REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT

The meeting of the Standing Committee on the Environment was held on Thursday April 21, 2016 and was co-chaired by Naomi Katsumi and Sean Payne.

1. INTRODUCTION AND APPROVAL OF AGENDA

2. DUNNAGE CONTROL PROGRAM

Marcel Dawson, Canadian Food Inspection Agency gave a presentation on Canada’s Dunnage Control Program.

3. STATUS REPORT ON BALLAST WATER

An update on Transport Canada’s continuing work on ballast water was presented by Naim Nazha. Colin Henein, who leads this work, is presently in London attending the sixty ninth session of IMO’s Marine Environment Protection Committee, also known as MEPC 69.

Canada’s Ballast Water Control and Management Regulations need to be revised in order to implement the IMO’s Ballast Water Convention, which now has 49 contracting States, including Canada, and as of February 29, these countries represented 34.82% of the world’s merchant shipping tonnage.

This leaves only 0.18% of the world’s merchant shipping tonnage to trigger the Convention’s entry into force. From the date that it is triggered, it will enter into force one year later. This is expected soon. A large number of countries, well over 30, now have the necessary tonnage to do so. As well, it could also be triggered by the transfer of ships between flag states.

Canada faces challenges in implementing the Convention, notably from a differing U.S. approach to ballast water management. Canada has informed our international partners of these challenges through documents sent to MEPC.

We understand as the U.S. is the largest port state in the world, ship owners want to
trade there. So, they need to be sure their vessels comply with U.S. rules. The U.S. not being a party to the Convention and lack of U.S. type-approved ballast water systems poses risks for ship owners around the world in making decisions on ballast water treatment systems to comply with the Convention.

Canada has taken and continues to take a transparent and diplomatic approach to engaging the U.S. We understand there are differing mandates of U.S. agencies involved and we continue to work with them toward resolution. The U.S. remains a key Canadian partner and has extensive technical expertise and a focus on environmental protection.

As the Convention nears entry into force there are a number of discussions underway at IMO that can change the Convention and may help resolve issues faced by the shipping industry.

This week at IMO discussions on ballast water are focussed on:

- revisions to the type approval requirements for treatment systems, known also as the G8 Guidelines -this work includes considering a study on the performance and testing of ballast water treatment systems;
- the development of an amendment to Regulation B-3 of the Convention as agreed by the IMO Assembly;
- the IMO roadmap for implementing the Convention; and
- a proposal from Denmark and INTERFERRY for a more pragmatic risk assessment approach in connection with exemptions for ships.

Regarding this Danish and INTERFERRY proposal, Canada has submitted comments that:

- supports the proposal in principle,
- identifies additional factors that need to be taken into account in order to ensure accurate risk assessments, and
- clarifies Canadian regulations quoted in their submission.

MEPC 69 is also considering self-monitoring of treatment systems and the manner in which the Convention interacts with a MARPOL provision permitting the discharge of ballast water directly from cargo tanks in certain circumstances.
MEPC 69 will also deal with routine matters concerning the approval of active substances for treatment of ballast water, and review available BWMS technologies.

With the substantial amount of work on ballast water issues, the IMO Secretariat has, informally, indicated to us that an intersessional meeting could be proposed for either of the ballast water review group or of the correspondence group on type approval. Such a meeting would likely take place at IMO in September 2016, or just prior to MEPC 70 in October 2016.

Turning to changes sought to Regulation B-3 of the Convention. These provisions set out the schedule for when ships are to comply with performance standards for ballast water quality, often referred to as Regulation D-2. It is understood these standards would be met by fitting ballast water treatment systems.

Changes to this schedule are required because of the significant length of time that had passed since the adoption of the Convention.

Therefore, at its 28th session, the IMO Assembly adopted a Resolution containing a schedule for enforcing the performance standard found in Regulation D-2 of the BWM Convention. The Resolution included an agreement to amend the Convention as soon as possible after its entry into force in order to align the binding text of the Convention with the “gentlemen’s agreement” represented by the Assembly resolution.

Discussion at MEPC 69 on approach is expected to unfold along three lines:

- First, Legal Process: While the amendment is sought to be implemented as soon as possible, the Convention’s procedure for amendments could take as long as 24 months after entry into force of the Convention itself. IMO’s Legal Office has proposed three options that may accelerate this process.

- Second, Legal Content: The Assembly Resolution linked the dates to enforce Regulation D-2 to the renewal survey of the ship’s International Oil Pollution Prevention Certificate under MARPOL. This was to distribute installation dates for treatment systems over time, but refers to a different Convention. While legally acceptable, this can be awkward. MEPC 69 is considering options and will determine if the text should be simplified without altering its substantive effect.
• And third, Policy Content: MEPC may consider further adjustment to the dates by which ships would be required to comply with Regulation D-2 in light of limited drydocking facilities. This could end up with a longer time frame for flexibility, with ships being required to take interim measures, such as completing ballast water exchange twice during their voyages.

MEPC 69 is also considering a “Roadmap” outlining steps for the implementation of the Convention.

MEPC 67 adopted a general principle of “non-penalization of early movers” to address concerns that revisions to the guidelines for type approval of ballast water treatment systems could be unfair to those who have invested in the current systems.

Further details were deferred to MEPC 68, which drafted a rough “roadmap” for early implementation of the Convention that included certain more specific non-penalization principles. Comments on the roadmap were invited, and so far only Community of European Shipyards Association (CESA), has commented on the non-penalization aspect. However, a broader discussion would be beneficial.

Recent anecdotal reports from acknowledged experts on ballast water treatment systems agree that there may be challenges in the early implementation of the Convention. From the perspective of addressing stakeholder concerns, Canada is seeking broader discussions to three aspects of the draft roadmap:

• an experience-building phase in the early years of implementation of the Convention,
• the need to ensure a data-rich environment during the experience-building phase, and
• an eventual review of the Convention.

The development by MEPC of a data collection and analysis plan, as well as principles (or draft terms of reference) for a review of the Convention, could assure stakeholders that a fair process will address challenges that arise during implementation.

This summarizes the work under way at IMO. At this stage this work is the focus of our efforts as it will significantly influence our domestic work to implement the Convention.

Domestically, we have heard your views. We have carried out technical studies and we have submitted this information to IMO. We continue to work with Fisheries and
Oceans Canada on science. We are now nearing the stage where we plan to present specific regulatory proposals for amending Canada’s ballast water regulations later this year.

We will be contacting interested parties on consultations we are planning later this year. Please ensure you provide your contact details at a sign-up sheet at the back of this room.

If there are others you believe wish to hear from us on this issue, please ask them to provide their contact details to Paul Topping at paul.topping@tc.gc.ca.

4. STATUS REPORT ON ENVIRONMENTAL RESPONSE

Sean Payne, Transport Canada, provided an update on the Environmental Response Program activities over past year including a presentation on the Environmental Response Regulations regulatory project.

5. IMPLEMENTATION OF AIR EMISSIONS STANDARDS


He provided some background on FONARS; meaning and application.

He also provided statistics that there were 72 FONARS received by TC last year (2015) and 16 for the first 3 months of 2016.

6. INTERNATIONAL MARITIME ORGANIZATION INITIATIVES:

- Report on MEPC 68,
- Report on PPR3,
- Discussions on MEPC 69 (coinciding with CMAC),
- Look ahead to MEPC 70 in October 2016,
- Polar Code implementation, and
- IMO framework for reducing GHGs from vessels.

MEPC approved for adoption the following amendments:

- MARPOL/II. Revised criteria for hazard assessment. No regulatory changes needed.
MARPOL/VI. New requirement for vessel to log when it changes over to NOx Tier III Emissions Standards operating conditions on entry into ECAs. Requires changes to Vessel Pollution and Dangerous Chemicals Regulations.

NOx Technical Code changes to better allow for dual fuel engines. No regulatory changes needed.

All changes expected to be adopted on Friday with entry into force September 1, 2017.

Parties to MARPOL/IV agreed to amendments for entry into force of the Baltic Sea Special Area. Expected to be adopted Friday. Domestically, will require changes to Part 1 of the Regulations.

MEPC agreed to text on a data collection system that is expected to be referred to MEPC 70 for adoption then. Will require changes to the regulations and discussions on implementation.

Energy Efficiency Design Index Review to continue to look at ice class coefficient and minimum power requirements and assess efficiency targets

MEPC received a visit from the President of Republic of Indonesia H.E. Joko Widodo who delivered a brief speed noting Indonesia is pursuing policies of to be a "maritime fulcrum" with a network of new ports. New Marine policy will have Infrastructure, resource protection, trade, law enforcement. Will also include a Sea toll program to support marine infrastructure and efforts to propose international regulation of oil exploration -offshore wells

On Heavy Fuel Oil, consultations indicate Sweden and Norway will intervene with statements in a positive tone, but without staking commitment. Much like us. Expect this to be taken up late tomorrow or Friday before consideration of the Report of the Meeting.

On dealing with the issue of the lack of facilities ships (bulk carriers) to manage cargo residues that are Harmful to the Marine Environment (HME), EU states rejected Liberian proposal to continue current allowances to discharge when no facilities are available. Chairman concluded their was no support and encouraged flag States to report cases of inadequate facilities to the Committee.

The Philippines presented a proposal for a new Particularly Sensitive Sea Area (PSSA), which is presently under review and is expected to be approved on Friday. Will likely be referred to NAV Subcommittee as the associate protected measure is an area to be avoided by ships.
In consideration of Ecologically or Biologically Significant Marine Areas Criteria EBSA Criteria, noting the criteria originate from the convention on Biological Diversity, who are seeking marine protected areas beyond national jurisdiction, China commented IMO is not in a position to consider a PSSA beyond national jurisdiction. Otherwise, it was noted the criteria could useful, but that IMO criteria would guide decisions on PSSAs.

Work on Electronic Record Books and on options for ships to manage sewage in a special area when facilities are not available was referred to the Pollution Prevention and Response Subcommittee.

7. AREA RESPONSE PLANNING

Daniel Breton, Canadian Coast Guard and Julie Bedard, Transport Canada, gave a presentation on area response planning.

8. STATUS REPORT ON VESSEL POLLUTION AND DANGEROUS CHEMICALS REGULATIONS – PROPOSED AMENDMENTS FOR ANNUAL TANKER INSPECTIONS, MANAGING SEWAGE AND GARBAGE, AND OTHER MINOR ADJUSTMENTS.

Ousman Alkaly, Transport Canada, gave a presentation on the proposed amendments to the Vessel Pollution and Dangerous Chemicals Regulations - annual tanker inspections, managing sewage and garbage, and other minor adjustments.

9. EMERGING WORK ON VESSELS OF CONCERN

Eric Huberdeau, Transport Canada, gave a presentation on Emerging Work on Vessels of Concern.

10. UPDATE ON THE 2010 HAZARDOUS AND NOXIOUS SUBSTANCES CONVENTION (LIABILITY AND COMPENSATION)

Francois Marier, Transport Canada, gave an update on the 2010 Hazardous and Noxious Substances Convention.

11. FISHERIES AND OCEANS CANADA PRESENTATION ON MARINE MAMMALS AND SPECIES AT RISK

Jennifer MacDonald, Fisheries and Oceans Canada, gave a presentation on Marine
Mammals and Species at Risk programme.

12. REGIONAL ISSUES

There were no Regional issues raised at this meeting.

13. INDUSTRY PRESENTATIONS

There were no industry presentations.

14. OTHER BUSINESS

There were no other issues raised.

15. TENTATIVE AGENDA ITEMS FOR THE NEXT NATIONAL CMAC MEETING

Summary of Comments/questions from the Audience

- Following the ballast water presentation Mr. Goddard from Irving Oil expressed Irving’s continued concern with the US EPA and their current stance on Ballast & treatment and related alignment with Canada.
- Capt. John Greenway from CSA expressed support and thanks in advance of the intercessional meeting to be held in the next few weeks and looks forward to an update on IMO and where Canada is on regulations.
- Simon Barker of Seabourne Marine Consulting asked what considerations were being given to the industry to permit the continued use of single hull response barges. I responded by stating TC had been in contact with the response organizations on this subject and that a measure to address this issue was forthcoming.
- Pat Nelder from the Atlantic Marine Trades Association had a few questions concerning the presentation by environmental policy on vessels of concern. Specifically the approach taken by Washington State where additional fees associated with vessel licensing are charged to fund vessel removal and recycling/disposal.