

# Q&A Policy rule on fuels

## **1. What is the policy rule on the quality requirements for fuels intended for export to low and middle income countries?**

Fuels produced in the Netherlands that are intended for use by road traffic in Europe (i.e., including the Netherlands) have to meet strict requirements to prevent excessive air pollution. A significant share of the fuels produced in Dutch terminals are exported to low and middle income countries outside Europe. These fuels, too, must be of sufficient quality. The Human Environment and Transport Inspectorate (ILT) therefore introduced a policy rule, which has entered into force on 15 August 2022, limiting the benzene, sulphur, and manganese contents in such fuels.

## **2. Why was this policy rule introduced?**

According to the ILT, fuel producers, by producing fuels of insufficient quality, failed to meet their duty of care with respect to substances and mixtures as laid down in [Section 9.2.1.2 of the Wet Milieubeheer](#) (Dutch Environmental Management Act, only in Dutch). The ILT is authorised to enforce this duty of care. The basic principle of the policy rule is that companies have to make efforts to prevent the negative consequences of their actions for the health of humans and the environment. By introducing this policy rule, the ILT specifies how companies can comply with their duty of care. Companies are, however, free to prove they produce and export fuel in a socially responsible manner in any other way.

Together with Belgium, the Netherlands is the largest exporter of petrol to West African countries. These exported fuels contain substances in quantities that are immediately harmful to human health and that pollute the environment. Moreover, a 2021 study by the ILT has proven that the harmful substances in fuels damage the catalytic converters of vehicles, causing even greater negative consequences for human health and the environment.

## **3. What are the compliance results?**

Ever since late May in 2023, all companies operating from the Netherlands comply with the policy rule. This means that the motor fuels exported to low and middle income countries are of a more environmentally sound quality. The sulphur, benzene, and manganese additive contents have significantly decreased compared to the situation before 15 August 2022, when the policy rule entered into force.

## **4. What are the results for the environment and human health?**

Fuels of an improved quality are now more often being used in low and middle income countries. This has a positive effect on humans and the environment. Together with Belgium, the Netherlands is the largest producer and exporter of petrol for use by road traffic in West African countries in the world. Over half of all petrol imported into West Africa originates from the ARA (Amsterdam, Rotterdam, Antwerp) zone. This means that this measure by the ILT has a major impact.

## **5. Are companies currently taking their responsibility?**

Ever since late May in 2023, all companies operating from the Netherlands comply with the policy rule. However, the ILT does receive signals that companies evade the policy rule by producing low-quality fuels in other countries and/or by blending fuels at sea. The ILT investigates such signals whenever within its powers and calls on foreign supervisory authorities where necessary and possible. The Dutch focus on achieving a level playing field remains important to prevent a waterbed effect.

The ILT also finds that various fuel traders add other metallic additives to petrol intended for export, instead of manganese. So far, these companies have been unable to submit an impact analysis showing that these additives are safe for humans and the environment to the ILT. The ILT is itself studying the consequences and will take action if it finds that this constitutes a violation, for example if it turns out that blending these additives leads to disproportionate risks for humans and the environment.

In short: Proper compliance within the Netherlands is not a guarantee that all companies operating from the Netherlands proactively and globally practice national and international corporate social responsibility. Supervision, enforcement, and promoting a level playing field continue to be necessary.

#### **6. How does the ILT wish to promote a fair international playing field?**

The ILT shares information about possibilities to realise a level international playing field within the Benelux Union with the Ministry of Infrastructure and Water Management.

In addition, the ILT liaises with authorities in West Africa, including those of Nigeria. Nigeria is the biggest buyer (importer) of petrol from the ARA zone. It is important that the ECOWAS Directives on the harmonisation and improvement of the quality of (imported) fuels and vehicles are implemented. The step taken by the ILT forms an incentive for West African authorities to implement the ECOWAS Directives in national legislation. Other African regions have by now overtaken West Africa and have reduced sulphur contents, or will do so.

In addition, the ILT is in consultation with other exporting countries, like Norway, France, and the US. Norway and France are among the countries that have implemented a statutory duty of care.

#### **7. What are the ECOWAS Directives about?**

ECOWAS is the union of West African countries. The governments of ECOWAS countries are empowered to adopt ECOWAS directives that are then to be implemented by the Member States into their national legislation. In order to improve the quality of fuels so as to prevent air pollution, a directive was adopted in 2020 including the introduction of a maximum sulphur content of 50 ppm, a benzene content of no more than 1%, and levels of manganese and iron that make the use of metallic additives virtually impossible. Both high sulphur contents and high metal contents undo the effects of emission-reducing technologies (catalytic converters). The benzene content has been limited to prevent excessive exposure to this carcinogenic substance. Older cars, such as make up the vehicle fleet in many African countries, emit more benzene than newer cars do. As a result, limiting the benzene contents in petrol is even more important when it comes to African cars.

#### **8. Will the ILT continue monitoring the industry?**

The ILT will continue monitoring the quality and collects monthly overviews of fuel quality by the oil companies working from the Netherlands. In case of violations of the policy rule, the ILT takes enforcement action. Earlier in 2023, the ILT found that one oil trader deliberately produced petrol batches with excessively high benzene contents. The ILT has shared this information with the Openbaar Ministerie (Public Prosecution Service) in accordance with the Landelijke Handhavingsstrategie Omgevingsrecht (LHSO) (National Enforcement Strategy for Environmental and Planning Law). In addition, the ILT has informed Dutch and foreign banks that have clients active in the industry about the policy rule. Banks must, in the framework of the anti-money laundering policy, ensure that they do not fund activities contrary to regulations, including the policy rule.

#### **9. What is the ILT's view on potential market losses?**

The ILT expects companies to first and foremost take their social responsibility as producers. Improving the quality of these fuels also contributes to the active role the Netherlands wishes to play on the international stage with respect to the energy transition and climate policy. In addition to improving the quality of these fuels intended for export, the Ministry of Infrastructure and Water Management also promotes competition on an equal footing. Consultations are being held in this connection.

By implementing this policy rule, the Netherlands is taking its responsibility as an exporting country towards improving the fuel quality in West Africa. Belgium in early November 2023 announced it is preparing a Royal Decree. The ARA (Amsterdam, Rotterdam, Antwerp) zone is the largest supplier of petrol to West Africa. The introduction of similar regulations in Belgium will, given the size of the export from the Port of Antwerp and the shift in petrol exports from the

Netherlands to Belgium, significantly contribute to a European level playing field and improved fuel quality.

**10. What are the next steps to be taken by the ILT?**

The inspectorate will continue to monitor the market and help realise a level playing field. Following the publication of the policy rule, the ILT started closely monitoring compliance with this rule by oil companies and traders operating in the Netherlands. On that basis, the ILT set up its supervision activities in accordance with the LHSO. One of the possible measures the inspectorate can take in case companies do not adequately fulfil their duty of care is imposing an order subject to a penalty for noncompliance.