

From: [Fanny Lossy](#)
To: [ECSA - Committee Safety & Environment](#); [ECSA - National Associations](#)
Cc: [ECSA - Secretariat](#)
Subject: ECSA C-13455 For action by 8 March COB - ETS: latest information on the transposition, offshore vessels and MOHA
Date: Τετάρτη, 21 Φεβρουαρίου 2024 5:15:37 μ.μ.
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)

To ECSA - Committee Safety & Environment
ECSA - National Associations
ECSA - Secretariat

Ref. ECSA C-13455

21-02-24

For action by 8 March COB - ETS: latest information on the transposition, offshore vessels and MOHA

Dear Members,

The ECSA Secretariat met yesterday DG CLIMA to discuss the EU ETS implementation, in particular:

1. The transposition at the national level of the provision on the pass-through of the cost,
2. The Innovation Fund,
3. The inclusion of offshore vessels in the EU ETS,
4. The Maritime Operator Holding Account.

1. The transposition at the national level of the provision on the pass-through of the cost

The transposition of the provision of the EU ETS on the pass through of the ETS cost to the commercial operator was discussed. Many Member States still have to transpose the directive, however it would be useful to understand how they transpose this provision.

By 8 March COB, Members are invited to report back to the ECSA Secretariat on how their Member State has transposed this provision in its legal system of the EU ETS.

2. Innovation Fund

DG CLIMA repeated its commitment to the earmarking of the allowances to the maritime sector and encouraged maritime projects to apply to the Innovation Fund 2023 call.

3. The inclusion of offshore vessels in the EU ETS

As a reminder, ECSA sent earlier this year its concerns on the inclusion of offshore vessels in the EU ETS to DG CLIMA (ref: C-13359 of 21-12-23). During the meeting, DG CLIMA confirmed to ECSA that a guidance document on offshore vessels will be prepared. DG CLIMA wants to ensure that the level playing field remains between the companies operating from the EU and from third countries.

The ESSF subgroup on the EU ETS implementation, which was created recently, will help the Commission in this task. The ECSA Secretariat has applied to join this subgroup.

4. The Maritime Operator Holding Account

During the SEC meeting of last week, Members asked the ECSA Secretariat to clarify two issues related to the Maritime Operator Holding Account (MOHA) under the ETS:

- As many EU Member States have not transposed the EU ETS Directive into national law yet, does the deadline of 40 days for companies on the list of administering authorities to **open a MOHA** apply?

DG CLIMA indicated that the MOHA account can be opened without the transposition of the EU ETS directive in national law. Companies have 40 days from the publication of the related implementing act to request the administering authority to open a MOHA. Afterwards, the authority has 20 days to open it.

- The possibility for the shipowner to authorise the **bareboat charterer**, via a contract, to become the responsible entity for MRV and ETS compliance purposes.

Under the EU ETS directive and its secondary legislation, *"the entity responsible for compliance in respect of the emissions of a given ship can be either the shipowner (i.e., the registered owner) or the ISM Company of that ship. The registered owner and the ISM Company have to decide who is the most appropriate entity to take on responsibilities for complying with the ETS and MRV obligations. In the absence of an explicit decision by the registered owner and the ISM Company, the registered owner will be considered, by default, responsible for compliance with ETS and MRV obligations"* ([source](#)).

More specifically, the ETS FAQs address the topic of bareboat charterer as follows:

The bareboat charterer can be responsible for compliance with ETS and MRV in respect of a given ship only if that bareboat charterer has accepted to assume ISM Code responsibilities in respect of that ship.

That bareboat charterer that assumes ISM Code responsibilities could accept to assume the responsibilities for ETS and MRV obligations from the registered owner. In such a case, the ISM Company must provide evidence of the mandate from the registered owner to its administering authority.

A bareboat charterer cannot be considered as the shipowner under ETS and MRV. Like in other matters, a shipowner may ask a third party to fulfil tasks on its behalf, including concluding contracts. Therefore, a bareboat charterer could sign a mandate with an ISM company on behalf of the registered owner if the bareboat charterer has been empowered to fulfil that task by the registered owner.

DG CLIMA has received many questions on this issue and will clarify the FAQs to make it clearer that the shipowner can authorise the bareboat charterer, via a contract, to sign a mandate with an ISM company, so that the latter can assume the ETS/MRV obligations.

I will keep you informed of the development on these issues and remain at your disposal if you have any questions.

Best regards,

Fanny

Fanny Lossy

Director

Climate, Environment & Maritime Safety

Bd. du Régent 43-44
1000 Brussels, Belgium

+32 2 510 61 30

fanny.lossy@ecsa.eu

www.ecsa.eu



Transparency Register: 59004966537-01