



On 8 March 2023, the European Maritime Law Organisation (EMLO), an independent forum for debate and research on EU maritime law affairs, devoted a second webinar to maritime taxonomy. Dr Anna Bredima, Senior Policy Advisor on European Affairs, Cyprus Union of Shipowners, interviewed Dr Katalin Dobranszky, Senior Director of Innovation, Finance, and Fiscal Affairs, European Community Shipowners Associations.

TAXONOMY AND ITS EFFECTS ON SHIPOWNERS, SHIP FINANCING, MARINE INSURERS AND CHARTERERS



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In 2020, the European Commission (EC) adopted a regulatory framework to facilitate sustainable investment, known as the European Taxonomy Regulation, which is part of a horizontal legislative package on sustainable finance aiming to contribute to the European Green Deal (2020). Taxonomy comes from the Greek word "taxinomia," meaning "the science of classification". The European Taxonomy Regulation defines which economic activities are considered green for investment purposes. A offered insight into legislative developments and the challenges and opportunities faced by shipping as a sector in transition. In the following discussion, Finance expert Dr Katalin Dobranszky will guide us through the legal maze of taxonomy.

A.M. **The European Taxonomy Regulation (852/2020) provides the framework, but the details are defined via delegated regulation. What additional regulatory acts have been adopted?**

K.D. Article 8 Delegated Act defines the reporting requirements of taxonomy-eligible and taxonomy-aligned economic activities, which are to be calculated in terms of turnover, CAPEX, and OPEX. The Environmental Delegated Act (TDA1) recognises that shipping can substantially contribute to climate change mitigation and defines the technical screening criteria (TSC) for vessels. Vessels are considered green if they have zero tailpipe emissions -or comply with somewhat less stringent transitional criteria until 2025- and are not dedicated to fossil fuel transport. If the transitional criteria are not extended beyond 2025, only vessels with zero tailpipe emissions will be defined as green, creating difficulties given the currently available technology. An amendment to TDA1 addressing transitional criteria post-2025 is in the pipeline. On the other hand, the restrictions on cargo carried are



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problematic since shipowners will be penalised under the TSC even if their vessel is green. ECSA has argued that cargo transported is dictated by market demand and should not be targeted under the TSC.

A.M. **The legislative process regarding taxonomy revealed a lack of maritime expertise in the Sustainable Finance Platform (SFP) advising the EC, which initially did not include shipping experts. However, following pressure from the industry, ECSA joined the SFP as an ad-hoc expert. The SFP submitted its report in November 2022. What is expected next?**

K.D. The Platform was established to help investors identify sustainable investments by categorising green economic activities. Initially, the expert group was mainly made up of financial experts. However, as Taxonomy grew into an important tool for the Green Deal, the Platform had to deal with various other technical matters, and for this purpose, it is now working with ad-hoc experts.

A.M. **Professor Daniel Guéguen tweeted on 24 November 2020: "The EC's sustainable finance taxonomy bears all the hallmarks of failed governance: in short, it's an Orwellian mechanism." At the first EMLO Webinar, borrowing an expression stemming from Greek mythology, I remarked that taxonomy had put shipping on the "Procrustean bed" and is trying to fit it into its technical screening criteria. Do you think these criticisms are justified?**

K.D. Yes and no. It must be remembered that taxonomy was initially designed to identify best-in-class economic activities. However, after taxonomy became a political priority, markets began to perceive any economic activities that were not considered eligible as "black economic activities". Although not initially within the taxonomy's scope, shipping has since been recognised as taxonomy-eligible and as a sector in transition. We have come a long way.

A.M. **What will be the implications of taxonomy at the international level?**

K.D. Is not devising EU regional standards a dangerous precedent for a global industry like shipping? International regulations are key for international businesses, but we have to acknowledge that sustainability is a political priority for the EU. We are on a learning curve, so we must face fragmented solutions until we reach the final outcome.

A.M. **Taxonomy definitions regarding eligible activities should take into account the diversity of maritime activities where a "one size fits all" approach is a recipe for disaster. There is a diversity of activities, segments, ship sizes, ship types, and business**



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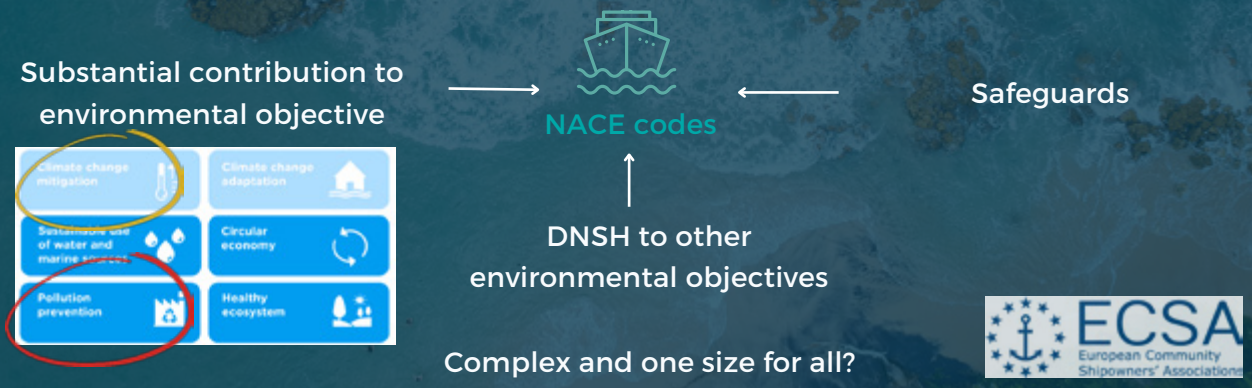
EU Taxonomy: green economic activities

Taxonomy Regulation (Regulation (EU) 2020/852): framework

Delegated Act Article 8: reporting on taxonomy eligibility and alignment in terms of Turnover, CAPEX and OPEX

Delegated Act Envi 1: technical screening criteria up to 2025 (SC+DNSH)

Delegated Act Envi 2: in the pipeline



Complex and one size for all?

models. What guidance would you give policymakers?

K.D. A "one size fits all" approach does not work. TDA1 recognises this diversity in the definition of shipping economic activities, giving flexibility for future additions. However, the TSC is not yet taking this fully into account.

reduce finance/funding sources. We have seen a negative trend in ship financing in past years due to underlining market misperceptions and regulatory requirements for banks. Most recently, we have seen a better understanding of the purpose of taxonomy.

A.M. **The Sustainable Finance Platform did not identify the speed-limit-related operational criteria as the appropriate technical requirements. Is it confirmed that speed limits and underwater noise will be excluded from the taxonomy process due to a lack of relevant information?**

A.M. **Sustainability reporting standards are gaining ground worldwide in ship financing. However, the proliferation of arbitrary private initiatives is leading to fragmentation. What hurdles do you anticipate in this process?**

K.D. The TDA1 only covers the objective of climate mitigation. All the above relates to the pollution prevention objective, which will require further discussions.

K.D. As mentioned, this regulation is in the making. Certain segments are not covered, so this market gap leaves room for private initiatives. However, private initiatives may undermine stability, which is key to financing.

A.M. **Will the taxonomy process facilitate or complicate EU shipowners' lives by reducing finance opportunities and driving them to consolidations? What will be the implications of cumbersome administrative reporting formalities for SMEs?**

K.D. While the Taxonomy Regulation does not cover SMEs, they will be indirectly impacted by the reporting requirements placed on financial institutions. However, as long as Taxonomy is used for its original purpose, it should not

CONCLUSIONS

Maritime Taxonomy is horizontal and complex. It is a reporting and disclosure tool providing investors with information about green investments. While the goal of decarbonisation is certain, regulatory and technological developments bring uncertainty. On the one hand, success lies in predictability and stability by classification. On the other hand, taxonomy is a challenge and an opportunity. If we get it right, it can be a useful tool.

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