



## FuelEU Maritime and EU ETS – INTERTANKO comments

### Introduction

Regarding the efforts for shipping decarbonisation, here are the principles which define the INTERTANKO members' position:

1. INTERTANKO members are conscious and actively committed to improve the efficiency of their ships.
2. INTERTANKO members have also adhered to short-, medium- and long-term targets set by the IMO Strategy for reduction of the GHG emissions from shipping.
3. INTERTANKO members noted recent calls for urgency to accelerate the IMO Strategy pace towards decarbonisation by 2050 and they are positive to such considerations.
4. INTERTANKO members support the new proposal for "net zero emissions" by 2050 with the caveat that their commitments need to be fully supported by existence of technologies and carbon-free fuels or carbon-free sources of energy. Ship owners will contribute to this major leap by investments and by being actively involved in testing solutions offered. However, they are not the inventors and producers of such solutions.
5. For INTERTANKO members, like for any other ship operator engaged in international trade, the major challenge is to find the best initiatives and most efficient actions available to accelerate the decarbonisation process. All international ship owners' associations with an NGO status at IMO proposed the establishment of an International Maritime Research Board (IMRB) that would require ships to make financial contributions and that these funds would be used to contribute to the most promising projects for novel technologies and alternative low/zero carbon content fuels. The proposed contribution by ship owners is US\$5 billion over ten years. IMRB is proposed as a Short-Term Measure, meaning its application should be by 1 January 2023.
6. INTERTANKO remains constructively engaged in all IMO regulatory developments related to the GHG Emissions.

### Background

INTERTANKO members are committed to reducing the carbon footprint of the ships they operate through both individual and collective efforts. Pragmatic solutions that work now are urgently needed, while at the same time ambitiously looking ahead.

However, as rightly pointed out in the FuelEU Maritime proposal, there are limited low-carbon content and carbon-free fuel options currently available for the maritime sector, in particular for deep sea shipping. There is no *one* fuel that sustainably can ensure efficient maritime transport connections, within Europe and beyond. Therefore, INTERTANKO calls for firm action to accelerate the production and the development of such alternative fuels or any other innovative technology.

Tankers form an important part of the puzzle as they provide flexibility for the transport of future new fuels. Investing heavily in infrastructure meant to supply a certain fuel/product/chemical compound, only for the port/terminal/factory having to relocate in a limited number of years, e.g. as a result of sea level rise or green technology breakthroughs, make no sense. On top of shipping being the most energy efficient mode of transport, tankers are an important part of the flexible solutions we need as we draw the map of our sustainable future.

As stated by the European Commission in its various Fit for 55 proposals, given the international dimension of shipping, a global approach to reducing GHG is preferable. INTERTANKO's members



# INTERTANKO

fully agree with this, both for the sake of an international level playing field and in order to reach the GHG emission cuts needed. The detailed comments below should be seen in that context. The end goal must be an agreement at IMO level and the foreseen EU legislation as a temporary measure until an international measure is in place. **The EU legislation should therefore be shaped with a forthcoming IMO agreement in mind, both being scalable and flexible.**

## **INTERTANKO comments on the proposal to extend the EU ETS to shipping**

As early as 2006, INTERTANKO called on the shipping sector to move away from the conventionally used fuels and switch to the use of distillate fuels on a global basis. INTERTANKO also suggested at the time the establishment of an appropriate fuel specification standard. Already then, INTERTANKO members saw that a move to cleaner fuels was the only alternative which, in addition to reducing SO<sub>x</sub>, NO<sub>x</sub> and PM emissions, would give a measurable lowering of CO<sub>2</sub> emissions from ship operations. That was 15 years ago. If the IMO and Parties to MARPOL Annex VI had followed INTERTANKO's lead back then, the maritime world would have been at a radically different stage today, both in terms of emissions, and technological developments. But now is no time for regrets. **INTERTANKO is calling on governments to act in line with their climate commitments and move forward with decisive action to support the decarbonisation of the industry. The development and introduction of zero-emission technologies and carbon-free fuels for maritime transport are vital for allowing the industry to decarbonise.**

### *Revenues collected*

Whilst many other sectors have received free emission allowances for many years, the European Commission proposes in its extension of the EU ETS to shipping that the maritime sector would not. INTERTANKO has always been in favour of pragmatic solutions and would be prepared to accept this. In return, we suggest that **all the revenues collected from the maritime sector should be used to help bridge the gap between fossil fuels and green alternatives and help find other sustainable solutions.** Whilst welcoming that the European Commission proposes that some of the revenues would be reinvested in the sector through the Innovation Fund, it is not very clear how this process will be possible. Ship owners' and ship operators' do not have the expertise and ability to design and produce innovative technologies and alternative fuels. Shipping companies may contribute to the effort by testing onboard their ships such innovations, but the priority for shipping is to have real solutions available. The mechanism to be granted money from the Innovation Fund is difficult and will possibly not allow shipping companies to have access to such funds, particularly if they are not EU based while competing with the entire EU land industries. **INTERTANKO suggest that most revenues from shipping are used to R&D for solutions to decarbonise shipping.** Deep sea shipping needs a quantum leap to find sustainable fuel alternatives and should not have to co-fund climate solutions in easier to abate sectors.

### *Placing of responsibility on Document of Compliance holder*

A major challenge foreseen in the application of the ETS to shipping is the placing of the legal responsibility to the "shipping company", namely the Document of Compliance (DOC) holder. DOC holders are usually management companies, not the owners of ships. As a result, under the proposed rules, ship managers will be responsible to surrender the allowances. This raises a number of questions as to how the system will work in practice. Some of these questions include:



# INTERTANKO

- The compliance is attained when the total number of allowances are surrendered. If not, the negative impact is on the entire fleet operated by that ship manager and could ban ships that have not even called the EEA ports and are owned by companies located outside EEA. For how long would such a ban apply to an entire fleet and could ships be pulled out and moved to another management company in order to be able to call at EEA ports? In principle, that should be possible as the responsible party is not the ship but the DOC holder.
- Also, the composition of a fleet operated by a management company changes quite often. If a ship is moved from one ship management fleet to another in January of a year, who should report on the 31<sup>st</sup> of March the data from the previous year and surrender the allowances on the 30<sup>th</sup> of April? The previous DOC holder has no commercial contract with the ship owner of such a ship. What if a management company ceases to exist?

**INTERTANKO believes that some of these issues could be alleviated if allowances would need to be surrendered according to the activity of each individual ship.**

### *Administrating Authority*

Another challenge when it comes to applying the rules as proposed, concerns the concept of “Administrating Authority”. According to the proposal, there will be one “Administrating Authority” for a fleet managed by the same DOC holder. However, many DOC holders will not be EU/EEA based companies. In order to be in compliance with the rules, the shipping company will most probably need to open an “account” for allowances in the EU Member State of its Administrating Authority. However, the assignment of the Administrating Authority may change every second year as it is defined as a function of the number of the port calls at EEA of the ships operated by one shipping company. When the Administrating Authority for a non-EEA based shipping company changes, the administrative burden is likely to be significant. **Since many shipping companies are not large, they have a limited administrative capacity to deal with such a system.**

### *Transfer of responsibility*

Finally, despite all challenges, transportation at sea will adapt, but all the needed changes would be initiated and required by the commercial stakeholders rather than being determined by shipowners. As a result, **INTERTANKO believes that it is wrong to assign the responsibility for compliance with the EU ETS to shipping companies**, rather than assigning it to the trade. The proposed Directive holds shipping companies responsible for compliance with the EU ETS, but the European Commission advises in Recital 20 that a transfer of responsibility to the charterer is possible. INTERTANKO fully agrees with the intent but notes that this possibility is not legally mandated by the proposed Directive as it is not included in the actual legal text (i.e., the articles). **INTERTANKO therefore calls for a revision to consider changing the legal responsibility to charterers by transforming whole Recital 20 into an article.**

### **INTERTANKO comments on the proposed FuelEU Maritime regulation**

As indicated above, **INTERTANKO members believe that regulatory action must be taken to boost the production and supply of renewable and low-carbon and carbon-free shipping fuels.**

**Only by boosting the supply of such fuels, and making fossil fuels expensive, will the shipping sector be able to decarbonise.** The overall aim of FuelEU Maritime is, according to the European Commission, to “*increase the share of renewable and low-carbon fuels in the fuel mix of international*



# INTERTANKO

*maritime transport*<sup>1</sup> and INTERTANKO members encourage this. While supporting to overall stated objective of the proposal, INTERTANKO would like to offer a number of suggestions for improvement.

## *Fuel supply*

The draft RefuelEU Aviation regulation sets minimum obligations for all fuel suppliers to gradually increase the share of advanced biofuels and synthetic aviation fuels in the fuel supplied to operators at EU airports, according to a set timetable. INTERTANKO would welcome a similar measure to be introduced for the fuel suppliers used by the maritime sector, in order to make sure renewable and low-carbon fuels de facto are made available to ships.

## *Transfer of responsibility*

Similar to the comments made above on the EU ETS, the proposed FuelEU Maritime Regulation holds shipping companies responsible for compliance, but the European Commission advises in Recital 6 that a transfer of responsibility to the charterer is possible. **INTERTANKO fully agrees with the intent and suggests an article of the regulation makes that change of responsibilities.**

## *Reduction targets*

The proposed Regulation puts forward reduction targets (in %) as regards the GHG intensity of the energy used on-board a ship. Although the proposal follows same concept as the IMO CII regulation, it has a different approach in how to define the required index (includes mandatory “well to wake” approach), it lacks definition of the initial required GHG intensity value and proposes a reduction trajectory line which might be totally different from the one IMO may further define. **INTERTANKO therefore suggests these aspects are entirely defined as being done at international level with the IMO Carbon Intensity Indicator (CII).**

## *Responsibility for control, veracity and reporting of data*

The draft Regulation suggests that the performance of the various energy sources is to be assessed on a well-to-wake (WtW) basis. INTERTANKO agrees with the intent of the concept of considering WtW GHG emission intensity as a necessary overall understanding of the climate impact and actual Global Warming Potential (GWP) of all these activities. This is the approach IMO has in developing guidelines for life cycle of fuels. However, **INTERTANKO disagrees with making shipping companies responsible and being the custodian of the control, veracity and reporting of such a total assessment. The Regulation should mandate other relevant stakeholders to provide shipping companies with the required information on fuels up to their delivery.** This information should also be subject to mandatory verification so that fuels delivered are compliant with set requirements for their carbon footprint up to being supplied to ships. Shipping companies should only calculate the GHG emissions intensity of ships’ operations and add the result to the total calculation. In the same vein, Article 9 requires shipping companies to “*provide accurate and reliable data on the GHG emission intensity and the sustainability characteristics of biofuels, biogas, renewable fuels of non-biological origin and recycled carbon fuel*”. As pointed out above, shipping companies cannot control and ensure the veracity of the GHG emissions intensity data from activities linked to operations prior to the fuels being supplied to ships. Shipping companies cannot exercise any control on data from operations in which they are not involved and have no knowledge of.

---

<sup>1</sup> [https://ec.europa.eu/info/sites/default/files/fueleu\\_maritime\\_-\\_green\\_european\\_maritime\\_space.pdf](https://ec.europa.eu/info/sites/default/files/fueleu_maritime_-_green_european_maritime_space.pdf)



# INTERTANKO

## *Information on fuel supplied to ships*

The proposal suggests extending the information required on the fuel Bunker Delivery Note (BDN) to include well-to-tank (WtT) emission factors. INTERTANKO supports this, however, suppliers outside EEA jurisdiction have no legal obligation to supply the new BDN format required under this rule, meaning that ships bunkering outside the EEA will not have access to this information. In addition, for BDNs supplied to ships in EEA ports, there are no consequences assigned for incomplete or erroneous information. Shipping companies relying on BDNs which are found in breach of the provisions of the proposed Regulation due to incomplete or erroneous information will be held liable, and not the supplier itself. As mentioned previously, this points to the fact that **suppliers, not shipping companies, should be held responsible for information (incl. WtT performance) on the fuel supplied to ships.**

## *Additional criteria for re-accreditation of verifiers*

The proposed Regulation retains similar principles for verification as those under the EU MRV Regulation. But the calculations for the WtT and the TtW emissions are complex and will require new approaches for both the shipping companies and verifiers. Under the proposed regulation, the accreditation of the verifiers remains the same, done by an EEA National Accreditation Body. The proposed Regulation seems to suggest that the Commission might add more criteria to the existing certification accreditation requirements, but no further details are offered. On the other hand, the Regulation may also imply that current accreditation is valid as the criteria are still related to the same MRV Regulation. **INTERTANKO suggests that major additional criteria will need to be added for a mandatory re-accreditation of all verifiers** to address the complexity of the data to be verified and the limited knowledge that current verifiers may have on all these alternative fuels.

## *Calculation of penalties by verifiers*

On the topic of verifiers, INTERTANKO may agree that GHG intensity compliance balance is calculated by the verifier but **questions the concept that penalties should be calculated and imposed by verifiers.**

## *Flexibility for compliance*

**INTERTANKO agrees with the concept of flexibility** promoted in Articles 17 and 18 of the proposed Regulation. **This should be retained in the final version of the Regulation.**

## **INTERTANKO comments on the impact assessments**

INTERTANKO members applaud the fact that impact assessments have been carried out before putting forward the proposals under the Fit for 55, but regret that an overarching impact assessment has not been done for the “basket” of measures that are so interlinked. INTERTANKO moreover questions some of the assumptions and conclusions reached in the impact assessments.

INTERTANKO believes the impact assessments should have included the cost-impact and the time-impact in scaling up the production of green fuels. Unless ships have access to green fuels, they will not be able to comply with the WtW requirements and strict reduction rates of GHG emission intensity mandated under the FuelEU Maritime proposed regulation. To give an example, the current production of carbon-free fuels like ammonia and hydrogen results in significant GHG emissions,



# INTERTANKO

given that the production is based on conventional production methods. At the same time, the production of green ammonia and green hydrogen at this point in time is insignificant and at experimental level. Therefore, the assessment should address the impact of the availability of sufficient amounts of such fuels over time, versus the cap of the GHG emissions intensity and the reduction rates. Deep sea shipping needs a quantum leap to find sustainable fuel alternatives and we need to jointly understand how to make that happen in practise.

Regarding the ETS extension to ships, the assessment should also compare the number of available allowances on the market, their price evolution and the impact on trade to EEA ports against the expected penetration of low-carbon content and carbon-free fuels into the market. The current impact assessment made with regard to a potential carbon leakage seems superficial and lacks such important elements.

To substantiate these statements, we will simply indicate that the current world production of ammonia is less than 200 million tons/year, yet its production generates 1% of the anthropogenic GHG emissions. If green ammonia should be the carbon-free fuel for shipping, we would need some 600 million tons of green ammonia in addition the 200 million tons to also be produced, with no GHG emissions. This is the scaling element which one has to recognise, and an important factor to be considered in the impact assessments on regulations addressing ships.

In view of the above, INTERTANKO suggests the co-legislators take the above comments on the impact assessments into account when reviewing the different proposals under the Fit for 55 package, including the proposal for an Alternative Fuel Infrastructure Regulation (AFIR).