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IMO's Environmental Committee Approves Several New Requirements

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The International Maritime Organization's ("IMO") Marine Environment Protection Committee ("MEPC") has approved several amendments to the International Convention for the Prevention of Pollution from Ships ("MARPOL"), including designation of portions of the Caribbean Sea as a new emission control area ("ECA"), designation of the Baltic Sea as a Special Area with respect to sewage pollution from ships, and adoption of a revised Annex V related to the control of garbage. The MEPC also adopted mandatory measures to reduce emissions of greenhouse gases ("GHGs") from international shipping through energy-efficiency improvements, designated the Strait of Bonifacio as a Particularly Sensitive Sea Area ("PSSA") and adopted recommendations and guidelines aimed at reducing transfer of aquatic species, ballast water management, and ship recycling.

Energy Efficiency

New regulations governing energy efficiency for ships were adopted, including a mandatory Energy Efficiency Design Index ("EEDI") for new ships, and the Ship Energy Efficiency Management Plan ("SEEMP") for all ships. The EEDI is a performance-based mechanism that leaves the choice of technologies to use in a specific ship design to the industry, so long as the required energy-efficiency level is attained. The SEEMP establishes a mechanism for operators to improve the energy efficiency of ships.

The MEPC also agreed to continue the work on energy efficiency measures

for ships, including development of the EEDI framework for ship types and sizes, and propulsion systems, not covered by the current EEDI requirements, and the development of EEDI and SEEMP-related guidelines.

The regulations apply to all ships of 400 gross tonnage and above and are expected to enter into force on January 1, 2013, unless waived on an individual basis by the IMO.

United States Caribbean Emission Control Area

Following approval at its last session, the MEPC adopted MARPOL amendments to designate certain waters adjacent to the coasts of Puerto Rico and the Virgin Islands (both part of the United States) as an ECA for the control of emissions of nitrogen oxides (“NO_x”), sulfur oxides (“SO_x”), and particulate matter under MARPOL regulations. Another amendment will make old steamships exempt from the requirements on sulfur relating to both the North American and United States Caribbean Sea ECAs. The new ECA is expected to take effect January 1, 2014. (Earlier, in 2010, the North American ECA was approved, which will go into effect in August 2012.)

The MEPC adopted guidelines related to the NO_x Technical Code 2008 addressing requirements for marine diesel engines fitted with selective catalytic reduction (“SCR”) systems. It also approved, for future adoption, draft amendments to the NO_x Technical Code 2008 relating to non-pre-certified engines and to NO_x-reducing devices.

A work plan was established to address the impact in the Arctic of black carbon emissions from ships. The Sub-Committee on Bulk Liquids and Gases (“BLG”) was instructed to develop a definition for black carbon emissions from international shipping, consider measurement methods for black carbon, identify the most appropriate method for measuring black carbon emissions from international shipping, investigate appropriate control measures to reduce the impacts of black carbon emissions from international shipping in the Arctic, and submit a final report to MEPC in 2014.

Baltic Special Area Sewage Requirements

The MEPC adopted amendments to sewage regulations to include the possibility of establishing “Special Areas” for the prevention of such pollution from passenger ships and to designate the Baltic Sea as a Special Area under this Annex. Special-area designation generally includes the adoption of special mandatory methods aimed at providing a higher level of protection than other areas of the sea. These amendments are expected to enter into force on January 1, 2013.

Garbage Requirements

New requirements for prevention of pollution by garbage from ships were adopted. The amendments are expected to enter into force on January 1, 2013. The main change is a requirement specifying that discharge of all garbage into the sea is prohibited, except as expressly allowed (the discharges permitted in certain circumstances include food wastes, cargo residues and water used for washing deck and external surfaces containing cleaning agents or additives which are not harmful to the marine environment).

PSSA for Strait of Bonifacio

The MEPC agreed to designate the Strait of Bonifacio as a Particularly Sensitive Sea Area (“PSSA”), following its approval in principle at the last session. The MEPC also agreed, in principle, to designate the Saba Bank in the Caribbean Sea as a PSSA. When an area is approved as a PSSA, specific measures can be required to control the maritime activities in that area, such as routing measures, discharge and equipment requirements for ships.

Biofouling Guidelines

The MEPC adopted the first set of international recommendations to address minimization of the transfer of aquatic species (biofouling). The guidelines will address the risks of introduction of invasive aquatic species through the adherence of sea life, such as algae and mollusks, to ships’ hulls.

Guidelines on Recycling of Ships

The MEPC adopted the 2011 Guidelines for the development of the Ship Recycling Plan and updated the Guidelines for the development of the Inventory of Hazardous Materials, which are intended to assist in the implementation of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, adopted in May 2009.

Ballast Water Management Systems

The MEPC granted various approvals to ballast water management systems that make use of active substances. This is part of an effort to include new methods and concepts to prevent risks arising from the transfer of invasive species in ballast water.

The MEPC reiterated the need for countries to ratify the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004, to achieve its entry into force at the earliest date. So far, 28 states, with an aggregate merchant shipping tonnage of 26.37 percent of the world total, have ratified the Convention. The Convention will enter into force twelve months after the date on which not fewer than 30 states,

the combined merchant fleets of which constitute not less than 35 percent of the gross tonnage of the world's merchant shipping, have become parties to it.

Other Actions

The MEPC approved guidelines for the carriage of blends of petroleum oil and bio-fuels. It endorsed environmental risk evaluation criteria for inclusion in the Guidelines for Formal Safety Assessment ("FSA"), which in turn is used in the IMO rule-making process.

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