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PREVENTION AND RESPONSE
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Agenda item 13

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CONSISTENT IMPLEMENTATION OF REGULATION 14.1.3 OF MARPOL ANNEX VI

**Comments on proposals for the consistent implementation of regulation 14.1.3
of MARPOL Annex VI**

Submitted by INTERTANKO

SUMMARY

Executive summary: This document comments on documents PPR 5/13/5 and MEPC 71/5/9 and recommends several practical aspects to be considered when developing amendments to the MARPOL Annex VI PSC Guidelines and other Guidelines as appropriate

Strategic direction: 1

High-level action:

Output: 1.17

Action to be taken: Paragraph 12

Related documents: PPR 5/13/5 and MEPC 71/5/9

Introduction

1 This document is submitted in accordance with the provisions of paragraph 6.12.5 of the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5) and comments on documents PPR 5/13/5 (Austria et al.) and MEPC 71/5/9 (Belgium et al.).

Background

2 MEPC 70 agreed that the effective date of the 0.50% m/m sulphur content limit of fuel oil should be 1 January 2020 as set out in regulation 14.1.3 of MARPOL Annex VI. Following PPR 4 and MSC 98, MEPC 71 approved a new output on subject for inclusion into PPR's biennial agenda for 2018-2019 with a target completion year of 2019.

3 Document PPR 5/13/5 includes a set of forward-looking proposals highlighting the need to consider, inter alia, as follows:

- .1 revision of the PSC Guidelines under MARPOL Annex VI by 2020 focusing on "clear grounds for inspection";
- .2 analysis of the MARPOL sample. Document PPR 5/13/5 points out in its paragraph 13 that the verification procedure set forth in appendix VI to MARPOL Annex VI is not widely applied in practice:
 - .1 noting that document MEPC 71/5/9 (China) proposed that regulation 18 of MARPOL Annex VI should be amended to stipulate that the verification procedure for in-use fuel oil samples should be consistent with the procedures of the MARPOL samples; and
 - .2 MEPC 71 forwarded document MEPC 71/5/9 to PPR 5 for consideration under its agenda item on "Amendments to regulation 14 of MARPOL Annex VI to require a dedicated sampling point for fuel oil"; and
- .3 proposal of publicizing information on non-compliant ships/companies or reporting scheme to IMO as elements of an effective enforcement strategy. The submitter points out that any information published is accurate. In order to avoid inconsistency, strict criteria should be defined.

4 This document focuses on INTERTANKO's own findings and possible suggestions relative to item 3 (verification issues and control mechanisms) and item 5 (development of guidance) out of the seven items under the scope of the PPR's new output (PPR 4/21, annex 13, paragraph 13) with a view to enabling the Sub-Committee to consider an objective and scientific fuel oil sampling test and verification method.

Comments

5 INTERTANKO welcomes the landmark decision made by the Organization that the sulphur content in fuel oil used by ships be lowered from 3.50% m/m to 0.50% m/m from 1 January 2020. INTERTANKO is also in full support of the Sub-Committee's new work output focusing, inter alia, on preparatory and transitional issues that may arise from this new regulation, and verification issues and control mechanisms and actions that are necessary to ensure compliance and consistent implementation.

6 Following MEPC 70, INTERTANKO has received from its members multiple reports on fuel oil sample testing and subsequent verifications by different authorities. Having analysed the reported cases, INTERTANKO is concerned about complexities of testing and verification of fuel oil samples, whether they are MARPOL samples or in-use fuel samples, as INTERTANKO finds that the applicable testing and verification methods are not uniformly applied. Though the number of reported cases is small, such reports are considered to be representative of complexities and uncertainties involved in the ship's fuel oil sulphur content testing, reporting and verification. The cases raise complex conflict of compliance issues. In the reported cases, the resolution of the contests turns on the question of which verification method determines the ship's compliance. Uniformity across the industry does not seem to exist even at the level of first principles. This could lead the tanker operators to find themselves in a situation where it is difficult to prove compliance of their in-use fuel oils even when they purchased, stored and maintained the fuel oil on board in good faith. Any verdict of non-compliant fuel oils with respect to supply, purchasing and use of fuel oils on board ships should be based on uniformly understood and applied verification methods.

7 There is at present one fuel oil testing and verification method used to determine compliance with the sulphur content limits specified in regulation 14 of MARPOL Annex VI. This is provided in appendix VI to MARPOL Annex VI. However, this verification method applies to MARPOL samples only. Strictly speaking, there is no verification method applicable to in-use fuel oil samples. As earlier introduced in paragraph 3.2 above, China at MEPC 71 proposed to amend the regulation to make it consistently applicable to both MARPOL samples and in-use fuel oil samples. The proposal will be considered by PPR at this session. Whereas this proposal is logical in attempting to close the identified gap in MARPOL Annex VI, INTERTANKO is concerned that this proposal does not mirror the complexities in the verification methods specifying criteria of non-compliance, or in a commercial language, off-specification.

8 INTERTANKO is relieved to learn that it is not alone in raising these concerns. Other organizations are known to have identified similar problems or at least raised awareness about the differences between the statutory sulphur content verification method and the industry standards widely applied in the commercial world.

9 It is noted that the proposal of aligning appendix VI to MARPOL Annex VI with the ISO 4259 method for the application of tolerance margins was submitted to MEPC 68, however, it was declined due to lack of support. INTERTANKO has no firm opinion on the alignment between the statutory verification method which refers to ISO 8754 and the ISO 4259 method used in the commercial world. If the concerns summarized in document PPR 5/13/12 (INTERTANKO) are shared by the Sub-Committee, INTERTANKO views it inevitable to amend appendix VI to MARPOL Annex VI and relevant regulations. However, if it is considered not appropriate to directly use the industry standard in MARPOL Convention, there are other ways to address the concerns, e.g. revision to the PSC Guidelines under MARPOL Annex VI.

10 In summary, the lack of harmony in verifying non-compliance of fuel oils, combined with the implementation of the 0.50% m/m sulphur content limit on a worldwide scale by many different authorities, would create costly and unnecessary domestic and international disputes. INTERTANKO is not suggesting a more lenient approach in terms of monitoring and controlling of sulphur emissions from international shipping. INTERTANKO is suggesting there should be a consistent approach.

Proposals

11 Based on the above comments, INTERTANKO believes that the Sub-Committee should give its consideration to the comments in this document and the concerns and questions summarized in document PPR 5/13/12 (INTERTANKO) and establish a plan of how to address these.

Action requested of the Sub-Committee

12 The Sub-Committee is invited to consider the proposal in paragraph 11 and take action as appropriate.
