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**EVALUATION AND HARMONIZATION OF RULES AND GUIDANCE ON THE
DISCHARGE OF DISCHARGE WATER FROM EGCS INTO THE AQUATIC
ENVIRONMENT, INCLUDING CONDITIONS AND AREAS**

**Comments on proposals to prohibit the use of exhaust gas cleaning systems (EGCS)
and their discharges**

Submitted by ICS

SUMMARY

Executive summary: This document provides an industry perspective on the work related to part 3 of output 1.23, highlighting the need for clear evidence to support regulatory measures to restrict exhaust gas cleaning systems (EGCS) discharges and emphasizes the importance of international law over unilateral and regional measures. ICS supports strengthening the existing regulatory framework rather than introducing new regulatory measures that will prohibit EGCS discharges that comply with existing regulations and are continuously monitored.

*Strategic direction, 1
if applicable:*

Output: 1.23

Action to be taken: Paragraph 13

Related documents: PPR 10/INF.3, PPR 10/INF.15; PPR 11/7, PPR 11/7/1, PPR 11/7/3, PPR 11/7/4, PPR 11/INF.11, PPR 11/18; PPR 12/INF.8; MEPC 79/5/4, MEPC 79/INF.4; MEPC 80/5/5, MEPC 80/5/6, MEPC 80/5/7; MEPC 81/5/4, MEPC 81/9, MEPC 81/INF.21; MEPC 82/5, MEPC 82/5/4, MEPC 82/INF.22 and MEPC 82/10

Introduction

1 This document is submitted in accordance with paragraph 6.12.5 of the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.5), comments on documents MEPC 81/5/4 (FOEI et al.), MEPC 82/5 (FOEI et al.) and MEPC 82/5/4 (FOEI et al.), and aims to provide an industry perspective on the work related to part 3 of output 1.23.

Background

2 The scope of work of output 1.23 on "Evaluation and harmonization of rules and guidance on the discharge of discharge water from EGCS into the aquatic environment, including conditions and areas" has four parts:

- .1 Part 1: Risk and impact assessment;
- .2 Part 2: Deliveries of EGCS residues;
- .3 Part 3: Regulations; and
- .4 Part 4: Substance database.

3 MEPC.1/Circ.899 on the *2022 Guidelines for risk and impact assessments of the discharge water from exhaust gas cleaning systems* and MEPC.1/Circ.900 on the *2022 Guidance regarding the delivery of EGCS residues to port reception facilities* contain Guidelines for parts 1 and 2 of output 1.23, concluding parts 1 and 2 of the scope of work of output 1.23 as agreed by MEPC 77 (MEPC 79/15, paragraph 5.3).

4 The scope of output 1.23 on "Evaluation and harmonization of rules and guidance on the discharge of discharge water from EGCS into the aquatic environment, including conditions and areas" also includes parts 3 and 4, dedicated to regulatory matters and a database of substances, while the target completion year for output 1.23 has been extended to 2025, subject to further proposals regarding parts 3 and 4 (MEPC 78/17, paragraph 14.14.3).

5 MEPC 82 noted that PPR 11, having considered all submitted documents concerning the identification and development of regulatory measures and instruments on the discharge of discharge water from EGCS submitted to the session and referred to it by the Committee, and given the divergent views expressed, had invited interested Member States and international organizations to submit further proposals on the matter to PPR 12 (MEPC 82/17, paragraph 5.6). Consequently, MEPC 82 referred documents MEPC 81/5/4, MEPC 81/9 (Secretariat), MEPC 82/5 and MEPC 82/5/4 to PPR 12 for consideration (MEPC 82/17, paragraph 5.7).

Discussion

6 ICS supports measures to protect the marine environment and firmly believes that the identification, consideration and development of any regulations pertaining to part 3 of output 1.23 should be based on clear evidence in order to provide sufficient confidence to all parties involved (flag States, coastal States and industry), especially when the EGCS discharges are compliant with existing regulations and there is continuous monitoring of the EGCS discharges at all times to verify such compliance. The implementation of measures, such as section 10 of the *2021 Guidelines for exhaust gas cleaning systems* (resolution MEPC.340(77)), which outlines discharge water quality criteria for pH, PAHs, and turbidity, contributes to safeguarding the marine environment and maintaining compliance with environmental regulations at all times by continuously monitoring EGCS discharges for pH, PAHs, and turbidity.

7 ICS notes the discussions at PPR 11 concerning the right of Parties to MARPOL Annex VI, in their capacity as coastal States to regulate discharges from ECGSs for the "prevention, reduction, and control of marine pollution from foreign flagged vessels" in innocent passage (Articles 21(1)(F) and 211(4) of the United Nations Convention on the Law of the Sea (UNCLOS)). However, ICS emphasizes that such regulation must be consistent with both

UNCLOS and other relevant provisions of international law and, in particular, must not hamper the innocent passage of foreign flagged ships or be more stringent than those imposed at international level that have the practical effect of denying or impairing the right of innocent passage (Articles 24 and 211(4) of UNCLOS). The fact that discharges from EGCS are compliant with current IMO regulations and continuously monitored should therefore be taken into account.

Need to improve the EGCS discharges quality rather than justify regional prohibitions

8 Paragraph 7.9 of document PPR 11/18 (Secretariat) highlights the recent trend of local restrictions on the discharges of EGCS in more than 40 countries. However, ICS notes the following three points:

- .1 the majority of these restrictions apply to internal waters (including ports, harbours and estuaries) and not in territorial waters where the coastal States' sovereignty is subject to the right of innocent passage for foreign ships;
- .2 these restrictions have been adopted without any consideration to the different water treatment unit (WTU) technologies that can be used to improve EGCS discharge water quality; and
- .3 these restrictions in internal waters are often implemented on a precautionary basis rather than based on clear evidence.

9 ICS suggests that Parties to MARPOL Annex VI should be invited to implement the *2022 Guidelines for risks and impact assessment of the discharge water from EGCS* (MEPC.1/Circ.899) and make the results publicly available. Such international cooperation and knowledge exchange are central to formulating and elaborating international standards for the protection and preservation of the marine environment, (Articles 200 and 201 of UNCLOS). ICS notes that this view was also highlighted as a "common understanding" at PPR 11.

10 Any regulations to control EGCS discharge waters should be evidence-based, and follow clear data, thereby providing clarity and confidence, assisting in the facilitation of a consistent approach at a global level. By collecting and analysing information, following implementation of the *2022 Guidelines for risk and impact assessments of the discharge water from exhaust gas cleaning systems* (MEPC.1/Circ.899), both regulators and the industry will have access to clear evidence, obtained following a consistent approach, and will gain a better understanding of what measures may be required to improve the quality of EGCS discharges. This, in the view of ICS, would be a better approach than a regional regulation or a prescriptive mandate for prohibitions on EGCS discharges in territorial waters and beyond. Additionally, this evidence and a science-based approach to improve the quality of EGCS discharges will open the door to explore technological solutions that may improve EGCS discharge quality if considered necessary, and satisfy coastal States and industry regarding their respective concerns.

Measured approach to improve the existing IMO regulatory framework

11 ICS repeats the concern raised at PPR 11 that the adoption of any measures that prohibit all discharges from EGCS, even where compliant with existing IMO regulations and before considering whether, based on the evidence, steps could be taken to adjust the existing IMO regulatory framework, would not only disrupt the current system but also potentially undermine trust in the IMO process. If the need to improve the quality of EGCS discharges is identified through the accumulated scientific data and analysis, ICS proposes a measured, incremental approach that may include revising the existing IMO regulatory framework

(MEPC.1/Circ.899) and discharge water quality criteria in section 10 of resolution MEPC.340(77) on the *2021 Guidelines for exhaust gas cleaning systems*, rather than prohibiting discharges from EGCS that conform to existing regulations and are continuously monitored to verify compliance.

Proposals

12 On the basis of the discussion presented in the paragraphs above, the Sub-Committee is invited to consider the following proposals when developing measures pertaining to part 3 of output 1.23:

- .1 ensure that existing ships that have already installed EGCS equipment in accordance with the relevant regulatory requirements and whose discharges comply with existing IMO regulations and compliance is verified by continuous monitoring should not be unduly penalized;
- .2 invite Parties to MARPOL Annex VI that have implemented restrictions to support their decisions by implementing the *2022 Guidelines for risks and impact assessment of the discharge water from exhaust gas cleaning systems* (MEPC.1/Circ.899) and make the results publicly available; and
- .3 for new ships, consider revising and updating the *2021 Guidelines for exhaust gas cleaning systems* (resolution MEPC.340(77)) with a particular focus on strengthening section 10, and based on the evidence collected from paragraph 10.2, develop discharge water quality criteria to mitigate EGCS discharge risks.

Action requested of the Sub-Committee

13 The Sub-Committee is invited to consider this document, in particular the proposals in paragraph 12, and to take action as appropriate.
