

August 23<sup>rd</sup> 2012

## Formation of Global Copper Industry “Business Venture” for IMO-GHS

### Background:

In 2010, ECI funded an effort to support the copper industry in submitting a European notification for ores and concentrates under the EU implementation of the UN’s GHS<sup>1</sup> regulation. With one exception, all beneficiaries of this effort were members of ECI or of the International Copper Association (ICA is, itself, a member of ECI).

At that time, it was recognised that notifications would be required in other geographies and that non-member companies should have a commercial interest in this effort.

These needs have been reinforced and become more urgent due to the regulatory changes proposed by the International Maritime Organisation under MARPOL Annex V<sup>2</sup> which will restrict discharges of solid bulk cargo residues from 1<sup>st</sup> January 2013 onwards.

- Residues from solid bulk cargoes, classified as “Harmful to the Marine Environment” under the revised MARPOL Annex V guidance (adopted at 2012 IMO-MEPC 63 meeting<sup>3</sup>), can no longer be discharged at sea. The regulation applies to bulk materials such as metal concentrates, matte, scrap and slags.
- Considering the very strict timing, interim measures are foreseen between 1<sup>st</sup> January 2013 and 31<sup>st</sup> December 2014. During this period, self-classification was accepted, as well as some relaxation on human health criteria. At least two circulars, describing the details of MARPOL Annex V criteria during this period, have been proposed and will be discussed at the MEPC 64 meeting in October.

In addition, IMO discussions on revisions to the International Maritime Solid Bulk Cargoes schedules will have consequences, from 1<sup>st</sup> January 2015 onwards, for safety requirements during shipping, loading and unloading of Materials Hazardous Only in Bulk Form (IMSBC-MHB).

The Copper Alliance has, in co-operation with the copper industry and ICMM (International Council for Mining and Metals), followed both the MARPOL Annex V and IMSBC discussions. To ensure a focused and consistent approach to both IMO advocacy and technical compliance, ECI has already set-up a technical working group.

ECI has received several assistance requests from non-member companies around the world.

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<sup>1</sup> UN GHS: United Nation’s Global Harmonised System on classification and labelling of chemicals”

<sup>2</sup> The Marine Pollution (MARPOL) Convention is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes

<sup>3</sup> IMO – MEPC : International Maritime Organisation Marine Environmental Protection Committee

### Business Venture:

Based on its very credible performance as manager of the REACH Copper Consortium, ECI will take on the role as manager of a “Copper IMO-GHS Group (CIG)<sup>4</sup>” and will support the CIG’s members in complying with the requirements of the IMO’s MARPOL Annex V and IMSBC code.

Recognising that many details of the MARPOL Annex V and IMSBC requirements remain under discussion, ECI will be guided by a Technical Working Group made up of representatives from the companies participating in the CIG.

The core deliverables of ECI’s work are:

- Provide regular updates on IMO activities linked to MARPOL Annex V and the IMBSC schedules. These will be done in close co-operation with ICMM and other entities actively involved in IMO advocacy (especially Cochilco).
- Before 1<sup>st</sup> December 2012:
  - Deliver initial safety data sheet templates (for concentrates, matte, scrap and slags) to accompany shipping declarations under the interim MARPOL Annex V guidance and that are agreed by the Technical Working Group.
  - Provide a calculation tool that allows companies to self classify materials based on their own analyses. It is expected that one of the outputs from the tool would be a statement whether a particular shipment meets MARPOL Annex V and/or IMSBC-MHB criteria.
  - Deliver an initial technical support dossier (with test results, studies and assessments) along with arguments for advocacy at international, European and national level.
- By 1<sup>st</sup> December 2014:
  - Update safety data sheet templates and statement whether a particular shipment meets MARPOL Annex V and/or IMSBC-MHB criteria.
  - Update and distribute calculation tool and technical support dossier.

CIG costs will be shared between ICA/ECI and non-members. ICA/ECI’s share will be a prioritised line item in the 2012/2013/2014 budgets (no additional fee required). Non-members will pay a fair contribution (see below) to participate in, and benefit from, this common approach.

A “business venture” approach provides the legal framework to share confidential data.

### Scope of activities:

- Provide copper technical leadership on the GHS aspects of the IMO MARPOL Annex V and IMBSC schedules.
- Through analysis of the various GHS and IMO regulations, assess how to classify cargoes and how to sufficiently identify which solid bulk copper cargoes need to be classified as “Harmful to the Marine Environment” under MARPOL Annex V from 1<sup>st</sup> January 2013 onwards and which solid cargoes meet the IMSBC-MHB criteria from 1<sup>st</sup> January 2015 onwards.
- Recommend and coordinate generic industry testing needs, e.g. marine testing (bio-elution) program on selected concentrates and minerals<sup>5</sup> (individual companies fund their own cargo-specific mineral and elemental analyses and testing).
- Coordinate collection and analysis of required industry information.

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<sup>4</sup> The word Consortium will be avoided to prevent confusion with the REACH effort.

<sup>5</sup> All existing work on GHS classification of concentrates has been done on freshwater (allowable under MARPOL Annex V)

- Assess MARPOL Annex V and IMSBC classifications based on latest research, industry data, regulatory authority guidance and agreements made by the IMO Technical Working Group.
- Propose company-specific and/or generic classifications by end 2012 (interim period) and by end 2014.
- Under the priorities set by the IMO Technical Working Group, lead the provision of copper technical inputs into IMO advocacy, on the above issues only.
- Act as copper industry's technical link into policy and advocacy efforts managed by ICMM.

Estimated budget for 2012 - 2014:

Activity	€
Generic testing to identify key materials of concern and develop boundaries of different concentrate families requiring different classifications	100,000
Third party consultancy support	25,000
Travel expenses for advocacy meetings	15,000
ECI expert resources – 100 days	80,000
Total	220,000

Fees payable by non-members of ECI/ICA:

A single fee, covering activities until the end of 2014, is based on the annual production (P) of copper concentrates by the non-member company. P is defined by the average of the 2011 actual and the 2012 expected production in MT of copper content.

Production (P) in MT/yr copper content	Single fee in €
$P \leq 25,000$	5,000
$25,000 < P \leq 75,000$	10,000
$P > 75,000$	20,000

Non ECI/ICA members requiring support for matte, scrap or slags are invited to contact ECI directly for information on fees.

Administration and invitations to participate:

Non members of ICA/ECI are asked to enter into a simple legal agreement with ECI for the provision of these services. This agreement, see Annex 1, covers confidentiality aspects, plus the obligations of both parties.

Companies wishing to participate are invited to complete the agreement and forward to [john.schonenberger@copperalliance.eu](mailto:john.schonenberger@copperalliance.eu)

Dr. Katrien Delbeke, Director Health, Environment & Sustainable Development Program  
John Schonenberger, Chief Executive

**Cooperation Agreement**<sup>6</sup>

Between the European Copper Institute (ECI) and (name of third party)

**The Parties:**

The European Copper Institute (ECI) a company incorporated in the UK, having its Belgian branch office at 168 Ave de Tervueren, 1150 Bruxelles (ECI), is managing a project for the specific purpose of assisting the copper industry, within the period 2012 – 2014, in complying with anticipated changes in the IMO guidelines for shipment of bulk cargoes.

(Name of third party) a company registered under the laws of XXX and with business address at YYY, agrees to participate in this project, recognising the principles, deliverables and fees contained within the Business Venture description dated August 23<sup>rd</sup> 2012.

**Obligations of ECI:**

In the execution of this work, third party may provide Confidential Information on its products.

ECI will use the Confidential Information or any part of it solely for the purpose of compiling the deliverables noted in the Business Venture.

ECI will use its best endeavours to safeguard this information and shall not disclose it any party outside this agreement except in cases of:

1. Information which is generally available to the public before the start of this agreement;
2. Information in the public domain or which becomes generally available through standard public provisions for acquisition of the information;

**Obligations of third party:**

Provide to ECI, within the reasonable time schedules requested, the required technical assistance and the necessary data on its materials (concentrates, matte, slags)

**Termination and Governance:**

Either party can terminate this cooperation agreement, without prejudice and without a notice period, by giving written notice to the other.

In the event of termination, for whatever reason, the confidentiality clauses contained herein will remain valid for 10 years following the date of termination.

**On behalf of the European Copper Institute:**

Date:

John Schonenberger, Chief Executive

**On behalf of third party:**

Date:

Name and position  
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<sup>6</sup> This document is not intended to be a watertight legal agreement. ECI, in cooperation with all business venture participants, will use its best endeavours to complete the venture's deliverables within the time schedule noted.