CIAOGCR RP 75-21 The Danish Straits and Law of the Sea Λ

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The Danish Straits and Law of the Sea



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THE DANISH STRAITS AND LAW OF THE SEA

Summary (C)

The Danish Straits, for centuries a vital link in the major maritime trade routes between the Baltic Sea and the North Atlantic (see maps), figure prominently in Law of the Sea (LOS) negotiations concerning the issue of vessel passage through and air flight over international straits. A regime of innocent passage* has traditionally governed vessel transit in passages, such as the Danish Straits, that are overlapped by the conventional 3-mile** territorial sea. Since a projected expansion of the territorial seas to 12 miles will overlap more than 100 straits around the world, including such critical passages as Gibraltar and Malacca, the United States and the Soviet Union are gravely concerned about maintaining their right to transit these straits unhindered by any bordering state regulations or toll charges. American and Soviet strategic interests further require submerged submarine transit and military overflight through international straits.

The major naval powers hope to obtain the right of free transit*** through and over all international straits, regardless of width, at the Third United Nations LOS Conference. This has met with firm opposition from Denmark and other states that seek exclusion from a regime of unimpeded transit for those straits less than 6 miles in width. Denmark's influence among the Nordic nations and within NATO and Common Market councils makes it a formidable opponent of the straits objectives of the United States and the Soviet Union.

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^{*} Innocent passage is the principle that allows only those vessels considered not prejudicial to the peace, good order, or security of the coastal state to pass freely through the territorial sea of a foreign state.

^{**} Distances throughout this report are in nautical miles unless specified otherwise.

^{***}Free transit is defined as unimpeded transit by ships and aircraft through and over straits used for international navigation.

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Denmark appears determined to avoid any loss of sovereignty over the Danish Straits and probably can be expected to reject any LOS treaty that would require straits states to permit unimpeded transit through all straits in all circumstances. Copenhagen believes that the necessity to guard against pollution threats from increasing tanker traffic; the need to maintain Danish control over cross-straits ferry traffic; the national commitment to resist Soviet pressure to increase its influence in the Danish Straits; and the fear of submerged transit by Soviet submarines all combine to require Denmark to oppose any proposed change, however subtle, in the degree of control it presently exercises over the Danish Straits.

History (U)

From the 14th to the mid-19th century Denmark controlled the entrances to the Baltic and claimed virtually complete sovereignty over the Danish Straits. Foreign ships passing through the Straits (the majority via the Sound) were required to "strike the top sail" to the King and to pay "Sound Dues." Even after the eastern coast of the Sound was ceded to Sweden in 1658, Denmark claimed that the Sound was still Danish territory. The 1857 Treaty of Copenhagen signed by the leading maritime powers eliminated payment of passage dues and decreed that:

- -- no ship was to be stopped during its passage through the Sound and Belts,
- -- no duties were to be charged,
- -- pilotage was not to be compulsory, and
- -- the lights and buoy system in the Straits were to be maintained by Denmark.

The Treaty also established the right of unimpeded navigation through the Straits, as Denmark agreed "not to subject any ship, on any pretext, to detention or hindrance in the passage of the Sound or Belts."

During the Crimean, Franco-Prussian, and Russo-Japanese Wars, Denmark allowed passage of warships through the Straits. During World War I, however, Denmark was forced by Germany to mine all three straits. Warships were prohibited, and merchant vessels were only permitted by day under pilotage. The Straits were again subjected to intensive mine laying operations while under German control during World War II.

The Straits -- A Vital Part of Denmark (U)

At the Third LOS Conference the United States, USSR, and other maritime nations are seeking the right of unimpeded transit through international straits, regardless of their width. Both Denmark and Sweden, however, support retention of the existing innocent passage regime for the Danish Straits and other straits 6 miles wide or narrower. The Danes have indicated they will support an unimpeded transit regime for international straits only if the Danish Straits are excepted. While it primarily seeks an exclusion on the basis of the Danish Straits being narrower than 6 miles, Copenhagen also feels that the passages qualify for exemption as a "regime strait" subject to treaties now in force.*

The Danes claim that a right of passage comparable to the freedom of navigation that exists on the high seas has never been in effect in the Danish Straits, where a special regime, based on treaties, customs, and the national legislation of Denmark and Sweden, has been developed over the years. Denmark and Sweden feel that this current regime, having served the interests of both the coastal states and the international community for many years, should continue in force. Copenhagen views the special 6-mile exception for the Straits as a necessity to protect "a vital part" of its territory.

Danish spokesmen indicate that the primary difficulties in reaching a solution for the Straits issue are political and psychological -- the Danes are unwilling to relinquish control over all vessels transiting the Straits and to accept high seas corridors that would separate principal Danish islands.

Compelling historical, geographical, and cultural factors combine to provide the emotional foundation for a determined insistence on the preservation of the present regime in the Danish Straits. The Danish coastal archipelago, comprising 500 islands, of which more than a hundred are inhabited, has always been considered to be the heart and core of the nation. For centuries Danish unity has rested on maritime communications that existed through the Sound and within the inland waters of the Great and Little Belts. The heavy ferry traffic across the straits is vital to the Danish economy. Denmark has been defined as a "sea state based upon the political and technical mastery of the Baltic Straits." The sea has deeply influenced the

^{*} The Dardanelles and Bosporus, governed by the Montreux Convention, are an example of a "regime strait."

attitudes of the Danish people. No Dane lives more than 30 miles from the nearest coast. The Danes regard the sea as a friend, a source of food, a place for recreation, the "only way to travel," and a source of inspiration.

Soviet Regional Interests

The USSR has long had a vital interest in the Baltic and its approaches and has repeatedly attempted to gain participation in the management of the Straits. Denmark's decision to join NATO in 1949 brought violent Soviet protests, and NATO naval maneuvers in the western Baltic have periodically triggered Soviet attacks on the "imperialist aggressive plans of NATO." The USSR has claimed that the Baltic is not an open sea but is a regional water body in which warships of non-Baltic countries should be prohibited. Soviet scholars have maintained that the Baltic states have the right to blockade the Straits to all foreign warships and the exclusive right to establish a navigational regime in the Straits that would insure its proper maintenance and protection. The Soviets were especially provoked by the 1951 Royal Danish Decree that imposed navigational restrictions on non-NATO warships transiting the Straits. (U)

The Baltic Sea area is also important to the Soviets because of its extensive shipbuilding, petroleum storage, and marine repair facilities. It has additional value as a relatively remote exercise area for naval forces and is an ideal site for military training and equipment testing. Baltic naval ports (see Figure 1), such as Leningrad, Baltiysk, Gdansk, and Rostock, have highly developed logistical capabilities to support amphibious operations intended to secure the Straits. (U)

The USSR has had a longstanding interest in protecting its northern flank from an attack by NATO and in protecting its supply lines in the Baltic, which could become critically important during wartime operations. The growing naval strength of West Germany and the possible introduction of nuclear forces into Denmark and the Baltic approaches are major Soviet concerns. Moscow also realizes that the Soviet Baltic Fleet could be quickly immobilized in the event of war by the mining of the Straits. (U)

The primary mission of the Soviet Baltic fleet is to counter the threat of NATO naval forces (Soviet military writings continue to indicate concern over the possibility of NATO naval forays in the Baltic). Its secondary responsibilities include the surveillance of the Baltic exits and the support of amphibious landing operations in adjacent coastal

areas, such as the Danish coastal archipelago. Its probable wartime mission would be to gain control of the Danish Straits and then reinforce Soviet naval strength in the North Atlantic. (U)

The USSR feels that its Danish Straits position of unimpeded passage does not in any way contradict its longstanding Baltic "closed sea" policy. The Soviets have attempted to effect this policy by urging all riparian states to join in agreements to make the Baltic a "sea of peace." The Soviets view such an agreement as the legal foundation for a regime in which they would probably be foremost among equals. They have also attempted to further Baltic unity with proposals for jointly cooperating in marine research, rescue at sea, fishery studies, and marine pollution abatement projects. There has been some Scandinavian apprehension that the USSR might use regional pollution agreements and restrictive clauses requiring intensive "pollution checks" for NATO and other non-Baltic vessels as a device to exclude non-Baltic warships and military support vessels (possibly including tankers) from the Baltic Sea and Danish Straits. (U)

The USSR has also attempted to enlist the assistance of its Warsaw pact allies in an effort to further its Baltic policies. Poland hosted a 1973 convention in Gdansk on fisheries and the protection of the living resources of the Baltic Sea. The official program stated that "apart from the area of the Baltic Sea, the convention encompasses also the Great and the Little Belts." Poland stated that it was also ready to "embark upon broadly conceived international cooperation in all fields concerning the region." In addition to a need for cooperative efforts by Baltic states, Poland felt that a "joint preventive policy in relation to other users of the Baltic" should be developed. The Soviets and their allies have always been very careful to include the "Baltic" or "Danish" Straits together on every policy move that involves regional cooperation. (000)

Naval Transit

Military and strategic considerations have triggered much of the controversy involving the Danish Straits during recent LOS discussions. The strategic significance of the waterways to the USSR and NATO have given them an importance befitting the title of "Gibraltar of the North." (U)

The Danish Straits are a link between Scandinavia and continental Europe that could conceivably become a barrier across access routes of the Soviet Union's Baltic fleet. The Kiel Canal is the major alternate route for entry to and exit from the Baltic Sea. (U)

Both the United States the and USSR feel that the right of innocent passage will not necessarily assure "free transit" for military traffic through international passages, such as the Straits. Under present rules of innocent passage, agreed to in 1958, submerged passage of submarines and uncontrolled overflight of aircraft may be prohibited by the coastal state.* A number of straits states also insist that under the innocent passage doctrine, they have the right to require notification from foreign warships prior to transit. (U)

The United States and the USSR insist that the LOS Convention guarantee free transit through international straits, qualified by necessary safety and navigational procedures. Underlying their LOS policies is a fundamental concern for the security of strategic waterways, such as the Danish Straits. Both countries cautiously view any LOS straits proposal that would alter the present Danish Straits regime. (OUO)

The Danes have stated that it is vital to their national interest to prohibit unrestricted passage of Soviet warships through the Danish Straits. The 1951 Royal Decree prohibits passage of more than three foreign warships simultaneously through Danish waters and requires that transit be made during daylight hours. The Danes are concerned about the possibilities of submerged Soviet transits through the Straits, and have stated that it was possible for small and medium size submarines to effect such transits without being identified. The military potential of the Straits for underwater passage has not gone unnoticed by the Soviet LOS writings have pointed out the suitability of the Great Belt for submarine transits. The Danes have also expressed concern about the potential for Soviet clandestine underwater activities. Most military experts have tended to discount this threat since the narrow and relatively shallow channels in the Straits make clandestine submerged transits impractical. (C)

The Danes have indicated growing concern over the Soviet bloc Baltic Sea maneuvers which have been drawing ever closer to the Straits. In previous years, Warsaw Pact maneuvers were held off the coasts of Poland or the Soviet Baltic Republics. In 1974 communist fleets maneuvered in East German waters only 55 miles from Denmark. The head of Denmark's military intelligence said in a recent Danish radio broadcast that

^{*} According to Danish naval regulations, foreign submarines shall remain surfaced with their colors shown and foreign aircraft must comply with Danish air traffic control directives when passing over the Sound and Great Belt. The Little Belt is designated as part of Danish inland waters.

increasing numbers of Warsaw Pact naval patrols had been identified even closer to Denmark and that for the first time Soviet bloc forces had begun to conduct maneuvers in the Kattegat north of Sjaelland (Zealand). (U)

The official position of the Soviets in 1974 was that the Danish Straits legal regime "is regulated by international agreements specifically relating to such straits." The Soviets believe that the concept of innocent passage has never been nor can it ever be applied to such straits. They contend that the Copenhagen Treaty of 1857 specifically stipulated provisions establishing freedom of passage in the Straits. While the Soviets interpret the current status as being a regime of unimpeded transit, they strictly adhere to Denmark's three-ship and daylight hour transit rules for naval vessels. They maintain that their insistence on unimpeded straits passage does in no way indicate any intention to use the Danish passages in any manner prejudicial to the interests of Denmark and Sweden. (000)

The Soviet argument against an innocent passage regime in strategic straits is that it gives the "last word" on enforcement and control procedures to the coastal state. The USSR feels that Denmark, a member of NATO, may tend toward the adoption of an "innocent passage" regime that would discriminate against Soviet transit rights. The Soviets were unwilling at Caracas to provide explicit assurances that an "innocent passage" regime prevails in the Danish Straits, but they appeared amenable to a private understanding that the LOS Convention would not alter the status quo in those passages. (C)

Despite their strongly expressed differences in defining and interpreting the nature of the Danish Straits regime, all interested parties -- Denmark, Sweden, the USSR, U.S., etc. -- basically agree on the desirability of continuing present policies for maritime traffic transiting the Straits. (U)

The projected bridge and tunnel projects to connect the major islands in the Straits area have been mentioned by the Danes as undertakings that must not be interfered with by the provisions of a new LOS treaty. A transportation project package introduced by Premier Anker Jorgensen in 1973, but not yet approved by the Danish Parliament, provides for the realization of the following projects by 1985: (a) a bridge over the Great Belt between Zealand and Fyn, (b) a railroad tunnel between Helsingor and Hälsingborg, (c) a bridge and tunnel across the Sound between Copenhagen and Malmö, and (d) an international airport on the island of Saltholm east of Copenhagen. Due to economic constraints and environmental considerations in Denmark, these projects have encountered growing opposition. (U)

The Danish transportation project proposals have also met with negative reactions in the USSR. In 1973, Soviet Chairman Aleksey Kosygin stated that Denmark's plans for the construction of bridges and tunnels in the Danish Straits were an international question and that the Danes should consult the USSR and other interested countries before proceeding further. The following year, the Russians submitted draft articles on straits at the Caracas session of the LOS Conference which contain a passage stating, "the coastal state shall not place in the straits any installations which could interfere with or hinder the transit of ships." Although the Danes have provided assurances that international proprieties would be fully satisfied, Kosygin's comments are another example of Soviet efforts to interfere with Copenhagen's authority over the Danish Straits. (S)

Military Overflight (S)

Overflights of strategic areas, such as the Danish Straits, have also been a thorny LOS problem. Both the United States and the Soviet Union support LOS Conference proposals that call for all aircraft to have the same freedom of overflight over such straits as aircraft have on the high seas. Both Denmark and Sweden, however, feel that the problem of overflight should not be dealt with at all at a LOS Conference. According to Danish sources many commercial air routes pass over the Straits. Unrestricted flights over the area could interfere with normal traffic in established international air corridors. The Danes feel that uncontrolled overflights of the Straits could potentially force Denmark to close down its entire air defense system.

Commercial Traffic (U)

More than 100,000 ships pass through some part of the Danish Straits each year and more than 76,000 vessels make complete transits (see following Table). The bulk of the traffic passes through the Sound and often stops at the major Scandinavian ports of Copenhagen, Malmö, and Hälsingborg. The Sound is the most direct route between the Atlantic Ocean and the Baltic Sea, being 120 to 160 miles shorter than the other two straits. Larger ships, unable to manage the Sound's shallow depths, pass through the deeper channels of the Great Belt, which has become the major passage for tankers and other deep-draft ships. The Little Belt is used mainly for intra-Danish trade, and Aarhus and Fredericia are gaining in importance as transit points between Jutland and Fyn. The Little Belt is also used as an alternate to the Great Belt in stormy weather.

Danish Straits Maritime Traffic Number of Vessels* (Complete Transit)

	Sound Transit From		Great Belt Transit From		Little Belt Transit From		1
	North	South	North	South	North	South	TOTAL
1964	29,151	15,531	12,106	12,186	3,819	3,605	76,398
1967	26,210	15,841	10,891	10,379	4,685	3,877	71,883
196 8	26,614	15,438	12,155	11,496	4,962	3,911	74,576
1970	24,061	17,156	15,263	15,079	3,857	3,563	78,979
1971	23,921	17,688	15,876	15,181	4,267	3,924	80,857
1972	23,725	15,727	14,514	13,880	4,307	3,935	76,088

^{*} All vessels are over 50 gross registered tons.

Source: 1974 Danish Statistical Yearbook, Copenhagen.

The major alternate commercial shipping route to the Danish Straits is the Kiel Canal, which is situated entirely within West German territory. Ships using this canal must pay a toll, but successive improvements have made it a more competitive route. For a ship bound from Leningrad to London, the Kiel route is about 220 miles shorter than passage via the Sound. Major drawbacks of the Kiel Canal are its increasing traffic congestion, slowness of passage, and least depth of 31 feet. Other less important shipping alternatives include (a) the White Sea-Baltic Canal, which cannot accommodate vessels larger than 3,000 tons and has a restricted navigational season of mid-May to early November due to ice; and (b) the Gota Canal in Central Sweden, which is used mainly for tourist excursions.

Navigational Hazards (U)

The Danish Straits are the only natural exits from the Baltic Sea to the North Atlantic. The gateways to the Baltic -- the Sound (Oresund), Great Belt (Store Baelt including Langeland Belt), and Little Belt (Lille Baelt) -- are shallow, relatively

narrow, and have constricted navigation channels throughout much of their length (see Table, Figure 2). The Straits are generally open for navigation throughout the year; ice conditions, although highly variable, are not normally an obstacle to shipping operations. In especially severe winters, however, ice may be a hindrance during January and February, particularly on the Danish side of the Sound and in certain harbors within the Great Belt. Poor visibility and low ceilings can be a problem from November to March, and sea mists known as havgusen are occasionally troublesome during the summer months. Heavy fog (visibility less than 5/8 of a mile) occurs some 48 days per year at Copenhagen, mostly from October to March.

Highly variable currents are prevalent and unpredictable rip and tidal currents are active in many parts of the Straits. Serious navigational hazards include shoals, reefs, projecting rocks, mines, shipwrecks, submarine cables, fishing nets, and a bevy of World War II ammunition and chemical dumping grounds often situated dangerously close to major shipping lanes.

Little Belt, situated between Jutland (Jylland) and Fyn Island, is the westernmost and the longest (68 miles) of the Baltic exits. It varies considerably in depth and width, and much of the adjoining coastline is indented by many shallow fiords and bays. The northern part of the passage is narrow, and the central section is encumbered by numerous shoals and offshore rocks. Near Fredericia, the northern part contains a tortuous segment known as Snaevringen (the Narrows), which is rendered even more hazardous by tricky currents that often set obliquely to the channel direction. The most dangerous stretch of the central part of the Little Belt is an extremely narrow channel southeast of Bägo Island that often requires local pilotage. The southern part of the strait is the safest for navigation, although many channels southwest of Fyn are only suitable for smaller vessels. The Little Belt is said to be "preferable to the Great Belt in bad weather" because tides, waves, and storm actions have a relatively low intensity compared to that of the Great Belt.

The Great Belt, the centrally positioned strait, is bordered by Sjaelland (Zealand) and Lolland Islands on the east, and by Fyn and Langeland on the west. The Great Belt is overall the widest and deepest of the three straits, but it also has the most convoluted navigation channels and the most extensive series of navigational hazards. The passage is notable for the numerous coastal shoals and reefs that extend for considerable distances offshore. Strong variable currents are prevalent, often attaining their greatest speeds near the many sandbars and rocky projections bordering the winding navigation lanes. Wrecks of sailing vessels

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pose a special problem near Langeland. Korsor, Kalundborg, and other Great Belt ports possess narrow, restricted approaches which have required much dredging and straightening. The most reliable channel for deep-draft vessels is Dybe Rende (the Deep Channel), which has depths exceeding 90 feet throughout much of its length and is almost a mandatory route for transit of the Great Belt in stormy weather.

The Sound, the easternmost strait, lies between Denmark and Sweden and is the shortest, most direct route into the Baltic. Described as the "least confused of the three entrances to the Baltic," this strait has traditionally been the major transportation artery between the North Sea and the Baltic. Its major navigational restriction is a shallow limestone sill in the southern part of the channel near Copenhagen. Drogden, the primary channel on the Danish side, has been dredged to a least depth of only 26 feet while Flintrannan Channel in Swedish waters has a least depth of only 23 feet. A veritable maze of shoals and sand flats extend southward from Middelgrund, east of Copenhagen, for a distance of nearly 20 miles. In severe winter, drifting ice has caused problems near Helsingor and between Zealand and the Swedish island of Ven. Other navigational restrictions include a large number of shipwrecks in the southeastern part of the passage, upwelling currents near Helsingor and Landskrona, and severe silting problems at Koge and other sections along the Zealand coastline.

The Pollution Threat (C)

The Danes feel that one of the basic objectives of the LOS Conference is to organize cooperative efforts to combat marine pollution while simultaneously avoiding unnecessary shipping restrictions. They are worried about the growing probability of maritime accidents and oilspills in the Straits because of the increasing use of larger tankers in the already congested shipping lanes. Denmark has stated that it will oppose any LOS proposals that would tend to prevent enforcement of international vessel-source pollution standards by the Danes in the Straits. The Danes believe that their pollution abatement goals could be met if a special Danish Straits pollution regime were to be set by the Inter-Governmental Maritime Consultative Organization (IMCO). As a major commercial maritime state, Denmark opposes any plan that would allow coastal states to set vessel-source pollution standards pending establishment and implementation of internationally agreed measures. Such a program, it feels, could result in a maze of differing pollution regimes based on the national legislation of the coastal states.

Denmark has already established navigation rules for vessels transiting the Great Belt. These rules require the use of a pilot and radiotelephone contact with Danish control points, and limit a vessel's draft to 15 meters (49 feet). Claiming that these rules are often ignored, Denmark has attempted to strengthen its traffic control procedures by seeking passage of an IMCO resolution on the safe navigation of the Great Belt.

Denmark also feels that this vital route is not currently safe for use by ships larger than 100,000 dead weight tons (dwt) and drawing more than 15 meters draft. However, transits by oil and liquefied natural gas tankers between 100,000 and 125,000 dwt are increasing, and a petroleum transshipment port at Gdansk, Poland, scheduled to become operational in mid-1975, has been designed to accommodate 150,000 dwt tankers. The Danes fear that accidents involving such large tankers could cause immense damage to the marine environment. This increasing threat is a major reason why Denmark and Sweden are pressing for stricter controls over navigational procedures and traffic movements in the Straits. Tankers now using the Straits are straining the limited capacities of the narrow, shallow waterways.

The Danish Hydrographic Office is currently conducting surveys in order to provide more accurate charts for the Straits. Survey work in the Great Belt was completed in 1974 and work is currently underway in the Sound. The Office is conducting research on water movement prediction in the Straits, which it feels is essential for a better understanding of currents, salinity, chemistry, and pollution affecting the marine environment. Denmark plans to deepen the Great Belt and possibly the Sound and Little Belt to a minimum channel depth of 17 meters (56 feet). Proposed plans for further deepening of the shipping channels to 30 meters (98 feet) remain undecided, pending the outcome of present studies and funding proposals. The Danes have stated that they may turn to other Baltic countries for a cooperative effort to deepen the waterways and to share the economic burden. This would appear to present an excellent opportunity for the Soviets to float yet another Baltic "togetherness" proposal and possibly gain some degree of control over Straits operations.

Outlook (C)

1. Denmark will continue to insist that the special regime governing transit through the Danish Straits be retained. They will support unimpeded passage through international straits overlapped by territorial seas only if the Danish Straits are granted a special exemption.

- 2. The United States and the USSR must decide whether Denmark's support is necessary to achieve their major straits objectives in the LOS negotiations. The United States may agree to a 6-mile exception for the Danish straits, but Soviet intentions to accommodate the Danes remain uncertain. The question of military overflight of straits may remain unresolved at the Geneva session of the LOS Conference.
- 3. International and local maritime trade will continue to increase throughout the Danish Straits. Greater traffic densities and larger petroleum tankers will become increasingly serious problems in the Great Belt channels. To help minimize the risk of maritime accidents and large oilspills in the Straits, Denmark will continue to support more comprehensive navigational regulations and improvement programs.

THE BALTIC SEA

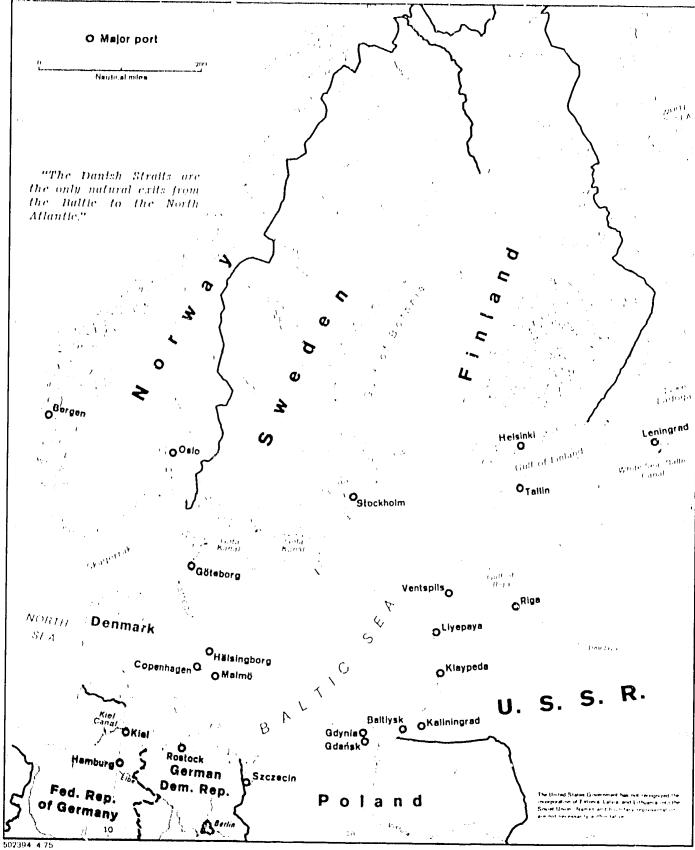


Figure 1

skade.lak Main shipping channel Navigation hezard (shoals, shipwrecks, etc.) in the vicinity of main channel Denmark-Sweden territorial sea boundary **Bathymetry** meters Scale 1 1,000,000 Norresundby Alborg Randers Viborg * Holstebro Jutland (Jylland) Herning

Denmark

Horsens,

Endelave

Fredetikshavn

North

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Sea

Snævringen

