SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand

Contrasting Annex VI Scenarios Across Tasman

Australian stakeholders appear to have preparations well in hand for the January 1, 2020 implementation of the MARPOL Annex VI regulation limiting marine fuel sulphur content to 0.5%, whereas whether to even accede or not is still being debated in New Zealand.

Australian Stakeholders Advance

Minutes from the Sixth Joint Roundtable Discussion hosted by the Australian Maritime Safety Authority (AMSA) and Maritime Industry Australia (MIAL) emphasised that the regulation would be implemented in Australia as mandated “without a transitional period/delayed enforcement”.

MIAL began that April 10 session by identifying that the roundtable meetings were being held to ensure that:

- all stakeholders were aware of the issues associated with the consistent implementation of the pending new sulphur limit
- Australian industry has an opportunity to contribute to the development of the country’s position on the implementation of this requirement, as discussed at the International Maritime Organization (IMO)
- all stakeholders have an opportunity to discuss their preparations for the new limit in an open forum

The minutes noted that measures to support the implementation of the new sulphur limit are to be finalised at the 74th session of the IMO Marine Environment Protection Committee (MEPC 74).

“This includes finalisation of guidelines to support the implementation of the regulation, fuel oil non-availability reporting and the investigation of these reports, the management of non-compliant fuel oil taken onboard a ship as a result of these reports and port State control measures to support compliance and enforcement of the new limit,” stated the minutes.

“MEPC 74 will also consider guidance on how to manage an exhaust gas cleaning system if it malfunctions and will consider a request for a new piece of work to further consider the washwater discharges from these systems.

“Outcomes of the discussions at MEPC 74 on the implementation of the new sulphur limit will be provided to the sulphur roundtable group in June 2019 and again discussed at the Seventh Sulphur roundtable meeting in July.”

Compliance of vessels coming to Australia from non-signatory countries or going to those waters from the country was also a topic of discussion.

“[AMSA noted] that due to the IMO’s principle of no more favourable treatment, ships registered to a country that is a party to MARPOL Annex VI will need to comply irrespective of where they are operating, and non-party ships will need to comply in Australian waters.

"The IMO has recognised the importance of all countries becoming a party to MARPOL Annex VI, as noted in a submission by Australia to MEPC 73, as this will ensure that a level playing field is maintained."

The minutes also confirmed that AMSA has prepared an advisory letter, which is currently being circulated to the captains of calling vessels, that outlines a list of specific items that Australian port state control officers will be checking against for compliance.

Meanwhile, Across the Ditch

However, in New Zealand, the Ministry of Transport has only recently concluded a three-month public consultation over whether the country should accede to the regulation.

If the Government does decide to accede – and an announcement is expected during the course of this month – then several formal processes would need to be completed to implement the treaty in domestic law.

Consequently, expectations are that at the earliest, Annex VI would only be able to come into force in New Zealand by the first quarter of 2021 – a year after the rest of the world.

Concerning Ramifications

Stakeholders such as the New Zealand Shipping Federation have expressed concern the New Zealand Government has not provided sufficient direction for the industry to efficiently develop a local low-sulphur fuel resource.

Operators of vessels in the domestic coastal fleet, which predominantly use fuel well within the 3.5% sulphur content standard, currently have no option but to drydock their vessels in jurisdictions such as Australia due to the unavailability of appropriately-sized local facilities. Such vessel operators will therefore have to comply with the new regulation when they travel for survey and repair to states that have acceded – this means that they must have no non-compliant fuel onboard.

Recent announcements that BP and Mobil Oil New Zealand are to both next year provide a local supply of marine fuel which meets the low-sulphur content was consequently welcomed by Shipping Federation executive director Annabel Young.

Confirming her members have already initiated their own preparations ahead of the implementation of Annex VI, Ms Young initially described the fuel companies' announcements as being "complete gamechangers". However, subsequently, she noted it has been "impossible to find out what the fuel companies mean and what they intend to supply".

Ms Young has previously observed that it is "unlikely" the firms would simultaneously supply both high and low-sulphur grades in the local market. Given the vast majority of global cargo tonnage is to be governed by the regulation, so the bulk of local marine fuel supply would therefore be expected to be the low-sulphur grade.

"Any low-sulphur fuel is almost certain to be imported from Singapore as costs to modify Marsden Point to produce this are likely to be prohibitive," said Ms Young.

"However, Refining New Zealand is still evaluating whether the supply of some 0.5% bunker fuel is possible.

"Ships and the fuel infrastructure that supplies them are long-term assets. Both ship owners and fuel companies need certainty of policy to ensure that good investment choices are made.

"Factors to be considered include assumed availability of fuels, supply infrastructure, costs and the operating requirements (such as heating and filtration) of particular engines. In some cases, decisions have already been made to operate using diesel.

"In New Zealand, there is only one grade of diesel supplied by the refinery for all users, marine and road-going. This is relatively expensive, amounting to approximately up to 50% higher cost."

Ms Young described the situation as "very complex", noting that various players in the sector were opting for different ways to comply.

"For example, we understand that the bulk of cruise vessels in New Zealand waters are going to be using scrubbers which, in turn, means that they will want the old fuel to be available well beyond January 1, 2020. International cargo vessels may choose to bunker prior to arriving here which has a flow-on effect on the supply chain for ships that want to pick up compliant fuel in New Zealand.

"It is not clear what the strategic position is of the government on all this, if they have one at all. Maybe the solution is just mixing in a bit more diesel. Is there a greater environmental opportunity being missed?"

In late April, Compagnie Maritime Marfret co-founder Bernard Vidil implored the fuel companies to provide greater visibility on how they are going to facilitate the supply of low-sulphur fuel in New Zealand

"To manufacture such a product requires US$1 billion investment per refinery," he said.

"What BP and Mobil only say is that the fuel will meet the low-sulphur cap content – period.

"Their intention to retail their new very low sulphur fuel oil (VLSFO) is not really the answer -- or it may be the answer to some of their customers with aged tramping ships!

"This is the big question – will we burn marine gas oil or VLSFO distillate-based solution or fuel oil solution? The variance between [them] is US$200 today but could reach US$500 depending on the Brent. Who is going to pay the bill?

"This question is like the hot potato leaving the owners bearing the financial and legal burden."

Additional Info

Full details on Annex VI, with additional links contained, can be found here:

An insightful article authored by MLAANZ member Bevan Marten, which ran in the August 2017 edition of *Semaphore*, can be found here (please note Mr Marten's contact details have changed from those contained at the end of that article – he can now be reached at bevan.marten@izardweston.co.nz).

GreenVoyage-2050

Meanwhile, another initiative to reduce greenhouse gas (GHG) emissions from shipping has recently been launched by the IMO in collaboration with the Government of Norway.

IMO secretary-general Kitack Lim said GreenVoyage-2050 would provide technical assistance, support technology transfer and promote green technology uptake to improve energy efficiency and reduce maritime sector emissions.

"I am particularly encouraged by the fact that the GreenVoyage-2050 project is designed with a private-sector partnership component," he said.

“This will accelerate the uptake of technology solutions by the industry.

“Another of this project’s most important aims is to spur global efforts to enhance global knowledge management and information sharing for climate action and sustainable oceans. In this time of greater connectivity and more rapid technological advances than ever before, I cannot stress enough how timely the launch of this project is.”

The Government of Norway is contributing US$1.1 million in the first two years of the project, which will initially entail eight “pilot” countries being targeted in five “high-priority regions”.

Those pilot countries are expected to serve as “champions” to the initiative – galvanising momentum by supporting other partnering countries in their respective regions to follow a similar path.

As the initiative develops it is expected that over 50 countries in 14 sub-regions around the world will participate – including developed countries and strategic partners from the private sector.

GreenVoyage-2050 forms part of the IMO’s initial strategy to support international shipping to achieve at least s 50% reduction in GHG emissions by 2050 compared to 2008 levels.

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