Annual Review 2013

International Chamber of Shipping
Representing the Global Shipping Industry
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Turkish Chamber of Shipping
UK Chamber of Shipping
Union of Greek Shipowners
ICS (the International Chamber of Shipping) is the principal international trade association for shipowners, concerned with all regulatory, operational and legal issues.

ISF (the International Shipping Federation) is the identity used by ICS when representing the industry on employment affairs issues.

The membership of ICS (and ISF) comprises national shipowners’ associations representing all sectors and trades from 36 countries, covering more than 80% of the world merchant fleet.
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This has been a fascinating and challenging year in which to assume the role of ICS Chairman, following my election at our Annual Meeting in Australia. It has also been an extremely difficult year for many of the shipping companies that we represent, with too many ships chasing too few cargoes and recovery in demand for maritime services still being far from certain. It will probably be several years until equilibrium is fully restored following the economic and financial crisis in shipping that started almost five years ago.

The key message which I have been communicating to regulators during this first year in office has been the need for greater focus to be given to the economic sustainability of shipping, backed up by evidence of the continuous improvement of shipping’s environmental performance. Many of the expensive environmental regulations that are about to enter into force were conceived at a time when shipping markets were booming and finance for retrofitting had not dried up.

The imminent switch to vastly more expensive, low sulphur distillate fuel is a very serious concern, which is related to worries about the adequacy of supply and the dangers of potential modal shift. Another pressing consideration is the cost associated with installing expensive new ballast water treatment equipment, especially given outstanding questions on implementation details of new global rules which still need to be resolved at the International Maritime Organization (IMO).

The protection of the environment must always remain a priority. But the prevailing economic situation requires that a degree of pragmatism is displayed as a plethora of new environmental regulations is implemented and enforced. Unless this is understood there is a danger of creating real barriers to investment in our industry. It is all too easy to forget that access to funding sources for new equipment is a prerequisite to smooth compliance.

On a more positive note, August 2013 will see the entry into force of the International Labour Organization (ILO) Maritime Labour Convention (MLC). ICS, under the banner of the International Shipping Federation (ISF), was responsible on behalf of maritime unions for negotiating the text of this new global regime that will ensure decent working conditions for seafarers worldwide.

Shipping is unique in having developed such comprehensive employment standards for global application. The entry into force of the MLC is a real achievement, the culmination of over 10 years’ work in co-operation with governments and seafarers’ trade unions. There are still some challenges to be overcome during the initial stages of implementation but we should all keep in mind the end game which is to ensure attractive maritime careers for the next generation of seafarers.

Shipping is also unique in being the only industrial sector to already have a binding global agreement in place to reduce its CO2 emissions, with the relevant amendments to the IMO MARPOL Convention having entered into force in January 2013. While the high cost of fuel already provides ship operators with every incentive to reduce their emissions, ICS is confident that with the additional impetus provided by these new IMO regulations, shipping will deliver its goal of a 20% efficiency improvement by 2020, with innovation playing a role in further efficiency measures in the future. Meanwhile, ICS is committed to helping governments at IMO to develop a global system of Monitoring, Reporting and Verification of CO2 emissions from ships.

I am also pleased to record that there has been a dramatic reduction in the number of successful attacks against shipping by Somali pirates. However, it is vital that shipowners avoid complacency with respect to taking the necessary ship protection measures contained in the latest version of the Best Management Practices known as ‘BMP4’. It is equally important that governments continue to provide military protection until it is certain that the problem has been fully eradicated. Disturbingly, however, very brutal attacks against ships and their crews are now also being perpetrated by violent criminal gangs in West Africa.

One of the key strengths of ICS is that, with its membership of national shipowners’ associations, it sits outside the short term commercial considerations that preoccupy many shipping companies. This allows ICS to develop, through its structure of expert committees, fully considered positions that take account of the long term interests of all sectors and trades and of ship operators big and small.

The impressive ability of ICS to reach consensus on difficult and complex issues has been something of a revelation to me, as has the very wide range of topics in which it is necessary for ICS to be involved on behalf of shipowners worldwide. At the end of my first year in office I would therefore...
like to thank my fellow Vice Chairmen and Board members, and all those who contribute with such enthusiasm to the work of ICS’s technical and policy making committees.

Most importantly, on behalf of all ICS member national associations, I would like to express gratitude, and sincere appreciation, to Spyros Polemis, my predecessor as ICS Chairman. He remains an indefatigable champion of the interests of international shipping, and provides an example of service, dedication and industry leadership that, with the support of the ICS membership, I am now trying my best to emulate.

I look forward very much to my first Annual General Meeting as ICS Chairman, which will be hosted by the Norwegian Shipowners’ Association in Oslo.

Masamichi Morooka
Chairman

ICS Vice Chairmen 2012/13

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Cyprus

Mr Frank Leonhardt
Germany

Mr Trygve Seglem
Norway

Mr Gerardo Borromeo
Philippines

Secretariat

Mr Peter Hinchcliffe Secretary General

Mr Simon Bennett
Director External Relations
Ms Linda Howlett
Director Legal Affairs*
Ms Kiran Khosla
Director Legal Affairs*
Mr Alistair Hull
Technical Manager
Mr John Stawpert
Senior Adviser
Mr Joe Francombe
Policy Officer
Ms Linda Howlett
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Mrs Susan Gray
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Mrs Kathryn Hall
Personal Assistant to Secretary General
Mrs Catherine Howlett
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Mr John Murray
Director Marine
Mrs Natalie Shaw
Director Employment Affairs
Mr David Tongue
Director Regulatory Affairs
Mr James Langley
Senior Adviser
Miss Emily Rowley
Adviser

Mrs Susan Gray
Director Finance and Administration
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Mrs Catherine Howlett
Administrator Publications

Mrs Shantel Ryan
Publications Manager
Mrs Anita Pow
Administrator Shipping Policy
Miss Julie Rogers
Administrator Marine Department

*position held jointly
Representing the Global Shipping Industry

Economic Sustainability

In June 2012, alongside IMO, ICS represented the world’s shipowners at a special Oceans Day at the United Nations ‘Rio+20’ Summit on Sustainable Development in Rio de Janeiro.

ICS used the Summit to explain that without the low cost of maritime transport the movement of raw materials and energy in bulk to wherever they are needed and the transport of manufactured goods and products between the continents would simply not be possible. Given its impressive environmental performance, ICS also made the case that shipping is undoubtedly a driver of ‘green growth’.

As a follow up to the UN Summit, IMO is now committed to producing sustainable development goals for the international shipping industry, an objective which ICS fully supports. Sustainable development, as understood by the UN, is made up of three components: environmental, social and economic. As well as being, by far, the most environmentally benign means of commercial transport, the shipping industry also offers exceedingly high employment standards compared to many shore based industries, as reflected by the imminent entry into force of the ILO Maritime Labour Convention (see separate item in this Annual Review) and the high level of wages enjoyed by many seafarers, two thirds of whom are recruited from developing countries.

However, in view of the current financial crisis, ICS has also been keen to emphasise the importance of maintaining the economic sustainability of shipping, especially given its vital role in transporting around 90% of world trade, upon which the functioning of the world economy depends.

Comparison of CO₂ emissions between different modes of transport
Source: NTM, Sweden

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<thead>
<tr>
<th>Mode of Transport</th>
<th>CO₂ Emissions (g/tonne-km)</th>
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<tbody>
<tr>
<td>Cargo vessel 2,000-8,000 dwt</td>
<td>21</td>
</tr>
<tr>
<td>Cargo vessel over 8,000 dwt</td>
<td>15</td>
</tr>
<tr>
<td>Heavy truck with trailer</td>
<td>50</td>
</tr>
<tr>
<td>Air freight 747-400 km flight</td>
<td>540</td>
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Grams per tonne-km
It is sometimes hard to remember that, with the exception of Europe, the world economy as a whole continues to grow. The United States is enjoying a gradual recovery and China, while slowing down, continues to break all records with its seemingly insatiable demand for shipping services. Maritime trade, after a dip in 2009, is actually continuing to expand. This is especially the case in intra-Asian trades whose size and importance is sometimes overlooked.

The current crisis in shipping is in large part a symptom of the hubris that preceded the 2008 banking shock. However, the underlying cause of the industry’s problems today is that there are too many ships chasing too few cargoes. The immediate challenge for shipowners is to address this serious oversupply of shipping tonnage.

The influence which bodies such
Potential cost to global shipping of new environmental regulations, 2015-2025

NB All estimates, while only indicative, are also conservative

$100 billion
UNFCCC Green Climate Fund

$350 billion
0.5% Global Sulphur in Fuel Cap

$100 billion
Ballast Water Treatment Equipment

$200 billion
0.1% Sulphur Fuel in Emission Control Areas

2013 2015 2020 2025

Assumptions: Ballast water treatment equipment – average $2M per ship with IMO agreeing 5 year implementation of BWM Convention, assuming entry into force in 2015; differential between distillate and residual fuel of only $300 per tonne with global consumption remaining at 300M tonnes per year (in reality both figures are expected to be higher by 2025) and IMO confirming that global sulphur cap will apply from 2020; UNFCCC replacement to Kyoto Protocol coming into effect in 2020, with shipping contribution to GCF in line with IMF/World Bank proposals. Potential costs of proposed Tier III NOX Emission Control Areas, plus other anticipated requirements, have been excluded.

as ICS can bring to bear on such a fundamental problem is, of course, extremely limited. Market forces will no doubt find a solution, which will almost certainly involve large numbers of ships going to the recycling yards much earlier than their owners had originally planned. But there may still be several years to go before equilibrium and profitability are restored.

In order to avoid prolonging the downturn, it is important that shipowners take sensible and considered decisions about ordering new tonnage. Shipyards that have similar overcapacity problems will be offering cut price ships. What might be in the rational interests of an individual shipowner might not always be good for the collective health of the industry as a whole. This is one of the perennial dilemmas that shipowners face.

One of the principal functions of ICS is to liaise with shipping's global regulators and make them fully aware of the implications of their actions. The protection of the environment is a vital priority. But one of the consequences of the current state of affairs is that many sources of shipping finance seem to have dried up, not just for new ships but also for the investments needed to continue operating existing ships in compliance with the large number of new and very radical environmental regulations that are about to come into effect worldwide.

If a shipping company is already mired in debt, how is it going to pay for the retrofitting of expensive new ballast water treatment systems that will be required in the next few years – at an estimated cost of between US$1 to 5 million per ship, with a total cost to the...
industry that will run into tens, if not hundreds, of billions? Or investment in exhaust gas cleaning systems as an alternative to the use of expensive low sulphur fuels, or the investment required for other green technologies to meet the increasing demands from regulators and charterers to reduce CO₂ emissions?

In the absence of significant extra production of distillate fuels, currently costing around 50% more than residual fuel, and with a differential that is expected to increase as the use of distillate in effect becomes mandatory in sulphur Emission Control Areas in 2015, how will ship operators meet these extra fuel costs? How will they do this without becoming so expensive that it has an impact on world trade, or forces cargo back onto the roads or to other less carbon efficient modes of transport? While the use of LNG or other green technologies may eventually provide solutions, where is the finance that will be needed to exploit these exciting new developments?

Shipowners are firmly committed to protecting the environment, but ICS will not shy away from asking these difficult questions. Sustainable development has an economic dimension too, and the question of financial cost should not be marginalised.

In a situation where the money is simply not available, and where many ships are operating at a loss, the ‘best’ can sometimes be the enemy of the good. While shipping’s regulators have a responsibility to protect the environment and the interests of wider society, they also need to be pragmatic and have an understanding of the impact that their actions are having on the industry’s own long term sustainability. There is a danger of creating an industry in which no one who is responsible will want to invest. If, alongside IMO, policy makers are serious about the concept of sustainable shipping, the question of economic sustainability is one to which they need to give thoughtful consideration during 2013.
Implementing the ILO Maritime Labour Convention

In August 2013, the ILO Maritime Labour Convention (MLC) will enter into force worldwide and ship operators will need to be ready. But what does this mean in practice?

The ILO MLC addresses a wide range of matters including the obligations of shipping companies with respect to seafarers’ contractual arrangements, oversight of manning agencies, working hours, health and safety, crew accommodation, catering standards, and seafarers’ welfare.

Provided that they put in the effort, the vast majority of companies should not have any difficulty complying with the substance of the Convention, which in large part is derived from existing ILO maritime standards and accepted good employment practice. However, the enforcement mechanism is new. It will therefore be important to avoid teething problems as some of the more detailed requirements are applied and interpreted by flag states, in consultation - as the Convention requires - with national shipowners’ associations and seafarers’ trade unions.

One pressing issue is the date when port state control (PSC) of MLC requirements should begin in earnest. Technically, any nation that ratified the Convention before August 2013 should be ready, but there may be practical considerations to ensure a smooth transition.
2012 is legally entitled to exercise PSC enforcement against visiting ships from August 2013. In practice, however, many ships will not be required to have the necessary MLC documentation issued by their flag states until August 2014, which is the date recommended for the start of PSC enforcement by a Resolution adopted by the 2006 Diplomatic Conference which agreed the MLC. ISF is therefore seeking clarification about this important issue with regional port state control authorities.

The immediate challenge that shipping companies must get to grips with is the certification process. Ships registered with flag states that have already ratified the Convention will almost certainly find the process easier than those flagged with states that have yet to ratify.

An important aspect of the MLC’s enforcement will be the issuance of a Maritime Labour Certificate to the ship. This will follow a flag state inspection, although this may be conducted on the flag state’s behalf by a Recognized Organization (RO) such as a classification society.

In addition, there is a separate requirement for ships to prepare and maintain a Declaration of Maritime
Labour Compliance (DMLC). The purpose of the DMLC is to ensure ongoing compliance with the MLC standards, and to help inspectors to check that national requirements are being properly implemented. It is this particular aspect on which shipping companies may especially wish to focus between now and when the Convention enters into force.

The Maritime Labour Certificate is issued to the ship rather than the company, and is thus similar to the Safety Management Certificate issued to ships under the IMO International Safety Management (ISM) Code. The Certificate is **prima facie** evidence that a ship complies with the ILO Convention standards to the extent set out in the Declaration. Certificates will normally be issued for five years, with an intermediate inspection between two and three years after the first flag state inspection.

The DMLC is meant to establish the national requirements implementing the Convention for the working and living conditions on board the ship. It should be issued by the flag state as an attachment to the Maritime Labour Certificate and comprises two parts. Part I of the Declaration should be prepared by the flag state to identify matters for inspection. Part II of the Declaration should be drawn up and maintained by the company for each ship. This should identify the measures adopted by the company to ensure compliance between inspections.

In December 2012, to assist employers, ISF published extensive Guidelines on the Application of the ILO Maritime Labour Convention which include a detailed example of Part II of the Declaration as it might be prepared by a shipping company, in a manner intended to be concise but comprehensive.

Flag states should be developing more detailed advice on what is required of shipowners when preparing the DMLC, and the particular format and content that they require. It will be essential for companies to follow instructions from individual flag states which will differ from country to country, rather than following generic advice that might be offered by some classification societies. Given that there are tens of thousands of ships requiring MLC certification, it is vital that flag states provide this advice to shipowners as soon as possible.

An important aspect of the Declaration is to set out where evidence of ongoing compliance with the detailed MLC requirements can be found on board the ship. This includes the records to be taken and verified, and the procedures to be followed when potential non-compliance is noted, such as a crew contract that might be inconsistent with MLC provisions.

Much of this information can be kept alongside the Safety Management System required by the ISM Code. This will hopefully simplify inspections and reduce unnecessary duplication between ISM and MLC requirements.

Given that the Declaration will be of interest to port state control as well as to flag state inspectors, it will benefit companies to take the time and effort to prepare the Declaration so that it demonstrates adherence to the spirit as well as the letter of the MLC.

The number of detailed requirements that need to be complied with should not be underestimated. Some things...
are new, such as the need to have properly documented on board complaint procedures for seafarers in order to protect their rights. There are several provisions within the MLC, however, that are already covered by the IMO STCW Convention and the ISM Code.

The requirement for inspections (or external audits) leading to certification to be conducted every five years, with intermediate inspections between the second and third years, is the same under the ISM Code as under the ILO MLC. It may therefore make sense for these inspections to be scheduled at the same time.

As an official Social Partner under the tripartite ILO process, ISF was responsible for negotiating the text of the new Convention on behalf of maritime employers with governments and seafarers’ trade unions. ISF therefore has a very special interest in wanting to ensure the Convention’s smooth implementation.

With careful preparation - which includes flag states providing clear and timely advice about the national certification process - the entry into force of the MLC should help deliver the global level playing field of decent maritime labour standards that both shipowners and seafarers require.
In January 2013, important amendments to Annex VI of the MARPOL Convention came into force making international shipping the first industrial sector to have a binding global regime in place to reduce its CO₂ emissions. The priority for ICS is to help to ensure that these technical and operational measures are fully implemented, including the application of the Energy Efficiency Design Index (EEDI) to new ships, and the mandatory use of Ship Energy Efficiency Management Plans (SEEMP) across the existing world fleet.

Shipping is already by far the most carbon efficient form of commercial transport, but ICS is confident that these new IMO measures will help shipping to reduce its CO₂ emissions, per tonne of cargo carried one mile, by 20% by 2020 (compared to 2005), with further emissions reduction going forward.

However, the debate about regulating shipping’s CO₂ emissions remains one of the most complicated topics in which ICS is currently engaged. The issue is still being fiercely debated on three main fronts: at the negotiations on a replacement for the current United Nations Framework Convention on Climate Change (UNFCCC); at IMO; and, importantly, at the European level (important because regional measures would be very damaging to the global regulatory framework that shipping needs to operate efficiently).

In 2013, Monitoring, Reporting and Verification of CO₂ emissions (or ‘MRV’) has become a hot topic for discussion amongst government policy makers. MRV is viewed by many as a possible means of breaking the deadlock that has emerged at IMO with respect to the proposed development of additional Market Based Measures (MBMs) to help further reduce CO₂ emissions or, controversially, raise money for the UNFCCC Green Climate Fund (see separate item in this Annual Review).

MRV is seen as significant because UNFCCC has still not really provided any clarity about how international transport should be treated at the high level climate change talks. This in turn has done little to reduce the opposition of many developing nations with respect to IMO developing MBMs for shipping.

In simple terms, in the discussions at IMO, China and India, amongst many other developing countries, do not wish to prejudice their positions with respect to the UNFCCC negotiations about extending CO₂ reduction commitments to ‘non-Annex I’ nations, which are now scheduled to conclude in 2015. This relates to the sensitive UNFCCC principle of ‘Common But Differentiated Responsibility’ (CBDR) whereby commitments under the UNFCCC process to reduce emissions are meant to be different for developing nations, a principle which is difficult to apply to a global industry such as shipping without creating market distortion. MRV is therefore seen by many as a possible way forward at IMO (though whether the likes of China and India will agree remains a critical question).

A significant development was the announcement by the European Commission in December 2012 that, for the moment at least and with caveats, it is no longer intending to implement a regional Market Based Measure and that it is committed to developing a solution at IMO, rather than pursuing regional measures that would risk distorting the ‘level playing field’ in shipping.
The concept of MRV has also been given impetus at IMO by the United States. The concept behind the US proposal is that ships or companies would report annual fuel consumed, in accordance with bunker delivery notes, to a central database. It is understood that the only proposed verification requirement is that bunker delivery notes should be open to inspection by port state control.

Encouragingly, the US appears to have taken on board some of the comments from ICS that, to be acceptable, any system of MRV would need to be simple to administer and primarily based on fuel consumption using bunker delivery notes, rather than involving the installation of complicated monitoring equipment on board the ship itself (as some sections of the European Commission have advocated). However, the US still wishes to add a degree of potential complication by taking account of ‘service time’, i.e. time spent out of port, and simplistic (and arguably superfluous) methods of calculating energy consumption (in joules) which would appear to suggest that a ship in ballast is somehow more efficient than one which is fully laden. The US approach is nevertheless a constructive attempt to take the discussion forward.

Of greater worry, however, is that rather than simply being a means of collecting data on CO₂ emissions, several governments appear to see the ultimate goal of MRV as being a means of indexing existing ships, in order that they might be rewarded or penalised in some way. Apart from serious concerns about market distortion, this triggers fears amongst many ICS members because of the prospect of ‘double’ rewards/penalties (ships are already being penalised by
**CO₂ AND MRV**

CO₂ AND MRV

**IMO agreement on technical regulations will reduce ships’ CO₂**
MARPOL Annex VI, Chapter 4 adopted July 2011

<table>
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<tr>
<th>Regulations enter into force for over 90% of world fleet</th>
<th>EEDI requires new ships to meet agreed efficiency targets</th>
<th>New ships must improve efficiency up to 20%</th>
<th>New ships must improve efficiency 30%</th>
<th>50% CO₂ reduction per tonne/km (industry goal)</th>
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<tr>
<td>Ship Energy Efficiency Management Plan (SEEMP): mandatory implementation for all ships</td>
<td>New ships must improve efficiency 10%</td>
<td>20% CO₂ reduction per tonne/km (industry goal)</td>
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<tr>
<th>2013</th>
<th>2015</th>
<th>2020</th>
<th>2025</th>
<th>2030</th>
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higher fuel costs, and are thus already very incentivised to become more efficient, or even the possibility of ships being required to lay up once a permitted amount of fuel consumption has been exceeded, i.e. a system of ‘fuel rationing’.

The second strand to the MRV debate is the new initiative being taken by the European Commission. While the Commission now seems to be committed to seeking agreement at IMO, the development of MRV is complicated because the Commission is simultaneously developing a regional approach in the event that an IMO agreement on MRV cannot be achieved.

In February 2013, ICS members agreed that ICS will support the concept of MRV, provided that any measure adopted is developed and agreed at IMO, and that it will be simple to administer and based primarily on fuel consumption measured by bunker delivery notes. However, ICS support for the development of an MRV mechanism does not imply acceptance of MRV itself being used for the eventual development of any other Market Based Measure, or the mandatory application of energy indexing measures to existing ships.

In practice, even if agreed to by governments at IMO, it will probably be several years until a global MRV mechanism becomes operational. It is therefore important to reiterate that IMO has already adopted a comprehensive package of technical and operational measures to reduce CO₂ emissions. Notwithstanding ICS support for the concept of MRV, ICS’s priority remains to help ensure that these existing IMO measures are successfully implemented.
Piracy and Hostage Taking

The number of successful attacks against ships by Somali pirates reached a five-year low in 2012, although incidents continue to be reported in 2013 and around 100 seafarers are still being held hostage (with over 4,000 seafarers having been held captive for ransom since the crisis first escalated 5 years ago). In a dramatic operation at the end of December 2012, police in the autonomous province of Puntland effected the rescue of the crew of the ‘Iceberg I’ who had been held captive for almost three years. There have also been media reports of pirate leaders announcing their ‘retirement’. However, a parallel crisis, involving disturbing levels of violence against ships’ crews, is now developing in West Africa.

The exact reason for the reduction in Somali attacks is unclear. The combined success of the military forces, the use of the industry’s Best Management Practices (BMP), plus the increased deployment of private armed guards, would all appear to be important factors. However, the situation in Somalia itself has evolved. Militant ‘Islamist’ forces, driven north by events in the south, may also be helping to curtail the pirates’ operations. On the other hand, it could just be that the pirates, who have made huge amounts of money from multi-million dollar ransom payments, are simply taking a break until they assess that the time is right to resume their activities.

It would seem very premature to conclude that the crisis is over or that shipowners should in any way adjust their practices outside compliance with the BMP or (where they have chosen to employ them) with respect to the use of armed guards. The serious possibility remains that the attacks will resume, especially if the pirates perceive that ships are changing their behaviour or that the level of military protection is being reduced. At the beginning of 2013, the assessment from EU NAVFOR was that about 15% of ships that transit the danger area are non-compliant with the BMP. This is not therefore the time for complacency or for any relaxation in BMP compliance.
Working to the assumption that private armed guards will continue to be used in the immediate future, ICS has continued to co-operate with the Security Association for the Maritime Industry (SAMI) on the development of Rules for the Use of Force (RUF). It is hoped that the RUF will serve as a useful tool for Private Maritime Security Companies (PMSCs). The RUF have now been jointly submitted by ICS, SAMI and others to the International Organization for Standardization (ISO), which it is hoped will adopt something similar to sit alongside the new ISO standards for the regulation of PMSCs which were adopted in 2012 and subsequently welcomed by IMO.

Attacks in West Africa

While attacks against shipping in the Indian Ocean have been declining, there has been a serious escalation in the number of incidents of violent armed robbery in the Gulf of Guinea. In Nigeria, for example, according to the ICC International Maritime Bureau, there were 27 incidents in 2012, with four vessels hijacked, 13 vessels boarded, eight fired upon and two attempted attacks, compared with ten reported incidents in 2011. Attacks off Togo and the Ivory Coast have also increased, with the hijacking of a tanker off the coast of the latter demonstrating the range of those criminals understood to be based in Nigeria.

The model used by some of the West African criminal gangs is different to that deployed by Somali pirates in that they are often primarily interested in robbing the ship’s cargo, frequently oil, or else cash and valuables on board. The level of personal physical violence against seafarers has therefore often been greater, and more brutal. More recently, however, there have also been more cases of seafarers being taken hostage for ransom, and held in captivity for long periods in what can be truly appalling conditions.

In January 2013, the Round Table of international shipping associations (including ICS) developed Interim Guidelines for Protection against Piracy in the Gulf of Guinea Region. These are similar in approach to the BMP developed for the Indian Ocean although they currently discount the use of private armed guards. ICS strongly urges compliance with these Interim Guidelines when ships are operating in the vicinity of the Gulf of Guinea.

The situation in West Africa is different to Somalia in that, notwithstanding the lack of resources and certain issues of governance, many of the attacks occur in the territorial waters of sovereign states with functioning police and naval forces. Apart from whether the use of armed guards might risk increasing the level of violence to which crews are exposed, consideration of their potential use is a far more politically sensitive question than in the international waters of the Indian Ocean.

In liaison with IMO (which has been requested by ICS and other industry associations to bring the growing crisis in West Africa to the attention of the UN Security Council) there is significant diplomatic and practical activity underway intended to prevent a further escalation of armed attacks in the region. This includes a plan to establish a regional reporting and information exchange centre in Ghana, and IMO sponsored regional training for authorities and law enforcement agencies.
In conjunction with the ICS Annual General Meeting in June 2013, the Government of Norway will be hosting a Ministerial Summit in Oslo, one of the principal themes of which will be Arctic shipping.

In December 2012, ICS issued a high level position paper on shipping in the Arctic. As the reduction in sea-ice makes the region more accessible to ships during the northern summer months, ICS has sought to set out some key principles with regard to the future governance of Arctic waters.

Offshore support vessel activity is already significant, while destination shipping is anticipated to grow as the extraction of energy and raw materials is developed. Use of the Northern Sea Route (NSR) is also a reality for a small but increasing number of ships (46 transits in 2012), facilitated by compulsory assistance from Russia’s fleet of nuclear ice breakers. These are currently charged at fees intended to make the NSR slightly cheaper than using the Suez Canal route. While the climatology remains uncertain, Russia anticipates a five-fold increase of NSR transits over the next decade. A handful of commercial transits via the Canadian North West Passage have also taken place.

As this exciting new frontier develops, ICS is keen to stress the importance of Arctic nations respecting the United Nations Convention on the Law of the Sea (UNCLOS) and relevant IMO Conventions and Codes. In support of this objective ICS is therefore developing its relations with the Arctic Council, the intergovernmental body for Arctic States. The Arctic Council now has a permanent secretariat in Tromsø and has become increasingly engaged in maritime issues following the publication of its Arctic Marine Shipping Assessment in 2009 and its welcome development of co-operation agreements on maritime search and rescue and emergency pollution response.

As the volume of Arctic shipping increases, there is of course a high level of awareness about the need for the special degree of care required when ships navigate Arctic waters. However, it is most important that Arctic nations avoid unilateral measures that might cut across IMO Conventions or the provisions of UNCLOS, and that there is full recognition that IMO is the proper forum for addressing detailed concerns.

ICS firmly believes that individual Arctic coastal states should not impose discriminatory treatment that might prejudice the rights of ships registered with non-Arctic nations under international maritime law, such as unilateral ship construction, design and equipment standards or charges for navigational services. This can sometimes be a sensitive issue, and nations such as Canada and Russia understandably remain protective of their Arctic ‘back yards’, which for all intents and purposes were until very recently closed off to any need to consider theoretical international principles of maritime governance.

ICS has therefore highlighted some issues that might require clarification as Arctic waters become more accessible. For example, ICS believes that the UNCLOS regime of ‘transit passage’ for straits used for international navigation takes precedence over the rights of coastal states to enact unilateral measures against international shipping. Until recently this issue
seemed rather academic, as did the question of nations using ‘straight baselines’ to determine their territorial sea. But as remote Arctic sea routes become accessible these issues are becoming more important.

The intended audience for the ICS paper is high level policy makers in environment and foreign ministries who might not be regularly engaged in shipping issues. However, the paper also outlines ICS’s approach towards the development of a Polar Code by IMO. The Polar Code is expected to become mandatory via amendments to the SOLAS and the MARPOL Conventions, and should hopefully be finalised in 2014. ICS is fully engaged in this work, but is becoming concerned that efforts by certain governments (and environmentalist NGOs) to treat the Arctic as if it is fundamentally different to any other sea area in which special dangers might apply, may have the unwanted effect of delaying the Code’s adoption.

ICS argues that the development of the IMO Polar Code needs to be risk and performance based. For example, pending the future development of unified requirements for the construction and operation of ice-class ships on which full global consensus has been agreed, ICS believes that the Code should not arbitrarily require conformity with any particular ice-class standard to the exclusion of other long established standards that deliver equally acceptable performance relevant to the location, time of year and the operating conditions.

The high level paper also sets out ICS’s position with respect to the development of infrastructure to support safety and environmental protection, the need for full market access and freedom of navigation, transparency with respect to national regulation and the need for reduced bureaucracy and the setting of appropriate fees for services.

If frequent and reliable international shipping services are to be provided between Arctic ports and the rest of the world, or natural resources in the region are to be developed in a manner that reconciles the need for both environmental and economic sustainability, this will require the provision of maritime services that are competitive and cost efficient.
Lives lost on board
Number killed or missing on cargo ships vs world seaborne trade

Source: IHS Maritime/Clarksons
Maritime Safety

Celebration of the remarkable improvements to maritime safety that have been achieved in the 100 years following the ‘Titanic’ disaster was understandably overshadowed by the ‘Costa Concordia’ cruise ship tragedy in January 2012. However, the loss of the ‘Titanic’ led directly to the adoption, in 1914, of the first International Convention on Safety of Life at Sea (SOLAS) and the development of the comprehensive international regulatory framework which the industry enjoys today.

In June 2013, as part of the build-up to the centenary of SOLAS, IMO is hosting a major Symposium on the Future of Ship Safety, in order to consider how maritime safety can be further improved in the 21st Century. ICS and its members will be playing a significant part in this important event.

Meanwhile, in January 2013, the IMO Secretary-General made a public announcement that he wishes IMO to adopt a goal of cutting the number of lives lost at sea by half by 2015. This is a very important objective – and the aspirational goal of ICS is to have a zero accident rate. But it will be important to ensure that any target that is set is not too simplistic. As well as the possibility of setting a firm goal that might be unlikely to be realised, the statistics quoted by IMO in public (over 1,000 deaths in 2012) appear to mix international shipping incidents with domestic ferry tragedies in developing nations, as well as fatalities in the fishing sector.

Fatalities amongst crew on cargo ships in the international trades in which ICS members’ companies operate have in fact been declining steadily in recent years, despite the growth in the number of ships that are trading internationally. In 2012 (according to IHS Maritime data) there were 156 such fatalities out of a worldwide seafarer population of about 1.5 million.

Although the correlation is difficult to prove, the reduction in accidents and related fatalities would seem to coincide with measures such as the implementation of the International Safety Management (ISM) Code and the ongoing improvements to standards of crew competence that followed the radical 1995 amendments to the Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). Both of these important developments began to pay dividends at the beginning of the last decade.

Notwithstanding the reality that the sea is an environment involving a high degree of physical risk, the current level of fatalities is still too high. There are undoubtedly specific problems in certain trades that still need to be addressed. Some of these are highlighted in this Annual Review, including a disturbing spate of recent ship losses apparently caused by cargo liquefaction. These are all issues in which ICS is closely engaged at IMO and elsewhere.

However, while ships can still tragically disappear at sea with the loss of all hands, many fatalities are due to a simple failure to follow established routines and procedures, with many accidents likely to have far less dramatic causes, but no less serious or tragic consequences for the individuals concerned. Examples continue to include ‘slips, trips and falls’ or entering enclosed spaces without the necessary precautions and equipment.
Whatever the conclusions of the final accident report, the ‘Costa Concordia’ disaster would appear to highlight, in the most dramatic way possible, that the absence of a fully implemented safety culture is still an issue which international shipping needs to address more rigorously. This is a matter that goes far deeper than simply producing new regulations.

ICS believes that there are still lessons to be learned from other industrial sectors, not least the offshore oil and gas industries, and this is an issue which ICS means to prioritise in the year ahead. In the meantime, to coincide with the IMO Symposium on the Future of Ship Safety, ICS is producing a special information brochure on implementing a safety culture, for dissemination free of charge throughout the entire shipping industry.

Responding to the ‘Costa Concordia’

A major task for ICS has been to address the ongoing regulatory response to the ‘Costa Concordia’ cruise ship disaster. In January 2012, over 30 people lost their lives, while 4,000 passengers and crew were able to escape to safety.

Safety of life at sea must always remain the highest priority and the way in which the industry addresses any issues raised by major disasters can reflect on its reputation for years to come. It will be vital for the industry to understand the sequence of events that led to the ‘Costa Concordia’ tragedy, which involved a state of the art vessel, manned by a highly qualified crew, who were apparently using the latest navigational equipment.

For the moment at least it seems that politicians and regulators are commendably refraining from knee-jerk responses until the causes of the accident are fully understood. However, this approach may yet change during 2013 as more facts about this unfortunate incident are released and the criminal proceedings in Italy receive further close attention across the media. The delay in publication of the full results of the Italian accident investigation beyond 12 months after the incident has been a source of frustration that is likely to increase the pressure for ‘something to be done’ in the absence of the full facts about the underlying causes.

During discussions at the IMO Maritime Safety Committee, governments have so far resisted calls for IMO to take radical steps until Italy has published the complete results of its accident investigation, which it is understood will be submitted in June 2013. However, various and generally reasonable measures relating to passenger safety and evacuation procedures are already being taken forward by IMO, largely at the recommendation of the Cruise Lines International Association (CLIA), with which ICS has been working closely. An immediate challenge, though, has been to dissuade IMO from applying similar but inappropriate measures to passenger ferries, which change their passenger complements completely during very short periods.

Nevertheless, there is a growing appetite at IMO for the development of more radical measures with respect to stability requirements and the application of the ISM Code, which may yet have implications for all ship types including cargo vessels. Despite originally stating that no radical measures would be suggested until the full causes of the accident are known, IMO appears to feel under increasing pressure to act.

There is still a danger that the industry will be faced with a plethora of regulatory proposals to address the results of what happens when a ship collides with a rock at speed, rather than the root causes of how such an accident could ever have happened in the first place.

Another issue which the ‘Costa Concordia’ tragedy has highlighted is the seemingly inadequate obligations on the part of flag states to submit the results of accident investigations to IMO. The impasse created by the failure of the flag state to report definitively on such a serious casualty indicates that action may be needed in an area where other flag states
have also been guilty with respect to less high profile incidents which are nevertheless serious and from which important lessons could be learned. In April 2013, ICS and the International Transport Workers’ Federation (ITF) therefore jointly submitted a paper to IMO suggesting that the obligations on flag states to submit casualty reports could be strengthened, perhaps drawing on the approach used by the aviation sector.

**Switch to Low Sulphur Fuel**

The challenge presented by the requirement for all ships to burn fuel with a sulphur content of less than 0.1% from 2015 within sulphur Emission Control Areas (ECAs) is high on ICS's agenda. There is still tremendous uncertainty about the likely availability of the hugely increased quantities of distillate fuel that will be required by shipping. There is also growing recognition that very few companies will be in a position to use Exhaust Gas Cleaning Systems (or ‘scrubbers’) before 2015, due to questions of cost and uncertain environmental performance (although they may well have a role in the future). However, the most pressing challenge is economic. With many markets so depressed, how will shipping companies pass on vastly increased fuel costs to their customers? In certain trades in North West Europe and the US/Canadian Great Lakes there is genuine concern that some shipping routes, carrying relatively low value cargoes, will no longer be viable, and that the effect of the switch to low sulphur fuels will be a switch by shippers to less carbon efficient forms of transport, especially road.

At the IMO Marine Environment Protection Committee meeting in October 2012, ICS was unsuccessful in persuading a majority of governments to agree to advance the IMO fuel availability study (legally required by 2018 to assess the impact of the global 0.5% sulphur cap that will apply from 2020), in the hope that this might authoritatively highlight potential problems associated with MARPOL Annex VI implementation. This setback was largely due to bloc voting by EU Member States.

However, a growing number of governments have informally indicated that advancing the IMO study would indeed be helpful and ICS is working out how best to make the suggestion yet again. The case for an early study has arguably been increased by the political decision in Europe in 2012 that the 0.5% cap will apply in the EU EEZ regardless of the outcome of the IMO study which, under MARPOL, could have led to postponement of implementation until 2025. As well as putting the EU potentially in conflict with MARPOL, this arguably makes a large part of the IMO study academic if delayed until 2018. (It is curious that many of those governments that are reluctant to look at this issue are the keenest to conduct a comprehensive update of IMO’s 2009 Green House Gas emissions study.)

Within the EU, a possibly important decision was taken by the European Commission in December 2012 to the effect that the implications of the adoption of the Baltic and North Sea ECAs will be reviewed. Alongside the European Community Shipowners’ Associations (ECSA), ICS will be engaged in these EU discussions. However, it is most important that ship operators continue to work to
the assumption that the 0.1% ECAs, in Europe and North America, will be fully enforced in 2015.

Meanwhile, in the United States, where an ECA came into effect within 200 nautical miles of the mainland US coasts in July 2012 (1.0% sulphur being required prior to the 0.1% limit in 2015) the US Coastguard has now started to enforce the requirements robustly.

Even if governments were to decide to permit some kind of flexibility or transitional measures with respect to the 2015 dates, this is unlikely to become clear until the last moment. However, there seems to be some growing awareness amongst policy makers of the wider effects of ships using large quantities of distillate and the impact this may have on the price of diesel used by cars and trucks and on domestic heating oil supplies.

**Green Climate Fund and CO₂ MBMs**

As reported in the Key Issues section of this Annual Review, the immediate focus of discussions with respect to additional international measures to address shipping’s CO₂ emissions is the debate about Monitoring, Reporting and Verification (MRV), as well as the need to ensure the successful implementation of the mandatory technical and operational measures that have already been adopted by IMO and which came into force worldwide in January 2013.

However, the debate about so called Market Based Measures (MBMs) continues, both at IMO and in the context of the United Nations Framework Convention on Climate Change (UNFCCC). MBMs remain very controversial amongst many ship operators. They reasonably argue that the current high cost of fuel (which is expected to increase further, not least as a result of the switch to low sulphur fuels) already provides shipping companies with every incentive to reduce their fuel consumption and thus their CO₂ emissions. There is also a widespread belief that the enthusiasm of some governments in support of MBMs is motivated more by the monies that might be raised from shipping, whether as a source of income for the UNFCCC Green Climate Fund - which is seen as political means of keeping developing nations at the table during the high level climate change negotiations - or even as means for cash-strapped governments to keep some of the monies for themselves.

ICS therefore participated at the most recent UNFCCC Climate Change Conference, in Doha in November 2012, alongside IMO, in order to explain the industry’s position. The ICS Secretary General has also had a bilateral meeting with the UNFCCC Executive Secretary, Christiana Figueres.

As mentioned elsewhere, UNFCCC has not really made any further progress in deciding how shipping should be treated, including the possibility of any financial contribution by shipping to the UNFCCC Green Climate Fund (GCF), to be used to finance mitigation and adaptation projects in developing countries. However, if the GCF ever becomes a reality (with a goal of generating total funding of US$100 billion a year) the threat remains that shipping might eventually be expected to make a large cash contribution. That said, there also seems to be a growing understanding that suggestions by the International Monetary Fund and the World Bank to
the effect that shipping might pay in excess of US$20 billion dollars per year would be inequitable, impractical and damaging to world trade. The current focus of the UNFCCC working group that is overseeing the establishment of the Green Climate Fund is the low level of government pledges that fall considerably short of original expectations.

On the plus side, UNFCCC does not seem to dispute IMO leadership on the treatment of shipping, and has broadly welcomed the MARPOL Annex VI efficiency amendments. However, UNFCCC has still not provided any clarity about shipping that would be likely to reduce the opposition of governments, such as China and India, to IMO making meaningful progress on MBMs.

Notwithstanding the entry into force of the MARPOL VI amendments, the last meeting of the IMO Marine Environment Protection Committee in May 2013 was unable to make progress on developing terms of reference for the assessment of proposals that have so far been made by governments for various shipping MBMs. This was primarily due to prolonged discussions, again led by China and India, about a separate issue - the implementation of technology transfer measures to developing countries, which forms part of the MARPOL amendments already adopted.

The development of MBMs remains a priority item on IMO’s agenda for 2013, and the position of ICS is that it is willing to continue to participate constructively in the debate provided that the forum for doing so is IMO. The position of ICS remains, however, that in the event that governments decide to develop an MBM for global application, then the preference of the majority of ship operators worldwide is for a mechanism linked to fuel consumption rather than an Emissions Trading Scheme.

**Ballast Water Management**

In principle, in view of the potential damage to local marine ecosystems caused by the unwanted transportation of invasive species, ICS fully supports the eventual entry into force of the IMO Ballast Water Management (BWM) Convention.

In 2013, however, ICS is not actively encouraging governments that have not yet done so to ratify the Convention until serious outstanding issues concerning the implementation of the requirements are resolved at IMO. This includes questions concerning the robustness of the type-approval process for the expensive new treatment equipment (estimated to be US$1 to 5 million per ship), the methodology for sampling during port state control inspections, and the time scale that will be available for as many as 60,000 existing ships to retrofit the new equipment.

At the IMO Marine Environment Protection Committee meeting in October 2012 there appeared to be general agreement with ICS proposals that the BWM Convention should be amended as soon as it enters in force, so that retrofitting the new treatment equipment will not be required until the next full five year survey rather than the next intermediate survey should this be sooner. This idea, along with other possible adjustments, will now be taken forward with a view to IMO developing an Assembly Resolution on the issue at the end of 2013. It is very much hoped that governments will confirm the vital need to ease the potential log jam by spreading implementation over five years rather than two or three.

Disappointingly, however, a number of mainly European governments spoke against determining that all ships constructed prior to entry into force of the Convention should be regarded as “existing ships”, seemingly influenced by manufacturers’ contentions that there are sufficient type-approved equipment and facilities available to meet the anticipated demand. There was also less enthusiasm for ICS’s suggestion that the existing IMO (G8) type-approval Guidelines might be revisited, to take account of the more robust standards that are now being implemented by the United States. However, scope still remains to revisit these suggestions. A growing number of administrations have indicated their support for ICS’s position that the
BWM Convention was designed to assure the ability to meet the required standard by a treatment system installed on an operating vessel, not in the rarefied atmosphere of a test facility.

ICS is confident that in the interests of environmental protection and smooth implementation IMO will come to a pragmatic solution on these complicated issues. Encouragingly, the high profile intervention made by ICS at IMO in October 2012 was supported by China and some of the world’s largest flag states, whose ratification and implementation of the BWM Convention will be vital if it is to have the genuine global application which the industry wishes and requires.
Ship Recycling

ICS remains firmly committed to promoting the early entry into force of the IMO (Hong Kong) Convention on the Safe and Environmentally Sound Recycling of Ships, not least through the promotion of the inter-industry Guidelines on Transitional Measures for Shipowners Selling Ships for Recycling, the development of which was led by ICS. The industry Guidelines are specifically intended to help improve safety and environmental conditions in ship recycling yards in advance of the entry into force of the new Convention.

ICS continues to co-operate in an ambitious IMO programme to promote the new Convention. In 2012, IMO gave new impetus to early ratification with the adoption of further Guidelines on implementation, supported by Guidelines for the authorisation of ship recycling facilities. It is very much hoped that these will now be applied by those governments with authority over the vast majority of facilities which are located in Asia. The early identification of sound recycling facilities will also greatly assist efforts by shipowners to meet their own responsibilities on a voluntary basis in advance of the Hong Kong Convention coming into force.

At the time of writing, ICS is very concerned about proposals being considered within a draft EU Regulation on ship recycling. ICS believes that the version of the Regulation being debated by the EU Parliament, with a final vote scheduled to take place in June 2013, risks completely undermining the IMO Convention.

In April 2013, following co-ordinated lobbying by ECSA and ICS, the Parliament rejected proposals to establish a fund to which all ships calling at EU ports, regardless of flag, would have had to pay in order to ensure that ships were recycled in accordance with EU standards, rather than those already agreed by governments at IMO. The ulterior motive for this seemed to be a wish to create work for ship recycling facilities in Europe.

However, the battle is far from over. The remaining parts of the draft EU Regulation that are being considered still include elements that are at variance to the Hong Kong Convention. If the EU Regulation is adopted, this will make it very unlikely that any EU nation would ever ratify the IMO instrument, giving little incentive to the major ship recycling nations in Asia to ratify either.

The IMO Convention was adopted to address legitimate concerns about environmental and working conditions in ship recycling yards which for the most part are located in Asia. If the EU Regulation was to go ahead in the form currently being suggested within the Parliament, it is very hard to see how the IMO Convention could enter into force.

Undermining the Hong Kong Convention would do nothing to help workers in the recycling yards in developing nations who will continue to be engaged in dismantling the majority of the world’s redundant ships, and whose workload is already increasing in view of the chronic overcapacity that exists throughout the shipping industry. It must therefore be hoped that EU Member States, which are signatories to the Hong Kong Convention, will resist these damaging proposals before it is too late.
Tanker Safety

In 2013, IMO is expected to adopt some important regulatory changes following a major review of tanker safety. This was in response to a significant report by an Inter-Industry Working Group on Fires and Explosions on Board Tankers, to which ICS contributed with the Oil Companies International Marine Forum (OCIMF) and Intertanko, and which was presented to IMO following a sequence of sometimes fatal explosions on tankers during the last decade.

ICS has played an active part in the discussions at IMO on the extension of the practice of ‘inerting’ cargo tank atmospheres which led to an important decision with respect to new mandatory requirements for the inerting of chemical tankers. Once adopted, the requirements will apply to new ships over 8,000 dwt. Subject to the adoption of amendments to the SOLAS Convention and the IMO Fire Safety Systems (FSS) Code during 2013, this development will be fully addressed in a new edition of the ICS Tanker Safety Guide (Chemicals) which ICS intends to publish in early 2014.

ICS fully supports the application of inert gas (IG) to new oil and chemical tankers above 8,000 dwt. ICS has also welcomed IMO’s decision that the possible extension of new measures to existing tankers of less than 20,000 dwt will only be considered in the light of experience gained following introduction of IG on new ships of 8,000 to 20,000 dwt. This is fully consistent with ICS concern that questions remain with respect to the safety benefits and environmental impacts of extending inerting on a mandatory basis to existing and to smaller chemical tankers.
Meanwhile, a serious fire on board the ‘Stolt Valor’ that occurred in the Gulf during March 2012 (which also involved the drama of local ports refusing to provide a place of refuge for the stricken ship, contrary to IMO Guidelines) has produced new issues to consider. The flag state, Liberia, is to be commended for conducting its comprehensive accident investigation so quickly. The primary cause, as with several similar incidents, is understood to have been identified as a failure to follow established procedures. Liberia’s considered recommendations with respect to making tank atmospheres safe will be taken into full account in the final text of the new ICS Guide.

It is important to reiterate that, as with this recent chemical tanker incident, a disturbing conclusion of the original industry report that informed the IMO review was that otherwise competent and qualified seafarers are still prone to bypass accepted procedures. The solutions are complex, involving matters that do not always readily lend themselves to prescriptive regulations, such as how to further inculcate a genuine safety culture amongst ship’s crews, which the new edition of the ICS Tanker Safety Guide (Chemicals) will also seek to address.

Another important development in 2013 will be the publication by industry of a new consolidated edition of the Ship to Ship Transfer Guide. This combines and updates previous best practice publications dealing with STS operations by oil tankers and gas carriers with additional advice relevant to chemical tankers. This is a joint venture involving ICS in co-operation with OCIMF, the Society of International Gas Tanker and Terminal Operators (SIGTTO) and the Chemical Distribution Institute (CDI).

Meanwhile, work has commenced on a new edition of the ICS Tanker Safety Guide (Liquefied Gas). The carriage of LNG has matured and expanded since the current edition was produced, with many new operators having entered the trade. This revision will be a major undertaking, with publication not expected until 2015.

Cargo Liquefaction

IMO has been very successful with respect to ensuring that shipbuilding standards and safe navigational procedures are widely enforced by governments. However, this rigorous application of IMO standards does not always extend so effectively to actions that occur further down the supply chain or in very remote terminals where enforcement can be a challenge for the local shore authorities.

There is very serious concern about the recent loss of several ships carrying nickel ore/iron ore fines loaded in India, the Philippines and Indonesia, apparently due to cargo liquefaction - seemingly solid cargo turning to muddy water, causing it to shift dramatically. In some cases it seems that unsafe cargoes may have been deliberately misdeclared prior to loading.

In the last few years as many as 80 seafarer fatalities, mostly working in south east Asian trades, have been linked to this problem, although in many cases it has been difficult to prove definitively. A widely reported incident was the loss of the Panama flag ‘Harita Bauxite’ in February 2013, with 14 of the 24 crew lost, which had reportedly picked up a nickel cargo in Indonesia. Again, however, the cause of the ship foundering has yet to be fully established.
Representing the Global Shipping Industry
Such problems may not be confined to Asia, with some bulk carrier operators reporting that the water content of iron ore fines is being misdeclared by shippers in South America. To its credit, however, the major Brazilian producer Vale has been working closely with ICS and others in order to identify and eliminate problems.

The issues are complex, but the root of the problem would seem to be the refusal of some shippers to allow the appointment of independent surveyors to conduct cargo testing in accordance with IMO requirements, plus the commercial pressure placed on Masters to accept potentially unsafe cargoes at what are often remote and poorly policed locations.

The prevention of similar incidents is an utmost priority. In co-operation with IMO, Intercargo, the International Group of P&I Clubs and the governments of those nations where problems seem to exist, ICS is seeking to find solutions that will assist shipowners and Masters to resist any pressure to accept unsafe cargoes.

Although in themselves they will not solve the problem, amendments to the International Maritime Solid Bulk Cargoes (IMSBC) Code that include a new schedule for nickel ore were agreed in principle by IMO in 2012 and are expected to be approved in June 2013 for entry into force in 2015. IMO has already issued guidance urging early implementation.

Container Weighing

Container shipping companies continue to be concerned by the incidence of shippers providing incorrect container weights, and the need to ensure that marine terminals always verify the weight of loaded containers against the cargo manifest, prior to loading on board ship. Following a proposal by ICS and the World Shipping Council (WSC) in 2012, IMO has been considering how it might establish a new international regulatory requirement to address this problem.

The aim of ICS and WSC is that all exported cargo containers should have their weights verified, and that this information should be confirmed by the marine terminal upon receipt, and before vessel loading, and made available to the ship operator so it can be used for stowage planning. As well as improving safety, such a measure would help to address wider security concerns about the content of containers.

In a welcome move, the International Association of Ports and Harbors (IAPH) has lent support to this initiative, but it has not enjoyed full favour with some shippers’ organisations. Regrettably this includes the European Shippers’ Council, which seems to be in denial about the extent of the problem of container being overloaded, despite incidents such as the loss of the ‘MSC Napoli’ in 2007, following which many of the recovered containers were weighed by the UK accident investigators and found to be overweight. The consequences can be serious with container stacks collapsing, and the stability of ships being dangerously affected. (Container overloading and the misdeclaration of weights has also resulted with many trucks overturning on shore.)

Disappointingly, IMO was unable to finalise amendments to the SOLAS Convention in 2012, but it is hoped that the concept will be taken forward during 2013. In the absence of a requirement that container weights declared by shippers are verified by terminals it seems likely that a substantial number of containers will continue to be misdeclared and that overweight containers will go on presenting a serious risk to safe ship operations, seafarers and other personnel in the transport chain.
E-navigation and ECDIS

ICS is heavily engaged in the development of ‘e-navigation’ at IMO and in related discussions at the International Association of Lighthouse Authorities and Aids to Navigation (IALA). This is a complex issue with a long timeline. But once the architecture and technology have been confirmed and the performance standards developed, IMO will be considering how e-navigation should be implemented in practice.

However, the development of IMO’s e-navigation strategy is reaching a critical stage. It will be important that the right decisions are made now in order that opportunities for optimising safety are not lost, and to avoid making it too complicated or expensive to be practical for roll-out on a global basis.

The concept of e-navigation still means different things to different people. In the IMO context, it has appeared to mean linking the growing number of electronic navigational and communication systems into a cohesive system, connecting ship and shore. It thus provides an opportunity to standardise, integrate and, where appropriate, further automate the next generation of ships’ navigational equipment. While IALA has been engaged in the technical development of a system that broadly underpins the IMO definition, this work has not always been fully aligned with the IMO approach.

ICS is also increasingly concerned that some coastal states see e-navigation
primarily as a mechanism for monitoring shipping, and even taking operational control away from the Master completely.

To the electronics industry e-navigation is clearly an opportunity to develop and sell new equipment. However, this does not mean it is always appropriate for governments to mandate the carriage and the use of new equipment just because it exists. If a computer appears to be doing a satisfactory job then it is natural to increasingly rely on the machine, but it is not necessarily in the best interests of safe navigation if watchkeepers then forget to look out of the window or otherwise undermine.

There are also big questions regarding how e-navigation will be implemented in practice by coastal states and port authorities. Scandinavian countries are progressing with their own advanced systems and the St Lawrence Seaway already operates its own system that is referred to as ‘e-navigation’. The Panama Canal Authority is meanwhile exploring another system to help with arrival planning. Work is also being done in the Malacca and Singapore Straits to demonstrate aspects of e-navigation technology. But each of these projects has a different purpose and approach, with the attendant risk of jeopardising the global framework for standardisation that e-navigation has the potential to offer.

Most informed commentators expect that Electronic Chart Display and Information Systems (ECDIS) will be at the core of e-navigation. On 1 July 2012 new mandatory IMO requirements for ECDIS entered into force, something which ICS has long supported, provided that sufficient Electronic Navigation Chart availability could be met before the phased-in carriage requirements became effective.

Disturbingly, however, it has become apparent that not all ECDIS systems are fully effective, with the International Hydrographic Organization (IHO) advising that some systems have reportedly failed to display significant underwater features in the ‘Standard’ display mode, necessitating the continued use of paper charts. ICS therefore welcomed the decision by IMO’s Sub-Committee on Safety of Navigation to take action to address operating anomalies with ECDIS and to develop advice for mariners. Meetings have since been held with ECDIS manufacturers and IHO in order to get to the bottom of this serious problem. Following detailed work by IHO and IMO, in which ICS has participated, the initial batch of known anomalies has largely been addressed although doubt exists that all existing ECDIS are yet able to display all potential hazards. In view of the potential danger presented by ECDIS operating anomalies, ICS will continue to monitor the situation very closely.

**Safety in the Malacca and Singapore Straits**

ICS has welcomed the outcome of an important meeting between governments to advance navigational safety in the strategically vital Malacca and Singapore Straits, where there are about 70,000 transits by ships each year. In October 2012, however, at a meeting of the ‘Co-operative Mechanism on Safety of Navigation and Environmental Protection in the Straits of Malacca and Singapore’ (which involves the littoral states of Singapore, Malaysia, and Indonesia), ICS expressed concern about the continuing lack of new large scale navigational charts. The delivery of improved safety and environmental benefits in the Straits is meant to be a primary objective of the Marine Electronic Highway or ‘MEH’ project. But these benefits cannot be realised unless navigational charts are based on modern and appropriate hydrographic surveys.

Encouragingly, this deficiency has been acknowledged by the littoral states. India, moreover, has offered the use of a vessel to conduct appropriate hydrographic surveys in the area. Training for survey personnel from Malaysia and Indonesia has also been offered. Hopefully, these developments may lead to real progress being made with respect to safety of navigation in the region.

At a meeting in Malaysia in late 2012, ICS also presented updated results of its detailed survey of safety incident reports to the maritime administrations of the littoral states. While only a very small proportion of transits through the Straits lead to accidents or near misses, the ICS survey has identified heavy shipping traffic, inappropriate speed and the loss of situational awareness as significant factors that need to be addressed. ICS also highlighted concerns about the understanding and use of navigation systems such as ECDIS, AIS and radar.

ICS has therefore welcomed the many other projects being taken forward by the Co-operative Mechanism including the removal of wrecks in the region, the establishment of a tide, current and wind measurement system, as well as ongoing projects for the replacement and maintenance of aids to navigation and the provision of emergency towing vessels.
STCW Training Issues

The International Shipping Federation (ISF) is the identity used by ICS when representing maritime employers, and ISF continues to monitor the implementation of the 2010 amendments to the IMO Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). The required changes to national training and certification regimes are being phased-in between now and 2017, having entered into force in January 2012.

The majority of seafarers in international trade work on board ships registered with flags that are different to the country which issued their STCW certificate. One issue that will therefore require close attention is the extent to which governments submit information to IMO to demonstrate that they have fully effected the changes necessitated by STCW 2010, to ensure that they maintain a place on the STCW ‘white list’ (as it is unofficially known). Failure to do so could lead to port state control difficulties for seafarers holding certificates from nations that are not on the ‘white list’, or difficulties with flag state recognition of certificates issued by other countries. Governments are required to submit the required information to IMO by July 2013, for evaluation prior to approval by the IMO Maritime Safety Committee.

An example of one of several STCW issues that have required clarification by ISF is the application of new training requirements for the use of ECDIS. While some training providers and assessors have been keen to suggest that all deck officers should be required to undergo type-specific training, the STCW Convention does not actually require this. There are also differences of view about the required length of generic ECDIS courses for those seafarers who may be required to undertake them.

To help companies comply with STCW 2010, ISF has continued its programme of updating its widely used On Board Training Record Books for use by trainees seeking to qualify as officers and ratings under the STCW Convention. An important provision under STCW 2010 is that ratings seeking to qualify for the new grades of Able Seafarer (Deck) or Able Seafarer (Engine) will be required to maintain documentary evidence of

Work Hour Regulations

An important matter covered by the STCW 2010 amendments is the revised regulations on fitness for duty and minimum seafarers’ rest hour requirements. These are now being enforced by port state control. Significantly, this includes a requirement for individual records of seafarers’ work/rest hours to be maintained on board ship.

In practice, because of the complexity of the record keeping requirements, most shipping companies are using computer based systems. This includes the popular ISF Watchkeeper system, produced with ISF’s partner IT Energy. This has now been fully updated to check compliance with the STCW 2010 regime, including the STCW ‘Manila Clauses’ which provide ship operators with the modicum of permissible flexibility that is sometimes required in short sea trades.

In practice, although the STCW rest rules are broadly harmonised with similar requirements in the ILO Maritime Labour Convention which enters into force in August 2013, they are in fact marginally stricter. The STCW rules are therefore expected to continue to be the ‘default’ regime that will be inspected by port state control.

The ISF Watchkeeper system is also increasingly being used by ships as a planning tool, in order to anticipate how the possibility of fatigue can be avoided. A number of charterers are now requiring the use of such forward planning features in order to comply with their vetting regimes. At the request of OCIMF in 2012, ISF Watchkeeper now includes features that satisfy these demanding vetting requirements.
having completed a structured on board training programme. This is an addition to the existing requirement for deck and engineer officer trainees to complete training record books - the ISF books being referenced as a model in the footnotes to the STCW Convention.

The revised STCW 2010 competence standards must be applied to new trainees from July 2013. In January 2013, ISF therefore published an updated version of its On Board Training Record Book for Engine Cadets, following the earlier publication of revised books for deck officer cadets and for deck and engine rating trainees. The ISF books have already been approved by a number of certificate issuing administrations including the Philippines, which provides almost 20% of the world’s merchant seafarers.

Another development in 2013 is that ISF will be making its On Board Training Record Books available electronically, in conjunction with training management software provided by Seagull AS of Norway.

**Labour Affairs**

The Social Partner of the International Shipping Federation is the International Transport Workers’ Federation (ITF), with ISF co-ordinating the views of national shipowners’ associations, and ITF those of its national seafarer union affiliates.

ISF and ITF have a longstanding relationship within the institutional confines of the International Labour Organization (ILO), where they have co-operated with governments to negotiate the text of the ILO Maritime Labour Convention (MLC). They also co-ordinate positions at the bipartite Joint Maritime Commission (JMC) which periodically updates the ILO recommendation on the ILO Minimum Wage for Able Seafarers, as well as
making proposals with respect to ILO’s maritime work programme.

Outside of ILO, however, the relationship between the two organisations is more complicated. Historically it has been affected by ISF’s principled opposition to ITF’s longstanding campaign against so-called ‘flags of convenience’. ISF (and ICS) have consistently taken the position that arbitrary distinctions between ‘traditional’ flag states and open registers are unhelpful and relate more to the industrial relations landscape of the 1970s than the situation which exists today. Indeed these distinctions are increasingly irrelevant, as shown by the annual publication of the ICS/ISF Shipping Industry Flag State Performance Table, which indicates that the commitment to international standards of flags such as the Bahamas and Liberia is as impressive as any other. The high level of MLC ratification by the major open registers only serves to emphasise this point.

Despite some efforts at reform, a large factor behind ITF’s continued commitment to its ‘foc’ campaign would seem to be the need for it to maintain the considerable income it receives from mostly open register ship operators that elect to use ITF-approved collective agreements. This is largely to avoid the possibility of their ships being boycotted by ITF’s dock worker affiliates in those nations where secondary industrial action is still legal.

Notwithstanding the above, there are nevertheless a number of issues on which ISF and ITF have common cause, not least with respect to improving maritime safety at IMO, and on serious issues such as piracy and the unwarranted criminalisation of
Attendance at these meetings is also important to keep abreast of regulatory developments. The Table identifies flag states that seriously committed to the implementation and enforcement of IMO rules. However, as an indicator, the Table shows flags that have submitted compliance and practice reports required by ILO. The extent to which flags have complied with certain reporting requirements is not always available in the public domain.

Recommendatory, concerning the submission of information by flag states to bodies such as IMO and ILO. Information covering reporting requirements is an indicator of quality and the condition of a ship is ultimately determined by the standard of its maintenance.

Concentration of older vessels. As a positive indicator, the Table therefore shows the 75% of flags whose ships have the lowest Age of fleet.

To doubt whether all of the bodies conducting surveys on behalf of the flag state actually comply with IMO requirements, it is essential to have data for determining whether each of the various ROs conducting survey work on behalf of flag states complies with IMO and the fact that a flag administration might recognise a non-IACS member does not mean that the flag is in anyway by IMO, and the role of Recognized Organizations is vital in ensuring compliance with A.739.

The Port State Control Ratification of Conventions A739 age Reports IMO/USCG's Qualship 21 program, and those which do not appear on their respective black lists. Ships whose flag states do not appear on these PSC white lists tend to be subject to a greater likelihood of inspections.

GREENS suggest positive performance indicators with negative performance highlighted by REDS.

**ILO Minimum Wage**

The ILO Minimum Wage for Able Seafarers increased to US$568 a month basic wage in January 2013. It then will increase to US$585 in 2014, but with no further revision expected to take effect until at least 2015. This follows what was effectively a four year deal agreed by the ILO Joint Maritime Commission in 2011, through which ISF sought to provide employers with the stability required during the very difficult economic circumstances currently being experienced.

ISF remains strongly committed to the principle of the ILO Minimum Wage which is now referenced in the ILO MLC. While it is only recommendatory, and is not directly relevant to other seafarer grades, it has a strong moral authority and is particularly important for employers in developing countries.

It should be emphasised that the ILO Minimum Wage is substantially higher than that paid for comparative work ashore in developing countries. Moreover, the actual minimum wage is significantly higher, typically 50% more, once overtime hours (fixed at a minimum of one and a quarter times basic pay) and other mandatory ILO requirements, such as payments for leave entitlements, are taken into account. It is also only a minimum. Most ratings from developing countries receive significantly more, while officers receive substantially more, with differentials between officers from OECD and developing nations continuing to narrow.

Seafarers (ISF and ITF being responsible for developing, with governments, the IMO/ILO Guidelines on Fair Treatment of Seafarers in the Event of a Maritime Accident). ISF and ITF also have a common interest in wishing to see the worldwide implementation of the ILO MLC, issuing a joint statement in August 2012 when it was announced that the Convention had received a sufficient number ratifications to enter into force. In April 2013, ITF also co-sponsored an ICS/ISF submission about the need for the results of casualty investigations to be reported by flag states.

In May 2012, for the first time for more than a decade, representatives of ISF and ITF members met in London, outside the confines of the ILO, to identify issues on which it might be productive to co-operate. The atmosphere at the meeting was cordial and a further meeting is expected to take place in 2013.

Meanwhile, at the ILO in Geneva, a formal meeting is planned for early 2014 with regard to the ILO MLC. The key issue for discussion will be the inclusion of potential amendments arising from the Joint ILO/IMO Working Group on Crew Claims and Abandonment which met after the MLC was adopted but before it was known when the Convention would enter into force. In preparation for this major ILO tripartite meeting, which will involve employers, unions
and governments, ISF continues to work with the International Group of P&I Clubs on issues relating to insurance provision.

**Shore Leave and the FAL Convention**

The Convention on Facilitation of International Maritime Traffic (FAL) is perhaps an atypical IMO instrument since it is intended to make life easier for ships’ crews, by reducing reporting formalities and administrative burdens rather than adding to them. ICS is therefore participating closely in IMO’s comprehensive review of the FAL Convention, in order to ensure that its provisions are not unwittingly watered down by Customs and immigration authorities.

The debates over the general revision of FAL have centred on three issues: the treatment of electronic exchanges of information; the desirability of harmonising the FAL Convention with the World Customs Organization (WCO) SAFE Framework on supply chain security; and, controversially, the proposed addition of visa numbers within the information that port states may request from ships. The latter would further undermine the principle that visas should not normally be required for seafarers wishing to take shore leave. This is a long established principle enshrined in various ILO Conventions as well as within FAL.

In practice, however, many port states now require large numbers of seafarers to obtain visas in order to enjoy shore leave. This causes serious difficulties, especially for those operating in tramp trades that may not have the opportunity to apply for visas in advance. In a post ‘9/11’ world of heightened security and immigration
concerns, individual visas are now required in the United States and Australia. Problems also exist in Brazil, Singapore and South Africa amongst other nations, and some nationalities of seafarer are still unable to leave their ships without a visa within the EU Schengen area.

Notwithstanding the principle that visas should not be required for shore leave, the priority must be to ensure that the welfare of seafarers is met by ensuring that shore leave is facilitated. ICS and ISF therefore proposed to the April 2013 meeting of the IMO Facilitation Committee that if port states insist upon requiring visas for shore leave they should also make provisions for seafarers to be able to apply for visas upon arrival in port, or very shortly before. ICS and ISF, supported by others, therefore proposed that a new ‘Recommended Practice’ to this effect be included in the FAL Convention. Such an amendment would also have been consistent with ILO Convention 185, which ISF helped to negotiate at an ILO Tripartite Conference in 2003. (ISF is still committed to encouraging countries to ratify Convention ILO 185 to assist in facilitating shore leave for seafarers.)

In the event, however, a majority of governments decided that the reference to visa numbers should not be included in the revised FAL Convention, a decision which ICS and ISF have welcomed.

Nevertheless, while the principle of ‘no visas’ is being retained in FAL, it is not being implemented in practice. A measure such as that proposed by ICS and ISF could possibly have made a significant contribution towards facilitating access to shore leave (and crew transits), a matter on which there has been little progress in recent years.

**Increase to LLMC Limits**

Following an important decision by the IMO Legal Committee in 2012, ICS has expressed its full support for an agreement to increase the limits of liability under the 1996 Protocol to the Limitation of Liability for Maritime Claims Convention (LLMC) by 51%.

Increased limits were initially proposed by the Australian Government following the ‘Pacific Adventurer’ bunker spill in Queensland in 2009, where the clean-up costs were originally thought to have exceeded the applicable limitation amount. Throughout the two years of extensive debate at IMO, ICS had observed that shipowners were open to a discussion of increases, but that these had to be based on the agreed criteria in LLMC, namely claims history, inflation, and the effect on the cost of insurance.

While the IMO discussions were taking place, ICS and some governments had questioned whether any increases were justified in view of statistics compiled by the International Group of P&I Clubs which showed that only a small number of claims had not been compensated fully under the present LLMC limits. However, it was accepted that the large number of governments that had supported Australia’s request to IMO to review the LLMC limits meant that some level of increase was never in doubt.

In addition to general maritime claims, the new LLMC limits, which will come into effect in 2015, will apply to claims under IMO Conventions governing liabilities for bunker spills (other than claims covered by the Civil Liability Convention), plus wreck removal when the IMO Nairobi Convention enters into force.

In view of the need to preserve the careful balance in the limits between the different types of claims, the final increases agreed by IMO seem to be a reasonable outcome.

It remains to be seen what economic impact the new limits will have on the industry after they come into effect. However, ICS hopes that the increases will help to ensure that the principle of limitation of liability will be maintained, which is crucial if shipowners are to continue to have access to affordable insurance. It is also hoped that the higher limits will not deter nations in Africa and South America from subscribing to the LLMC. ICS regards this as a core IMO Convention and continues to promote its global ratification.
Comité Maritime International

ICS has broadly welcomed two important decisions taken by the Comité Maritime International (CMI), the international association for maritime lawyers, which in October 2012 held its four-yearly conference, in Beijing, at which ICS was represented. These decisions concerned the debate about a separate award for ‘environmental salvage’, and controversial proposals with respect to the future of the York Antwerp Rules on General Average.

In co-operation with the International Group of P&I Clubs, ICS leads shipowner representation on salvage issues, particularly in relation to the smooth operation of the Lloyd’s Open Form (LOF). For the last few years, ICS has maintained firm opposition to proposals from the International Salvage Union (ISU) for a new separate award for environmental salvage in cases where salvors have carried out operations in respect of a ship or cargo that has presented a threat of damage to the environment.

The ISU has argued that its proposal would allow for a ‘merit’ based award for salvors’ services to minimise damage to the environment. However, ICS has contended that the IMO Salvage Convention, and indeed Lloyd’s Open Form which is based on the Convention, already provides for a system that allows for recognition of environmental benefit and which, with the Lloyd’s SCOPIC clause, provides for a generous financial reward to salvors.

The ISU has sought a stand-alone environmental award in addition to the traditional property award, which would apparently be based on an assessment of the theoretical cost savings from preventing environmental damage. However, the concern of ICS is that inevitably such an award would require the introduction of expert evidence with complicated tools, as has been seen in US Natural Resources Damages Assessment cases. Such a complicated and drawn out process would be in no one’s interest, especially as salvors have previously expressed great satisfaction with the current SCOPIC system.

A working group established by the Lloyd’s Salvage Group, in which ICS participates, reached a stalemate following the ISU’s inability to demonstrate that its proposal would improve salvage response, or indeed deliver cost savings to those paying for salvage services. Somewhat surprisingly however, in view of the generally unenthusiastic response from interested parties in the industry, the ISU succeeded in persuading the CMI to give consideration to its proposals for a revision of the IMO Salvage Convention and to amend the Lloyd’s Open Form.

At the 2012 CMI Conference, however, it was clear that there was no consensus amongst national maritime law associations for supporting the ISU proposal, which was not unexpected given the close relations which they enjoy with ICS member national shipowners’ associations.

Similarly, there was little appetite at the CMI Conference to support changes proposed to the York Antwerp Rules governing General Average, despite the CMI secretariat having initiated a discussion. This initiative had surprised ICS given its longstanding role in representing shipowners’ views whenever issues relating to General Average are
discussed. The issue will be revisited, however, at the next CMI Conference in 2016.

The outcome of these discussions indicates a need to improve dialogue between CMI and ICS in order to avoid future misunderstandings. This process has begun with informal meetings, and has already borne fruit with CMI joining the ICS/ISF campaign to encourage the ratification of identified UN (IMO, ILO and UNCITRAL) maritime Conventions. This includes CMI endorsement of the latest ICS/ISF campaign brochure which was updated and published in April 2013.

**Passenger Ship Liability**

ICS supports the early entry into force of the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL). The Protocol introduces compulsory insurance for passenger personal injury claims and other mechanisms to assist passengers in obtaining compensation, the level of which is increased significantly compared with the original Convention. The Protocol has now been ratified by nine countries and will enter into force 12 months following the tenth ratification/accession. In the interests of consumer protection, it is clearly desirable that it achieves global acceptance as soon as practicable.

The issues are complex, but the thorny issue of terrorism liability has hampered implementation of the Protocol since IMO Member States first rejected industry arguments that carriers should have a complete defence against terrorism because terrorism is an attack on society at large and the costs should be borne
by governments. Later, in 2006, IMO Member States agreed that carriers’ liability for terrorism should be aligned with the insurance cover available in the war risk market. IMO Guidelines were agreed recommending that Parties should make a Reservation when ratifying the Protocol as regards carrier liability and compulsory insurance for terrorism, which ICS has urged governments to observe.

Meanwhile, an EU Passenger Liability Regulation (PLR), which broadly mirrors the 2002 Protocol, entered into force in Europe on 31 December 2012. In co-operation with ECSA, ICS has therefore been calling upon EU maritime administrations to ensure that they are able to issue passenger ships with the required insurance certificates, the concern being that cruise ships and passenger ferries, including non-EU vessels, might be unable to trade within EU waters.

Working with the International Group of P&I Clubs (IG), passenger ship operators have gone to great lengths to ensure that they can meet the new insurance requirements, including the need to obtain cover for terrorism. But the need to obtain this cover has presented shipowners and their insurers with a real challenge. The IG Clubs have decided to issue certificates of insurance for the non-war risks arising under the EU PLR, while alternative arrangements have been developed for the terrorism component, namely insurance in the non-mutual commercial market arranged by Marsh/Willis or Safeguard.

Given the complication of having to have separate terrorism cover, the IG, ICS and ECSA have been trying to persuade EU governments to develop a common position with regard to the
certification process and port state acceptance of insurance certificates issued by other EU/EEA Member States. While there were some issues for vessels registered in non-EU/EEA States, with unwillingness on the part of many EU governments to issue certificates to them unless they were calling at a port in that state, to date there have been no reports of disruption to the cruise ship or ferry industries or, more importantly, to their passengers.

Cargo Liability
ICS continues to promote the ratification of the Rotterdam Rules on cargo liability which were formally adopted in 2009 by the United Nations Commission on International Trade Law (UNCITRAL). The Rotterdam Rules are intended to replace outdated cargo liability regimes such as the Hamburg and Hague/Visby Rules, taking account of modern multi-modal transport and ‘door to door’ delivery practices.

ICS recognises that the new rules may not be perfect, and in some respects they may be overly complex. However, maintenance of the status quo is not a realistic option. If the Rotterdam Rules do not take hold then the United States and the EU will almost certainly pursue their own regional regimes and the opportunity for global uniformity will be lost for another generation. Following a thorough and detailed analysis of the Rotterdam Rules, ICS members have concluded that the new regime must be strongly promoted by the shipping industry in order to avoid the risk of a proliferation of regional cargo liability regulations.

Encouragingly, the United States appears to be committed to the early ratification of the Convention. With the full support of US carriers and shippers, the State Department has prepared a file to be put before Congress which is expected to be taken forward during 2013. US adoption will almost certainly give critical momentum to the process of ratification worldwide, with China and other Asian nations likely to align their regimes with the United States.

While those who were deeply involved in the negotiations, such as ICS and the World Shipping Council, are clear about the need to encourage governments to ratify and implement the Rotterdam Rules, there still appear to be reservations in some quarters about the benefits of the new regime. An ongoing priority for ICS is to explain to these interests why the Rotterdam Rules should be supported. ICS has therefore started work on a new guide that will seek to explain the main features of the Rotterdam Rules, in layman’s language, for the benefit of carriers and shippers. Publication is expected in 2014.

Competition Issues
Careful compliance with competition law is most important given that even ‘technical’ violations by companies can potentially result in penalties amounting to 10% of company turnover. The above notwithstanding, in those parts of the world where they are still permitted, ICS policy is to defend the continued existence of anti-trust exemptions, for practices such as discussion agreements which, as still acknowledged by most competition authorities outside of Europe, are necessary to allow international shipping markets to function smoothly. The EU Competition Directorate, however, continues to argue forcefully that its foreign trading partners should follow
its unilateral lead of making shipping companies’ participation in such mechanisms illegal.

In June 2012, ICS made a submission to the European Commission about the future of its Guidelines on competition rules in the maritime sector. These were adopted when liner Conferences were prohibited in European trades in 2008. Consistent with submissions by ECSA and WSC, ICS stated that it had no objection to the Guidelines being withdrawn, provided a means could be found of preserving the guidance on shipping pools in the bulk sector. ICS also stated that support for the removal of the Guidelines should not be seen as a change in ICS’s (and ECSAs) current position that the block exemption for consortia agreements should be extended when it next comes up for review prior to 2015.

Meanwhile, ICS has welcomed the detailed US Federal Maritime Commission (FMC) study, published in 2012, on the impact of the EU prohibition of liner Conferences on US trades. Many of the FMC’s conclusions appear to support the ICS position in favour of the maintenance of the status quo with respect to current anti-trust immunity that applies in non-EU trades, both in the United States and in much of Asia.

Based on its examination of the period 2006-2010, the FMC concluded that the repeal of the EU Block Exemption has apparently not resulted in any relative decline in EU freight rates compared with Far East/US trades. In other words, shippers in EU trades have not been advantaged as a result of the EU decision compared to shippers in Far East/US trades where the EU prohibition does not apply. There also appears to have been an increase in rate volatility in EU trades compared to Far East/US trades, and the FMC suggested that the activities of discussion agreements that are still permitted in non-EU trades may have had a ‘dampening effect’ on rate volatility. However, the FMC has reached no firm conclusions as to whether any changes are warranted with respect to current US competition regulations such as the Ocean Shipping Reform Act, and it is now updating its analysis of the changes in Europe with more recent data.

Elsewhere, consistent with the policy of defending the status quo with respect to anti-trust rules in non-EU trades, ICS submitted comments to the competition authorities in Chile which are challenging the legality of liner Conferences. In April 2013, in a welcome move, the competition law court that has been looking at the case has apparently ruled that current anti-trust exemptions remain valid. Meanwhile, following the submission of ICS comments to the New Zealand Productivity Commission’s inquiry into international freight transport services, which urged that any changes made should be consistent with the practices of trading partners in the Asia Pacific region and the APEC (Asia Pacific Economic Cooperation forum) Guidelines Related to Liner Shipping adopted in 2011, the Commission’s recommendations are being considered by the New Zealand Parliament.

On a positive note, the European Commission announced, at the end of 2012, that it is no longer actively pursuing its investigation into the operation of the current system of mutual third party liability insurance provided by the International Group of P&I Clubs. This is very welcome news given that ICS and ECSA have consistently argued that the P&I Club system continues to serve the best interests of ship operators and their customers extremely well, alongside serving the interests of claimants and the general public. In particular, the mutual insurance arrangements provided by the P&I Clubs enable the provision of the very high levels of insurance required by shipowners under international liability Conventions.

**International Shipping Policy**

Shipping policy involves the long term engagement by ICS in the largely unseen diplomatic activity that is needed to help ensure the maintenance of the open markets which the shipping industry requires to operate competitively and efficiently.

In May 2013, ICS had the opportunity to reiterate these points as the main shipping industry participant at a major Conference of the world’s transport ministers in Leipzig, organised by the OECD International Transport Forum, which held a Ministers’ Round Table on the crisis in global shipping markets.

Meanwhile, ICS continues to place great importance on relations with the Consultative Shipping Group (CSG) of governments, which is the guardian of maritime free trade principles. In April 2013, in co-operation with the German Shipowners’ Association, ICS held a seminar on trade policy developments for CSG governments at their annual meeting in Hamburg. Matters discussed covered the financial crisis in shipping and the dangers of African protectionism including unwelcome calls within the African Union Maritime Transport Charter for a regional cabotage regime.

In addition to the broader role of the CSG as a forum for discussion of
shipping policy and trade issues, it still maintains its original function of providing a means for the world’s major shipping nations to communicate with the United States. In June 2012, ICS led international shipowner representation at the most recent CSG dialogue meeting with the US Government agencies in Washington DC, which was attended by the US Secretary of Transportation.

So long as the recovery of the world economy remains far from certain, it will be incumbent on ICS, and like minded governments, to remain vigilant with respect to the maintenance of free trade principles, especially those adopted by the OECD. In particular, ICS remains committed to the inclusion of shipping in any new agreement on services that may be agreed by the World Trade Organization (WTO), in order to codify the liberal trading practices which already apply to most international trades.

Progress towards a new WTO deal on trade remains slow, largely due to significant differences between governments on issues such as agriculture. ICS is therefore encouraged by the announcement in early 2013 that there will be a new push at WTO to conclude a separate agreement on services. However, it will be important to ensure that shipping is not overlooked, especially if as rumoured the WTO ‘Friends of Maritime Group’ is about to be disbanded, with the attendant danger that shipping could become the victim of horse-trading in any fresh high level trade negotiations.

**China’s Future Shipping Policy**

Given the great importance of China to maritime transport globally, the ‘once in a decade’ changes to the senior leadership taking place in 2013, including amongst those responsible for the future direction of China’s shipping policy, is an area of special interest.

Throughout 2012, ICS paid close attention to press reports suggesting that the Chinese Government might be considering some form of cargo reservation for Chinese owners in response to pressure from domestic shipowners, and public statements by the Ministry of Transport that suggested an aspiration for a greater proportion of ‘strategic cargoes’ to be carried on board Chinese tonnage.

In reality, there presently seems no reason to believe that China is any less conscious of its commitments under the WTO process than previously, a view that appears to have been confirmed by subsequent public statements by Chinese ministers. However, given that Chinese shipping companies are under the same tremendous commercial pressures as operators elsewhere, the Chinese Government no doubt wishes to show that it is listening to the concerns of its local industry. This was evinced by the proclamation of a new regulation on cabotage that came into force in January 2013, although in practice this appears to be a reiteration of principles already contained in China’s Maritime Code.

Encouragingly, given the unwelcome precedent that such policies can set, there appear to be indications that China is intending to lift its informal ban on the ultra large iron ore carriers, operated by the Brazilian producer Vale, from visiting Chinese ports. More generally it appears that the Chinese Government is carefully weighing the best interests of Chinese shipowners against its obligations towards its trading partners, the desire not to support loss making industries (especially those that are still predominately state-owned) and the long term interests of the Chinese economy as a whole.
Taxation Matters

The maintenance of tonnage tax regimes which now operate in most major maritime nations is important to ensure that the shipping industry can operate efficiently in what are extremely cyclical and volatile international markets. The current review of the application of the EU State Aid Guidelines to maritime transport, which is being overseen by the EU Competition Directorate, is therefore of great interest to ship operators worldwide. In July 2012, in liaison with ECSA, ICS submitted comments in support of the maintenance of the status quo to a European Commission public consultation.

Given that shipping is a global industry, with shipping companies operating in multiple jurisdictions, there is a vital need to maintain a sensible global approach to taxation matters, as set out in Article 8 of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

In October 2012, in Geneva, ICS was represented at the United Nations Committee of Experts on International Cooperation in Tax Matters, ICS having made a submission to the Committee opposing suggested changes to Article 8 of the UN Convention, specifically those proposed by the Indian Government concerning the treatment of the taxation of revenue from the domestic leg of an international voyage.

The maintenance of the long established practice that profits from international shipping activities are only taxed in the “home state” of the shipping company, as enshrined by OECD model tax agreements, as well as Article 8 of the current UN model treaty, is important. Any inconsistency with the OECD approach, or restriction of its scope, would be problematic for the industry as it could lead to differential treatment in the various ports of call during a voyage.

The next UN Committee of Experts meeting will take place in October 2013 and, in response to a call for submissions on Article 8, ICS has produced a further paper on maritime tax issues in co-operation with the World Shipping Council.

Canal Toll Increases

Throughout 2012, ICS strenuously opposed Panama Canal Authority (PCA) proposals to introduce significant increases to tolls. Unfortunately,
the industry was unsuccessful in convincing the PCA not to proceed, although it was persuaded to delay implementation of the first stage of increases from July to October 2012 and the second stage will now be implemented in October 2013.

ICS is now concentrating on establishing a more constructive dialogue with the PCA as it assesses the structure and quantum of tolls to be introduced when the project to expand the Panama Canal is completed in 2014/15. ICS has proposed that the structure of future tolls be discussed in detail, both at a general and sector specific level.

At a high level meeting with ICS in December 2012, the PCA outlined some new ideas for when the new locks come into operation. This included the idea of a ‘band system’ in which the PCA would have flexibility to move toll prices within a stated upper and lower limit, without re-opening the tolls process. The PCA believes this would enable it to better react to market events and thus keep tolls at a competitive level. These ideas are at present only conceptual, with no indication as to the level at which tolls might actually be set. The proposals will be further discussed at PCA meetings with individual sectors taking place during 2013, with a further meeting with ICS expected this year.

Elsewhere, ICS has voiced serious concern about toll increases announced by the Suez Canal Authority (SCA) which were implemented in May 2013. For all but the smallest ships, the increases range from about 3% to 5% according to tonnage and ship type. These follow across the board increases of 3% in 2012. Given the dire state of the market, for some trades these increases are very dramatic indeed, and may be impossible to pass onto customers.

With the contraction of Egypt’s tourism and its other economic problems, there is clearly increased pressure on the SCA to maintain what is now the country’s biggest source of foreign revenue. But the effect of these increases will be to give a spur to those owners who may already be considering the Cape route as a serious alternative. Moreover, the entrance to the Suez Canal, via the Red Sea and the Gulf of Aden, is already unattractive due to the continuing threat of Somali piracy. Recent events in Egypt, including riots in Ismailia and Port Said, are also generating concerns about the security of the Canal itself.

To the SCA’s credit, and with assistance from the army, the Canal has so far continued to function smoothly. But ICS will be repeating its request for full and proper consultation between the industry and the SCA, particularly whenever toll adjustments are being contemplated.

Publications

Many ICS/ISF publications on best practices are an essential complement to international maritime regulations adopted by IMO and ILO, and are required reading by companies and seafarers involved in maritime operations.

There are currently over 20 titles, most marketed under the banner of ‘Marisec Publications’. Additional products are available free of charge (see ‘Free Resources’ on the ICS website) including the latest ICS/ISF Shipping Industry Flag State Performance Table published in January 2013 and new Guidance on Pilot Transfer Arrangements published in co-operation with the International Maritime Pilots’ Association (IMPA) in July 2012.

In December 2012, ISF published new Guidelines on the Application of the ILO MLC. Other new ISF publications include updated On Board Training Record Books for deck and engine cadets and deck and engine ratings. In 2013 these will also be available in electronic form in conjunction with the computer based training provider Seagull AS. ISF is currently revising its Personal Training Record Book for seafarers that are already qualified, in order to take account of STCW 2010 and ILO MLC requirements.

2013 will also see the publication of a new consolidated Ship to Ship Transfer Guide, being produced jointly with OCIMF, SIGTTO and CDI. Other major projects include: a revision of the ICS Bridge Procedures Guide; the ICS Tanker Safety Guide (Chemicals); revised Guidelines on Garbage Management Plans (all scheduled for publication by 2014); as well as a new edition of the ICS Tanker Safety Guide (Liquefied Gas).

The ISF Watchkeeper work/rest hour record software, produced with IT Energy, continues to be popular and in 2012 was augmented by a new product, Watchkeeper Online, which allows companies ashore to manage and analyse seafarers’ records and better plan fatigue prevention strategies as required by many charterers.

In April 2013, ICS made some of its publications available for the first time as eBooks, using the eReader technology developed by Witherby Seamanship Group, which is now being widely used by many other bodies producing maritime publications, including IMO.
Election of New Chairman

In May 2012, the ICS Annual General Meeting was held in Port Douglas, Queensland at the invitation of the Australian Shipowners Association.

The representatives of the world’s national shipowners’ associations elected Mr Masamichi Morooka (Japan) as the new ICS Chairman for an initial two year term.

Mr Morooka succeeds Spyros M Polemis (Greece) who decided to stand down after six years in office. Being at the helm of the industry’s most influential international trade association, Mr Morooka now serves as a leading representative of the global shipping industry, overseeing its liaison with international regulators.

Mr Morooka has been supported in his new role by four ICS Vice Chairmen who were re-elected at the AGM: Captain Dirk Fry (Cyprus), Mr Frank Leonhardt (Germany), Mr Trygve Seglem (Norway) and Mr Gerardo Borromeo (Philippines). A new ICS Board was also elected for 2012/2013.

The 2013 Annual General Meeting will be hosted by the Norwegian Shipowners’ Association in Oslo.

The Secretariat of ICS continues to be provided by Maritime International Secretariat Services Limited (Marisec), which is wholly owned by ICS.
ICS Committee Structure

Full Members

Associate Members

Board of Directors

Maritime Law Committee
Chairman: Mr Viggo Bondi Norway

Labour Affairs Committee
Chairman: Mr Arthur Bowring Hong Kong

Insurance Committee
Chairman: Mr Matheos Los Greece

Manning & Training Committee
Chairman: Mr Tjitso Westra Netherlands

Marine Committee
Chairman: Captain Peter Bond Cyprus

Passenger Ship Panel
Chairman: Mr Tom Strang United Kingdom

Offshore Panel
Chairman: Mr David Blencowe Denmark

Gas Carriers Panel
Chairman: To be confirmed

Oil Tanker Panel
Chairman: Mr Roger Restaino Liberia

Bulk Carrier Panel
Chairman: Mr Dimitrios Fafalios Greece

Dangerous Goods Panel
Chairman: To be confirmed

Container Panel
Chairman: Mr Mike Downes United Kingdom

Chemical Carriers Panel
Chairman: Mr Joseph Ludwiczak Liberia

Canals Sub-Committee
Chairman: Mr Koichi Inoue Japan

Environment Sub-Committee
Chairman: Ms Teresa Lloyd Australia

Construction & Equipment Sub-Committee
Chairman: Mr Maurizio d’Amico Italy

Radio & Nautical Sub-Committee
Chairman: Captain Paul Jones Singapore

Canals Sub-Committee
Chairman: Mr Tom Strang United Kingdom

Offshore Panel
Chairman: Mr David Blencowe Denmark

Construction & Equipment Sub-Committee
Chairman: Mr Maurizio d’Amico Italy

Radio & Nautical Sub-Committee
Chairman: Captain Paul Jones Singapore

Canals Sub-Committee
Chairman: Mr Koichi Inoue Japan

Environment Sub-Committee
Chairman: Ms Teresa Lloyd Australia

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### Members of the International Chamber of Shipping

**FULL MEMBERS**

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**ASSOCIATE MEMBERS**

- Abu Dhabi National Tanker Co. (Adnatco)•
- BW Fleet Management Pte. Ltd•
- Chamber of Shipping of British Columbia•
- Cruise Lines International Association (CLIA)
- European Dredging Association (EuDA)
- Interferry•
- International Maritime Employers’ Council (IMEC)
- Sail Training International
- Shipping Australia Ltd•
- World Shipping Council•

• Trade Association Only
•• Employers’ Organisation Only