

## 1. INTERNATIONAL ACTIVITIES

### A. International Maritime Organization (IMO), Subcommittee on Ship Design and Equipment (DE)

The 44<sup>th</sup> session of the Subcommittee on Ship Design and Equipment (DE 44) was held at IMO Headquarters in London from March 5-9, 2001. Fifty-one member governments, 1 associate member, and 21 non-governmental organizations participated. The United States was represented by the Coast Guard with assistance from the National Science Foundation, Environmental Protection Agency, and several private sector advisers.

Among issues addressed by DE 44 were: (1) revision of the interim standards for ship maneuverability; (2) asbestos-related problems on board ships; (3) improved thermal protection; (4) guidelines under Annex VI (prevention of air pollution from ships) of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, as amended, (MARPOL 73/78 or MARPOL Convention); (5) revision of resolutions MEPC.60(33) and A.586(14); (6) development of guidelines for ships operating in ice-covered waters; (7) amendments to resolution A.744(18) regarding the enhanced program of inspections during surveys of bulk carriers and oil tankers; (8) measures aimed at eliminating substandard ships; and (9) means of access for large bulk carriers and tankers. Three working groups and two drafting groups were established.

Significant actions taken at DE 44 include the following:

1. The DE considered proposed measures forwarded by the Maritime Safety Committee (MSC) aimed at eliminating substandard ships and agreed to two new items from these measures to be added to the work program. The proposed work program items include the protection of fuel tanks and the review of resolution A.744(18) to make survey procedures stricter and to strengthen the effectiveness of the application of enhanced survey program requirements.
2. Based on a U.S. proposal, the Subcommittee developed a draft MSC circular on guidelines for monthly inspections of immersion suits and anti-exposure suits by ships' crews. The DE also developed a draft MSC circular on risk-based guidelines for selection of suitable thermal protective equipment based on environmental factors.
3. The Subcommittee agreed to draft revised regulations to the International Convention for the Safety of Life at Sea (SOLAS) on access to and within spaces in the cargo area of oil tankers and bulk carriers for submission to MSC 74 for approval.
4. With regard to MARPOL Annex VI on the prevention of air pollution from ships, the two main issues considered were the development of guidelines for on-board NO<sub>x</sub> monitoring and recording devices and guidelines on representative samples of fuel oil delivered for use on board ships. The DE finalized the development of the draft guidelines on representative fuel samples, with a view to approval by the 46<sup>th</sup> session of the Marine Environment Protection Committee (MEPC 46). Regarding development of guidelines for on-board NO<sub>x</sub> monitoring,

an intersessional correspondence group was established, with the United States serving as coordinator, to develop draft guidelines, with a view to submittal of the consolidated document for consideration at DE 45.

5. With regard to specifications for pollution prevention equipment, the Subcommittee neared completion of draft revisions to resolution MEPC.60(33). A correspondence group was reestablished, under the coordination of the United Kingdom, to complete draft revisions to resolutions MEPC.60(33) and A.586(14) for consideration by DE 45.
6. Concerning development of guidelines for ships operating in ice-covered waters, the DE completed draft guidelines and agreed to refer relevant parts of the draft guidelines to appropriate IMO bodies. The sovereign immunity clause for public vessels remained in square brackets for consideration by the MSC. The DE also agreed that the guidelines should be circulated as a joint MSC/MEPC circular.
7. The DE completed a draft MSC circular on guidelines for dealing with asbestos and with equipment and materials containing asbestos on board ships in service.
8. The Subcommittee completed draft amendments to resolution A.744(18) for alignment with the requirements of the International Association of Classification Societies (IACS) and agreed to invite MSC 74 to approve them for adoption at MSC 75.

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B. International Maritime Organization (IMO), Liability and Compensation for Bunker Oil Pollution Damage

The IMO held the International Conference on Liability and Compensation for Bunker Oil Pollution Damage from March 19-23, 2001. Delegations from 70 member nations, 1 associate member, and 24 intergovernmental and non-governmental bodies attended the conference. The United States was represented by the Coast Guard with assistance from the National Oceanic and Atmospheric Administration and 1 private sector adviser.

The conference adopted the International Convention on Liability and Compensation for Bunker Oil Pollution Damage (Bunkers Convention), the final element of the comprehensive international scheme that the IMO has been pursuing for over 30 years to ensure that all those likely to be affected by marine pollution damage from ships will receive prompt and adequate compensation. The other elements of this international liability and compensation regime are: (1) the International Convention on Civil Liability for Oil Pollution Damage, as amended; (2) the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, as amended; and (3) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea.

Among its major provisions, the Bunkers Convention: (1) establishes liability and compensation for bunker oil spills from non-tank vessels; (2) provides for the joint and several liability of the “shipowners”; (3) requires the registered owner to maintain compulsory insurance; (4) establishes the form of the insurance certificate; and (5) provides for right of direct action against the insurer.

The conference also adopted three resolutions. The first resolution encourages states, when implementing the Bunkers Convention, to consider the need to introduce legal protection of persons other than the shipowner for taking measures to prevent or minimize the effects of bunker oil pollution. The second encourages parties to the 1976 Convention on Limitation of Liability for Maritime Claims to denounce that Convention and become party to the 1996 Protocol to that Convention. The third resolution urges IMO member states to promote and provide, directly or through the IMO, support for states that request technical assistance for assessment of the implications of adopting the Bunkers Convention.

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C. International Maritime Organization (IMO), Marine Environment Protection Committee (MEPC)

The 46<sup>th</sup> session of the Marine Environment Protection Committee (MEPC 46) was held at IMO Headquarters in London from April 23-27, 2001. The meeting was attended by 81 member governments, 2 associate members, 4 United Nations agencies, 6 intergovernmental organizations, and 35 non-governmental organizations. The United States was represented by the Coast Guard with assistance from the Department of State, Department of Defense, Environmental Protection Agency, National Oceanic and Atmospheric Administration, Maritime Administration, and a number of private sector advisers.

MEPC 46 agenda items included: (1) consideration and adoption of amendments to mandatory instruments; (2) harmful aquatic organisms in ballast water; (3) implementation of the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC); (4) harmful effects of the use of anti-fouling paints for ships; (5) identification and protection of Special Areas and Particularly Sensitive Sea Areas (PSSAs); (6) recycling of ships; (7) interpretation and amendments of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, as amended, (MARPOL 73/78), and related codes; (8) inadequacy of reception facilities; (9) prevention of air pollution from ships; (10) promotion of implementation and enforcement of MARPOL 73/78 and related codes; and (11) preparation for RIO+10.

Among significant actions taken at MEPC 46 are the following:

1. The Committee adopted amendments to regulation 13G of MARPOL 73/78 Annex I to phase out single hull tankers. The schedule phases out single hull tankers regardless of age by their

anniversary date in 2015. Tankers that have double sides or double bottoms may be permitted by their flag administration to operate after 2015 until they are 25 years old, and single hull tankers that have protectively located segregated ballast tanks may be permitted by their flag administration to operate until 2017. The revised regulation 13G specifically permits port states to prohibit those extended life tankers from visiting their ports and offshore terminals, which the European Union (EU) has declared will be the case for EU countries. Pre-MARPOL tankers and MARPOL tankers are subject to a Condition Assessment Scheme (CAS) in order to operate beyond 2005 and 2010 respectively. The CAS was adopted with the understanding that the model survey plan will developed at MEPC 47. The United States reserved its position on the amended regulation 13G as it is inconsistent with the requirements of the 1990 Oil Pollution Act (OPA 90). These amendments will enter force on September 1, 2002, under the tacit amendment procedure of article 16 of MARPOL 73/78. Since these amendments to regulation 13G are not consistent with OPA 90, the United States must submit to the IMO a declaration of its intent not to be bound by these amendments until it gives explicit consent.

2. Discussions on the draft International Convention on the Control of Harmful Anti-fouling Systems were productive since now there are only two unresolved issues in the current draft treaty text. These unresolved issues concern the proposed damage and compensation clause and a decision on whether organotin-based systems need to be removed by 2008. The United States was successful in introducing detailed text for amendment of the treaty, which was incorporated into the draft instrument. The single most contentious issue before the diplomatic conference will be determining the provisions applicable to entry-into-force of the treaty. The outcome of this issue will determine whether the treaty can realistically be expected to become legally binding. The diplomatic conference will be held from October 1-5, 2001.
3. The ballast water working group met to continue development of an International Convention for the Control and Management of Ships' Ballast Water and Sediments. Using the consolidated draft text submitted by the United States as the base document for discussion, the group reviewed the articles and regulations and, with minor revisions, agreed that these would be the basis for continued development of the instrument. The group agreed, in principle, that the final instrument should be based on a ballast water treatment (BWT) performance standard; however, it recognized that ballast water exchange would be used as a starting point within the framework of finalizing the BWT standard. The United States will chair an intersessional correspondence group to continue development of a BWT standard. The MEPC agreed to recommend to the Council, based on the progress made to date and subject to confirmation by MEPC 47, that a diplomatic conference be provisionally scheduled for the 2002-2003 biennium.
4. With regard to Special Areas and PSSAs, the MEPC took the following actions: (a) approved in principle the U.S. proposal to designate the marine area around the Florida Keys as a PSSA, and agreed that the proposal should be used as a model for countries in submitting future proposals for PSSA designation; (b) approved in principle the Columbian proposal to designate the marine area around Malpelo Island as a PSSA; and (c) approved a draft Assembly resolution for submission to the 22<sup>nd</sup> session of the Assembly (A 22), along with

the annexed guidelines concerning the designation of Special Areas under MARPOL 73/78 and the annexed guidelines concerning the identification and designation of PSSAs.

5. The Committee agreed to establish a working group on greenhouse gas emissions from ships at the next meeting. It also agreed with the U.S. proposal that the terms of reference for this working group should be general in nature and not include reference to developing a greenhouse gas emission standard. However, there is considerable support for developing such a standard.
6. The MEPC considered the report of the 9<sup>th</sup> session of the Subcommittee on Flag State Implementation (FSI 9) and took the following specific actions: (a) approved a draft Assembly resolution concerning revised guidelines on implementation of the International Safety Management Code, for submission to A 22; (b) approved a draft Assembly resolution on revised self-assessment of flag state performance, for submission to A 22; and (c) approved a draft Maritime Safety Committee (MSC)/MEPC circular on measures to improve port state control procedures.
7. The Committee decided to continue the work of the correspondence group on ship recycling, formed at MEPC 44, to look further into the IMO's perceived role in the matter, with the possibility of establishing a working group at MEPC 47 to discuss the issue of ship recycling in depth. The comprehensive report of the correspondence group was presented to the Committee. It was agreed that the correspondence group should now work on the following issues, with a view to submitting a report to the next session: (a) identify all stakeholders and their perceived roles during the life-cycle of a ship; (b) identify and elaborate on the perceived role of the IMO in ship recycling; (c) identify the existing international, national, and additional industry and/or other relevant standards/guidelines, possibly applicable to ship recycling within the perceived role of the IMO; and (d) recommend possible courses of action for further consideration by the Committee, and identify the pros and cons associated with each option.
8. The MEPC approved, with modifications, a report prepared by the secretariat for submission to the United Nations Commission on Sustainable Development, as part of the RIO+10 process. The RIO+10 summit is scheduled to be held in South Africa in June 2002. The report discusses the IMO's major achievements and developments in the follow-up to the United Nations Conference on Environment and Development (UNCED). The report will be forwarded to the MSC and the Technical Cooperation Committee (TCC) for comments.
9. With regard to implementation of the OPRC Convention, the Committee approved, as a joint IMO and Food and Agriculture Organization (FAO) publication, guidelines concerning management of seafood safety during and after oil spills. In addition, the MEPC offered suggested issues to the MSC for consideration regarding vessels in distress seeking sheltered waters. It also developed topics for the Third IMO International R&D Forum, to be held in Brest, France, in March 2002, which will address the behavior of and response to oil spills of high density or heavy oils like bunker oil. The OPRC working group was recognized by the MEPC for its continuing work on the Manual on Oil Pollution.

10. The Committee agreed with the U.S. proposal to include protection of fuel oil tanks on ships in the work program of the Subcommittee on Ship Design and Equipment (DE). This proposal was initiated as a result of the grounding of the *New Carissa* on the coast of Oregon.

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