IMO Measures to Protect Areas beyond National Jurisdiction – The Sargasso Sea

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Outline

I. High Seas
   Jurisdiction Limits & Maritime Claims
   The Sargasso Sea

II. IMO Measures
   The IMO and Its Mandates
   Ships’ Routeing
   Special Areas under MARPOL
   Particularly Sensitive Sea Area

III. Conclusions
I. High Seas: *Jurisdiction Limits*

Legal Boundaries of the Oceans and Airspace

- **National Airspace**
  - 12 nm
- **International Airspace**
  - 24 nm
- **Territorial Sea**
- **Contiguous Zone**
- **Exclusive Economic Zone**
  - 200 nm
- **High Seas**
- **Continental Shelf**
- **The deep sea bed**
I. High Seas: **Maritime Claims**

- 71% of Earth is covered by ocean.
- 64% of the ocean is considered the High Seas/International Waters.
- The High Seas cover 45% of the Earth’s surface.
I. High Seas: *The Sargasso Sea*

A Vital Ecosystem of Global Importance
I. High Seas: The Sargasso Sea Challenges

2014 Hamilton Declaration:
The portion of high seas and the Area under that portion of the high seas (excluding the EEZ and TS around Bermuda, and the extended CS of neighbouring states).

Challenges Raised by the Sargasso Sea:
Existing IMO measures were proposed by specific concerned State(s) within areas under national jurisdiction; Can such measures be used on the high seas?
II. IMO Measures: *The IMO and its Mandates*

- The International Maritime Organization
  - United Nations Specialized Agency
  - Responsible for the Safety and Security of Shipping and the Prevention of Marine Pollution by Ships

- IMO has a mandate under UNCLOS as the Competent International Organization to adopt international rules and standards for the safety, security and environmental performance of international shipping
  - Maritime **Safety** Committee (MSC)
  - Marine **Environment Protection** Committee (MEPC)
II. IMO Measures: *Regulation of Shipping*

Several possible measures to restrict shipping activities, limit discharges, etc. in areas that are considered to be of particular importance and sensitive to shipping

- **Ships’ Routeing Measures**
  - International Convention on Safety of Life at Sea, 1974 (*SOLAS*)
  - 162 Parties, 99.17% of world gross tonnage

- **Special Areas and Emission Control Areas under MARPOL**
  - International Convention for the Prevention of Pollution from Ships 1973, as modified by the 1978 Protocol (*MARPOL*)
  - 154 Parties, 99.15% of world gross tonnage

- **Particularly Sensitive Sea Areas (PSSAs)**
  - IMO Resolutions A.982(24), A.927(22), A.885(21), A.720(17)
  - Possible Associated Protected Measures (APM) including actions that are to be, or have been, approved or adopted by IMO
### II. IMO Measures: *Ships’ Routeing Measures*

<table>
<thead>
<tr>
<th><strong>Objectives</strong></th>
<th>Safety of navigation, preventing or reducing the risk of accidental pollution or other direct damage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Procedure</strong></td>
<td>Proposal by State(s) concerned – NCSR (technical evaluation) – MSC (adoption)</td>
</tr>
<tr>
<td><strong>Possible Measures</strong></td>
<td>TSS, two-way routes, recommended route/tracks, areas to be avoided, no anchoring area, precautionary areas, deep-water routes, etc. Can be voluntary or mandatory</td>
</tr>
<tr>
<td><strong>Applicable Areas</strong></td>
<td>Within national jurisdiction, could be extended to the adjacent high seas (No precedent in ABNJ)</td>
</tr>
</tbody>
</table>
II. IMO Measures: *Voluntary Ships’ Routeing Measures*

USA – Northwest Atlantic - Great South Channel

Recommandary Seasonal Area To Be Avoided approved by NAV committee of the IMO in 2008 to restrict strikes with highly endangered North Atlantic Right Whales during migrations, ships ≥ 300 gt during 1 April to 31 July
II. IMO Measures: Proposal for the Sargasso Sea

Voluntary/Mandatory Ships’ Routeing Measures

- Traffic Separation Schemes
- Precautionary Areas
- Areas to be Avoided
## II. IMO Measures: *Special Areas under MARPOL*

<table>
<thead>
<tr>
<th>Definition</th>
<th>A sea area where for recognised technical reasons related to its <strong>oceanographical</strong> and <strong>ecological</strong> conditions and to the particular character of its <strong>traffic</strong>, special mandatory methods for the prevention of sea pollution by oil, noxious liquid substances, or garbage is required.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedure</td>
<td>Proposal by State(s) concerned – MEPC (adoption)</td>
</tr>
</tbody>
</table>
| Possible Measures | Detailed discharge requirements for oil, sewage and garbage (EIF when adequate **reception facilities** are provided)  
Emission Control Areas for SOx and NOx (ECAs) |
| Applicable Areas | May encompass the maritime zones of several States, an entire enclosed or semi-enclosed area or beyond national jurisdiction  
(No precedent in ABNJ) |
II. IMO Measures: *Existing Special Areas*
II. IMO Measures: Antarctic

Areas covered South of 60°S
Specials under MARPOL Annexes I, II and V (for all types of Ships)

<table>
<thead>
<tr>
<th>Annex</th>
<th>Adopted</th>
<th>Date of IEF</th>
<th>In Effect from</th>
</tr>
</thead>
</table>
II. IMO Measures: Proposal for the Sargasso Sea

Special Area under MARPOL

- Annex I: Oil
- Annex II: Noxious Liquid Substances
- Annex IV: Sewage
- Annex V: Garbage
## II. IMO Measures: *Particularly Sensitive Sea Areas*

<table>
<thead>
<tr>
<th>Definition</th>
<th>A sea area that needs special protection because of its significance for recognized <em>ecological, socio-economic, or scientific attributes</em> where such attributes may be vulnerable to damage by <em>international shipping activities</em>.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedure</td>
<td>Proposal by State(s) concerned – MEPC (adoption)</td>
</tr>
<tr>
<td>Possible Measures</td>
<td>Any legal shipping measures under IMO instruments, including Special Areas under MARPOL, ships’ routeing and reporting systems or other measures</td>
</tr>
<tr>
<td>Applicable Areas</td>
<td>Within and beyond the limits of the territorial sea (No precedent in ABNJ)</td>
</tr>
</tbody>
</table>
II. IMO Measures: Existing PSSAs

Particularly Sensitive Sea Areas (PSSA)
II. IMO Measures: *Papahānaumokuākea*

**Description:** to avoid the risk of damage from ship groundings and pollution damage by international shipping activities.

**Associated Protective Measures:** Areas to be Avoided, Ship Reporting System (all ships ≥ 300 gt);
II. IMO Measures: *Proposal for the Sargasso Sea*

**Biodiversity Significance**
Listed as an Ecologically and Biologically Significant Area (EBSA) under the Convention on Biological Diversity (CBD)

**Threats**
Adverse impacts from ships and shipping (including underwater noise, damage to Sargassum mats, oil/chemical/waste discharges and ballast water exchange)

**Associated Protected Measures**
Routeing Systems
Special Areas under MARPOL
Ballast Water Control Area
Reporting Systems
II. IMO Measures: **Challenges?**

Using IMO Measures to Protect the Sargasso Sea

- **Advantage of the IMO measures** is that, once they are adopted and identified on the navigation charts, they are generally complied with by the ships without specific enforcement measures.

- **Procedures Challenges:** which State(s) could make proposals to the IMO?
  - SOLAS Regulation V/10, para. 3 'The initiation of action for establishing a ships’ routeing system is the **responsibility of the Government or Governments concerned.**’
  - How to determine the Government or Governments concerned?
III. Conclusions

- IMO is the competent international authority to regulate, including restrict, shipping activities
- There is no legal restrictions on which maritime zones these measures (routeing, special areas under MARPOL or PSSAs) may be adopted
- Concerned State(s) should make proposal to the IMO to adopt specific measures for the protection of the Sargasso Sea
- The difficulty is to anticipate the objections may be raised at IMO
Thanks for your attention!

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