

Unclassified

DSTI/DOT/MTC(98)10/FINAL/CORR1



Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

OLIS : 22-Sep-1998  
Dist. : 23-Sep-1998

Or. Eng.

DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INDUSTRY  
MARITIME TRANSPORT COMMITTEE

Unclassified  
DSTI/DOT/MTC(98)10/FINAL/CORR1

## SAFETY AND ENVIRONMENT PROTECTION

### Discussion Paper on Possible Actions to Combat Substandard Shipping by Involving Players Other than the Shipowner in the Shipping Market

#### Comments from Australian Industry

*This document is submitted, for information, to participants at the Roundtable to be held on  
30 September 1998.*

For further information, please contact: Mr. Wolfgang Hübner, Head, Division of Transport, DSTI,  
tel: (33 1) 45 24 91 32; fax: (33 1) 45 24 93 86; Internet: [wolfgang.hubner@oecd.org](mailto:wolfgang.hubner@oecd.org)

69461

Document complet disponible sur OLIS dans son format d'origine  
Complete document available on OLIS in its original format

Or. Eng.

## **SAFETY AND ENVIRONMENT PROTECTION**

### **DISCUSSION PAPER ON POSSIBLE ACTIONS TO COMBAT SUBSTANDARD SHIPPING BY INVOLVING PLAYERS OTHER THAN THE SHIPOWNER IN THE SHIPPING MARKET**

#### **Pages 25 - 27: Section V. Comments from Industry: Australian Industry**

Delete text from 'Australian Shipowners' Association' to the end of the section on 'The National Bulk Commodities Group Insurance'. Replace by the text below.

The Section on the Trade and Business Committee of the National Council of Lawyers (NCL), pages 27-28, remains unchanged.

#### **AUSTRALIAN INDUSTRY**

##### *Australian Shipowners' Association*

The writers have clearly given the matter some careful research and consideration over a rather difficult and complex problem. We would agree with most of the discursive paragraphs describing the nature of the problem but it is over the recommendations that we would make a few comments.

As a general comment we note that this is an OECD government paper. If these governments were to have some success in tightening the requirements of banks, class societies, marine insurance underwriters, etc., who are incorporated in OECD countries, then the dubious operators will move elsewhere to register, finance, qualify and insure their ships. It then falls on Port State Control authorities to make life very difficult for them.

As we all agree the ultimate responsibility lies with the shipowner and the Flag State. A much bigger effort will therefore be required by OECD governments to persuade other governments to follow suit – a big ask for countries that have poor institutional and commercial infrastructures and few resources that they can afford. Similarly greater efforts are required in the IMO on Flag State Implementation where the matter has been on the agenda for many years.

A serious concern of ours is that greater government involvement does not lead to more ship inspections. The industry is already saturated with inspections and surveys from safety authorities, classification societies, auditors, P&I Clubs, marine underwriters, health and quarantine authorities, as well as vetting by ship charterers and cargo interests. Many of the independent inspections overlap by looking at the same features. The work of the ship in exchanging cargo is often delayed because the master and his officers are tied up in shepherding often more than one inspector around the ship. What we do not want is another overlay of more inspectors from other sectors. There is probably a good case for some rationalisation and coordination between existing inspection regimes.

We note the comment in paragraph 40 concerning “..for the great majority of dry bulk shipments...” the shipper has only a commercial concern and is not interested in vetting the quality of the ship. There is probably much truth in some parts of the world but it should be noted that, by and large, it is not true in Australia for our major bulk shippers. We understand that the Minerals Council of Australia and the National Bulk Commodities Group will have some comment on this.

*Insurance Council of Australia (ICA)*

The paper is certainly a useful summary of the options available to improve further the standard of shipping, and to reduce or eliminate the use of substandard vessels. We are supportive of the suggestions, as far as it is within our means to cooperate.

The paper rightly identifies that the problem lies not so much with the absence of sufficient regulation, but in compliance with such rules as presently exist. Regrettably, it seems to avoid the point, similarly bypassed by so many other papers of this nature, that certain flag states are less than efficient in comparison with others, in their policing of regulations affecting vessels operating under their flags. This seems particularly true of the so-called 'flags of convenience' countries.

Port State Control unquestionably has been effective in improving standards. Australia is a particularly good example of this. The owners of particularly inferior shipping know that the likelihood of being apprehended and involved in expensive repairs is high, if they send a vessel here. Undoubtedly, such vessels are going elsewhere.

Equally, the higher standards demanded by Australian shippers also contribute. It is within the power of charterers to specify and insist upon certain minimum standards when instructing ship brokers to meet their requirements.

Insurers are very supportive of the new ISM Code. It is encouraging that the Port State Control mechanism is likely to be used, with important repercussions for owners not complying with the ISM Code.

We note the reference to higher insurance premiums for substandard shipping. It is the usual practice, even in the most competitive markets, for lower standard vessels to attract higher premium rates. Cargo owners generally expect to face higher insurance costs if they ship on substandard or elderly vessels.

However this assumes that the vessel or its cargo will be insured.

Many older or inferior (and hence lower-valued) vessels are not insured by their owners unless insurance is a condition of obtaining finance on the vessel. Many vessels in this category are trading without insurance of hull or liabilities. Thus, insurance measures on their own would not be likely to succeed in reducing the competitive advantages enjoyed by substandard shipping.

The answer must lie increasingly in the effective policing of existing regulations.

Should it be decided to establish some form of integrated database, it is most likely that insurers will attempt to support this. The question of commercial confidentiality might need to be examined. We know that cargo underwriters in the London market are presently working on some form of 'shipowner/vessel performance' record such as mentioned in section 25 of the paper. Australian cargo and hull underwriters are supportive of this initiative.

Wherever possible, insurers are prepared to undertake more coordinated efforts in the drive to reduce the use of substandard shipping – always subject to due observance of the requirements of the Trade Practices Act.

***The National Bulk Commodities Group***

The following points reflect the views of the National Bulk Commodities Group and the Minerals Council of Australia.

1. Further regulation, including a further layer of vessel inspection procedures will not, in itself, resolve the substandard shipping issue.
2. Existing IMO regulations, including those relating to ISM and Safety and Training, together with Port State Control are adequate and capable of efficiently controlling shipping standards throughout the world if they were enforced internationally to the same level which applies in Australia.

This is acknowledged in para 44 of the OECD paper which recognises that Port State Control in Australia is achieving the desired results.

3. The efforts of OECD should be directed towards improving the international adoption and implementation of existing regulations to a uniform standard. If existing mechanisms cannot be enforced, or if there is not the political will to enforce, how can OECD believe that additional regulation will be taken up by other than countries such as Australia, which already participate fully?

Inevitably adoption of the additional proposals suggested in the paper would add to the commercial disadvantage already borne by Australian shippers.

4. Efforts to improve the standards of international shipping should be directed to the party which has control of vessels, ie. The shipowner. It is the shipowners responsibility to maintain both the vessel and its crew to appropriate international standards. It is important that the focus remains on ensuring that the liability is borne by the party (eg. Shipowner) directly responsible for the operation of the ship.
5. Statements in the papers to the effect that shippers have no interest in the safety of the vessel and its crew are incorrect. If for no other reason, through their interest in the safe, reliable and timely loading and delivery of the cargo, shippers have a keen interest in the standard of vessels utilised. If shipowners show little or no interest in the safety of their vessel and their employees, it is inappropriate to suggest that shippers must be the party at fault.
6. Contrary to statements in the papers, Australian shippers generally place significant emphasis on developing long term relationships with owners capable of providing vessels suitable for use in the particular trade and which meet the high standards required on the Australian coast. This is a working example of the successful combination of implemented regulations and good practice.
7. Whilst major Australian Charterers have deployed 'pre-fixing' vetting systems and utilise these in their internal selection of vessels, it is considered most unlikely that these would, for both commercial and legal reasons, be made available to other parties. It is suggested that the recent commencement on the internet of a database of Port State Control inspection information provides the opportunity for international access to information regarding the standard of vessels. Again provided Port State Control is uniformly applied by all countries.

The National Bulk Commodities Group and Minerals Council of Australia will continue to support measures which improve the standards of international shipping, but would re-iterate that the efforts of

OECD would be best utilised in promoting the adoption and adherence to existing mechanisms, rather than looking to shift responsibility for the standards of vessels from Shipowners.

### *Queensland Transport*

Queensland Transport supports the general policy thrust of the MTC's paper. It is imperative that governments in Australia explore every avenue to reduce the significant cost of dealing with the current (significant) levels of default across the shipping industry. Nevertheless we consider it would be unrealistic to expect to eliminate defaulters in the near future, whilst the shipping industry itself is prepared to be tolerant of defaulting operators.

Second, Queensland Transport supports, in principle, the initiatives proposed in the MTC's paper which are aimed at quality and driving sub-standard shipping towards the margins in the industry. At the same time we would caution against expecting too much of the traditional industry players, viz merchant bankers, insurers, ship brokers in solving this very complex issue. These vested interests are going to remain motivated by profit and wary of any function which would impose a financial burden on their traditional operations.

Further comments are as follows:

1. One very important group not included in the paper is the International Transport Federation (ITF) which has a vested interest in ensuring that crew do not sail in substandard ships.
2. A quality system in our view is the only satisfactory international means of achieving a world wide standard of shipping. ISO standards of quality management are now universal in a range of industries. The owners/operators of ships need to be brought into this fold.
3. Port Authorities in Queensland do not have any role in the monitoring of substandard shipping. If port authorities are to be commercial then they cannot have a regulatory role, which derives no income. Port State activities reside in governments who enter into these international agreements.
4. It is naïve in our view to suggest that leaders of capital should have a role in ensuring that shipping operates safely and within environmental legislation. Merchant bankers already rely upon classification societies to advise them in this regard. To broaden their role as suggested would be a cost to lenders in terms of acquiring expertise to meet the obligation. The cost would have to be passed on to borrowers thus affecting the price of capital.
5. Marine underwriters already 'regulate' shipping to a large extent by virtue of the 15 year requirements for hulls. Ships older than 15 years invariably offer more competitive freight rates which must then be weighted against higher insurance premiums for carriage and other risks. In my view it is unrealistic to expect the insurance industry to take any additional action to remove substandard shipping from the market place. The industry already covers its obligation by inserting clauses in policies to the effect that shipowners/operators will comply with laws, standards and regulation, etc.