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**EXPERT CONSULTATION ON THE MARKING OF FISHING GEAR**

**ROME, ITALY, 4 – 7 April 2016**

**Venue, FAO HQ Mexico Room**

**APPLICATION OF MARPOL ANNEX V**

## **Application of MARPOL Annex V in the context of the reporting of accidental loss or discharge of fishing gear<sup>1</sup>**

### **Introduction**

The purpose of this paper is to provide information on the application of MARPOL Annex V in order to facilitate the discussion of the Expert Consultation on reporting requirements related to accidental loss or discharge of fishing gear.

### **Background**

The International Convention for the Prevention of Pollution from Ships (MARPOL) is the main international convention covering prevention of pollution of the marine environment by ships, including fishing vessels, from operational or accidental causes. MARPOL includes regulations aimed at preventing and minimizing pollution from ships - both accidental pollution and that from routine operations - and currently includes six technical Annexes. MARPOL consists of the following six annexes:

Annex I - Regulations for the Prevention of Pollution by Oil (entered into force 2 October 1983);

Annex II - Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk (entered into force 2 October 1983);

Annex III - Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form (entered into force 1 July 1992);

Annex IV - Prevention of Pollution by Sewage from Ships (entered into force 27 September 2003);

Annex V - Prevention of Pollution by Garbage from Ships (entered into force 31 December 1988); and

Annex VI - Prevention of Air Pollution from Ships (entered into force 19 May 2005).

### **MARPOL Annex V and associated Guidelines**

Taking into account resolution 60/30 of the United Nations General Assembly, IMO carried out a comprehensive revision of MARPOL Annex V, the Guidelines for the implementation of Annex V of MARPOL Annex V, and the Guidelines for the development of garbage management plans. The revised Annex V entered into force on 1 January 2013.

MARPOL applies to all ships regardless of size, except for warships or other ships owned or operated by States and used only on government non-commercial service. Annex V prohibits the discharge of all types of garbage into the sea, except as specifically permitted in the Annex. The Annex provides limited exceptions to the provisions in emergency and non-routine situations. Generally, discharge is restricted to food wastes, identified cargo residues, animal carcasses, and identified cleaning agents and additives and cargo residues entrained in washwater, which are not harmful to the marine environment.

**The most important feature of Annex V is the complete ban imposed on the disposal into the sea of all forms of plastics.** In this regard, plastics are used for a variety of marine purposes including: floats; fishing nets; fishing lines; strapping bands; wire rope with synthetic fibre sheaths; combination wire rope; rope; line; sails; and many other manufactured plastic items. Such items should be collected in a manner that avoids their loss overboard.

### **Fishing gear**

For the purposes of Annex V, “*fishing gear* means any physical device or part thereof or combination of items that may be placed on or in the water or on the sea-bed with the intended

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<sup>1</sup> The main sources of this paper are the website of the International Maritime Organization (IMO), [www.imo.org](http://www.imo.org), and the 2012 Guidelines for the implementation of Annex V of MARPOL (resolution MEPC.219(63)), published by IMO.

purpose of capturing, or controlling for subsequent capture or harvesting, marine or fresh water organisms”.

Fishing gear that is released into the water with the intention for later retrieval, such as fish aggregating devices (FADs), traps and static nets, is not considered to be garbage or accidental loss in the context of Annex V.

### **Recording and reporting of accidental loss or discharge of fishing gear**

Lost fishing gear may harm the marine environment or create a navigation hazard. Therefore, fishing vessel operators are required to record the discharge or loss of fishing gear in the Garbage Record Book or Ship's log and to report such accidental loss or discharge to the flag State, and where appropriate, the coastal State in whose jurisdiction the loss of the fishing gear occurred, as specified in Annex V:

- .1 the accidental loss or discharge of fishing gear which is required to be reported by regulation 10.6 of MARPOL Annex V should be determined specifically by the government. For such determination, the government is encouraged to consider various factors including: (1) the amount of the gear lost or discharged and (2) the conditions of the marine environment where it was lost or discharged. Comprehensive consideration is needed on the characteristics of the gear that was lost, including types, size (weight and/or length), quantity, material (especially, synthetic/plastic or not), buoyancy. In addition, governments should consider the impact of the fishing gear in different locations in order to assess whether the lost gear represents a significant threat to the marine environment or navigation, taking into account the vulnerability of habitat and protected species to gear interactions. Governments are encouraged to report to IMO their measures taken for this issue with a view to promoting information sharing and opinion exchange among governments and relevant International Organizations. Further, governments are encouraged to report to IMO, progress made in implementing these measures, including summaries of where gear was lost and, if applicable, actions taken to address the gear loss;
- .2 examples of lost or abandoned fishing gear which could be considered to pose a significant threat to the marine environment include whole or nearly whole large fishing gear or other large portions of gear. In determining the threat to the marine environment, governments should give careful consideration to the impact of gear in sensitive areas, such as coral reefs, and in areas where interactions would have higher risks of detrimental impacts, such as foraging or breeding areas for protected species;
- .3 governments are encouraged to develop communication frameworks to enable the recording and sharing of information on fishing gear loss where necessary in order to reduce loss and facilitate recovery of fishing gear. Governments are further encouraged to develop frameworks to assist fishing vessels in reporting the loss of gear to the flag State and to a coastal State. Such frameworks should take into consideration implementation challenges in small scale and artisanal fisheries and recreational operations;
- .4 fishing industry, relevant international organizations and governments are encouraged to undertake such research, technology development, information sharing and management measures as may be needed to minimize the probability of loss, and maximize the probability of retrieval of fishing gear from the sea; and
- .5 governments should encourage vessel operators to implement appropriate onboard storage and handling of fishing gear, and should also consider relevant guidance from FAO and IMO.”<sup>1</sup>

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<sup>1</sup> See paragraphs 2.2.2.1-2.2.2.5 of the 2012 Guidelines for the implementation of Annex V of MARPOL.

### **Shipboard garbage handling**

Every ship, including fishing vessels, of 100 gross tonnage and above, and every ship certified to carry 15 or more persons, and fixed and floating platforms are required to carry and implement a garbage management plan that specifies procedures to be followed to ensure proper and efficient handling and storage of garbage. A garbage management plan to be developed can be incorporated into crew and ship operating manuals. Such manuals should identify crew responsibilities and procedures for all aspects of handling and storing garbage on board the ship. Procedures for handling ship-generated garbage are divided into four phases: collection, processing, storage, and discharge.

### **Enhancement of compliance with MARPOL Annex V**

Direct enforcement of Annex V regulations, particularly at sea, is difficult to accomplish. Therefore, governments are encouraged to consider not only restrictive and punitive measures consistent with international law, but also the removal of any disincentives, the creation of positive incentives and initiatives to facilitate more effective compliance, and the development of voluntary measures within the regulated community when developing programmes and domestic legislation to ensure compliance with Annex V.

It is recommended that ships use port reception facilities as the primary means of discharge of discharge for all garbage. With regard to fishing gear, governments are encouraged to improve the adequacy and efficiency of existing port reception facilities for fishing gear. In this regard, governments are also encouraged to consider the use of garbage management reporting systems. When developing such systems, particular attention should be given to the reporting of any discharge or loss of fishing gear. Voluntary measures may include government assistance to ship operators and fishermen's organizations in developing resolutions, by-laws and other internal mechanisms that encourage compliance with Annex V regulations.