



Key Issues

Implementing the IMO Ballast Water Convention

On 8 September 2017, 13 years after its original adoption, the IMO Ballast Water Management (BWM) Convention finally entered into force worldwide.

The purpose of this Convention is to address the serious problem of invasive marine organisms which if inadvertently transported in ships' ballast water tanks can have damaging impacts on local ecosystems.

ICS has always fully supported the intention of the BWM Convention. Following its entry into force, the industry is at last able to focus fully on implementation and making this a success. It is now in everyone's interest to ensure that the new IMO regime will deliver genuine environmental benefit, commensurate with the great collective cost of installing the required new treatment systems across the entire world fleet, which is estimated to be around US \$100 billion.

While the enhanced environmental protection that will be achieved by the Convention is rightly seen by governments as of the utmost importance, the implementation of the new regime will also have profound economic impacts on the structure of the industry.

Apart from the economic cost (US \$1-5 million per ship), meeting the Convention's requirements still presents ship operators with a serious challenge because of the expected lack of shipyard and manufacturing capacity needed to retrofit the new treatment systems on around 40,000 vessels over a five year period.

These decisions are all the more difficult if the ships are approaching the end of their typical 25 year life. Many shipowners will now need to make important decisions about whether to retrofit the expensive new equipment or, because of the potentially prohibitive cost, send older ships for early recycling instead. The huge importance of this issue is why ICS, for the past decade, has had to dedicate such a significant proportion of its resources towards helping to make the Convention fit for purpose in discussion with governments.

Ballast water treatment has proved to be one of the most complex and controversial pieces of technical regulation ever adopted by IMO. The BWM Convention was adopted under huge political pressure back in 2004, when the technology required for ships to treat millions of gallons of ballast water simply did not exist outside of a laboratory. As a consequence, the enormous challenges of installing completely unproven systems were dramatically underestimated, first by the manufacturers and then by IMO Member States.

The smooth rollout of the Convention should be greatly assisted by an important decision, in July 2017, by the IMO Marine Environment Protection Committee (MEPC). This





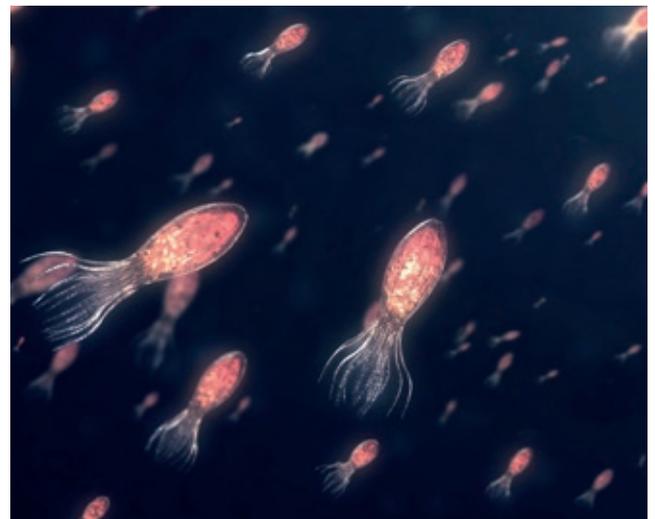
adjusted the Convention's implementation dates so that existing ships (i.e. ships constructed before 8 September 2017) will not be required to install treatment systems until the date of their first International Oil Pollution Prevention (IOPP) renewal survey on or after 8 September 2019. This significant IMO decision was the culmination of many months of persuasion and liaison by ICS with supportive governments, and was probably the best compromise that could realistically be achieved, compatible with providing ship operators with as much certainty as possible.

This IMO decision on implementation dates is a victory for common sense. It should provide necessary time for shipping companies to identify and invest in far more robust technology to the benefit of the environment, as they will now be able to select equipment for existing ships that has been type-approved in accordance with the more stringent standards that IMO adopted in 2016. The industry should therefore have greater confidence that the systems which ships are required to install will indeed be fit for purpose in most operating conditions, which was not the case with several of those systems approved using the original IMO guidelines.

A critical issue, which delayed entry into force, was that the type-approval guidelines initially adopted by IMO for the new treatment systems were insufficiently robust to ensure that shipowners could have any confidence in the very expensive equipment which they would be required to install. Until these complex problems could be satisfactorily resolved, most major flag states were correctly reluctant to ratify the Convention.

In order to help bring the Convention into force – as the alternative would have been a patchwork of unilateral regulation, as demonstrated by the different regime that has already been adopted by the United States – ICS, in co-operation with other industry associations, therefore had to play a central role in helping IMO to develop complex solutions to a huge array of technical and administrative problems.

In 2016, following a major industry campaign led by ICS over several years, the IMO MEPC finally adopted revised and more robust type-approval standards. These have now been included in a new mandatory Code for Approval of Ballast Water Management Systems which was adopted in April 2018.





IMO has recommended that Administrations apply these revised standards as soon as possible. However, they will not become mandatory for new system approvals until 28 October 2018, and only systems being installed after October 2020 will be required to have been approved in accordance with the new IMO Code. Shipping companies have therefore been strongly advised by ICS to put pressure on manufacturers by only considering treatment systems for installation that have been certified in accordance with the revised IMO type-approval standards.

There are many other significant changes to the IMO ballast water regime which ICS has had to persuade governments to agree in recent years, in order to make the Convention ready for ratification. In addition to overcoming resistance from equipment manufacturers to making the IMO type-approval guidelines fit for purpose, these have included: the removal of the original fixed implementation dates; the removal of a requirement to install equipment by the ship's next intermediate survey (if this came sooner than the next renewal survey); and – most important – measures to ensure that 'early movers' would not be penalised by Port State Control.

The industry has also had to persuade IMO to adopt fairer Port State Control guidelines relating to the timing of sampling during inspections, and guidance to coastal states on what should be expected of ships operating in areas where ballast water exchange cannot be conducted in accordance with the Convention (as required since September 2017 until treatment systems can be fitted).

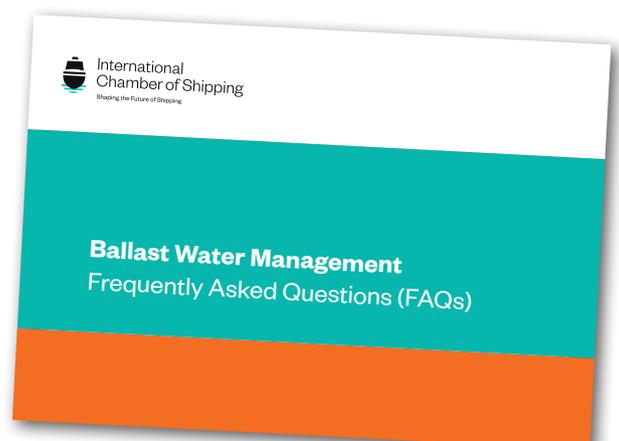
Some of these issues are still not yet fully resolved, with Canada and the United States, in particular, continuing to question what has now been agreed by IMO.

In August 2017, ICS developed some comprehensive advice and information for shipping companies in the form of answers to 'Frequently Asked Questions'. These are available via the ICS website and are being updated regularly.

In 2017, IMO adopted amendments to the Harmonized System of Survey and Certification (HSSC) guidelines, including an additional initial survey item related to the issuance of the International Ballast Water Management Certificate (IBWMC). The additional survey item requires verification by the Administration that a biological efficacy test of each ship's ballast system has been carried out following installation, and that documented evidence is provided to show compliance of the treated ballast water discharged from the system through sampling and analysis. During 2018, IMO will develop additional guidance relating to the test at the time of commissioning.

Every BWM system will now have to be shown to be biologically effective prior to issuance of the IBWMC. This should give owners the opportunity to verify that biological efficacy has been tested and complied with at the time of the system's installation, and to take appropriate action if necessary.

The situation continues to be further complicated by the United States which is not a Party to the BWM Convention and is unlikely to ever become one. The U.S. has unilaterally adopted its own ballast water regulations, with which ships trading to the U.S. must already comply.





In April 2018, there were six U.S. Coast Guard (USCG) approved systems for owners to select from (with seven more pending approval), compared to around 60 systems currently approved under the IMO regime. This is an improvement on the situation at the end of 2016 when no systems had been fully approved for use by ships trading to the United States, although its regime started being enforced during 2014. But obtaining extensions to the date when ships are required to install and use a USCG approved system is becoming more complex, with owners now being required to apply to the USCG on a ship by ship basis, including the provision of information on actions taken to obtain an appropriate system and plans in place for future compliance.

The BWM Convention, as originally drafted, was clearly not fit for purpose. All of those changes achieved by ICS in negotiation with IMO Member States (in conjunction with other industry associations) were necessary, justified and reasonable, in order to ensure that entry into force would not be further delayed.

But now that the Convention has entered into force it is most important that shipping companies do not anticipate any further relaxation to the IMO implementation schedule.

Throughout 2018, ICS will continue to seek solutions to further difficulties that arise, as well as the ongoing problems created by the different regime that will continue to apply in the United States.

