

**Hon Peter Morris**

Chairman

**International Commission on Shipping**

Opening Statement

To

**Special Oversight Panel on Merchant Marine**

**COMMITTEE ON ARMED SERVICES**

**U S House of Representatives**

Washington

13th June 2002.

Mr Chairman,

Thank you for the opportunity to participate in today's proceedings. I wish to add some comments in respect of the International Maritime Organisation (I M O) the International Labour Organisation and the Organisation of Economic Cooperation and Development (OECD).

In overall terms, the IMO in its 43 years of existence has performed a valuable role in setting uniform technical standards for the safe operation of international shipping. IMO has traditionally concentrated on standards for the ship construction, maintenance, operation and equipment.

The realisation that human factors were a major influence in ship incidents, collisions and groundings led to the development of:

- The Convention on Standards of Training, Certification and Watchkeeping 1978 and its revision of 1995 (STCW).
- The International Safety Management Code for the Safe Operation of ships and for Pollution Prevention (ISM).

The IMO was generally regarded as having performed its technical tasks well. Criticism of IMO has been in relation to the failure of its members to give the organisation the power to supervise compliance with the regulations and standards it established. Comments like IMO was a political stage; IMO carries too much baggage were made to us.

Almost everyone wants IMO for international uniformity, but then the majority of membership has repeatedly refused to give it the power to enforce that international uniformity.

The contrast between the International Civil Aviation Organisation (ICAO) audits of its members' compliance and the powerlessness of the IMO is stark. The inability of the IMO to require flag states to comply with IMO safety and technical requirements has enabled delinquent flag states to flourish.

Voluntary self-assessment by flag states is akin to burglars writing their own character references. The fault lies with the member states of the IMO, not the staff of IMO.

IMO could play a far more effective role in eliminating sub standard shipping and enhancing ship security if its members gave it the power to ensure compliance with its standards and regulations.

The International Labour Organisation (ILO) like IMO has played a good role in setting standards for conditions of employment of seafarers, and like the IMO, the ILO lacks the power to ensure compliance with the provisions of its conventions.

The ILO has been the lead international agency dealing with seafarers working and living conditions since 1919. The main body performing this work has been the Joint Maritime Commission, which comprises equal numbers of shipowners, members and seafarers plus a representative of the governing body of ILO. Its processes through to ratification can take well over ten years.

The current task of revising, consolidating and updating employment conditions has been given a five-year timetable. In short I L O lacks power and resources.

It is difficult to see how an effective regime of ship security can be constructed when a sector of the international industry, the sub standard sector, embodies deception, deceit, fraud, abuse and exploitation of its work force.

On the basis of information presented to the Commission, sectors of the cruise ship industry raise concern.

The Organisation for Economic Cooperation and Development (OECD) has produced a number of important reports that have highlighted important aspects of international shipping.

It's report on the Competitive Advantages Obtained by some Shipowners as a Result of Non Observance of Applicable International Rules and Standards exposed the flawed field of competition in shipping. It exposed the 15 percent to 16 percent cost advantage to be gained by not complying with international maritime safety standards.

The OECD plays an important role in creating a wider understanding of the economic implications of shipping. It has the essential ability to bridge from the narrow technical brief of safety regulation across to the economic and commercial aspects of international shipping.

It also has an important responsibility to perform in the improvement of the safe operation of international shipping and eliminating the abuse and exploitation of seafarers.

**The confinement of all visiting seafarers aboard their ships adds to the already onerous work conditions of many thousands of seafarers.**

Long periods away from home and family often isolated with the same small group of people for many months on end, necessitates opportunity to contact family and friends.

Surely limiting ship confinement to targeted individuals rather than keeping crews captive on their own ships could better address risks in this area.

The primary task is to address the integrity of the international system of shipping regulation, compliance and treatment of seafarers.

**Hon. Peter MORRIS**

**Chairman**

**International Commission on Shipping**

Submission to

**Special Oversight Panel on Merchant Marine**

**COMMITTEE ON ARMED SERVICES**

**U S House of Representatives**

Washington

13<sup>th</sup> June 2002.

Thank you for the opportunity to present a Submission to your Committee.

I understand Committee members have been provided with some background on the work of the International Commission on Shipping (ICONS) and the contents of our report.

In this Submission I will briefly outline what we did, what we found, the nature of our recommendations and the response we have received since we presented the report to the APEC Symposium on Safer Shipping in Sydney on the 6<sup>th</sup> March 2001. I will then provide some comments on matters that have been specified as of particular interest to the Committee.

In the course of its Inquiry into ship safety in year 2000 received 126 written submissions and met with more than 400 people at various meetings both public and private, in Asia, the USA, Canada and Europe.

Participation in the inquiry was voluntary and no protection was available to participants for any contribution they made. The independence of the Commission and the fact that participation was voluntary made its work all the more meaningful. The names of the participants and their organisations are listed in ANNEX 3 of the report.

The Commission formed the view that some 85 to 90 percent of the international shipping industry operated on a quality basis and met the required international maritime safety and personnel standards. The title of the ICONS report '*Ships, Slaves and Competition*' refers to the subject matter of the report.

*Ships* refers to international shipping in all its aspects and activities.

*Slaves* refers to the thousands of seafarers, mostly from developing nations, for whom life at sea is modern slavery.

*Competition* refers to the unequal nature of competition in the international shipping market where non-compliant shipping (substandard shipping) can gain a 15 to 16 percent cost advantage by not complying with international maritime safety standards.

This cutthroat, destructive competition in freight rates is the underlying cause of substandard shipping, crew exploitation and crew abuse. It has been facilitated by the ease with which substandard operators can avoid ship safety and crew competence requirements by shopping around among flag States, classification societies, insurers, manning agencies, ship operators and port state control authorities without being held to account.

As we met with people and perused Submissions addressing sub-standard shipping we were appalled by the nature of some of the practices inflicted upon seafarers and their families. In the course of the Commission's hearings, ICONS was told repeatedly of cases of cheating of seafarers, blacklisting of seafarers, abandonment of seafarers, manipulation of the remittance of family allotments, reduced contractual compensation entitlements linked to 'quit claims' and general releases, and placement fees for jobs.

The worst features include delayed or non-payment of wages, denial of adequate food and accommodation, denial of medical treatment and rest time, physical and psychological abuses, sexual abuse and abandonment.

**All these practices are in breach of International Labor Organization (ILO) Conventions.** As stated on page 57 of our report *“for thousands of today’s international seafarers life at sea is modern slavery and their workplace is a slave ship”*.

Many of the abuses have been known to the shipping industry, charterers and cargo owners for a long time. They are facilitated by the obsessive secrecy surrounding the industry that does not apply in other forms of transport. Much of what we were told had been brought before the Ships of Shame Inquiry I chaired in 1991/2. Overall the incidence of abuse of seafarers seems to be more prevalent than in 1992. We noted the attempts being made to remedy their problems and injustices.

It seemed incongruous that a substantial sector of the sea carriage of world trade rode on the shoulders of exploited and impoverished seafarers who in turn were dependent on seafarer welfare organisations and union support programs. The seafarers’ welfare organisations were in turn often dependent on local fund raising efforts, donations, raffles and charity drives.

Our report made 43 recommendations, which we believe are practical and achievable, most within twelve to eighteen months and most of which require only a will on the part of individual national administrations. Their implementation would banish almost all sub-standard shipping and its related practices.

The recommendations are in two main groups – one dealing with port State control and the other with crew related matters. The detail is set out in the Executive Summary of the report.

They include:

- Action to assist the elimination of fraudulent certificates;
- Action to ensure compliance with ILO Conventions (especially 147);
- Support for abandoned seafarers;
- Prohibition of blacklisting, job finding fees and transportation charges;
- Further regulation and licensing of manning agents;
- Flag States, labour supply states and unions working together cooperatively to implement appropriate working conditions for seafarers;
- Establishment of independent seafarer grievance agencies to provide accessible, fair, independent and speedy resolution of seafarer employment claims;

- Governments of labour supply nations ensuring labour training and supply arrangements comply with International Maritime Organization (IMO) and ILO requirements;
- Action through the IMO, the ILO and the Food and Agriculture Organisation (FAO) to improve the safety and work conditions on board fishing vessels.

The response from government agencies and major shipping organisations to date has been encouraging. The reactions of the Canadian, U K, Australian, Singaporean and Hong Kong administrations have been positive.

Mr. Michael Everard, President of BIMCO, the world's largest ship owner organisation covering 70 percent of world tonnage recently wrote:

**“At BIMCO we support the objectives of the International Commission on Shipping (ICONS) and we share the common ambition of seeing substandard shipping eradicated”.**

**Both INTERTANKO (covering tanker owners) and Intercargo (covering bulk carriers) have given positive responses.**

We have been encouraged also by the response to my presentation to some 120 members of the Maritime Safety Committee of IMO on the 4<sup>th</sup> June 2001. Unfortunately time did not permit the constructive paper prepared on our report by Australia to be dealt with at the recent meeting of the Maritime Safety Committee of the IMO.

I was encouraged by the favorable comment following my presentation to the Maritime Transport Committee of the O E C D in Paris last December.

Since the presentation of the report the Commission has been reduced to James Bell and myself. Our main task now is to brief, explain, promote and facilitate the implementation of the report's recommendations.

### **Certification, Training and Credentialing of Mariners**

Certification and training are linked to the next subject, namely the credentialing of mariners. They are products of the same climate and industry environment. We need to examine the background of the labour market for today's mariners.

The slump in world trade and the 1970's oil crisis led to an oversupply of shipping and pressure on ship owners/operators to slash operating costs. One option exercised was to switch ship registrations from traditional ship owner countries to offshore registers. This enabled ship owners/operators to recruit officers and ratings from anywhere in the world at a much lower cost. The major change to the nature, source and cost structure of crews had its consequences.

While this strategy provided short term cost reductions, the price was disruption to the regulatory, recruitment and training systems that had underpinned the supply to the world of a work force of steadily improving quality. Over time the pool of officers and engineers from the traditional maritime countries contracted. The intake of cadets fell away, and now the industry faces an aging out of officers and engineers from OECD countries.

The BIMCO/ISF Manpower Update of year 2000 estimated that 41 percent of senior officers from OECD countries were aged 50 years or more compared to less than 10 percent from Far East countries.

Chapter 3 and Annex 9 of the ICONS report provide more information on the numbers and origin of seafarers. The top ten labour supplying nations in 2000 in descending order were The Philippines, Indonesia, Turkey, China, India, Russia, Japan, Greece, Ukraine and Italy. In total they supplied 738,109 officers and ratings of the 1,250,000 seafarers believed to be employed in international shipping. There is a paucity of precise information on seafarers employed in the industry.

Globally there is an oversupply of ratings and a growing undersupply of competent engineers and officers.

The shift in sourcing of seafarers brought with it the establishment and growth of many maritime training schools in the labour supply nations. Shipping companies have supported some of these; others by home countries and various overseas aid programs have provided financial support for training establishments.

Their quality has been variable as evidenced by the actions underway to implement STCW 95. The deferrals of the commencement of STCW 95 are indicative of the wide variation in the standard of training, the authenticity of certificates and the quality of individual national supervision of crew qualifications across the world.

There is little doubt that some ship managers are concerned only with the possession of the right pieces of paper rather than the possession of the required skills and competence that should go with the certificate. In an industry in which there is obsessive secrecy it has been easy for operators without integrity to trade in false certificates.

In fact it seems to have been an established industry in its own right in some parts of the world. The certificates may be fraudulent; they may be genuine documents, which have been illegally obtained and then completed; they may be forged; while in other cases the issue of the certificate may be genuine except that the required skill level was not achieved.

Maritime training schools depend on students for their cash flow. One could say that if a school maintains a high standard it may find its success rate of students is low and hence will not attract as many students. A low failure rate regardless of skill level can mean a higher cash flow.

Thus it will be difficult to establish authentic identification of all mariners in an environment where secrecy and turning a blind eye to false certificates has been a long-standing practice for sectors of the international shipping industry.

A further problem in eliminating false certificates and authenticating mariners' identities is the differing practices of Manning Agencies. Some of the worst practices brought to the attention of the Commission related to the operations of manning agencies. The growth in the use of manning agencies is here to stay, while the loss of the direct relationship between ship ownership and crew has facilitated many of the abuses practiced on seafarers from developing nations.

One would hope that any process to authenticate the identity of seafarers would also include measures to eliminate false certificates and take into account the labour practices of manning agencies in some parts of the world.

### **Port State Controls**

In the absence of effective flag state control, port state control has become the last line of defense against the risks and dangers associated with substandard shipping. The development of port state control (PSC) has on the whole improved the quality of shipping.

The establishment of regional groupings and the sharing of information gathered on substandard ships have helped improve the effectiveness of PSC. Combined with the targeting of ships this has enabled better use to be made of available resources.

A one-hour walkover of a ship by a Port State Control Inspector cannot substitute for the detailed examinations that are required to be performed by flag states and Classification societies.

PSC inspections need to be uniform and consistent within and between maritime nations. Again regional groupings are helping achieve these objectives; however, there is still wide variation between nations and regions especially among developing nations.

Port state control is often blamed for the multiplicity of inspections a ship may be subjected to when it arrives in port. The reality is there is usually one port state inspection and several commercial /industry surveys cum inspections.

These point to a breakdown in trust between commercial traders and to the fact that the solution lies with the traders rather than governments. Ship operators have supported PSC reward systems for quality ships. Such regimes can produce a win- win result for both parties.

Port state control properly managed with substantial penalties for non-compliance can be an effective deterrent to the operation of sub- standard shipping.

## **Flag States**

Almost globally there is a catch cry that flag states must carry out their responsibilities. It is followed by the question “how do we ensure that they do?” which is then followed by silence.

The failure of flag states to ensure that ships they register comply with the provisions of the international maritime conventions that the flag state has ratified has led to port states asserting their right to inspect and detain ships that do not comply with the international safety standards.

The switch of ship registrations from the traditional shipping nations to offshore registers led to a proliferation of ship registries. Many of these registries were incapable of effective supervision of ship's condition or crew competence and compliance with labour and social security provisions.

The absence of a substantial connection between the ship and the flag state neutralized the capacity of the flag state to penalize non-compliant operators. The secrecy and concealment of true ownership of ships further limited the ability of flag states to supervise the compliance of ships registered under its flag even if they were so disposed.

The failure of some offshore flag states to carry out their international responsibilities has been a major factor in the development of more stringent regulations.

The regulations are of little use if they are not observed. Operators of quality ships rightly object to regulations designed to deal with non-compliant ship operators who have no intention of observing them.

There are varying standards among offshore registries, some are better than others, some are much worse than others, and they can be identified from the target list of the U. S. Coast Guard.

The use of offshore registries inevitably places restrictions and obstacles in the way of crewmembers gaining access to their entitlements or seeking redress for a wrong committed against them. But then that is why some ship operators seek out offshore flags.

The failure of some flag states to investigate incidents, accidents and even murders involving their flagged ships is another major failure.

**It is difficult to envisage the establishment of any reliable system of ensuring the true identity of ship owners/controllers and mariners based on the present regime of offshore registers.**

As of 31<sup>st</sup> December 1998, forty percent of the Panamanian fleet was owned in Japan. The two largest owner groups of the Liberian fleet were the U. S. with 12 percent and Greece with 13 percent. Again the U. S. and Greece were the two largest owner groups of the Bahamas fleet with 16.2 percent and 17.7 percent respectively.

**An essential first step in establishing a reliable and effective identification system should be an examination of each of the offshore registers to determine who are the ship owners and where are they domiciled.**

### **Transparency of Ownership Issues relating to Flags of Convenience (FOC)**

The preceding section is inseparably linked to any consideration of transparency in the shipping industry.

Shipping seems to be burdened with the baggage of history in its obsessive desire for secrecy. Yet shipowners and operators repeatedly complain that their industry does not get the recognition from governments that it deserves, and they are correct.

There is little doubt that the failure of the industry to move forward to a more transparent style of operation in common with other forms of transport has been a factor in the failure of governments to understand the needs of the industry.

There may be various reasons for the labyrinth form of ownership of ships today. It may be to avoid liability in the event of mishap or to minimize tax obligations. It could be that the ship financier has demanded, even prescribed the form of concealment of ownership to keep other creditors away from the door in the event that the debt is not being met and available assets have to be realized.

The secrecy surrounding the tasks of classification societies, inspection reports for insurers, charterers, flag state investigations, the incidence of work related illnesses and non-fatal injuries at sea all combine to cover up the evils of substandard shipping.

Such information is readily available in shore-based industries as essential management tools. The publication of Port State Control data on detentions has been an aid to users and operators of shipping services.

Almost all parties told the Commission that transparency was to be supported and evidence of this is being seen from industry organisations; however, there has to be a much greater level of accountability in respect of labour operations.

**Transparency in shipping is fundamental to security.**

