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BWM.2/Circ.2
7 November 2005

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

**Establishment of the GESAMP*-Ballast Water Working Group for the review of
proposals for approval of Active Substances used for the management of ballast water in
accordance with resolution MEPC.126(53)**

1 The Ballast Water Management Convention (BWM Convention), in its regulation D-3 provides that Ballast Water Management systems, which make use of Active Substances to comply with the Convention shall be approved by IMO based on a procedure developed by the Organization.

2 MEPC 53 adopted, by resolution MEPC.126(53), the 'Procedure for approval of Ballast Water Management Systems that make use of Active Substances (G9)'. Section 8 of the Procedure sets out the methodology to be followed for the approval of Active Substances and requests IMO to establish a Technical Group to review the proposals submitted by Administrations and report to the Organization on its findings. Based on the report of the group, the Marine Environment Protection Committee should decide on the approval of a proposal submitted by a Member of the Organization.

3 MEPC 53 agreed that a GESAMP-Ballast Water Technical Group, financed through a fee paid by the Administration which proposed an approval for a Ballast Water Management system that makes use of Active Substances, could best serve the needs of the shipping industry and meet the challenges posed by the timeline established through the BWM Convention. The fee mentioned above is to be based on the recovery of the costs incurred by the Organization in respect of the scientific services provided by the Group. As instructed by MEPC 53, the Secretariat approached the GESAMP Inter-Secretariat, comprised the Chairman, Vice-Chairman and Technical Secretaries of the sponsoring Organizations, which has agreed on the formal establishment of the GESAMP-Ballast Water Working Group (GESAMP-BW Working Group). The GESAMP Inter-Secretariat has also agreed to request the Chairman and Vice-Chairman of GESAMP to identify, together with the IMO Secretariat, appropriate independent scientific experts to conduct the work and convene the first meeting of the Group as soon as possible.

4 For its first meeting, tentatively scheduled for 23 to 27 January 2006, subject to appropriate submission of relevant documents and dossiers by Member States and subject to the Council endorsement of a Trust Fund for the financial management of the scheme (see paragraph 8 below), the GESAMP-BW Working Group was tasked to develop methodologies and information requirements for conducting its work and to review the proposals for the approval of Active Substances in accordance with the Terms of Reference approved by MEPC 53 and accepted by the

* GESAMP stands for 'IMO/FAO/UNESCO/IOC/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection'.

GESAMP Inter-Secretariat. The report on the outcome of the Working Group will be reviewed by GESAMP itself and submitted to MEPC 54 (20 to 24 March 2006) for its consideration.

5 Member Governments are invited to submit their proposals for approval of Ballast Water Management systems that make use of Active Substances together with the Letter of Agreement referred to in paragraph 7 and the complete dossier(s) of the respective substance(s), by 15 December 2005, taking into account relevant provisions of the Procedure (G9) and the Terms of Reference attached at the annex of this Circular, to:

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6 The Member Governments are reminded that, in the meantime, a document on their proposals for approval containing all the non-confidential data related to the respective Active Substance, shall be submitted to MEPC 54 in accordance with the established deadlines (MEPC 54/1) to enable interested parties to provide information that is relevant to the evaluation of that particular substance.

7 It should be noted that the approval of Ballast Water Management systems that make use of Active Substances is part of the regulatory function of the Organization and its Committees and that the GESAMP-BW Working Group has only an advisory role. A letter of agreement concerning the nature of the financial arrangements, the assertion of intellectual property rights, the settlement of disputes and the privileges and immunities of the Organization, shall be signed and submitted by the Members of the Organization together with their respective dossiers when proposing an approval. A draft text of such a Letter of Agreement will be provided by the Secretariat on request.

8 A non-refundable registration fee of US\$ 50,000 should be paid together with each submission of a dossier for an Active Substance. After the deadline mentioned in paragraph 5 above and based on the number of proposals received, the submitting Governments will be advised on any additional amount they may have to pay to ensure the financing of the meeting. The total fee paid by a Government for one specific meeting is not expected to exceed US\$ 100,000, which is the estimated expenditure for a meeting that covers the costs related to the members of the Group (one week preparation and one week meeting at the IMO Headquarters), the secretarial support to process the submissions and to assist the Group during its deliberation, the production of the report and the administrative and operational support (AOS) costs incurred by IMO.

9 Member Governments intending to submit proposals for approval of Ballast Water Management systems that make use of Active Substances are advised to contact the IMO Secretariat well in advance for detailed information on the payment procedures and content of the required Letters of Agreement.

10 Member Governments are also invited to note that the above preliminary arrangements will be reviewed in due course and amended, as appropriate, in light of the experience gained.

ANNEX

TERMS OF REFERENCE FOR THE TECHNICAL GROUP

1 Consideration of development of necessary methodologies and information requirements in accordance with G9* for consideration by MEPC 54.

2 For Basic Approval, the Group should review the comprehensive proposal submitted by the Member of the Organization along with any additional data submitted as well as other relevant information available to the Group and report to the Organization.

In particular, the Group should undertake:

- .1 Scientific evaluation of the data-set in the proposal for approval (see paragraphs 4.2, 6.1, 8.1.2.3, 8.1.2.4 of G9);
- .2 Scientific evaluation of the assessment report contained in the proposal for approval (see paragraph 4.3.1 of G9);
- .3 Scientific evaluation of the risks to the ship and personnel to include consideration of the storage, handling and application of the active substance (see paragraph 6.3 of G9);
- .4 Scientific evaluation of any further information submitted (see paragraph 8.1.2.6 of G9);
- .5 Scientific review of the risk characterization and analysis contained in the proposal for approval (see paragraph 5.3 of G9);
- .6 Scientific recommendations on whether the proposal has demonstrated a potential for unreasonable risk to the environment, human health, property or resources (see paragraph 8.1.2.8 of G9); and
- .7 Preparation of a Report addressing the above-mentioned aspects for consideration by MEPC (see paragraph 8.1.2.10 of G9).

3 For Final Approval, the Group should review the discharge testing (field) data and confirm that the residual toxicity of the discharge conforms to the evaluation undertaken for Basic Approval and that the previous evaluation of the risks to the ship and personnel including consideration of the storage, handling and application of the active substance remains valid. The evaluation will be reported to MEPC (see paragraph 8.2 of G9).

4 The Group shall keep confidential all data, the disclosure of which would undermine protection of the commercial interests of the applicant, including intellectual property.

* G9 stands equivalent for MEPC 53/2/1 annex, as amended: Procedure for approval of ballast water management systems that make use of Active Substances (G9).