



European Maritime Safety Agency

## **Workshop Report**

**Implementation of Regulation  
(EC) 782/2003 on the  
Prohibition of Organotin  
Compounds on Ships**

**Lisbon, 14 May 2007**

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## Report

### **EMSA Workshop on Implementation of Regulation (EC) 782/2003 on the Prohibition of Organotin Compounds on Ship Lisbon, 14 May 2007**

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#### Background

In accordance with its objectives and task to provide technical assistance to the European Commission, as laid down in its founding Regulation (EC) 1406/2002 as amended, as well as a specific request agreed with DG TREN, EMSA organised an Expert Meeting Workshop on the implementation of Regulation (EC) 782/2003 on the prohibition of organotin compounds on ships (hereinafter referred to as "the regulation").

The objective of the regulation is to reduce or eliminate adverse effects on the marine environment and human health caused by organotin compounds which act as active biocides in anti-fouling systems used on ships.

According to the regulation, all ships flying the flag of, or operating under the authority of, a Member State had to comply with the prohibition of such organotin compounds from 1 July 2003. In addition, ships flying the flag of a Member State whose anti-fouling system has been applied, changed or replaced after that date, must not have these organotin compounds in the anti-fouling systems on their hulls or external parts and surfaces, unless they have a coating that prevents them leaching.

All ships – irrespective of their flag – will have to comply with the regulation requirements from 1 January 2008. From this date, ships with an active TBT coating will no longer be allowed to enter Community ports or offshore terminals.

The regulation requires that, since the international Anti-Fouling Systems (AFS) Convention had not entered into force by the 1 January 2007, appropriate measures for survey and certification must be adopted at Community level in order to allow ships flying the flag of a third State to demonstrate their compliance with the prohibition (Article 6.3). Appropriate procedures for port State control (PSC) (Article 7) must also be adopted.

Therefore, before the end of 2007, the Commission will submit to the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) a proposal for a Commission regulation setting a legal basis for survey, certification and port State control of ships flying the flag of a third State.

The workshop focused on the possible measures in order to assist the Commission in preparing draft modifications to the regulation. Relevant IMO guidelines, referred to in the AFS-Convention, and the regulation had been analysed in view of the possible legislative action at EU level. A working paper with discussion points had been prepared by EMSA and sent to the experts from Member States before the meeting.

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## Workshop Objectives

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The workshop had the following objectives:

- to enable Member States experts to express their views on the IMO guidelines:
  - **Guidelines for Survey and Certification of Anti-fouling Systems on Ships** (Res. MEPC.102(48))
  - **Guidelines for brief sampling of anti-fouling systems on ships** (Res. MEPC.104(49) )
  - **Guidelines for inspection of anti-fouling systems on ships** (Res. MEPC.105(49))
- in order to evaluate their practicability, and if appropriate improve them, for use in allowing ships flying the flag of a third State to demonstrate their compliance (article 6.3) and as appropriate procedures for port State control (Article 7).
- to enable Member States to exchange their experiences with the implementation of the regulation.
- to discuss means for informing the shipping industry about the certification regime so that ships may demonstrate their compliance from 1 January 2008.
- to discuss the application of sanctions such as banning, detention, and exclusion from ports, a system for informing other parties of violations and the need for a database of ships which have violated.

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## Workshop Programme

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The workshop was opened and chaired by Mr. Panagiotis Petropoulos, Head of Unit E (Implementation of EU Maritime Legislation).

The representative of the European Commission, Mr. Michal Weiczorkiewicz (DG TREN) outlined the current situation with the regulation and the objectives of the workshop.

EMSA outlined the current situation with the use of TBT coatings including TBT contamination and the actions that have been taken by ship owners, ship repair yards and paint manufacturers. EMSA's earlier actions and the workshop working paper were also presented.

Two experts, Mr. Torben Wallach from Denmark and Mr. Meindert Vink from the Netherlands, presented their experiences with the implementation of the regulation.

The workshop then focussed on the IMO guidelines.

EMSA drew attention to the difficulties it saw in the wording and interpretation of the “Guidelines for Survey and Certification of Anti-fouling Systems on Ships”

In considering the “Guidelines for brief sampling of anti-fouling systems on ships” the discussions highlighted the practical difficulties of sampling and the need for a common policy on when it would be appropriate to sample.

The workshop noted that the “Guidelines for inspection of anti-fouling systems on ships” do not give guidance on when sampling is appropriate or when it would be appropriate to ban, detain or exclude a ship in violation. It also noted that they do not cover a banned ship which wishes to dry-dock in order to change its anti-fouling system or cases of *force majeure*. The guidelines include procedures for informing the flag State of violations on its ships but the workshop thought it would also be appropriate to have an electronic communication system to inform other parties, including Member States, of a detected violation.

Mr. Michal Weiczorkiewicz offered some possible amendments to the text of the regulation.

The chairman then summarised the workshop conclusions.

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### Workshop Conclusions

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In line with the objectives of the workshop the following conclusions were agreed:

1. Resolution MEPC.102 (48) - Guidelines for Survey and Certification of Anti-fouling Systems on Ships.

There is no need to amend the Guidelines. The points identified in EMSA's working paper can be clarified in unified interpretations.

2. Resolution MEPC.104(49) - Guidelines for brief sampling of anti-fouling systems on ships

Some practical issues need further clarification. Member States at the workshop had no practical experience of sampling. Even “brief” sampling, especially in a PSC situation, would be an exceptional step to take. Nevertheless sampling might be the only way to identify non-compliance – unlike most other convention requirements the inspector cannot observe or test an item of equipment or a procedure. Common criteria for when to sample would be useful to ensure a uniform approach. Some administrations will shortly contract specialist companies to carry out sampling. Common

criteria for the approval of these companies might also be necessary if their results are to be used as evidence for taking sanctions against a ship.

EMSA proposed setting up a correspondence group with Member States to suggest solutions to these issues.

### 3. Resolution MEPC.105 (49) - Guidelines for inspection of anti-fouling systems on ships.

A legal basis is needed to perform PSC checks on ships flying the flag of a third State. Based on the workshop discussions the Commission will submit to COSS a proposal to extend the legal basis for survey & certification, sampling and port State control.

Initial inspections should follow the guidelines for certificate checks with a possibility of brief sampling but as mentioned above the correspondence group would explore ideas for criteria on when to use sampling.

The AFS convention provides for the exclusion of a ship from the ports of the State which detects the violation, but not other States. A provision in the regulation for all EU member States to apply a ban (imposed by one MS) would require an amendment through the European Parliament and Council and this was not envisaged at the moment.

The Paris MOU database - SIRENAC – cannot be used to record non-compliances since the AFS-Convention will not be a relevant instrument in the Paris MOU until it comes into force. EMSA will explore other means for recording non-compliances.

Confirming compliance via pre-notifications to Safeseanet should not be used - normal PSC procedures should be used.

All suggested amendments to the guidelines should be submitted to IMO through the usual procedures (i.e. through COSS and the Council) when appropriate in order to achieve global harmony.

#### Annexes:

1. Workshop Agenda
2. List of Participants
3. Working paper on the implementation of Regulation (EC) 782/2003 on the prohibition of organotin compounds on ships

List of Participants – EMSA Workshop on Regulation 782/2003 on Prohibition of Organotin Compounds on Ships  
14 May 2007, Lisbon

Country	Name	First Name	Organisation	E-mail
Belgium	Cornand	Caroline	Federal Public Service Mobility and Transport	<a href="mailto:C.cornandvanelen@mobiliteit.fgov.be">C.cornandvanelen@mobiliteit.fgov.be</a>
Bulgaria	Vassilev	Vesselin	Bulgarian Maritime Authority	-
Denmark	Wallach	Torben	Danish EPA	<a href="mailto:tw@mst.dk">tw@mst.dk</a>
Estonia	Soe	Heino	Estonian Maritime Administration	<a href="mailto:heino.soe@vta.ee">heino.soe@vta.ee</a>
Finland	Öhrmark	Petri	Finnish Maritime Administration	<a href="mailto:Petri.ohrmark@fma.fi">Petri.ohrmark@fma.fi</a>
Germany	Kiesow	Wilfried	See-BG	<a href="mailto:Wilfried.kiesow@see-bg.de">Wilfried.kiesow@see-bg.de</a>
Germany	Mayer	Rainer	See-BG	<a href="mailto:Rainer.mayer@see-bg.de">Rainer.mayer@see-bg.de</a>
Iceland	Geirsson	Kristjan	Environment and Food Agency	<a href="mailto:kristjan@ust.is">kristjan@ust.is</a>
Ireland	Taylor	David	Maritime Safety Directorate	<a href="mailto:davidtaylor@transport.ie">davidtaylor@transport.ie</a>
Italy	Meneghetti	Paolo	Italian Coast Guard Headquarters	<a href="mailto:007@sicnavge.it">007@sicnavge.it</a>
Latvia	Murnieks	Raitis	Maritime Administration of Latvia	<a href="mailto:girts.sarja@lja.bkc.lv">girts.sarja@lja.bkc.lv</a>
Lithuania	Kasparevicius	Linas	Lithuanian Maritime Safety Administration	<a href="mailto:lk@msa.lt">lk@msa.lt</a>
Poland	Wyganowski	Zbigniew	Maritime Office in Gdynia	<a href="mailto:zbigniew.wyganowski@umgdy.gov.pl">zbigniew.wyganowski@umgdy.gov.pl</a>
Portugal	Pereira	Carlos Alberto	Instituto Português e dos Transportes Marítimos	<a href="mailto:carlos.pereira@imarpor.pt">carlos.pereira@imarpor.pt</a>
Portugal	Pamplona	Paulo Jorge	Instituto Português e dos Transportes Marítimos	<a href="mailto:paulo.pamplona@imarpor.pt">paulo.pamplona@imarpor.pt</a>
Spain	Nunez Sanchez	Miguel Juan	Dirección General de Marina Mercante	<a href="mailto:mnunez@fomento.es">mnunez@fomento.es</a>
Sweden	Nilsson	Kristina	Swedish Maritime Administration	<a href="mailto:kristina.nilsson@sjofartsverket.se">kristina.nilsson@sjofartsverket.se</a>
The Netherlands	Vink	Meindert	Inspectie Verkeer en Waterstaat	-
UK	Elliott	Brian	Maritime&Coastguard Agency	<a href="mailto:Brian.elliott@mcga.gov.uk">Brian.elliott@mcga.gov.uk</a>
UK	Weller	Lorraine	Maritime&Coastguard Agency	<a href="mailto:Lorraine.weller@mcga.gov.uk">Lorraine.weller@mcga.gov.uk</a>
	WIECZORKIEWICZ	Michal	European Commission	<a href="mailto:Michal.WIECZORKIEWICZ@ec.europa.eu">Michal.WIECZORKIEWICZ@ec.europa.eu</a>
	Petropoulos	Panagiotis	EMSA	<a href="mailto:Panagiotis.PETROPOULOS@emsa.europa.eu">Panagiotis.PETROPOULOS@emsa.europa.eu</a>
	Leino	Olev-Erik	EMSA	<a href="mailto:Olev-Erik.LEINO@emsa.europa.eu">Olev-Erik.LEINO@emsa.europa.eu</a>
	Van Hoeylandt	Alexander	EMSA	<a href="mailto:Alexander.VAN-HOEYLANDT@emsa.europa.eu">Alexander.VAN-HOEYLANDT@emsa.europa.eu</a>
	Owen	Paul	EMSA	<a href="mailto:Paul.OWEN@emsa.europa.eu">Paul.OWEN@emsa.europa.eu</a>
	Leroy	Arnaud	EMSA	<a href="mailto:Arnaud.LEROY@emsa.europa.eu">Arnaud.LEROY@emsa.europa.eu</a>