

Mare Forum Amsterdam

Mare Forum, in Amsterdam, Nov 17-18, 2003, was an extraordinary meeting of the maritime industry's leaders, sitting down to try to resolve fundamental problems with the industry - namely, too much legislation from the European Union and US Government

Regulators say that legislation is necessary to stop the Prestige, Erika and Tasman Spirit happening again. The maritime industry says that the industry is getting safer and safer anyway.

Either public expected standards are going up or the shipping industry isn't getting its point across.

Arthur Bowring, managing director of Hong Kong Shipowners Association, pointed out that maybe shipping people are all much too technical - and used to focusing on the reality of issues rather than the perception of them.

But when the public's poor perception of the shipping industry leads to regulation that many in the industry believe offers no real benefit to the improvement of standards, then it is time to do something about it.

"Deteriorating trust is a sad social phenomenon," said Frederick Tsao, chairman of Intercargo and IMC Shipping. "I believe the format is to look beyond competition and create the culture which will allow to survive this disturbance of trust. Not just owners but the greater community including large corporate owners and banks."

"Changes start with dialogue and it takes time," he said. "That has to be earned. Unless we dedicate ourselves we cannot expect ourselves to be trusted."

Fotis Karamitsos

Fotis Karamitsos, director of maritime transport with the European Commission, explained his position.

European Union member states, particularly Spain and France, are under severe pressure to be seen to be taking decisive action against shipping to prevent another Prestige, the IMO's scheduled phase out date of 2005 for certain single hull tankers considered to be unacceptably remote to the voting population and, therefore, politicians alike.

"The politicians asked for immediate reasons to solve the Prestige problem," he said. "Who could take a risk of the same accident happening again, with 2 heavy winters coming along?"

"We are the biggest ally of IMO, he claimed. "But we have provisions to put IMO requirements into law earlier than they ask for."

Mr Karamitsos denied that the European Union is against shipping. "We are against substandard shipping," he said. "We will do our utmost to help quality ships. The council looked at a European Quality Awards System as an incentive to provide quality."

"We want to continue with our efforts to provide an open liberalised system for world maritime trade," he said. "Merchant Shipping is the most environmentally safe transport mode. For Europe to promote intercommunity sea transport as an alternative is very important."

Persuading ships to use European Union flags is another high priority. "We want an incentive for flagging under the EU. The percentage of ships controlled by the EU is 40 per cent, but the percentage of ships under EU flags is 10 per cent, rising to 25 percent after enlargement."

Double hulls

Joseph Cox, president of the Chamber of Shipping of America, gave very interesting insight into how the US requirement for double hull tankers came about.

"We were making good headway to not requiring double hulls in the US," he said. "Then another vessel went aground on the West Coast - the American Heritage. She ran over her anchor and punctured her own hull."
"We got a call from the Senate asking if this could have been prevented if the ship had a double hull. We said, probably yes. They said, 'you've got double hulls.'" With regulation driven by political dogma, experience is now highlighting that imposing double hulls on the industry without due consideration of their wider impact may actually be increasing the risks involved in tanker operations, a point made by M Posniak, a senior naval architect. "Double hulls are useless," he said. "Painting, maintenance and access to the double hull structure is impossible. We are murdering the steel by not inerting."

Regulatory problems

"There are two major lapses in the existing international regulatory apparatus that I feel compelled to call attention to," said Basil Papachristidis, chairman of Hellenic Steamship.

"The first is the absence of a vessel routing and traffic control scheme akin to what exists in civil aviation, which leads tankers to be forced to make berths and navigate in congested waterways under adverse conditions, navigate coastal regions and congested waterways (such as the Straits of Malacca) to get the shortest route to their destinations and rely on imperfect communication systems and overcome language barriers.

"The technology (if not the political will) exists for the adoption of a vessel routing and traffic control scheme of uniform design and applicability around the world," he said.

"Many a seafarer has been lost because of the absence of such a scheme. That such a measure should not have been adopted demonstrates scandalous callousness on the part of politicians towards the risks to which we subject our mariners and our coastlines".

"The second lapse in our regulatory apparatus has to do with the standards for the design and construction of newbuildings," he said.

"Operating in a regulatory vacuum, classification societies are exposed to a ruthless exploitation by shipbuilders of the competitive pressures they operate under."

"As a result, design and construction standards have spiralled downwards to levels that history will show to be unsafe."

"We are in urgent need of uniform rules cast in stone across all classification societies and of a means by which the interpretation and application of those rules cannot be corrupted."

"I fear these rules cannot be developed and upheld by the societies themselves, they must be mandatory."

"The shipping disasters that have caught so much attention over the last few years involved well designed and well built ships. These will pale into insignificance compared to the problems we are creating for the future by allowing the construction of ships that have a fraction of the tolerance for fatigue and corrosion."

Mr Papachristidis had two further regulatory questions.

"What are the mechanisms for exposing reprehensible politicians who put seafarers in jail to appear green and to attract votes and who undermine our ability to attract young talent to careers at sea," he asked.

"What are the safeguards against empire building by unrestrained international bureaucracies who for similar political reasons usurp legislative authority from the IMO and thereby undermine the safety of our ships and seafarers."

Peter Swift, managing director of Intertanko, had particular anger for the rules which limit the life of the ships, which provide inducements not to invest in ships which have a long life at the new build stage.

He also raised the issue of countries ratifying IMO rules, such as the MARPOL Annex 6 requirements relating to ship engine exhaust emissions. Over the past 4 years INTERTANKO's membership has invested heavily in technology that ensures ships' emissions comply with the requirements of MARPOL Annex 6, yet 7 years after the Protocol was adopted by IMO, it is still not in force due to the failure of politicians and their officials to ratify its provisions, notably including several member states of the EU. This is creating an economic disadvantage for those companies that have made the effort to comply.

Paul Markides, director of the Oil Companies Industries Marine Forum (OCIMF), said that the maritime industry is being inadequately policed.

"It allows operators to escape, he said. "There is a grey fleet which seems to escape inspection regimes."

Dimitris Lyras, director of Lyras Shipping, agreed strongly on the importance of relationships with regulators based on trust, not compliance with reams of legislation. "You have to show through a legitimate period of time, the vessel was operated in a safe manner. This should allow you to redeem yourself as an operator," he said.

"We need to show that we are doing our beset. We need demonstrable competence from the operators in order to have a united front."

In return, he said, regulators need to "avoid harassing the quality operators and causing them excessive cost."

Regulatory response

Willem de Ruiter, CEO of the European Maritime Safety Agency, pointed out that regulators were duty bound to respond to crisis situations like 9-11 and the Exxon Valdez.

"The legislator has a duty to respond to the needs in society. I don't think you can demand that the legislator maintains a line of continuity," he said.

"It is difficult to imagine leaving the choice of the set of standards to those who have the trouble of complying with them," said Brian Wadsworth, director of logistics and maritime transport with the UK Ministry of Transport.

However improving the shipping - regulator relationship could lead to things being easier on shipping companies. "We could rely to a greater degree on self policing if there is a constructive partnership with the industry," he said.

Mr Wadsworth said he thought benchmarking, in effect making it clear to everybody what standards people and ships work to, can be just as powerful a weapon as compulsion.

Mr Wadsworth said that it is much better if ships are regulated by their flag state rather than the port state, because the flag state can make sure things are right first time, whilst the port state can only point out deficiencies.

Mr Wadsworth suggested that insurance companies could do more to reward quality ships with an insurance bonus; currently insurers often end up rewarding substandard ships with lower premiums, because the cargoes they carry are of lower value.

Mr Wadsworth had some interesting analysis about the IMO. "Possibly the main thing wrong with the system is that IMO has been able to do half the job, but not all of it," he said.

"We should be grateful that we have a global regulatory forum - lots of globalised industries don't have it. But there has not been sufficient transparency and accountability on flag states in delivering the framework. It acts by consensus, rather than by threat."

Liability

Bernard Thouilin, director of maritime transport with Total Fina Elf suggested that shipping companies should be forced to take on more of the liability for their ships.

"The current system allows the continued existence of poor quality ships. People know any major pollution incident will be covered," he said. "The financial liability limited has to be such to modify the behaviour of shipowners."

Dimitris Lyras, director of Lyras Shipping, suggested that imposing more liability on shipowners was unlikely to improve relationships between shipping companies and the regulators. "Excessive liability is a problem," he said. "We're not going to present a united front of we're being sued."

Trust and goal based regulation

Delegates were treated to a special view on the perspective of regulatory trust, with a guest appearance by Karla Peijs, the Dutch minister of transport. Ms Peijs was open to the idea of extending trust to the maritime industry and asking for it to be returned, rather than trying to achieve safety through legislation.

"The shipping sector feels that it has been treated unfairly by the government," she said. "I would like to offer the industry trust and ask the industry to trust government. "Then we can say to the people, you are safe because the shipping industry is looking after their ships."

"An industry based on distrust contributes little to economic process," she said. "But there is a limit to the level of trust that industry can give."

She pointed out that society at large is not very tolerant of maritime accidents.

"Society is unwilling to accept that accidents happen and expects governments to take action," she said.

"Substandard ships should be banned because they cause unfair competition," she said. "OECD says 10 to 15 per cent of ships do not comply with international regulations."

Ms Peijs said that the best way to produce transport regulation was goal based standards, which mean that the regulator says simply, this must be a very safe ship, or for example specifies how fast it must be possible to evacuate the ship, rather than looking at what ships specifically have to fit and implement.

Goal based regulation avoids the need for toughening legislation after accidents. The government can decide what standard shipping companies need to reach and stick with it.

Ugo Salerno, chairman of IACS, pointed out "Goal based regulations move from a culture of compliance to a culture of improvement."

Flag state

"Flags can be the greatest help we can ever have in legislation," said Dimitris Lyras, director of Lyras Shipping. "We need to resurrect this relationship,"

"We clearly have some flags today that should not be operating. They are just boxes for collecting money," said Tor Svensen, director of DNV.

Clay Maitland, managing director of International Registries, which operates the Marshall Islands Registry, observed that there is a change going on from port state control to flag state control; there are obvious advantages to this, because flag can work more closely with class, engage with the vessel through its whole lifetime, not just take a snapshot vetting inspection.

Brian Wadsworth of the UK Ministry of Transport, said that if shipping companies choose to flag their vessels with "open registries" (i.e. not in the country the shipowner is a citizen of), then the relationship that the industry has with the countries around which it operates changes.

Traditional maritime nations have been engaged in a wide variety of activities geared around supporting vessels carrying their flag, including accident investigation and search and rescue.

If ships flag with open registries, then the nation's relationship to shipping changes from being a maritime state to a port state or trading state; this is a very different relationship with the industry.

"We all become coastal states and nothing more," he said. "Shipping becomes an alien product. The interests of a country in trade are not the same as the interests of the industry in shipping."

"We do need the traditional maritime administrations to continue as an active participants," he said. "You cannot afford to see the links between shipping and traditional maritime authorities cast aside. We need to maintain a delicate balance between the rights of maritime and coastal nations."

The British government will not compete with open registries for vessel flags, he said. "If shipping companies look for flags that have the cheapest business in town, we will not chase the business. You have the right to choose the cheapest option - if you do the price will come to you in the end."

Class

There was a great deal of discussion about class, the role of which, it seemed, is widely misunderstood.

Class does not appear to be fulfilling the role it was originally set up to do, which is to explain to charterers, insurers and others what quality the ships are, yet it is being required to accept more responsibility and liability.

For example, we have a class society being expected by IMO member governments to shoulder the entire blame for the Prestige accident, on the basis that it surveyed a vessel that subsequently sank. Many class societies are concerned, if the courts rule in favour of the IMO member government, the legal penalties which may be imposed in this and future, not to say historic cases could lead to the destruction of the entire class system.

If there was any consensus at all, it may have been that regulatory bodies, notably IMO should establish the specific standards and regulations, with class societies charged with making sure ships meet those standards. However, this prescriptive approach appears to be at odds with the goal based aims of EU members as espoused by Ms Peijs.

Roberto Cazzulo, deputy director of RINA offered a definition of class as a "hub", a group of people in charge of enforcing the rules, linking together builders, owners, charterers, underwriters, flag and regulators. "The role of class is to invest in people, strengthen procedures, monitor fleet performance and increase transparency," he said.

Willem de Ruiter, head of the European Maritime Safety Agency (EMSA), bought out a rather obvious problem with class from the point of view of the legislators. "The issue is that the organisation involved in deciding if a design is good enough then goes to check how well the design is working," he said.

"A lot of people attribute to class powers that we don't have," said Stewart Wade, vice president of class society ABS.

Dimitris Lyras of Lyras Shipping suggested that class should show much more authority and gain more respect from the legislators, to enable it to fight a case for a quality shipowner that has a problem with port state control.

He added, "If a class knows about the detention of a vessel, they shouldn't be saying: 'is this a good vessel?', they should be saying: 'we know this is a good vessel!'"

Lars Carlsson, CEO of Concordia Maritime and chairman of Intertanko, said that class societies should give ships stars like hotels. "Could we please have a grade so that we can prove we are doing our best," he said.

"Lars' suggestion is very interesting," replied Mr Wade. "It takes class back to its roots, where the word class came from. I think it speaks to a problems that exists with class."

Tor Svensen, director of DNV talked about strengthening the sanctioning powers of class. All class societies can do, if ships fail their class surveys, is withdraw the class certificates. "There are many ships where DNV can withdraw certificates that continue to operate," he said.

Nikos Mikelis of Intertanko responded that for a class society to withdraw its certificate, forcing it to use a non-IACS class society, is an extremely strong deterrent because it makes the ship look bad in the eyes of charterers and port state control. Highlighting again the issue of whether IMO forcing the industry to use double-side skin tankers had actually benefited standards, Dagfinn Lunde from Nedshipbank said, in his opinion, many newer ships are of lower quality than older ships, those responsible for regulation accepting ships that were often under powered and with steel which is too thin.

Charterers

Basil Papachristidis noted that whilst shipping companies are subjected to enormous amounts of legislation, charterers are not.

"What are the sanctions against charterers for the systematic suppression or distortion of information about true demand for ships at any point in time," he asked.

"What are the rules that force oil companies to pay a freight that covers the cost of maintaining and operating ships to safe standards and to amortise the investment made in high quality tonnage."

"As for unfairness of tanker rates, I will grant you that it may be difficult to regulate the freight market. But there should be sanctions against market manipulation and distortion of information."

Mr Thouilin of Total Fina Elf rejected accusations that oil companies are effectively encouraging substandard shipping by forcing rates down on the spot market.

"Through time charterers they play a long term role," he said.

There was discussion about how relationships with charterers has changed over the years, moving from long term charters to the spot market.

40 years ago, when new tanker technology first came out, most ships were built on the understanding they would probably operate under charter to the same oil company for the bulk of their operational life. There was also a lot more oil on the beaches back then but people had other things to worry about.

"The day the oil companies sit down with the shipping companies and designed ships for long term trading are over," said Paul Slater, CEO of First International Corporation.

"50 per cent of oil is carried on the spot market - spot market leaves no room for quality whatsoever, the price of moving crude oil is part of the commodity discussion."

"In many cases, the people who run the tankers have no control over the price. We have violent movements in freight rates, which make the industry hazardously uneconomic - it does not serve either the tanker industry or the industry.

But today oil on the beaches is a much bigger public concern. This leads to pressure on oil companies, which in turn leads to oil companies seeing a reason to sit down with shipowners again and work out the best way to avoid oil spillage, rather than just fight it out on the spot market.

Peter Swift, managing director of Intertanko, raised the problems with fluctuations in spot market prices, which make it hard to maintain operations at low rates but lead to overbuilding at times of high rates. He suggested that maybe the industry should try to work out how to create more stability in the rates.

Dagfinn Lunde of Nedshipbank suggested that Intertanko should publish a list of all charterers using vessels, which do not have OCIMF vetting, exposing them as substandard charterers. "It should be easy for Intertanko to do," he said.

Port state control

There was wide discussion about the role and integrity of port state control. Peter Swift, managing director of Intertanko, said that port state control is "quite routinely" referred to in Intertanko circles as "port state corruption," because so many port state control inspectors ask for "obscenely high" bribes to avoid ship detentions.

"You have mentioned corruption in the field of PSC," replied Willem de Ruiter of the European Maritime Safety Agency. "If that is true then action needs to be taken straight away."

Dimitris Lyras, director of Lyras Shipping, suggested that not enough effort is being made to identify and target substandard ships by port state control.

"If a vessel is regularly trading on a route that doesn't require high standards, if it comes to a port where standards are high, wouldn't it be easier to target them?" he asked. "Why are we seeing so little targeting?"

There was interesting discussion about Equasis, the website which provides port state control information online.

On one hand, thanks to Equasis, port state control detention records are rapidly overtaking class data as the key benchmark for the performance of ships. On the other hand there is concern about the inaccuracy of some of the information, or the integrity of the inspectors involved.

Peter Swift of Intertanko noted that the Tokyo MOU of Port State Control has failed to supply any data since February 2003 to Equasis, so the system just shows out of date information. "The whole system is discredited," he said.

William de Ruiter responded to the criticisms as chairman of Equasis. "Equasis is working with Tokyo MOU to get regular updates," he said. "But Equasis is not in a position to exert pressure. Equasis cannot do much but politely ask for improvements."

Stephen Bligh

Stephen Bligh, head of the UK Maritime and Coastguard Agency and previously fleet manager with P&O Nedlloyd, gave an interesting picture of how his view of regulators has changed since taking up his new job.

"I came to the MCA with the view that regulators don't know anything - they are power hungry people that want to pick on people," he said. "I used to think that port state control was tit for tat. One flag authority detains a ship from another flag state. "I do not believe that at all now," he said. "They are people who want safer ships. They are frustrated by the perception that they are not fair."

Even so he admitted that the legislation shipping companies face is almost impossibly large. "I'm looking at the schedule of legislation we have to implement over the next few years," he said. "I think, my god, how are we going to cope!?" "Regulations do appear to breed. Its difficult to keep up. I thought I was keeping up, now I realise I didn't have a clue."

"I actually do believe the regulators are fair and impartial. But who are they fair and impartial towards?," he said. "I think shipowners and operators accept the need for legislation provided it is proportionate."

Banks

Clay Maitland, of the Marshall Islands registry, said that banks could do more to find out about the ships they finance and be more open about their information.

"Did the Prestige or Erika have mortgages? They were ships getting old. Were the banks aware of the condition of these ships, reserving judgement about what the condition of those ships were? We don't know," he said.

"I would suggest the lending institutions are critical to the administration of global maritime safety. If I were a lawyer advising the banks, I would say to them, this is a very important time for you.

"We know almost every detail about the customer organisation," replied Dagfinn Lunde, CEO of the shipping division, DVB Bank. "I think we know more about a ship we finance than you do when you put a flag on it. We do our own inspections, we follow very actively port state control. Also banking is an extremely regulated industry."

Treatment of seafarers

Ken Peters of the Mission to Seafarers raised the issue of no-one being available to resolve mistreatment of seafarers in the high seas if the vessel is flagged with a country which refuses to do anything about it. In this case, he said, the IMO is the only imaginable source of sanction, and there isn't much IMO can do about it.

Mr Peters criticised the industry's treatment of seafarers. "To talk about human factors is always in the context of accident," he said. "It is rarely about quality of life, empowering seafarers, continued professional development."

Mr Peters said that the general public and its regulators are not the only groups with no faith in the maritime industry; seafarers don't have any faith in it either.

"Transparency and self audit sound good but the general public don't believe you," he said.

Brian Wadsworth of the UK Ministry of Transport agreed that the low standards for treatment of seafarers in the industry is "yet another example of capitalism failing badly."

"A lot of problems we have been talking about attribute to a market which has become fragmented, driven by price. Everyone is looking for their own interests, the common good gets neglected."