Clean Arctic Alliance input to

Call for submission, SR toxics and human rights Impact analysis of the International Maritime Organization (IMO)

On

Pollution and engagement with civil society

1. **Introducing the Clean Arctic Alliance**

The Clean Arctic Alliance (CAA) consists of 21 not-for-profit organizations, based in Arctic and Arctic-observer countries, with a demonstrable interest in the conservation of Arctic ecosystems, communities and wildlife and committed to securing a clean Arctic. The CAA’s “HFO Free Arctic Campaign” is focused on delivering a ban on the use and carriage of heavy fuel oil (HFO) as fuel for ships operating in Arctic waters. Increasingly the campaign is positioned within the wider climate crisis discussion linked with the importance of reducing black carbon emissions from shipping affecting the Arctic, as well as reducing the likelihood of a devastating HFO spill. The Alliance also advocates on related issues such as the use of scrubbers to reduce SOx emissions from Arctic shipping and other impacts of ships operating in the Arctic, for example, underwater noise.

This response highlights the limitations of the system of regulation of international shipping through examples that are of particular relevance for the Clean Arctic Alliance.

The IMO Convention provides for a democratic process that involves votes, with key issues being carried forward on the basis of a simple majority. However, across the board for the issues we work on as NGO observers at the IMO we see that the IMO has adopted a voluntary method of work whereby issues proceed only when there is consensus. While working towards a consensus is in many respects laudable, requiring a complete consensus for a measure to move forward and be adopted is the same as handing a veto to the least ambitious person in the room.

Guidelines on the application of a precautionary approach to the IMO’s work were developed and adopted by an MEPC Resolution (MEPC.67(37)) on 15 September 1995 (MEPC 37/22/Add.1 Annex 10). The intention was that the guidelines would be used on an interim basis until experience had been gained with a view to the Guidelines being submitted to the IMO Assembly for adoption as guidance for all relevant IMO activities. This has not happened. The reality is that the IMO and Member States require copious evidence of environmental harm and full consensus for new measures preferably with proven impact, ahead of adoption of mitigating actions.

1. **Prevention and response to marine pollution, including oil pollution**

**The Arctic and heavy fuel oil**

The use and carriage of heavy fuel oil by ships operating in the Arctic poses an immediate risk from spills and threat from black carbon emissions to ecosystems, wildlife, and community health, subsistence, and livelihoods. Heavy fuel oil is a dirty and polluting fossil fuel that powers shipping throughout the world’s oceans - accounting for 80% of marine fuel used worldwide. Around 80% of marine fuel currently carried in the Arctic is HFO, over half by vessels flagged to non-Arctic states. If HFO is spilled in cold polar waters, it breaks down slowly, proving almost impossible to clean up and would have long-term devastating effects on Arctic indigenous communities, livelihoods and the marine ecosystems they depend upon. There is evidence that new blends of low-sulphur heavy fuel oils may be even harder to clean up than conventional HFO making the risks greater ([SINTEF](https://www.sintef.no/en/publications/publication/?pubid=1812886), 2020).

Twenty years ago, in [Ansell D.V. et al., 2001](https://www.itopf.org/fileadmin/data/Documents/Papers/iosc2001.pdf) for the International Tanker Owners Pollution Federation Ltd concluded that the consequences of HFO Spills could be prolonged because of the persistent nature of HFO and the threat to marine life and economically sensitive resources could last longer in the event of a HFO spill. While twelve years ago, the Arctic Council published its first Arctic Marine Shipping Assessment Report ([AMSA, 2009](https://pame.is/images/03_Projects/AMSA/AMSA_2009_report/AMSA_2009_Report_2nd_print.pdf)) which found that “the most significant threat from ships in the Arctic marine environment is the release of oil through accidental or illegal discharge…”. Subsequent [work undertaken by Det Norske Veritas](https://www.pame.is/document-library/shipping-documents/heavy-fuel-oil-documents/359-hfo-in-the-arctic-phase-i/file) and published by the Arctic Council in 2011 concluded that using distillates instead of HFO as fuel would achieve significant spill risk reduction. Recognising the risks associated with a spill, the IMO banned the use and carriage of all heavy grade oils (i.e. both fuel and cargoes) from Antarctic waters in 2011. Despite similar sensitivities and greater vulnerability (more vessels operate in the Arctic), securing a similar ban to protect wildlife and communities in the Arctic has proved challenging. Norway has unilaterally introduced a ban in national park waters around the island archipelago of Svalbard and is currently consulting on extending this to all the waters of Svalbard. In 2018, eight IMO Member States, recognising the risks associated with the use of HFO in the Arctic, [submitted a proposal to the IMO](https://docs.imo.org/Shared/Download.aspx?did=108308) stating: “A single HFO spill could have devastating and lasting effects on fragile Arctic marine and coastal environments. In addition, Arctic shipping is projected to continue to rise, thus increasing the risk of a spill. For these reasons, the ban on HFO should be implemented as soon as possible, and any delay in implementation of the HFO ban by eligible ships should be short-lived.” The co-sponsors proposed that the implementation date of the ban should be set no later than the end of 2021 - anticipating that many ships will have switched to using marine distillate fuels as a consequence of the mandatory global cap on marine fuel sulphur content. It was also proposed that a short delay could be considered for those ships that have fuel tank protections in place. Environmental groups with consultative status to the IMO presented a paper summarising the available literature on the environmental impacts of heavy fuel oils [PPR 6-12](https://docs.imo.org/Shared/Download.aspx?did=113636).

Despite the evidence of the need for a ban on HFO use and carriage in the Arctic, the precedent set in the Antarctic, and in the waters around Svalbard, and alternative fuels being immediately available, a delay until 2029 in implementation of a full HFO ban in the Arctic seems inevitable following approval of a weak regulation by the IMO in November 2020. Studies show that the current draft HFO ban will deliver little in terms of restricting HFO use in the Arctic when it first takes effect in July 2024. According to analysis by the International Council on Clean Transportation the regulation will only reduce the use of HFO by 16%, the carriage of HFO as fuel by 30%, and black carbon emissions by 5% in July 2024, and will allow 74% of Arctic shipping to continue with business as usual until July 2029, when the ban should become fully effective. In addition, the total amount of HFO used and carried in the Arctic is likely to increase, due to increasing Arctic shipping and utilisation of various exemptions, waivers or changes of flag. So an issue that many thought was important enough to require urgent regulation will now only be addressed properly in nearly ten years’ time (see [CAA Press Release from MEPC 75](https://www.hfofreearctic.org/en/2020/11/20/imo-and-arctic-states-slammed-for-endorsing-continued-arctic-pollution/)). This “lowest common denominator” outcome is a clear function of the previously mentioned decision by IMO to require consensus instead of proceeding on the basis of a majority vote. This deeply disappointing outcome is indeed part of a pattern of behaviour at the IMO (see GHG section for another example).

**Fuel quality and composition of low sulphur HFO blends**

Presently the only component of fuel that is regulated by the IMO is sulphur. Fuel quality and composition can have a serious impact on the environment and on health or consequences for maritime safety and engine function. The issue of fuel quality and the need for fuel standards was raised by Friends of the Earth International in 2007 (BLG 12/6/12) along with a submission with proposals for development of holistic approaches to manage impacts of heavy fuel oil (BLG 11/5/16). In the intervening years, the regulation for lowering the sulphur content of all fuel oils to 0.5% came into force in January 2020 which has led to new fuel blends coming available on the market to meet the new standard for lower sulphur content. These new Very Low Sulphur Fuel Oils (VLSFOs) were developed explicitly to meet the requirements of the 2020 sulphur cap. The properties of these fuels were not tested in advance for their environmental impact (emissions of black carbon or impact if spilt) prior to release on the market. In February 2020 Germany and Finland submitted a paper to the Pollution Prevention and Response sub-committee of the IMO presenting data that showed some new blends of VLSFOs have higher than expected black carbon emissions due to the aromatic content. The CAA has called for information on fuel characteristics to be made publicly available in order to prevent adverse environmental impacts. The issue of aromatic content of fuels has been referred to the International Organisation for Standardization (ISO) which is a body made up of national standards bodies, which tend to be representatives of industry and with no environmental NGO access. An international nongovernmental organisation like ISO should not be the only place where the composition of maritime fuels is addressed.

The Wakashio disaster off the coast of Mauritius in 2020 is the first large VLSFO spill and provides some indications of how this fuel would behave if spilled in the Arctic. There is an ongoing investigation into this disaster and there are many unanswered questions surrounding the fuel onboard the vessel and the toxicity to the environment. However, there is a suggestion in a series of [Forbes articles](https://www.forbes.com/sites/nishandegnarain/2021/01/06/special-report-explosive-documents-reveal-bp-behind-toxic-mauritius-oil-spill/?sh=29eeb91d1dda) that the fuel composition and quality may have played a role in the disaster by causing engine malfunction. There also appears to be a lack of transparency and as yet there have not been any independent tests conducted on the fuel onboard the vessel. Prior to these fuels being used by the shipping industry there were no publicly available studies on the impacts of VLSFO spills in the environment and even now that these fuels have been in use for over a year it is very difficult for bodies trying to conduct studies to access the fuels. This [nature article](https://www.nature.com/articles/d41586-020-02446-7) says that fishing communities living in the region can no longer fish, because the fish that have been caught since the accident contain high levels of arsenic.

This is a major regulatory gap and the need for fuel quality regulation including setting of standards is required and should be based on the application of the precautionary approach, ahead of new fuels being released onto the market.

1. **Chemical pollution, including hazardous substances, garbage, and sewage**

The sulphur 2020 cap allows for ships to meet the regulation in several different ways. One compliance mechanism is the use of Exhaust Gas Cleaning Systems, also known as scrubbers. Scrubbers essentially remove the sulphur from the exhaust gases using seawater and a filter and store the waste on board or discharge overboard. The discharge of scrubber effluent poses new threats to all waters including in the Arctic. Analysis of scrubber effluent shows that the waste contains toxic chemicals which have the potential to bioaccumulate and biomagnify through the food chain. This poses particular risks to mammals at the top of the food chain including cetaceans and humans.

Further information on the risks posed by scrubbers can be found in the following documents.

1. EU Scrubbers Report: [Closing the loop](https://www.ivl.se/download/18.20b707b7169f355daa77613/1561366023208/B2317.pdf) Report, submitted to IMO MEPC 75/INF.10
2. ICCT scrubber [report](https://theicct.org/publications/air-water-pollution-scrubbers-2020).

An important step would be to ban the use of scrubbers in the Arctic and to designate Arctic waters as a ‘no dumping region’. For Arctic shipping this means that in addition to ‘no plastics’, no garbage and ‘no oil’ (as required under the MARPOL Convention), there should be no dumping of scrubber discharge water. This is essential to protect marine biodiversity and the Indigenous communities dependent on marine resources from pollutants as well as to prevent bioaccumulation and biomagnification of toxics such as polyaromatic hydrocarbons (PAHs) and heavy metals through the food web.

**4. Impacts on local communities**

IMO should support the involvement of representatives of Indigenous communities, in the international negotiations on matters of direct consequence to their food security, safety and livelihoods. As a matter of urgency the IMO should grant Arctic community representatives Consultative Status – an application from the Inuit Circumpolar Council is pending. The rights of Arctic Indigenous communities to a clean and sustainable environment must be respected, and the IMO and other UN agencies must take the protection of Arctic ecosystems, Arctic peoples and wildlife seriously. The Arctic is changing rapidly with the loss of the summer sea ice which not only allows for greater access to the Arctic and its resources by ships and maritime industries, but it also lengthens the period of time over which ships can operate in the Arctic. These activities drive an increase in the risks to the Arctic, its communities and its wildlife - risks of heavy fuel and distillate oil spills, and increased threat from black carbon emissions, underwater noise, and discharges of scrubber wastes along with sewage, greywater, and marine plastics. Currently there is no Indigenous representation at the IMO. (See: [Russia’s Indigenous Peoples Sound Alarm On Loss of Arctic, Traditional Way of Life](https://www.rferl.org/a/russia-arctic-indigenous-peoples-losing-traditional-way-life-climate-change/30973726.html))

**5. NGO observer participation at the IMO and Freedom of Information / Transparency**

NGOs are often marginalized. There is an unwritten rule in the IMO that Member States receive priority over NGOs to be recognized for making interventions. In the case of working groups and drafting groups, it is up to the Chair if they wish to recognize a NGO or not. This limits the ability of NGOs to make important contributions for good outputs by the IMO. This can be more of an issue within working groups but was recently raised by a Member State during the most recent virtual MEPC meeting. A Member State expressed disappointment that the Chair did not follow this unwritten rule to prioritise Member States and limit eNGO interventions, which shows the hostility some Member States have towards NGOs, despite their valuable knowledge and contributions on specific social, environmental and political issues.

Trade organizations outnumber civil society NGOs 5 to 1 and several government delegations include private companies including shipping registries which contribute to the discussion and decision of international shipping policy. ([See Transparency International report](https://www.transparency.org/en/publications/governance-at-the-imo-the-case-for-reform)). A Transparency register with published information regarding the breakdown of organisations with observer status at the IMO would contribute to transparency.

The IMO does not have Freedom of Information policy in line with the [Aarhus Convention](https://unece.org/fileadmin/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf).

The Clean Arctic Alliance will provide additional input to the inquiry on emissions of greenhouse gases and climate change, including black carbon.