REDUCING GREENHOUSE GAS EMISSIONS FROM SHIPS

Draft MINUTES OF THE THIRD MEETING OF THE SHIPS WORKING (WG Ships) GROUP 6

15 & 16 November 2011

at the Charlemagne Building and the Management Centre Europe, Brussels

These minutes summarise the discussions in the third meeting of the ECCP Working Group on ships. The ECCP WG was set up to provide input to the Commission in its work to develop and assess options for the inclusion of international maritime transport in the EU's GHG reduction commitment should there be no sufficient international agreement including these emissions in reduction commitments by the end of 2011. The ECCP brings together relevant stakeholders, to discuss and prepare the further developments of the EU and the modalities of reducing GHG emissions from ships.

This meeting was the last in a series of three two day meetings foreseen to consider a list of topics important to the maritime sector. At this meeting, the possible policy options and the Impact Assessment Study were presented. The meeting also considered the appropriate emission reduction level and the potential for emission reductions in shipping, the question of offsetting, as well as the relevant legal framework. The issue of short-lived climate forcers and the question of how regional action could serve as a platform for broader action were also addressed.

All presentations referred to below are available, as well as a list of organisations represented in the group at : http://ec.europa.eu/clima/events/0047/index_en.htm

These minutes record the views expressed by representatives present at the meeting.

Introduction and Review of ECCP I and II and IMO Developments at MEPC 62

The European Commission (COM) opened the meeting by providing an overview on the previous ECCP meetings and by outlining the main developments within IMO, in particular the adoption of the Energy Efficiency Design Index (EEDI) at IMO's Marine Environment Protection Committee (MEPC) meeting in July 2011. COM noted that the EEDI was adopted through a vote and that the EEDI in itself did not sufficiently address the GHG emissions from international maritime transport as it only applies to new ships. COM noted that although it considered the ideal solution to be a global solution and therefore would continue to support the progress within IMO on market-based measures (MBM), COM is investing time and effort into developing and assessing options for the inclusion of international maritime transport in the EU's GHG reduction commitment. It was also highlighted that a possible COM proposal tabled next year would have no effect on the ground before 2017/2018 allowing for more time for the development of a global solution. A COM proposal could serve as an accelerator in the IMO discussions.

Support Contract for EC Impact Assessment

AEA Technology introduced, as the leader of the consortium of the support contract for the EC impact assessment, their methodology and the planning of their work. The launch of the impact assessment process was welcomed by several delegations (DE, ESC, FI). DE stressed the importance of the impact assessment of measures and referred to the inclusion of aviation into the EU-ETS.

ICS, supported by ECSA, called for transparent assumptions. In this context, WSC noted that the MACC curves have to be taken into account carefully. Several precise concerns were raised such as the risk of modal split (ESC, ECSA), the need to take into account the diversified circumstances, such as winter conditions, within the EU (FI), the use of revenues to tackle climate change globally (DE, Oxfam) or to help the sector to reduce its emissions (WSC), the impact on fuel and commodities prices (WSC, IMO) and the consideration of existing regulation on sulphur, NOx and others (ECSA).

The effects of the EU measures globally was stressed by DE, Oxfam and the IMO. DE recommended starting the analysis with the intra-EU option. In addition it may be useful to analyse in depth only those options which are feasible. The IMO indicated that developing countries might be affected by a regional measure.

AEA Technology pointed out that the model used, TIMES, is a global model that integrate most of the concerns, especially the consideration of existing regulation, the recycling of revenues and the modal split. A methodology to select relevant commodities to be assessed will be set.

COM underlined its openness to discuss with stakeholders the assumptions made for the impact assessment. COM agreed to consider the possibility of involving experts in the impact assessment process.

Main Policy Options

COM introduced the possible policy options to be analysed in the impact assessment.

BIMCO, supported by NL, SAR, EDF, stressed that the key issue is the effectiveness to address climate change.

All stakeholders indicated their preference for a global scheme. However, all Members states who took the floor (DE, FI, NO, NL, DK, SE) indicated their openness to elaborate and/or discuss a regional measure in parallel with the IMO process with the goal to serve as a basis for or advance a global scheme. The IMO indicated that for some policy options, a regional measure cannot serve as precursor for a global scheme. NGOs (SAR, EDF, T&E) encouraged the EU to take action. ICS, ECSA and Intermanager are not in favour of an EU measure.

Regarding an ETS, some stakeholders (BIMCO) considered the administrative efforts as an issue, whereas NL considered that it is mainly an issue for public authorities. The risk of evasion (BIMCO) was raised. The openness of an ETS was also discussed. Stakeholders (BIMCO) and Member States (DE, EL) considered that a closed ETS would be problematic. DE, SE, NO, UK, IETA, Transport and Environment supported an ETS. UK indicated that they preferred an ETS with 100% auctioning and no earmarking. EL expressed its opposition to an ETS.

Regarding a compensation fund, the issue of setting carbon price was raised by FR. The possibility to raise revenues for global climate change finance was also mentioned (FR). Regarding an industry managed compensation fund, several Member States asked for clarity to identify who will manage the fund (FR, UK). FI, EL supported the compensation fund option.

Regarding mandatory emission reductions per ship, several stakeholders (BIMCO, WSC) considered that there is a risk of stopping trade if the emission of each ship is capped on historical performance. Taking into consideration the efficiency of the ship, such as the one set by the EEDI or the EEOI, is clearly preferred by several stakeholders and Member States (DE, WSC). Regarding the EEDI, CESA indicated that its opposition to apply this on existing ships. The feasibility at the EU level was also questioned (DE, WSC).

Regarding the tax, DE stressed the importance of the legal issues and in particular its compatibility with the energy tax directive. EUROPIA is opposed to any system applying to fuel suppliers.

Several Member States and stakeholders agreed that the responsible entity should be the ship (DE, FI, NO, IMO). However, CE Delft indicated that it is possible to leave this choice open.

Seas at Risks recalled the sensitivity to the maritime sector on the fuel price and called for a range of measures and not only one. They reiterated the preference for speed limits.

EDF, supported by IETA, indicated the need of a robust compliance mechanism.

The IMO stressed that the issue of ships calling once into EU ports should be addressed, such as the flexibility in the design of the scheme. Building a scheme on historical emissions seems to be challenging according to the IMO.

DK underlined the importance of flag neutrality.

COM reiterated its wish to achieve a global agreement in the IMO. In this context, the Commission underlined that, if a proposal is made next year, it will take several years to be implemented at the EU level and therefore the IMO has still time to deliver. Any EU measure will also be fully compatible with international laws.

<u>Legal Issues</u>

After presentations by the European Maritime Safety Agency (EMSA) and ClientEarth setting out the international legal framework of relevance to the inclusion of international maritime transport in the EU's GHG reduction commitment, no participant underlined a possible incompatibility of the considered policy options with international law. Some were of the view that all considered policy options could be designed in a manner that is compatible with international law (T&E, DE, CY, WSC). DE pointed out that DE had analysed possible legal issues as well as the opportunities and barriers created by international law to a global MBM before making an ETS proposal to IMO and that preference should be given to the option that is most environmentally effective whilst being legally compatible. DE also remarked that parts of the Advocate General Kokott's Opinion in case C-366/10 on the compatibility with international law of the inclusion of aviation in the EU ETS were of relevance for shipping. Finally, DE insisted that the role of bilateral agreements with third countries on shipping also had to be considered.

When questioned why they preferred a "port entry"-based measure, ClientEarth responded that in terms of scope, port-entry raised less legal issues than a system based on distance or time for reasons of proportionality, although the evasion risk was lower in a distance/time-based scheme. ClientEarth also clarified that outgoing ships could be covered by a "port entry"-based scheme if allowances had to be surrendered on an annual basis by the ship, as liability would arise the next time the ship would return to the port.

The Commission's Legal Service highlighted that under UNCLOS and WTO law, continuous international efforts to reach agreement should and are being undertaken. Moreover, the Legal Service recalled that a future EU measure should be compatible with a system adopted at international level. Any risk of double regulation could be more easily avoided in a "port entry"-based scheme than in a scheme based on distance or time.

Generating Offsets through a Sector Based MBM/Access to Reductions in Other Sectors – International Credits

Several Member States and stakeholders stressed the need to strike the right balance between in-sector and out of sector reductions/offsetting. DK, ICS and WSC highlighted a perceived need for offsetting to enable the shipping sector to achieve its reduction targets cost-effectively, as there might be technical and operational limits to the reductions that are possible in the shipping sector. Others emphasised the wish to limit offsetting to encourage in-sector reductions (DE, SE).

Level of Reductions

The EC introduced a synthesis of the studies made on MACC curves in perspective of the EU objectives, followed by a presentation of DNV on the possible level of reduction achievable in the maritime sector and a presentation by ECSA on what the sector can deliver.

ECSA indicated that the shipping sector is committed to reduce its GHG emissions. However, shipping is the servant of the world trade and is the most effective mode of transport. ECSA recognised that the work in the IMO has been slow due to its political background. A reduction of 50% by 2050 compared to 2005 is achievable, as well as a relative reduction of 20% by 2020 compared to business as usual. To this end, EEDI and SEEMP are not sufficient. Regarding global climate change finance, the shipping sector will contribute, but it should not be the only one. ECSA also stressed the risk of modal split and evasion in case of regional measure. ECSA also indicated that the majority of ship owners is in favour of a global compensation fund.

The issue of market barriers was raised by several participants (CE Delft, DE).

Regarding the EU objectives, DE recalled that the Council objective was made in the context of Copenhagen and stated that for shipping a cap of – 50 % until 2050 compared to 2005 levels might be feasible.

Regarding the risk of modal split, SE considered that will not happen in most cases, as road and rail are facing similar pressure. SE, supported by ECSA, called for incentives to support the maritime industry to overcome market barriers.

The IMO stressed that the EU emissions reduction is linked to the delocalisation of its industry to other parts of the world and therefore the increase of emissions of the shipping sector may be linked to this development.

CESA, supported by EMEC, stressed that, even if shipping is the most effective mode of transport, the current fleet is not efficient and, taking a lifecycle approach, 97% of CO_2 emissions of a ship is emitted during its operation.

EMEC noted that even though shipping is the most efficient way of global transport – emitting about 4 % of the global CO_2 emissions, transporting in excess of 95% of global transport – there is room for improvement; the most effective driver is cost saving through energy/fuel saving.

WSC stressed that ship operator have a limited leverage over the ship design.

Short Lived Climate Forcers

Transport and Environment made a presentation on the work they have done on short lived climate forcers. The IMO informed that work has begun on this issue at the global level. Several participants recalled that existing regulation have an impact on black carbon, such as the EEDI (ICS) and the sulphur rules (SE). DE indicated that we already have a good enough knowledge of black carbon to know that it is a concern.

Market Barriers

COM highlighted that different studies undertaken by the IMO, DNV, CE Delft and IMarEST had revealed the great potential to reduce GHG emissions from shipping at low or negative abatement costs. Nevertheless, GHG reduction measures are not being taken up widely by the industry, possibly due to market barriers to the introduction of abatement solutions.

Following a presentation by Maddox Consulting outlining their intended workplan to conduct a COM-financed market barriers study, SE encouraged Maddox Consulting to also consider parallels in other sectors such as market barriers to eco-driving in long-distance truck freight/road voyage. BIMCO considered that market barriers related to the questions of who is the owner, who pays the fuel bill and who benefits from the measures, as well as the fact that retrofitting is expensive. CESA assumed that behavioural market barriers were of greater importance than technological market barriers and proposed the development of criteria to be taken into account by banks when deciding whether to finance ships.

EMEC asked the question as to how the maturity of the technologies to be studied by Maddox Consulting will be measured. This needs to be considered carefully as many of the longer term technology developments which have a large potential to reduce GHG emissions are relatively immature and may not be available for widespread use in the timescales assumed in many forecasts.

ICS expressed concerns about the study being too generic and preferred targets being imposed on the industry rather than measures/solutions.

ECSA emphasised that surveys undertaken by the Danish Shipowners' Association had revealed that measures to reduce GHG emissions in the maritime transport sector are being taken up and said that the relevant data was publicly available on the website of the Danish Shipowners' Association.

IMO said that in an ideal MBM, part of the revenues generated through the measure should go back to the industry as in the MBM proposal by Japan to IMO since this would lead to the fastest emission reductions. Making part of the revenues available for R&D and for improving port and sea infrastructure in developing countries could also lead to reductions, while a general compensation scheme for developing countries might not result in (fast) reductions from the shipping sector. CESA stated that it would only be possible under a regional and not an international scheme to return all revenues to industry and that the most important emission reductions were possible in a system in which 100% of the revenues would go back to the industry.

Regional Action as a Platform for Broader Action

For a possible EU measure to be perceived as successful by COM, it would have to stimulate other states, regions and international organisations (IMO and UNFCCC) to adopt measures to reduce emissions from the shipping sector.

Several Member States and stakeholders insisted that for a possible EU measure to serve as a platform for broader action, it would have to be compatible with international law (NO) and promote IMO action (ES, FR, NL, NO). NL noted that the COM/EU would have to be active in the IMO debate to ensure compatibility with possible IMO action. Some participants argued that the EU system/systems would also have to allow for gradual linking with other compatible systems (FR) and that close cooperation, in particular with neighbouring states, was essential to avoid evasion (FR, SE). T&E considered the use of part of the revenues generated by the EU measures as crucial to promote broader action and FR suggested using some of the revenue to encourage linking and cooperation with neighbouring states. It was also highlighted that good communication was crucial to support broader action (NL, SE). ECSA noted that a COM proposal could help the EU to speak with one voice in future MBM debates within IMO and thus positively contribute to the IMO discussions by helping narrowing down the MBM proposals.

SE insisted that to facilitate expansion of the regional system to other states/regions it might be better to keep the shipping scheme separate from the existing ETS.

Summary and Close of ECCP Process

COM closed the ECCP process by thanking all Member States and stakeholders for their valuable contributions, which will be taken into consideration by COM in its future work on the inclusion of international maritime transport in the EU's GHG reduction commitment. Stakeholders can provide further input through written submissions or by participating in an online consultation on "Your Voice in Europe".

COM highlighted the consensual view that a global solution to tackle GHG emissions from maritime transport was the preferred option. It is COM's intention to continue being closely involved in the IMO process and to engage with neighbouring countries and other third states. COM stressed the existing obligations under EU legislation, requiring COM to act on maritime emissions. A proposal for including maritime transport emissions in the EU's GHG reduction commitment is foreseen in the Commission Work Programme for 2012. COM stressed that a proposal tabled next year would not be likely to have effects on the ground before 2017/2018, leaving considerable time for global action to be taken forward. A future COM proposal would address issues of distortion of competition and evasion, be compatible with international law and strike the right balance between in-sector reductions and offsetting. Any EU action should serve as a platform for broader action.

IMO invited COM to submit the outcome of relevant studies to pertinent IMO bodies as they could be useful also in the context of global regulations.