

INTERNATIONAL SHIPPING INFORMATION PAPER

INDIAN SHIPOWNERS PERSPECTIVE

BY

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INTRODUCTION:

Without a doubt, the menace posed by sub-standard shipping is very much alive and the need to create an effective international mechanism to ensure observance and compliance of guidelines has now become imperative. The problem does not lie in lack of having proper guidelines or regulations. What is terribly lacking is the proper implementation of these guidelines and procedures and improper verification of the systems.

It is felt that three Organisations play a vital part to improve the Shipping standards. They are IMO, IACS and Flag State. These three Organisations working together can definitely see that the standards of verifications are improved.

Our point of view reflects the Indian perspective in particular the role of the Flag State and how we feel matters can improve with particular reference to maintenance of quality systems on board the vessel.

ROLE OF " IMO " :

IMO is doing excellent job. It has developed excellent standards on various aspects. It is unfortunate if these standards are not being complied with, due to various reasons, but some of the proposals are indeed drastic and is not looked upon in the global perspective. It is equally important for IMO to realise that for any system to work, the system has to be globally accepted. If there is any resistance, the reasons need to be probed. It is easy for IMO to say that some member States regularly attempt to dilute any new proposals. Why wouldn't they object to this implementation if it is going to increase the cost of operation? This has nothing to do with the quality of maintenance of the vessel which has to be ensured at all times. IMO has a definite role to look into this aspect in conjunction with IACS as well as Flag State.

ROLE OF " IACS " :

After all, this is the body comprising of the various Classification Societies. The recent "ERIKA" incident is an eye opener. Why is the owner alone blamed? Is not the Classification Society equally responsible? What guarantee was there that the Surveyor of the particular Classification Society did his job well? Whatever may be the commercial pressures he may have been put into by the Shipowners, IACS has a role in this which will be explained more in detail as we take up the various issues to be examined.

ROLE OF " FLAG STATE " :

Flag State has to be the administrative body which has to oversee all the ships coming under its jurisdiction whether it is own vessels or any other Flag State vessels. Flag State must relinquish the role of a surveyor overseeing the safety equipments and the safety radio surveys. As long as they continue to be responsible for the surveys and the vessels are found deficient during PSC inspections then the Flag State is morally responsible as well. Why should it be? We would rather have the Flag State monitor all the activities of the Classification Societies and the shipowners and restrict their activities to Flag State / PSC inspections and in case of notable deficiencies report the same to IACS as well as IMO, irrespective of the Flag of the vessel.

Some of the issues to be examined :

- 1. How can the activities of the Sub-standard shipping be made transparent and accountable?**

IMO / Flag State / IACS should form a panel of surveyors / inspectors at each zone to act independently to carry out surveys of ships during drydocking. IMO shall fund for this job. Shipowners cannot be burdened with the cost of this Inspection. Vessels during special surveys, intermediate surveys, as also during annual surveys will be subject to inspection both by the representative of IACS as well as Flag State jointly and their

comments shall be made to the respective classification society for their attention and necessary followup action. Ships may be categorised under green, yellow and red zones and all activities, reports of vessels coming under yellow and red zones shall be on the website and closely monitored by IACS, Flag State as well as IMO. This will prevent the Classification Societies from compromising with the owners on Quality and Quantity of repairs due to commercial pressures.

The ISM audit shall also to be carried out by this independent body comprising of IACS as well as Flag State. IMO has to find ways and means how IACS need to be funded since this cannot in any way be the burden of the shipowners. Considering the worldwide calamities that we have seen so far, this is only fair. IMO / IACS and Flag State will do well to co-ordinate efforts to see how well this can be achieved.

Why are the Insurance Companies having their own independent surveyors? Because they have lost faith in the quality of surveys and the certificate issued by the Classification Societies. Include them also in the panel with others, so that IACS will takeover this responsibility of ship inspection which will serve as a warning to classification societies as well as the owners to convey to them that here is the body who will not compromise on the essentials but will still retain some commercial sense.

Indian Flag State lack adequate funds as well as manpower. Let IMO decide on a global tariff for all Port State Inspections which involves both representative of IACS as well as Flag State and find ways and means to fund them. Their job is not to survey for certification but carryout inspection / ISM audit of the vessel, to monitor vessels status and ascertain the credibility of the classification society. No doubt, ISM audit can be totally taken away from class to be taken over by IACS and the normal fee can be charged similar to what the owner pays to the class. The information on vessels coming under yellow and red category can be flashed worldwide to draw widespread attention. It is natural tendency for any shipowner to minimise the expenditure. But as long as the expenditure is not wasteful but are required to continue to maintain vessels minimum standards, he will have to accept the same notwithstanding commercial pressures. By this trend, the owner as well as the classification society can be very closely monitored on their activities and the maintenance trend of the vessel can be gauged.

2. Establishment of an International Enforcement Mechanism feasible? If so, how might it work?

Yes. If it is an Independent body as suggested under item 1 which does not function on profit basis. IACS must nominate a separate cell calling it as "Inspection Cell" comprising of surveyors, inspectors who are Master Mariners, Naval Architects and Engineers who are either funded by respective Classification Society or by IMO. It will function as an independent inspection authority and will issue a certificate under the IMO seal if the vessel is certified to be maintaining to its minimum standards. It is very important that IMO, Flag State and IACS stay together to formulate the modalities. This panel may include representatives from Insurance, Hull underwriters, Oil Majors and Credible Survey firms.

3. How can the financial and welfare interest of the crew is more effectively protected?

I can comment only in the Indian perspective. While I have gone through the statement of NUSI in this matter, I am not in entire agreement with them.

Our ships suffer due to the mentality and attitude of the Indian Crew. Our system does not permit to hire and fire a crew who is not wanted on the vessel. There shall be no regulation or stipulation to retain any particular crew on board a vessel. They try and take whatever possible from the owners by way of compensation, salary and overtime during their tenure on board a vessel, knowing that they have the support of the union behind them, which is a negative factor. What is most important is to find ways and means where the financial and welfare interest of the crew is protected by way of insurance involving the shipowner / ship managers as well as the crewing agents when they can effectively work out a system to protect the interests of the crew. I think this comment from NUSI is not a matter to be discussed in the international forum. I am in entire agreement with point no. 3 of NUSI and share their anxiety.

4. Can IACS play a more effective role?

Definitely yes. It has to be an independent body to oversee the functioning of the various classification societies, interact more closely with IMO and Flag State to play the unique role by closely monitoring of vessels on the lines of what I had mentioned earlier.

No sale and purchase of a second hand vessel shall take place unless in drydock. The existing practice has to be stopped. The drydocking cost has to be on sellers account and till such time IMO issues a satisfactory certificate of vessel, the sale cannot be effected. This includes transfer of Class due to change of ownership which also need to be undertaken in the drydock subject to inspection by independent body of IACS and representative of Flag State both from sellers and buyers side.

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

IACS, as a body, ought to know why an owner is wishing to change the class. There is no harm in the class being commercial, but, this commercial consideration shall not override the minimum standard requirements. Many a times, the class is found wanting and the buck is being passed. IMO, IACS and the Flag State shall retain the authority, question the class based on the independent inspection carried out by them. Class and the owner have to be made accountable. Within the permissible parameters class can be commercial minded. There is nothing wrong.

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

As you are aware, the oil majors have formed OCIMF and vessels are inspected under the SIRE programme. This can be made mandatory for all tanker vessels irrespective of oil majors demanding the same or not. Such forum can be expected to deal with the other type of vessels, as well.

It is unfortunate that since the ERIKA accident, even oil majors are not willing to accept a vessel for a period of 12 months even after inspection. They are giving acceptance letters

on voyage to voyage basis which only reveals that element of doubt that has crept in on the competence of the Classification society, inspection authorities and vessels' structural status. Even, insurance companies are nominating independent surveyor to check on the vessel. I don't think such random scrutiny by surveyors will reveal any major deficiency. As outlined earlier, IACS have to play a major role with the backing of IMO over independent assessment of vessel and certification. If, out of these inspections, if a vessel does not come up to the minimum standards, they are automatically rejected world over by any charterers. All charterers involved in shipping have to register themselves with IMO or an allied body and they shall not take the vessel for charter unless cleared by IMO / IACS as fit for voyage.

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

Definitely yes. All it requires is a body who can exercise authority over class, over shipowners, over charterers and determine the condition of class and ascertain whether they fulfil the requirements of the conventions. IMO needs to play a very authoritative role in this regard with the help of the Flag State. There is nothing that cannot be achieved to improve the standards. What is to be remembered is not the Rules and Regulations that we lack. We lack in the proper implementation of the same and the qualitative inspection of the vessel at each stage.

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?

IMO has implemented the rules and regulations. Flag states have tried them and put them into practice. But who made sure whether these are complied with? If we do not wake up now, our ISM audit and the ISM certification process will only become a paper exercise and no useful purpose will be achieved and the Classification Society will also not be made accountable. Only way to make them accountable is to takeover such inspections by the Independent body.

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

IMO has done well by bringing about the various standards. The Indian administration has ratified. But unfortunately the process of implementation is not flawless because of lack of accountability. There is no point in one classification society calling for a dismissal of another class from IACS. Can they guarantee that it is not washing the dirty linen in public? IACS should take the lead, and with IMO inspect the vessels at random after going through Class records and decide the effectiveness and credibility of the respective Classification Societies. I think the fault lie here. Let us not break our heads to what has happened till now. Let us look ahead and see how best we can correct the flaw.

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

IMO shall share the independent body comprising of IACS, Flag State and reputed institutions on inspections and authority. This shall be funded by IMO or Shipping Ministries of various Flag States. This body shall form an international safety inspectorate and be the inspecting authority of every vessel in drydock AS/PLI, and intermediate surveys and at periodical intervals. The deficient areas have to be highlighted and brought about in a database to be circulated and closely monitored as and when ships are taken on charter. IMO shall have control over ports and terminals. No ship shall be taken on charter unless cleared by this body. The port and terminal must insist on both shippers and charterers that the vessel is accepted by this independent body.

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

When and if it affects the pocket of the disinterested elements, he has to come on line and follow the rules. I think only the good ones will survive. Fly by night operators and over night dealers cannot survive for too long.

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

I don't see there is any point in bringing this. I am in this business to make a profit by operating a systemised and well maintained ship to required standards of acceptance and run it quite efficiently and economically which itself is a reward.

13. Port State Control - how to maintain its credibility?

Once the IMO, IACS and the Flag State formulate an independent body and have a committee for each country and port, this will take over the function of the PSC as well. PSC must learn to accept uniformity. Each cannot interpret its own rule. This is where IMO has to play an active role and consider whether they can take over this responsibility along with IACS and Flag State and these inspectors can form an independent body which will have global recognition. At present, each PSC inspector interprets his own rules on STCW regulations and the ship is at his mercy. They feel, if a vessel is not fined, the inspection is not complete.

14. How can sub-standard registries and sub-standard classification societies be identified and effectively isolated ?

This independent body comprising of IMO, IACS and Flag State shall be the deciding factor on assessment of quality of the vessel. This is a tool to assist the credibility of the shipowner, the classification society as well as the registry.

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

If, some states do find IMO guidelines too stringent, then these member states will try to dilute new proposals. IMO should decide whether their vessels can trade only within their trading zones of the particular flag state which may implement its own rules and guidelines. If a vessel is to trade internationally, then certain minimum parameters need to be complied with and all parameters points only the standard of maintenance and nothing else. Hence I feel this is a non-issue.

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

1. Flag State should refrain from carrying out mandatory surveys.
2. They shall function only as an overseeing authority to judge on the competence of the classification society and the competence of the shipowner.
3. They act in conjunction with IMO and IACS as an independent body which will have equal recognition.
4. Inspection certificates issued to various vessels periodically under the IMO seal will have definite impact on the status of vessels and acceptance by the charterers.

This is a role the Flag State should actually be doing and this is what they are ideally suited for.

The international commission is welcome to interact with the representatives of the industry on these points in an informal manner to grasp the situation. There is nothing called a "First class" classification society or a "second class" classification society. I beg to differ with points mentioned under "outcome". Vessel built to class in 1975 and handled by a First Class classification society till 1993 cannot break in open sea and sink in 1999, if the First Class Classification society had given a detailed mention of all the deficiencies before it was taken over by the Second Class classification society. It is very easy for the pot to call the kettle black and vic-e-versa. The ship built in 1975 would definitely have had structural deficiencies in 1993 itself, which was compromised and resulted in further deterioration. So let us not enter into an argument as to which class is "First Class" or which is "Second Class". I feel even the First Class classification society does require close monitoring by an Apex body which can only be with IMO, IACS and Flag State joining together, calling this as an "International Maritime Safety Inspectorate". I think this will go a long way in achieving the needs.

IS IMO CONTROLLED BY EUROPEAN UNION?

We are under the impression that IMO will interpret Rules and Regulations in the global perspective. The gravity of the calamities and their consequences no doubt cannot be denied. But this is not come about overnight and this no fault of the design of the vessel or type of a vessel meant for trading. The threat of the European union to prevent single hull tanker vessels entering its waters is nothing but autocratic, while they do not mention anything about why their own classification society allow these vessels to get deteriorated. If grounding of a vessel or if a tanker vessel hits a rock, I do not think even double hull can prevent the pollution. So, it is meaningless that incorrigible statements are made by responsible organisations. I am sure, IMO will interpret this in the global perspective and appreciate that each flag state and their trader is in shipping business for his livelihood. At the same time, he cannot compromise on the minimum maintenance standards. It is hoped that IMO will not succumb to pressures.

Finally, one last word :

What is IMO's role? What way has it been of any help to the Shipping Industry? What has IMO done other than being a mute spectator when poor master Capt. Karan Mathur of Ex. ERIKA is suffering in the Gaols of France. Has it been able to do anything in the matter? Why was the classification society not penalised ? A scapegoat had to be made available and the Master was an easy target. It is unfortunate that IMO cannot do anything on this matter other than bring forth rule after rules, but unable to implement them, because nobody cares. What is this called? This is what we call abuse and exploitation of seafarer for no fault of his.

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