

## **Around the annexes**

### **A roundup of the latest developments with the six annexes of the Marine Pollution Convention**

The six annexes of the 1973/78 Marine Pollution (MARPOL) Convention have recently been the focus of considerable attention, as part of the ongoing campaign to revise and tighten the regime governing the control of pollution from ships. Some of the decisions were taken at the 48th Session of the IMO Marine Environment Protection Committee (MEPC 48) which took place in London this past October. Annex I, which seeks to minimise marine pollution caused by oil, was the first of the MARPOL annexes to be ratified and entered into force in October 1983. As the reports below point out, some of the MARPOL annexes have yet to take effect.

#### **Annex I - oil and oil products**

Quite aside from the changes to Regulation 13G of Annex I stemming from the sinking of the tanker Erika in December 1999, Annex I in its entirety has been the subject of an extensive editorial revision in recent years to simplify the text, weed out anomalies and make the document easier to work with. This work is now virtually complete and it is expected that the text will be approved at MEPC 49 in summer 2003.

The revised Annex I Regulation 13G entered into force on September 1, 2002. This rulemaking encompasses the accelerated phase-out schedule for single-hull tankers agreed by IMO in May 2001. The new regime makes mandatory the Model Survey Plan for tankers which has been developed to help in carrying out the Condition Assessment Scheme (CAS) for certain tankers. CAS will have to be applied to certain Category 1 tankers continuing to trade after 2005 and certain Category 2 tankers after 2010. CAS requirements include enhanced and transparent verification of the reported structural condition of the tanker, and verification that the documentary and survey procedures have been properly carried out and completed.

#### **Annex II - bulk chemicals**

IMO has been embarked upon a long-term project over the past eight years to consider the need for a major revision and simplification of the Annex II provisions governing the control of pollution caused by chemicals carried in bulk by sea. The work has coincided with a major exercise by the UN Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) to re-evaluate the hazards posed by hundreds of chemical cargoes carried in bulk. This work is now 90 per cent complete. Before the recent MEPC 48 meeting, it had been hoped to adopt a revised Annex II in 2005 to enable its entry into force in 2007.

The major decision facing MEPC 48 delegates was whether to choose an updated version of the current five-category system for identifying the pollution hazard of bulk chemicals or to replace the five-category approach with a much simpler, three-category system. In view of the substantial amount of preparatory work that had been done, it was thought that MEPC 48 had all the information it needed in order to reach a decision.

Once, again, however, progressing the Annex II revision process to its conclusion proved difficult to achieve. MEPC 48 was unable to agree on either the three-category system, the five-category system or a compromise four-category system put forward by Japan at the 11th hour. The matter has been referred back to the IMO Sub-committee on Bulk Liquids and Gases (BLG). After further deliberations there, MEPC will be once again called upon to make a final decision on the number of Annex II pollution categories at its 49th Session in summer 2003.

On a more concrete footing, under Regulation 16 of MARPOL Annex II, it will be compulsory for all chemical tankers of more than 150 gross tons (gt) to carry a Shipboard Emergency Response Plan (SMPEP) for noxious liquid substances (NLS) from January 1, 2003. The rulemaking effectively requires owners to provide the master of a particular ship with information on how to react in case of a NLS spill in order to minimise or mitigate the effects of that spill on the environment and crew. The Certificate of Chemical Fitness or the Certificate for the Carriage of Noxious Liquid Substances can only be issued if a SMPEP is available onboard.

### **Annex III - packaged dangerous goods**

Those packaged dangerous goods identified as "marine pollutants" under MARPOL Annex III are also covered in the International Maritime Dangerous Goods (IMDG) Code. Although it is effectively incorporated into national law by many IMO member states, the Code itself has so far only had recommendatory status. However, this will change on January 1, 2004 when Amendment No 31 to the Code enters into force and application of the IMDG Code becomes mandatory.

The UN is currently seeking to harmonise the various existing systems governing the classification of hazardous materials. As part of this effort, new criteria for environmentally hazardous substances are currently being developed under the Globally Harmonised System for Hazard Classification and Communication. IMO is to review the criteria for defining marine pollutants under MARPOL Annex III to assess the need to align these criteria with those being developed by the UN.

### **Annex IV - sewage**

Regulations for the prevention of pollution by sewage from ships are set to enter into force on September 27, 2003, following the ratification by Norway of MARPOL Annex IV this past September 26. Norway's ratification means the entry-into-force criteria for the Annex, set at 15 IMO member states whose combined merchant fleets constitute not less than 50 per cent of world merchant tonnage, have now been met.

Annex IV sets out in detail how sewage should be treated or held aboard ship and the circumstances in which discharge into the sea may be allowed. It requires MARPOL signatories to provide adequate reception facilities for sewage and contains a model International Sewage Pollution Prevention Certificate to be issued by national shipping administrations to ships under their jurisdiction.

Annex IV will apply to ships engaged on international voyages. On entry into force it will have immediate effect on all new ships of 400 gross tons (gt) and above and new ships of less than 400 gt which are certified to carry more than 15 persons. It will apply to existing ships of 400 gt and above and of less than 400 gt and above but certified to carry more than 15 persons five years after the date of entry into force.

### **Annex V - garbage**

Annex V, covering the prevention of pollution by garbage from ships, entered into force in December 1988. Amongst other things, Annex V requires that ships carry a garbage record book and a garbage management plan.

At MEPC 48 Australia pointed out that the term "garbage" includes "operational wastes" which, in turn, are defined as including "cargo residues". Such cargo residues are limited to non-tanker cargo residues. Australia requested that the garbage record book be amended to include a section for the recording of cargo residue discharges.

### **Annex VI - air pollution from ships**

Annex VI of the MARPOL Convention, covering air emissions from ships, was adopted in 1997 but has still not yet received the requisite number of ratifications, i.e. 15 IMO member states with 50 per cent of the world fleet on a tonnage basis, for entry into force. Shipowners are concerned that the lack of the necessary level of

support for this international initiative leaves the door open for unilateral action on the part of individual nations or regions.

In August 2002 Liberia, the second largest flag state, signed the treaty, bringing the number of ratifications to six states with 26 per cent of the world fleet. Since then a seventh state has ratified and during MEPC 48 Belgium, Cyprus, Denmark, Finland, Germany, Greece, Luxemburg, the Netherlands, Panama and Spain stated that they intend to ratify Annex VI "by the end of the year or during the first half of 2003".

Because implementation takes place 12 months after ratification, Annex VI is expected to enter into force by mid-2004 at the latest.

IMO has sent to the UN a paper on greenhouse gases, outlining, amongst other things, ways in which the shipping industry can reduce air emissions. Once comments from the UN have been assimilated, this initiative will encompass revisions to Annex VI.