

Prestige fallout – latest

A summary of the most recent regulatory developments, at both an IMO and European level, in the aftermath of the Prestige sinking

Following intensive lobbying in order to deflect the risk of the European Union implementing new tanker safety measures only on a regional basis following the sinking of the tanker Prestige in November 2002, the 15 EU member states have agreed to submit their proposals for amending the current tanker safety regime to the International Maritime Organization (IMO).

The EU member states, each of which is a party to the 1973/78 Marine Pollution (MARPOL) Convention, submitted a set of formal proposals to change certain provisions of MARPOL to IMO on April 10.

Despite the agreement to submit their proposals for consideration and adoption internationally through IMO, the European Union still plans to press ahead to introduce the measures on a Community-wide basis this summer, well ahead of any timetable it will be possible for IMO to agree.

En bloc transfer

As reflected in the original EU drive for Community-wide action, the proposals call for further acceleration of the phaseout timetable for single-hull tankers, an immediate ban on the carriage of heavy grades of oil in single-hull tankers and for the Condition Assessment Scheme (CAS), which was adopted in 2001 following the Erika sinking in December 1999, to be applied to tankers of 15 years of age and above.

The proposals will be considered at the 49th Session of the IMO's Marine Environment Protection Committee (MEPC 49) in London in July. In June the IMO Council will be asked to sanction an additional MEPC meeting this year, probably to be held in December, to enable any measures tabled at MEPC 49 to be considered for formal adoption.

Such an arrangement would provide IMO members with the minimum six-month period, stipulated in the MARPOL Convention, in which to review any proposed amendments and allow MARPOL signatories to consider introducing new international measures at the earliest date. This fast-track approach should placate, to some extent, those parties in Brussels that complain that the wheels of the IMO rulemaking process grind too slow.

Tanker experts

To ensure IMO member states have as much relevant information as possible before them when weighing up the proposals, the IMO secretary-general William O'Neil has reactivated the Informal Group of Experts, which was established in 2000 to assess the likely effects of the Erika proposals.

In studying the likely impact of the new proposals, the group will take into account criteria such as the volume of oil and oil products carried by oil tankers worldwide and by region; the number of single-hull tankers to be affected by the proposals; the capacity of shipyards needed to replace the single-hull tankers that would be withdrawn from service versus available shipbuilding capacity; and the annual scrapping capacity of ship recycling facilities.

The study is being undertaken by the IMO secretariat and is expected to be finalised by the end of May 2003 in order that it can be considered at MEPC 49. To enable it to be completed within the short time available, independent experts nominated by industry organisations are providing assistance.

IMO focus

In the aftermath of the Prestige sinking, when the calls from within the Brussels corridors of power for the rapid implementation of new Europe-wide tanker safety regulations were at their most strident, William O'Neil led the international shipping industry lobby in sounding a note of caution.

He repeatedly stated, in the media and in discussions with relevant parties, that IMO should always and without exception be regarded as the only forum where safety and pollution prevention standards affecting international shipping should be considered and adopted.

While IMO and the tanker shipping industry have succeeded in bringing the initiative to the international stage, the EU member states still plan to implement these measures in their ports and for ships flying their flags by this July, well in advance of any deadlines that IMO will be able to meet.

Single-hull phaseout

The original MARPOL Regulation 13G, which was adopted in 1992, requires the phasing-out of single-hull tankers, but over a protracted period which would have allowed some ships to continue trading until their 30th anniversary.

Regulation 13G was revised in April 2001 as part of a package of measures adopted in response to the Erika incident. An accelerated timetable was agreed that calls for single-hull oil tankers to be eliminated by 2015 or earlier.

The new proposals put before IMO on April 10 call for further acceleration of the phaseout timetable. More specifically, Category 1 tankers should be removed from service by 2005 (currently by 2007 under MARPOL Regulation 13G); Category 2 tankers by 2010 (currently by 2015); and Category 3 tankers by 2010 (currently by 2015).

The EU Council agreed on the accelerated phaseout of single-hull tankers on March 27, 2003. This includes an immediate ban on Category 1 single-hull tankers aged more than 23 years and built before 1982. It is expected that the European Parliament will endorse this decision to enable the agreed July 1, 2003 implementation date to be met.

The EU Council also agreed a waiver for tankers that comply with the US Oil Pollution Act of 1990 (OPA 90) and the Condition Assessment Scheme, allowing them to remain in operation until 2015 or their 25th anniversary, whichever comes first.

CAS considerations

The Condition Assessment Scheme (CAS) was also adopted in April 2001. The CAS requirements include enhanced and transparent verification of the reported structural condition of the ship and verification that the documentary and survey procedures have been properly carried out and completed.

The Scheme requires that compliance with CAS is assessed during the Enhanced Survey Programme (ESP) of inspections concurrent with intermediate or renewal surveys currently required by IMO Resolution A.744(18), as amended.

Although CAS does not specify structural standards in excess of the provisions of other IMO conventions, codes and recommendations, its requirements stipulate more stringent and transparent verification of the reported structural condition of the ship and that documentary and survey procedures have been properly carried out and completed.

The proposals by the EU member states to IMO to call for the application of CAS to be expanded to encompass Category 2 and Category 3 single-hull tankers of 15 years of age and over.

Heavy oil

Heavy oil encompasses heavy fuel oil with a kinematic viscosity higher than 180 centistokes (cSt), types of crude oil which are very viscous and do not flow easily, i.e. crude oils with an API grade lower than 25.7, and bitumen, tar and their emulsions. Properties common to all heavy oils are high specific gravity, low hydrogen-to-carbon ratios, high carbon residues, and high contents of asphaltenes, heavy metal, sulphur and nitrogen. Such characteristics present particular challenges for cleanup operations in the event of an accidental spill at sea.

The submission by the EU member states to IMO proposes an immediate prohibition of the carriage of heavy oil by single-hull tankers over 600 dwt, with the period of grace until 2008 for tankers of less than 5000 dwt.

Irrespective of the work at IMO, if the European Parliament endorses the EU Council decision of March 27 in June, as expected, single-hull tankers carrying heavy oils will be banned from entering European ports from July 1, 2003. Such tankers flying the flags of EU member states will be similarly prohibited from carrying such cargoes. As in the case of the IMO proposal, single-hull tankers of less than 5,000 dwt in Europe have also been granted a period of grace from the heavy oil carriage requirement. It is felt that the bunkering barge and power station fuel distribution sectors would have been unable to cope with immediate ban on small single-hull vessels.

Parliamentary review

The next crunch day comes at the end of June when the European Parliament reviews the EU Council decision of March 27 and decides whether or not to endorse it and implement all the agreed measures for single-hull tankers on July 1, 2003.

The Council proposal will certainly have an impact within the tanker market and for shipowners and shipbuilders. As currently phrased, it will necessitate the removal of approximately 40 million dwt from the European trades and prevent them from flying member state flags in 2003.

There is a danger that this could prompt owners to reflag ships out of Europe and constitute a disincentive to maintain the ships as assiduously as was done in the past. Such action would be self-defeating in that not only would the aims of the new EU tanker safety measures be compromised but also the European Union's commitment to maintaining the competencies, manpower and management skills associated with a healthy maritime industry would be undermined.