

SUB-COMMITTEE ON POLLUTION
PREVENTION AND RESPONSE
7th session
Agenda item 14

PPR 7/14/4
13 December 2019
Original: ENGLISH
Pre-session public release:

**DEVELOPMENT OF MEASURES TO REDUCE RISKS OF USE AND CARRIAGE OF
HEAVY FUEL OIL AS FUEL BY SHIPS IN ARCTIC WATERS**

**Draft language for a ban of use and carriage of heavy fuel oil as fuel
by ships in Arctic waters**

**Submitted by Denmark, Finland, France, Germany, Iceland, Netherlands, New Zealand,
Norway, Spain, Sweden and United States**

SUMMARY

Executive summary: This document contains proposed draft amendments to MARPOL Annex I and the Polar Code to incorporate a ban on the use and carriage for use as fuel of heavy fuel oil (HFO) by ships in Arctic waters. This Arctic ban would not apply to the carriage of HFO as cargo.

*Strategic direction,
if applicable:* 6

Output: 6.11

Action to be taken: Paragraph 8

Related documents: MEPC 71/14/4; MEPC 72/11/1; MEPC 73/9/1, MEPC 73/9/2; and PPR 6/12/3

1 In April 2018, at the seventy-second session of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC), the Committee noted that the proposal, in document MEPC 72/11/1 (Finland et al.), to ban the use and carriage for use as fuel of heavy fuel oil (HFO) by ships in Arctic waters, had received wide support. The Committee referred the following tasks to the Sub-Committee on Pollution Prevention and Response (PPR): the development of a definition of HFO; the development of Guidelines on mitigation measures to reduce risks; and the development of a ban on HFO use and carriage for use as fuel by ships in Arctic waters. This ban on the use and carriage for use of HFO in Arctic waters would not apply to the carriage of HFO as cargo in Arctic waters. The PPR Sub-Committee was given two sessions to complete this work. In paragraph 11.9.3 of the MEPC 72 report, the PPR Sub-Committee is instructed 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". Work on the HFO ban began at the 6th session of the PPR Sub-Committee in February 2019 (PPR 6), within the Sub-Committee's Working Group on HFO in Arctic Waters.

2 At PPR 6, the Working Group finalized the methodology to be used for impact assessments, as shown in annex 16 to document PPR 6/20/Add.1. In addition, the Sub-Committee agreed that:

- .1 a working definition of HFO would use the applicable portion of the definition already existing in regulation 43 of MARPOL Annex I. Therefore, HFO is defined for the purposes of this ban as fuel oils having a density at 15°C higher than 900 kg/m³ or a kinematic viscosity at 50°C higher than 180 mm²/s; and
- .2 the preferred instrument for the HFO ban is MARPOL Annex I.

3 In annex 1 to this document, the co-sponsors provide draft language to amend regulation 43 of MARPOL Annex I to include:

- .1 replacing "the Antarctic area" with "Polar waters" in the chapter and regulation headings;
- .2 inserting a new paragraph 43.2 to contain the substance of the ban on HFO for use and carriage as fuel by ships in Arctic waters;
- .3 renumbering the current paragraph 43.2 to paragraph 43.3. This paragraph states that "cleaning or flushing of tanks or pipelines is not required" to be compliant with the HFO ban, and this clarification will now apply to both the Antarctic area and Arctic waters. This existing provision confirms that fuel tanks and piping used for HFO prior to operating in Polar waters are considered empty of pumpable HFO without cleaning or flushing; and
- .4 adding a new paragraph 43.4 to allow for a five-year delay in the implementation of the ban in Arctic waters for vessels that already comply with regulation 12A of MARPOL Annex I or with the International Code for Ships Operating in Polar Waters (Polar Code), Part II-A, chapter 1 regulation 1.2.1, consistent with the proposal in document MEPC 72/11/1.

4 In addition to amending MARPOL Annex I, the co-sponsors recommend that the Sub-Committee draft language to amend the Polar Code to conform to the proposed amendment of MARPOL Annex I. A draft proposal for this amendment to the Polar Code is provided in annex 2 to this document. Amending MARPOL Annex I consolidates the Arctic ban with the existing Antarctic ban with which it shares various common definitions and a common purpose. Amending the Polar Code to reflect the amendment to MARPOL Annex I would ensure that all relevant Polar environmental matters are reflected in the text of the Polar Code. The co-sponsors would include footnotes in MARPOL Annex I and in the Polar Code cross-referencing the HFO ban to remind readers that any changes made to the Arctic ban should be made in both places.

5 The draft language proposed in this document reflects discussions and draft impact assessments that have been submitted prior to PPR 7, including considerations that are meant to mitigate potential economic impacts to remote Arctic local and Indigenous communities and industries. Considerations identified so far, and reflected in proposed amendments, include:

-
- .1 a five-year delay in implementation for vessels that already comply with the oil fuel tank protections of regulation 12A of MARPOL Annex I or Part II-A of the Polar Code. This consideration was already proposed in the original ban proposal contained in document MEPC 72/11/1; and
 - .2 the application to the Arctic ban of an existing provision stating that when prior operations have included the carriage or use of HFO as defined by regulation 43 of MARPOL Annex I, the cleaning or flushing of tanks or pipelines is not required. This existing provision implies that ships compliant with an HFO ban have fuel tanks that are considered empty of pumpable HFO.

6 Discussions at PPR 7 may identify further considerations "on the basis of an assessment of the impacts" (MEPC 72/17, paragraph 11.9.3) in addition to those listed in paragraph 5 of this document. Such considerations, for example, could incorporate different implementation schedules for specific vessel types or in specified geographic areas.

7 To facilitate the work of the Working Group on HFO in Arctic Waters at PPR 7, the co-sponsors propose to fulfil the terms of reference by:

- .1 discussing the results of impact assessments submitted to or prior to PPR 7, with a focus upon credible data and conclusions that could constructively inform the development of specific text regarding other considerations to mitigate impacts identified in the impact assessments;
- .2 drafting text to capture any further considerations that could mitigate identified impacts; and
- .3 finalizing draft amendments to MARPOL Annex I and the Polar Code and forwarding them to the Committee for approval and adoption.

Action requested of the Sub-Committee

8 The Sub-Committee is invited to consider this document and in particular to:

- .1 consider the proposed amendments to regulation 43 of MARPOL Annex I and Part II-A of the Polar Code (annexes 1 and 2 to this document);
- .2 consider the approach proposed for the Working Group on HFO in Arctic Waters to address the terms of reference during PPR 7 contained in paragraph 7 of this document; and
- .3 finalize the amendments to regulation 43 of MARPOL Annex I and Part II-A of the Polar Code at PPR 7 and forward to the Committee for approval and adoption.

ANNEX 1

DRAFT AMENDMENTS TO MARPOL ANNEX I

(New text shown as underlined and text to be deleted as ~~striketrough~~)

Chapter 9 of MARPOL Annex I is amended as follows:

Chapter 9 – Special requirements for the use or carriage of oils in ~~the Antarctic area~~
Polar waters

Regulation 43

Special requirements for the use or carriage of oils in ~~the Antarctic area~~ Polar waters

1 With the exception of vessels engaged in securing the safety of ships or in a search and rescue operation, the carriage in bulk as cargo, use as ballast, or carriage and use as fuel of the following:

- .1 crude oils having a density at 15°C higher than 900 kg/m³;
- .2 oils, other than crude oils, having a density at 15°C higher than 900 kg/m³ or a kinematic viscosity at 50°C higher than 180 mm²/s; or
- .3 bitumen, tar and their emulsions,

shall be prohibited in the Antarctic area, as defined in Annex I, regulation 1.11.7.

~~2 When prior operations have included the carriage or use of oils listed in paragraphs 1.1 to 1.3 of this regulation, the cleaning or flushing of tanks or pipelines is not required.~~

2* With the exception of vessels engaged in securing the safety of ships or in a search and rescue operation, the use and carriage for use as fuel by ships of oils identified in paragraph 1.2 of this regulation shall be prohibited in Arctic waters, as defined in Annex I, regulation 46.2.

3 When prior operations have included the carriage or use of oils listed in paragraphs 1.1 to 1.3 of this regulation, the cleaning or flushing of tanks or pipelines is not required.

4 A five-year delay from the implementation date of the ban defined in paragraph 2 of this regulation shall be granted for vessels that already comply with MARPOL Annex I regulation 12A or the Polar Code Part II-A, chapter 1, regulation 1.2.1.

* Paragraph 1.1 of Chapter I of Part II-A of the International Code for Ships Operating in Polar Waters (Polar Code) incorporates language identical to language provided here to effect a ban on the use and carriage for use as fuel of certain oils in Arctic waters.

ANNEX 2

DRAFT AMENDMENTS TO THE POLAR CODE

(New text shown as underlined)

Chapter I of Part II-A of the International Code for Ships Operating in Polar Waters (Polar Code) is amended as follows:

1.1 Operational Requirements

Following paragraph 1.1.4, a new paragraph 1.1.5 is added as follows:

1.1.5* With the exception of vessels engaged in securing the safety of ships or in a search and rescue operation, the use and carriage for use as fuel by ships of oils identified in paragraph 1.2 of regulation 43 of MARPOL Annex I shall be prohibited in Arctic waters, as defined in Annex I, regulation 46.2, provided that:

- .1 When prior operations have included the carriage or use of oils listed in paragraphs 1.1 to 1.3 of MARPOL Annex I regulation 43, the cleaning or flushing of tanks or pipelines is not required;
- .2 A five-year delay from the implementation date of the ban defined in paragraph 2 of regulation 43 of MARPOL Annex I shall be granted for vessels that already comply with MARPOL Annex I regulation 12A or the Polar Code Part II-A, chapter 1, regulation 1.2.1.

* MARPOL Annex I regulation 43 incorporates identical language to consolidate this prohibition with a similar prohibition on the use or carriage of oils in the Antarctic area.