

## ANNEX 4

### DRAFT GUIDANCE ON CONTINGENCY MEASURES UNDER THE BWM CONVENTION

#### Definition

1 Contingency measure means a process undertaken on a case-by-case basis after a determination that ballast water to be discharged from a ship is not compliant, in order to allow ballast water to be managed such that it does not pose any unacceptable risks to the environment, human health, property and resources.

#### Purpose

2 The goal of this guidance is to support ships and port States to apply sound and practical measures in the case of a ship unable to manage ballast water in accordance with its approved Ballast Water Management plan to meet the D-1 or D-2 standard, with a view to ensuring the protection of the marine environment, safety and minimizing any impacts on the continuity of port and ship operations.

#### Implementation of contingency measures

3 In the case of non-compliant ballast water, communication between the ship and the port State should occur. The ship and the port State should consider the following as possible contingency measures:

- .1 actions predetermined in the Ballast Water Management plan of the ship;
- .2 discharging ballast water to another ship or to an appropriate shipboard or land-based reception facility, if available;
- .3 managing the ballast water or a portion of it in accordance with a method acceptable to the port State;
- .4 ballast water exchange carried out to an approved plan in accordance with regulation B-4 to meet the standard in regulation D-1. The ship and the port State should consider the potential disruption to the cargo handling operation plan of the ship and the potential impact to relating parties including port operators and cargo owners; or
- .5 operational actions, such as modifying sailing or ballast water discharge schedules, internal transfer of ballast water or the retention of ballast water on board the ship. The port State and the ship should consider any safety issues and avoid possible undue delays.

4 Having considered all of the options in paragraph 3 above, the ballast water may be discharged in the port or any suitable area, as acceptable to the port State. Port State consideration may include environmental, safety, operational and logistical implications of allowing or disallowing the discharge. The discharge of ballast water is subject to any conditions of the port State.

5 The port State should report information on the use of contingency measures in accordance with the experience-building phase (resolution MEPC.[...](71)).

6 In any case, the ship is required to do its best to correct malfunction of the Ballast Water Management system as soon as possible and submit its repair plan to the port State control authorities and the flag State.

7 The port State, the flag State and the ship should work together to agree on the most appropriate solution to allow for the discharge of ballast water found to be non-compliant.

8 The ship and the port State should take appropriate measures bearing in mind that ballast water sampling is still under development, as noted in BWM.2/Circ.42/Rev.1 and the agreement on non-penalization during the experience-building phase (EBP).

### **Review**

9 The guidance on contingency measures should be kept under review in the light of experience gained through the EBP.

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