

Maritime Conventions CME General Principles & Critical Elements and

Conventions and Principles Relevant to Ballast Water Management

Views expressed in this presentation are those of the author and should not be construed as necessarily reflecting the views of IMO or its Secretariat.

Objective

Identify the relevant provisions of the international legal instruments to be taken into consideration when implementing the Ballast Water Management Convention at national level.

Can you name any international Convention that is relevant to ballast water management?

1. ...

2. ...

3. ...

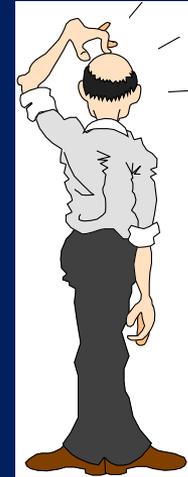
4. ...

5. ...

6. ...

7. ...

8. ...



International Conventions

1. **Convention of the Law of the Sea - UNCLOS**
2. **The Rio Declaration and Agenda 21**
3. **Convention on Biological Diversity – CBD**
4. **Convention for the Prevention of Pollution from Ships – MARPOL-
Which Annex is similar to BWM Convention?**
5. **Convention for Safety of Life at Sea – SOLAS**
6. **STCW and Code**
7. **Convention on the Facilitation of International Maritime Traffic – FAL**
8. **Convention on the Control of Harmful Anti-Fouling Systems on
Ships (NIF)**

The 1982 UN Convention on the Law of the Sea (UNCLOS)

Page 4

Convention contains provisions relevant to the **State rights and obligations.**

tion

obligation to take action to protect its marine environment
192, 194/125 and 194/2 - extends to the protection of other States' environment

196 - UNCLOS obligated the States for the consequences of using technologies producing alien or new species ;

Liability for polluting the marine environment (Art. 235);

right to take action to protect the marine environment (Arts. 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000)

UNCLOS

- **Duty to prevent marine pollution**
- **Protect and preserve fragile ecosystems, habitat**
- **Protect threatened and endangered species**
, marine life from all sources of pollution (Art 194 (1) (5))
- **Regulations of activities of all ships under**
jurisdiction or control registered or operated
under the authority

UNCLOS

- Evaluate **consequences of new technology and introduction of new species** which may cause harm
- **Non-indigenous or alien species**
- Take individually or jointly all measures to **prevent, reduce, and control marine pollution from all sources**
- **Harmonize policies**

UNCLOS

- **To take measures to ensure that *incidents do not cause harm beyond jurisdiction***
-
- **Take steps to deal with *incidents and emergencies***
- **Regulate the design, construction, equipment, operation and maintenance of the vessel**
- **Protection of *rare ecosystems***

The Rio Declaration

Scope

Page 7

It comprises **27 key principles** formulated and agreed upon to achieve **socioeconomic development and environmental protection.**

Can you name any of them?

Three principles are well known.

- The **precautionary approach**
- The **polluter pays**
- The need for environmental impact **assessment.**



Application

Above principles are reflected and forming part in most modern regulatory systems

The Rio Declaration

- **Programme of action for sustainable development- The 1992 UN Conference & Development**
- **Key principles supported by all states attending the conference**

Agenda 21

Scope

The document covers **almost all sectors of human activities and environmental interaction.**

Application

The Agenda deals with **sea-based activities** by calling upon all States to better *implement the existing conventions* and to **support the work of IMO** and other agencies to develop an international regime to protect the marine environment from shipping related pollution.

➤ Chapter 17 deals generally with the **protection of the oceans and coastal areas.**

The 1992 Convention on Biological Diversity (CBD) and associated instruments

• Application

- The State obligation to **take action to protect its marine environment** :
- Arts 192, 194/125 and 194/2 - extends to the **protection of other States' environment** ;
- Art. 196 - UNCLOS obligated the States for the **consequences of using technologies or introducing alien or new species**

International Convention for the Prevention of Pollution from Ships , 1973 as amended to 1978 (MARPOL 73/78)

Scope

Page 10

MARPOL is an umbrella agreement amended by Protocols in 1978 and 1997 (NIF) with substance specific regulations set out in Annexes, dealing with marine pollution from ships.

Application

MARPOL is relevant to the *implementation of the Guidelines* and the Convention even if the Convention is not an annex to MARPOL, as some countries elect to implement the Convention and attach it to their MARPOL legislation.



➤ The Guidelines may also be implemented in part under the national MARPOL legislation.

MARPOL CME principles

- **Any wastes and residues which cannot be discharged in line with discharge standards can be retained on board for discharge to reception facilities**
- **Oil or oily residues discharge of 15 ppm or less from machinery spaces and 30 litres per nautical mile or less from cargo tank areas is acceptable**
- **Oil record, cargo and garbage record book record book vs BW record book**
- **Shipboard emergency plan vs BWM plan**
- **Samples of oil and chemical slick vs BW samples**
- **OWS and ODM vs BWMS- Type Approval**
- **No favorable treatment to non Party ships**
- **Harmonized PSC regime among all PSC MOUs**

International Convention for Safety of Life at Sea - SOLAS

Scope

- International standards for minimum equipment and other requirements for ensuring safety in ship operations, including ship stability;
- These standards are implemented and enforced through national legislation.

Application

- The existing SOLAS requirements will need to form part of the overall assessment of safety and vessel stability and strength;
- When a future Convention is adopted, parts of SOLAS and relevant national legislation may need to be amended;
- ISM Code.

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and the Seafarer's Training, Certification and Watchkeeping Code - STCW and Code

Scope

- *Minimum standards for a seafarer to obtain an internationally recognized certificate for the position he or she holds on the ship ;*
- **Implemented in domestic legislation and are integral to the efficacy of the IMO ship safety/pollution prevention regulatory system.**

Application

- **The Guidelines and the Convention - both require an officer/crew to be responsible for the documentation and safe implementation of the ship's Ballast Water Management Plan and precautionary ballast uptake**

Convention on the Facilitation of International Maritime Traffic – FAL

Scope

- Standards and recommended practices for entry related *documents and procedures for ships, cargo, crew and passengers travelling from one country to another.*

Application

- Countries wishing to implement the Guidelines will need to review their legislation implementing FAL and report any national information requirements and forms to the IMO as a variance on FAL standards.

Convention on the Control of Harmful Anti-fouling Systems on Ships – NIF

Page 14

Scope

The Anti-fouling Convention is aimed at preventing the introduction of toxic chemicals in the aquatic system, and ultimately the human food chain.



Application

The Anti-fouling Convention regulates the chemical content of paint that is used on ships' hulls to prevent aquatic organisms from attaching to it (fouling).

Applicable Principles

Page 14

Scope

- States now operate within the framework of Agenda 21, the principles set out in the Rio Declaration on Environment and Development and the imperative of *sustainable development*

Application

- *The IMO Guidelines are premised on precautionary, preventative and cooperative risk minimization practices to accommodate concerns about ecological protection and ship and human safety;*
- *The principle of subsidiarity in that the final decision as to the level of acceptable risk, both onboard ship and in the coastal State, are decided by the authority most affected by and in the best position to assess the risk;*
- Fifteen “guiding principles” – SBSTTA.

Applicable Principles

Principles of General Nature

- **Guiding Principle 1: Precautionary Approach**
- **Guiding Principle 2: Three-state hierarchical approach**
- **Guiding Principle 3: Ecosystem approach**
- **Guiding Principle 4: State responsibility**
- **Guiding Principle 5: Research and Monitoring**
- **Guiding Principle 6: Education and Public Awareness**

Applicable Principles

Preventive Principles

- **Guiding Principle 7: Border Control and Quarantine Measures**
- **Guiding Principle 8: Exchange of information**
- **Guiding Principle 9: Cooperation, including capacity-building**



Preventive Principles

- **Guiding Principle 7: Border Control and Quarantine Measures**
- **States should implement border control and quarantine measures to ensure that:**
- **Intentional introductions are subject to appropriate authorization**
- **Unintentional or unauthorized introductions of alien invasive species are minimized**
- **Strengthen existing government agencies/authorities**
- **Train staff**
- **Apply early detection and regional co-ordination**

Applicable Principles

Introduction of Species

- Guiding Principle 10: Intentional Introduction
- Guiding Principle 11: Unintentional Introduction



Applicable Principles

Mitigation of Impacts

- Guiding Principle 12: Mitigation of Impacts
- Guiding Principle 13: Eradication
- Guiding Principle 14: Containment
- Guiding Principle 15: Control



Summary

- The problems caused by HAOP introduced by ship s ballast water
- BWM Convention and other legal instruments

**Implementation of BWM Convention and
Guide to drafting a BWM Act**

