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21 July 2017

To: MARINE COMMITTEE

MC(17)39

Copy: ALL FULL AND ASSOCIATE MEMBERS (for information)

MEPC 71 – THE REPUBLIC OF IRELAND AND APPLICATION OF THE BWM CONVENTION TO SHIPS OPERATING IN SEA AREAS WHERE BALLAST WATER EXCHANGE IN ACCORDANCE WITH REGULATIONS B-4.1 AND D-1 IS NOT POSSIBLE

Action required: Members are invited to note and disseminate the information provided below to shipowners that may operate ships, following entry into force of the BWM Convention, in areas where ballast water exchange in accordance with regulations B-4.1 and D-1 of the Convention is not possible and wishing to discharge ballast water that has not been exchanged or treated using a BWMS in ports of the Republic of Ireland.

Members may recall that the Secretariat reported in circular MC(17)35 that MEPC 71, hereafter referred to as the Committee, finalised and approved guidance to be circulated by the IMO Secretariat in the form of a BWM.2 circular on the application of the BWM Convention to ships operating in sea areas where ballast water exchange in accordance with regulation B-4 is not possible. The IMO BWM.2 circular concerned has not yet been published but the agreed text as contained in annex 5 of the Report of the Ballast Water Review Group document MEPC 71/WP.9 is attached at **Annex** to this circular.

In brief the circular states:

Quote.

The Committee recommends to Member States that, until the date a ship is required to meet the ballast water performance standard described in regulation D-2 (D-2 standard) in accordance with regulation B-3, a ship operating in a sea area where ballast water exchange in accordance with regulations B-4.1 and D-1 is not possible:

1. Should not be required to meet the D-2 standard;
2. Should not be required to meet the D-2 standard regardless if the ship does not comply with regulation B-3.6 (discharge to a ballast water reception facility), B-3.7 (Other methods) or A-4 (Exemptions) of the BWM Convention;

3. Should not be required to proceed under regulation B-3.6, B-3.7 or A-4 of the BWM Convention; and

4. Should record the reasons why ballast water exchange was not conducted in accordance with regulation B-4.5.

Unquote.

As previously reported in MC(17)35 the Republic of Ireland requested the Committee to insert into the circular text reading “this guidance will not relieve ships or Parties from the obligations of the BWM Convention” however this was not agreed by the Committee.

As a result of the decision of the Committee the Republic of Ireland, which it is believed will ratify the BWM Convention shortly, has to decide as to whether it will impose on ships requirements that run contrary to the clear guidance of the Committee. The secretariat believes from discussions with the Irish delegation at MEPC 71 that the Republic of Ireland may take 2 differing approaches to ships based on their operating patterns, as follows:

1. ***For ships operating continuously in the Irish Sea and which will not be able to conduct BWE in accordance with regulations B-4.1 and D-1 at any time.*** It is believed that Ireland may not be guided by the IMO BWM.2 circular referred to above;

2. ***For ships operating normally or partly in other areas where BWE in accordance with regulations B-4.1 and D-1 is possible and can demonstrate through their approved Ballast Water Management Plan that they normally conduct BWE except for the periods they are operating in the Irish Sea.*** It is believed that Ireland will be guided by the IMO BWM.2 circular referred to above and will therefore not require or expect the ships concerned to:

(a). Comply with regulation D-2 and fit a BWMS until the date required to do so in accordance with the implementation schedule in the amended regulation B-3; or

(b). Comply with regulation B-3.6 (discharge to a ballast water reception facility), B-3.7 (Use other methods) or A-4 (Obtain exemptions) of the Convention .

The approaches that the Republic of Ireland is expected to take, as described above, have yet to be confirmed in an official notice and therefore can't be taken for granted.

The Secretariat would therefore advise shipowners/operators who are unable due to area of operation to conduct BWE in accordance with regulations B-4.1 and D-1 if intending to discharge ballast water in ports of the Republic of Ireland on or after 8 September 2017 to contact the Irish Port Authorities/Maritime Administration as a matter of priority to advise of their circumstances and mutually agree the actions expected of them.

Jonathan Spremulli
Technical Director

Enclosures:

Annex – MEPC 71 Agreed text for “BWM.2 Circular - Application of the BWM Convention to Ships Operating In Sea Areas Where Ballast Water Exchange In

Accordance With Regulations B-4.1 and D-1 Is Not Possible” contained in MEPC 71/WP.9 annex 5.