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REPORT

from : the Working Party on Shipping
dated : 1st June 2001
to : the Permanent Representatives Committee / Council
Cion prop. : 7245/00 MAR 13 ENV 93

Subject : **MARITIME SAFETY - ERIKA I PACKAGE**
Draft Regulation on the accelerated phasing-in of double hull or equivalent
design requirements for single hull oil tankers
- *Common position*

1. An agreement has been reached in the IMO framework on the accelerated phasing-in of double hull oil tankers during the session of the Maritime Environment Protection Committee (MEPC) in April last. On the basis of that agreement, the Shipping Working Party has elaborated on the modified Commission proposal¹ after first reading in the European Parliament within the framework of the co-decision procedure².
2. The text resulting from that examination is presented in Annex 1 to the present document. There is a general agreement on this text with the exception of art. 8 (the date at which the Regulation encouraging the use of oil tankers with segregated ballast tanks should be repealed).

¹ doc. 14724/00 MAR 86 CODEC 155.

² doc. 14078/00 CODEC 951 MAR 65

The Working Party has also agreed a statement to be written in the minutes of the Council adopting the common position, concerning a co-ordinated notification at the IMO (Annex 2).

3. Subject to the confirmation by Coreper, including the solution for art. 8, the Council is called upon agreeing the annexed common position.

It is to be noted that the text of the common position will still be submitted to the usual legal and linguistic revision and be finally adopted officially together with the statement to be written in the minutes of the Council.

**Draft common position
on the regulation on the accelerated phasing-in of double hull or equivalent design
requirements for single hull tankers**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ¹,

Having regard to the opinion of the Economic and Social Committee ²,

Having regard to the opinion of the Committee of the Regions ³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas

- (1) within the framework of the common transport policy, further measures must be taken to enhance safety and prevent pollution in maritime transport;
- (2) the Community is seriously concerned by the shipping accidents involving oil tankers and the associated pollution of its coast-lines and harm to its fauna and flora and other maritime resources;
- (3) the Commission underlined in its communication "a common policy on safe seas" ⁴ the request of the extraordinary Council on Environment and Transport of 25 January 1993 to support the action in the International Maritime Organisation (IMO) on the reduction of the safety gap between new and existing ships by upgrading and/or phasing out existing ships;
- (4) the European Parliament, in its resolution on a common policy on safe seas ⁵, welcomed the Commission communication and called in particular for action to be taken to improve tanker safety standards;

¹ OJ C212E, 25.07.2000, p. 121.

² OJ C14, 16.01.2001, p. 22.

³ OJ C22, 24.01.2001, p. 19.

⁴ COM(1993) 66 final, 24.02.1993.

⁵ OJ C91, 28.03.1994, p. 301.

- (5) the Council, by its resolution of 8 June 1993 ¹, fully supported the objectives of the Commission communication;
- (5') the European Parliament welcomed, in its resolution on the oil slick off the French coast adopted on 20 January 2000, any efforts by the Commission to bring forward the date by which oil tankers will be obliged to have a double-hull construction; (= Commission proposal clause 14)
- (6) at international level, the International Maritime Organisation (IMO) has established, in the International Convention for the Prevention of pollution from Ships, 1973 and the Protocol of 1978 related thereto (MARPOL 73/78), internationally agreed pollution prevention rules affecting the design and operation of oil tankers;
- (6') comparison of tanker age and accident statistics show increasing accident rates for older ships. It has been internationally agreed that the adoption of the 1992 amendments to MARPOL 73/78 requiring the application of the double hull or equivalent design standards to existing single hull oil tankers when they reach a certain age will provide those tankers with a higher degree of protection against accidental oil pollution in the event of collision or stranding; (= Commission proposal clause 10)
- (6'') it is in the interest of the Community to adopt measures to ensure that oil tankers entering into ports and offshore terminals under the jurisdiction of Member States and that all oil tankers flying the flags of Member States comply with Regulation 13G of Annex I of MARPOL 73/78 as revised in 2001 by Resolution MEPC 95(46) in order to reduce the risk of accidental oil pollution in European waters;
- (7) amendments to the MARPOL 73/78 Convention adopted by the IMO on 6 March 1992 entered into force on 6 July 1993. These measures impose double hull or equivalent design requirements for oil tankers delivered on or after 6 July 1996 aimed at preventing oil pollution in the event of collision or stranding. Within these amendments, a phasing-out scheme for single hull oil tankers delivered before that date took effect from 6 July 1995 requiring tankers delivered before 1 June 1982 to comply with the double hull or equivalent design standards not later than 25 years and, in some cases, 30 years after the date of their delivery. Such existing single hull oil tankers would not be allowed to operate beyond 2007 and, in some cases, 2012 unless they comply with the double hull or equivalent design requirements of Regulation 13F of Annex I of MARPOL 73/78. For existing single hull oil tankers delivered after 1 June 1982 or those delivered before 1 June 1982 and are converted, complying with the requirements of MARPOL 73/78 on segregated ballast tanks and their protective location, this deadline will be reached at the latest in 2026;
- (8) [...]
- (9) [...]
- (10) [...] (has been shifted to (6'))
- (11) [...]
- (12) [...]

¹ OJ C271, 07.10.1993, p. 1.

- (12') new important amendments to Regulation 13G of Annex I of MARPOL 73/78 were adopted on 27 April 2001 by the 46th session of the IMO Marine Environment Protection Committee (MEPC-46) by Resolution MEPC 95(46), entering into force on 1 September 2002, in which a new accelerated phase out scheme for single hull oil tankers was introduced. The respective final dates by which tankers must comply with Regulation 13F of Annex I of MARPOL 73/78 depend on the size and age of the ship. Oil tankers are therefore divided into three categories : Category 1 tankers are single hull tankers (mostly delivered before 1 June 1982) of 20000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and single hull tankers of 30000 tons deadweight and above carrying oil other than the above, which do not comply with or have not been converted to the requirements for new oil tankers criteria for segregated ballast, crude oil washing and protected location of ballast tanks; Category 2 tankers are single hull oil tankers of 20000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and single hull tankers of 30000 tons deadweight and above carrying oil other than the above, delivered after 1 June 1982 and built in compliance with the requirements for new oil tankers, and tankers of earlier construction converted to comply with new oil tankers criteria requirements of MARPOL 73/78 on segregated ballast tanks and their protective location; Category 3 tankers are single hull oil tankers of 5000 tons deadweight and above but less than the sizes specified for Category 1 and Category 2 tankers.
- (13) the importance of this lower tonnage category of oil tankers for the intra-Community trade should not be underestimated, it is important that the revised Regulation 13G now also ensure that these tankers will also have to comply with the double hull or equivalent design standards of MARPOL 73/78 by certain dates;
- (13') the final date by which a single hull oil tanker shall be phased out is the anniversary of the date of delivery of the ship, according to a schedule starting in 2003 until 2007 for Category 1 oil tankers, and until 2015 for Category 2 and 3 oil tankers;
- (13'') the revised Regulation 13G of Annex I of MARPOL 73/78 maintains the requirements for Category 1 tankers, after 25 years, to have wingtanks or double bottoms in protective locations not used for the carriage of cargo or to operate only with hydrostatically balanced loading;
- (13''') the revised Regulation 13G of Annex I of MARPOL 73/78 introduces a requirement that Category 1 and 2 oil tankers may only continue to operate after the anniversary of the date of their delivery in 2005 and 2010 respectively subject to compliance with a Condition Assessment Scheme (CAS), adopted on 27 April 2001 by IMO in Resolution MEPC 94(46). The CAS is designed to strengthen inspection of oil tankers during their last years of operation, to coincide with the statutory surveys required by MARPOL 73/78, and imposes an obligation that the flag State administration issues a Statement of Compliance and is involved in the CAS survey procedures. The CAS objective is to ensure that only Category 1 and 2 oil tankers in a good condition can operate after 2005 and 2010 respectively;

- (13''') paragraph 5 of the revised Regulation 13G of Annex I of MARPOL 73/78 allows for an exception for Category 2 and 3 oil tankers to operate, under certain circumstances, beyond the anniversary of the date of their delivery in 2015. Paragraph 8b of the same regulation, however, gives Parties to the MARPOL 73/78 Convention the right to deny entry into the ports or offshore terminals under their jurisdiction of oil tankers allowed to operate under this exception. Member States, as Parties to the MARPOL 73/78 Convention, declared on the occasion of the adoption by IMO of the revised Regulation 13G, their intention to use the rights set up in paragraph 8b.
- (14) [...] (has been shifted to (5'))
- (14') it is important to ensure that the provisions in this Regulation do not endanger the safety of crew or oil tankers in search of a safe haven or a place of refuge;
- (14'') in order to allow shipyards in Member States of the Community to repair single hull oil tankers, Member States may make exceptions to allow entry into their ports of such vessels, provided they are not carrying any cargo of crude oil or oil products;
- (14''') according to the revised Regulation 13G of MARPOL 73/78, Parties to MARPOL 73/78 that deny entry into the ports or offshore terminals under their jurisdiction of single hull oil tankers beyond 2015 are required to communicate this decision to the IMO and are likewise required to communicate to the IMO if they allow, suspend, withdraw or decline to issue the Statement of Compliance to a Category 1 or 2 oil tanker;
- (15) [...] (has been shifted to (17'))
- (16) since the measures necessary for the implementation of this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision;
- (17) certain provisions of this Regulation containing references to the regulations of the MARPOL 73/78 Convention and Resolutions MEPC 94(46) and 95(46), may be amended by the Commission, assisted by the Committee, to bring them in line with amendments to these regulations adopted or entered into force.
- (17') in the view of the nearing deadline for single hull oil tankers not complying with the requirements of MARPOL 73/78 on segregated ballast tanks and their protective location, there are no reasons to maintain the differential charging system Council Regulation (EC) 2978/94 provides for between such oil tankers and tankers that comply with the requirements of MARPOL 73/78 on segregated ballast tanks and their protective location;

HAVE ADOPTED THIS REGULATION:

¹ OJ L184, 17.07.1999, p. 23.

Article 1

Purpose

The purpose of this Regulation is to establish an accelerated phasing-in scheme for the application of the double hull or equivalent design requirements of the MARPOL 73/78 Convention to single hull oil tankers.

Article 2

Scope

This Regulation shall apply to all oil tankers of 5000 tons deadweight and above,

- when entering into a port or offshore terminal under the jurisdiction of a Member State, irrespective of their flag, or
- flying the flag of a Member State.

This Regulation shall not apply to any warship, naval auxiliary or other ship, owned or operated by a State and used, for the time being, only on government non-commercial service. Member States shall take measures to ensure that those ships which are excluded from the scope of this Directive shall act in a manner consistent, so far as is reasonable and practicable, with this Regulation.

Article 3

Definitions

For the purpose of this Regulation,

1. "MARPOL 73/78" shall mean the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto together with the amendments thereto, in force on ... ¹;
2. "revised Regulation 13G of Annex I of MARPOL 73/78" means the amendments to Regulation 13G of Annex I to MARPOL 73/78 and to the Supplement to the IOPP Certificate, as adopted by Resolution MEPC 94(46) of 27 April 2001 and which enters into force on 1 September 2002;
3. "oil tanker" shall mean an oil tanker as defined in Regulation 1(4) of Annex I of MARPOL 73/78;

¹ Date of adoption of the Regulation.

4. "deadweight (DW)" shall mean deadweight as defined in Regulation 1(22) of Annex I of MARPOL 73/78;
5. "new oil tanker" shall mean a new oil tanker as defined in Regulation 1(26) of Annex I of MARPOL 73/78;
6. "category (1) oil tanker " shall mean an oil tanker of 20000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and of 30000 tons deadweight and above carrying oil other than the above, which does not comply with the requirements for new oil tankers as defined in Regulation 1(26) of Annex I of MARPOL 73/78;
7. "category (2) oil tanker " shall mean an oil tanker of 20000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and of 30000 tons deadweight and above carrying oil other than the above, which complies with the requirements for new oil tankers as defined in Regulation 1(26) of Annex I of MARPOL 73/78;
8. "category (3) oil tanker" shall mean an oil tanker of 5000 tons deadweight and above but less than that specified in definition 6 and 7 of the present article;
9. "single hull oil tanker" shall mean an oil tanker not meeting the double hull or equivalent design requirements of Regulation 13F of Annex I of MARPOL 73/78;
10. "double hull oil tanker" shall mean an oil tanker meeting the double hull or equivalent design requirements of Regulation 13F of Annex I of MARPOL 73/78;
11. "age" shall mean the age of the ship, expressed in number of years after the date of its delivery;
12. "heavy diesel oil" means diesel oil as defined in the revised Regulation 13G of Annex I of MARPOL 73/78;
13. "fuel oil" means heavy distillates or residues from crude oil or blends of such materials as defined in the revised Regulation 13G of Annex I of MARPOL 73/78.

Article 4

Compliance with the double hull or equivalent design requirements by single hull oil tankers

1. Member States shall not allow oil tankers to operate under their flag or other oil tankers irrespective of their flag to enter into ports or offshore terminals under their jurisdiction after the anniversary of the date of delivery of the ship in the year specified hereafter, unless such tankers are double hull oil tankers:
 - (1) for category (1) oil tankers:
 - 2003 for ships delivered in 1973 or earlier,
 - 2004 for ships delivered in 1974 and 1975,
 - 2005 for ships delivered in 1976 and 1977,
 - 2006 for ships delivered in 1978, 1979 and 1980,
 - 2007 for ships delivered in 1981 or later.

- (2) for category (2) oil tankers:
- 2003 for ships delivered in 1973 or earlier,
 - 2004 for ships delivered in 1974 and 1975,
 - 2005 for ships delivered in 1976 and 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,
 - 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.

- (3) for category (3) oil tankers:
- 2003 for ships delivered in 1973 or earlier,
 - 2004 for ships delivered in 1974 and 1975,
 - 2005 for ships delivered in 1976 and 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,
 - 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.

2. A Category (1) oil tanker of 25 years and over after the date of its delivery shall comply with either of the following provisions:

- (a) it shall have wing tanks or double bottom spaces, not used for the carriage of oil and meeting the width and height requirements of Regulation 13E(4) of Annex I of MARPOL 73/78, cover at least 30% of L_t , for the full depth of the ship on each side or

at least 30% or the projected bottom shell area within L_t where L_t is as defined in Regulation 13E(2) of Annex I of MARPOL 73/78; or

- (b) it shall operate with hydrostatically balanced loading, taking into account the guidelines developed by the IMO Resolution MEPC 64(36).
3. Notwithstanding the provisions of paragraph 1 of this Article, member States shall only allow an oil tanker to enter into ports or offshore terminals under their jurisdiction beyond the anniversary of the date of delivery of the ship, in 2005 for Category (1) ships, and in 2010 for Category (2) ships, subject to compliance with the Condition Assessment Scheme referred to in Article 4b.

Article 4a

Member States may allow continued operation of an oil tanker flying the flag of the Member State beyond the anniversary of the date of delivery of the ship in 2005 for Category (1) ships and in 2010 for Category (2) ships, but only when subject to compliance with the Condition Assessment Scheme referred to in Article 4b.

Article 4b

Condition Assessment Scheme

Member States shall apply, for the purpose of Article 4 and 4a of this Regulation, the Condition Assessment Scheme adopted by MEPC Resolution 94(46) of 27 April 2001.

Article 4c

Member States shall not allow:

- ◆ continued operation of Category 2 and Category 3 oil tankers under their flag in accordance with paragraph 5 of revised Regulation 13G of Annex I to MARPOL 73/78;
- ◆ entry into the ports or offshore terminals under their jurisdiction of other Category 2 and Category 3 oil tankers, as referred to above, irrespective of their flag,

beyond the anniversary of the date of delivery of the ship in 2015.

Article 4d

Exemptions for ships in difficulty or for ships to be repaired

By derogation to Articles 4, 4a and 4c, a Member State may, subject to national provisions, allow, under exceptional circumstances, an individual ship to enter the ports or offshore terminals under its jurisdiction, when:

- an oil tanker is in difficulty and in search of a place of refuge,
- an unloaded oil tanker is proceeding to a port of repair

Article 5

Notification to the IMO

1. 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.
2. When implementing the provisions of Article 4c, each Member State shall inform the IMO of its decision to deny entry of oil tankers operating in accordance with the provisions of paragraph (5) of the revised Regulation 13G of Annex I of MARPOL 73/78 into the ports or offshore terminals under their jurisdiction, on the basis of Paragraph 8(b) of the revised Regulation 13G of Annex I of MARPOL 73/78.

3. Each Member State shall notify the IMO if it allows, suspends, withdraws or declines the operation of a Category (1) or a Category (2) oil tanker entitled to fly its flag, in accordance with Article 4a of this Regulation, on the basis of Article 8(a) of the revised Regulation 13G of Annex I of MARPOL 73/78.

Article 6

Committee procedure

1. The Commission shall be assisted by the committee set up pursuant to Article 12, paragraph 1, of Council Directive 93/75/EEC¹, hereinafter referred to as "the Committee".
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 7

Amendment procedure

The references in the Articles to the regulations of Annex I of MARPOL 73/78 and to Resolutions MEPC 94(46) and 95(46), may be amended, in accordance with the procedure laid down in Article 6, in order to bring them in line with amendments to these regulations and resolutions adopted by the IMO, in so far as such amendments do not broaden the scope of this Regulation.

Article 8

Repeal of Council Regulation (EC) No 2978/94

Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers² is repealed as from [31 December 2007]³.

Article 9

Implementation

¹ Council Directive concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods, OJ L 247, 5.10.1993, p. 19.

² OJ L 319, 12.12.1994, p. 1.

³ NL: reservation, would prefer retaining the date of 1 September 2002.

1. Member States shall, in due time, but before the date of application referred to in Article 10, adopt such laws, regulations or administrative provisions as may be necessary for the implementation of this Regulation.
2. When Member States adopt measures as referred to in paragraph 1, they shall contain a reference to this Regulation or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.
3. The Member States shall immediately communicate to the Commission all provisions of domestic law which they adopt in the field governed by this Regulation. The Commission shall inform the other Member States thereof.

Article 10

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*. It shall be applicable on 1 September 2002.

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

**Draft joint Council and Commission statement
to the minutes of the Council adopting the Common Position**

ad Article 5.2:

The Council and the Commission agree that the notification by Member States should take place at the same time at a date later to be co-ordinated.
