



Ref. T5/5.01

LC.2/Circ.432  
24 November 2003

**CONVENTION ON THE PREVENTION OF MARINE POLLUTION  
BY DUMPING OF WASTES AND OTHER MATTER  
(LONDON CONVENTION 1972)**

**Request for comments on the  
“Draft Procedures and Criteria for Determining and Addressing Emergency  
Situations as Referred to in Articles 8 and 18.1.6 of the 1996 Protocol”**

1 In October 2003, the Twenty-fifth Consultative Meeting approved the “Draft Procedures and Criteria for Determining and Addressing Emergency Situations as Referred to in Articles 8 and 18.1.6 of the 1996 Protocol”, as “work in progress”, and as set out in the annex hereto.

2 Contracting Parties are hereby kindly invited to review the Draft Procedures and Criteria and provide their comments as soon as possible, but not later than **Friday, 26 March 2004** to the address indicated at the end of this Circular Letter. This Letter has also been sent to Angola, Georgia, and Trinidad and Tobago, which are Contracting States to the 1996 Protocol, but not Contracting Parties to the London Convention 1972.

3 In preparing these Draft Procedures and Criteria, the Drafting Group, established under the lead of the United States, identified several issues still to be addressed and prepared recommendations for further work that the Consultative Meeting subsequently endorsed (LC 25/16, paragraphs 3.44 to 3.49). The Drafting Group’s substantive observations have been reproduced below.

4 The Drafting Group identified ambiguity in the Protocol with respect to emergency situations. Article 8 clearly applies to emergency situations involving the dumping of wastes or other matter not listed in Annex 1 to the Protocol or the incineration at sea of wastes or other matter. It was less clear whether Article 8 applies to emergency situations involving the dumping of wastes or other matter listed in Annex 1. However, the Group agreed that there would be emergency situations that involve materials listed in Annex 1 where a full and thorough waste assessment in accordance with Annex 2 to the Protocol may not be possible due to the urgency of the situation. To address this latter situation, the Draft Procedures and Criteria consider that **all** emergency disposals at sea is covered by Article 8.

5 The Drafting Group agreed that the list of potential alternatives to be considered (see paragraph 3.1.2 of the Draft Procedures) should be reordered, and/or revised, to reflect the priorities afforded to waste reduction/prevention and other waste management options in Annex 2 to the Protocol. The Drafting Group recommended that the Scientific Group should be requested to undertake this task.

6 The Drafting Group recognized that there would be additional aspects to be evaluated under paragraphs 3.1.1.3 (Risks to safety) and 3.1.1.4 (Risks to the marine environment) of the Draft Procedures and recommended that the Scientific Group should be requested to review these provisions closely.

7 The Meeting agreed that, in addition to, and simultaneously with, the reviews identified in paragraphs 5 and 6 above, the following reviews should be conducted of the Draft Procedures and Criteria:

- .1 by all Contracting Parties to the London Convention and Protocol;
- .2 generally by the Scientific Group; and
- .3 by other appropriate entities within IMO, particularly with respect to the risks to safety (paragraph 3.1.1.3 of the Draft Procedures and Criteria).

8 The Draft Procedures and Criteria will, therefore, be submitted to the twenty-seventh meeting of the Scientific Group (3 to 7 May 2004) for its review, to the IMO Maritime Safety Committee, with respect to the safety risks identified and, as a final draft, to the Twenty-sixth Consultative Meeting (1 to 5 November 2004) for its consideration. This activity is undertaken on the understanding that the Draft Procedures and Criteria will eventually be submitted for approval by the Meeting of Contracting Parties to the 1996 Protocol once this Protocol has entered into force.

9 Comments should be sent to:

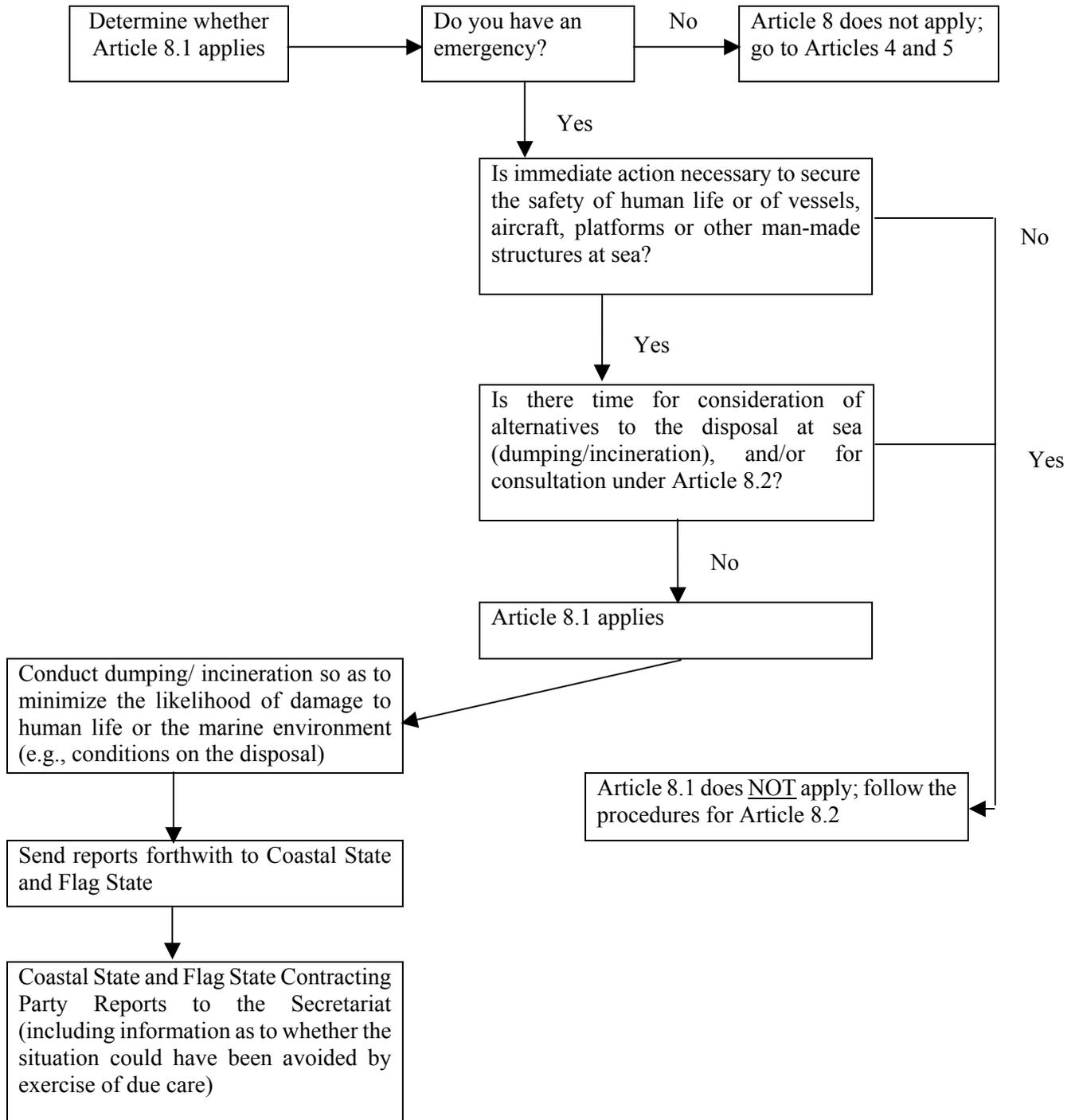
International Maritime Organization (IMO)  
Attention of Mr. René Coenen  
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ANNEX

**DRAFT PROCEDURES AND CRITERIA FOR DETERMINING AND ADDRESSING  
EMERGENCY SITUATIONS AS REFERRED TO IN ARTICLES 8 AND 18.1.6  
OF THE 1996 PROTOCOL**

**Flow chart for Application of Article 8.1 - Emergency Exception**



## 1 INTRODUCTION

1.1 Under Article 8.1 of the 1996 Protocol, a permit is not required for the disposal of wastes or other matter at sea when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of *force majeure* caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping or incineration at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping or incineration at sea will be less than would otherwise occur. Such dumping or incineration at sea shall be conducted so as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the Organization.

1.2 Under Article 8.2 of the 1996 Protocol, a Contracting Party may issue a permit for the disposal of wastes or other matter at sea in emergencies posing an unacceptable threat to human health, safety or the marine environment and admitting of no other feasible solution. Before doing so the Contracting Party shall consult any other country or countries that are likely to be affected and the Organization which, after consulting other Contracting Parties, and competent international organizations as appropriate, shall, in accordance with Article 18.1.6 promptly recommend to the Contracting Party the most appropriate procedures to adopt. The Contracting Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organization of the action it takes. The Contracting Parties pledge themselves to assist one another in such situations.

1.3 In this connection Article 18.1.6 states that Contracting Parties may develop or adopt, in consultation with competent international organizations, procedures referred to in Article 8.2 including:

- .1 basic criteria for determining emergency situations; and
- .2 procedures for consultative advice and the safe disposal of matter at sea in such circumstances.

## 2 ACTION TO IMPLEMENT ARTICLE 8.2

2.1 In cases of Article 8.2 emergency, more time (than under Article 8.1 emergency) is likely to be available, e.g. for prior consultation, for consideration of other alternatives, and for consideration of conditions in relation to disposal at sea. However, in some cases Article 8.2 emergencies are situations requiring action with a marked degree of urgency, and which may preclude thorough consultations and evaluations. In these cases, the Contracting Party would notify IMO as to the actions taken.

2.2 In the implementation of the above provisions the following sequence of actions can be envisaged:

- .1 In order to decide that an emergency under Article 8.2 does in fact exist, the Contracting Party proposing to issue a permit for the disposal of wastes or other matter at sea would:
  - .1 investigate the situation to decide whether or not it poses an unacceptable risk relating to human health, safety or the marine environment; and

- .2 investigate possible alternative methods of disposal in order to decide that no feasible solution other than disposal at sea can be found.
- .2 Having decided that disposal at sea is necessary, the Contracting Party concerned would:
  - .1 consult with other countries that may be affected;
  - .2 consult with the Organization for recommendations as to the most appropriate procedures to adopt; and
  - .3 consult with any relevant regional agreements or programmes, as appropriate.
- .3 Upon being informed of the situation, the Organization would:
  - .1 consult with other Contracting Parties;
  - .2 consult with other competent international organizations; and
  - .3 decide upon and promptly recommend to the Contracting Party the most appropriate procedures to adopt.
- .4 In issuing the permit for the disposal at sea the Contracting Party concerned would:
  - .1 follow the Organization's recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment; and
  - .2 inform the Organization of the action taken.

2.3 For Contracting Parties being also Contracting Parties to a regional agreement on the prevention of marine pollution by dumping, a consultation procedure adopted within that regional agreement may be substituted for the above procedures provided that it is consistent with the requirements set out below. The Secretariat of the regional agreement will immediately submit any information on emergency situations to the Organization, which will then follow, as necessary and appropriate, the procedures developed within the framework of the 1996 Protocol to the London Convention 1972 taking into account the procedure being followed under the regional agreement. In case a consultation procedure adopted within a regional agreement is applied, the Contracting Party concerned should report **both** to the Organization **and** the relevant regional organization.

### **3 ACTION TO BE TAKEN BY THE PARTY CONCERNED**

#### *3.1 Assessment of the emergency situation*

3.1.1 With reference to paragraph 2.2.1 above, it is apparent that when an emergency situation involving the disposal of wastes or other matter at sea occurs, the first step to be taken by the Contracting Party is to assess the threat or risk to human health, safety or the marine environment. Such assessment should include the following:

- .1 The circumstances of the emergency:
  - .1 type including chemical composition of material involved;
  - .2 location and cause of release;
  - .3 amount lost into the environment; and
  - .4 potential for further release and expected rate;

#### **Risks relating to human health**

- .2 The risks relating to human health with regard to:
  - .1 toxicity to human life:
    - by inhalation;
    - by ingestion;
    - by skin absorption;
  - .2 method of contact:
    - direct contact with material;
    - water supply;
    - food source;
  - .3 the impact on health of present and future generations:
    - chronic toxicity;
    - carcinogenic, teratogenic and mutagenic properties of the material;
    - potential for causing long-term effects;

#### **Risks to safety**

- .3 The risks relating to safety with regard, *inter alia*, to:
  - .1 the risk to the vessel, aircraft, platform or other man-made structure and to other vessels, aircraft, platforms, or other man-made structures in the area;
  - .2 the risk to human life;

#### **Risks to the marine environment**

- .4 The risks relating to the marine environment with regard, *inter alia*, to:
  - .1 acute and chronic toxicity;
  - .2 short and long range transport of air pollutants from incineration;
  - .3 risk to commercial or recreational fisheries from toxicity and tainting;
  - .4 the impact of disposal at sea versus uncontrolled release;
  - .5 habitat destruction or alteration; and
  - .6 other marine environmental quality concerns.

3.1.2 Disposal at sea (i.e., dumping or incineration) should only be considered by the Contracting Party after an evaluation of the feasibility of alternative methods of disposal, taking into account the following factors:

- .1 Alternatives to be considered, including:
  - .1 landfill and soil disposal;
  - .2 well injection;
  - .3 incineration on land;
  - .4 reclamation and recycling;
  - .5 biological, chemical or physical treatment;
  - .6 storage; and
  - .7 partial treatment prior to ocean disposal.
- .2 Assessment of the environmental impact of each alternative:
  - .1 adverse environmental effects of alternative actions;
  - .2 impact on living and non-living marine resources, navigation, recreation and other uses of the ocean; and
  - .3 evaluation to determine which alternative has least overall environmental impact.
- .3 The disposal site designation and monitoring:
  - .1 physical, chemical and biological information relating to the proposed disposal site;
  - .2 proposed method of release of material at the site;
  - .3 proposed times and dates of disposal; and
  - .4 monitoring to assess the impact of the material on the marine environment.

### 3.2 *Consultation*

3.2.1 With reference to paragraph 2.2.2 above, once it has been determined that an unacceptable risk to human health, safety or the marine environment exists and that ocean disposal is the only feasible solution the Contracting Party shall consult with other countries which may be affected, and with the Organization. The information provided initially by the Contracting Party will be dependent upon the urgency of the emergency situation.

3.2.2 All the significant information used in making the determinations in 3.2.1 above, in light of the criteria listed in 3.1 above, should be provided to other countries which may be affected, and to interested regional agreements or programmes as appropriate, and include:

- .1 type including chemical composition of material;
- .2 amount of material to be disposed, location of disposal site and dates of disposal;
- .3 risk to human health, or safety of human life or vessels;
- .4 potential adverse impacts on the marine environment;
- .5 alternatives considered;
- .6 potential impact of action/no action on other countries;
- .7 proposed actions to minimize potential adverse impacts; and
- .8 proposed monitoring programme to determine impact.

3.2.3 At a minimum, the information provided to other countries (paragraph 3.2.2 above) should be submitted to the Organization and also include:

- .1 countries the Party has consulted with;
- .2 recommendations of the other countries;
- .3 extent to which the recommendations have been adopted.

In addition, the Contracting Party should submit to the Organization all significant information mentioned in paragraph 3.1 above.

#### **4 ACTION TO BE TAKEN BY THE ORGANIZATION**

##### *4.1 Consultation within the Organization*

4.1.1 In implementation of paragraph 2.2.3 above the Organization should undertake a review of the submissions by the Contracting Party to ensure that it has done the following:

- .1 demonstrated an unreasonable risk to human health, safety or the marine environment;
- .2 evaluated other alternatives and found no other feasible solution;
- .3 avoided damage to the marine environment to the maximum extent possible;
- .4 established procedures to monitor the impact of the proposed action; and
- .5 consulted with other countries that may be affected and incorporated their recommendations into the proposed action where appropriate and feasible.

4.1.2 If the Organization finds that further review and analysis is needed, the following action should be taken:

- .1 refer specific questions to competent international organizations;
- .2 consult with other Contracting Parties or countries which may be affected; and/or
- .3 consult with independent experts nominated by Contracting Parties.

##### *4.2 Recommendations by the Organization*

4.2.1 The Organization should, after consultation with other competent international organizations, experts and Contracting Parties, as appropriate, promptly recommend appropriate procedures that should be adopted by the Contracting Party prior to disposal. Due account should also be taken of any recommendations made by countries which may be affected by the proposed action. The Contracting Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken.

#### **5 REPORTING BY THE PARTY ON ACTION TAKEN**

The Party shall inform the Organization forthwith of the action taken and may provide any additional facts relating to the disposal of the material it considers appropriate. The Secretariat should inform all Parties of the emergency situation and actions taken as soon as practicable.

## **6 PROCEDURE FOR CONSULTATION**

6.1 With a view to facilitating consultation among Contracting Parties and with competent international organizations, it would seem appropriate for each Contracting Party to designate a specific officer to act as a “focal point” for all communications of this nature. The Secretariat would collect the requisite information from Governments (name, designation, address, telephone and fax numbers, email, etc.) and prepare a comprehensive list for circulation to all concerned. The Secretariat would also communicate with other organizations including UNEP, WHO, FAO, UNESCO/IOC, UN and IAEA in order to arrange for the nomination of a suitable “focal point” in each case to expedite consultations relative to the 1996 Protocol.

6.2 Upon being informed by the Contracting Party concerned of the circumstances of the emergency situation including the views of other States consulted by the Contracting Party, the Secretariat should proceed to arrange for consultations with a view to formulating appropriate recommendations. As a general rule, consultations will occur by telephone, email, fax, conference calls, and/or video conference. In rare circumstances, the Secretariat may convene a Special Meeting of Contracting Parties or a smaller panel of Contracting Parties, provided the urgency of the situation allows enough time.

6.3 It also seems possible that consultation with other competent international organizations might proceed simultaneously with, and in a similar manner as, consultation with other Contracting Parties. The Contracting Parties might also consider the possibility of including countries likely to be affected in such consultations.

6.4 To facilitate the consideration of future cases involving emergency disposal at sea, the Secretariat will assemble and keep on file for ready reference information on actual cases dealt with, including details of methods of disposal adopted, etc.

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