

CONTRIBUTION FROM THE UNION OF GREEK SHIPOWNERS

A. Comments on issues listed in the ICONS Information Paper

- **How can the activities of sub-standard shipping be made transparent and accountable?**

Transparency is necessary, but is also a complex issue. In Europe they have developed a potentially effective tool, the EQUASIS. It will take some time for EQUASIS to evolve and become functional and useful. We have noted that the system will not attempt to “rank” ships in order of safety quality. Instead, users will be expected to make their own assessment based on the facts provided. Therefore, one cannot exclude the possibility of commercial interests using the information for putting pressure on vessels (especially of smaller loss) to accept less favourable terms. Therefore, the need to protect personal information and data and the legitimate demand for openness must be reconciled. Accuracy of information, definition of the real sub-standard ship and a system that ensures objective assessment by third parties will need to be safeguarded in order to meet the concerns of the shipping industry and allow the true value and benefits of EQUASIS to emerge.

There are already various forms and levels of liabilities, responsibilities and obligations, in other words of accountability, incorporated in a number of international instruments. There should be no room for complacency or real benefit from rule evasion. The ISM Code was specifically designed to ensure rule compliance and to address the issue of accountability. In addition, national or coastal State legislation provides for penalties or sanctions against violators of rules and regulations. The Greek legislation provides for disciplinary action against the master of a Greek ship, for fines against the master or the operator and even for legal action against both.

- **Is the establishment of an international enforcement mechanism feasible? If so, how might it work?**

We understand that you refer to a mechanism which would ensure that flag States comply with obligations and commitments stemming from international instruments and that they fully implement and enforce the requirements thereof. As indicated in your Information Paper, there has been some movement in this direction, with the STCW Convention and the ISM Code both requiring a more active role by the Organization. In our view it will be more realistic if we focus all efforts on the few substandard ships and substandard operators still active. They can be identified and the tools to eliminate them are available. EQUASIS, rigorous port State control and the increased pressure on flag States to perform effectively will achieve the goal. We do not believe that it would be feasible or appropriate to pursue the avenue of measures or control of flag States or registers, for many reasons. There are good and bad ships under any flag or register. There are good and bad open registers. There are good and bad flags. They both rely on the services of classification societies. You need objective yardsticks to assess performance. You need reliable and objective external auditors. You could hardly provide the legal basis for such a mechanism which would not infringe on national sovereignty. However, with better coordination and cooperation and with further improvements, the now extensive PSC regimes worldwide can constitute such an international enforcement mechanism.

- **How can the financial and welfare interests of crew be more effectively protected?**

By changing the structure and mechanisms of the ILO conventions and notably of Convention 147 which would enable their universal application. The ICONS Information Paper illustrates the problem and points to the solution. For a number of legal and practical reasons we do not think that any further intervention from coastal States would be feasible. Instead, it is self evident that it would be to the best interest of flag States to ratify Convention 147 and of seafarers to seek employment on board ships subject to the terms of the Convention.

- **Can IACS play a more effective role?**

Classification is important, extending into the design, construction, repair, operation, and maintenance of ships. It is the irreplaceable fount of technical excellence and research and development. IACS brings together the major classification societies for many good reasons. They have achieved much but they need to achieve more.

In order to ensure the structural integrity of ships, it is absolutely essential that classification societies apply the highest possible standards in carrying out their tasks. The design and specifications of the structure of the ship, the degree of conformity with the classification society's rules and the supervision of the quality of work during the shipbuilding stages, determine to a large extent the quality of the ship in service. It is not a coincidence that ships built in times of high demand for tonnage with optimised specification, sustain more structural failures than older ships built to higher standards.

There are genuine fears that competition between shipyards, combined with pressures towards arbitrary phasing out of older ships, will result in deteriorating standards of ship design and construction. IACS should consider the need to establish universal minimum standards for reserve strength based on a realistic diminution of steel and universal minimum scantlings. In addition, shipyards and classification societies should accept greater degree of responsibility for design and construction standards, including the need to extend warranty periods. Therefore, the rules relating to hull strength and integrity, as well to surveys, is another area clearly meriting more attention by the societies as well as the IMO. Such universal standards would encourage or compel non IACS members to follow suit.

We believe that in the shorter term, classification societies must examine their performance and introduce any necessary changes in consultation with Administrations and the Industry to ensure a credible professional performance at all times. The whole maritime community and the public at large and not just the shipping industry require efficient and credible classification societies. They are the professionals, and whatever changes are needed to ensure effective professional performance at all times, then those changes must be made.

- **Should the commercial incentive be removed from Class? If so, how?**

There should be a distinction between the classification services, which is a matter of private relationship between classification societies and the owners, and the statutory tasks (surveys, inspection, certification, testing and approval of equipment) delegated by governments. For the owner, having to pay considerable fees to the classification society for the statutory tasks, it would make no difference if the "commercial incentive" were removed from class and the fees were payable to the government. In that case the class would function as servant of the Administration. Nevertheless, such

an arrangement would not bring about any significant changes, since there would be no guarantee that the surveyor in the field would always be of the highest integrity and ability.

Ideally, statutory surveys and certification should be carried out by qualified and experienced surveyors of the Administration, so as to eliminate any contractual and commercial relationship between classification societies and owners. Nevertheless, reality has led to a situation and system, serving primarily the interests of governments, who have found that the delegation of authority is accommodating for many reasons.

Classification societies have signed formal agreement with governments and have limited liability for the quality of their service. It should be underlined that the vast majority of shipowners equally expect class to perform complete and quality surveys, but in case they do not perform as expected, shipowners do not have the same recourse through a similar liability clause.

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

The acknowledgement that maritime safety and environmental protection can be promoted only by the joint effort of all parties involved in the "responsibility chain" underlines the contributing importance of self-regulation. Business-related solutions suggest a high degree of self-regulation, desirable for the industry, but so far mistrusted by governments.

In June 1999 the European shipping industry together with 23 private organisation signed in Amsterdam the Maritime Industry Charter on Quality. The Charter was intended to promote the joint effort to eliminate sub-standard shipping. The general reaction to the proposal of the European Commission was positive, since it reflected longstanding views of the shipping industry. However, the Charter, focusing on sub-standard shipping and endorsed by a wide range of shipping-related organisations, did not define the real sub-standard ship or the corresponding obligations of other parties, as requested by the shipping industry. The European Commission undertook to pursue the twin objective, yet, 12 months have elapsed without tangible progress in this regard. It is intolerable that the whole industry should continue to be held collectively responsible and penalised for the omissions of a small minority.

"Good performance" needs to be defined. We understand that "sub-standard" ships are those which do not meet the IMO standards, whereas "standard" ships are those which meet the standards and, therefore, demonstrate good performance. "Quality ships" are deemed to be those exceeding the IMO standards, at the option of owners, usually for commercial reasons. Standard and quality ships should be allowed to continue competing freely under the market mechanisms. In our view, governments should set the example of rewarding responsible operators and compliant ships, for instance with less inspections and lower fees. Regrettably, most governments are taking a very narrow view and do not seem prepared to take even such a small positive step in this direction. We would not like to see the promotion of a system with inherent commercial drive which would reward "quality" ships and penalise by implication "standard" ships. Such a system would undermine the stability of the regulatory regime, which sets the mandatory international standards. If higher standards are found necessary, then we should pursue their universal introduction. On the other hand, if so far it has been proved difficult to eliminate through the controlling mechanisms the operation of sub-standard ships and to discourage their use by charterers, we wonder how realistic the notion of rewarding ships can be. It would, therefore, seem to us that the more pressing issue is the compliance of all ships with the prescribed standards and the elimination of substandard ships through the concerted action of all maritime players involved in the responsibility chain.

- **Can the provisions of UNCLOS, as well as IMO and ILO Conventions be more effectively implemented? If so, how?**

We would not place an emphasis on the UNCLOS provisions, mainly for two reasons. First, the framework Convention, compared to the basic IMO conventions, has limited membership. Second, issues regulated in general terms by the UNCLOS, have been or are being regulated in detail by the competent international organisation, the IMO. On the other hand, there is a worrying tendency to invoke, and in our view to overstretch, UNCLOS provisions to introduce unilateral measures on matters, which are properly the scope of the IMO.

- **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?**

The problem lies in the implementation and enforcement of existing rules, which cannot be solved with more rules.

The Sub-Committee on Flag Implementation was established by IMO to address the question and redress the situation. The Sub-Committee should re-focus its attention in assisting developing countries in the area of implementation and enforcement.

On the other hand, we should not lose sight of the significance of the ISM Code, which was introduced exactly for this purpose. We believe that we already have in our hands the effective tool to achieve our goal. We should trust it and oppose efforts to discredit the Code. We should let it prove its effectiveness if we wish to keep up our momentum for improved safety.

- **How can the effectiveness of existing IMO standards be measured?**

The effectiveness can be measured by the degree of acceptance, implementation and enforcement and the improvements they have brought about. The measures taken at international level to improve safety and lessen pollution as a result of accidents have resulted in a significant decrease in both accidents and oil pollution

The MARPOL Convention is credited with a substantial positive impact in decreasing the amount of oil that enters the sea from maritime transportation activities. The amount of oil entering the sea as a result of accidental pollution from shipping has shown a declining trend since the mid-70s. From 384.000 tonnes in 1983 it was decreased to just 20.000 tonnes in 1998. The Enhanced Survey Programme (ESP) has had a significant effect in reducing losses and incidents causing pollution, but of course, it can only function when properly implemented.

The IMO is generally perceived as setting high standards, reflecting the ambitions of the industrialised countries to enhance safety and pollution prevention standards. The lowest common denominator is not the aim, or the result. The standards are carefully developed to be effective and intended to be implemented. Therefore, full effectiveness of the IMO standards can only be measured if they are fully implemented.

- **Can the IMO play a more active role in international safety regulation? If so, how?**

The IMO's task is to promote co-operation between governments in order to adopt regulations and recommendations establishing international maritime standards at the highest practicable level in the areas of maritime safety, navigational efficiency, prevention/reduction of marine pollution from ships and other legal matters.

It is claimed that IMO falls short of what is needed to tackle the causes of disasters effectively and that it lacks the proper means to verify how its regulations are applied. Some quarters criticise the time consuming IMO procedures and the fact that usually the IMO decisions are the result of consensus and hence its rules do not constitute the highest possible standards. We believe that these criticisms are no longer valid. IMO has demonstrated on many occasions that it can react speedily and effectively and that it adopts international standards at the highest practical level.

The IMO is as strong and active, as its Member governments desire it to be. Member Governments collectively adopt regulations within IMO but they have the obligation individually or in co-operation to implement and enforce them. So the answer rests with Governments. The issue of a more active role, which seems to imply conferring more powers to pursue ambitious policies, can only be addressed by its full membership. There may be a number of under-performing members and probably an equal number of over-zealous ones. Both extremes are unhelpful. The IMO's role and objectives are clearly defined. Its function and success have been based on consensus and balanced solutions. This approach must be preserved for the continuation and promotion of the global effort.

- **How can the disinterested elements of the "Responsibility Chain" be persuaded to assume accountability?**

Perhaps the answer is simple. Shipowners are held legally accountable in every respect. If other elements of the responsibility chain cannot be persuaded to voluntarily assume accountability, then it should be imposed by law, provided that it is appropriate and reasonable. We can see such initiatives and developments at the EU level with EU legislation. Governments and ports will be obliged to provide the necessary shore reception facilities for ships' waste. Dry bulk cargo terminals will be obliged to comply with IMO rules and to establish a quality system which will ensure safe loading and unloading of bulk carriers. We have already mentioned how shipyards can be made more accountable.

- **Can a "Reward System" for responsible operators work?**

We have repeatedly stressed that quality shipping is shipping which is clean, safe, efficient and profitable. A "reward system" should make shipping operations more profitable for responsible operators. We believe that such a system can work if governments and the market are prepared to support it. Charterers should not charter sub-standard ships and should reward good quality ships with better freights. In the case of transportation of oil, the role of governments is self-evident. Of the price of a gallon of petrol paid by the consumer in Europe an average of only 2% goes to the shipowner as gross freight, 28% goes to the oil producer, refiner and distributor and 70% to the government in taxes. Oil companies and governments should be prepared to pass a small fraction to the responsible oil carriers and for improving safety infrastructure in ports and terminals, if they wish to see safety sustained and enhanced.

- **Port State Control - how to maintain its credibility?**

Port State control is increasingly expanding its activities and scope, without a corresponding enhancement of its resources, in terms of properly qualified, trained and experienced controlling officers, and of its effectiveness. Expanding the scope of the port State control regime ostensibly for the sake of a small number of persistently sub-standard ships does not address the roots of the problem. Sub-standard vessels still manage to escape detention, even in ports with good PSC records. We feel that the more port State control expands, the less unwilling flag States will feel the need to improve their performance, as it may be more convenient and inexpensive for them to rely on the service rendered by port State control. What is required is precise targeting of individual vessels and operators, so that PSC focuses on sub-standard vessels and not on meeting prescribed inspection quotas. Some PSC Authorities in order to achieve the quota, refrain from inspecting manifestly sub-standard ships and opt for the less time consuming inspection of good quality ships. Others go beyond the scope of PSC, focusing on the hull structure and issue unwarranted detentions demanding repairs at nearby yards. Both attitudes do not promote the real objective of PSC. Ultimately, the objective should be to return to and reinforce the basic principles of flag, owner and master responsibility. However, this objective seems to still be difficult to reach, if we judge by the promotion of a global network of PSC which is intended to fill the gap and close the safety net.

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

There is a number of flag States which seem to have a permanent place in the lists of targeted flags of the Paris MOU and in similar lists of other PSC systems. Similarly, there is a number of authorised inspecting organisations which under-perform profoundly.

It is ultimately the responsibility of governments (flag States and port States) to identify and eliminate sub-standard operators and ships. They should have the power and the means to achieve this goal. The continuation of operation of sub-standard ships questions the real intentions and effectiveness of controllers at various levels.

Furthermore, verification of compliance with the IMO guidelines for Administrations and Classification Societies by close supervision and where appropriate by external auditing should not be a difficult task. Their elimination would be a more difficult task. In our view it will require amendments to IMO conventions, which in effect would give the right to coastal States not to recognise certificates of ships issued by or on behalf of sub-standard flags or classification societies, classified as such through an IMO procedure.

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

Such a holistic approach would embrace the questions raised and answers given with respect to the previous issues. There have been studies by OECD and individual countries along the same lines which despite their many shortcomings have focused on the commercial benefit for sub-standard ships and operators and the need to give incentives to quality operators. So far, we have seen no real follow-up. So, again, it is a question of how prepared governments are to act decisively.

- **How can flag States be assisted to implement the minimum standards required to operate a viable flag registry?**

By benefiting from the technical co-operation programmes of the IMO and other Agencies, to establish an Administration in conformity with the IMO guidelines and by delegating statutory tasks only to organisations meeting the IMO requirements.

B. Additional issues

- **The age of the ship**

Age in itself is not an efficient criterion of the quality of a vessel if it is built, operated and maintained in accordance with international standards; inspected and controlled in conformity with the applicable requirements and procedures; safely manned and operated and, when in distress, effectively assisted.

Arbitrary phasing out of vessels over a certain age creates a precedent, which may discourage future investment in the shipping industry. If shipowners have concerns that regulations of ship design and construction may result in the premature obsolescence of vessels every time an accident occurs, those shipowners who could be expected to order vessels and to operate them responsibly throughout their lifetime, might be discouraged from doing so. This, in turn, might result in a greater proportion of orders for new-buildings of shorter life vessels to lighter designs, with potentially adverse long term repercussions in the area of safety and environmental protection.

- **The role of ports**

There is a real safety problem in connection with the shore-side infrastructure and the ship/ port interface. Ships have become larger in numbers and sizes and faster. In contrast, most ports and their approaches have not improved to cope with the increased demands of traffic. Furthermore, a significant number of incidents close to ports involved pilots.

The "Erika" and "Treasure" incidents highlighted the urgent need to establish a coastal State regime, which would identify ports of refuge and the fact that they are equipped and able to handle casualties and would enable authorities to giving proactive assistance to ships in distress, particularly in situations where the crew or owners/managers are not responding appropriately and human lives or the marine environment are at risk.

- **The human element**

Proliferation of rules and regulations, overlapping inspection regimes and the non-uniform implementation of existing rules, place unreasonable pressure on masters and crews frustrating their efforts to comply and ultimately expose them, the ships and the environment to increased risks.

Fatigue has been identified as a contributing factor to casualties. There are genuine concerns regarding safety and operational efficiency difficulties caused by the increasing tasks and workload demands on ship Masters and crew in ports. The proliferation of various controls and inspections by port State authorities and representatives of various interests within the industry deprive them of the essential need to relax, enjoy and replenish themselves for the next voyage. There seems to exist a high degree of prejudice against ships and a lack of understanding of the realities and peculiarities of sea transport. The vast majority of ships and seafarers offer indispensable services and they deserve recognition and

co-operation, from the authorities and other interests not persecutory attitudes, as is presently the case. Too often masters are victimised and face unwarranted criminal prosecution. The profession thus becomes unattractive and the industry is experiencing shortages of adequately trained and experienced seafarers.

IMO, recognising that safety of life, property and the environment depend on the standards of competence and professionalism of seafarers, is shifting its emphasis onto people. While any other form of self-regulation introduced by the industry partners will be helpful, it is to self-regulation by seafarers that we should look to continue the trend of safety improvements. Also a more balanced approach regarding the portrayal of the industry by the authorities and the media which takes into account the vital function performed for the economies of the world and the well being of its citizens and the sea transport despite the inherent risks involved remains the safest and most environmentally friendly mode of transport.