

MARINE ENVIRONMENT PROTECTION
COMMITTEE
74 session
Agenda item 10

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POLLUTION PREVENTION AND RESPONSE

Comments on document MEPC 74/10 regarding the draft amendments to Annex 1 to the AFS Convention to include controls on cybutryne

Submitted by Japan

SUMMARY

Executive summary: This document provides comments on the draft amendments to Annex 1 (Controls on anti-fouling systems) to the AFS Convention to include controls on cybutryne developed by PPR 6

Strategic direction, if applicable: 2

Output: 2.19

Action to be taken: Paragraph 12

Related documents: MEPC 74/10; PPR 6/6 and PPR 6/INF.7

Introduction

1 This document is submitted in accordance with the provisions of paragraph 6.12.5 of the document on *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.1) and comments on the draft amendments to Annex 1 (Controls on anti-fouling systems) to the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (hereinafter referred to as "AFS Convention") to include controls on cybutryne, as set out in annex 8 to document PPR 6/20.

Background

2 The AFS Convention prohibits the use of harmful anti-fouling agents, establishing controls which lead Parties to the AFS Convention to prohibit and/or restrict use of harmful anti-fouling systems on 1) ships flying their flag, 2) ships not entitled to fly their flag but which operate under their authority and 3) ships that enter a port, shipyard or offshore terminal of a Party. Anti-fouling systems to be prohibited or controlled are listed in Annex 1 to the AFS Convention, which is open to possible updates and revisions, subject to the provisions of its article 6.

3 At MEPC 71, document MEPC 71/14 (Austria et al.) proposed a new output to amend Annex 1 to the AFS Convention to include controls on cybutryne and it was agreed to include a new output on "Consideration of the initial proposal to amend Annex 1 to the AFS Convention to include controls on cybutryne" in the PPR Sub-Committee's biennial agenda for 2018-2019.

4 At PPR 5, the Sub-Committee had its first consideration on the submitted initial proposal in documents PPR 5/19 and PPR 5/INF.9 (Austria et al.). At PPR 6, the Sub-Committee has further proceeded to the consideration of the comprehensive proposal.

5 Furthermore, during the review process, the Technical Group, established at PPR 6, without having any written proposal or instruction, suddenly developed the draft amendment to Annex 1 of AFS Convention. The draft requires ships not to apply or re-apply anti-fouling systems containing cybutryne on or after 3 October 2021. In addition, the draft amendments further stipulate that ships either: (1) shall not bear cybutryne on their hulls or external parts or surfaces; or (2) shall bear a coating that forms a barrier to cybutryne leaching from the underlying non-compliant anti-fouling systems on or after 3 October 2026. This means that any ships which have applied anti-fouling systems containing cybutryne in the past must blast to remove the remaining systems or apply a sealer coat over the system by the deadline.

Discussion

6 Throughout the consideration at PPR 5 and PPR 6, Japan supported the proposal to prohibit the new applications of cybutryne in anti-fouling systems. On the other hand, there were significant concerns on the retrospective application of such prohibition to ships which have applied cybutryne in the past.

Usage of cybutryne

7 The new requirements will be applied to all ships without any exemption. This means the requirement will apply to all ships including small domestic vessels, barges, fishing vessels and pleasure craft. However, in developing the draft amendment, the Sub-Committee has not yet been informed of, and taken into consideration, how many types and the amount of anti-fouling systems that contain or have contained cybutryne, and how many ships and what type of ships have applied such systems before. This means that there is no clear prospect of the extent of the burden and impact on the maritime industries that would be brought by the retrospective application of this draft regulation.

Time period for which cybutryne remains in AFS

8 As mentioned in paragraph 5, the proposed draft amendment requires that, if a ship has applied an anti-fouling system containing cybutryne even once, it shall be removed or sealed by 3 October 2026, five years after the date of entry into force of the amendment. With respect to the time period for which cybutryne would remain in anti-fouling systems, no certain data have been provided to the PPR Sub-Committee. Therefore, the Committee cannot examine whether the grace period of five years is appropriate and justified for the retrospective mandatory requirement. In case the amount of the concerned substance leaching out to seawater from the anti-fouling system would be very small or none, five years after the application, the requirement will be just a burden by which no environmental benefit is obtained. The Committee and the industries to be affected should have clear information and understanding in this context before establishing any legal obligation, in particular if it is to be a mandatory retrospective requirement.

Availability of sealer coats in the market

9 During discussion at PPR 6, it was noted by the coating industry that sealer coats may not be readily available for anti-fouling systems containing cybutryne. Having noted such concerns, the Technical Group, however, considered without any foundation that the draft timeline would allow sufficient lead time for stakeholders and industry to develop appropriate sealer coats. As pointed out in the previous paragraphs, it is unknown how many ships would be subject to the new requirement. Therefore, significant uncertainty remains not only in terms of availability and cost of the sealer coat, but also effectiveness as an option for mitigation.

Negative impact of blasting

10 If the sealer coating would not be readily available, removal by blasting would be the only available and applicable measure. However, blasting could emit dust which includes cybutryne into the atmosphere, causing air pollution and direct risk for human health. Because of such concerned negative impact, some States or regions might not allow blasting. In such cases, the ship will have no option for its compliance with the new regulation.

Proposal

11 Based on the consideration presented above, Japan is of the view that retrospective requirements to mandate blasting or sealer coatings to all ships that have applied the anti-fouling system in the past need further careful consideration with more concrete information, while supporting the immediate prohibition of applying and re-applying anti-fouling systems containing cybutryne. Therefore, the Committee or PPR should assess a comprehensive proposal including consideration on the impact of the draft requirement. Should the Committee approve the draft amendment at this session, Japan proposes to delete the second row of the draft new table of Annex 1 to the AFS Convention, as follows:

Anti-fouling system	Control measures	Application	Effective date
Cybutryne CAS No. 28159-98-0	Ships shall not apply or re-apply anti-fouling systems containing this substance	All ships	3 October 2021
Cybutryne CAS No. 28159-98-0	Ships either: (1) shall not bear this substance on their hulls or external parts or surfaces; or (2) shall bear a coating that forms a barrier to this substance leaching from the underlying non-compliant anti-fouling systems	All ships (except fixed and floating platforms, FSUs, and FPSOs that have been constructed prior to 3 October 2021 and that have not been in dry-dock on or after 3 October 2021)	3 October 2026

Action requested of the Committee

12 The Committee is invited to consider the comments contained in this document and take action as appropriate.
