AMENDMENT TO REGULATIONS ON DISCHARGE OR LOSS OF FISHING GEAR FROM SHIPS STIPULATED IN THE MARPOL ANNEX V

I. BACKGROUND

1. The International Convention for the Prevention of Pollution from Ships (MARPOL) is the main international convention instituted by International Maritime Organization (IMO), covering prevention of pollution of the marine environment by ships from their operational or accidental causes. The Annex V of MARPOL aims to prevent pollution by garbage from ships and “garbage” includes fishing gear.

2. In a growing recognition that we should seriously address issues on marine plastic litter from ships, the 73rd session meeting (October 2018) of the Marine Environment Protection Committee (MEPC) of IMO adopted the Action Plan to address marine plastic litter from ships.

3. In accordance with the Action Plan, IMO is examining an amendment to the MARPOL Annex V or a MEPC resolution to introduce new regulations related to marine plastic litter form ships, that would have a significant impact on fisheries operations.

II. CURRENT REGULATIONS ON DISCHARGE OR LOSS OF FISHING GEAR FROM SHIPS OF THE MARPOL ANNEX V

4. The MARPOL Annex V generally prohibits all vessels from discharging any kind of plastics including fishing gear into the sea.

Regulation 3.2
Except as provided in regulation 7 of this Annex, discharge into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, plastic garbage and incinerator ashes from plastic products is prohibited.

5. Fishing gear is allowed to be discharged or lost under certain conditions as an exemption from Regulation 3.2.

Regulation 7.1
Regulation 3, 4, 5 and 6 of this Annex and section 5.2 of chapter 5 part II-A of the Polar Code shall not apply to:

.3 The accidental loss of fishing gear from ship provided that all reasonable precautions have been taken to prevent such loss of; or
.4 The discharge of fishing gear from a ship for the protection of the marine environment or for the safety of that ship or its crew.

6. If the accidental loss or discharge of a fishing gear poses a significant threat to the marine environment or navigation, the vessel is obliged to report it to the flag state and the relevant costal states.

Regulation 10.6
The accidental loss or discharge of fishing gear as provided for in regulations 7.1.3 and 7.1.4 which poses a significant threat to the marine environment or navigation shall be reported to
the State whose flag the ship is entitled to fly, and, where the loss or discharge occurs within waters subject to the jurisdiction of a coastal State, also to that coastal State.

7. An accidental loss or discharge of fishing gear which is required to be reported according to Regulation 10.6 should be determined specifically by a Government according to the 2017 Guidelines for the implementation of MARPOL Annex V. In addition, The Guidelines encourage each State to report to IMO about their progress in implementing these measures, including summaries of where gear was lost and, if applicable, their specific actions taken to address the gear loss.

III. PROPOSED AMENDMENTS TO REGULATIONS ON DISCHARGE OR LOSS OF FISHING GEAR FROM SHIPS OF THE MARPOL ANNEX V

8. The Measure 22 in the Action Plan states “Consider extending the reporting requirement in regulation 10.6 of the MARPOL Annex V to include reporting data on discharge or accidental loss of fishing gear by the flag State to IMO via the Global Integrated Shipping Information System (GISIS) or other means if appropriate”.

9. At the 74th Session of MEPC (May 2019) and the 7th Session of Sub-Committee on Pollution Prevention and Response (PPR, February 2020), addressing the Measure 22 of the Action Plan, Vanuatu proposed the amendments to MARPOL Annex V as follows (additions/deletions):

New Regulation 10.6
The accidental loss or discharge of fishing gear as provided for in regulations 7.1.3 and 7.1.4 which poses a significant threat to the marine environment or navigation shall be reported to the State whose flag the ship is entitled to fly, and, where the loss or discharge occurs within waters subject to the jurisdiction of a coastal State, also to that coastal State.

New Regulation 10.7
Each Party shall notify the Organization of the loss or discharge of fishing gear as provided for in regulations 7.1.3 and 7.1.4."

10. The Correspondence Group (CG) established by PPR7 to consider how to amend the MARPOL Annex V and the 2017 Guidelines for the implementation of the MARPOL Annex V to facilitate and enhance reporting system of the accidental loss or discharge of fishing gear from ships, as currently provided in Regulation 10.6 of the MARPOL Annex V, and to consider an information to be reported to Administrations and IMO, the reporting mechanisms and the modalities.

11. The CG has completed their assignments by October 2020. However, various comments and opinions from participants have been submitted in the CG and there are still many works left undone. The CG will request to establish a working group to further consider on how amending the MARPOL Annex V in the next meeting of PPR. Main outstanding issues are as follows:

.1 Objectives of the IMO data collection
.2 Anonymisation of data
.3 Thresholds for type or size of fishing gear
.4 Type of vessel reporting
.5 Frequency of reporting

Objectives of the IMO data collection
12. Most of participants supported the objectives of IMO data collection on discharge or loss of fishing gear from ships below:
   - to accurately assess the extent and spatial distribution of the loss or discharge of fishing gear
- to provide to the IMO and Member States and stakeholders a database in order to
measure its quantity and quality and to monitor those trends at the national and
international levels
- to support consideration of further measures related to preventing and reducing lost
and discharged fishing gear by enabling robust data analysis

13. On the other hand, some participants have requested to make clear on what purpose is the
reported data/information specifically used for, or what reporting items/levels would appropriately
satisfy that purpose.

**Anonymisation of data**

14. In order to achieve the proposed objectives of the IMO data collection, the database on
discharge or loss of fishing gear from ships should be open to all states and public users. Otherwise,
some participants have claimed the confidentiality of a vessel name or an operating position, and so
on.

**Thresholds for type or size of fishing gear**

15. The majority of participants agreed not to set up thresholds for the reporting of loss or
discharged fishing gears from ships. Several participants stated that establishing certain thresholds
such as type or size of fishing gear lost or discharged could compromise our actions to reduce lost and
discharged fishing gears which actually contribute to marine plastic waste.

16. Other participants have pointed out that reporting all lost and discarded fishing gear would be
infeasible particularly in cases of lost small materials (such as piece of rope, hooks, floating and so
on) which would be of limited value and requested to establish certain thresholds to get rid of
unnecessary workloads.

**Type of vessel reporting**

17. Regulation 2 of MARPOL Annex V states that: "Unless expressly provided otherwise, the
provisions of this Annex shall apply to all ships". It means that the general prohibition on the
discharge of waste at sea also applies to not only fishing vessels but also recreational vessels. Some
participants have required to exclude artisanal and small-scale fishing vessels or recreational vessels
from the scope of the mandatory vessel reporting.

**Frequency of reporting**

18. The CG’s opinions were divided on this issue. The part of the group supported an annual
reporting justifying their preference based on different rationales but primarily to avoid any additional
administrative burdens. Also, in addition to that, some participants indicated that an annual
submission of aggregated data would assure the confidentiality of the concerned fishing vessels.

19. The other part of the group preferred the choice of on-going reporting to the Organization (i.e.
as soon as the Administration receives a notification/report from a fishing vessel or its
representatives), illustrating by giving an example of the current RFMOs’ reporting schemes imposing
a real time reporting (<24h) from a fishing vessel to RFMOs or from flag States to RFMOs. The
ongoing reporting would facilitate potential recoveries, enhance safety of navigation, allow for follow
up actions if the fishing gear is marked and recovered.

**IV. OTHER MATTERS ON FISHING GEAR IN IMO**

20. The Action Plan to address marine plastic litter from ships has several measures on loss or
discharged fishing gear as follows:
Measure

2 Consider making mandatory, through an appropriate IMO instrument (e.g. MARPOL Annex V), the marking of fishing gear with the IMO Ship Identification Number, in cooperation with the Food and Agriculture Organization of the United Nations (FAO)

3 Further investigate logging of the identification number for each item of fishing gear on board a fishing vessel

4 Preparation of a circular reminding IMO Member States to collect information from their registered fishing vessels regarding any discharge or accidental loss of fishing gear

5 Consider the development of best management practice to facilitate incentives for fishing vessels to retrieve derelict fishing gear and deliver it to port reception facilities, in collaboration with FAO

14 Consider the requirement for port reception facilities to provide for separate garbage collection for plastic waste from ships, including fishing gear to facilitate reuse or recycling

20 Consider tasking the HTW Sub-Committee with reviewing chapter III of STCW-F (Basic safety training for all fishing vessel personnel) to ensure that all fishing vessel personnel, before being assigned any shipboard duties, receive basic training on marine environment awareness oriented on marine plastic litter including abandoned, lost or otherwise discarded fishing gear (ALDFG)

22 Consider extending the reporting requirement in regulation 10.6 of MARPOL Annex V to include reporting data on discharge or accidental loss of fishing gear by the flag State to IMO via GISIS or other means if appropriate

21. Regarding the measure 2, Vanuatu has proposed the following draft wording supported with adequate amendments to the 2017 Guidelines for the implementation of MARPOL Annex V or a mandatory MEPC resolution, which could be considered as part of a new regulation 10.A:

New Regulation 10.A

Fishing gear shall be marked providing a simple, pragmatic, affordable and verifiable means of identifying ownership of fishing gear or parts of fishing gear and its link with the vessel(s) or operator(s) undertaking the fishing operation in case of accidental loss or discharge of fishing gear as provided for in regulations 7.1.3 and 7.1.4 or illegally discharged under regulation 3.

22. This proposal aims to mandate to make fishing gears or parts uniformly from the viewpoint of a shipboard waste management, while FAO has encouraged States and RFMOs to voluntary introduce a gear marking in line with the actual fishery situation by the FAO Voluntary Guidelines for the Marking of Fishing Gear. This matter would be discussed at MEPC 75 (November 16-20, 2020).

V. REQUIRED CONSIDERATION BY THE MEMBER COUNTRIES

23. In a growing worldwide recognition that fisheries sector should seriously address issues on marine plastic litter from ships, Japan also recognizes the importance of immediately addressing the issue on marine plastic litter from ships including fishing gears as well as the necessity to consider the feasibility, effectiveness and practicability of regulations or measures. As there is a certain possibility that the new regulations would place excessive burden on fishers and Administrations, Japan has requested the CG and PPR to adequately review the implementation of the current regulations so that we could consider what reporting methods/system would be practicable for all States.

24. Therefore, Japan would like to draw your attention to those issues on discharge or loss of fishing gears from ships in IMO mentioned above and ask all SEAFDEC Members to positively participate in the discussions on those IMO issues.