

European ship financing on the Procrustean bed of environmental taxonomy



Taxonomy comes from the Ancient Greek word “taxinomia”, meaning “the science of classification”. As there has been a steady retreat of the biggest world banks from shipping, the sector is in search of alternative sources of financing. Taxonomy will put in place a whole spate of technical requirements on shipping activities to qualify as “green” in order to attract banks and financiers

Dr. Anna Bredima* (abredima@yahoo.gr) talks to **Katalin Dobranszky-Bartus**, Director of Economic and Financial Affairs at European Community Shipowners' Associations (ECSA, katalin.dobranszky@ecsa.eu)

The European Maritime Law Organization (EMLO), a non-profit organization encompassing outstanding legal practitioners and academics, organized a series of webinars in 2021 dealing with environmental aspects and sustainability of maritime transport. One of those addressed the European environmental taxonomy and ship finance. The webinar took the format of a Questions and Answers (Q&A) session.

Dr. Anna Bredima, lawyer, member

of the Board of EMLO and the Board of ECSA (European Community Shipowners' Associations) representing the Cyprus Union of Shipowners (CUS), interviewed Mrs. Katalin Dobranszky-Bartus, Acting Secretary General of ECSA and its Director of Economic and Financial affairs in a dual capacity with a background in economics and law.

This interview gives a summary of the challenges and opportunities the shipping industry, as a transitional industry, is facing.

What is the main purpose of the Taxonomy Regulation regarding shipping and what is the scope of operations of the Delegated Act 1 (DA1) concerning maritime activities?

In order to understand the initial aim and the scope of this legislative initiative, we need to go back in time. The Juncker Commission –after signing the Paris agreement– published its Communication on Sustainable Finance with the following idea behind it: “if there is financing available only for sustainable

projects in Europe, businesses will only have sustainable activities”.

Hence, they targeted different initiatives towards the financial services sector and investors to “encourage” them to finance only sustainable projects. The Green Deal of the von der Leyen Commission made taxonomy a horizontal regulatory initiative.

Taxonomy is one piece of the Sustainable Finance Agenda, which provides a definition for classifying which economic activities can be considered green. It is economic activity based assessment and not looking at company eligibility. Eligible economic activities are listed by NACE Codes (Nomenclature of Economic Activities) and the economic activity for the maritime industry is asset based, i.e. it is looking at the vessel.

Whether the eligible activities are taxonomy aligned or not, they have to meet three sets of requirements:

indirect scope. Based on the direct scope, we can mention that it addresses –for the time being– environmental sustainability.

Financial services providers (i.e. banks), financial services member state regulators, investment firms and large companies have to report on how big portion of their portfolio is taxonomy compliant. The indirect scope is captured through market pressure.

In order to be able to define this portion, shipping companies will be required to provide this information towards their banks and investors, even if the reporting and the disclosure requirements are not obligatory for them.

It is essential that investors have information on what they can consider sustainable.

tion is a necessary in-between step before becoming fully sustainable. Addressing those market players who actually can have an impact on the given economic activity is key. This has been partly recognized at technical level, but the process is highly politicized. The wording “dedicated to” needs further interpretation and might provide the possibility to include tankers. For

What is the EU taxonomy?

The EU taxonomy is a classification system, establishing a list of environmentally sustainable economic activities. It would provide companies, investors and policymakers with appropriate definitions for which economic activities can be considered environmentally sustainable. In this way, it should create security for investors, protect private investors from greenwashing, help companies become more climate-friendly and mitigate market fragmentation.

Source: European Commission

- 1) substantial contribution (SC) to one or more environmental objectives defined by the Taxonomy Regulation
- 2) the Do No Significant Harm (DNSH) to the other environmental objectives
- 3) compliance with social and labour minimum requirements, as set out by international conventions (OECD & ILO).

The criteria are fine-tuned and detailed by the technical screening criteria defined by the delegated acts.

The Taxonomy has a direct and an

Sustainability and politics

According to the current technical screening criteria, if the vessel transports fossil fuel, no matter how green the vessel is, it would not qualify as green investment. How do we handle this? Does this rule exclude the entire tanker fleet?

This is a political decision which needs explanation. In principle, yes, the aim of the regulator was to penalize fossil fuels at any level. However, we must take into account the fact that transi-

example, if a tanker, which would be defined as green vessel based on its operation, and if in principle can be also be used for transporting sustainable fuel, once market demand and supply require, should not be excluded from taxonomy compliance.

What are, in your view, the implications at the international level? Isn't it a dangerous path for the EU to dictate unilaterally the taxonomy standards? Are the Chinese, Japanese and other competi-



Katalin Dobranszky-Bartus

tors of the EU fleet subject to the same conditions? Do you see other jurisdictions following the EU policymakers?

Due to the negative consequences of regulatory fragmentation, which we all know, a regional legislation should be avoided for a global industry like shipping. The EU –through international cooperation– should devise the criteria to safeguard an international level playing field. And the EU regulators are following this path in the field of sustainable finance on different levels: for example, the EU co-chairs with China the International Platform of Sustainable Finance but there are other EU-driven international initiatives as well, for example at central bank level. More and more jurisdictions are looking at similar solutions as the EU taxonomy. Chile, Japan, etc. Of course, a lot will depend on how the taxonomy will be put in use.

Is EU taxonomy in line with IMO?

The EU has the ambition to lead the sustainability agenda at global level. On the one hand it is seen as a “political branding”, the political competition factor, but at the same time the EU is willing to provide resources to reach the green goal at global level. The EU regulators believe that IMO is too slow to ensure that the EU Green Deal is on the right track. So yes, we can expect that the Taxonomy goes beyond IMO.

The taxonomy definitions take into account the following characteristics: diversity of activities (liner, tramp shipping, deep sea, short sea shipping, off-shore shipping), diversity of ship sizes/types and business models, existing ships and new ships. What guidance would you give to policymakers in order to take into account these characteristics?

A one-size-fits-all approach is totally unsuitable for the maritime sector. The deep knowledge of the diverse characteristics of the shipping industry is essential to establish the usable definitions for sustainable maritime economic activities, also for the sake of the investors. Developing and aligning the

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taxonomy to its purpose requires the knowledge on three different levels: knowledge of the entire supply chain, technical expertise on the unique characteristics and not least the know-how of the interdisciplinary linkage of all these elements. The Sustainable Finance Platform is tasked to establish and review these definitions. It would be highly beneficial for both the regulator and the EU economy to include shipping experts in the Platform.

Greenwashing and transition

The lack of common definitions to identify which types of investment can be identified as “green” may lead to transitional technologies like the LNG without accounting for the methane slip. What is your view about the greenwashing challenges?

I believe greenwashing and transition are two different matters. They are certainly linked, but need different approach and different type of solutions. It is key that the shipping industry is recognized as a transitional industry, which needs in-between steps to reach green goals. The EU shipping industry is dedicated to reach the green goals. In order to climb the in-between steps of the ladder, technology neutrality is a key element.

The future of SMEs

Does taxonomy mean that small- and medium-sized enterprises (SMEs) will be driven out of the market?

There is a risk, if the definitions are not calibrated properly, that SMEs will face a difficult situation. The taxonomy compliance is relatively more burdensome for SMEs in its current form, even though reporting and disclosure

requirements are not obligatory for SMEs. If they are not taxonomy compliant (also by choosing not to report), they may face difficulties in accessing sustainable financing. There is no question the regulator is dedicated to protect SMEs. They are considering possible tools to ensure that SMEs are not overburdened, for example by creating standard solutions. The taxonomy can provide this feature, but we are not there yet.


Does the taxonomy reduce finance opportunities in the EU? Does it simplify or complicate shipowners’ lives?

There are opportunities and challenges. The taxonomy itself is a tool to measure what activities are green to help the financial services providers and investors to decide whether their portfolio they invest in is green or not.

In principle it should not complicate the lives of shipowners. It should be the carrot, not the stick. In practice, however, we see negative trends, which are results of many factors: complexity, the scope, the hybrid and dynamic nature of the regulation, and not least the process.

We also need to remember that the taxonomy is there for defining the top performing green activities. It raises the question: how do we address transition then?

I will put on my economist hat here: we need to have a cost-benefit analysis, then ask the question whether it is worth it and considered to be more complicated than the simple way.

If I take off my economist hat, I would rather say that the taxonomy is a new dictionary for a newly developing language, the language of sustainability, which will stay with us for the next couple of years – even decades. It is complex, that’s true. And its hybrid character makes it even more complicated to follow/understand for the time being. But if it is calibrated well and stays alive, we will learn how to speak this language and it will not be as complex anymore. 

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