
COM(2011) 439 final — 2011/0190 (COD)

(2012/C 68/13)

Rapporteur: Jan SIMONS

On 1 September 2011, the Council and, on 13 September 2011, the European Parliament decided to consult the European Economic and Social Committee, under Article 192(1) of the Treaty on the Functioning of the European Union (TFEU), on the:


The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 21 December 2011.

At its 477th plenary session, held on 18 and 19 January 2012 (meeting of 18 January 2012), the European Economic and Social Committee adopted the following opinion by 110 votes to 46 with 31 abstentions.

1. Conclusions

1.1 The EESC, with the ultimate aim of virtually sulphur-free marine fuel in mind, reiterates its support for the 2008 decision of the International Maritime Organization of the United Nations (IMO) to reduce the sulphur content of marine fuels drastically by 2020. The EESC calls on all the IMO member states to ratify the relevant IMO convention as early as possible in order to ensure worldwide implementation.

1.2 The EESC also supports the Commission proposal for alignment of Directive 1999/32/EC with Annex VI on Prevention of Air Pollution from Ships to MARPOL 73/78, the IMO International Convention for the Prevention of Pollution from Ships. Certain proposals and impacts require further consideration, however.

1.3 The EESC calls for provisions seamlessly linking to the IMO’s Regulation 18 on Fuel Oil Quality, with its availability clause (the ‘placing on the market’ request), reporting obligations in case a ship makes use of Regulation 18, and its ‘non-availability’ clause, to be incorporated into the directive.

1.4 The EESC has reservations about the proposed application of the 0.1 % sulphur content limit to passenger ships outside the SECAs by 2020. The proposal has not been sufficiently investigated. Nonetheless, in the interests of the health of passengers and crews of passenger ships, it is inclined to support the proposal. There should be equal concern for the health of the population across the EU as a whole.

1.5 The EESC considers that prohibiting the placing of marine fuel on the market, the sulphur content of which exceeds 3.5 % by mass, limits the attractiveness and use of emission abatement technologies on board vessels (scrubbers). This needs to be clarified.

1.6 The EESC is concerned about the possible problems which may arise if a 0.1 % sulphur limit applies in the SECAs from 2015. No thorough report on the possible effects of this has been carried out by the IMO. The Committee recommends that in future a prior assessment of such effects be carried out by the IMO.

1.7 The EESC believes that the alternative emission reduction methods or the possible use of alternative fuels need to be further researched and improved. In view of various uncertainties, such as the availability of low-sulphur fuel in 2015 or the risk of a ‘reverse’ modal shift, the Commission suggests in its accompanying communication that if these uncertainties threaten to become a reality, the implementation deadline should be changed. The EESC advises that, if necessary, this is done in good time, in order to ensure the continued promotion of the necessary investment. In particular, given that 2015 is fast approaching, the deadline for implementing the 0.1 % limit should be postponed to 2020.

2. Introduction

2.1 Marine fuels are the cheapest and least refined of fuels. Often they are a by-product of more highly refined petroleum products. They currently are a significant source of atmospheric pollution, particularly carbon dioxide (4 % of the global total from man-made sources) and sulphur oxide (9 %)
2.2 Before the conventions and protocols of the United Nations’ International Maritime Organization (IMO) and in particular the International Convention for the Prevention of Pollution From Ships (MARPOL) of 1973 and 1978, and later the 2008 protocol, entered into force, fuels with 4.5 % sulphur were permitted.

2.3 The 2008 Annex VI to the MARPOL Protocol provides for a progressive drastic reduction to 0.5 % by 2020, or in the event of difficulties by 2025 at the latest.

2.4 Sulphur particulates, which have been virtually eliminated from land-based sources (energy and road transport emissions), are known to cause respiratory and heart problems and there is general agreement that the sulphur content of marine fuel must be reduced.

3. The European Commission’s proposal

3.1 Directive 1999/32/EC (as amended by Directive 2005/33/EC) regulates the sulphur content of fuels used for maritime transport and incorporates certain international rules, as agreed in the IMO, into EU law.

3.2 In its current form the directive in particular contains stricter provisions governing the sulphur content of marine fuels used in areas requiring special environmental protection, i.e. Sulphur Emission Control Areas (SECAs).

3.3 On 14 May 2003 the EESC issued an opinion on the proposal for a Directive 1999/32/EG (1).

3.4 With the support of the EU Member States, the international IMO rules were reviewed in October 2008 and tightened up by application of Annex VI to MARPOL (2).

3.5 The main changes introduced by Annex VI to MARPOL regarding SO₂ pollution are the following:

- A reduction in the limits applicable to the sulphur content of all marine fuels in SECAs from 1.5 % by weight to 1.0 % on 1 July 2010, and 0.1 % on 1 January 2015.

- A reduction in the limits applicable to the sulphur content of all marine fuels outside SECAs from 4.5 % by weight to 3.5 % in January 2012, and 0.5 % in January 2020, subject to a review in 2018 and a possible postponement to 2025.

- Authorisation of the use of a broad range of emission abatement approaches (equivalents), such as equipment, methods, procedures or alternative fuels.

3.6 In order to ensure coherence with international law as well as to secure proper enforcement of new globally established sulphur standards in the Union, the Commission proposes that the provisions of Directive 1999/32/EC be aligned with the revised Annex VI to MARPOL (3). In particular:

- Incorporation into the directive of the 2008 amendments to Annex VI to MARPOL concerning the sulphur content of marine fuels.

- Alignment of the directive with the IMO provisions authorising a broad range of equivalent emission abatement technologies. Flanking of these provisions by additional guarantees to ensure that the equivalent abatement technologies do not have unacceptable negative consequences for the environment.

- Introduction of the IMO control procedure for fuels.

3.7 The Commission also proposes the following additional measures:

- Introducing a new 0,1 % sulphur limit for passenger ships operating outside SECAs in 2020.

- Developing a non-binding guideline for sampling and reporting. If this does not produce the desired effect, binding rules would have to be considered.

4. General comments

4.1 The EESC, like the European Commission and many other stakeholders, believes that the ultimate goal, partly for health reasons, should be the virtual elimination of sulphur from marine fuel. The public and this global transport sector will benefit most from worldwide regulation.

4.2 The EESC welcomes the IMO’s decision to drastically reduce sulphur emissions from shipping. The EESC thinks that there should be no difference between worldwide rules and those of the European Union.


(2) Resolution MEPC.176(58) of 10 October 2008 (Revised MARPOL Annex VI).

(3) COM(2011) 439 final.
4.3 The EESC calls on all the IMO Convention signatory states to ratify Annex VI to MARPOL 73/78 in order to ensure worldwide implementation.

4.4 Regulation 18 of Annex VI requires all signatory states to promote the availability of the relevant fuels and to inform the IMO of availability in ports and terminals. Realistically, however, the IMO also introduced a non-availability clause.

4.5 The EESC notes that the ‘non-availability’ clause for a particular fuel, as set out in Annex VI to MARPOL, has not been included in the proposal for an amendment of the directive. The EESC calls for provisions seamlessly linking to the IMO’s Regulation 18 on Fuel Oil Quality, with its availability clause (the ‘placing on the market’ request), reporting obligations in case a ship makes use of Regulation 18, and its non-availability clause, to be incorporated into the directive.

4.6 The EESC has queries about the Commission’s new proposal for the introduction in 2020 of a 0.1 % sulphur limit value for fuel used by passenger vessels outside the SECAs. The proposal has not been sufficiently investigated. Nonetheless, in the interests of the health of passengers and crews of passenger ships, it is inclined to support the proposal. There should be equal concern for the health of the population across the EU as a whole.

4.7 The definition of new SECAs should be handled in accordance with the IMO procedure, taking account of scientific, environmental and economic considerations. Paragraph 2 of the new Article 4a is not clear in this respect. Are new SECAs adopted by the IMO automatically to be incorporated into the directive, or does a purely EU procedure allow the Commission to designate new SECAs and propose these directly to the IMO? Clarification is needed.

4.8 In Article 1(4) (the new Article 3a) the Commission proposes that Member States should ensure that marine fuels are not used or placed on the market within their territory if their sulphur content exceeds 3.5 % by mass in order to prevent the risk of use, which could, inter alia, result in the discharge of high-density waste water. However, emission reduction methods (scrubbing) should be taken into account that make it possible to use fuel with a higher sulphur content, without exceeding the IMO standards.

4.9 Although this is not included in the IMO rules, the Commission proposes that, when using emission reduction methods, continuous reductions must be made which are at least equivalent to the reductions that would be achieved by using marine fuels that meet the requirements of Articles 4a and 4b. This is difficult to achieve, as temporary interruptions in emission reduction could occur and/or the efficiency of the equipment could deteriorate as a result of heavy use of engines, resulting in a temporary increase in sulphur emissions. This requirement should therefore be dropped.

4.10 In line with the comment in point 4.8 above, the EESC points out that a vessel cannot in practice comply with the requirement of Annex 2 to the proposal on Article 4c(3) to ‘document thoroughly that any waste streams discharged into the sea, including enclosed ports, harbours and estuaries have no significant negative impacts on and do not pose risks to human health and the environment’. Here too the EESC thinks that reference should be made to the requirements of IMO Resolution MEPC184(59), which prohibit discharges into sea ports, harbours and estuaries.

4.11 Although the drastic reduction in the sulphur content of marine fuel introduced in 2008 via Annex VI to the IMO MARPOL Convention has been generally welcomed and deserves to be incorporated into Directive 1999/32/EC, the decision to apply the 0.1 % limit in the Sulphur Emission Control Areas (SECAs) (4) from 2015 has raised concerns.

4.12 As a reaction to the IMO’s decision on this specific point and in connection with the Commission’s open consultation on the amendment of Directive 1999/32/EC, various stakeholders have pointed to the substantial increase in costs if the sulphur content of fuel is limited to a maximum of 0.1 %. Depending on the parameters, some studies have estimated that the use of this fuel (distillates) will entail a very large rise in costs and a loss of competitiveness. However, other studies have not confirmed that the risk would be this serious.

4.13 However, the fact remains that the IMO did not carry out any proper impact assessment before adopting this decision. The EESC recommends that Member States which are members of the IMO and the European Commission should urge the IMO to carry out appropriate prior impact assessments.

4.14 A modal shift to road haulage runs counter to the strategy set out in the White Paper - Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system (Transport Strategy 2050) of March 2011 (5). It is likely to result in a sharp increase in external costs in terms of environmental damage, and in particular a rise in CO2, traffic congestion, noise, accidents etc. The EESC therefore recommends that no risk be taken with a ‘reverse’ modal shift.

4.15 Stakeholders established in the three SECAs fear a drastic loss of competitiveness as a result of increased transport costs, with the threat of relocation of production and related jobs to other, non-SECA areas both in Europe and worldwide.

(4) In the EU SECAs cover the Baltic and North Seas and the English Channel.
(5) COM (2011) 144 final.
5. **Specific comments**

5.1 Proactive work is being done on a ‘toolbox’ with a view to application of the IMO decision to apply a 0.1 % sulphur limit value to marine fuel in SECAs from 2015. In this connection a thorough analysis, involving specialists, was carried out of the availability of 0.1 %-sulphur marine fuel, the use of emission reduction methods (scrubbers) and the use of LNG as a marine fuel. There is no information on availability.

5.2 The use of emission reduction methods (scrubbers/washers) is being tested in various pilot projects. Significant advances are being made with on-board scrubbers already operational. With the simultaneous removal of NO\textsubscript{2} and CO\textsubscript{2} such equipment may prove its cost-effectiveness in the near future and needs to be kept under consideration. In particular given that 2015 is fast approaching, the deadline for implementing the 0.1 % limit should be postponed to 2020.

5.3 The use of LNG as an alternative marine fuel (alone or in combination with oil – dual-fuel system) is regarded favourably by the shipping industry, particularly for use in short sea shipping. Various pilot projects have been launched, above all in northern Europe. Outstanding problems are being discussed with the stakeholders such as: the escape of methane gas, which increases greenhouse gas emissions, opportunities for taking on fuel in various European ports, safety rules during fuelling etc. This action is being carried out by the European Community Shipowners’ Association (ECSA) in cooperation with the European Maritime Safety Agency (EMSA). It is clear that solving the outstanding problems will take quite some time.

5.4 The shipping industry is continuing to work on the three elements of the toolbox. As these will not be finished by 2015, however, there have been many calls for implementation to be postponed by means of an IMO derogation.

5.5 The Commission suggests in its accompanying communication that if these uncertainties threaten to become a reality, the implementation deadline should be changed. The EESC advises that, if necessary, this is done in good time, in order to ensure the continued promotion of the necessary investment.

5.6 The Commission is aware that complying with the IMO decision, set out in Annex VI to the MARPOL Convention, to apply a 0.1 % sulphur limit value for marine fuel in SECAs from 2015 will entail a significant increase in costs. The Commission deals with this issue at length in its Communication on the review of the implementation of Directive 1999/32/EC (\textsuperscript{\textcircled{6}}).

5.7 The Commission states that the additional possibility for compliance through technology measures, such as emission reduction methods (scrubbers, washers), alternative fuels (LNG) and shore-side electricity, provided by Annex VI to the MARPOL Convention, and subsequently by the proposal for revision of Directive 1999/32/EC, would require capital investments by the private as well as public sector.

5.7.1 To this end, it established a number of short-term accompanying measures to assist the sector via the existing EU transport funding instruments, i.e. the Trans-European Transport Networks (TEN-T) and Marco Polo II Programmes, the European Clean Transport Facility (ECTF), the European Investment Bank (EIB) and the use of Member States’ funds to support measures on vessels and develop onshore infrastructure.

5.7.2 Regarding the medium term, the European Commission is developing a multi-dimensional action approach, such as a ‘sustainable waterborne transport toolbox’.

5.7.3 The EESC welcomes the Commission’s intentions, while pointing out that the costs of applying alternative methods are very heavy. Emission reduction technologies, particularly when used to deal with NO\textsubscript{2} and CO\textsubscript{2} emission control, could be more cost effective. The support programmes mentioned by the Commission are a good thing in themselves but it is questioned whether the current resources and time-frames allow for a contribution to reducing the implementation costs by 2015.

5.8 With regard to the IMO control procedure for fuels, the EESC points out that there is a difference between this and the International Organization for Standardization standard. This needs to be made clear.

Brussels, 18 January 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

\textsuperscript{6} COM (2011) 441 final, 17.7.2011.