

ANNEX 1

RESOLUTION MEPC.161(56)

Adopted on 13 July 2007

GUIDELINES FOR ADDITIONAL MEASURES REGARDING BALLAST WATER MANAGEMENT INCLUDING EMERGENCY SITUATIONS (G13)

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 the international conventions for the prevention and control of marine pollution,

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 (Ballast Water Management Convention) together with four Conference resolutions,

NOTING that regulation A-2 of the Ballast Water Management Convention requires that discharge of ballast water shall only be conducted through Ballast Water Management in accordance with the provisions of the Annex to the Convention,

NOTING FURTHER that Section C of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediments provides that, if a Party, individually or jointly with other Parties, determines that measures in addition to those in Section B of the Convention are necessary to prevent, reduce, or eliminate the transfer of harmful aquatic organisms and pathogens through ships' ballast water and sediments, such Party or Parties may, consistent with international law, require ships to meet a specified standard or requirement taking into account the Guidelines developed by the Organization,

NOTING ALSO that resolution 1 adopted by the International Conference on Ballast Water Management for Ships invited the Organization to develop these Guidelines as a matter of urgency,

HAVING CONSIDERED, at its fifty-sixth session, the draft Guidelines for additional measures regarding ballast water management including emergency situations (G13) developed by the Ballast Water Working Group,

1. ADOPTS the Guidelines for additional measures regarding ballast water management including emergency situations (G13) as set out in the annex to this resolution;
2. INVITES Governments to apply these Guidelines as soon as possible, or when the Convention becomes applicable to them; and
3. AGREES to keep these Guidelines under review.

ANNEX

GUIDELINES FOR ADDITIONAL MEASURES REGARDING BALLAST WATER MANAGEMENT INCLUDING EMERGENCY SITUATIONS (G13)

1 INTRODUCTION

1.1 The International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, hereafter referred to as the "Convention", regulates the transfer of harmful aquatic organisms and pathogens from ships' ballast water and sediments.

1.2 These Guidelines have been developed pursuant to regulation C-1 of the Convention. These Guidelines provide guidance under regulation C-1 for a Party or Parties to use when determining if measures in addition to those in Section B of the Convention are necessary in order to prevent, reduce or eliminate the transfer of harmful aquatic organisms and pathogens through ships' ballast water and sediments.

1.3 The Guidelines should be kept under review in order to make use of experiences gained in their application.

2 ASSESSMENT WHEN A STATE INTENDS TO INTRODUCE ADDITIONAL MEASURES

2.1 General

2.1.1 The Convention, in regulation C-1 Additional Measures, provides that a Party individually or jointly with other Parties, may introduce measures in addition to those in Section B. A Party or Parties may require ships, in accordance with international law, to meet or exceed a specified standard or requirement.

2.1.2 A Party intending to introduce additional measures should take these Guidelines into account, and endeavour to make available all appropriate services for ships to facilitate their compliance with any additional measures.

2.2 The assessment

2.2.1 Before a Party, individually or jointly with other Parties, intends to introduce additional measures in accordance with regulation C-1 of the Convention, it should assess the need for and nature of the measures, which should include:

- .1 identification of the concern, i.e., the potential harm from the introduction of harmful aquatic organisms and pathogens in the area to be covered by the additional measures;
- .2 description of the cause(s) of the identified concern;
- .3 identification of potential additional measures to be introduced; and
- .4 identification of potential effects and consequences, beneficial and detrimental, resulting from introduction of the proposed additional measure(s).

2.2.2 A Party should assess the character of the concern. Such an assessment may include a consideration of such things as:

- .1 What are the probabilities or consequences of future introductions of harmful aquatic organisms and pathogens on the environment, human health, property, or resources?
- .2 If harmful aquatic organisms or pathogens have already been introduced, what effects are they already having on the environment, human health, property or resources, and how might this be affected by future introductions?
- .3 Whether ballast water from ships is a vector for the introduction of harmful aquatic organisms and pathogens?

Identification of the additional measures to be introduced

2.2.3 The additional measure(s) to be introduced shall be in accordance with Article 7.2 and regulation C-1.3 of the Convention, and should be clearly identified in respect of:

- .1 the area(s) where the additional measure(s) is/are applicable defined by precise co-ordinates;
- .2 the operational and/or technical requirement(s) which applies to ships in the area(s), and the requirement(s) to provide documentation for compliance if needed;
- .3 the arrangements which may be provided to facilitate ships' compliance with the additional measure(s);
- .4 the effective date and duration of the measure(s); and
- .5 any other requirements and services in relation to the additional measure(s).

Effects and consequences of introduction of the proposed measure(s)

2.2.4 The economic consequences resulting from the introduction of the additional measure(s) should be taken into account. In this respect the following aspects may be relevant:

- .1 the economic benefits and possible costs, including costs to the industry, associated with the additional measure(s); and
- .2 any other effects and consequences.

2.3 Procedures to follow when establishing additional measures

2.3.1 A Party or Parties intending to introduce additional measures in accordance with regulation C-1 of the Convention should consult adjacent States and other States that may be affected before the additional measures are decided upon so that such consultations can, where appropriate, meaningfully inform decision making. The Assessment as outlined in section 2.2 of

these Guidelines should be presented to affected States, and States should be invited to comment on the draft assessment, if appropriate.

- .1 In regulation C-1 of the Convention two procedures for introducing additional measures are possible – one procedure which requires IMO approval, and another procedure which only requires IMO notification.
- .2 The Party or Parties should ensure that any additional measure(s) shall not compromise the safety and security of the ship and in any circumstances not conflict with any other conventions or customary international law with which the ship must comply.
- .3 The legal determination upon which the additional measure(s) is submitted should be identified.
- .4 In introducing additional measures, the Party or Parties should, *inter alia*, provide the following information to the Organization, in particular the Marine Environment Protection Committee (hereafter known as the “MEPC”):
 - .1 the Assessment as outlined in section 2.2;
 - .2 the identification of the legal determination upon which each additional measure(s) is submitted; and
 - .3 the following additional details:
 - .1 if the additional measure(s) is already provided under an existing IMO instrument; or
 - .2 if the additional measure(s) does not yet exist but could become available through amendment of any IMO instrument or adoption of a new IMO instrument; or
 - .3 if the additional measure(s) is proposed for adoption in the territorial sea¹ or pursuant to the United Nations Convention on the Law of the Sea where existing measures or a generally applicable measure would not adequately address the concern identified in section 2.2.
- .5 Where a Party or Parties may seek to introduce additional measures through the notifying procedure, the IMO should be notified at least 6 months prior to the projected date of implementation, except in emergency circumstances in accordance with regulation C-1.3.2 of the Convention.

¹ This provision does not derogate from the rights and duties of coastal States in the territorial sea as provided for in the United Nations Convention on the Law of the Sea.

- .6 In the case where a Party or Parties intend to introduce additional measure(s) that requires approval by the Organization under international law as reflected in UNCLOS (see regulation C-1.3.3 of the Convention), the Party or Parties should, in accordance with the rules adopted by the MEPC for submission of papers, submit the application to introduce additional measure(s) to the MEPC for its approval.
- .7 In considering additional measures that require the approval of the Organization, the MEPC should be expected to consider an application submitted to it by a proposing Party or Parties on a case-by-case basis. In assessing each proposal, the MEPC should be expected in particular to consider:
 - .1 whether such additional measures are in accordance with Article 7.2 and regulation C-1.3 of the Convention;
 - .2 whether the proposed additional measures are appropriate to prevent, reduce, or eliminate the identified potential harm from the introduction of harmful aquatic organisms and pathogens in the area to be covered by the additional measures;
 - .3 whether such measures might result in an increased potential for significant adverse effects by international shipping activities on the environment outside the area to be covered by the additional measures; and
 - .4 whether such measures might, *inter alia*, result in any impact on the safety and commercial aspect of international shipping activities.
- .8 In the case where an application is submitted for approval, if the MEPC approves the application, the additional measure(s) may be implemented. If the application is not approved, the additional measure(s) cannot be implemented. The proposing Party or Parties may submit a revised application to the Marine Environment Protection Committee for approval subsequently.

2.4 Communication of information

2.4.1 A Party or Parties intending to introduce additional measures should inform adjacent States and other States that may be affected, the shipping industry in general and ships entering the areas concerned as soon as possible, and in the case of those measures requiring approval of the Organization, as soon as the proposal has been so approved. The information should at least contain:

- .1 the precise co-ordinates where and applicable date when additional measure(s) is/are applicable;
- .2 the need and reasoning for the application of the additional measure(s), including, whenever possible, benefits;

- .3 a description of the additional measure(s); and
- .4 any arrangements that may be provided to facilitate ships' compliance with the additional measures.

2.4.2 Communications in accordance with regulation C-1 of the Convention shall be submitted to the Marine Environment Protection Committee. Except in emergency situations, the intention to establish such additional measures is required by regulation C-1.3 to be communicated to the Organization at least six months prior to the projected date of implementation. In emergency situations, additional measures should be communicated to the Organization as soon as possible.

2.4.3 In both cases (approval/non-approval), in due time before the introduction of the additional measure(s) a Party or Parties intending to introduce additional measures should inform affected States, the shipping industry in general and ships entering the areas concerned, the following should be communicated:

- .1 the precise co-ordinates where additional measure(s) is/are applicable;
- .2 the operational and/or technical requirement(s) which applies or apply to ships in the area(s), and the requirement(s) to provide documentation for compliance if needed;
- .3 the arrangements which may be provided to facilitate ships' compliance with the additional measure(s);
- .4 the effective date and duration of the measure(s); and
- .5 any other requirements and services in relation to the additional measure(s).

2.4.4 The Organization shall issue circulars or post relevant information on the website in accordance with the provisions of the Convention.

3 EMERGENCY OR EPIDEMIC SITUATION

3.1 A Party or Parties may adopt an additional measure(s) to address an emergency or epidemic situation.

3.2 If such a measure is adopted, a Party or Parties should, as soon as possible, notify adjacent and other States that may be affected, the shipping industry in general, and ships operating in the areas of concern. Such information should contain:

- .1 the precise co-ordinates of the area;
- .2 the need for such additional measure(s);
- .3 a description of the additional measure(s);

- .4 any arrangements that may be provided to facilitate ships' compliance with the additional measure(s); and
- .5 the effective date when the measure(s) applies and when the measure(s) is no longer in effect.

3.3 In an emergency or epidemic situation, the additional measure(s) adopted should be communicated to the Organization as soon as possible. The Organization shall post relevant information on its website and retain such information for dissemination to the Committee.

APPENDIX

FLOW CHART – PROCEDURE FOR INTRODUCING ADDITIONAL MEASURES


