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BWM.2/Circ.60/Add.1
26 July 2017

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

**Thirty-fifth meeting (regular) of the GESAMP* – Ballast Water Working Group
established in accordance with the Procedure for approval of ballast water
management systems that make use of Active Substances (G9)
to be held from 6 to 10 November 2017 at IMO Headquarters**

**Submission of new data on fresh water testing of ballast water management systems
with Final Approval**

Background

1 MEPC 71, having noted the outcome of the Eighth Stocktaking Workshop on the activity of the GESAMP-BWWG, agreed to the proposed procedure for submission of new data on fresh water testing of ballast water management systems (BWMS) with Final Approval, as incorporated in the revised Methodology of the GESAMP-BWWG (BWM.2/Circ.13/Rev.4, chapter 11); and noted the Group's intention to immediately start applying the procedure.

2 Having recalled document MEPC 62/INF.40 on budgetary and expenditure data for the GESAMP-BWWG, and having noted the time and cost implications to the Group and the Secretariat resulting from submissions of new data on fresh water testing of BWMS with Final Approval, MEPC 71 also agreed that the fee for such submissions should be \$20,000 per submission.

Submissions to the thirty-fifth meeting of the GESAMP-BWWG

3 The thirty-fifth GESAMP-BWWG meeting is scheduled to be held **from 6 to 10 November 2017**, to review the application dossiers received by 22 September 2017, which represents the 28-week deadline for submission of application dossiers and related documents to be reviewed by the GESAMP-BWWG to MEPC 72 (refer to BWM.2/Circ.60 for more information).

* GESAMP stands for "IMO/FAO/UNESCO-IOC/WMO/IAEA/UN/UNDP/UNEP/UNIDO Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection".

4 Member Governments are invited to submit new data on fresh water testing of BWMS with Final Approval, together with the Letter of Agreement referred to in paragraph 5 of this circular and the complete application dossiers, as soon as possible but **not later than 22 September 2017** to:

International Maritime Organization
Marine Environment Division
4 Albert Embankment
London SE1 7SR
United Kingdom

Tel: +44 (0)20 7587 3221

Email: TKarayan@imo.org

5 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 application dossiers. The draft text of such a Letter of Agreement is set out in the annex, for the guidance of interested parties.

6 Member Governments intending to submit new data on fresh water testing of BWMS with Final Approval are advised to contact the IMO Secretariat in advance for detailed information on the payment procedures and any other issues relating to their submissions.

ANNEX**LETTER OF AGREEMENT**

relating to new data on fresh water testing of a ballast water management system with Final Approval in accordance with regulation D-3, paragraph 2, of the Ballast Water Management Convention

Having received a satisfactory application on **[please insert the name of the ballast water management system]** produced by **[please insert the name of the manufacturer]**, the undersigned hereby confirms, on behalf of the maritime Administration of **[please insert the name of the submitting country]**, that the application dossier regarding the new data on fresh water testing of the ballast water management system with Final Approval mentioned above is subject to the following conditions:

- .1 **Financial arrangements:** The fee paid in connection with this submission is based on the recovery of costs incurred by the International Maritime Organization (Organization) in respect of the services provided by the GESAMP-Ballast Water Working Group. A fee of \$20,000 will be invoiced immediately following receipt of this Letter of Agreement by the Organization and will be retained in a Trust Fund established for this purpose.
- .2 **Intellectual Property Rights:** The Organization and the members of the GESAMP-Ballast Water Working Group will make every reasonable effort to prevent the disclosure of information which is clearly and prominently identified as being subject to an intellectual property right, subject to the condition that sufficient detail must be provided to the Marine Environment Protection Committee (MEPC) of the Organization to enable that body to perform its functions under resolution MEPC.169(57) and, in particular, to approve ballast water management systems that make use of Active Substances. In this respect the members of the Group will be required to sign a declaration concerning the confidentiality of information acquired as a result of their affiliation with the Group. In any case, neither the Organization nor the members of the GESAMP-Ballast Water Working Group can accept liability for damage or loss, which may result from disclosure of such information in the exercise of their responsibilities.
- .3 **Settlement of disputes:** The submitting Administration, the Organization, and the GESAMP-Ballast Water Working Group shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to, the process established for reviewing new data on fresh water testing of a ballast water management system with Final Approval or this Letter of Agreement, or the breach, termination or invalidity thereof. Where these parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then pertaining, or according to such other procedure as may be agreed between the parties. Any dispute, controversy or claim, which is not settled amicably, shall be referred to arbitration in accordance with the UNCITRAL Arbitration Rules then pertaining. The place of the arbitration will be London, England.

- .4 **Privileges and immunities:** Nothing in or relating to the process established for reviewing new data on fresh water testing of a ballast water management system with Final Approval or this Letter of Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the International Maritime Organization, including its officers, experts or subsidiary organizations or of the privileges and immunities to which the Administration is entitled under international law.

Members of the GESAMP-Ballast Water Working Group, when performing functions in connection with the terms of reference of the Group, shall be considered to be experts of the Organization pursuant to annex XII of the Convention on Privileges and Immunities of the Specialized Agencies of the United Nations.

Authorized signature on behalf of the maritime Administration:

Typed/Printed name: _____

Title/Position/Organization/Country: _____

Date of signature: _____

**Name and address
for fees invoicing:** _____

Email address: _____
