

EXPLANATORY STATEMENT 5 OF 2007

AMENDMENTS, ADOPTED AT LONDON IN JULY 2007, TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (MARPOL 73/78)

Practical and legal effect

1. The proposed treaty matter will:
 - (a) correct a drafting error by making it clear that Parties to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78 - [1988] ATS 29) are obliged to provide facilities in port to receive oily residues from cargo areas of oil tankers; and
 - (b) provide that existing controls for the discharge of untreated sewage from ships also apply to sewage originating from ship spaces containing live animals.

Nature and timing of proposed treaty matter

2. MARPOL 73/78 is administered by the International Maritime Organization (IMO), a specialised agency of the United Nations. The IMO Committee with responsibility for MARPOL 73/78 is the Marine Environment Protection Committee (MEPC).
3. The 55th session of MEPC (in October 2006) noted a drafting error in the existing text of Annex I to MARPOL 73/78. A provision placing an obligation on Parties to provide facilities in port to receive oily residues from cargo areas of oil tankers had been inadvertently omitted in preparing a revised text that entered into force internationally on 1 January 2007. The 55th session also agreed that existing controls on the discharge of untreated sewage from ships should be applied to the discharge of sewage originating from ship spaces containing live animals. This means that discharges of untreated sewage may only occur at a distance of more than 12 nautical miles from the nearest land and at a moderate rate when the ship is en route and proceeding at not less than four knots, whereas the discharge of treated sewage may occur at a distance of more than 3 nautical miles from the nearest land.
4. MEPC adopted the amendments by resolution MEPC.164(56) at its 56th session in July 2007. In accordance with the amendment procedure set out in the 1973 Convention, the amendments will be deemed to have been accepted on 1 June 2008 unless, prior to that date, not less than one-third of the Parties or Parties the combined fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have communicated to IMO their objection to the amendments. Upon acceptance, the amendments will enter into force internationally on 1 December 2008.

Reasons for Australia to take the proposed action relating to the treaty matter

5. Australia's endorsement of Resolution MEPC.164(56) is consistent not only with Australia's long-standing support for protection of the marine environment, but also with Australia's active backing of (and participation in) IMO.

Implementing legislation

6. Minor amendments will be made to the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* to implement the proposed treaty action.