

## **European Climate Change Programme – WG Ships**

**8<sup>th</sup> February 2011**

### **Background document:**

#### **Enforcement of actions to reduce climate impact of maritime transport**

##### **Introduction**

For any mandatory measure applying to maritime transport whether developed at international level or at EU level would need enforcement provisions to be enacted, especially to impose sanctions in the event of non-compliance.

Such regime could be harmonised at EU level in order to ensure that enforcement measures are the most effective and efficient while minimizing costs.

National authorities would be responsible for ensuring compliance of vessels calling at their ports. However, when looking at the type of controls that would be needed, it would be essential to distinguish between 1) enforcement measures directly applicable to non-complying ships/shipowners and ships' operators and 2) enforcement measures applicable to other non-compliant actors/participants such as fuel supplier or financial market.

This background paper would focus on the maritime regulatory framework and the consequences of non-compliance from the main maritime actors.

##### **Responsible entities under a GHG measure**

A measure on GHG for shipping would necessarily involve tasks for a broad range of entities, irrespective of applying an upstream (based on fuel supply) or a downstream measure (based on individual ships). What are the potential obligations for those actors which could lead to non compliance?

Would fuel suppliers obliged to provide any other documents than the Bunker Delivery Note?

Would ships, via their agents/shipping companies/shipping management or even charterer, be requested to demonstrate compliance when calling an EU port using the Bunker Delivery Note, report the amount of fuel consumed, report their emissions, pay a contribution and/or surrender allowances?

Would existing arrangements between shipowners, operators, charterers be suitable to ensure that the contributions are paid or surrender of allowances is done accordingly?

Flag states could be requested to issue certificates, approve CO2 emissions reports, monitor and enforce compliance for ships flying their flag.

Port states could be requested to monitor and inspect compliance for ships voluntarily in their ports, check the Bunker Delivery Note, the oil record books, other log-books and additional documentations on board ships, verify that ships have paid their contributions or surrender sufficient allowances.

### **Authorities competent to enforce a GHG measure**

Member States would be required to maintain appropriate national administrations to perform the duties established by a GHG measure for shipping. Should an enforcement body/authority be designated in a harmonised manner throughout the EU? Or should it be left to the Member States to designate the responsible authorities/bodies on an individual basis?

It could also be expected that some aspects of the enforcement, which are directly related to the ship operation, could largely rely on the existing systems in place such as the flag states and Port States Control (PSC). Could the existing flag states surveys and EU PSC regime be used for GHG measures? Are any changes required?

For non-compliance involving new responsibilities and tasks such as controlling that sufficient allowances have been surrendered, that contributions have been paid or that ships respected a certain speed 'en route', would the PSC regime or the flag state survey be adapted? What other ways could measures be enforced?

### **Use of the existing maritime regulatory framework**

The extent to which new skills would be required from inspectors (PSC or flag) would largely depend on the exact nature of a GHG measure. Port State Control Officers already check documentations and certificates which are GHG relevant such as the Bunker Delivery Note and the oil record book.

Are existing resources sufficient? What additional resources may be required? Would there be a need for training in particular to detect fraud?

Could enforcement be facilitated for regular/frequent participants?

Should all ships face the same enforcement regime? Or would a targeted approach be suitable making a distinction between things that have a constant performance e.g. a type of equipment installed on board, Energy Efficiency Design Index (EEDI) and operational measures such as speed limit, better logistic in arrivals/departure, choice of optimal routes?

Would it be possible to envisage controls in ports based on remote sensing systems aiming at controlling speed and emissions generated en route?

### **Databases – exchange of information**

Would a central database be necessary to ensure an exchange of information on the enforcement regime and the sanctions applied? Could controls benefit from a real time access to information such as the ship calls, ships emissions, contribution made/unit surrenders.

### **Setting the right penalties/sanction in case of non-compliance**

Would a system of administrative penalties be sufficient to ensure compliance? What should be the level of the penalty? Would a penalty be a suitable instrument for ships not flying the flag of EU member States and for which the company is not registered/managed in the EU?

Arrangements between the shipowners, operators and charterers would also be needed to ensure that the responsible entities be liable for its lack of compliance?

What are the alternatives to administrative penalties in case of recurrent or continuous non-compliance: detention of the ships / operating ban / refusal of access to EU ports?

Could a 'name and shame' action be envisaged stating the poor performance of the ship and being available to charterers and transporters via the Equasis database managed by the European Maritime Safety Agency?

### **Ensuring an effective enforcement system**

How can we be sure enforcement is effective?

How can we ensure enforcement is proportionate?

### **Disclaimer**

The purpose of this background paper is to indicate possible areas for discussion and assist participants with their preparation. This document should not be seen in any way to limit the scope of discussion or to exclude any relevant aspect. ECCP participants are requested to raise and address all relevant aspects. This document is not intended to indicate any preferences or views of the Commission.