

Regulations round-up

Port state control

The International Association of Independent Tanker Owners (Intertanko) met with the Secretariat of the Paris Memorandum of Understanding on Port State Control (Paris MoU) in Brussels early in 2004 to discuss the integrity and effectiveness of port state control (PSC) systems worldwide.

Whilst acknowledging the key role played by port states in ensuring the ships' compliance with applicable safety regulations and the Paris MoU's high performance standards, the tanker owners stressed the need for the highest possible levels of integrity and professionalism in PSC procedures and mechanisms to be maintained on a worldwide basis in order to sustain the credibility of the overall PSC system.

Intertanko told the Paris MoU Secretariat of a number of particular problems with other port state regimes which had been brought to its attention, including:

- "Excessively enthusiastic" inspectors who allow the shipowner virtually no recourse to complain;
- "Selective targeting" of a ship by a port state because the flag administration of that ship is believed to be conducting a campaign against ships registered in that port state;
- "Easy targeting" of good-quality owner because the PSC inspector is seeking to achieve his allotted quota of inspections;
- "Third party interest malpractice" whereby an inspector pressures a shipowner to either utilise certain port services or disengage from the trade to make way for a competitor;
- "Self interest malpractice" whereby the inspector makes financial demands, such as cash payments or the purchase of replacement parts from a nominated supplier, in order to avoid either a deficiency report or a detention.

Both parties welcomed the opportunity to discuss the points raised and agreed to encourage equitable, uniform, transparent and trusted PSC procedures on a worldwide basis.

Intertanko and the Paris MoU Secretariat voiced their support for an extension of the Paris MoU's independent appeals procedures to other PSC regimes worldwide.

This would provide a mechanism whereby shipowners supported by their flag or class could air their grievance about a specific detention they felt to be unfair.

Finally, the two parties agreed that, if deemed to be necessary, any specific abuse of PSC powers should be tabled at IMO.

US ports 24 hour rule

As part of the tightening US maritime security regime, from March 4, 2004 onwards ship operators carrying US import shipments have to electronically file the relevant cargo information with the US authorities in advance of the vessel's arrival.

For dry and liquid bulk cargoes, the cargo manifest has to be submitted at least 24 hours prior to arrival, and the electronic filing has to be made via the automated manifest system (AMS).

Carriers must register with the Bureau of Customs and Border Protection (CBP) and have appropriate telecommunications capability in order to participate in AMS or, alternatively, they can work through an authorised data processing service.

The cargo manifest must include the carrier's standard carrier alpha code (SCAC), which becomes mandatory under the new rule. The carrier must also have an international carrier bond (ICB).

Maritime liability limits to increase

The compensation amounts available for maritime claims for loss of life or personal injury, and for property claims, are to be significantly increased from May 13, 2004,

following the accession of Malta to the 1996 Protocol to the 1976 Convention on Limitation of Liability for Maritime Claims (LLMC).

As Malta is the tenth state, of the 10 required, to accede to the 1996 Protocol, its signature has triggered the entry into force of the protocol 90 days thereafter.

Property claims can arise as a result of damage to other ships, property or harbour works.

Ballast water convention

A new international convention aimed at preventing the spread of harmful aquatic organisms carried by ships' ballast water was adopted by the International Maritime Organization (IMO) at an international conference on February 13, 2004.

The International Convention for the Control and Management of Ships' Ballast Water and Sediments will require all ships to implement a Ballast Water and Sediments Management Plan and carry a Ballast Water Record Book.

Furthermore, all ships will be required to carry out ballast water management (BWM) procedures to a given standard.

Existing ships will be required to do the same as newbuilds, but after a phase-in period.

Convention signatories will be able, should they wish, to implement additional measures which are subject to criteria set out in the convention and to IMO guidelines yet to be developed.

Once the BWM Convention has been ratified by 30 IMO member states representing 35 per cent of world merchant shipping tonnage, it will enter into force 12 months later.

Some shipowners have queried the timescales laid down by the new rules, as well as whether they can modify both existing ships and designs for new vessels in the manner specified.

The International Chamber of Shipping (ICS) stated that the new rules do not contain the clarity required and called for further work to be done to correct these anomalies.

Philippines ship purchase age limits

The Philippines Maritime Industry Authority is introducing ship age limits on vessels purchased by local owners from overseas for domestic trading.

No second-hand tanker over 10 years of age may be "imported" into the country - the age limit for high-speed ferries is five years.

In comparison, some measure of leniency is allowed for conventional passenger and cargo ships; vessels up to 20 years of age are allowed to be purchased from foreign owners and brought into the country for domestic trading.

The new requirements are part of the Philippine government's efforts to modernise the coastal fleet and minimise the string of maritime disasters suffered by the country through the operation of old and inefficient vessels.

Until now, Philippine ship operators have been allowed to import second-hand passenger/cargo vessels and high-speed ferries without age restrictions, while tankers up to 15 years old could be imported into the country.

EU Erika II measures

The so-called 2002 Erika II package of maritime safety measures entered into force in European Union member states on February 5, 2004.

Amongst their new commitments, all EU member governments had been required to submit a comprehensive strategy plan for dealing with vessels in distress in order that they could be assessed by the European Commission last year.

However, the submission of many of the plans was delayed and, even now, several remain incomplete and without a proper chain of responsibility having been identified. These have now been returned to the unidentified member states for further work.