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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	4 September 2015
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	SWD(2015) 173 final
Subject:	COMMISSION STAFF WORKING DOCUMENT For the Council Shipping Working party IMO - Joint EU submission concerning draft amendments to MARPOL Annex IV to set effective dates for part of the Baltic Sea Special Area under MARPOL Annex IV

Delegations will find attached document SWD(2015) 173 final.

Encl.: SWD(2015) 173 final



Brussels, 4.9.2015
SWD(2015) 173 final

COMMISSION STAFF WORKING DOCUMENT

For the Council Shipping Working party

IMO - Joint EU submission concerning draft amendments to MARPOL Annex IV to set effective dates for part of the Baltic Sea Special Area under MARPOL Annex IV

COMMISSION STAFF WORKING DOCUMENT For the Council Shipping Working party - IMO - Joint EU submission concerning draft amendments to MARPOL Annex IV to set effective dates for part of the Baltic Sea Special Area under MARPOL Annex IV

PURPOSE

The document presented in Annex A (from page 3) is a draft joint EU submission¹ to the IMO MEPC 69. It should be transmitted to the appropriate technical bodies of the Council with a view to achieving agreement on its transmission to the IMO prior the required deadline, i.e. before 26 February 2016 at latest.

It is to be recalled that the issue raised in the submission is a matter falling under EU exclusive competence based on Directive 2000/59/EC of the European Parliament and of the Council on port reception facilities for ship generated waste and cargo residues. The commitment to provide for port reception facilities in line with Article 12bis of MEPC.200(62), in view of its subject matter, affects the subject matter dealt with in that Directive.

If adopted by the IMO, the draft amendments to MARPOL Annex IV to set effective dates for part of the Baltic Sea Special Area will be of a binding nature on the Union. In due time before MEPC 69, taking place on 18 – 22 April 2016, the Commission will come forward with appropriate proposals based on Article 218(9) TFEU which will include this item. The Union is neither a Member of the IMO nor a contracting party to MARPOL. It will therefore be necessary for the Council to authorise the Member States to express the position of the Union and express their consent to be bound by the amendments.

The document presented in Annex B (from page 9) is a draft letter to the IMO Secretary-General from Parties to the MARPOL Convention, setting out the relevant amendments to MARPOL. In accordance with MARPOL Article 16(2)(b), (c) and (d), the amendments to MARPOL Annex IV, which are also included in Annex I to the draft joint EU submission, must be submitted to the IMO and circulated by its Secretary-General to all Members of the Organization and all Parties at least six months prior to their consideration.

¹ The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

ANNEX A

MARINE ENVIRONMENT PROTECTION
COMMITTEE
69th session
Agenda item X

MEPC69/X/XX
date
Original: ENGLISH

CONSIDERATION AND ADOPTION OF MANDATORY INSTRUMENTS

Draft amendments to MARPOL Annex IV to set effective dates for part of the Baltic Sea Special Area under MARPOL Annex IV

Submitted by the European Commission on behalf of the European Union

SUMMARY

<i>Executive summary:</i>	The Committee is invited to consider, with a view to adoption, draft amendments to Annex IV of the MARPOL Convention, which are intended to provide the legal framework to execute the decisions made by MEPC 68 that sufficient notifications had been received and that, therefore, effective dates could be established for the part of the Baltic Sea Special Area the notification related to.
<i>Strategic direction:</i>	7.1
<i>High-level action:</i>	7.1.2
<i>Planned output:</i>	7.1.2.2
<i>Action to be taken:</i>	Paragraph X
<i>Related documents:</i>	Circular letter NO.XXXX; MEPC 60/6/2; MEPC 59/14; MEPC.1/Circ.685; MEPC 60/6/3; MEPC 60/INF.4; MEPC 68/10/2; MEPC 68/21; resolution MEPC.2(VI); resolution MEPC.159(55); resolution MEPC.200(62) and resolution A.1087(28).

Introduction

1 The Baltic Sea is one of the largest brackish water bodies in the world, with a unique marine ecosystem with indispensable values. Compared to other sea areas, the Baltic Sea is unusually prone to eutrophication caused by input of phosphorus and nitrogen compounds. This is mainly due to its shallow water depth, large catchments area with a population of 85 million people, and the slow rate of water exchange. At present, eutrophication is undisputedly the most significant environmental problem in the Baltic Sea.

2 Furthermore, the Baltic Sea is one of the most intensively trafficked sea areas in the world, and both the number and the size of ships have increased during recent years. Passenger and cruise traffic is increasing rapidly and the amount of sewage generated on board such ships, if discharged into the sea, significantly contributes to eutrophication.

3 Because of the characteristics of the Baltic Sea Area, it was designated as Special Area under MARPOL Annex IV in 2011, see Resolution MEPC 200(62).

4 According to the regulation 12bis.1, each Party with a coastline that borders a Special Area undertakes to ensure that facilities for the reception of sewage are provided in ports and terminals used by passenger ships, the facilities are adequate to meet the needs of those passenger ships and the facilities are operated so as not to cause undue delay to those passenger ships. According to regulation 12bis.2 the Government of each Party concerned shall notify the Organization of the measures taken pursuant to regulation 12bis.1. Upon receipt of sufficient notifications, the Organization shall, through an MEPC Resolution, establish a date from which the Special Area requirements shall take effect.

5 In document MEPC 68/10/2, Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden, coastal States of the Baltic Sea, notified the Organization of the measures taken pursuant to regulation 12bis.1.

6 MEPC 68 agreed that sufficient notifications pursuant to Regulation 12bis of Annex IV had been received for a portion of the Baltic Sea special area such that the effective date of Regulation 11.3 of Annex IV could be established for that portion of the special area.

7 MEPC 68 concluded an amendment to MARPOL Annex IV would be needed for the area, as defined in the notification, to take effect. The co-sponsors of the notification (document MEPC 68/10/2) informed the Committee that, following consideration of the issue, they had decided to work intersessionally and submit proposals for amendments to MARPOL Annex IV, with a view to adoption, to MEPC 69, in accordance with article 16 of MARPOL.

8 Proposed amendments to regulation 1 and regulation 12bis of MARPOL Annex IV have been drafted. The draft amendments are intended to provide the legal framework to execute the decisions made by MEPC 68 that sufficient notifications had been received and that, therefore, effective dates could be established for the part of the Baltic Sea Special Area the notification related to. The effective dates should be:

- .1 for new passenger ships - on or after 1 June 2019; and
- .2 for existing passenger ships - on or after 1 June 2021.

except when the following conditions are satisfied:

the ship has in operation an approved sewage treatment plant, which has been certified by the Administration to meet the operational requirements referred to in regulation 9.2.1 of MARPOL Annex IV, and the effluent shall not produce visible floating solids nor cause discolouration of the surrounding water.

In this regard, IMO issued Circular letter No. XXXX on XX notifying all Contracting Governments six months in advance of the 69th session of the Committee to be held between 18 and 22 April 2016.

Actions requested of the Committee

9 The Committee is invited to consider the proposed amendments to Annex IV of the MARPOL Convention, as set out in the annex 1, for adoption, in accordance with article 16 of the MARPOL Convention.

10 The Committee is further invited to establish the date from which the special area requirements under MARPOL Annex IV (regulation 11.3) shall take effect for the Baltic Sea area, in respect of the marine areas within the sovereignty of, or subject to the sovereign rights and jurisdiction of Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden. A draft resolution is set out in annex 2 to facilitate the work of the Committee in addressing this issue.

Annex 1

ANNEX IV REGULATIONS FOR THE PREVENTION OF POLLUTION BY SEWAGE FROM SHIPS

Chapter 1 General

Regulation 1 *Definitions*

1 Paragraph 7ter is amended as follows:

“7ter A *passenger ship* means a ship which carries more than twelve passengers.

For the application of regulation 11.3, a *new passenger ship* is a passenger ship:

.1 for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, or which is in a similar stage of construction, on or after 1 June 2019 ~~4 January 2016~~; or

.2 the delivery of which is two years or more after 1 June 2019 ~~4 January 2016~~.

An *existing passenger ship* is a passenger ship which is not a new passenger ship.”

Chapter 3 Equipment and control of discharge

Regulation 11 *Discharge of sewage*

2 Paragraph 3 is amended as follows:

B Discharge of sewage from passenger ships within a special area

“3 Subject to the provisions of regulation 3 of this Annex, the discharge of sewage from a passenger ship within a special area shall be prohibited:

a) for new passenger ships, on a date determined by the Committee pursuant to regulation 13.2 of this Annex, but in no event prior to 1 June 2019 ~~on, or after 4 January 2016, subject to regulation 12bis, subparagraph 2;~~ and

b) for existing passenger ships, on a date determined by the Committee pursuant to regulation 13.2 of this Annex, but in no event prior to 1 June 2021 ~~on, or after 1 January 2018, subject to regulation 12bis, subparagraph 2~~

,

except when the following conditions are satisfied:

the ship has in operation an approved sewage treatment plant which has been certified by the Administration to meet the operational requirements referred to in regulation 9.2.1 of this Annex, and the effluent shall not produce visible floating solids nor cause discoloration of the surrounding water.”

Annex 2

DRAFT RESOLUTION MEPC.xxx(69)

Adopted on [date]

ESTABLISHMENT OF THE DATE ON WHICH REGULATION 5(1)(h) OF MARPOL ANNEX IV IN RESPECT OF THE BALTIC SEA SPECIAL AREA SHALL TAKE EFFECT

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38 of the Convention of the International Maritime Organization concerning the function of the Committee,

NOTING regulation 1(5bis)(1) of Annex IV of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), defines the Baltic Sea as a Special Area under the said Annex,

NOTING ALSO the definition of Special Area under MARPOL Annex IV, i.e. a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by sewage is required,

NOTING FURTHER the information provided at MEPC 68 by Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden – representing MARPOL Parties bordering the Baltic Sea Special Area – regarding reception facilities provided within the said Special Area, in accordance with regulation 12bis of MARPOL Annex IV,

RECALLING that the Committee, at its sixty-eighth session, agreed that sufficient notifications pursuant to Regulation 12bis of Annex IV had been received for a portion of the Baltic Sea special area such that the effective date of Regulation 11.3 of Annex IV could be established for that portion of the special area;

HAVING CONSIDERED the matter to establish the date on which the discharge requirements of regulation 11.3 of MARPOL Annex IV in respect of the Baltic Sea Special Area shall take effect,

1. DECIDES to establish the dates from which the requirements of Regulation 11.3 of Annex IV shall take effect as:

.1 for the portion of the special area bounded by the entrance to the Baltic Sea at the parallel of the Skaw in the Skagerrak at 57°44'.8 N and including the Gulf of Bothnia and the Gulf of Finland, but excepting the areas near the Gulf of Gdansk and Baltic Sea bounded by *[give coordinates]* and in the Gulf of Finland bounded by *[give coordinates]*:

.1 for new passenger ships, on 1 June 2019; and

.2 for existing passenger ships on 1 June 2021.

.2 for the portions of the special area including the portions of the Gulf of Gdansk and the Baltic sea proper enclosed the following coordinates *[give coordinates]* and the portion of the Gulf of Finland enclosed by the following coordinates *[give coordinates]* on a date to be further determined by the Committee pursuant to regulation 12bis.2 of this Annex.

2. ENCOURAGES Member Governments and industry groups to comply immediately on a voluntary basis with the Special Area requirements for the Baltic Sea Special Area;
3. REQUESTS the Secretary-General to notify, in conformity with regulation 12bis of MARPOL Annex IV, all Parties to MARPOL, of the aforementioned decision by [date]; and
4. FURTHER REQUESTS the Secretary-General to notify all Members of the Organization of the aforementioned decision.

ANNEX B

To: The Secretary-General of the International Maritime Organization

Subject: **Proposed amendments to MARPOL Annex IV - request for transmission, in accordance with article 16(2)(a) of the MARPOL Convention**

Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom, in the interest of the European Union, have the pleasure to inform the Secretary-General of the International Maritime Organization that they are proposing amendments to regulation 1 and regulation 12bis of MARPOL Annex IV, as shown in annex.

The Marine Environment Protection Committee considered, at its sixty-eight session, a notification by Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden, pursuant to Regulation 12bis of MARPOL Annex IV (MEPC 68/10/2). The Committee agreed that sufficient notifications pursuant to Regulation 12bis of Annex IV had been received for a portion of the Baltic Sea special area such that the effective date of Regulation 11.3 of Annex IV could be established for that portion of the special area.

The Committee concluded that an amendment to MARPOL Annex IV would be needed for that portion of the special area to take effect.

The draft amendments, given in the annex by Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom, all Parties to MARPOL Annex IV, are intended to provide the legal framework to execute the decisions made by MEPC 68 that sufficient notifications had been received and that, therefore, effective dates could be established for the part of the Baltic Sea Special Area the notification related to.

The above-mentioned Parties hereby request the Secretary-General to transmit, in accordance with article 16(2)(a) of the MARPOL Convention, the text of the draft amendments referred to above, given in the annex, with a view to their consideration for adoption at MEPC 69 in accordance with article 16(2)(b), (c) and (d) of the said Convention.

For facilitation, attached is a draft submission intended for submission to the sixty-ninth session of the Marine Environment Protection Committee as soon as the proposed amendments have been circulated.

Please accept, Sir, the assurance of our highest consideration.

Annex

ANNEX IV

REGULATIONS FOR THE PREVENTION OF POLLUTION BY SEWAGE FROM SHIPS

Chapter 1

General

Regulation 1

Definitions

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For the application of regulation 11.3, a *new passenger ship* is a passenger ship:

- .1 for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, or which is in a similar stage of construction, on or after 1 June 2019 ~~1 January 2016~~; or
- .2 the delivery of which is two years or more after 1 June 2019 ~~1 January 2016~~.

An *existing passenger ship* is a passenger ship which is not a new passenger ship.”

Chapter 3

Equipment and control of discharge

Regulation 11

Discharge of sewage

2 Paragraph 3 is amended as follows:

B Discharge of sewage from passenger ships within a special area

“3 Subject to the provisions of regulation 3 of this Annex, the discharge of sewage from a passenger ship within a special area shall be prohibited:

- a) for new passenger ships, on a date determined by the Committee pursuant to regulation 13.2 of this Annex, but in no event prior to 1 January June 2019 ~~on, or after 1 January 2016, subject to regulation 12bis, subparagraph 2;~~ and
- b) for existing passenger ships, pursuant to regulation 13.2 of this Annex, but in no event prior to 1 January June 2021 ~~on, or after 1 January 2018, subject to regulation 12bis, subparagraph 2,~~

except when the following conditions are satisfied:

the ship has in operation an approved sewage treatment plant which has been certified by the Administration to meet the operational requirements referred to in regulation 9.2.1 of this Annex, and the effluent shall not produce visible floating solids nor cause discoloration of the surrounding water.”