

MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
67th session  
Agenda item 4

MEPC 67/4/9  
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## AIR POLLUTION AND ENERGY EFFICIENCY

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

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CLIA, INTERCARGO and IPTA

#### SUMMARY

<i>Executive summary:</i>	This document suggests some concrete proposals for means and processes to achieve a more effective quality control of marine fuels prior to delivery to a ship
<i>Strategic direction:</i>	7.3
<i>High-level action:</i>	7.3.1
<i>Planned output:</i>	7.3.1.1
<i>Action to be taken:</i>	Paragraph 11
<i>Related documents:</i>	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 invited Member Governments and international organizations to submit concrete proposals to MEPC 67 (MEPC 66/21, paragraph 4.18).

2 The Committee may also note discussions at MSC 93 where document MSC 93/INF.8 was considered. The seriousness of the issue was recognized by the MSC, and it was also understood that the MSC should coordinate with the MEPC to consider this issue further with respect to ship safety as well as environmental and health issues. It should be noted in particular that Member Governments were urged to strengthen their oversight capacity over bunker fuel suppliers and to submit proposals to MSC 94 on how best to address the serious safety issues related to "out of specification" bunkers.

3 The co-sponsors are of the view that the principles for concrete proposals should be based on the arguments given in documents MEPC 66/4/16/Rev.1 and MEPC 66/4/26 and various comments provided during the plenary discussions.

4 Whilst the co-sponsors note that supply and delivery of fuel to ships is currently based on commercial contractual and legal obligations between the supplier, delivery agents 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 ships (the buyer) alone cannot be the responsible party for enforcing these provisions of MARPOL Annex VI. The obligation to deliver fuel that meets this standard rests with the supplier who should verify compliance through a quality control mechanism prior to supplying the fuel to ships. 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.

5 The current enforcement mechanism for regulations 14 and 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 to introduce a requirement for suppliers to perform a mandatory control of fuel oil prior to delivery to ships.

6 Considering that maritime Administrations are concerned about crew health, safety at sea and environmental protection of ships and ports, it is expected that they would cooperate on how the risks related to non-compliant bunker deliveries can be minimized.

### **Proposals for consideration**

7 Given the outcome of discussions at MEPC 66 and the vital importance of this issue, the co-sponsors hereby request the Committee to give consideration specifically to the development of appropriate measures to mandate such a control prior to fuel oil being delivered to a ship. A good step forward is to build upon the current enforcement system required by MARPOL Annex VI and take action which could promote a new approach to the control of bunkers with two-fold objectives to:

- .1 prevent supply of non-compliant bunkers; and
- .2 introduce a mechanism which will ensure preventive/defence measures in case the bunker supplied is non-compliant.

8 There should be no doubt that marine fuel quality should be the responsibility of the suppliers and that compliance with such a responsibility should be under the control of local appropriate authorities. To that extent, the suggested actions to ensure proper enforcement of regulation 18 of MARPOL Annex VI are as follows:

- .1 Parties to MARPOL Annex VI require local appropriate/competent authorities to introduce specific criteria and requirements for the operation of local fuel oil suppliers with the objective to ensure that suppliers have in place procedures to confirm that fuel supplied to vessels is in compliance with the IMO requirements. Several Parties to MARPOL Annex VI have already put in place effective quality control measures over local bunker fuel suppliers, which may serve as a good basis for further work in development of such procedures;

- .2 Parties to MARPOL Annex VI mandate local appropriate/competent authorities to make registries of locally recognized bunker suppliers available to the Organization to be published on its website; and
- .3 Parties to MARPOL Annex VI require local appropriate/competent authorities to audit/inspect the local suppliers and report the results of investigations and follow-up actions in response to any note of protest from ships of non-compliant fuel delivered in their jurisdiction. This should ensure that non-compliant bunkers are not delivered to ships and if that still happens, ships are not held responsible, but that bunker suppliers apply corrective measures to avoid such repetition.

9 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 of MARPOL Annex VI as suggested in annex 1 to this document.

10 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**

11 The Committee is invited to consider the proposals made by the co-sponsors 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 7, 8, 9 and 10 of this document and take action as appropriate.

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## ANNEX 1

### SUGGESTED AMENDMENTS TO REGULATION 18.9 OF MARPOL ANNEX VI

(Suggested new text is underlined; the consequential changes on the subparagraph numbers are marked by ~~crossover~~ of the current number and underlined new number)

#### Regulation 18

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#### Fuel oil quality and [safety]

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- 9 Parties undertake to ensure that appropriate authorities designated by them:
- .1 maintain a register of locally recognized suppliers of fuel oil and make such registries available to the Organization for publication on the Organization website;
  - ~~.2~~ .2 taking into account guidelines developed by the Organization, introduce specific criteria and requirements for the operation of local suppliers of fuel oil to ensure that local suppliers of fuel oil have in place procedures to confirm that fuel is in compliance with regulation 14.1 or 14.4, where relevant, and regulation 18.3 of this Annex prior to delivery;
  - ~~.2~~ .3 require local fuel oil 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 requirements of regulations 14, where relevant, and regulation 18.3 of this Annex;
  - ~~.3~~ .4 require local fuel oil 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;
  - ~~.4~~ .5 take action as appropriate, through audit or inspection, 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 Note of Protests from ships of non-compliant fuel delivered in their jurisdiction;
  - ~~.5~~ .6 inform the Administration of any ship receiving fuel oil found to be non-compliant with the requirements of regulation 14, where relevant, or regulation 18.3 of this Annex; and
  - ~~.6~~ .7 inform the Organization for transmission to Parties and Member States of the Organization of all cases where local fuel oil suppliers have failed to meet the requirements specified in regulations 14, where relevant, or regulation 18 of this Annex, together with the corresponding results of investigation and follow-up actions taken in response.

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## ANNEX 2

### DRAFT TERMS OF REFERENCE OF A CORRESPONDENCE GROUP

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

- 1 identify an acceptable practical routine for pre-testing fuel quality as delivered and assess the potential for contamination of the product post-testing during transportation and storage on board the receiving vessel;
  - 2 examine stricter enforcement of regulation 18 of MARPOL Annex VI, in particular:
    - .1 the requirement for specific criteria for bunker suppliers' quality and operational procedures for the delivery of fuel to vessels; in particular to ensure full compliance with regulation 18.3;
    - .2 registration of bunker suppliers and the availability of such registers; and
    - .3 parties response when in receipt of a Note of Protest with regard to the supply of non-compliant fuel.
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