

months' crew salaries and costs of repatriation in the event of abandonment. Such coverage should extend for at least 30 days after the date of entry.

■ Cruise Shipping

11. The United States Government:

(i) acknowledge the extensive exploitation of seafarers serving on US port-based cruise ships and ensure that minimum standards of decent work as contained in the ILO Convention No 147 are applied; and

(ii) ensure that representatives from seafarers' missions, welfare organisations and unions have free on board access to crew members.

■ Fishing

12. The IMO and the ILO, in consultation with fishing industry representatives, investigate the reasons why the Torremolinos Convention and Protocol and STCW-F Convention have not been adopted and draft a new binding instrument for fishing vessel construction and manning, covering both safety and working conditions.

13. The IMO, the ILO and the Food and Agriculture Organisation (FAO):

(i) establish a joint working group to develop voluntary guidelines for port State control of fishing vessels covering both safety and work conditions; and

(ii) expedite their joint efforts to update the codes and guidelines for smaller fishing vessels relating to the safety, design, construction of vessels and on fishermen's training and certification, including provision of specific authority for port State control.

■ Owners

14. Responsible owners promote industry best practice by informed, directed and widespread advocacy of quality shipping.

15. Quality owners support the maximum exposure of relevant information on their ships to assist the identification of sub-standard ships, so enabling port State control targeting to be more effective.

16. Shipowners, through their memberships of classification societies' boards and committees, influence these organisations to cease to act as Recognised Organisations for consistently under-performing flag States.

■ Flag States

17. Flag States rigorously apply the IMO Assembly Resolutions A. 739(18) and A. 789(18) concerning the monitoring of their Recognised Organisations.

18. Flag States, where they do not have their own arrangements, delegate to their Recognised Organisations the task of checking the application of national laws concerning crew working conditions and labour contracts.

■ Classification Societies

19. The major classification societies, through the International Association of Classification Societies (IACS), pursue tougher policies by:

- adopting an unbending approach towards owners on conditions, subjects and extensions of class;
- dealing with quality lapses by the IACS members without regard to size;
- objectively identifying sub-standard flag States and providing technical

assistance to aid their development and to remedy their procedures, practices, policies and performance, failing which, delegated authority would be cancelled by all the IACS members.

20. The European Commission establish a permanent Classification Society Oversight Committee to assess the performance of classification societies, with representation from other States and industry groups.

21. Classification societies declare the design life of ships 'as built', with this designation to be maintained throughout the life of the ship or until major life extension work and surveys are undertaken.

■ Port States

22. The Paris Memorandum of Understanding (MOU) adopt the US Coast Guard targeting matrix for port State control. The two port State control regimes harmonise their inspection procedures and accept each other's survey outcomes. The Paris MOU better focus its resources on targeting by removing its 25% inspection requirement.

23. Port States control regimes, led by the Paris MOU, implement reward systems for quality ships similar to the US Coast Guard "Qualship 21" program.

24. Port State authorities, led by the US Coast Guard, the Paris MOU and the Tokyo MOU include as a factor in the targeting of ships whether or not flag States have satisfactorily submitted and made public the IMO Self Assessment Form on Flag State Performance.

25. Port State authorities introduce penalties, to be applied when vessels are detained for serious safety, environmental or labour deficiencies, which will result in a substantial financial impact on the shipowner.

26. Port States exclude for two years any ship flying the flag of a State with an above the rolling average detention rate of the relevant regional MOU, where that ship has been detained twice within the preceding 24 months.

27. Port State authorities, led by the US Coast Guard, the Paris MOU and the Tokyo MOU develop a system of severe penalties to be applied to charterers and major shippers found to be using vessels that are detained for serious safety, environmental and labour related deficiencies.

28. When a vessel is detained, wherever practicable, port State control authorities stop cargo operations until all deficiencies are rectified.

29. Port State control authorities, led by the US Coast Guard, the Paris MOU and the Tokyo MOU include in their ship inspections specific crew welfare elements under the ILO No 147 provisions or their equivalent national regulations, and publish details of deficiencies and detentions for breaches of the ILO No 147.

30. Port State control authorities increase their efforts to ensure full compliance with all aspects of the ISM Code.

31. Port State control authorities establish toll free telephone services to enable ships' crews and others to confidentially alert port State control authorities to safety

deficiencies and crew related problems.

32. Port State control authorities establish standing consultation arrangements with pilots, port authorities, unions and seafarers missions who could be expected to become aware at an early stage of the arrival of sub-standard ships.

33. Port State and port authorities introduce measures to provide a significant proportion of the costs of seafarers missions' support services for international seafarers.

■ Cargo Interests

34. Shippers' Councils develop best practice 'Codes of Conduct' and actively encourage their members to adopt the Codes in the selection of ships.

■ International Maritime Organization

35. The IMO vigorously pursue the Flag State Self-Assessment Form initiative with the eventual aim of making its completion and return mandatory.

36. The IMO initiate concerted action for the adoption of comprehensive binding quality criteria for flag State administrations and ship registers.

37. IMO maintain and strengthen the momentum of the ISM Code and remove one of its weak points by amending Assembly Resolutions A. 741(18) and A. 788(19) to increase the frequency of shipboard audits for Safety Management Certificate issuance to an annual basis.

■ International Labour Organization

38. Recognising the reluctance of many port State control inspectors to become involved in crew related matters, the

ILO urgently revise their publication "Inspection of Labour Conditions On-board Ship – Guidelines for Procedure" with a view to making it more precise and easier to use.

39. The ILO expedite the update and consolidation of all seafarer-related conventions, including effective monitoring and authority for port State control.

■ Environment

40. Coastal States designate ports of refuge for ships in distress.

■ Transparency

41. All participants in the shipping industry, particularly owners, classification societies, P&I clubs, port State control organisations and cargo interests, support and promote transparency by full disclosure of relevant information to publicly accessible data bases.

42. Port State control authorities publish information on ship charterers and major cargo owners, where a ship has been detained, and this information should also be included in the EQUASIS database.

43. Wherever possible, EQUASIS managers include in the database details of:

- the history of ship flag changes;
- beneficial owners;
- details of the ship manager; and
- the name of the designated person on the Safety Management Certificate under the ISM Code.

International Commission on Shipping
39 Pillapai Street, Charlestown,
NSW AUSTRALIA 2290
e-mail: pfmorris@optusnet.com.au
www.icons.org.au

International Commission on Shipping

Inquiry into Ship Safety

Ships, Slaves and Competition

EXECUTIVE SUMMARY

1. Modern ship safety, labour and environment protection arrangements pose international problems that require international solutions. The international regulatory processes have delivered a body of treaties, codes and recommendations that, if properly implemented, would provide for safe, humane and environmentally responsible shipping operations.
2. The failure, however, of many flag States to implement international standards and the inability of international organisations to enforce compliance with their rules has led to the establishment of national and regional actions to protect coastal and port environments. More recently, the role of the human factor in shipping accidents has been recognised and attention has been given to management systems that will improve ship safety and prevent pollution.
3. The Commission notes that most of the recent progress in tackling sub-standard shipping has arisen when a port/coastal State or a regional group of States has taken a strong stand in enforcing international or local solutions on foreign ships. In the absence of better flag State compliance with international obligations, the Commission considers that the likelihood of regional or unilateral port/coastal State intervention inevitably will increase. The effect will be to commercially marginalise non-performing flags, as the financial benefits to shipowners of operating sub-standard ships are eroded. The International Maritime Organization (IMO) may also be increasingly marginalised by such unilateral actions.

4. Little effective attention, however, has been given to the working conditions of seafarers on foreign ships. Although many ship owners act responsibly, the failure of many flag States and the international regulatory system to adequately implement international labour standards has exposed thousands of seafarers to exploitation and abuse. Concerted action is needed to redress this deficiency. Apart from the ethical and moral dimensions, mistreatment of crews affects the safe operation of ships and imposes costs on port and coastal States. The human factor which has been identified already as the principal cause of shipping accidents and pollution incidents is of greater significance if crews are fatigued, malnourished and under personal or social pressure.
5. The underlying cause of sub-standard shipping is the commercial advantage that a ship owner can gain through avoiding international standards for safety, environment protection or labour conditions. Wherever possible, this element of the industry shifts its costs to other parties. The elimination of sub-standard shipping requires a sustained attack on this fiscal advantage, using commercial and regulatory mechanisms.
6. Governments of the main labour supplying countries have a duty to introduce the meaningful regulation of seafarer employment and training - including comprehensive regulation of manning agencies - in line with international obligations. Particular attention must be given to eliminating the practice of blacklisting and the

- recruitment of non-qualified seafarers or “passport holders”. Avenues for speedy consideration and redress of seafarer complaints about working conditions, and for repatriation in the event of abandonment, are also required. Current procedures for handling seafarer complaints and abandonment are difficult for them to access, costly and all too often practically non-existent.
7. Unions are the seafarers’ best form of redress and protection in a competitive labour market. Many shipowners and administrations support the essential role played by unions, particularly in cases of abandonment and non-payment of wages. Developing countries will inevitably form the major source of seafarers for the foreseeable future and open registers will also remain a reality in the international shipping world. It is, therefore, in everyone’s interests, especially those of the seafarers, that international and national labour organisations and national governments of both ship registers and labour supplying countries develop closer, positive working relationships.
 8. Flag States have the primary responsibility for ensuring that ship owners maintain and crew their ships to international standards. The issue is not whether the flag State operates an open or a second register, or if it places competitive pressures on other flags, it is a question of whether the flag State is properly conducting its operations in accordance with international convention requirements. Flag States have flexibility in deciding how to

- administer their ship registers, but they have a responsibility also to ensure their choice of delegated authorities are fulfilling the States’ international obligations.
9. The most prevalent gap in some flag States’ administrations is the application of minimum international labour standards. The recommendation for delegating of labour regulation verification offers potential for additional commercial opportunities for those classification societies wishing to acquire the necessary skills.
 10. Classification societies were the most widely criticised bodies in the course of the Commission’s inquiries. Although their technical strengths were acknowledged and considered necessary by all parties, the extent of criticism of their commercial relationships with owners and flag States suggest classification societies must dramatically improve their performance. Unless classification societies re-establish their professionalism by strictly and consistently applying technical standards to all ships, they will face increasing regulation and commercial isolation. The Commission believes that at this stage, independent regulatory monitoring of classification societies’ performance is required.
 11. Port States also play a key role in ship safety regulation. Port State control data is essential in assisting the industry and regulators to identify and target sub-standard ships. Port State control activities can be enhanced through improved targeting regimes, harmonising regional port State control systems, including labour matters in inspection and targeting programs, greater attention to the

- International Safety Management (ISM) Code compliance, and tougher penalties on sub-standard owners, charterers and/or cargo interests. The Commission recommends particularly that an assessment of whether or not a ship’s flag State has satisfactorily completed the IMO Flag State Self Assessment Form be included in targeting systems. Penalties that could help to eliminate the financial advantages of sub-standard ships include more detailed inspections and enhanced safety system audits, fines, banning from ports persistently offending ships and intervention in cargo operations until all deficiencies have been rectified.
12. The Commission has proposed the development of an insurance arrangement to assist seafarers who have been abandoned and unpaid. For this proposal to be implemented, port States will have an important role in requiring ship owners to provide proof of adequate insurance cover.
 13. There is also a need for improved communications between port State control authorities and those who can provide early warning of sub-standard shipping, such as pilots, unions and seafarer’s missions. Funding of missions by port State authorities would alleviate concerns about compromise in the ability of missions to speak out about abuses, as a result of their current dependence on ship owners or agents for funding of their port services to seafarers.
 14. The lack of progress by the IMO in monitoring and auditing flag States’ implementation of maritime conventions compares poorly with comparable action in the aviation sector by the

- International Civil Aviation Organization. Nevertheless, the Commission believes a commitment to compliance from flag States is essential. The IMO should vigorously pursue the Flag State Self Assessment Form initiative with the aim of making its completion and return mandatory, and eventually work towards adopting comprehensive binding quality criteria for flag State administrations and ship registers. The IMO needs also to reinvigorate and strengthen application of the International Safety Management Code to address safety systems. Failure by the IMO to undertake positive action in these areas can only further corrode its credibility.
15. Many of the International Labour Organization’s (ILO) maritime conventions remain unratified by many countries, and the majority lack mechanisms for enforcing their provisions by port States. Many authorities feel that international labour rules are difficult to interpret and apply. There is an urgent need for the ILO to revise its guidelines for port State control under Convention No 147. In the longer term, the ILO needs to consolidate and update its maritime conventions, including relevant and effective enforcement mechanisms.
 16. The Commission is firmly of the view that the responsible elements of the industry itself must show leadership in promoting quality and disassociating themselves from sub-standard practices and operators. This can be done by promoting Codes of best practice and transparency in their own operations, and by influencing classification societies to take a stronger role in standing up to sub-standard owners and flag State administrations in applying

- of class Rules and appropriate international maritime standards.
17. There was strong support throughout the industry for greater transparency and increased exposure of information on sub-standard ships. Full exchange of information can only assist in identifying and targeting the rogue operators and more responsible decision making. While noting some concerns about the need for relevance and accurate information, as well as those of commercial confidentiality, the Commission considers considerable amounts of relevant data are in the public domain already and could be consolidated and made available to public data bases.
 18. Environmental concerns have increasingly prompted action by port and coastal states to protect their marine environments. Although this has done much to redress regulatory lapses by non-performing flag States, the Commission notes with concern that many port States still fail to provide adequate port waste reception facilities or ports of refuge for ships in distress. These failures by port States only enhance the risks of pollution or loss of life.

RECOMMENDATIONS

■ Crewing

1. **The European Commission request from the International Group of Protection and Indemnity (P&I) Clubs consolidated statistics on loss of life and injury of crew members on ships entered into the Group’s Members’ clubs, and place this information on the EQUASIS data base.**

2. **The IMO develop a database of all seafarer certificates for open electronic access to assist the elimination of fraudulent certificates of qualification.**
3. **Governments of major labour supplying nations review maritime training and labour supply arrangements to ensure compliance with relevant IMO and the International Labour Organization (ILO) conventions.**
4. **Governments of major labour supplying nations introduce legislation to license manning agents, addressing wages, hours of work, allotments, repatriation, job-finding fees, transportation charges and blacklisting.**
5. **Governments of major labour supplying nations prohibit the practice of blacklisting of seafarers, and prosecute and publicly name those companies and organisations found to be involved in blacklisting.**
6. **Governments of major labour supplying nations urgently establish independent seafarer grievance agencies to provide speedy and accessible means of resolving seafarer claims relating to employment.**
7. **The International Transport Workers Federation (ITF), national maritime unions and relevant governments of flag and labour supplying States work cooperatively to implement appropriate working conditions for seafarers based on international conventions.**

■ Fraudulent Certificates

■ Employment Practices

8. **The International Chamber of Shipping, in consultation with organisations such as the Salvage Association and the Scandinavian Underwriters Association, develop a common inspection program to minimise multiple onboard commercial inspections which are burdensome to ships’ management teams. The common inspection program should satisfy the individual onboard survey requirements of, *inter alia*:**
 - The Oil Companies International Marine Forum (OCIMF) for the Ship Inspection Report Program (SIRE);
 - Oil companies;
 - Chemical Distribution Institute;
 - Charterers;
 - P&I clubs;
 - Insurance;
 - The Green Award; and
 - Cargo interests.
9. **The International Group of P&I Clubs implement an appropriate ship-specific (non-mutual) bond system to cover crew repatriation and up to two months salary in the event of the ships abandonment. The P&I clubs act as ‘trustees’ of this ship-specific fund and act on behalf of the crew in the event of abandonment.**
10. **Port State authorities require ships to provide, prior to port entry, evidence of a P&I guarantee that covers two**