

Ministry of Transport,
Public Works and Water Management

Directorate for Transport Industry

To
International Commission on Shipping
Attn. Mr. Peter Morris
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Subject	
Submission on Quality Shipping	

Dear Mr. Morris,

I have been informed about your efforts and initiatives to promote quality shipping and your invitation for a submission to the International Commission on Shipping. I do appreciate the substantial work of the Commission and I wish it success in its efforts.

Since we organised the two Mare Forum conferences on quality shipping, I know that much is still to be done before our objective will be achieved and that, inevitably, much will still be left for further discussion and action, before the persistent phenomenon of substandard shipping will be eliminated. We should however be persistent in our efforts to seek ways to promote quality shipping and to reward quality operators, while simultaneously expanding our measures against substandard operators.

In this connection it gives me pleasure to submit to your Commission some ideas and some possible elements which in our opinion could be instrumental in achieving our goals. Surely, these ideas and elements have to be further elaborated and developed into practical measures.

I realise that that there still is a long way to go, but I hope that this submission will be of some help to your Commission and that it will positively contribute to the international discussions on quality shipping.

Yours sincerely,

THE DIRECTORGENERAL FOR FREIGHT TRANSPORT,

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SUBMISSION

Introduction

Quality shipping as a concept has been on the agenda for some years now. Governments and the industry have been working on ways of improving quality in shipping. Nevertheless, substandard shipping still exists and up to now there is no coherent package of measures to eliminate this phenomenon effectively. One of the underlying problems of substandard shipping is that the economic rationality of today's shipping market does not favour quality.

The industry and its related sources are under extreme commercial pressure and in an over-competitive environment some are tempted to cut corners in an irresponsible way. In some cases, this has led to poorly-maintained ships, manned with ill-trained crews.

Unfortunately, when it comes to operating costs, substandard operators enjoy a substantial advantage over operators who meet the international standards in force.

At the same time however, the immense costs, incurred when vessels and lives are lost and harm is caused to the marine environment, are borne by others and not by the substandard operator.

Therefore, our concern is that substandard shipping not only poses an unacceptable threat of harm to the marine environment and to the safety of lives at sea, but it also creates an unacceptable distortion in competitiveness between those who meet the international standards in force and those who do not.

All efforts should therefore be made to promote quality shipping and to eliminate the practice of substandard shipping.

In this submission some ideas are expressed and some elements are indicated, which in the opinion of the Netherlands Administration, should be further elaborated and possibly be developed into practical measures which would enhance quality shipping.

Regulations and enforcement

At present, when a disaster happens, there is an unfortunate tendency to focus corrective measures in promulgating more regulations. At Mare Forum it was indicated that in practice, there are so many regulations and requirements that no ship in the world could realistically be expected to comply with all of them. Besides the non-compliance of the regulations an other problem of the present regulatory system is the controllability. Regulations should be drafted in such a way that they bear it sufficiently in themselves to be controllable in an objective way by third parties. Unfortunately, too many fail to do that.

As a proactive measure one could think of a thorough review of IMO's regulations bearing in mind less prescriptive details, more output-performance directed, better controllability, more holistic approach (total safety performance and incorporation of economic effects). More emphasis should lie on reviewing existing rules in stead of considering new rules. A Mare Forum Working Group under chairmanship of Gerrit Dubbeld, the director of Transport Safety is addressing this issue.

The concept of self regulation could be introduced. At the Mare Forum Conference there seemed to be unanimous agreement that a better balance could be achieved between regulation and self-regulation. It was recognised that there is a role for self-regulation in the shipping market. Especially because the regulatory regime did not achieve everything it set out to do, either because it was too prescriptive, it eliminated the scope for initiative, or it was not universally enforced and complied with. Government and industry are both, in their own different ways, responsible for that.

Self-regulation can offer major incentives to high quality operators. Solutions can be tailored to the specific needs and characteristics of a company based on defined safety and quality standards.

As regards enforcement, the relationship between flag State Administrations and classification societies should be reconsidered thoroughly.

Firstly, as a means against flag-hopping, flag States should not be allowed to accept a ship under their registration without a thorough inspection.

The change of flag obligations under UNCLOS Article 94 (4) (a), stipulate that each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor. It is also important that clear rules be established on the scope of these surveys and that a harmonised inspection scenario is followed by both flag States and classification societies.

An other element which could be considered is the further enhancement of the co-operation between IMO and the (associated) recognized classification societies in the field of the statutory work which is carried out by those organizations under the responsibility of the flag State. A monitoring system IMO-IACS does already exist, but a closer co-operation between IMO and IACS becomes more relevant looking at the trend that more and more maritime administrations (developed or developing) are delegating their statutory surveys, other field work and approval of drawings to the said societies.

Furthermore, the system through which classification societies are paid should be reconsidered, as a means against 'class-hopping'. Perhaps, they should no longer be paid by the ship owner, but rather by insurers (or flag States). Also, classification societies should be obliged to report to IMO whenever a flag State for which the Society is acting, falls below the standards laid down in IMO Resolutions A.739 and A.789.

Dictated by the need for an efficient and effective use of its capacity the Dutch Shipping Inspectorate developed a ranking system. The meaning of this is to make the inspections dependent on the performance of the ship manager. The introduction of the ISM code perfectly fitted in this development. The benefit of a well implemented ISM system should mean fewer inspections and an ISM system only on paper should be punished by withdrawing the Document of Compliance. In this ranking system performance indicators are used, based on all ships of the ship manager. The parameters in the system are empirical established so that it can be tuned in accordance with the experience of the experts. Four gradations are used to translate all kind of deficiencies. A ship manager can earn points to illustrate its performance and the number of points is used to place the ship manager into an inspection category. These inspection categories are the steering instrument for the inspection capacity and may become an economic incentive because of less inspections and marketing of good performance.

Market forces and economic incentives

Consorted action of bona fide forces of both Governments (i.e. the flag State Administrations) and the other players in the maritime industry is needed. These consorted actions should be based on a truly transparent demonstration that each party is living up to its obligations under international law for safety, marine environment protection, certification and quality of ship manning (IMO-rules), as well as the working and living conditions of ships' crews (ILO-rules).

Rules and regulations cannot alter the economic factors that lead to substandard shipping. What is needed is not an exclusive focus on more legislation, but a policy which comprises a coherent package of initiatives to alter the economic rationality within the industry. Such a package should make use of market forces to penalise substandard shipping and promote quality. Such an approach involves a new and quite different relationship between governments and industry. Of course, governments will retain their responsibilities as flag states. But they cannot alter the economic rationality within the industry single-handed. What is needed is close co-operation between government and industry at the policy-making stage, and an active role by the industry in creating a culture of safety.

The industry does not only comprise ship owners. Ship owners are part of a network that includes shippers, brokers, classification societies, banks and insurers. Each bears a responsibility not only for reducing substandard shipping but also for actively promoting a culture of safety and creating economic incentives that favour quality operators. The Maritime Industry Charter, signed by many parties in 1999, provides a basis for such co-operation. Co-operation between quality operators may lead to better exchanges of information and more transparency. And to a more uniform interpretation of international regulations. The result will be more opportunities for developing mechanisms for self-regulation in the industry.

Transparency

Transparency is important because it is essential for the industry to have clear and objective means to distinguish quality shipping from substandard shipping. This is also needed for control purposes and for penalising the trespassers, since users of substandard shipping can then no longer hide behind the cloak of ignorance.

But the information has to be relevant, easily accessible and up-to-date. EQUASIS is a valuable step on the road to more transparency.

Transparency and enforcement are both effected by a lack of genuine link. The Netherlands is currently considering national legislation which lays a strong emphasis on the genuine link. A new Registration Act is now under consideration by Parliament which regulates that a company, for obtaining the Dutch flag, needs to effectively manage and control his ship from an establishment in the Netherlands. This makes it possible to effectively exercise the flag States jurisdiction and control in administrative, technical and social matters over ships flying the Dutch flag.

Safety culture

Regulatory regimes for safety and environmental protection typically progress through three interrelated phases.⁸ Over the course of this progression, certain aspects of the earlier phase are typically retained. The ideal situation in which the companies have embedded a safety culture is the last phase.

The first phase assigns accountability when safety failures result in injury, property, damage, or pollution, frequently assigning blame to the last person in the chain of events. This results in a culture of punishment, with the goal of influencing company and individual behaviour in favour to safety due to the threat of punishment.

The second stage involves following a set of prescriptive rules and regulations, which is designed to attack known hazards before a actual harm occurs. This phase leads to a culture of compliance, where compliance with rules at minimum cost may become an end in itself, instead of a means toward achieving safety. Of course, non-compliance with rules would provide an even greater cost advantage.

The third and most advanced stage is the creation of a culture of self-regulation of safety, also commonly referred to as a safety culture. Most safety cultures are based on the core belief that all accidents are preventable. The safety culture progresses beyond mere following of externally imposed rules. Continuous improvement and reduction in frequency and severity of accidents become the responsibility of management and all employees.

In this third stage a confidential or anonymous incident reporting and assessment system could make a significant contribution to a culture of safety, transparency and openness.

Conclusion

A framework which reflects a changing attitude towards regulation can't be build overnight. The current system has to be slowly rebuilt and economic incentives have to be introduced to all market-players to perform according to modern quality standards and help bring about a safety culture within companies and their management. Commitment of the management of the shipping industry is needed because substandard operations can only be banned if there is no distance between intent and full implementation of measures. A holistic approach, which embraces the consideration of economic, ecological, environmental, safety and human issues is the most successful approach. Only thus market forces are immanently stimulated to behave in such a way that the ecology, environment, safety and human being are protected.

Enclosures:

- Conclusions of the Mare Forum 1999 Conference.
- Speeches by the Netherlands Minister of Transport at Mare Forum 1999 and at the Shipping Risk Management Forum 2000.
- Speech by Ger Nieuwpoort at Mare Forum 1999 and at the Shipping Risk Management Forum 2000.

¹ Record of Proceedings. Mare Forum 1999.

² Economic Incentives for Quality Shipping. Clarkson Research Studies. November 1999.