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Nothing fishy about it: Meaningful measures on fishing gear at IMO

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Marine Plastic Pollution from Fishing Vessels and Gear

Plastic pollution threatens biodiversity, sustainability and the overall health of our oceans. While approximately 80% of marine plastic pollution originates from land-based sources, the remaining 20% originates from sea-based sources - primarily from fishing vessels followed by shipping, offshore industries and tourism.¹

The main component of sea-based sources of marine plastic pollution is abandoned, lost or otherwise discarded fishing gear, also referred to as ghost gear. Fishing gear accounts for approximately 10% of global

marine plastic pollution though in some regions it is closer to half the overall mass in our oceans and seas.² Fishing-gear pollution has serious impacts on marine wildlife, habitats and fish stocks while also reducing fishing profits, destroying marine resources and increasing operational costs for vessel operators and authorities through gear replacement and retrieval efforts. Once in the marine environment, fishing gear also represents a navigational and safety hazard as floating nets and ropes threaten to entangle propellers and foul active fishing gear.

Above: Fishing gear can be lost at sea for a number of reasons, including adverse weather conditions, gear conflict or a lack of adequate port reception facilities

Right: Abandoned, lost and otherwise discarded fishing gear is a key contributor to marine plastic pollution. Ports can play a critical role in helping prevent the problem by providing adequate port reception facilities where old fishing gear can be disposed of

Role of the International Maritime Organization

The International Maritime Organization (IMO) has long recognised the need to prevent plastic pollution from ships, including fishing vessels and gear.³ But concrete measures on fishing vessels have been hard to come by with issues related to shipping dominating the agenda. Several recent studies have revealed, however, that fishing gear is a significant contributor to marine plastic pollution and fishing vessels, in particular, have few dedicated measures targeting fishing-gear pollution.

In the near absence of meaningful IMO action on fishing gear, other international bodies have attempted to fill the void. For example, at the 33rd session of the Committee on Fisheries in mid-2018, the Food and Agricultural Organisation of the United Nations (FAO) adopted its Voluntary Guidelines for the Marking of Fishing Gear (VGMFG). The VGMFG are described as an attempt "to improve the state of the marine environment...by combatting, minimizing and eliminating abandoned, lost or otherwise discarded fishing gear (ALDFG) and facilitating the identification and recovery of such gear."⁴ While a powerful tool in

the arsenal against fishing-gear pollution, the VGMFG remain voluntary with the appropriate international instrument to make them mandatory - Annex V of the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) - overseen by IMO. This is also the case with the vast majority of other measures that have been identified as necessary to address fishing-gear pollution. It is also why the United Nations Environment Assembly (UNEA) repeatedly recognises the role of IMO in reducing marine plastic pollution from ships (fishing vessels included) and has invited increased action.⁵

Against this background, at its 73rd session in late-2018, the Marine Environment Protection Committee (MEPC) adopted the IMO Action Plan to Address Marine Plastic Litter from Ships and is now turning toward implementation. A major benchmark for the success or failure of the Action Plan will be whether it adopts the comprehensive package of mandatory and other measures required to address plastic pollution from fishing vessels and gear. Indeed, the world is watching - and expecting - IMO to show leadership on this issue.



Key Areas for Action to Address Marine Plastic Pollution from Fishing Vessels

Reporting of Lost Fishing Gear

There is currently no global coordination or international data repository for the reporting of losses of fishing gear. Based on current state of knowledge about the severity of fishing-gear pollution and the need for global efforts to address it, discharges and accidental losses of fishing gear should be reported to IMO.⁶ Regulation 10.6 of MARPOL Annex V currently only requires reporting of discharges or accidental losses of fishing gear to the flag and coastal States.⁷ No similar reporting requirement to IMO exists, undermining international oversight of compliance and enforcement and compounding data discrepancies and shortcomings within the Global Integrated Shipping Information System (GISIS), including the identification of hot spots and navigational hazards.

While some Member States have national programmes to facilitate the collection of information and potential recovery of lost gear in high risk areas or lucrative fisheries, there is no standardised approach for sharing this information with IMO. Currently no reports have been made to IMO under the existing voluntary requirement to report accidental losses.



Action for Marine Environment Protection Committee:

1. Support the proposals in paper PPR 7/17 to revise MARPOL Annex V to include a mandatory reporting requirement to IMO and remove ambiguous terminology related to “significant threat” and “accidental” losses.
2. Instruct the PPR Sub-Committee Correspondence Group on amendments to MARPOL Annex V to undertake work on mandatory reporting of minimum information to flag and coastal states and IMO in instances of discharge or accidental losses of fishing gear, including the development of a standard reporting format. Examples of minimum information could include the IMO ship identification number and name of the vessel, the type of gear lost, the time the gear was lost, the position where the gear was lost, and the measures undertaken to retrieve the gear.⁸ Such harmonization of reported information across jurisdictions ensures comparability and usefulness of reported data and can be developed to operate in synergy, rather than duplication, of any national reporting efforts.

Top: Old and redundant fishing gear can be brought into the circular economy if deposited responsibly on shore and collected for recycling

Right: Ghost nets pose a significant risk to the sustainability of fish stocks, marine biodiversity and wild animal welfare. Floating nets are responsible for entangling animals, fouling fishing equipment and bycatch



Marking of fishing gear

MARPOL Annex V currently contains no requirements on the marking of fishing gear or recording of fishing gear on board in official logbooks. To capitalise on the efforts by FAO to build capacity for improved management of fishing gear to prevent dumping and losses, IMO should support and promote the uptake of the Voluntary Guidelines on the Marking of Fishing Gear (VGMFG) by making marking mandatory via amendment to MARPOL Annex V. In addition, each item of fishing gear should be recorded in the official logbook with its relevant information, which would facilitate the detection of violations during port State control inspections.⁹

Support to FAO in operationalising the VGMFG will ensure their success as a tool for managing the threat of fishing-gear pollution and ensure that the implementation of a marking system operates in harmony with broader fisheries management measures. Such measures could include lost gear reporting, adequate on-board storage, training on safe retrieval and adequate port reception facilities, all of which are necessary components of a holistic prevention programme.

Moreover, given fishing-gear marking is a critical tool in combatting illegal, unreported and unregulated (IUU) fishing, additional actions are needed. IMO should initiate a dedicated workstream in conjunction with FAO to explore what complementary actions could be taken at the IMO level beyond the scope of the guidelines. As well as being a threat to maritime safety, IUU fishing is a key contributor to the dumping and loss of fishing gear, exacerbating international efforts to tackle fishing-gear pollution through sound fisheries management. We urge IMO Members to look at the scope of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) under FAO and explore how IMO can support international efforts to reduce IUU fishing in developing countries lacking capacity and resources for effective monitoring, control and surveillance.¹⁰

Above: Fishing gear can be marked for visibility in the water, for example with a flag or marker buoy, as well as to aid in location and recovery. A key component of gear marking is also to establish ownership of the fishing gear to promote responsible gear management

Action for Marine Environment Protection Committee:

1. Consider the proposed amendment in MEPC 75/8/4 (Vanuatu) and direct PPR 8 to undertake further work on proposed amendments to MARPOL Annex V to make mandatory the marking of fishing gear.
2. Recommend further formal cooperation between FAO and IMO under the GloLitter programme to support the capacity-building work required to operationalise the VGMFG.
3. Establish a Working Group to explore other additional IMO measures, beyond the mandatory marking of fishing gear, to combat IUU fishing and its contribution to fishing-gear pollution.

Reasonable Precautions to Prevent Accidental Losses of Fishing Gear

Regulation 3.2 of MARPOL Annex V prohibits the “discharge into the sea of all plastics, including but not limited to synthetic ropes (and) synthetic fishing nets.” This prohibition is subject to the reasonable-precautions exception in Regulation 7.3 of MARPOL Annex V which exempts the “accidental loss of fishing gear from a ship provided that all reasonable precautions have been taken to prevent such loss.” No reasonable precautions are defined in MARPOL Annex V or anywhere else, however, creating a huge loophole that undermines the prohibition and results in uneven application across jurisdictions.

Several precautions should be deemed reasonable at the global level and, if not undertaken, should preclude a ship from claiming the reasonable-precautions exception. These include, for example: (i) certain fishing vessels should have equipment on board to attempt immediate retrieval any lost fishing gear; (ii) certain types of fishing gear should be equipped with buoys and trackers to enable their location and recovery; and (iii) periodic training of fishing-vessel personnel should be undertaken, covering topics such as the precautions to be taken to prevent accidental losses, reduction of soak times, best stowage practices, and gear-use limits in high-risk areas and during high-risk times. Moreover, Member States should also consider how to strengthen the legal framework around the prohibition to improve the implementation of the other measures on fishing gear, for example by precluding fishing vessels from subsequently claiming the reasonable-precautions exception where those fishing vessels have not marked the gear or reported the loss.

Action for Marine Environment Protection Committee:

1. Instruct PPR 8 to consider an amendment to MARPOL Annex V clarifying the reasonable precautions that should, at a minimum, be taken to prevent accidental losses of fishing gear and produce guidance on their implementation, for example via a circular to Member States.
2. Instruct the Committee to draft appropriate material to support training and mandatory knowledge on reasonable precautions to be taken to prevent accidental losses of fishing gear for incorporation into the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F).¹¹

Centre: Lost nets can sink to the seafloor, smothering coral reefs and damaging marine habitats





Guidance on cost frameworks at ports

MARPOL Annex V contains no obligations or guidance on the elements and design of effective cost frameworks at ports despite their critical role in promoting responsible on-board behaviour and removing incentives to dump plastic at sea. For example, cost frameworks that allow ships to deliver all their MARPOL Annex V garbage at port for a fixed fee - often referred to as a 100% indirect fee - eliminates incentives for fishing vessels to illegally dump fishing gear at sea in order to reduce the fees paid at port under cost frameworks based on volume.¹²

Such guidance would support the work done at PPR (PPR 7/17/1) to produce a circular reminding Parties of their obligation to ensure the provision of adequate port reception facilities for garbage by identifying specific approaches to improve the adequacy, accessibility and therefore the usefulness in reducing plastic pollution.

Action for Marine Environment Protection Committee:

1. Instruct PPR 8 to conduct work on guidance for the elements and design of effective cost frameworks at ports, with specific reference to eliminating financial incentives to discharge fishing gear at sea.

Commitment to Tracking and Reporting Progress

At the next MEPC, Member States will be asked to consider paper MEPC 75/8/3, Report of the Correspondence Group on Development of a Strategy to Address Marine Plastic Litter from Ships.

We urge delegates to consider the recommendations in the report and ensure the IMO Secretariat commits to a plan to track the status of action items and provide regular updates to MEPC about tangible progress to deliver on the Action Plan.

Action for Marine Environment Protection Committee:

1. Instruct the IMO Secretariat to track the status of action items listed in the Action Plan (and those proposed for inclusion in the future) and to provide regular updates to MEPC about their progress and implementation.



Above: Engaging fishers in lost gear reporting and gear recovery, where it is safe to do so, is an important part of embedding an inclusive and effective fisheries management system

Accelerating Action

Plastic pollution from fishing vessels will only be effectively prevented and mitigated through international cooperation. As a problem inherently transboundary in nature, tackling marine plastic pollution needs coordination at a national, regional and international level through both voluntary and mandatory efforts. While voluntary schemes to incentivise best practice are commendable, such as

programmes to facilitate the collection and disposal of passively-fished waste, there is an urgent need for mandatory instruments to ensure implementation of the whole suite of measures, including the collection of data through consistent reporting, collaboration with FAO and other actors on mitigation efforts, and supporting the uptake of best practices for on-board and port-side management of plastic waste, including fishing gear.

We urge MEPC to prioritise actions to address fishing-gear pollution and empower the relevant Sub-Committees and programmes to accelerate and scale up solutions towards safer, cleaner oceans.

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Above: Reports on entanglement and ingestion suggest that 50% of seabirds, almost 66% of marine mammals and 100% of sea turtles suffer from ingestion of and/or entanglement in plastic debris, with ghost nets causing particular problems for sea turtles

References:

1. UNEP, Marine Litter: A Global Challenge, UNEP, Nairobi (2009), p232
2. Lebreton, L. et al, Evidence that the Great Pacific Garbage Patch Is Rapidly Accumulating Plastic (2018), available at <https://www.nature.com/articles/s41598-018-22939-w>; OSPAR, Beach Litter – Abundance, Composition and Trends (2017), available at <https://oap.ospar.org/en/ospar-assessments/intermediate-assessment-2017/pressures-human-activities/marine-litter/beach-litter>
3. See e.g. International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL), Annex V; Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (London Convention) and Protocol (London Protocol).
4. Food and Agricultural Organization (FAO), Voluntary Guidelines on the Marking of Fishing Gear (Rome, 2019), available at <http://www.fao.org/3/ca3546t/ca3546t.pdf>
5. UNEA Resolution 2/11; UNEA Resolution 3/7.
6. See MEPC 73/8/2, paras. 37-38 (submission by Chile, Cook Islands, Fiji, Ghana, Iceland, Jamaica, Kiribati, Marshall Islands, Monaco, Norway, Palau, Solomon Islands Tuvalu, Vanuatu and SPREP); MEPC 73/8/4, para. 7.2 (submission by New Zealand).
7. MARPOL Annex V, Regulation 10.6.
8. See e.g. Council Regulation (EC) No 1224/2009 Establishing a Union Control System for Ensuring Compliance with the Rules of the Common Fisheries Policy, Article 48, Official Journal of the European Union L 354, 28.12.2013, p. 1–21, as amended, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02009R1224-20190414>
9. MEPC 73/8/2, paras. 33-36 (submission by Chile, Cook Islands, Fiji, Ghana, Iceland, Jamaica, Kiribati, Marshall Islands, Monaco, Norway, Palau, Solomon Islands Tuvalu, Vanuatu and SPREP); MEPC 73/8/4, paras. 13-14 (submission by New Zealand); MEPC 73/8/4, paras. 6-8 (submission by New Zealand).
10. Food and Agricultural Organization (FAO), Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (registered on 26 January 2017), available at http://www.fao.org/fileadmin/user_upload/legal/docs/037s-e.pdf
11. See also MEPC 73/8/2, paras. 50-52 (submission by Chile, Cook Islands, Fiji, Ghana, Iceland, Jamaica, Kiribati, Marshall Islands, Monaco, Norway, Palau, Solomon Islands Tuvalu, Vanuatu and SPREP); MEPC 73/8/4, paras. 13-14 (submission by New Zealand).
12. MEPC 73/8/3, para. 17 (submission by EU Member States and the European Commission).



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