U.S. POISED TO URGE THE INTERNATIONAL MARITIME ORGANIZATION TO DRAMATICALLY ACCELERATE DECARBONIZATION OF SHIPPING

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Maritime Alert

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INTRODUCTION

In recent years, many in the maritime industry have been closely watching and planning for regulatory changes being initiated by the International Maritime Organization (IMO) in connection with ship efficiency and the reduction of greenhouse gas (GHG) emissions from ships. Those efforts at the IMO have already resulted in significant regulatory developments, and planning efforts are underway in many segments of the industry to develop new technologies, alternative fuels, and long-term technical and infrastructure solutions—all to pave the way to meet IMO's carbon intensity and GHG reduction goals. In the last several years, the United States has moved somewhat cautiously at the IMO on GHG emissions reduction goals, and in several respects expressed reservations about the approach being taken by some IMO Member States. Many in the maritime industry were similarly cautious about the ambitious timeline set out by the IMO, given the lack of consensus on technical solutions and the clear need for research and development and long-term infrastructure development to achieve these goals. This is undoubtedly a complex regulatory, technical, and commercial challenge for the industry.[1]

Now, the Biden administration has signaled its clear intent to actively urge the IMO to even more dramatically accelerate its plans to decarbonize shipping. There is no doubt: dramatic change is coming to the maritime industry, and it is coming faster than ever before.

BACKGROUND AND DISCUSSION

In April 2018, the IMO adopted the "*Initial IMO Strategy on Reduction of GHG Emissions From Ships*" (Initial IMO Strategy),[2] which aims to reduce total annual GHG emissions from international shipping by at least 50 percent by 2050 compared to 2008 levels and "as a matter of urgency, aims to phase them out as soon as possible in this century."[3] The Initial IMO Strategy lays out various short-term (2018–2023), medium-term (2023–2030), and long-term (2030–2050) candidate measures to achieve these GHG emission reduction goals. In this regard, the IMO's Marine Environmental Protection Committee (MEPC) has been actively developing and implementing changes to Annex VI of the International Convention for the Prevention of Pollution by Ships (MARPOL Annex VI) in furtherance of these goals. Some of these regulatory changes—which apply to both new and existing ships—are expected to enter into force as early as 2023.

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On 20 April 2021, Special Presidential Envoy for Climate John Kerry formally announced that, in order to more aggressively achieve GHG emission reductions from shipping, "the United States is committing to work with countries in the IMO to adopt a goal of *achieving zero emissions from international shipping by 2050….*"[4] This stated goal is a clear indication that the United States will attempt to dramatically accelerate IMO's current goal of reducing GHG emissions by at least 50 percent by 2050, and eliminating them "as soon as possible in this century."

The European Commission had previously been outspoken that the IMO needs to be more aggressive, also calling for the elimination of GHG emissions in the shipping industry by 2050, rather than a 50 percent reduction as called for in the Initial IMO Strategy. Now, the United States appears to be closely aligned with many European IMO Member States on this important issue.

UNCERTAINTIES PERSIST

When the IMO developed and began implementing the initial strategy in 2018, many questions persisted in the industry about how these GHG and carbon-intensity reduction goals would be accomplished:

- What are the specific legal requirements for vessels, and when will they take effect?
- What interim efficiency measures and existing solutions will facilitate the necessary near-term GHG and carbon-intensity reduction goals?
- What role will liquefied natural gas (LNG) and its existing and developing infrastructure play?
- What alternative fuels or other technical solutions will be required in the long term?
- When will such alternative fuels and technical solutions be brought to market, and what infrastructure needs to be put in place to do so?
- Will there be incentives for early actors?
- What does this mean for marine engine manufacturers, and will retrofitting existing vessels be a viable option?
- How can the industry ensure there is one global, uniform standard and no regionalization of requirements?
- What are the risks of noncompliance; will there be effective, uniform enforcement globally; and how will that be accomplished?
- Will market-based measures (i.e., emissions trading schemes) play a role, and if so, how?
- Will these new standards and requirements be implemented for vessels engaged in inland and purely domestic commercial operations?
- How will ports be impacted, and how will they put in place the shoreside infrastructure needed to accommodate new fuels and other technologies for vessels?

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- What role will these new requirements play with regard to voluntary environmental, social, and governance standards evolving in the maritime sector, such as the Poseidon Principles (shipping finance) and the Sea Cargo Charter (charterers)?

Over time, through work being undertaken by the MEPC, by various segments of the maritime industry, and by other maritime stakeholders, answers to a few of the above questions and some solutions have started to become clearer and evolve. Nonetheless, many uncertainties persist, and the Biden administration's policy statement now brings even greater urgency to resolving these uncertainties.

CONCLUSION AND WAY AHEAD

The MEPC continues its work and meets for its 76th session (MEPC 76) in June 2021, where it is expected to unveil additional guidelines and requirements under MARPOL Annex VI, some of which may enter into force as early as 2023 in furtherance of the IMO's current carbon intensity reduction goals. Meanwhile, it is important to point out that that the Initial IMO Strategy is termed "Initial" because, by its terms, it is set to be reviewed and potentially revised in 2023.[5]

To compound the existing uncertainties, it is clear the Biden administration will now take active steps to join European and other IMO Member States to dramatically accelerate the IMO's GHG reduction efforts in shipping. The U.S. delegation—consisting of representatives from the U.S. Coast Guard and potentially other agencies, including the U.S. Department of State—will carry out this policy effort at the IMO on behalf of the Biden administration.[6] If successful, this will undoubtedly translate to more stringent ship emissions and efficiency requirements under MARPOL Annex VI and on a far more aggressive timeline. MEPC 76 may provide the first glimpse into how this may play out.

The K&L Gates global Maritime, Energy, and Environmental teams are closely following these developments at the IMO, in the administration, and in Congress, to better determine the risks and potential long-term opportunities for our clients.

FOOTNOTES

[1] Congress is also active. On 15 April 2021, the Coast Guard and Maritime Transportation Subcommittee held a hearing on decarbonization of the maritime industry, in which many of the key long-term issues were extensively discussed. Congress is recognizing that decarbonization of the maritime industry is a monumental, complex undertaking, with many unanswered questions at this point. We summarized that hearing in our recent alert entitled *Coast Guard Subcommittee Talks Decarbonization*.

[2] *Initial IMO Strategy on Reduction of GHG Emissions From Ships*, IMO Mar Env't Prot. Comm. MEPC.304(72), Annex 11 (April 13, 2018).

[3] Initial IMO Strategy ¶¶ 2, 3.3.

[4] *See* also Press Release, White House, FACT SHEET: President Biden's Leaders Summit on Climate (Apr. 23, 2021) ("[T]he United States is committing to work with countries in the International Maritime Organization (IMO) to adopt a goal of achieving zero emissions from international shipping by 2050 and to adopt ambitious measures that will place the sector on a pathway to achieve this goal."). The administration's use of the term "zero

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emissions" rather than "net-zero emissions" suggests the Biden administration will seek the complete elimination of GHG emissions from shipping by 2050, without long-term resort to market-based measures.

[5] *See* Initial IMO Strategy ¶ 7.1.

[6] In advance of MEPC 76, the U.S. Department of State's Shipping Coordinating Committee, in conjunction with the U.S. Coast Guard, will hold a public meeting to discuss the various agenda items to be covered at MEPC 76, including reduction of GHG emissions from ships. Further information on this Shipping Coordinating Committee meeting may be obtained here.

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