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CONVENTION ON BIOLOGICAL DIVERSITY: OBLIGATIONS IMPOSED ON COASTAL STATES TO PREVENT THE INTRODUCTION OF ALIEN MARINE SPECIES

BOSE LAWAL*

Abstract

There are various organisms living in the maritime territories of Coastal States. Although, these organisms may not pose any threat to their environment, but when they are introduced or transferred to another Coastal region, there is high tendency that they pose threat to the marine biodiversity and ecosystems of the host Coastal State. In order to forestall the transfer of these alien organisms or species, the Convention on Biological Diversity, 1992, imposes numerous obligations on Coastal States. To aid the implementation of the obligations, the Conference of the Parties to the Convention on Biological Diversity adopted fifteen Guiding Principles to be implemented by State Parties to the Convention. Where these obligations together with the mechanisms set out for the implementation of the obligations are strictly adhered to by Coastal States, there would be a world ocean devoid of harmful alien species, and conservation of biological diversity, sustainable use of its components and the fair and equitable sharing of the benefits arising thereof among nations would be rapidly effected.

Introduction

Coastal States have many obligations under various international instruments ratified by each of the States towards the protection of their coastal jurisdictions. Prior the adoption of the *International Convention for the Management and Control of Ship's Ballast Water*

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and Sediments, 2004,¹ only two international conventions reference the problem of the transfer of alien species,² they are the *United Nations Convention on the Law of the Sea*, 1982 (LOSC),³ and the *Convention on Biological Diversity of the United Nations Conference on the Environment and Development* (CBD), 1992.⁴

Alien species are mostly introduced unintentionally into the host marine environment through ships' ballast water.⁵ Being alien to the host marine environment, they always have negative and positive effects. But, the negative impacts of these alien species outweigh their positive impacts, thereby causing threats to the host marine

1 International Convention for the Control and Management of Ship's Ballast Water and Sediments, IMO Doc. BMW/CONF/36, 16 February 2004, [hereinafter BMWCI].

2 The BMWCI refers to alien species as Harmful Aquatic Organisms and Pathogens (HAOP). They may also be referred to as non-indigenous species, invasive species, etc. Thus, they are used interchangeably. See United Nations Environment Programme (UNEP), Subsidiary Body on Scientific, Technical and Technological Advice, Invasive Alien Species: Status, Impacts and Trends of Alien Species that threaten Ecosystems, Habitats and Species, (United Nations doc. UNEP/CBD/SBSTTA/6/INF/11, 2001) at 5, available online: < <http://www.cbd.int/doc/meetings/sbstta/sbstta-06/infomation/sbstta-06-inf-11-en.pdf> > accessed on December 03, 2012.

3 United Nations Convention on the Law of the Sea, 10 December, 1982, 1833 U.N.T.S. 3, [hereinafter LOSCI]. For the responses of the LOSC, See, Bose Lawal, "Guarding the Seas against Invasive Aquatic Species: Responses of the Law of the Sea Convention", *LASU Law Journal*, Vol. VIII, Nos. 2 & 3, Dec. 2011/Jan. 2012, pp. 47-56.

4 Convention on Biological Diversity of the United Nations Conference on the Environment and Development, 5 June 1992, 31 I.L.M. 818, [hereinafter CBD].

5 Ballast "is any material used to weight and/or balance an object." (See, GlobalBallast Partnerships, "The Problem", available online: < http://globallast.imo.org/index.asp?page=get_interv_project.htm >, accessed on January 13, 2013), while ballast water is the "water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of the ship." (See, art. 1(8) of the BMWCI). Ordinarily, ballast water is the port's sea water taken on board the ships' tanks to stabilize the ship during voyage in the absence of cargo or inadequate cargo to balance the ship during its voyage. (See, S.A. Lawal, Ballast Water Management Convention, 2004: Towards Combating Unintentional Transfer of Harmful Aquatic Organisms and Pathogens (LL.M Thesis, Schulich School of Law, Dalhousie University, Halifax, Nova Scotia, Canada, August 2010), [unpublished] available online: < <http://dalspace.library.dal.ca/dspace/handle/10222/14184> >, p. 16, accessed on November 08, 2012.

environment.⁶ According to Charlotte de Fontaubert, et al, "This can upset predator-prey relationships (where in the absence of predators, the introduced species may supplant native species) and introduce previously unknown diseases and pathogens. For communities dependent on the harvesting of native fish species, this can have devastating social and economic consequences."⁷

In an attempt to avoid the negative impacts of alien species to the Coastal States and their marine environments, the CBD *inter alia* imposes obligations on coastal States towards the control of alien species in order to prevent their introduction, and the threat they pose to the coastal ecosystems and biodiversity. State Parties to the Convention are all bound by the obligations imposed under the Convention.

This article seeks to examine the obligations imposed on Coastal States as parties to the CBD towards combating the unintentional spread of alien species and the mechanisms set up in the Guiding Principles adopted for purposes of achieving the aims of the Convention, mostly in respect of Article 8(h) of the Convention. The article contains the introduction, the historical perspective of the CBD, the obligations imposed on Coastal States to prevent the introduction of alien species, and the Guiding Principles adopted to aid the implementation of its Article 8(h). The Guiding Principles involve the Precautionary approach, the Three-stage hierarchical approach and the Ecosystem approach. This discourse is relevant to prevent the negative impacts of alien species in Coastal regions. For

6 For the concept and impacts of alien species, See, Bose Lawal, "Guarding the Seas against Invasive Aquatic Species: Responses of the Law of the Sea Convention", note 4 above, pp. 46-49. See also, S.A. Lawal, Ballast Water Management Convention, 2004: Towards Combating Unintentional Transfer of Harmful Aquatic Organisms and Pathogens, note 6 above, pp. 27-35.

7 A. Charlotte de Fontaubert, David R. Downes & Tundi S. Agardy, Biodiversity in the Seas: Implementing the Convention on Biological Diversity in Marine and Coastal Habitats, (Cambridge, United Kingdom: IUCN Publications Service, 1996), p. 7.

instance, a report in 1999 showed that Nigeria is highly invaded by 269 different threatened species,⁸ while Benin, its neighbour to the West, is invaded with 55 different threatened species.⁹ If the invasions are not curtailed, there is tendency that the biological diversity of the two countries be reduced or lost in totality. This paper concludes that if parties and non-parties¹⁰ to the Convention were to adhere strictly by the provisions of the Convention, the world coastal ecosystems and biodiversity will be free from menaces caused by unintentional transfer of alien species, and a safer environment will ensue for all.

The Historical Perspective of the Convention on Biological Diversity, 1992

The LOSC makes holistic provisions on the obligations of States towards the protection of marine environments.¹¹ Ten years after the adoption of the LOSC, the CBD was adopted. The CBD is a multilateral environmental agreement (MEA) that was adopted in 1992 by the United Nations Conference on Environment and Development, in Rio de Janeiro, Brazil. It came into force in 1993, and as at November 10, 2012, there are 193 parties to the Convention.¹²

⁸ The threatened species include all flora and fauna, of which aquatic organisms form part. See, UNdata, "Country Profile", available online: <=>, accessed on November 10, 2012.

⁹ UNdata, "Country Profile", *ibid*.

¹⁰ Although as a non-party to the Convention, they are not bound by the provisions of the Convention, but to aid the prevention of the spread of alien species, it is advisable for non-parties to also implement the provisions.

¹¹ J. Charney, "The Marine Environment and the 1982 Law of the Sea Convention" (1994) 28 International Law 879, referenced in Moira L. McConnell, "Ballast and Biosecurity: The Legal, Economic and Safety Implications of the Developing International Regime to Prevent the Spread of Harmful Aquatic Organisms and Pathogens in Ships' Ballast Water" (2003) 17 Ocean Yearbook 213 at p. 236.

¹² UNEP, "List of Parties", available online: <http://www.cbd.int/convention/parties/list/>, accessed on November 10, 2012.

The principal aim of the Convention is the conservation of biological diversity, sustainable use of its components and the fair and equitable sharing of the benefits arising thereof.¹³ In order to achieve this aim, the Convention apportions responsibilities on Coastal States over their marine environments and biodiversity. This is stemmed from the fact that "States have sovereign rights over their own biological resources"¹⁴ and as biological diversity is being reduced significantly by human activities, it is the duty of State to curtail these human activities in order to prevent the spread of alien species. On what biological diversity is, the Convention defines it as "the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this include diversity within species, between species and ecosystems".¹⁵ According to the Convention, "Ecosystem" means "a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit."¹⁶

Taking a view from the aim of the Convention as noted above, the Convention is therefore a complement to the LOSC regarding State obligations to protect fragile marine environments and habitats.¹⁷ It is primarily targeted at coastal States, and a State Party to this Convention cannot implement it in a way as to conflict with the LOSC. This is because the CBD specifically provides that ".... Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea."¹⁸ Thus, the approaches

¹³ Article 1 of CBD.

¹⁴ *Ibid*, at preamble.

¹⁵ *Ibid*, Article 2.

¹⁶ *Ibid*.

¹⁷ Meinhard Doelle, Moira L. McConnell & David L. VanderZwaag, "Invasive Seaweeds: Global and Regional Law and Policy Responses" (2007) 50 *Botanica Marina* 438 at 440.

¹⁸ Article 22(2) of CBD.

recommended under the Convention to combat alien species must not contradict the provisions of LOSC.

Because the CBD is widely ratified, it offers an opportunity to develop a broad global approach to both intentional and unintentional introduction of harmful alien organisms, as well as combating the threat these organisms pose to biodiversity.¹⁹ As noted above, the transfer of alien species into a coastal region may drastically reduce the natural inhabitants of that coastal environment, and invariably the loss of the inhabitants. As a result of these negative impacts, the Convention is therefore of utmost importance in the protection of biodiversity, as it noted under its provisions, the vitality “to anticipate, prevent, and attack the causes of significant reduction or loss of biological diversity at source.”²⁰ To actualize this objective, Coastal States are apportioned responsibilities under the Convention. These obligations are hereunder considered.

Obligations of Coastal States to Prevent the Introduction of Alien Species

In order to avoid the negative impacts of alien species on the host biodiversity, it is incumbent on the Coastal State Party to identify components of biological diversity important for its conservation and sustainable use.²¹ Generally speaking, Article 7 places on State Parties the duty to identify processes and categories of activities which have or are likely to have significant adverse effects on the conservation and sustainable use of biological diversity, and to monitor their effects through sampling and other techniques.²²

19 See Lyle Glowka & Cyrille de Klemm, “International Instruments, Processes, Organizations and Non-Indigenous Species Introductions: Is a Protocol to the Convention on Biological Diversity Necessary?” in Odd Terje Sandlund, Peter Johan Schel & Aslung Viken, *Invasive Species and Biodiversity Management* (Boston, London: Kluwer Academic Publishers, 2001) at 390.

20 See, CBD, note 5 above, at Preamble.

21 Article 7(a).

22 Article 7(c).

Narrowing down the provision of Article 7 to the identification of alien species that may hinder the conservation and sustainable use of biological diversity, the Convention provides in Article 8(h) that “Each Contracting Party shall, as far as possible and appropriate prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species.”²³ Because Article 8(h) of the Convention has directed all Contracting States to prevent the introduction of alien species, then, the obligation is binding on all Contracting States to abide by the provision. According to Christopher J. Patrick, the CBD provisions impose an obligation to address the problem of alien species through ships’ ballast water. So, Parties to the Convention are obliged to regulate, control or eradicate alien species through ships’ ballast water²⁴

Although the Convention has made a clear provision regarding the control, introduction and eradication of all alien species that threaten the ecosystems and habitats, it has however failed to offer specific implementation of this obligation. The reason for this omission might be connected with the fact that the Convention is generally directed towards the conservation of marine biological diversity.

Having identified the obligation of State Parties towards the eradication or prevention of alien species in their coastal environments, how do we determine the landscape limitation by which a coastal State may enforce this obligation? Specifically, Article 4 makes provision for the jurisdictional scope within which a State may exercise the right to prevent the introduction of alien species. The Article states that:

...the provisions of this Convention apply, in relation to each Contracting

23 Article 8(h).

24 Christopher J. Patrick, “Ballast Water Law: Invasive Species and Twenty-Five Years of Ineffective Legislation” (2009) 27:1 Va Env’tl L 67 at 75.

Party:

- (a) *In the case of components of biological diversity, in areas within the limits of its national jurisdiction, and*
- (b) *In the case of processes and activities regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.*²⁵

This in essence means the obligations under the CBD deal to some extent to waters under "national jurisdiction". So, each Party must take proper action in order to protect all components of its coastal and marine biodiversity within its national jurisdiction.²⁶ According to the Law of the Sea, and as enshrined in the LOSC, coastal States have jurisdictional rights over vast areas of "marine realm, including inland waters, the territorial sea, the contiguous zone, the exclusive economic zone (EEZ), and parts of the continental shelf."²⁷

Furthermore, in order to implement the obligations conferred on parties under this Convention, parties must develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt existing strategies, plans or programmes that will reflect amongst others, the measures set out in

²⁵ Article 4.

²⁶ See, A. Charlotte de Fontaubert, David R. Downes & Tundi S. Agardy, *Biodiversity in the Seas: Implementing the Convention on Biological Diversity in Marine and Coastal Habitats*, note 8 above, at p. 2.

²⁷ *Ibid.* For "jurisdictional limits and the Enforcement of Obligations under the LOSC", see, Bose Lalwal, "Guarding the Seas against Invasive Aquatic Species: Responses of the Law of the Sea Convention", note 4 above, pp. 51-55.

the Convention which are relevant to the State Party concerned.²⁸ It is also mandatory on all Contracting States to integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into their regional and national plans, policies and programmes.²⁹

In addition, the CBD requires regional or global co-operation. Under Article 5, parties are obliged to co-operate either directly or through international organizations to protect biodiversity outside their national jurisdictions as far as possible and as appropriate.³⁰ Article 14(1)(c) also makes provision for Contracting Parties to promote the conclusion of "bilateral, regional or multilateral arrangements"³¹ regarding any activities within their jurisdiction or control that are likely to adversely affect the biological diversity of other States or areas beyond their national jurisdiction.³² These provisions agree with Article 196 of LOSC.

In particular, Article 5 and 14 of the CBD are very relevant to this discourse because alien species are transferred across national boundaries and the high seas, through international shipping.³³ Nevertheless, it is my humble opinion that the sweeping language of Articles 5, 6(b), 8 and 14 asking Parties "*as far as possible and as appropriate*" to co-operate to protect creates room for non-observance by some parties, mostly from developing nations, who may consider it impossible and inappropriate to implement the measures necessary to combat the transfer of injurious alien species.

²⁸ Article 6(a).

²⁹ Article 6(a).

³⁰ Article 5.

³¹ Article 14(1)(c).

³² *Ibid.*

³³ A. Charlotte De Fontaubert, David R. Downes & Tundi S. Agardy, "Biodiversity in the Seas: Implementing the Convention on Biological Diversity in Marine and Coastal Habitats" (Spring 1998) 10 *Geo. Int'l Envtl. L. Rev.* 753 at 804.

To implement the above obligations that are imposed on State Parties, financial and technical know-how are required. These may hinder parties to the Convention, mostly the developing nations from implementing the obligations. To this end, the CBD acknowledged the incapacity of the developing nations, and thus makes provision for financial and technical assistance, by stating that "...special provisions (will be) required to meet the needs of developing countries, including the provision of new and additional financial resources and appropriate access to relevant technologies."³⁴

Clearly stating the relationship of the Convention with other international conventions, Article 22 provides that, the provisions of the CBD shall not affect the rights and obligations of any party under any existing Conventions.³⁵ It specifically lays emphasis that the implementation of the CBD with respect to the marine environment must be done consistently with the rights and obligations of States under the LOSC.³⁶ As noted earlier, while a coastal State may exercise its jurisdictional rights, "the Biodiversity Convention's obligations apply within these jurisdictional zones, insofar as they are consistent with rights and obligations under the law of the sea."³⁷

As noted above, the CBD did not make a specific provision regarding the implementation of the obligations it imposes on States under Article 8(h). As a result of this, there was the need to have a more specific guidance on implementing the obligation under this Article.³⁸ This necessity caused the Subsidiary Body on Scientific, Technical,

and Technological Advice (SBSTTA), at its fifth meeting in 2000, to develop and recommend fifteen (15) Interim Guiding Principles for the effective implementation of the CBD's Article 8 (h).³⁹

Guiding Principles to Aid the Implementation of Article 8(h) of the Convention on Biological Diversity

In May 2000, the Conference of the Parties to the Convention on Biological Diversity (COP), at its fifth meeting urged that the Interim Guiding Principles recommended by the SBSTTA be accepted and implemented.⁴⁰ The fifth COP urges Parties "to develop mechanisms for transboundary co-operation and regional and multilateral co-operation" regarding the problem of aquatic invasive species.⁴¹

The Guiding Principles annexed to the decisions are meant to aid the implementation of Article 8(h). The decision itself requires the Global Invasive Species Programme (GISP) to adopt ecosystem, precautionary and bio-geographical approaches and to ensure

39 SBSTTA 5 Recommendation V/4, available online: <<http://www.cbd.int/recommendations/sbstta/>> and <<http://www.cbd.int/recommendation/sbstta/?id=7021>>, both accessed on November 08, 2012.

The fifth SBSTTA meeting was held in Montreal between 31 January and 4 February, 2000. Although, the Interim Guiding Principles are non-binding, it is easier for States to formulate policies and approaches which may likely get a wider acceptance. However, as a non-binding instrument, it "cannot require Parties to implement basic common norms for legislation, decision-making criteria, environmental and risk assessment procedures and management and control measures." See, Secretariat of the Convention on Biological Diversity (2001), Review of the Efficiency and Efficacy of Existing Legal Instruments Applicable to Invasive Alien Species, Montreal, Canada, (CBD Technical Series No. 2), p. 23, at par. 131.

40 COP 5 Decision V/8, from the 5th Conference of Parties, Alien Species that Threaten Ecosystems, Habitats and Species, available online: <<http://www.cbd.int/decisions/cop/>>, <<http://www.cbd.int/decisions/cop/?m=cop-05>> and <<http://www.cbd.int/decision/cop/?id=7150>>, all accessed on November 08, 2012. See also

Suzanne Boström, "Halting the Hitchhikers: Challenges and Opportunities for Controlling Ballast Water Discharges and Aquatic Invasive Species," (Summer 2009), 39:3 *Env'tl L.* 867-914, at 879.

41 COP 5 Decision V/8, *ibid.*, par. 6 and 7.

34 CBD, at Preamble.

35 Article 22(1).

36 Article 22(2).

37 A. Charlotte de Fontaubert, David R. Downes & Tundi S. Agardy, note 8 above, p. 2-3.

38 Article 8(h) of CBD.

consistency with the provisions on alien invasive species under Articles 8(h) and 14 of the CBD.⁴² According to Christopher Patrick, the GISP was founded in 1997, to specifically address the issue of alien species and to help support national implementation of Article 8 of the CBD, including alien species introduced into the marine ecosystem.⁴³

The Guiding Principles were finalized in 2001 by SBSTTA,⁴⁴ and endorsed by the sixth meeting of the COP in 2002.⁴⁵ The parties reaffirmed their decision that “full and effective implementation of Article 8(h) is a priority”⁴⁶ to be attained in order to combat the threat of alien species, and to this, the final Guiding Principles were directed.⁴⁷

Taking into cognisance the differences among States regarding their political and socio-economic status that would affect efforts to implement the Guiding Principles, the COP urges Parties and other governments to identify *inter alia* the national needs and priorities of their States “when developing, revising and implementing national biodiversity strategies and action plans to address the threats posed by invasive alien species.”⁴⁸ Parties and other governments are also required to make use of risk assessment/analysis to address the problem and to promote and carry out research and assessment on the features of invasive species, the vulnerability of the marine ecosystems and habitats to invasions by the alien species.⁴⁹

42 COP 5 Decision V/8, *ibid.*, par. 8 and 10.

43 Christopher J. Patrick, “Ballast Water Law: Invasive Species and Twenty-Five Years of Ineffective Legislation,” note 25 above, at 76.

44 SBSTTA 6 Recommendation VI/4 (UNEP/CBD/SBSTTA/6/INF/11), available online: <<http://www.cbd.int/recommendation/sbstta/?id=7035>>, accessed on November 08, 2012.

45 See, COP 6 Decision VI/23, Guiding Principles for the Prevention, Introduction and Mitigation of Impacts of Alien Species that Threaten Ecosystems, Habitats or Species, available online: <<http://www.cbd.int/decisions/cop/> and <http://www.cbd.int/decision/cop/?id=7197>>, accessed on November 08, 2012.

46 COP 6 Decision VI/23, *ibid.*, par. 1.

47 COP 6 Decision VI/23, *ibid.*, par. 5.

48 COP 6 Decision VI/23, *ibid.*, see generally, par. 10.

49 COP 6 Decision VI/23, *ibid.*, par. 12 and 24.

These Guiding Principles deal *inter alia*, with the regulation of the pathways for unintentional introduction of alien invasive species. For this, States must put in place relevant legal and institutional regimes.⁵⁰ As well, at the national and regional levels, parties and governments must develop and provide technical tools and information that will aid efforts at preventing, eradicating, detecting earlier, monitoring and controlling harmful alien species.⁵¹ In doing this, they must consider the cost effectiveness of the techniques adopted and their effects on the environment, humans and agriculture. In any case, the techniques must be “socially, culturally and ethically acceptable.”⁵²

In order to combat the threat posed by alien invasive species, the 15 Guiding Principles pinpoint three approaches to be utilized. They are the precautionary approach, the three-stage hierarchical approach and the ecosystem approach.⁵³

i. The precautionary approach

This approach suggests that efforts must be made to identify and prevent *inter alia* the unintentional introduction of harmful alien species. The fact that there is no scientific certainty about the environmental, social and economic risks posed by either potential invasive alien species, or pathways such as ships, should not be the basis for failure to adopt preventive action against their introduction. Also, lack of certainty regarding the long term effect of invasion resulting from the transfer of the invasive alien species should not be used as the reason for postponing containment, eradication or control measures.⁵⁴

50 COP 6 Decision VI/23, *ibid.*, par. 10(c).

51 COP 6 Decision VI/23, *ibid.*, par. 27.

52 COP 5 Decision V/8, note 41 above, principle 12.

53 COP 6 Decision VI/23, note 46 above.

54 COP 6 Decision VI/23, *ibid.*, principle 1.

ii. *The three-stage hierarchical approach*

This is the second approach which is based on prevention, containment, eradication and long term control measures. The idea is that invasion of the ecosystem by harmful aquatic organisms should be prevented because it is cost effective and environmentally desirable. Where prevention is impossible because the harmful alien species have already been transferred into the new ecosystem, their establishment and spread should be prevented by eradication at the earliest possible time. And where it is not possible to eradicate their establishment, and their spread or eradication is not cost effective, then, containment and long term control measures should be adopted.⁵⁵ The criteria prescribed to guide application of the three-stage hierarchical approach are: First, where eradication is feasible and cost effective, it must be given priority over containment and long term control measures. Eradication measures are essential when the populations of the invasive alien species are small and localized. In this sense, community support is important for early detection to facilitate eradication of the alien invasive organisms.⁵⁶

Second, containment is feasible only where the range of the invasive species is limited to defined boundaries. For this purpose, immediate action must be taken to eradicate any new outbreak of the alien invasive species.⁵⁷

Third, whenever there is need to adopt long-term control measures, they should be geared towards reducing damage caused by the alien invasive species, as well as reducing their numbers. The Guiding

55 COP 6 Decision VI/23, *ibid*, principle 2.

56 COP 6 Decision VI/23, *ibid*, principle 13.

57 COP 6 Decision VI/23, *ibid*, principle 14.

Principles also recommended biological control as a long term means to combat the problem of harmful alien species,⁵⁸ along with “*integrated management techniques*” which include habitat management, chemical, biological, and mechanical controls.⁵⁹

iii. *The ecosystem Approach*

This is the third method recommended by the COP.⁶⁰ The approach recognizes that human beings and their cultural diversity are integral component of many ecosystems.⁶¹ This approach, however, does not preclude the use of other management approaches. Rather, it integrates them all with various methodologies for the purpose of combating the spread of alien species.⁶² But, all measures must be in accord with the provisions of the CBD and decision V/6 of the COP.⁶³

It thus follows from the above that while the CBD imposes a general obligatory provisions on all Contracting Coastal States to avoid the introduction of alien species which may be through ship's ballast water and sediments, to control, as well as take step to eradicate the established ones, the SBSTTA and COP have taken further steps by recommending and adopting respectively 15 Guiding Principles meant to aid the implementation of the obligations, as enunciated under Article 8(h) of the Convention. It is the duty of States to adhere strictly to the obligations and implement them in accordance with the Guiding Principles notwithstanding the fact that the latter are not binding. It should be borne in mind that the latter, although not

58 See, COP 5 Decision V/8, note 41 above.

59 COP 6 Decision VI/23, note 46 above, principle 15.

60 COP 6 Decision VI/23, *ibid*, Principle 3.

61 COP 5 Decision V/6, *Ecosystem Approach*, available online:

<<http://www.cbd.int/decision/cop/?id=7148>>, par. A(2) and C, accessed on November 24, 2012.

62 COP 5 Decision V/6, *ibid*, par. A(5).

63 COP 6 Decision VI/23, note 46 above, principle 3.

binding on State Parties to the CBD, but they provide the ways through which the Convention will be implemented to achieve a clean and safe marine environment.

Conclusion

The provisions of *Convention on Biological Diversity*, 1992, and its 15 Guiding Principles regarding the mechanisms to aid the implementation of the obligations imposed on the Coastal States are commendable. To avoid making this Convention a toothless bull dog, It is strongly recommended that all Coastal States must adhere strictly to the obligations imposed on them to prevent degradation of their marine environments, in order to conserve their biological endowments which may be lost through the introduction of alien species into their ecosystems.

Similarly, to effectively implement these obligations, regional and sub-regional cooperation is highly essential. This will enhance amongst others, the sharing of information as well as comparing of notes together, to facilitate good policies, practice and legislations towards the implementation of the Convention. With this, a healthier marine environment coupled with conservation of biological diversity will be made possible.