

ABS considers that three areas of uncertainty exist concerning the implementation of the International Ballast Water Management (BWM) Convention:



1. 35% Threshold Tonnage

During the 29th IMO Assembly, three countries (Morocco, Indonesia, and Ghana) deposited instruments to IMO for the Ballast Water Management (BWM) Convention. When Indonesia deposited its instrument of ratification on 24 November 2015, the IMO Secretary General announced that conditions for entry into force of the BWM Convention may have reached sufficient tonnage. The current actions bring the total number of ratifying States to 47^[1] (30 States are needed for entry into force). However, there is uncertainty if the threshold tonnage (35% of the world fleet) has been fulfilled for entry into force of the Convention.

Normally, end-of-year data is used, but because the percentage needed for entry into force is small and the next year is approaching, IMO has requested that IHS Fairplay confirms tonnages of the world fleet and that of the 47 ratifying States to determine if the 35% threshold tonnage has been achieved. The IMO GISIS website, indicates that the percent tonnage of ratifying States (including Indonesia, Ghana and Morocco) based on 2014 data is 34.07%; 0.93% short of the 35% threshold. Exactly how long this check will take is uncertain.

2. Entry Into Force Date

Another uncertainty is the date on which the conditions for entry into force is fulfilled. Article 18 of the BWM Convention states:

“This Convention shall enter into force twelve months after the date on which not less than thirty States, the combined merchant fleets of which constitute not less than thirty-five percent of the gross tonnage of the world’s merchant shipping, have either signed it without reservation as to ratification, acceptance or approval, or have deposited the requisite instrument of ratification, acceptance, approval or accession in accordance with Article 17.”

In light of the dynamics of the tonnage figures and percentages together with the ongoing investigation of those values, it is not exactly clear if, after completion of the investigation, the latest ratification date of 24 November 2015 by Indonesia will be used as the date that conditions were fulfilled for entry into force.

3. D2 Standard Implementation Scheme

Upon entry into force ships are to comply with the D2 biological standard as shown below:

BW Capacity, BWC (m3)	Construction Date, CD	D2 Compliance	
BWC < 1,500 or > 5,000	CD < 2009	2016*	1st BWM Intermediate or Renewal Survey, whichever occurs first after anniversary date of delivery in yyyy*
1,500 ≤ BWC ≤ 5,000	CD < 2009	2014*	
BWC ≥ 5,000	2009 ≤ CD < 2012	2016*	
BWC < 5000	CD ≥ 2009	At delivery from yard or entry into force, whichever is later	
BWC ≥ 5,000	CD ≥ 2012		

However, the implementation scheme *recommended* by resolution A.1088(28) adjusts that contained in the Convention such that:

- Ships constructed on/after the entry into force date are to comply on delivery from the yard; and
- Ships constructed before the entry into force date are to comply at their first MARPOL Annex I (IOPP) Renewal Survey carried out on/after entry into force.

If IMO determines in the next few weeks that the 35% GT condition for entry into force has been met, then MEPC 69 may need to move quickly in April 2016 to have in place amendments to the Convention based on operative paragraph 4 of resolution A.1088(28). Otherwise, the impetus falls on ratifying States to determine which scheme is to be implemented.

[1] States that have Ratified the BWM Convention (http://www.imo.org)				
1. Albania	11. France	21. Lebanon	31. Russian Federation	40. Tuvalu
2. Antigua & Barbuda	12. Georgia	22. Liberia	32. Nigeria	41. Spain
3. Barbados	13. Germany	23. Maldives	33. Niue	42. Sweden
4. Brazil	14. Ghana	24. Malaysia	34. Norway	43. Switzerland
5. Canada	15. Indonesia	25. Marshall Islands	35. Palau	44. Syrian Arab Republic
6. Congo	16. Iran	26. Mexico	36. Republic of Korea	45. Tonga
7. Cook Islands	17. Japan	27. Mongolia	37. Saint Kitts & Nevis	46. Trinidad & Tobago
8. Croatia	18. Jordan	28. Montenegro	38. Sierra Leone	47. Turkey
9. Denmark	19. Kenya	29. Morocco	39. South Africa	
10. Egypt	20. Kiribati	30. Netherlands		

