

INSPECTION FOR PSC

OUTLINE

- CME provisions in BWM Convention
- Onboard Documents
- Documents auditing for non-compliance
- E-reporting examples
- Violations and Reporting violations
- Enforcement actions
- Status of BWM CME at IMO

CME Provisions in BWM Convention

- **Article 2 *General Obligations***
- Parties undertake to give full and complete effect to the provisions of this Convention and
- the Annex thereto in order to prevent, minimize and ultimately eliminate the transfer of Harmful Aquatic Organisms and Pathogens through the control and management of ships' Ballast Water and Sediments.

Article 2 *General Obligations*

- Nothing in this Convention shall be interpreted as preventing a Party from taking, individually or jointly with other Parties, more stringent measures with respect to the prevention, reduction or elimination of the transfer of HAOP through the control and management of ships' Ballast Water and Sediments, consistent with international law.

Article 2 *General Obligations*

- Parties shall endeavour to co-operate for the purpose of effective implementation, *compliance and enforcement* of this Convention.
- Parties taking action pursuant to this Convention shall endeavour not to impair or damage their environment, human health, property or resources, or those of other States.

Article 2 *General Obligations*

- Parties shall encourage ships entitled to fly their flag, and to which this Convention applies, to avoid, as far as practicable, the uptake of Ballast Water with potentially HAOP, as well as Sediments that may contain such organisms, including promoting the adequate *implementation of recommendations* developed by the Organization.

Article 3 *Application*

- Except as expressly provided otherwise in this Convention, this Convention shall apply to:
- (a) ships entitled to fly the flag of a Party; and
- (b) ships not entitled to fly the flag of a Party but which operate under the authority of a Party.
- With respect to ships of non-Parties to this Convention, Parties shall apply the requirements of this Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

Article 4 Control of the Transfer of Harmful Aquatic Organisms and Pathogens

- Each Party shall require the ships to comply with the requirements in this Convention, including the applicable standards and requirements in the Annex
- Each Party shall take effective measures to ensure that ships comply with those requirements.
- Each Party shall develop national policies, strategies or programmes for BWM in its ports and waters

Article 7 Survey and certification

- Ships are subject to survey and certification in accordance with the regulations in the Annex.
- See BWM.2/Circ 7 and res. A 948(23) for guidelines on harmonized survey and certification

Article 8 *Violations*

- Any violation of the requirements of this Convention shall be prohibited and sanctions shall be established under the law of the Administration of the ship concerned, wherever the violation occurs.
- Any violation of the requirements of this Convention within the jurisdiction of any Party shall be prohibited and sanctions shall be established under the law of that Party.

Article 8 *Violations*

- The sanctions provided for by the laws of a Party pursuant to this Article shall be adequate in severity to discourage violations of this Convention wherever they occur.

Article 9 *Inspection of Ships*

- A ship may, in any port or offshore terminal of another Party, be subject to inspection by officers duly authorized by that Party for the purpose of determining whether the ship is in compliance with this Convention.
- Any such inspection is limited to:
 - (a) verifying a valid Certificate
 - (b) inspection of the Ballast Water record book, and/or
 - (c) a sampling of the ship's Ballast Water

Article 9 *Inspection of Ships*

- No valid Certificate-clear grounds
- (a) the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate; or
- (b) the master or the crew are not familiar with essential shipboard procedures relating to Ballast Water Management, or have not implemented such procedures

Article 9 *Inspection of Ships*

- A detailed inspection may be carried out.
- The Party carrying out the inspection shall take such steps as will ensure that the ship shall not discharge Ballast Water until it can do so without presenting a threat of harm to the environment, human health, property or resourc

Article 10 *Detection of Violations and Control of Ships*

- Parties shall co-operate in the detection of violations and the enforcement of the provisions of this Convention.
- If the sampling leads to a result, or supports information received from another port , indicating that the ship poses a threat to the environment, human health, property or resources, the Party in whose waters the ship is operating shall prohibit such ship from discharging Ballast Water until the threat is removed.

Article 11 *Notification of Control Actions*

- If an inspection conducted pursuant to Article 9 or 10 indicates a violation of this Convention, the ship shall be notified.
- A report shall be forwarded to the Administration, including any evidence of the violation

Article 12 *Undue Delay to Ships*

- All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article 7.2, 8, 9 or 10.
- When a ship is unduly detained or delayed under Article 7.2, 8, 9 or 10, it shall be entitled to compensation for any loss or damage suffered.

On Board Documents

- **Regulation E-2 *Issuance or Endorsement of a Certificate***: a ship to which regulation E-1 applies is issued a Certificate after successful completion of a survey.
- **Regulation A-4 *Exemptions***: Exemption Certificate
- **Regulation A-5 *Equivalent compliance Document***
- **Regulation B-1 *Ballast Water Management Plan***
- **Regulation B-2 *Ballast Water Record Book***
- **Regulation B-3 *Ballast Water Management for Ships-Type approval cert***

Documents auditing non-compliance

- Official Log Books
- Weather reports
- Levels of energy consumption and ballast pumping rates
- Reports of onboard testing of salinity and presence of ocean living HAO
- Record of performance of BWMS for continuous monitoring

E-Reporting

- Useful, in particular for BWE
- Suggested by India and others, example will be shown by Turkey on second day
- IMO encourages e-reporting
- Less delay in ports
- BW reporting forms in collating data regarding BW discharge or uptake at any given port and the limitations of manually submitted reporting forms

E-Reporting

- India developed a Self-validating e-Ballast Water Reporting Form.
- The form is being implemented on a voluntary basis at the major ports of India.
- Usefulness of such a form in collating accurate information for ballast water risk assessment and ballast water management practices at a given port.

Case Study I: Mormugao Port

- Data collated from ballast water reporting forms (IMO Paper forms, 1225), submitted by ships to the Mormugao Port from February 2001 to October 2008, indicated that 242 forms had different types of errors

Violations & Report of Violations

- Clear Evidence
- No BWM cert on board
- No record book
- No BWM Plan
- Officers and crew not familiar with BW operations and BWMS
- Uptake of BW in areas of outbreak
- Reporting to be done in accordance with PSC procedures

Scrutiny report of ballast water reporting forms (paper) at the Mormugao Port

- **Number of Forms**
 - (1) Ballast water usage and capacity error 22
 - (2) Ballast water history error 42
 - (3) Voyage information error 59
 - (4) Vessel information error 57
 - (5) Forms in different format 42
 - (6) Illegible forms 20
 - **Total number of Forms with errors (sum of 1 to 6) 242**
 - Valid Forms 983
 - **Total number of Forms collected 1,225**

Enforcement Actions

- Warning
- Detention
- Permit to sail to nearest port
- Exclusion from port
- Fine
- Imprisonment for intentional discharge and damage
- Prohibit discharge
- Discharge to reception facilities or designated area

BWMS using active substances

- BWM.2/Circ.30: 13 October 2010
- BWM Convention regulation D-3.2: BWMS which make use of Active Substances, to comply with the Convention, shall be approved by IMO based on a procedure developed by the Organization.
- Regulation A-1.7: An Active Substance is a substance or organism, including a virus or a fungus that has a general or specific action on or against harmful aquatic organisms and pathogens.

Application for Type Approval of a BWMS

- Documents should be consulted:
- The Convention
- Guidelines for approval of ballast water management systems (G8);
- Procedure for approval of BWMS that make use of Active Substances (G9);
- Guidelines for ballast water sampling (G2);
- Other pertinent ballast water management resolutions, guidance and circulars.

Type Approval of a BWMS

- Guidance to ensure safe handling and storage of chemicals and preparations used to treat ballast water and the development of safety procedures for risks to the ship's crew resulting from the treatment process;
- Resolution MEPC.175(58) – Information reporting on type-approved BWMS;
- Methodology for information gathering and the conduct of work of the GESAMP-BWWG.

Type Approval of a BWMS

- description of design, construction, operation
- functioning of the BWMS;
- preliminary assessment of the corrosion effects of the system;
- test results;
- technical Manual;
- BWMS piping and instrumentation diagram (P&ID);
- link to BWM plan;
- environmental and public health effects; and
- specific salinities to be tested;

Regulation B-3.1: BWM.2/Circ.29

7 October 2010

- Clarification regarding the application dates
- Regulation B-3.1 of BWMS Convention:
- A ship constructed before 2009 with a ballast water capacity of between 1,500 and 5,000 cubic metres, inclusive, shall conduct BWMS that at least meets the standard described in regulation D-1 or regulation D-2 until 2014, after which time it shall at least meet the standard described in regulation D-2;

BWMS using active substances

- MEPC 60 (22 to 26 March 2010) and MEPC 61 (27 September to 1 October 2010), granted 11 Basic Approvals and 10 Final Approvals to BWMS that make use of Active Substances.
- Annexes to this circular contain relevant information on BWMS that received Basic and Final Approvals from March **2006 until December 2010**.
- Information regarding the systems that received Type Approval Certification can be found in the IMO website at <http://www.imo.org/home.html>.

Current status of CME provisions at IMO

- FSI 19: 21 to 25 Feb 2011
- Considered and agreed to the draft text of the revision of resolution A.787 (19) as amended by resolution A 882(21) (Procedures for Port State Control, 2011) and forwarded these to MSC 89 and MEPC 62 for approval prior to submission to 27th Assembly (Nov/Dec 2011) for Adoption
- Established a CG to further develop Guidelines on PSC under the 2004 BWM Convention excluding parts related to BW sampling analysis where further advice from BLG is needed taking MEPC/61 Inf. 19 (Australia)

Progress on BWMS PSC Guidelines

- 27 States with 25.32% of world's merchant shipping tonnage have accepted the Convention
- FSI 18 re-established CG on the harmonization of PSC activities and instructed it inter alia to consider the existing guidelines on PSC under BWM Convention developed by PSC regimes (FSI 16/8) taking BLG's work into account
- MEPC 61 agreed that development of BWM PSC guidelines to be completed by 2013

Progress on BWMS PSC Guidelines

- MEPC/61 Inf. 19 (Australia) was considered by FSI 19 as it provides useful tools for verification of BWMS by PSC officers
- FSI noted that BLG 15 (7 to 11 Feb 2011) had established a CG to further develop the draft BWM circular on BW sampling and analysis and to provide a reasoned explanation regarding the compatibility of this guidance with the Guidelines for approval of BWM systems (G8).

Progress on BWMS PSC Guidelines

- BLG is expected to finalize the circular on ballast water sampling and analysis at its sixteenth session in 2012.
- Additional guidance should be developed to address those ballast water management systems not fitted with an onboard monitoring system
- Further clarification is needed with regard to indicative sampling/analysis & representative sampling.

Progress on BWMS PSC Guidelines

- Norway, supported by others: it would be appropriate to await the outcome of the BLG on the development of BW sampling and analysis protocols before finalizing the Guidelines for port State control under the BWM Convention.
- FSI 19 agreed that development of the Guidelines for PSC under the BWM Convention should remain a high priority output since the Convention was expected to meet the requirements of entry into force in the near future.

Progress on BWMS PSC Guidelines

- Due to the time constraints, the FSI 19 WG had not been able to progress the development of the Guidelines on port State control under the 2004 BWM Convention.
- FSI 19 instructed the CG on the Harmonization of PSC activities to further develop the Guidelines on port State control under the 2004 BWM Convention using annex 3 to document FSI 19/6 as a base document and excluding BW sampling and analysis where further advice from BLG is needed, taking also into consideration MEPC 61/INF.19 (Australia).

Report of FSI 19 WG: FSI 19/WP.3

23 February 2011

- **HARMONIZATION OF PORT STATE CONTROL ACTIVITIES**
- **DEVELOPMENT OF GUIDELINES ON PORT STATE CONTROL UNDER THE BWM Convention**

Revised Procedures for port State control

- Additional wordings within the port State reporting provisions on improving notification to the flag States.
- Minor amendments were made to the form for Comments by Flag State on Detention Report by adding a tick box to indicate whether or not the notification of detention was received by the flag State.

Revised Procedures for port State control

- Current PSC procedures not particularly clear with regard to the difference in dealing with vessels of non-parties and vessels below convention size.
- An amendment was made to make it clear
- General content of the draft Assembly resolution was polished up

PROCEDURES FOR PORT STATE CONTROL 2011

DRAFT ASSEMBLY RESOLUTION

- Resolution A.787(19): Assembly adopted Procedures for port State control
- Resolution A.882(21): adopted amendments to Procedures for port State control
- RECOGNIZING that efforts by port States have greatly contributed to enhanced maritime safety and security, and prevention of marine pollution

DRAFT ASSEMBLY RESOLUTION

- RECOGNIZING FURTHER the need for the revised Procedures to be further revised to take account of the amendments to the IMO instruments which have entered into force or become effective since the adoption of [resolutions A.787\(19\) and A.882\(21\)](#),
- ADOPTS the port State control Procedures 2011 (to be adopted by IMO Assembly in Nov/Dec 2011)

DRAFT ASSEMBLY RESOLUTION

- INVITES Governments, when exercising port State control, to implement the aforementioned procedures
- REVOKES resolutions A.787(19) and A.882(21)- will be revoked when new Assembly resolution is adopted.

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SHIPS BELOW CONVENTION SIZE

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- In the exercise of their functions the port State control officers will be guided by any certificates and other documents issued by or on behalf of the flag State Administration.
- In such cases, the port State control officers will limit the scope of inspection to the verification of compliance with those certificates and documents

SHIPS BELOW CONVENTION SIZE

- To the extent a relevant instrument is not applicable to a ship below convention size, PSCO's task will be to assess whether the ship is of an acceptable standard in regard to safety and the environment.
- PSCO will take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

Additional slides-BWM Convention Inspection

- **INSPECTION OF INTERNATIONAL BALLAST WATER MANAGEMENT CERTIFICATE , SHIP AND EQUIPMENT**
- **Ships required to carry an BWM Certificate**
- On boarding and introduction to the master or responsible ship's officer, the PSCO should examine the BWM Certificate, and the **BALLAST WATER RECORD BOOK.**
- **ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE WHERE REGULATION E-5.5 OR E-5.6 APPLIES**

BWM Convention Inspection

- The certificate carries information on the type of ship and the dates of surveys and inspections.
- As a preliminary check it should be confirmed that the dates of surveys and inspections are still valid.
- Check paragraph 1.11 of the Record of Construction and Equipment for Oil Tankers).

BWM Convention Inspection

- If the certificate is valid and the general impression and visual observations on board confirm a good standard of maintenance, the PSCO should generally confine the inspection to reported deficiencies, if any.
- If, however, the PSCO from general impressions or observations on board has clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, a more detailed inspection should be initiated

BWM Convention PSC Inspection

- The inspection of the engine-room and BW pump room and control room should begin with forming a general impression of the state of the rooms, condition of pumps, pipes, monitoring equipment, BWMS if fitted etc.
- Next a closer examination of the ship's equipment as listed in the BWM Certificate may take place. This examination should also confirm that no unapproved modifications have been made to the ship and its equipment.

BWM Convention PSC Inspection

- Should any doubt arise as to the maintenance or the condition of the ship or its equipment, then further examination and testing may be conducted as considered necessary.
- In this respect reference is made to the IMO Guidelines for Surveys.
- See BWM.2/Circ 7 and res. A 948(23) for guidelines on harmonized survey and certification under BWM Convention

BWM Convention PSC Inspection

- The PSCO should bear in mind that a ship may be equipped over and above the requirements of Annex I of the Convention.
- If such equipment is malfunctioning the flag State should be informed.
- This alone however should not cause a ship to be detained unless the discrepancy presents an unreasonable threat of harm to the marine environment.