

Institute of Chartered Shipbrokers column

The phasing out of single hull tankers

By Iris Mak, FICS

Prior to the 'Deepwater Horizon' oil spill this year, the largest spill in US waters came from the tanker "**EXXON VALDEZ**" in 1989. The incident triggered the Oil Pollution Act of 1990 (OPA 90) requiring tankers calling the US ports to have double hulls. Subsequently, in 1992, the IMO amended Annex I of the International Convention for the Prevention of Pollution from Ships (known in short form as MARPOL 73/78) to make double hulls an international requirement on new tankers. Under these 1992 amendments dates for phase out of single hull tankers were 2007 for Category 1 tankers, 2012 for Category 2 and 3 tankers, and 2026 for all other tankers with no restrictions for smaller tankers built before 1994.

The principle concept behind any measure taken by the IMO concerning accidental oil pollution is to limit the outflow of oil from a damaged tanker through design features. The 1992 amendment of Regulations 13F and 13G of Annex I of MARPOL required double hull configuration (or mid-height deck) on all but the smallest tankers. In double hull tankers (DHT) a second layer of steel around the hull provides a first defence against damage caused by collision or grounding. Even if the inner hull is damaged, the oil leaking from inner hull is more likely to become trapped in the double hull space.

The "**ERIKA**" disaster in December 1999 resulted in an urgent need to amend MARPOL 73/78 Regulation 13G, in order to accelerate the phase out of single-hull tankers. The 2001 amendment to Annex I gave a new global timetable for accelerating the phase-out of single-hull tankers with the idea being to ensure most of these tankers were eliminated from the market by 2015 or earlier. Despite the 1992 and 2001 amendments, the "**PRESTIGE**" disaster in 2002 called for further changes to the MARPOL Convention for an even earlier phase-out scheme for single hull tankers.

THE CONTROVERSIES

The two main controversies resulting from the amendments to MARPOL Annex

1, are a local regime on the time frame of the phase out scheme and sovereign rights of the flag states.

At the 8th International Oil Spill Conference in August 2000 Michael Julian, Chairman of the IMO Marine Environment Protection Committee (MEPC), mentioned the tendency for the implementation of a local regime by European countries on the time frame to enforce the earlier phase out scheme for single hull tankers. The joint proposal by Belgium, France and Germany proposed phasing out existing single hulled tankers in 2005, 2008, and 2013, depending on type and tonnage and particularly included smaller tankers from 600 to 20,000 tonnes. Spain proposed later phase out dates of 2005, 2010, and 2015. Greece proposed 'no hasty drastic measures involving retrofitting or phasing out of ships' until a formal safety assessment into oil tanker safety is undertaken'.

There was a risk of each country implementing their own regime leaving the rest of the world without a time frame for dealing with the older tankers. The country who proposes a slower pace is concerned about the capacity of the international ship building industry to cope with the demand for new double hulled tankers and thus the availability of existing tonnage to carry the world's petroleum products and finally the economic impact of the possible increased cost of petroleum products to the consumer.

Turning to flag state sovereign rights, there has been pressure from some countries for the IMO to be given a stronger and perhaps a more executive role in 'policing' member government's adherence to the conventions but there has been greater support for the view that the IMO should not pursue interfering with the sovereign rights of a State.

RECONSTRUCTION OF THE POLICY

Following months of intense negotiation, during the 50th session of the IMO's MEPC on 4th December 2003 in London the new arrangements were set. Regarding the time frame of phase out of single hull tankers, the 2003 amendment concludes: "Under a revised regulation 13G of Annex I of MARPOL, the final phasing-out date for Category 1 tankers (pre-MARPOL tankers) is brought forward to 2005, from 2007. The final phasing-out date for

category 2 and 3 tankers (MARPOL tankers and smaller tankers) is brought forward to 2010, from 2015.”²

For a higher standard of safety, the amendment tightened the Condition Assessment Scheme, such that : “Under the revised regulation, the Condition Assessment Scheme (CAS) is to be made applicable to all single-hull tankers of 15 years, or older. Previously it was applicable to all Category 1 vessels continuing to trade after 2005 and all Category 2 vessels after 2010. Consequential enhancements to the CAS scheme were also adopted”

According to a comment in Issue 1 of Lloyds Register’s ‘Tanker Focus’ in March 2006 : “The tanker sector is among the most heavily regulated in the shipping industry due to political pressure resulting from several high profile incidents over the years. As a result, it is also one of the safest, with the industry having moved to minimize the risks associated with the maritime transport of crude oil and its products, both through industry-led initiatives and through the International Maritime Organization.”

The risk of a local regime is also eliminated. On the 8th December 2003 the Commission Press Room of European Maritime Safety Agency (EMSA) commented, “The accelerated phasing out of single hull tankers in general, closes the gap between the international regime and the measures already adopted by the EU. The new mandatory international provisions are in line with the measures adopted by the EU.”

However, the amendment has included the sovereign rights of flag states:

“The revised regulation allows the Administration (Flag State) to permit continued operation of category 2 or 3 tankers beyond 2010 subject to satisfactory results from the CAS, but the continued operation must 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 of age after the date of its delivery, whichever is earlier..... Again, such continued operation must not go beyond the date on which the ship reaches 25 years of age after the date of its delivery.”

Therefore, the flag states have the sovereign right to decide whether they allow single hull tankers of category 2 or 3 to trade after 2010.

ACHIEVING THE OBJECTIVE

As stated by Michael Julian, “the task for IMO is to find an appropriate international solution (to minimize oil spillage due to tanker accident by phasing out single hull tankers), which will be accepted by all member governments including the European countries as well as the Commission of the European Communities.” The objective was to achieve a time frame which will be ratified by member states controlling more than 50% of worldwide tonnage, in order to phase out single hull tankers.

The 2003 amendment was ratified by member states controlling more than 50% of worldwide tonnage and entered into force on 5th April 2005. Most members ratifying the amendment will commit to the deadlines of phase out of single hull tankers. European members definitely will commit and also most of the exporting countries.

The United Arab Emirates has confirmed its commitment to the IMO’s 2010 phase-out of single hull tankers and no single hull tankers will be allowed to trade in the UAE after the 2010 deadline. Badreya Ahmed Al Dhahri, Director of the Marine Affairs Department at the National Transport Authority has been quoted saying, “Marine safety is a top priority for ship registration in the UAE and vessels that do not meet our safety requirements cannot operate here.”

As was noted by BIMCO in 2009: “There are some major importers such as India and a number of South East Asian countries set to allow single hull past 2010 or even extend the deadline till 2015 due to tight tanker availability and surging freight rates in 2008. The authorities there are less stringent on single hull regulations.”⁴ Notices are now posted on the IMO’s website detailing those flag states allowing extensions and naming the ships and the extension date granted.

The developed countries or areas in Asia, however, have confirmed their commitment to the Annex 1 amendments. For instance, Hong Kong, as a flag state, declared in a Merchant Shipping Information Note of November 2005 declared, “The policy is that there is basically no extension to the operational life of Hong Kong registered single hull tankers engaging on both international and coastal trades under both Regulations 13G and 13H. However, for relatively new single hull tankers, e.g. less than 20 years old in 2010, MD will allow these vessels to extend their service life to 2015 or 25 years of age

whichever is earlier under Regulation 13G provided that the tanker is in compliance with their prescribed conditions for extension.”

Although a flag state may allow category 2 or 3 tankers to trade beyond 2010 subject to CAS, a port state can deny entry of such tankers into the ports or offshore terminals under its jurisdiction. For instance, EU has made it clear that only double hulled tankers are allowed into EU-countries after 2010.

No matter whether all countries will follow the time frame set in the 2003 amendments, as most exporting countries commit, the importing countries alone are unable to trade with single hull tankers. The earlier phase out of all single hull tankers in 2015 rather than the previous regulation in 2026 is most likely achievable.

OPTIONS FOR OWNERS

The side effect of the earlier phase out is scrapping in the deadline years, the options for the owners of single hull tankers by 2010 are : 1. Scrapping, 2. Seeking exemption from the 2010 phase out, 3. Converting into a bulk carrier, 4. Selling.

If there is a lot of scrapping, the concern is whether the scrap yards have the capacity to receive such an amount of tonnage. In April 2009, BIMCO's Shipping Market Analysis reported that in recent years the greater part of tonnage leaving the tanker markets had been due to conversions into Very Large Ore Carriers (VLOCs) which had accounted for 12million DWT in 2008 and 2009, whereas not much was happening on the demolition side.