Canada’s Ballast Water Requirements

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Applicability of Canada’s Regulations

- **Ballast Water Control and Management Regulations** require vessels from outside Canada’s Exclusive Economic Zone (EEZ) to manage their ballast water.

- Ships remaining exclusively within Canada’s EEZ are currently exempt.

- Exemptions currently exist for ships trading with the Northern U.S.
National Ballast Water Management

• All vessels subject to the Regulations are required to manage their ballast water by:
  – Ballast water exchange,
  – Ballast water treatment,
  – Discharging ballast water ashore, or
  – Retaining ballast water onboard.

• These regulations permit treatment, but do not yet require it. However, ships choosing to treat must attain the performance standard of the Convention (Regulation D-2).

• Vessels must provide 96h notice and a ballast water report form.
Regional Ballast Water Co-operation

• Bi-nationally compatible regulations are important to facilitate shipping—particularly on the Great Lakes St. Lawrence Seaway system, which crosses federal and state borders.

• Canada has a long history of co-operation with the U.S., including a joint bi-national inspection program that ensures compliance by all overseas ships bound for the Great Lakes.

• Joint Canada – U.S. inspection of each tank on each transit by each vessel bound for the Great Lakes required to manage ballast water.

• Corrective action if non-compliant, so no unmanaged ballast water enters the Great Lakes from regulated ships.

• Joint reporting by Canada and the U.S.
Regional Ballast Water Challenges

• As a party to the Convention, Canada recognizes the importance of globally applicable ballast water regulations.

• However, the regional context for Canada’s implementation is complicated by the differing approach in the U.S.

• Canada has advised MEPC of challenges it may encounter in implementation:
  – MEPC 68/INF.34, and

• Incompatibilities between U.S. requirements and the Convention could introduce delays in the regulatory process needed to align Canada's Regulations with the Convention.
The Way Forward

• Canada welcomes the entry into force of the Convention, which will protect the environment and support the economy.

• Canada will continue work with the U.S., stakeholders and at the International Maritime Organization to develop plans for a smooth transition to the new regime.

• Until the Canada’s regulations are amended, Transport Canada will continue to apply the existing Canadian regulatory regime:
  – Exchange, Treatment, Retention on board, or Discharge ashore.

• For greater certainty, Transport Canada will be releasing Ship Safety Bulletins outlining interim criteria for:
  – Vessels using BWMS to comply with the Regulations
  – Canadian vessels fitting BWMS
More Information

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Structuring the Experience-Building Phase for the Ballast Water Convention

A proposal to MEPC by Canada with the Marshall Islands, the Republic of Korea and IMarEST
Why an Experience-Building Phase?

• The BWM Convention was drafted based on the best available information, and was adopted unanimously in 2004 by a broad range of IMO members, including countries and stakeholders.

• 13 years will have passed between the Convention’s adoption and its entry into force. Although we have learned a lot about ballast water management, some uncertainty remains.

• The implementation of any new and transformational Convention can be expected to pose challenges.

• A plan is needed to identify implementation challenges that may interfere with the objectives of the Convention. A process for making any adjustments is also needed.
Vision for Experience-Building

• IMO will need to gather information in order to identify what is working about the Convention, as well as what is not working.
  – Building a global picture of early ballast water management will not be easy. A recent IMO study was only able to consider 122 of the estimated 2,410 ships with BWMS. This did not allow for a definitive assessment of the reliability and performance of BWMS.

• IMO will also need an evidence-based process to assess the Convention and negotiate any needed adjustments to the rules.

• Until any needed adjustments are made, shipowners that are taking appropriate steps to comply should not be penalized.
  – However, shipowners, port states and flag states must work together to protect the environment during this period.
The Roadmap

• Some building blocks are already agreed within MEPC’s *Roadmap for the Implementation of the Convention*:
  – Non-penalization for some ships, subject to environmental protection
  – Contingency measures
  – Some data gathering
  – Trial period for sampling and analysis
  – A potential Convention review

• These elements should be refined and connected into a clear process.

• The goal: increased certainty, and a fair, practicable and environmentally protective regime.
Proposed Experience-Building Phase

• The phase should be a structured as a time for the IMO to:
  1. Gather data concerning the implementation of the Convention,
  2. Participate in the analysis of this data to identify any challenges,
  3. Undertake a review of the Convention text and negotiate any amendments.

• Meanwhile, appropriate non-penalization and environmental protection is needed.
Data Gathering Stage

• Aggregated data would be likely provided by countries to the IMO Secretariat. However, data submissions should be welcomed from all stakeholders.

• The Secretariat would combine these submissions for consideration by MEPC’s ballast water review group.

• Specific data requirements need discussion, but could include:
  – Numbers of ships certified, survey issues, number of exemptions;
  – Operational status of BWMS, crew familiarity, safety incidents;
  – Volume of ballast water managed, and the methods that work;
  – Extent of failures, why they happened, and contingency measures;
  – Methods and results of sampling and analysis; and
  – Number of other compliance checks, outcomes, and actions taken.
Data Analysis Stage

• Once sufficient data is gathered, the raw data will need analysis in order to produce useful and timely information and considerations for MEPC.

• It is possible that some studies and expert analysis could be undertaken at this stage.

• Specific analyses need discussion, but could include:
  – Pace of BWMS installation, systematic challenges and deficiencies;
  – Proportion of compliant discharges, exemptions, exceptions;
  – Reliability of BWMS, extent of exceedances, reasons for failures;
  – Proportion of ships otherwise in compliance, and if not why not;
  – Reasons for exemptions, exceptions, extra measures and warnings;
  – Assessment of the methods of sampling and analysis for trial use;
  – Effectiveness and safety of the Convention.
Convention Review Stage

- The Convention calls for “continued development of ballast water management and standards.”

- The data and analysis stages will prepare all members of MEPC to agree on what should be changed about the Convention. This review should have two parts:
  1. **Textual Review**: a holistic assessment of whether the text of the Convention is meeting its policy goals or not, leading to an evidence-based list of issues (critical and non-critical);
  2. **Amendment**: the Parties negotiate a package of amendments at MEPC to address the critical issues.

- The experience-building phase would end with the entry into force of the critical amendments.
  - A timeline for finishing the experience-building phase should be established at the beginning of the Convention Review stage.
Non-penalization

• Provided that shipowners and crews take the steps under their control to comply with the Convention, environmental protection (rather than penalization) should be emphasized until any needed changes are implemented.

• Ships should not be warned, sanctioned, detained or excluded if:
  – An approved BWMS is installed, maintained and used correctly;
  – The ballast water management plan has been followed; and
  – The self-monitoring system of the BWMS indicates it is working.

• The port state may still take actions to protect the environment.

• The ship, port state and flag state should use MEPC guidelines on contingency measures to determine the most appropriate solution for the discharge of non-compliant ballast water.
Benefits of Proposal

• This proposal is designed to meet the needs of flag states, port states, shipowners and other stakeholders by:
  – Emphasizing environmental protection over penalization;
  – Promoting installation, maintenance and proper use of a BWMS;
  – Encouraging careful BWMS selection (contingency measures);
  – Providing transparency on the parts of the Convention that are working, those that are not, why, and by how much; and
  – Assuring everyone that evidence-based improvements to the Convention will be considered and adopted through a clear process.

• The proposal will be considered at MEPC 70 in October 2016. If agreed, it will likely be further refined and improved.
More Information

- **Structuring the experience-building phase associated with the BWM Convention.**
  - MEPC 70/4/14 (Canada, Marshall Islands, Republic of Korea, IMarEST)

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