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HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 – Implications of the entry into force for the survey and certification of ships

Submitted by International Association of Classification Societies (IACS), International Chamber of Shipping (ICS), International Association of Dry Cargo Shipowners (INTERCARGO), International Association of Independent Tanker Owners (INTERTANKO), International Parcel Tankers Association (IPTA), Oil Companies International Marine Forum (OCIMF) and NACE International

SUMMARY

<i>Executive summary:</i>	This document discusses the challenges the industry will face when the entry-into-force provisions of the BWM Convention are satisfied and offers some alternative ways forward
<i>Strategic direction:</i>	2.0
<i>High-level action:</i>	2.0.1
<i>Planned output:</i>	2.0.1.25
<i>Action to be taken:</i>	Paragraph 11
<i>Related documents:</i>	None

Background

1 Article 18.1 of the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM Convention) states:

"This Convention shall enter into force twelve months after the date on which not less than thirty States, the combined merchant fleets of which constitute not less than thirty-five per cent of the gross tonnage of the world's merchant shipping, have either signed it without reservation as to ratification, acceptance or approval, or have deposited the requisite instrument of ratification, acceptance, approval or accession in accordance with article 17."

2 The co-sponsors note that, as of 31 October 2011, there are 30 ratifications¹ of the Convention representing 26.44% of the gross tonnage of the world's merchant shipping.

3 It is further noted that:

- .1 ships of 400 gross tonnage and above will be subject to surveys and certification (regulations E-1 to E-5 of the BWM Convention);
- .2 all ships must have on board an approved Ballast Water Management Plan (BWMP) and a ballast water record book (regulations B-1 and B-2 of the BWM Convention);
- .3 having an approved BWMP is a prerequisite for the issue of an International Ballast Water Management Certificate (regulation E-1 of the BWM Convention); and
- .4 the Interim Survey Guidelines, currently contained in BWM.2/Circ.7, are expected to be transferred to the Harmonized System of Survey and Certification (HSSC) Guidelines after entry into force of the BWM Convention.

The challenge

4 The co-sponsors note that the BWM Convention allows no phase-in period for ships constructed prior to the entry into force of the Convention to comply with the provisions relating to survey and certification for ships.

5 It will therefore be required that all ships of 400 gross tonnage and above have on board an approved BWMP and be surveyed and certificated immediately on the entry into force of the BWM Convention.

6 If this occurs, all ships will, according to the provisions of the BWM Convention, have the same ongoing intermediate and renewal dates. Likewise, the deadlines for the fitting of ballast water management systems will be consolidated.

Discussion

7 The co-sponsors also note that the issue raised in paragraph 4 has been taken into account in other elements of the Organization's regulatory framework relating to the protection of the marine environment. In particular:

- .1 **Regulation 6.2 of MARPOL Annex VI**, as amended, states:

"A ship constructed before the date of entry into force of Annex VI for such ship's Administration shall be issued with an International Air Pollution Prevention Certificate in accordance with paragraph 1 of this regulation no later than the first scheduled dry-docking after the date of such entry into force, but in no case later than three years after this date."; and

¹ Albania, Antigua and Barbuda, Barbados, Brazil, Canada, the Cook Islands, Croatia, Egypt, France, Iran (Islamic Republic of), Kenya, Kiribati, Liberia, Malaysia, the Maldives, the Marshall Islands, Mexico, Mongolia, the Netherlands, Nigeria, Norway, Palau, the Republic of Korea, Saint Kitts and Nevis, Sierra Leone, South Africa, Spain, Sweden, the Syrian Arab Republic and Tuvalu.

- .2 **International Convention on the Control of Harmful Anti-Fouling Systems on Ships (AFS Convention), 2001, annex 4, regulation 2(3)** states:

"For ships bearing an anti-fouling system controlled under annex 1 that was applied before the date of entry into force of a control for such a system, the Administration shall issue a Certificate in accordance with paragraphs (2) and (3) of this regulation not later than two years after entry into force of that control. This paragraph shall not affect any requirement for ships to comply with annex 1."

8 The co-sponsors consider that it will be impracticable for industry (shipowners and ship operators, shipyards/drydocks, and ballast water management systems manufacturers/installers), Administrations and their Recognized Organizations to prepare, review and approve BWMPs and survey and certify all ships of 400 gross tonnage and above within the 12-month period between when the conditions for entry into force have been satisfied and the actual entry into force of the Convention.

Alternative ways forward

9 Consistent with paragraph 4.25 of the Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies (MSC-MEPC.1/Circ.4), i.e.:

"Submissions to the Committee(s) or subsidiary bodies highlighting problems or shortcomings identified in a particular area(s) of maritime safety, maritime security or protection of the marine environment should, in general and where possible, also suggest appropriate solutions thereto.";

the co-sponsors offer the following ways forward to address the comments and concerns discussed in paragraphs 4 to 8 above:

- .1 IMO to issue a circular urging port States control officers (PSCOs) to accept statements of compliance for an interim period until Ballast Water Management Certificates can be issued; or
- .2 MEPC to issue a circular urging PSCOs to accept unapproved BWMPs on board for an interim period until approval of the BWMP can take place; or
- .3 allow issue of Ballast Water Management Certificates prior to entry into force, endorsed to state validity begins from entry into force date, combined with a statement issued to the Company when the BWMP was received thereby allowing the vessel to trade for [3] months with unapproved BWMP on board.

10 The co-sponsors acknowledge that there may be other ways in which the issues discussed in paragraphs 4 to 8 above could be effectively addressed. The co-sponsors would not object if other ways forward can be identified. However, the solution that is agreed should be clear, unambiguous and effective in addressing the above comments in a timely manner.

Action requested of the Committee

11 The Committee is invited to consider the foregoing and, in particular, the alternative ways forward discussed in paragraphs 9 and 10 above, and decide as appropriate.