HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

Uncertainties Surrounding Implementation of the BWM Convention

Submitted by IPTA and WSC

SUMMARY

Executive summary: This paper comments on views expressed in MEPC 68/2/16 concerning the grandfathering of BWM systems already installed on ships and related matters and discusses the significant dilemma ship owners face with respect to the BWM Convention.

Strategic direction: 7.3
High-level action: 7.3.2
Planned output: 7.3.2.1
Action to be taken: Paragraph 18
Related documents: MEPC 68/2/16, MEPC 67/2/6, MEPC 67/20

Introduction

1. This document is submitted in accordance with the provisions of paragraph 6.12.5 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. This paper comments on the issues raised in MEPC 68/2/16 [ICS et al] and related matters.

Background

2. In past meetings, the Committee has heard concerns about the adequacy of the existing G8 Guidelines and whether BWM systems (BWMS) type-approved pursuant to those Guidelines meet the IMO D-2 discharge standard when operated under normal environmental conditions. This matter received further attention during the last two sessions of the Committee, which adopted Resolution MEPC.253(67) and commenced a review of the G8 Guidelines.

3. These developments are a positive step in recognizing the problems that exist under the Convention, and we support the efforts underway to address them. A number of significant uncertainties remain to be addressed, however, including those associated with the treatment of first generation BWMS already or soon to be installed by ship owners.

4. This paper briefly addresses some of the key uncertainties, including the grandfathering of already installed systems.
Key Uncertainties and the Dilemma Facing Shipowners

5 MEPC 68/2/16 appropriately notes: “It is now recognized by all stakeholders that there is genuine uncertainty for the consistent performance of type approved ballast water management systems that have been installed or are being considered for installation by ship owners to meet the precise D-2 standard.”

6 Grandfathering: As has been the practice with many new environmental provisions, the Committee has encouraged shipowners’ early adoption of ballast water treatment systems. Accordingly, numerous ship owners have already installed BWM systems, and more are likely to do so before the Convention enters into force and before BWM systems are type approved under revised and presumably improved G8 Guidelines.

7 MEPC 68/2/16 presents a logical proposal for how the Committee may proceed to make sure such ship owners are not penalized, which is that such systems should “be considered acceptable (grandfathered) for the life of the ship”. The co-sponsors support this principle.

8 While agreement on a grandfathering provision is important, however, it should be recognized that a dilemma facing ship owners remains unsolved. This dilemma is briefly addressed in the remainder of this paper.

9 The Ability to Use BWM Systems in Any Global Trade: What a ship owner needs is the ability to procure and install a BWMS that will allow the vessel to both meet the established IMO “D-2” discharge standard and be accepted in any port the ship may call, including the United States, which is the second largest trading nation in the world where vessels from almost every trading nation call. Ship owners that operate globally, or wish to have the future ability to operate globally, need to install BWM systems that will be accepted across the global market.

10 Today there are no such globally accepted BWM systems. A vessel owner today is unable to purchase, install and operate a BWM system with the knowledge and confidence that the system will meet the IMO D-2 discharge standard and that the system will be able to operate globally over the life of the ship.

11 The United States has established national BWMS type-approval requirements to ensure that systems used on vessels calling the United States meet the IMO D-2 discharge standard. While the U.S. type approval requirements present an added complication, they were established to address the known shortcomings present in type approvals under the current G-8 Guidelines.

12 U.S.-type approved BWM systems would give vessel owners an option to have confidence that their investment in such technology would meet the Convention’s D2 discharge standard, and that such technology would be globally accepted. Further, U.S.-type approved treatment technology would offer a vessel owner the option to obtain such regulatory and investment confidence even if the Committee’s efforts to modify and improve the existing G8 type approval guidelines took significant time to achieve.

13 However, while we understand that some BWM systems are undergoing testing, no system, however, has yet applied for or been type approved by the United States.

Considerations to Address Remaining Uncertainty Facing Shipowners
From the perspective of vessel owners, who will be required to invest billions of dollars in BWMS and who wish to operate in compliance with the law, the current situation exists:

- Governments agree on what the ballast water discharge standard should be – the Convention’s “D2” discharge standard;
- Governments agree that the current IMO G8 type approval guidelines for BWMS are inadequate and that their shortcomings need to be rectified;
- The Committee is undertaking a review and revision of the G8 guidelines, but both the content and the timing of the application of the revised guidelines are uncertain;
- The United States has more rigorous BWMS type approval guidelines to ensure that BWM systems meet the D2 discharge standard, but it has not yet type approved any BWM systems or received applications for such approval; and,
- The Committee has indicated that it does not want to penalize vessel owners for good faith investments in G8-type approved ballast water treatment technology; however, the Committee has not agreed on the terms or conditions for such grandfathering.

The fact is that today there is no BWM system that a vessel owner can purchase, install and operate with confidence that the system will be in compliance with the D-2 discharge standard and will be accepted for use on a global basis. Given the magnitude of investments to be made and the consequences of installing systems that may fail to meet the D2 discharge standard, the conundrum facing vessel owners requires further efforts if it is to be resolved.

The Convention has not yet entered into force, but it may be nearing that stage, and this conundrum has not been resolved. The Convention will require the installation of BWM systems one year after it enters into force, but it may take longer for the Committee to agree to changes to the G8 guidelines and one can only speculate at this time what those changes will be or whether BWMS type approved under the revised guidelines will be globally accepted, including in the United States. This continued investment and regulatory uncertainty facing vessel owners presents a significant concern.

The co-sponsors suggest that the Committee’s discussion of this situation may be greatly aided by two actions:

1) a report by the United States informing the Committee regarding: its expectation regarding when and how many BWMS type approval applications it expects to receive; a projected time frame for its consideration of such applications; and when U.S. law will require the installation of U.S.-type approved systems on vessels calling the U.S.; and

2) a statement as called for in MEPC 68/2/16 that addresses the issue of “first generation” BWM systems.

**Action requested of the Committee**

The Committee is invited to consider the views expressed in this document and take action as appropriate.