

MARINE ENVIRONMENT PROTECTION
COMMITTEE
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Agenda item 9

MEPC 73/9/2
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**DEVELOPMENT OF MEASURES TO REDUCE RISKS OF USE AND CARRIAGE OF
HEAVY FUEL OIL AS FUEL BY SHIPS IN ARCTIC WATERS**

**Comments on document MEPC 73/9 on "Report of the informal correspondence group
on the determination of an appropriate impact assessment methodology"**

Submitted by Finland

SUMMARY

Executive summary: This document provides comments on document MEPC 73/9, which provides a progress report of an informal correspondence group convened to provide guidance on the process of conducting an impact assessment on Arctic communities and economies of a ban on the use and carriage of Heavy Fuel Oil (HFO) as fuel by Arctic shipping. This document comments on the methodology proposed by Canada and the Russian Federation in document MEPC 73/9 to make an impact assessment and proposes a five-step process for consideration. Furthermore, the document notes that much of the work necessary to complete such an assessment has already been undertaken.

*Strategic direction,
if applicable:* 6

Output: 6.11

Action to be taken: Paragraph 12

Related documents: MEPC 71/14/4, MEPC 71/17; MEPC 72/11/1, MEPC 72/17, MEPC 72/INF.14; MEPC 73/9 and MEPC 73/INF.19.

Introduction

1 This document is submitted in accordance with the provisions of paragraph 6.12.5 of the document on *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ. 5) and comments on document MEPC 73/9.

2 At its seventy-second session in April 2018, the International Maritime Organization's Marine Environment Protection Committee (MEPC) approved a scope of work for its Pollution Prevention and Response (PPR) Sub-Committee (MEPC 72/17, paragraph 11.9), which included agreement to "on the basis of an assessment of the impacts, develop a ban on HFO for use and carriage as fuel by ships in Arctic waters, on an appropriate timescale". Member Governments and international organizations were urged to submit concrete proposals to the next session of the MEPC on an appropriate impact assessment methodology process. Following MEPC 72, Canada led an informal correspondence group with a view to sharing information and combining efforts to develop a more informed proposal for MEPC 73 (document MEPC 73/9). This proposal would provide guidance on the process of conducting an impact assessment on Arctic communities and economies of a ban on HFO, taking into account the experience and reality of the various countries affected.

Introduction to impact assessment methodology

3 Prior to responding specifically to paragraph 16 of document MEPC 73/9, it is worth noting a few principles of impact assessment.

4 Impact assessments are formal, evidence-based procedures that assess the economic, social and environmental effects of policy. Impacts are changes, which may be positive or negative, that have environmental, political, economic or social significance (or a combination) to society. Impact assessments have been recognized as forward-looking instruments that are able to proactively advise decision-makers. Impact assessments have both technical and procedural elements. They seek to evaluate and synthesize the efforts of disciplinary specialists, stakeholders and regulatory authorities.

5 By providing unbiased scientific information, decision-makers are able to develop or select policies, plans, programmes and projects that will be sustainable, effective and viable. In a regulatory context an impact assessment becomes an integral part of the decision-making process to which the plan, programme or project will be subjected. It seeks to ensure that stakeholders, both private and regulatory, have been engaged, their interests recognized, relevant laws and regulations addressed, and that pertinent information to the pending decision has not been omitted or exaggerated¹.

6 Impact assessments can improve legislation by:

- .1 informing policy makers about the potential economic, social and environmental ramifications of a proposal;
- .2 improving coordination and transparency so that contributions of the proposed policies to sustainability, viability and "better regulation" are disclosed and special interest lobbying is discouraged;
- .3 facilitating inclusiveness to reflect a range of considerations, thereby improving the legitimacy of policies;
- .4 clarifying how public policy helps achieve its goals and priorities through policy indicators; and
- .5 contributing to continuous learning in policy development by identifying causalities that inform ex-post review of policies.

¹ Impact Assessment Fasttips No.1 April 2012. International Association for Impact Assessment.

7 The International Association for Impact Assessment (IAIA) identifies a number of important points to understand about impact assessments². The social contract between impact assessment professionals, civil society and decision-makers is that an impact assessment will be conducted with integrity and be free from misrepresentation or deliberate bias. An impact assessment should aim to optimize positive effects and minimize residual negative effects of the potential new environmental measures through appropriate policy design. Additional mitigation measures to reduce the magnitude of negative impacts could also be explored where it is not possible to avoid negative impacts of regulation through appropriate policy design. It is also desirable to integrate the environmental, social and economic dimensions of an impact assessment unless the jurisdiction for which the assessment is being prepared constrains impact assessments to an analysis of specific types of impacts only.

8 The IAIA also recognizes that it should be ensured that an impact assessment makes a positive contribution to the environment and well-being of the people living in it by suggesting ways to avoid or reduce risks and enhance benefits of actions.

Impact assessment methodology

9 Planning and undertaking an impact assessment usually follows a number of steps, and during Round 2 of the informal correspondence group's work Canada and the Russian Federation proposed a three step process (document MEPC 73/9, paragraph 10). Building on the informal correspondence group's work and along with widely accepted and utilized guidance from the European Commission on impact assessment³ Finland proposes the following stepwise approach, and note that much of the work necessary to complete such an assessment has already been undertaken:

- .1 defining the problem;
- .2 defining policy objectives;
- .3 development of policy options;
- .4 analysis of impacts; and
- .5 comparison of policy options and recommendation of one option.

Impact assessment and a proposed ban on HFO use and carriage as fuel by Arctic shipping

10 Impact assessment is a formal, evidence-based procedure that assesses the economic, social and environmental effects of policy. It is a widely utilized tool that has been used extensively for many years to proactively advise decision-makers. The steps of an impact assessment to guide the IMO decision on protecting the Arctic from the risks of environmental damage through a ban on HFO use and carriage as fuel have already been undertaken. Relevant information has been published by several organizations, including the Arctic Council. As such, existing data can already be used to inform PPR on the development of a ban on HFO for use and carriage as fuel by ships in Arctic waters on an appropriate timescale.

² Impact Assessment Fastips No. 1 April 2012. International Association for Impact Assessment.

³ European Commission, January 2009, Impact Assessment Guidelines. SEC(2009) 92. http://ec.europa.eu/smart-regulation/impact/commission_guidelines/docs/iag_2009_en.pdf

11 To demonstrate, the first two steps addressing problem definition and definition of policy objectives are considered below:

.1 Step 1 Problem definition:

- .1 The Arctic Council's Protection of the Arctic Marine Environment (PAME) Working Group has previously concluded that "...the most significant threat from ships to the Arctic marine environment is the release of oil through accidental or illegal discharge..."⁴ and using distillates instead of HFO as fuel would achieve significant spill risk reduction.⁵ The PAME Working Group has worked to address the risks associated with the use and carriage of HFO by vessels in the Arctic for several years with progress summarized in the Arctic Council's Status on Implementation of the AMSA 2009 Report Recommendations reports published in 2011, 2013, 2015 and 2017⁶. A summary of the work undertaken by PAME is provided in document MEPC 72/INF.14; and
- .2 Document MEPC 71/14/4 submitted by Canada, Finland, Germany, Iceland, Netherlands, Norway and the United States sets out the compelling need for a new output to be included in MEPC's work programme, including the increased spill risk due to the projected increase in future vessel traffic in Arctic waters. While document MEPC 72/11/1 submitted by Finland, Germany, Iceland, Netherlands, New Zealand, Norway, Sweden and the United States proposes to reduce the risks by adopting a ban on the use and carriage of heavy fuel oil as fuel by ships in Arctic waters.

.2 Step 2 Definition of policy objectives:

- .1 As set forth by MEPC, the policy objective is to develop measure(s) to reduce risks of use and carriage of heavy fuel oil (HFO) as fuel by ships in Arctic waters, particularly with respect to environmental damage associated with potential spills of that fuel (document MEPC 71/17, paragraph 14.13.1). More specifically, the PPR Sub-Committee is to "on the basis of an assessment of the impacts, develop a ban on HFO for use and carriage as fuel by ships in Arctic waters, on an appropriate timescale." (document MEPC 72/17, paragraph 11.9.3).

Action requested of the Committee

12 The Committee is invited to agree the impact assessment methodology set out in paragraph 9 to enable the PPR Sub-Committee to undertake its work based on the scope of work agreed at MEPC 72 (document MEPC 72/17, paragraph 11.9).

⁴ Arctic Marine Shipping Assessment 2009 Report (AMSA, 2009). Arctic Council, April 2009 (5).

⁵ Heavy Fuel in the Arctic (Phase 1) Det Norske Veritas (2011).

⁶ Status on Implementation of the AMSA 2009 Reports published in May 2011, May 2013, April 2015, and May 2017. Arctic Council. <https://www.pame.is/index.php/document-library/amsa-documents>