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## HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

### Proposals regarding contingency measures and application of the BWM Convention to ships operating at ports with challenging water quality

Submitted by INTERCARGO and BEMA

#### SUMMARY

<i>Executive summary:</i>	This document presents industry views and proposals relevant to the issue of ships operating at ports with challenging water quality that can be used to support development of urgently needed guidance on this matter.
<i>Strategic direction, if applicable:</i>	1
<i>Output:</i>	1.22
<i>Action to be taken:</i>	Paragraph 18
<i>Related documents:</i>	MEPC 78/WP.8 and MEPC 78/17

#### Introduction

1 During MEPC 78, 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 (PCWQ). Specifically, the BWRG was instructed to consider the proposals, information and comments within the related documents and advise the Committee accordingly.

2 The BWRG continued the in-depth discussions that began during MEPC 77 regarding the fundamental issues, again revealing there were divergent views on several aspects such as actions to be taken when PCWQ are encountered, the scenarios that should be considered to require a contingency measure, and the overall approach of how to provide industry with needed guidance. Similar to the outcome of MEPC 77, the BWRG agreed that the matter required further input and consideration and recommended that the Committee invite Member States and international organizations to submit further proposals on the fundamental issues.

3 As interested industry stakeholders, the Ballastwater Equipment Manufacturers' Association (BEMA), INTERCARGO, the Marine Technical Managers Association

(MARTECMA) and other industry organizations have been openly discussing the fundamental issues identified during the BWRG discussions in an effort to contribute towards finding a practical way forward in developing the needed guidance in a timely manner. The discussions aimed to facilitate an understanding of both the ballast water management system (BWMS) equipment manufacturer and shipowner perspectives, and have revealed common concerns and goals pertaining to PCWQ. This document presents information and industry perspectives that have emerged from those discussions, and which the co-sponsors believe are relevant to the fundamental issues regarding PCWQ and ultimately developing the guidance that industry needs urgently.

4 The co-sponsors agree on the following concepts and principles, which are presented in more detail within this document:

- .1 during the experience-building phase (EBP), both BWMS manufacturers and shipowners have encountered situations where transient or unexpected water quality in ports has created unforeseen operational challenges for the installed BWMS;
- .2 the current IMO guidance on contingency measures (BWM.2/Circ.62) does not provide guidance to crews as to the proper actions to manage ballast water in these situations, or to Administrations for standardized implementation. In document MEPC 78/4/3, BEMA proposed revisions to the guidance as a possible way forward;
- .3 in practice, the term "contingency measure" in the current guidance applies to situations of a BWMS failure that causes untreated water to be taken on board;
- .4 expanding the "contingency measure" definition to cover all situations when a BWMS may be unable to operate would facilitate finding a path forward to address PCWQ;
- .5 to avoid arbitrary and case-by-case decision-making, there is a need to establish the accepted criteria for when crew members should initiate use of appropriate contingency measures when a ship is unable to operate the installed BWMS in accordance with its International Ballast Water Management Certificate (IBWMC);
- .6 there is a need for agreement and acceptance of ballast water exchange plus treatment (BWE+BWT) methods as a contingency measure that ships can use under the BWM Convention;
- .7 a ship's approved Ballast Water Management Plan (BWMP) is the appropriate document to describe the contingency measures that are suitable for each ship and the installed BWMS;
- .8 contingency measures in the BWMP should take into consideration the BWMS manufacturer's recommendations with regard to how to reduce the risk of non-compliant discharge if the BWMS is operated outside the type approved SDLs; and
- .9 when a ship implements the accepted contingency measures described in its BWMP and in accordance with the procedures in the eventual IMO guidance to be revised or developed (i.e. revised BWM.2/Circ.62 or new

guidance), and subsequently returns to using the BWMS in accordance with its IBWMC, the administrative process should be minimized.

## Discussion

5 Industry stakeholder discussions revealed that both shipowners and BWMS manufacturers prefer that all ballasting operations proceed smoothly with the installed BWMS and in accordance with the management practices prescribed by BWMS operations manual, the BWMP and the IBWMC. However, during the EBP, the issue of PCWQ has arisen as a real-world challenge that both shipowners and BWMS manufacturers face. In these situations, there does not exist clear guidance for crews on how to maintain compliance with the Convention while at the same time operating their ships in a safe manner.

6 When BWMS operational challenges are encountered, substantial crew time can be spent determining the appropriate steps to take and the ballast water management practices that will be accepted by both the flag State and port State control, as well as managing the associated administrative actions. To support normal commercial operations, and in accordance with article 12 of the Convention, a simplified and standardized approach is needed.

7 Within BWM.2/Circ.62, the term "contingency measure" is defined as "...a process undertaken on a case-by-case basis after a determination that ballast water to be discharged from a ship is not 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." This definition is insufficient to cover all scenarios when contingency measures may be needed as it contains a requirement for a determination that the ballast water to be discharged from the ship is not compliant. Additionally, this definition does not promote the recommended practice of executing contingency measures as close as practical to the ballast uptake port.

8 Further, paragraph 6 of the BWM.2/Circ.62 annex requires that, following implementation of a contingency measure, the ship must correct the malfunction of the BWMS and submit a repair plan to the port State control authorities and the flag State. In the case of PCWQ, there may be no BWMS malfunction or required BWMS repair, making this BWM.2/Circ.62 requirement an administrative boundary to using this guidance for PCWQ situations.

9 The co-sponsors suggest that the term "contingency measure" simply refer to any alternative action which needs to be implemented when a BWMS is unable to operate normally. This can include cases where the BWMS is unable to function due to a BWMS malfunction, when there is a ship equipment failure, and also in cases where the water quality in the port, due to unforeseen and unexpected conditions, does not allow the BWMS to fully treat the water in accordance with the IBWMC.

10 Referencing document MEPC 78/WP.8, paragraph 38, the co-sponsors agree that SDLs should not be the criterion used for determining when a port is considered to be a PCWQ. Rather, the installed BWMS should be used as designed, and relied upon to provide indication of proper BWMS operation and effective treatment in the location where ballasting is taking place.

11 The co-sponsors recall that the BWRG noted in its MEPC 77 report that the focus should not be on identifying specific port locations with challenging water quality, and further recognized that BWMS approved in accordance with the BWMS Code have self-monitoring capabilities that provide indication of BWMS operation. BEMA notes that functionality of a BWMS control and monitoring system is evaluated during type approval testing and should be

considered reliable. Therefore, the co-sponsors propose that BWMS self-monitoring capabilities be used to provide notification to the crew when contingency measures may need to be implemented.

12 Recalling also that BWMS approved in accordance with the BWMS Code are required to have data logging capabilities with a 24-month retention period. The co-sponsors note that functionality of BWMS data logging capability is evaluated during type approval testing and should be considered reliable. Therefore, the co-sponsors propose that these data logging capabilities be used to record instances when the BWMS is not operating properly. These records would be available for port State to review for the time period that the records are maintained in the BWMS data log.

13 Recognizing that implementing a contingency measure does not provide the same level of treatment as would be provided when operating a BWMS in accordance with the IBWMC, the co-sponsors understand that port States retain the authorization to conduct inspections as allowed under the Convention and agree that implementation of a contingency measure does not remove a ship's requirement to comply with the discharge standards.

14 The co-sponsors support the acceptance of various methods of BWE+BWT as a contingency measure that a ship can use under the Convention when a BWMS is unable to operate, if safe and appropriate for the ship.

15 The co-sponsors acknowledge that regulation B-1.2 of the Convention identifies the approved BWMP as the document intended to provide the crew with "...a detailed description of the actions to be taken to implement the ballast water management requirements and supplemental ballast water management practices as set forth in [the] Convention". As such, the co-sponsors agree that the approved BWMP is the appropriate document to describe the contingency measures available to the crew based on the installed BWMS and ship configuration.

16 For cases where a BWMS has not malfunctioned and does not require a repair plan, and the contingency measures included in the approved BWMP have been used by the ship's crew to manage ballast water, the co-sponsors agree that the administrative process should be minimal.

17 Considering the complexity of the various issues identified during the BWRG discussions at MEPC 77 and MEPC 78 and taking into consideration the shared perspectives of industry stakeholders presented within this submission, revising the existing guidance in BWM.2/Circ.62 that already contains guidance on the steps to be taken when a ship needs to temporarily implement alternative ballast water management practices seems a practical way forward. The revision, as proposed by BEMA in document MEPC 78/4/3, could serve as a basis for discussions during MEPC 79.

#### **Action requested of the Committee**

18 The Committee is invited to consider the views and proposals presented herein, and to further consider the proposed amendment to BWM.2/Circ.62 presented in document MEPC 78/4/3 and take action as appropriate.

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