

## Flags move forward

**Some say that the shipping industry is too interested in passing blame around, and while there may be a kernel of truth in this, the fact remains that each link in the safety chain must do its utmost to improve standards. The quality debate has moved on from owners through to class and has now centred on flag**

Over the past year, an enhanced focus has been brought to bear on the role of flag states in the safety chain. Open registries and flags of convenience have been a feature of the shipping industry for some time now, but their prevalence does not prevent the industry from being appalled by travesties such as the Cambodia Registry, which up until recently allowed shipowners to register online without requiring them to submit any original documentation.

But it is clear that the concerted pressure that the industry can bring to bear on organisations that do not fulfil their obligations does have some impact; in August of this year, the Cambodian government revoked its contract with Cambodian Shipping Corp, the company responsible for the day-to-day running of the flag. The move was the result of several incidents involving Cambodia-flagged vessels, including groundings, collisions and findings of illegal activity. One instance among many is that of the Sea Runner, as highlighted by the Maritime and Coastguard Agency (MCA) of the UK. The MCA states that it detained the vessel, which had been targeted for inspection after four previous detentions in the EU, on August 6, 2002. The crew's lack of awareness and the ship's lack of documentation, emergency preparations and planned maintenance records made "a mockery of safety management", says the MCA.

However, the Cambodian Registry is clearly at one extreme of the spectrum inhabited by flag states. In spite of the scandal surrounding the Liberian flag, following a UN report which found that the Liberian government was using the income derived from its ship registry as a means of funding the civil war in Sierra Leone, the Liberian Corporate and Maritime Shipping Registry (LISCR) has continued to make great strides forward in terms of shoring up its reputation as a quality flag.

Among its new initiatives are the engagement of the independent international accounting firm Deloitte & Touche to monitor the expenditure of funds derived from the flag; a Smart Card system designed to reliably identify seafarers; and the drafting of a sample ship security plan for its owners.

According to LISCR, Deloitte & Touche was appointed in order to comply with the UN Security Council's recommendation that the flag monitor more closely the manner in which revenues are employed by the Liberian government.

"We are confident that the appointment of an independent auditor, of international repute, will end once and for all any uncertainty about the manner in which Liberian ship registry revenues are disbursed," says Yoram Cohen, CEO. "LISCR is proud of the high repute in which the Liberian registry is held as a well managed, highly efficient and safe ship register, and welcomes any move which increases its financial transparency. This development is a massive boost for those owners and operators whose ships fly the Liberian flag."

As one of the biggest registries for tankers, LISCR has taken a proactive role in the development of initiatives to preserve the security of vessels at sea, a particularly relevant issue given both the emphasis which the International Maritime Organisation (IMO) has placed upon it and the recent incident involving the Limburg in Yemeni waters, believed to be the result of a terrorist attack.

One of the key issues surrounding the maritime security debate is the identity of seafarers, and ensuring that their certification is genuine and that they can be

accurately identified. LISCR has introduced its so-called SmartCard Initiative, a "biometric identification feature" to be incorporated into its current certification process. "As part of this operation, LISCR will conduct regular validations of cardholders and cards to ensure the integrity of the system," says the registry. The SmartCard will involve the use of fingerprinting and "match on card" technology. Each seafarer certified with LISCR will be issued a card with a digital template of his fingerprint. LISCR vessel inspectors will be able to verify and validate seafarer identities through the use of a portable verification device which they can take onboard and which compare an actual fingerprint with the digital template on the card. According to LISCR, the system is secure, as it does not create an electronic replication or "picture" of the actual fingerprint or allow a fingerprint to be reproduced from the electronic record used for matching. LISCR has also drafted a ship security plan by way of helping its owners to prepare for the incoming IMO regulations which will stipulate among other things, the implementing of such plans.

### **Flag and class**

The relationship between flag and class has become the source of some consternation within the industry. As well as being contiguous links in the safety chain, flag and class also have a client-customer relationship, with many classification societies acting as Recognised Organisations (ROs) on behalf of flag states in some technical and statutory matters. Some elements of the industry question why reputable classification societies continue to do work on behalf of somewhat less reputable flag states; perpetuating such relationships gives some level of credibility to certain flags that are known to be on the Paris MOU's blacklist and demonstrate a marked laxity with respect to the application of regulations, they say. Class, on the other hand, asserts that the reputable societies must continue to work with flags of dubious quality in order to help them to improve and to avoid creating a vacuum which less conscientious ROs would then have to fill. In a speech given at this year's MARE Forum in Athens, Greece, Alan Gavin, marine director of Lloyd's Register (LR) and chairman of the International Classification of Societies (IACS), stated that as class is authorised by the flag, it is in the best position to improve the quality of a flag state in terms of port state control (PSC) detentions. LR itself has begun an internal initiative to improve the PSC detention records of its classed fleet, which is intimately tied to its own and IACS' drive to help 'high risk' flags to improve.

LR groups hazards into seven categories: cargo operations; escape/survival; fire; navigation; pollution; power and control; and watertight integrity. According to Gavin, the society has used the current MOU codes to assign severity ratings from 1 (least serious) to 5 (most serious). He said that, as multiple deficiencies are more dangerous to the safety of the ship than the sum of its individual severity ratings, LR has factored in a compounding effect, with previous detentions being taken into account as well.

Using these ratings, LR determines which flags are at most risk for which categories and makes a concerted effort to work on any ships under classification flying those flags. "The rating system is an internal process in Lloyd's Register that allows us to target ships with higher hazard potential," said Gavin. "It will be used to assess an owner's fleet performance to see whether the same hazards are in evidence on any other ships. This will allow the class surveyor and owner's superintendents to work on eradicating the high-risk items.

"By pursuing this policy, Lloyd's Register looks to improve the port state control record of the individual ships and thereby the flag state and class. However, this is still an internal class measure."

He noted that as class holds full statutory authorisation for the majority of black list flags, they are in a position to effect change.

### **Separating class from ROs**

At the same conference, Robert Somerville, president of the American Bureau of Shipping (ABS), stressed that the distinction between class and a recognised organisation should be remembered in debates about class' relationship with flag. Most IACS societies do act as ROs, but not all ROs are classification societies. "It must be stressed that when a classification society surveyor, acting for an RO, goes onboard a vessel, he is there to conduct a statutory inspection," he said. "He is not there to verify compliance, at that time, with the flag state's regulations. Admittedly many flags require the vessel to be maintained in class as a condition of registry so, in that sense, they require class as a statutory requirement. But the central point of separateness between the two functions at the time of routine statutory inspection should be borne in mind."

In addition, he pointed out, no flag state outsources the entirety of its regulatory function to an RO. Having said that, though, he acknowledged that ROs could do more, should flag states decide to give them more responsibilities.

Class is only one link in the safety chain, he said; owners and the flag states themselves should bear equal responsibility for engendering quality and the forum in which real change could and should be affected is IMO.

"It is not the role of class, nor of ROs in general to institute such a fundamental change in the manner in which the international shipping industry is conducted. We will support every practical effort to improve the safety culture of this industry, but we cannot do it alone. We are one link in the chain. The weakness that has been identified in the flag state link must be addressed at an intergovernmental level."

Philippe Boisson, communication director for Bureau Veritas' (BV) marine division, was in agreement. "Class societies are not a maritime police force. We class ships, not flags. It is the duty of a supranational body such as the EU to do this job and to publish lists of non-quality members and to take sanctions against them. Class societies have no mandate to introduce quality standards for flag states nor to take sanctions against non-quality flags. Class is a technical resource for governments to use, and we should not try to become governments ourselves," he said.

Boisson pointed towards the work that IACS has done with the Cypriot flag as a good example of how IACS' policy of aiding flags who have poor detention records works.

"Class has to enhance cooperation and communication with the flag authorities concerned. For instance, IACS societies have worked closely with the Cypriot authority to implement a range of initiatives. The aim is to enhance flag state control over the safety standards of Cyprus' vessels."

### **Flags and competition**

In free market economics, the theory is that competition provides the consumer with better quality services and more choice. This theory falls down sometimes, say, in the instance of privatised pilot-age, and also perhaps among flag states. There is no lack of choice for the shipowner in terms of flags, but is he really getting better services as a result of competition?

The competition issue is also complicated by the fact that there are two main types of registries - national and commercial. A national registry, being an arm of a particular country's government, has the power to enforce legislation, a power which a commercial registry lacks; and while a commercial registry has to make money, a national registry is under no such compunction.

Clay Maitland, managing partner of International Registries, Inc (IRI), the company which manages the Marshall Islands' flag, believes that the nature of the competition which currently exists among flag states is of the wrong kind. "The 'competition' we've got is not the competition that we want," he said. "Instead, it's a herald of 'free enterprise' that allows a North Korean diplomat to set up the Cambodian 'Registry' in a one-room office in Singapore, run weekly advertisements in noted maritime

publications, and sign up with some of the world's leading classification societies, as recognised organisations under MARPOL, SOLAS, STCW and the ISM Code.

"Economic incentives and deterrents are both essential if competition is to contain, as a basis, something less than the lowest possible cost to the customer. These, in the view of the administration that I represent, must be embodied in the actions and policies of classification societies, charterers, insurance underwriters, bankers and other commercial participants in the choice-of-flag process."

Maitland advocated the naming and shaming of those institutions which "enable" the "laggard performers" among flag states, including banks, underwriters, charterers and ROs, as well as the opening up of liability to other parties besides owners.

He applauded the steps taken thus far by port state control authorities such as the Paris and Tokyo MOUs and the US Coast Guard, but stated that "what has not been accomplished is the imposition of real economic deterrence on the operators, charterers and other users of substandard registries".

"This would be easy to remedy if the MOUs would muster the political will to effectively blockade the chronic rulebreakers, preventing port and terminal access, if only in the case of one or two extremely nonperforming administrations. Support for substandard administrations comes from the private sector. We, the international community, do have the means to cut it off. What are we waiting for?"