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REDUCTION OF GHG EMISSIONS FROM SHIPS

Addressing impacts to Indigenous cultural heritage within the IMO commitment to a just and equitable transition, as well as throughout the Committee's mandate

Submitted by ICC

SUMMARY

Executive summary: This document identifies that a just and equitable transition must include measures to recognize and address impacts on the cultural heritage of Indigenous Peoples, and urges the Committee to explore how it can support the protection and revitalization of Indigenous cultural heritage with respect to all issues within its mandate, including response and liability for marine spill incidents.

Strategic direction, if applicable: 3

Output: 3.2

Action to be taken: Paragraph 12

Related documents: MEPC 80/17 and ISWG-GHG 13/3/6

Introduction

1 In document ISWG-GHG 13/3/6, the Marshall Islands and the Solomon Islands explained the fundamental elements of an equitable transition and the reasons such elements are essential to be embodied in the Revised IMO GHG Strategy. They noted the shipping industry's contribution to the climate crisis and its profound inequity in which those who have done the very least to create the climate problems are feeling them first.

2 During the discussion at MEPC 79 on the revision of the *2018 Initial IMO Strategy on Reduction of GHG Emissions from Ships* nearly every delegation voiced the need for a fair, just, and/or equitable transition. Delegations also noted the need for more discussions of fair, just and equitable concepts with specific examples of how they might materialize in practice.

3 At MEPC 80, the *2023 IMO Strategy on Reduction of GHG Emissions from Ships* was adopted (as contained in document MEPC 80/17/Add.1) and committed to promote "a just and equitable transition" with respect to the vision of phasing out greenhouse gas (GHG) emissions

from international shipping. The Inuit Circumpolar Council identifies that a just and equitable transition must, inter alia, include measures to recognize and address impacts on the cultural heritage of Indigenous Peoples. Furthermore, this document urges the Committee to explore how it can support the protection and revitalization of Indigenous cultural heritage with respect to all issues within its mandate including, in particular, on the response and liability for marine spill incidents.

Indigenous cultural heritage

4 The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)¹ affirms the rights of Indigenous Peoples to practice and maintain their cultural heritage, and the obligation of States to take related measures for its recognition and protection, in particular through the following articles:

.1 article 11:

"1 Indigenous Peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature. [...]"

.2 article 31:

"1 Indigenous Peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

.2 In conjunction with Indigenous Peoples, States shall take effective measures to recognize and protect the exercise of these rights."

5 UNDRIP article 42 further affirms that upholding the provisions of UNDRIP is a responsibility at both the international and domestic level:

"1 The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration."

6 Also of note, the Convention for the Safeguarding of the Intangible Cultural Heritage requires that its 182 State Parties "take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory", which is defined as follows:

¹ *United Nations Declaration on the Rights of Indigenous Peoples*, articles 11(1) and 31(1)-(2): https://www.un.org/development/desa/indigenouspeoples/wpcontent/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

"The 'intangible cultural heritage' means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity."²

A just and equitable transition and Indigenous cultural heritage

7 There is growing global awareness that the cultural heritage of Indigenous Peoples stands to be significantly impacted by environmental harm, for example with respect to climate change.³

8 International shipping poses risks to the cultural heritage of Indigenous Peoples by virtue of pollution from ships, including GHG emissions as well as marine pollution, in particular marine spills. The effects of such pollution, whether through ecosystem disruptions caused by a changing climate or localized marine pollution impacts, are felt disproportionately by Indigenous Peoples. This includes damage to the ability of Indigenous Peoples to practice, maintain and transmit cultural heritage tied to the lands and waters in their territories.

9 The *2023 IMO Strategy on Reduction of GHG Emissions from Ships* commits to promoting "a just and equitable transition" with respect to its vision of phasing out GHG emissions as soon as possible. As the Inuit Circumpolar Council has emphasized in document MEPC 80/16/5, a just and equitable transition must align with the United Nations Declaration on the Rights of Indigenous Peoples, recognizing and implementing Indigenous rights and considering Indigenous self-determination and self-governance. This includes support for mitigation and adaptation measures to prevent and remedy impacts to Indigenous cultural heritage.

Broad relevance of impacts to Indigenous cultural heritage

10 International shipping's impact on Indigenous cultural heritage is not limited to GHGs. The Inuit Circumpolar Council encourages the Committee to explore all mechanisms within its purview to recognize and support the protection and revitalization of Indigenous cultural heritage.

11 In particular, with respect to marine spill incidents, both the Convention for Civil Liability on Oil Pollution Damage and the Convention on Civil Liability for Bunker Oil Pollution Damage limit compensation for environmental impairment from such spills to "loss of profit" and the "costs of reasonable measures of reinstatement".⁴ This seemingly forecloses liability for impacts to Indigenous Peoples, including their ability to practice and transmit cultural heritage, and discourages recovery measures aimed at supporting Indigenous Peoples' efforts to restore and revitalize their cultural heritage in the wake of a spill.

² *Convention for the Safeguarding of the Intangible Cultural Heritage*, articles 2(1) and 11(a): <https://www.unesco.org/en/legal-affairs/convention-safeguarding-intangible-cultural-heritage#item-1>

³ The impacts of climate change on Indigenous cultural heritage, and intangible cultural heritage generally, were recently profiled in a series of reports from an initiative co-sponsored by bodies including UNESCO and the Intergovernmental Panel on Climate Change: <https://www.cultureclimatemeeting.org/>

⁴ *Convention for Civil Liability on Oil Pollution Damage*, article 1(6); *Convention on Civil Liability for Bunker Oil Pollution Damage*, article 1(9).

Action requested of the Committee

12 The Committee is invited to consider the comments provided in this document and take action, as appropriate.
