

**Hong Kong Fleet Operation Advisory Committee**

**Proposal to amend the Subsidiary Legislation made under the  
Merchant Shipping (Prevention and Control of Pollution) Ordinance**

**Purpose**

The purpose of this paper is to seek members' views on the proposal to amend the subsidiary legislation made under the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) to implement the latest amendments to Annexes I, IV and VI of the International Convention for the Prevention of Pollution from Ships (MARPOL) and the amendments to Annexes 1 and 4 of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (AFS Convention).

**Background**

2. On 17 June 2021, the 76<sup>th</sup> session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) adopted, inter alia, the following resolutions (as enclosed):

- i) MEPC.328(76) – amendments to Annex VI of MARPOL to introduce the new requirements relating to Energy Efficiency Existing Ship Index (EEXI), Carbon Intensity Indicator (CII), Ship Energy Efficiency Management Plan (SEEMP) and the exemption of Unmanned Non-Self Propelled Barges (UNSP Barges) from certain survey and certification requirements;

- ii) MEPC.329(76) - amendments to Annex I of MARPOL regarding prohibition on the use and carriage for use as fuel of heavy fuel oil by ships in Arctic waters;
- iii) MEPC.330(76) - amendments to Annexes I and IV of MARPOL regarding the exemption of UNSP Barges from certain survey and certification requirements; and
- iv) MEPC.331(76) - amendments to Annexes 1 and 4 of AFS Convention regarding controls on anti-fouling system (AFS) that contains cybutryne and form of the International Anti-fouling System Certificate (IAFSC).

### **Summary of Amendments**

3. The major amendments to MARPOL and AFS Convention are as follows:

- i) MEPC.328(76), (**Annex 1**), for MARPOL Annex VI –
  - (a) the Energy Efficiency Existing Ship Index (EEXI) will be applicable from the first annual, intermediate or renewal survey for International Air Pollution Prevention (IAPP) Certificate, whichever is the first, on or after 1 January 2023;
  - (b) the approved Ship Energy Efficiency Management Plan (SEEMP) will require to be kept onboard from 1 January 2023 onwards;
  - (c) the requirement for Carbon Intensity Indicator (CII) will take effect from 1 January 2023 onwards; and
  - (d) to formalize the exemptions of UNSP barges from certain survey and certification requirements.

Items (a) to (c) apply to all ships of 400 gross tonnage and above, but shall

not apply to ships solely engaged in voyages within waters subject to the sovereignty or jurisdiction of the State of flag of which the ship is entitled to fly, ships not propelled by mechanical means and platforms including FPSOs, FSUs and drilling rigs, regardless of their propulsion. Item (d) applies to vessels of 400 gross tonnage and above.

- ii) MEPC.329(76), (**Annex 2**), for MARPOL Annex I –
  - (a) to prohibit the use and carriage for use as fuel of heavy fuel oil by ships in Arctic waters on or after 1 July 2024; and
  - (b) to apply the prohibition on the use and carriage for use as fuel of heavy fuel oil on ships, which meets the construction requirements in relation to fuel oil tank protection in MARPOL Annex I or the Polar Code in Arctic waters on or after 1 July 2029.
- iii) MEPC.330(76), (**Annex 3**), for MARPOL Annexes I & IV –
  - (a) to define UNSP barges; and
  - (b) to formalize the exemptions of UNSP barges from certain survey and certification requirements.
- iv) MEPC.331(76), (**Annex 4**), for AFS Convention –
  - (a) to establish control of ships bearing an AFS that contains cybutryne with effect from 1 January 2023; and
  - (b) to address the control of cybutryne in the International Anti-fouling System Certificate.

## **The Legislative Proposal**

4. In order to keep in line with the international maritime standards applicable to Hong Kong ships, subject to legal advice, we propose to amend the relevant provisions of the following subsidiary legislation made under Cap. 413 for the

implementation of MEPC.328(76), MEPC.329(76) and MEPC.330(76) which will enter into force on 1 November 2022, and MEPC.331(76) which will enter into force on 1 January 2023:

- (a) Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A);
- (b) Merchant Shipping (Prevention of Pollution by Sewage) Regulation, (Cap. 413K);
- (c) Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships) Regulation (Cap. 413N); and
- (d) Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413P)

## **Consultation**

5. Members' comments are sought on our proposal to implement the latest amendments to MARPOL and AFS Convention by amending the subsidiary legislation as stated in paragraph 4.

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Marine Department

Multi-lateral Policy Division

Enclosures:

Annex 1: IMO Resolution MEPC.328(76) -- Amendments to MARPOL Annex VI (2021 Revised MARPOL Annex VI)

Annex 2: IMO Resolution MEPC.329(76) -- Amendments to MARPOL Annex I (Prohibition on the use and carriage for use as fuel of heavy fuel

oil by ships in Arctic waters)

Annex 3: IMO Resolution MEPC.330(76) -- Amendments to MARPOL Annexes I and IV (Exemption of unmanned non-self-propelled barges from certain survey and certification requirements)

Annex 4: IMO Resolution MEPC.331(76) -- Amendments Annexes 1 and 4 to the AFS Convention (controls on cybutryne and form of the International Anti-fouling System Certificate)