



# ECSA

European Community Shipowners' Associations

Brussels, 18 June 2014

## **Open letter to EU Member States and the European Commission**

### **Implementation of the EU Sulphur Directive must be harmonised and realistic**

Dear Madam, Dear Sir,

Today is the deadline by which EU Member States have to transpose the European Sulphur Directive into national legislation. The provisions of this Directive will enter into force on 1 January 2015. In practice, this means that ships sailing in Emission Control Areas (ECAs) will then have to ensure that bunker fuels with a sulphur content of maximum 0.1% are used or that the same level of emissions is reached by the use of alternative fuels or compliant abatement techniques.

The introduction of low sulphur fuel norms in ECAs marks an important period of change for the shipping industry whereby environmental regulation has become a prime driver. This however cannot be to the detriment of competitiveness. Establishing legal certainty about proper compliance and enforcement together with a fair level playing field between shipping operators and between transport modes are therefore a must.

European shipowners, represented through ECSA, are committed to fully comply with the requirements of the Sulphur Directive and with the corresponding requirements of MARPOL Annex VI.

However, in order to comply, we urge Member States and the Commission to clarify without any further delay how they intend to apply and harmonise enforcement policies.

While the priority of Port State Control should lie on any non-compliance with the Sulphur Directive, vessels that are experiencing contaminations of compliant fuel by residues of Heavy Fuel Oil (HFO) during the switch-over process, or that encounter technical or operational problems that may lead to incidental non-compliance should be regarded as compliant and should not be faced with draconian measures or penalties.

In this respect, we believe that the Commission's proposal to establish a wide targeting programme based on sampling is misleading, since isolated samplings do not effectively reflect the fuel quality and may cause problems at random. Sampling should only be used if there are clear grounds of non-compliance. Control of bunker delivery notes and oil record books should prevail, in accordance with the current provisions of the Sulphur Directive itself.

With about six months to go before the implementation deadline elapses, a number of other fundamental regulatory and practical uncertainties continue to exist, which, if not urgently resolved, will make compliance a most challenging task.

The following points are most pressing and need a clear and common stance from Member States and/or the Commission:

- The acceptance of any unintended operational non-compliance situations related to marginal deviation in sulphur emissions. These are mainly due to momentary malfunctioning of equivalent abatement methods (i.e. scrubbing technology or boil off/HFO mixture by steam LNG carrier vessels) or deviation of the sulphur content in the otherwise compliant fuel by potential contamination during bunkering operations or during the process of switching fuel onboard in a safe manner.
- The acceptance of the use of open-loop and/or closed-loop scrubber systems in EU waters and port areas. The current uncertainty not only jeopardises investments already made by operators, but also hampers the commissioning of future installations.
- Whilst considered as a rather medium-term option, the uptake of LNG as an alternative fuel should receive proper attention for a smooth and easy interaction between shipowners, ports and LNG suppliers. A similar approach should also be taken to allow the realistic use of any other alternative fuels (e.g. methanol).

Operational and commercial realities furthermore dictate that decisions about compliance options need to be taken well in advance of the implementation deadline. In this respect, a concrete bottleneck for retrofitting vessels with scrubber equipment may result from congestion of orders for relevant technology supply and modification slots at shipyards. This could in turn lead to speculation risks and costs and may create disturbances in tonnage availability and schedules by the end of 2014.

In general, we believe that shipowners that have made irrevocable investments in good faith to be compliant in time, but are facing some of the uncertainties and problems listed above, should be able to rely on well-defined and strictly limited transitory exemptions, such as extended compliance paths.

Finally, we must emphasise that financing alternative compliant technologies still represents a huge challenge: public financial aid comes late and is limited and financial institutions are very reluctant to cover the risk of green shipping loans.

In view of the second plenary meeting of the European Sustainable Shipping Forum (ESSF) on 26 June, we call upon Member States and the Commission to take their responsibilities in providing adequate and unequivocal answers on these outstanding points within the shortest delays possible. We reconfirm our commitment to contribute constructively to the work of the ESSF, whereby we especially focus on ways and means to ensure that shipping remains both sustainable and competitive and does not lose out to other transport modes.

We must nevertheless issue a firm warning that time is running out fast.

Sincerely yours,



Patrick Verhoeven  
Secretary General