



**EMSA's Revised Ballast Water
Action Programme**

- a report to the European Commission

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EMSA's Revised Ballast Water Action Programme

Executive Summary

Following extensive discussion with the European Commission and the EU Member States, EMSA has developed a work programme to begin adding value to the work of these States during their preparations for ratifying the BWM Convention, and their work in developing interim ballast water management strategies in the Regional Sea Conventions. This work programme consists of 9 Actions as highlighted below.

EMSA will

1. *Prepare a review of the Ballast Water Risk Assessment Methodologies and the different ballast water management measures available to the Member States and the Regional Sea Conventions;*
2. *Review the need for further guidance on: data collection on ship's ballast water exchange and on invasive species in ports; the granting of exemptions; and, the identification and implementation of additional measures, following the completion of Action 1;*
3. *Produce a joint briefing note (EMSA/DG Environment/DG TREN) on the relationship between approval for ballast water technologies that use active substances under the Biocides Directive, the proposed Biocides Regulation and the Ballast Water Management Convention's Guidelines;*
4. *Host a workshop to identify how a joint EU ballast water sampling strategy can be developed;*
5. *Investigate how funding can be obtained to "Develop a technical co-operation and short term secondment programme to enhance cohesion and parity on ballast water sampling and analysis within the Member States";*
6. *Investigate how ballast water management information and best practice can be shared electronically between all Member States;*
7. *Actively participate in the North Sea Ballast Water Opportunity project;*
8. *Maintain liaison with DG Environment and the EEA over the introduction of non-indigenous species through ballast water discharge, to ensure that there is continuity between this Action Plan and the European Communities work in this area. EMSA will also react to requests for input into these programmes when necessary; and,*
9. *Maintain a watching brief on developments at the IMO and within the Member States, and contribute to the important work of the Regional Sea Conventions. EMSA, through the European Commission, will also react to requests for input into these programmes when necessary.*

These actions are explained in more detail in this report, and targets for output and timescales are also provided. The cost implications for each action are also analysed.

1. Introduction

On the 10th and 11th November 2008, EMSA ran a workshop entitled: Implementing the Ballast Water Management Convention (BWM) – the EU dimension. At this workshop the Member States suggested an extensive list of activities that could be undertaken at the European level to help them ratify the IMO Ballast Water Convention, and contribute to the interim ballast water management strategies being developed by the four Regional Sea Conventions surrounding Europe.

The feasibility of these proposals were assessed and analysed by EMSA in order to propose a list of actions that could be undertaken. The results of this analysis were then submitted as a 10 point Action Plan to DG TREN and DG ENV in a note dated 3rd April 2009 (Ref: B.3/HRI/2009/543) (hence referred to as “the EMSA Note”). This Action Plan is contained in Annex 1 for information. EMSA received a response to this note from the Directors of DG ENV/B, DG ENV/D and DG TREN/G on the 27th July 2009 (ENV/TREN D(2009) 171611) (hence referred to as “the EC Note”).

This document revises the Proposed Action Plan in response to the EC note, and therefore contains a new ballast water action programme which will focus EMSA's work over the next few years.

2. Risk Assessment/Ballast Water Management Options

A) Review of Risk Assessment and Ballast Water Management Methods

EMSA agrees that one document containing a review of risk assessment methodologies (Potential Action (PA) 1 in the EMSA note) and a review of different management measures available to the Member States (PA 3 in the EMSA note), is both necessary and prudent. Such a review will not only provide valuable information to the Member States, but will also link into their work in the Regional Sea Conventions.

Action 1: EMSA will prepare a review of the Ballast Water Risk Assessment Methodologies and the different management measures available to the Member States.

- Output: one review document providing technical analysis of:
 - the risk assessment procedures being employed to inform coastal states of the risks posed by ballast water discharges;
 - how this information is used to justify voluntary management measures, exemptions and additional measures (as described in the BWM Convention); and,
 - the ballast water management options (be they voluntary measures through the Regional Sea Conventions, or mandatory measures through the BWM Convention) available to coastal states, their pro's and con's and how they can be used together in the regional context.
- Timescale: final report by June 2010, to be submitted to the European Commission, the Member States and the Regional Sea Conventions.
- Extra Resources Needed: none, costs can be covered from existing budgets.

B) Further Guidance

As suggested in PA 2 in the EMSA note, the development of guidance on:

- data collection on ship's ballast water exchange and on invasive species in ports throughout the region (building on existing work, knowledge and survey regimes);
- the granting of exemptions; and,
- the identification and implementation of additional measures;

.....may or may not be needed once the risk assessment/management measures review has been completed. This would depend on many issues, including:

- the final extent of the review included in Action 1;
- the extent that these issues had been addressed by the Member State and the Regional Sea Conventions;
- the extent of developments under the Commission's Communication and Biodiversity Action Plan and the Conclusions of the Environment Council of 25 June 2009;
- the extent of the co-ordination between the work of the four Regional Sea Conventions; and,
- the extent of EMSA's work in this co-ordination.

Therefore, EMSA will review this action point once Action 1 has been completed.

Action 2: EMSA to review the need for further guidance on: data collection on ship's ballast water exchange and on invasive species in ports; the granting of exemptions; and, the identification and implementation of additional measures, following the completion of Action 1.

- Output: EMSA to undertake a short review of the need to prepare further guidance on these issues.
- Timescale: findings of the short review of follow on actions following the completion of Action X, to be submitted to the European Commission in July 2010.
- Extra Resources Needed: none, costs can be covered from existing budgets.

C) Long Distance Shipping

The EU Member States with a Mediterranean coastline, through REMPEC, have begun to formulate voluntary guidance for long distance shipping similar to that already existing for the OSPAR Commission and the Helsinki Commission. Therefore, the need to identify preventive management measures for long distance shipping entering, leaving and navigating through the waters of Member States (PA 4 in the EMSA note) no longer exists. Additionally, co-ordination between the different ballast water management systems being developed by the Regional Sea Conventions that was foreseen in this Action Point will be achieved through the work contained in Action 1.

Further Action: None

3. System Approval/ Biocides Directive

Further to the publication of the "*Proposal for a Regulation concerning the placing on the market and use of biocidal products*" by DG Environment on the 12/06/2009, and after discussions with Member States at the recent IMO MEPC 59 meeting, EMSA in conjunction with DG Environment have re-evaluated PA 5 in the EMSA note. As a result it has been agreed that a Joint EMSA/DG Environment/DG TREN note should be produced highlighting the links between,

and the process for, approving ballast water management technologies that use active substances under the Biocides Directive/Regulation and the BWM Convention:

- at the present time;
- in the future - based on the proposals in the new Biocide Regulation comes into force; and,
- in the future - if the Convention comes into force after the new proposed Regulation.

Action 3: EMSA to liaise with DG Environment/DG TREN in order to produce a joint briefing note on the relationship between approval for ballast water technologies that use active substances under the Biocides Directive/proposed Regulation and the BWM Convention's Guidelines.

- Output: one Briefing Note for the Member States and the ballast water treatment technology manufacturers.
- Timescale: Work already started, draft note by November 2009, final note by January 2010.
- Extra Resources Needed: none, costs can be covered from existing budgets.

4. Ballast Water Sampling

A) The development of an EU ballast water sampling strategy

Sampling for enforcement is probably the major issue that still has to be addressed by many Member States before they can ratify the BWM Convention. Therefore, EMSA agrees with the European Commission's view that the development of a joint EU sampling (strategy) would be a valuable contribution to easing the ratification process for those Member States still to ratify the Convention. After discussion with ballast water sampling experts, the proposal in PA6 of the EMSA note has been revised so that the need to fund an external feasibility study has been re-evaluated. EMSA will utilise its existing in-house procedure to begin the process, by developing a strategy through our technical workshop programme. This workshop will have the following objectives:

- to review the existing protocols and options for ballast water sampling;
- to identify the range of problems that Member States have with respect to sampling;
- to specifically identify the problems that are encountered when developing sampling protocols that provide statistically sound results indicative of the whole ballast water discharge;
- to identify the problems that exist in Member States regarding the translation of the sampling protocol results into evidence that will secure a prosecution under the BWM Convention, specifically with respect to sampling error; and,
- to identify future work to overcome these problems.

Invitees to this workshop will include experts in ballast water sampling, ballast water analysis, port state control, statistics and legal issues from both the industry and the Member States. This workshop could then be followed up with discussion papers, Member State questionnaires and further analysis to enhance and progress the conclusions of the meeting. Additionally this workshop may identify that further research at the European level is needed. Therefore, there may be some future funding requirements at this stage but EMSA will look into how this can be met, if necessary, after the workshop.

It should be noted that this workshop will not overlap the work being undertaken in the North Sea Ballast Water Opportunity being funded by Interreg.

In addition EMSA has proposed to organise training for the Member States on Best Practice in implementing the BWM Convention through EMSA's Consultative Network on Technical Assistance. In due course, the results of the workshop and the development of a joint EU ballast water sampling strategy could therefore significantly contribute to this training proposal and the training of Member States on enforcement practices for the BWM Convention.

Action 4: EMSA will host a workshop to identify how a joint EU ballast water sampling strategy can be developed.

- Output:
 1. Background document on sampling;
 2. EMSA Workshop on Ballast Water Sampling;
 3. Report on the Workshop's conclusions;
 4. Further work to enhance and progress the Workshop's conclusions;
 5. Report to the Commission on how a joint EU ballast water sampling strategy can be developed based on the Conclusions of this meeting;
 6. Training by EMSA for Member States on Ballast Water Issues, to include Ballast Water enforcement; and,
 7. Further work as agreed.
- Timescale:
 1. Background document on Sampling – end of December 2009;
 2. EMSA Workshop on Ballast Water Sampling – February 2010;
 3. Report on the Workshop's conclusions - March 2010;
 4. Further work to enhance and progress the Workshop's conclusions – February to August 2010;
 5. Report to the Commission on how a joint EU ballast water sampling strategy can be developed – October 2010;
 6. Training by EMSA for Member States on Ballast Water Issues, to include Ballast Water enforcement – 2010/2011; and,
 7. Further work as agreed - beyond 2010, if agreed and if funding is obtained.
- Extra Resources Needed: none, costs, until point 6 on the Timescale, can be covered from existing budgets.

B) Technical Co-operation

As pointed out by the European Commission, the proposals in PA7 of the EMSA note, to "*Develop a technical co-operation and short term secondment programme to enhance cohesion and parity on ballast water sampling and analysis within the Member States*", will need significant amount of funding. However, this would only be needed once the EU ballast water sampling strategy has been finalised. Therefore EMSA will begin to identify the need for, and the feasibility of developing such a scheme and identifying the potential costs and sources of funding for it. A proposal will then be developed and submitted to the European Commission, identify how this action point can be achieved. This Action also covers PA8 in the EMSA note.

Action 5: EMSA to investigate how funding can be obtained to "*Develop a technical co-operation and short term secondment programme to enhance cohesion and parity on ballast water sampling and analysis within the Member States*"

- Output: Study into the need for, and the feasibility of a technical co-operation and short term secondment programme and research into funding opportunities for training for EU Member States.
- Timescale:
 1. Questionnaire to Member States to gather data for a feasibility study - August 2010;
 2. Feasibility Study - November 2010 to January 2011; and,

3. Research into funding opportunities – ongoing.

- Extra Resources Needed: none, preliminary costs for the internal Feasibility Study can be covered from existing budgets. However, additional funding will be needed if this scheme comes to fruition.

5. Other Technical Issues

A) EMSA-based electronic information portal.

An EMSA-based computer information portal is an important method of sharing best practice and regional measures between the Member States as reflected in the development of PA9 in the EMSA note. This is already being developed in the North Sea Region through the North Sea Ballast Water Opportunity, which will in time have a significant amount of technical information on ballast water issues on the internet. However, this scheme only covers 6 of the 27 Member States and in EMSA would need to facilitate information flow between all Member States, EMSA and the European Commission. EMSA envisage that such a system would:

- provide a dedicated page for each Member State and the European Commission to upload and share documents on strategy, legislation and guidance being developed by their Maritime Administration, with password access and update alerts for other users;
- provide a user forum for the Member States and the European Commission to pose any question or problems they have on ballast water management or the development of legislation to other users of the system, or ask for best practice solutions to issues they may be encountering (Please note this forum would not be used to provide central advice on implementation, but to share best practice and facilitate implementation flow); and
- be an integral part of the EMSA Website.

EMSA have already discussed this issue with their webmaster and are preparing an internal project request to pursue this Action. Whatever the result, the EMSA portal has to be linked to, and be complimentary to, the North Sea Ballast Water Opportunity Website.

Action 6: EMSA to investigate how information and best practice can be shared electronically between all Member States.

- Output:
 1. Project request to EMSA's Communication and Information & Communications Technologies Sectors;
 2. Portal development; and
 3. Portal launch.
- Timescale: Project Request to EMSA's Communication and Information & Communications Technologies Sectors by December 2009, operative portal scheme in place by Summer/Autumn 2010 (depending on internal response).
- Extra Resources Needed: none at present, additional costs may be necessary depending on the final scheme. Cost will become apparent after project request to EMSA's Communication and Information & Communications Technologies Sectors.

B) North Sea Ballast Water Opportunity

EMSA has already begun to liaise and interact with this project and will continue to do so. Although not a full partner in the project, EMSA has been invited to participate in the Project's Steering Committee, and is fully supportive of the project's aims and objectives.

Action 7: EMSA to actively participate in the North Sea Ballast Water Opportunity project.

- Output: EMSA to monitor developments in this project, help share the information provided with this project with other Member States and attend the annual meetings of this project. EMSA will also report regularly to the European Commission (through Mission Reports and specific briefings - as necessary) on the projects development.
- Timescale: Ongoing
- Extra Resources Needed: none, costs can be covered from existing budgets.

6. General Issues

A). Towards a Strategy on Invasive Species

EMSA is fully aware of the Communication from the Commission "Towards a Strategy on Invasive Species" (COM (2008) 789 of the 18/12/2008). The relevant sections of DG Environment were extensively consulted with prior to the EMSA workshop in November 2008, and their work was reported to the Member States at this event. EMSA realises that the introduction of non-indigenous species through ballast water discharge is only one element within this strategy, but also recognise that there are many parallels and synergies when considering the management of ballast water and other introduction vectors in the marine environment, such as biofouling and aquaculture. For example: the risk assessment procedures being developed to identify high risk ballast water movements, use the same biological principles and baselines that apply to the assessment of high risk actions in other industries and for other vectors. Therefore, EMSA regards the work in this action programme as important not only for Member States to help them ratify the Convention and contribute to work of the Regional Sea Conventions, but also to help the European Commission achieve the aims and objectives of the

- Commission's Communication and Biodiversity Action Plan; and,
- Conclusions of the Environment Council of 25 June 2009.

As such EMSA will continue liaising with DG Environment on this matter to ensure that the Agency's work on ballast water is fully integrated and complimentary with their work in this area.

EMSA has also forged links with, and contributed to, the European Environment Agency's (EEA) feasibility study on the development of an "Early warning system on Invasive Alien Species".

Action 8: EMSA will maintain a liaison with DG Environment and the EEA over the introduction of non-indigenous species through ballast water discharge, to ensure that there is continuity between the different work programmes. EMSA will also react to requests for input into these programmes when necessary.

- Output: responding to requests for input as required.
- Timescale: ongoing, throughout the duration of EMSA's Ballast Water Action Programme.
- Extra Resources Needed: none, costs can be covered from existing budgets.

B) EMSA involvement at IMO and in the Regional Sea Conventions.

EMSA recognises that any tasks undertaken within this Ballast Water Action Programme should remain complementary to those of the Member States who have ratified, or are preparing to ratify, the IMO Ballast Water Convention. All of the proposals in our note of the 3rd April 2009 originated from suggestions made by the Member States at EMSA's workshop in November 2008. EMSA also acknowledges the importance of regional cooperation between Member States

to ensure consistency of approach and effectiveness of management interventions. As such we will continue to maintain a watching brief on developments at the IMO and within the Member States, and contribute to the important work of the Regional Sea Conventions in order to improve co-ordination between stakeholders and help the Member States to prepare for ratification.

Action 9: EMSA will maintain a watching brief on developments at the IMO and within the Member States, and contribute to the important work of the Regional Sea Conventions. EMSA, through the European Commission, will also react to requests for input into these programmes when necessary.

- Output: providing technical expertise on Ballast Water issues as appropriate and responding to requests for technical assistance from Member States and the Regional Sea Conventions as required. An Annual Report will be prepared in January each year, on the latest situation in Europe, for distribution to all stakeholders.
- Timescale: ongoing, throughout the duration of EMSA's Ballast Water Action Programme.
- Extra Resources Needed: none, costs can be covered from existing budgets.

C. Information Sharing

Throughout the development of this action plan EMSA will regularly provide updates to the Member States and the European Commission through Ballast Water Management Briefings and regular emails.

7. Conclusions

These 9 Actions have been identified as key areas in which EMSA and the European Commission can add significant value to the Member States during their preparations for ratifying the BWM Convention, and their work in developing interim strategies in the Regional Sea Conventions. Presently the work arising from these actions can be incorporated within existing budgets, however this may change in the future when specific actions or research is identified through liaison with Member States and the Commission, or discussion is held with other technical experts in EMSA. When this arises EMSA will attempt to find sources of additional funding to meet these actions.

EMSA will also limit their work on this issue to that related directly to ship operations, although it should be recognised that some issues may be relevant, or complimentary to, other areas of the European Commission's work. If this is the case EMSA will ensure that the relevant sections of the European Commission are fully informed and consulted.

Annex 1: Original proposals for a European Action Plan on Ballast Water in the EMSA note of the 3/4/2009

Short Term Proposals – within one year of the Action Plan being agreed

- Potential Action (PA) 1: Undertake a review of the risk assessments being utilised in ballast water management and analyse the appropriateness of each to the specific geography, geomorphology and shipping patterns in Europe;
- PA 3: Undertake a review of the different management measures available to the RSO Interim Strategies and the Member States, identifying common themes and problems and ways to overcome those problems, whilst addressing the opportunities/constraints for action when no management measures are available;
- PA 4: Identification of preventive management measures at the European Union level, in conjunction with PA1, in order to reduce the potential risk of introductions from long distance shipping entering, leaving and navigating through the waters of Member States and from shipping navigating between the RSO Interim Strategies being developed by Member States;
- PA 5: Development of a Correspondence Group to:
 - Clarify the relationship between the Biocide Directive and the IMO's G9 Guidelines, identifying and overcoming any practical implementation problems and concerns;
- PA 8: Identify opportunities for obtaining funding for research attached to these proposals, both within and external to the European Commission;
- PA 9: Identify opportunities for promoting information exchange through a European hosted web based ballast water portal.
- PA 10: Maintain a watching brief on the North Sea Ballast Water Opportunity Project to ensure that synergies are developed between the NSBWO and the proposals in this document and that the two projects do not overlap.

Medium Term Proposals – within one and a half years of the Action Plan being agreed

- PA 2: Based on the findings of PA 1, if necessary, develop guidance on:
 - data collection on ship's ballast water exchange and on invasive species in ports throughout the region (building on existing work, knowledge and survey regimes);
 - the granting of exemptions; and,
 - the identification and implementation of additional measures;
- PA 6: Undertake a feasibility study on whether and how European Union wide guidance on sampling for enforcement can be developed.

Medium to Long Term Proposals – within two years of the Action Plan being agreed

- PA 5: Development of a Correspondence Group to:
 - Identify ways to assess the issue of the potential effect of many ships discharging treated ballast water from approved treatment systems in an enclosed area, with respect to the effects of elevated residual chemicals.
- PA 7: Develop a technical co-operation and short term secondment programme to enhance cohesion and parity on ballast water sampling and analysis within the Member States.