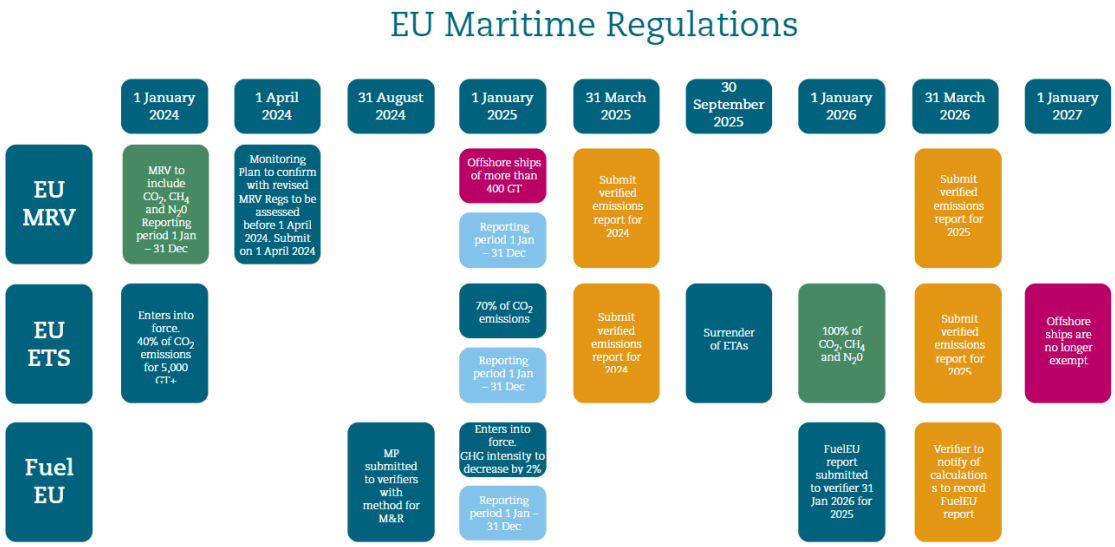
Operating with the EU's vessel emissions legislation

This information note is one of a series focused on all aspects of emissions reduction in the marine contracting sector, to support the IMO strategy and to help members optimise their activities. It is focused on operations to comply with the regulations as they exist at the time of writing.

1 Summary

The Emissions Trading System (ETS) and FuelEU Maritime are shipping legislations included in the EU's "Fit for 55" package. The programme and timetable as it applies to the Maritime sector is illustrated below.



Graphic courtesy of Clyde and Co. (link)

Given that many of IMCA's members are based or operate in the EU, a series of generic questions were developed by the Greenhouse Gas Committee (GHGC) relating to the regulations and how they apply in different vessel operational circumstances. The questions were then posed to a Maritime legal firm (Clyde and Co) and a "Frequently Asked Questions" (FAQ) document was created, providing an assessment and interpretation of the regulations as they apply to the operational circumstances described in the questions. This document is included in section 3.0.

2 How to use the FAQ document

Readers of this document and the FAQ document should note the following:

- This FAQ document is only valid as of the date of publication.

- In publishing this document, IMCA is not intending to provide legal advice to its members. The aim is solely to share information valid as at the date of publication.
- Advice and guidance from the Marine policy and Regulatory Affairs committee (MPRA) should take precedence over the FAQs, which are solely intended to be a useful guide for vessel operating members seeking to comply with the EU regulations.

3 Clyde and Co EU ETS and related regulations – Frequently Asked Questions (29th May 2024)

CLYDE&CO

29 May 2024

EU ETS AND RELATED FAQS FOR IMCA

The EU is in the process of updating their guidance on the application and implementation of the aforementioned regulations and directive. These FAQs should be reviewed periodically (we would suggest every 2-3 months, if not more frequently) to ensure that the information in this FAQ remains valid.

Definitions:

- "Administering Authority" means the authority in an EU/EEA member state, to which the Shipping Company is obliged to surrender the EUAs (as defined below) corresponding to the emissions reported in the preceding calendar year. A Shipping Company is associated to a Member State according to the attribution list published by the Commission on 31 January 2024. For new shipping companies not included in the attribution list but performing voyages covered by the EU ETS Directive, the rules spelled out in Article 3gf of the Directive apply. Based on these rules, companies should identify which is their administering authority via the THETIS-MRV system.
- "EUAs" means the EU emission allowances, being an allowance, credit, quota, permit or equivalent, representing a right of a vessel to emit a specified quantity of greenhouse gas emissions recognised by the EU ETS. One allowance gives the right to emit one tonne of CO_2eq (carbon dioxide equivalent).
- "EU ETS" means the European Union Emissions Trading System.
- "EU ETS Directive" means the legislative framework of the EU ETS, being Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC. As a directive, it must first be transposed into national law before it is applicable in each Member State.
- "FuelEU Maritime" or "FuelEU" means Regulation 2023/1805 which was published in the EU Official Journal on 22 September 2023 and entered into force on 12 October 2023. It will only become applicable from 1 January 2025. As a regulation, FuelEU Maritime is directly enforced, without needing to be transposed at a national level.
- "GHG" means the following greenhouse gas emissions captured by the EU ETS:
  - From 1 January 2024 onwards, only CO_2 emissions are being captured.
  - From 1 January 2026 onwards, CO_2 as well as methane (CH_4) and nitrous oxide (N_2O) will be captured under the EU ETS Directive.
- "EU MRV Maritime Regulation" means Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of greenhouse gas

emissions from maritime transport, and amending Directive 2009/16/EC, as recently amended by Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023, in order to provide for the inclusion of maritime transport activities in the EU ETS and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types.

- "Shipping Company" means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for the Safe Operation of Ships and for Pollution Prevention, set out in Annex I to Regulation (EC) No 336/2006 of the European Parliament and of the Council.

Background and Timelines:

The EU **MRV Maritime Regulation** currently applies to ships of 5,000 gross tonnage and above in respect of the greenhouse gas emissions released during their voyages from or/and to ports in the European Economic Area (EEA) for transporting for commercial purposes cargo or passengers. Ships are subject to the MRV Maritime Regulation regardless of their flag.

From 1 January 2025 onwards, the EU MRV Maritime Regulation will also apply to (i) offshore ships of and above 5,000 GT, as well as (ii) offshore ships and general cargo ships below 5,000 GT but not below 400 GT. We note that future guidance documents are under consideration to assist stakeholders in implementing MRV obligations in relation to emissions of offshore ships.

Considering the relevant GHG emissions that are covered by the MRV Maritime Regulation, as of 1 January 2024, CO_2, methane (CH_4) and nitrous oxide (N_20) will be covered.

According to the MRV Regulation, ships that call EU ports must have a verified monitoring plan on board. This plan is ship-specific and considers technical data from emission sources, emission factors as well as technical methods to monitor the emissions. For ships whose emissions are falling within the scope of the EU ETS Directive, the monitoring plan must also be submitted to the Administering Authority responsible for approval after it has been assessed by an independent verifier.

The independent verifier must assess the conformity of the monitoring plan with the MRV Maritime Regulation requirements. Where the verifier's assessment identifies non-conformities with those requirements, the company shall revise its monitoring plan accordingly and submit the revised plan for a final assessment by the verifier before the reporting period (calendar year) starts. The company shall agree with the verifier on the timeframe necessary to introduce those revisions.

Monitoring obligations: For each of their ships carrying out voyages to and/or from ports under the jurisdiction of a Member State after 1 January 2024, companies must fulfil the following monitoring and reporting obligations:

- Revise the monitoring plan of each of their ships to be in conformity with the requirements of the revised MRV Maritime Regulation. This plan shall be by an independent verifier before 1 April 2024, or no later than three months after each ship's first call in a port under the jurisdiction of a Member State.
- By 1 April 2024, or no later than three months after each ship's first call in a port under the jurisdiction of a Member State: companies must submit to the Administering Authority a verified monitoring plan for each of their ships falling within the scope of the ETS Directive that reflects the inclusion of CH_4 and N_2O emissions within the scope of the MRV Maritime Regulation.

- From 1 January 2024: companies must monitor and report methane (CH_4) and nitrous oxide (N_2O) emissions, in addition to CO_2 emissions.
- From 2025, by 31 March of each year: companies must submit a verified emissions report for the entire reporting period of the previous year for each ship under their responsibility to the Administering Authority, the authorities of the flag State of the respective ship, and the European Commission.
- From 2025, by 31 March of each year: for ships falling within the scope of the EU ETS Directive, companies must submit aggregated emissions data at company level.

Companies are to prepare and submit the monitoring plans to accredited verifiers through the THETIS-MRV platform.

As regards the offshore ships, there is no guidance as to when the Shipping Companies should prepare and submit their monitoring plan but we would work on the basis that it would follow the above listed monitoring and reporting obligations that are applicable to the ships already covered by the MVR Regulation. We hope there will be clearer guidance closer to the date the MRV Regulation will start applying to offshore ships.

The **EU ETS** Regulation was extended to apply to maritime transport emissions from 2024 onwards.

Since 1 January 2024, the EU ETS applies to cargo and passenger ships of 5,000 gross tonnes or above. The amount of EUAs corresponding to the relevant GHGs emitted during 2024 shall be surrendered to the Administering Authority by 30 September 2025.

Offshore vessels from 5,000 gross tonnage and above will be caught by the EU ETS regime from 1 January 2027. The amount of EUAs corresponding to the relevant GHGs emitted during 2027 shall be surrendered to the Administering Authority by 30 September 2028.

As regards offshore and general cargo ships between 400 and 5,000 gross tonnage, whether they will be included or not in the EU ETS will be considered as part of the ETS review.

The EU ETS Directive applies to GHG emissions from maritime transport as follows:

- 100% of emissions from ships performing voyages departing from and arriving to a port under the jurisdiction of an EU Member State;
- 100% of emissions from ships within a port under the jurisdiction of an EU Member State, i.e. emissions released at berth and during movements within such a port;
- 50% of emissions from ships performing voyages departing from a port under the jurisdiction of an EU Member State and arriving at a port outside its jurisdiction;
- 50% of the emissions from ships performing voyages departing from a port outside the jurisdiction of an EU Member State and arriving at a port under the jurisdiction of an EU Member State.

Some derogations will apply, for instance for certain voyages to outermost regions or some small islands, or to the benefit of ships using renewable fuels.

The EU ETS Directive follows a Phase-in approach – under the EU ETS Directive: (a) 40% of the vessel's GHG emissions reported for 2024 will be surrendered in 2025, (b) 70% of the vessel's GHG emissions reported for 2025 will be surrendered in 2026, and (c) 100% of the vessel's GHG emissions reported for 2026 will be surrendered in 2027. As regards offshore vessels, as their first reporting year is 2027 with EUAs to be surrendered for the first time in 2028, the Phase-in approach will not apply to offshore vessels and 100% of the relevant GHG emissions from 2027 will be surrendered in 2028.

Ships are subject to the EU ETS Directive regardless of their flag.

FuelEU Maritime entered into force on 12 October 2023 however, with the exception of Article 7[1], it will only apply from 1 January 2025. FuelEU Maritime adopts a well-to-wake approach to greenhouse gas emissions (meaning it looks at fuel production and delivery to use onboard ships and all emissions produced) and will cover CO_2, methane and nitrous oxide.

The regulation's aim is to reduce GHG emissions from shipping and to promote the uptake of renewable and low carbon fuels.

The scope of the regulation is wide and applies to all vessels over 5,000 GT visiting a port within the EU, regardless of their flag. In future, and pending reviews, the regulation's scope may be increased to include more vessels. There is no differentiation or exclusion regarding offshore ships and therefore we would assume that it is applicable to offshore ships over 5,000 GT visiting an EU port. This regulation sets strict limitations on the acceptable yearly greenhouse gas intensity of the energy used onboard a vessel[2]. It also provides that containerships and passenger ships at berth in a port of call under the jurisdiction of a Member State shall connect to on-shore power supply and use it for all energy needs whilst at berth from 1 January 2030[3].

The greenhouse gas intensity requirement applies to 100% of energy used on voyages and port calls within the EU or EEA, and 50% of energy used on voyages into or out of the EU or EEA.

Shipping companies:

- must submit an emissions monitoring plan per vessel to verifiers by 31 August 2024;
- must start monitoring their emissions according to the approved monitoring plan from 1 January 2025;
- must report the emissions for each individual ship on a new database – FuelEU (to be established[4]);
- are responsible for monitoring the type and amount of energy used at port and in operation;
- must record the well-to-wake emissions factors for all their fuels;
- must submit their emissions data to the verifier by 31 March each year.

The above timelines can be found as an infographic here**.**

[1] Article 7 (Monitoring Plan) provides that by 31 August 2024 companies are to submit to verifiers a monitoring plan for each of their ships indicating the method chosen (from those set out in Annex I to the Regulation) to monitor and report the amount, type and emission factor of energy used on-board by ships and other relevant information. This plan comes in addition to the current MRV Monitoring Plan, but part of this can be reused.

[2] See Article 4(2) of Regulation 2023/1805.

[3] See Article 6(1) of Regulation 2023/1805. Further, there are exceptions to this rule at Article 6(3) which include which include staying at port for less than two hours, using zero-emission technology onboard whilst at berth or making a port call due to unforeseen circumstances or emergencies.

[4] The Regulation states that in order to facilitate reporting and limit administrative burden to companies, verifiers and other users, the electronic database should build upon the existing THETIS-MRV module and take into account the possibility to reuse information and data collected for the purpose of the MRV Maritime Regulation.

PART A: EU ETS Regulation /FUEL EU MARITIME Regulation

1	An offshore vessel loads components for the construction of an offshore wind farm at an EU port (turbine blades for example) and transports some of these to a field in EU waters where the components are installed by the (same) vessel, before returning to the (same) port, now empty. How will the EU ETS and FuelEU Maritime apply to this vessel and operation?
	<u>EU ETS</u> There is currently no definition in the EU ETS Directive of an "offshore ship". We would expect it to include the following: (a) Oil Exploration and Drilling Vessels (including drilling ships, offshore barges, floating platforms etc); (b) Offshore Support Vessels (anchor handling and supply vessels, PSVs, seismic vessels etc); (c) Offshore Production Vessels (FPSOs, SPAR platforms); (d) Construction/Special Purpose Vessels (including diving support vessels, crane vessels, pipe laying vessels etc). If the vessel in question is exempted from the EU ETS as an "offshore ship", the EU ETS would not apply. Confirmation as to whether a vessel is exempted or not should be sought from the relevant Administering Authority[5]. From 2027 onwards, the exemption for "offshore ships" will no longer apply. 100% of the relevant GHG emissions during 2027 will be covered under the EU ETS. It is not relevant to the EU ETS whether a vessel is in ballast[6] or not: if it applies, the EU ETS would still apply to the ballast return voyage. If it is not exempted, ballast voyages fall within the scope of the EU ETS Directive and therefore the EU ETS applies for this journey. In respect of the offshore vessels, the first reporting year will be 2027 and EU allowances for that reporting year will need to be surrendered by September 2028. <u>FuelEU Maritime:</u> After 1 January 2025, in this scenario; (i) Energy used during the stay at the EU port will monitored; and (ii) 100% of the relevant emissions for the entire voyage would be caught by FuelEU Maritime as this is an intra-EU voyage. Again, it does not matter whether the vessel is laden or in ballast.
2	A vessel leaves Rotterdam and sails to US waters, it does not enter a US port, executes a crew change offshore and after a few months, sails back to Rotterdam. What is the applicability of the EU ETS in this case, is it 100%?
	In this scenario we understand that the voyage is as follows:

[5] Each Shipping Company covered by the EU ETS has to be associated with an administering authority of one Member State. A shipping company is associated to a Member State according to the attribution list published by the Commission on 31 January 2024. Companies which are not included in the attribution list but performing voyages (potentially) covered by the EU ETS should seek assistance via the THETIS-MRV system.

[6] A vessel "in ballast" or a "ballast voyage" is a voyage with no cargo on board in order for the ship to get in position for the next loading port or docking.

	Rotterdam (port of call) → US waters offshore crew change (not a port of call) → Rotterdam (port of call) Under the EU ETS, a "port of call" is the port where a ship stops to load or unload cargo, to embark or disembark passengers, or the port where an offshore ship stops to relieve the crew. There are some exclusions to this definition, including if the ship (other than an offshore ship) stops for the sole purpose of relieving the crew. In this scenario: For cargo and passenger ships of or above 5,000 gross tonnage where the EU ETS Directive applies from 1 January 2024: the crew change takes place offshore outside a US port – this would not be considered as a port of call for the EU ETS purposes and the journey would be considered as an intra-EU voyage (Rotterdam → Rotterdam) and due to the current phase-in approach of the EU ETS Directive, if this voyage were to take place in 2024, only 40% of such emissions for this voyage would need to be compensated with allowances by September 2025. For offshore ships of or above 5,000 gross tonnage where the EU ETS Directive will apply from 1 January 2027: if such journey were to take place in 2024, the EU ETS would not apply and no emissions would require to be compensated. If, however, such journey were to take place in 2027, the EU ETS Directive would apply and the answer would be the same as for cargo and passenger ships, the journey would be considered as an intra-EU voyage (Rotterdam → Rotterdam) and 100% of the emissions for this voyage would require compensation with allowances by September 2028.
3	If the same vessel in 2. sails to the UK instead, executes a crew change before sailing to US waters (offshore, not a US port) before returning to Rotterdam via a crew change in the UK, what is the applicability of the EU ETS?
	In this scenario we understand that the voyage is as follows: Rotterdam (port of call) → UK port for crew change (not a port of call) → US waters (no port of call) → Rotterdam (port of call). For cargo and passenger ships of or above 5,000 gross tonnage where the EU ETS Directive applies from 1 January 2024: this will be considered as an intra-EU voyage and due to the current phase-in approach of the EU ETS Directive, if this voyage were to take place in 2024, only 40% of such emissions would need to be compensated with allowances by September 2025. For offshore ships of or above 5,000 gross tonnage where the EU ETS Directive will apply from 1 January 2027: if such journey were to take place in 2024, the EU ETS would not apply and no emissions would require to be compensated. If, however, such journey were to take place in 2027, the EU ETS Directive would apply. The crew change in the UK would be considered a port of call for the purposes of the EU ETS and therefore the voyages would be as follows: Rotterdam (port of call) → UK port for crew change (port of call) → US waters (no port of call) → Rotterdam (port of call). Regarding the voyage between Rotterdam and the UK port, 50% of emissions would require compensation with allowances by September 2028 (as the ship is performing a voyage from a port under the jurisdiction of an EU Member State and arriving at a port outside its jurisdiction). The same would apply for the voyage from the UK port to Rotterdam (via the US waters).

4	Operationally it appears that a vessel from outside the EU could arrive offshore EU for say dredging activities, execute crew changes offshore (i.e. no port call) and then leave EU waters and not pay any ETS, what provision do the EU regulations have to ensure a level playing field?
	Based on the current guidance, a ship may not be required to account for the emissions for this specific scenario as there is no qualifying port of call. That said, accounting for the relevant GHG emissions under the EU ETS Directive will depend on the ships' last or next port of call, and whether either of those ports of call is captured by the EU ETS Directive. Further, even if there is no requirement for the relevant GHG emissions of this specific voyage to be accounted for, the Shipping Company will be required to comply with the MRV Regulation, assuming they fulfil the relevant criteria. Compliance with the MRV Regulation for offshore vessels of or above 5,000 gross tonnage will commence on 1 January 2025 and therefore, at the moment, there is no requirement for such offshore vessels to comply. The current guidance seeking to address avoidance of the EU ETS applies specifically to containerships: the EU ETS includes a mitigation measure whereby stops by container ships at "neighbouring transhipment ports" do not count to determine the start or the end of a voyage covered by the EU ETS.
5	A transport vessel, carrying either wind farm or oil and gas structures, loads and departs from a non-EU/EEC port and meets an installation/lifting vessel (offshore) at a location within EU waters. The components are lifted and installed by the installation vessel, both vessels depart to a non-EU/EEC port. How will the current EU ETS and Fuel EU maritime apply in this scenario?
	EU ETS: The EU ETS is a route-based system: this means it covers emissions from ships performing voyages departing from and/or arriving at a port under the jurisdiction of an EU Member State. This is why considering what is a "port of call" is important. In this scenario, there is no EU port of call as the vessels did not arrive at or depart from an EU port, the EU ETS will not apply. As noted above, the last and next ports of call will be important to consider. The answer would not change if the vessel was an offshore vessel and such scenario took place in 2027 (as the EU ETS will apply to offshore vessels of or above 5,000 gross tonnage from 2027). FuelEU Maritime: As there is no EU port of call, the FuelEU Maritime would not apply.
6	It is stated that if container ships call at nearby ports (closer than 200 or 300 nm) before arriving in the EU/EEC, the ETS will apply also to the journey to this nearby port. How does it apply to transport of other items (say offshore wind farm component rather than containers), and / or other types of vessels (such as 'offshore' vessels).
	See response at Question 4 above. The "neighbouring transhipment ports" measure only applies to container ships. Currently, there is no similar measure for any other types of ships.

7	If a neighbouring country (such as the UK) develops a slightly different ETS, for example stating 100% charge on incoming and internal journeys but 0% on outgoing what is the best assumption to make on applicability? For example, would the EU ETS grant an exception on a journey where emission tax is paid for 100% of the emission to another country?
	Taking the example of the UK ETS, the UK ETS Authority has announced that from 2026 it will expand the UK ETS to include emissions from the **domestic** maritime sector. This is intended to cover: (i) journeys which start and end at the same port in the UK; and (ii) journeys between one UK port to another UK port. At the time of writing, the UK ETS is not expected to include international journeys, and the UK ETS Authority aims instead to "*fully support the work of the International Maritime Organisation*" to achieve measures to reduce emissions from international shipping. For example, it is expected to apply as follows: a journey from Belfast to Liverpool would be subject to 100% emissions coverage under the UK ETS as a journey between two UK ports. However, a journey from Le Harve to Liverpool would be subject to 50% emissions coverage under the EU ETS (as one port is an EU port, and the other is outside the EU). We would note that the treatment of ports in the Republic of Ireland and Northern Ireland is subject to consultation later this year. The above example indicates that the regulators' intention is to ensure that greenhouse gas emissions are accounted for one way or another. Regulators will need to carefully consider the interaction of different emission trading systems to ensure fair treatment.
8	Vessels often change hands through ownership or charter etc. With reference to the responsibilities laid out for FuelEU Maritime, what happens to ETS obligation if a vessel changes owner/manager during a year? (Who reports and surrenders EUAs for example)?
	EU ETS: It is only the EU ETS Directive which contains the obligation to surrender EUAs. Assuming that the (technical) manager is the company mandated by the registered owner to ensure compliance i.e. the manager is the Shipping Company, if there is a change of manager during a reporting period, the Shipping Company is responsible for surrendering allowances corresponding to emissions from the relevant vessel during the time that it was under the responsibility of that specific Shipping Company. For example, if there is a change of Shipping Company from Company A to Company B on 5 May 2025, then in 2026, Company A will need to surrender allowances corresponding to emissions from that ship from 1 January 2025 to 5 May 2025 (and thereafter it is the responsibility of Company B). The same logic applies if there is a change of registered owner during a reporting period. Note that for the EU ETS, "registered owner" refers to the company named as such on the Certificate of Registry. A bareboat charterer (or any other charterer) cannot be considered as the shipowner within the meaning of the ETS Directive.
9	Members are considering the purchase of voluntary emissions offsets. Can these be used to reduce the number of EUAs (allowances) that a company is required to purchase under the EU ETS, what specific conditions are involved?
	Carbon credits or certificates cannot be used for EU ETS compliance purposes. Shipping Companies will need to surrender/use EUAs corresponding to the amount of aggregated emissions data at company level under the EU ETS Directive.

	The EUAs are general EU allowances, the same ones used by industry, power sector and aircraft operators. EUAs issued on or after 2013 do not expire and may be banked for future years.
10	The offshore construction vessel sector is impacted by the EU regulations but is not the main target for them. What is the current approach and history of the EU regarding enforcement of penalties for non-compliance, especially in cases where the requirements are not clear, have been misunderstood or a vessel operator has unintentionally not complied for other reasons?
	This is a very broad question and not one we can easily answer. The EU ETS and its application to the maritime transport industry is new and we have not seen any full reporting period yet, so it is too early to say how robustly the penalties will be applied for non-compliance. For the EU ETS, Member States are responsible for ensuring that the Shipping Companies under their responsibility comply with the obligation to surrender allowances in a timely manner.

PART B: EU CBAM

11	How should a vessel operations and installation business approach temporary importation under the EU CBAM? For example: ♦ ***Linepipe fabricated in Japan, imported to Norway for fabrication and spooling onto an installation vessel at a base in Norway, which then transits to the Gulf of Mexico for installation of that pipeline*** ♦ ***Fabrication of a steel wind farm foundation structure in China, imported to a marshalling yard in Scotland, then transported and installed offshore i) outside the EU or ii) inside the EU***
	Responding credibly to questions on CBAM would require the involvement of tax advisors, especially regarding importing, re-exporting and re-importing goods ("retuned goods"). There may be specific customs procedures which exclude a specific arrival from being qualified as "imported", in particular where further shipping outside the Customs Union is envisaged. As a guidance, please find a link to the latest FAQ (last updated on 28 February 2024) on CBAM with more information and documents available here.
12	Some offshore construction vessels carry non-permanent vessel equipment (for example pipeline installation equipment) that can be imported either as a standalone unit or be part of a vessel at first entry to the EU/EEC. Such units may be removed and potentially imported/exported many times. How should a vessel operator treat these items under the EU CBAM?
	Please see our response to Question 11 above which applies here as well.
13	An offshore project utilises a range of vessels for the construction and operation phases. To understand and manage costs which of the following 'offshore' vessel types will not be included in (or excluded from) the FuelEU maritime regulation? ♦ ***Supply vessels and tugs (with and without cargo)*** ♦ ***Diving vessels (dynamically positioned)***

	♦ ***Light construction, IMR and survey vessels (dynamically positioned, with and without cargo)*** ♦ ***Heavy construction vessels including pipe and cable lay (dynamically positioned)*** ♦ ***Jack-up construction vessels (with and without cargo)*** ♦ ***Heavy transportation vessels*** ♦ ***Dredgers.***
	EU ETS As noted in our response to Question 1 above, have not been able to locate an "official" definition of what constitutes an "offshore ship" for the purposes of the EU ETS. Please refer to our response to Question 1 with regards to what is considered to be an offshore ship. FuelEU FuelEU applies to all ships above a gross tonnage of 5,000 regardless of their flag. The only exemptions are warships, naval auxiliaries, fish-catching or fish-processing ships, wooden ships of a primitive build, ships not propelled by mechanical means or government ships used for non-commercial purposes. There is no exemption for "offshore ships" under the FuelEU Regulation.
14	A vessel operations business is readying itself for regulation changes and needs to understand whether there is a relationship between the EU ETS, EU MRV and the EU FuelEU regulation, or are they separate initiatives requiring separate management, audit, verification and reporting?
	The EU ETS, EU MRV and FuelEU are separate initiatives seeking to address different operational matters, although the regulations are all part of the overall goal of the EU to reduce net greenhouse gas emissions by at least 55% by 2030 to help combat climate change and to achieve climate neutrality by 2050. Each regulation addresses a different aspect of a vessel's emissions and seeks to address change and promote efficiencies in a different manner. EU MRV: the monitoring, reporting and verification regulation relates to CO_2 emissions, cargo carried, miles travelled and time spent at sea. It is applicable to vessels of all flags conducting commercial voyages into, out of and between EEA ports (the EU plus Norway and Iceland) and will require the submission of a verified ship annual emissions report to a central database and an annual public disclosure of the data on a ship basis. It applies to all vessels over 5,000 GT with some exceptions. EU ETS imposes a tax on emissions for vessels trading to and from EU ports. Initially, this will only capture carbon dioxide and from 1 January 2026 onwards, emission allowances will need to be surrendered for methane (CH_4) and nitrous oxide (N_2O) emissions. This looks at emissions from tank-to-wake. FuelEU seeks to promote the use of renewable, low carbon fuels and clean energy technologies. It addresses fuel technology and captures emissions from well-to-wake. Again, it addresses vessels over 5,000 GT (with some exceptions), regardless of flag and looks at energy used by vessels.
15	An offshore construction vessel operator is aiming to understand whether any penalties resulting from non-compliance with the EU ETS and EU FuelEU regulation are unconnected and cumulative. For example, poor fleet performance could lead to non-compliance with the FuelEU targets and penalties under that regulation, and penalties under the EU ETS if

	sufficient allowances have not been surrendered. What is the link or "offset" allowable between these two, or are they treated independently?
	As far as we are aware, there is no offset allowable between the two regulations as they seek to address different elements of a vessel's operation. The EU ETS imposes a tax on certain emissions and if the allowances are not surrendered, the applicable sanctions can be imposed. Under FuelEU Maritime, the obligation is to meet certain limits of GHG intensity of fuels used on board ships within an annual limit. If the vessel is compliant, it will be issued with a FuelEU document of compliance and in order to enter, remain in or leave a port in a member state's jurisdiction the vessel must have a FuelEU compliance document.
16	Are there relevant exemptions to the Fuel EU regulations of relevance to the marine contracting industry that may influence operational planning?
	Other than as set out above, there are no exemptions to the application of the FuelEU Regulation.
17	What is the best current assumption for vessel operating companies in terms of: ♦ ***plans by the EU to scale up or expand the existing ETS and CBAM regulations, and / or to introduce further GHG emissions related regulation relevant to the marine contracting industry.*** ♦ ***the scope, status and timing of all other GHG emissions tax, cap and trade, import tariff, tax relief or other emissions related penalty / incentive schemes under development, consultation or use in other global jurisdictions, which are relevant to the marine contracting industry.***
	To respond to this question, we have researched available material from reputable sources and where possible, we have included the link to the source. **EU ETS** As mentioned above, offshore ships over 5,000GT will be caught by the MRV Regulation from 2025 and the EU ETS from 2027. The inclusion of offshore ships and general cargo ships between 400 – 5,000GT will be considered as part of the ETS review. The key wording as to how the EU ETS/ GHG regulations may expand is set out in Article 3gg of Directive (EU) 2023/959 (EU ETS). The core provisions (and best assumptions) as detailed in this article are set out below: ♦ If the IMO adopts a global market-based measure to reduce GHG emissions from maritime transport (more detail is provided on the IMO strategy in response to Question 17b), the EU Commission shall review EU ETS and produce a report within 18 months of the IMO measures being adopted. The report shall focus on the coherence between EU ETS and the IMO measures. A legislative proposal may be appended to the report, in order to avoid the double burden of EU ETS and potential IMO measures. ♦ If the IMO do not adopt measures to reduce GHG emissions by 2028, the EU commission is to produce a report in which it shall examine the need to apply the allocation of allowances and surrender requirements in respect of more than fifty percent (50 %) of the emissions from ships performing voyages between a port of call under the jurisdiction of a Member State and a port of call outside the jurisdiction of a Member State. Third country market measures shall be examined in that report. A legislative proposal may be appended to that report.

- The EU ETS has only applied to the shipping sector since 1 January 2024. A report will be produced biennially from 2024 (the first one due in 2026) to assess the impact of EU ETS on the shipping sector and how it affects transport cost increases, changes in port traffic and shipping companies seeking to evade EU ETS. The EU Commission shall propose measures to avoid evasion.
- No later than 30 September 2028, the Commission shall assess the appropriateness of extending the application of the extra allowances to Member States heavily reliant on the shipping industry (i.e., with 15 shipping companies per million inhabitants).
- No later than 31 December 2026, the Commission shall present a report to the European Parliament and to the Council in which it shall examine the feasibility and economic, environmental and social impacts of the inclusion in this Directive of emissions from ships, including offshore ships, below 5, gross tonnage, but not below 400 gross tonnage.

EU CBAM

There are plans by the EU Commission to extend the scope of CBAM to all sectors subject to EU emissions trading by 2030. The CBAM will gradually replace the EU ETS free emissions allowances mechanism, by means of a 9-year phasing-out of the free allowances under the EU ETS from 2026 to 2034, and a corresponding phasing-in of the CBAM. During this period, free emissions allowances will be reduced initially at a slower rate, which will increase as the period comes to an end.

EU MRV

Separately, an analysis accompanying the review of Regulation (EU) 2015/757 (EU MRV Regulation) is due by 31 December 2024. The below text is taken from the "Legislative Train Schedule" blog of the EU Parliament:

On 4 February 2019, the European Commission adopted a proposal to revise the EU system for monitoring, reporting and verification of CO2 emissions from maritime transport (Regulation (EU) 2015/757) in order align it with the global data collection system for the fuel oil consumption of ships introduced by the International Maritime Organisation (IMO). The EU regulation requires ships above 5 000 gross tons using European ports to monitor and report fuel consumption, CO2 emissions per voyage and on an annual basis, starting in 2018.

The IMO system, adopted in 2016 by the IMO's Marine Environment Protection Committee (MEPC), requires ships above 5 000 gross tons to report consumption data for each type of fuel oil, hours underway and distance travelled. According to the IMO, these ships account for approximately 85 % of CO2 emissions from international shipping. The system entered into force on 1 March 2018, and reporting starts with the year 2019.

The proposed revision of Regulation (EU) 2015/757 aims to facilitate the simultaneous implementation of the two systems, while preserving the objectives of the current EU legislation, i.e. to keep the collection of robust and verified CO2 emissions data at individual ship level, to stimulate the uptake of energy efficiency solutions and inform future policy-making. By aligning some aspects of the two monitoring, reporting and verification (MRV) systems such as specific definitions or monitoring parameters, the proposal aims at reducing the administrative burden and associated costs for ships that have to report under both systems.

EU ETD

Another regulation which could have an impact on the shipping industry, which is currently being revised is the Energy Taxation Directive which imposes taxes on marine fuel sold in the EEA for voyages within the EEA. The main changes to the Energy Taxation Directive which will have an impact on the shipping sector and marine contracting industry, are summarised below:

- Fuels will start being taxed according to their energy content and environmental performance rather than their volume.
- The way in which energy products are categorised for taxation purposes is simplified to ensure that fuels most harmful to the environment are taxed the most.
- Fossil fuels used as fuel for intra-EU air transport, maritime transport and fishing should no longer be fully exempt from energy taxation in the EU.

IMO GHG Strategy

The 2023 IMO GHG Strategy represents a framework for Member States, setting out the future vision for international shipping, the levels of ambition to reduce GHG emissions and guiding principles; and includes candidate mid- and long-term further measures with possible timelines and their impacts on States. The strategy also identifies barriers and supportive measures including capacity building, technical cooperation and research and development (R&D).

The aims are set out below:

- **carbon intensity of the ship to decline through further improvement of the energy efficiency for new ships:** to review with the aim of strengthening the energy efficiency design requirements for ships.
- **carbon intensity of international shipping to decline:** to reduce CO2 emissions per transport work, as an average across international shipping, by at least 40% by 2030, compared to 2008.
- **uptake of zero or near-zero GHG emission technologies, fuels and/or energy sources to increase:** uptake of zero or near-zero GHG emission technologies, fuels and/or energy sources to represent at least 5% striving for 10% of the energy used by international shipping by 2030, and
- **GHG emissions from international shipping to reach net zero:** to peak GHG emissions from international shipping as soon as possible and to reach net-zero GHG emissions by or around, i.e. close to, 2050, taking into account different national circumstances, whilst pursuing efforts towards phasing them out as called for in the Vision consistent with the long-term temperature goal set out in Article 2 of the Paris Agreement.

The 2023 GHG Strategy states that a basket of candidate measure(s), delivering on the reduction targets, should be developed and finalised, comprising both:

1) a technical element, namely a goal-based marine fuel standard regulating the phased reduction of the marine fuel's GHG intensity; and
2) an economic element, on the basis of a maritime GHG emissions pricing mechanism.

The next step in the implementation of the 2023 GHG Strategy is the meeting of the Marine Environment Protection Committee which will take placed between 18-22 March 2024, which could shed more light on what exactly the measures applicable to the shipping industry will be.

	We are aware of measure and legislation seeking to redirect GHG emissions, for example, in the U.S., China, Brazil and others. If advice is sought on particular jurisdictions, please let us know and we will liaise with our global colleagues.

The above responses present our interpretation of the relevant legislation and should be used as guidance only. The laws of each Member State should be considered and each case analysed on its specific facts.

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If further information is required, please contact lee.billingham@imca-int.com.