



**CONVENTION ON
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**THE PROPOSED BALLAST WATER CONVENTION AND ITS RELEVANCE TO THE
CONVENTION ON BIOLOGICAL DIVERSITY**

Note by the Executive Secretary

I. INTRODUCTION

1. This note, which has been produced in collaboration with the IUCN Environmental Law Centre and the International Maritime Organization (IMO), describes the development and major provisions of the International Convention for the Control and Management of Ship's Ballast Water and Sediments (the "draft Ballast Water Convention"). The draft Convention is set for adoption at an IMO Diplomatic Conference to be held in London from 9 to 13 February 2004, and represents a major advance in controlling one of the major pathways of introduction of alien species into the marine environment.

2. Programme element 5 of the programme of work on marine and coastal biological diversity under the Convention on Biological Diversity addresses alien species and genotypes (decision IV/5, annex). The main sources of unintentional introductions of invasive alien species into the marine environment are considered to be ballast water from ships, hull fouling and other marine structure sources, canal development and mariculture. Ballast water serves as a significant mechanism for transfer of aquatic organisms from ecosystems to which they are adapted, to those in which they can be harmful and invasive. It is estimated that about 3 to 4 billion (10^9) tonnes of ballast water are transferred globally each year. The effective implementation of the draft IMO International Convention on the Control and Management of Ships' Ballast Water and Sediments, once adopted, will therefore be a key contribution by IMO towards effective implementation of programme element 5 of the programme of work on marine and coastal biological diversity.

II. THE PROPOSED BALLAST WATER CONVENTION

3. The draft Ballast Water Convention focuses on minimizing current risks and side effect to the environment and human health arising from the transfer of species in ships' ballast water and sediments, and beginning the process of eliminating such harmful transfers in the future.

* UNEP/CBD/COP/7/1 and Corr.1.

4. Under the current version of the draft Ballast Water Convention, each Party would be required to take nine actions to “give full and complete effect” to the Convention’s provisions:

(a) Require ships under its flag or authority to undertake ballast water management activities (“mechanical, physical, chemical, and biological processes, either singularly or in combination, remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within Ballast Water and Sediments”);

(b) Ensure that all vessels within their jurisdiction comply with those requirements, without different treatment of the vessels of non-parties;

(c) Adopt and apply legal prohibitions and appropriate sanctions, applicable to all of the Party’s vessels, regardless of where the violation occurs (based upon reports through IMO);

(d) Ensure the existence of adequate sediment reception facilities (the use of which does not cause undue delay) at ports and terminals where ballast water tanks may be emptied, cleaned or repaired;

(e) Make full information available to the IMO and to other Parties regarding their legal requirements, and the location and availability of reception facilities;

(f) Monitor compliance with ballast water management requirements;

(g) Monitor and maintain records concerning the effects of ballast water management activities;

(h) Encourage the continued development of standards and methods for ballast water management; and

(i) Make scientific and technological developments and monitoring data available to other Parties.

5. As currently drafted, exemptions would apply to vessels designed in a way that does not enable or require them to carry ballast water, to ballast water discharge that is required to deal with an emergency (not caused by the owner/officer’s negligence or recklessness), and to vessels that operate legally and by permission within a single country’s jurisdiction. Military and other (non-commercial) government vessels are also exempted. Parties are called upon to ensure that exempted vessels’ operations are consistent with ballast water requirements, “so far as reasonable and practicable.”

6. The basic mechanisms of implementation is the creation of a “ballast water management plan” for each vessel, including programmes for certification and record keeping, as well as specific ballast water management practices (pumping, treatment, sediment minimization, etc.). The planning requirement enables each vessel to adopt the procedures that are most appropriate to its configuration, operations and other factors. The goal of planning and certification will be to meet specific ballast water management standards, and such standards are under discussions by the Marine Environment Protection Committee of the IMO.

7. To enable enforcement of these requirements, the draft Convention provides that the Parties’ officials may board and inspect vessels, and where appropriate to take and test ballast water samples. Where harmful conditions or practices are detected, the inspecting authorities are entitled to “take steps to warn, detain or exclude the ship” until conditions that would threaten health or the environment are remedied.

8. The draft Convention recognizes regional agreements as a key avenue of practical implementation. As a consequence, it encourages Parties to co-operate in other ways to achieve the Convention's objective including "in a given geographical area to... conclude regional agreements... for preventing and minimizing the transfer of harmful aquatic organisms and pathogens through ships' ballast water". It further imposes a good faith obligation on other Parties to co-operate with such regional agreements, and to develop "harmonized procedures" regarding these regional agreements.

9. The full text of the draft Ballast Water Convention is available on line at <http://globallast.imo.org/index.asp?page=mepc.htm>

10. In addition to the Convention, the development of associated technical cooperation efforts, including the GEF/UNDP/IMO Global Ballast Water Management Programme (GloBallast), further indicates the determination of IMO to address this issue beyond the adoption of the Convention next year. These efforts aim to expedite the Convention's entry into force and establish frameworks for regional cooperation and catalyse national actions for the effective implementation of the Convention, particularly in developing countries. In this regard, IMO is currently preparing new technical cooperation project proposals, based on the highly successful GloBallast Programme, with the Global Environment Facility (GEF), the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), IUCN, the Global Invasive Species Programme (GISP) and other partners (<http://globallast.imo.org>).
