



Recent developments in the EU maritime safety legislation

From the loss of the *Erika* to the loss of the *Prestige*

Tanker Operator Conference, Oct. 2003



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After the loss of the *Erika* on 12 December 1999, the EC proposed two sets of legislative proposals :

- Erika I package (March 2000)
- Erika II package (December 2000)

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The ERIKA I package: three measures

- Stricter port state control in the EU (more inspections to hazardous ships, black list of substandard vessels, etc);
- Strengthen the existing Directive on classification societies (quality requirements of the class in the EU, monitoring performance of the class, etc);
- Timetable for phasing out single hull oil tankers (cf. regulation 417/02, Marpol Annex I, 13G).

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The ERIKA II package: additional measures

- Creation of a European Maritime Safety Agency;
- Establishment of an information system to improve the monitoring of traffic in European waters
- Coastal Member States required to draw up emergency plans for hosting ships in distress in places of refuge.
- Supplementary fund for compensation for oil pollution damage.

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ERIKA I and II: state of the play

- Erika I legislation came into force by 22 July 2003.
- To date only Denmark, France, Germany, Spain and the UK have transposed both Directives into national law.
- The EC has initiated infringement procedures against A, BE, FINL, GR, IRL, IT, LUX, NL, P and SW for failing to communicate national measures implementing the directives.

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- The European Maritime Safety Agency has just started work in Brussels (pending decision about its location)
- Directive 2002/59/EC introducing:
 - a closer surveillance of ships in the coastal zones of the Union, especially of "at risk" vessels and
 - the legal obligation of MS to establish places of refuge on the coasts as havens for ships in distress.
 will enter into force on 4 February 2004.
- The establishment by the IOPC Funds of a supplementary compensation scheme was agreed at international level last May.

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- The European Council adopted on December 2000 the [Directive 2000/59/EC](#) on port reception facilities for ship-generated waste and cargo residues.
- This Directive requires the provision of adequate waste reception facilities in all EU ports and provides instruments to ensure that all ships visiting these ports deliver their waste in facilities provided rather than at sea.
- 5 MS have not informed the Commission of their national transposition measures

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The Commission's reaction to the loss of the *PRESTIGE* (13 November 2002)

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Following the conclusions of the Transport Council and of the European Council of December 2002, the EC introduced two new legislative proposals:

- A Regulation banning the transport of heavy oils by single hull tankers, further accelerating the phase out of single hulls and expanding the CAS survey
- A Directive concerning pollution caused by vessels and the introduction of penalties, and in particular criminal penalties, in the event of pollution violations.

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The reaction of the EC was also aimed at the issue of the "ports of refuge":

- The Council of Transport ministers requested the preparation of the plans to accommodate ships in distress in places of refuge in the EU by July 2003.
- The Commission summoned all coastal states in January 2003 (and later on, in May 2003) with a view to accelerating the preparation of those plans
- The plans submitted by the Member States are being scrutinised by the Commission to ensure their effectiveness. The legal deadline for the implementation is February 2004

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New single hull Regulation - reg. EC 1726/03

The amendment of existing regulation 417/02 was unanimously approved by the Council (Governments of all the Member States) and by the European Parliament in July 2003:

- The new rules come into force in the EU as of 21st October 2003
- Those rules will cover the 25 EU Member States plus the EEA countries (Norway, Iceland and LCHT)

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1. Banning of heavy oils in single hulls:

- This measure is a port entry requirement, in conformity with UNCLOS. It applies to SH coming into EU ports, irrespective of the flag.
- The categories of heavy oil concerned are (a) heavy crude oil, (b) heavy fuel and (c) waste oil, bitumen and tar
- Heavy crudes are defined by their level of density (15° C of over 900 kg/m³)
- Heavy fuels are defined by their level of density (15° C of over 900 kg/m³) or of kinematic viscosity (50° C of over 180 mm²/s)
- This measure does not affect, in any way, to the right of free passage of vessels in international waters.

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2. Acceleration of the phasing out scheme:

- The current phase out dates are aligned with the OPA-90 deadlines:
 - Category 1 (pre-MARPOL Tankers): the cut-off date for operating is 2005 with an age limit of 23 years
 - Category 2 and 3 (MARPOL Tankers): the cut-off date for operating is 2010 with an age limit of 28 years
- « Double hull » means tankers meeting the requirements of MARPOL Annex I (13F) as well as tankers fulfilling the requirements of paragraph 1(c) of 13G.
- Single hull tankers fitted with double bottoms or double sides can continue operation until the age of 25 years or until 2015, whichever is the sooner.



- All single hull tankers of more than 5000 tons have to pass CAS as from 15 years age;
- Oil tankers below 5000 tons carrying heavy oils must comply with MARPOL standards by 2008 (Annex I - 13F7);
- The measure applies: (a) to ships flying the flag of a EEA Member State and (b) to tankers in the EEA oil trades (coming into EEA ports)



Amendment of MARPOL Annex I

- MEPC 49 discussed last July the proposal by the 15 Member States of the EU and the Commission to introduce the same rules at international level.
- The final IMO decision will be taken in December.
- The earliest possible date for implementing the new single hull rules (revised 13G and new 13H) at international level is April 2005.



Proposal for a directive introducing criminal sanctions concerning pollution caused by vessels (in discussion at the Council and Parliament)

- The proposal covers all types of sea-going vessels. Vessels in transit in coastal zones alongside Community waters will also be covered
- Those who may be subject to sanctions constitute a very broad spectrum and include in natural and legal persons: the shipowner, the owner of the cargo, the classification society, etc
- Discharges will be considered illegal once they exceed the standards fixed by MARPOL
- The proposal covers illegal discharges carried out in Community coastal waters, but would also go beyond this by including the high seas



Maritime security – terrorism prevention - proposal for a Regulation on enhancing ship and port facility security

The proposal is currently under discussion in the Council and in the European Parliament. It is designed:

- for ships operating in international / domestic trade
- for port facilities in the face of threats of intentional unlawful acts.
- to provide a basis for the harmonised interpretation, implementation and Community monitoring of the special measures adopted by the Diplomatic Conference of the IMO on December 2002.

The Council reached a political agreement on this proposal last March and if the European Parliament follows the position of the Council, a final decision could be adopted this year.



Possible legislative actions envisaged by the Commission for 2004



Possible new legislation

- Directive on minimum requirements for Flag State Administrations (or Flag State requirements for ships calling to EU ports)
- Directive or Regulation on casualty investigation
- Regulation on carriers' liability for passenger claims, based on the Athens Protocol