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Union submission to the 77th session of the International Maritime Organization's Marine Environment Protection Committee proposing to include information on ship's EEXI and CII performance in the IMO Data Collection System and to launch a work stream for further amending the IMO DCS

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PURPOSE

This Staff Working Document contains a draft Union submission to the International Maritime Organization's (IMO) 77th session of the Marine Environment Protection Committee (MEPC 77). The IMO has scheduled MEPC 77 from 22 to 26 November 2021.

The draft submission is suggesting to include information on ship's Energy Efficiency Existing Ship Index (EEXI) and Carbon Intensity Indicator (CII) in the IMO Data Collection System. The text also suggests launching a work stream for further amending the organisation's Data Collection System. The annexes of the draft submission include suggested possible amendments to MARPOL Annex VI and draft terms of reference for the work stream.

EU COMPETENCE

Regulation (EU) 2015/757[1] (MRV Regulation) establishes the legal framework for an EU system to monitor, report and verify CO_2 emissions and energy efficiency from shipping. The regulation aims to deliver robust and verifiable CO_2 emissions data, inform policy makers and stimulate the market uptake of energy efficient technologies and behaviours. It does so by addressing market barriers such as the lack of information. It entered into force on 1 July 2015.

Related delegated Commission regulations on verification and accreditation of verifiers and on the refinement of monitoring methods were adopted on 22 September 2016. [2] Two additional implementing regulations on cargo parameters and templates were adopted by the Commission on 4 November 2016.[3]

The Energy Efficiency Existing Ship Index (EEXI) and the Carbon Intensity Indicator (CII) are linked to the MRV Regulation, as the Regulation requires companies to report the technical and operational carbon intensity of their ships.

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[1] Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC, OJ L 123, 19.5.2015, p. 55–76

[2] Commission Delegated Regulation (EU) 2016/2071 of 22 September 2016 amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the methods for monitoring carbon dioxide emissions and the rules for monitoring other relevant information, OJ L 320, 26.11.2016, p. 1–4 and Commission Delegated Regulation (EU) 2016/2072 of 22 September 2016 on the verification activities and accreditation of verifiers pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, OJ L 320, 26.11.2016, p. 5–24

[3] Commission Implementing Regulation (EU) 2016/1927 of 4 November 2016 on templates for monitoring plans, emissions reports and documents of compliance pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on monitoring, reporting and verification of carbon dioxide emissions from maritime transport, OJ L 299, 5.11.2016, p. 1–21 and Commission Implementing Regulation (EU) 2016/1928 of 4 November 2016 on determination of cargo carried for categories of ships other than passenger, ro-ro and container ships pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, OJ L 299, 5.11.2016, p. 22–25

The draft Union submission is fully within the scope of the rules contained in the MRV Regulation. Any IMO measure on such matters would affect the implementation of that Regulation.

In light of all of the above, the present draft Union submission falls under EU exclusive competence.[4] This Staff Working Document is presented to establish an EU position on the matter and to transmit the document to the IMO prior to the required deadline of 17 September 2021.[5]

[4] An EU position under Article 218(9) TFEU is to be established in due time should the IMO Maritime Safety Committee eventually be called upon to adopt an act having legal effects as regards the subject matter of the said draft Union submission. The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*' (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64). The present submission, however, does not produce legal effects and thus the procedure for Article 218(9) TFEU is not applied.

[5] The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

MARINE ENVIRONMENT PROTECTION COMMITTEE
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REDUCTION OF GHG EMISSIONS FROM SHIPS

Proposal to include information on ship's EEXI and CII performance in the IMO Data Collection System and to launch a work stream for further amending the IMO DCS

Submitted by the European Commission on behalf of the European Union

SUMMARY

Executive summary:	This document suggests to include information on the ship's required and attained Energy Efficiency Existing Ship Index (EEXI) and Carbon Intensity Indicator (CII) values and rating in the IMO Data Collection System (DCS). It further suggests to launch a work stream for amending the IMO DCS to pave the way for the review of the Carbon Intensity framework by 1 January 2026. The annexes of the draft submission suggest possible amendments to Appendix IX of MARPOL Annex VI and draft terms of reference for the work stream.
Strategic direction, if applicable:	3
Output:	3.2
Action to be taken:	Paragraph 28
Related documents:	MEPC 73/6/1; MEPC 74/6, MEPC 74/6/1, MEPC 74/6/3, MEPC 74/INF.35, MEPC 76/5/1, MEPC 76/6/1, MEPC 76/7/3 to 6, MEPC 76/INF.7 to 10, , MEPC 76/7/23, MEPC 76/7/24, MEPC 76/7/51, MEPC 76/WP.4, MEPC 76/WP.1/Rev.1

1 ISWG-GHG 8 and MEPC 76 discussed the IMO Data Collection System (IMO DCS) in relation to the amendments to MARPOL Annex VI as contained in document MEPC 76/3 and adopted by MEPC 76, and the associated Technical Guidelines on Carbon Intensity Reduction.

2 These discussions, as well as the reports of the Correspondence Group on Air Pollution and Energy Efficiency (MEPC 76/5/1) and the Correspondence Group on the Development of Technical Guidelines on Carbon Intensity Reduction (MEPC 76/7/3 to 6), together with other related submissions, such as documents MEPC 76/7/23 and MEPC 76/7/24, concluded that there is a need to collect more data for the purpose of getting a better insight in and understanding of the potential for further reduction of ship's carbon intensity.

3 On this basis, it was also decided to consider further refinements of the recently adopted Carbon Intensity framework (EEXI/ CII), the review of which is to be concluded by 1 January 2026 in accordance with regulation 28.11 of MARPOL Annex VI. It is evident that for a meaningful review, a comprehensive and reliable dataset is a pre-requisite.

4 While other options for gathering additional data on an ad-hoc basis or from other sources can be explored in parallel, the European Union believes that IMO DCS should remain the main source of information on ship's energy efficiency and carbon intensity performance. In order to ensure that the IMO DCS remains fit for this purpose, this document proposes to include the information on the ship's required and attained EEXI and CII performance in the IMO DCS, including concomitant amendments to Appendix IX of MARPOL Annex VI, and to launch a work stream for amending the IMO DCS, by amending the relevant MARPOL Annex VI provisions, including its Appendix IX, in particular through the inclusion of additional data.

5 Furthermore, as discussions in the Correspondence Group on the Development of Technical Guidelines on Carbon Intensity Reduction have also shown, the current provisions on the implementation of IMO DCS related to rounding and anonymisation of data severely limit the capability of IMO members to access, analyse and comprehend the dataset on the basis of which policy decisions are made. In the opinion of the European Union, such situation is no longer justified and it is therefore proposed that these issues are also addressed in this work stream.

6 The European Union believes that amending the IMO DCS should be undertaken as a matter of urgency in order to maximise the chances that more comprehensive data can be used for the review of the CII framework to be conducted by 1 January 2026 and to improve as soon as possible consideration and decision-making of future additional measures for reduction of GHG emissions from ships. 'Early implementation' of amendments to the IMO DCS could be considered aiming to start collection of data as early as possible.

Proposal for inclusion of information on ship's EEXI and CII values and rating in IMO DCS

7 The amendments to MARPOL Annex VI on the short-term GHG emissions reduction measures adopted at MEPC 76 require ships to calculate, verify and record their Energy Efficiency Existing Ship Index (EEXI) and their annual operational carbon intensity indicator (CII). Based on the latter, ships will be given a rating (A, B, C, D, E). However, although the information will be provided in the ship specific IEE Certificate, Statement of compliance for fuel oil consumption reporting and operational carbon intensity rating, and SEEMP, no provisions have been made to report the information on the ship's performance to IMO DCS, nor to the public.

8 The European Union is of the view that information on carbon intensity of ships, i.e. the required and attained annual operational CII, and the ship's rating, together with the required and attained EEXI, would provide essential information on the global fleet's energy efficiency and carbon intensity performance, and therefore should be reported to the IMO DCS. Such reporting will provide essential information on carbon intensity to both MEPC's 2026 review of CII, as well as for the discussions on mid- and long-term measures. Similarly to the Energy Efficiency Design Index (EEDI), such information is an inherent part of the ship's technical and operational characteristics already reported in accordance with Appendix IX to MARPOL Annex VI, and a pre-requisite for an informed reporting to the Marine Environment Protection Committee, as required in Regulation 27.10 of MARPOL Annex VI. To this end, possible amendments to Appendix IX are suggested in annex I to this submission.

Proposals for further amending the IMO DCS

Inclusion of cargo related data

9 The lack of robust and reliable cargo related data in the current IMO DCS framework proved to considerably limit the analysis and policy decision during the development of the recently adopted short-term measure, and in particular the Technical Guidelines on Carbon Intensity Reduction. It simply made impossible the development of the reference lines, reduction factors and rating boundaries, on the basis of demand-based data. In their comments on the Group's report, co-sponsors of document MEPC 76/7/24 highlighted the benefits of using demand-based metrics as a tool to measure the carbon intensity performance of ships, but recognised that such metrics can only be reasonably used for a regulatory measure if based on actual reliable data and consistent quantifications. Therefore, the co-sponsors suggested to launch without delay a work stream on how the IMO DCS could be further amended to include cargo data in an appropriate manner.

10 Although MEPC 76 and ISWG-GHG 8 agreed that, in the absence of robust cargo related data, trial metrics such as the EEOI[6] should be used for reporting on a voluntary basis, the European Union believes that this may not provide a comprehensive and representative enough set of data for further review of the short-term measure and for the development of future measures. Such data needs to be mandatorily collected, verified and reported through the IMO DCS.

11 Based on proposals and outcome of the Correspondence Group on the Development of Technical Guidelines on Carbon Intensity Reduction, the European Union proposes as a basis for discussion, in table 1 below, a set of essential simplified cargo related data that could allow better analysis of carbon intensity of the fleet in the future while at the same time limiting the administrative burden for the companies, which already collect these data for commercial purposes.

Table 1: Essential cargo related data per ship type

Ship type	Essential cargo related data
bulk carriers, tankers, combination carriers, gas carriers, LNG carriers, ro-ro cargo ships, general cargo ships, container ships and vehicle carriers	Metric tonnes
cruise passenger ships and ro-ro passenger ships	Number of passengers

Consideration of other possible amendments to amend the IMO DCS

12 The ongoing discussion on correction factors and voyage exclusions in the Correspondence Group on the Development of Technical Guidelines on Carbon Intensity Reduction has shown that information on the distribution of fuel consumption is essential for a better understanding of the differences and variations that may be found on certain ship's carbon intensity indicators and, consequently, the need for, and added value of, certain correction factors and voyage exclusions. This points out the need to consider the granularity of the information reported as set out in Appendix IX to MARPOL Annex VI.

13 For example, as a starting point for the discussion in the proposed work stream, the European Union suggests to split the reported annual fuel consumption data between 'underway' and 'at berth' conditions in the IMO DCS. This could potentially be complemented

[6] Refer to the *Guidelines for voluntary use of the ship energy efficiency operational indicator* (MEPC.1/Circ.684)

by other operational conditions related to future potential CII correction factors. Also, the general differentiation between auxiliary and main engine (propulsion) fuel consumption should be envisaged.

14 The discussion in the Correspondence Group on the development of the Technical Guidelines on Carbon Intensity Reduction also showed that there may be a need to further refine some definitions of ship categories for data reporting, in order to have more meaningful knowledge of some ship types' specific carbon intensity performance, such as LNG carriers, high speed crafts, combination carriers, etc. Such consideration could be part of the work stream, bearing in mind the necessity to limit the implications of such potential amendments for other regulations in MARPOL or other IMO conventions.

Data anonymisation, rounding and accessibility

15 MARPOL Annex VI should be amended to remove the requirement that the DCS data are anonymised. IMO's ship fuel oil consumption database is governed by regulation 27 of MARPOL Annex VI taking into account the associated Guidelines developed by the IMO[7] where relevant, requiring the data to be anonymised and rounded. As explained in document MEPC 76/7/51, the anonymisation and rounding of the data in the IMO DCS have significantly hampered the work in the Correspondence Group on the Development of Technical Guidelines on Carbon Intensity Reduction. More meaningful analysis would have been possible if non-rounded and non-anonymised data could have been used.

16 In addition to data anonymisation and rounding, the European Union suggests that the work stream also addresses the issue of accessibility of IMO DCS data, which is currently limited to parties to MARPOL Annex VI. The European Union believes that non-restricted access would encourage and improve the analysis of DCS data and benefit future decision-making at IMO. Furthermore, transparency would further enhance the effectiveness of the CII measure and encourage further improvement of CII ratings of ships. It should also be borne in mind that non-rounded and non-anonymised data for a significant part of the global fleet have been now fully accessible since three years through the EU-MRV[8] or other commercial databases, and industry stakeholders are increasingly providing such information on their own initiative to policy makers.

17 Several options can be envisaged for a non-restricted access, e.g. to IMO Members States and intergovernmental as well as non-governmental organisations with observer status on the one hand, but also to ship owners on the other hand, possibly limited to their own data, which would enable them to verify their own data once it has been submitted. In this regard, it is suggested to consider which user profiles could have access to which types of data. Furthermore, an obligation could be considered that IMO Members with non-restricted access can analyse the data internally, but are restricted from any further non-anonymised publication.

18 On this basis and taking into account the further explanations in document MEPC 76/7/51, the European Union suggests to further consider the anonymisation, rounding and accessibility of IMO DCS data within the work stream.

Proposal

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[7] Refer to the *2017 Guidelines for the development and management of the IMO ship fuel oil consumption database* (Resolution MEPC.292(71))

[8] Refer to Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (Text with EEA relevance)

19 The European Union suggests to:

i. Consider possible amendments to the Appendix IX of MARPOL Annex VI, as suggested in annex I to this document;

ii. Launch a dedicated work stream on further amending the IMO DCS, including by considering appropriate amendments to MARPOL Annex VI and its Appendix IX, possibly including associated guidelines, on the basis of the draft Terms of Reference as suggested in annex II to this document; and

iii. Invite for further submissions on amending the IMO DCS.

Action requested of the Committee

20 The Committee is invited to note the discussion provided in this document and in particular the suggestions in paragraph 19 and to take action as appropriate.

ANNEX I

APPENDIX IX

Information to be submitted to the IMO Ship Fuel Oil Consumption Database

Identity of the ship

IMO number . . . . . .

Period of calendar year for which the data is submitted

Start date (dd/mm/yyyy) . . . . . .

End date (dd/mm/yyyy). . . . . .

Technical characteristics of the ship

Year of building contract (as noted in IEEC)

Ship type, as defined in regulation 2 of this Annex or other (to be stated) . . . . . .

Gross tonnage (GT)* . . . . . .

Net tonnage (NT)† . . . . . .

Deadweight tonnage (DWT)‡ . . . . . .

Power output (rated power)§ of main and auxiliary reciprocating internal combustion engines over 130 kW (to be stated in kW) . . . . . .

EEDI** (if applicable). . . . . .

EEXI[&&] (Required). . . . . .(Attained). . . . . .

Ice class†† . . . . . .

Fuel oil consumption, by fuel oil type in metric tons and methods used for collecting fuel oil consumption data . . . . . .

Distance travelled . . . . . .

Hours underway. . . . . .

Annual operational CII [££] (Required) . . . . . (Attained) . . . . . .

Ships' rating[%%] . . . . . .

* Gross tonnage should be calculated in accordance with the International Convention on Tonnage Measurement of Ships, 1969.

† Net tonnage should be calculated in accordance with the International Convention on Tonnage Measurement of Ships, 1969. If not applicable, note "N/A".

‡ DWT means the difference in tonnes between the displacement of a ship in water of relative density of 1,025 kg/m3 at the summer load draught and the lightweight of the ship. The summer load draught should be taken as the maximum summer draught as certified in the stability booklet approved by the Administration or an organisation recognised by it. If not applicable, note "N/A".

§ Rated power means the maximum continuous rated power as specified on the nameplate of the engine.

** As defined in 2014~~5~~8 Guidelines on the method of calculation of the Attained Energy Efficiency Design Index (EEDI) for new ships (resolution MEPC.~~245(66)~~308(73), as amended) or other (to be stated).

†† Ice class should be consistent with the definition set out in the International Code for ships operating in polar waters (Polar Code) (resolutions MEPC.264(68) and MSC.385(94)). If not applicable, note "N/A"

&& As defined in 2021 Guidelines on the method of calculation of the attained energy efficiency existing ship index (EEXI (resolution MEPC.333(76))

££ As defined in 2021 Guidelines on operational carbon intensity indicators and the calculation methods (CII guidelines, G1) (resolution MEPC.336(76)) and 2021 Guidelines on the reference lines for use with operational carbon intensity indicators (CII reference lines guidelines, G2) (resolution MEPC.337(76))

%% As defined in 2021 Guidelines on the operational carbon intensity rating of ships (CII rating Guidelines, G4) (resolution MEPC.339(76))

ANNEX II

Draft Terms of Reference for a work stream for amending the IMO DCS

Taking into account discussions taking place in the Correspondence Group on the Development of Technical Guidelines on Carbon Intensity Reduction:

1. Identification of other potential amendments to Appendix IX of MARPOL Annex VI, including associated guidelines, to amend the IMO DCS, in addition to those presented in Annex I, in particular regarding the granularity of reporting of data related to fuel consumption and cargo related data;

2. Consider data anonymisation and rounding of data;

3. Consider accessibility of data in the IMO DCS; and

4. Based on the above, propose possible amendments to MARPOL Annex VI, Appendix IX and/or associated guidelines.