

SOME IDEAS FOR ICONS

From Philippe Boisson, author of the book "*Safety at sea. Policies, Regulations and International Law*"

1. Safety at sea is first of all a matter for States. As mentioned in many submissions, Flag States must do their job properly, as indicated in the UNLOS Convention, article 94 §1, "*Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag*".
2. Flag States must regulate the shipping industry in order to protect life at sea and the environment. Neither classification societies nor the shipping industry can regulate or police the behaviour of Flag States on the international scene. Only an international body can receive the necessary authority from the States themselves to take sanctions against recalcitrant Flag States.
3. There are some examples in Europe: The European Commission and perhaps, in the near future, a European Agency for maritime safety will have some powers for constraining EU member States to act in conformity with their international obligations. Already articles 169 and 171 of the Treaty of Rome provide for the possibility of pursuing a member State which fails to meet one of its obligations under the treaty before the European Court of Justice (ECJ). Such a process is open to any member as it is to the Commission.
4. In the frame of the UNLOS convention, I believe it is not necessary to create a permanent UN commission for taking actions against substandard Flag States, as was suggested by the Nautical Institute. Such possibilities do exist within the convention, in Article 287 which offers four solutions: the International Tribunal for the Law of the Sea, the International Court of Justice, an arbitral tribunal or a special arbitral tribunal.
5. Another possibility needs to be investigated in the role and functions of IMO. IMO should have some sort of authority to enforce its regulations. That does not mean the creation of an international police force but to give the IMO the authority to assess the measures taken

by the Flag State in implementing their international obligations as is the case in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, modified in 1995. Governments will have to provide relevant information to the IMO's Maritime Safety Committee which will judge whether or not the country concerned meets the requirements of the Convention.

6. A useful comparison can be made with its equivalent in the Aviation sector: the International Civil Aviation Organisation. In 1995 ICAO launched a safety programme as a means to provide States with support in establishing effective government oversight of international safety standards.

In November 1997, the conference of director generals of the civil aviation decided that ICAO should be given the authority to perform regular and mandatory safety oversight audits on a systematic basis in all Contracting States.

A special unit to manage the universal safety oversight audit programme was established in January 1999. ICAO undertakes also to follow-up the assessment in those countries where major deficiencies continue to be noted after a regular audit has been completed.

An unprecedented level of co-operation has been developed among countries with the establishment of regional safety oversight centres that provide the services of experts to those States needing assistance.

The air safety system has the undeniable advantage over marine safety in that it can create and enforce the application and maintenance of high safety standards on an international scale, regardless of the economic circumstances of the players in the market. It would be appropriate, therefore, for the maritime community to consider drawing from the lessons learnt from the aviation example. (See the conclusion of my book “ *Safety at sea. Policies, Regulations and International Law*”, Bureau Veritas Publications, Paris 1999).