



**COUNCIL OF
THE EUROPEAN UNION**

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OUTCOME OF PROCEEDINGS

from : Shipping Working Party
dated : 22 and 31 January, 19 and 25 February 2003
Prop Cion : 5111/02 MAR 1 CODEC 7
Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94

1. In the aftermath of the Prestige accident and thereby responding to the conclusions adopted by the Council (Transport/Telecommunication/Energy) on 6 December 2002, the Commission transmitted on 27 December 2002 a proposal on the accelerated phasing in of double hull oil tankers, as well as the ban on the transport of heavy grades of oil in single hull oil tankers.
2. The Shipping Working Party started examining the proposal and paid particular attention to the following issues ¹ :

¹ Positions of individual delegations are recorded in footnotes to the text of the proposal, as presented in Annex.

- (a) Definition of heavy grades of oil : The Working Party agreed to delete any reference to CN codes in the definition and to develop a simple, clear, concise and precise definition, which can easily be controlled by port State controls inspectors. Debate on technical characteristics of oil products (crude and fuel oils) identified density as the main specification defining heavy grades of oil, which could be complemented by other specifications, such as the viscosity.
- (b) Scope of the ban on transport of heavy grades of oil in single hull oil tankers : Several delegations pointed to the difficulty of extending the ban to transport heavy grades of oil in single hulls to smaller ships (600 to 5000 dwt), on the one hand, because there is no internationally agreed definition of a double hull tanker for such small ships and for economic and capacity reasons, on the other hand.
- (c) Scope of the accelerated phasing in of double hull oil tankers : Two delegations indicated that the Council's intention to protect European waters should not lead to the phasing out of EU-flagged single hull oil tankers operating in other regions of the world. This opinion was countered by two other delegations, which emphasised the dimension of political gesture.
- (d) Analysis of tankers capacity : The Working Party took note of the Commission's view that the proposed measures would not lead to any shortage of tankers capacity. The Commission's analysis however identified a problem concerning the ban on transport of heavy grades of oil in single hull tankers below 5000 dwt. Some delegations expressed particular concerns on the effects of the proposed ban on transport of heavy grades of oil in small single hull tankers (600 to 5000 dwt).

Several delegations asked the Commission to communicate to the Council, in addition to the capacity study on available tanker capacity already communicated, the economic impact analysis of the measures proposed on the tanker industry mentioned in the explanatory memorandum.

- (e) Specific situation of ice strengthened vessels : The delegations most concerned raised the issue of oil transport in winter conditions, emphasising the need for ships navigating in northern seas to have proper ice strengthening and suggesting a transition period for implementing the ban on transport of heavy grades of oil by single hulls due to the shortage of double hull ships with proper ice strengthening. Other delegations, whilst recognising this need and the risks linked to the transit in particularly vulnerable areas of oil tankers from/to Russian terminals, deemed it inappropriate to include such amendments in this regulation.
- (f) Compatibility between the proposed regulation and the member States' international obligations, mainly under MARPOL 73/78 and under the UNCLOS : The Working Party asked for an opinion of the Legal Services of the Commission and of the Council on this matter.
- (g) Parallel efforts to have the accelerated phasing out of single hull oil tankers adopted in international forum : The Working Party repeated the necessity to strive for a world-wide agreement on accelerating the phasing out of single hull oil tankers, as expressed in the 6 December 2002 Council conclusions. It was deemed important in that framework that a contribution to the forthcoming IMO-MEPC meeting could be introduced before 11 April 2003.

3. It is to be noted that a **general scrutiny reservation** is maintained at this stage on the text, as well as a **DK/F/UK Parliamentary scrutiny reservation**.

Draft

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 417/2002 on the accelerated phasing in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

[...]

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 417/2002 is amended as follows:

1) In Article 1, the following is added:

“, and to ban the transport to or from ports of the Member States of heavy grades of oil in single hull oil tankers.”

2) Article 2 is amended as follows:

(a) the first indent of paragraph 1 is replaced by the following:

"- entering into a port, offshore terminal or [anchorage area] ¹ under the jurisdiction of a Member State, irrespective of their flag, or"

¹ General agreement to replace the bracketed words with "anchoring in an area".
D expressed doubts on the compatibility between this wording and the concept of "place of refuge".

(b) in paragraph 1 the following is added:

"For the purpose of Article 4.2, this Regulation shall apply to oil tankers of 600 tons deadweight and above." ²

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3) In article 3, the following points ~~are~~ **is** added:

"14. 'heavy grades of oil' shall mean ⁴

~~heavy fuel oil, heavy crude oil, waste oils, bitumen and tar.~~

~~15. 'heavy fuel oil' shall mean all oil products falling under CN codes 2710 19 51, 2710 19 55, 2710 19 61, 2710 19 63, 2710 19 65 and 2710 19 69.~~

² B/GR/I/NL/P/UK reservation on including oil tankers between 600 and 5000 dwt in the scope of the regulation.

DK wanted to clarify the status of ships operating bunkering activities.

B pointed specifically to ships operating essentially but not exclusively in inland navigation. Cion ready to examine transition period for small tankers, but this solution was not deemed adequate by several delegations.

³ GR suggested a new paragraph modifying article 3.10, definition of "double hull oil tanker", which would then read : "'double hull oil tanker" shall mean an oil tanker meeting the [...] requirements of Regulation 13F of Annex I of MARPOL 73/78. **Is also considered as a "double hull oil tanker" any oil tanker meeting the provisions of paragraph 1(c) of revised Regulation 13G of Annex I of MARPOL 73/78.**"

⁴ There is general agreement not to define "heavy grades of oil" by using the CN codes, but there is no agreement at this stage on the definition, which should use technical specifications such as density and/or viscosity.

F suggested a compromise definition of heavy grades of oil, supported by several delegations and Cion. It reads :

"- tous les "bitumes" et "asphaltes" transportés même sous forme d'émulsion;

- tous les produits pétroliers raffinés ("fiouls") ayant au moins l'une des caractéristiques suivantes :

= viscosité supérieure ou égale à 28 cSt à 50°C;

= densité supérieure ou égale à 0,8 à 15°C (ce qui correspond à un degré API inférieur ou égal à 10);

- tous les pétroles bruts ayant une densité supérieure ou égale à 0,8 à 15°C (ce qui correspond à un degré API inférieur ou égal à 10)."

GR suggested a definition of heavy grades of oil reading : "oils as defined by Regulation 1(1) of Annex I to MARPOL 73/78 having a density at 15°C greater than [900-950] kg/m³ and a kinematic viscosity at 100°C greater than [15-25] mm²/s."

DK suggested to retain "waste oils" in the definition, regardless of their density.

~~16. 'heavy crude oil' shall mean crude oils falling under CN code 2709 00 90 and where the API grade is lower than 30.~~

~~17. 'waste oils' shall mean wastes containing mainly petroleum oils or bituminous minerals, mixed or not with water, falling under CN code 2710 91 00 and 2710 99 00.~~

~~18. 'bitumen and tar' shall mean all oil products falling under CN code 2713 20 00, 2713 90 10, 2713 90 90 and 2715 00 00."~~

4) Article 4 is amended as follows:

(a) in paragraph 1, points (a), (b) and (c) are replaced by the following: ⁵

(a) for category (1) oil tankers:

- 2003 for ships delivered in 1980 ⁶ or earlier,
- 2004 for ships delivered in 1981 ⁷,
- 2005 for ships delivered in 1982 ⁸ or later;

(b) for category (2) oil tankers ⁹:

- 2003 for ships delivered in 1975 or earlier,

⁵ GR/UK would prefer to limit the scope of the accelerated phasing out to ships calling at EU ports. E/I opposed to this limitation.

⁶ GR suggested 1978.

⁷ GR suggested 1979.

⁸ GR suggested 1980.

⁹ GR suggested the following timetable :

- 2003 for ships delivered in 1978 or earlier;
- 2004 for ships delivered in 1979,
- 2005 for ships delivered in 1980,
- 2006 for ships delivered in 1981,
- 2007 for ships delivered in 1982,
- 2008 for ships delivered in 1983,
- 2009 for ships delivered in 1984,
- 2010 for ships delivered in 1985,
- 2011 for ships delivered in 1986,
- 2012 for ships delivered in 1987,
- 2013 for ships delivered in 1988,
- 2014 for ships delivered in 1989,
- 2015 for ships delivered in 1990 or later.

I hinted at the fact that 2010 was too early a date for final phasing out.

- 2004 for ships delivered in 1976,
- 2005 for ships delivered in 1977,
- 2006 for ships delivered in 1978 and 1979,
- 2007 for ships delivered in 1980 and 1981,
- 2008 for ships delivered in 1982,
- 2009 for ships delivered in 1983,
- 2010 for ships delivered in 1984 or later;

(c) for category (3) oil tankers ¹⁰:

- 2003 for ships delivered in 1975 or earlier,
- 2004 for ships delivered in 1976,
- 2005 for ships delivered in 1977,
- 2006 for ships delivered in 1978 and 1979,
- 2007 for ships delivered in 1980 and 1981,
- 2008 for ships delivered in 1982,
- 2009 for ships delivered in 1983,

¹⁰ GR suggested the following timetable, similar to that for category 2 oil tankers :

- 2003 for ships delivered in 1978 or earlier;
- 2004 for ships delivered in 1979,
- 2005 for ships delivered in 1980,
- 2006 for ships delivered in 1981,
- 2007 for ships delivered in 1982,
- 2008 for ships delivered in 1983,
- 2009 for ships delivered in 1984,
- 2010 for ships delivered in 1985,
- 2011 for ships delivered in 1986,
- 2012 for ships delivered in 1987,
- 2013 for ships delivered in 1988,
- 2014 for ships delivered in 1989,
- 2015 for ships delivered in 1990 or later.

- 2010 for ships delivered in 1984,
- 2011 for ships delivered in 1985,
- 2012 for ships delivered in 1986,
- 2013 for ships delivered in 1987,
- 2014 for ships delivered in 1988,
- 2015 for ships delivered in 1989 or later.”

(b) paragraph 2 is replaced by the following:

“2. No oil tanker carrying heavy grades of oil, irrespective of its flag, shall be allowed to enter into ports offshore terminals and [anchorage areas] ¹¹ under the jurisdiction of a Member State, unless such tanker is a double hull oil tanker.” ¹²

This provision shall not apply to oil tankers used as port reception facilities for ship-generated waste and cargo residues.

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¹¹ General agreement to replace the bracketed words with "anchoring in areas".
D expressed doubts on the compatibility between this wording and the concept of "place of refuge".

¹² GR suggestion to add the following subparagraph :
"This provision shall not apply to oil tankers used as port reception facilities for ship-generated waste and cargo residues."

¹³ FIN/S suggestion to add the following subparagraphs to article 4 paragraph 2 :
**"Oil tankers, entering into a port, offshore terminal or anchorage area under the jurisdiction of a member State, shall have adequate ice strengthening of ship's structure and propulsion machinery approved by the Administration of that member State, when the ice conditions require the use of an ice strengthened vessel.
 During the two years following the entry into force of this Regulation, a member State may allow an ice strengthened single hull oil tanker carrying heavy fuel oil to enter a port, offshore terminal and anchorage area under the jurisdiction of that member State, when the ice conditions require the use of an ice strengthened vessel; provided that heavy fuel oil is only carried in the centre tanks of the oil tanker, and the oil tanker has a double bottom."**
GR/I/NL/Cion opposed this suggestion, at least in its present wording.

5) Article 5 is replaced by the following:

“Article 5

Compliance with the Condition Assessment Scheme for Category (2) and (3) ships

1. An oil tanker above 15 years of age shall not be allowed to enter into ports, offshore installations or anchorage areas under the jurisdiction of a Member State beyond the anniversary of the date of delivery of the ship, in 2005 for Category (2) and Category (3) ships, unless it complies with the Condition Assessment Scheme referred to in Article 6.
2. The competent authorities of a Member State may allow an oil tanker above 15 years of age flying the flag of that Member State to continue operation beyond the anniversary of the date of delivery of the ship in 2005 for Category (2) and Category (3) ships, but only when subject to compliance with the Condition Assessment Scheme referred to in Article 6.”

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¹⁴ Cion suggestion to add a new paragraph 6 reading :

"For the purpose of Article 5, the Condition Assessment Scheme adopted by MEPC Resolution 94(46) of 27 April 2001, as amended by MEPC Resolution 99(48) of 10 October 2002, shall apply."

This would be accompanied by a new whereas clause reading :

"The International Maritime Organisation's Marine Environment Protection Committee (MEPC) Resolution on the Condition Assessment Scheme was further amended by Resolution MEPC 99(48), adopted by the 48th meeting of the MEPC on 10 October 2002. This modification enters into force on 1 March 2004."

Article 2

The Presidency of the Council, acting on behalf of the Member States, and the Commission shall jointly inform the IMO of the adoption of this Regulation, whereby reference shall be made to Article 211, paragraph 3 of the United Nations Convention on the Law of the Sea.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European ~~Communities~~ Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President