



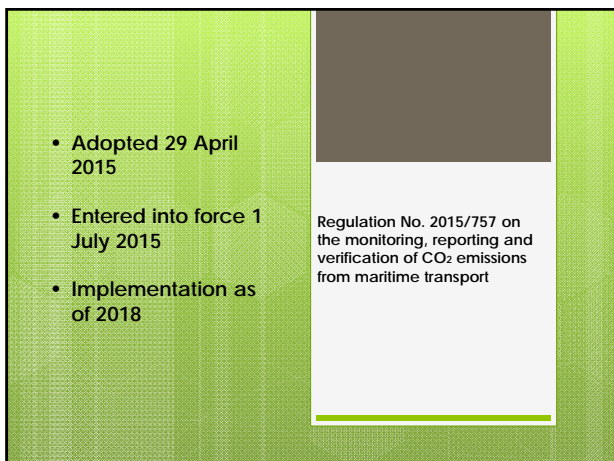
Provocative
Climate
Protection

EU Regulation
of Maritime
Emissions



Aims

- What is the EU planning?
- How does this fit into its broader policy objectives?
- Legal implications ...



- Adopted 29 April 2015
- Entered into force 1 July 2015
- Implementation as of 2018

Regulation No. 2015/757 on the monitoring, reporting and verification of CO₂ emissions from maritime transport

Actors and Burdens:

Company = owner / person responsible for operation

- Monitoring plan
- Monitor CO2 and 'other relevant information'



Verifiers = entity accredited by Member States

- Checks reports against estimations
- Certificate of verification



Member State / Authorities

- Inspect ships
- Check for documents of compliance
- Institute punitive measures



Regulatory Overreach?



Reaction of the shipping industry

'Putting multilateral negotiations 'in jeopardy'

'unhelpful complication' of any future global MRV

'danger' that other states will see it as an attempt to present them with a 'fait accompli'



Remember the Aviation Directive?...

They have a point....

- The EU is pre-empting IMO negotiations
- History of provocative climate protection policy
- Last time it didn't go so well ...

Failure of the Aviation Directive



- Directive 2008/101/EC
- ATAA Case (CJEU)
- Stop-the-clock decision pending ICAO 'negotiations'

Legal Question:

- Limits of state (or EU) competence to regulate conduct occurring abroad
- = territorial limits of prescriptive state jurisdiction

Jurisdictional Issues:

- 'Companies' → includes foreign actors
- Monitoring requirements → cover parts of the voyage outside of EU territory
- Enforcement → includes punitive measures

Locating Legal Limits

- Customary International Law of Jurisdiction
- United Nations Convention on the Law of the Sea
- WTO Law

Normative Question

- When:
- **best efforts** have been made to **cooperate**,
 - and multilateral efforts yield **no effective results**,
 - could **temporary** unilateral measures,
 - aimed at protecting a **common concern**,
- be considered *legitimate*?
