ANNEX 1

RESOLUTION MEPC.252(67)

Adopted on 17 October 2014

GUIDELINES FOR PORT STATE CONTROL UNDER THE BWM CONVENTION

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by international conventions for the prevention and control of marine pollution from ships,

RECALLING ALSO that the International Conference on Ballast Water Management for Ships held in February 2004 adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (the Ballast Water Management Convention) together with four conference resolutions,

RECALLING FURTHER that article 9 of the Ballast Water Management Convention prescribes that ships to which the Convention applies 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 the Convention,

NOTING that article 3.3 of the Ballast Water Management Convention prescribes that Parties to the Convention shall apply its requirements as may be necessary to ensure that no more favourable treatment is given to ships of non-Parties to the Convention,

HAVING CONSIDERED, at its sixty-seventh session, *Guidelines for port State control under the BWM Convention*, developed by the Sub-Committee on Implementation of IMO Instruments, at its first session,

1 ADOPTS the *Guidelines for port State control under the BWM Convention*, as set out in the annex to this resolution;

2 INVITES Governments to apply the guidelines when exercising port State control inspections;

3 AGREES to keep the guidelines under review, following the trial period associated with the *Guidance on ballast water sampling and analysis for trial use in accordance with the BWM Convention and Guidelines (G2)* (BWM.2/Circ.42) and in the light of experience gained with their application.

ANNEX

GUIDELINES FOR PORT STATE CONTROL UNDER THE BWM CONVENTION

CHAPTER 1
GENERAL

1.1 Purpose

1.1.1 These guidelines are intended to provide basic guidance for the conduct of a port State control (PSC) inspection to verify compliance with the requirements of the International Convention for the Control and Management of Ship's Ballast Water and Sediments, 2004 (BWM Convention). They are not intended to limit the rights the port State has in verifying compliance with the BWM Convention.

1.1.2 The Marine Environment Protection Committee, at its sixty-fifth session (May 2013), approved the *Guidance on ballast water sampling and analysis for trial use in accordance with the BWM Convention and Guidelines (G2)* (BWM.2/Circ.42) and agreed in principle with the recommendations related to the trial period for reviewing, improving and standardizing the guidance, as set out in annex 6 to document BLG 17/18.

1.2 Definitions and abbreviations

1.2.1 For the purpose of these guidelines, the definitions in the BWM Convention and in BWM.2/Circ.42 apply.

1.2.2 For the purpose of these guidelines, the following abbreviations apply:

IBWMC: International Ballast Water Management Certificate;

BWMP: Ballast Water Management Plan;

BWRB: Ballast Water Record Book;

BWMS: Ballast Water Management System;

FSUs: Floating Storage Units; and

FPSOs: Floating Production, Storage and Offloading unit.

1.3 Application

1.3.1 These guidelines apply to ships as stipulated in article 3 of the BWM Convention.

1.3.2 The regulations of the BWM Convention contain the following compliance provisions:

.1 the discharge of ballast water shall only be conducted in accordance with the regulations of the BWM Convention (regulation A-2);

.2 an IBWMC is required for all ships of 400 GT or above, excluding floating platforms, FSUs and FPSOs, as identified in regulation E-2;

.3 a ship is required to have on board and implement a BWMP approved by the Administration;

.4 a ship is required to have on board and maintain a BWRB which shall at least contain the information specified in appendix II of the BWM Convention, for a minimum period of two years after the last entry has been made (regulation B-2);

.5 a ship is required to meet either the ballast water exchange standard (regulation D-1) or ballast water performance standard (regulation D-2) in accordance with regulation B-3. The PSCO, however, should only enforce this in accordance with the schedule in resolution A.1088(28);

.6 ballast water exchange is conducted at least 200 nm from the nearest land and in water at least 200 m in depth, or in cases where the ship is unable, at least 50 nm from the nearest land and in water at least 200 m in depth, or in a designated ballast water exchange area and is required to be conducted in accordance with regulation B-4;

.7 sediment is removed and disposed from spaces designated to carry ballast water in accordance with the provisions of the ship's BWMP;

.8 officers and crew shall be familiar with their duties in the implementation of ballast water management particular to the ship and ship's BWMP (regulation B-6);

.9 any exemptions from the BWM Convention shall be recorded in the BWRB (regulation A-4.4) as well as records of any accidental and exceptional discharges (regulation B-2.3) and instances where ballast water was not exchanged in accordance with the BWM Convention (regulation B-4.5);

.10 a ship is required to report accidents or defects that affect its ability to manage ballast water to the flag State and the port State (regulation E-1.7);

.11 the condition of a ship, and its equipment, systems and processes shall be maintained to conform with the BWM Convention (regulation E-1.9); and

.12 after any survey of a ship under regulation E-1.1 has been completed, no change shall be made in the structure, equipment, fittings, arrangements or material associated with the BWMP and covered by the survey without the sanction of the Administration, except the direct replacement of such equipment or fittings (regulation E-1.10).

1.3.3 The regulations of the BWM Convention contain the following exceptions to the specific compliance provisions detailed below:

.1 exception to ballast water management requirements in the case of uptake or discharge of ballast water and sediments necessary for the purpose of ensuring the safety of a ship in emergency situations or saving life at sea (regulation A-3.1);

.2 exception to ballast water management requirements under certain conditions in the case of the accidental discharge or ingress of ballast water and sediments resulting from damage to a ship or its equipment (regulation A-3.2);

.3 exception to ballast water management requirements in the case of the uptake and discharge of ballast water and sediments when being used for the purpose of avoiding or minimizing pollution incidents from the ship (regulation A-3.3);

.4 exception to the ballast water management requirements in the case of the uptake and subsequent discharge on the high seas of the same ballast water and sediments (regulation A-3.4);

.5 exception to the ballast water management requirements in the case of the discharge of ballast water and sediments from a ship at the same location where the whole of the ballast and those sediments originated and provided that no mixing with unmanaged ballast water and sediments from other areas has occurred (regulation A-3.5);

.6 exception to the ballast water management requirements in the case of the discharge of ballast water to a reception facility designed taking into account the *Guidelines for ballast water reception facilities (G5)* (regulation B-3.6); and

.7 exception to the ballast water exchange requirements in the case where the master reasonably decides that such exchange would threaten the safety or stability of the ship, its crew, or its passengers because of adverse weather, ship design or stress, equipment failure, or any other extraordinary condition (regulation B-4.4).

1.3.4 With respect to ships of non-parties to the BWM Convention, port State control officers (PSCO) of Parties should apply the same requirements to ensure that no more favourable treatment is given to such ships.

1.3.5 The BWM Convention provides for a transition between two standards of ballast water management: from the ballast water exchange standard (regulation D-1) to the ballast water performance standard (regulation D-2). Resolution A.1088(28) on *Application of the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004* should be used by the PSCO instead of the schedules of regulation B-3 for the purpose of enforcing compliance with the ballast water performance standard.

CHAPTER 2
INSPECTIONS OF SHIPS REQUIRED TO CARRY THE BALLAST WATER MANAGEMENT (BWM) CERTIFICATE

2.1 Four-stage inspection

The PSC procedure can be described as a four-stage inspection:

.1 the first stage, the "initial inspection", should focus on documentation and ensuring that an officer has been nominated for ballast water management on board the ship and to be responsible for the BWMS, and that the officer has been trained and knows how to operate it;

.2 the second stage – the "more detailed inspection" where the operation of the BWMS is checked and the PSCO clarifies whether the BWMS has been operated adequately according to the BWMP and the self-monitored operational indicators verified during type approval procedures. Undertaking a detailed inspection is dependent on the conditions of article 9.2 of the BWM Convention;

.3 the third stage – sampling is envisaged to occur during this stage of PSC which relies on indicative analysis, to identify whether the ship is meeting the ballast water management performance standard described in regulation D-2, or whether detailed analysis is necessary to ascertain compliance; and

.4 the fourth stage, if necessary, incorporates detailed analysis to verify compliance with the D-2 standard.

2.2 Initial inspection

2.2.1 An initial inspection will, as a minimum and to the extent applicable, examine the following:

.1 check that a valid IBWMC is on board, based on article 9.1(a);

.2 check the BWMP is on board and approved by the flag State, based on regulation B-1;

.3 check the BWRB is on board and meets the requirements of the BMW Convention, based on regulation B-2;

.4 check that the details of any ballast water operations carried out are recorded in the BWRB together with any exemptions granted, based on regulation B-2 and appendix II of the BWM Convention, as well as notations of any accidental and exceptional discharges (regulation B-2.3) and instances where ballast water was not exchanged in accordance with the BWM Convention (regulation B-4.5). The BWRB should be in an approved format (which may be an electronic record system, which may be integrated into another record book or system) and should be kept on board the ship for a minimum of two years after the last entry. The officer in charge of the operation should sign each entry in the BWRB and the master should sign each completed page;

.5 in conducting the initial inspection, PSCO should conduct a visual check of the overall condition of the ship and the equipment and arrangements detailed in the IBWMC and the BWMP, including the BWMS if the use of one is required;

.6 in the case of a ship subject to the ballast water exchange standard, check that the BWRB indicates that the required exchange was undertaken, or alternatively, the ship has taken steps to meet the ballast water performance standard described in regulation D-2;

.7 check that the ship has taken steps to meet the ballast water performance standard described in regulation D-2 once required to do so by resolution A.1088(28);

.8 check that an officer has been designated to be responsible for the BWMP;

.9 check that designated officers and crew are familiar with essential BWM procedures, including the operation of BWMS; and

.10 in the case of a ship claiming an exception under regulation A-3.1 (safety of the ship or saving life), regulation A-3.2 (accidental discharge or ingress resulting from damage), regulation A-3.3 (avoiding or minimizing pollution) or regulation B-4.4 (unsafe conditions for exchange), the master should provide proof of the need for the relevant exception.

2.2.2 The performance of a ballast water management system (BWMS) is key to protecting the environment, human health, property and resources of the port State. While this performance may be verified directly by sampling the ship's ballast water (as per article 9.1(c) and *Guidelines for ballast water sampling (G2)*), both the port State and the ship may benefit from a document check to more readily establish the validity of the BWMS during the initial inspection. To this end, the PSCO may ask to check the Type Approval Certificate for the BWMS, to determine whether the BWMS is used in accordance with any limiting conditions on the Type Approval Certificate. While carriage and presentation of the Type Approval Certificate is not mandatory, the PSCO may also consult the BWMP to obtain ship-specific information on the BWMS and its use, and may refer to type-approval information shared with the Organization pursuant to the *Information reporting on type approved ballast water management systems* (resolution MEPC.228(65)).

2.2.3 If the IBWMC is valid, the approved BWMP is on board, entries in the BWRB are appropriate and the PSCO's general impressions and visual observations on board confirm a good standard of maintenance with regard to the BWM Convention, the PSCO should generally confine the initial inspection to reported deficiencies.

2.2.4 Clear grounds

2.2.4.1 When a PSCO inspects a foreign ship which is required to hold an IBWMC, and which is in a port or an offshore terminal under the jurisdiction of the port State, any such inspection should be limited to verifying that there is on board a valid certificate and other relevant documentation and the PSCO forming an impression of the overall condition of the ship, its equipment and its crew, unless there are "clear grounds" for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate.

2.2.4.2 "Clear grounds" to conduct a more detailed inspection include:

.1 IBWMC is missing, not valid, or has expired;

.2 absence of a BWMP approved by the flag State;

.3 absence of a BWRB or a BWRB that does not meet the requirements of the BWM Convention;

.4 entries in the BWRB do not reflect the actual ballast water situation on board;

.5 condition of the ship or its equipment does not correspond substantially with the particulars of the IBWMC and the BWMP or has not been maintained;

.6 no officer has been designated in accordance with regulation B-1.5;

.7 information or evidence that the master or designated crew is not familiar with their duties and essential shipboard operations relating to the implementation of the ballast water management or that such operations have not been carried out;

.8 information from third parties such as a report or complaint concerning violation of the BWM Convention;

.9 if the BWMP requires the use of a BWMS evidence, or observation that the BWMS has not been used in accordance with its operational instructions;

.10 evidence or observation of unreported accidents or defects that affect the ability of the ship to manage ballast water (regulation E-1.7);

.11 evidence or observation that ballast water has been discharged other than in accordance with the regulations of the BWM Convention (regulation A-2); and

.12 the master has not provided the proof referenced in paragraph 2.2.1.10.

2.2.4.3 If the ship does not carry valid certificates, or if 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 certificates or the BWM Convention, or that the master or designated crew is not familiar with, or have not implemented essential shipboard procedures, a more detailed inspection should be carried out. Where a more detailed inspection is to be carried out, the port State will take such steps to ensure the ship will not discharge ballast water until it can do so in accordance with article 9.3 of the BWM Convention (see notification requirements in paragraph 3.3 below).

2.3 More detailed inspection

2.3.1 When carrying out a more detailed inspection, the PSCO may utilize, but not be limited to, the following questions to ascertain the extent of compliance with the BWM Convention:

.1 Is the ballast water management on board the ship in accordance with the operations outlined in the ship's BWMP? In particular:

.1 Is the crew following specific operational or safety restrictions associated with safe tank entry, if needed?

.2 Is the crew managing ballast water sediments in accordance with the BWMP?

.3 Are designated officers following their duties as set out in the BWMP?

.4 Are the record-keeping requirements in accordance with the BWMP?

.2 Since the time of the survey of the ship under regulation E-1.1, has an unsanctioned change been made to the structure, equipment, fittings, arrangements or material associated with the BWMP, except the direct replacement of such equipment or fittings (regulation E-1.10)?

.3 If the BWMP requires the use of a BWMS:

.1 Is the BWMS and associated equipment in good working order, (this could include filters, pumps, and back flushing equipment)?

.2 Is the crew following safety procedures associated with operation of the BWMS?

.3 Is the treatment process fully operational (this could include, reference to the self-monitoring system of a BWMS)?

.4 Does the BWRB align with the onboard control equipment, including the self-monitoring device of the BWMS?

.5 Is the BWMS being operated according to the operational instructions?

.6 Can the designated officer demonstrate the necessary knowledge of the BWMS and how it operates?

.7 Has the BWMS been bypassed?

.8 Where required, are any needed Active Substances present in adequate supply on board the ships, and where present, are they being introduced into the BWMS?

2.3.2 The PSCO may examine any element of the ballast water system in order to check that it is working properly.

2.3.3 More detailed inspection may result in sampling.

2.4 Sampling

2.4.1 PSCO should carry out an indicative analysis first. However, the time required to conduct the indicative analysis should not unduly delay the operations, movement or departure of the ship. If the result of indicative analysis for the D-2 standard exceeds the D-2 standard by a threshold specific to the validated indicative analysis method being used as set out in the *Guidance on ballast water sampling and analysis for trial use in accordance with the BWM Convention and Guidelines (G2)* (BWM.2/Circ.42)[1], a detailed analysis can be carried out.

2.4.2 The quantity of the sampling water to be taken and location in the ship chosen should be in accordance with the *Guidelines for ballast water sampling (G2)* and associated guidance developed by the Organization. Every effort should be made to avoid any undue delays to the ship.

2.4.3 The PSCO should not delay the operation, movement or departure of the ship while waiting for the results of detailed analysis.

[1] The validation on a specific method is to be carried out through the process of review and revision of the *Guidance on sampling and analysis for trial use in accordance with the BWM Convention and Guidelines (G2)* (BWM.2/Circ.42).

2.5 Violations and control of ships

Stopping the discharge due to sampling as a control action

2.5.1 If the sampling described above leads to a result, or supports information received from another port or offshore terminal, indicating that the ship poses a threat to the environment, human health, property or resources, the Party in whose waters the ship is operating should prohibit such ship from discharging ballast water until the threat is removed (see notification requirements in paragraph 3.3 below).

Detainable deficiencies

2.5.2 If a ship has violated the BWM Convention, the PSCO may take steps to warn, detain or exclude the ship or grant such a ship permission to leave to discharge ballast water elsewhere or seek repairs. The PSCO should use professional judgment to determine whether to detain the ship until any noted deficiencies are corrected, or to permit a ship to sail with deficiencies that do not pose an unreasonable threat of harm to the marine environment, human health, property or resources (see notification requirements in paragraphs 3.3 to 3.6 below).

2.5.3 In order to assist the PSCO in the use of these guidelines, there follows a non-exhaustive list of deficiencies which are considered to be of such a serious nature that they may warrant the detention of a ship:

.1 absence of an IBWMC;

.2 absence of a BWMP;

.3 absence of a BWRB;

.4 indication that the ship or its equipment does not correspond substantially with the particulars of the IBWMC and BWMP;

.5 absence, serious deterioration or failure of proper operation of equipment required under the BWMP;

.6 the designated officers or crew are not familiar with essential ballast water management procedures including the operation of BWMS and all associated BWMS equipment;

.7 no ballast water management procedures have been implemented on board;

.8 no designated officer has been nominated;

.9 the ship has not complied with the BWMP for management and treatment of ballast water;

.10 result of non-compliance by sampling; or

.11 ballast water has been discharged other than in accordance with the regulations of the BWM Convention (regulation A-2).

Control actions

2.5.4 If a ship is detected to have violated the BWM Convention, the port State may take steps to warn, detain or exclude the ship. The port State, however, may grant such a ship permission to leave the port or offshore terminal for the purpose of discharging ballast water or proceeding to the nearest appropriate repair yard or reception facility available, provided doing so does not present a threat of harm to the environment, human health, property or resources (see notification requirements in paragraphs 3.3 to 3.6 below).

2.5.5 Port States should refrain from applying criminal sanctions or detaining the ship, based on sampling during the trial period. This does not prevent the port State from taking preventive measures to protect its environment, human health, property or resources.

2.5.6 The ship should have evidence that the ballast water management system is type approved and has been maintained and operated in accordance with the ships' Ballast Water Management Plan.

2.5.7 As an alternative to warning, detention or exclusion of the ship, the PSCO may wish to consider the following alternative measures, providing doing so does not present a threat to the environment, human health, property or resources:

.1 retention of all ballast water on board;

.2 require the ship to undertake any repairs required to the BWMS;

.3 permit the ship to proceed to exchange ballast water in a location acceptable to the port State, providing ballast water exchange is still an acceptable practice for the specific ship and such areas are established in accordance with the *Guidelines on designation of areas for ballast water exchange (G14)*;

.4 allow the ship to discharge ballast to another ship or to an appropriate shipboard or land-based reception facility; or

.5 allow the ship to manage the ballast water or a portion of it in accordance with a method acceptable to the port State.

CHAPTER 3
REPORTING REQUIREMENTS

3.1 Port State authorities should ensure that, at the completion of an inspection, the master of the ship is provided with a document showing the results of the inspection, details of any action taken by the PSCO and a list of any corrective action to be initiated by the master and/or company. Such reports should be made in accordance with the format in appendix 13 of the *Procedures for port State Control* (resolution A.1052(27), paragraph 4.1.1).

3.2 If a ship has been inspected as a result of a request for investigation from another State, the inspection report should be sent to the requesting State and the flag State (article 10.4).

3.3 In the event that an action is taken in accordance with paragraphs 2.2.4.3, 2.5.1 or 2.5.5:

.1 the port State should inform, in writing, the flag State of the ship concerned, or if this is not possible, the consul or diplomatic representative of the ship concerned, of all the circumstances in which the action was deemed necessary. In addition, the recognized organization responsible for the issue of certificates should be notified (article 11.2); and

.2 in the event that the PSCO is unable to take the intended action, or if the ship has been allowed to proceed to the next port of call, the authorities of the port State should communicate all the facts to the authorities of the country of the next appropriate port of call, to the flag State, and to the recognized organization, where appropriate (article 11.3; resolution A.1052(27), paragraph 4.1.4).

3.4 In the event of a violation of the BWM Convention, the notifications in paragraph 3.3 should be made. In addition, the ship should be notified of the violation and the report forwarded to the flag State should include any associated evidence (article 11.1).

3.5 Where, in the exercise of port State control, a Party denies a foreign ship entry to the ports or offshore terminals under its jurisdiction, whether or not as a result of information about a substandard ship, it should forthwith provide the master and flag State with reasons for the denial of entry (resolution A.1052(27), paragraph 4.1.2).

3.6 In the case of a detention, at least an initial notification should be made to the flag State as soon as practicable. If such notification is made verbally, it should be subsequently confirmed in writing. As a minimum, the notification should include details of the ship's name, the IMO number, copies of Forms A and B as set out in appendix 13 of the Procedures for port State Control, time of detention and copies of any detention order. Likewise, the recognized organizations which have issued the relevant certificates on behalf of the flag State should be notified, where appropriate. The parties above should also be notified in writing of the release of detention. As a minimum, this information should include the ship's name, the IMO number, the date and time of release and a copy of Form B as set out in appendix 13 of the *Procedures for Port State Control* (resolution A.1052(27), paragraph 4.1.3).

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