



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

DIRECTION DE LA SCIENCE, DE LA TECHNOLOGIE, ET DE L'INDUSTRIE
DIRECTORATE FOR SCIENCE, TECHNOLOGY, AND INDUSTRYDivision des Transports
Division of TransportLe Chef de Division
The Head of DivisionHonorable Peter Morris
Chairman
International Commission on Shipping

info@icons.org.au

STI/DOT/00.193

Paris, 9 August 2000

Dear Mr. Morris,

Submission to the International Commission on Shipping

First of all, thank you for the opportunity to make this submission to the Commission. The elimination of substandard shipping and the promotion of quality shipping features as a high priority in the programme of work of the Maritime Transport Committee (MTC), the body responsible for maritime affairs at the OECD, and this opportunity to make a submission is welcomed.

The OECD Perspective

As well as the unfair competitive advantage obtained through the non-compliance with international safety rules and regulations, the OECD has for some time also been concerned about the impact of substandard shipping on safety, the loss of lives at sea and the marine environment.

While recognising that primary responsibility for maritime safety and the protection of the marine environment lies with the International Maritime Organisation (IMO) and the flag and port States, the OECD has endeavoured to contribute to the overall effort to eliminate substandard shipping world-wide through its economic expertise and policy formulations. It has worked alongside the IMO to give political support to the Organisation's efforts towards full compliance with international rules and standards by all parties concerned.

In carrying out its work, the MTC has liaised extensively with a number of member governments active in this field, particularly the Netherlands and the United Kingdom, in order to co-ordinate activities and avoid overlaps and duplication of effort. Contacts with industry have also intensified over recent years.

The OECD has addressed the problem of substandard shipping on the premise that the existing regulations are adequate and capable of efficiently controlling shipping standards throughout the world, provided that they are effectively enforced internationally. As a first step the MTC called for strict compliance with international conventions, tighter enforcement mechanisms, and has assessed the economic, and hence competitive, advantages gained by non-observance of these rules and standards.

.../...

The Organisation has encouraged governments to release the results of Port State Control inspections, as well as self-assessments of flag state performance through the IMO when these become available. It has also advocated greater self-regulation by the industry and has sought to stimulate the maritime industry to actively participate in the campaign against sub-standard shipping through an Action Plan, which essentially encourages greater awareness, industry self-regulation and freer exchange of information.

However, the lack of any real enthusiasm on the behalf of the industry in carrying forward some of the initiatives in the Action Plan has led the OECD to go one step further by assessing whether individuals in the industry face real costs if they deal with substandard shipping, or whether through insurance or other arrangements these costs are diluted and spread widely throughout the industry and/or community.

This analysis may help to shed some light on where the real financial (and in some cases non-financial) impact of substandard shipping really falls, and whether there are genuine incentives available to encourage industry to avoid contacts with those ships. A copy of the project proposal recently approved by the MTC is attached for your information. It is anticipated that this work will be completed before the end of 2000.

Because the OECD has no legislative or regulatory functions, our ability to act in respect of substandard shipping is quite limited. However, the MTC believes that it can bring to bear considerable policy and political pressure to encourage action against substandard operators, as well as providing rigorous economic analysis to underpin efforts to address these problems.

In its recent consideration of its Programme of Work for the period 2001/2002, the Committee reaffirmed its commitment to promoting maritime safety by giving its safety-related activities a high priority.

The MTC's view is that sufficient international conventions and regulations exist to deal with the problem of substandard shipping, as long as these are effectively and consistently. The MTC will continue to urge all governments (including those outside the OECD with which it has a dialogue through its outreach activities) to strive to rigorously apply all applicable international standards.

Finally, the MTC is also of the view that greater industry self-regulation will greatly assist the effectiveness of efforts to curb substandard shipping, and will continue in its efforts to facilitate and encourage all industry parties, as well as ship owners, to take a greater role in combating substandard shipping.

The MTC's work to date is described in more detail in the Attachment. More information on the Committee's work and all documents cited in the Attachment are available on the MTC's web-site at:

<http://www.oecd.org/dsti/sti/transport/sea/index.htm>

The MTC Secretariat supports this initiative and would be willing to meet with the Commission while it is in Europe if this can be arranged in a mutually convenient way. In any case, please do not hesitate to contact me if you have any queries about our submission, or we can assist in any way,

Yours sincerely,

(signed electronically)

Wolfgang Hübner

Description of OECD Work

Call for compliance with internationally agreed rules and standards

In 1994, the OECD through its “*Statement on enforcement of international rules and standards*” advocated open markets for international shipping based on the principle of free and fair competition. That required, among other things, that all vessels should comply with internationally agreed rules and standards concerning the safety of ships and persons on board, and the prevention of pollution of the marine environment. When ships operated below those standards they created unfair and therefore unacceptable competition.

In view of the human factor that lies behind the majority of shipping accidents, OECD countries highlighted the necessity of targeting controls and enforcement mechanisms and welcomed the revisions of the STWC Convention. The statement also called for Flag states to demonstrate that they were carrying out their supervisory responsibility effectively.

Seven non-OECD countries also subscribed to that statement: Bulgaria, Estonia, Latvia, Lithuania, Romania, Russia and Ukraine.

The element of unfair and unacceptable competition was taken one step further when the OECD Member countries examined for the first time the competitive advantages that can be gained by shipowners who do not comply with international rules and standards.

Competitive Advantages Gained by Non-Observance of International Rules and Standards

In 1996, the OECD published a report on the “*Competitive advantages obtained by some shipowners as a Result of Non-Observance of Applicable International Rules and Standards*”. The report established that there were substantial economic benefits accruing to shipowners who did not observe international rules and standards. It also demonstrated that as well as making it financially attractive for substandard operators, non-observance also discouraged quality operators from continuing to adhere rigorously to these standards, as they were seriously financially disadvantaged.

Although most shipowners operate their vessels correctly, difficult economic circumstances have led some shipowners to take advantage of their freedom to set operating standards that fail to conform to at least some of the rules and standards for shipboard safety and the protection of the environment. In certain cases non-compliance can result in substantial savings to the shipowner, especially when substandard vessels can continue to trade for extensive periods before the deficiencies are detected and corrected.

The study found that in some cases financial advantages can amount to 15 per cent of the annual running costs of a vessel, equivalent to around \$US 250,000 per annum. In addition the study suggested that penalties applied to substandard vessel operations are relatively low compared to the economic advantages gained from non-compliance, thereby further encouraging this type of behaviour by unscrupulous ship operators.

As well as examining the roles of flag states and port states authorities, the report also touched on the responsibility of the various players in industry in combating the non-observance of international rules and standards.

The MTC then decided to go a step further and examine the role that could be played, directly or indirectly, by maritime transport players other than the shipowner in the shipping market, to reduce the incidence of substandard shipping.

Possible Actions to Combat Substandard Shipping by Involving Players other than the Shipowner in the Shipping Market

The MTC released its *“Discussion paper on possible actions to combat substandard shipping by involving players other than the shipowners in the shipping market”* in 1998. These industry players included classification societies, chartering and marine insurance interests, ship financiers and cargo owners.

The report addressed the crucial question of how industry players could actively participate in actions to combat substandard shipping. It was suggested that, as well as global benefits (such as improved safety and reduced environmental risks), there were also individual benefits which should be available to those industry players who avoided dealings with substandard shipping.

While none of these players could be considered as having sufficient individual influence to prevent the operation of substandard ships, it was suggested that each could contribute towards making the operating environment more difficult for unscrupulous operators, and thus marginalising them in the international shipping market. The report did not propose the introduction of new laws and regulations, but argued for greater awareness and self-regulation by the industry. A number of initiatives were proposed.

A Roundtable was held in September 1998 involving OECD members and the maritime industries where these initiatives were considered. Industry participants at that meeting gave strong support to the direct involvement of the maritime industry, and endorsed the concept of greater industry self-regulation to avoid further domestic and international regulations to address this difficult problem.

OECD Governments (and through the MTC’s outreach programme also non-OECD governments) were encouraged to release the results of their Port State Control inspections, as well as their self-assessments of flag state performance through the International Maritime Organisation (IMO) when these became available.

An Action Plan, which provides for a series of industry based initiatives, was drawn up as a result of that meeting.

The OECD’s Action Plan

The Action Plan contains initiatives that the various sectors of the maritime industry could take to marginalise, and hopefully eventually eliminate, many of the substandard ships, which still operate internationally. The Action Plan has received the full support of the IMO.

Implementation of this Action Plan commenced in 1999 and has included extensive liaison with other parties active in this field, including the governments of the Netherlands and the United Kingdom, in order to co-ordinate activities and avoid overlaps and duplication of effort

Some of the key elements of the Action Plan are:

- enhance transparency by facilitating the dissemination of information which is relevant, up-to-date and in compatible format;
- raise with ship brokers the possibility of an industry-wide Code of Conduct to reduce further the incidence of substandard ships being offered to shippers and charterers;

- examine the scope for existing shipper inspection schemes to integrate their activities, and to bring together those dry bulk shippers with in-house vetting schemes to consider the integration of those arrangements in order to provide a more extensive and effective coverage of their sector;
- encourage ship financiers to consider the retention and exercise of their rights of access to relevant information on ships financed by them.

Transparency of information is a consistent theme throughout the entire Action Plan, and there are a number of initiatives that deal, either directly or indirectly, with the issue of transparency.

However, some concerns were expressed about certain legal aspects that could arise through the dissemination or use of information on substandard shipping. We understand that some work is currently being undertaken by the European Commission in relation to this issue, in connection with the EQUASIS database, and it has been decided therefore to wait for this evaluation and to consider any further action on that basis.

Meanwhile, the OECD has established an interim web site dedicated to substandard shipping. The site contains links to other sites where publicly available information related to this topic can be found, and it attempts to facilitate the task of researchers by summarising details of information to be found at those sites.

However, with respect to the other initiatives the implementation of these has stalled. Although a number of individual industry parties have been very helpful, the OECD has had difficulty in generating any genuine momentum in the implementation of the Action Plan, and has not been able to reach a critical mass of participation in any of the individual activities. Therefore, while there has been general support for the activities that address substandard shipping, it has been difficult to translate that into active involvement by a sufficient number of individuals and organisations.

Upon reflection, the OECD may have taken certain assumptions for granted. Principally, following the 1998 industry roundtable, it was assumed that it would be in the direct interest of industry parties to actively participate in the implementation of the Action Plan that resulted from that roundtable. That assumption was itself based on the perception that as well as general community costs there were potentially severe direct personal costs associated with substandard shipping that industry would want to avoid.

However this assertion (which at the time seemed self-evident to us) has never actually been substantiated for the various parties in the transport chain.

The Maritime Transport Committee has therefore decided to address this issue in order to provide a more substantial foundation for greater involvement by the various industry parties identified in earlier work. This will be done by assessing which costs, if any, are directly faced by players involved in the maritime transport chain arising from the use of substandard shipping. Meanwhile implementation of the Action Plan has been suspended pending the completion of the project.

The cost to Users of Substandard Shipping

The objective of this project will be to assess the costs, if any, faced by players involved in the maritime transport chain arising from the use of substandard shipping. Conceptually, this could establish two things at opposite ends of the spectrum, both of which are potentially valuable:

- That there are substantial direct costs associated with dealing with substandard shipping, in which case individual industry players should have a strong incentive to participate in activities to combat substandard shipping;

- That there are not substantial direct costs, perhaps because costs are spread and diluted to such an extent that the real impact is never felt by individual players. This would help to explain why changes to the system are difficult to achieve and may force a different approach to the whole issue of substandard shipping.

The OECD has recently focussed its attention on industry players other than shipowners, on the rationale that shipowners were already the target of actions to address substandard shipping, such as flag and port state inspections, and the application of IMO conventions. However, for the purposes of this particular study it is important to include them back into consideration because they form part of the transport chain, and any apportionment of potential costs flowing from substandard shipping must include owners if the picture is to be complete.

Also to be included are the victims of substandard shipping, such as ship crews and those affected by the flow-on effects of incidents involving these vessels. In assessing the type of costs and in allocating the costs to the various parties, industry assistance will be sought.

Future Work

At its most recent meeting the Maritime Transport Committee approved a project for its 2001/2002 Programme of Work which would examine the cost advantages accruing from non-compliance with environmental protection legislation. This would be a complementary study to that undertaken in 1996 which focused its examination on the avoidance of safety rules. It is expected that together these studies will provide a strong rationale for action to more effectively enforce those international requirements. This project is scheduled for completion towards the end of 2001.