



International and European Shipping Policies and the Protection of the Marine Environment

Actors and Regimes: an Overview

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1. Shipping-Related Pressures and Risks

- shipping accidents
- ongoing pollution caused by discharges of operating and load residues from ships
- ongoing dumping of ships' waste
- atmospheric emissions of sulphur dioxide and nitrogen oxide from the burning of shipping fuel
- shipping lanes can be in conflict with the necessary protection of species and habitats in the Baltic Sea
- introduction of non-native species into the Baltic Sea



2. International/Global Level

2.1 United Nations Convention on the Law of the Sea (UNCLOS)

- Governs the responsibilities and authorities of nation States at sea and provides a framework for the management of shipping worldwide.



2. International/Global Level

2.1 United Nations Convention on the Law of the Sea (UNCLOS)

- **General provisions (Art. 192 et seq.)**
 - States are under a general obligation to protect and preserve the marine environment (Art. 192).
 - States have obligations to prevent, reduce and control pollution of the marine environment (Art. 194).
 - Art. 204 to 206 demand an ongoing monitoring and environmental assessment of the marine environment.



2. International/Global Level

2.1 United Nations Convention on the Law of the Sea (UNCLOS)

- **Shipping is afforded a special status under UNCLOS as a traditional use of the sea.**
 - Freedom of transit and the right to innocent passage
 - “Flag State Principle”
 - Art. 211, 220: set out legislative and enforcement powers for coastal States.



2. International/Global Level

2.2 International Maritime Organization (IMO)

“Key organisation” of UNCLOS is the International Maritime Organization (IMO).

The IMO developed, inter alia

- London Convention
- MARPOL
- International Convention on the Safety at Sea (SOLAS)
- International Convention for the Control and Management of Ships' Ballast Water and Sediments



2. International/Global Level

2.3 MARPOL

- **MARPOL: key forum and driver in shipping-related marine environmental protection**
- Annex 1: prevention of pollution by oil and oily mixtures.
- Annex 2: marine pollution by noxious liquid cargoes.
- Annex 3: prevention of pollution by harmful substances transported in packaged form or in containers.



2. International/Global Level

2.3 MARPOL

- Annex 4: prevention of pollution by ships' ballast water.
- Annex 5: prevention of pollution by ship generated waste.
- Annex 6: prevention of air pollution by ships; enters into force on 19 May 2005.



2. International/Global Level

2.4 Protection of Sea Areas under IMO Conventions

“Special Areas“ under MARPOL 73/78

- MARPOL defines certain areas as “special areas“ in relation to the type of pollution covered by each annex. A special area is defined as a sea where for recognised 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 oil (Annex 1), noxious liquid substances (Annex 2) or garbage (Annex 5) is required.

2. International/Global Level

2.4 Protection of Sea Areas under IMO Conventions

- The Baltic Sea has been classified as a special area under Annex 1, 2 and 5:
- Discharge of oil or oily mixtures is – in general - prohibited.
- The Baltic is also subject to strict controls on tank washing and residue discharge procedures.
- Dumping of plastics and all other types of waste is prohibited.
- Annex 6 will establish the Baltic Sea as a “SO_x Emission Control Area” with more stringent controls on sulphur emissions from ships.



2. International/Global Level

2.4 Protection of Sea Areas under IMO Conventions

- **“Areas to be avoided” by Ships under SOLAS**
- SOLAS provides for the option of designating areas to be avoided by ships or certain classes of ships. Available routeing methods include
 - areas to be avoided
 - traffic separation schemes
 - precautionary areas and
 - deep water routes.



2. International/Global Level

2.4 Protection of Sea Areas under IMO Conventions

- **“Particularly Sensitive Sea Areas” (PSSAs)**
 - An area which needs special protection through action by IMO because of its significance for recognised ecological or socio-economic or scientific reasons and which may be vulnerable to environmental damage by maritime activities.

2. International/Global Level

2.4 Protection of Sea Areas under IMO Conventions

- Special protective measures in a PSSA include the following options
 - to designate an area as a special area under Annexes 1, 2 or 5 of MARPOL or to apply certain discharge restrictions to vessels operating in a PSSA
 - to adopt routeing measures near or in the area, under SOLAS and in accordance with the General Provisions on Ship's Routeing
 - an area can be protected as an area to be avoided
 - compulsory pilotage
 - vessel traffic monitoring systems
 - traffic separation schemes
 - escort towing of tankers to and from ports

3. International/Regional Level

3.1 Convention on the Protection of the Marine Environment of the Baltic Sea (Helsinki Convention)

- Contracting States: all riparian States of the Baltic Sea (including Russia) and the EU
- Permanent representative: Helsinki Commission (HELCOM).

3. International/Regional Level

3.2 Shipping and HELCOM

- In particular: Copenhagen Declaration - package of measures to improve the safety of navigation in the Baltic Sea, adopted 2001
 - new deep-water routes have been mapped out
 - amendments to existing shipping traffic separation schemes
 - increased use of pilots in high-risk areas

3. International/Regional Level

3.3 Protection of sea areas under the Helsinki-Convention

- System of Coastal and Marine Baltic Sea Protected Areas (BSPA).
- In practice, the HELCOM Protected Area Network suffers inadequate implementation by the contracting States.

4. European Union

4.1 Shipping

In the light of Art. 71 para. 1 (b) EC Treaty and Art. 80 para. 2 EC Treaty and the provisions on the trans-European networks, there can be no doubt that the EU has competence to establish a Community policy in the field of marine safety.

4. European Union

4.1 Shipping

– Port State Control:

- Directive 95/21/EC provides that at least 25 % of the average number of vessels calling at the ports of Member States are to be controlled.
- As a result of the so called Erika I package, the provisions of the Directive on port State control have been made stricter by the amending Directive 2001/106/EC.

4. European Union

4.1 Shipping

- **Ship Inspection and Survey Organisations:**
- Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations and amending Directive 2001/105/EC.

4. European Union

4.1 Shipping

– Reporting obligations and monitoring systems:

- Vessel Reporting Directive 2002/59/EC adopted on the basis of the so called Erika II package replaces Directive 93/75/EC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or pollution goods.
- Introduction of voyage data recorders, called “black boxes”, and automatic ship identification systems (AIS).

4. European Union

4.1 Shipping

– **Phasing out of single-hull tankers**

- Regulation (EC) No 417/2002 on the accelerated phasing out of double-hull or equivalent design requirements for single-hull oil tankers,
- amended by Regulation (EC) No2172/2004.
- Phasing out of single-hull tankers must now be completed by no later than:
 - 2005 for vessels in MARPOL-category 1; and
 - 2010 for vessels in MARPOL-categories 2 und 3.

4. European Union

4.1 Shipping

- In order to ensure that the Community rules on the phasing out of single-hull tankers are actually enforced in practice, even in respect of vessels that do not fly an EU flag, the Regulation 417/2002 lays down a European ban on port entry for tankers with only one hull from 2005 and 2010 respectively.

4. European Union

4.2 Protection of sea areas under European Community Law

- Birds Directive (79/409/EEC)
 - Art. 4 para. 1 obliges the Member States, to designate those areas which are for the conservation of the species mentioned in Annex 1 the most suitable territories in number and size, as protection areas.

4. European Union

4.2 Protection of sea areas under European Community Law

- Habitats Directive (92/43/EEC)
 - Habitats Directive sets up a coherent European ecological network of special area of conservation under the title “Natura 2000” on the basis of the criteria set out in the annexes and with stages described in Art. 4.

5. Prospects

- Harmonisation of the various protection systems
- Harmonisation of the different possible measures
- “Agenda-setting” function of HELCOM
- Especially: EU as an aid to implementation of international marine safety standards **and** as a maker of marine safety policy

- **And:** shipping has to be integrated into the European marine strategy! What we need – and what is required by Art. 6 EC Treaty - is a cross-sectoral responsibility. That means at the same time: the vision for protecting the marine environment has to be an integrated part of the Community transport policy!



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