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GUIDANCE DOCUMENT FOR SUBMISSION OF PSSA PROPOSALS TO IMO

1 The Marine Environment Protection Committee, at its forty-fifth session, when developing the Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas, agreed that some guidance on how to select the most appropriate regime for a given area of sea to be protected could be included in a supplementary document to the Guidelines.

2 The Committee, at its forty-seventh session (4 to 8 March 2002), in considering a draft Guidance document for submission of PSSA proposals (MEPC 47/8/1) submitted by the United States, supported it in principle and agreed that certain modifications should be made to it. As a result, a modified Guidance document (MEPC 48/7/1) was submitted to the forty-eighth session of the Committee (7 to 11 October 2002). The Committee at that session, in recalling that MEPC 46 had agreed that the Florida Keys PSSA proposal (MEPC 46/6/2) should serve as a model by Member States when proposing their PSSAs, agreed to appendix to it a framework of what needs to be included in a proposal using the headings and sub-headings of the Florida Key PSSA proposal. The Committee approved the text to be issued as a MEPC circular.

3 The Guidance document, as set out at Annex to this circular, is complementary to the "Guidelines for the Designation of Special Areas under MARPOL 73/78 and Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas" contained in Assembly resolution A.927(22).

4 Member Governments are invited to apply this Guidance document, as deemed necessary, in the development of proposals for the identification and designation of Particularly Sensitive Sea Areas.

ANNEX

GUIDANCE DOCUMENT FOR SUBMISSION OF PSSA PROPOSALS TO IMO

1 BACKGROUND

1.1 In November 2001, the International Maritime Organization (IMO) Assembly adopted resolution A.927(22) which sets forth the detailed requirements to be included in an application for designation of a Particularly Sensitive Sea Area (PSSA). This resolution supersedes two previous Assembly resolutions, (A.720(17) and A.885(21)), and its requirements should be followed in preparing a PSSA proposal. To assist Member Governments in meeting the requirements of resolution A.927(22), this document provides guidance in the development, drafting, and submission of proposals to IMO for the designation of a PSSA. This document sets forth the issues that should be included in such a proposal to facilitate its assessment and approval by IMO's Marine Environment Protection Committee (MEPC).

1.2 A PSSA is a comprehensive management tool at the international level that provides a mechanism for reviewing an area that is vulnerable to damage by international shipping and determining the most appropriate way to address that vulnerability. In general, to be identified as a PSSA, three elements must be present: (1) the area must have certain characteristics (ecological, socio-economic, or scientific); (2) it must be vulnerable to damage by international maritime activities; and (3) there must be measures that can be adopted by IMO to provide protection to the area from these specifically identified maritime activities. If approved by IMO, the end result will be an area designated as a "Particularly Sensitive Sea Area" and one or more IMO-adopted measures for ships to follow. The IMO is the Specialized Agency of the United Nations that addresses international shipping issues.

1.3 Proposals must be submitted in accordance with the IMO rules and procedures for the submission of documents. Governments may check with the IMO Secretariat for the precise submission deadline as well as other administrative rules. Finally, the MEPC identified document MEPC 46/6/2 as a good model for Member Governments to use when submitting PSSA proposals.

2 INITIAL CONSIDERATIONS

2.1 Before proceeding to IMO, a determination must be made that there is a threat from international shipping. If the threat is primarily being caused by shipping registered domestically, it may be more appropriate to address such a threat as a matter of domestic law. After the threat is identified, a decision can be made as to the most appropriate means to address it. Threats to the marine environment from international shipping can generally be separated into three categories: (1) impacts from accidents (e.g., groundings, spills, collisions); (2) operational discharges (i.e., oil, noxious liquid substances, sewage, garbage, air emissions, ballast water with unwanted aquatic nuisance species and pathogens); and (3) physical damage to marine habitats or organisms (i.e., anchor damage, ship strikes of marine animals, smothering of species/habitats, harmful effects from anti-fouling systems). Damage may also be caused from intentional violations of existing rules and regulations.

2.2 To successfully develop a PSSA proposal, it may be necessary to assemble a small team of national experts in the country concerned. The team should include members who can describe and document the characteristics of the area as well as the damage that has been or could be caused to the area. It should also include members who are familiar with the vessel operations in the area and the IMO measures that can be proposed to address the damage. The proposing Government's representative(s) to IMO should also participate to facilitate submission and presentation of the proposal.

3 Required Elements for a PSSA Application

3.1 Summary of the Proposal

3.1.1 The application should first clearly set forth a summary of the objectives of the proposed PSSA identification, the location of the area, the need for protection and the proposed associated protective measures. The summary should include the reasons why the proposed associated protective measures are the preferred method for providing protection for the area to be identified as a PSSA.

3.2 Description of the Area

3.2.1 The application must contain the location of the proposed area, including the geographic co-ordinates and a chart on which the area is marked. A buffer zone, which is an area contiguous to the site-specific or core feature of the proposed PSSA, may be included within the boundaries of the PSSA; however, the need for such a zone should be justified as to how it contributes to the protection of the core area.

3.3 Significance of the Area: Ecological, Socio-Economic, or Scientific Criteria

3.3.1 An area being proposed for PSSA identification must satisfy one or more of the following criteria:

.1 Ecological criteria

- .1 *Uniqueness or rarity* - An area or ecosystem is unique if it is "the only one of its kind".
- .2 *Critical Habitat* - An area may be a critical habitat for fish stocks or rare or *endangered* marine species or of critical importance for the support of large marine ecosystems.
- .3 *Dependency* - *The ecological processes of an area are highly dependent on biotically structured systems* (e.g. coral reefs, kelp forests, mangrove forests, seagrass beds).
- .4 *Representativeness* - Representativeness is the degree to which an area represents a *habitat type*, ecological process, biological community, physiographic feature or other natural characteristic.
- .5 *Diversity* - An area may have a high variety of species or genetic diversity or include highly varied *ecosystems*, habitats, and communities.

- .6 *Productivity* - The area has a high natural biological productivity.
- .7 *Spawning or Breeding Grounds* - The area may be a critical spawning or breeding ground or *nursery* area for marine species which may spend the rest of their life-cycle elsewhere, or it may be a migratory route for sea-birds or marine mammals.
- .8 *Naturalness* - The area has a high degree of naturalness, as a result of the lack of human-induced disturbance or degradation.
- .9 *Integrity* - The area is a biologically functional unit or an effective, self-sustaining ecological entity.
- .10 *Vulnerability* - The area is highly susceptible to degradation by natural events or the activities of people.
- .11 *Bio-geographic importance* - The area contains rare biogeographic qualities, is representative of a biogeographic type or types, or contains unique or unusual geological features.

.2 Social, cultural and economic criteria

- .1 *Economic benefit* - The area is of particular importance to utilization of living marine resources.
- .2 *Recreation* - The area has special significance for recreation and tourism.
- .3 *Human dependency* - The area is of particular importance for the support of traditional subsistence and/or cultural needs of the local human population.

.3 Scientific and educational criteria

- .1 *Research* - The area has high scientific interest.
- .2 *Baseline and monitoring studies* - The area provides suitable baseline conditions with regard to biota or environmental characteristics.
- .3 *Education* - The area offers opportunities to demonstrate particular natural phenomena.

3.4 Vulnerability of the Area to Damage by International Shipping Activities

3.4.1 Vessel Traffic Characteristics

- .1 Operational Factors - Types of maritime activities in the area, in particular the types of ships operating in the area (e.g. large ships, fishing boats, pleasure craft; oil and gas activities).

- .2 Traffic Characteristics - Patterns, volume or concentration of traffic, vessel interactions, distance offshore, and type and quantity of substances on board (e.g., hazardous cargo, bunkers).

3.4.2 Natural Factors

- .1 Hydrographical - Factors such as water depth, bottom and coastline topography.
- .2 Meteorological - Prevailing weather, wind strength and direction, atmospheric visibility and other such factors.
- .3 Oceanographic - Tidal streams, ocean currents, ice, and other such factors.

3.4.3 Potential Harm

The application should provide an explanation of the nature and extent of the risk of damage that international maritime activities pose or have actually caused in the area. The application should describe the particular ongoing or future activities that are causing or may cause damage, the damage, and degree of harm and effects that may result from such activities, either from that activity alone or in combination with other potential threats. Examples of such information include whether the damage is recurring or cumulative in nature, any history of groundings, collisions, or spills and the consequences of such incidents, and any stresses from other environmental factors (such as land-based sources). Any potential economic harm that may result from such damage should also be included

3.5 Associated Protective Measures

3.5.1 The application should propose the Associated Protective Measures (APMs) available through IMO and show how they provide the needed protection from the threats of damage posed by the international maritime activities occurring in and around the area. In addition to the identification of the APMs in the PSSA application, drafts of the proposals for the types of measures should be annexed to the proposal. If a country is unable to include the proposal for a measure(s), the proposing Government should include the types of measures it is considering. At least one APM must be submitted within two years of the approval in principle of the PSSA. If a protective measure already exists to protect the area, then the application should show how the area is being protected by this measure.

- .1 *Types of Measures* - The possible measures may include ships' routing or reporting measures; discharge restrictions; operational criteria; and prohibited activities, and should be specifically tailored to meet the need of the area at risk. The measures may include those that already available in an existing instrument, or any measure that does not yet exist but that should be available as a generally applicable measure and that falls within the competence of IMO, or any measure proposed for adoption in the territorial sea or pursuant to Article 211(6) of the United Nations Convention on the Law of the Sea. If the country is proceeding under a measure that is not yet available, the application should contain the steps that the Government is pursuing for the adoption of such a measure.

.2 *Categories of Ships* - The application should clearly specify the category or categories of ships to which the proposed associated protective measures would apply, consistent with the provisions of the United Nations Convention on the Law of the Sea--including those related to vessels entitled to sovereign immunity--and other pertinent instruments.

.3 *Impact on Navigation* - The application should indicate the possible impact of any proposed measures on the safety and efficiency of navigation, taking into account the area of the ocean in which the proposed measures are to be implemented. The application should set forth such information as implications for ship safety and the impact on ship operations.

3.6 Miscellaneous Issues

3.6.1 Summary of Measures - The application should contain a summary of steps taken, if any, to protect the proposed area. This would include any domestic regulations, any previously adopted IMO measures, and measures taken to address the adverse effects from activities other than shipping.

3.6.2 Enforcement - The details of action to be taken pursuant to domestic law for the failure of a ship to comply with the requirements of the associated protective measures should also be provided as well as a statement that such action shall be consistent with international law as reflected in the United Nations Convention on the Law of the Sea.

3.6.3 Joint Proposals - Where two or more Governments have a common interest in a particular area, they should formulate a co-ordinated proposal. The proposal should contain integrated measures and procedures for cooperation between the jurisdictions of the proposing Governments.

3.6.4 Implementation after Designation - Proposing Governments should ensure that any associated protective measure is implemented appropriately and consistent with international law. Information regarding such measures should be broadly disseminated to mariners operating in the designated area. All associated protective measures should be identified on charts in accordance with the symbols and methods of the International Hydrographic Office (IHO). A designated PSSA may also be charted with appropriate national symbols, unless the IHO has developed an international symbol.

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APPENDIX

FRAMEWORK OF WHAT SHOULD BE INCLUDED IN A PSSA PROPOSAL

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4 OTHER CONSIDERATIONS FOR THE IDENTIFICATION OF A PSSA

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4.1.3 Traffic Characteristics

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7.2 ENFORCEMENT

7.2.1 Groundings on a Coral Reef

7.2.2 No Anchoring Areas

7.2.3 Enforcement against foreign flagged vessels

7.2.4 Cooperation with the Cruise Line Industry

8 CONCLUSION

SUPPORTING INFORMATION

(Reference chart:)

Description of the Particularly Sensitive Sea Area (Geographic Boundary Co-ordinates)

The Particularly Sensitive Sea Area Boundary (attach chartlet)

Description of the “Areas to be avoided” (attach chartlet)

Description of the “No anchoring area” (attach chartlet)

Routeing Of Ships, Ship Reporting And Related Matters
