

KISH P & I LOSS PREVENTION CIRCULAR KPI-LP-132-2013
(Implications of burning inappropriate fuel in EU ports)

EU Directive ([1999/32/EC](#)), covering the sulphur content of marine fuels, was amended in 2005 ([2005/33/EC](#)). As of 1 January 2010, ships berthed in a European Union (EU) port must use marine fuel with a sulphur content not exceeding 0.1% by mass (Article 4b(1)). The Directive also states that sufficient time must be allowed for the crew to complete any fuel changeover operation as soon as possible after arrival at berth and as late as possible before departure. Ships that, according to published timetables, are due to be at berth for less than two hours are exempted from the requirement (Article 4b(2)). The Directive was amended again in 2012 ([2012/33/EC](#)), bringing EC legislation in line with MARPOL Annex VI on the requirement for the use of low sulphur fuels, and the current EU requirements can be summarised as follows:

Type of ship:	Max fuel sulphur content outside SO _x ECAs ¹	Max fuel sulphur content inside SO _x ECAs
a) All ships excluding b) and c) below	3.5% from 18 June 2014 0.5% from 1 Jan 2020	1.0% until 31 Dec 2014 0.1% from 1 Jan 2015
b) Passenger ships on regular services ² to/from EC ports excluding c) below	1.5% until 1 Jan 2020 0.5% from 1 Jan 2020	Same as above
c) Ships at berth in EC ports	0.1%	0.1%

From time to time Members and clients contact Gard to ask for advice when a ship has been fined for burning non-compliant fuel in an EU port. Gard has recently been notified of three different cases where ships have been fined for alleged breaches of a state's national legislation concerning sulphur content of marine fuels used in ports.³

- Case A: A ship at an outer anchorage, waiting for a load berth, did not perform a fuel changeover operation. However, the authorities still considered the ship's position to fall under the regulatory definition of 'at berth'⁴ because it was securely anchored inside the port limits and providing crew with accommodation and associated services (hotelling).
- Case B: A ship arrived in port without having compliant fuel available on board. Although low sulphur fuel had been ordered well in advance and was to be delivered immediately upon arrival in the port, bad weather prevented the bunker barge operations and the ship was not able to complete its fuel changeover operation within what was considered a "reasonable time" by the authorities.
- Case C: A ship completed its fuel changeover operation immediately after berthing, but upon inspection by the local authorities, it was discovered that the delivery note for the low-sulphur fuel being consumed in port only indicated that its sulphur content was less than 0.4% - and no fuel samples had been analysed upon delivery to establish if the fuel's actual sulphur content was exceeding 0.1% or not.

After more than three years in operation, shipowners and operators calling at EU ports should be fully conversant with the applicable regulations. However, given that there may be differences in enforcement, even within member states, recent cases indicate that Members and clients should continue their focus on providing crew with proper instructions on the purchase and use of low sulphur fuels. The following should be noted:

- The requirements for fuel changeover contained in the EU Directive apply from the moment the ship is securely moored or has anchored in port, but since the Directive does not contain a common definition of 'port', the delimitations of each port are established locally. Ships intending to burn high sulphur fuel at outer anchorages within EU ports should therefore, for each individual port call, seek the advice of their agent as to whether or not a specific anchorage falls within 'the port' for the purposes of sulphur emission compliance.
- Guidance on the term 'sufficient time' for the crew to complete fuel changeover operations may vary within member states, e.g. UK authorities will in general consider one hour to be sufficient time to complete fuel changeover operations but recognising that the time may vary depending upon ship type and ship systems (ref. MCA's [MGN 400 \(M+F\)](#)).
- Authorities are likely to expect a ship to have compliant fuel onboard on arrival at the berth and will not accept additional delays in the changeover operation caused by time spent procuring and taking delivery of compliant fuel after berthing.

Useful clarifications are also provided in the EU document: "[Questions and Answers on the use of fuel containing not more than 0.1% sulphur in ships while at berth](#)".