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28.10.2011

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 1999/32/EC as regards the sulphur content of marine fuels (COM(2011)0439 – C7-0199/2011 – 2011/0190(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Satu Hassi

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directive 1999/32/EC as regards the sulphur content of marine fuels (COM(2011)0439 – C7-0199/2011 – 2011/0190(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0439),
 - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0199/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of [...],
 - having regard to the opinion of the Committee of the Regions of [...],
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Transport and Tourism (A7-0000/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive – amending act Recital 7

Text proposed by the Commission

(7) Passenger ships operate mostly in ports or close to coastal areas and their impacts on human health and the environment are significant. Those ships are required to use marine fuel with the same maximum

Amendment

(7) Passenger ships operate mostly in ports or close to coastal areas and their impacts on human health and the environment are significant. Those ships are required to use marine fuel with the same maximum

sulphur content as is applicable in SECAs (1.5%). Given that stricter sulphur standards will apply in SECAs, it is justified by the need to improve air quality around ports and coasts in the non-SECA territories that the same standards apply to passenger ships. ***However, the introduction of a new SECA standard for passenger ships would be delayed by 5 years in order to avoid potential problems with fuel availability.***

sulphur content as is applicable in SECAs (1.5%). Given that stricter sulphur standards will apply in SECAs, it is justified by the need to improve air quality around ports and coasts in the non-SECA territories that the same standards apply to passenger ships.

Or. en

Amendment 2

Proposal for a directive – amending act Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) In order to ensure air quality benefits to the Member States whose coasts are not part of SECAs, and to establish a minimum level playing field for the sector across the Union, the same fuel quality requirement should be extended to the territorial seas of Member States and to pollution control areas outside SECAs.

Or. en

Amendment 3

Proposal for a directive – amending act Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) In addition, to address secondary particulate matter emissions caused by the sulphur content of marine fuels, efforts are needed to abate primary particulate matter and to reduce the climate impact

from shipping including due to black carbon emissions. The Commission should study the cost-effectiveness of measures such as ship speed limits in reducing pollutant emissions and climate impact.

Or. en

Amendment 4

Proposal for a directive – amending act Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In order to encourage early adoption of emission abatement methods achieving at least the same reductions in sulphur emissions as laid down in this Directive, alternatives, such as the use of on-board exhaust gas cleaning systems, should be promoted in the Union through appropriate financial incentives by Member States.

Or. en

Amendment 5

Proposal for a directive – amending act Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) Member States should also make use of mechanisms such as differentiated dues and kilometre charges based on emissions performance until the 0,50 % global requirement with respect to the maximum sulphur content of fuel enters into force.

Or. en

Amendment 6

Proposal for a directive – amending act Recital 12 c (new)

Text proposed by the Commission

Amendment

(12c) It is necessary to require Member States to apply "no special fee" policies to effluents from exhaust gas cleaning systems in ports to ensure proper care of any wastes from the use of alternative abatement methods.

Or. en

Amendment 7

Proposal for a directive – amending act Recital 12 d (new)

Text proposed by the Commission

Amendment

(12d) Any financial incentives by Member States for emission abatement methods that achieve emissions reductions which are at least equivalent to those achieved through the use of low sulphur fuel, should take account of investments made prior to 5 July 2011, provided that the equipment complies with the IMO criteria, pending the adoption of supplementary criteria by the Commission.

Or. en

Amendment 8

Proposal for a directive – amending act Recital 12 e (new)

Text proposed by the Commission

Amendment

(12e) Member States should ensure the availability and balanced distribution of compliant fuel in accordance with Regulation 18 of the revised Annex VI to MARPOL.

Or. en

Amendment 9

Proposal for a directive – amending act Recital 12 f (new)

Text proposed by the Commission

Amendment

(12f) Given the difficulties experienced by Member States in achieving air quality targets established in Union law and the gap that still exists between those targets and the recommendations of the World Health Organisation, the Commission should assist in preparing the necessary analysis for an application to the IMO for a designation of additional European sea areas as SECAs, namely in the Mediterranean, the North-east Atlantic (including the Irish Sea) and the Black Sea. The Commission should also investigate the merits of designating European sea areas as NOx Emission Control Areas.

Or. en

Amendment 10

Proposal for a directive – amending act Recital 13

Text proposed by the Commission

(13) In order ***to determine the date of the application of 0.50% sulphur limit***, to designate new SECAs, to approve new alternative abatement methods and to establish the appropriate conditions for their use, to ensure appropriate monitoring of sulphur content of fuels and the harmonized content and the format of Member States' reports and to adapt the provisions of the Directive to scientific and technical progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of ***specification of the date from which the maximum sulphur content of fuel of 0.50% by mass should apply in the Union***, designation of new SECAs on the basis of the decision of the IMO, approval of new emission abatement methods not covered by Council Directive 96/98/EC¹ and establishment, supplementation or amendment of conditions for their use, the specification of the means of sampling and emission monitoring and the content and the format of the report and the amendment of Article 2, points 1, 2, 3, 3a, 3b and 4 or Article 6 paragraph 1(a) and 2 in the light of scientific and technical progress and, where relevant, the instruments of the IMO. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment

(13) In order to designate new SECAs, to approve new alternative abatement methods and to establish the appropriate conditions for their use, to ensure appropriate monitoring of sulphur content of fuels and the harmonized content and the format of Member States' reports and to adapt the provisions of the Directive to scientific and technical progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of designation of new SECAs on the basis of the decision of the IMO, approval of new emission abatement methods not covered by Council Directive 96/98/EC¹ and establishment, supplementation or amendment of conditions for their use, the specification of the means of sampling and emission monitoring and the content and the format of the report and the amendment of Article 2, points 1, 2, 3, 3a, 3b and 4 or Article 6 paragraph 1(a) and 2 in the light of scientific and technical progress and, where relevant, the instruments of the IMO. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Or. en

Amendment 11

Proposal for a directive – amending act

Article 1 – point 2 – point a a (new)

Directive 1999/32/EC

Article 2 – point 3g

Text proposed by the Commission

Amendment

(aa) point 3g is deleted;

Or. en

Amendment 12

Proposal for a directive – amending act

Article 1 – point 6 – point a

Directive 1999/32/EC

Article 4a – title

Text proposed by the Commission

Amendment

Maximum sulphur content of marine fuels used in territorial seas, exclusive economic zones and pollution control zones of Member States, *including SOx Emission Control Areas and by passenger ships operating on regular services to or from Union ports.*

Maximum sulphur content of marine fuels used in territorial seas, exclusive economic zones and pollution control zones of Member States, *including SOx Emission Control Areas and by passenger ships to or from Union ports*

Or. en

Amendment 13

Proposal for a directive – amending act

Article 1 – point 6 – point c

Directive 1999/32/EC

Article 4a – paragraph 1a (new) – second subparagraph

Text proposed by the Commission

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 9a of this Directive concerning the date from which the sulphur standard laid down in point (b) of this paragraph applies. Based on the assessment by the IMO of the availability of marine fuel to comply with the maximum sulphur content of fuel of 0.50% by mass, referred to in Regulation 14(8) of Annex VI of MARPOL, this date shall be 1 January 2020 or 1 January 2025.

deleted

Or. en

Amendment 14

Proposal for a directive – amending act

Article 1 – point 6 – point e

Directive 1999/32/EC

Article 4a – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall take all necessary measures to ensure that marine fuels are not used in their territorial seas, exclusive economic zones and pollution control zones falling outside SO_x Emission Control Areas by passenger ships **operating on regular services** to or from any Union port if the sulphur content of those fuels by mass exceeds:

(a) 1.5 %;

(b) 0.10 % as from 1 January **2020**.

4. Member States shall take all necessary measures to ensure that marine fuels are not used in their territorial seas, exclusive economic zones and pollution control zones falling outside SO_x Emission Control Areas by passenger ships to or from any Union port if the sulphur content of those fuels by mass exceeds:

(a) 1.5 %;

(b) 0.10 % as from 1 January **2015**.

Amendment 15

Proposal for a directive – amending act

Article 1 – point 6 – point e

Directive 1999/32/EC

Article 4a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall take all necessary measures to ensure that marine fuels are not used in their territorial seas and pollution control zones falling outside SOx Emission Control Areas by any ships to or from any Union port if the sulphur content of those fuels by mass exceeds:

(a) 1.5 %;

(b) 0.10 % as from 1 January 2015.

This paragraph shall apply to all vessels of all flags, including vessels whose journey began outside the Union.

Or. en

Amendment 16

Proposal for a directive – amending act

Article 1 – point 7

Directive 1999/32/EC

Article 4ba (new)

Text proposed by the Commission

Amendment

Article 4ba

Availability of marine fuels

1. Member States shall take the necessary measures to ensure the availability and balanced distribution of marine fuels:

- where the sulphur content does not exceed 0,1 % as from 1 January 2015;

- where the sulphur content does not exceed 0,5 % as from 1 January 2018

2. Paragraph 1 shall not preclude the introduction of such measures from an earlier date.

Or. en

Amendment 17

Proposal for a directive – amending act

Article 1 – point 7

Directive 1999/32/EC

Article 4c – paragraph 3a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that port authorities include in the harbour fee or other charges any costs of reception, handling and disposal of effluents from exhaust gas cleaning systems, irrespective of whether or not wastes are delivered.

Or. en

Amendment 18

Proposal for a directive – amending act

Article 1 – point 10 – point c

Directive 1999/32/EC

Article 7 – paragraphs 2 and 3

Text proposed by the Commission

Amendment

(c) paragraphs 2 and 3 are deleted.

(c) paragraph 2 is replaced by the following:

"2. On the basis, *inter alia*, of:

(a) annual reports submitted in accordance with *paragraphs 1 and 1a*;

(b) observed trends in air quality, acidification, fuel costs and modal shift;

(c) progress in reducing emissions of sulphur and nitrogen oxides from ships through IMO mechanisms following Union initiatives in this regard;

the Commission shall, by 31 December 2013, submit a report to the European Parliament and to the Council. The Commission shall consider in its report, and may submit proposals, as regards:

- the designation of additional SOx and NOx Emission Control Areas

- alternative complementary measures to further reduce emissions from ships."

(ca) paragraph 3 is deleted.

Or. en

Amendment 19

Proposal for a directive – amending act

Article 1 – point 13

Directive 1999/32/EC

Article 9a – paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in Articles 4a(1a) and (2), 4c(4), 6(1), 7(1a) and 7(4) shall be conferred on the Commission for an indeterminate period of time from [the date of entry into force of this Directive].

Amendment

2. The delegation of power referred to in Articles 4a(2), 4c(4), 6(1), 7(1a) and 7(4) shall be conferred on the Commission for an indeterminate period of time from [the date of entry into force of this Directive].

Or. en

Amendment 20

Proposal for a directive – amending act

Article 1 – point 13

Directive 1999/32/EC

Article 9a – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Articles 4a(1a) and (2), 4c(4), 6(1), 7(1a) and 7(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Articles 4a(2), 4c(4), 6(1), 7(1a) and 7(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Amendment 21

Proposal for a directive – amending act

Article 1 – point 13

Directive 1999/32/EC

Article 9a – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Articles 4a(1a) and (2), 4c(4), 6(1), 7(1a) and 7(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the

Amendment

5. A delegated act adopted pursuant to Articles 4a(2), 4c(4), 6(1), 7(1a) and 7(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Council.

Or. en

EXPLANATORY STATEMENT

The Commission's proposal

The main purpose of the proposal is to implement the upper limits agreed in the International Maritime Organisation (IMO) in 2008 on the sulphur content of marine fuels.

This is perhaps the most important health reform in this legislative period. Air pollutants from ships are estimated at present to cause some 50 000 premature deaths per year in Europe.

The sulphur limits in Annex VI to the IMO's MARPOL Convention are 0.1% in Sulphur Emission Control Areas (SECAs) from 2015 and 0.5% in other sea areas from 2020. Countries accounting for 85% of the world's shipping tonnage have ratified these limits.

Europe's SECAs are the North Sea, the English Channel and the Baltic Sea. Both coasts of the USA and Canada have also been designated as emission control areas 200 miles in breadth. The sulphur limit in SECAs currently stands at 1%. Fuel used on the open seas may contain as much as 4.5% of sulphur until the end of 2011 and thereafter 3.5% until 2019.

Sulphur and nitrogen oxides give rise to secondary particulates in the air which are harmful to health. Reducing emissions from ships will make it easier to achieve air quality standards in a number of Member States.

If sulphur oxide emissions from ships are not reduced, these emissions in the EU's sea areas will exceed the combined emissions from the EU's land areas before the end of this decade. These emissions from land areas have been reduced by some 90% from their peak, and by 72% between 1990 and 2008.

The maximum permitted sulphur content in fuel for land vehicles is 10 ppm, 100 times less than the limit which will come into force in SECAs from 2015.

In line with what has been agreed within the IMO, it would also be possible to reduce marine emissions in an alternative manner. Flue gases may be cleaned with scrubbers, which act on the same principle as the devices which have been in use for decades now to clean sulphur oxides from flue gases emitted by land-based factories and power stations. Liquefied natural gas (LNG) may also be used.

All these methods for reducing sulphur oxide emissions also reduce nitrogen oxide and black carbon (soot) emissions. Nitrogen oxides cause not only atmospheric pollution and acid precipitation but also eutrophication in water and land areas, while black carbon is a warming agent.

It is estimated that using flue gas scrubbers will bring down the cost of reducing emissions by at least half if the ship is mostly travelling in SECAs. It is estimated that LNG will come into widespread use as fuel for new ships as and when the necessary fuelling infrastructure becomes widespread in ports.

According to the Commission's estimate the monetary value of the health benefits that can be achieved exceeds the costs of reducing marine emissions by a factor of between 2 and 25. The Commission estimates the monetary value of the health benefits at EUR 8 to 16 billion and the cost at EUR 0.6 to 3.7 billion.

The monetary value of the environmental benefits has not been estimated, but in Finland, for example, acid precipitation would fall by 60% from present levels.

The current directive on the sulphur content of marine fuels contains, over and above the limits agreed earlier in the IMO, sulphur limits for ships in port (0.1%) and for vessels engaging in regular passenger transport (1.5%). The last-named of these is the same as the first limit for SECAs agreed upon in the IMO.

The Commission proposes that the new 0.1% sulphur limit for SECAs should also apply to all passenger vessels regularly entering any EU ports, but this limit would enter into force in 2020.

Rapporteur's proposed amendments to the Commission proposal

The rapporteur welcomes and supports the main thrust of the Commission's proposal, and stresses that the limits agreed in the IMO will enter into force at any rate, even if no directive is enacted. However, the directive could clarify and standardise the implementation and monitoring within the EU of the limits agreed in the IMO, level the playing field for competition, facilitate the transition stage and encourage innovations.

By switching to more stringent sulphur limits, it would be possible to achieve significant health and environmental benefits in a cost-efficient way by implementing the 0.1% limit more widely than just in Europe's existing SECAs.

So the rapporteur supports the Commission's proposal that the 0.1% sulphur limit should be extended to vessels engaged in regular passenger transport. However, the rapporteur proposes that the limit should come into force in 2015, at the same time as in the SECAs.

The rapporteur also proposes that the 0.1% sulphur limit should apply to all territorial waters of EU Member States up to 12 nautical miles from their coasts. In other words the limit currently applicable in EU ports would be extended to territorial waters.

These amendments would make it possible to achieve significant health and environmental benefits and would also create a level playing field as regards the cost impacts of reform.

In those EU Member States whose coasts lie wholly or partly within SECAs the proportion of sulphur oxide emissions accounted for by shipping is as follows: Denmark 39%, Netherlands 31%, Sweden 25%, UK and France 18% and Belgium 13%. However, several countries outside SECAs also show a high proportion: Ireland 21%, Portugal 20%, Italy and Spain 15%. The proportion for several Mediterranean islands and coasts is over 20%, in some cases over 30%.

The rapporteur proposes that the Commission should explore, by the end of 2013, the establishment of new emission restriction areas in European sea areas as well as methods for further reducing emissions, should report on this to Parliament and the Council and should make proposals for possible new sulphur and nitrogen oxide emission control areas.

Because during the transition period some operators will have to bear significant additional costs, particularly in the case of journeys undertaken mainly or largely in SECAs, the rapporteur proposes that the use of state aid for investment should be facilitated. Normally the upper limit on state aid is 10% for environmental investments made less than three years before the measures become compulsory.

The rapporteur proposes that in this case more state aid should be permitted until the end of 2013. This is justified because reducing marine emissions is a major economic benefit for the public sector owing to the accompanying reduction in health expenditure. This would also help to set in motion the market in flue gas scrubbers.