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## HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

### Exemptions from ballast water management requirements under regulation A-4 of the BWM Convention

Submitted by ICES

#### SUMMARY

*Executive summary:* This document provides a critical overview of the exemptions that have been submitted to the Ballast Water Management module of GISIS. The overview aims to highlight that several points in the exemption documents are not aligned with the content or original intention of regulation A-4. Further, due to this mismatch between regulation A-4 requirements and the described conditions within the granted documents, it appears that the regulation may have been misunderstood. ICES would like to bring this issue to the Committee's attention for further discussion to highlight the risk of transfer of invasive aquatic species via ships' ballast water and sediments if similar exemptions are granted in the future.

*Strategic direction,* 1

*if applicable:*

*Output:* 1.25

*Action to be taken:* Paragraph 6

*Related documents:* MEPC 82/4/9 and resolution MEPC.289(71)

#### Introduction

1 In 2017, MEPC adopted the *2017 Guidelines for risk assessment under regulation A-4 of the BWM Convention* (resolution MEPC.289(71)), noting that regulation A-4 stipulates that a Party or Parties, in waters under their jurisdiction, may grant exemptions to any requirements to apply regulation B-3 or C-1, in addition to those exemptions contained elsewhere in the Convention, but only when they are granted based on the guidelines on risk assessment developed by the Organization.

2 An evaluation of the exemptions listed in the GISIS Ballast Water Management module was undertaken to examine whether exemptions follow the agreed procedures and conditions. The present document provides a summary of the evaluation process and is intended to improve the interpretation of regulation A-4 by highlighting potential issues that require further consideration with a view to improving the granting of exemptions.

## Discussion

3 At the time of evaluation (by 1 January 2025), the GISIS Ballast Water Management module contained 29 exemptions. Each exemption was compared to the list of requirements provided under regulation A-4. More specifically, further attention was paid to: i) the Parties that have granted the exemption and signed the relevant document; ii) the Parties that have been consulted on the exemption; iii) the period of validity of the document; iv) specified ports, locations and routes in the exemptions; v) whether mixing of ballast water and sediments between other locations than mentioned in the exemption have been taken into account; and vi) whether the exemption is granted based on the Guidelines (G7).

4 The conditions and requirements of the exemption documents varied from one another and often deviated from the requirements of regulation A-4. Ports or locations where ships were granted an exemption from ballast water management were not specified on all occasions. Not all exemptions were granted for a maximum of five years. All exemptions did not exclusively refer to mixing of ballast water or sediments outside the specified locations, but some exemptions referred to procedures, such as sealed tanks and discharging ballast to port reception facilities, where such mixing can be avoided. None of the 29 exemptions confirmed that a risk assessment according to the Guidelines (G7) was conducted prior to granting the exemption. Finally, procedures regarding communication or consultation with other concerned Parties to the Convention varied largely between the exemptions. A summary of the findings is presented in table 1.

**Table 1: Summary evaluation of the 29 exemptions within the Ballast Water Management module of GISIS (last accessed on 1 January 2025)**

Condition	Revision summary and potential discrepancies
Granted on voyage(s) between specified ports or locations (regulation A-4.1.1)	<ul style="list-style-type: none"> <li>Nearly half of the exemptions explicitly specified ports or locations for the exemption. However, these exemptions did not explicitly describe whether the exemption is for one or all specified ports/locations.</li> <li>Nearly half of the exemptions specified the area or region for the exemption, but not the exact locations or ports.</li> <li>A minor proportion of the exemptions did not specify ports, locations, or area for the exemption.</li> <li>A minor proportion of the exemptions were only granted for ships operating within the territorial waters of one Member State. In such cases, the exemption is not granted for international traffic and should not be considered as an IMO matter relating to the BWM Convention.</li> </ul>
Period of validity* (regulation A-4.1.2)	<ul style="list-style-type: none"> <li>Nearly all exemptions were valid for a maximum of five years.</li> <li>One exemption stated that the document is valid as long as the ship is operating in the specified area.</li> </ul>
Mixing of ballast water or sediments outside of the specified locations (regulation A-4.1.3)	<ul style="list-style-type: none"> <li>More than half of the exemptions referred to this topic using various procedures to prevent mixing of ballast water between other locations, including port reception facilities, sealed ballast tanks, or stating that ships are exclusively operating in the specified area or route.</li> <li>A minor proportion of the exemptions did not refer at all to mixing ballast water or sediments from other locations during the exemption period.</li> </ul>

<b>Condition</b>	<b>Revision summary and potential discrepancies</b>
Exemption granted following a risk assessment based on the Guidelines (G7) (regulation A-4.1.4)	<ul style="list-style-type: none"> <li>- The majority of the exemptions did not mention risk assessment at all, and none of the exemptions presented a risk assessment methodology used for the granted exemption.</li> </ul>
Communication and consultation with IMO and concerned Parties (regulations A-4.2 and A-4.3)	<ul style="list-style-type: none"> <li>- For several exemptions, the flag State of the ship granted an exemption for specified ports or locations between other port States, who were not consulted on the exemption.</li> <li>- Approximately a fourth of the exemptions mentioned or provided evidence of consultation or communication with other concerned Parties.</li> <li>- A few exemptions were signed by all concerned parties (flag State and concerned port States), even though in all cases the signed documents did not have identical content.</li> </ul>

\* The period of validity specified in GISIS is not always identical to what is described in the uploaded exemption document. This evaluation on the period of validity is based on what is stated in the exemption documents.

### **Proposal**

5 ICES proposes that the issue of granting exemptions be addressed by the Committee, since the currently issued exemptions have, to a very large extent, not followed the requirements of regulation A-4. ICES is concerned that the granted exemptions undermine the intention of the BWM Convention and recommends a discussion on how the Committee would like to deal with the issue. Perhaps one option is to draft an additional requirement to regulation A-4 for a specific template to be used for exemptions to ensure that all requirements of the regulation have been met, with a reference to the Guidelines (G7). Such procedure may harmonize exemptions across all Parties to the Convention.

### **Action requested of the Committee**

6 The Committee is invited to consider the information provided and address the issues described in this document as appropriate, to improve the interpretation and implementation of the BWM Convention.