



# A glance into the Future: Compliance and Enforcement

Athens 2018

By Justin Murphy  
Chief Executive of IBIA

# The Voice of the Global Bunker Industry

- IBIA represents members globally across the entire industry value chain
- IBIA has representative status at the IMO and actively lobbies on the industry's behalf
- We participate globally in a range of committees and correspondence groups covering every aspect of bunkering
- Members participate in developing strategy and operational plans through IBIA Working Groups

# Membership Profile

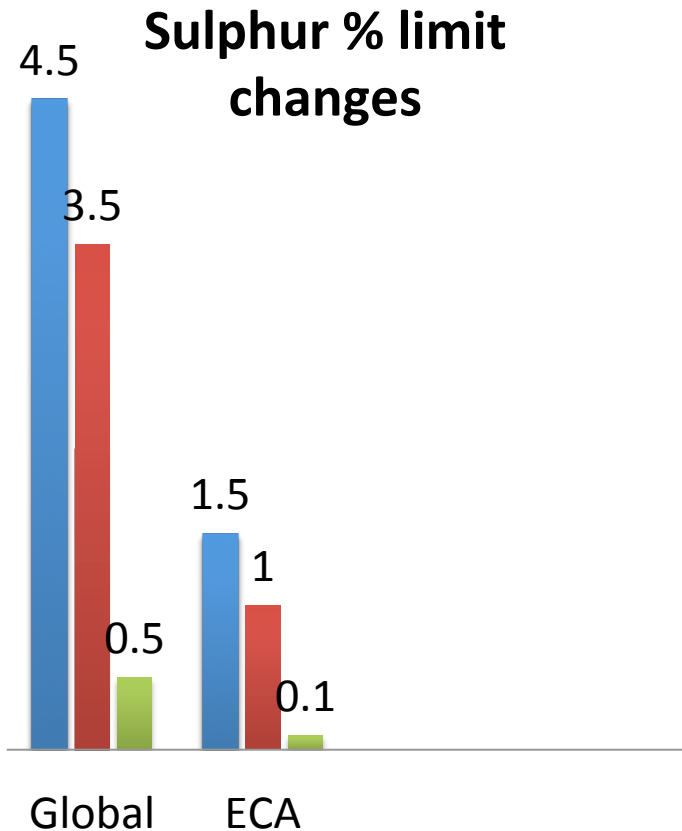
- Members in over 80 countries
- Across the entire industry value chain
- Energy Majors, Refiners, Traders and Brokers
- Suppliers, Ship Owners, Charterers
- Port Authorities, Storage Terminals, Agents
- Credit Reporting Companies, Lawyers, P& I Clubs
- Equipment manufacturers, Journalists and Consultants

# IBIA Partners with Industry Stakeholders



- IMO
- Governments
- Shipping Associations
- ICS, OCIMF, IPIECA
- IHMA, Nautical Institute, IMarEST
- SIGTTO & SGMF
- Port Authorities
- Maritime Anti-Corruption Network

# MARPOL Annex VI 'Step Changes'



- **2005: 4.5% global limit**
- **2006: 1.5% ECA limit**
- **2010: 1.00% ECA limit**
- **2012: 3.50% global limit**
- **2015: 0.10% ECA limit**
- **2020: 0.50% global limit**

# Timeline for 2020 Preparations

Last chance to formally adopt regulatory amendments to enter into force by Jan 1, 2020

Regulatory amendments adopted at MEPC 73 may enter into force on March 1, 2020 at the earliest

Last chance to adopt non-mandatory IMO guidance documents ahead of 2020

April 2018  
MEPC 72



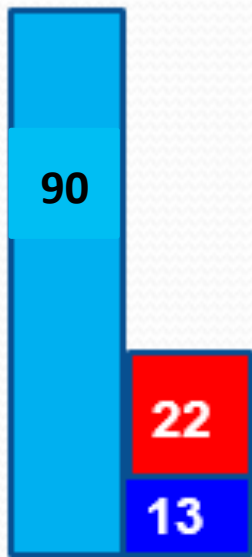
Oct 2018  
MEPC 73



Mid 2019  
MEPC 74

# Enforcement – Serious Challenges Ahead

- Outside territorial waters and ECA the compliance agency is the vessel's flag state
- There are serious questions as to how diligent certain flag states will be



- There are 90 signatories to Annex VI and 35 Open Registries according to the ITF
- Of which 13 are not signatories to Annex VI and 22 are
- Open Registries account for 56% of bunker purchases
- This may well encourage re-flagging reducing compliance

# Enforcement – Serious Challenges Ahead



- States that are not signatories to Annex VI have no obligation to enforce the 0.50% global cap
- There are 172 states within IMO hence there are about 80 non signatory states
- However, over 90% of global trade passes through ports in the 90 signatory states
- To date about 30 states (including EU , USA and Canada) have significantly enforced Annex VI
- This means about 60 states require port state enforcement resources and to train officers



# Enforcement: Fines

- Within EU non-compliance is treated by some states as a criminal offence and as an administrative offence by others.
- Fines for first time offences can range from Euros 3,500 up to Euros 6,000,000.
- In most cases PSC can detain a vessel for non compliance

# Carriage ban on bunker fuels with sulphur exceeding 0.50%

- Will make it an offence to carry fuel above 0.50%S unless approved emission abatement tech on board
- Simplifies enforcement as PSC no longer has to prove use, or intent to use, HS fuel in ship's bunker tanks
- Draft amendments to MARPOL Annex VI developed at PPR5, further refined and approved at MEPC 72
- Adoption expected at MEPC 73
- Likely entry into force 1 March 2020



# Carriage Ban Implications

- “We can buy HSFO until 1 March 2020”
- “HSFO ban makes scrubbers pointless”
- Will it affect carriage of HSFO as cargo?



Regulation 2.9 of MARPOL Annex VI fuel oil definition: *“Fuel Oil means any fuel delivered to and intended for combustion purposes for propulsion or operation on board a ship, including distillate and residual fuels.”*

# Amendments to MARPOL Annex VI

- **PPR 5 agreed text for Regulation 14.1:**  
*"The sulphur content of any fuel oil used or carried for use on board ships shall not exceed 0.50% m/m."  
(4.50% & 3.50% limits removed)*
- **IBIA/IPIECA MEPC 72 proposal:** *"The sulphur content of any fuel oil used on board ships or any fuel oil carried for use on board the ship shall not exceed 0.50% m/m."*
- **MEPC 72 approved text for Regulation 14.1:**  
*"The sulphur content of fuel oil used or carried for use on board a ship shall not exceed 0.50% m/m."*

# Amendments to MARPOL Annex VI

- **PPR 5 agreed text for Regulation 14.4**  
*“While ships are operating within an emission control area, the sulphur content of any fuel oil used on board ships shall not exceed 0.10% m/m.”*  
*(previous 1.50% and 1.00% limits deleted)*
- **MEPC 72 approved text for Regulation 14.4:**  
*“While a ship is operating within an emission control area, the sulphur content of fuel oil used on board that ship shall not exceed 0.10% m/m.”*

# Amendments to MARPOL Annex VI

- New text for IAPP Certificate para 2.3.3 agreed by PPR 5:  
“For a ship without an equivalent arrangement approved in accordance with regulation 4.1 as listed in 2.6, the sulphur content of any fuel oil carried on board the ship shall not exceed 0.50% m/m as documented by bunker delivery notes.”
- MEPC 72 approved text (IBIA/IPIECA proposal):  
“For a ship without an equivalent arrangement approved in accordance with regulation 4.1 as listed in paragraph 2.6, the sulphur content of fuel oil carried for use on board the ship shall not exceed 0.50% m/m as documented by bunker delivery notes.”

# Implications: Some Tricky Questions

- **Q:** What happens if compliant fuel is not available?
- **A:** IMO to develop a standardized format to report non-availability in line with Reg. 18.2 of Annex VI

## Still leaves questions/issues:

- Will ships have to debunker non-compliant fuel?
- What if the BDN says the fuel is compliant but the ship's own test results suggest otherwise?
- What if the fuel in use is found to be marginally above the limit due to onboard contamination?
- Wording of new legal requirement for the BDN prevents supply of fuel above 0.50% to ships without scrubbers

# US Example: FONARs

- Ships unable to source ECA-compliant fuel required to submit Fuel Oil Non-Availability Report to the EPA and authorities at port of destination
- USCG checks documentation, EPA decides civil penalties
- May mitigate penalties but ship still gets deficiency

- Submitting FONARs does not let you off the hook!

## EPA issues subpoenas investigating ECA non-compliance

3rd March 2014 12:27 GMT

Bunkerworld has recently learned that the US Environmental Protection Agency (EPA) has issued subpoenas to four shipping companies under investigation for potential abuse of the low sulphur fuel oil (LSFO) non-availability clause when entering the North American emission control area (ECA).





## In Summary

- **IMO's 2020 decision is final and there will be no delay!**
- **Compliance & Enforcement – a work in progress**
  - **Compliance: Most will do the right thing**
  - **Enforcement: inconsistent**
- **Carriage Ban: amendment to Annex VI will give PSC increased powers likely from March 2020**



**‘Working with our members  
to keep the global marine  
fuels industry on course’**

**JUSTIN.MURPHY@IBIA.NET**

**WWW.IBIA.NET**

