

## FREQUENTLY ASKED QUESTIONS ON DIRECTIVE 2005/33 - SULPHUR IN MARINE FUELS

### *1. What are the SO<sub>x</sub>ECA application dates and why are they different from Annex VI?*

Regrettably, the nature and timing of the EU legislative process, and the International Maritime Organization's tacit amendment procedure, meant that the final application dates for 1.5% fuel sulphur limits in SO<sub>x</sub> Emission Control Areas under Directive 2005/33 could not be precisely aligned with those in the IMO's air pollution convention, MARPOL Annex VI.

The Directive sets the following application dates for the 1.5% sulphur limit:

- 11 August 2006 for all passenger vessels on regular services to or from Community ports, and for all ships in the Baltic Sea SO<sub>x</sub> Emission Control Area. For the Baltic Sea, this is 3 months later than the 19 May 2006 enforcement date under the IMO Convention, MARPOL Annex VI. This delay was necessary to allow Member States 12 months to transpose the Directive into national law.
- 11 August 2007 for all ships other than passenger vessels in the North Sea SO<sub>x</sub> Emission Control Area, which includes the Channel. The latest IMO position (Briefing 35/2005 of 29 July 2005) is that the date the North Sea SO<sub>x</sub>ECA will be operational "*is expected to be 21 November 2006, with full implementation 12 months later*". According to Annex VI this 12 month grace period between the SO<sub>x</sub>ECA operational and enforcement dates is only for "ships entering a SO<sub>x</sub> emission control area", but this phrase has never been clearly defined by the IMO.

For legal certainty and better implementation, the following interpretation is proposed:

**In the Baltic Sea SO<sub>x</sub>ECA, all ship operators should comply with the 1.5% S fuel limit under MARPOL Annex VI from 19 May 2006, though Member States can only begin enforcement of the limit under Directive 2005/33 from 11 August 2006.**

**Operators of passenger vessels on regular services to or from any Community port should comply with the 1.5% S fuel limit from 11 August 2006, while they are in EU territorial seas, exclusive economic zones and pollution control areas, including the North Sea and Channel.**

**In the North Sea and Channel SO<sub>x</sub>ECA, operators of all ships other than passenger vessels should comply with the 1.5% S fuel limit from 11 August 2007.**

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### *2. When and under what conditions can abatement technologies be used?*

The new Article 4c sets out conditions for the trials and use of emission abatement technologies as an alternative to low sulphur fuel. There is currently only one vessel in the EU equipped with such technology. However in July 2005 the IMO adopted guidelines on the use of exhaust gas cleaning systems, and other ship operators may wish to start using this technology in order to comply with the Directive. Building on the IMO guidelines, the Commission intends to begin two EU committee processes as soon as possible to approve the equipment(s) and develop criteria for its use in EU sea areas.

If ship operators wish to use abatement technologies as a means of compliance as soon as the Directive's provisions enter into force, and the EU committee processes to approve the use of the technology have not been finalised by then, operators should take advantage of the 18 month trial period allowed under the Directive, as set out below.

**Ship operators planning to use abatement technology to comply with the directive should notify their flag state (if EU-flagged), the EU port state(s) they intend to visit, and the Commission, six months before they plan to begin using it as a means of compliance. For the start of the Baltic Sea SOxECA and passenger vessel provisions this means they should notify by 11 February 2006, for the North Sea SOxECA by 11 February 2007.**

**All Member States involved should then assess the trial use of the technology. If all the criteria set out in Article 4c (1) are met, Member States may approve the trial use of the technology as an alternative to the use of low sulphur fuels.**

**Full results should be provided to the Commission, and made publicly available, within six months of the end of the trials.**

### 3. What do the provisions on marine distillate fuels (MDO & MGO) mean in practice?

There are different provisions in Article 4 of Directive 1999/32 and the new Articles 4a and 4b of 2005/33 which relate to marine gas oils (MGO) and marine diesel oils (MDO). Confusion can arise here because the new directive is an amending proposal which has to be read in conjunction with the original directive. The following clarification is proposed:

- **Until 10 August 2006**, the existing 0.2% sulphur limit continues to apply to all marine distillates used in EU territory, including by ships in territorial seas and on inland waterways, but excluding ships in the territory of Greece, the French DOM-TOM, Madeira, the Azores and the Canary Islands. The term used in the directive is “marine gas oil” but the definition includes all marine distillates under ISO 8217: DMA, DMB, DMC and DMX grades, ie also including marine diesel oils.
- **From 11 August 2006 until 31 December 2007**, the 0.2% sulphur limit now applies only to marine gas oils used in EU territory with a viscosity or density falling within the ranges of viscosity or density defined for DMX and DMA grades under ISO 8217. The exemption for Greece and the outermost regions continues to apply. For DMB and DMC grade marine diesel oils the 0.2% sulphur limit in EU territory is dropped, and a less stringent limit of 1.5% sulphur is introduced with respect to fuels *placed on the market* in EU Member States’ territory. This is to allow the use of marine diesel oils to comply with the SOx Emission Control Areas, in case supplies of 1.5% S heavy fuel oil are insufficient.
- **From 1 January 2008 until 31 December 2009**, a 0.1% sulphur limit applies to marine gas oils used in EU territory with a viscosity or density falling within the ranges of viscosity or density defined for DMX and DMA grades under ISO 8217. The exemption for Greece and the outermost regions continues to apply.
- **From 1 January 2010**, the provisions originating from directive 1999/32 and relating to the *use of marine gas oils in EU territory* (described above) are now deleted. Instead a 0.1% sulphur limit is introduced for marine gas oils *placed on the market* in EU Member States’ territory, and a 0.1% sulphur limit starts to apply to *all types of marine fuel used by ships at berth* in EU ports and by inland waterway vessels. This applies to any use of the fuel eg in auxiliary engines, main engines, boilers. There are the following exemptions: for ships which spend less than 2 hours at berth according to published timetables, for hybrid sea-river vessels while they are at sea, and for ships which switch off all engines and use shore-side electricity. The outermost regions continue to be exempt from this provision, but Greece does not, apart from a 2-year derogation for 16 named Greek vessels until 2012.

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### ***4. Do the passenger vessel provisions apply to cruise ships?***

The directive does not specifically exclude cruise ships. In this respect it differs from previous EU legislation on passenger ships, such as Directive 1999/35 in which definitions are explicitly limited to ro-ro ferries and high-speed passenger craft.

All ships, including cruise ships, must comply with the 1.5% fuel sulphur limit in the SO<sub>x</sub> Emission Control Areas in the Baltic Sea, North Sea and Channel.

In addition, from 11 August 2006, all ships in other EU territorial seas, exclusive economic zones and pollution control zones must comply with the 1.5% sulphur limit for passenger vessels on regular services, where they meet the criteria set out in definitions 3f, 3g, Article 4a(4) and Article 1(2)(d), *ie*:

- they carry more than 12 passengers, where a passenger is every person other than
  - (i) the master and the members of the crew or other person employed or engaged in any capacity on board a ship on the business of that ship, and
  - (ii) a child under one year of age;

AND

- they are on regular services to or from any Community port, meaning a series of crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:
  - (i) according to published timetables or
  - (ii) with crossings so regular or frequent that they constitute a recognisable schedule.

This does not apply where ships' only Community port of call is in the outermost regions (French DOM-TOM, Canary Islands, Madeira & the Azores).

**To summarise, the 1.5% fuel sulphur limit applies from 11 August 2006 to all vessels with over 12 passengers, including cruise ships, which are on regular services to or from any Community port, while they are in EU territorial seas, exclusive economic zones and pollution control zones.**