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<b>Submitted by</b>	Denmark
<b>Reference</b>	Article 3 & 4 in the BWMC

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## Background

The two reports mentioned in the attached IMO MEPC documents (MEPC 67/2/12 and MEPC 67/INF.23) have previously been presented and discussed in May 2014 in HELCOM-OSPAR TG BALLAST 4-2014.

Denmark and INTERFERRY have submitted information from these reports to IMO MEPC 67 (13-17 October 2014). The information / reports will be discussed in MEPC's sub-committee PPR (PPR 2 to be held 19-23 January 2015). Denmark and INTERFERRY intend also to submit a document to PPR 2 with suggestions for the discussion during that meeting.

## Action required

The Meeting is invited to take note of the information.

MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
67th session  
Agenda item 2

MEPC 67/2/12  
8 August 2014  
Original: ENGLISH

## HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

### Issues on regulations A-3 and A-4 of the Ballast Water Management Convention (exceptions and exemptions)

Submitted by Denmark and INTERFERRY

#### SUMMARY

*Executive summary:* This document draws the attention of the Committee to specific concerns with the implementation of the Ballast Water Management Convention on exceptions and exemptions according to regulations A-3 and A-4 of the Convention and the *Guidelines for risk assessment under regulation A-4 of the BWM Convention (G7)* adopted by resolution MEPC.162(56)

*Strategic direction:* 2

*High-level action:* 2.0.1

*Planned output:* 2.0.1.8

*Action to be taken:* Paragraph 12

*Related document:* MEPC 67/INF.23

#### Introduction

1 The Committee will recall that parties to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (the Convention) may grant exceptions and exemptions in accordance with regulations A-3 and A-4 of the Convention. To assist parties in the consistent application of exemptions in accordance with the provisions of regulation A-4, the *Guidelines for risk assessment under regulation A-4 of the BWM Convention (G7)* were developed and adopted by resolution MEPC.162(56). In accordance with regulation A-4.1.4 of the Convention, exemptions may be granted when they are based on Guidelines (G7).

#### Discussion

2 To facilitate practical implementation of the Convention under circumstances where acceptable low-risk ballast water discharge scenarios can be identified and permitted,

regulations A-3 and A-4 governing exceptions and exemptions were agreed and incorporated into the Convention. Exceptions and exemptions granted in accordance with these regulations therefore preclude the necessity to require ships whose ballast water discharge could be considered not to represent an unacceptable risk to the marine environment from being obliged to fit ballast water management systems in order to meet the ballast water performance standard described in regulation D-2 of the Convention (D-2 standard).

3 In preparation for the entry into force of the Convention, ship operators have identified several issues relating to the practical application of regulations A-3 and A-4 and as a result compliance with the provisions of these regulations is considered particularly challenging.

4 It is noted that domestic voyages are excluded from the provisions of the Convention, unless a Party determines that the associated discharge of ballast water would impair or damage the Party's environment, human health, property or resources or impair or damage those of adjacent or other States. In a report from the Danish Ministry for the Environment (Litehauz, "Notes on Same Risk Area", 2014), it is stated that:

"You are obliged to meet D-2 standard following the 4 km journey between Elsinore in Denmark and Helsingborg in Sweden, where intense shipping traffic has taken place for +100 years, but not if you travel 1.400 km from Swedish Luleå to Helsingborg or for that matter the 600 km from Danish Esbjerg in the North Sea to Elsinore in The Sound. Even without a G7 risk assessment at hand it is not unlikely that the risk associated with the 4 km crossing of The Sound may indeed be the least and this is the only journey requiring a risk assessment."

5 The Committee's attention is drawn to the Danish Ministry of the Environment's report "*Ballast Water Management Convention transition phase for local shipping in the Baltic Sea and the North Sea*", available via the link contained in document MEPC 67/INF.23. In this report it is assumed that no risk of primary invasions can be attached to intraregional voyages, only secondary transfer. The risk for secondary transfer depends on several factors including the presence of trans-ocean ships (not required at the time to comply with regulation D-2) calling at the same ports, volumes of ballast water actually discharged and biogeographical characteristics in the operational area.

6 The inclusion in Guidelines (G7) of the term "biogeographic regions" has previously been seen by ship operators as an initial means to identify locations and/or routes where exemptions and/or exceptions may logically be considered. Initial consultations with flag and port States have however not clarified the application of "biogeographic regions" for individual cases.

7 Assembly resolution A.1088(28) introduced a revised application schedule for regulations D-1 and D-2, consequently spreading dates for compliance over a five-year period starting from the date the Convention enters into force. The revised application schedule is welcomed and fully supported, however, it should be noted that in the Baltic Sea and its entrances, ballast water exchange according to the D-1 standard is not permitted. Additionally, in parts of the North Sea, ballast water exchange is only permitted in certain defined areas, thus requiring ships on short sea operations to make significant deviations if they are to carry out ballast water exchange. In practical terms the effect of these restrictions means that many ships will have no option other than to comply with the Convention by meeting regulation D-2 immediately upon the entry into force of the Convention. This renders the intentions of Assembly resolution A.1088(28) ineffective for ships in these areas.

8 Serious concern exists regarding the time available to gather necessary biological data for an application for exemption and, combined with the commercial risk should the subsequent exemption not be granted, it is felt that shipowners may be effectively forced to refrain from seeking exemptions, even for seemingly obvious cases. Whilst it could be argued that there has been ample time since the adoption of the Convention to gather biological survey data, it must be borne in mind that the costs of such surveys are very significant and that such data has a validity limited to five years subject to intermediate review.

9 The Committee is advised that to gain a clearer understanding of how exemptions/exceptions will be managed in terms of process and requirements, individual flag and port State Administrations have been approached during the past two years. We regret to report that the same Administrations have, however, indicated that they are not in a position to provide any conclusive information ahead of the entry into force of the Convention. This lack of solid guidance has added to shipowner concerns regarding the practical management of applications for exemptions in a short period after the Convention has become enforceable.

10 It is believed that for some short sea services, the outcome of a full risk assessment would be that an exemption would not be granted due to the unacceptable level of risk identified. For other services, however, exceptions and exemptions are thought to be feasible. It appears that regulations A-3 and A-4 risk being seen as ineffective mechanisms due primarily to cost and shortage of time after the Convention becomes enforceable.

11 The report referenced in paragraph 5 of this document outlines various transitional measures and further develops exemption procedures pending the full implementation of the Convention. Member States are encouraged to review this report and further develop, in conjunction with their shipping industries, a rational exemption/exception methodology. This should include different risk assessment models such as risk level assessments from a desktop analysis to a full risk assessment in the water, where required.

#### **Action requested of the Committee**

12 The Committee is invited to take action as appropriate.

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MARINE ENVIRONMENT PROTECTION  
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## **HARMFUL AQUATIC ORGANISMS IN BALLAST WATER**

### **Studies on exemption and exception issues under the Ballast Water Management Convention**

**Submitted by Denmark and INTERFERRY**

#### **SUMMARY**

*Executive summary:* This document draws the attention of the Committee to two studies issued by the Danish Partnership for Ballast Water, relating to challenges for short sea ships with regards to the implementation of the Ballast Water Management Convention

*Strategic direction:* 2

*High-level action:* 2.0.1

*Planned output:* 2.0.1.2

*Action to be taken:* Paragraph 9

*Related document:* MEPC 67/2/12

#### **Introduction**

1 The Danish Partnership for Ballast Water, comprising the Nature Agency and the Danish Maritime Authority, both holding legal responsibilities for ballast water regulation in Denmark, and the Danish Shipowners Association have published two studies addressing aspects of the provisions for exceptions and exemption under regulations A-3 and A-4 of the Ballast Water Management Convention (BWMC).

#### **Study 1: BWMC transition phase for local shipping in the Baltic Sea and the North Sea**

2 This first study explores the challenges of the short sea line traffic and the regional traffic in the water bodies that the exclusive economic zone (EEZ) of Denmark is part of: the North Sea and the Baltic Sea, and assess the applicability of the exemption scheme for selected ship types.

3 The study provides an overview of challenges with regards to implementation of the OSPAR/HELCOM exemption guidelines as well as estimate the costs of risk assessments as the prerequisite for exemptions.

4 It furthermore suggests possible burden-sharing mechanisms for exemption costs and proposes a catalogue of transitional measures that would ease the implementation period of the BWMC for certain specific traffic segments, e.g. ferries and supply vessels.

5 This first study is named "*Ballast Water Management Convention transition phase for local shipping in the Baltic Sea and the North Sea*", ISBN 978-87-7091-611-0, and can be downloaded from:

<http://naturstyrelsen.dk/media/nst/11107921/nst-local-shipping-2014-dg-03.pdf>

### **Study 2: Notes on Same Risk Area**

6 A second study from the Danish Partnership for Ballast Water discusses the concept of risk management versus identification of hazards and the application of the precautionary principle. It furthermore explores a mechanism for identifying a "same risk area", i.e. an area with an acceptably similar risk profile for the ports.

7 The study aims to identify and assess feasible candidate risk management methods, which take into account the use of biological risk in defining a risk area. It also discusses the concept of risk management versus identification of hazard. Based on the findings from evaluation of available risk assessments, protocols and other risk assessment models mechanisms for implementation are presented.

8 This second study is named "*Note on Same Risk Area*", ISBN 978-87-7091-612-7, and can be downloaded from:

[http://naturstyrelsen.dk/media/nst/11107930/note\\_on\\_same\\_risk\\_area\\_23.pdf](http://naturstyrelsen.dk/media/nst/11107930/note_on_same_risk_area_23.pdf)

### **Action requested of the Committee**

9 The Committee is invited to note the information provided.