

**NORTH**

SERVICE, STRENGTH, QUALITY



# 2020 VISION

## AN OVERVIEW FOR MEMBERS

# 2020 VISION: AN OVERVIEW

- The reduction of the MARPOL Annex VI global fuel sulphur cap from 3.5% to 0.5% will come into force on 1 January 2020.
- The MARPOL Emission Control Area (“ECA”) limit of 0.1% will still apply, as will any applicable local regulations.
- A prohibition on the carriage of non-compliant fuel will come into force on 01 March 2020 – as approved at MEPC73 in October 2018. An exemption will be vessels fitted with scrubbers.
- These dates are highly unlikely to be pushed back and there will be no phased introduction.
- MARPOL does not recognise the same testing tolerance levels as those used commercially with ISO standards so there is a risk that fuel tested by PSC will be deemed non-compliant even if its sulphur content is 0.51%. However, this is on the agenda for future MEPC meetings and some parties are lobbying for alignment.
- Penalties for non-compliance are likely to include fines or detentions and, in extreme cases; banning orders.
- It is currently unclear whether there will be any exemptions for non-compliance but it is likely that owners who have been unable to avoid temporary non-compliance e.g. due to non-availability of fuel or breakdown of scrubbers, will be able to avoid penalties, provided due diligence has been exercised. An IMO working group is developing a Fuel Oil non-Availability Reporting (FONAR) system guidance document, which will hopefully be finalised by mid-2019.
- Claims in relation to emissions violations will be dealt with in accordance with the existing framework for fines and compensation for damage. (By way of reminder; other than in cases of purely accidental discharge, P&I cover for fines resulting from breaches of MARPOL Regulations is only available on a discretionary basis and the Member would be required to satisfy the Directors that they took reasonable steps to avoid or prevent the offence. See below circular.)
- The development of new 0.5% fuels is expected to result in more fuel quality issues in terms of stability and compatibility, which can result in sludge choking the vessel’s fuel system.
- Many refineries have not yet announced what compliant products they intend to produce. However, the nature of these products is expected to differ significantly, which could exacerbate incompatibility problems. Some will be blends of residual and distillate products whereas some may be straight-run products from less-usual refinery streams, such as shale oil and vacuum gas oil.
- Bunker markets are likely to be fairly volatile due to changing and uncertain supply and demand forces. Some market analysts have forecast the price difference between compliant distillates and high sulphur residuals to be as wide as US\$400 per tonne in 2020.
- We are advising Members that Charterparties should be reviewed now and drafted with 2020 issues in mind, to try to avoid/limit the potential for disputes and losses.
- The issues are relevant for both Owners and Charterers (more so time charterers but there might be some indirect impact on voyage charterers e.g. increased freight costs and possible delays).

# OPTIONS FOR COMPLIANCE

Speaking broadly, there are five options that allow compliance with the 2020 global sulphur cap (see below). There are pros and cons with each. It is not a simple choice and the decision on what method of compliance is best depends on a number of factors, such as; vessel type, trading area, proportion of time spent within ECAs, and expected remaining life of vessel.

## Five options available to a shipowner that allow compliance with the 2020 MARPOL Annex VI global sulphur cap

### DISTILLATES

Distillate fuels such as MGO/MDO (DMA/DMB)  
 No major modifications or capex (capital expenditure) needed  
 Currently the most popular option  
 Already in use in ECAs (max 0.1% Sulphur cap) so; tried and tested  
 Concerns on refineries’ ability to meet demand and rising prices (forecast to be approx USD 600 PMT in 2020 = most expensive fuel)  
 Some quality issues e.g. waxing

### HYBRIDS / BLENDS

Specially designed hybrids or light residual/heavy distillate blends  
 No major modifications or capex needed  
 Heavier fuels may contain cat fines  
 Some products fall outside the specified grades in ISO 8217  
 Higher risk of incompatibility if using different blends or hybrids and concerns about stability  
 Forecast 2020 price = approx USD 500 PMT  
 Concerns about availability - not likely to be in every port

### EGCS

Exhaust gas cleaning system - commonly referred to as a “scrubber”  
 Continue burning high sulphur HFO but availability of this fuel post 2020 is unknown  
 Moderate capex (US\$3-5m) with expected payback period to be reasonably short (around 1 year in some cases)  
 Take-up still low but reported to be on the increase  
 2020 forecast price for HFO = approx USD 300 PMT but likely to rise in future  
 Systems and equipment require lot of space - installation will not be possible on some ships  
 3-5% fuel penalty and vessel performance affected  
 Concerns on reliability - could result in transitory non-compliance  
 Any future legislation on effluent standards could impact on viability  
 Extra operational issues and additional crew training required  
 Open loop system discharges waste into sea - not allowed in some places  
 Closed loop system retains waste on board - needs to be discharged ashore

### LNG

Liquefied natural gas (composed mostly of methane)  
 High capex with expected long payback period – cost of gas or dual-fuel engines and storage and handling system  
 Limited infrastructure prevents worldwide use but investments being made to improve this  
 Lower fuel cost but delivery costs make it more expensive than HFO  
 Green credentials  
 Higher risk bunkering operations

### EMERGING FUELS

Methanol  
 LPG  
 Stored energy - hydrogen fuel cells and batteries  
 Technology not yet there to provide sole power to ocean going vessels  
 More likely to be used for specific things e.g. powering reefer units

## TIME CHARTERPARTY ISSUES

- There is no single c/p clause to deal with all 2020 issues.
- The issues inevitably mean that Owners and Charterers will have competing interests when it comes to drafting clauses but some degree of compromise will be needed.
- All clauses relating to bunkers (Bunkers on delivery/redelivery obligations, bunker prices, bunker quality) will almost certainly need to be reviewed in most charterparties.
- Other clauses will also need to be reviewed/inserted, depending upon the vessel type, trade and method of compliance, as follows:
  - Bunker use and bunker tank preparation - detailing when the switch will be made to compliant fuel (burning all non-compliant fuel before 01.01.2020 will help maximise bunker tank capacity, and avoid difficult and expensive bunker discharge operations); when bunker tank cleaning/preparation will be done; who will pay to discharge non-compliant fuel etc. Clauses dealing with these issues have been drafted by North, BIMCO and Intertanko
  - Performance warranties (could be affected by fuel choice/scrubbers – Owners to check with engine manufacturers and amend if necessary)
  - Trading warranties (might be limited by fuel availability so these might need to be amended)
  - Bunker tank cleaning (might be required when switching between different fuels – even a small amount of non-compliant fuel could make otherwise compliant fuel, non-compliant - parties to agree who is to be responsible for cost and time)
  - Waste discharge (from closed loop scrubbers and/or bunker tank cleaning – parties to agree who is to be responsible for cost and time)
  - Dry dock clauses (not all current dry dock clauses will allow vessel to be taken out of service for scrubber installation so owners might need to amend)
  - Indemnities (for non-compliance fines or detentions – Owners will bear the cost initially but indemnification by Charterers might be appropriate in certain circumstances)
  - MARPOL Annex VI responsibilities (setting out who is responsible for ensuring compliance, discharging non-compliant fuel etc). Use of the BIMCO 2020 Marine Fuel Sulphur Content Clause for Time Charter Parties will be a good starting point
  - Scrubber clauses (should deal with - who will pay for installation; dry docking for installation; waste removal for closed loop scrubbers; off-hire in case of breakdown; bunker price adjustment if installed etc)
- This is not an exhaustive list – it may be that additional clauses need to be considered as technologies develop, regulations evolve, bunker markets change, operational issues become clear and disputes arise etc.
- Members are advised to move away from describing fuels in a c/p or a bunker supply contract as 'low sulphur' or 'high sulphur'. It will be open to interpretation what these terms mean, which could lead to disputes. Post-2020 there will be <0.1%S fuel (for ECAs and any other applicable regional domestic legislation), <0.5%S fuel (for everywhere else) and >0.5%S fuel (for use by vessels with scrubbers).

## 2020 VISION: HELPING OUR MEMBERS

- Member seminars – to provide Members with an overview of the different options for compliance; the practical impact of the new cap, and the potential issues arising under charterparties so that Members can be sufficiently well-equipped to start planning ahead and hopefully avoid potential headaches and financial losses:
  - London – 11 July 2018,
  - Dubai – 25 September 2018
  - Piraeus – 13/14/15 November 2018
  - Tokyo – 03/04 December
  - Webinar series – dates TBC
- Insights area of North website
  - Called “2020 Vision”
  - Information on technical and contractual aspects and impacts
- Signals: Summer 2018 edition – 2020 Vision Special – 11 July 2018
  - Dedicated section in Signals newsletter with articles, advice and expert opinion
- New Loss Prevention guide “Marine Fuels – Preventing Claims and Disputes”
  - From refinery to engine; focus on dispute prevention and resolution
  - launched 11 July 2018
- Member queries – our Loss Prevention and FD&D teams have already dealt with over 150 queries concerning 2020 issues
- Charterparty clauses – Our FD&D team has drafted a number of clauses dealing with various different 2020 issues and continues to review relevant c/p clauses and draft bespoke clauses for our Members
- North representative on the BIMCO 2020 c/p clause drafting committee
- The International Group Clubs have issued circulars in relation to MARPOL issues. North has issued the following:
  - **INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS 73/78**  
[www.nepia.com/news/circulars/international-convention-for-the-prevention-of-pollution-from-ships-7378/](http://www.nepia.com/news/circulars/international-convention-for-the-prevention-of-pollution-from-ships-7378/)

**Members are encouraged to contact their usual FD&D contacts for any c/p related 2020 queries and their usual P&I contacts for any claims queries. Our Loss Prevention department is available to assist with engineering/technical queries from Members.**

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