

PROVISIONAL LOCAL VESSELS ADVISORY COMMITTEE

Proposed Policy to Implement the revised Regulation 13G and new Regulation 13H of Annex I of MARPOL 73/78

Purpose

1. The purpose of this paper is to seek members' views on the proposed policy for Hong Kong to exercise the discretions prescribed in the revised Regulation 13G and new Regulation 13H of MARPOL Annex I:
 - as a flag Administration to grant operational life extension to its registered single hull oil tankers; and
 - as a coastal State to deny entry of foreign registered single hull tankers granted with extensions into the port/terminal under its jurisdiction.

Backgrounds

2. In response to the sinking of the single-hull oil tanker "PRESTIGE" in November 2002 off the west coast of Spain, IMO adopted the Resolution MEPC.111(50) on 4 December 2003:-
 - to amend regulation 13G to further accelerate phasing out of single hull tankers; and
 - to add a new regulation 13H to ban carriage of heavy grade oil (HGO) in single hull tankers.

The new requirements will come into force internationally on **5 April 2005**.

3. A Hong Kong Merchant Shipping Information Note No. 5/2004 was issued by Marine Department (MD) in February 2004 to inform the industry, which can be download from MD's website www.mardep.gov.hk/en/msnote/msin.html. A copy of the Resolution MEPC.111(50) for the MARPOL Annex I amendments is attached for reference.

Implications on exercising the discretions as flag State and port State

4. The purpose of IMO to adopt the revised regulation 13G and new regulation 13H of MARPOL Annex I, is to further accelerate the phase-out of the single hull tankers and to ban carriage of HGO in such tankers as early as possible to the extent considered acceptable by the industry. As a compromised solution for Contracting Governments which may need different phasing out timetables, the amendments allow the flag Administrations to grant extension/exemption to their single hull tankers for continued operation beyond the cut-off dates under certain conditions, and at the same time maintain the right of coastal States to deny entry of those tankers with such extension/exemption into the ports/terminals under their jurisdiction.

5. Hong Kong, as a major international port having a large fleet in its shipping register, would need to exercise caution in formulating its policy in respect of the amendments. MD needs to study the impact of the accelerated phasing out scheme on the tanker industry as well as the political implications if Hong Kong intends to exercise the discretion to permit operations of single hull tankers beyond the cut-off dates specified under the amendments.

6. In order to formulate the policy, the following factors are considered:

(A) The Hong Kong Shipping Register

There are 33 (except the one which is below 5000 ton dwt, all 32 are either Cat.2 or Cat. 3 tankers) foreign-going single hull oil tankers registered in Hong Kong currently.

(i) Under the revised regulation 13G

(a) A total of 18 of these single hull tankers are built before 1990. These tankers, since they would be more than 15 years old on 5 April 2005, are subject to satisfactory completion of the Condition Assessment Scheme (CAS) as stipulated in the amendments if they want to remain in operation. The first CAS has to be conducted at the first special survey or intermediate survey after 5 April 2005. The lead time to prepare for CAS is about one to one and half years. As far as we know, no operator of these tankers has initiated the CAS process. The operators of two VLCC tankers built in 1985 and 1989 indicated that the vessels would be converted to ore carriers in response to the new requirements.

(b) The remaining 14 tankers built in or after 1990 will be phased out in 2010 subject to satisfactory completion of CAS after 15 years of age. There is still time for the shipowners to plan the CAS for these single hull tankers. The newest of these tankers (a total of 6) were built in 1994 and 1993 (delivery could be in 1994 or 1995) which will be just about 15 years old on the cut-off date in 2010. It is expected that the owners of these relatively new tankers may apply permission under Regulation 13G(7) to continue operation until 2015. Hong Kong may need to take a more flexible approach in granting exemption under 13G(7) to allow them to operate until 2015. However, coastal States are entitled to deny entry of these tankers having such extension after 2010.

(ii) Under the new regulation 13H

(a) This regulation is applicable to all the 33 single hull tankers in our shipping register. For the 32 tankers that are above 5000 tons dwt, they have to comply with regulation 13H in addition to the applicable provisions of regulation 13G for carriage of HGO after 5 April 2005. These tankers may continue operation to carry HGO after the cut-off date subject to extension is granted under certain conditions (regulations 13H(6)(a) & 13H(6)(b) refer). However, coastal States are also entitled to deny entry of these tankers having such extension.

(b) The cut-off date for the remaining one tanker in the shipping register, which is less than 5000 tons dwt, is 2008.

(c) Exemption however could be given under regulation 13H(7) to single hull tankers to continue operation beyond the cut-off dates if they switch trading to local or coastal services for carriage of HGO within the area of the jurisdiction of a Contracting Government that allows such operation. Enquires for exemption to continue trading in coastal service have been received from shipping companies. It is expected that some tankers may apply for exemption to operate in coastal services by the cut-off date on 5 April 2005.

(B) Hong Kong Port

To assess the impact on the energy supply industry in Hong Kong, the 4 major oil

companies and 2 electricity power companies have been requested to provide information if they would follow the IMO accelerated phase-out scheme of single hull tankers after 5 April 2005 for carriage of oil supply. The 2 electricity power companies stated that they do not hire foreign tankers for the supply of oil from overseas. The oil companies replied that they need time to check their business contracts and will revert by August 2004. It is expected that these well-known and responsible companies would follow the phase-out time table of single hull tankers as per the MARPOL new amendments.

(C) Local and coastal tankers from Mainland China

- (i) A total 37 out of 139 local single hull tankers registered/licensed in Hong Kong are above 600 tons dwt. All the 37 tankers are below 5,000 tons dwt and therefore not subject to regulation 13G. The age of these tankers, which operate exclusively within Hong Kong waters for the carriage of marine heavy oil and diesel oil (most of them bunker oil), varies from 1 to 38 years old. A total of 16 of these vessels will be over 25 years in 2008. Although some of these local tankers are quite old, they are well maintained by their operators and are subject to annual survey (dry-docking at two year interval) by the Local Vessel Safety Section of MD. The records show that these local tankers have been in service for years with no serious incident of oil spillage. The continuation of their operations may not cause too much problem, however, in view of the new requirements Hong Kong may wish to impose an age limit or other additional requirements on these tankers, particularly for those for carriage of HGO.
- (ii) The coastal single hull tankers from Mainland China have been trading into Hong Kong waters for years. The Maritime Safety Administration of China (MSA) and MD discussed and reached an agreement on the safety standards for coastal cargo vessels including tankers (cargo flash point above 60°C) in 2003. MD and MSA will come together to review again the standards in view of the new developments. It is expected that the concerned authorities of the two places would reach an agreement or understanding on how the issue should be dealt with early next year the latest.

The Proposed Policy

7. In view of the above analysis, it is considered that Hong Kong should, in principle, not to grant extension of operational life under both regulations 13G and 13H (including 13G(5) & 13H(5) for partial double hull tankers) to Hong Kong registered foreign-going single hull tankers on both international and coastal trades. For relatively new single hull tankers mentioned in paragraph 6(A)(i)(b) above, a more flexible approach however may be taken to allow these vessels to extend their service life until 2015 under regulation 13G(7).

8. Along the similar approach, it is also proposed that no foreign registered single hull tankers with such extensions should be allowed to enter into Hong Kong waters.

9. It is recommended that exemption or extension of service life may however be granted under the following conditions:-

(a) Foreign-going and coastal service (other than for Mainland and Hong Kong operations) single hull tankers

(i) *If the Hong Kong registered tanker is in compliance with the prescribed conditions for extension/exemption, and is operated solely within the area of the jurisdiction of a country that permits such operation.*

Since all large tankers in the shipping register are intended for ocean going world wide operations, it is proposed that exemption should only be granted on the condition that the exemption will become invalid should the hosting country withdraw such permission and the owner should have the obligation to inform us when there is any change of the exemption conditions.

(ii) *If the Hong Kong or foreign registered tanker has an unfinished contract after 5 April 2005 that signed previously with the local company in Hong Kong to continue the operation of supplying oil to Hong Kong for a reasonably short period (e.g. until completion of the contract).*

(b) Local single hull tankers

(i) The existing local single hull tankers may continue operations for carriage of HGO within Hong Kong waters until 5 April 2008, provided that they are maintained in a satisfactory condition.

(ii) Existing tankers older than 25 years on or after 5 April 2008 may continue

to operate only if they are NOT for carriage of HGO. Extension of the life of these tankers for carriage of HGO may be considered on two year basis provided that the tankers are subject to more stringent inspection requirements. These vessels will be required to be dry-docked in each annual inspection and subject to a well documented measurement of hull plate thickness BEFORE the two year extension of life is granted. (At the moment tankers are subject to thickness measurement every four years).

(iii) All newly licensed tankers (over 600 but below 5000 ton dwt intended for carriage of HGO) on or after **5 April 2005** should be constructed for full compliance with the relevant requirements of MARPOL Annex I (regulation 13H(4)(b) refers). Such a requirement is to satisfy the spirit of the MARPOL amendments. The three more years given to phase out tankers between 600 and 5000 tons dwt is just because more time is needed to replace the large number of tankers of this range size.

(c) Coastal single hull tankers for trading between Hong Kong and Mainland China

(i) MD will discuss with MSA before finalizing the policy on this particular type of tankers.

(ii) Exemption or extension to operation life may be granted to this type of tankers but the approach should not differ too much from that for local tankers.

Consultation

10. Members' comments, if any, are sought on the proposed policy to implement the international requirements for Hong Kong registered foreign-going and local trading single hull oil tankers, and foreign registered single hull oil tankers in Hong Kong waters.

11. The Committee will further discuss this issue at its September meeting.

ANNEX 1

**RESOLUTION MEPC.111(50)
adopted on 4 December 2003****AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO
THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, 1973****(Amendments to regulation 13G, addition of new regulation 13H and consequential
amendments to the IOPP Certificate of Annex I of MARPOL 73/78)**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee (the Committee) conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confer upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

HAVING CONSIDERED the proposed amendments to regulation 13G and consequential amendments to the Supplement (Form B) of the IOPP Certificate of Annex I to MARPOL 73/38,

HAVING ALSO CONSIDERED the proposed new regulation 13H of Annex I to MARPOL 73/78,

1. ADOPTS, in accordance with article 16(2)(d) of the 1973 Convention, the amendments to Annex I of MARPOL 73/78, the text of which is set out at annexes 1, 2, 3 and 4 to the present resolution, each of which being subject to separate consideration by the Parties pursuant to Article 16(2)(f)(ii) of the 1973 Convention;
2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 4 October 2004, unless prior to that date, not less than one-third of the Parties or Parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objection to the amendments;
3. INVITES the Parties to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the said amendments shall enter into force on 5 April 2005 upon their acceptance in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in the annexes; and

5. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to MARPOL 73/78 copies of the present resolution and its annexes.

ANNEX 1

AMENDMENTS TO ANNEX 1 OF MARPOL 73/78

The existing regulation 13G is replaced by the following:

“Regulation 13G

Prevention of accidental oil pollution - Measures for existing oil tankers

- (1) Unless expressly provided otherwise this regulation shall:
 - (a) apply to oil tankers of 5,000 tons deadweight and above, which are contracted, the keels of which are laid, or which are delivered before the dates specified in regulation 13F(1) of this Annex; and
 - (b) not apply to oil tankers complying with regulation 13F of this Annex, which are contracted, the keels of which are laid, or are delivered before the dates specified in regulation 13F(1) of this Annex; and
 - (c) not apply to oil tankers covered by subparagraph (a) above which comply with regulation 13F(3)(a) and (b) or 13F(4) or 13F(5) of this Annex, except that the requirement for minimum distances between the cargo tank boundaries and the ship side and bottom plating need not be met in all respects. In that event, the side protection distances shall not be less than those specified in the International Bulk Chemical Code for type 2 cargo tank location and the bottom protection distances at centreline shall comply with regulation 13E(4)(b) of this Annex.
- (2) For the purpose of this regulation:
 - (a) “Heavy diesel oil” means diesel oil other than those distillates of which more than 50 per cent by volume distils at a temperature not exceeding 340°C when tested by the method acceptable to the Organization¹.
 - (b) “Fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the specification acceptable to the Organization².
- (3) For the purpose of this regulation, oil tankers are divided into the following categories:
 - (a) “Category 1 oil tanker” means an oil tanker of 20,000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and of 30,000 tons deadweight and above carrying oil other than the above, which does not comply with the requirements for new oil tankers as defined in regulation 1(26) of this Annex;
 - (b) “Category 2 oil tanker” means an oil tanker of 20,000 tons deadweight and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and of 30,000 tons deadweight and above carrying oil other than the above, which

1 Refer to the American Society for Testing and Material's Standard Test Method (Designation D86).

2 Refer to the American Society for Testing and Material's Specification for Number Four Fuel Oil (Designation D396) or heavier.

complies with the requirements for new oil tankers as defined in regulation 1(26) of this Annex; and

- (c) "Category 3 oil tanker" means an oil tanker of 5,000 tons deadweight and above but less than that specified in subparagraph (a) or (b) of this paragraph.

(4) An oil tanker to which this regulation applies shall comply with the requirements of regulation 13F of this Annex not later than 5 April 2005 or the anniversary of the date of delivery of the ship on the date or in the year specified in the following table:

Category of oil tanker	Date or year
Category 1	5 April 2005 for ships delivered on 5 April 1982 or earlier 2005 for ships delivered after 5 April 1982
Category 2 and Category 3	5 April 2005 for ships delivered on 5 April 1977 or earlier 2005 for ships delivered after 5 April 1977 but before 1 January 1978 2006 for ships delivered in 1978 and 1979 2007 for ships delivered in 1980 and 1981 2008 for ships delivered in 1982 2009 for ships delivered in 1983 2010 for ships delivered in 1984 or later

(5) Notwithstanding the provisions of paragraph (4) of this regulation, in the case of a Category 2 or 3 oil tanker fitted with only double bottoms or double sides not used for the carriage of oil and extending to the entire cargo tank length or double hull spaces which are not used for the carriage of oil and extend to the entire cargo tank length, but does not fulfill conditions for being exempted from the provisions of paragraph (1)(c) of this regulation, the Administration may allow continued operation of such a ship beyond the date specified in paragraph (4) of this regulation, provided that:

- (a) the ship was in service on 1 July 2001;
- (b) the Administration is satisfied by verification of the official records that the ship complied with the conditions specified above;
- (c) the conditions of the ship specified above remain unchanged; and
- (d) such continued operation does not go beyond the date on which the ship reaches 25 years after the date of its delivery.

(6) A Category 2 or 3 oil tanker of 15 years and over after the date of its delivery shall comply with the Condition Assessment Scheme adopted by the Marine Environment Protection Committee by resolution MEPC.94 (46), as may be amended, provided that such amendments shall be adopted, brought into force and take effect in accordance with the provisions of article 16 of the present Convention relating to amendment procedures applicable to an appendix to an Annex.

(7) The Administration may allow continued operation of a Category 2 or 3 oil tanker beyond the date specified in paragraph (4) of this regulation, if satisfactory results of the Condition Assessment Scheme warrant that, in the opinion of the Administration, the ship is fit to continue such operation, provided that the operation shall not go beyond the anniversary of the date of delivery of the ship in 2015 or the date on which the ship reaches 25 years after the date of its delivery, whichever is the earlier date.

- (8) (a) The Administration of a Party to the present Convention which allows the application of paragraph (5) of this regulation, or allows, suspends, withdraws or declines the application of paragraph (7) of this regulation, to a ship entitled to fly its flag shall forthwith communicate to the Organization for circulation to the Parties to the present Convention particulars thereof, for their information and appropriate action, if any.
- (b) A Party to the present Convention shall be entitled to deny entry into the ports or offshore terminals under its jurisdiction of oil tankers operating in accordance with the provisions of :
- (i) paragraph (5) of this regulation beyond the anniversary of the date of delivery of the ship in 2015; or
 - (ii) paragraph (7) of this regulation.

) In such cases, that Party shall communicate to the Organization for circulation to the Parties to the present Convention particulars thereof for their information.”

ANNEX 2

AMENDMENTS TO ANNEX I OF MARPOL 73/78

The following new regulation is added after regulation 13G:

“Regulation 13H

Prevention of oil pollution from oil tankers carrying heavy grade oil as cargo

- (1) This regulation shall:
 - (a) apply to oil tankers of 600 tons deadweight and above carrying heavy grade oil as cargo regardless of the date of delivery; and
 - (b) not apply to oil tankers covered by subparagraph (a) above which comply with regulation 13F(3)(a) and (b) or 13F(4) or 13F(5) of this Annex, except that the requirement for minimum distances between the cargo tank boundaries and the ship side and bottom plating need not be met in all respects. In that event, the side protection distances shall not be less than those specified in the International Bulk Chemical Code for type 2 cargo tank location and the bottom protection distances at centreline shall comply with regulation 13E(4)(b) of this Annex.
- (2) For the purpose of this regulation “heavy grade oil” means any of the following:
 - (a) crude oils having a density at 15°C higher than 900 kg/m³;
 - (b) fuel oils having either a density at 15° C higher than 900 kg/m³ or a kinematic viscosity at 50° C higher than 180 mm²/s;
 - (c) bitumen, tar and their emulsions.
- (3) An oil tanker to which this regulation applies shall comply with the provisions of paragraphs (4) to (8) of this regulation in addition to complying with the applicable provisions of regulation 13G.
- (4) Subject to the provisions of paragraphs (5), (6) and (7) of this regulation, an oil tanker to which this regulation applies shall:
 - (a) if 5,000 tons deadweight and above, comply with the requirements of regulation 13F of this Annex not later than 5 April 2005; or
 - (b) if 600 tons deadweight and above but less than 5,000 tons deadweight, be fitted with both double bottom tanks or spaces complying with the provisions of regulation 13F(7)(a) of this Annex, and wing tanks or spaces arranged in accordance with regulation 13F(3)(a) and complying with the requirement for distance *w* as referred to in regulation 13F(7)(b), not later than the anniversary of the date of delivery of the ship in the year 2008.
- (5) In the case of an oil tanker of 5,000 tons deadweight and above, carrying heavy grade oil as cargo fitted with only double bottoms or double sides not used for the carriage of oil and extending to the entire cargo tank length or double hull spaces which are not used for the carriage

of oil and extend to the entire cargo tank length, but does not fulfil conditions for being exempted from the provisions of paragraph (1)(b) of this regulation, the Administration may allow continued operation of such a ship beyond the date specified in paragraph (4) of this regulation, provided that:

- (a) the ship was in service on 4 December 2003;
 - (b) the Administration is satisfied by verification of the official records that the ship complied with the conditions specified above;
 - (c) the conditions of the ship specified above remain unchanged; and
 - (d) such continued operation does not go beyond the date on which the ship reaches 25 years after the date of its delivery.
- (6) (a) The Administration may allow continued operation of an oil tanker of 5,000 tons deadweight and above, carrying crude oil having a density at 15°C higher than 900 kg/m³ but lower than 945 kg/m³, beyond the date specified in paragraph (4)(a) of this regulation, if satisfactory results of the Condition Assessment Scheme referred to in regulation 13G(6) warrant that, in the opinion of the Administration, the ship is fit to continue such operation, having regard to the size, age, operational area and structural conditions of the ship and provided that the operation shall not go beyond the date on which the ship reaches 25 years after the date of its delivery.
- (b) The Administration may allow continued operation of an oil tanker of 600 tons deadweight and above but less than 5,000 tons deadweight, carrying heavy grade oil as cargo, beyond the date specified in paragraph (4)(b) of this regulation, if, in the opinion of the Administration, the ship is fit to continue such operation, having regard to the size, age, operational area and structural conditions of the ship, provided that the operation shall not go beyond the date on which the ship reaches 25 years after the date of its delivery.
- (7) The Administration of a Party to the present Convention may exempt an oil tanker of 600 tons deadweight and above carrying heavy grade oil as cargo from the provisions of this regulation if the oil tanker:
- (a) either is engaged in voyages exclusively within an area under its jurisdiction, or operates as a floating storage unit of heavy grade oil located within an area under its jurisdiction; or
 - (b) either is engaged in voyages exclusively within an area under the jurisdiction of another Party, or operates as a floating storage unit of heavy grade oil located within an area under the jurisdiction of another Party, provided that the Party within whose jurisdiction the oil tanker will be operating agrees to the operation of the oil tanker within an area under its jurisdiction.
- (8) (a) The Administration of a Party to the present Convention which allows, suspends, withdraws or declines the application of paragraphs (5), (6) or (7) of this regulation to a ship entitled to fly its flag shall forthwith communicate to the Organization for circulation to the Parties to the present Convention particulars thereof, for their information and appropriate action, if any.

- (b) Subject to the provisions of international law, a Party to the present Convention shall be entitled to deny entry of oil tankers operating in accordance with the provisions of paragraph (5) or (6) of this regulation into the ports or offshore terminals under its jurisdiction, or deny ship-to-ship transfer of heavy grade oil in areas under its jurisdiction, except when this is necessary for the purpose of securing the safety of a ship or saving life at sea. In such cases, that Party shall communicate to the Organization for circulation to the Parties to the present Convention particulars thereof for their information.

ANNEX 3

**AMENDMENTS TO FORM B OF THE SUPPLEMENT TO THE IOPP CERTIFICATE
RELATING TO REVISED REGULATION 13G OF ANNEX I OF MARPOL 73/78**

The existing paragraph 5.8.4 in Form B of the Supplement to the IOPP Certificate is replaced by the following:

“5.8.4 The ship is subject to regulation 13G and:

- .1 is required to comply with regulation 13F not later than
- .2 is so arranged that the following tanks or spaces are not used for
the carriage of oil
- .3 is allowed to continue operation in accordance with regulation 13G(5)
until
- .4 is allowed to continue operation in accordance with regulation 13G(7)
until

ANNEX 4

**AMENDMENTS TO FORM B OF THE SUPPLEMENT TO THE IOPP CERTIFICATE
RELATING TO NEW REGULATION 13H OF ANNEX I OF MARPOL 73/78**

The following new paragraphs are added after paragraph 5.8.5 in the Form B of the Supplement to the IOPP Certificate:

“5.8.6 The ship is subject to regulation 13H and:

- .1 is required to comply with regulation 13H(4) not later than
- .2 is allowed to continue operation in accordance with regulation 13H(5)
until
- .3 is allowed to continue operation in accordance with regulation 13H(6)(a)
until
- .4 is allowed to continue operation in accordance with regulation 13H(6)(b)
until
- .5 is exempted from the provisions of regulation 13H in accordance with
regulation 13H(7)(b)

5.8.7 The ship is not subject to regulation 13H
