SWEDISH TRANSPORT AGENCY

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Information on exemptions under regulation A-4 of the Ballast Water Management Convention (BWMC)

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Background

The Ballast Water Management Convention entered into force on 8 September 2017.

Exemptions are envisaged when ships will be required to meet the D-2 standard of the Ballast Water Management Convention. Ship owners/operators considering applying for exemption are urged to contact the designated authority in the States of concern well in advance (years) before the exemption is needed. This to get sufficient consultation and to make certain that a decision can be taken in due time. If an exemption is not granted, the ship owner/operator must ensure that the ship complies with the D-2 standard, e.g. by installation of a type approved ballast water management system. Preparations to submit an application might take one year and the review and decision-making procedure can demand considerable time as well.

It is the responsibility of the ship owner/operator to apply for exemptions to the designated authorities directly. Swedish Transport Agency is the focal point for exemptions in waters under Swedish jurisdiction.

The minimum data and information required for an application, and to undertake a risk assessment, includes data on environmental conditions and on non-indigenous species as well as shipping information. Applicants should be aware that there might be substantial costs associated with an application, such as costs for biological investigations, risk assessment and application fees. STA will charge an application fee of 21 000 SEK.

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The "Joint HELCOM/OSPAR Procedure for the Contracting Parties of OSPAR and HELCOM on the granting of exemptions" (JHP) will be used by Swedish authorities as the basis for matters concerning exemption. Sweden will also consider the Same Risk Area (SRA) approach for risk assessments. The JHP and SRA are further explained below.

BWMC regulation A-4 and Guideline G7

The BWMC contain regulations on exemptions from the requirements of ballast water management. Regulation A-4 of the convention states:

"1. A Party or Parties, in waters under their jurisdiction, may grant exemptions to any requirements to apply regulations B-3 or C-1, but only when they are:

a. granted to a ship or ships on a voyage or voyages between specified ports or locations; or to a ship which operates exclusively between specified ports or locations;

b. effective for a period of no more than five years subject to intermediate review;

c. granted to ships that do not mix ballast water or sediments other than between the ports or locations specified in paragraph 1.1; and

d. granted based on the Guidelines on risk assessment developed by the Organization."

Risk assessment should be performed according to the Guidelines for Risk Assessment under Regulation A-4 of the BWM Convention (Reslolution MEPC.289.71 (G7)"

Step-by-step guide for exemptions application procedure in Sweden

1. Early contact and consultation with the Swedish Transport Agency (STA). Ship owners who consider applying for an exemption must contact STA well in advance (several years in advance) to inform themselves of the conditions for submitting an application for exemption.

2. STA will inform the applicant about the general conditions and requirements for exemptions and on the process of applying and making a decision.

3. The applicant should contact the relevant authorities in all countries where the ship operates.

4. STA, the Swedish Agency for Marine and Water Management (SwAM) and Swedish Meteorological and Hydrological Institute (SMHI) consult on the specific conditions for the route and agree on Swedish requirements for data and for the risk assessment.

5. STA consult with authorities of other affected countries on the specific conditions for the route and agree on common requirements for the application.

a. STA then notify on the requirements needed for a complete application and on the expected quality of the submitted documentation. For example might the applicant need to conduct biological investigations in the ports (port surveys) or collect any other data needed for the risk assessment. An application should as a minimum contain information as set forth in the appendix to the Guideline G7.

6. Applicants may contact other operators in the same port considering exemption application, as well with other parties who may be interested in the matter such as port companies and local authorities. This could be beneficial in order to co-operate and to share any costs associated with data collection and the development risk assessment and application.

7. Applicants then need to collect necessary data, development the risk assessment and submit the application to STA and to authorities of other affected countries.

8. STA receive application and check that the application full fill the requirements. If necessary the applicant will need to supplement with additional data or information to make the application complete.

9. STA, SwAM and SMHI reviews the application and consult with authorities of other affected countries.

10. Applicant might need to provide further information and answer questions as requested by the administrations.

11. STA will decide if exemption can be granted or not, based on recommendations from SwAM and SMHI, and inform the applicant.

Joint HELCOM/OSPAR Procedure for the Contracting Parties of OSPAR and HELCOM on the granting of exemptions

The "Joint HELCOM/OSPAR Procedure for the Contracting Parties of OSPAR and HELCOM on the granting of exemptions under the International Convention for the Control and Management of Ship's Ballast Water and Sediments, Regulation A-4" (JHP) is based on the Guidelines for Risk Assessment under Regulation A-4 of the BWM Convention (G7) and was agreed by HELCOM and OSPAR Contracting Parties in 2013/15.

The JHP procedure aims to ensure that exemptions are granted in a coherent manner that does not impair or damage the environment, human health, property or resources. Main users of the procedure include ship-owners, port state administrators and relevant experts and researchers.

Exemptions from ballast water management requirements can be issued to a ship on voyages between specified ports or locations for a maximum of five years. A Port State may grant such an exemption if the risk is acceptable low, based on results of a risk assessment.

The minimum data and information required for an application and to undertake a risk assessment includes data on environmental conditions, data on non-indigenous species as well as shipping information. At the HELCOM/OSPAR web based Decision Support Tool it is possible to check potential risks on available routes along with further information on port survey data and target species. Please observe that the result of the tool is only an indication of risk on a route and should serve as a basis during early consultation between applicants and STA.

If sufficient data is not available for the ports of interest, the applicant is responsible for carrying out port surveys to collect data. The administrations may also consider the specific conditions of each case (e.g. additional information on non-indigenous species, species specifics (dispersal capacity, habitats), connectivity between ports (e.g. distance separated, currents), ships operation and mitigation measures (e.g. volume of ballast water, position of discharge and uptake).

The Same Risk Area approach

Same Risk Area (SRA) is an agreed geographical area based on a completion of risk assessment carried out in line with the Guidelines for Risk Assessment under Regulation A-4 of the BWM Convention (G7). If a Same Risk Area is defined and agreed between affected Parties, ships may be exempted in accordance with regulation A-4 of the BWMC if they soley operate within the SRA. A risk assessment for an SRA will typically take the form of a species-specific assessment that take into account the hydrodynamic, environmental and meteorological conditions of the area in question. The extent and directionality of natural dispersal of target species should be modelled for the relevant water bodies. A SRA may be defined if target species are already present in all the selected ports or locations or have a high probability, based on validated models, of establishing throughout the SRA by the process of natural dispersal within the agreed time window.