

INTERSESSIONAL MEETING ON  
CONSISTENT IMPLEMENTATION OF  
REGULATION 14.1.3 OF MARPOL ANNEX VI  
Agenda item 2

ISWG-AP 1/2/1  
14 May 2018  
ENGLISH ONLY

**DEVELOPMENT OF DRAFT GUIDELINES FOR CONSISTENT IMPLEMENTATION OF  
REGULATION 14.1.3 OF MARPOL ANNEX VI**

**Fuel oil non-availability**

**Submitted by India**

**SUMMARY**

*Executive summary:* This document provides draft text of Guidelines for consistent implementation of regulation 14.1.3 of MARPOL Annex VI with respect to "guidance and information sharing on fuel oil non-availability" and "standard format for reporting fuel oil non-availability"

*Strategic direction, if applicable:* 1

*Output:* 1.17

*Action to be taken:* Paragraph 10

*Related document:* ISWG-AP 1/2

**Introduction**

1 At MEPC 70, it was agreed to set a global sulphur limit of 0.50% from 1 January 2020. At MEPC 72, draft amendments to MARPOL Annex VI for a prohibition on the carriage of non-compliant fuel oil for combustion purposes with a sulphur content exceeding 0.50%, excluding for ships which are provided with exhaust gas cleaning system (EGCS), were approved. These amendments are expected to be adopted at MEPC 73.

2 The reduction of sulphur content will improve air quality and bring great environmental and health benefits for people outside already established Emission Control Areas. Prohibition on the carriage of non-compliant fuel oil will make it easier for shipowners/operators to demonstrate compliance and for Administrations to verify compliance, thus facilitating uniform implementation of the regulation.

3 India appreciates the work of the Secretariat for their document ISWG-AP 1/2, providing draft text based on submissions to PPR 5 for development of a single set of draft Guidelines for consistent implementation of regulation 14.1.3 of MARPOL Annex VI.

4 Section 4 of the draft Guidelines concerning "Fuel oil non-availability" in document ISWG-AP 1/2 addresses the following:

- .1 guidance and information sharing on fuel oil non-availability; and
- .2 standard format for reporting fuel oil non-availability.

### **Proposal**

5 India believes that guidance on this issue will be crucial in dealing with the potential of regional low availability of low-sulphur fuel oils in the initial implementation period, a very real concern shared by both regulators and the industry. This particular guidance would crucially help shipowners/operators and port authorities recognize under what circumstances non-compliance is tolerated and when it is not, and leave as little room for interpretation as possible. Furthermore, guidance on sharing information on fuel oil non-availability and a standard format for reporting fuel oil non-availability will be very helpful in uniform implementation of the regulation.

6 It is best if the guidance on fuel oil non-availability issue is developed based on existing provisions in regulation 18 of MARPOL Annex VI.

7 Guidance on dealing with non-availability of compliant fuel oils may contain the following elements:

- .1 evidence that needs to accompany fuel oil non-availability reports to support a claim that all efforts were made to obtain compliant fuel;
- .2 detail of operational constraint of ships, which prevented these ships from taking compliant fuel oil; and
- .3 information sharing on non-availability of compliant fuel oil.

8 Suggested text for section 4 of the draft Guidelines in the annex to document ISWG-AP 1/2 is set out in annex 1.

9 Document ISWG-AP 1/2 by the Secretariat provides a draft standard format for reporting fuel oil non-availability which was originally submitted by the Republic of Korea (PPR 5/13/10). India believes that the format, though adequate, requires minor modifications with respect to operational constraints ships may face with blended residual fuel oils and suggests additional text under the relevant section. The draft standard format with amended text is set out in annex 2.

### **Action requested of the Intersessional Meeting**

10 The Intersessional Meeting is invited to consider the draft text given in annex 1 and annex 2, and take action as appropriate.

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## **ANNEX 1**

### **SECTION 4 FUEL OIL NON-AVAILABILITY**

#### **4.1 Guidance and information sharing on fuel oil non-availability**

4.1.1 It is expected that each Party shall take all reasonable steps to promote the availability of above compliant fuel oil and inform the Organization through Global Integrated Shipping Information System (GISIS) of the availability of compliant fuel oils in its ports and terminals and keep the same updated.

4.1.2 Should a vessel, despite its best effort to obtain compliant fuel oil be unable to do so, the master/Company must:

- .1 present a record of actions taken to attempt to bunker correct fuel oil and provide evidence of an attempt to purchase compliant fuel oil in accordance with its voyage plan and, if it was not made available where planned, that attempts were made to locate alternative sources for such fuel oil and that despite best efforts to obtain compliant fuel oil, no such fuel oil was made available for purchase; and
- .2 best efforts to procure compliant fuel oil include, but are not limited to, investigating alternate sources of fuel oil prior to commencing the voyage. If, despite best efforts, it was not possible to procure compliant fuel oil, the master/owner must immediately notify the port State Administration in the port of arrival and the flag Administration. (regulation 18.2.4 of MARPOL Annex VI).

4.1.3 The master/Company may provide evidence as below to support their claim (not exhaustive):

- .1 a copy (or description) of the ship's voyage plan including the ship's port of origin and port of destination;
- .2 time and location of the ship when she first received notice it would be conducting the voyage;
- .3 a description of the actions taken to attempt to achieve compliance, including a description of all attempts that were made to locate alternative sources of compliant fuel oil, and a description of the reason why compliant fuel oil was not available (e.g. compliant fuel oil was not available at ports on "intended voyage;" fuel oil supply disruptions at port, etc. Cost of compliant fuel oil is not considered to be a valid basis for claiming the non-availability of compliant fuel oil);
- .4 names and contact details of the fuel oil suppliers contacted and the dates on which the contact was made;
- .5 in cases of fuel oil supply disruption, the name of the port at which the ship was scheduled to receive compliant fuel oil and the name of the fuel oil supplier with contact detail that is now reporting the non-availability of compliant fuel oil;

- .6 the availability of compliant fuel oil at subsequent port-of-call and plans to obtain that fuel oil;
- .7 quantity of non-compliant fuel oil on board (metric tonnes);
- .8 copies of FONAR filed in the previous 12 months; and
- .9 if applicable, identify and describe any operational constraints that prevented use of compliant fuel oil, for example with respect to compatibility or non-compliance with engine/boiler-makers' fuel oil specification or other fuel oil quality parameters.

4.1.4 In order to minimize disruption to commerce and avoid delays, master/Company should submit fuel oil non-availability report (FONAR) as soon as it is determined or becomes aware that it will not be able to procure and use compliant fuel oil.

4.1.5 The ship should not be required to **deviate** from its intended voyage or to **unduly delay** the voyage in order to achieve compliance.

4.1.6 If a ship provides the information as above, a Party should take into account all relevant circumstances and the evidence presented to determine the appropriate action to take, including **not taking control measures**.

4.1.7 Once the FONAR has been submitted, the ship should proceed in its normal course and does not need to wait for further confirmation from port State control authorities, who in due course, will review the complete FONAR submitted by the user and will decide an appropriate action to take, including taking no action.

4.1.8 In due course, the port State control authorities will review the complete FONAR submitted by the user and will decide an appropriate action to take, including taking no action.

4.1.9 Port State control authority may contact the submitter (and/or shipowner or operator) in the event of an incomplete submission, and request for additional information, or to pursue an enforcement action such as a Notice of Violation.

4.1.10 The shipowner or operator is required to maintain records of FONAR submission for a period no less than three years.

4.1.11 A Party, as per regulation 18.2.5 of MARPOL Annex VI, shall notify the Organization through GISIS when a ship has presented evidence of the non-availability of compliant fuel oil.

4.1.12 Once the ship is able to obtain compliant fuel oil, it should cease to use non-compliant fuel oil. Presence of such left over non-compliant bunker fuel oil will not render the ship non-compliant as long as it is not used in deference to compliant fuel oil available on board.

4.1.13 Ships must purchase sufficient quantity of such compliant fuel oil, wherever available, bearing in mind trading requirement to remain compliant with regulatory requirement.

4.1.14 Knowing the uncertainty of availability of compliant fuel in all regions and ports during initial periods, it is likely that many owners/operators may be forced to take higher sulphur fuel oils due to non-availability of compliant fuel oil in their intended trading area. Under those circumstances, bunkering States should also permit bunkering of high sulphur fuels.

4.1.15 The priority of compliance inspections in ports should be on wilful non-compliance with the regulations. Where ships experience technical or operational issues that may lead to accidental and unintended non-compliance, this should be considered differently than wilful non-compliance and such ships should not face severe measures or penalties.

4.1.16 It is critical that flag States share information promptly regarding FONAR received through GISIS. This will assist shipowners/operators in making their bunkering arrangements to avoid taking non-compliant fuel oils and also put pressure on bunker supply industry to make available compliant fuel oils meeting the specification and quality parameters of compliant fuel that meets the needs of ships at the earliest.

#### 4.2 Standard format for reporting fuel oil non-availability

4.2.1 For ships, which are unable to purchase fuel oil, meeting the requirements of regulations 14.1 or 14.4 of MARPOL Annex VI, the standard format for reporting fuel oil non-availability is set out in the appendix to this document, in accordance with regulation 18.2.4 of MARPOL Annex VI.

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## ANNEX 2

### REPORT ON COMPLIANT FUEL OIL NON-AVAILABILITY

**Note:**

1 This report is to be sent to port authority of destination with a copy to be sent to the flag Administration in accordance with regulation 18.2.4 of MARPOL Annex VI.

2 This report is to be used to provide evidence if a ship is unable to obtain fuel oil compliant with the provisions stipulated in regulations 14.1.3 and 14.4.3.

#### 1 Particulars of ship

1.1 Name of ship: \_\_\_\_\_

1.2 IMO number: \_\_\_\_\_

1.3 Flag: \_\_\_\_\_

1.4 Port of registry: \_\_\_\_\_

1.5 Gross tonnage: \_\_\_\_\_

#### 2 Description of ship's voyage plan

2.1 Last port of departure: \_\_\_\_\_

2.2 Date of departure from last port (DD/MM/YYYY): \_\_\_\_\_

2.3 Port of call: \_\_\_\_\_

2.4 Date of arrival at port of call (DD/MM/YYYY): \_\_\_\_\_

2.5 Date ship expects to depart from the port (DD/MM/YYYY): \_\_\_\_\_

2.6 Sulphur content of fuel oil in use (BDN figures): \_\_\_\_\_

#### 3 Description of actions taken to attempt to achieve compliance including a description of all attempts that were made to locate alternative sources of compliant fuel oil, and a description of the reason why compliant fuel oil was not available:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Name(s) of suppliers contacted:

\_\_\_\_\_  
\_\_\_\_\_

Adresse(s): \_\_\_\_\_

\_\_\_\_\_

**Date(s) of contact (DD/MM/YYYY):**

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In case of fuel oil supply disruption only

Name of port at which vessel was scheduled to receive compliant fuel oil: \_\_\_\_\_

Name of the fuel oil supplier that was scheduled to deliver: \_\_\_\_\_

Operation constraints, if applicable

Describe any operation constraints that prevented procuring/using available compliant fuel oil (e.g. with respect to compliance with engine Makers' specification for fuel oil or compatibility of fuel with fuel oil already on board or other fuel oil parameters):

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Steps ship has taken, or is taking, to resolve these operational constraints that will allow ship to use all commercially available residual fuel oil blends: \_\_\_\_\_

Describe availability of compliant fuel oil at subsequent port of call, and plans to obtain it:

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If compliant fuel oil is not available at the port of call, list the lowest sulphur content of available fuel oil(s) or the lowest sulphur content of available fuel oil at the next port of call:

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Number of FONAR filed in the previous 12 months:  
(attach copies)

**4 Company information**

Name of Company (as named on ISM DOC): \_\_\_\_\_

Address (street, city, country, postal/zip code): \_\_\_\_\_

ISM Designated Person Ashore (DPA): \_\_\_\_\_

Telephone number/email: \_\_\_\_\_

Local agent(s) in the port of call(s): \_\_\_\_\_

Print name: \_\_\_\_\_ Date (DD/MM/YYYY): \_\_\_\_\_

Signature of Master: \_\_\_\_\_

\_\_\_\_\_