We acknowledge with thanks the use of photos from the following associations and their member companies:

Chilean Shipowners’ Association
Cruise Lines International Association
Danish Shipowner’s Association
Filipino Shipowners’ Association
Finnish Shipowners’ Association
German Shipowners’ Association
Hong Kong Shipowners’ Association
Indian National Shipowners’ Association
Irish Chamber of Shipping
Liberian Shipowners’ Council
Norwegian Shipowners’ Association
Royal Association of Netherlands Shipowners
Shipping Australia
Singapore Shipping Association
UK Chamber of Shipping
Union of Greek Shipowners
ICS is the principal international trade association for shipowners, concerned with all regulatory, operational and legal issues.

ISF is the international employers’ organisation for shipowners, concerned with labour affairs and training issues.

The membership of ICS and ISF comprises national shipowners’ associations representing all sectors and trades from 36 countries.
page 4 Chairman/President’s Introduction
5 ICS/ISF Office Bearers
5 Secretariat
6 Key Issues in 2010
6 Piracy
8 Shipping and CO₂
10 The Year of the Seafarer
12 The ISF Centenary
15 The Downturn Continues
19 The Year in Review
19 The Switch to Low Sulphur Fuels
20 Shipbuilding Issues
23 The Hong Kong Ship Recycling Convention
24 Safe Navigation
26 Safety Issues
27 ISM and Safety Culture
29 Pollution Prevention
31 The ILO Maritime Labour Convention
31 ILO Minimum Wage
32 STCW Convention Revision
33 Work Hour Regulations
34 United States Developments
36 European Union Developments
37 Asian Developments
38 HNS Liability Protocol
39 Promoting the Rotterdam Rules
40 Criminalisation and Fair Treatment of Seafarers
41 Maritime Law and Insurance
42 Competition Law Developments
43 Canals
44 Maintaining Free Trade
45 Maintaining Shipping’s Profile
46 ICS and ISF Publications
46 Administrative Matters
47 Committees, Organisational Structure and Membership
AS WE START THE SECOND decade of the 21st Century, it is certainly a challenging time in which to be Chairman and President of the principal international trade association and employers’ organisation for shipowners and operators.

The shipping industry, which ICS and ISF exist to represent, has been confronted with unprecedented economic turmoil, the resurgence of piracy as a major criminal enterprise, and growing expectations to reduce emissions of CO₂ - a complex challenge made all the more difficult by the fact that shipping is already the most energy efficient form of commercial transport. These important matters are covered in detail within this latest Annual Review, together with some of the many other topics in which ICS and ISF are engaged on the industry’s behalf, which are too numerous to list in this short introduction.

Much of the industry is still struggling with the serious consequences of a truly massive contraction in economic activity, with global trade estimated to have declined by nearly 10% in 2009. Shipping is the servant of world trade and, just as it benefited from the boom years of the early 2000s, its fortunes are now also inextricably linked to the current fall in demand for its services. The situation is greatly exacerbated by the staggering amount of new tonnage on order.

Although of little immediate comfort to those individual companies that may be struggling to survive, one consolation, at least for the moment, is that governments so far appear to have made a determined effort to avoid the excessive use of protectionist measures. Moreover, although the global financial system has been seriously threatened by the crisis, it is still intact, and it appears to be in the banks’ own interests to support most of those shipping companies that may have temporary difficulties.

While shipowners are experienced in dealing with volatile markets, the immediate future is extremely uncertain. Although the very worst may possibly be over, it is necessary for any prudent shipowner to continue anticipating the unexpected, especially as governments begin to withdraw much of the massive financial stimulus that has been provided to the global economy as a whole.

Much will depend on the policies of China, which has continued to sustain demand in many shipping trades. The understimation of the ‘China effect’ meant that few predicted the scale of massive expansion in shipping that took place prior to the crash, and it is important that the possibility of changes in policy in China, and the negative impact this might have on shipping’s recovery, is not similarly understated.

2010 looks like being a very difficult year for many ship operators, and an uncertain one for all.

On the other hand, there is much with which we can be pleased, though never complacent. The safety and pollution record of shipping is better than ever, with no large oil spills recorded in 2009. There have also been some very positive developments with regard to ensuring that we have the comprehensive global regulatory framework we need in order to operate and compete on a fair and equitable basis, while addressing the legitimate concerns of society about how we go about our business. That said, the inability of the UN Climate Change Conference in Copenhagen, at the end of 2009, to provide the International Maritime Organization (IMO) with clear guidance on how to complete its work on reducing shipping’s CO₂ emissions may well make a global approach for tackling the problem more difficult. ICS will be working hard to ensure that this is not the case.

As this Annual Review explains, we have seen progress on issues ranging from the employment and training standards of seafarers, to measures which should ensure that ships are safely constructed and then, at the end of their working lives, are recycled in a sound and environmentally responsible manner. 2010 promises to be an especially busy year. Apart from the ongoing discussions about CO₂ at IMO and at UNFCCC, ICS and ISF will be representing shipowners at two important Diplomatic Conferences, one amending the STCW Convention governing seafarers’ training standards, and the other to adopt a new Protocol addressing liability for potential damage that might be caused by the carriage of hazardous and noxious substances (HNS).

In view of ISF’s role as the international association for maritime employers, I am particularly pleased that 2010 has been designated by IMO as the ‘Year of the Seafarer’, and ISF will be contributing to IMO’s efforts to promote awareness of the importance of the seagoing profession. Cost pressures notwithstanding, the need to maintain recruitment of competent officers is especially important during the downturn, and a major project for ISF, in conjunction with BIMCO, will be completion of the latest comprehensive study on the worldwide supply and demand for seafarers.

I was honoured to be in office during the 100th anniversary year of ISF in 2009, and on behalf of our member national associations I was delighted...
by the many good wishes we received, particularly from the Secretary General of IMO and the Director General of the International Labour Organization (ILO), both of whom expressed their sincere appreciation for ISF’s contribution to the work of these vital institutions.

I would also like to thank the ICS Vice Chairmen and ISF Vice Presidents, the ICS Executive Committee and the ISF Council, as well as the many other members of the various Committees which make the work of ICS and ISF possible, for their contributions. Our committee members represent the considered viewpoints of their respective national associations, so that we can present a coherent international position on the many complex matters that face us.

As this Annual Review demonstrates, there is certainly no shortage of challenges in the year ahead, and ICS and ISF need the resources to meet them. However, although shipping depends on uniform global rules, we still live in a world of nation states and national interests, and therefore, even in difficult times, the funding of trade associations, particularly at national level, should be a matter of importance to all shipowners. I am therefore most grateful for the ongoing commitment of our member national associations and the shipping companies which support them.

Spyros M Polemis
ICS Chairman and ISF President

ICS/ISF Office Bearers 2009/10

<table>
<thead>
<tr>
<th>ICS Vice Chairmen</th>
<th>ISF Vice Presidents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Masamichi Morooka Japan</td>
<td>Mr Carlos Salinas Philippines</td>
</tr>
<tr>
<td>Mr Trygve Seglem Norway</td>
<td>Captain Dirk Fry Cyprus</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Secretariat Mr Tony Mason, Secretary General, ICS/ISF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Simon Bennett, Secretary, ICS</td>
</tr>
<tr>
<td>Mr Peter Hinchcliffe, Marine Director</td>
</tr>
<tr>
<td>Ms Linda Howlett, General Manager (Legal)*</td>
</tr>
<tr>
<td>Ms Kiran Khosla, General Manager (Legal)*</td>
</tr>
<tr>
<td>Mr Alistair Hull, Marine Adviser</td>
</tr>
<tr>
<td>Mr James Langley, Manning and Training Adviser</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mrs Susan Gray, Accountant</th>
<th>Mrs Shantel Ryan, Publications Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mrs Kathryn Hall, Personal Assistant to Secretary General</td>
<td>Mrs Anita Pow, Shipping Policy Administrator</td>
</tr>
<tr>
<td>Mrs Catherine Howlett, Administration Assistant</td>
<td>Miss Julie Rogers, Marine Department Administrator</td>
</tr>
</tbody>
</table>

*position held jointly
THE PROTECTION OF SHIPPING from piracy, regardless of flag or the nationality of the crew, is a clear and legitimate responsibility for governments under the United Nations Convention on the Law of the Sea. Indeed, a primary role of navies has always been to protect merchant shipping and to keep the sea lanes open to trade. The shipping industry is therefore feeling deepening frustration at the seeming impotence of the international community to address the continuing piracy crisis in the Indian Ocean.

Since the situation escalated in the middle of 2008, around 1,500 seafarers have so far been taken hostage by Somali pirates, with their ships hijacked for ransom. They have been held in captivity in appalling conditions, often for several months. This is in spite of the comprehensive measures that ship operators have taken to defend their crews, including the ‘Best Management Practices’ that have been developed by ICS/ISF and other industry associations, in cooperation with military navies.

In the first part of 2010 the incidence of pirate attacks in the wider Indian Ocean increased dramatically, with Somali pirates displaying increasing audacity, regardless of the ship type or its flag. This growth of activity appears, ironically, to be a consequence of the relative success of military naval forces providing protection in the Gulf of Aden. However, protection throughout millions of square miles in the Northwest Indian Ocean is a far more difficult proposition given the small number of navy ships available - perhaps only 12 on any given day. Moreover, little is being done to prevent the pirates from operating from their bases in Somalia, or to disable the ‘mother ships’ which the pirates use to launch attacks up to 1,000 miles from the Somali coast.

Despite the dedication and professionalism of military personnel, there is a growing sense that the international community, at the political level, is not actively seeking to eliminate piracy, and is instead treating the current level of attacks against shipping as somehow tolerable. In effect, pirates are being given the message that their criminal activity carries very few risks in comparison to the millions of dollars that can be made from extorting ransom payments. As a result, the number of pirates is growing, and there is real danger that, in the absence of a firm response, their methods of hijack and violent kidnapping will be successfully emulated by others elsewhere. Indeed, there may be evidence of this in some hijackings - as opposed to more typical armed robberies at sea - that have recently occurred in waters off Indonesia. Hostage taking, and even cold blooded murder of seafarers, is also still happening at a disturbingly high level in the Gulf of Guinea in West Africa.

Notwithstanding the unprecedented degree of cooperation between the wide array of warships providing security to ships in the vicinity of Somalia (including vessels from China, India, Russia and Japan, in addition to naval assets from the United States, NATO and Europe) the current level of response is nevertheless insufficient. It is vital that governments, at the very highest level, become far more engaged in finding a long term solution to the crisis.

In addition to calling for governments to take a more strategic approach to the suppression of piracy, ICS/ISF is seeking refinements to the existing
military response. While the level of co-ordination between military forces providing protection to shipping is extremely good, it falls short of what could be achieved under a single unitary command structure. At present ships operate under different ‘rules of engagement’, which prevents a consistent response to pirates when they are caught in the act. United Nations resolutions, which set out governments’ authority to act, are being interpreted differently by the various nations that have warships in the area.

All too often, small boats or skiffs that have conducted aborted attacks are allowed to proceed back to Somalia without military intervention. This gives the message that the military will not see hot pursuit operations through to their proper conclusion. Similarly, intercepted pirates are often released only to return to Somalia without being arrested and prosecuted. A more robust approach to enforcement is essential.

In cases where attacks occur hundreds of miles off the Somali coast, the skiffs must have been deployed from mother ships. It would seem unlikely that these small craft have the endurance for operations deep into the Indian Ocean. It remains unclear why the mother ships are not being intercepted and detained.

While ICS and ISF support efforts to establish a stable government in Somalia that can enforce the rule of law, it is widely accepted that this could take years if not decades. It is therefore urgent that governments consider what additional steps should be taken now, and not later.

However, leaving aside the most unacceptable situation in which companies and seafarers now find themselves, the industry is still receiving criticism for the apparent failure of some ships trading in the danger area to register with EUNAVFOR. Despite the best efforts of industry organisations to disseminate them, the military also claim that the vast majority of ships that are hijacked are those which have failed to implement the Best Management Practices. Some senior politicians, for example in the United States, have also suggested that companies and their insurers are at fault in agreeing to make ransom payments, and that a means should perhaps be found of prohibiting such payments. But given the inability of the international community to intervene in Somalia, shipowners currently have no alternative when confronted with their seafarers being held hostage - humanitarian considerations always being the paramount priority. At any given time, about 200 seafarers are being held hostage ashore in Somalia and if the payment of ransoms was banned it must be assumed that their lives would be placed at very serious risk.

ICS and ISF continue to liaise with the military, to discuss how they might improve the protection they are providing, such as greater focus on eliminating mother ships and making better use of airborne surveillance. At the same time, every opportunity is taken to express the appreciation of the industry for the efforts of the military. At the IMO Assembly, in November 2009, the ICS/ISF Chairman/President was invited to make a special presentation on behalf of the industry in front of representatives of the main navy forces. Meanwhile, ICS has continued to attend military co-ordination meetings, at the EUNAVFOR HQ and in the Middle East, and has been present at the ongoing rounds of UN Contact Group meetings on piracy held in New York and in London.

The point has been made that if a similar number of aircraft passengers had been taken hostage there would undoubtedly have been a more robust response. However, many governments seem oblivious to the fact that ships carry around 90% of world trade, and that security of major seaways is strategically vital to the functioning of the global economy. In reality the greatest challenge is political, with the major powers being preoccupied with Afghanistan and Iraq. ICS and ISF have therefore been working with their members to help ensure that piracy remains in the news so that politicians might be held to account.

marisec.org/piracy-bmps
ICCS WAS PRESENT THROUGHOUT the UN Climate Change Conference in Copenhagen, in December 2009, and continues to lead shipping industry representation on the discussions on CO2 emission reductions both at meetings of the United Nations Framework Convention on Climate Change (UNFCCC) and at the International Maritime Organization (IMO).

Both politically and technically, the issues involved are extremely complex. However, the recent attention given to the Copenhagen Conference should not overshadow the important progress already made by IMO, which in October 2009 agreed a comprehensive range of measures (see box), which was further developed at the last meeting of its Marine Environment Protection Committee (MEPC) in March 2010. ICCS and its member national associations have therefore made efforts to educate non-maritime policy makers, environmentalists and society at large, about the progress being made by the shipping industry and its regulator, with tools such as the website www.shippingandco2.org. In conjunction with IMO World Maritime Day, in September 2009, with its theme of ‘Climate Change - A Challenge for IMO Too’, ICCS also produced a widely distributed special brochure on CO2 issues, which is being updated to reflect the outcome in Copenhagen.

ICCS has acknowledged the progress made by governments at the UNFCCC Conference in Copenhagen which, despite much negative mainstream press coverage, cannot be completely dismissed. However, ICCS was disappointed that the text of the ‘Copenhagen Accord’ was silent on the treatment of international shipping in the delivery of further CO2 emission reductions, to which the industry remains firmly committed.

For the moment at least, UNFCCC has been unable to agree a clear mandate for IMO on how to build upon the considerable work already undertaken on a package of technical, operational and economic measures for reducing shipping’s emissions on a global basis - a mandate that had been strongly advocated by the shipping industry in the run up to the UN Conference.

In particular, it remains unclear how the UNFCCC principle of ‘Common But Differentiated Responsibility’ (CBDR) should be reconciled with the important need for global rules on CO2 reductions for the carriage of world trade by ships, which are acknowledged as the most carbon efficient mode of commercial transport.

Shipping is a uniquely international industry that can only work efficiently when operating within a framework of uniform global regulation that applies equally to all ships regardless of flag. CBDR, at least at ship or company level, will simply not work without the possibility of ‘carbon leakage’, given that around 65% of the world fleet is currently registered with ‘non Annex I’ nations under the existing Kyoto Protocol. This is not to say, however, that the CBDR principle could not be addressed at IMO through some alternative mechanism.

The shipping industry remains firmly committed to helping IMO develop a global solution for shipping on CO2. But it is vital for all governments to understand that, in the absence of a global framework agreed by IMO, there is a serious risk that some countries will develop unilateral measures to regulate, at national or regional level, the CO2 emissions of ships trading internationally. Such unilateral measures would likely result in serious market distortions and, most importantly, be far less effective in ensuring the reduction of CO2 emissions by the global shipping sector as a whole.

However, although the ‘Copenhagen Accord’ failed to address the treatment of shipping, this does not mean that shipping has been dropped from the UNFCCC agenda. On the contrary, text is expected to be issued during 2010 that will offer options for dealing with marine bunker fuel that were developed at Copenhagen but not discussed in the Conference Plenary. The preferred option of course is that the issue should be referred to IMO. These options will most likely be discussed at a UNFCCC meeting in Bonn in early June, at which ICCS will be present.

The Copenhagen Accord, albeit in general terms, also clearly states, as part of any future UNFCCC agreement, that the developed nations will be expected to direct billions of dollars to ‘non Annex I’ nations to help them reduce emissions, and that much of this money should be raised through the private sector. During the Copenhagen meeting, several political statements included proposals whereby shipping (and aviation) might be expected to contribute a significant proportion of such money, potentially amounting to tens of billions of dollars a year. At the time of writing, it is not possible to be clear on the status of these proposals as national positions are being revised prior to the next UNFCCC meeting in Bonn. However, it is possible that these ideas will be
The IMO Package on CO₂

In October 2009, the IMO MEPC developed a package of measures for reducing shipping’s CO₂ emissions, with an agreed timetable for adoption. Inter alia, these include:

- Development of a system of Energy Efficiency Design Indexing (EEDI) for new ships (similar in concept to the ratings applied to cars and electrical appliances).

- A template for a Ship Energy Efficiency Management Plan (SEEMP) for use by all ships. The SEEMP allows companies and ships to monitor and improve performance with regard to various factors that may contribute to CO₂ emissions. These include, inter alia: improved voyage planning; speed management; weather routeing; optimising engine power, use of rudders and propellers; hull maintenance and use of different fuel types.

- The ingredients for possible economic measures that could be applied globally to shipping in order to encourage emission reductions.

Governments at IMO have also agreed key principles for the development of regulations on CO₂ from ships so that they will: effectively reduce CO₂ emissions; be binding and include all flag states; be cost effective; not distort competition; be based on sustainable development without restricting trade and growth; be goal-based and not prescribe particular methods; stimulate technical research and development in the entire maritime sector; take into account new technology; and be practical, transparent, free of fraud and easy to administer.

ICS fully subscribes to these important principles.

The IMO Package on CO₂ resurrected prior to the next major UNFCCC Conference in Mexico in December 2010, at which a more definitive agreement is still likely.

Meanwhile, IMO is continuing its work on a package of shipping measures. At the most recent meeting of the Marine Environment Protection Committee, in March 2010, ICS made important interventions in response to submissions made by governments. In particular, ICS has continued to promote the use of technical and operational measures, while acknowledging different views as to the extent, or means, by which they might become mandatory, given concerns in the industry about verification. ICS has also acknowledged the importance of Market Based Measures (MBM) as part of any IMO package and has clearly specified the criteria which any such scheme should meet, but without giving firm support for any particular form of MBM. Discussions will continue at IMO in June 2010,

which will hopefully be able to take account of any further clarity provided by UNFCCC at its meeting in Bonn.

While some ICS member national shipowners’ associations have expressed a preference for an Emissions Trading Scheme, others favour a Compensation Fund (with money raised through a ‘levy’ on bunkers to finance environmental projects in developing countries) - the scheme being promoted by the Danish government amongst others. There is also a new proposal from the United States, and separately from Japan, which uses the Energy Efficiency Design Index (EEDI) - developed by IMO in 2009 - suggesting that it be applied to existing ships to provide a vehicle for mandatory efficiency improvements and to reward efficient performance.

Although IMO may appear to have gained some time for the finalisation of a package of measures as a result of the ‘silence’ from Copenhagen, the serious possibility remains of unilateral action outside of IMO. For example, the European Union is expected to hold to its demand that IMO should have regulations in place by 2011. It is also unknown whether developing nations, such as China and India, will modify their opposition to globally uniform measures for shipping, given that clarification on this issue was not achieved in Copenhagen. If their opposition does not change then regional legislation, at least in the EU and US, would appear to be more likely.

Wrongly or rightly, an important consideration is that in UNFCCC circles, and at the high political level at which the industry has least influence, the amount of money that could be raised from shipping is arguably of greater interest than the emissions reductions that might be achieved. It should also be recalled that the EU negotiating position in Copenhagen was that the international shipping sector should reduce its total emissions by 20% by 2020 (although for aviation this figure was only 10%).

Despite the uncertainty created by the outcome in Copenhagen, the issue of reducing CO₂, with all its technical and political complexity, will remain one of the most serious and urgent challenges for ICS in the year ahead.

shippingandco2.org
The Year of the Seafarer

IMO HAS DESIGNATED 2010 the ‘Year of the Seafarer’. ISF has a deep interest in using this welcome opportunity to highlight the importance of this unique and highly skilled profession, and encourage due recognition of the critical work performed by the world’s one and a quarter million seafarers. ISF also intends to highlight certain issues relevant to the employment of seafarers of which governments, shipping companies and seafarers themselves need to be made more fully aware.

Seafarers have much of which to be proud. Although it is an industry imbued with history and tradition, shipping is a modern and dynamic enterprise, where everyone is conscious of the important part they play towards a far wider purpose. Indeed the health of the world economy, and the very functioning of the modern world as we know it, depends on merchant seafarers.

Although the commitment and importance of good shore based management cannot be overstated, it is ships’ crews who ultimately ensure that shipping is safe, clean and efficient, and that raw materials and finished goods are safely transported over tens of thousands of miles. It is, of course, a remarkably cosmopolitan profession and being a part of the shipping industry is akin to being a member of a special international club. That is not to say that a career at sea means a lifetime at sea, and many ships’ officers elect to move to excellent opportunities in the shore based industry. Nor does it mean that there are no aspects of seafarers’ employment which cannot be improved, which is why ISF is pressing for the ILO Maritime Labour Convention, governing seafarers’ employment standards, to enter into force as soon as possible.

The ‘Year of the Seafarer’ provides an especially helpful platform on which IMO can develop its ‘Go to Sea!’ campaign, giving greater impetus to the promotion of maritime careers. As a contribution to the campaign, and with IMO support for foreign language translation, ISF has produced a short DVD film - ‘Careers in International Shipping’. Thousands of copies of the film have already been distributed by ISF worldwide, free of charge, to help bring the benefits and attractions of a career at sea to the attention of young people, especially at schools and careers events. The film can also be seen on YouTube and at www.marisec.org/isfcareersfilm. (Free copies of the DVD can be obtained on request from ISF, which as well as the English version contains soundtracks in French, Spanish, Russian, Arabic and Chinese. Italian and Greek versions are also available from the Italian, Cypriot and Greek ISF associations.)
The sea will always be an environment involving a degree of physical risk. While these risks are carefully managed, and the safety record of the industry has improved dramatically in the last few decades, dangerous or even tragic situations can occasionally still occur. ISF has therefore been most honoured to provide one of the judges to IMO’s Bravery at Sea awards, and take part in the special ceremony held during the IMO Assembly in 2009.

Regrettably, seafaring as a profession can entail other unwelcome challenges, such as the trend in some countries towards the unwarranted criminalisation of seafarers following unintentional pollution, a matter elaborated upon elsewhere in this Review. This is one particular issue which both ISF and ICS, in co-operation with the seafarers’ trade unions, intend to highlight vociferously throughout 2010.

The IMO Year of the Seafarer is certainly well timed. In June 2010, at a Diplomatic Conference in the Philippines, IMO is expected to adopt substantial amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). ISF will be representing global employers at the IMO Conference, and is confident that the changes agreed by governments will further enhance the seafaring profession and, most importantly, contribute to making it even safer.

marisec.org/isfcareersfilm
The IMO Year of the Seafarer follows the celebration by ISF of its 100th anniversary, having been established as the principal international employers’ organisation for shipowners in 1909.

Since the early 1920s, ISF has been proud to be an official ‘social partner’ of the International Labour Organization (ILO), in Geneva, where shipping enjoys unique maritime machinery for developing international employment standards. ISF organised the representation of maritime employers at the first special Maritime Labour Conference in 1920, and still continues in this role, similarly co-ordinating shipowner representation at the ground breaking ILO Maritime Labour Conference of 2006. ISF is also a member of a unique ILO institution, the bipartite Joint Maritime Commission (JMC), which comprises employer members co-ordinated by ISF and seafarers’ representatives organised by the International Transport Workers’ Federation (ITF).

ISF (along with ICS) was amongst the very first industry organisations to gain consultative status with IMO in 1961. In recent years, ISF has also been very closely engaged with training standards, and has represented maritime employers at the major Diplomatic Conferences which adopted, and then radically revised, the STCW Convention in 1978 and 1995. ISF is deeply involved with the current IMO review of STCW standards which will culminate with a Diplomatic Conference in the Philippines in 2010.

A special commemorative book has been produced covering the origins and history of ISF, which is available on request free of charge.
ISF History

1978
IMO STCW (training) Convention adopted

1982
ISF (and ICS) publish Code of Good Ship Management Practice

1990
First ISF/BIMCO global manpower survey

1991
ISF and ICS Secretariats combined as Maritime International Secretariat Services (Marisec)

1993
IMO adopts International Safety Management (ISM) Code

1993
ISF launches first international training record books for trainee ship’s officers

1995
IMO STCW Convention radically revised

2001
ISF Guidelines on Good Employment Practice published

2006
ILO Maritime Labour Convention adopted
Due to a contraction in world trade approaching 10%, the container shipping industry is estimated to have lost about US$20 billion in 2009. There has been a noticeable recovery in cargo volumes in some trades (for example intra-Asia and Asia/Europe), but rates and volumes are still well below 2008 levels. Recent volume increases may also have been due to restocking of delayed inventory, rather than a genuine recovery of consumer demand. In early 2010 about 10% of the global containership fleet was still laid up. With high numbers of new buildings due to be delivered before the end of 2011, excess tonnage is still likely to impede a sustained recovery.

**Containerships**

Due to a contraction in world trade approaching 10%, the container shipping industry is estimated to have lost about US$20 billion in 2009. There has been a noticeable recovery in cargo volumes in some trades during early 2010 (for example intra-Asia and Asia/Europe), but rates and volumes are still well below 2008 levels. Recent volume increases may also have been due to restocking of delayed inventory, rather than a genuine recovery of consumer demand. In early 2010 about 10% of the global containership fleet was still laid up. With high numbers of new buildings due to be delivered before the end of 2011, excess tonnage is still likely to impede a sustained recovery.

**Far East - Europe Container Volumes**

Source: Clarksons Research Services
Following the dramatic collapse in freight rates at the end of 2008, the dry bulk sector has shown signs of recovery, despite great volatility, mainly due to the expanding imports of iron ore and coal into China and India. Chinese demand may even drive global seaborne trade in iron ore to new records, which may help to absorb the large number of new buildings being delivered in 2010. However, it is unclear whether this inexorable growth in Chinese demand can be sustained, or if it is enough to compensate for reduced economic activity in much of the rest of the global economy.

The main concern for ICS, however, is that companies continue to compete on a fair basis, and that markets are not distorted as a result of any government assistance. Emphasis also continues to be given to the need to maintain a regulatory ‘level playing field’ and to discourage governments from responding to the global crisis with protectionist measures, both generally - because it will impact on the overall demand for maritime trade - and more specifically with regard to protectionist measures that pertain to shipping.

Notwithstanding remaining market access issues in some developing countries, and continuing uncertainty about whether the World Trade Organization (WTO) will conclude a new agreement, to date governments have generally remained committed to trade liberalisation, including within the maritime sector, although
Tankers

Many tanker markets have remained sluggish, partly due to the low demand for crude oil and petroleum products in many OECD countries and because of surplus tonnage. This trend may well continue given the significant number of new buildings on order, though many single hull tankers are due to be phased-out in 2010.

Meanwhile, as reported elsewhere in this Review, severe pressures on shipping companies have meant that wage levels have taken on renewed significance, with some companies even introducing salary cuts. ISF has therefore explained to the International Transport Workers’ Federation (ITF) that employers are unable, at the present time, to entertain consideration of any further increases to the ILO Minimum Wage for Able Seafarers as recommended by the ILO Joint Maritime Commission.

Even when the current crisis is eventually over, the structure of the shipping industry is likely to have changed dramatically. There will probably be fewer shipping companies and, although they will still be competing in commercial markets, many companies, either directly or indirectly, through loans or ownership by sovereign wealth funds, will to a much larger extent than hitherto be in someway beholden to governments. For better or worse, nothing stays the same, even in a traditionally conservative industry such as shipping.
The Year in Review

The Switch to Low Sulphur Fuels

Apart from the debate about CO₂ emissions, a wide range of other major environmental issues remain on ICS’s agenda. Most important for shipping companies, given that the increase to bunker costs could be many times more significant than whatever may be agreed to address climate change, is how the radical amendments to MARPOL VI will be implemented. These were agreed by IMO in 2008, and should deliver a dramatic reduction of atmospheric pollution by ships - sulphur, nitrous oxides, and particulate matter - primarily in response to well publicised scientific evidence about the serious impact on the health of local populations. The MARPOL Annex VI amendments have already entered into force with a time table for the phase-in of new requirements (see box).

Although ICS hailed the international agreement between governments as one of IMO’s finest moments, the challenge of requiring a shift to the use of low sulphur fuels, which in practice for most ships means using distillate as opposed to heavy fuel oil, cannot be exaggerated. The most immediately critical date is 2015, when fuel used in Emission Control Areas (ECAs) must have a sulphur content of no more than 0.1%. The considerable task facing the oil refiners, which must expand the production of low sulphur fuel to meet the new demand, is complicated by the fact it is not yet fully known which additional areas may be designated as ECAs. Subject to approval by IMO, the decision to apply for this status is a decision for the relevant coastal states. At present only the Baltic and North Sea are ECAs, although the United States/
Canada ECA was approved by IMO in March 2010. However, it is unknown if or when EU nations will submit applications for ECAs covering the Atlantic coast or the Mediterranean/Black Sea, or whether other coastal states in major population centres have plans to follow suit before 2015.

ICS has not opposed the US/Canada ECA, or disputed the scientifc rationale for requiring it to extend 200 nautical miles out from almost the entire east and west coasts of North America. But ICS has stressed that the alignment of the ECA limits with that of the Exclusive Economic Zone (EEZ) should not be seen as a precedent for other ECA applications, a position which appears to have been acknowledged by governments at IMO. The application of the new ECA might also yet be subject to serious opposition from within the United States.

In the Baltic ECA, meanwhile, there is growing concern about the 0.1% sulphur requirement, which may increase fuel costs by as much as 50%, and the impact this will have on the competitiveness of short sea shipping and the commercial wellbeing of the remote shore based industries it serves in the region. Although governments in the area were among the strongest advocates of the lowest sulphur limits throughout negotiations leading up to the IMO agreement, many now acknowledge that a means needs to be found for mitigating the impact that the ECA limits may have in transferring cargo to road networks, with greater net environmental costs and higher CO2 emissions. While parts of the European Commission are understood to be sympathetic to the problem, it remains to be seen if it would be willing to support a request to IMO that the fuel standards pertaining to the Baltic ECA should now be changed.

In Europe, meanwhile, ICS has been concerned about the safety implications of the implementation of the separate EU Directive requiring all ships to use distillate fuel, with less than 0.1% sulphur, when at berth in EU ports as from January 2010. This worry relates to the serious risks to boilers, including potential explosions, when switching fuel supplies before the required conversion work has been completed. Encouragingly, the Commission has developed a pragmatic solution, and EU Member States have been guided to enforce the requirement with flexibility for a transitional period, given the current low availability of conversion kits. However, ships should ensure that they can provide evidence to port state control that the necessary work has been scheduled, and some EU States have indicated that they will not tolerate any non-compliance. While the EU Directive goes beyond the requirements of MARPOL Annex VI (with which it was hoped that the EU Directive would be aligned), ICS has not questioned the legitimacy of the Directive. Rather the issue has concerned the timing of the implementation, the overriding concern of ICS being that safety should always be recognised as a priority.

It is worth reiterating that the revised MARPOL Annex VI represents a heroic compromise between governments, the shipping industry, oil producers and environmental interests. However, its implementation will be far from easy, and ICS remains in close dialogue with the oil industry about efforts being made to ensure that the demand from shipping for distillate fuel can be met. While there is a formal mechanism in the IMO agreement to review progress in meeting the demand for fuel with 0.5% sulphur content that is meant to be used worldwide outside of ECAs by 2020, ICS is pressing IMO to start work on developing a methodology for this study and to consider all of the major changes required by the radical new regime.

**Shipbuilding Issues**

Apart from the massive contraction in global trade, the most pressing concern for the commercial health of the shipping industry is the massive overcapacity in the shipbuilding sector. The size of the current world order book is truly daunting (see graph) even accounting for the large number of cancellations or deferments, by shipping companies and the shipyards themselves, caused by the non-availability of finance.

In December 2009, in Paris, ICS participated at an OECD workshop to discuss market distorting factors in the shipbuilding industry, immediately prior to an important meeting of the OECD Shipbuilding Working Party. ICS requested the resumption of the stalled negotiations to develop a new OECD shipbuilding agreement to eliminate market distorting subsidies, and suggested greater transparency with regard to support measures. In view of the massive over capacity, and the dangers of the market being flooded with ships for which there is little cargo to carry, ICS also highlighted the need for governments in shipbuilding nations to avoid focusing unduly on the maintenance or expansion of market share.
World Order Book Development
Source: RS Platou Finans

World Order Book Development
Source: RS Platou Finans

Million DWT

2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010

Others
Bulk Carriers
Chemical Carriers
Tankers

21
The OECD secretariat, like ICS, had hoped that the dramatic market events of 2009 might provide the impetus to restart negotiations. But key shipbuilding nations, such as Korea, remain resistant to a new agreement, and for the moment the OECD’s role is limited to collecting further information about potential market distorting measures. However, the OECD Shipbuilding Working Party will reconvene in April 2010 and it is hoped that negotiations on a binding agreement can still be restarted.

Notwithstanding the economic pressures, the major preoccupation for ICS has been the maintenance of high standards of ship construction. In May 2010, the IMO Maritime Safety Committee is expected to adopt amendments to the SOLAS Convention for the implementation of new ‘Goal Based Standards’ (GBS) for the construction of bulk carriers and oil tankers of 150m or over in length. This will be the culmination of several years of negotiations in which ICS has been closely involved. As a consequence, it is expected that shipbuilding standards will have been taken forward so that with an appropriate level of maintenance, and adequate margins for corrosion, future ships will be constructed so that they remain ‘fit for purpose’ throughout their typical 25 year life spans. The philosophy underlying Goal Based Standards is also expected to have implications for the future development of other IMO standards, such as those for shipboard equipment.

Some important questions still need to be resolved, such as who should pay for the proposed GBS verification process. Although these should not be permitted to delay the adoption by IMO of GBS, decisions also need to be taken with regard to achieving an appropriate balance between the availability of technical information that can be accessed on board a vessel, and the legitimate protection of intellectual property rights of shipyards and classification societies. ICS is of the view that it is essential to have an assurance that any documents which are agreed by IMO to be necessary for reasons of safety - during operations, maintenance, survey, repair or emergencies - must indeed be available on board, and that procedures to protect their contents should be treated as a separate matter. It is acknowledged, however, that more commercially sensitive information might need to be held ashore, e.g. by classification societies, but with suitable access provided to the ship whenever necessary.

Closely related to Goal Based Standards has been the development by the International Association of Classification Societies (IACS) of Common Structural Rules for tankers and bulk carriers, which were first introduced with some controversy in 2005. While ICS enjoys good relations with IACS, there has been disappointment about the extent to which an adequate or sufficiently detailed response has been received to various and extensive technical comments submitted by ICS since the initial implementation of CSRs by the classification societies. This will be the subject of much further discussion with IACS during the year ahead.

It is incredible to recall that less than 10 years ago the concept of regular meetings between the international representative bodies of shipowners, shipyards and classification societies was regarded as a new innovation.

Today, however, the so called ‘tripartite’ discussions on shipbuilding issues are well established. Together with the other members of the Round Table of international shipping associations, ICS participated in the last round of full discussions held in Seoul, in September 2009, which revealed a growing level of trust between the three parties, perhaps aided by common concerns about the impact of the global economy on the sector.

Issues discussed in Seoul on which a programme of further work was agreed included: CO2 reductions; additional security precautions against pirate attacks; and the viability of establishing a database on accident reports and lessons learned. The next full tripartite meeting is scheduled to take place in Tokyo in September 2010.

It should be recorded that ICS is extremely pleased that questions raised by the EU competition authorities about the activities of IACS appear to have been resolved satisfactorily, and that IACS can continue its important functions. It would be difficult to envisage a world in which IACS did not exist given its critical role in supervising the development of uniform standards for ship construction and the conduct of quality surveys which guarantee maritime safety.
the inappropriate application of the EU Waste Shipment Regulation to visiting ships destined for recycling, by environmental authorities in countries such as the United Kingdom.

The European Commission is also continuing the pursuit of its own programme including the possible creation of a list of ships destined for recycling and a list of facilities which it will have identified as compliant. It has even been proposed that an EU ship recycling fund should be established using mandatory contributions by the shipping industry. ICS and ECSA remain in dialogue with the Commission, and it is hoped that a positive outcome that is consistent with the IMO Convention will be possible, and that the Commission will encourage EU Member States to ratify the IMO Convention.

ICS is currently co-operating in an ambitious IMO programme to promote the new Convention, as well as the industry Guidelines. Apart from the need to provide decent working conditions, ICS also believes that the demand for quality recycling facilities that will be created by the Convention should provide an excellent opportunity for many nations to convert existing shipbuilding facilities for recycling. This would help to overcome the massive global surplus in shipbuilding capacity which is currently one of the industry's most pressing problems.

**The Hong Kong Ship Recycling Convention**

In May 2009, ICS led representation of the shipping industry at a Diplomatic Conference, in Hong Kong, which adopted a new IMO Convention for the Safe and Environmentally Sound Recycling of Ships. The IMO Convention is the product of nearly 10 years of discussions by governments following the initial development, by ICS, of an industry Code of Practice on ship recycling which formed the basis of many of the principles underpinning the new IMO requirements.

Ship recycling employs a large workforce in developing countries, the majority of recycling facilities being located in Asia. In the process of recycling ships that have reached the end of their working life almost nothing goes to waste. However, while the principles of ship recycling may be well understood, the working practices and environmental standards in some recycling yards can sometimes fall short of internationally acceptable standards. In order to ensure these concerns are rapidly addressed, the early ratification by governments of the Hong Kong Convention is therefore strongly supported by ICS and other industry organisations, including international trade unions.

Ultimate responsibility for conditions in ship recycling facilities must rest with the authorities in those countries where they are situated. However, the shipping industry fully accepts its responsibility to do what it can to minimise potential problems before the new Convention enters into force, and to help ensure that redundant tonnage is disposed of safely.

In October 2009, as a clear signal of support for the new IMO Convention, the Industry Working Group on Ship Recycling, which is led by ICS, published new ‘Guidelines on Transitional Measures for Shipowners Selling Ships for Recycling’. Thousands of copies have already been distributed throughout the industry free of charge. The Guidelines are specifically intended to help improve safety and environmental conditions in recycling yards in advance of the entry into force of the new IMO Convention.

Most importantly, the shipping industry Guidelines reflect the new ‘cradle to grave’ responsibilities of shipowners from the time of a ship’s construction to its final demolition, and explain the various actions that will be required, and which should be approved by flag states and authorities in ship recycling nations. In particular, the Guidelines encourage the preparation and maintenance of inventories of hazardous materials, in order to reduce risks to the safety and health of workers in the recycling yards. They also recommend, in advance of the Convention coming into force, that shipowners endeavour to sell their redundant ships only to those recycling facilities that meet the new IMO standards. It is very much hoped that adherence by shipowners to the ‘Transitional Measures’ will be taken as a sign of good faith on the part of the shipping industry.

However, while the new IMO Convention has been widely welcomed, and represents agreement between those nations seeking the highest possible standards and those developing countries in which most of the recycling yards are located, it has not been fully supported by some environmental organisations. Another most unhelpful development has been the inappropria...
Safe Navigation

ICS continues to play a major role in international discussions about improving navigational safety. The almost universal use by ships of the ‘ICS Bridge Procedures Guide’ means that ICS has a special responsibility to promote safety while also protecting the industry’s best interests, especially with regard to the introduction of new technology. Apart from representing ship operators at relevant IMO Committees, ICS maintains close relations with the International Association of Marine Aids to Navigation and Light House Authorities (IALA) and the International Hydrographic Organization (IHO). ICS also has consultative status with the International Mobile Satellite Organization (IMSO), which is the intergovernmental body that oversees public safety and security communication services provided via INMARSAT satellites, including the Global Maritime Distress and Safety System (GMDSS).

ICS remains very supportive of IMO’s agreed e-navigation strategy which should help ensure that the future development of marine navigation systems will not be undermined by a lack of standardisation, on board or ashore, or by incompatibility between ships. However, while welcoming the potential for improving navigational safety, including technological advances facilitating automated reporting systems, ICS continues to emphasise the need for a ‘user focused’ approach, so that e-navigation is not driven solely by ideas from equipment manufacturers or the availability of new technology. ICS is currently engaged in detailed discussions at IMO about user needs and services, and the technical specifications of various shipboard devices such as the transceiver station and its connected sensors and applications, the Integrated Navigation System (INS), and Integrated Bridge System (IBS).

However, the recent decision by the United States to terminate transmission of the Loran-C signal may have unhelpful implications for the development of e-navigation. It was expected that e-Loran would use much of the Loran-C system’s infrastructure, and its abandonment reduces the chance that global use of e-Loran will become a reality. This is a concern given that both IALA and IMO have recognised that the current civil and internationally controlled Global Navigation Satellite System (GNSS) has the weakness of a single point of failure. It is part of the agreed IMO strategy that e-navigation requires reliable and robust position navigation and timing (PNT) systems in order to meet its objectives.

In discussions with IALA, ICS has sought to ensure that national authorities will not regard Virtual Aids to Navigation - whereby existing physical aids to navigation might be replaced by ‘virtual’ markers that do not actually exist and which cannot therefore be seen by looking ‘out of the window’ - as a cheaper means of providing statutory services. So called ‘V AtoN’ must be treated as a complement rather than a replacement to physical aids to navigation. ICS is therefore very pleased that IALA confirmed this position at its annual conference in Cape Town, which ICS attended in March 2010.

Another ongoing issue concerns arrangements for the introduction of the new mandatory IMO requirements
for ECDIS (Electronic Chart Display Information Systems), which ICS has long supported provided that the industry's definition of “sufficient Electronic Navigation Chart (ENC) availability” can be met before the phased-in carriage requirement becomes effective. ICS is closely monitoring progress at IHO towards meeting the ENC coverage necessary to make the mandatory carriage of ECDIS viable, and the extent to which ENC licence agreements are sufficiently flexible to match the operating patterns of ships.

ICS also continues to participate in IMO discussions about the implementation of Long Range Identification and Tracking of ships (LRIT), adopted by IMO with security in mind, and with transitional arrangements for its introduction ending in June 2009. Ships can now be detained if their flag state has not fully implemented LRIT, although ICS has questioned the appropriateness of imposing sanctions against shipping for non-compliance with LRIT measures that are the responsibility of administrations. Fortunately it seems that this request for a pragmatic approach has been heeded so far by most port state control authorities. Meanwhile, despite initial misgivings about LRIT data being released to military authorities without the approval of the flag state, specifically in support of anti-piracy measures off the coast of Somalia, ICS has now endorsed the concept while asking EUNAVFOR to note that this goes beyond the intention of the SOLAS Convention, and requesting that the
ICS continues to take a close interest in safe navigation in the Malacca Straits. ICS is especially pleased that a satisfactory mechanism has now been agreed with littoral states for the future funding of navigational aids in this important international waterway. In addition to the continuation of generous finance from Japan, this funding now involves voluntary (and de facto industry) contributions by the Middle East Navigation Aids Service (MENAS), in a manner which is fully consistent with the principles established by UNCLOS which prohibits the charging of individual ships using international waterways.

Elsewhere, ICS is following discussions about the possible establishment of a Western Indian Ocean Marine Highway and the introduction of associated routeing measures. Following ICS attendance at a preliminary meeting in Johannesburg in 2009 to launch this World Bank funded project, ICS remains concerned by proposals for introducing traffic lanes in the area. This would seem to present a hazard to the hundreds of ships that would be using the scheme at any one time, particularly given the current lack of Vessel Traffic Services in the region. Careful consideration would also need to be given to the implications for anti-piracy measures. ICS fears that the concept could also set an unwelcome precedent for the management of deep sea navigation elsewhere, and it will require careful consideration by IMO. ICS will remain in close contact with the project’s co-ordinators.

Safety Issues

The following are just a few examples of some of the many critical safety issues in which ICS is currently involved through participation in the detailed technical work of IMO and its numerous committees.

ICS is extremely active in efforts to improve lifeboat safety, co-ordinating the work of a dedicated Industry Lifeboat Group (ILG) comprising industry organisations and other interested parties. That many seafarers have recently been killed or seriously injured during lifeboat drills is an appalling fact. The ILG has successfully challenged the belief that poor maintenance was the primary cause of recent accidents and has persuaded IMO to develop proposals to amend the International Life-Saving Appliance (LSA) Code in order to specify criteria for safe release hook mechanisms. There are thought to be in excess of 70 different release hook/mechanisms, many being of poor and excessively complex design, constructed of materials unsuited for work at sea and having unrealistic maintenance requirements. Notwithstanding opposition from some manufacturers, ICS has been a particularly strong advocate, as an interim measure, of lifeboat release mechanisms being fitted with ‘free fall preventer devices’. However, despite good progress at IMO, ICS has been disappointed by draft guidelines for the assessment of existing hook release mechanisms which seem insufficiently robust. ICS has therefore suggested that these should only be regarded as a temporary step which will require much further development.

ICS is also engaged in the continuing discussions on the extension of the practice of ‘inerting’ cargo tank atmospheres. ICS fully supports proposals to amend SOLAS to provide for the application of inert gas (IG) to new oil tankers of less than 20,000 dwt and to new chemical tankers. It should be noted, however, that IMO has decided that the possible extension of new measures to existing oil tankers of less than 20,000 dwt and to existing chemical tankers will only be considered in light of experience gained following introduction of IG on new ships. In conjunction with the International Parcel Tankers’ Association (IPTA), ICS has highlighted the environmental impact of operating IG equipment, and has indicated that a carriage requirement for sub 5,000 dwt chemical tankers would be problematic. An operating profile for the use of IG, designed to mitigate environmental impact and additional time in port, has been proposed by ICS and IPTA for new chemical tankers and will be considered by IMO in April 2010.

There are a number of complex stability issues which currently necessitate detailed ICS input to IMO including: a proposed new generation of intact stability standards addressing dynamic failure modes; the development of guidance for the approval of tanker damage stability data and its operational verification; ongoing work on possible revisions to the stability regulations in SOLAS; and continuing discussions related to the treatment of water on deck when assessing the stability of ro-ro passenger vessels.

In November 2009, ICS and the World Shipping Council published a new industry brochure for shippers and container stuffers concerning the safe transport of containers. Encouragingly
the guidance (derived from an ICS/WSC book ‘Safe Transport of Containers by Sea’ published in 2008, and which IMO is now recommending as a carriage requirement for containerships) is supported by the Global Shippers’ Forum (GSF). The new guidance has been distributed free of charge via ICS associations and can be downloaded at www.marisec.org/containers. While ICS and WSC have been careful to acknowledge that the primary responsibility for the safe transport of containers rests with containership operators, other parties also have clearly defined responsibilities, including shippers from whom the cargo originates. Particular emphasis has therefore been given to the responsibilities of those involved with the correct packing, labelling and weighing of cargoes when they are stuffed into containers.

**ISM and Safety Culture**

In July 2010, the latest amendments to the IMO International Safety Management (ISM) Code will enter into force. Anticipating these changes, and in order to take account of other experience gained since the ISM Code first became mandatory, ICS and ISF have published a new edition of their definitive ‘Guidelines on the Application of the ISM Code’. The first edition of the Guidelines was published in 1993 and proved an invaluable tool for the majority of the world’s shipping companies as they prepared for the introduction of this radical new regime. The Guidelines thus played their part in the successful delivery of a more systematic approach to safety management and pollution prevention, which is now applied throughout the industry.

As well as continuing to provide a
standard resource for those who need to be familiar with ISM, the revised Guidelines take full account of the latest guidance to administrations and companies that has subsequently been developed by IMO. In particular, additional guidance has been included on the maintenance of Safety Management Systems, which are at the heart of the ISM Code’s objectives, and on the role of the Designated Person Ashore who provides the key link between the ship and shore based management. A new analysis is included of why accidents happen, and expanded advice is provided on risk management and on the operation of a genuine ‘safety culture’, in order that companies can fulfil the spirit, as well as the letter, of the ISM Code’s requirements.

It is important to remember that the full title of the ISM Code is the ‘International Management Code for the Safe Operation of Ships’.
Pollution Prevention

A primary concern of society, in terms of the environmental impact of shipping, has been the prevention of oil pollution. It is therefore pleasing that the International Tanker Owners’ Pollution Federation (ITOPF), which assists oil pollution clean up operations arising from all ship types, was able to report that there were no major oil spills (i.e. over 700 tonnes) during 2009. But this is no justification for complacency. While the quantity of oil spilt at sea today bears no comparison with the levels of twenty or even ten years ago, accidents involving potentially serious pollution can still happen, as shown by the grounding of a bulk carrier on the Great Barrier Reef in April 2010.

There is also concern about continuing instances of deliberate non-compliance whereby a small minority of seafarers flout company procedures and MARPOL pollution prevention rules, despite the million-dollar fines being imposed on their shipping companies, particularly following prosecutions by the Department of Justice in the United States. It is hoped that the additional emphasis given to environmental management and compliance programmes in the new edition of the ICS/ISF Guidelines on the Application of the ISM Code will help eliminate this unwelcome problem, which only serves to tarnish the otherwise sound reputation of the industry.

Apart from important work addressing CO2 and other atmospheric emissions, a wide range of other major environmental issues remain on ICS’s agenda and a large proportion of resources is dedicated to participating in the ongoing work in numerous IMO Committees and working groups which are constantly updating IMO regulations and technical codes.

Following an increase in the number of ratifications by governments of the IMO Ballast Water Convention it is possible that it will at last enter into force within the next year or so. However, there are still genuine concerns about availability of equipment, retrofitting on existing ships, and the present limited possibilities for treatment systems for larger ships. That said, some progress was made by the IMO Marine Environment Protection Committee in March 2010 to approve various ballast water treatment systems, as an alternative to ballast water exchange at sea, in order to prevent the unwanted transfer of marine micro-organisms which damage local ecosystems. Completion of this work is long overdue given that new ships are meant to be constructed with these expensive new treatment systems. ICS has contributed to this work by providing a consultant to the GESAMP (Joint Group of Experts on the Scientific Aspects of Marine Environment Protection) Ballast Water Working Group that has been conducting much of the detailed assessment of the new equipment.

Meanwhile, ICS continues to encourage full co-operation with local ballast water exchange requirements wherever it is safe for ships to do so.

ICS is also deeply engaged in discussions to amend MARPOL Annex V concerning garbage, including suggestions that the disposal of any garbage at sea should be prohibited. While the current ban on, for example, the disposal of plastics is fully supported, and recent
evidence suggests that the proportion of litter that originates from ships has reduced significantly, the retention of other wastes on board, such as food, has to be balanced against health issues and the practicalities of storing and removing such wastes ashore given that they cause little, if any, environmental harm when disposed of at sea. More generally with regard to reception facilities, which are still felt by the industry to be inadequate in terms of number, accessibility and cost, discussions are taking place at IMO about the possibility of these being provided on a regional basis.

ICS is also responding to new issues on the IMO work programme. This includes consideration of measures to reduce ‘biofouling’, whereby unwanted organisms are transported around the world on ship’s hulls in ‘niche’ areas. Also on IMO’s agenda is the development of measures to protect whales from collision with ships, and the theoretical effects of radiated noise into the ocean. It has been identified that the major component of such noise is cavitation (bubbles forming on propeller blade surfaces) and it would seem appropriate for IMO to develop guidance on its reduction, which would also help improve the efficiency of ships.

In view of the special sensitivities related to environmental protection in the Baltic Sea, and the large number of proposals from local governments that have the potential to impact significantly on shipping, ICS recently applied for observer status with the Baltic Marine Environment Protection Commission (otherwise known as the Helsinki Commission or Helcom). Observer status was granted to ICS in March 2010.
The ILO Maritime Labour Convention

The Geneva based International Labour Organization (ILO) adopted the ILO Maritime Labour Convention (MLC) in 2006. The wide range of matters covered includes seafarers’ contractual arrangements, responsibilities of manning agencies, working hours, health and safety, crew accommodation, and medical and catering standards. The ILO MLC will be subject to port state control as well as flag state inspection. Following ratification by a growing number of flag states, including the major open registers, the MLC is expected to enter into force globally within the next couple of years. Companies therefore need to prepare to ensure full implementation and compliance.

As an official ILO social partner, under the ILO tripartite process, ISF was responsible for negotiating the text of the Convention on behalf of maritime employers with governments, and with seafarers’ trade unions represented by the International Transport Workers’ Federation (ITF). ISF therefore has a special obligation to help to ensure the Convention’s smooth implementation.

An important aspect of the Convention’s enforcement will be the issuance by flag administrations of Maritime Labour Certificates, usually following inspection by a recognised organisation such as a classification society, and a separate requirement for ships to maintain a Declaration of Maritime Labour Compliance. However, concern has arisen over the way in which some classification societies are choosing to interpret the requirements in a manner going beyond the ILO Convention. ISF is therefore seeking to address these issues with class societies in conjunction with IACS.

In 2009, ILO published guidelines, for use by flag states and port state control officers, concerning enforcement of the ILO MLC. At the tripartite meetings at which these were developed, the Employers’ Group, which is co-ordinated by ISF, believed it achieved its objective of ensuring that these Guidelines were fully consistent with the details of the ILO MLC and would thus facilitate a level playing field. However, the Paris MOU on Port State Control, one of the major regional port state control authorities, has been developing its own guidelines on inspection for port state control officers. It will clearly be important to ensure that these do not differ in any important respects from the ILO Guidelines. As part of the ILO delegation, ISF will be attending the meeting of the Paris MOU PSC Committee which will be held in Dublin in May 2010, and it is hoped that any discrepancies can be resolved.

During the course of 2010, ISF intends to publish a revised edition of its ‘Guide to the ILO MLC’, which was initially published shortly after the Convention was first adopted. As well as taking account of the new ILO Guidelines on enforcement, the new edition of the ISF Guide will also address the overlap between the enforcement of existing ISM requirements and those of the ILO MLC. It is expected that some Administrations may use the existence of a valid Safety Management Certificate issued under the ISM Code as evidence of compliance with several of those items which are required by the ILO MLC. Nevertheless, many other ILO MLC requirements are not covered by ISM, and will therefore necessitate a separate inspection of the ship, although it is strongly hoped that some flag states, or classification societies acting on their behalf, will permit shipboard ISM and ILO MLC inspections to be conducted in parallel.

In September 2010, in Geneva, ISF members will represent employers, alongside unions and governments, at a special Preparatory Tripartite Committee on the MLC, which will address outstanding questions on implementation in advance of the Convention entering in force, and procedures for agreeing future amendments. The latter will be important given the agreement reached in 2009 for ILO to develop some additional binding international regulations, at some point in the future. These will address the possibility of crew abandonment for the small number of cases when normal arrangements for repatriation fail, for example following a bankruptcy, and require financial security from shipowners for crew claims arising from fatality or personal injury.

ILO Minimum Wage

The shipping industry is probably unique in that it has a mechanism for recommending minimum acceptable international wage rates. ISF is the co-ordinator of the Employers’ Group of the ILO Joint Maritime Commission (JMC) which is responsible for agreeing changes to the level of the ILO Minimum Wage for Able Seafarers. The International Transport Worker’s Federation (ITF) co-ordinates the seafarers’ union representatives. Unlike other ILO institutions, the JMC is bipartite and does not involve governments.

ISF remains strongly committed to
Labour Supply and Recruitment

While the contraction in world trade has eased some immediate pressures, ISF is keen to emphasise the importance of companies continuing to train sufficient numbers of new officers for the future. Throughout 2010, in co-operation with BIMCO and the Institute for Employment Research at the University of Warwick, UK and Dalian Maritime University, China, ISF will finalise work on a comprehensive study of the worldwide supply and demand for seafarers, for publication before the end of the year. The study has been conducted as a service to the industry, at 5 year intervals, since 1990. Recent data collected from ISF national associations, prior to the beginning of the economic downturn, suggested that training had increased since the last major ISF/BIMCO Manpower Update in 2005. However, acute shortages of officers were persisting in sectors such as LNG and LPG, and for particular grades such as second engineers. The 2010 study will present an opportunity to collect far more detailed information, including the effect of the slump in shipping markets, and make predictions for the decade ahead.

Together with the other members of the Round Table of international shipping associations, ISF has developed a cross-industry strategy for maintaining the supply of officers of the required calibre, which will be taken forward in 2010.

Meanwhile, in conjunction with the World Maritime University and other academic institutions, ISF and ECSA are supporting a consortium of interests that hope to conduct significant research, with the support of the European Commission, into the best ways of attracting new ships’ officers into the industry.

STCW Convention Revision

In June 2010, ISF will represent maritime employers at a Diplomatic Conference in the Philippines which will adopt significant amendments to the IMO Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW).

Since the STCW Convention was last radically revised, in 1995, the training of seafarers has been substantially overhauled. Particularly in developing countries, from where about two thirds of the world’s seafarers are currently employed, the competence based approach to training, i.e. the attainment of the professional ability required to perform tasks on board, as opposed simply to gaining knowledge to pass an exam, is now universally applied. Rather than training standards being left to the satisfaction of the local administration, the international competence tables in the STCW Code now underpin maritime education around the world. Moreover, flag states are now also required to take direct responsibility for the competence of the seafarers serving on their ships, which is important given that the majority
This latest revision will address many detailed issues which have come to light during the review, and following a series of intensive IMO meetings to complete the exercise, the most recent in January 2010, most of the preparatory work before the Conference has now been finalised. Some of the many issues covered have included: flag state recognition procedures for foreign seafarers; quality standards reporting procedures for government approval of training; and revalidation of basic training. Other issues considered have included environmental training, the development of new competence standards for Able Seafarers, and medical standards (which are still yet to be fully agreed, with both ISF and ITF sharing concerns that new mandatory standards for physical fitness, as currently drafted, may be excessive). The review has also taken into account industry proposals, led by ICS (with ISF support), for improving awareness of safety procedures amongst tanker personnel.

In the run up to the Conference, focus is now also being given to other issues, such as unsafe entry into enclosed spaces, which is still sadly the cause of fatalities, while at the request of ISF and ICS new requirements for competence in leadership will enhance deck and engineering officers’ training standards. As discussed below, the most contentious outstanding issue to be resolved in Manila concerns seafarers’ minimum rest hour requirements which, although unconnected with training, are contained in the section of STCW dealing with watchkeeping and which therefore also form part of the IMO review. It will be vital to ensure that any new provisions in STCW will not conflict with the ILO Maritime Labour Convention.

Work Hour Regulations
As part of the review of the IMO STCW Convention, ISF is deeply involved in discussions at IMO on how to harmonise seafarers’ minimum rest hour requirements contained in Chapter VIII of STCW with the work hour requirements adopted by the International Labour Organization (ILO). These limits are currently enforced as ILO Convention 180, but will form part of the new ILO Maritime Labour Convention regime once it enters into force.

The regimes adopted by IMO and ILO were developed for very different purposes. STCW prescribes minimum rest hours from the safety perspective for watchkeepers, while the ILO Conventions also take account of social issues, such as the point at which additional payments for overtime should normally be made and the extent to which work hours may be subject to agreement between employers and unions in collective bargaining agreements - issues outside the remit of IMO.

ISF believes that the task of IMO is to ensure that the rest hour provisions of STCW are fully compatible with the ILO requirements. Governments also need to take account of a vital aspect of the IMO and ILO regimes, both of which permit occasional deviation from the normal minimum rest hours stipulated, provided that sufficient safeguards are in place and that compensatory rest is provided - something which is crucial to safe and efficient ship operations. Unfortunately, due to misunderstandings amongst some governments about the practical aspects of ship operations, particularly when ships are in port, there is a danger that any scope for flexibility could be completely removed from the revised STCW Convention. In effect (with the exception of emergencies) seafarers could be prohibited from ever being on duty for more than 14 hours in any 24 hour period. This could prove particularly damaging to short sea shipping and could also have an impact on the wages received by seafarers since their overtime hours could be substantially reduced. While it is accepted that the total hours of rest in any seven day period must never be less than those stipulated (77 hours under ILO and currently 70 hours under STCW), there needs to be flexibility in how this work is distributed throughout the seafarers’ working week.

Meanwhile, a large number of seafarers are now maintaining accurate records of their hours of work and rest using the ISF Watchkeeper software, which, as well as producing individual seafarer’s records in the format recommended by ILO and IMO, allows companies and crews to ensure that they comply fully with both the ILO and IMO limits. An upgraded Watchkeeper Version 3.0, which will allow account to be taken of any new IMO limits, will be launched during 2010.
United States Developments

Following the inauguration of the new Administration in 2009, the political landscape in the US has perhaps not altered quite as dramatically as might have been anticipated. However, any major change in the direction of maritime policy has probably lagged behind because many political appointments to shipping positions have been amongst the last to be made. Nevertheless, greater focus is being given to environmental issues that will impact on shipping, while there has been little relaxation in the propensity of individual US States to adopt local maritime rules at variance to both Federal and IMO requirements.

Most important, as discussed elsewhere, is the decision by the US Environmental Protection Agency (EPA) to designate the area within 200 nautical miles of both the west and east US Coasts as an Emission Control Area under the terms of MARPOL Annex VI, the effect of which will be that by 2015 all ships trading to the United States (and Canada) will have to burn distillate fuel with a sulphur content of 0.1%. A 1.0% sulphur limit is expected to be enforced during 2012. It remains to be seen whether oil refiners will be able to meet the demand for new bunker fuels from domestic US shipping, let alone international trade. However, the decision by the EPA, which has been approved by IMO, does at least mean that the refining industry now has the clear signal required to begin expanding distillate production.

While the State Department is leading US representation in the international negotiations on climate change, the EPA has the primary role in domestic policy. Notwithstanding the difficulties that the Administration may have in steering a climate change bill through Congress, the EPA has officially determined that CO₂ is a pollutant, so that regardless of what happens in Congress it will have the authority to regulate on CO₂ emissions, including those produced by international shipping. However, while at IMO the US is advocating the use of the IMO Energy Efficiency Design Index (EEDI) to provide a vehicle for mandatory efficiency improvements, it is possible that US domestic legislation may involve some kind of ‘upstream’ emissions trading scheme in which oil companies would be required to participate, but with costs passed on to transport customers, perhaps including ship operators, in the form of some kind of a levy. Although the new US Administration appears far more committed than its predecessor to taking action on climate change, little is very certain at present, and it remains to be seen how whatever might be agreed domestically within the US with regard to shipping might dovetail with whatever may be agreed internationally.

In co-operation with the Chamber of Shipping of America, ICS has recently made a submission to the US on its ballast water legislation (with the proposed US ‘kill standard’ still far higher than that stipulated by the IMO BWM Convention). With regard to the Vessel General Permits concerning the licensing of ships’ discharges (which in addition to ballast includes water used as engine coolants or even deck run-off), which are now required by the EPA to be held by visiting ships, there is continuing concern about individual US States adopting standards in excess of Federal requirements. Other important matters requiring careful monitoring include the unilateral marine emission rules in California and measures to protect whales from the risk of collision.

A particular example of unwelcome regulations adopted by individual US States is that recently adopted by Massachusetts. This stipulates that visiting tankers that do not elect to use a State pilot will be subject to financial liabilities in excess of those set out in Federal law in the event of a pollution incident. The issue for ICS is one of principle, due the encouragement the law may give to other US States to take their own unilateral actions which will result in conflicting regulations. In co-operation with other industry associations, ICS is therefore making a legal challenge, which was filed in April 2010.

A more positive development is that as a partial consequence of strong opposition from foreign governments and industry, including ICS, the deadline for implementation of the US 100% container scanning law has been delayed from 2012 to 2014. The 2007 law requires that every container exported to the US by sea should be individually scanned for potential weapons of mass destruction. US Customs, which fully appreciates the impracticality of this draconian law, is expected to conduct a further feasibility and cost benefit analysis and report the results to Congress. This suggests that the law might eventually be revisited. However, the political sensitivities surrounding security
issues in the US could yet make this process difficult and ICS will continue to encourage foreign governments to reiterate their opposition to the US law being implemented.

In June 2010, ICS will participate in the next Consultative Shipping Group (CSG) ‘dialogue meeting’ between senior representatives of foreign maritime administrations and those US agencies that impact on shipping. The role of the CSG in communicating the concerns of the international maritime community to the United States continues to be most important.
European Union Developments

In comparison to the intensive amount of work generated by the EU's involvement in maritime affairs in the last few years, and following the final adoption of the EU Maritime Safety Package, it has been a relatively quiet period for ICS in Europe. However, after the recent confirmation of the new European Commissioners, the election of a fresh European Parliament and the final entry into force of the EU Lisbon Treaty, activity affecting shipping will no doubt resume in earnest.

The Directorate General for Transport has been renamed DG Move, although its competence over the application of the EU State Aid Guidelines to shipping has been transferred to the Competition Directorate, and the areas to be covered by the overlapping DG Mare (maritime affairs) are yet to be clearly defined. Meanwhile, responsibility for most climate change issues that are relevant to shipping has been transferred to the new DG Climate Action. Fortunately, ICS/ISF is able to draw on the expertise of the European Community Shipowners’ Associations (ECSA) - whose members also belong to ICS and ISF - in order to make sense of these changes. In particular, ECSA and ICS will be cooperating to brief members of the European Parliament on those issues relevant to international shipping.

A curious but potentially significant aspect of the Lisbon Treaty is that it requires that the European Union, as opposed to the European Commission, should participate at international bodies such as IMO and ILO. It is therefore possible that EU participation at IMO and ILO will eventually be directed by the new EU foreign ministry, rather than DG Move, with the effect that its interventions may become more political. ICS remains concerned about the negative effect that greater co-ordination in Brussels of positions adopted by EU Member States will have on the quality of IMO decision making on issues which should be considered primarily from a technical perspective. But it is probably now more likely that the EU will actively pursue full membership of IMO, as opposed to the Commission’s current observer status. The diplomatic hurdles will be formidable, however, especially if EU Member States wish to retain their separate votes at IMO.

In October 2009, ICS submitted comprehensive comments on the ‘EU Maritime Transport Strategy 2009 to 2018’, developed by what is now DG Move. ICS has stressed that in general the Strategy is viewed positively, although it was felt important to put forward the perspective of international ship operators, and to reiterate the need for global rules for a global industry. ICS will participate in the consultation on the implementation of the Strategy which is expected to take place in Copenhagen in June 2010.

As reported elsewhere, ICS has welcomed the new EU Block Exemption Regulation for shipping consortia, but disagrees with the EU’s campaign to persuade other nations to emulate its prohibition of liner conferences in trades to and from Europe. ICS is also pleased with the progress being made towards the development of a so called ‘European Maritime Space Without Barriers’ in which customs procedures for all ships sailing between EU Member States will hopefully be simplified.

Meanwhile, the implementation of the EU’s Advance Cargo Declaration System (introduced to address security concerns) has been delayed until the end of 2010 because of the difficulties experienced by some EU Member States in meeting the information technology requirements of the new system. However, there are still major concerns about the lack of awareness of the new rules (which also apply to bulk and break bulk cargoes) amongst shipping companies trading to Europe, especially with regard to the required investment in IT systems necessary to ensure compliance.

It is also important to highlight the vital contribution of EUNAVFOR in helping to provide protection to shipping against Somali piracy. This is the first naval operation of its kind carried out under the auspices of the EU, and it will be vital to ensure that its mandate continues to be extended as long as necessary and that the resources available to it are at least maintained, or better still increased.
Asian Developments

Governments in Asia are generally less inclined than others to adopt unilateral rules in conflict with international rules adopted by IMO. Nevertheless, there has been much interest in new Chinese regulations on the prevention and control of marine pollution from ships which were expected to enter into force on 1 March 2010. The regulations are comprehensive and introduce both operational and liability/insurance requirements. However, there are uncertainties about some aspects, including the liability provisions, which ICS has been pursuing with the Chinese authorities.

As reported elsewhere, Asian nations have a pivotal role in determining when new international instruments such as the IMO Hong Kong Ship Recycling Convention, the ILO Maritime Labour Convention and the UNCITRAL Rotterdam Rules on cargo liability will enter into force. In the interests of international uniformity, it is particularly important that Asian governments ratify such instruments so that they are not brought into force solely through block decisions by the 27 EU Member States and a few large open registers, in order to avoid international rules becoming regional regimes in all but name.

One of the likely long term effects of the economic downturn is that the centre of gravity of the industry will have moved closer to Asia. Much attention has been given to the Korean government plans to establish a US$3 billion fund to purchase ships from distressed owners and lease them back (with the government providing 30% of the funding). China is also providing support to its shipyards and shipping companies in the form of low cost finance, which may eventually result in a significant expansion of the proportion of the world fleet operated by Chinese companies, including the state controlled COSCO.

At the UN Climate Change Conference in Copenhagen, China had a very influential role and is expected to be similarly important with regard to any progress made at IMO on CO2 reduction measures for shipping during 2010. It is therefore disappointing that following much discussion, including several recent visits by the ICS Chairman to China, the China Shipowners’ Association still remains outside the membership of ICS.

In April 2010, in conjunction with the ICS/ISF Annual Meetings being hosted by the Singapore Shipping Association, ICS and ISF are holding an International Shipping Seminar in Singapore. One of the issues to be covered will be how Asian shipping interests can best engage in international maritime regulatory developments. In May 2010, in Hong Kong, ICS will be attending the next annual meeting of the Asian Shipowners’ Forum, whose membership also comprises national shipowners’ associations.
HNS Liability

Following the recent entry into force of the IMO ‘Bunkers’ Convention, there is now a comprehensive framework of liability Conventions in place addressing most sources of potential pollution from ships, so that claimants, if necessary, can have rapid access to compensation without protracted legal arguments. However, the one significant remaining gap in coverage concerns liability and compensation for damage caused by hazardous and noxious substances (HNS).

In April 2010, ICS will be leading shipowner representation at a Diplomatic Conference in London, to be held under the auspices of IMO, which is expected to adopt a new Protocol on liability and compensation for HNS damage. The Protocol is intended to overcome obstacles to the ratification of the original HNS Convention which has still not entered into force since its adoption in 1996.

These impediments to ratification relate primarily to the HNS Convention’s ‘second tier’ of compensation (the HNS Fund) whereby cargo interests would contribute to the costs of claims in the event that total claims following an HNS incident exceeded the shipowner’s limit of liability under the ‘first tier’ of the Convention. ICS has worked hard to ensure that the Protocol will not impact too much on shipowners’ liability under the ‘first tier’, and that the cargo interests’ ‘second tier’ will be preserved. But to achieve these aims, ICS has had to agree that the shipowner’s liability in incidents involving packaged dangerous goods will be increased as part of a compromise intended to achieve an equitable sharing of the costs of
compensation between shipowners and cargo interests.

Following a close review by the ICS Maritime Law Committee, ICS is broadly satisfied with the terms of the latest draft Protocol, although the amounts of possible increases to shipowners’ limits of liability will be left to the Diplomatic Conference to decide. At the time of writing, ICS is engaged in informal discussions with governments on the possible level of increases.

The key consideration at the Diplomatic Conference is what might be regarded as ‘acceptable’ increases to shipowners’ liability for incidents involving packaged goods. This must take account of factors such as the removal of the obligation on importers to contribute to the ‘second tier’, and the agreement during the preparatory discussions within the International Oil Pollution Compensation Fund (IOPCF) and the IMO Legal Committee that shipowners should be willing to accept ‘modest’ increases to redress the potential increased exposure of bulk cargo interests under the ‘second tier’.

The final outcome of the Conference remains to be seen. However, provided that governments are not unduly influenced by cargo interests or wider political considerations, data compiled by the International Group of P&I Clubs should be extremely relevant since this demonstrates that claims in all cases involving packaged HNS cargoes, up to the present time, have been comfortably within the current limits.

Promoting the Rotterdam Rules

In September 2009, in Rotterdam, ICS attended the signing ceremony of the new Convention on the Carriage of Goods (Wholly or Partly) by Sea which has been developed by the United Nations Commission on International Trade Law (UNCITRAL). By signing the Convention - now known as the Rotterdam Rules - more than 20 nations, including the United States and several EU Member States, have already explicitly expressed support for the new global cargo liability regime. The signing of the Rotterdam Rules concludes seven years of intensive international negotiations, in New York and Vienna, at which ICS participated throughout, and which involved much compromise by all parties including shipowners, prior to adoption by the United Nations General Assembly.

The intention is that the Rotterdam Rules will replace the existing cargo liability regimes such as the Hamburg and Hague/Visby Rules. This will achieve greater global uniformity for cargo liability, reflecting modern ‘door to door’ services involving other modes of transport in addition to the sea-leg, and ‘just in time’ delivery practices.

Following a thorough and detailed analysis of the Rotterdam Rules by the ICS Maritime Law Committee, ICS has decided that the new regime must be promoted by the industry to avoid the risk of a proliferation of regional cargo liability regulations. Although the new rules may not be perfect, and are in some respects overly complex, ICS has concluded that 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. This analysis of ICS is shared by BIMCO, ECSA, the World Shipping Council (which represents the major container lines) and the International Group of P&I Clubs. It is also shared by many shippers, including those represented by the US National Industrial Transportation League, although the European Shippers’ Association, for reasons not fully understood, remains vehemently opposed.

Significantly, the new international regime was crafted with much input from the United States, which put aside its own proposal for a new domestic regime on cargo liability. Encouragingly, as a result of the firm support for the Rotterdam Rules given by several EU States, the European Commission - for the time being at least - has decided not to pursue the development of its own regional EU cargo liability regime that would have undermined the UNCITRAL regime and global uniformity.

While those, such as ICS, who were deeply involved in the negotiations are clear about the need to encourage governments to sign, ratify and implement the Rotterdam Rules, there are understandable reservations in some quarters, particularly in Asia, about the benefits of the new regime. An immediate priority for ICS, in co-operation with local national associations and bodies such as the Asian Shipowners’ Forum, will be to explain to these interests why the Rotterdam Rules should be supported. However, early ratification of the Convention by major trading nations, such as the United States, will almost certainly give this process critical momentum.
40  Criminalisation and Fair Treatment of Seafarers

Unwarranted criminalisation of seafarers is contrary to principles established by MARPOL and the United Nations Convention on the Law of the Sea. It is unacceptable that in the course of providing their important service to world trade, seafarers are exposed to the vagaries of different national laws, with some jurisdictions imposing criminal sanctions for pollution even when there is no intentional or wilful misconduct.

Aside from the principles, there is still much concern about the impact on serving officers, and detention rates within the profession, of cases where seafarers have been imprisoned or detained for lengthy periods following maritime incidents, sometimes without charge. Most importantly, the possibility of criminal sanctions also undermines the ability of the maritime authorities to conduct accident investigations to establish the root causes of incidents so that they can be prevented in the future.

Nevertheless, ICS and ISF were delighted that the master and chief officer of the ‘Hebei Spirit’ were finally allowed to return home to their families at the end of 2009, following a decision by the Korean courts that they were innocent of the charge of vessel destruction during the oil spill, in 2007, when a floating crane barge struck their oil tanker. However, the industry remains disappointed that the charge of causing pollution was not overturned and that the earlier innocent verdict of the Court of First Instance in Korea was not reinstated.

The arrest with criminal charges and detention of Chinese crew members of the ‘Full City’ in 2009, following a pollution incident in Norway, initially seemed like a repeat of the events in Korea, apparently demonstrating that respect for the rights of seafarers could not even be taken for granted in traditional maritime countries. Fortunately reason prevailed, and the seafarers were allowed to return home. But the case serves to demonstrate that the issue of criminalisation has not gone away.

Seafarers deserve the security of uniformity and certainty as to how their conduct and actions will be determined by local courts, based on internationally agreed standards. Sadly, however, it seems that a change in the current political climate will be required, which will be a long term process.

Ideally, criminal cases involving seafarers would be dealt with by some international mechanism but in practice it has to be recognised that nations are very unlikely to relinquish their sovereignty. Nevertheless, the International Tribunal for the Law of the Sea could perhaps have a role if flag states could be persuaded to refer cases.

A major problem the industry faces in the immediate aftermath of a serious pollution incident is that the factors at play locally are often political rather than legal. There is a perception amongst the public that the ‘polluter’ should be punished, and cases of accidental pollution often occur in jurisdictions with little experience of maritime law and where even the domestic maritime authorities may have little influence. Foreign seafarers, by definition, have no local political constituency. However, more effort might be made by industry to explain that pollution will be cleaned up, and that the costs of any damage are covered, regardless of fault, by very efficient international liability regimes.

ICS and ISF continue to lead efforts, in co-operation with other industry organisations and ITF, to press for change where national laws permit unjustified criminalisation. While governments must be urged to recognise the supremacy of UNCLOS and MARPOL and bring national and regional laws into line with these internationally agreed standards, maritime administrations should also be encouraged to adopt the IMO Casualty Investigation Code into their national law and procedures. Meanwhile, the industry will remain vigilant and closely monitor proposed national and regional legislative changes that run contrary to international principles.

While the distinction might seem academic to seafarers, a separate but closely related issue is that concerning ‘fair treatment’ i.e. proper due legal process when seafarers come into contact with local authorities including the provision of access to legal advice and interpreter services, and the possibility of release on bail when a criminal investigation is underway.

The IMO/ILO Guidelines on the Fair Treatment of Seafarers in the Event of a Maritime Accident (which ISF and ICS negotiated with unions and governments in 2006) are not wholly satisfactory. But for the moment it has been concluded that the Guidelines should probably not be reopened and adherence to the existing Guidelines will continue to be strongly promoted.
Maritime Law and Insurance

In addition to intensive work necessitated by the preparation for the HNS Diplomatic Conference and promotion of the Rotterdam Rules on cargo liability, ICS continues to represent shipowners, in close cooperation with the International Group of P&I Clubs, at the IMO Legal Committee and at meetings of the International Oil Pollution Compensation Fund (IOPCF).

In October 2009, IMO considered an Australian proposal to increase the limits of liability under the Limitation of Liability for Maritime Claims Convention 1996 (LLMC) in response to the “Pacific Adventurer” bunker oil spill in Queensland. Taking account of a submission from the P&I Clubs on the historic costs of bunker oil pollution damage claims when compared with the 1996 LLMC limits, the IMO Legal Committee has agreed to give consideration to amending the limits using the ‘tacit amendment’ procedure. However, a preliminary assessment will first be required on the need for an increase, and some governments have already observed that changing the limits will affect other LLMC Convention claims unconnected with bunker oil spills, which could erode the careful balance in the limits between the different types of claims. A detailed proposal from Australia will be submitted for discussion by IMO in November 2010.

Another complex issue concerns IOPCF discussions to explore and develop measures to address procedures for the assessment of large numbers of small claims following pollution incidents, and the funding of interim payments directly to claimants to enhance the functioning of the international liability and compensation regime. Matters being considered include the risks of overpayment, the costs to insurers of maintaining bank guarantees as security for unpaid claims, and proposals as to how the risks can be reduced or overcome.

ICS also continues to lead shipowner representation (with the P&I Clubs) on salvage issues, particularly in relation to the smooth operation of the Lloyd’s Open Form and SCOPIC systems. ICS is maintaining its firm opposition to proposals from the International Salvage Union (ISU) for a new separate award for ‘environmental salvage’ when salvors have carried out operations in respect of a ship or cargo which has threatened damage to the environment. ICS is sceptical of the proposal, believing that salvage services are already generously rewarded under the present system. A working group established by the Lloyd’s Salvage Group has reached a stalemate following the ISU’s inability to demonstrate that its proposal would improve salvage response or deliver cost savings to those paying for services. However, the ISU has succeeded in persuading the Comité Maritime International (CMI), the international association of maritime lawyers, to give consideration to its proposal.
Competition Law Developments

In those parts of the world where they are still permitted, ICS policy is to defend the continued existence of liner conferences. The EU Competition Directorate, however, is vociferously arguing that its foreign trading partners should follow its unilateral example of making shipping companies’ participation in conferences illegal.

For the past 18 months, following the EU prohibition of liner conferences, container lines trading to and from Europe have had to respond to the economic downturn without the benefit of this special form of cooperation between companies that had previously existed for over a century. Whether or not shippers will derive benefit from the changes which they have so forcefully advocated remains to be seen. For example, recent studies indicate that supplementary Terminal Handling Charges (THCs) have actually increased in many ports now that shipping lines are unable to co-operate with regard to their level. However, overshadowed by the massive contraction of demand for shipping services caused by the economic downturn, the jury is still out on what the long term effects of abolishing conferences in Europe might be. But the result is still thought likely to be an increase in market concentration, while the availability of services on north-south trades may be reduced by a greater extent than might otherwise have been the case.

Other sectors, such as bulk shipping, have also had to adjust to the new enforcement powers gained by the Competition Directorate of the European Commission, making the need for operators to conduct thorough self assessments of compliance all the more important, especially where they participate in shipping pools. The Commission has already started to utilise its new powers, launching an enquiry, in early 2010, into a mooted ‘Baltic Feeder Scheme’, whereby container feeder operators would have been paid to withdraw surplus tonnage. As a consequence of the Commission’s announcement, the proposed scheme has apparently already been abandoned.

Elsewhere, under the auspices of the Asia Pacific Economic Co-operation Forum (APEC), other governments have been considering guidelines on maritime competition rules, specifically co-operation agreements which do not involve rate setting. It is anticipated that ICS will be asked to participate in some form of consultation about the APEC guidelines during 2010. In the United States, meanwhile, the Federal Maritime Commission (FMC) has announced plans to undertake a comprehensive study of the impact on US trades as a result of the abolition of liner conferences in the EU. The FMC study will cover two years before and after the EU repeal of its block exemption in 2008, and will apparently include analysis of changes in carrier market structures, rates and surcharges that may have resulted.

The study is expected to begin in earnest in the second half of 2010, and ICS has registered its interest in being consulted.

More welcome in Europe, April 2010 saw the coming into effect of a new EU Block Exemption Regulation for shipping consortia, revising the previous exemption for shipping consortia from the EU’s ban on restrictive business practices. The major change included a reduction of the market share threshold from 35% to 30%, above which companies will not qualify for automatic exemption, but an extension of the scope of the exemption to all cargo liner shipping services, whether containerised or not.

Although a far looser form of co-operation than conferences, consortia have also provided stability to markets, helping guarantee the maintenance of scheduled services to more remote destinations and permitting efficiencies such as slot sharing on containerships. However, the new EU Regulation only extends the current exemption until 2015. In co-operation with ECSA, ICS will therefore continue to make clear statements in support of consortia, in light of possible moves by the European Commission to seek to abolish the block exemption completely.
Canals

In light of the extremely difficult economic conditions to which shipping has been exposed during the past year, ICS has continued to press both the Suez and Panama Canal Authorities for reductions in the tolls charged for the use of these vital international waterways, which make up a significant part of many ships’ operating costs.

While the Panama Canal Authority (ACP) declined to postpone the third tranche of planned toll increases, set out in 2007 and which came into effect in May 2009, the industry was sufficiently successful in arguing its case that the ACP was persuaded to introduce some temporary reductions in service charges, which at least provided some limited relief. These included a temporary redefinition of ballast for containerships and amendments to the reservations system. The measures were initially only put in place for a period of four months, but ICS made a successful request for them to be extended until the end of April 2010. The process for setting the level of tolls for forthcoming years has now begun, which included a meeting between ICS and the Canal Administrator in March 2010, and the ACP is due to publish its formal proposal in early April. ICS will be making the industry’s views known to the ACP throughout this process and will be represented at a formal hearing in Panama, expected in May 2010, to ensure that shipowners’ concerns do not go unheard.

In the meantime, work continues apace on the Panama Canal expansion project with the contract for the design and construction of the locks awarded to a local consortium in July 2009. Much of the dredging required to deepen the Canal has already been completed and the area required for the construction of the new locks has been cleared. Although this is positive news, and an on schedule completion will clearly be of long term benefit to the industry, ICS still feels that it is unacceptable for current users to have to provide up front funding, through increased tolls, for a benefit yet to be realised, especially given the poor state of shipping markets.

Elsewhere, the Suez Canal Authority announced that in 2010 transit dues for ships using the Suez Canal will remain frozen for the second consecutive year. Reports indicate that the Canal has lost business, partly due to the economic environment but also because of ships diverting away from the Gulf of Aden, and thus the Red Sea, due to concerns over Somali pirate attacks.
Maintaining Free Trade

A major concern of ICS national shipowners’ associations has been to discourage governments from responding to the current economic crisis with protectionist measures, which will only damage world trade further. More particular has been the need for governments to avoid measures that restrict fair and open access to shipping markets. To operate competitively and efficiently in very difficult circumstances, shipping requires the maintenance of a regulatory ‘level playing field’ and the continuation of the certainty provided by the tonnage tax regimes that now apply to shipowners in many countries.

In May 2009, the ICS Chairman made these important points as one of the leading industry participants at a major Conference of the world’s transport ministers in Leipzig, organised by the OECD International Transport Forum, which focused on the implications for transport of the economic downturn.

More routinely, ICS places great importance on relations with the Consultative Shipping Group (CSG) of maritime governments, which is the guardian of free trade principles. In 2009, ICS organised a seminar on trade policy for CSG governments at their meeting in Vancouver.

Although ICS was disappointed that participation at the most recent CSG meeting in Korea, in March 2010, was restricted to governments, ICS was able to give input, via national associations, on issues ranging from problems of market access or government interference in Indonesia and certain African countries, to the support packages that some nations are providing to their shipping industries during the downturn. The CSG is also a useful conduit for the discussion of sensitive diplomatic issues, such as the treatment of piracy.

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 as providing a means for the world’s major shipping nations to communicate with the United States government, which historically has often been slightly detached from the mainstream of the international shipping community. ICS will be participating at the next CSG dialogue meeting with the United States which will be held in Washington DC during June 2010.
Maintaining Shipping’s Profile

ICS and ISF enjoy good relationships with maritime administrations and those responsible for developing and enforcing the majority of specialist maritime regulation. But for many politicians, and the public at large, shipping is largely ‘out of sight and out of mind’. That said, while it is an open question whether all publicity is good publicity, issues such as piracy and shipping’s CO2 emissions (by virtue of the fact that the shipping industry is so ‘surprisingly’ big) have dominated recent media headlines. Pictures of ships, albeit sometimes inactive, have often been frequently used to illustrate stories about the global economic situation.

With regard to promoting the profile of the industry with national politicians and the public at large, this is primarily the task of national shipowners’ associations. However, ICS and ISF continue to support these efforts through generic publicity tools, such as the www.shippingfacts.com web site, and materials explaining the economic importance of shipping, its impressive levels of safety and environmental performance, and the attractions it has to offer as a career.

However, even if senior politicians are not always overly familiar with the industry and its unique characteristics, it is vital that policy makers understand the implications of their decisions. ICS and ISF therefore make considerable efforts to maintain the profile of the global industry, and thus the possibility of dialogue with those non-maritime regulators and policy makers that may impact on shipping.

In addition to interacting with individual governments during meetings at IMO and ILO, ICS/ISF continue regular attendance at more general policy meetings held by the United Nations in New York, the World Trade Organization (WTO), the Organization for Economic Co-operation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the World Customs Organization (WCO), and, in so far as they are relevant to seafarers, bodies such as the World Health Organization (WHO). Given the importance of discussions about CO2 emissions reduction, ICS has also taken up consultative status with the United Nations Framework Convention on Climate Change (UNFCCC).

However, the politics of the regulation of shipping is getting more complex. It is no longer enough just to have the ear of transport ministries and their delegations to meetings at IMO. Many issues affecting shipping have a wider political dimension, as is evident in the discussions on CO2 emissions where it is inside environment ministries, rather than transport departments, that national policies are decided. Similarly, policy with regard to piracy is largely being led by foreign ministries.

In view of the importance of global regulation for a global industry, ICS/ISF continue to work closely with the European Community Shipowners’ Associations in communicating on issues with Europe that are relevant from an international perspective, and participate in consultations organised by the EU institutions. In the United States, ICS/ISF work with the various US agencies that impact on shipping in liaison with the Chamber of Shipping of America, which by agreement officially represents ICS and ISF in US discussions. ICS and ISF also enjoy good relations with the Asian Shipowners’ Forum, whose members are also national shipowners’ associations.

ICS and ISF also work closely with a diverse range of industry organisations that are engaged generally on transport issues, including the International Chamber of Commerce (ICC), the International Standards Organisation (ISO), the Business and Industry Advisory Committee to the OECD (BIAC) and the International Organisation of Employers (IOE). In May 2010, ICS will also be participating at the next conference of world transport ministers organised by the OECD International Transport Forum in Leipzig.
ICS and ISF Publications

The production of publications, providing guidance on regulatory developments and promoting best practices, particularly with regard to safety, environmental protection and employment standards continues to be a most important activity within ICS and ISF to which a large proportion of resources is devoted.

In May 2010, ICS and ISF are scheduled to publish a new edition of their definitive ‘Guidelines on the Application of the IMO International Safety Management (ISM) Code’, for which thousands of advance orders have already been received. A new edition of ‘Pirates and Armed Robbers: Guidance on Prevention for Masters and Ship Security Officers’ is also imminent, as is an updated version of the ‘ISF Watchkeeper’ computer software which allows records to be maintained of seafarers’ work hours in accordance with IMO and ILO regulatory requirements. ISF is also working on a new edition of its ‘Guide to the International Maritime Labour Convention’, while ICS is developing new guidelines on engine room management to serve as a companion to the ‘ICS Bridge Procedures Guide’.

In the year ahead, ISF has an ambitious schedule for the updating of the various internationally recognised training record books that it provides for the industry, to reflect the changes that are expected to be made to the IMO STCW Convention. ICS also has work in hand, with the Oil Companies International Marine Forum (OCIMF), to produce new editions of the ‘Ship to Ship Transfer Guide (Petroleum)’ and industry guidance on ‘Peril and Salvage at Sea’.

Details of over 30 titles produced by ICS/ISF, which are sold under the banner of Marisec Publications, can be found in the latest Marisec Publications catalogue - see www.marisec.org/pubs

Administrative Matters

The current membership of ICS and ISF comprises national shipowners’ associations from 36 countries (see inside back page). In January 2010, Interferry, the international association for ferry operators, became an Associate Member of ICS.

The staff and Secretariat of ICS and ISF continue to be provided by Maritime International Secretariat Services Limited (Marisec), which is wholly owned by the two international trade associations. Marisec also provides services to the International Support Vessel Owners’ Association (ISOA).

The 2009 Annual Meetings of ICS and ISF were hosted in the Docklands area of London, in May, by the United Kingdom Chamber of Shipping, in combination with a special gala dinner to mark the Centenary of ISF, held at the Painted Hall in the Old Royal Naval College in Greenwich.

Mr Spyros M Polemis (Greece) has continued to serve as ICS Chairman and ISF President. The ICS Vice Chairmen elected for 2009/2010 were Mr Masamichi Morooka (Japan) and Mr Trygve Seglem (Norway). Captain Dirk Fry (Cyprus) and Mr Carlos Salinas (Philippines) were elected as the ISF Vice Presidents.

The next ICS and ISF Annual Meetings will be hosted by the Singapore Shipping Association in April 2010.

marisec.org/pubs
ICS Executive Committee and ISF Council 2009/10

ICS Executive Committee

Chairman Mr Spyros M Polemis
Australia Mr Noel Hart
Cyprus Captain Dirk Fry
Denmark Mr Carsten Mortensen
Finland Mr Jan Hanses
France Mr Christian Garin
Germany Mr Frank Leonhardt
Greece Mr Anastasios Papagiannopoulos
Hong Kong Mr Robert Ho
Japan Mr Masamichi Morooka
Liberia Mr Samuel Cooperman
Mexico Mr Luis Ocejo
Netherlands Mr Ed Nobel
Norway Mr Trygve Seglem
Sweden Mr Lars Höglund
United Kingdom Mr Michael Parker
United States Mr Michael Bohlman

ISF Council

President Mr Spyros M Polemis
Australia Ms Teresa Hatch
Belgium Mr Nicolas Saverys
Brazil Mr Paulo Sergio de Mello Cotta
Canada Mr Donald Morrison
Chile Mr Erich Strelow
China Mr Li Shanmin
Cyprus Captain Dirk Fry
Denmark Mr Leif Kristian Nielsen
Finland Mr Hans Ahlstrom
France Mr Christian Garin
Germany Ms Uta Ordemann
Greece Mr Anastasios Papagiannopoulos
Hong Kong Mr Arthur Bowring
India Mr Sabyasachi Hajara
Ireland Captain Eddie Keane
Isle of Man Mr David Oldfield
Italy Mr Stefano Messina
Japan Mr Mitsuo Nakamoto
Korea Mr Young-Moo Kim
Kuwait Captain Saad Al-Matouq
Liberia Mr Joseph Ludwiczak
Mexico Mr Luis Ocejo
Netherlands Mr Ed Nobel
Norway Mr Trygve Seglem
Philippines Mr Carlos Salinas
Spain Mr Manuel Carlier
Sweden Mr Per Cronér
United Kingdom Mr Mark Brownrigg
United States Mr Joseph Cox