



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 August 2002**

**11583/02**

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2002/0149 (COD)**

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**MAR 110  
ENV 439  
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**OUTCOME OF PROCEEDINGS**

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of : the Shipping Working Party  
dated : 16 July 2002  
prop. Cion.: 11153/02 MAR 106 ENV 418 CODEC 945  
Subject : **Ban on organotin compounds (TBT)**

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1. The Working Party held an initial debate of a general character on the Commission's proposal for a regulation on the prohibition of organotin compounds on ships.

The objective of the proposal is to implement the measures established by the *International Convention on the Control of Harmful Anti-fouling systems on ships*, known as the AFS-Convention, which was adopted by the International Maritime Organisation (IMO) on 5 October 2001.

The AFS Convention prohibits the use of environmentally harmful organotins<sup>1</sup> in anti-fouling paints applied on ships and prevents the possible use in the future of other harmful substances in anti-fouling systems. The application of organotin compounds will be prohibited by 1 January 2003, and they will be completely banned from 1 January 2008. The Convention will enter into force one year after it has been ratified by at least 25 countries representing 25% of the world's merchant shipping tonnage.

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<sup>1</sup> Organotins are metallic compounds of anti-fouling paints which are used to coat the hulls of ships in order to prevent marine organisms from attaching themselves to the hull and thereby slowing down the speed of the ship and increasing its fuel consumption. Organotins persist in the water where their toxic and hormone-disrupting effects pose a substantial risk to the marine environment. One of the most used organotins is tributyltin (TBT).

The Commission representative explained that the proposed regulation is first and foremost meant to speed up the ratification of the AFS Convention in order to ensure that it enters into force as soon as possible.

The proposal, reflecting the provisions of the AFS Convention, prohibits the application of organotin compounds to ships from 1 January 2003 for ships flying the flag of a Member State and for ships not flying the flag of a Member State which operate under its authority. A prohibition to bear organotin compounds will apply to all ships, regardless of their flag, from 1 January 2008.

The ban is in line with the already existing Community (Directive 89/677) ban on the marketing of organotin compounds used to prevent fouling of ships of less than 25 metres of length. The Commission has announced that it will expand this ban in order to ensure that paints with organotin compounds are no longer marketed and used in the Community.

2. Delegations welcomed the proposal and expressed their support for the objective of a swift ratification and entry into force of the AFS Convention.<sup>1</sup>

According to the information provided by delegations, the procedures for the ratification of the AFS Convention have been initiated in most Member States. However, a large majority will not be able to conclude ratification before 1 January 2003.

Among the questions mentioned by delegations, the following stand out:

**Timing of the regulation:** Although the regulation is expected to be adopted and enter into force before the entry into force of the AFS Convention, this is not likely to happen before 1 January 2003. It was argued that the dates of the regulation should be modified before its final adoption in order not to apply legislation with retroactive effects.

**Possible interim measures:** The Commission suggested the possibility that Member States apply the ban on the use of organotin compounds through administrative measures during the space of time between 1 January 2003 and the entry into force of the regulation, as it is currently being done by, for instance, Japan. Several delegations questioned that this would be legally feasible.

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<sup>1</sup> Since as of 16 July the Commission's proposal had not yet been officially presented and an unofficial version of the proposal had been made available to delegations only a few days in advance, all comments were of a preliminary character.

***Economic consequences of regulation:*** A ban on the use of organotin compounds in the Community before the entry into force of the AFS Convention could have an adverse economic impact on the European shipping industry. However, an early ratification and entry into force of the Convention should reduce the competitive disadvantage vis-à-vis third countries.

***Coverage of the regulation:*** Answering to the concerns of some delegations, the Commission stated that the regulation would cover all registers in the territory where the Treaty applies.

3. The Working Group agreed to revert to the proposal examining it article by article with a view to a rapid adoption.

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