



IMO CREATES MANDATORY EMISSIONS REDUCTION REGIME

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On 15 July 2011, the International Maritime Organisation (IMO) adopted mandatory measures to reduce emissions of greenhouse gases (GHGs) from international shipping by amending the Marpol Convention Annex VI Regulations for the prevention of air pollution from ships (MARPOL Annex VI). In similar news, the European Commission announced a proposed amendment to the EU's Sulphur Directive which will bring the EU's regulation in line with the IMO's sulphur regulations in MARPOL Annex VI.

IMO regulations of GHG emissions

The new IMO regulations make the Energy Efficiency Design Index (EEDI) mandatory for new ships and the Ship Energy Efficiency Management Plan (SEEMP) mandatory for all ships. The new IMO regulations create the first, mandatory global emissions reduction regime for an international industry. The IMO estimates that the regulations will cut GHGs by 45 million to 50 million tons a year by 2020 and will save ship operators US\$5 billion in fuel costs a year, but there is concern over the ultimate

effectiveness of the regulations considering that influential countries such as China, Brazil and Saudi Arabia voted against the amendments.

The IMO regulations will apply to ships of at least 400GT and are expected to come into force on 1 January 2013, however a waiver may be granted to delay implementation of the regulations up to four years for new ships registered in developing countries. The EEDI sets a minimum efficiency standard that new ships must meet, but it permits owners to choose which technologies they use to achieve the EEDI standard. The EEDI will be based on the ship type and cargo carrying capacity of the ship, and the IMO will gradually reduce the permitted maximum EEDI over time.

The SEEMP aims to improve the energy efficiency of a ship's operation via various energy management methods, such as increased fuel efficiency and improved voyage planning. It requires ships to keep a ship-specific energy use and management plan on board. The presence of a SEEMP will be verified



at intermediate and renewal surveys.

Moving forward

The IMO has yet to clarify how monitoring and enforcement of the EEDI and SEEMP will operate but they are working on draft Guidelines for their implementation. The draft Guidelines will undoubtedly be welcomed by the shipping industry as shipowners, designers, builders and operators must now begin taking steps to comply with the new regulations to ensure they are in full compliance when the regulations take effect on 1 January 2013.

Several issues arise from the new IMO regulations. For example, EEDI figures will now be a major concern in ship construction, and shipbuilding contracts must account for EEDI requirements. The importance and potentially the cost of sea trials will undoubtedly increase, as third-party assessments are required to prove EEDI figures on new-builds. Shipowners, designers and builders will need to factor in these costs to contract prices as well as ensure that shipbuilding contracts properly address EEDI-compliance and liability for non-compliance. Additionally, charterparties will need to account for EEDI-compliance figures when setting rates. Shipowners and operators will also need to ensure that customised energy management plans are developed for each vessel and maintained on board throughout the duration of any international voyage to comply with the EEDI.

Earlier this year the European Commission (“EC”) threatened to bring international shipping into the EU Emissions Trading Scheme (“EU ETS”) if the IMO did not adopt

comprehensive emissions reduction measures. However, the Secretary-General of the IMO, Efthimios E. Mitropoulos, has stated that the IMO regulations should eliminate the need for unilateral regulation by the EC of international shipping’s GHG emissions.

EU Sulphur Directive

In similar news, the EC has taken recent steps to align the EU’s sulphur regulations with the IMO standards on sulphur content, contained in the MARPOL Annex VI. On 15 July 2011, the EC announced proposed amendments to the EU Sulphur Directive that are expected to reduce sulphur emissions from shipping by up to 90% and fine particle emissions by up to 80%.

As it currently stands, the EU Sulphur Directive provides that vessels at berth in European Member State ports cannot use marine fuels with a sulphur content exceeding 0.1% and Member States must ensure the sulphur content of marine fuels

used within Sulphur Emission Control Areas (“SECAs”), or by passenger ships operating on regular services to or from any EU port, does not exceed 1.5%.

Under the proposed amendments to the EU Sulphur Directive, the maximum sulphur content of marine fuels used in SECAs will fall from 1.5% to 1% until 31 December 2014 and then to 0.1% as of 1 January 2015. The maximum sulphur content of marine fuels used by passenger ships operating on regular services to or from EU ports will fall from 1.5% to 0.1% as of 1 January 2020. Additionally, Member States must ensure that marine fuels are not used or placed on the market within their territory if the sulphur content exceeds 3.5% as of 1 January 2012, falling to 0.5% as of 1 January 2020. The amendments will also permit the use of emission abatement methods as an alternative to using marine fuels that meet the sulphur content requirements. The abatement methods must achieve reductions of sulphur dioxide that are at least equivalent to the reductions that would be achieved by using compliant marine fuels.

HFW tips

1. All necessary modifications to ship’s equipment must be carried out to ensure compliance with the IMO regulations and the revised EU Sulphur Directive.
2. Owners and charterers should be prepared to provide evidence of compliance with the IMO regulations and EU Sulphur Directive.
3. All existing charterparties should be reviewed to ensure that liabilities for complying with the IMO regulations and EU Sulphur Directive.
4. Owners, charterers, ship designers and ship builders should ensure that liabilities for complying with the new IMO regulations and the EU Sulphur Directive are adequately allocated in all new contracts.



The new provisions of the EU Sulphur Directive are likely to put significant pressure on shipowners to make all the necessary modifications to their vessels within the tight deadlines imposed, and it is arguable that the capacity of oil refineries may not be adequate to produce the required amounts of low sulphur fuel. Shipowners should take account of these new regulations in negotiating or renegotiating the allocation of costs in charterparties. Shipowners should also consider undertaking a cost-benefit analysis to determine whether it is more cost effective to invest in emission abatement technologies rather than to alter vessels to accommodate the lower sulphur fuel.

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