

MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
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Agenda item 4

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## HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

### Options to allow vessels to install ballast water management systems approved in accordance with the revised Guidelines (G8)

Submitted by India, ICS, BIMCO, INTERTANKO, CLIA, IPTA and WSC

#### SUMMARY

*Executive summary:* This document notes that the Committee is taking positive steps to ensure that ballast water management systems type approved under the revised Guidelines (G8) type approval process are fit for purpose and meet the environmental objectives of the BWM Convention and proposes options to allow vessels to install ballast water management systems that have been type approved under the revised Guidelines (G8) process

*Strategic direction:* 7.1

*High-level action:* 7.1.2

*Output:* 7.1.2.1

*Action to be taken:* Paragraph 19

*Related document:* MEPC 69/4/4

#### Introduction

1 In 2014 MEPC 67 initiated a review of the *Guidelines for approval of ballast water management systems* (G8), hereafter referred to as the Guidelines (G8), and a study on the implementation of the ballast water performance standard described in regulation D-2 of the BWM Convention to address serious concerns among ship owners and operators and many IMO Member States about the adequacy of the existing Guidelines (G8) and questions about whether ballast water management systems (BWMS) type approved pursuant to the Guidelines (G8) meet the D-2 standard when operated under normal environmental conditions.

2 The final report on the study on the implementation of the D-2 standard (MEPC 69/4/4) confirmed the inconsistent and unreliable performance of many "first generation" type approved BWMS (i.e. systems type approved under the current Guidelines (G8)), finding that "there are significant differences in how Guidelines (G8) are interpreted and implemented in different test facilities. This could affect type approval certification and operational performance of BWMS".

3 The report's findings reinforce the Committee's decision to initiate the review of the Guidelines (G8) and development of a revised set of type approval procedures that will ensure BWMS type approved under the revised Guidelines (G8) are fit for purpose and meet the required D-2 performance standard, thereby achieving the environmental objectives of the Convention.

4 Member States and NGOs have invested substantial time and effort over the past two years to carefully review and develop needed revisions to the Guidelines (G8). These revisions address the shortcomings noted in the study on the implementation of the D-2 standard, provide for increased transparency and consistency in testing, and align the Guidelines (G8) type approval procedures to the extent possible with the type approval testing regime of the United States, thus establishing a rigorous global standard for the type approval of BWMS.

### **Revised Guidelines (G8) BWMS**

5 The co-sponsors believe that the revised Guidelines (G8) type approval procedures should become a mandatory code under the BWM Convention so that the revised procedures will provide ship owners with the ability to procure and install systems with confidence that the systems will reliably work and will enable vessels to comply with the Convention discharge standard in any ports and waters they may call, thus ensuring that the environmental objectives of the BWM Convention will be met.

6 BWMS type approved in accordance with the revised Guidelines (G8) may not, however, be available for commercial purchase by shipowners for a few years after the revised Guidelines (G8) type approval procedures are finalized, approved, published and implemented. This is because BWMS developers, test facilities and Administrations will need time to digest the requirements and testing procedures of the revised Guidelines (G8) and implement any changes to ensure the revised procedures are followed.

7 While the co-sponsors expect that BWMS currently undergoing or recently completing testing under the United States type approval regime would not need to undertake additional testing to apply for type approval under the revised Guidelines (G8) procedures, we expect that other BWMS will need to perform additional testing pursuant to the revised Guidelines (G8) procedures before applying for a revised Guidelines (G8) type approval.

### **Current situation**

8 With Convention ratification requirements likely being met in the very near future, a situation is unfolding in which 1) the Committee has acknowledged the problems and uncertainty regarding "first generation" type approved BWMS, 2) the Committee is taking appropriate steps to address those problems by reviewing and revising the current Guidelines (G8), 3) the revised Guidelines (G8) type approval procedures are expected to be completed by or shortly after MEPC 70, and 4) the commercial availability of BWMS type approved under the revised Guidelines (G8) – systems that would meet the Convention's environmental objectives and provide investment and compliance certainty for the tens of thousands of vessels that the Convention will require to be fitted with BWMS – may take multiple years after the revised Guidelines (G8) are published.

9 Vessels whose compliance dates, under the "first IOPP renewal survey after entry into force" approach contained in Assembly resolution A.1088(28), will occur before BWMS type approved in accordance with the revised Guidelines (G8) are available, would face an obligation under the Convention to install "first generation" systems at substantial expense that may not work and/or that may not meet the environmental objectives of the Convention.

10 Although some of the "first generation" BWMS may be fit for purpose and can meet the required D-2 performance standard, the problem for shipowners, who will be required to procure and install BWMS once the Convention enters into force, is that they simply have no way to determine which "first generation" IMO approved systems will work and which ones will not. It is not reasonable to force ship owners to make substantial investments in technology that may not enable the vessel to meet the Convention requirements, may fail to meet the treatment standard and may not advance the environmental objectives of the Convention.

11 The co-sponsors therefore believe that it is in the interests of the IMO to maximize the installation of BWMS approved in accordance with the revised Guidelines (G8) since those systems should meet the environmental objectives of the Convention and will enable ship owners to comply with the Convention requirements.

## Proposal

12 This document proposes that the Convention implementation scheduled in regulation B-3 be amended to enable vessels subject to the Convention to adjust their BWMS installation dates until revised Guidelines (G8) approved technology is available. Until that installation date, vessels would perform ballast water exchange as required by regulation D-1.

13 Allowing vessels to install revised Guidelines (G8) approved technology would further the Convention's environmental objectives by enabling vessels to install systems meeting the Convention discharge performance standards and would provide investment and compliance certainty to vessels subject to the Convention. Allowing vessels to install BWMS that are fit for purpose and meet the Convention discharge standards would also reduce the pool of installed "first generation" BWMS that may require appropriate protections from penalization.

14 There are various ways regulation B-3 could be amended to achieve the objective of allowing vessels to adjust their BWMS installation dates until revised Guidelines (G8) approved technology is available. We outline below some options to achieve this objective.

15 Possible dates when installation of revised Guidelines (G8) approved BWMS could be required under an amended Regulation B-3:

- .1 *First renewal survey after the IMO determines that adequate numbers of revised Guidelines (G8) approved BWMS are commercially available<sup>1</sup>.* Under this option, the IMO would assess BWM technology availability on a rolling basis and issue a determination when revised Guidelines (G8) approved BWMS are commercially available. Vessels would then have until the first IOPP renewal survey after that "commercial availability" date to be fitted with BWMS approved in accordance with the revised Guidelines (G8).
- .2 *Allow vessels whose compliance dates occur within two years (or an alternate date as determined by the Committee) after entry into force of the Convention to adjust their installation date to the second renewal survey after entry into force.* Under this option, vessels whose BWMS installation dates occur within two years after the Convention entry into force date would have until the second IOPP renewal survey (rather than the first IOPP renewal survey) after entry into force to be fitted with BWMS approved in accordance with the revised Guidelines (G8). Vessels whose BWMS installation dates

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<sup>1</sup> For vessels constructed on or after the date IMO determines that adequate numbers of revised Guidelines (G8) approved BWMS are commercially available, installation of revised Guidelines (G8) approved BWMS would be required on delivery.

occur more than two years after the date of Convention entry into force would still be required to be fitted with revised Guidelines (G8) approved BWMS as of the first IOPP renewal survey after entry into force. The proposed two-year period after entry into force is intended to provide a sufficient amount of time after the revised Guidelines (G8) type approval requirements are codified and published, assuming this occurs in the near future, for revised Guidelines (G8) approved BWMS to emerge in the commercial market.

16 The co-sponsors recognize that the proposal in this document would allow the affected vessels to adjust their BWMS installation dates, thus slowing the installations of BWMS on some ships. Our view, however, is that it is better to wait a short time to allow vessels to invest in BWMS that meet the Convention's environmental requirements than to force thousands of ships to install BWMS that were type approved under a process that the MEPC has determined cannot distinguish compliant systems from non-compliant systems.

17 The co-sponsors continue to fully support the Committee's commitment to the principle that "early movers" of IMO type approved BWMS (i.e. vessels fitted with first generation BWMS prior to the application of the revised Guidelines (G8)) shall not be penalized, and we also note that adopting amendments that encourage the greatest possible uptake of BWMS type approved under the revised Guidelines (G8) would reduce the number of vessels that require appropriate protections from penalization.

18 Most importantly, this proposal would help avoid a situation in which thousands of BWMS are installed over a short period of time, with the possibility that a substantial number of those systems may fail to meet the Convention discharge requirements and may not be fit for purpose.

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

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

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