



Take your own bunker samples – they are a vital piece of evidence

Bunker quality disputes are not uncommon. The parties often agree to jointly test a sample to determine if the fuel supplied was on-specification or not, and the result is binding on the parties. Even in the absence of an agreement, bunker samples will be relevant evidence that may help to resolve a dispute one way or another. The question then arises: which samples will be used for testing – the one taken on the bunker barge or the one from the receiving ship's manifold?

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An owner wishing to use a manifold sample may discover that either no such samples were taken or that if they were taken the seal numbers were not mentioned on the Bunker Delivery Note, which allows their validity to be disputed.

The problem

Sampling

It is important to draw a distinction between a MARPOL sample and other samples, i.e. commercial samples. The sampling location of the MARPOL sample is [regulated](#) , whereas for the commercial sample it is not. It is therefore left to the parties to decide on the location of commercial samples.

A bunker supplier will probably want to take samples from the barge whereas a shipowner would generally prefer for the bunkers to be sampled from the receiving ship's manifold as there may be concerns about the barge samples not being representative. Gard has handled cases where the barge samples have failed the test for finger printing, i.e. they were not representative of the fuel actually bunkered. Moreover, due to local restrictions imposed in many ports following the Covid-19 outbreak, the problem has been exacerbated as bunker suppliers are even more insistent that the samples be taken from the barge as they are unable to witness the sampling process on the receiving vessel. A time charterer may also prefer to avoid agreeing to use receiving ship's samples, because of the difficulty persuading bunker suppliers to use them.

Bunker Delivery Note (BDN)

The commercial relevance of samples being recorded in a BDN is that there is a clear and joint record of what was taken, if not necessarily from where, and the underlying contracts may well restrict relevant samples to those so recorded.

There are no IMO regulations which mandate that seal numbers must be inserted in the BDN. There are recommendations contained in MEPC.182(59) and MEPC.1/Circ.875/Add.1. However, MEPC.182(59) refers only to MARPOL samples and states "*to facilitate cross-reference details of the seal, identification may also be recorded on the bunker delivery note*" , whereas latter caters to all samples and is more strongly worded and states "*details of the sample seals should be recorded on the bunker delivery note*" .

Guidance documents and international standards for commercial samples

The IMO has [published a guidance document](#) on best practice to be followed by suppliers. It states that the samples are to be taken at the receiving ship's manifold. In addition, there is also ISO Standard 13739 but there are different versions of it with different requirements on the sampling point. Which version applies will depend on the version of ISO 8217 standard being used:

- ISO 8217:2005 applies ISO 13739:1998, wherein it is stated in Cl.10.4.3:for practical reasons, the preferred sampling location is at the bunker tanker's end of the delivery hose...other sampling locations such as the vessel's end of the delivery hose may apply, if mutually agreed between the contracting parties.
- Position is slightly different in ISO 8217:2010 which applies ISO 13739:2010. Clause 9.2.2 states:"A single sample shall be drawn continuously throughout the delivery, from either end of the bunker hose, using an automatic sampler or a continuous drip sampling device. The guidelines for the sampling of fuel oil for compliance with Annex VI of MARPOL 73/78 are for the sample to be drawn using a sampling device at the receiving vessel's inlet bunker manifold."
- ISO 8217:2017 applies ISO 13739 with no year mentioned. ISO 13739:2020 (or a later version, whenever it is published) will apply in such circumstances. The 2020 version requires representative samples to be taken at the receiving ship's manifold, in the absence of any local port state requirements to the contrary.

Recommendations

- **Contractual:** It is important to understand the difference between the various versions of ISO 13739, and ensure you apply one that suits your needs. This is best achieved by a dialogue between owners and charterers. Our recommendation is to incorporate the 2020 version.
- **Discussions before bunkering:** Before each bunkering operation clarify with the charterers and bunker barge/suppliers on sampling practices. If there are disagreements, seek instructions. Intertanko has prepared a checklist on [Bunker Suppliers' Responsibilities](#) which makes reference to location of sampling and members can consider including it in the bunker procurement instructions. Also, through local agents, owners should try to obtain information on local regulations/practices related to bunker sampling in that port.
- **During and after bunkering:**
 - **Number of samples to be taken:** It is recommended that at least five samples are taken. Three should be for the receiving vessel (one for MARPOL, one for fuel testing programme and one for retention), the fourth should be given to the bunker supplier and the fifth may be held by a responsible independent party, such as a bunker surveyor, for safe keeping and reference in case of a dispute. For guidance on sealing, labelling and storage of bunker samples please refer to IMO's '[2009 Guidelines for the Sampling of Fuel Oil for Determination of Compliance with the Revised MARPOL ANNEX VI](#)'.
 - If the bunker barge is not following best practice on taking representative samples, charterers must be notified immediately. Irrespective of this, the crew of the receiving ship should take their own samples and seal them.
 - Attempts should be made to enter the seal numbers on the BDN. Also, photographic/video evidence should be maintained as evidence to show that the receiving ship followed the best practice, as also identified by IMO in MEPC.1/Circ.875. It can be shared with charterers if needed.
 - **Protests by the ship's crew:** If the vessel is being asked to sign a BDN that does not conform with the pre-agreed arrangements, seek instructions. If there is absolutely no choice but to only take samples at the barge's manifold or the receiving ship's crew is unable to enter the seal numbers of own samples on the BDN, a letter of protest is a good way to establish evidence for later on. Owners should also inform the charterers that owners do not accept that they are bound by the barge's samples.
 - **Notifying the authorities:** Vessels are encouraged to report to non-compliances, e.g. MARPOL sample not taken from the receiving ship's manifold, to the Flag State and Port State so that information can be uploaded to [IMDGISIS](#) platform.

Gard publications and IMO circulars

- Poster: [Gard Poster Fuelsample LowRes.pdf](#)
- Case study: [Case study Importance of checking BDN before signing.pdf](#)
- Insight: [Bunker supply contracts – key considerations for the buyer](#)
- Insight: [Contaminated bunkers: protecting the purchase](#)
- Loss Prevention Circular: [05-11%20Bunker%20sampling.pdf](#)
- MEPC.1/Circ.875: Guidance on best practice for fuel oil purchasers/users for assuring the quality of fuel oil used on board ships
- MEPC.1/Circ.875/Add.1: [Guidance on best practice for fuel oil suppliers for assuring the quality of fuel oil delivered to ships](#)
- MEPC.1/Circ.884: Guidance for best practice for Member State/coastal State

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