement are the following:

- The requirements to provide electricity to ships at the quayside in ports will be applicable by 2030.
- The provisions regarding on-shore power supply in maritime ports are now fully consistent with the FuelEU Maritime proposal.

Next steps:

Please note that the text of this provisional agreement is not available yet.

This agreement will need to be first approved by the Council Committee of Permanent Representatives (Coreper) and the Parliament's Transport and Tourism Committee (TRAN), and then by the Parliament's plenary and the Council.

NET-ZERO INDUSTRY ACT

Background

The Commission presented on 1st February 2023 a 'Green Deal industrial plan for the net-zero age'. The 'Green Deal industrial plan for the net-zero age' sets out a European approach to boost the EU's net-zero industry. The Act, which represent the EU's response to the US Inflation Reduction Act, aims to innovate and scale up the manufacturing capacity of net-zero technologies in Europe.

It has four thematic pillars:

- 1) Measures to improve the competitiveness of the EU's net-zero industry
- 2) Measures to increase and speed-up access to national/EU public funding, and private funding
- 3) Measures to develop a suitably skilled workforce for the net-zero industry
- 4) Measures concerning global cooperation and international trade

Summary of Developments

On 16 March, the **Commission published** its proposal for a Net-Zero Industry Act, the **first legislative proposal** implementing the Green Deal Industrial Plan published in February.

- The Act identifies a number of "**strategic net-zero technologies**" for which, by 2030, manufacturing capacity need to approach or reach "a benchmark of at least 40% of the Union's annual deployment needs for the corresponding technologies necessary to achieve the Union's 2030 climate and energy targets". Such technologies include:
 - **offshore renewables, batteries, sustainable biogas/biomethane, and**
 - **Carbon Capture and Storage.**
- The proposals also identifies a broader list of net-zero technologies to which the Regulation applies for the purpose of fostering manufacturing, but for which a target is not set. These include i.a. **renewable fuels of non-biological origin technologies and sustainable alternative fuels technologies**

The full text can be downloaded [here](#) and the annexes to the regulation can be found [here](#)

Next Steps

The proposal will now move to the European Parliament and the Council for discussion.

The Regulation shall enter into force the 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.

ENVIRONMENTAL CRIME DIRECTIVE

Background

The directive 2008/99/EC, adopted in 2008 (commonly referred to as Environmental Crime Directive) aims at enhancing compliance with the EU environment protection legislation by supplementing administrative sanctions regime with criminal law penalties. Under the Directive, environmental crime comprises a broad range of illicit activities such as the illegal emission or discharge of substances into air, water or soil, illegal trade in wildlife, illegal trade in ozone-depleting substances and the illegal shipment or dumping of waste, as listed in the 72 pieces of EU environmental legislation contained in the two annexes to the directive. The directive provides for minimum

common rules on criminalisation of serious violations of these environmental laws and requires effective, proportionate and dissuasive sanctions. It foresees liability of both natural and legal persons.

The Directive aims to crack down on environmental crime, fulfilling a key commitment of the European Green Deal. The EU Council, general approach was adopted on 9 December and maintains the Commission proposal regarding **the shipping sector interest and ship recycling continues to be considered a criminal offense when the activity is completed in a yard not included in the EU list.**

At its meeting on 9 December 2022, the Council adopted its general approach on the environmental crime directive, which will be the basis for the negotiations with Parliament on the file.

Council members managed to agree on the **level of sanctions for natural and legal persons**, as follows:

For natural persons:

- for intentional offences causing death to any person, a maximum prison term of at least ten years.
- for offences committed with at least serious negligence causing death to any person, a maximum prison term of at least five years.
- for other intentional offences included in the legislation, a maximum prison term of either at least five years or at least three years.

For legal persons:

- for the most serious offences, a maximum fine of at least 5% of the legal person's total worldwide turnover, or alternatively €40 million.
- for all other offences, a maximum fine of at least 3% of the legal person's total worldwide turnover, or alternatively €24 million.

Summary of Developments

On 21 March, the European Parliament's Legal Affairs Committee adopted its position on the update of EU rules on environmental crimes. With 22 votes in favour, MEPs unanimously agreed to add new offences to the list of environmental crimes punishable at EU level. The updated list would now include in the scope of the Directive offenses deriving from ship source pollution, ship recycling and shipment of waste.

Next Steps

Once voted in plenary, the JURI report will become EP's position for the negotiations with the Council which adopted its general approach on 9 December 2022.

EU TAXONOMY

Background

The proposal forms an integral part of the EU's efforts, under its Capital Market Union project, to **connect finance with needs of the economy and the EU's sustainable development agenda.**

The proposal sets out uniform criteria for determining whether an economic activity is environmentally sustainable and sets out a process involving a multi-stakeholder platform to establish a unified EU classification system (EU taxonomy) based on a set of specific criteria, in order to determine which economic activities are considered sustainable.

On 18 June 2020, the European Parliament adopted the regulation in Plenary.

Summary of Developments

The European Commission is in the process of finalizing the draft proposal of their second environmental delegated act related to the EU Taxonomy Regulation. This second environmental delegated act is amending the first delegated act on the "climate mitigation" environmental objective and adds transitional criteria for maritime shipping for after 2025.

Members may note:

- The second delegated act is not covering pollution prevention for the maritime industry.
- Vessels dedicated to the transport of fossil fuels are still excluded.
- With regards to the technical screening criteria in order that vessels are considered suitable as per the “manufacture, repair, maintenance retrofitting, repurposing and upgrade” of vessels and activities the draft text includes additional criteria as follows:
 - *“from 1 January 2026, the vessels have an attained Energy Efficiency Design Index (EEDI) value at least 20% below the EEDI requirements applicable on 1 April 2022, if the vessels are able to run on zero direct (tailpipe) CO2 emission fuels or on fuels from renewable sources, and have the ability to plug-in at berth.”*
- This above inclusion differs from the criteria proposed by the Platform, which was that:
 - *“Until 31 December 2030, the vessels have an attained Energy Efficiency Design Index (EEDI) value at least 20% (container ships, general cargo and passenger ships only) or 10% (other types of ships) below the EEDI requirements applicable on 1 April 2022, and are able to derive 100% of the energy used onboard from fuels or other energy carriers which achieve at least 80% greenhouse gas emission savings compared to their fossil fuel equivalent on a Well-To-Wake basis and have the ability to plug-in at berth.”*

Next Steps

The proposal is expected to be published in the coming weeks and expectedly a short public consultation will be launched. Currently, the Commission is discussing the draft proposal with EU Member States.