

# Carbon free shipping and shipping carbon - Contracts in context

Setting the scene

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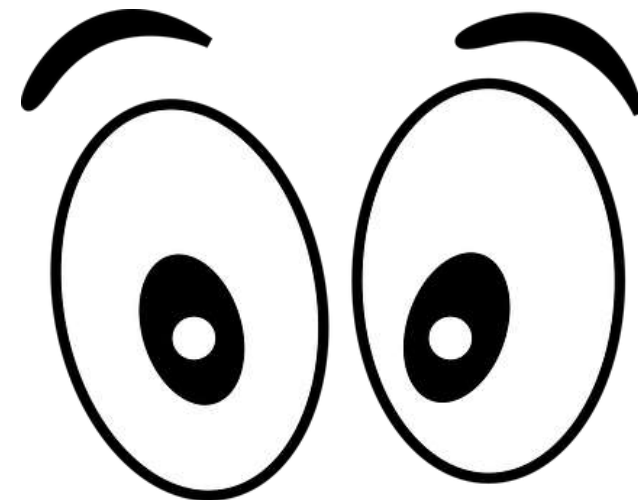


## Hosting the conference

CEPRI (Centre for Private Governance)

SHOC (Shipping and Ocean Law Group)

So...?



# The problem

- The shipping industry forms part of major global value chains
- It accounts for between 2% and 3% of global emissions
- If nothing is done, it will get worse: 17% of total annual CO<sub>2</sub> emissions by 2050.



# The shipping industry as a conservative industry

## Public regulation:

- The Paris agreement from 2015 does not mention the shipping industry
- IMO Greenhouse Gas Reduction Strategy has been criticised for being insufficient
- Shipping sector originally not included in the EU ETS system

## Private governance:

- Maritime actors have been slow movers under the CSR movement

# Now speeding up?



## Regional initiatives:

- The the inclusion of the shipping sector in the EU ETS system?

## International initiatives:

- IMO: MARPOL, Annex VI, introducing EEXI system and CII system from January 2023:
  - Existing ships must meet energy efficiency requirements as built (EEXI) and as operated (CII)
- May 2022: Carbon tax?

# Theme for this conference

What are the spill over effects of the development towards carbon reductions at the contractual level?

- Contracts for carbon free shipping
- Contracts for shipping carbon for storage

Matters for discussion:

What do the contracts look like, how should they be understood and interpreted, do they achieve the desired goal and will and can they be enforced? => **5 parts of the conference**



# I. Regional initiatives

- EU ETS system

## => **Contractual issues:**

- Distribution of costs between shipowner and charterer
- Trading carbon credits

## II: International initiatives

- MARPOL, Annex VI (from January 2023)
  - EEXI system
  - CII system

### => **contractual issues:**

- BIMCO clauses: Distribution of costs and obligations between shipowners and charterers
- Other models

Focus on energy efficiency => Will the contracts become more 'collaborative'? Common goals of the parties? Can existing long term contracts be amended?



## III: Enforcement?

Public enforcement:

- Reporting requirement/corrective plan

Market based enforcement?

- "... Bad CII ratings will significantly reduce the commercial attractiveness of the ships. **Charterers** will not want to charter them, **insurance premiums** for these ships will increase, and they will not get preferred slots in **ports** around the world and the port fee will increase for these ships."
- Push from **financial** actors?
- Climate **litigation** against maritime actors? (The Dutch Shell case, 2011)

## Will it work or make things worse?

Focus on energy efficiency – but not total amount of emissions:

- - Slow steaming and less cargo intake may optimise efficiency. But no limit as to the amount of ships that can be operated
  - - Long voyages may be more efficient than shorter with many ports stops. But in total, long voyages may produce more Co2
  - - => Will the CII system may make things worse?!
- 
- Are contracts the tools to be used to solve these problems? Incentives?
  - Interpreting contracts in the light of overriding, societal climate change concerns?



## IV: Shipping carbon for storage

- Increased interest in this. The CCS chain is taking shape
- Project Green Sand, Blue Water Shipping
- New deal with Belgium, autumn 2022 for shipping carbon to Denmark
- Icelandic project, Shipments to start in 2025 by Danish Shipping Company
- Requires the right ships to carry the carbon under the right conditions
- => **Contracts for this kind of carriage?**

## V: Storage at sea

- How to do it?
- Legal frameworks: Facilitation/obstacles?
- International law of the sea
- Environmental law: Carbon as 'waste'?

