

SUBMISSION BY THE AUSTRALIAN MARITIME SAFETY AUTHORITY TO THE INTERNATIONAL COMMISSION ON SHIPPING

INTRODUCTION

The Australian Maritime Safety Authority (AMSA) is the national safety agency tasked with the primary role in maritime safety, protection of the marine environment and aviation and marine search and rescue.

Over the last decade, AMSA has been actively involved in both international and national initiatives to improve the safety of ships and in doing so the protection of the marine environment. These activities have focused on a number of key areas, including:

- Improving flag State responsibility and accountability;
- Expanding port State control regional cooperation, better targeting of ship inspections and developing positive incentives for superior safety performance;
- Promoting a maritime industry safety culture that places a greater emphasis on the human element in ship safety;
- Improving the regulatory framework; and
- Broadening responsibility for safety outcomes along the transport chain to include charterers and cargo owners, classification societies and the insurance industry;

1. IMPROVING FLAG STATE RESPONSIBILITY AND ACCOUNTABILITY

The United Nations Convention on the Law of the Sea (UNCLOS) defines both the rights and responsibilities of flag States. Whilst a flag State has the right to freedom of navigation on the high seas, it also has a responsibility to implement internationally agreed ship safety and pollution prevention standards.

Although a flag State has the right to innocent passage for its ships voyaging through another country's territorial waters, it has a corresponding obligation to obey the laws of the coastal State relating to safe navigation and protection of the marine environment.

AMSA has been actively involved in addressing issues associated with the lack of will and/or competence of some maritime administrations to implement and enforce the existing international regulatory framework.

Australia strongly supported the establishment of the Flag State Implementation Sub-Committee (FSI) by the Maritime Safety Committee of the International Maritime Organization (IMO) in 1993 and has worked hard with like-minded nations since then to promote its key objective to improve the consistent and effective global implementation of IMO instruments.

The need for performance criteria was recognised from the outset as being an important element in the quest to improve flag State accountability. This eventually resulted in the development of assessment criteria and performance indicators using a holistic approach in a bid to ensure that a totally balanced picture of each flag

State's performance could be obtained, irrespective of the different national characteristics of individual administrations.

Australia supports the reporting of flag State performance to the IMO using the self assessment process based on these criteria and indicators. This approach is seen as a first step on the path to comparison and benchmarking of performance between individual flag States.

In the meantime AMSA continues to work with countries sharing this view in progressing any reasonable measures aimed at ensuring that flag States meet their full responsibilities.

Nevertheless, AMSA recognises that despite the steady progress in the area of Flag state implementation, reliance on this as an adequate protection against sub-standard shipping is clearly unlikely to ever be achieved. Indeed whilst we continue to regard this as an essential underpinning for international regulation of the shipping industry, it is clear we will continue to rely upon a suite of measures to identify and isolate substandard operators and ships.

2. PORT STATE CONTROL

Overseas flagged ships carry out more than 98% of Australia's international shipping task, so consequently port State control (PSC) is used extensively by AMSA to help combat sub-standard ships, promote maritime safety and protect the marine environment.

Expanding port State control regional cooperation

Australia has been fully supportive of the IMO's invitation to establish arrangements for regional cooperation to improve the effectiveness and efficiency of PSC activities. The sharing of information and expertise in ship inspections has generally been found to assist the raising of standards and improvement of existing training practices.

The ultimate aim is to achieve a global network of inter-connected regional arrangements that will reduce the ability of substandard shipping to escape PSC inspection right around the world.

AMSA represents Australia on two such regional bodies:

- The Asia-Pacific Memorandum of Understanding on Port State Control; and
- The Indian Ocean Memorandum of Understanding on Port State Control

Asia-Pacific Memorandum of Understanding on Port State Control (A-P MOU)

AMSA helped to initiate discussions on establishing the A-P MOU in 1992, funded and operated its interim secretariat in Melbourne until April 1994, assisted in developing its IT network, provided training in PSC techniques to member administrations and actively participates in, and currently chairs, the A-P MOU PSC Committee.

AMSA has provided lecturers for training courses in Indonesia, Japan, Fiji, China, Thailand, and Singapore. It has also provided advice to A-P MOU member countries on appropriate infrastructure to undertake effective PSC programs.

An important issue for the A-P MOU PSC Committee has been the wide variation in technical expertise and administrative capabilities of the MOU's member administrations in performing PSC inspections. The success of the MOU depends on achieving uniformity in inspection standards and procedures throughout the region. AMSA has substantially contributed to projects aimed at improving standardisation and effectiveness of these regional inspection programs, most recently by assisting with:

- The development of guidelines for undertaking port State control inspections for compliance with the International Safety Management (ISM) Code;
- The implementation of concentrated inspection programs to focus on particular safety aspects, such as ISM compliance and the requirements of the Global Maritime Distress and Safety System (GMDSS).

The MOU also encourages its member administrations to improve their flag State performance. In 1999, the PSC Committee approached five flag State administrations, which are members of the A-P MOU, about the relatively high average detention percentages of their flag ships compared to the A-P MOU average and offered assistance to improve their flag State performance.

Indian Ocean Memorandum of Understanding on Port State Control (IOMOU)

The IOMOU became functional in April 1999 and Australia, on behalf of the IOMOU PSC Committee, submitted its first annual report to the IMO in early 2000.

The Indian Ocean region has a significant amount of shipping activity and the members of the IOMOU have a demonstrated commitment to improve ship quality within the region.

Attention to date has focused on development of the Indian Ocean Computerised Information System to facilitate recording and exchange of ship inspection information between member administrations with the intention of promoting greater efficiency in the conduct of PSC inspections. AMSA will continue to provide assistance wherever possible to help develop the effectiveness of the IOMOU in improving PSC in this important part of the world.

Measures to Improve Port State Control Effectiveness in Australia

AMSA operates an active and rigorous PSC inspections program on behalf of Australia with improvements being made on a continuing basis. Some of the more recent examples include:

- The introduction of a specialised training program for AMSA ship surveyors together with an internal audit program for ship inspections to ensure national

consistency and uniformity in approach. Reports from the audit program provide feed back into areas of focus for the training program;

- Improved data base management to provide access for AMSA ship surveyors to the latest information supporting ship inspection programs;
- Exchange of ship inspection data with neighbouring countries and other interested parties. AMSA provides access to its ship inspection data and, in turn, has access to other ship vetting systems, including those of non-Government bodies - such as the Ship Inspection Report Exchange (SIRE) operated by the Oil Companies International Marine Forum (OCIMF);
- Adoption of a quality management system in preparation for certification to ISO 9001 standards;
- Publication and public access to AMSA PSC data through monthly reports on ship detentions in Australian ports and annual reports on the PSC program. These are made available on the Internet and the annual report is also published in hard copy.
- Mandatory reporting of ship deficiencies to AMSA by coastal marine pilots.

Better targeting of ship inspections

AMSA has continued to refine its ship targeting techniques to focus its inspection resources on higher-risk ships.

AMSA sets overall target inspection levels for “eligible” foreign ships visiting Australian ports to identify those presenting a higher degree of risk in relation to safety and environment pollution.

AMSA aims to inspect at least 50% of eligible ships calling at Australian ports. An “eligible” ship is one that has not been inspected by AMSA during the last six months (three months for a passenger ship or a tanker over fifteen years old) immediately proceeding the date of arrival at a port. AMSA also conducts its Flag State inspection program on Australian registered ships when they are in Australian ports in a similar manner to PSC inspections carried out of overseas registered ships.

The targeting system sets a minimum inspection level based on the type of ship and its age. A minimum inspection level of 85% is set for eligible tankers and bulk carriers over 16 years old, and all eligible passenger ships, and any type of ship on its first visit to Australia where no data is available to establish its target category. All other tankers and bulk carriers and eligible vessels over 10 years old have a minimum inspection level of 50% and for all other eligible vessels, the target is 15%.

The improved targeting levels focus on the age of ships as follows:

Ships of age less than 5 years:	25% minimum inspection target;
Ships between 5 and 9 years:	40% minimum inspection target;
Ships between 10 and 14 years	60% minimum inspection target;
Ships of age 15 years and over	80% minimum inspection target.

AMSA also is refining its PSC targeting processes through the development of a Ship Inspection Decision Support System (SIDSS), aimed at improving the risk assessment of each ship. This system takes into account a wider range of factors including: the ship's flag, classification society, age, type of ship and its previous inspection performance record.

Other factors will also be considered if relevant and sufficient data is available, such as the history of particular shipowners, operators and charterers in relation to ship quality.

SIDSS aims to enhance AMSA's ability to monitor and assess the quality of ships visiting Australian ports and allows resources to be directed to the inspection of ships assessed as being in higher risk categories. The system also takes into account ship inspection data received from New Zealand.

Information on ship inspections in other countries in the region is being progressively added to the AMSA ship inspection database, in line with Australia's undertakings as a party to the Asia-Pacific and Indian Ocean Memoranda of Understanding on Port State Control.

AMSA also monitors the operation of tankers in Australian waters under its Tanker Safety Surveillance Program, developed in consultation with the major shipping and oil industry interests. The program applies to tankers carrying crude oil or petroleum products, gas carriers and chemical tankers and has the primary objective of minimising the risks of pollution, fire and explosion, particularly during loading and unloading operations.

This program also targets ships on the basis of tanker type and trade. Crude carriers and refined products tankers engaged in the international trade are inspected at their first port of loading or discharge on each visit to Australia. Tankers engaged in the Australian coastal trade are inspected about every three months.

AMSA is in the process of harmonising its Port State Control, Tanker Surveillance, and Flag State inspection programs into a single inspection program, with all ships being subjected to the same targeting and risk management decisions for inspection. Specialist ships (for example passenger ships and tankers) will be subject to additional inspection procedures based on the specific risks they pose.

It is already becoming abundantly clear that the information technology revolution has presented responsible coastal States with an immensely valuable tool with which to identify and target sub-standard ships. The opportunity exists to build on the information already held in electronic form by a wide variety of participants in the transport chain to help give warning of a potentially substandard ship.

To date PSC has been conducted largely from a random selection of "eligible" ships. In the future, with data exchange between administrations and extensive use of the Internet, it will be possible to track vessels and operators in a manner never before possible. The challenge for administrations will be to make this information work to

our advantage and to the advantage of reputable ship operators whilst at the same time isolating the sub-standard.

Focusing ship inspections on specific safety areas

AMSA recently introduced a program to focus inspections on selected areas of ship operations that have been identified as requiring special attention. This applies within the PSC program and during random ship visits made by AMSA marine surveyors.

This program is planned to operate for two years and commenced on 1 December 2000. It is intended to change the area of focus every four months allowing six areas to be addressed over the two-year period.

The first area announced in a Marine Notice issued to the shipping industry in November 2000 was collision avoidance, in recognition of recent incidents involving navigation practices and keeping of a proper lookout. This focuses on examining a ship's navigation arrangements, especially bridge visibility, radar operation and the serviceability and effectiveness of navigation lights. Future areas for targeting that are under consideration include:

- Operation of GMDSS equipment;
- Safety related crewing conditions such as accommodation, galley and stores cleanliness, and
- International Safety Management Code issues.

Positive incentives for superior safety performance

AMSA detains ships where inspection identifies serious deficiencies that affect seaworthiness, the safety of its crew or poses a threat to the environment. The economic consequences of a ship detention for the ship owner and charterer may encourage better ship safety performance in future, but detention can also be considered something of a negative instrument rather than a positive incentive.

AMSA is giving serious consideration to other strategies that positively reward ship operators that maintain a clear safety record. There is merit in some reduction in the frequency of inspections for those ships demonstrating a consistently high standard of operation and management. Quite apart from providing recognition for good ship management, this will also allow scarce PSC resources to be redirected to inspecting marginal and potentially sub-standard ships.

3. PROMOTING A MARITIME INDUSTRY SAFETY CULTURE

AMSA endorses the ongoing development of a broader safety culture within the maritime industry that not only covers the quality of the ship and the competence of its crew, but the total management system at sea and on shore. This requires the provision of a management system that ensures compliance with international ship safety and pollution prevention standards and the relevant requirements of national maritime administration.

The International Safety Management (ISM) Code embodies this systems management approach. It aims to provide safe practices in ship operation together with a safe working environment, to establish safeguards against all identified risks and to continuously improve the safety management skills of personnel ashore and on board ship. This includes preparedness to respond to emergencies involving threats to the safety of the ship and potential pollution of the marine environment.

Under amendments to the SOLAS Convention, the powers of Port State control surveyors have been widened to include inspection of shipboard operational matters, including ISM certification. AMSA has developed special training programs to properly equip its marine surveyors as ISM auditors, who now carry out all statutorily required ISM Code audit and verification work for Australian flag ships.

Since the 1 July 1998 phase in date for the ISM Code, AMSA's PSC program has included inspection of ISM certification and relevant ISM manuals and procedures on board overseas registered ships to which the Code applies.

AMSA surveyors make random checks that functional requirements of the company's safety management system are documented and that the ship's personnel are aware of their responsibilities under that system.

AMSA has already identified an issue with certificates issued under the ISM Code and the extent that compliance with the Code can be inferred from them. Essentially where there are no positive follow procedures in place to ensure that non-conformities have been effectively dealt with, then there may be a potential for the development of a major non-conformity in the safety management system, but one that may not be become known to the auditing body for some time.

In such a case the flag State administration responsible for issuing the ISM Code certificates (or the recognized organisation issuing them on its behalf) has no immediate knowledge of this potential for the development of a major non-conformity in the ship's safety management system, although the ISM Code certification continues to remain valid regardless.

Australia has raised this issue through the IMO Maritime Safety Committee and suggested that port State control inspectors should have the authority to require production of audit reports containing details of non-conformities so that they can be checked to ensure that stipulated closure dates for ISM Code audit non-conformities have indeed been met.

It is vital that the integrity of the ISM Code certification is maintained, not only for its benefits to ship safety and environment protection, but also to exploit its potential to reduce the number of ship inspections.

At present, ships may be subject to inspections by their flag State, the relevant port State, classification society, cargo terminal/port authority, charterers, cargo interests, underwriters, P&I and hull insurers, with little mutual recognition between the parties of the results of each other's inspection processes.

The IMO is encouraging the various commercial interests that presently require non-statutory ship inspections to give greater recognition to the role of the ISM Code in ensuring the overall safety and environmental integrity of a ship.

Any action to rationalise these essential checks on ship suitability will be to the advantage of the responsible operator in terms of both time and lower operating costs. Consolidation of survey tasks into fewer separate events, relying on the most competent surveyors will act to isolate the sub-standard.

The ISM Code also focuses on the human factors that have such a major influence on overall ship safety, not only from the perspective of seafarers, but also from ship management ashore. The impact of these factors on the effectiveness of watchkeeping practices and management of fatigue, as well as general operational performance is directly influenced by the extent and quality of training provided in these key areas.

AMSA recognised the important influence of these factors on ship safety at an early stage by contributing significantly to the development and implementation of the revised International Convention on Standards of Training, Certification and Watchkeeping (STCW95) that incorporates competency-based training requirements.

AMSA also supported the adoption of control arrangements by the IMO of those maritime administrations that have systems of seafarer training and certification in place in compliance with STCW95 requirements through promulgation of the “*White List*”.

The issue of fatigue management is widely recognised internationally as an important factor in the human element directly affecting ship safety and marine pollution prevention. AMSA’s 1998 study of fatigue, stress and occupational health within the Australian shipping and offshore industries, *A Study of Health, Stress and Fatigue of Australian Seafarers*, provides a benchmark for industry action and contributed to the international database on the impact of fatigue on ship safety.

4. IMPROVEMENTS TO THE REGULATORY FRAMEWORK

AMSA supports the shift in emphasis within the International Maritime Organization (IMO) to one of improving the application and enforcement of existing international safety and pollution prevention conventions, rather than merely concentrating on the development of new regulations. This shift should provide a longer term objective for the IMO to review the existing body of international maritime regulation and in doing so allow for a more performance-based approach to be adopted, as well as assist with simplifying its application.

It is somewhat of a truism to observe that the real impact of regulation most directly affects those that conscientiously observe the rules. The principle target of the regulations (ie the sub-standard ship operator) has perfected the art of avoidance. Accordingly, the development of more regulation, in general, adversely affects the competent and honest ship operators.

This is one of the key challenges for the IMO and its member states to address into the 21st Century.

From a national perspective, in June 2000 the Commonwealth Department of Transport and Regional Services and AMSA completed a review of Australia's principal shipping regulations, the Commonwealth *Navigation Act 1912*. The Act provides the legislative basis for Australian regulation of ship safety, protection of seafarers and shipboard aspects of marine environment protection.

The review examined:

- The nature and magnitude of safety, environmental, economic and social issues the legislation addresses;
- The nature and extent of restrictions on competition;
- Relevant alternatives to legislation;
- The costs and benefits of regulation; and
- Preferred options for legislative or non-legislative measures to meet the identified objectives.

The review concluded that regulation of ship safety and related matters is necessary and that the international regime based on the treaties developed through the IMO and ILO are an appropriate means of implementing relevant standards. The review also endorsed a strong Port State Control regime as an essential component of regulation, and supported moves towards performance based regulation as a means of encouraging better safety outcomes.

Performance based regulation is considered to be consistent with the directions now being adopted in the IMO through the STCW convention and ISM Code which emphasise the need to address human factors and to develop understanding and ownership of safety outcomes among all parties involved with shipping.

In addition to direct regulation, the review noted the role that could be placed on other mechanisms to enhance safety outcomes, including:

- Attachment of legal liability for loss or damage to various parties (although the effectiveness of this approach is reduced by conventions which permit limitation of liabilities in various circumstances);
- Legal requirements to carry adequate insurance;
- Expansion of shared information on individual ships, owners, agents, flags, classification societies and so on, which will help potential charterers, financiers, insurers and port or regulatory authorities to identify good and poor performers; and
- Better targeting of ship inspections and detentions by flag and port state authorities to increase the prospect of high cost detention of poor ships and reduce the need to, and costs of, inspecting ships belonging to accredited or reputable operators.

5. BROADENING RESPONSIBILITY ALONG THE TRANSPORT CHAIN

AMSA supports the ISM Code's broadening of responsibility for ship safety to the shipowner or any other organisation or person, such as the manager or the bareboat charterer, who assumes responsibility for the operation of the ship from the shipowner.

Many major charterers already independently verify that ships under consideration for charter are in a satisfactory condition and are operated safely and environmentally responsibly by a fully qualified and competent crew. Since July 1993, the Oil Companies International Marine Forum (OCIMF) has provided the ship inspection report exchange (SIRE) service with the intention of standardising inspections and providing access to the resulting reports to all OCIMF members in a bid to reduce the number of inspections.

There are various alternative sources of data available on ships upon which a charterer can draw. AMSA's comprehensive ship information data base is available to any party with a legitimate interest. The European Community's EQUASIS database aims to provide transparency of information on ship quality and ship operators and is being provided with PSC inspection information from the A-P MOU that will include AMSA input.

As discussed earlier, AMSA is rapidly coming to the view that there are a number of significant and relatively simple measures that can be taken to effect major gains in this area. As an example, it would be beneficial if the SIRE service published in its database of ship inspection reports the key and essential information concerning the suitability of the vessel for charter.

ISSUES IDENTIFIED BY THE COMMISSION

The Commission's Information Paper identified some of the issues to be examined during the course of its inquiry. Comments and observations from AMSA based on experience in dealing with some of these issues follow:

1. How can the activities of substandard shipping be made transparent and accountable?

Transparency is the key to preventing the possibility of substandard ships being able to keep continually trading - but firstly the indicators that can point to a substandard, or potentially substandard, ship need to be clearly identified.

Some suggestions of suitable indicators (not all of which are readily available at present) that when considered in total might help in making such a judgement include:

- ISM Code audit reports for both ship and company
- Builders' and ship repairers' records through life
- Classification Society reports through life
- Port State Control inspection details
- Company operating history and general record

- Insurance reports
- P&I records
- Crewing details
- Evidence of issues relating to matters of crew welfare
- Charterers' reports
- Flag
- Extent of owner/operator's link to the country of registry
- Trading area

An owner/operator whose ship can demonstrate a good operating record against these sorts of indicators would almost certainly be prepared to provide details on request to any party having a legitimate interest. A continuing reluctance to do so without sound reason delivers its own message.

Total accountability cannot be regulated – if openness and transparency are to become the industry norm then they must be actively encouraged by incentive rather than solely through the use of penalties for less than minimum compliance with all its associated enforcement difficulties.

Incentives might include a more favourable tax regime, lower insurance costs, levy reductions, reduced port charges, preferred routing, priority berth allocation and port entry.

2. Is the establishment of an international enforcement mechanism feasible? If so, how might it work?

Although regional activities like the Paris and A-P PSC MOUs are proving their worth in helping to build a combined database using input from regional groups (eg EQUASIS), there is still some way to go in using this information to develop effective, transparent and accountable enforcement mechanisms worldwide.

At this time AMSA does not consider an international enforcement mechanism could be devised that would effectively overcome the shortcomings of the current system.

3. How can the financial and welfare interests of crew be more effectively protected?

A ship's crew is an integral part of the ship's safety management system. Ships that fail to meet international standards in ship safety and environment protection, usually also fail to meet standards in the living and working conditions of their crews, including provision of suitable accommodation, food, water and medical care.

The ISM Code provides the most effective avenue to address the ship safety and marine environment protection aspects of foreign crew's working conditions and allows compliance to be audited through PSC inspection program. However, the port State control system does not provide an appropriate mechanism for responding to humanitarian concerns with crew welfare issues, such as non-payment of wages and abuse of foreign seafarers. These should continue to be addressed by other means, such as improving access to civil or criminal law remedies and seafarer welfare services.

4. Can IACS play a more effective role? If so, how?

Many flag States rely totally upon classification societies to implement maritime convention survey and certification requirements on their behalf - without necessarily having the resources to properly monitor a society's performance.

The IACS Quality System Certification Scheme (QSCS) attempts through an audit process to ensure that all its member societies continue to meet its common performance based quality system membership requirements.

The merits of this scheme might receive broader recognition if IACS insisted on individual societies making QSCS audit results freely available, together with information of the follow up action undertaken by the society in question in each case.

IMO is already represented in overseeing the implementation of QSCS. There is an opportunity here to take a more active role in explaining the system, its benefits and the continuous improvements being made based on the outcomes achieved from year to year to IMO member states and interested non-Government organizations.

The need for IACS Unified Requirements suggests that without them there would be difficulties between societies in determining minimum acceptable standards in some key areas.

Nevertheless, AMSA supports building on the important and key role of the Classification Societies but considers there are some important reforms that will be needed if the apparent and real conflict of interest issues are to be managed.

5. Should the commercial incentive be removed from Class? If so, how?

There is a potential conflict interest in the commercial relationship between the shipowner/operator and the classification society when payment for the surveys of a ship, for classification for insurance purposes on one hand, and statutory certification issued on behalf of the flag state administration on the other, are carried out by the one society under a single financial arrangement.

If classification surveys for the purposes of insurance were to the owner/operators' account, whilst statutory survey costs were a matter for the flag State administration as part of its ship registry function, regardless of which organization might perform them, then perhaps this potential for conflict of interest could be very much reduced.

An ancillary issue arises in relation to arrangements between flag State administrations and classification societies, which have generally been silent up until fairly recently on the issue of limitation of financial liability. IACS members however have been quite aggressive in seeking to limit their liability when carrying out statutory functions on behalf of flag states of late, mainly as result of an escalating amount of litigation in this contentious area.

6. Would business-related solutions that may involve all parties in a system of rewards for good performance be effective? If so, how should it function?

Rewards or incentives for good performance based on the transparent availability of operating history have already been briefly mentioned. The functioning of such a system is something that can be initiated on a local/national basis, ie from the bottom up, on the understanding that the more successful applications of this concept would be replicated elsewhere, rather than relying on an international approach to incentive system delivery.

There appears to be some scope for generating a more effective link between the real risk of operating a substandard ship and its insurance costs. For instance, it has been proposed that the P&I clubs should be more aggressive in protecting their members' interests by ensuring the cost of insurance is a true reflection of the risks.

7. Can the provisions of UNCLOS, as well as IMO and ILO Conventions be more effectively implemented? If so, how?

The review of UNCLOS expected in 2002 could provide an opportunity to review Article 94 and in doing so re-visit:

- Flag State ship safety responsibilities based on the deliberations to date of the IMO Flag State Implementation Sub-Committee. For example, the use by flag States of the self-assessment report.
- The powers of the coastal State to take action over foreign flag ships operating within its own waters. Examples could include the ability to:
 - Take action against a foreign flag ship presenting a perceived, as opposed to an actual, pollution threat;
 - Follow up proven significant safety infringements;
 - Require compliance with national environmental regulations to specifically protect a country's marine ecosystem.

Many conventions currently require a majority of ship owning, rather than ship using, nations to ratify them before they come into effect. There is a real need to find an effective and satisfactory ratification and entry into force procedure that does not result in the present situation where a number of instruments are being frustrated by the current procedures.

8. Is it time to look at means of ensuring compliance with IMO standards other than more regulations and more rules? If so, what are they?

There is growing recognition occurring amongst IMO member nations that what is required is the improvement of the application and enforcement of existing international safety and pollution prevention conventions, rather than concentrating on the development of new instruments and regulations.

9. How can the effectiveness of existing IMO standards be measured?

The ultimate measure of the effectiveness of the IMO's existing standards is the level of sub-standard shipping. However, this measure alone fails to recognise that the international regulatory framework for the shipping industry worldwide is fundamentally sound. While its effectiveness can be improved through a number of reforms, it still has a basic strength in its universal acceptance and application by the majority of IMO member States. This is an achievement that few other internationally-based industries can match.

10. Can the IMO play a more active role in international safety regulation? If so, how?

The IMO was primarily established as a deliberative body bringing together the shipping and ship-user nations to facilitate agreement on internationally applicable standards to regulate shipping activity worldwide. It should not lose its focus as the 'parliament' of the shipping industry, rather than seek to become the 'shipping police force'.

11. How can the disinterested elements of "the Responsibility Chain" be persuaded to assume accountability?

Accountability comes with transparency along the transport chain. Data sharing about sub-standard shipping need not be confined to information about those immediately involved with the ship's operation, but include charterers, cargo owners, insurers, etc. The data also can be analysed to indicate patterns of involvement by particular elements in the use of sub-standard ships. The economic disincentive to business of being associated with a socially undesirable activity, such as unsafe and potentially polluting shipping, is a powerful factor in their taking more responsibility for the standard of ships carrying their products.

12. Can a "Reward System" for responsible operators work?

This remains to be seen from a global perspective. The Green Award system started by the Port of Rotterdam appears to be relatively successful. The United States Coast Guard has recently introduced a Qualship 21 programme but its effectiveness has still to be determined. Again, transparency in the available data on operational history is a vital element in identifying and rewarding responsible operators.

In the meantime the establishment of clear objective criteria to underpin any reward system remains the challenge for most parties already committed to this concept.

13. How to maintain the credibility of Port State Control (PSC)

The managers of PSC programs have an obvious responsibility to work towards maintaining an accountable, consistent, impartial and transparent verification process that is appropriately targeted towards the inspection and elimination of sub-standard ships.

By the same token however a longer term objective has to be the recognition that improving safety performance that meets or surpasses the standards which PSC was originally set up to verify must lead to an appropriate winding back of inspection activity onboard those ships that can continually demonstrate an acceptable level of compliance.

14. How can substandard registries and substandard classification societies be identified and effectively isolated?

The free exchange of information on substandard ships as soon as identified will provide its own mechanism for signalling consistently poor performing registries and societies.

In the case of registries, it then becomes an issue for the IMO Flag State Implementation Sub-Committee to address at the higher level, although clearly responsible port States will be targeting other ships registered with the country in question for PSC inspections on arrival at their ports.

In terms of the activities of classification societies involved with substandard ships, then for IACS members the QSCS audits can become a vehicle for appropriate follow up on the assumption that the relevant information is also provided to IACS.

In the case of non-IACS member societies, direct contact with the society in question, wide promulgation through relevant media of the findings in each case in addition to reporting to FSI, coupled with priority PSC targeting of ships classed with that individual society, could be beneficial over time.

Confirmation should also be sought from those flag States authorising the society in question to carry out statutory survey and certification work on their behalf that the necessary working arrangements in full compliance with international convention requirements are actually in place and being adequately monitored in each case.

Whilst this is largely building on the current system, AMSA considers that there has been marked improvement from the effective management of the current regime, and that this should not be dismissed lightly. There are no “silver bullets”, just a broad range of fronts that need consistent and sustained attack.

15. Should a holistic approach, which embraces consideration of economic, ecological and environmental issues posed by substandard shipping, in addition to human issues, be considered? If so, how would this be done?

A more wide ranging holistic approach would require a complementary examination of crew competency, ship safety and operation and shorebased management, as well as the role of the charterers and/or insurance interest involved with each substandard ship.

This would require simultaneous application of effort at the main pressure points by the key players exerting their influence to improve performance of those links in the chain where it would have most impact. Successfully coordinating such an approach

would be the challenge, coupled with the need to maintain momentum once the movement was under way.

16. How can Flag States be assisted to implement the minimum standards required to operate a viable flag registry?

It be worthwhile giving some serious consideration to the revamping and reinvigoration of the IMO technical assistance program to help IMO member States facilitate the bringing together of both relevant private and public sector expertise to assist those flag States that are experiencing particular difficulties or shortcomings in implementing and enforcing IMO instruments.

Australian Maritime Safety Authority
