Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers (recast)

REGULATION (EU) No 530/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 June 2012

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[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

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[(3)] has been substantially amended several times[(4)]. 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.

(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[(5)], the Council fully supported the objectives of the Commission communication.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 530/2012 of the European Parliament and of the Council. (See end of Document for details)*

(6) In its Resolution of 11 March 1994 on a common policy on safe seas[6], the European Parliament welcomed the Commission communication and called in particular for action to be taken to improve tanker safety standards.

(7) In its Resolution of 20 January 2000 on the oil slick disaster caused by the wreck of the Erika[7], 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[8], 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 to significantly 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.

(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 50th 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 46th 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 Category 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 Category 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.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) No 530/2012 of the European Parliament and of the Council. (See end of Document for details)*

(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^3 (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^3 or a kinematic viscosity at 50 °C of over 180 mm^2/s (corresponding to a kinematic viscosity of over 180 cSt);

(c) bitumen and tar and emulsions thereof.