

ANNEX 10

RESOLUTION MEPC.105(49)

Adopted on 18 July 2003

GUIDELINES FOR INSPECTION OF ANTI-FOULING SYSTEMS ON SHIPS

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by the international conventions for the prevention and control of marine pollution,

RECALLING ALSO that the International Conference on the Control of Harmful Anti-fouling Systems for Ships, 2001, held in October 2001, adopted the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (the AFS Convention) together with four Conference resolutions,

RECALLING FURTHER that Article 11 of the AFS Convention prescribes that ships to which this Convention applies may, in any port, shipyard, or offshore terminal of a Party, be inspected by officers authorized by that Party for the purpose of determining whether the ship is in compliance with this Convention,

NOTING that Article 3(3) of the AFS Convention prescribes that Parties to this Convention shall apply the requirements of this Convention as may be necessary to ensure that no more favourable treatment is given to ships of non-Parties to this Convention,

NOTING ALSO that Article 11(2) of the AFS Convention refers to the guidelines to be developed by the Organization and Conference resolution 2 urges the Organization to develop these guidelines as a matter of urgency for them to be adopted before the entry into force of the Convention,

NOTING FURTHER that through resolutions MEPC.102(48) and MEPC.104(49) the Organization has developed “Guidelines for Survey and Certification of Anti-fouling Systems on Ships” and “Guidelines for Brief Sampling of Anti-Fouling Systems on Ships”, respectively, and

HAVING CONSIDERED the draft Guidelines for inspection of anti-fouling systems on ships pursuant to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001, prepared by the Sub-Committee on Flag State Implementation at its eleventh session,

1. ADOPTS the Guidelines for inspection of anti-fouling systems on ships pursuant to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001, as set out in the Annex to this resolution;
2. INVITES Governments to apply the Guidelines as soon as possible, or when the Convention becomes applicable to them; and

3. RECOMMENDS that the Guidelines be adopted as amendments to resolution A.787(19) on Procedures for port State control, as further amended by resolution A.882(21) once the AFS Convention has entered into force and that the Guidelines be reviewed on a regular basis.

ANNEX

GUIDELINES FOR INSPECTION OF ANTI-FOULING SYSTEMS ON SHIPS

PART 1

Port State control inspections of anti-fouling systems on ships are governed by Article 11 of the AFS Convention. The process for conducting these inspections is described below. The flow diagram in the Appendix to this annex also describes the AFS port State inspection process.

SUB-PART 1

INSPECTION OF INTERNATIONAL ANTI-FOULING SYSTEM (IAFS) CERTIFICATE OR DECLARATION ON ANTI-FOULING SYSTEM

1 Ships required to carry an IAFS Certificate or Declaration on Anti-Fouling System

- .1 On boarding and introduction to the master or responsible ship's officer, the port State control officer (PSCO) should examine the IAFS Certificate or Declaration on Anti-Fouling System, and the attached Record of Anti-Fouling Systems, if appropriate.
- .2 The IAFS Certificate carries the information on the particulars of the ship and a series of checkboxes to indicate if an anti-fouling system controlled under Annex I of AFS 2001 has or has not been applied, removed or been covered with a sealer coat, and if an anti-fouling system controlled under Annex I of AFS 2001 was applied on the ship prior to or after the date specified in AFS 2001.
- .3 As a preliminary check, the validity of the IAFS Certificate should be confirmed by verifying that the IAFS Certificate is properly completed and signed/endorsed by the Administration, or by a recognized organization (RO) and stating that the required survey has been performed. In reviewing the IAFS Certificate, particular attention should be given to verifying that the initial survey matches the dry dock period listed in the ship's log(s) and that only one box should be marked.
- .4 The Record of Anti-Fouling Systems should be inspected to ensure that the records are attached to the IAFS Certificate and are up to date. The most recent Record must correlate with the correct checkbox on the front of the IAFS Certificate.

2 Ships of Non-Parties to AFS 2001

- .1 As ships of non-Parties to AFS 2001 are not entitled to an IAFS Certificate, the PSCO should look for documentation that contains all of the information in the IAFS Certificate. The records described in resolution MEPC.102(48), paragraphs 5.2.2 and 5.3.2 can be used as examples of this types of documentation. If the ship has such documentation, the PSCO may take its content into account in the evaluation of that ship's compliance.
- .2 In all other respects the PSCO should be guided by the procedures for ships referred to in paragraph 1 above (Ships required to carry an IAFS Certificate).

SUB-PART 2

BRIEF SAMPLING OF ANTI-FOULING SYSTEMS ON SHIPS

1 In addition to reviewing the IAFS Certificate, the AFS 2001 specifies that the inspection may also include a brief sampling of the ship's anti-fouling system. The sampling must not affect the integrity, structure, or operation of the anti-fouling system, taking into account the guidelines contained in resolution MEPC.104(49).

2 If a brief sampling is conducted, the time to process the results shall not be used as a basis for preventing the movement and departure of the ship.

PART 2

MORE THOROUGH INSPECTION

1 If the results of the inspection, observations on board, or other information leads to clear grounds for believing that the ship is in violation of the AFS 2001, or if the anti-fouling system does not correspond substantially with the particulars of the IAFS Certificate, a more thorough inspection may be carried out taking into account any of the following steps.

2 Inspection of additional documentation, to include:

.1 ship's logs, including entries regarding:

.1 date of last repair, drydock or application of anti-fouling system, date of departure from location;

.2 current port and date of arrival; and

.3 ship's position at or near the time the boarding took place; and

.2 inspection of additional documentation described in paragraphs 5.2.2 and 5.2.3 of resolution MEPC.102(48).

3 If appropriate, spot check dates of last hull coating matches date in drydock?

4 If the IAFS Certificate is not properly completed, information on the following questions may be pertinent:

.1 "When was the last time the ship's anti-fouling system was applied?";

.2 "If the anti-fouling system is controlled under Annex 1 to AFS 2001 and was removed, what was the name of the facility and date of the work performed?";

.3 "If the anti-fouling system is controlled under Annex 1 of AFS 2001 and has been covered by a sealer coat, what was the name of the facility and date applied?";

.4 "What is the name of the anti-fouling/sealer products and the manufacturer or distributor for the existing anti-fouling system?"; and

- .5 "If the current anti-fouling system was changed from the previous system, what was the type of anti-fouling system and name of the previous manufacturer or distributor?".

5 Performing additional verification, for example, more comprehensive sampling and analysis of the ship's anti-fouling system. Such sampling and analysis will likely be more detailed and comprehensive than the brief inspection that may be carried out during the initial port State control inspection, and may involve the use of laboratories and detailed scientific testing procedures. Refer to the guidelines in resolution MEPC.104(49) when conducting these additional samples or analyses.

6 Additional information available to the PSCO, depending on the circumstances of the case, such as reports of recent previous violations or alleged contraventions received from other port States.

PART 3

PORT STATE ACTION IN RESPONSE TO ALLEGED CONTRAVENTIONS

1 Article 11(4) of AFS 2001 allows Parties to inspect ships on request of another Party, if a request for an investigation is received and sufficient evidence that the ship is operating or has operated in violation of the Convention is provided. Article 12(2) permits port States conducting inspection to furnish the Administration of the ship concerned such information and evidence as may be in its possession that a violation has occurred. Experience has shown that information furnished to the flag State is often inadequate to enable the flag State to cause proceedings to be brought in respect of the alleged violation of the AFS 2001 requirements. This part is intended to identify information which is often needed by a flag State for the prosecution of such possible violations.

2 It is recommended that in preparing a port State report on deficiencies, where contravention to AFS 2001 requirements is involved, the authorities of the coastal or port State be guided by the itemized list of possible evidence as shown in part 2. It should be borne in mind in this connection that:

- .1 the report aims to provide the optimal collation of obtainable data; however, even if all the information cannot be provided, as much information as possible should be submitted; and
- .2 it is important for all the information included in the report to be supported by facts which, when considered as a whole, would lead the port or coastal State to believe a contravention had occurred.

3 In addition to the port State report on deficiencies, a report should be completed by a port or coastal State, on the basis of the itemized list of possible evidence. It is important that these reports are supplemented by documents such as:

- .1 a statement by the PSCO of the suspected non-conforming anti-fouling system. In addition to the information required in part 2, the statement should include considerations which lead the PSCO to carry out a more detailed inspection;
- .2 statements concerning any sampling procedures of the anti-fouling system. These should include: location of the vessel at the time it was sampled as well as an

indication of where the sample was taken from the hull, including the vertical distance from the boot topping, the time of sampling, identity of person(s) taking the samples, and receipts identifying the persons having custody and receiving transfer of the samples;

- .3 reports of analyses of any samples taken of the anti-fouling system; the reports should include the results of the analyses, a description of the method employed, reference to or copies of scientific documentation attesting to the accuracy and validity of the method employed, the names of persons performing the analyses and their experience and a description of the quality assurance measures of the analyses;
- .4 a statement by the PSCO on board together with the PSCO's rank and organization;
- .5 statements by persons being questioned;
- .6 statements by witnesses;
- .7 photographs of the hull and sample areas; and
- .8 copy of the IAFS Certificate, including copies of relevant pages of the Record of Anti-fouling Systems, log books, MSDS or similar, declaration of compliance from the anti-fouling system manufacturer, invoices from the shipyard and other dry dock records pertaining to the anti-fouling system, etc.

4 All observations, photographs and documentation should be supported by a signed verification of their authenticity. All certifications, authentications or verifications should be executed in accordance with the laws of the State which prepares them. All statements should be signed and dated by the person making the statement. The names of the persons signing statements should be printed in legible script above or below the signature.

5 The reports referred to under paragraphs 2 and 3 of this part should be sent to the flag State. If the coastal State observing the contravention and the port State carrying out the investigation on board are not the same, the State carrying out the latter investigation should also send a copy of its findings to the State which initiated the investigation.

PART 4

RESPONSIBILITIES OF PORT STATE TO NOTIFY THE CONTRAVENTION TO THE FLAG STATE

1 Article 11(3) of AFS 2001 states that any time a ship is warned or detained, or is dismissed or excluded from a port for violation of the Convention, the Party taking such action shall immediately inform the flag Administration of the ship concerned. The form in Appendix 5 should be used to inform the flag Administration. In the event that the deficiencies identified by the PSCO cannot be corrected in the port of inspection and the ship is allowed to sail from that port, the guidance in paragraph 4.7.3 and the forms in Appendices 6 and 7 should be used.

APPENDIX

AFS port State inspection process


