

4 ALBERT EMBANKMENT
LONDON SE1 7SR
Telephone: +44 (0)20 7735 7611 Fax: +44 (0)20 7587 3210

BWM.2/Circ.79
14 July 2023

**INTERNATIONAL CONVENTION FOR THE CONTROL AND MANAGEMENT
OF SHIPS' BALLAST WATER AND SEDIMENTS, 2004**

**Convention Review Plan for the experience-building phase associated with
the BWM Convention**

- 1 The Marine Environment Protection Committee (MEPC), at its seventy-first session (3 to 7 July 2017), adopted resolution MEPC.290(71), establishing the experience-building phase associated with the BWM Convention (EBP), to allow the Marine Environment Protection Committee to monitor and improve the *International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004*, in three stages: data gathering, data analysis and Convention review.
- 2 MEPC 72 (9 to 13 April 2018) approved the *Data gathering and analysis plan for the experience-building phase associated with the BWM Convention* (BWM.2/Circ.67), and MEPC 74 (13 to 17 May 2019) approved a revision of the plan (BWM.2/Circ.67/Rev.1).
- 3 MEPC 78 (6 to 10 June 2022), having considered the data analysis report on the EBP and a proposal to develop a Convention Review Plan, agreed in principle to develop a BWM Convention Review Plan (CRP) and established a Correspondence Group to finalize the CRP.
- 4 MEPC 80 (3 to 7 July 2023), having considered the report of the Correspondence Group, approved the BWM Convention Review Plan as set out in the annex.
- 5 Member Governments and international organizations are encouraged to use the annexed plan to guide the holistic review of the BWM Convention which was agreed as part of the EBP.

ANNEX

CONVENTION REVIEW PLAN FOR THE EXPERIENCE-BUILDING PHASE ASSOCIATED WITH THE BWM CONVENTION

1 Overview of the experience-building phase

1.1 On 7 July 2017, the Marine Environment Protection Committee (the Committee) established the experience-building phase associated with the BWM Convention (EBP) through resolution MEPC.290(71). The annex to this resolution set out the structure of the EBP, whose purpose is to allow the Committee to monitor and improve the *International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004* (the Convention).

1.2 The EBP consists of a data gathering stage, a data analysis stage and a Convention review stage. The EBP began with the entry into force of the Convention and ends with the entry into force of a package of priority amendments. The priority amendments are those that implement improvements to the Convention needed before the end of non-penalization measures specific to the EBP that are set out in resolution MEPC.290(71). Aside from these non-penalization measures, the EBP does not alter the basic roles, responsibilities, obligations and recommendations under the Convention, its guidelines and relevant guidance.

1.3 The Committee subsequently adopted BWM.2/Circ.67/Rev.1 containing a data gathering and analysis plan (DGAP) for the EBP. The circular set out specific arrangements for data gathering, as well as principles and organizational arrangements for analysing the data collected. With the submission of the data analysis report (MEPC 78/4/1) the data gathering and analysis stages of the EBP have been completed.

1.4 This Convention Review Plan (CRP) picks up where the DGAP left off by laying out the Committee's work plan for the remainder of the EBP. It includes a revised timeline that reflects the challenges posed by the COVID-19 pandemic and the heavy workload of the Committee relating to other matters of importance to the marine environment. Although the DGAP has been completed, it is still considered appropriate for any further information and data to be submitted to the Committee for consideration during the Convention review stage of the EBP.

2 Organizational arrangements

2.1 The Ballast Water Review Group (BWRG) should meet at each session of the Committee during the EBP. The BWRG will consider the analysis report and will be the primary forum for discussion during the Convention review stage, preparing the necessary materials and recommendations for the Committee's consideration. The BWRG should also continue to undertake reviews in accordance with regulation D-5 of the Convention during the EBP.

2.2 Recognizing the significant time constraints faced by the Committee due to its heavy workload, and the uncertain timing of returning to in-person meetings due to the COVID-19 pandemic, the work of the BWRG should be supported by a correspondence group (CG), preferably coordinated by the BWRG Chair.

3 Conducting the Convention review

3.1 The purpose of the Convention review stage is for the Committee to recommend to the Parties a package of amendments to the Convention and its instruments. The Convention review stage will develop amendments through a systematic and evidence-based approach, based on the data gathering and analysis report developed earlier in the EBP, and ensure that amendments are developed holistically, taking into account any inconsistencies or ambiguities, through an objective, transparent and inclusive approach. In addition to the data gathering and analysis report, the review may consider any further information or data submitted to the Committee and as such interested parties are encouraged to collect and submit such information, provided that any such submission is in line with the timeline proposed in section 6.

3.2 General steps for the Convention review were set out in paragraph 18 of resolution MEPC.290(71). More specifically, the Convention review should proceed through the following sequence:

- .1 finalization of this Convention Review Plan, including agreed principles for the review, and the evidence-based list of issues with the Convention, highlighting those priority issues that need to be addressed before the end of the EBP (and its associated non-penalization arrangements);
- .2 discussion of approaches to resolving priority issues on a holistic basis, guided by the principles for the review, resulting in agreement to objectives for amending specific Convention provisions and/or instruments, if appropriate;
- .3 determination of whether any amendments to Convention provisions should be adopted under article 19(2) or 19(3), taking into account the scope of amendments and the workload of the Committee, and stocktaking of the timeline as appropriate;
- .4 drafting of the package of specific amendments to Convention provisions and instruments in line with the objectives agreed at step 2; and
- .5 recommendation of the package of amendments to the Committee for approval, as well as the proposed approach for addressing any remaining non-priority issues following the conclusion of the EBP.

3.3 An anticipated timeline for the Convention review is set out in section 6.

Trial period for reviewing, improving and standardizing guidance for ballast water sampling and analysis

3.4 Recognizing a lack of agreed standard methods and/or accepted procedures for sampling and analysing ballast water for compliance, MEPC adopted certain methods and approaches for trial use* with a view to eventual incorporation into the port State control (PSC) guidelines (resolution MEPC.252(67)). The EBP includes this trial, with the goal of developing a suite of accepted procedures that can be used for sampling and analysing ballast water in a globally consistent way.

* Reference is made to the *Guidance on ballast water sampling and analysis for trial use in accordance with the BWM Convention and Guidelines (G2)* (circular BWM.2/Circ.42/Rev.2, as may be revised) and to the agreement in principle of MEPC with respect to the trial period (paragraph 2.43.2 of document MEPC 65/22).

3.5 The DGAP envisioned the finalization of these procedures during the Convention review stage, based on the EBP's data gathering and analysis. At least one agreed standard method for indicative and detailed analysis of organisms at each size class is desired.

3.6 In developing the list of priority issues for the Convention review (section 5), the BWRG will consider the results of the trial period and implementation experience gained, recalling the Committee's agreement that the PSC guidelines be kept under review after the trial period and in the light of experience gained with their application (see operative paragraph 3 of resolution MEPC.252(67)).

4 Principles for the Convention review

4.1 In reviewing the Convention, the Committee decided through resolution MEPC.290(71) to give due consideration to matters such as the policy goals of the Convention, any challenges identified in its implementation and the considerations outlined in regulation D-5 of the Convention.

4.2 Furthermore, in identifying and addressing issues during the Convention review, the following principles should also be taken into account:

- .1 the review should continue the development of the Convention and its instruments, in line with article 2(5), 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, and article 2(6), to endeavour not to impair or damage the environment, human health, property or resources;
- .2 the Convention and its instruments should continue to promote the development of suitable methods for the management of ballast water and sediments, including the development of robust ballast water management systems (BWMS) suitable for challenging conditions in worldwide operations;
- .3 with respect to ships that opt to meet the performance standard by using a BWMS, the Convention and its instruments should continue to encourage and promote the development, selection, installation, operation and maintenance of BWMS appropriate and suitable to the operational profile of the ship;
- .4 while the objectives of the Convention cannot be met without impact to ship operations, the review should be undertaken with a view to minimizing unintended consequences and impacts;
- .5 the principle of proportionality (e.g. the number of ships affected by challenges) and the considerations in regulation D-5.2 should inform the review of the Convention and its instruments; and
- .6 the review presents an opportunity to rationalize and improve key control points, with a view to improving the clarity and effectiveness of the Convention.

5 Prioritization of issues to be addressed through the Convention review

5.1 The table in the annex lists the identified issues, including priority issues that should be addressed before the end of the non-penalization measures specific to the EBP. Non-priority issues may be addressed during the EBP, if time frames and resources allow, or after the EBP. Issues have been identified based upon the principles outlined in section 4.

5.2 Priority issues are those that need to be addressed before the non-penalization measures specific to the EBP end. When determining if an issue should be considered as 'priority', the principles of the Convention review (section 4) and the following points should be taken into consideration:

- .1 has the issue been identified by the report of the data gathering and analysis phase of the EBP (MEPC 78/4/1) or otherwise been evidenced and identified to the Committee (e.g. MEPC 78/4/10 and MEPC 78/4/11)?
- .2 does the identified issue impact upon a mandatory requirement of the Convention (the legal status (or lack of) of the issue) and/or whether there is the need for existing instruments or proposed solutions to be made mandatory?
- .3 the extent to which any actions taken in response to the issue may facilitate compliance with the Convention while adhering to the aims and intent of the Convention;
- .4 any evidence or experience of the scale, impact and/or consequences (to the environment, human health, property or resources) if the issue is not resolved or of the proposed action(s);
- .5 any evidence or experience of the scale, impact and/or consequences of the issue on ship operations if it remains unresolved; and
- .6 whether the issue can be addressed as a part of a holistic approach to amending the Convention (issues that may be addressed in isolation may be given a lower priority and addressed outside of the EBP).

5.3 The contents of the table in the annex may be amended during the Convention review process on the basis of new developments, information or data or on direction by the Committee. The form of the table used to propose additional issues to the Committee is shown as table 1.

Table 1: Form of the table for proposing additional issues

	Issue	Relevant provisions and instruments	Relevant IMO documents	Priority issue? (Y/N)	Justification for prioritization
1.	Issue A	- Regulation V - Guideline W - Guidance X - Resolution Y - Circular Z	-	YES / NO	
	...	...			...

6 Timeline for the Convention review

Meeting	Time frame	Activity
MEPC 80	Summer 2023	- targeted policy discussions as recommended by the CG - adopt the final CRP, including principles and priority issues - holistic discussion of approaches to resolving priority issues - re-establish the CG to define specific objectives for changes to identified Convention provisions and/or instruments
MEPC 81	Spring 2024	- holistic discussion of approaches to resolving priority issues - targeted policy discussions as recommended by the CG - adopt objectives for changes to specific Convention provisions and/or instruments, or agree to the need for new provisions and/or instruments, to address the issues in the annex - re-establish the CG to begin drafting text of amendments
MEPC 82	Autumn 2024	- targeted discussions as recommended by the CG - determine if any amendments should be adopted under article 19(2) or 19(3), and revise timeline if needed - continued work by the CG with a view to drafting of amendments to provisions and/or instruments
MEPC 83	Spring 2025	- targeted discussions as recommended by the CG - re-establish the CG with a view to completing drafting of priority amendments, and to developing an approach to addressing any remaining non-priority issues after the EBP
MEPC 84	Spring 2026	- targeted discussions as recommended by the CG - approval of the package of amendments - determine approach to addressing any remaining non-priority issues
MEPC 85	Autumn 2026	- drafting group - adoption of amendments to provisions and/or instruments

ANNEX

TABLE OF ISSUES TO BE ADDRESSED

Issue number	Issue	Priority issue (Y/N)
1	How to improve the performance and reliability of BWMS to increase compliance to the D-2 standard	Y
2	Lack of approved sampling and analysis methods usable in a PSC context limits the ability of the port State in establishing whether ships are in compliance with the D-2 standard	Y
3	Verification of the performance of BWMS outside of PSC is inconsistent	Y
4	How should crossover / confusion / overlap issues between Conventions be addressed?	N
5	Mechanisms for ship compliance in circumstances in which a BWMS installed on a ship may not be suitable for the intended specific voyage or operations to be undertaken	Y
6	Mechanisms for ship compliance in cases of BWMS failure need to be agreed to ensure the aims of the Convention are maintained in all situations	Y
7	Mechanisms for ship compliance in situations other than BWMS failure or challenging water quality need to be agreed to ensure the aims of the Convention are maintained in all situations	Y
8	BWMS may become temporarily inoperable when encountering challenging water quality	Y
9	The current type approval process does not support modifications to BWMS	Y
10	Mechanisms within the Convention for ensuring that a BWMS is kept in working order should be improved	Y
11	Sampling of ballast water discharges managed by in-service BWMS indicates that the discharges do not consistently meet the D-2 standard	Y
12	The Convention's minimum requirements for Ballast Water Management Plans do not cover all items necessary for smooth implementation and compliance (e.g. contingency measures, including ballast water exchange) and there is no requirement to keep the plan up to date	Y
13	Sampling of ballast water discharges managed by in-service BWMS that use active substances indicates that the discharges do not consistently meet the maximum allowable discharge concentrations allowed under Procedure (G9)	Y
14	Operational challenges, maintenance challenges, or preventable BWMS failures are occurring owing to a lack of familiarity with the equipment	Y