AIR POLLUTION AND ENERGY EFFICIENCY

Application of regulations 14 and 18 of MARPOL Annex VI on bunker quality

Submitted by the International Bunker Industry Association (IBIA)

SUMMARY

Executive summary: This document suggests some changes to Annex VI to improve the quality of bunkers delivered to ships

Strategic direction: No related provisions

High-level action: No related provisions

Planned output: No related provisions

Action to be taken: Paragraph 9

Related documents: MEPC 66/4/16/Rev.1, MEPC 66/4/26, MEPC 66/21; MSC 93/22 and MSC 93/INF.8

Introduction

1. Following discussions, MEPC 66 agreed to develop possible quality control measures prior to fuel oil being delivered to a ship, and discussions at MSC 93 where document MSC 93/INF.8 referenced the safety risk to ships from issues related to "out of specification" bunkers, Member Governments have been urged to strengthen their oversight capacity over bunker fuel suppliers and so were invited with international organizations to submit concrete proposals to MEPC 67.

2. Whilst the sponsor notes that supply and delivery of fuel to ships is currently based on commercial contractual and legal obligations between the supplier and receiver/buyer, it must be acknowledged that the provisions of regulations 14 and 18 of MARPOL Annex VI have also established statutory legal responsibilities for the Parties to MARPOL Annex VI. These provisions mandate that fuel oil delivered to and used on board ships shall strictly meet certain quality standards. There should be no doubt that the buyer alone cannot be the responsible party for enforcing these provisions of MARPOL Annex VI. The obligation to deliver fuel that meets these standards rests with the supplier. The control and enforcement of supply of compliant fuel as required by MARPOL Annex VI can only be exercised by the appropriate authorities under whose jurisdiction the supply takes place.
3 The current enforcement mechanism for regulation 18 of MARPOL Annex VI exercised against ships through PSC action is not a preventive measure but rather a reactive measure. Quality control of bunker fuel prior to delivery to ships is necessary to address compliance problems related to fuel oils. Therefore, the current provisions should be revised to recognize the vital role of suppliers and buyers, to introduce a requirement for buyers to define the specification, including sulphur content, and to require suppliers to deliver fuel oil to the specification agreed beforehand between supplier and buyer.

4 Considering that maritime Administrations are concerned about crew health, safety at sea and environmental protection of ships and ports, it is expected that the suppliers, buyers and PSC would cooperate on how the risks related to poor quality bunker deliveries can be minimized.

Proposals for consideration

5 Given the outcome of discussions at MEPC 66 and the invitation to submit concrete proposals for ways to improve marine fuel quality control prior to delivery to ship and the vital importance of this issue, it is suggested that a step forward would be to build upon the current enforcement system required by MARPOL Annex VI, thereby achieving the objective of introducing a mechanism to minimize the supply of non-compliant bunkers.

6 The quality of marine fuels delivered to ships should be the responsibility of the physical suppliers. Checking compliance with such a responsibility should be under the control of the local appropriate authorities. To that extent, the suggested actions to ensure proper enforcement of regulations 14 and 18 of MARPOL Annex VI are as follows:

1. in addition to the existing requirement to maintain a register of local fuel oil suppliers, introduce a licensing scheme with specific criteria and requirements for the operation of local fuel oil suppliers with the objective to ensure that suppliers have in place proper procedures to ensure that fuel supplied to vessels is in compliance with IMO requirements. The license could be revoked in the event the supplier consistently fails to meet the requirements. It is noted that several signatories to MARPOL already have such measures in place;

2. such registers should be updated and promulgated at least every two years;

3. unregistered and unlicensed suppliers should be banned from supplying bunkers within the jurisdiction of the authority maintaining the register; and

4. Parties to MARPOL Annex VI to require local appropriate/competent authorities to investigate reports of non-compliant fuel delivered within their jurisdiction. Such reports could include documented non-compliance (Notes of Protest from ships) and/or tests conducted on MARPOL samples by port State control in their own or other jurisdictions. These measures should ensure that bunkers are not delivered to ships that exceed the sulphur content stated on the bunker delivery note (BDN). Furthermore, if it is verified that this has happened, exonerate the ship and provide an incentive for bunker suppliers to apply corrective measures to avoid further repetition.
7 Such a mechanism for quality control of fuels prior to delivery to ships could be established through amendments to the current provision of regulation 18 and Appendix V (information to be included in the bunker delivery note) of MARPOL Annex VI as suggested in annexes 1 and 2 to this document.

8 Furthermore, as referenced in paragraph 9 of document MEPC 66/4/16/Rev.1, a correspondence group should be established to further consider various elements of such an enforcement mechanism, utilizing the suggested text as a basis, and following the terms of reference proposed in annex 2 to this document.

**Action requested of the Committee**

9 The Committee is invited to consider the proposals made by the sponsor in this document to strengthen implementation of the current provisions in regulation 18 of MARPOL Annex VI and improve the control of marine fuels prior to delivery to ships as suggested in paragraphs 6, 7 and 9 and annexes 1 and 2 to this document and take action as appropriate.

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ANNEX 1

SUGGESTED AMENDMENTS TO REGULATION 18.9 AND APPENDIX V OF MARPOL ANNEX VI

Regulation 18  Fuel oil availability and quality

9 Parties undertake to ensure that appropriate authorities designated by them:

.1 maintain a register of locally recognized and licensed suppliers of fuel oil operating within their jurisdiction and make such registries available to the Organization for publication on the Organization's website;

.2 introduce a licensing scheme with specific criteria and requirements for the operation of local fuel oil suppliers with the objective of ensuring that suppliers have in place procedures to confirm that fuel supplied to vessels is in compliance with the IMO requirements, taking into account guidelines developed by the Organization. The license could be revoked in the event that the supplier fails to meet the requirements;

.3 require that such registers be updated at least every two years;

.4 unregistered and unlicensed suppliers should be banned from supplying bunkers within the jurisdiction of the authority of maintaining the register;

.5 require local suppliers to provide the bunker delivery note and sample, as required by this regulation, certified by the fuel oil supplier that the fuel oil meets the specification declared on the bunker delivery note and the requirements of regulations 18 of this annex;

.6 require local suppliers to retain a copy of the bunker delivery note for at least three years, for inspection and verification by the port State as necessary;

.7 take action as appropriate against fuel oil suppliers that have been found to deliver fuel oil that does not comply with that stated on the bunker delivery note or in response to proven cases of non-compliant fuel delivered in their jurisdiction;

.8 inform the Organization for transmission to Parties and Member States of the Organization of all cases where fuel oil suppliers have failed to meet the requirements specified in regulation 18 or supplied fuel proven to exceed the sulphur content stated on the bunker delivery note, along with the results of any investigation and follow-up actions taken in response; and

.9 take action as appropriate against local fuel oil suppliers that have been found to deliver fuel oil that does not comply with that stated on the bunker delivery note or in response to proven cases of non-compliant fuel delivered in their jurisdiction.
Appendix V – Information to be included in the Bunker Delivery Note (regulation 18.5)

Include an additional item that defines the specification agreed between supplier and buyer of each product in terms of:

1. whether it is to ISO 8217 or non-ISO;
2. if ISO 8217 then which:
   .1 edition or year,
   .2 grade as per tables 1 and 2 of ISO 8217; and
3. if non-ISO, note the agreed specification and/or append the agreed specification to the BDN.

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ANNEX 2

DRAFT TERMS OF REFERENCE

The correspondence group should consider the following, utilizing the suggested amendments to regulation 18.9 of MARPOL Annex VI proposed in annex 1 of this submission as a basis for discussion:

.1 explore the practicality for pre-testing fuel quality as delivered and identify the impact of a pre-testing routine on current supply chain logistics in terms of:
    .1 advance notice required of vessel's bunker requirements;
    .2 time required for fuel testing;
    .3 impact on the overall fuel costs; and
    .4 the need for subsequent testing of sulphur by ship operators.

.2 assess the potential for contamination of the product post-testing during transportation and storage on board the receiving vessel;

.3 identify the impact of the pre-testing routine on current supply chain logistics in terms of efficiency, cost and effectiveness;

.4 examine an impartial enforcement of regulations 14 and 18 of MARPOL Annex VI, in particular:
    .1 registration and licensing of bunker suppliers and what specific criteria and requirements should be met to obtain and maintain a license; and
    .2 consider what response and/or action, if any, parties should take when in receipt of a Note of Protest with regard to the supply of non-compliant fuel.