

European Legislation - Ballast Water References.

EMSA Workshop on Ballast Water Issues

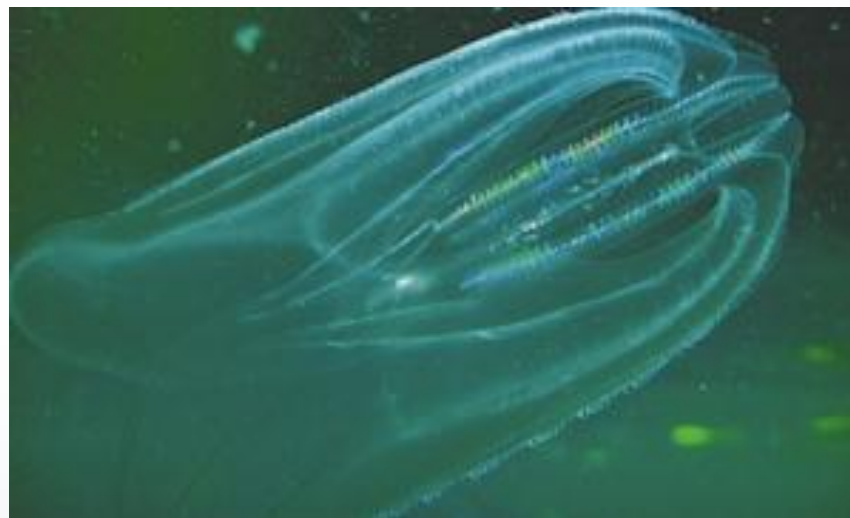
Lisbon
13th November 2013

Brian Elliott

Senior Project Officer for Environmental Protection

European Ballast Water Legislation

1. Alien Species;
2. Biocides;
3. MED; and
4. EMSA Founding Regulations;



The EU “Agenda” for Invasive Alien Species (1)

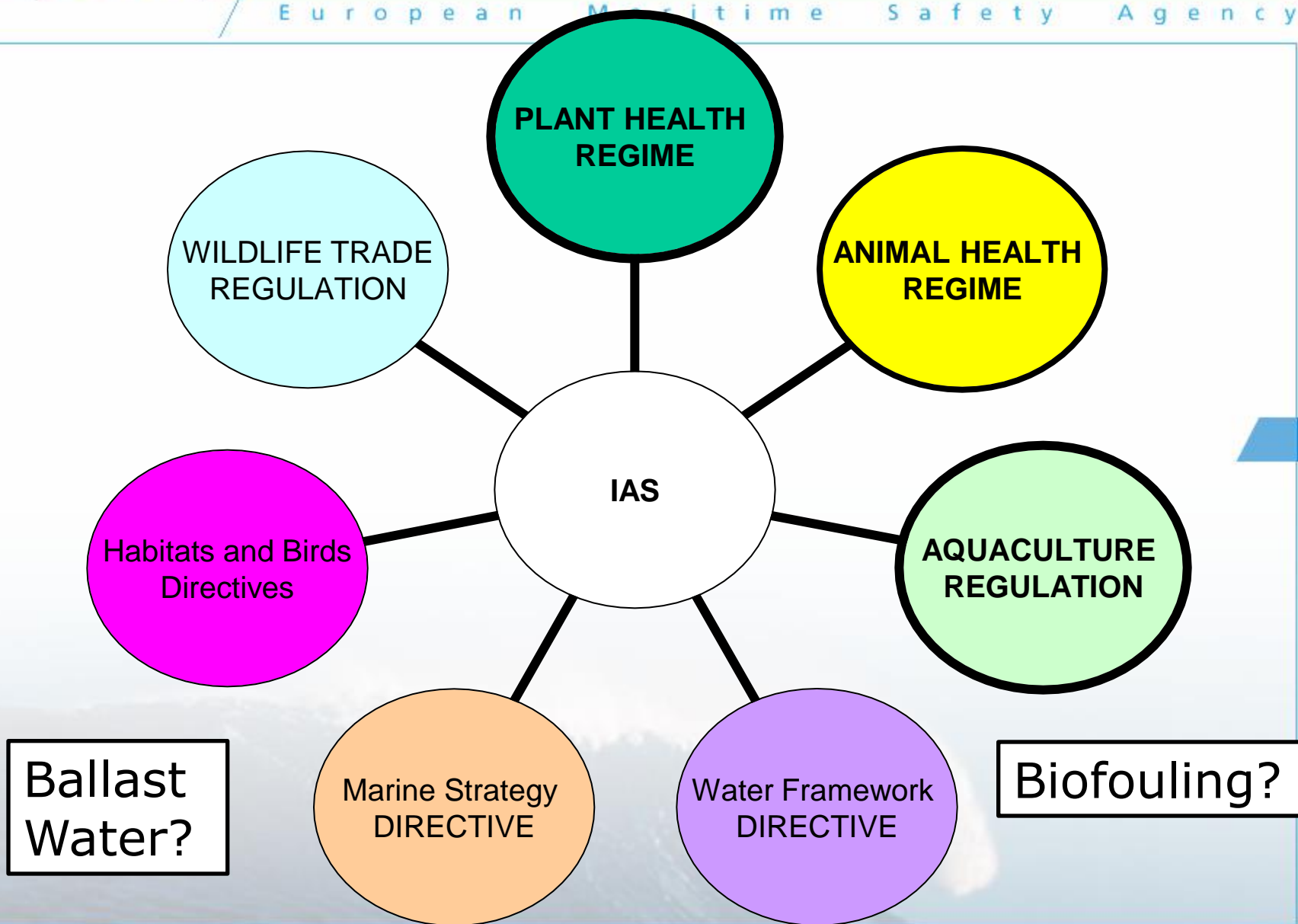
The problem: a major, rapidly growing cause of biodiversity loss, that is transboundary in nature.

Convention on Biological Diversity

- Three-stage hierarchical approach:
 - Prevention
 - Early detection and rapid eradication
 - Control and/or containment
- Commitment at COP 10 Nagoya (Oct 2010) – by 2020
 - IAS and pathways are identified and prioritized
 - priority species are controlled or eradicated
 - measures are in place to manage pathways to prevent IAS introduction and establishment

The EU “Agenda” for Invasive Alien Species (2)

- 2008 – Consultation/Working Groups with Stakeholders
 - Result : Communication “Towards an EU Strategy on Invasive Species”
- 2011 – EC adopted EU Biodiversity Strategy (May 2011)
 - Based on CBD commitments
 - Legislative Actions:
 - Action 15: Integrate additional biodiversity concerns into the Plant and Animal Health regimes by 2012
 - Action 16: Fill policy gaps in combating IAS by developing a dedicated legislative instrument by 2012



- Control rather than prevention
- Uncoordinated non-prioritized action

	AT	BE	BG	CY	CZ	DE	DK	EE	ES	FI	FR	GR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
General provisions																											
Risk assessment framework	▨	▨				▨					▨			▨			▨		▨								▨
Permitting system		▨	▨		▨	▨	▨	▨	▨	▨	▨		▨	▨		▨	▨	▨	▨	▨	▨	▨	▨	▨			
Inspection system									▨					▨													
A. Prevent intentional introduction in the EU																											
Specific IAS banned from Import		▨	▨				▨	▨	▨	▨	▨			▨		▨		▨	▨	▨			▨			▨	▨
Specific IAS banned from Sale						▨	▨	▨	▨	▨	▨		▨	▨		▨				▨		▨	▨				▨
Specific IAS banned from transport and/or holding						▨	▨		▨	▨	▨		▨	▨		▨		▨	▨	▨	▨	▨	▨				▨
B. Prevent unintentional introduction in the EU and unintentional release in the environment																											
Pathway management		▨					▨		▨				▨	▨						▨						▨	▨
C. Prevent intentional release into the environment																											
General ban from release in environment		▨	▨	▨	▨	▨	▨	▨	▨	▨	▨		▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨
Specific IAS banned from release in environment	▨		▨	▨		▨	▨	▨	▨	▨	▨	▨	▨	▨		▨		▨		▨		▨	▨	▨	▨	▨	▨
D. Early warning and Rapid Response																											
Information system	▨	▨	▨	▨	▨	▨		▨	▨	▨		▨	▨	▨	▨	▨	▨	▨	▨	▨			▨	▨		▨	▨
Surveillance and monitoring						▨		▨			▨				▨	▨	▨	▨	▨	▨	▨	▨			▨	▨	▨
Early warning and Rapid Response system	▨	▨			▨	▨	▨	▨		▨				▨		▨		▨	▨	▨	▨			▨		▨	▨
E. Management of established IAS																											
Eradication programmes		▨					▨		▨		▨		▨	▨				▨	▨	▨		▨	▨				▨
Management programmes		▨	▨	▨	▨	▨	▨	▨	▨	▨	▨		▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨
Restoration													▨			▨					▨	▨				▨	▨
Strategy	▨						▨		▨	▨	▨									▨							▨

EU Biodiversity Strategy

- Biodiversity Strategy 2011-2020, incl. target 5
 - IAS and pathways are identified and prioritised
 - Priority species are controlled or eradicated
 - Pathways are managed to prevent introductions and establishment of new IAS
- Action 15: integrate additional biodiversity concerns into plant and animal health regimes
- Action 16: establish a dedicated legislative instrument on IAS

Proposed regulation: guiding principles

- Prioritisation:
 - Smart use of resources, focusing on the worst IAS
 - Proportionality
- Focus on prevention
 - Internationally recognised approach
 - Avoid problems or tackle them at the onset
 - Avoid escalation and save resources
- Use existing instruments and coordination:
 - Minimise costs of application
 - Do full justice to action at national level
 - Balancing the need to coordinate action with flexibility

Proposed regulation: cost implications

–Business as usual:

- Total cost of €12 bio/year expected to increase
- Current cost of action of € 1,4 bio/yr expected to increase

Proposed measures:

- Initial additional cost of action of € 26-40 mio/yr
- Followed by decrease of cost of action below € 1,4 bio/yr
- Total cost would remain under control
- Magnitude of benefits to increase over time as increasing numbers of invasions are avoided

Regulation on Invasive Alien Species

- **Chapter 1: General provisions**

- Chapter 2:

Prevention

- Chapter 3:

Early Detection and Rapid Eradication

- Chapter 4:

- Chapter 5: Final provisions

Management of established IAS



Scope of the Regulation

Rules apply to all IAS except	Rationale
Species entering the EU as they adapt to climate change	Natural process of adaptation, do not cross ecological boundaries
GMOs	Not covered under the CBD definition
Diseases regulated under Animal Health Regime	No overlap between legislative instruments
Pests regulated under Plant Health Regime	No overlap between legislative instruments
Species in Annex IV aquaculture	Assessed by dedicated instrument
Micro-organisms approved as Plant Protection Product	Assessed by dedicated instrument
Micro-organisms authorised as Biocide	Assessed by dedicated instrument



Bans on IAS of Union concern

IAS of EU concern shall not intentionally be:

- Brought into or transited through the Union
- Permitted to reproduce
- Transported (except to facilities for eradication)
- Placed on the market
- Used or exchanged
- Kept or grown, including in contained holding
- Released into the environment

Rationale

- Worst species banned from the EU
- EU-wide action on common set of species
- Proportionate – focus on worst IAS, rather than ban every AS unless proven safe
- Unintentional introductions regulated through Art 11
- Derogations envisaged for research and ex-situ conservation – specific conditions Art 8



Action beyond the listed species

MS may set bans on IAS NOT listed a IAS of Union concern:

- Preliminary evidence – spp likely to meet criteria of Art 4
- Within 2 yrs – full risk assessment needed
- Trade, transport, internal market bans – notify Commission
- Possible extension EU level + national measures repealed

MS may tackle IAS of MS concern:

- Ban release with possible authorisations for certain releases

Rationale

- Possibility to act quickly on potentially very damaging IAS
- Anti-chamber of EU list
- Fully WTO and SPS compliant + in line with other EU laws
- MS prerogative to identify IAS problematic for their territory
- Foster EU wide precautionary approach to release into the environment
- Key opening for MS to exercise their prerogatives and protect their territory



Action plans on pathways of IAS

Measures

- MS analyse pathways and identify priority ones
- National action plan to be established for priority pathways
- Measures devised on basis of cost-benefit analysis
- Measures to range from awareness measures to regulatory measures
- Inform Commission on plans

Rationale

- Important to tackle unintentional introductions
- Flexibility to allow MS to tailor actions to their situations and territory
- Proportionate and decentralised – focus on priorities set by MS
- Flexibility allowing also know-how build up



Early detection and rapid eradication

Measures

- MS to immediately notify Commission and other MS of detection of IAS of Union concern – first time detection or re-appearance
- MS to proceed with rapid eradication
- Measures should be notified to Commission
- Due regard to human health, environment and animal welfare

Rationale

- Notifications are key for rapid reaction and preparedness
- Early action = best chance to avoid escalation of problem
- Early action = much cheaper than action at later stage
- Solve problem before massive impact felt



Management measures and restoration

Measures

- Obligation for MS to manage IAS of Union concern widely spread in their territory
- Management = eradication, control or containment
- Measures should be notified to Commission
- Due regard to human health, environment and animal welfare
- Proportionate restoration measures for ecosystems damaged by IAS

Rationale

- IAS of Union concern may be present in some MS
- Management action needed to mitigate their damage and avoid further spread to other MS
- Flexible and proportionate approach – MS can devise the measures fit for their circumstances

Implementing and delegated powers

Implementing Acts	Delegated Acts
To develop and update list of IAS of EU concern	To specify admissible scientific information and application of RA elements
To examine MS emergency measures, assess whether species is likely to meet criteria and, if so, establish EU wide emergency measures, otherwise ask MS to repeal national emergency measures	
To approve or reject MS applications for derogations from the rapid eradication obligation	

Timeline from entry into force

	Commission	Member States
Year 1	Establish list of IAS of Union concern	Put in place border control MS with ORs: develop OR specific lists
Year 1.5		Put in place surveillance system Analyse and prioritise pathways
Year 3		Action plan on pathways (every 4 yrs) First reporting to the Commission (every 4 yrs)
Year 5	Review and report to EP and Council	
Year 7		Review action plan on pathways Second report to the Commission
Gradual	Update of the list Develop information support mechanism	Propose IAS for listing with RA Prioritisation of pathway management based on experience acquired

From listing IAS

Immediately	Bans apply
Year 1	MS set management measures for widely spread IAS
Year 2	End transitional period for exhausting commercial stocks

From detection of IAS

Immediately	MS notify Commission and inform other MS
Month 3	MS start eradication (or apply for derogation)
End of programme	Notify Commission and inform MS of successful completion

From establishment of national emergency measures

Immediately	MS notifies Commission and inform other MS
Year 2	Deadline for MS to complete RA
After notification	Commission with Committee examines evidence and a) establishes whether measures justified and b) introduces EU-wide measures or ask MS to repeal national measures

The EU Bioicides Regulation

- As discussed earlier

The EU Marine Equipment Directive

- Preparations for amendment
- BWM Convention to be included with conditions
 - 1 Type Approval = 28 Type Approvals
- Rejected at COSS by the Member States 2011
 - Now left with no standard until after BWM Convention comes into force.
 - Each MS will have to Type Approve everything.

EMSA founding regulations, Regulation (EC) 1406/2002 (as amended)

- Ballast Water is an ancillary task
 - not covered by existing EU Legislation.
 - dictated by Article 2a of the Regulation

1. Without prejudice to the core tasks referred to in Article 2, the Agency shall assist the Commission and the Member States, as appropriate, in the development and implementation of the Union activities set out in paragraphs 2 and 3 of this Article related to the Agency's objectives, in so far as the Agency has established and recognised expertise and tools. The ancillary tasks set out in this Article shall:

- (a) create substantiated added value;
- (b) avoid duplication of efforts;
- (c) be in the interest of the Union maritime transport policy;
- (d) not be detrimental to the Agency's core tasks; and
- (e) not infringe upon Member States' rights and obligations, in particular as flag States, port States and coastal States.



Thank you



Ballast water sampling with thanks
to Mahle and GoConsult



Brian.Elliott@emsa.europa.eu
www.emsa.europa.eu