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## 'I' ITEM NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
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No. prev. doc.:	6629/19
Subject:	IMO – Union submission to be submitted to the 74th session of the Marine Environment Protection Committee (MEPC 74) of the IMO in London from 13 – 17 May 2019 concerning consideration on the enhancement of the implementation of regulation 18 of MARPOL Annex VI – <i>Endorsement</i>

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## INTRODUCTION

1. On 11 February 2019, the Commission transmitted to the Council a Staff Working Document containing a draft submission to the 74<sup>th</sup> session of the Marine Environment Protection Committee ('MEPC') of the International Maritime Organization ('IMO') concerning consideration on the enhancement of the implementation of regulation 18 of Annex VI to the International Convention for the Prevention of Pollution from Ships ('MARPOL'). The deadline for transmitting the draft submission to the IMO Secretariat is 8 March 2019.

2. The draft submission is linked to the global cap on the sulphur content of marine fuels to 0.5% which will enter into force on 1 January 2020. Regulation 18 of Annex VI to MARPOL deals with fuel oil quality. The draft submission presents considerations and concrete proposals on data collection concerning fuel oil quality and reporting of non-availability of compliant fuel oils.

## WORK WITHIN THE COUNCIL

3. The draft submission was examined by the Shipping Working Party at its meetings on 20 and 27 February and 6 March 2019. At that last meeting, consensus was reached on the substance of the submission. It was also agreed that the Presidency would be allowed to indicate at the time of transmission that the document may be released to the public by the IMO secretariat prior to MEPC 74.
4. However, there is no agreement on who should submit the draft submission. The Commission maintains the view that the draft submission should be made by "the European Commission on behalf of the European Union", while the Member States consider that it should be made by the Member States and the European Commission.
5. Given the urgency and importance of the matter, it was agreed at working party level to propose to transmit the submission in the name of the Member States and the European Commission, while taking good note of the position of the Commission.

## CONCLUSION

6. In the light of the above, the Permanent Representatives Committee is invited to
  - endorse the text of the draft submission in the annex, with a view to its transmission by the Presidency to the International Maritime Organization by 8 March 2019.

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MARINE ENVIRONMENT  
PROTECTION COMMITTEE  
74<sup>TH</sup> session  
Agenda item 5

MEPC 74/5/X  
X March 2019  
Original: ENGLISH

## **AIR POLLUTION AND ENERGY EFFICIENCY**

### **Consideration on the enhancement of the implementation of regulation 18 of MARPOL Annex VI**

**Submitted by Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom and the European Commission**

#### **SUMMARY**

*Executive summary:* This document presents considerations and concrete proposals on data collection concerning fuel oil quality and reporting of non-availability of compliant fuel oils, including the enhancement of the GISIS MARPOL Annex VI module as requested at MEPC 73/19 paragraph 5.33 with a view to enhance the implementation of regulation 18 of MARPOL Annex VI.

*Strategic direction, if applicable:* 1

*Output:* 1.17

*Action to be taken:* Paragraph 12

*Related documents:* MEPC 73/19

## **Introduction**

1 MEPC 73 invited concrete proposals on how to enhance the implementation of regulation 18 of MARPOL Annex VI, in particular on fuel oil quality and reporting of non-availability of compliant fuel oils, including the enhancement of the GISIS module for data collection and analysis.

## Enhancement of data collection on fuel oil availability and quality

2 The scope of data collected is to be limited to regulations 18 and 14.2 of MARPOL Annex VI with a view to create transparency and raise awareness on potential issues related to fuel oil quality and availability to ensure consistent enforcement of regulations 14 and 18. There are indications of limited reporting of data, and it is therefore essential that the Parties to MARPOL Annex VI ensure consistent reporting of data to the relevant GISIS module<sup>1</sup>.

3 It is suggested for consideration to broaden the reporting scope of the following data and to add to current obligations the collection of new relevant data as follows:

- Data already subject to reporting in accordance with MARPOL:
  - Information on worldwide average sulphur content of residual fuel, cf. regulation 14.2
  - Information on fuel availability, cf. regulation 18.1
  - Information on compliant fuel oil unavailability (number of FONAR submitted including where the unavailability occurred), cf. regulation 18.2.5
  - Information of cases where fuel oil suppliers have failed to meet the requirements specified in regulations 14 or 18, cf. regulation 18.9.6
- Data not subject to reporting in accordance with MARPOL:
  - Cases where the competent authority of a party has taken steps to verify the contents of a Bunker Delivery Note (BDN) (regulation 18.7.1).
  - Cases where a Party has taken action against fuel oil suppliers that have been found to deliver fuel oil that does not comply with that stated on the Bunker Delivery Note (BDN) (regulation 18.9.4).
  - Inspections by the competent authority where sulphur in fuel has been tested including where the inspection has taken place.
  - Verifications by the competent authority where a representative fuel sample has been analyzed (regulation 18.8.2).
  - Number of detentions related to or based on sulphur compliance including where these detentions have taken place (IMO Res. A.1119(30) Procedures for Port State Control, paragraph 4.1.5.).

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- Regulation 18.1 of MARPOL Annex VI requires each Party to inform the Organization on the availability of compliant fuel oils in its ports and terminals. As of February 2019, only five Parties have reported via the GISIS MARPOL Annex VI module availability of compliant fuel oils.
- Regulation 18.2.5 of MARPOL Annex VI requires each Party to notify the Organization when a ship has presented evidence of the non-availability of compliant fuel oil. As of February 2019, only three Parties have utilized the GISIS MARPOL Annex VI module to inform of such cases.
- Regulation 18.9.6 of MARPOL Annex VI requires each Party to inform the Organization of all cases where fuel oil suppliers have failed to meet the requirements specified in regulations 14 or 18 of MARPOL Annex VI. As of February 2019, eleven Parties have reported such cases to the Organization via the GISIS MARPOL Annex VI.

4 The scope of data collection on fuel quality could be further broadened by including the information currently provided by companies, on a commercial basis, based on testing and sampling services of bunker fuels delivered to ships for the purpose of assessing quality parameters of these fuels. These companies already provide data on the average sulphur content in residual fuel to the IMO pursuant to regulation 14.2; cf. the 2017 Guidelines for monitoring the worldwide average sulphur content of fuel oils supplied for use on board ships (resolution MEPC.192(61)). The results of IMO's sulphur monitoring programme were reported to the Committee in 2017 and were based on 141,175 residual fuel oil samples accounting for a total of 121,428,910 tonnes of fuel supplied for use on board ships. The total number of distillate fuel samples tested was 72,286, corresponding to 12,173,450 tonnes of distillate fuels supplied to ships. These cover between 25% and 35% of all deliveries. Only 0.33% of the tested residual fuel oils exceeded 3.50% sulphur, the current global limit, down from 0.53% in 2016.

5 These reported data should also cover information about the quality of the fuel tested beyond the sulphur content. This could provide a basis for determining fuel oil quality, also considering that the results are coming from companies accredited and experienced in testing the content of marine fuels (*ISO 8217*, *ISO 17025*). However, issues such as the degree of the validation process of reported results on off specification fuels in particular – as well as on all other reported data – would need to be addressed. A dedicated reporting template could be developed to ensure uniform and unambiguous provision of quality data focusing on deviation from required specification affecting the handling and usability of the fuel by ships.

6 The current obligation for Administrations to report on availability could be made more effective by requiring testing agencies to contribute to the monitoring programme by providing information not just about the sulphur content but also about the ports, dates and quantity of the fuels supplied. Such information should be provided on a more regular basis, for example quarterly in the first year and then bi-annually for the duration of the collection period.

7 Synergies should be explored in relation to any future work at the Maritime Safety Committee, as discussed at its 100<sup>th</sup> session, on 'development of measures to enhance safety of ships relating to the use of fuel oil' which may also require a potential collection of data focusing on fuel oil quality.

### **Existing mechanisms such as GISIS as data collection point**

8 Existing joint platforms for data collection and sharing such as GISIS could be enhanced for reporting the data mentioned in paragraphs 3 to 6. The use of a one-point-of-entry for collecting data for the purpose of enhancing the implementation of regulation 14 and 18 of MARPOL Annex VI will provide certainty for competent authorities and facilitate data calibration and analysis to provide consistent enforcement. In particular, GISIS data management should as well be enhanced to allow for more filtering features of the reported data (i.e. display notifications from country or port of call, etc.). This would require for example greater harmonization of the reported data, like mandatory fields or guidance to obtain relevant data for further analysis.

## **Life span and purpose of the data collection period**

9 Data collection for greater transparency on fuel oil availability and fuel oil quality to ensure consistent enforcement should take place within a time frame of approximately 3 to 5 years. This will ensure that collection of data is strongly encouraged and that, therefore, the collected data depict a true and fair picture of the status of availability and enforcement, while at the same time absorbing fluctuations of the data set that might be present in the post-shift phase of the new fuel types. However a preliminary picture taking stock of data on fuel quality and availability currently available in GISIS as well as an overview of the current use of GISIS with reference to obligations under regulations 18 and 14 should be provided by the IMO secretariat by the end of 2019.

10 When the data collection period ends, the data should be analyzed with a view to assessing the consistent enforcement of regulation 18 of MARPOL Annex VI. Annual reviews of the data set could be useful.

## **Recommendations**

11 Based on the considerations set out in paragraphs 3 and 8 above, it is recommended that:

- the IMO secretariat provide a preliminary overview of data on fuel quality and availability currently available in GISIS as well as an overview of the current use of GISIS with reference to obligations under Regulation 18 and 14 by the end of 2019;
- an overall data collection period further be set to 3 to 5 years;
- the scope of existing data collection as in paragraph 3 be enhanced taking into account paragraphs 4 and 5;
- the collection of additional data as set out in paragraph 3 be carried out to effectively complement the existing reporting of information required;
- a more extensive use of GISIS by parties be encouraged for reporting the data mentioned in paragraph 3. Competent authorities of parties should commit to populate GISIS as one-point-of-entry for collecting data;
- new GISIS modules be developed to collect data that are not currently reported (or collected).

## **Action requested of the Committee**

- 12 The Committee is invited to consider the recommendations in paragraph 11, taking into account the considerations in paragraphs 3 to 8, and take action as appropriate.