

"SARNIA NEWS" CIRCULAR

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TO ALL SHIPOWNER CLIENTS

12th October, 2015

Re: Ballast Water Management Convention (BWMC)

Regardless of whether you are insured for P & I risks with RaetsMarine or not, we are attaching a copy of a recent article compiled by them, regarding the introduction of the Ballast Water Management Convention (BWMC), which is expected to come into force during the second half of 2016, but more probably in 2017.

Ship owners will be required to comply with the BWMC requirements in due course or be prevented from trading in the waters of any of the states which have ratified the convention, of which there is presently 44 with more to follow.

Kind regards,

Loss Prevention Team

BALLAST

water management

Every year, maritime trade is responsible for the transfer of up to 12 billion tons of ballast water around the world. To maintain stability and trim, vessels typically pump ballast water in and out whenever cargo is unloaded or loaded.

When ballasting in one ecological zone and discharging into another, a vessel can introduce harmful aquatic organisms and pathogens (HAOP) that may have a detrimental impact on the local biodiversity and the health of surrounding communities. Following multiple international efforts to combat this problem, on February 13, 2004, the IMO approved the Ballast Water Management Convention (BWMC). ►

THE BWMC

Originally planned as a MARPOL Annex, the BWMC is designed to regulate the operation of ships of all types operating in the aquatic environment, including submersibles and floating platforms. Some ships, such as those not designed to carry ballast water, are exempt from the application of the Convention. These ships are known as "no ballast on board" ships (NOBOB). This category also includes ships that do not cross international borders.

Divided into three parts, the BWMC contains 22 articles comprising definitions and general obligations to flag and port States. Its Annex, divided into five sections, sets out the more detailed technical regulations. In addition, at least 14 Guidelines for the BWMC have been approved. These are mainly devised to provide technical guidance to aid uniform implementation.

The BWMC is not set to enter into force until 12 months after ratification by 30 States, who represent 35% of world merchant shipping tonnage. As of mid-June 2015, a total of 44 States had ratified the Convention, with a combined merchant fleet that constitutes 32.86% of the world's GT. The Convention will thus not come into force until the second half of 2015 at the earliest, but more probably in 2017. Nonetheless, the time for implementation will be tight, as is explained below.

THE SHIP'S OBLIGATIONS

Ships subject to the BWMC are required to have on board and implement a BWM Plan approved by the administration of the flag State. The Plan is specific to each ship, and includes a detailed description of the actions to be taken to implement the BWM requirements and supplemental BWM practices.

Ships must also keep a BWM Record Book to complete when ballast water is taken on board, circulated or treated, and discharged into the sea. It should also record when ballast water is discharged to a reception facility, and when accidental or other exceptional discharge of ballast occurs.

Ships will further be required to submit themselves to the survey and certification requirements for BWM. Ships that are subject to survey by Port State authorities are those above 400 GT to which the Convention applies.

Annex B originally provided different dates on which various types of ships were required to comply with the Convention. As the BWMC had not come into force by January 1, 2014, the compliance schedule could not be enforced. At the end of 2013, the IMO Assembly therefore reviewed its implementation schedule. The outcome was that once the Convention comes into force, all existing ships over 400 GT will be required to have moved from an optional ballast water exchange or ballast water treatment, to a ballast water treatment only by their first International Oil Pollution Prevention (IOPP) renewal survey, irrespective of capacity and date of construction. All ships built afterwards will have to comply on delivery.

TOUGH CHOICES AHEAD

In future, ship owners who cannot afford to comply with BWM requirements will be prevented from trading in the waters of State parties, and will thus have to withdraw their ships from these routes. For owners prepared to comply, selecting an approved BWM system that is compatible with the system already on board, as well as installing it on time, has the potential to become a protracted and costly procedure.

First, owners will need to consider the steps necessary to fit an adequate BWM system. Then, owners will need to allocate some time for the system installation. For the sake of time efficiency, most owners will probably prefer for this to coincide with one of the ship's scheduled dry dockings. Nevertheless, as soon as the BWMC secures pending ratifications, ship yards will be confronted with retrofit demands from an estimated 57,000 vessels. There is a real risk that there is insufficient yard space to fit all ships in time. Meanwhile, the ability of equipment manufacturers to meet the market's demand on time will be tested.

Furthermore, choosing the right system for each vessel will be an important choice for every ship owner. Annex D specifies the standards for BWM (including the treatment

systems), which the flag States must approve. These include systems that make use of chemicals or biocides, make use of organisms or biological mechanisms, or that alter the chemical or physical characteristics of the ballast water.

In order to be type-approved, treatment systems need to be tested in a land-based facility and on board ships to prove that they meet the performance standards of the Convention. To date, the IMO has approved a total of 57 systems.

For their part, those systems that make use of active substances are subject to a different approval procedure intended to guarantee that they do not pose any unreasonable risk to the environment, human health, property or resources. To date, the IMO has approved a total of 37 such systems. In addition to these, a number of other systems are either under development, or at various stages of the IMO approval process. But are these the only options? Not quite.

ONE WORLD, TWO SYSTEMS

Besides the IMO, individual national bodies introduced regulations in response to local HAOP concerns. Most prominently, the United States' Coast Guard (USCG) began enforcing its ballast water regulations in June 2012. Vessels sailing in U.S. waters will be required to comply with USCG ballast water discharge standards and the U.S. EPA Vessel General Permit (VGP), in addition to State ballast water regulations.

Ships trading to the U.S. will therefore need to rely on a BWM system approved by the USCG. Currently, there are a number of systems in their testing and approval process, but none that has received type approval. So far, fewer than 20 manufacturers (of the 57 approved by the IMO) have expressed an intention to submit their systems through the stringent U.S. testing regime, and there is no guarantee that once submitted these systems will obtain approval. It is therefore understandable that manufacturers trading to the U.S. will want to delay the selection stage of their system. Should they opt for one which ultimately fails to obtain approval, it will need to replace it within five years, resulting in an undesirable duplication of costs. Nevertheless, ship owners are not the only ones biding their time.

IMPLEMENTATION: WAITING FOR ALL THE PIECES TO FALL INTO PLACE

There will be significant financial implications for the flag States when the Convention comes into force. For instance, there will be a knock-on effect from the need to provide alternatives to ballast water exchange at sea, such as on-shore treatment plants, or adequate facilities for the reception of sediments, both of which are stipulated by the Convention. Furthermore, there is the technological apparatus needed for the inspection of vessels by Port State Control officers, as well as sampling of ballast water carried on board. Together these requirements may have the unintended effect of deterring some States from ratification until they secure the infrastructure that permits them to fulfill their obligations.

For ship owners, the path to the shipyards remains paved with uncertainty. Back in May, BIMCO, INTERTANKO and the International Chamber of Shipping expressed their deep concern that the BWMC may come into force without a "realistic implementation schedule". They recommended that steps be taken to ensure that there are sufficient USCG-approved BWM systems available before the IMO Convention comes into force.

For their part, the IMO reviewed progress on this matter during the 68th session of its Marine Environment Protection Committee (MEPC), which was held last June. A number of the sticking points were revisited and a "Roadmap for the implementation of the BWMC" was agreed, which emphasises that early movers – i.e., ships which install BWM systems approved in accordance with current Guidelines – should not be penalized. This, in itself, however, does not provide much reassurance to owners still intending to trade with the U.S.

In the meantime, the shipping community continues to wait for the first BWM systems to be approved by the USCG for the missing 2.14% of world GT to jump start the BWMC, and for additional fine-tuning by the IMO during its next MEPC session scheduled for April 2016. As the BWMC moves forward, its telegraph remains set closer to 'dead slow' than to "full ahead". ■

