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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 29 June 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT For the Council Shipping
Working party IMO - Union submission to be submitted to the 73rd session
of the Marine Environment Protection Committee (MEPC 73) of the IMO in
London from 22 – 26 October 2018 concerning marine Litter from sea-
based sources: input to the IMO action plan on marine plastic litter from
ships

Delegations will find attached document SWD(2018) 371 final.

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COMMISSION STAFF WORKING DOCUMENT

For the Council Shipping Working party

IMO - Union submission to be submitted to the 73rd session of the Marine Environment Protection Committee (MEPC 73) of the IMO in London from 22 – 26 October 2018 concerning marine Litter from sea-based sources: input to the IMO action plan on marine plastic litter from ships

COMMISSION STAFF WORKING DOCUMENT
For the Council Shipping Working party

IMO - Union submission to be submitted to the 73rd session of the Marine Environment Protection Committee (MEPC 73) of the IMO in London from 22 – 26 October 2018 concerning marine Litter from sea-based sources: input to the IMO action plan on marine plastic litter from ships

PURPOSE

The document in Annex contains a draft Union submission to the 73rd session of the Marine Environment Protection Committee (MEPC 73) of the IMO, taking place in London from 22 – 26 October December 2018, concerning marine Litter from sea-based sources: input to the IMO action plan on marine plastic litter from ships. It is hereby submitted to the appropriate technical body of the Council with a view to achieving agreement on transmission of the document to the IMO prior to the required deadline of 17 August 2018¹.

The issue of marine litter from ships is covered by Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues², which includes garbage as defined in MARPOL Annex V. Ships need to deliver all their garbage waste to ports before departure, as set out in article 7 of the Directive, and Article 4 of the Directive requires provision of adequate Port Reception Facilities to receive the garbage waste. The proposal for a Directive on port reception facilities for the delivery of waste from ships, repealing Directive 2000/59/EC and amending Directive 2009/16/EC and Directive 2010/65/EU specifically addresses the problem of marine litter from ships and seeks to maximise garbage deliveries to port. A general approach on this proposal was adopted by the Council on 7 June 2018. The said draft Union submission therefore falls under EU exclusive competence.

ANNEX

MARINE ENVIRONMENT PROTECTION COMMITTEE
73rd session
Agenda Item 8

XX/Y
[Date] 2018
Original: ENGLISH

¹ The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

² OJ L 332, 28.12.2000, p. 81.

Marine Litter from sea-based sources: input to the IMO action plan on marine plastic litter from ships

Submitted by the European Commission on behalf of the European Union

SUMMARY

Executive summary: This document responds to the request from MEPC72 to submit concrete proposals to MEPC73 on the development of an action plan on marine plastic litter from ships.

Strategic direction: 1, 4 and 6

High-level action:

Output:

Action to be taken: Paragraph 23

Related documents: MEPC 72/WP.1, MEPC 72/15, A.30/11/1

Introduction

1 At its 72nd session, MEPC agreed to: 1. Include a new output 'Development of an action plan to address marine plastic litter from ships' in the 2018-2019 biennial agenda of the MEPC, assigning the PPR Subcommittee as the associated organ, with a target completion year of 2020, and 2. Include the new output in the agenda of MEPC 73. In addition, MEPC invited Member Governments and International Organisations to submit concrete proposals to MEPC 73 on the development of the action plan.

2 The IMO has a critical role to play to address the problem of marine litter from shipping. This was also recognised by the Organisation with the latest revision of the MARPOL Convention, imposing stricter discharge requirements for MARPOL Annex V waste, as well as the adoption of the 2012 Guidelines for the implementation of Annex V.

3 With this note, a number of key elements for the future action plan are proposed, largely based on existing IMO Guidelines.

Sea-based sources of marine litter

4 Marine litter in the oceans exerts numerous harmful effects on marine life, biodiversity, as well as possible negative impacts on human health through the spreading of toxic chemicals and organisms. In addition, marine litter negatively impacts on activities such as tourism, fisheries and shipping, and material that has the potential to be brought back into the economy by means of re-use or recycling is lost, once littered. There are several different categories of marine litter, with plastics being one of the most challenging due to its low degradability and likelihood to enter the human food chain.

5 Recent studies have shown that although the majority of marine litter originates from land-based sources, a significant part comes from sea-based sources, in particular from shipping, including fishing and yachting, but also from offshore platforms and lost containers at sea. Mismanaged garbage, and old and derelict fishing gear are among the most prevalent items of (plastic) marine litter from ships.

6 IMO is playing a critical role in the prevention of further pollution from marine-based sources, and has taken action by initiating changes to the relevant Conventions. MARPOL in its most recent version has significantly limited the types of waste that may be discharged by ships into the sea and set provisions for more ambitious on-board treatment and separation of all types of waste.

7 In particular, waste as listed in Annex V of MARPOL is now subject to stricter rules and may no longer be discharged at sea, with only few exceptions for food waste and non-hazardous cargo residues. There is a strict ban on discharges of any plastic at sea. Furthermore, Annex V requires that the loss of fishing gear is reported to the vessel's Flag State and to the Coastal State, in which waters the loss occurred. These new rules came into effect on the 1st of January 2013.

8 In order to avoid illegal discharges of waste at sea and ensure the delivery of this waste on shore, ports have to be equipped with adequate port reception facilities. These facilities should be capable to receive and handle the waste from ships normally visiting the port where the facilities are located. This is also reflected in the IMO Consolidated Guidance for Port Reception Facility Providers, as provided MEPC.1/Circ.834 rev.

9 Strengthening the competence of maritime personnel completes and amplifies the effectivity of these measures. The IMO, aware of the importance of the 'human element', added the involvement of seafarers in the 'prevention of pollution' to the STCW Code requirements. Marine environmental awareness model course, MC. 1.38, is designed as an addition to courses about IMO regulations, technical installations and procedures to safeguard the environment.

Proposed elements for the IMO Action plan on marine plastic litter from ships.

10 For the elements of a new IMO action plan on marine litter from ships, as proposed below, a proper balance should be achieved between efforts from ports on the one side and efforts from ship operators on the other, as both the land and seaside carry responsibility.

11 Adequate port reception facilities should be available in ports for collecting and handling MARPOL Annex V waste, including all plastic waste from ships. In addition to the operational conditions, which should be such as not to discourage the use of the facilities, basic environmental conditions have to be met, such as separate collection of the garbage waste segregated on board of ships, in view of further reuse or recycling of this waste.

12 Ships should as much as possible segregate their garbage waste on-board, including all plastic and old fishing gear (where applicable). The 2012 Guidelines for the implementation of MARPOL Annex V provide guidance in that respect, but this could be strengthened.

13 In order to trace back lost fishing gear to its original owner the FAO has developed guidelines on gear marking. The potential benefits of linking these guidelines to the relevant provisions in MARPOL Annex V should be explored, for example in relation to the current provision on the notification of lost fishing gear in MARPOL Annex V. Moreover, to reduce the risk of losing fishing gear, fishing vessels should have equipment on board to retrieve lost

gear. If the gear cannot be retrieved it must be reported as lost in compliance with MARPOL Annex V.

14. To ensure adequacy, appropriate waste reception and handling plans, also referred to as waste management strategies, should be developed for each port after proper consultation between port users. The basic elements should be reported into GISIS³ and regularly updated, as well as complaints received on alleged inadequacies of port reception facilities and the follow up to those complaints. The consultations should also involve waste management operators and representatives from waste management schemes, such as on extended producer responsibility, which may provide revenues for the collection and recycling of plastics.

15. Ships should submit an advance waste notification before calling in a port and should receive a waste receipt after delivery of their waste to a port reception facility, in accordance with the format provided in IMO Circular 834. The information contained in these forms greatly facilitates the waste management planning, and helps to identify issues in terms of availability of the waste reception facilities and allows for proper monitoring that the ship has delivered its waste.

16. In order to ensure that the costs of port reception facilities for the collection of garbage waste from ships are covered, cost recovery systems should be set up in ports, which should be based on a 100% indirect fee for waste falling under MARPOL Annex V. The 100% indirect fee should be paid irrespective of the actual delivery of waste and give the ship a right of delivery for all its garbage waste. The fee system eliminates any financial incentive for ships to discharge their plastic and old fishing gear at sea. To take account of the differences between ships in terms of size, type of ship, on-board waste reduction, type of traffic the ship is engaged in, ports should be given the possibility to differentiate the fee on this basis.

17. The category of 'passively fished waste' should be added to the list of garbage waste covered by MARPOL Annex V. This waste, which is collected by fishermen during normal fishing operations, should be brought to shore and delivered to adequate port reception facilities as far as possible, rather than being thrown back into the sea. In some countries, the financing of collection and delivery of this waste is covered by the so-called 'fishing for litter schemes' so that fishermen are not penalised for the waste they bring on shore, and in some cases are even rewarded for this service they provide to society.

18. Alongside the facilitation of delivery of 'passively fished waste' by fishing vessels also other initiatives and projects are needed to reduce the already existing litter in the seas. Several initiatives, like projects to recover lost or abandoned fishing gear and for example the Ocean Clean Up project (MEPC 72/16/4), are already running or in the preparation phase. IMO could assess effective and cost-effective clean-up actions and explore potential actions to facilitate these initiatives and remove obstacles for implementation, where necessary.

19. The stringent discharge norms in MARPOL Annex V, in particular the ban on discharging plastic at sea, should be mirrored by an obligation for ships to deliver this waste to a port reception facility. Ships should, in principle, deliver all their plastic waste at each port call. The enforcement and monitoring of the discharge norms and the availability and use of port reception facilities will have to be undertaken by coastal States. This will involve checking both ships' compliance with regulations on discharge and disposal and reception facilities compliance with applicable (environmental) regulations. The relevant information

³ IMO's Global Integrated Shipping Information System: <http://gisis.imo.org/Public/Default.aspx>

from the advance waste notification and the waste receipt should facilitate the monitoring and control of these requirements. This information also allows for following a risk-based approach for inspections of ships. Non-compliances with MARPOL should be subject to effective, proportionate and dissuasive penalties.

20 Compliance with the marine environmental awareness course, MC. 1.38, should be encouraged and promoted by all Member States. Marine environmental awareness training focuses specifically on the human element. Better understanding of the effects of shipping on the environment will lead to better compliance with regulations and better use of technical installations and procedures. The model course aims to inspire people to play a positive and proactive role, to take responsibility, and to contribute to environmentally sound shipping. As the current Model Course is only aimed at merchant shipping, guidance should be developed to establish and (structurally) implement marine environmental awareness courses also for fishing and yachting.

21 Finally, the need for continued international and coordinated action on this topic is emphasized, as also underlined by the United Nations Environment Assembly (UNEA) in 2014 (Decision 1/6) and 2016 (Decision 2/11), providing guidance and recommendations to all actors on the actions needed to reduce and prevent marine plastic litter and micro-plastics. In particular, IMO should seek further collaboration with other UN bodies and international fora (such as G20 and G7) with a view to maintaining awareness and implementing effective measures against plastic marine litter from shipping and other maritime activities.

Recommendations

22 The IMO is invited to consider the following elements, as explained above, for inclusion in its future action plan on marine plastic litter from ships:

- .1 port reception facilities, where possible, to provide for separate collection of plastic waste from ships, including old fishing gear, in view of reuse or recycling;
- .2 waste reception and handling plans to be developed for each port after appropriate consultations with all port users, and information from the plans to be reported into GISIS along with complaints about non-adequacy and the respective follow up given to those complaints;
- .3 cost recovery systems to be set up in ports, based on a 100% indirect fee for garbage, including all plastic waste, old fishing gear and 'passively fished waste';
- .4 'passively fished waste' to be listed among the garbage types covered by MARPOL Annex V, and inclusion of this type of waste in the 100% indirect fee system;
- .5 a delivery obligation for Annex V waste to be established, to mirror the stringent MARPOL Annex V discharge norms, including the ban on plastic discharges at sea;

In addition, it is encouraged that the following actions are undertaken as part of the future programme:

- .1 ensure compliance with FAO Gear Marking Guidelines, identify potential benefits from the linkages between these Guidelines and MARPOL Annex V, and ensure availability of retrieval equipment on board of fishing vessels.
- .2 assess effective clean-up actions and ways to facilitate these initiatives, while removing obstacles for implementation, where necessary.
- .3 ensure compliance with the MARPOL norms and requirements through effective enforcement at regional and national level, where possible, following a risk-

- based approach for inspections based on the information from the waste notification, waste receipt, and garbage management documents held on board;
- .4 ensure compliance with the IMO STCW course MC1.38 and develop a guidance to establish and implement educational courses for fishing and yachting.
 - .5 continue work with other UN bodies and agencies, as well as with international fora, which are active on the matter of marine plastic litter from shipping.

Action required

23. The Committee is invited to consider the recommendations and proposed actions put forward in paragraph 22 and take action as appropriate.