

Proposal for a regulation of the European Parliament and of the Council on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers

(2000/C 212 E/08)

(Text with EEA relevance)

COM(2000) 142 final — 2000/0067(COD)

(Submitted by the Commission on 22 March 2000)

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,

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

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

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 ⁽¹⁾ 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, built to earlier standards, after a reasonable period of operation, paying particular attention to oil tankers not meeting the amendments of the International Convention for the Prevention of Pollution from Ships, 1973 and the Protocol of 1978 related thereto (MARPOL 73/78) which entered into force in 1982;

(4) the European Parliament in its Resolution on a common policy on safe seas ⁽²⁾ welcomed the Commission Communication and called in particular for action to be taken to improve tanker safety standards;

(5) the Council, by its Resolution of 8 June 1993 ⁽³⁾, fully supported the objectives of the Commission Communication;

(6) at international level, the International Maritime Organisation 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;

(7) important amendments to the MARPOL 73/78 Convention containing more rigorous measures concerning the design and construction standards for oil tankers have been adopted by the IMO on 6 March 1992, which 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-in scheme for single hull oil tankers delivered before that date took effect from 6 July 1995 onwards requiring such tankers to comply with the double hull or equivalent design standards not later than 25 years and in some cases 30 years after their date of delivery. As a consequence of these measures existing single hull oil tankers not complying with the requirements of MARPOL 73/78 concerning segregated ballast tanks and their protective location will no longer, at international level, be allowed to operate beyond 2007, and in some case 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 that do comply 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;

⁽¹⁾ COM(93) 66 final of 24.2.1993.

⁽²⁾ OJ C 91, 28.3.1994, p. 301.

⁽³⁾ OJ C 271, 7.10.1993, p. 1.

- (8) prior to the adoption of these amendments to MARPOL 73/78, the United States already adopted in 1990 the Oil Pollution Act establishing double hull requirements both for new and existing tank vessels. These requirements provide that after 1 January 2010 single hull oil tankers without double bottom or double sides will not be allowed to operate to and from US ports unless they comply with the double hull requirements. In addition, in the period preceding this final deadline such single hull oil tankers will not be longer allowed to operate to and from US ports from 2005 onwards when they reach an age of 25 years, and in some cases 23 years, unless they comply with the double hull requirements. For single hull oil tankers fitted with double bottom or double sides this final deadline is fixed on 1 January 2015 and the ship's age limit in the preceding period between 2005 and 2015 is 30 years and in some cases 28 years;
- (9) it can be expected that the differences between the international regime and the one established by the United States concerning age limits and end-date limits for the application of the double hull requirements to existing single hull oil tankers will result, from 2005 onwards, that single hull oil tankers not longer allowed to operate to and from US ports because of their age, and particularly after the end-date limits of 2010 and 2015, will shift their trading patterns to other regions in the world, including the European Union, and continue operating until they have to comply with the double hull requirements in accordance with the age limits provided for in the MARPOL 73/78 Convention;
- (10) 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 these tankers with a higher degree of protection against accidental oil pollution in the event of collision or stranding;
- (11) it is in the interest of the Community to adopt measures to avoid that single hull oil tankers that due to their advanced age, or after the end-date limits, are no longer allowed under the Oil Pollution Act 1990 to operate to and from US ports, will start or continue operating to and from European ports and thereby maintain or increase the risk of accidental oil pollution in European waters;
- (12) these measures should be based upon the principles of the MARPOL 73/78 Convention that existing single hull oil tankers have to comply with the double hull or equivalent design requirements not later than when they reach a certain age. The age limits in these measures should be aligned with those of the Oil Pollution Act 1990 and for that purpose an accelerated phasing in of the double hull or equivalent design standards of MARPOL 73/78 should be established for existing single hull oil tankers by lowering the age limit and specifying end-date limits in line with those of the Oil Pollution Act 1990, beyond which these ships have to comply with these standards as a condition for entering into a port or the internal waters of a Member State of the Community;
- (13) the requirements of Regulation 13G of Annex I of MARPOL 73/78 for existing single hull oil tankers to comply with the double hull or equivalent design standards apply only to crude oil tankers of 20 000 tons deadweight and above and to product carriers of 30 000 tons deadweight and above. The double hull or equivalent design requirements of Regulation 13F of Annex I of MARPOL 73/78 apply to oil tankers of 600 tons deadweight and above delivered after 6 July 1996. This difference in size limits in the scope leaves the category of single hull crude oil tankers delivered before 6 July 1996 and having a deadweight between 600 and 20 000 tons deadweight as well as product carriers delivered before 6 July 1996 with a deadweight between 600 and 30 000 tons unaffected. In view of the importance of this lower tonnage category of oil tankers for the intra-Community trade similar measures should be adopted to ensure that these tankers will also have to comply with the double hull or equivalent design standards of MARPOL 73/78. For that purpose a phasing-in of the double hull or equivalent design standards of MARPOL 73/78 should be established for this category of single hull oil tankers as a condition for entering into a port or the internal waters of a Member State of the Community;
- (14) the European Parliament, in its Resolution on the oil slick off the French coast adopted on 20 January 2000 welcomed any efforts by the Commission to bring forward the date by which oil tankers will all be obliged to have a double-hull construction;
- (15) the accelerated phasing in of the double hull or equivalent design requirements for single hull oil tankers should be accompanied by complementary measures aimed at encouraging the trading with double hull or equivalent design oil tankers in advance of the accelerated phasing-in scheme. These complementary measures should consist of providing financial incentives for double hull or equivalent design oil tankers and disincentives for single hull oil tankers operating to or from ports of the Member States in the Community;

- (16) these complementary measures should be based upon the principles established in 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 tankers⁽¹⁾. These principles foresee the application of reduced port and pilotage dues for the most environmentally friendly oil tankers as opposed to those offering less protection against oil pollution;
- (17) Council Regulation (EC) No 2978/94 does not take into account the higher level of protection against accidental oil pollution offered by double hull or equivalent design oil tankers as compared to single hull oil tankers. Therefore the Regulation does not differentiate between double hull oil tankers and single hull oil tankers fitted with segregated ballast tanks with regard to the reduction of port and pilotage dues;
- (18) in 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 any longer the differential charging system Council Regulation (EC) No 2978/94 provides between such oil tankers and tankers that comply with the requirements of MARPOL 73/78 on segregated ballast tanks and their protective location;
- (19) in view of aiming at promoting the trading to European ports of double hull or equivalent design oil tankers, the financial incentive system of Council Regulation (EC) No 2978/94 should be replaced by a system that during the period of the accelerated phasing-in scheme encourages the operation of oil tankers complying with the double hull or equivalent design requirements and discourages the operation of oil tankers not complying yet with these requirements. For that purpose Council Regulation (EC) No 2978/94 should be repealed;
- (20) the financial incentives for oil tankers complying with the double hull or equivalent design standards and financial disincentives for oil tankers not yet complying with these standards should be based upon a combined system providing a reduction of port and pilotage dues for oil tankers complying with the double hull or equivalent design standards and applying a surcharge on the port and pilotage dues for oil tankers not yet complying with these standards;
- (21) Port and pilotage dues should be proportionate with the services rendered and be calculated in a non-discriminatory manner;
- (22) this combined system of reductions and surcharges on port and pilotage dues should be balanced to avoid loss of revenues for the providers of port and pilotage services and to avoid that such losses would be at the detriment of the quality of these services or need to be compensated by raising port and pilotage dues for ships unconnected with the transport of oil and oil products;
- (23) in view of the progressive increase of the number of double hull or equivalent design oil tankers and the decrease of the number of single hull oil tankers over the period of the accelerated phasing in scheme the balance in revenues for port and pilotage service providers should be achieved by making the reduction on port and pilotage dues for double hull or equivalent design oil tankers regressive with their age and the surcharge on port and pilotage dues for single hull oil tankers progressive with the ship's age. This differential charging system should cease to be applied when the replacement of single hull oil tankers by double hull or equivalent design oil tankers has been fully accomplished;
- (24) 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 Commission⁽²⁾, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision;
- (25) certain provisions of this Regulation containing references to the regulations of the MARPOL 73/78 Convention 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. Also the percentages of the reductions and surcharges on port and pilotage dues in the Annex may be amended by that Committee to ensure that the revenues for port and pilotage service providers are kept in balance in view of the pace and extent at which single hull oil tankers are replaced by double hull or equivalent design oil tankers during the phasing-in period;

HAVE ADOPTED THIS REGULATION:

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, and

⁽¹⁾ OJ L 319, 12.12.1994, p. 1.

⁽²⁾ OJ L 184, 17.7.99, p. 23.

— a system of financial incentives and disincentives, providing for a reduction on port and pilotage dues for oil tankers complying with the double hull or equivalent design standards and a surcharge on these dues for oil tankers not yet complying with these standards.

Article 2

Scope

This Regulation shall apply to all oil tankers of 600 tons deadweight and above,

— when entering into a port or the internal waters of a Member State, irrespective of their flag, or

— flying the flag of a Member State.

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;
2. 'oil tanker' shall mean an oil tanker as defined in Regulation 1(4) of Annex I of MARPOL 73/78;
3. 'deadweight (DW)' shall mean deadweight as defined in Regulation 1(22) of Annex I of MARPOL 73/78;
4. 'new oil tanker' shall mean a new oil tanker as defined in Regulation 1(26) of Annex I of MARPOL 73/78;
5. 'crude oil tanker' shall mean a crude oil tanker as defined in Regulation 1(29) of Annex I of MARPOL 73/78;
6. 'product carrier' shall mean a product carrier as defined in Regulation 1(30) of Annex I of MARPOL 73/78;
7. '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;
8. '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;
9. 'age' shall mean the age of a ship, expressed in number of years after the date of its delivery;
10. 'port and harbour authority' shall mean a public or private person which charges fees to ships for providing facilities and services to shipping;
11. 'pilotage authority' shall mean a public or private person entitled to render pilotage services to shipping;

Article 4

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

1. Member States shall not allow single hull oil tankers to enter into their ports or internal waters after the earliest of the dates specified hereafter, unless such tankers comply not later than the earliest of those dates with the double hull or equivalent design requirements of Regulation 13F of Annex I of MARPOL 73/78:

1. for crude oil tankers of 20 000 tons deadweight and above and product carriers of 30 000 tons deadweight and above not meeting the requirements for a new oil tanker in Regulations 13, 13B, 13E and 18(4) of Annex I of MARPOL 73/78: when they reach the age of 23 years or 1 June 2005.
2. for crude oil tankers of 20 000 tons deadweight and above and product carriers of 30 000 tons deadweight and above meeting the requirements for a new oil tanker in Regulations 13, 13B, 13E and 18(4) of Annex I of MARPOL 73/78: when they reach the age of 28 years or 1 January 2010.
3. for crude oil tankers of 600 tons deadweight and above but less than 20 000 tons and product carriers of 600 tons deadweight and above but less than 30 000 tons not meeting the requirements for a new oil tanker in Regulations 13, 13B, 13E and 18(4) of Annex I of MARPOL 73/78: when they reach the age of 25 years or 1 January 2015.
4. for crude oil tankers of 600 tons deadweight and above but less than 20 000 tons and product carriers of 600 tons deadweight and above but less than 30 000 tons meeting the requirements for a new oil tanker in Regulations 13, 13B, 13E and 18(4) of Annex I of MARPOL 73/78: when they reach the age of 30 years or 1 January 2015.

2. Other structural or operational arrangements such as hydrostatically balanced loading as referred to in Regulation 13G(7) of Annex I of MARPOL 73/78 shall not be accepted as alternatives for compliance with the requirements of paragraph 1.

Article 5

Differential charging of port and pilotage dues for double hull and single hull oil tankers

1. Member States shall ensure that port and harbour authorities and pilotage authorities, when charging port and pilotage dues to oil tankers, apply a differential charging system to the effect that:

- the fees for double hull oil tankers are at least reduced with the percentages mentioned in the Annex in comparison with the fees applied to single hull oil tankers of the same deadweight having an age of less than 5 years, and
- the fees for single hull oil tankers are at least increased with the percentages mentioned in the Annex in comparison with the fees applied to single hull oil tankers of the same deadweight having an age of less than 5 years.

2. Where the fees for port and pilotage dues are charged on another basis than deadweight, Member States shall ensure that the charging system applied by port and harbour authorities and pilotage authorities provides at least the same percentages of reduction in fees for double hull oil tankers and increase in fees for single hull oil tankers as mentioned in paragraph 1.

3. The differential charging system for port and pilotage dues shall cease to apply on the latest of the dates referred to in Article 4.

Article 6

Notification to the IMO

The Presidency of the Council and the Commission shall inform the International Maritime Organisation 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.

Article 7

Monitoring and reporting

1. Member States shall regularly verify that port and harbour authorities and pilotage authorities apply correctly the differential charging system specified in Article 5.

2. The Member States shall send to the Commission annually a report on the results of this verification, including breaches committed by their port and harbour authorities and pilotage authorities. The report shall be provided at the latest by 30 April of the year following the year upon which it reports.

Article 8

Committee procedure

1. The Commission shall be assisted by the committee instituted by Article 12, paragraph 1, of Council Directive 93/75/EEC ⁽¹⁾.

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Council Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

Article 9

Amendment procedure

1. The references in the Articles to the regulations of Annex I of MARPOL 73/78 may be amended, in accordance with the procedure laid down in Article 8, in order to bring them in line with amendments to these regulations adopted by the IMO.

2. The percentages for the reductions and surcharges of the differential charging system for port and pilotage dues in the Annex may be amended in accordance with the procedure laid down in Article 8, to take account of the pace and extent of the replacement of single hull oil tankers by double hull oil tankers during the phasing in period.

Article 10

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 tankers ⁽²⁾ is repealed as from (12 months after the entry into force of this Regulation).

Article 11

Implementation

1. Member States shall, in due time, but before the date of application referred to in Article 12, 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 12

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 (12 months after its entry into force date).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁽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.

ANNEX

Differential charging of port and pilotage dues for double hull or equivalent design oil tankers and single hull oil tankers

Minimum percentages of reductions and surcharges to be applied as referred to in Article 5.

Ship's age	0-5	5-10	10-15	15-20	20-25	> 25
Reduction for double hull or equivalent design oil tankers	- 25 %	- 20 %	- 15 %	- 10 %	- 5 %	None
Surcharge for single hull oil tankers	none	+ 10 %	+ 15 %	+ 20 %	+ 25 %	+ 30 %