

Prevention of pollution from ships: sulphur content of marine fuels

2011/0190(COD) - 11/09/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 606 votes to 55, with 13 abstentions, a legislative resolution on the proposal on the proposal for a Directive of the European Parliament and of the Council amending Directive 1999/32/EC as regards the sulphur content of marine fuels.

Parliament adopted its position on first reading following the ordinary legislative procedure. The agreement was the result of a compromise negotiated between Parliament and Council. The main amendments to the proposal are as follows:

Definitions: according to the amended text:

Heavy fuel oil means:

- any petroleum-derived liquid fuel, excluding marine fuel, falling within CN code 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35, 2710 20 39, or
- any petroleum-derived liquid fuel, other than gas oil as defined in points 2 and 3, which, by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65% by volume (including losses) distils at 250 °C by the ASTM D86 method. If the distillation cannot be determined by the ASTM D86 method, the petroleum product is likewise categorised as a heavy fuel oil;

Gas oil means:

- any petroleum-derived liquid fuel, excluding marine fuel, falling within CN code 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19, or
- any petroleum-derived liquid fuel, excluding marine fuel, of which less than 65% by volume (including losses) distils at 250 °C and of which at least 85% by volume (including losses) distils at 350 °C by the ASTM D86 method.

Diesel fuels, as defined in Directive 98/70/EC relating to the quality of petrol and diesel fuels, are excluded from this definition. **Fuels used in non-road mobile machinery and agricultural tractors are also excluded from this definition.**

Maximum sulphur content in marine fuel: Member States shall:

- ensure that marine fuels are not used within their territory if their sulphur content exceeds **3,50% by mass**, except for fuels supplied to ships using emission abatement methods operating in closed mode;
- take all necessary measures to ensure that marine fuels are not used in the areas of their territorial seas, exclusive economic zones and pollution control zones if the sulphur content of those fuels by mass **exceeds 3.50% as from 18 months following the entry into force of the Directive**;
- take all necessary measures to ensure that marine fuels are not used in their territorial seas, exclusive economic zones and pollution control zones falling outside SO_x Emission Control Areas by passenger ships operating on regular services to or from any Union port if the sulphur content of

those fuels **exceeds 1,50% by mass until 1 January 2020**. Member States shall be responsible for the enforcement of this requirement at least in respect of vessels flying their flag and vessels of all flags while in their ports.

Availability of marine fuels that comply with this Directive: Member States shall endeavour to ensure the availability of marine fuels which comply with this Directive and inform the Commission of the availability of such marine fuels in its ports and terminals.

If a ship is found by a Member State not to be in compliance with the standards for marine fuels which comply with this Directive, the competent authority of the Member State is entitled to require the ship to:

- present a record of the actions taken to attempt to achieve compliance; and
- provide evidence that it attempted to purchase marine fuel which complies with this Directive 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 marine fuel and that, despite best efforts to obtain marine fuel which complies with this Directive, no such marine fuel was made available for purchase.

The ship shall not be required to deviate from its intended voyage or to delay unduly the voyage in order to achieve compliance. A port State shall notify the Commission when a ship has presented evidence of the non-availability of marine fuels which comply with this Directive.

Member States shall ensure that **marine diesel oils** are not placed on the market in their territory if the sulphur content of those marine diesel oils exceeds 1.50% by mass.

Emission abatement methods: Member States shall, as an alternative solution for reducing emissions, encourage the use of **onshore power supply systems** by docked vessels.

Where justified in the light of scientific and technical progress regarding alternative emission abatement methods and in such a way as to ensure strict consistency with the relevant instruments and standards adopted by the IMO, the Commission shall i) be empowered to adopt delegated acts in accordance with Article 9a amending Annexes I and II; ii) adopt implementing acts laying down the detailed requirements for monitoring of emissions, where appropriate.

Financial measures: Member States may adopt financial measures in favour of operators affected by this Directive where such financial measures are in accordance with State aid rules applicable and to be adopted in this area.

Report and follow-up: by **31 December 2013**, the Commission shall submit a report to the European Parliament and to the Council which shall be accompanied, if appropriate, by legislative proposals. The Commission shall consider in its report the potential for reducing air pollution taking into account, inter alia: annual reports submitted in accordance with paragraph 1 and 1a; observed air quality and acidification; fuel costs; potential economic impact and observed modal shift; and progress in reducing emissions from ships.

The Commission shall, in cooperation with Member States and stakeholders, by **31 December 2012**, develop appropriate measures promoting compliance with the environmental standards of this Directive, and minimising the possible negative impacts.

Penalties: Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties determined must be effective, proportionate and dissuasive and may include fines calculated in such a way as to ensure that the fines at least deprive those responsible of the economic benefits derived from their infringement and that those fines gradually increase for repeated infringements.

