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## **POSITION OF THE EUROPEAN PARLIAMENT**

adopted at first reading on 23 May 2012 with a view to the adoption of Regulation (EU) No .../2012 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)  
(EP-PE\_TC1-COD(2011)0243)

PE 490.195

**EN**

*United in diversity*

**EN**

## **POSITION OF THE EUROPEAN PARLIAMENT**

**adopted at first reading on 23 May 2012**

**with a view to the adoption of Regulation (EU) No .../2012 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)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100 (2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>2</sup>,

Whereas:

- (1) 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<sup>3</sup> has been substantially amended several times<sup>4</sup>. Since further amendments are necessary, that Regulation should be recast in the interests of clarity.
- (2) Within the framework of the common transport policy, measures should be taken to enhance safety and prevent pollution in maritime transport.

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<sup>1</sup> OJ C 43, 15.2.2012, p. 98.

<sup>2</sup> Position of the European Parliament of 23 May 2012.

<sup>3</sup> OJ L 64, 7.3.2002, p. 1.

<sup>4</sup> See Annex I.

- (3) The Union is seriously concerned by shipping accidents involving oil tankers and the associated pollution of its coast-lines and harm to its fauna and flora and other marine resources.
- (4) In its communication on a common policy on safe seas, the Commission underlined 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.
- (5) By its Resolution of 8 June 1993 on a common policy on safe seas<sup>1</sup>, the Council fully supported the objectives of the Commission communication.
- (6) In its Resolution of 11 March 1994 on a common policy on safe seas<sup>2</sup>, the European Parliament welcomed the Commission communication and called in particular for action to be taken to improve tanker safety standards.

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<sup>1</sup> OJ C 271, 7.10.1993, p. 1.

<sup>2</sup> OJ C 91, 28.3.1994, p. 301.

- (7) In its Resolution of 20 January 2000 on the oil slick disaster caused by the wreck of the Erika<sup>1</sup>, the European Parliament welcomed any efforts by the Commission to bring forward the date by which oil tankers will be obliged to have a double-hull construction.
- (8) In its Resolution of 21 November 2002 on the 'Prestige' oil tanker disaster off the coast of Galicia<sup>2</sup>, the European Parliament called for stronger measures that can enter into force more rapidly, and stated that this new disaster has again underlined the need for effective action at international and Union level in order significantly to improve maritime safety.
- (9) The IMO 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. Member States are Parties to MARPOL 73/78.

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<sup>1</sup> OJ C 304, 24.10.2000, p. 198.

<sup>2</sup> OJ C 25 E, 29.1.2004, p. 415.

- (10) According to Article 3.3 of MARPOL 73/78, that Convention does not apply to warships, naval auxiliary or other ships owned or operated by a State and used only for government non-commercial services.
- (11) Comparison of tanker age and accident statistics shows 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 those oil tankers with a higher degree of protection against accidental oil pollution in the event of collision or stranding.
- (12) It is in the Union's interest to adopt measures to ensure that oil tankers entering into ports and offshore terminals or anchoring in an area under the jurisdiction of Member States and oil tankers flying the flags of Member States comply with Regulation 20 of Annex I to MARPOL 73/78 as revised in 2004 by Resolution MEPC 117(52) adopted by the IMO's Marine Environment Protection Committee (MEPC) in order to reduce the risk of accidental oil pollution in European waters.

- (13) Resolution MEPC 114(50), adopted on 4 December 2003, introduced a new Regulation 21 into Annex I to MARPOL 73/78 on the prevention of oil pollution from oil tankers when carrying heavy grade oil (HGO) which bans the carriage of HGO in single-hull oil tankers. Paragraphs 5, 6 and 7 of Regulation 21 provide for the possibility of exemptions from the application of certain provisions of that Regulation. The statement by the Italian Presidency of the European Council on behalf of the European Union, recorded in the official report of the MEPC on its 50<sup>th</sup> session (MEPC 50/3), expresses a political commitment to refrain from making use of those exemptions.
- (14) Amendments to MARPOL 73/78 adopted by the IMO on 6 March 1992 entered into force on 6 July 1993. Those 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 those amendments, a phasing-out scheme for single-hull oil tankers delivered before that date took effect from 6 July 1995 requiring oil tankers delivered before 1 June 1982 to comply with the double-hull or equivalent design standards not later than 25 years and, in some cases, 30 years after the date of their delivery. Such existing single-hull oil tankers would not be allowed to operate beyond 2005 and, in some cases, 2012 unless they comply with the double-hull or equivalent design requirements of Regulation 19 of Annex I to MARPOL 73/78. For existing single-hull oil tankers delivered after 1 June 1982 or those delivered before 1 June 1982 and which have been converted to 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.

- (15) Important amendments to Regulation 20 of Annex I to MARPOL 73/78 were adopted on 27 April 2001 by the 46<sup>th</sup> session of the MEPC by Resolution MEPC 95(46) and on 4 December 2003 by Resolution MEPC 111(50) in which a new accelerated phasing-out scheme for single-hull oil tankers was introduced. The respective final dates by which oil tankers must comply with Regulation 19 of Annex I to MARPOL 73/78 depend on the size and age of the ship. Oil tankers in that scheme are therefore divided into three categories according to their tonnage, construction and age. All these categories, including the lowest one, Category 3, are important for trade within the Union.
- (16) The final date by which a single-hull oil tanker is to be phased out is the anniversary of the date of delivery of the ship, according to a schedule starting in 2003 until 2005 for Category 1 oil tankers, and until 2010 for Category 2 and 3 oil tankers.
- (17) Regulation 20 of Annex I to MARPOL 73/78 introduces a requirement that all single-hull oil tankers may only continue to operate subject to compliance with a Condition Assessment Scheme (CAS), adopted on 27 April 2001 by Resolution MEPC 94(46) as amended by Resolution MEPC 99(48) of 11 October 2002 and by Resolution MEPC 112(50) of 4 December 2003. The CAS imposes an obligation that the flag State administration issues a Statement of Compliance and is involved in the CAS survey procedures. The CAS is designed to detect structural weaknesses in ageing oil tankers and should apply to all oil tankers above the age of 15 years.

- (18) Regulation 20.5 of Annex I to MARPOL 73/78 allows for an exception for Category 2 and 3 oil tankers to operate, under certain circumstances, beyond the time-limit of their phasing-out. Regulation 20.8.2 of the same Annex gives the right for Parties to MARPOL 73/78 to deny entry into the ports or offshore terminals under their jurisdiction to oil tankers allowed to operate under this exception. Member States have declared their intention to use this right. Any decision to have recourse to this right should be communicated to the IMO.
- (19) It is important to ensure that the provisions of this Regulation do not lead to the safety of crew or oil tankers in search of a safe haven or a place of refuge being endangered.
- (20) In order to allow shipyards in Member States to repair single-hull oil tankers, Member States may make exceptions to allow entry into their ports of such vessels, provided they are not carrying any cargo.

(21) *It is very unlikely that the IMO would modify the content of the relevant Regulations in MARPOL 73/78 and [ ] Resolutions MEPC 111(50) and 94(46) adopted by the MEPC referred to in this Regulation. However, non-substantial amendments, such as renumbering, could be introduced in those texts. In order to keep this Regulation updated with the most recent developments of relevant international law, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission only in respect of such amendments [ ] in so far as they 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 Council,*

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 MARPOL 73/78, as defined in Article 3 of this Regulation, to single-hull oil tankers, and to ban the transport to or from ports of the Member States of heavy grade oil in single-hull oil tankers.

## Article 2

### Scope

1. This Regulation shall apply to oil tankers of 5 000 tonnes deadweight and above:
  - (a) which fly the flag of a Member State;
  - (b) irrespective of their flag, which enter or leave a port or offshore terminal or anchor in an area under the jurisdiction of a Member State.

For the purposes of Article 4(3), this Regulation shall apply to oil tankers of 600 tonnes deadweight and above.

2. This Regulation shall not apply to any warship, naval auxiliary or other ship, owned or operated by a State and used, for the time being, only on government non-commercial service. Member States shall, so far as is reasonable and practicable, endeavour to respect this Regulation for the ships referred to in this paragraph.

### Article 3

#### Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (1) "MARPOL 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto, in their up-to-date versions;

- (2) "oil tanker" means an oil tanker as defined in Regulation 1.5 of Annex I to MARPOL 73/78;
- (3) "deadweight" means deadweight as defined in Regulation 1.23 of Annex I to MARPOL 73/78;
- (4) "Category 1 oil tanker" means an oil tanker of 20 000 tonnes deadweight or above and carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo or of 30 000 tonnes deadweight or above and carrying oil other than the above and which does not comply with the requirements in Regulations 18.1 to 18.9, 18.12 to 18.15, 30.4, 33.1, 33.2, 33.3, 35.1, 35.2 and 35.3 of Annex I to MARPOL 73/78;
- (5) "Category 2 oil tanker" means an oil tanker of 20 000 tonnes deadweight or above and carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo or of 30 000 tonnes deadweight or above and carrying oil other than the above and which complies with the requirements in Regulations 18.1 to 18.9, 18.12 to 18.15, 30.4, 33.1, 33.2, 33.3, 35.1, 35.2 and 35.3 of Annex I to MARPOL 73/78 and is fitted with segregated ballast tanks protectively located (SBT/ PL);

- (6) "Category 3 oil tanker" means an oil tanker of 5 000 tonnes deadweight or above but less than that specified in points (4) and (5);
- (7) "single-hull oil tanker" means an oil tanker which does not comply with the double-hull or equivalent design requirements in Regulations 19 and 28.6 of Annex I to MARPOL 73/78;
- (8) "double-hull oil tanker" means an oil tanker:
  - (a) of 5 000 tonnes deadweight or above, complying with the double-hull or equivalent design requirements in Regulations 19 and 28.6 of Annex I to MARPOL 73/78 or with the requirements in Regulation 20.1.3 thereof; or
  - (b) of 600 tonnes deadweight or above but less than 5 000 tonnes deadweight, fitted with double-bottom tanks or spaces complying with Regulation 19.6.1 of Annex I to MARPOL 73/78 and wing tanks or spaces arranged in accordance with Regulation 19.3.1 thereof and complying with the requirement as to distance  $w$  in Regulation 19.6.2 thereof;

- (9) "age" means the age of the ship, expressed in number of years from its date of delivery;
- (10) "heavy diesel oil" means diesel oil as defined in Regulation 20 of Annex I to MARPOL 73/78;
- (11) "fuel oil" means heavy distillates of crude oil or residues therefrom or blends of such materials as defined in Regulation 20 of Annex I to MARPOL 73/78;
- (12) "heavy grade oil" means:
  - (a) crude oils of a density at 15° C of over 900 kg/m<sup>3</sup> (corresponding to an API grade of less than 25,7);
  - (b) oils other than crude oils and of a density at 15° C of over 900 kg/m<sup>3</sup> or a kinematic viscosity at 50° C of over 180 mm<sup>2</sup>/s (corresponding to a kinematic viscosity of over 180 cSt);
  - (c) bitumen and tar and emulsions thereof.

#### Article 4

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

1. No oil tanker shall be allowed to operate under the flag of a Member State, nor shall any oil tanker, irrespective of its flag, be allowed to enter into ports or offshore terminals under the jurisdiction of a Member State unless such tanker is a double-hull oil tanker.
2. Notwithstanding paragraph 1, oil tankers of Category 2 or 3 which are equipped only with double bottoms or double sides not used for the transport of oil and extending for the whole length of the cargo tank, or with double-hulled spaces not used for the transport of oil and extending for the whole length of the cargo tank, but which do not meet the conditions for exemption from the provisions of Regulation 20.1.3 of Annex I to MARPOL 73/78, may continue to be operated, but not beyond the anniversary of the date of delivery of the ship in the year 2015 or the date on which the ship reaches the age of 25 years from its date of delivery, whichever is the sooner.

3. No oil tanker carrying heavy grade oil shall be allowed to fly the flag of a Member State unless such tanker is a double-hull oil tanker.

No oil tanker carrying heavy grade oil, irrespective of its flag, shall be allowed to enter or leave ports or offshore terminals or to anchor in areas under the jurisdiction of a Member State, unless such tanker is a double-hull oil tanker.

4. Oil tankers operated exclusively in ports and inland navigation may be exempted from paragraph 3 provided that they are duly certified under inland waterway legislation.

## Article 5

### Compliance with the Condition Assessment Scheme

Irrespective of its flag, a single-hull oil tanker above 15 years of age shall not be allowed to enter or leave ports or offshore terminals or anchor in areas under the jurisdiction of a Member State unless such tanker complies with the Condition Assessment Scheme referred to in Article 6.

## Article 6

### Condition Assessment Scheme

For the purposes of Article 5, the Condition Assessment Scheme adopted by Resolution MEPC 94(46) of 27 April 2001 as amended by Resolution MEPC 99(48) of 11 October 2002 and by Resolution MEPC 112(50) of 4 December 2003, shall apply.

## Article 7

### Final date

After the anniversary of the date of delivery of the ship in 2015, the following shall no longer be allowed:

- (a) the continued operation, in accordance with Regulation 20.5 of Annex I to MARPOL 73/78, of Category 2 and Category 3 oil tankers under the flag of a Member State;
- (b) the entry into the ports or offshore terminals under the jurisdiction of a Member State of other Category 2 and Category 3 oil tankers, irrespective of the fact that they continue to operate under the flag of a third State in accordance with Regulation 20.5 of Annex I to MARPOL 73/78.

## Article 8

### Exemptions for ships in difficulty or for ships to be repaired

By way of derogation from Articles 4, 5 and 7, the competent authority of a Member State may, subject to national provisions, allow, under exceptional circumstances, an individual ship to enter or leave a port or offshore terminal or anchor in an area under the jurisdiction of that Member State, when:

- (a) an oil tanker is in difficulty and in search of a place of refuge;
- (b) an unloaded oil tanker is proceeding to a port of repair.

## Article 9

### Notification to the IMO

1. Each Member State shall inform the IMO of its decision to deny entry to oil tankers, pursuant to Article 7 of this Regulation, operating in accordance with Regulation 20.5 of Annex I to MARPOL 73/78 into the ports or offshore terminals under its jurisdiction, on the basis of Regulation 20.8.2 of Annex I to MARPOL 73/78.

2. Each Member State shall notify the IMO if it allows, suspends, withdraws or declines the operation of a Category 1 or a Category 2 oil tanker entitled to fly its flag, in accordance with Article 5 of this Regulation, on the basis of Regulation 20.8.1 of Annex I to MARPOL 73/78.

#### Article 10

##### Amendment procedure

1. The Commission ***shall be empowered to*** adopt delegated acts in accordance with Article 11 ***concerning the alignment of*** ■ the references in this Regulation to ***the non-substantial amendments, such as renumbering, adopted by the IMO*** to the Regulations of Annex I to MARPOL 73/78, as well as to Resolutions MEPC 111(50) and 94(46) as amended by Resolutions MEPC 99(48) and 112(50), ■ in so far as such amendments do not broaden the scope of this Regulation.

2. The amendments to MARPOL 73/78 may be excluded from the scope of this Regulation, pursuant to Article 5 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships<sup>1</sup>.

#### Article 11

##### Exercise of the delegation

1. *The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this article.*

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<sup>1</sup> OJ L 324, 29.11.2002, p. 1.

2. The power to adopt the delegated acts referred to in Article 10(1) shall be conferred on the Commission for a period of *five years from ...* \*. *The Commission shall draw up a report in respect of the delegation of power not 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 not later than three months before the end of each period.*
3. *The delegation of power referred to in Article 10(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect 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.*
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

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\* *OJ: please insert date of entry into force of this Regulation.*

5. *A delegated act adopted pursuant to Article 10(1) 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 of 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.*



## Article 12

### Repeal

Regulation (EC) No 417/2002 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 13

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 Union*.

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

Done at

*For the European Parliament*

*The President*

*For the Council*

*The President*

## ANNEX I

### Repealed Regulation with list of its successive amendments

(referred to in Article 12)

Regulation (EC) No 417/2002 of the European Parliament

and of the Council

(OJ L 64, 7.3.2002, p. 1)

Regulation (EC) No 2099/2002 of the European Parliament    Only Article 11

and of the Council

(OJ L 324, 29.11.2002, p. 1)

Regulation (EC) No 1726/2003 of the European Parliament

and of the Council

(OJ L 249, 1.10.2003, p. 1)

Commission Regulation (EC) No 2172/2004

(OJ L 371, 18.12.2004, p. 26)

Regulation (EC) No 457/2007 of the European Parliament

and of the Council

(OJ L 113, 30.4.2007, p. 1)

Regulation (EC) No 219/2009 of the European Parliament    Only point 7.4 of the Annex

and of the Council

(OJ L 87, 31.3.2009, p. 109)

Commission Regulation (EC) No 1163/2009

(OJ L 314, 1.12.2009, p. 13)

ANNEX II  
Correlation Table

Regulation (EC) No 417/2002	This Regulation
Article 1	Article 1
Article 2(1), introductory words	Article 2(1), introductory words
Article 2(1), first subparagraph, first indent	Article 2(1), first subparagraph, point (b)
Article 2(1), first subparagraph, second indent	Article 2(1), first subparagraph, point (a)
Article 2(1), second subparagraph	Article 2(1), second subparagraph
Article 2(2)	Article 2(2)
Article 3	Article 3
Article 4(1) introductory words	Article 4(1)
Article 4(1), point (a)	-
Article 4(1), point (b)	-
Article 4(2)	Article 4(2)
Article 4(3)	Article 4(3)
Article 4(4)	Article 4(4)
Article 4(5)	-
Article 4(6)	-
Article 5	Article 5
Article 6	Article 6

Article 7, introductory words	Article 7, introductory words
Article 7, first indent	Article 7(a)
Article 7, second indent	Article 7(b)
Article 7, final words	Article 7, introductory words
Article 8(1), introductory wording	Article 8, introductory wording
Article 8(1), first indent	Article 8(a)
Article 8(1), second indent	Article 8(b)
Article 8(2)	-
Article 9(1)	-
Article 9(2)	Article 9(1)
Article 9(3)	Article 9(2)
Article 10	-
Article 11	Article 10
-	Article 11
-	█
-	Article 12, first paragraph
Article 12	Article 12, second paragraph
-	Article 13
Article 13	Annex I
-	Annex II
-	