

SUB-COMMITTEE ON SHIP DESIGN AND
CONSTRUCTION
12th session
Agenda item 9

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**DEVELOPMENT OF A SAFETY REGULATORY FRAMEWORK TO SUPPORT THE
REDUCTION OF GHG EMISSIONS FROM SHIPS USING
NEW TECHNOLOGIES AND ALTERNATIVE FUELS**

Comments on paragraph 43 of document SDC 12/9

Submitted by IACS

SUMMARY

Executive summary: This document comments on paragraph 43 of document SDC 12/9 and proposes to bring the non-safety related matters to the attention of MSC and MEPC as part of SDC 12's report, for the committees' early action.

Strategic direction, if applicable: 3

Output: 3.8

Action to be taken: Paragraph 13

Related documents: MSC 110/21 and SDC 12/9

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.6) and comments on paragraph 43 of document SDC 12/9 (WNTI et al.).

Discussion

2 At MSC 110, IACS expressed the following view (MSC 110/21, paragraph 6.46.5):

"There might be aspects related to the use of nuclear power on board ships that fell within the purview of other IMO bodies. As appropriate, these bodies, such as the FAL Committee, the LEG Committee and the MEPC would need to be involved."

3 Paragraph 43 of document SDC 12/9 states:

"A framework for civil nuclear liability and nuclear damage is considered an essential element to enable the operation of commercial nuclear ships. The development of such framework would require cooperation among IMO, IAEA, NEA-OECD, and would likely involve the Comité Maritime International (CMI). In terms of IMO's involvement, this would likely fall under the remit of the Legal Committee. The work on updating the Nuclear Code does not seem directly linked to a liability regime but should monitor the development of a civil liability regime in case it becomes relevant to the revision of the Nuclear Code."

4 While thanking the submitters of document SDC 12/9 for the valuable contribution and the thoughtful analysis of the work plan related to nuclear-powered ships, and in line with the intentions of its statement at MSC 110, IACS wishes to offer a comment on paragraph 43 of document SDC 12/9.

5 Document SDC 12/9 considers the issue essential, however, not directly relevant to the revision of the Nuclear Code, as instructed to the SDC Sub-Committee by MSC 110. IACS also agrees that this matter is indeed essential; however, it is considered that this should be addressed as a priority by the relevant IMO organ (Legal Committee), in parallel to the work at the SDC Sub-Committee, to give assurance of proper context for that work.

6 Without a global framework for civil nuclear liability and nuclear damage in place, several important consequences for the practical development of commercial nuclear propulsion can be noted:

- .1 *legal uncertainty*, as there is no uniform rule defining who bears liability — whether the operator, the flag State, or the reactor manufacturer;
- .2 *insurance gaps*, since private insurers are unlikely to provide cover without an established in force international liability framework;
- .3 *absence of a compensation pool*, leading to inequities or disputes in the event of a transboundary incident;
- .4 *high investor risk*, which significantly limits financing and slows technological progress; and
- .5 *lack of measures against security incidents*, such as malicious activities targeted against nuclear-powered ships.

7 Consequently, without a recognized international liability regime applicable to shipping, it will be difficult for IMO to establish consistent global rules, for ports to accept nuclear-powered ships, or for industry to invest with confidence.

8 It is recalled that previous attempts to establish such a framework, notably the Brussels Supplementary Convention complementing the Paris Convention on Third-Party Liability in the Field of Nuclear Energy within OECD countries, were not fully successful, as the convention was never ratified by several Paris Convention States. IACS considers this an indication that developing such an instrument at IMO level may be more complex than anticipated, and that these challenges should not be underestimated or deferred.

9 Furthermore, it is underlined that the development of new or revised IMO instruments and tools should be built on solid foundations, particularly regarding international acceptance. In the absence of a globally harmonized liability framework, States may establish national or regional liability regimes, creating inconsistencies in safety, liability, and environmental protection, leading to a regulatory fragmentation, and consequently undermining the international uniformity that IMO seeks to maintain.

10 In summary, it is considered that achieving clarity and global harmonization of the liability regime is an essential prerequisite for the development of any harmonized, implementable IMO code for nuclear-powered ships. IACS believes that early progress toward a globally accepted liability framework would provide the necessary confidence for all stakeholders and help ensure that subsequent technical and regulatory work under IMO can proceed on an effective basis.

11 The same considerations should be given to other facets of the subject of application of nuclear power to commercial shipping sitting in the areas of competency of the MEPC and FAL Committees.

Proposal

12 Noting that the subject of this document is outside the remit of the Sub-Committee, IACS proposes that the non-safety related facets thereof be reported to MSC and MEPC, as part of SDC 12's report for both committees' consideration.

Action requested of the Sub-Committee

13 The Sub-Committee is invited to consider the foregoing and the proposal in paragraph 12, and to take action, as appropriate.
