

MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
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Agenda item 4

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## HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

### **BWM Circular on the Application of the BWM Convention to Ships Operating in Sea Areas Where BWE in Accordance with Regulations B-4.1 and D-1 is Not Possible**

**Submitted by Liberia, the Marshall Islands, Singapore, ICS, INTERFERRY and IPTA**

#### SUMMARY

*Executive summary:* This document provides a draft BWM circular on Application of the BWM Convention to ships operating in sea areas where Ballast Water Exchange (BWE) in accordance with regulations B-4.1 and D-1 is not possible. The circular is intended to provide to all stakeholders including Member States and Shipowners a clear understanding of the Committee's expectations, based on the understanding at MEPC 68, in terms of ballast water management requirements from the date of entry into force of the BWM Convention on 8 September 2017 for ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 is not possible.

*Strategic direction:* 1

*High-level action:* 1.1.2

*Planned output:* 1.1.2.1

*Action to be taken:* Paragraph 8

*Related documents:* MEPC 68/21, MEPC 70/4/10, MEPC 71/9, PPR 4/21

#### **Background**

1 The International Convention for Control and Management of Ship's Ballast Water and Sediments, 2004 (the Convention) will enter into force (EIF) on 8 September 2017. All ships to which this Convention applies shall, according to the current text of regulation B-3, carry out ballast water management that at least meets the standard described in regulation D-1 from the EIF date, by conducting Ballast Water Exchange (BWE) in accordance with regulation B-4, until the date they are required to at least meet the standard described in

regulation D-2. In accordance with regulation B-3 ships may choose voluntarily to meet the D-2 standard earlier than required, by installing and using a ballast water management system (BWMS) and treat ballast water, in lieu of conducting BWE to meet regulation D-1. The co-sponsors believe this is the intent and common understanding of MEPC with respect to the wording in the current text of regulations B-3.1.1 and B.3.1.2 which reads:

“....shall conduct Ballast Water Management that at least meets the standard described in regulation D-1 or regulation D-2 until [date], after which time it shall at least meet the standard described in regulation D-2”.

2 Once the Convention enters into force it will be impossible for ships operating in a number of sea areas, due to geographical constraints, to meet the standard described in regulation D-1 and conduct BWE in accordance with regulation B-4.1.

3 MEPC 68 discussed draft amendments to the BWM Convention in relation to regulation B-3 including the expected schedule when ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 of the BWM Convention is not possible should be expected to meet regulation D-2. MEPC 68 ***“concurred with the understanding that the intentions of resolution A.1088(28) apply also to ships operating in sea areas where ballast water exchange in accordance with regulations B-4.1 and D-1 of the BWM Convention is not possible”***, (see MEPC 68/21 paragraph 2.54). The co-sponsors highlight that at MEPC 68 the above understanding was agreed in unanimity with no objections.

4 The co-sponsors are absolutely clear as to the full intent of the Committee’s understanding as described in paragraph 3 above i.e. ships operating in sea areas where BWE in accordance with regulation B-4.1 is not possible shall not be required to meet the D-2 standard, and therefore have to fit a BWMS, until the date required to do so in accordance with paragraphs 2.1 to 2.4 and paragraph 2.6 of resolution A.1088(28). This understanding was also expressed in MEPC 68/WP.8, which was endorsed by the Committee. Paragraph 31 of WP.8 states, “...The group agreed and invited the Committee to concur with the understanding that ships operating in such areas **would not be required to meet the D-2 standard until effectively required to do so by paragraphs 2.1 to 2.4 and 2.6 of resolution A.1088(28)** ...”. Paragraph 32 of MEPC 68/WP.8, goes on to suggest a Unified Interpretation on this matter may be appropriate, once the Convention enters into force.

5 Additionally the co-sponsors understand and seek the concurrence of the Committee that the intent of the Committee at MEPC 68 **was not to require** all ships globally operating in sea areas where BWE in accordance with regulation B-4.1 is not possible to be required to meet the D-2 standard from the date of EIF of the Convention, 8 September 2017, if they did not otherwise comply with regulation B-3.6 (discharge to a BW reception facility), B-3.7 (other methods) or A-4 (Exemptions) of the Convention. The ships concerned would be deemed to meet the legal objectives and obligations of the BWM Convention by ensuring that they meet the D-2 standard by fitting a Ballast Water Management System by the date required to do so in accordance with paragraphs 2.1 to 2.4, and 2.6 of resolution A.1088(28) and not before.

6 The co-sponsors have noted the statement (PPR4/21, annex 14) made by the Republic of Ireland at PPR 4 in response to the submission being considered at that session from the Republic of Korea MEPC 70/4/10, in which Ireland expressed the view that ships which can not conduct BWE in compliance with regulation B-4.1 “must simply use another method to comply” and go on to state the “other methods may be D-2, ballast water performance standard; B-3 points 6 and 7, or via regulation A-4”. The co-sponsors are of the view that this was not the Committee’s intention at MEPC 68 and that Ireland’s statement made only months prior to EIF of the Convention demonstrates a compelling need for the Committee to clarify its intention at MEPC 68.

### **Proposal**

7 The Committee is requested as a matter of urgency to issue a clarifying MEPC Circular in line with the understanding detailed in paragraphs 4 and 5 of this submission so that stakeholders, including both Member States and shipowners, understand the Committee’s expectations in terms of ballast water management requirements from the date of entry into force of the Convention on 8 September 2017 for ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 is not possible. The co-sponsors provide at annex to this submission a proposed draft MEPC Circular for the consideration of the Committee.

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

8 The Committee is invited to:

1. Concur with the co-sponsors understanding detailed in paragraph 1 as to the meaning of the wording used in paragraphs B-3.1.1 and B-3.1.2 of the Convention;
2. Concur with the co-sponsors understanding, detailed in paragraphs 4 and 5 above, of the intent of the Committee at MEPC 68 in terms of ballast water management requirements from the date of entry into force of the Convention in relation to ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 is not possible; and
3. To approve and issue a clarifying MEPC Circular prior to EIF of the Convention detailing the agreed understanding of the Committee in line with paragraphs 4 and 5 of this submission, and the attached draft Circular at annex to this submission, so that stakeholders including both Member States and Shipowners are clear as to the Committee’s expectations in terms of ballast water management requirements from the date of entry into force of the Convention on 8 September 2017 for ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 is not possible.

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## **ANNEX**

### **INTERNATIONAL CONVENTION FOR THE CONTROL AND MANAGEMENT OF SHIP'S BALLAST WATER AND SEDIMENTS, 2004**

#### **Application of the BWM Convention to ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 is not possible**

1 The Marine Environment Protection Committee, at its seventy-first session (3 to 7 July 2017), approved the circular on Application of the BWM Convention to ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 is not possible, as set out in the annex.

2 Member Governments are invited to bring this circular to the attention of all parties concerned.

## ANNEX

### **Application of the BWM Convention to ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 is not possible**

#### **Introduction**

MEPC 68 discussed draft amendments to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (the BWM Convention) in relation to regulation B-3. These discussions covered the expected schedule when ships operating in sea areas where BWE in accordance with regulations B-4.1 and D-1 of the BWM Convention is not possible should be expected to meet regulation D-2. MEPC 68 ***“concurred with the understanding that the intentions of resolution A.1088(28) apply also to ships operating in sea areas where ballast water exchange in accordance with regulations B-4.1 and D-1 of the BWM Convention is not possible”***.

#### **Clarification of Understanding.**

The Committee clarifies the full intent of the understanding detailed in the introduction to this circular as made at MEPC 68 to be as follows:

1. That ships operating in sea areas where ballast water exchange in accordance with regulation B-4.1 is not possible shall not be required to meet the D-2 standard, and therefore have to fit a Ballast Water Management System, until the date required to do so in accordance with [paragraphs 2.1 to 2.4, and 2.6 of resolution A.1088(28)] and not before;
2. That ships operating in sea areas where ballast water exchange in accordance with regulation B-4.1 is not possible shall not to be required to meet the D-2 standard from the date of entry into force (EIF) of the BWM Convention, 8 September 2017, if they do not alternatively comply with regulation B-3.6 (discharge to a BW reception facility), B-3.7 (other methods) or A-4 (Exemptions) of the BWM Convention;
3. That ships operating in sea areas where ballast water exchange in accordance with regulation B-4.1 is not possible shall not to be required to comply with regulation B-3.6 (discharge to a BW reception facility), B-3.7 (other methods) or A-4 (Exemptions) of the BWM Convention during the period from the date of EIF of the BWM Convention to the date they are required to meet the D-2 standard in accordance with paragraph 1 above; and
4. That ships operating in sea areas where ballast water exchange in accordance with regulation B-4.1 is not possible shall record the reasons why ballast water exchange was not conducted in accordance with regulation B-4.5.

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