

INDECO

Independent Correspondents
& Maritime and Transport Services S.L.

Consell de Cent, 329
E-08007 Barcelona (Spain)
Tel: +34 93 4876108
Fax: +34 93 4877244
E-mail: claims@indeco-spain.com
www.indeco-spain.com

CIRCULAR 1A/2007
November 2007

SPAIN ADHERS TO THE 2001 INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS (AFS 2001) : IN FORCE IN SPAIN AS FROM 17.09.08

On 07.11.07 Spain published its accession to the AFS 2001 Convention in the Spanish Official State Bulletin, informing that the Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS 2001) will enter into force in general and for Spain on 17.09.08, that is 12 months after twenty-five States representing not less than 25% of the world tonnage ratified the Convention, being this provision met with the deposit of the accession instrument by Panama on 17.09.07.

As you may recall this Convention will prohibit the use of harmful organotins in anti-fouling paints used on ships and will establish a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.

As from 17.09.08 all ships shall not bear organotins compounds on their hulls or external parts or surfaces; **or** shall bear a coating that forms a barrier to such compounds leaching from the underlying non-complaint anti-fouling systems. Vessel should have on board a valid International Anti-fouling System Certificate or a Declaration on Anti-fouling System signed by the owner or authorized agent, and accompanied with the appropriate documentation (i.e. paint receipt or contractor invoice).

According to Art. 11 and 12 of the AFS 2001 Convention, the breach of the Convention could be sanctioned either by the jurisdiction of the Member State in which the infringement was committed, **or** the Member State where infringement was committed can facilitate all the relevant information and evidence to the vessel's Administration State so it can be sanctioned according to their legislation. The Member State in which the infringement was detected can take measures to warn, detain, dismiss, or exclude the vessel from its ports, having this Member State to notify the vessel's Administration State the adopted measures.

In case the infringements to this Convention are detected in Spanish jurisdiction and Spain decides to cause proceedings in accordance with its law, the infringements could be typified in our Spanish Port Law 27/1992, as a severe infraction to Maritime Security (Art. 115.2.k) and / or a severe infraction related to pollution of the maritime environment produced from vessels (Art. 115.4.c) for which the vessel could be detained as a precautionary measure within an Administrative Sanctioning Procedure and a guarantee would be requested in order to release the vessel.

It is also important to note that Art. 13 of the AFS 2001 Convention establishes that in case the vessel has been retained unnecessarily, the vessel shall be entitled to compensation for any loss or damage suffered, action which is also regulated in our Spanish Administrative Procedure Law 30/1992.

Further information can be
obtained from INDECO