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*****I**
REPORT

on the 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 (recast)
(COM(2011)0566 – C7-0269/2011 – 2011/0243(COD))

Committee on Transport and Tourism

Rapporteur: Dominique Riquet

(Recast – Rule 87 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure.
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in bold italics. Highlighting in normal italics is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in bold. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the 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 (recast)

(COM(2011)0566 – C7-0269/2011 – 2011/0243(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0566),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0269/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 7 December 2011¹,
 - having consulted the Committee of the Regions,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts²,
 - having regard to the letter of 25 November 2011 from the Committee on Legal Affairs to the Committee on Transport and Tourism in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0034/2012),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

¹ OJ C ... /Not yet published in the Official Journal.

² OJ C77, 28.3.2002, p.1.

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a Council regulation Recital 21

Text proposed by the Commission

(21) The **Commission** should be **empowered to adopt delegated acts** in accordance with Article 290 of the Treaty **for the purpose of amending** certain references to the relevant Regulations in MARPOL 73/78 and to Resolutions MEPC 111(50) and 94(46), in order to align the references with amendments to those Regulations and Resolutions adopted by *the IMO*, in so far as such amendments do not broaden the scope of this Regulation.

Amendment

(21) The **power to adopt acts** should be **delegated to the Commission** in accordance with Article 290 of the Treaty **on the Functioning of the European Union in respect** of certain references to the relevant Regulations in MARPOL 73/78 and to Resolutions MEPC 111(50) and 94(46), in order to align the references with amendments to those Regulations and Resolutions adopted by *the IMO*, in so far as such amendments do not broaden the scope of this Regulation. ***It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.***

Justification

The Commission should make proper consultations before it adopts a delegated act. Moreover, if Parliament delegates powers to the Commission it is important that it is kept suitably informed and that the relevant documents are provided. This amendment takes into account the new standard formulation concerning delegated acts.

Amendment 2

Proposal for a Council regulation Article 11

Text proposed by the Commission

1. The powers to adopt the delegated acts referred to in the first subparagraph of Article 10 shall be conferred on the Commission for *an indeterminate* period of *time*.

Amendment

- 1. The power conferred on the Commission to adopt delegated acts shall be subject to the conditions laid down in this Article.

1. The powers to adopt the delegated acts referred to in the first subparagraph of Article 10 shall be conferred on the Commission for *a* period of *five years from [date of entry into force]*. *The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.*

2. The delegation of power referred to in the first subparagraph of Article 10 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. The revocation shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

3. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

4. A delegated act adopted pursuant to the first subparagraph of Article 10 shall enter into force only if no objection has

been expressed either by the European Parliament or the Council within a period of two months from the notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Justification

The delegation of power to the Commission should be limited in duration to a period of five years, which may be renewed provided certain conditions are met, such as a report being drawn up, and provided Parliament and the Council have no objections. It should be possible for the period for lodging objections to a delegated act to be four months in total. This would be more realistic in order to give Parliament and the Council the time to follow the required procedure for pursuing an objection. This amendment takes into account the new standard formulation concerning delegated acts.

Amendment 3

Proposal for a Council regulation Articles 12, 13

Text proposed by the Commission

Amendment

Article 12

deleted

Revocation of the delegation

1. The delegation of powers referred to in the first subparagraph of Article 10 may be revoked at any time by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and

possible reasons for a revocation.

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Article 13

Objections to delegated acts

1. The European Parliament and the Council may object to a delegated act within a period of two months from the date of notification.

At the initiative of the European Parliament or the Council that period shall be extended by one month.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the Official Journal of the European Union and shall enter into force at the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Justification

The intention of this deletion is to bring the text in line with the new standard formulation on delegated acts.

EXPLANATORY STATEMENT

Introduction

The accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers is a very important issue. Oil slicks resulting from oil tanker accidents such as those involving the Erika in 1999 and the Prestige in 2002 are major environmental disasters with tragic repercussions for the marine fauna and flora.

Reflecting a concern for the environment and a willingness to learn from past mistakes, this regulation seeks to reduce the risks of accidental oil pollution in European waters through accelerated phasing-in of double-hull requirements. In single-hull vessels the oil in the cargo tanks is separated from the seawater only by the bottom and side plating. If the hull is damaged following a collision or grounding, there is a risk that the cargo tanks will discharge their contents into the sea and cause major pollution. An effective means of avoiding this risk is to surround the cargo tanks with a second inner plate at a sufficient distance from the outer shell. This 'double hull' design protects the cargo tanks from damage and thus reduces the pollution risk.

The Commission proposal

The Commission proposal is a recast of the regulation on the accelerated phasing-in of double hull or equivalent design standards for single hull oil tankers.

Initially, the Commission was going to propose the codification procedure in order merely to bring together the various acts in a new regulation without changing the substance or making any changes other than those determined by formal requirements.

Subsequently, the Lisbon Treaty entered into force and Article 290 of the TFEU now allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act.

The Commission then proposed a recast rather than a codification so as to be able to make the necessary changes to certain provisions in respect of which such a delegation of power would be appropriate.

The proposal has no implications for the EU budget.

Rapporteur's opinion

It could be argued that the scope of the delegation of powers to the Commission is too broad in the proposed recast. In his draft report, your rapporteur is seeking to limit the duration of the Commission's power to adopt delegated acts and to lay down the conditions for extending this power. Requiring a report to be drawn up will give Parliament and the Council a reliable basis on which to assess future proposals.

In addition, your rapporteur wants to increase to two months the extension of the period in which Parliament and the Council can lodge objections to delegated acts. This would give a total of four months to deal with the necessary procedures, which is a more realistic period in which to pursue an objection.

All your rapporteur's amendments in this draft report take into account Parliament's new standard formulation concerning delegated acts.

ANNEX 1: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

Ref.: D(2011)58410

Mr Brian SIMPSON
Chair of the Committee on Transport and Tourism
ASP 12G205
Brussels

***Subject: 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 (recast)
(COM(2011)0566 – C7-0269/2011 – 2011/0243(COD))***

Dear Chairman,

The Committee on Legal Affairs, which I am honoured to chair, has examined the proposal referred to above, pursuant to Rule 87 on Recasting, as introduced into the Parliament's Rules of Procedure.

Paragraph 3 of that Rule reads as follows:

"If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.

In such a case, over and above the conditions laid down in Rules 156 and 157, amendments shall be admissible within the committee responsible only if they concern those parts of the proposal which contain changes.

However, if in accordance with point 8 of the Interinstitutional Agreement, the committee responsible intends also to submit amendments to the codified parts of the proposal, it shall immediately notify its intention to the Council and to the Commission, and the latter should inform the committee, prior to the vote pursuant to Rule 54, of its position on the amendments and whether or not it intends to withdraw the recast proposal."

Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the draftsman, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

In conclusion, after discussing it at its meeting of 22 November 2011, the Committee on Legal Affairs, by 19 votes in favour and no abstention¹, recommends that your Committee, as the committee responsible, proceed to examine the above proposal in accordance with Rule 87.

Yours faithfully,

Klaus-Heiner LEHNE

Encl.: Opinion of the Consultative Working Party.

¹ The following were present for the final vote: Klaus-Heiner Lehne (Chair), Luigi Berlinguer (Vice-Chair), Raffaele Baldassarre (Vice-Chair), Evelyn Regner (Vice-Chair), Sebastian Valentin Bodu (Vice-Chair), Philippe Boulland, Christian Engström, Marielle Gallo, Lidia Joanna Geringer de Oedenberg, Kurt Lechner, Toine Manders, Antonio Masip Hidalgo, Jiří Maštálka, Gabriel Mato Adrover, Alajos Mészáros, Bernhard Rapkay, Alexandra Thein, Diana Wallis, Rainer Wieland.

ANNEX 2: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION



CONSULTATIVE WORKING PARTY
OF THE LEGAL SERVICES

Brussels, 14 October 2011

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

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

COM(2011)0566 of 23.09.2011 – 2011/0243(COD)

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 29 September 2011 for the purpose of examining the aforementioned proposal submitted by the Commission.

At that meeting¹, an examination of the proposal for a regulation of the European Parliament and of the Council recasting Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers and repealing Council Regulation resulted in the Consultative Working Party's establishing, by common accord, as follows.

- 1) As far as the explanatory memorandum is concerned, in order to be drafted in full compliance with the relevant requirements laid down by the Inter-institutional Agreement such a document should have specified which provisions of the earlier act remain unchanged in the proposal, as is provided for under point 6(a)(iii) of that agreement.
- 2) As regards the substantive amendment proposed with this recast, consisting of the empowerment of the Commission to adopt delegated acts in accordance with Article 290 TFEU, the wordings appearing in recital 21, in the first paragraph of Article 10 and in Articles 11, 12 and 13 would need to be aligned with those of the standard clauses annexed to the

¹ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

Common Understanding between the European Parliament, the Council and the Commission.
3) In the first paragraph of Article 10, the word "*amend*", which is contained in the currently applicable version of the first paragraph of Article 11 of Regulation (EC) No 417/2002, should have appeared after the initial words "*The Commission may*". That word should have been identified by using the sign generally used for marking "substantive deletions", i.e. a "double strikethrough" combined with a grey-shaded type.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.

C. PENNERA
Jurisconsult

H. LEGAL
Jurisconsult

L. ROMERO REQUENA
Director General

PROCEDURE

Title	Accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers (recast)
References	COM(2011)0566 – C7-0269/2011 – 2011/0243(COD)
Date submitted to Parliament	23.9.2011
Committee responsible Date announced in plenary	TRAN 29.9.2011
Committee(s) asked for opinion(s) Date announced in plenary	JURI 29.9.2011
Discussed in committee	20.12.2011
Date adopted	6.2.2012
Result of final vote	+ : 30 - : 1 0 : 0
Members present for the final vote	Inés Ayala Sender, Georges Bach, Philip Bradbourn, Antonio Cancian, Michael Cramer, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Dieter-Lebrecht Koch, Georgios Koumoutsakos, Eva Lichtenberger, Marian-Jean Marinescu, Gesine Meissner, Olga Sehnalová, Brian Simpson, Laurence J.A.J. Stassen, Keith Taylor, Silvia-Adriana Țicău, Giommara Uggias, Artur Zasada, Roberts Zīle
Substitute(s) present for the final vote	Burkhard Balz, Spyros Danellis, Michel Dantin, Dominique Riquet, Anna Rosbach
Substitute(s) under Rule 187(2) present for the final vote	Ioan Enciu
Date tabled	8.2.2012