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MEPC.1/Circ.510  
10 May 2006

## **GUIDANCE DOCUMENT FOR SUBMISSION OF PSSA PROPOSALS TO IMO**

1 The Marine Environment Protection Committee, at its forty-eighth session, with a view to ensuring the proper development, drafting, and submission of proposals for the designation of Particularly Sensitive Sea Areas in accordance with the Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas (the PSSA Guidelines), approved a Guidance Document for Submissions of PSSA Proposals to IMO, which was circulated as MEPC/Circ.398. Since the revised PSSA Guidelines were adopted by the twenty-fourth Assembly in December 2005, the Committee, at its fifty-fourth session, adopted this revised Guidance Document. It is also important to note that the Committee, at its forty-sixth session, agreed that the Florida Keys PSSA proposal (MEPC 46/6/2) should serve as a model by Member States when proposing their PSSAs, and Member Governments should use the revised PSSA Guidelines (resolution A.982(24)) in preparing submissions of PSSA proposals.

2 The Guidance Document, as set out at annex to this circular, is complementary to the revised Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas, contained in Assembly resolution A.982(24). This document in no way supersedes the PSSA Guidelines and any PSSA application must fulfil the provisions of those Guidelines.

3 Member Governments are invited to use the annexed Guidance Document in the development, drafting, and submission proposals for the designation of Particularly Sensitive Sea Areas. Member Governments are also invited to bring this annexed Guidance Document to the attention of all interested entities.

4 This Guidance Document supersedes the Guidance Document contained in MEPC/Circ.398.

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## ANNEX

### GUIDANCE DOCUMENT FOR SUBMISSION OF PSSA PROPOSALS TO IMO

#### 1 BACKGROUND

1.1 In December 2005, the International Maritime Organization (IMO) Assembly adopted resolution A.982(24) which sets forth the detailed requirements to be included in an application for designation of a Particularly Sensitive Sea Area (PSSA). This resolution supersedes Annex 2 of Assembly resolution A.927(22). Its requirements should be followed in preparing a PSSA proposal. To assist Member Governments in meeting the requirements of resolution A.982(24), this document provides guidance for 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); however, the assessment and determination of whether a PSSA should be designated are ultimately controlled by whether the proposal meets the provisions of resolution A.982(24).

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 attributes (ecological, socio-economic, or scientific); (2) it must be vulnerable to damage by international shipping activities; and (3) there must be a measure<sup>1</sup> with an identified legal basis that can be adopted by IMO to prevent, reduce, or eliminate risks from these 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. Information on each of the PSSAs that has been designated by IMO is available at [www.imo.org](http://www.imo.org).

1.3 Proposals must be submitted in accordance with the IMO rules and procedures for the submission of documents. Governments<sup>2</sup> may check with the IMO Secretariat for the precise submission deadline as well as other administrative rules.

#### 2 INITIAL CONSIDERATIONS

2.1 Before proceeding to IMO, a determination must be made that there is a threat to the attributes of an area 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

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<sup>1</sup> The reference to "measure" or "Associated Protective Measure" is used both in the singular and plural throughout this Guidance Document. It is important to recognize that an identified vulnerability may be addressed by only one or by more than one measure or Associated Protective Measure and that therefore the use of this terminology in the singular or plural should not be taken as any indication to the contrary.

<sup>2</sup> The word "Government" is used both in the singular and plural throughout the text of this Guidance Document. It is clear, however, that the PSSA Guidelines recognize that an application for designation of a PSSA may be submitted by one or more Governments and therefore the use of this terminology in the singular or plural should not be taken as an indication to the contrary.

discharges (i.e., oil, noxious liquid substances, sewage, garbage, air emissions, introduction of harmful aquatic organisms and pathogens through ships' ballast water); 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 A proposal for PSSA designation may only be submitted by an IMO Member Government. 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 attributes 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 Member 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 designation, the location of the area, the need for protection, the proposed associated protective measure, and demonstrate how the identified vulnerability will be addressed by the existing or proposed associated protective measure (APM). The summary should also include the reasons why the proposed associated protective measure is 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 economic, socio-economic, or scientific criteria and information and supporting documentation should be provided to support that at least one criterion exists throughout the proposed area, although the same criterion need not be present throughout the entire area.

3.3.2 Proposing Member Governments should review the section of the PSSA Guidelines for a complete description of each criterion; however, the titles of the criteria are as follows:

- .1 ***Ecological criteria***
  - .1 *Uniqueness or rarity*
  - .2 *Critical habitat*
  - .3 *Dependency*
  - .4 *Representativeness*

- .5 *Diversity*
- .6 *Productivity*
- .7 *Spawning or breeding grounds*
- .8 *Naturalness*
- .9 *Integrity*
- .10 *Fragility*
- .11 *Bio-geographic importance*
  
- .2 ***Social, cultural and economic criteria***
  - .1 *Social or economic dependency*
  - .2 *Human dependency*
  - .3 *Cultural heritage*
  
- .3 ***Scientific and educational criteria***
  - .1 *Research*
  - .2 *Baseline for monitoring studies*
  - .3 *Education*

### **3.4 Vulnerability to Impacts by International Shipping Activities**

3.4.1 In addition to meeting at least one of the criteria listed above, the recognized attributes of the area should be at risk from international shipping activities. Proposing Member Governments should review section 5 of the PSSA Guidelines for a complete description of such factors:

- .1 ***Vessel Traffic Characteristics***
  - .1 *Operational factors*
  - .2 *Vessel types*
  - .3 *Traffic characteristics*
  - .4 *Harmful substances carried*
  
- .2 ***Natural Factors***
  - .1 *Hydrographical*
  - .2 *Meteorological*
  - .3 *Oceanographic*
  
- .3 Other helpful information as suggested in paragraph 5.2 of the PSSA Guidelines.

### **3.5 Associated Protective Measures**

3.5.1 The application should propose the APMs available through IMO and show how they provide the needed protection from the threats of damage posed by the international shipping activities occurring in and around the area. If the application identifies a new APM, then the proposing Member Government must append a draft of the proposal which is intended to be submitted to the appropriate Sub-Committee or Committee to its application. If the measure is not already available under an IMO instrument, the proposal should set forth its legal basis and/or the steps that the proposing Member Government has taken or will take to have the measure approved and adopted by

IMO pursuant to an identified legal basis. If a protective measure already exists to protect the area, then the application should show how the area is being protected by this measure. Additional APMs may be introduced in the future to address identified vulnerabilities and, as with APMs that are proposed at the time of the initial application for PSSA designation, such measures must comply with the Guidelines.

- .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.
- .2 *Legal Basis* – Each APM must have an identified legal basis and the application should set forth the information on the consistency of the APM with the legal instrument under which the APM is proposed. (Guidelines, paragraphs 7.5.2.3 and 7.6.) The legal basis for APMs are: (i) any measure that is already available under an existing IMO instrument; or (ii) any measure that does not yet exist but could become available through the amendment of an IMO instrument or adoption of a new IMO instrument. The legal basis for any such measure would only be available after the IMO instrument was amended or adopted, as appropriate; or (iii) any measures proposed for adoption in the territorial sea<sup>3</sup> or pursuant to Article 211(6) of the United Nations Convention on the Law of the Sea where existing measures or a generally applicable measure (as set forth in (ii)) would not adequately address the particularized need of the proposed area. If the country is proceeding under a measure that is not yet available under an IMO instrument, the application should contain the steps that the Government is pursuing to have the measure approved or adopted by IMO pursuant to an identified legal basis.
- .3 *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.
- .4 *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 *Area* – The application should include a nautical chartlet on which the location of the area and the existing or proposed associated protective measure are clearly marked. The size of the area should be commensurate with that necessary to address the identified need.

3.6.2 *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

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<sup>3</sup> This provision does not derogate from the rights and duties of coastal States in the territorial sea as provided for in the United Nations Convention on the Law of the Sea.

IMO measures, and measures taken to address the adverse effects from activities other than shipping. It would also be useful to include whether the area has received any international designation, such as listed on the World Heritage List or declared a Biosphere Reserve.

3.6.3 *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.

3.6.4 *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 co-operation between the jurisdictions of the proposing Governments.

3.6.5 *Implementation after Designation* – Proposing Governments should ensure that any associated protective measure is implemented in accordance with international law as reflected in the United Nations Convention on the Law of the Sea. 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 symbology.

3.6.6 *Technical Assistance* – If, in preparing its PSSA application, a Member Government requires technical assistance, that Government is encouraged to request such assistance from IMO.

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