

Resolution MEPC.193(61): (Revised MARPOL Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form) Adopted at London on 1 October 2010

Introduction

- 2.1 On 7 February 2012, the *Resolution MEPC.193(61): (Revised MARPOL Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form) Adopted at London on 1 October 2010* was tabled in the Commonwealth Parliament.

Background

- 2.2 The *International Convention for the Prevention of Pollution from Ships* (MARPOL) is one of the key international instruments addressing the problem of marine pollution from ships. MARPOL contains six technical annexes dealing with, respectively: oil; noxious liquid substances in bulk; harmful substances in packaged form; sewage; garbage; and air pollution.¹

¹ National Interest Analysis [2012] ATNIA 3 with attachment on consultation Resolution MEPC.193(61): *Amendments to the Annex of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) (Revised MARPOL Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form)* Adopted at London on 1 October 2010 [2011] ATNIF 31, (Hereafter referred to as 'NIA'), para 1.

- 2.3 The proposed treaty action is tacit acceptance of a revised version of Annex III of MARPOL adopted on 1 October 2010 by the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) under cover of resolution MEPC.193(61). Annex III establishes Regulations for the prevention of pollution by harmful substances carried by sea. The revision is primarily to maintain consistency with the mandatory IMO International Maritime Dangerous Goods (IMDG) Code.² This code sets out the requirements for packing, marking, labelling, documentation, stowage, and quantity limitations that must be complied with in order to satisfy the Regulations in the revised Annex III and to strengthen port State control requirements.³
- 2.4 Witnesses before the Committee noted that incidents of pollution from harmful substances are 'relatively infrequent' and that 'chemical spills are relatively rare anywhere around the world, particularly large ones'.⁴ In practice:

What we are dealing with here, essentially, is the stowage and packaging of the chemicals on board so that if there is a leak from a particular container there is nothing stored next to it that can cause some sort of reaction and cause a problem. These regulations are about making sure that the different chemicals are segregated on board a ship so that if there is a leak it does not lead to a bigger problem.⁵

Overview and national interest summary

- 2.5 The carriage of harmful substances in packaged form potentially poses a major threat to the marine environment, and has the potential to damage vessels and harm human life. The revised Annex III will ensure that substances are carried in accordance with the latest international standards and will result in an enhanced port State control inspection

2 The International Maritime Dangerous Goods (IMDG) Code was developed as a uniform international code for the transport of dangerous goods by sea covering such matters as packing, container traffic and stowage, with particular reference to the segregation of incompatible substances. http://www.imo.org/blast/mainframe.asp?topic_id=158 accessed 11 April 2012.

3 NIA, para 2.

4 Mr Paul Nelson, Manager, Marine Environment Standards, Marine Environment Division, Australian Maritime Safety Authority, , *Committee Hansard*, 1 June 2012, p. 2.

5 Mr Paul Nelson, Manager, Marine Environment Standards, Marine Environment Division, Australian Maritime Safety Authority, , *Committee Hansard*, 1 June 2012, p. 2.

program which will ensure that operational requirements are complied with at the time of departure by ships from Australian ports.⁶

Reasons for Australia to take the proposed treaty action

- 2.6 Acceptance of the revised Annex III is consistent with Australia's long-standing support for protection of the marine environment and with Australia's active backing of and participation in meetings of the IMO.⁷
- 2.7 MARPOL affirms the Parties' desire to achieve the complete elimination of intentional marine pollution. The revised annex will help achieve this aim by providing greater protection for the marine environment that is vulnerable to pollution by accidental discharge of harmful substances in packaged form.⁸
- 2.8 In addition, acceptance of the revised Annex III is in accordance with Australia's general obligations as a Party to the *United Nations Convention on the Law of the Sea*, which provides for States to adopt generally accepted international rules and standards when implementing laws and regulations to prevent, reduce and control pollution of the marine environment from vessels (Article 211 of UNCLOS).⁹

Obligations

- 2.9 **Regulation 3** clarifies the requirement for durable labelling of harmful substances in packaged form to indicate that they are harmful by specifying that they must be marked or labelled in accordance with the IMDG Code. The method for affixing marks or labels must also be in accordance with the IMDG Code.¹⁰
- 2.10 **Regulation 4** requires documentation related to the carriage of harmful substances to be in accordance with the IMDG Code and revises the text relating to the requirements for a special list, stowage plan or manifest of harmful substances carried on a ship to be made available to the port State authority before a ship's departure.¹¹

6 NIA, para 4.

7 NIA, para 5.

8 NIA, para 6.

9 NIA, para 7.

10 NIA, para 8.

11 NIA, para 9.

- 2.11 **Regulation 8** clarifies the powers of authorised officers to inspect ships during port State control inspections with regard to the operational requirements of the revised Annex III. Under the revised Regulation, such powers are provided regardless of whether or not there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures. These amendments will have no impact on the number of ships the Australian Maritime Safety Authority (AMSA) inspects as part of its port State control inspection program. The only parties impacted will be the master or crew of a ship that is found not to be familiar with essential shipboard procedures. The existing power to detain such a ship is retained.¹²
- 2.12 **Appendix to the revised Annex III** (containing technical criteria for the identification of harmful substances) has been amended to include details of the degradability and chronic toxicity of substances for fish, crustaceans and algae and other aquatic plants.

Implementation

- 2.13 Minor amendments will be needed to the Marine Orders, Part 94 (Marine Pollution Prevention – Packaged Harmful Substances), to implement the proposed treaty action.¹³

Costs

- 2.14 The revised Annex III will not result in any increased costs or savings to the Australian Government or to the States and Territories.¹⁴

Conclusion

- 2.15 The Committee welcomes the adoption of these regulations. Members are reassured that:

The compliance with the segregation of chemicals on board is very high and there are normally few issues. It is not in anybody's interest to put chemicals side by side that might cause a problem on board the ship, because the safety of the crew as well as the

12 NIA, para 10.

13 NIA, para 14.

14 NIA, para 15.

environment are at issue. So there is very high compliance within the industry internationally on this type of thing.¹⁵

- 2.16 Notwithstanding this reassurance, the Committee notes that there is increasing shipping traffic in Australian waters, primarily as a result of the mining boom and offshore oil and gas exploration. The additional traffic will only increase the chances of accidents at sea involving harmful substances. While these regulations relate to only one aspect of shipboard cargo handling, their adoption will strengthen the efforts of the Australian Maritime Safety Authority to improve ship safety and prevent or reduce marine pollution in Australian waters and internationally.

Recommendation 1

The Committee supports the *Resolution MEPC.193(61): (Revised MARPOL Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form) Adopted at London on 1 October 2010* and recommends that binding treaty action be taken.

15 Mr Paul Nelson, Manager, Marine Environment Standards, Marine Environment Division, Australian Maritime Safety Authority, , *Committee Hansard*, 1 June 2012, p. 2.

