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## GLOBALLAST PARTNERSHIPS PROJECT



### GloBallast Regional Training Course on the Legal Implementation of the Ballast Water Management Convention

2 - 3 December 2009

Istanbul, TURKEY

## REPORT





**TABLE OF CONTENT**

|                                                  |       |
|--------------------------------------------------|-------|
| Introduction.....                                | p. 2  |
| 1 Aims of the Training Course.....               | p. 2  |
| 1.1 Lecturers.....                               | p. 3  |
| 1.2 Profiles of Participants.....                | p. 3  |
| 1.3 Topics Selected for the Training Course..... | p. 4  |
| 1.4 Training Material.....                       | p. 4  |
| 2 Organization of the Training Course.....       | p. 5  |
| 2.1 Opening of the Training Course.....          | p. 5  |
| 2.2 Presentations.....                           | p. 7  |
| 2.3 Closing of the Training Course.....          | p.17  |
| Annex I - List of Participants .....             | p. 18 |
| Annex II – Programme.....                        | p. 26 |
| Annex III – Evaluation Forms Analysis.....       | p. 27 |

## **INTRODUCTION**

Over the past two decades, ships' ballast water has been recognized as one of the major vectors for the introduction of harmful aquatic organisms and pathogens into aquatic environment and the introduction of invasive species was recognised as one of the four biggest threats to the marine environment.

IMO's activities to address this issue have included the development of a regulatory regime culminating in the adoption of the International Convention for the Control and Management of Ships' Ballast Water and Sediments in February 2004, as well as the GloBallast Programme, which included a pilot phase addressing the issue in six Pilot Countries (2000-2004) and a follow-up phase (GloBallast Partnerships Project 2008-2012) to be implemented in six priority regions, including the Mediterranean.

The project was developed as a joint initiative of the Global Environment Facility (GEF), the United Nations Development Programme (UNDP) and the International Maritime Organization (IMO) with the following objectives:

- assisting developing countries to reduce the transfer of harmful aquatic organisms and pathogens in ships' ballast water;
- building capacity to address the ballast water issues;
- undertaking legal, policy and institutional reform and
- implementing the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) adopted under the aegis of IMO.

In order to facilitate the implementation of the Project in the Mediterranean region, REMPEC was identified as the Regional Coordinating Organisation (RCO) in consideration of the close linkages with IMO and of the relevance of the Partnership's objectives to the mandate of the Centre. As the GloBallast partnerships RCO for the Mediterranean region, REMPEC is responsible for the preparation and organization of regional-tier activities including training courses/workshops and meetings (Regional Task Force Meetings) which are carried out under the project.

### **1 AIMS OF THE TRAINING COURSE**

One of the expected outputs (Output 2.5) of the GloBallast Project Implementation Plan (PIP) is the institution of national legal reforms. In this respect, the project includes the development of a generic legal framework for ballast water management, supported by legal training on maritime and ballast water legal issues. The legal instruments are expected to

enable countries to implement the Ballast Water Management Convention and more generally to improve ballast water management compliance and enforcement.

The Regional Training Course on the Legal Implementation of the Ballast Water Management Convention was delivered within the framework of Activity 2.5.2 of PIP and was specifically aimed at training lawyers from Mediterranean coastal States on developing legal frameworks for ballast water management.

Ballast water management is a specialized field, and the legal aspects straddle maritime and environmental law. Based on the experiences of the GloBallast Pilot Countries which participated in the first phase of the GloBallast Programme, the need for some support to acquaint national government lawyers with ballast water management issues emerged. The Training Course was conceived as an *ad hoc* training, using as much as possible experts and government lawyers from the Mediterranean region and other IMO member States that are pioneers in establishing regulatory controls for ballast water management.

The main objective of the Training Course was to provide a common set of knowledge and skills to all participants to enable them to take appropriate action at national level in their various capacities with a view towards promoting uniform implementation of the BWM Convention.

### **1.1 Lecturers**

In order to achieve the objectives outlined above, a team of four expert lawyers delivered the Training Course modules and facilitated the discussions. All instructors were confirmed lawyers, specialised in shipping law and/or marine environmental law, with a senior teaching experience and were well versed in national institutional and legal processes. All of them had an extensive experience with working with international governmental or non governmental organisations in the field of capacity building and cooperation. With the exception of Dr McCalla, all instructors originated from the Mediterranean region. The list of lecturers is included in **Annex I**.

### **1.2 Profiles of Participants**

As the Course intended to facilitate the legal implementation of the BWM Convention, the required profile of the participants was the following: experienced lawyers, in a position to initiate / oversee / manage the drafting of national BWM legislation or senior officers in the relevant governmental structure, with a good knowledge of ballast water managements issues and their implications at national level. The participants were also selected on the basis of their capacity to facilitate the process of developing the national legislation implementing the BWM Convention.

A total of fifteen Mediterranean coastal States and the European Community were represented in the Training Course, with delegates having responsibilities at mid to high level positions in the fields of law, maritime traffic, search and rescue, marine environment protection, port state control, marine biology and marine pollution. The full list of participants is reported in **Annex I**.

### **1.3 Topics selected for the Course**

The training package is composed of five modules. Though each module is a stand alone component of the course, all of them are interrelated. The Modules were delivered in the following order:

- Module 1: Introduction to Ballast Water Management.
- Module 2: Ballast Water Convention and Guidelines.
- Module 3: Other International Conventions and Guidelines.
- Module 4: Implementing the Ballast Water Management Convention.
- Module 5: Guide to Drafting a Ballast Water Management Act.

Modules 4 and 5 were both followed by an exercise.

The programme of the Training Course may be found in **Annex II** to the present report.

### **1.4 Training material**

#### **1.4.1 Course Manual**

The Course Manual was developed within the framework of the GloBallast Partnerships project, by a “Global Legal Task Team”, specifically established by the IMO-GloBallast Partnership Unit for that purpose, The Global Legal Task Team was composed, of legal experts from all the six regions covered by the GloBallast Project, including the Mediterranean region, under the coordination of Dr. McCalla.

The Global Legal Task Team had also to produce legal tools to help implementing the BWM Convention. These tools are the “Guidelines for Legal Reform in the context of the BWM Convention” and a Model Legislation, which are included in the Training Manual (Module 4 and Module 5 respectively).

Selected legal and technical experts, representatives of countries and of the industry reviewed the draft Training Modules and a final draft of the Training Manual was issued in October 2009 and translated into French and Arabic.

#### **1.4.2 Other teaching tools and material**

The following material was also distributed to the participants:

- a copy of the latest IMO publication (2009) reproducing the BWM Convention and the complete set of Guidelines for its implementation;
- a USB key containing the text of the Convention in three languages, i.e. French, English and Arabic as well as the Guidelines in English and French. The USB key also contained a copy of the Training Package in French (with the exception of Module 3);
- some informative leaflets in French and English summarising the purpose and objectives of the GloBallast Partnerships project.

## **2 ORGANIZATION OF THE TRAINING COURSE**

The Training Course on the Legal Implementation of the Ballast Water Management Convention was held from 2 to 3 December 2009 at the conference room of the Greenpark Hotel Bostanci, where the participants were also accommodated.

The Maritime Division of the Undersecretariat for Maritime Affairs, Prime Ministry of the Republic of Turkey, which is the designated authority to serve as the GloBallast Focal Point of REMPEC, hosted the event. Mr. Murat Korcak, from the Undersecretariat for Maritime Affairs, facilitated the organisation of the Training Course and coordinated the logistical arrangements locally. REMPEC, on behalf of IMO, issued the invitation letters, selected the participants and instructors and organised their travel and participation in the Training.

REMPEC was represented during the Training Course by Ms. Lilia Khodjet El Khil, Programme Officer (Marine Environment Protection) in charge of the implementation of the Globallast Partnerships Project in the Mediterranean region, and by Ms. Christina Farchi, Programme Officer. Ms Khodjet El Khil acted as a Course Coordinator and instructor and Ms. Christina Farchi acted as a resource person for all scientific aspects related to the implementation of the BWM Convention. Mr. Murat Korcak acted as a Chairman of the Course.

The Training Course was delivered in English and simultaneous interpretation from English to French and Arabic was provided.

### **2.1 Opening of the Training Course**

The Chairman, Mr. Murat Korcak, opened the Training Course. He provided insights on the various initiatives taken at the national level to address the transfer of invasive species in Turkish waters, which are being significantly affected by invasive species because of the

intensive maritime traffic which takes place along the Turkish coastlines. He specifically referred to a national pilot initiative in Botas Harbor, located in the Eastern part of the Mediterranean to assess the effectiveness of the ballast water management plan developed by Turkey.

Mr. Omer Tiktik, Head of the Maritime Environment Division of the Undersecretariat for Maritime Affairs, welcomed the participants and wished them a successful Training Course. He highlighted the relevance of such Course with a view to implement the BWM Convention, and announced that legislation was being finalised in Turkey to implement the BWM Convention.

The representative of REMPEC, Ms. Lilia Khodjet El Khil, thanked the Maritime Environment Division of Turkey for its efforts in organizing such Training Course and conveyed on behalf of the Director of REMPEC and of the IMO-GloBallast Partnerships Unit, their best wishes for a successful Training Course. She also expressed her great appreciation to the Turkish authorities and particularly to the Undersecretariat for Maritime Affairs (UMA) for hosting the GloBallast Training Workshop on the Legal Implementation of the Ballast Water Convention.

She recalled that Turkey is one of the two Lead Partner countries in the Mediterranean region (the other being Croatia) and underlined that Turkey was meeting all the expectations by providing great support to the regional activities of the GloBallast Partnerships, by being proactive in the field of ballast water management and by being always open to share its experience with other Mediterranean coastal States.

The representative of REMPEC indicated that following a special request to IMO by REMPEC and by the GloBallast Partnerships Unit, participants from all the Mediterranean countries were financed by IMO Technical Cooperation Division, contrary to other regional activities of GloBallast, where only GEF eligible countries are sponsored. This special request was granted in view of the importance of such a Training Course for the region as a whole.

Moving to the introduction of the Training Course itself, Ms. Lilia Khodjet El Khil pointed out that such Training focused specifically on legal issues related to the implementation of the BWM Convention. The objective was not limited to promote the BWM Convention and its ratification but to guide countries in taking the appropriate steps to transpose the provisions of the Convention in the national laws and regulations, which are the appropriate framework for the effective application and enforcement of the Convention.



She also highlighted the fact that the Training Course delivered in the Mediterranean was a pilot one, as it was the first of its kind to use a Training Package developed under the aegis of IMO and addressing specifically the legal aspects of the implementation of an international Convention. It had to be delivered first in the Mediterranean region, and soon after in the Wider Caribbean region. Since it has been envisaged by the IMO GloBallast Partnerships Unit to refine the Training Manual after the delivery of the Training Course in these two mentioned regions, the representative of REMPEC encouraged the participants to provide comments on the Training Manual, with a view to adjusting it to any specific needs of national authorities involved in the implementation of the ballast water management Convention.

Finally, she indicated that in order to facilitate this process, REMPEC had prepared an Evaluation Questionnaire requesting from the participants any comments and/or appreciation on the Training in general as well as on the specific content of each of the modules. The results of the Evaluation Questionnaire are summarised in **Annex IV** of the present Report.

## **2.2 Presentations**

Prior to the beginning of the presentation of the various Training Modules, the participants had the opportunity to watch the IMO-BBC documentary “*Invaders from the Sea*”. The aim was to provide the trainees, and specifically the lawyers, with a fact-based overview on the transfer of harmful organisms in ships’ ballast water and its operational aspects on the effects of this phenomenon on the marine environment with real examples as well as on the measures taken by the global community to fight against these alien species. The display of the documentary also served as a pedagogic tool to introduce Module 1, where the technicalities of the ballast water management are addressed in more details.

## *Day 1*

### **MODULE I – Introduction to Ballast Water Management**

Module I provided an overview of ballast water as a vector for the introduction of harmful aquatic organisms and pathogens, the options for ballast water management and the international response to deal with the issue.

Ms. Lilia Khodjet El Khil delivered the first Module of the Training Course. She stressed that today ballast water is recognised as one of the principal vectors of potentially invasive alien species, and is responsible for the transfer of between 7,000 and 10,000 different species of marine microbes, plants and animals globally each day.

She explained that shipping moves 90% of world trade (in terms of weight/volume), and that being one of the most international of all human maritime activities, shipping is a potential conveyor belt to transport species from place to place. All ships which carry ballast water can be a threat but tankers, and particularly oil tankers, are likely to present a higher risk because they can carry large amounts of ballast water.

Commenting on some ballast water movement and quantities estimates produced by REMPEC she pointed out that Mediterranean ports which are most at risk are ports receiving ballast water from tankers coming from outside the Mediterranean. This is particularly the case of oil terminals located in the South and East of the Mediterranean such as the port of Arzew (Algeria) and the Sidi Kerir Terminal (Egypt). She also pointed out that to a certain extent, all ports receiving ships carrying ballast water where at risk in the Mediterranean, because of the probability of a contamination within Mediterranean ports /oil terminals once an invasive species has been introduced in the Mediterranean Sea.

The instructor then introduced operational aspects related to ships' ballast water and explained what ballast water is, why ships need it, and the process of transfer of IAS. She pointed out that the issue of ships' ballast water in the context of IAS was different from the oily ballast water issue, which the MARPOL Convention addresses.

She presented the international response to the issue of IAS, in particular the Convention on Biological Diversity and the different steps taken by IMO, first by developing guidelines which eventually developed in an international binding instrument, the BWM Convention, adopted in 2004, and second by sustaining and promoting the implementation of the said Convention

by conducting technical cooperation programmes. In this respect, the GEF /UNDP /IMO GloBallast programme is one way of assisting the process of ratification and implementation of the BWM Convention, in particular in developing countries. The focus of the 2<sup>nd</sup> phase (2008-2012) of GloBallast is on assisting / facilitating legal, policy and institutional review and reform.

Finally, the instructor explained the various options to manage ships' ballast water set out in the BWM Convention and highlighted the importance of implementing the Convention and ensuring compliance and enforcement. She pointed out that to reach this objective, the transposition of the provisions of the BWM Convention in laws and regulations was crucial to enable effective application at the national level.

### **MODULE 2 – The Ballast Water Convention and Guidelines**

Module 2 presented the main features of the Ballast Water Management Convention including the Guidelines, with a view to assist countries in identifying relevant provisions of the BWM Convention to be incorporated in laws and regulations. Module 2 covered general and technical provisions as well as the obligations of the Flag State, Port State and Coastal State under the Convention.

Mr. Aref Fakhry presented Module 2 of the Course, and emphasised in his presentation the basic provisions of the Convention and the consequences arising for States and by extension merchant shipping from the Convention. The lecturer stressed that the Articles and the Annex of the Convention have the same binding force, but that the Annex is subject to the 'tacit acceptance' procedure for amendment. Reference was also made to the Guidelines adopted by the IMO to facilitate implementation of the Convention and which were included in the booklet provided to the Course Participants along with the text of the Convention.

It was pointed out that the main aspect of the Convention lies in the concept of 'ballast water management', which is defined in article 1.3. Ships are required to carry out ballast water management in order to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within ballast water and sediments. The ultimate objective of this measure is to avoid harm to the environment, human health, property and resources when ballast water and sediments are taken off the vessel.

The effectiveness of ballast water management is measured by two sets of standards. In an interim phase, a 'ballast water exchange standard' (D1) will be applicable. A 'ballast water performance standard' (D2) will be phased in later on progressively as the solely applicable standard. The phase-in calendar, set forth in the Annex of the Convention, is a function of the date of construction of the ship and its ballast water capacity. All existing vessels are to meet the ballast water performance standard as set by the Convention on 1 January 2017.

The lecture made reference to the main documentary requirements placed by the Convention on vessels, which consist of the Ballast Water Management Plan, the Ballast Water Record Book and the International Ballast Water Management Certificate.

Emphasis was laid in the presentation on the principal obligations of a State that would become a Party to the Convention (upon its entry into force). A State Party has first and foremost the obligation to implement the provisions of the Convention, by *inter alia* adopting the necessary national legislation – particularly through the prescription of adequate sanctions for violations – and ensuring training and preparedness of its administrative personnel charged with overseeing its observance.

Ships flying the flag of a State Party or operating under its authority have to be compliant with the Convention. This places an obligation on the State Party to survey and certify vessels in accordance with the Convention; these tasks may be delegated to recognised persons or organisations, but the State Party remains fully responsible under the Convention.

Ballast water management systems used to comply with the Convention must be approved by the flag State Administration, following IMO guidelines. It is up to IMO to approve those systems which make use of 'active substances'. The lecturer referred participants to the Final Approval given by MEPC 59 of four such systems in July 2009.

It was also pointed out that the Convention, similar to other marine environmental protection treaties, mandates observance of its requirements by ships visiting the ports or offshore terminals of a State Party. Inspection powers are granted accordingly to that State. The Convention also buttresses powers by a State Party to enforce its provisions against vessels operating in its coastal waters.

Mr. Fakhry received and addressed several questions from participants, particularly on the rights and obligations of flag, port and coastal States. The questions were an opportunity to generate fruitful debate among the participants.

**MODULE 3 – Other International Conventions  
and Principles relevant to Ballast Water Management**

Module 3 provided an overview of the range of International Conventions and Principles relevant to invasive species and ballast water management issues, in order to help participants to identify requirements other than those of the BWM Convention that may need to be also taken into account when drafting the national legislation.

Mrs. Nilufer Oral delivered Module 3.

The lecture examined the relevance of different international conventions to ballast water management and the 2004 Ballast Water Management Conventions (BWM Convention), such as the relevant provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) relating both directly and indirectly to the question of ballast water and the introduction of harmful invasive aquatic species, the 1973/78 MARPOL Convention, the 1992 Convention on Biological Diversity, and other IMO Conventions.

The basic message to the participants was to understand the interlink between the 2004 BWC and other international conventions to which their respective States may be parties to, especially when drafting implementing national legislation. In addition, the lecture sought to explain the important legal foundation created by international principles of environmental and oceans law, articulated in the Stockholm Declaration adopted during the 1972 United Nations Stockholm Conference and Agenda 21 as adopted during the 1992 United Nations Rio Conference, even if these instruments are technically non-binding.

Perhaps the most controversial question raised by the participants during the course concerned the relationship between ballast water as discharged from ships and the definition of pollution as provided under the 1982 UNCLOS. The definition of pollution as provided in Article 1 (4) of the 1982 UNCLOS would on its face include harmful invasive species introduced through ship water exchange. Whereas, during the drafting of the 2004 BWM Convention there was, apparently, an understanding, at least by some of the delegates, that ballast water discharge under the Convention would not be considered as “pollution”. However, 2004 BWM Convention is silent on this matter.

Another important section of the 1982 UNCLOS is Part IX on enclosed and semi-enclosed seas. This provision is particularly relevant to the 2004 BWM Convention for regional seas such as the Black Sea and Mediterranean, where there is a need for coordinated and cooperative action in the implementation of certain provisions of the 2004 BWM Convention, including the role of the UNEP’s Regional Seas Programme.

## **Day 2**

### **MODULE 4 – Implementing the Ballast Water Management Convention**

Module 4 provided an overall framework leading to the full implementation of the Ballast Water Management Convention at the national level, with the objective of guiding the participants in identifying key steps towards the legal implementation of the BWM Convention within the national context and in reviewing specific concerns that may exist in this respect.

Dr. Winston McCalla delivered Module 4.

He pointed out that the developing national legislation would commence with the initiation of certain key steps. First, this would involve an inventory of existing legislation, including a range of national legislation such as environmental laws, shipping laws, laws on ports and harbours, fisheries legislation, trade and customs laws and other relevant national regulatory instruments. In addition, it was underlined that countries needed to examine the constitutional concerns. Dr. McCalla pointed out that this is of critical importance as, in States which follow the monistic system, a Convention becomes part of the law of the land immediately upon ratification or accession, providing it is a self-executing or directly applicable Convention. However, after it is ratified or acceded to, it always requires appropriate enabling legislation to be enacted and brought into force. Another factor is to determine whether statutory provisions and institutional mechanisms exist. Other requirements mentioned by the lecture were to examine the deficiencies in the existing legislation; to analyse the information from a review of examination of relevant applicable international convention; to review the steps necessary to incorporate the BWM Convention into national legislation. Apart from these factors Dr. McCalla pointed out that for each country it would be necessary to examine the type of legislation needed. For some countries an Act of Parliament may be required, for other regulations or decrees may be more appropriate.

The lecturer then examined the use of Model Legislation and pointed out that its use would depend on the national context. For some countries it could provide a useful framework for early implementation of the BWM Convention, for other countries it would provide a guideline as to the Convention's drafting requirements. Dr. McCalla added that it would be necessary to review the practical implementation of the BWM Convention as a flag state, Coastal State and port State.

Finally the instructor stressed the need to examine the compliance and enforcement requirements for implementing the BWM Convention. An institutional framework was necessary for the effective implementation of the framework. This institutional framework should be adequate to exact compliance with the Convention and to enforce its requirements.

#### **Exercise (Module 4)**

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The participants were divided in three Groups as follows:

- Group A: Albania, Croatia, Montenegro, Malta and Cyprus (Ms. Lilia Khodjet el Khil assisting);
- Group B: Morocco, Syria, Lebanon, Algeria and Tunisia (Mr. Aref Fakhry assisting); and
- Group C: Spain, Italy, Turkey, Greece, Israel and the European Community (Mrs Nilufer Oral assisting).

The participants were required to discuss and answer the three herunder questions:

- 1) *From the key steps presented (included in the Participants Manual), select 2 or 3 to describe the situation in your country.*
- 2) *What practical steps are necessary in your country for the legal implementation of the BWM Convention?*
- 3) *In your country what are likely to be the main barriers for an effective legal implementation of the BWM Convention?*

**Group A** discussions were reported by Croatia, highlighted differences and similarities in the national situations of the countries of the Group. For instance, the inventory of existing legislation was ongoing in some countries, while in others the process was finalised. In all cases, there were two parallel processes, the first one being the ratification of the Convention (Parliament) and the second one being the development of national legislation for the implementation of the Convention, either by adopting a law or by amending an existing law.

In Group A, one country had ratified the BWM Convention (Albania) and the other countries were in the process of ratifying it. Croatia had developed a national legislation (regulations) and was now working towards the ratification which will imply amending the existing legislation. In most cases the authorities responsible to deal with the issue were identified and cross-sectoral committees in place.

As for barriers, some technical aspects were problematic, and specifically the implementation of the Regulation D-1 (Exchange of Ballast Water) standards, particularly in the Adriatic Sea. The importance of regional and sub-regional cooperation on this issue was

highlighted. The need to strengthen the capacities in the countries, especially as far as Port State control procedures were concerned, was pointed out. Another bottleneck was the lack of cooperation between the national administrations and the scientific institutes.

**Group B** discussions were reported by Morocco. In the countries part of Group B, the inventory of national legislation was ongoing. The Convention on Biological Diversity has been ratified by almost all the countries. Algeria, Morocco and Tunisia had adopted legislation on the protection of the coastal areas. In addition, Tunisia had adopted a legislation in 2009 (Code des Ports Maritimes), which addressed among other things the protection of the marine environment in maritime ports whereby ships are not allowed to discharge ballast water in the ports areas. Syria was the only country of the Group having ratified the BWM Convention and the process of its incorporation into national legislation was just starting. Lebanon had an extensive legislation protecting the marine environment but such legislation was not adequately addressing the issue of ships' ballast water and invasive species.

Inter-ministerial committees or commissions were in place in most of the countries of Group B to review the BWM Convention and to consider its ratification and implementation. It was highlighted that the provisions of the Convention could be transposed by way of law but regulations for the implementation of the law were also necessary to ensure its effective application and enforcement.

As for barriers, it was pointed out that there was a need to strengthen the regional cooperation in order to better share the knowledge and know-how with neighbouring countries. It was also highlighted that training was needed in the field of compliance and enforcement and port related issues.

**Group C** discussions were reported by the representative of the European Community (EMSA). As for key steps, it was pointed out that countries part of the Group came into the process at various levels and steps were not consecutive. The process of implementing the BWM Convention at national level varied according to States. In the Group, only Spain had adopted the BWM Convention but the country did not develop a national legislation.

Since the process of adopting legislation varied amongst countries, it was difficult to summarise what practical steps needed to be taken, but an important fact to highlight was that all countries were able to identify the required steps in their respective systems towards the legal implementation of the BWM Convention.

Several issues were pointed out by the Group concerning barriers and bottlenecks with respect to the implementation of the BWM Convention, such as compliance and enforcement harmonization, use of polluter principle, monitoring, and in general concrete



and practical application of the requirements of the Convention. The issue of sanctions and the nature of it was also raised and it was highlighted that a coordinated position on the issue was needed, particularly in the context of the debate which is taking place at IMO level on the matter. The cost of technology for treatment on board was a concern.

**Conclusion:** All three Groups recognized that developing a legislation was a long process and therefore agreed there was a need to fasten the process at national level by continuing raising awareness and working towards changing the political perception, in order to have the ballast water issue considered as a priority issue.

**MODULE 5 – Guide to Drafting a Ballast Water Management Act**

Module 5 provided a comprehensive framework for incorporating the Ballast Water Management Convention into national legislation, with the aim of making the participants understand the drafting requirements to implement the BWM Convention and encourage them to use the Model Act provisions as a basis for drafting the national legislation.

Module 5 was delivered by Dr. Winston McCalla.

It was emphasized that the Model Ballast Water Management Act was intended to achieve a number of objectives: (1) incorporating the relevant provisions of the BWM Convention into local law, (2) providing a legal framework to enable the proper implementation and enforcement of the BWM Convention by the relevant national authorities; (3) establishing a legal regime dealing with Ballast Water; (4) establishing significant fines and violations for the violation of the provisions of the Act; (5) providing standard reporting forms and documentation.

Dr. McCalla pointed out that the form of the legislation would vary from country to country and the type of legal system that exists in each country. For some countries the BWM Convention could be incorporated by an Act, for other countries by regulations or decrees. Whatever format is used regard should be given to the requirement by which Parties have to fully implement the provisions of the Convention.

The instructor then reviewed the elements of the Model Act and explained that the Model Act (or any legislation to implement the BWM Convention) would have the following elements: title; purpose; definitions; an application provision; survey; certification and inspection; the Control and Management of ship's Ballast Water and Sediments; the Responsibilities of the Administration; Procedural Matters; Sanctions. In addition it was pointed out that the various annexes to the BWM Convention should be included in legislation to implement the

Convention. Among the possible options for incorporating the Annexes were: (a) incorporation by reference in which case the Act would refer to the Annexes of the Convention; (b) setting out the relevant annexes as a Schedule to the Act; and (c) incorporating the Annexes in separate Regulations. Whichever method is used would depend on the legal system in each country.

### **Exercise (Module 5)**

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The participants were again divided in the three same Groups: A, B and C, and were requested:

1. *to suggest what **key provisions** to be incorporated in the national legislative framework to ensure a full implementation of the BWM Convention;*
2. *to discuss the **format** / presentation / order in which the key provisions should appear in the legislation (the skeleton of the envisaged draft legislation). Discuss the nature of the various provisions, i.e. **provisions of general nature (general obligations) and provisions of more technical nature (implementation and enforcement)** and on whether some of these are already addressed in other already existing pieces of legislation or in regulations.*

All Groups agreed in general that the ratification of the Ballast Water Management Convention should be followed by the development and adoption of a national legislation to give effect to the Convention, but there were different views on how to proceed, some favouring the inclusion of all provision of the Convention, including sanctions, and some other giving preference to a general law, accompanied with technical regulations. For instance, it was highlighted that a regulation should define and publish the areas where exchange of ballast water could possibly take place. A thorough debate about the definition of pollution in the Ballast Water Convention and its compatibility with the same definition in UNCLOS also took place.

### **2.3 Closing of the Training Course**

Concluding the seminar, the representative of REMPEC summarized the various issues that were presented and discussed during the Training Course and made reference to the current development in the Mediterranean region of the regional strategy on ship's ballast water management, and to other forthcoming activities of the Globallast Partnerships Project. She also informed the participants of the departure of Ms. Cristina Farchi, who was terminating her employment with REMPEC at the end of December 2009. She paid tribute to Ms. Farchi for her excellent support and contribution to the GloBallast Partnerships Project. She wished Ms. Cristina Farchi all the best for her future career.

The participants also expressed their appreciation for Ms. Farchi's work and wished her the best in her future profession. They also expressed their appreciation to REMPEC for the high quality level of the Training Course and to the Turkish authorities for its excellent organisation.

The Seminar was concluded at 5 pm on 3 December, 2009. The representative of REMPEC thanked the Undersecretariat for Maritime Affairs of Turkey for the support and valuable collaboration provided, which ensured the best working conditions for the success of the Training Course. She also thanked all lecturers and participants for their active contribution to the various Modules.

All participants were provided with a Certificate of attendance for the present Training Course.

**ANNEX I**

**LIST OF PARTICIPANTS**

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**ANNEX II**

**PROGRAMME**

| <b>Wednesday, 2 December 2009</b> |                                                             |
|-----------------------------------|-------------------------------------------------------------|
| <b>Time</b>                       | <b>Programme</b>                                            |
| 08.30 – 09.00                     | Registration                                                |
| 09.00 – 09.30                     | Welcome & Opening remarks                                   |
| 09.30 – 10.00                     | Background of the workshop                                  |
| 10.00 – 10.30                     | <i>Coffee break</i>                                         |
| 10.30 – 11.15                     | Video “ Invaders from the Sea “                             |
| 11.30 – 12.00                     | <b>Module 1. - Introduction to Ballast Water Management</b> |
| 12.00 – 13.30                     | <i>lunch break</i>                                          |
| 13.30 – 15.00                     | <b>Module 2. - Ballast Water Management Convention</b>      |
| 15.00 – 15.30                     | <i>Coffee break</i>                                         |
| 15.30 – 17.00                     | <b>Module 3. - Other Legal Instruments</b>                  |

  

| <b>Thursday, 3 December 2009</b> |                                                                                 |
|----------------------------------|---------------------------------------------------------------------------------|
| <b>Time</b>                      | <b>Programme</b>                                                                |
| 09.00 – 10.30                    | <b>Module 4. - Implementing the BWM Convention</b>                              |
| 10.30 – 11.00                    | <i>Coffee break</i>                                                             |
| 11.00 – 12.00                    | <b>Module 4. - Implementing the BWM Convention (continued )</b>                 |
| 12.00 – 13.30                    | <i>Lunch break</i>                                                              |
| 13.30 – 15.00                    | <b>Module 5. - Guide to Drafting a Ballast Water Management Act</b>             |
| 15.00 – 15.30                    | <i>Coffee break</i>                                                             |
| 15.30 – 17.00                    | <b>Module 5. - Guide to Drafting a Ballast Water Management Act (continued)</b> |
| 17.00 – 17.30                    | Closing ceremony and Award of Certificates                                      |

### **ANNEX III**

**GLOBALLAST REGIONAL TRAINING WORKSHOP ON  
THE LEGAL IMPLEMENTATION OF THE BALLAST WATER MANAGEMENT CONVENTION  
Istanbul, Turkey, 2-3 December 2009**

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## **EVALUATION FORMS ANALYSIS**

### **BACKGROUND:**

In view of the fact that the IMO GloBallast Regional Training Workshop on the Legal implementation of the Ballast Water Management Convention is a pilot one and was first delivered in the Mediterranean region, REMPEC developed Evaluation Forms which were distributed to the participants at the end of Day 2 of the Training Workshop. It was explained to the participants that the comments provided in the Evaluation Forms as well as any other comment made during the Training Course on the training package were expected to be taken into account by the Globallast PCU when finalizing the Training Package and delivering the Training Course in the other Globallast regions.

The Evaluation Form distributed to the participants is in the form of a questionnaire divided into two distinct parts: the first part of the questionnaire is a general one, with the objective of getting feedback on the general outcome of the Training Workshop. The second part focuses on the individual Modules themselves, in order to get comments and suggestions for improvement under each specific Module.

The answers provided were processed and the results appear in the attached document. The number of specific answers to a question appears in the boxes (for example, if 8 participants replied ‘YES’ to a question, the number 8 will appear in the box corresponding to the ‘YES’ answer), and percentage was calculated for each answer. The words ‘left blank’ indicates that no answer was provided. The written comments are also reproduced. In some instances, when comments are similar, they are put together. In some other instances, such as in the case where participants had to indicate what were the next steps they would take when back home (question 18), each individual comment has been reproduced.

### **ANALYSIS**

The analysis of the answers provided under the first part of the questionnaire (General Evaluation) is rather satisfactory, as it shows that that for a large part of the participants (43%), the Training Workshop delivery was beyond their expectations (question 1). In addition, the lecturers/presentations were rated from good (50%) to very good (50%). Moreover, the answers received in relation to the acquisition of new knowledge are encouraging and an indication that the Training Course met its objectives, as 57 % of the participants stated they ‘acquired new knowledge’ (whilst 43% acquired ‘some’ new knowledge) during the Training Workshop, and the same proportion indicated that this knowledge will be of help during their current work.

Regarding specifically the presentations/lecturers, 92% of the participants rated their duration as ‘about right’ and the same percentage declared enough time was allocated to questions (92%). A majority of participants did not specify any preferred Module as they found that ‘all’ the presentations were useful, and a large number of participants indicated that Modules 3, 4 and 5 addressed more their needs, which is understandable as Modules 4 and 5 focused on national issues.

57% of the participants declared they were ‘very satisfied’ with the Course, and 43% ‘satisfied’. The additional comments provided highlighted the good organization of the Training Course.

As for the second part of the questionnaire (Modules Evaluation), it appears that for 92% of the participants, Module 1 (Introduction to Ballast Water Management) was useful and Module 2 (the Ballast Water

Management Convention) provided a comprehensive overview of the BWM Convention. No additional comments were provided for these 2 Modules.

As for Module 3 (Other International Conventions and Principles relevant to Ballast Water Management), whilst 50% of the participants indicated that the Module was comprehensive, 36% were of the opinion that there were other relevant instruments which should have been included; however, none specified which instruments. The same proportion of participants (36%) declared that Module 4 (Implementing the Ballast Water Management) should have been tackled in a more exhaustive manner, and there was a specific comment indicating that more feedback was required from the lecturer after the exercise.

Comments were expressed concerning Module 5 (Guide to Drafting a Ballast Water Management Act), where again a proportion of 36% of the participants concluded that there are particular aspects on which the Module should insist. A participant expressed the opinion that it would have been preferable to examine the ballast water Management Act and discuss it. A comment related to the need to insist on compliance and enforcement issues and another participant commented on the need to focus more on the legal drafting and discuss this.

Question 17 of the questionnaire was asking for any other general comments on the Modules. The majority of answers were expressing appreciation on the quality of the Modules.

The last question was related to any actions the participants would take to initiate the development of national legislation to implement the BWM Convention. From the answers provided, two types of actions were of primary concern: the first one is to share the information, knowledge and material acquired during the Training Workshop with the ministries / departments concerned; the second type of action, perhaps appearing as a step further compared to the first one, is to establish structures (national task force; inter-ministerial working groups and trans-sectoral committees) at national level to work on the issue and develop national legislation.

The details of the answers are summarized in the attached document.

**GLOBALLAST REGIONAL TRAINING WORKSHOP ON  
THE LEGAL IMPLEMENTATION OF THE BALLAST WATER MANAGEMENT CONVENTION  
Istanbul, Turkey, 2-3 December 2009**

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**EVALUATION FORM ANALYSIS  
BASED ON FOURTEEN EVALUATION FORMS**

**GENERAL EVALUATION**

1. Did the course meet your expectations?

|                                       |       |                                |
|---------------------------------------|-------|--------------------------------|
| Beyond your expectations              | (43%) | <input type="text" value="6"/> |
| More or less within your expectations | (57%) | <input type="text" value="8"/> |
| Below your expectations               | (0%)  | <input type="text" value="0"/> |

2. Generally speaking, how do you judge the content and quality of the lectures/presentations?

|           |       |                                |                 |      |                                |
|-----------|-------|--------------------------------|-----------------|------|--------------------------------|
| Very good | (50%) | <input type="text" value="7"/> | Quite good      | (0%) | <input type="text" value="0"/> |
| Good      | (50%) | <input type="text" value="7"/> | Not good enough | (0%) | <input type="text" value="0"/> |

3. Did you acquire new knowledge during this course?

|            |       |                                |
|------------|-------|--------------------------------|
| Very much  | (57%) | <input type="text" value="8"/> |
| Some       | (43%) | <input type="text" value="6"/> |
| Not enough | (0%)  | <input type="text" value="0"/> |

4. Will the knowledge acquired during this course help you in your current work?

|            |       |                                |
|------------|-------|--------------------------------|
| Very much  | (57%) | <input type="text" value="8"/> |
| Some       | (43%) | <input type="text" value="6"/> |
| Not enough | (0%)  | <input type="text" value="0"/> |

Other comments? *Comments provided:*

***I comment underlined that the Training Course was very useful.  
I comment highlighted the importance of being made aware of some issues during the Course before ratifying the Convention.  
I comment was on the good quality of the presentations with a suggestion for improvement.  
I comment was on the need to have a training course on the operational aspects of the implementation of the BWM Convention, which should be reflected in the legislation.***

5. Do you think that the duration of the lectures/presentations was adequate?

|                 |      |                                |
|-----------------|------|--------------------------------|
| About right     | 92%  | <input type="text" value="1"/> |
| Too long        | (0%) | <input type="text" value="0"/> |
| Not long enough | (8%) | <input type="text" value="1"/> |

6. Did you have enough time for questions?

|     |       |                                |
|-----|-------|--------------------------------|
| Yes | (92%) | <input type="text" value="1"/> |
| No  | (0%)  | <input type="text" value="0"/> |

**Left blank (8%): 1**

7. In your opinion, are there any other issues or topics which the course should have covered?

**One answer was Yes, One answer was No, 9 questionnaires were left blank.**

**Comments provided: more emphasis is required on the practical implementation of the BWM Convention (Port State control) and on compliance and enforcement issues (3 comments) and the Training should have discussed what were going to be the next steps to be taken by the participants when back home.**

8. Do you think that it was useful to meet other persons from other national Ministries, offices, etc.)?

|     |        |                                |
|-----|--------|--------------------------------|
| Yes | (100%) | <input type="text" value="1"/> |
| No  | (0%)   | <input type="text" value="0"/> |

9. Which lectures/presentations addressed more your needs?

**6 answers (43%) were: All**  
**1 (7%) answer was: Module 2**  
**3 (29%) answers were: Modules 3, 4 and 5**  
**1 (7%) answer was: Module 4 and 5**  
**3 (21%) questionnaires were left blank**

10. Generally speaking, are you satisfied with the course?

|                |       |                                |
|----------------|-------|--------------------------------|
| Very satisfied | (57%) | <input type="text" value="8"/> |
| Satisfied      | (43%) | <input type="text" value="6"/> |
| Unsatisfied    | (0%)  | <input type="text" value="0"/> |



11. Other comments? *Comments provided:*

*Left Blank: 64%*

*“No comment” answers: 21%*

*2 comments (15%) were on the good organization of the Training Course.*

### **MODULES EVALUATION**

12. Was **Module 1** helpful for a better understanding of the issue of invasive species and of the technicalities of Ballast Water Management?

Yes (92%)

No (0%)

*Left blank (8%): 1*

*No comments provided.*

13. Did **Module 2** provide a comprehensive overview of the Ballast Water Management Convention?

Yes (86%)

No (0%)

*Left blank (14%): 2*

Were there any issues not covered? *No comments provided.*

14. Do you think there are any other relevant legal instruments which should have been included in **Module 3**?

Yes (36%)

No (50%)

*Left blank (14%): 2*

If yes, please specify: *No comments provided.*

15. Do you think there were any issues of **Module 4** which should have been tackled in a more exhaustive manner?

Yes (36%)

No (50%)

*Left blank (14%): 2*

If yes, please specify. *Comments provided:*

*More feedback was required from the lecturer after the exercise.*

16. Do you think there are any particular aspects on which **Module 5** should insist on?

Yes (36%)

No (50%)

*Left blank (14%): 2*

If yes, please specify. *Comments provided:*

*It was preferable to examine the Ballast Water management Act and discuss it.  
Module 5 should insist on compliance and enforcement issues.  
More focus and discussion needed on the legal drafting.*

17. Other comments on the Course Modules?

*Comments provided:*

*4 comments were positive appreciation towards the quality of the Training Workshop and modules.  
1 comment indicated that the Training Course was too short.  
1 comment was about the need to have feedback from the lecturers after the exercise.*

18. What action are you going to take once you are back in your country in order to initiate the process of developing a national legislation to implement the Ballast Water Management Convention in your country?

*Comments provided:*

*Use the experience gained within the Ballast water task force  
Use the tools provided in helping key stakeholders to ratify and implement the Convention  
Identify a lead agency that will coordinate the ministries involved in this matter and establish a Task Force group which will review the existent legislation and prepare for the ratification of the BWM Convention.  
Establish working groups in order to proceed towards the ratification of the BWM Convention and develop regulations for its implementation.  
Comment the Workshop and give a copy of the teaching material to the legal department of the Directorate General of Merchant Marine. Explain what the other Mediterranean countries are doing, especially Turkey and Croatia, in order to try and start a similar project in the country.  
Prepare an Action Plan  
Forward a special report to the administration about the Training Workshop, and push the administration to send the information to other ministries, especially ministry of Environment.  
Discuss with relevant parties (Port/policy departments)  
Provide useful information in preparing the legal act and its implementation.  
Establish an under ministries working group for developing a national legislation to implement the BWM Convention.  
Establish a trans-sectoral Committee.*

**Annex**  
**Revised proposed programme**



| DAY 1         |                                                                                                        |
|---------------|--------------------------------------------------------------------------------------------------------|
| Time          | Programme                                                                                              |
| 08.30 – 09.00 | Registration                                                                                           |
| 09.00 – 09.30 | Welcome, Opening remarks and Background of the Training Workshop                                       |
| 09.30 – 10.00 | <b>Module 1. - Introduction to Ballast Water Management</b>                                            |
|               | Video “Invaders from the Sea“                                                                          |
| 10.00 – 10.30 | <i>Coffee break</i>                                                                                    |
| 10.30 – 12.00 | <b>Module 2. - Ballast Water Management Convention and Guidelines</b>                                  |
| 12.00 – 13.30 | <i>Lunch break</i>                                                                                     |
| 13.30 – 15.00 | <b>Module 2. - Ballast Water Management Convention and Guidelines (Cont.)</b>                          |
| 15.00 – 15.30 | <i>Coffee break</i>                                                                                    |
| 15.30 – 17.00 | <b>Module 3. - Other International Conventions and Principles relevant to Ballast Water management</b> |

| DAY 2         |                                                                             |
|---------------|-----------------------------------------------------------------------------|
| Time          | Programme                                                                   |
| 09.00 – 10.30 | <b>Module 4. - Implementing the BWM Convention and Exercise</b>             |
| 10.30 – 11.00 | <i>Coffee break</i>                                                         |
| 11.00 – 11.10 | Presentations by Groups (Exercise Module 4)                                 |
| 11.10 – 11.30 | National situations in the region.                                          |
| 11.30 – 12.00 | <b>Module 5. - Guide to Drafting a Ballast Water Management Act</b>         |
| 12.00 – 13.30 | <i>Lunch break</i>                                                          |
| 13.30 – 15.00 | <b>Module 5. - Guide to Drafting a Ballast Water Management Act (Cont.)</b> |
| 15.00 – 15.30 | <i>Coffee break</i>                                                         |
| 15.30 – 17.00 | Exercise (Module 5), discussion and conclusions.                            |
| 17.00 – 17.30 | Closing ceremony and Award of Certificates                                  |