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GUIDANCE ON MANAGING SPOILT CARGOES

1 The Guidance on managing spoilt cargoes was prepared by the Joint London Convention/MEPC Working Group to clarify boundary issues between the London Convention and Protocol (LC/LP) and MARPOL Annex V.

2 The Guidance on managing spoilt cargoes was adopted by the governing bodies of the LC/LP at its joint session in October 2008 and agreed to forward the Guidance to the Marine Environment Protection Committee for consideration and adoption. MEPC 59 (13 to 17 July 2009) adopted the Guidance on managing spoilt cargoes and agreed to circulate it through a joint LC-LP/MEPC circular, as set out in the annex. The Guidance replaces Circular letter No.2074, issued in 1998 on the same topic.

3 Member Governments are invited to bring the Guidance to the attention of all parties concerned.

4 Member Governments and observer organizations are also invited to provide information on the outcome and experiences in applying the Guidance to future sessions of the governing bodies of the LC/LP and to the MEPC.

ANNEX

GUIDANCE ON MANAGING SPOILT CARGOES

Introduction

1 Occasionally during a voyage, cargo may spoil and mariners are faced with the need to manage the problem. This Guidance on managing spoilt cargoes is intended for those individuals with the responsibility to take decisions for a given ship or cargo; they can be officers or the master (who would be trained mariners) or shoreside representatives such as agents or company officials (who may not be trained mariners).

2 The ideal way to manage cargo that spoils during a voyage would be to offload it from the ship to be managed on land; either to sell for an alternate use, recycle salvageable materials, or be disposed of in an environmentally safe manner. Dumping spoilt cargo at sea should only be considered when: there is a marked degree of urgency, facilities on land are unavailable, and it will not cause harm to the environment or human health.

Applicability of the London Convention and Protocol (LC/LP) and MARPOL Annex V to the management of spoilt cargoes

3 The London Convention and Protocol regulate the dumping of wastes or other matter at sea. MARPOL Annex V regulates the prevention of pollution by garbage from ships.

4 MARPOL Annex V sets conditions for discharge of garbage from a ship. Under this Convention, some wastes meeting the definition of “garbage” could be discharged at sea according to the conditions and at distances laid out in the Convention. Annex V under this Convention defines garbage as “*all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically ...*”.

5 The *Guidelines for the Implementation of Annex V of MARPOL* provide additional definitions which are useful in determining if spoilt cargoes can be classified as garbage under Annex V (as numbered in the *Guidelines*):

1.7.7 “*Operational wastes means all cargo-associated waste and maintenance-associated waste, and cargo residues defined as garbage in 1.7.10.*”

1.7.5 “*Cargo-associated waste means all materials which have become wastes as a result of use on board a ship for cargo stowage and handling ...*”

1.7.6 “*Maintenance waste means materials collected by the engine department and the deck department while maintaining and operating the vessel, such as soot, machinery deposits, scraped paint, deck sweeping, wiping wastes, and rags, etc.*”

1.7.10 “*Cargo residues for the purposes of these Guidelines are defined as the remnants of any cargo material on board that cannot be placed in proper cargo holds (loading excess and spillage) or which remain in cargo holds and elsewhere after unloading procedures are completed (unloading residual and spillage). However, cargo residues are expected to be in small quantities.*”

6 While determining whether a spoilt cargo meets the definition of “garbage” under Annex V is done on a case-by-case basis, it is unlikely that most spoilt cargo will meet this definition of “garbage”.

7 Unless a spoilt cargo meets the above definitions covering “garbage” under Annex V, it will be subject to the control of dumping under the London Convention and Protocol. The London Convention and Protocol regulate ocean dumping of wastes or other matter. They set out a system requiring a permit be obtained in advance of dumping. Thus, a permit needs to be obtained from the State in whose jurisdiction the dumping would occur, or, if the dumping is planned for waters outside of national jurisdiction, from either the Convention or Protocol Party in whose territory the cargo is loaded, or where the cargo is loaded in a non-Party, from the flag State Administration, if Party to the Convention or Protocol. Only those materials found to be acceptable under the London Convention or Protocol may be considered for dumping at sea.

Contingency plans for the management of spoilt cargo

8 The shipowner or their representative may consider developing contingency plans to facilitate timely decision-making by regulatory authorities in the port State or flag State and minimize delays to a ship.

9 It would be useful for ships, especially those carrying the same cargo type over time, to have contingency plans established for dealing with their specific type of cargo should it spoil. Ships engaged in spot contract services could have general contingency plans in the event of cargo spoilage. Contingency plans should consider:

- .1 an assessment of the potential for cargo spoilage to occur over a given route, including the risks, potential quantities and measures available to reduce spoilage;
- .2 a process to notify the cargo owner, port authorities and regulatory authorities of the port State or the ship’s flag State;
- .3 a process to decide if the spoilt cargo is to be managed as waste for disposal on land or sold for an alternative use;
- .4 a process to determine available land-based facilities that are authorized to receive the spoilt cargo, and make arrangements;
- .5 if land-based options are not available, or practicable, a communications process setting out who will be contacted for a permit for dumping at sea; and
- .6 if dumping is selected, a process and the information needed to obtain a permit.

Considerations for documenting spoilt cargo

10 Existing documents that ships carry can provide much of the information needed for managing spoilt cargo. Key documents include bills of lading, cargo manifests, ship’s logs, and the Garbage Record Book under regulation 9 of Annex V.

11 In rare cases where spoilt cargoes could be defined as “garbage” under Annex V, discharges of spoilt cargo should be recorded in the Garbage Record Book. Spoilt cargo should also be recorded in the Garbage Record Book if it is offloaded in port for management on land as ships’ operational wastes.

12 Otherwise, documentation should include information necessary to obtain a dumping permit under the London Convention or Protocol, including descriptions of:

- .1 the quantities and properties of the waste or other matter;
- .2 how the cargo was spoiled;
- .3 how the spoilt cargo is packaged and how it would be released;
- .4 the proposed dumping site including geographical position (latitude and longitude), depth of water and distance from nearest coast; and
- .5 the potential effects and expected environmental consequences of the disposal of the spoilt cargo.

13 The master or ship's owner should consult with the cargo owner to ensure information on the nature of the cargo is complete. A local shipping agent may be able to obtain advice on selecting a suitable dumpsite. Dumpsite selection is part of the permitting process and, therefore, it is necessary to consult the Government issuing the permit on the selection of a suitable dumpsite.

Applying for a permit

14 The London Convention requires consideration of the practical availability of alternative land-based methods of treating, disposal or elimination. The London Protocol states that ocean dumping permits shall be refused if the permitting authority determines that appropriate opportunities exist to re-use, recycle or treat the waste without undue risk to human health or the environment or disproportionate costs. Therefore, options to manage spoilt cargo other than ocean dumping need to be considered. Such options may include resale for alternate use, recycling, landfill, secure landfill, incineration, composting and treatment for use or landfill.

15 The ship's owner, master, or a designated officer in consultation with the owner of the cargo should prepare the permit application. The owner of the cargo may prefer to apply for the permit. It should be submitted to the Government of the State in whose jurisdiction the dumping is planned to occur. If the dumping is planned to take place in waters outside of national jurisdiction, the permit application should be submitted to the State Party to the London Convention or Protocol where the cargo is loaded, or if loaded in a non-Party, from the flag State Administration if Party to the Convention or Protocol. Contacts for the appropriate State Government can be obtained from the Office for the London Convention and Protocol at the International Maritime Organization (IMO) at rcoenen@imo.org.

Emergency permits

16 In emergencies posing an unacceptable threat to human health, safety or the marine environment and admitting no other feasible solution, an emergency permit may be issued. Disposal at sea under an emergency permit would need to be conducted in a manner that minimizes the impact on the marine environment.

Measures for temporary storage

17 A disposal at sea permit requires a detailed assessment of the waste and other requirements and can take a significant amount of time to obtain. Contingency measures should be in place to temporarily allow for storage of the material to be disposed of while a permit is obtained, allowing the transporting vessel to proceed with its normal activities.

18 Another aspect to consider, if disposal at sea is the preferred option to manage a spoilt cargo, is that the configuration of the ship where the cargo spoiled may not be amenable to dumping it at sea. In such a case, contingency plans could consider arrangements for temporary storage either on land or another vessel, and subsequent loading onto suitable equipment for dumping.

19 Plans for temporary storage would need to be considered in any permit application review and should include location, logistics for transportation and handling, expected time frames, containment measures, emergency response (if needed), and contingencies.

Mitigation for invasive species and pathogens in some spoilt cargoes

20 Some spoilt cargoes pose concerns for transferring invasive species or harmful pathogens, potentially from living organisms present in the cargo, or transported as the cargo. Invasive species of concern could be terrestrial species potentially transferred from port to port or marine species introduced through contamination of the cargo with sea water, a concern if the material is dumped at sea. Measures may include special considerations for disposal or storage site selection, containment if storage is required, and containment at the disposal site including capping or other confined disposal. Treatment could also be considered depending on facilities and type of organism suspected, but could include comminution or incineration.

21 Mariners engaged in the transport of cargo that presents risks for transferring invasive species should include measures in their management plans to manage spoilt cargo. Advice may be available from regulatory authorities in the importing country.

22 Mortalities of live animal cargoes such as certain shellfish and livestock can be a key concern, notably for countries that rely on maritime shipping for trading livestock. In case of livestock, advice of the Food and Agriculture Organization is that livestock mortalities should be stored for landing ashore and incineration. Onboard storage of mortalities should be segregated to prevent pathogen transmission among the other animals on board.

23 Managing risks of disease transmission on land may also need some specific considerations. In some cases, land-based disposal options may present a higher risk to human health and the environment. The comparative risks between land disposal and sea disposal should be assessed as related to the specific circumstances and potential impacts posed to human health and the environment. Local regulatory authorities in the port State receiving the mortalities should be contacted for advice. Shipping agents, prior to arrival, should facilitate contact with the port State.

24 Other measures may include mechanical handling to avoid worker exposure (seafarers and dockside workers), site selection considerations (avoiding potential conflicts with other users of the sea), containment if storage is required, and containment on site including capping or other confined disposal. If the pathogen is known, measures may be set for monitoring worker health (for human health risks) or for monitoring the local environment (if the material presents a risk to wildlife). Treatment could also be considered depending on the facilities and type of organism suspected.

Alternative options when dumping at sea is not allowed

25 Even in cases where practical or appropriate land-based options are not available, dumping at sea may not be allowed based on the type of spoilt cargo or a sensitivity of the receiving environment.

26 Where a dumping permit would not be allowed for a type of spoilt cargo, plans should be made for offloading in port. If there are no available facilities at a given port, as part of the contingency planning process, ports and local authorities should be consulted either on:

- .1 the potential to establish facilities;
- .2 options for the potential spoilt cargo to be used in local industry; or
- .3 feasibility of transport to an authorized facility within the jurisdiction.

27 If no facilities are available within a port State, contingency plans should consider retention of the spoilt cargo on board and sailing to the nearest port with facilities for offloading either on a direct route or on the planned route for other cargo shipments. To manage costs, these plans should be developed in consultation with insurance organizations and cargo owners.
