

Response received from Norway

Reference is made to paragraph 1 of COP 8 decision VIII/9 and paragraph 1 of OEWG decision VI/18.

Issues relevant to the matter raised in the above decisions are presently under discussion in several international fora. Relevant issues are discussed in the IMO's Marine Environment Protection Committee (MEPC) and its subsidiary bodies, by the parties to the London Convention and the London Protocol on dumping of wastes at sea, as well as in the Basel Convention. In addition, we have been informed that the European Maritime Safety Agency (EMSA) is assessing the issues and that a report from EMSA will be available before COP 9. The matter may be discussed at the 57th meeting of MEPC in March/April 2008, and the outcome of that meeting would then be available for COP 9. Further, for waste generating processes on board ships, safety aspects is also an important issue. Hence, the IMO's Maritime Safety Committee (MSC) and its subsidiary bodies will also have to be involved.

As input to the discussions at COP 9, Norway would like to provide preliminary comments to some of the issues raised:

- i) The London Convention and the London Protocol are not mentioned in the above decisions. The London Convention and the London Protocol regulates discharges (at sea) from ships of waste "not derived from the *normal operations* of ships", and is a relevant international regime in the discussion of global regulations related to management of wastes generated on board ships.
- ii) As regards work in the IMO's MEPC and the application of MARPOL 73/78, please find enclosed a letter from the Norwegian Maritime Directorate of 26. November 2007 on gaps in the existing IMO legislation.

For waste generated on board a ship, but presently not covered by MARPOL 73/78, the "export" provisions of the Basel Convention may be applicable if there is a case of "transboundary transport" of the waste in question. If it is internationally agreed that MARPOL 73/78 be amended to cover (regulate the discharge of) such waste, it should probably be assumed that this waste is considered to "derive from the normal operation of a ship" (re Basel Convention Article 1.4). The London Convention and the London Protocol are as mentioned also relevant instruments in relation to disposal of wastes generated on board ships. For instance, the London Convention and the London Protocol, as well as the IMO's MEPC, are discussing regulative aspects of the disposal of spoilt cargoes. Also the Basel Convention may apply to the disposal of spoilt cargoes, if there is a situation of transboundary transport of such cargoes.

iii) If a *waste covered by MARPOL 73/78* is discharged to a port reception facility in accordance with MARPOL 73/78 regulations, and the same waste is subsequently reloaded for shipment to another country, the shipment may be considered a case of "transboundary transport" under the Basel Convention. This may need to be considered on a case by case basis where several factors are taken into account, in particular the contract between the ship and the operator of the reception facility. A similar approach may be used when considering offloading/reloading of *wastes generated on board a ship but not covered by MARPOL 73/78*. In these cases, and depending on the particular circumstances, there may be situations where the offloading itself could already be considered a case of "transboundary transport" under the Basel Convention. Basel Convention regulations on "transit" may be relevant when a ship containing such waste enters an area under the national jurisdiction of a State.

iv) In order to do a more in-depth analysis of possible gaps in the international regimes in this area, it seems that more information is needed on what kind of "industrial process" are or are likely to be carried out on board ships, what kind of waste is generated from such process', and the options available for management of such waste.