World Maritime Day – Decarbonisation of ships and MARPOL

This World Maritime Day, we celebrate 50 years of MARPOL and the collective efforts of the international maritime community to protect our marine environment over the last 50 years.

MARPOL was first adopted in 1973 to protect the marine environment and clean up the air and water in which we live. The convention was 'one of a kind' then, adopted after a series of oil and chemical tanker incidents resulted in significant amounts of pollution in our oceans. MARPOL is since said to have contributed to a vast decrease in pollution and, according to the IMO, "*applies to 99% of the world's merchant tonnage*".

But is MARPOL a success? The short answer is an undeniable yes (amongst many other things, it has prevented oil spills, limited waste disposal and encouraged the elimination of harmful substances, allowing our oceans and marine biodiversity to thrive). The long answer is probably best surmised somewhere in the words of the famous Sir David Attenborough: *"…never before have we had such an awareness of what we are doing to the planet, and never before have we had the power to do something about that…"*. With the unimaginable development of maritime technology and data tracking in the last 50 years, our awareness is far beyond what it was. We are now able to rely on a combination of sophisticated software and equipment to combine ship hydrodynamics with wing sails. The result is best explained by reference to BAR Technologies' WindWings, which no doubt would not have been launched last month without countless data and numerical simulations and experiments. The thought of wide-scale wind propulsion reliant on "touch of a button" technology for commercial vessels was probably not in the pipeline in 1973.

Accordingly, it goes without saying that the IMO has been subject to ever-increasing pressure to regulate the impact of climate change. While MARPOL has formed the basis for those changes, we are also seeing an increase in regulation outside of MARPOL.

In 2018, we saw the adoption of a new regulatory measure, the IMO's Initial Strategy for the Reduction of Greenhouse Gas Emissions from Ships, upon which they mandated to reduce Greenhouse Gas (GHG) emissions by 70% by 2050. Prominent industry players like MOL and Maersk, to name a few, went a step further off their own accord and sought to be net zero by 2050, with MOL now pledging to utilise 90 LNG or methanol fuelled ocean ships by 2030. The IMO has since mandated to bring forward the targets in the Initial 2018 GHG Strategy, and the IMO's revised GHG Strategy on the Reduction of Greenhouse Gases from Ships was adopted in July 2023. The new strategy now seeks to reach net zero GHG emissions by or around 2050; this can only reflect the scrutiny the IMO are under as a division of the UN to meet growing demands to decarbonise.

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How has MARPOL developed?

Many amendments have been made over the last 50 years to MARPOL. We do not intend to address them all. Still, by way of an example, in 2013, we saw the introduction of the Energy Efficiency Design Index ("EEDI") and the Ship Energy Efficiency Management Plan ("SEEMP"), which was one of the first global measures driving GHG reduction for an international industry. EEDI provides technical parameters to calculate a carbon dioxide figure for a ship design based on the ship's capacity mile. The EEDI was initially aimed at heavy energy-based vessels and subsequently updated in 2014 to extend the scope to cover LNG carriers and other non-conventional propulsion ships.

Ten years later, and most impactfully earlier this year, we saw the implementation of the IMO's new technical carbon intensity measures, including the CII regulation (addressing how efficiently a ship transports goods or passengers) and the EEXI regulation (further managing the technical design of vessels). For more on this topic, please refer to our previous article, "The Race to Net Zero".

What is next for MARPOL?

Looking ahead, the industry is still in a transition period, working through MARPOL's CII and EEXI regulations, which will continue to take some work to align with commercial shipping practices as the parties continue to transfer the regulatory requirements into contract. The lawyers eagerly await a spate of disputes between owners and charterers, so please get in touch for more information on possible disputes under these clauses and drafting tips. It is essential to understand the terms.

To conclude, it is now clear that MARPOL is not the only pioneer for change in the marine climate sphere, and indeed, it is joined by a strong momentum of unmatched support from industry stakeholders as well as national and European legislation – all in search of the answer to protect our oceans. So, as the industry continues to watch MARPOL adapt and develop, there is some consensus that the IMO needs to do more on the international stage, the consequence of which has resulted in national measures such as the EU ETS (carbon pricing scheme), the inevitable UK ETS Scheme and possibly a similar scheme in China followed by FuelEU Maritime and others. That is far from desired in the international shipping sector.

We wish you a happy World Maritime Day – and thank the industry for all the collective efforts to date. Stakeholder collaboration is the key, and let's continue this drive to sustainable shipping and the (green) carriage of goods by sea.

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