

**ANNEX IV: REGULATIONS FOR THE PREVENTION OF POLLUTION  
BY SEWAGE FROM SHIPS (REVISED) OF THE PROTOCOL OF 1978  
RELATING TO THE INTERNATIONAL CONVENTION FOR THE  
PREVENTION OF POLLUTION FROM SHIPS, 1973, AS AMENDED  
(MARPOL 73/78), DONE AT LONDON, 17 FEBRUARY 1978, REVISED  
TEXT ADOPTED AT LONDON, 13 MARCH 2000**

**Documents tabled on 4 March 2003:**

**National Interest Analysis**

**Text of the Proposed treaty action**

**Regulation Impact Statement**

**Annexures for multilateral treaties:**

**Consultations**

**Current status list**

## NATIONAL INTEREST ANALYSIS: CATEGORY B TREATY

### SUMMARY PAGE

#### **Annex IV: Regulations for the Prevention of Pollution by Sewage from Ships (revised) of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, as Amended (MARPOL 73/78), done at London, 17 February 1978, revised text adopted at London, 13 March 2000**

#### **Date of Proposed Treaty Action**

1. 4 March 2003

#### **Nature and Timing of Proposed Treaty Action**

2. MARPOL 73/78 is one of the key international instruments addressing the problem of maritime pollution. MARPOL 73/78 contains six technical annexes dealing with oil, bulk noxious liquid substances, harmful substances in packaged forms, sewage, garbage and air pollution respectively. Australia ratified MARPOL 73/78, and its two mandatory annexes (Annexes I and II) on 14 October 1987, with entry into force for Australia on 14 January 1988. Australia acceded to Annexes III and V on 10 October 1994 and 14 August 1990 respectively. It is likely that Annex VI (air pollution) will enter into force internationally during the first half of 2004.

3. Annex IV has only recently gained the necessary acceptance and will enter into force internationally on 27 September 2003. As at 31 December 2002, 91 Countries had accepted the Annex, representing over fifty per cent of the world merchant shipping tonnage. The Government proposes to accept Annex IV in accordance with Articles 14(2) and 15 of the MARPOL 73/78 Convention. The Annex will come into force for Australia three months after the date of deposit of the instrument of acceptance, or on the date that the Annex enters into force internationally, whichever is the later date. It is proposed that Australia's acceptance will be issued as soon as practicable so as to synchronise with the entry into force internationally of the Annex.

4. The exact date of treaty action is the date of Australia's accession to Annex IV. Accession is dependent on domestic legislation being passed through both Houses of Parliament. The Bill is expected to be introduced into Parliament in the Autumn 2003 sittings. It is expected that the treaty will enter into force in Australia in 2003/2004.

#### **Overview and National Interest Summary**

5. The discharge of sewage from commercial vessels is one of the few areas related to shipping where there are currently no enforceable international standards. Sewage from ships can contain high levels of nutrients and disease carrying micro-organisms, and differs from other types of sewage as it is often released directly into the sea and can contain treatment chemicals not found in other sewage, such as chlorine and formaldehyde.

6. Environmental problems associated with sewage from ships include the introduction of nutrients causing algal blooms and reduced oxygen levels, in some cases leading to the permanent loss of seagrass. There are serious health risks for people who come into contact with polluted water during recreational activities or people who eat contaminated fish and shellfish.

7. The rapid increase in the size and number of cruise ships in recent years has resulted in a renewed focus on this issue. Today's cruise ships, the largest of which can carry more than 5,000 passengers and crew, are floating cities that generate significant volumes of waste and may discharge approximately 100,000 litres of sewage per day. It is in Australia's interest to prevent pollution from sewage, especially in sensitive marine areas such as the Great Barrier Reef that supports significant tourist activity.

### **Reasons for Australia to Take the Proposed Treaty Action**

8. Australia is a Party to the MARPOL 73/78 Convention, which is administered by the International Maritime Organization (IMO), and as at 31 December 2002 is in force in 125 countries. Additionally, this action is in accordance with Australia's general obligations as a Party to the United Nations Convention on the Law of the Sea (UNCLOS) 1982, which provides for nations to adopt generally accepted international rules and standards when implementing laws and regulations to prevent, reduce and control pollution of the marine environment from vessels (Article 211 of UNCLOS).

9. If Australia does not become a party to Annex IV, there is a risk that the level of environmental protection in Australia will fall short of internationally adopted standards.

10. Australia has demonstrated leadership in many areas of marine environment protection, as successive governments have recognised the importance of embracing internationally consistent measures in the maritime industry. Australia is heavily reliant on the international maritime industry to underpin international trade with 3,254 international trading ships visiting Australian ports in 1999-2000. Due to the concentration of international trading ships operating in Australian waters, adoption of Annex IV is essential to provide for adequate protection of Australia's marine and coastal environments.

11. By becoming a party to the Annex, Australia will be able to enforce the full range of controls on sewage systems on foreign and Australian flagged vessels on international voyages.

### **Obligations**

12. Annex IV applies only to ships that engage in international voyages. These include new ships of 400 gross tonnage and above or less than 400 gross tonnage if they are certified to carry more than 15 persons. For existing ships of 400 gross tonnage and above, or certified to carry more than 15 persons, Annex IV will apply five years after the date of entry into force in Australia (Regulation 2).

13. Ships are required to be equipped with either a sewage treatment plant in compliance with IMO standards, a sewage comminuting and disinfecting system or a holding tank for the retention of sewage (Regulation 9). Regulation 10 outlines the standard discharge connections required to enable pipes of reception facilities to be connected to the ship's discharge pipeline.

14. Survey and certification of ships will be required under Regulation 4. The Australian Maritime Safety Authority (AMSA) and/or an authorised organisation will undertake this role as part of its flag State control function for Australian ships. Ships will be subject to an initial survey before the ship is put into service, when an International Sewage Pollution Prevention Certificate is issued for the first time and/or during renewal surveys at intervals not exceeding five years. The issue, form, duration and validity of the International Sewage Pollution Prevention Certificate are outlined in Regulations 5, 6, 7 and 8.

15. Regulation 11 prohibits discharge of sewage from ships at sea unless discharge is carried out through a sewage treatment plant; or carried out using a comminuting and disinfecting system providing the ship is more than 3 nautical miles from the nearest land; or carried out from a holding tank providing the ship is more than 12 nautical miles from the nearest land.

### **Implementation**

16. Annex IV will be implemented by the Commonwealth Protection of the Sea Legislation Amendment Bill 2003. The legislation will apply to all jurisdictions, with suitable roll-back and savings provisions to preserve any existing or future State/NT legislation.

17. AMSA will make appropriate subordinate legislation such as Marine Orders and will also develop Instructions to Surveyors and/or Classification Societies, based on guidelines being developed by IMO.

18. The Government of each Party to Annex IV will undertake to ensure adequate facilities are available at ports and terminals for the reception of sewage. In almost all Australian ports, this obligation is met through the use of private contractors dealing direct with ships through shipping agents. Should any port authority determine that new port authority-operated facilities are required, such costs would be recovered by the port authority through increased port charges. A survey of available waste reception facilities for sewage in Australian ports was completed during December 2001 as part of an international survey being carried out by IMO. The information provided indicates that sewage discharge facilities are available at most major trading ports and many smaller ports.

### **Costs**

19. The financial impact of compliance with Annex IV is low. As the requirements are based on an international convention, any additional costs to industry would be incurred for vessels on international voyages whether or not Australia adopts Annex IV.

20. \_\_\_\_\_ Costs of enforcement of Annex IV will be low as established procedures applied to the other MARPOL 73/78 Annexes are already in place. This primarily involves a system of port and flag State control inspections undertaken by AMSA.

### **Consultation**

21. \_\_\_\_\_ Consultation with State/NT transport agencies has been undertaken through the Australian Transport Council (ATC), formally the Australian Transport Advisory Council (ATAC). At its 69th meeting in June 1985, the ATAC recommended that Annex IV be accepted by Australia and that its adoption be based on the same division of responsibility between the States and the Commonwealth as the other annexes of the Convention. Following this agreement, the Protection of the Sea Legislation Amendment Act 1986 was passed to give effect to Annex IV. This legislation has never been proclaimed.

22. \_\_\_\_\_ The reason for this is that the 76th ATAC in 1988 "...noted that there is no urgency in progressing...the implementation of Annex IV at this time as it appears unlikely to enter into force internationally for some years".

23. During 1998 the views of States/NT were sought on how to progress this issue in Australia. All jurisdictions supported action to implement Annex IV and proclaim the existing Commonwealth legislation. In 2000, the IMO resolved outstanding issues and adopted a revised text of Annex IV. Consequently, in May 2001 the ATC recommended that Australia adopt the revised Annex.

24. Australian and foreign shipping (including cruise ships) which are represented by the Australian Shipowners Association (ASA) and Shipping Australia Limited (SAL) respectively, have been consulted at all stages in the development of Annex IV which dates back to the 1970's, and support Australian adoption of Annex IV. In March 2000, ASA and SAL provided input and briefing to the IMO's Marine Environment Protection Committee (MEPC) on a number of significant amendments to Annex IV. In addition, the international shipping industry has consultative status at the IMO and participates actively in deliberations.

25. Consultation with the Association of Australian Ports and Marine Authorities (AAPMA) also dates back to the 1970s. AAPMA has participated in briefing for MEPC and the International Association of Ports and Harbours has consultative status at the IMO.

26. As the Annex IV regulations are expressed to apply to drainage from spaces containing live animals, the Australian Livestock Export Corporation has been consulted in regards to the livestock export industry. They have no concerns with the proposal as compliance will largely be the responsibility of the foreign registered vessels involved in this trade.

27. As Annex IV applies only to vessels on international voyages, the local fishing industry will not be impacted by this proposal and consultations were not required. Similarly, consultation with the local tourism sector was not required, as only cruise ships will be impacted, and these are represented through the shipowners associations mentioned above.

### **Regulation Impact Statement**

28. A Regulation Impact Statement is attached.

### **Future Treaty Action**

29. Article 16 of Article VI of the MARPOL 73/78 Convention outlines how amendments to Annexes can be made. Amendments shall be circulated to all Parties and the appropriate body, which in this case would be the MEPC, for a period of six months prior to its consideration. Alternatively, upon the request of a Party, concurred by at least one-third of the Parties, a Conference can be convened to consider an amendment.

30. Amendments must be adopted by a two-thirds majority of the Parties present and voting. At the time of adoption, the MEPC can deem amendments to be accepted on the date on which it is accepted by two-thirds of the Parties whose combined merchant fleet constitutes not less than 50 per cent of the world's shipping tonnage. Otherwise, an amendment is deemed to be accepted unless one-third of Parties or Parties whose combined merchant fleet constitutes not less than 50 per cent of the world's shipping tonnage, communicate an objection. The period to lodge an objection must not be less than 10 months. Under these circumstances, a Party can notify the Secretary-General of the IMO that its express approval will be necessary before the amendment enters into force for that Party.

31. An amendment shall enter into force six months after its acceptance for all Parties, through tacit acceptance, unless a Party has made a declaration that its express approval is necessary for the amendment to enter into force for them.

32. All amendments would be subject to the Australian treaty process.

33. Australian acceptance of the revised text of Annex IV will involve two international treaty actions by Australia. The first treaty action is acceptance of the existing text of Annex IV. As its second treaty action, Australia will be voting for the amendment of Annex IV in line with the agreed revisions (revised text of Annex IV adopted by the MEPC on 13 March 2000), following the MARPOL 73/78 amendment procedure. In accordance with MEPC Resolution MEPC.88(44), Parties to Annex IV will implement the revised Annex IV of MARPOL 73/78 immediately after the entry into force of the existing Annex IV of MARPOL 73/78. This will avoid creation of a dual treaty regime between the existing and the revised Annex IV of MARPOL 73/78.

### **Withdrawal or Denunciation**

34. Article 18 and Article VII (Protocol) of the MARPOL 73/78 Convention provides that Australia may denounce Annex IV by written notification to the Secretary-General of the IMO at any time after five years from the date on which Annex IV enters into force in Australia. Denunciation takes effect one year after receipt or longer if specified in the notification.

35. Denunciation would be subject to the Australian treaty process.

### **Contact details**

Maritime Regulation Section  
Transport Regulation Division  
Department of Transport and Regional Services