

## **IMO balancing act on single hulls**

**IMO has astutely accommodated the new EU tanker safety regime in its own revised MARPOL provisions governing single-hull tankers. Shipowners are hopeful that the new measures will be enough to minimise the impact of EU unilateralism**

Utilising the extra time it had available, IMO's Marine Environment Protection Committee (MEPC) came to a slightly different conclusion from that of the European Union as regards the most appropriate post-Prestige measures needed to improve tanker safety.

Nevertheless, in the spirit of compromise, MEPC, at its 40th Session (MEPC 50) held on December 1-4, 2003, provided opt-out arrangements which will enable EU member states to comply with the Brussels tanker safety regulations which entered into force on October 21, 2003 without flouting international unity.

In broad alignment with the EU measures, MEPC 50 adopted a revised, accelerated phaseout scheme for single-hull tankers; an extended application of the Condition Assessment Scheme (CAS) for tankers; and a new regulation banning the carriage of heavy grade oil (HGO) in single-hull tankers.

The new requirements, which are summarised below, are incorporated in amendments to the 1973/78 Marine Pollution Convention (MARPOL) and are expected to enter into force on April 5, 2005 under the tacit acceptance procedure. However, MARPOL signatories have also been invited to consider implementation of these amendments as soon as possible.

### **Accelerated phaseout for single-hull tankers**

Under a revised Regulation 13G of Annex I of MARPOL, the final phaseout date for Category 1 tankers (pre-MARPOL tankers) is brought forward to 2005, from 2007. The final phaseout date for Category 2 and 3 tankers (MARPOL tankers and smaller tankers) is brought forward to 2010, from 2015.

Under the revised regulation CAS is to be made applicable to all single-hull tankers of 15 years or older. Previously, it was to have been made applicable to all Category 1 vessels continuing to trade after 2005 and all Category 2 vessels after 2010.

Consequential enhancements to the CAS scheme were also adopted at MEPC 50. The revised regulation allows the flag state to permit continued operation of Category 2 or 3 tankers beyond 2010, subject to satisfactory CAS results. However, the continued operation must not go beyond the anniversary of the date of delivery of the ship in 2015 or the date on which the ship reaches 25 years of age after the date of its delivery, whichever is earlier.

In the case of certain Category 2 or 3 oil tankers fitted with only double bottoms or double sides not used for the carriage of oil and extending over the entire cargo tank length, or with double hull spaces not meeting the minimum distance protection requirements, which are not used for the carriage of oil and extend to the entire cargo tank length, the flag state may allow continued operation beyond 2015, but not beyond its 25th anniversary.

However, to accommodate the unilateral EU action, MEPC 50 agreed that a MARPOL signatory state has the right to deny entry into ports or offshore terminals under its jurisdiction to single-hull tankers operating beyond their anniversary of the date of delivery in 2010 or to vessels with double bottom or double sides as aforementioned operating up to their 25th anniversary beyond 2015.

### **Carriage of heavy grade oil**

A new MARPOL Regulation 13H on the prevention of oil pollution from oil tankers when carrying heavy grade oil (HGO) bans the carriage of HGO in single-hull tankers

of 5,000 tons dwt and above after the date of entry into force of the regulation, i.e. April 5, 2005, and in single-hull oil tankers of 600 tons dwt and above but less than 5,000 tons dwt, not later than the anniversary of their delivery date in 2008.

According to the definition, HGO encompasses the following oils:

- crude oils having a density at 15°C higher than 900 kg/m<sup>3</sup>;
- fuel oils having either a density at 15°C higher than 900 kg/ m<sup>3</sup> or a kinematic viscosity at 50°C higher than 180 mm<sup>2</sup>/s; and
- bitumen, tar and their emulsions.

### **HGO exemptions**

IMO believed that if it adopted the new EU provisions governing the carriage of heavy grades of oil verbatim, there was a risk that there would be insufficient acceptable tonnage available to carry HGO. As a result, MEPC 50 agreed on the following series of exemption and relaxation provisions which allow tankers and flag states to derogate from the requirements of the new Regulation 13H as and when deemed necessary:

- a flag state may allow tankers of 5,000 dwt and above with double bottom or double sides to carry HGO until they reach 25 years, even beyond 2015;
- a flag state may also, subject to CAS, allow a single-hull tanker of 600 dwt and above to carry HGO until it reaches the 25th anniversary of its delivery; and
- a flag state may further exempt an oil tanker of 600 dwt and above from the requirements of Regulation 13H if the tanker is engaged in domestic trade, e.g. exclusively plying within an area under the jurisdiction of the flag state concerned or operating as an HGO floating storage unit in that area.

To accommodate the new EU regime enacted on October 21, 2003, the MARPOL amendments adopted at MEPC 50 allow a port state, subject to the provisions of international law, to deny entry to single-hull tankers carrying HGO and covered by the exemptions to ports or offshore terminals under its jurisdiction. Furthermore, a port state can also deny ship-to-ship transfer of HGO in areas under its jurisdiction.

### **Exemption notifications**

The question arises as to which countries will endorse the HGO exemptions, as this will determine the areas in which tanker owners can operate their older ships. To clarify the situation, each MARPOL signatory will be obliged to notify IMO whether or not its government accepts or denies the exemptions.

One thing is certain and that is that both the US and EU member states will reject the exemption options. Brussels has stated categorically that it will not allow any of the agreed exemptions, either for tankers flying EU flags or tankers within EU waters. The US adheres to its own national Oil Pollution Act of 1990 (OPA 90) regime. The US is not party to either Regulation 13F or 13G of MARPOL Annex I, and at MEPC 50 the US delegation stated its reservations regarding the new Regulation 13H.