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HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

Proposed amendments to the Guidance on contingency measures under the BWM Convention (BWM.2/Circ.62)

Submitted by BEMA

SUMMARY

Executive summary: This document proposes amendments to update the *Guidance on contingency measures under the BWM Convention (BWM.2/Circ.62)* to reflect implementation experience gained and to provide a mechanism to address the need for guidance related to ships operating at ports with challenging water quality

*Strategic direction,
if applicable:* 1

Output: 1.22

Action to be taken: Paragraph 21

Related documents: BWM.2/Circ.62; MEPC 76/4 and Corr.1; MEPC 77/16 and MEPC 77/WP.10

Introduction

1 At MEPC 77 the Ballast Water Review Group (BWRG) considered a number of submissions related to the application of the BWM Convention to ships operating at ports with challenging water quality. Specifically, the BWRG was instructed to consider, with a view to finalization of a draft BWM.2 circular on this topic.

2 The BWRG held extensive discussions that revealed several fundamental issues, concepts and principles, as well as divergent views on some aspects, which the BWRG agreed should be resolved before finalizing a draft BWM.2 circular. Further, some delegations were in favour of addressing ship operations in ports with challenging water quality through a revision of BWM.2/Circ.62 rather than creating a separate new guidance for this specific issue.

3 The Committee invited further proposals, taking into account the fundamental elements established at that session, as set out in annex 2 to the BWRG report (MEPC 77/WP.10). Herein BEMA presents a proposal for use of the existing IMO guidance contained within BWM.2/Circ.62 with a goal of supporting delivery of the needed guidance to all stakeholders as expeditiously as possible.

Discussion

4 The BWRG discussions at MEPC 77 (MEPC 77/WP.10) revealed a substantive list of complex issues surrounding the actions ships should take when they encounter ports with challenging water quality (PCWQ) that have the potential to result in insufficient treatment by the installed ballast water management system (BWMS). Many of these complex issues have the potential to require a significant amount of time to reach agreements that broadly satisfy all stakeholders.

5 To facilitate normal and efficient ship operations in accordance with Article 12 of the BWM Convention, and to reduce uncertainty for shipowners and crew when such situations are encountered, clear guidance is needed urgently. Therefore, viewing the issue of PCWQ as similar to any other scenario where a ship may have non-compliant ballast water provides an avenue to use the existing contingency measure guidance within BWM.2/Circ.62.

6 Regardless of the reason a ship may be unable to manage ballast water in accordance with its approved Ballast Water Management Plan (BWMP) (e.g. ship emergency situation, ship equipment failure, BWMS equipment failure, or encountering a PCWQ), the end result is that the ship may potentially have non-compliant ballast water discharge and will need to implement contingency measures. Further, regardless of when the inability to manage ballast water in accordance with the requirements has been determined (i.e. during uptake or during discharge), the ship may potentially have non-compliant ballast water discharge and will need to implement contingency measures.

7 In light of the above, there is limited value in spending significant resources and time to establish an agreed definition of "ports with challenging water quality", to wait for gathering of sufficient data to determine the global locations where challenging water quality may be encountered (as this can change tidally and seasonally), or to resolve the other complex issues that were raised during the BWRG discussions. While these complex topics are important and relevant, the individual scenarios that ships will encounter will be highly diverse and the practical matter is that ships will need to take additional actions to address potentially non-compliant ballast water discharge.

8 Considering that BWM.2/Circ.62 already provides guidance for the use of contingency measures when ballast water to be discharged has been found to be non-compliant, there is a basis for expanding the scope of this circular to address ballast water discharge which, owing to incomplete treatment as outlined above, may or may not be non-compliant, regardless of the reason, and where proving non-compliance through discharge testing is impractical.

9 Considering that the aim of the BWM Convention is to prevent the spread of invasive aquatic species and contingency measures are best implemented as close to the uptake port as practical, it is important to provide guidance that allows ships to manage ballast water that potentially may be non-compliant at the time an issue is identified by crew, and without a requirement to obtain approval in advance from the port State at the next port of ballast water discharge. Methods to address improperly managed ballast water should be included in the ship-specific approved BWMP.

10 Recalling that the BWRG noted in its report that the focus is not on identifying specific ports that may cause a BWMS to become inoperable, and further that BWMS approved in accordance with the BWMS Code would have self-monitoring capabilities that are able to provide an indication of when alternative actions need to be taken to address situations of BWMS inoperability (MEPC 77/WP.10, paragraph 15 and annex 2, paragraphs 1 and 3). BEMA notes that functionality of a BWMS control and monitoring system is evaluated during type approval testing and should be considered reliable.

11 As the BWRG discussed (MEPC 77/WP.10, paragraphs 7 to 21), there is wide variability in the scenarios that can result in improperly managed ballast water, such as local water conditions and daily variability at each location, the varying ability of each BWMS to operate under differing water quality conditions, the specific actions that each ship can practically and safely implement, the System Design Limitations (SDLs) of the installed BWMS, and any other factor which may impact treatment on an individual ship. These scenarios are all highly dependent on circumstance, and creating an encompassing list or guidance is impractical and will likely not be accomplished with the expediency required by industry.

12 In the BWRG there was broad agreement that operational parameters such as salinity and temperature were not relevant to this discussion, as they formed part of the operational limitations established for each BWMS during its type approval and could not be considered as unexpected conditions faced by a BWMS (MEPC 77/WP.10, paragraph 16), and further that there should not be any blanket predetermination for any port but rather this should be determined for each BWMS (MEPC 77/WP.10, paragraph 15). As the aim of the BWM Convention is to prevent the spread of invasive aquatic species, it is not intended that a BWMS may be bypassed for purely economical reasons (e.g. impacts of reduced ballast flow rate, cost of extended port stays).

13 Recognizing that the development of ship-specific operational procedures for carrying out contingency measures under the existing BWM.2/Circ.62, paragraph 3.1, which could include ballast water exchange plus ballast water treatment (BWE + BWT), is best left to flag Administrations and ship operators as part of the BWMP review process, BEMA has not proposed amendments regarding acceptable contingency measures in this document.

14 Considering the complexity of the various issues identified during the BWRG discussions at MEPC 77, revising the existing guidance in BWM.2/Circ.62, which already contains guidance on the steps to be taken when a ship has improperly managed ballast water, seems a practical way forward. A revision would serve to update the guidance to include implementation experience gained on the various scenarios that may result in a ship having potentially non-compliant ballast water and bring the needed guidance to broadly cover scenarios of PCWQ to stakeholders as quickly as possible. The proposed amendments are minimal in nature and are described below.

15 BEMA acknowledges that BWM.2/Circ.62, paragraphs 5, 8 and 9, contain language related to the experience-building phase (EBP). As the EBP is concluding and there will likely be EBP-related discussions at MEPC 78, the relevant paragraphs may also be revised accordingly should a decision be taken to amend BWM.2/Circ.62. Further, BEMA recognizes that it may be appropriate for the issue of ship operations in PCWQ to be addressed during future amendments to the BWM Convention; however, notes that this approach is likely to delay delivering the needed guidance to industry.

Proposed amendments

16 The existing BWM.2/Circ.62 guidance is focused on scenarios when a BWMS has malfunctioned and provides actions to be taken when a ship has already arrived at a port location with ballast water discharge that has been determined to be non-compliant. In practice, confirmation that ballast water discharge is in fact non-compliant would require sampling and analysis, which is not practical to implement in all scenarios.

17 As such, a minor revision to the definition of contingency measures is proposed that supports expansion of the guidance to include scenarios where it is known that ballast water has not been managed in accordance with the approved BWMP and, therefore, the ballast water discharge is potentially non-compliant. This also opens the opportunity for the guidance to apply actions that can be taken at the time an issue has been encountered (i.e. during ballast water uptake) and prior to arrival at the ship's next port of call.

18 Addition of a new paragraph *2bis* is proposed that supports expanding the guidance to include examples of scenarios that can result in non-compliant ballast water discharge. The paragraph is not intended to be an all-inclusive list of all possible scenarios when a ship may not be able to implement its approved BWMP, but opens the guidance beyond scenarios where a ship has already arrived in port with non-compliant ballast water discharge.

19 Addition of a new paragraph *3bis* for implementation of contingency measures as close as possible to the uptake port where an issue with ballast water treatment is identified is proposed to support minimizing the transport of species to other locations.

20 A proposed amendment to existing paragraph 3 incorporates agreements by the BWRG that the decision to not use, or possibly by-pass, the installed BWMS must be documented and include BWMS self-monitoring data to demonstrate inoperability, and the new paragraph *3bis* proposes to provide notice to the next port of ballast water discharge that a contingency measure was implemented (MEPC 77/WP.10, annex 2, paragraph 7).

Action requested of the Committee

21 The Committee is invited to consider the information presented herein, as well as the proposed amendments to BWM.2/Circ.62 as set out in the annex, and take action as appropriate.

ANNEX

DRAFT REVISED GUIDANCE ON CONTINGENCY MEASURES UNDER THE BWM CONVENTION

Proposed amendments are shown as additions / ~~deletions~~.

Definition

1 *Contingency measure* means a process undertaken on a case-by-case basis after a determination that ballast water to be discharged from a ship ~~is~~ may not be compliant, in order to allow ballast water to be managed such that it does not pose any unacceptable risks to the environment, human health, property and resources.

Purpose

2 The goal of this Guidance is to support ships and port States to apply sound and practical measures in the case of a ship unable to manage ballast water in accordance with its approved Ballast Water Management Plan to meet the D-1 or D-2 standard, with a view to ensuring the protection of the marine environment and ship, safety and minimizing any impacts on the continuity of port and ship operations.

Implementation of contingency measures

2bis A variety of scenarios can result in ballast water discharge that may be non-compliant and could include, inter alia, ship operational limitations (e.g. ship equipment failure) that prevent BWMS operation, emergency situations, ship equipment failure, or complications with the installed ballast water management system (BWMS) (equipment failure or known exceedance of the installed BWMS' System Design Limitations (SDLs) as outlined in the system's Type Approval Certificate); however, these scenarios do not include purely economic reasons (e.g. impacts of reduced ballast flow rate, cost of extended port stays).

3 In the case of non-compliant ballast water, communication between the ship and the port State should occur. The ship should document reasons for not managing ballast water in accordance with the approved Ballast Water Management Plan, such as ship operating limitations (e.g. ship equipment failure) that prevent BWMS operation, or in the case of a BWMS failure or exceedance of the SDLs, data from the BWMS self-monitoring and data logging system that demonstrates inability to operate in accordance with the BWMS operations manual. The ship and the port State should consider the following as possible contingency measures:

- .1 actions predetermined in the Ballast Water Management Plan of the ship;
- .2 discharging ballast water to another ship or to an appropriate shipboard or land-based reception facility, if available;
- .3 managing the ballast water or a portion of it in accordance with a method acceptable to the port State;
- .4 ballast water exchange carried out to an approved plan in accordance with regulation B-4 to meet the standard in regulation D-1. The ship and the port State should consider the potential disruption to the cargo handling operation plan of the ship and the potential impact to relating parties including port operators and cargo owners; or

- .5 operational actions, such as modifying sailing or ballast water discharge schedules, internal transfer of ballast water or the retention of ballast water on board the ship. The port State and the ship should consider any safety issues and avoid possible undue delays.

3bis Contingency measures should be conducted as close to the uptake port where an issue with ballast water treatment has been identified. Additionally, the ship should notify the local port State when the potentially non-compliant ballast water is identified and the port State where the ship will next discharge ballast water should be notified of the use of contingency measures during the prior ballasting operation.

4 Having considered all of the options in paragraph 3 above, the ballast water may be discharged in the port or any suitable area, as designated acceptable to the port State. Port State consideration may include environmental, safety, operational and logistical implications of allowing or disallowing the discharge. The discharge of ballast water is subject to any conditions of the port State.

5 The port State should report information on the use of contingency measures in accordance with the experience-building phase (EBP) associated with the BWM Convention (resolution MEPC.290(71)).

6 In any case, the ship is required to ~~do its best to~~ resume managing ballast water in accordance with the approved Ballast Water Management Plan as soon as possible, including correction of any malfunction of the ballast water management system, if applicable, as soon as possible and submit its repair plan to the port State control authorities and the flag State.

7 The port State, the flag State and the ship should work together to agree on the most appropriate solution to allow for the discharge of ballast water found to be non-compliant.

8 The ship and the port State should take appropriate measures, bearing in mind that ballast water sampling is still under development, as noted in the *Guidance on ballast water sampling and analysis for trial use in accordance with the BWM Convention and Guidelines (G2)* (BWM.2/Circ.42/Rev.1) and the agreement on non-penalization during the EBP (MEPC.290(71)).

Review

9 The guidance on contingency measures should be kept under review in the light of experience gained through the EBP.