

Submission to the International Commission on Shipping by The Bahamas Maritime Authority

Part 1 Measures to combat sub-standard shipping

Introduction

1. The terms of reference and information paper prepared by the members of the Commission asserts that sub-standard shipping is a widespread problem and that losses of vessels and seafarers is wholly attributable to sub-standard shipping. This has not been justified by evidence. Accidents unfortunately do occur but it would be manifestly unsound and illogical to assume that all such accidents are the result of sub-standard shipping. In considering accident rates regard must be had to trends and it can be established that international shipping is in fact becoming safer. This has been acknowledged by the Secretary-General of the International Maritime Organization in commenting on statistical trends which showed that the number of ships lost annually had decreased over the past two decades.

2. While the vast majority of ships engaged in international trade are well maintained and safely operated, it is acknowledged there are some sub-standard ships in the world and that action is required to enforce compliance with international standards. It would be wrong however to assume that a ship is sub-standard because it is registered in one country rather than another. Sub-standard ships can be found in many registers including those of the developed world with long established registers and maritime administrations. If action against sub-standard ships is to be successful it will be necessary to define "sub-standard" and identify ships in this category. In the framework of international shipping it is submitted that the international conventions are the appropriate standards that all ships engaged in international trade should meet. If progress is to be made in eliminating sub-standard shipping it is submitted that the Commission should base any findings on sound evidence on safety issues rather than on emotive statements on shipping registers and on remuneration of seafarers.

3. Criticism has been expressed of shipping registers which operate a system of registration and annual tonnage charges, and that these are established as revenue raising measures. This criticism is made of some registers operated in countries which were previously dependent territories of colonial powers. It is respectfully submitted that it is the sovereign right of any independent country to establish a shipping register, provided that it is operated in accordance with international convention provisions. It is further open to independent countries to choose between an annual tonnage tax on their shipping register rather than a fiscal regime involving company and profits tax. If certain established registers

operating an annual tonnage fee regime are to be criticised, should not the same criticism apply, for example, to countries such as Norway, France and the United Kingdom which have now opted for an annual tonnage tax ? Rather than preoccupy itself with the fiscal regimes operated by registers, it is respectfully submitted that the Commission should concentrate on issues of safety, and in particular on realistic and practicable measures which identify sub-standard ships and measures to bring them up to international convention standards.

Issues affecting safety of ships

4. It is submitted that the international safety conventions are the correct vehicles to regulate the standards of international shipping. UNCLOS requires governments to regulate the safety of their ships but contains no detailed safety standards. These are contained in the safety conventions administered by the International Maritime Organization. Properly applied, these conventions will ensure that all ships adhere to the same safety standards and hence eliminate the cost advantage associated with the avoidance of international standards. The shipping industry and ship's crews are today faced with a heavy burden of new international convention requirements and it is difficult for even the most conscientious mariner to keep up to date with them. It is submitted that efforts should be directed towards implementation of existing convention standards rather than on imposition of further regulations.

International enforcement mechanism

5. It is the responsibility of flag states to ensure that ships meet the international convention standards. Virtually all governments rely to some degree on the classification societies to carry out surveys and issue statutory certificates under delegated authority. This is permissible under the various conventions and IMO resolutions. The extent of surveys required has increased commensurately with the expansion of international convention requirements. Reliance on classification societies is not new and is simply an extension of the practice which was started decades ago when the established maritime countries delegated such matters as load line surveys to classification societies. There is in addition considerable merit in the use of classification societies to undertake surveys on behalf of flag states, for it would be impracticable for any register to provide a world-wide network of suitably qualified and experienced surveyors as presently maintained by the major classification societies.

6. It is suggested from time to time that the International Maritime Organization be given powers of oversight of safety standards of ships. While this might appear attractive, it is considered impracticable, as IMO do not have the staff or resources for the extent of oversight which would be necessary to

conduct inspections on all international shipping. It is submitted that improved adherence to international standards is more readily attainable by the following measures.

Identification of sub-standard ships

7. While port control inspections do from time to time identify seriously sub-standard ships, there is a tendency in some port state control organisations to detain ships for relatively minor deficiencies. Port state control detention data cannot therefore be relied on to identify sub-standard ships. There is in fact no clear definition of what is meant by a sub-standard ship. In general terms a ship may be regarded as sub-standard when it is poorly maintained, with deficient machinery and safety equipment, outstanding essential repairs and conditions of class. Such ships are easily and quickly identified by an experienced surveyor, but it is more difficult to lay down a strict definition of what is meant by sub-standard. Such ships may appear frequently in port state control inspection records, but any shipowner deliberately choosing to avoid maintenance for commercial gain is more likely to employ his ships in parts of the world with lax port state control regimes and thus avoid detection.

8. The principle difficulty in eliminating sub-standard shipping lies in identifying it. Once a sub-standard ship has been located action can be taken by both flag and port states to prevent it trading further until corrective measures have been taken. Flag states have an obligation to apply international convention safety standards to their ship. However it would be an insurmountable burden for any flag state to station inspectors around the world to carry out flag state surveys at frequent intervals. Flag states must necessarily rely on classification societies who have the greatest pool of surveying expertise readily available worldwide. It would in fact be impossible for international shipping to operate without the involvement of classification societies to perform surveys. In this situation it is submitted that the elimination of sub-standard shipping will be more readily achieved by better application of existing international conventions and use of existing inspection and survey regimes.

9. Ships are most frequently inspected by class surveyors attending for class and statutory surveys. The ships which have been found to have serious deficiencies at port state inspections are not confined to one or two societies with low standards; they arise in ships classed by all societies, including the prominent members of IACS. If the ships of a particular flag are persistently detained more frequently than others, yet classed by the same societies as registers with good standards, this suggests that the societies are applying different standards to different registers. While maintenance is important between surveys, serious deterioration, especially of the hull and machinery does not happen in 12 months. This must be so as the international convention standards are the same for all ships independently of flag. It is suggested that class societies are in fact accepting lower standards for ships

of certain flag than others and that this facilitates the continued existence of sub-standard ships. If all classification societies applied the international convention standards uniformly to all ships irrespective of flag this would go a considerable way towards reducing the incidence of sub-standard ships.

10. Classification societies are to some degree subject to commercial pressures and this may at times influence the judgement and decisions of their surveyors. This could be addressed by IACS by means of more strictly enforced unified agreements on the implementation of international convention standards. Flag states could also reinforce such action by instructing societies to whom they delegate surveys to apply international convention standards uniformly to their vessels in accordance with IACS unified agreements and by monitoring the performance of the societies. (See Part 2 on the Bahamian Ship Register).

Role of port states

11. Many port states carry out port state control inspections of foreign ships under the terms of various regional agreements. Port states are fully justified in detaining ships with serious deficiencies. There are however many instances in which ships are detained for minor deficiencies which are easily rectified. All such inspections impose a burden on the crew, frequently at times when they are fully occupied with their normal duties. Ships of some registers are inspected far more frequently than others, yet these registers have detention rates which are better than average. (e.g. Bahamas). This means that many inspections are being carried out on well found ships with no positive improvement in safety. It is understood some port state control organisations are reviewing their system of inspections with a view towards concentrating inspections on ships more likely to be sub-standard. This may be expected to bring about more ready detection of sub-standard ships and facilitate remedial measures, but only if the true factors affecting the likely condition of the ship are identified.

ISM Code

12. The full implementation of the ISM Code may be expected to bring about an improvement in safety and the more ready detection of sub-standard ships. The operation of the safety management systems on ships will be open to scrutiny by flag, class and port state surveyors.

Conclusions

13. Although sub-standard ships exist, they are in a small minority, and measures to raise their standards should be specifically directed to them and not disrupt the operations of ships which comply with the requisite international standards. The standards of the international safety conventions, while

capable of refinement and improvement in the light of experience gained, are satisfactory and should be accepted as the standards against which the safety of international shipping should be judged. UNCLOS sets only general obligations for flag states and would be unsuitable for the application of technical standards.

14. In view of the nature of international trade and movements of ships world-wide, it would be impracticable for every flag state to station exclusive surveyors in all port around the world. Governments must therefore of necessity rely on classification societies, though this does not mean that governments can avoid their responsibilities. They should take steps to monitor the performance of class societies to whom they delegate surveys. Sub-standard ships are considered to exist because of differing standards in the application of international conventions by classification societies depending on the flag of the vessel. This could be eliminated by concerted action of IACS members in achieving unified application of international conventions irrespective of flag. This would remove some of the commercial pressure faced by classification society surveyors in carrying out statutory surveys on behalf of governments.

15. Port state control inspections could also be used to raise the detection rate of sub-standard ships by targeting inspections more effectively. Once identified, machinery exists under existing international conventions to stop sub-standard ships trading until such times as they are brought up to convention standards.

16. In respect of crew conditions it is submitted that these are best regulated through adoption of ILO conventions. This will provide security for the crew and enable them to avoid any ships on which these conventions are not applicable. It is accepted that the ILO conventions require extensive revision, and considered that this offers the most effective means of attaining uniform conditions on ships.

16. Based on the above conclusions the following measures are proposed to deal with sub-standard ships:

- (a) All classification societies, and in particular IACS members, should consider developing uniform application of safety conventions to ships of all flags, and discontinue varying standards of application permitted by some flags.

- (b) Flag states should restrict delegation of statutory certification and survey work to members of IACS.
- (c) Flag states should monitor the performance of classification societies by carrying out periodic inspections of ships and follow up to port state control inspections and casualty investigations.
- (d) Port states control inspections should be more selectively targeted at ships likely to be sub-standard and reduce the rate of inspections on ships with satisfactory safety standards.
- (e) Conditions for crews should be improved through the revision of the ILO conventions.
- (g) Measures to provide for the repatriation of crew in the event default of the shipowner are desirable.

Part 2 - The Bahamas Ship Register

1. The Bahamas was formerly a colonial territory administered by the United Kingdom. It was then a United Kingdom registry port and ships registered there complied with United Kingdom legislation. The Bahamas became an independent country in 1973 and then became a flag state in its own right. The United Kingdom safety legislation was retained by application through the Bahamas Merchant Shipping Act. This meant that Bahamian ships complied with the same safety standards developed at IMO as United Kingdom ships.

2. As the Bahamas register grew it became apparent that a stronger administration was required in order to effectively meet international convention requirements in relation to ship registration and shipping safety. The Bahamas Maritime Authority was accordingly established by Act of Parliament. This is a government authority charged with the duties of operating the register and implementing international convention standards and answerable to the Minister of Transport.

3. It is the policy of the Bahamas Maritime Authority to enforce international convention standards for Bahamian ships. This is done by delegation of surveys to selected classification societies who are considered to have an effective world-wide organisation of adequately qualified surveyors and have proven records. Only eight classification societies are recognised, all of who must maintain membership of IACS. Not all members of IACS are recognised to carry out survey work on behalf of the Bahamas. In accepting the reality that the classification societies have the largest pool of surveying expertise currently available in the world, and that the shipping industry depends on these societies to a large degree for ship surveys, it is also realised that any responsible flag state will monitor their performance. This is done by the Bahamas Maritime Authority.

4. All Bahamian ships must be inspected annually by a Bahamian appointed inspector, who is independent of any classification society. These inspectors are bound by the terms of their appointment to conduct these inspections according to flag state requirements. The guidelines for these inspections have recently been extensively revised. The purpose of the annual flag state inspection is to monitor the performance of class and to verify that the ships meet the standards of the relevant international conventions. The reports of these inspections are scrutinised by the Bahamas Maritime Authority staff and any apparent deficiency followed up with the shipowner and classification society.

5. In the event of a Bahamian ship being detained following a port state control inspection a Bahamian inspector is appointed to board the vessel provided the port state advises the Bahamas Maritime Authority at the time and instructed to ensure that deficiencies are rectified. The same procedure is followed if the Bahamas Maritime Authority receives information of safety deficiencies from any other source. All port state control detentions of Bahamian ships reported to IMO are also followed up and IMO advised of remedial action taken.

6. The published data from port state organisations confirm that the safety record of the Bahamian fleet is good. It compares very favourably with many of the old established ship registers in the developed world and the detention rate is well below the world average. The Bahamas is not on the list of registers targeted by any port state control organisation and is rated among the tops class of registers requiring least inspections by the system being developed by the European Port State Control organization.

7. The Bahamas also has a permanent representation at the International Maritime Organization and currently is a member of the IMO Council. The Bahamas attends all IMO meetings and participates actively in matters of concern and which will improve safety of shipping and seamen.

8. The Bahamas Maritime Authority also investigates shipping casualties and submits reports to the International Maritime Organisation. The principal purpose of the investigations is to identify the causes of accidents with a view to preventing recurrence and hence enhancing the safety of life at sea. All major investigations are undertaken by a team of experts from the Bahamas Maritime Authority following which the reports are submitted to the International Maritime Organization and all interested parties. Reports are also published where this is in the public interest. The quality of the investigations may be judged from two recent major accident investigation reports which were published and well received by the international maritime community. One of these reports has led to the commissioning of a research project by the Bahamas Maritime Authority and the other will be followed by submissions to the International Maritime Organization proposing improvements in training.

9. A system of self-assessment by flag states has recently been introduced. This is intended to assist flag states in assessing their performance in implementing international convention requirements. This is a useful tool in identifying areas in which a flag state might need assistance. The Bahamas recently completed its self-assessment procedure and submitted it to the International Maritime Organization. This did not reveal the need for any substantive changes. The administration of the shipping register will nevertheless be kept under review in order to ensure that the flag state obligations

are fully met. Work has already begun on the implementation of a quality management system covering administrative procedures within the Bahamas Maritime Authority.

10. It is submitted that the responsibility of a flag state is to ensure that seafarers are provided with safe working conditions and have recourse to an effective legal system in which to enforce their contractual rights. This does not extend however to the fixing of remuneration. This is a commercial matter and must be left to be settled by the employers and seamen. In cases where seamen may be abandoned in a foreign port, the most effective remedy in the first instance is for the seamen to take legal action against the owner by arrest of the ship to provide security for the claim. This is provided by Bahamas legislation and available to any crew on a Bahamian ship. In the event that the crew are not repatriated the Bahamas government has power to meet the costs of the repatriation. This is a matter which might with benefit be extended through the medium of an international convention requiring measures to ensure that the costs of repatriation can be met, possibly from some form of compulsory insurance or bond.