IMO CONVENTIONS: EFFECTIVE IMPLEMENTATION

THE THEME ADOPTED FOR INTERNATIONAL MARITIME ORGANIZATION (IMO) WORLD MARITIME DAY 2014 IS ‘IMO CONVENTIONS: EFFECTIVE IMPLEMENTATION’, AN INITIATIVE SUPPORTED WHOLEHEARTEDLY BY ICS.
One of the principal functions of the International Chamber of Shipping (ICS) is to represent the shipping industry’s views in the various IMO committees as new regulations are developed. But the adoption of IMO Conventions by Diplomatic Conferences is only part of the story. IMO Conventions can only come into force if they are taken forward for ratification once government officials get home after Diplomatic Conferences. IMO Conventions need to be ratified by governments, and then implemented and enforced in practice.

THE IMPORTANCE OF EFFECTIVE IMPLEMENTATION

In order to operate efficiently, the international shipping industry depends on the global regulatory framework provided by IMO and the effective implementation of IMO Conventions. The alternative would be chaos and market distortion, as well as inferior levels of safety and environmental protection.

One of the impressive features of IMO regulations is that once they enter into force they are genuinely applied to ships on a global basis through a combination of flag state inspections and Port State Control. The highly practical nature of IMO instruments, with their precise technical standards and specifications, is key to their successful implementation, as is the widespread support that IMO enjoys from the industry itself.

Dramatic improvements in the industry’s recent performance are in large part due to the successful implementation of IMO Conventions. For example, there are clear correlations between the implementation of the International Safety Management (ISM) Code, the 1995 revisions to the Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) and the subsequent reduction in the number of serious maritime casualties, lives lost at sea and pollution incidents (see graphs).

In those regions of the world where the vast majority of maritime trade takes place, it is now extremely difficult for sub-standard ships to operate without detection and sanctions. This is viewed by the shipping industry as a positive development: any tolerance of sub-standard operators provides unfair commercial advantages and damages the industry’s reputation.
RATIFICATION OF IMO INSTRUMENTS

The precursor to effective implementation is the ratification of IMO instruments. For many years, ICS and its member national shipowners’ associations have been engaged in a campaign to promote the ratification of those new IMO Conventions which the industry believes need to be ratified as a matter of priority. This is particularly the case if there is a danger that the vacuum might be filled by unilateral or regional regulation at variance to what has been agreed internationally.

Since 2013, ICS has been joined in this campaign by the Comité Maritime International (CMI), the international association for maritime lawyers. CMI national maritime law associations and ICS national shipowners’ associations have since been making joint representations to governments, encouraging the ratification of IMO Conventions as outlined in a joint campaign brochure (available to download via the ICS website).

IMO CONVENTIONS HIGHLIGHTED BY ICS/CMI RATIFICATION CAMPAIGN

Protocol of 1997 to MARPOL (Annex VI – Prevention of Air Pollution from Ships)
International Convention for the Safe and Environmentally Sound Recycling of Ships (Hong Kong), 2009
Convention on Facilitation of International Maritime Traffic (FAL), 1965
Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976
Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974
TIMES THE EFFECTIVE IMPLEMENTATION OF IMO CONVENTIONS

IMO regulations are implemented and applied to ships on a
global basis through a combination of flag state enforcement
and Port State Control. In order to assist member states in
both respects, IMO develops internationally agreed circulars
on the interpretation of its regulations, including guidelines
on different aspects of implementation. ICS is heavily involved
with the development of such guidance.

IMO also plays an important role through its technical
co-operation programme, designed to assist Member States
(in their capacities as flag, port and coastal states), particularly
those lacking technical knowledge and resources needed to
effectively implement international regulations. ICS co-operates
in these activities through its support to the World Maritime
University in Malmö, and through participation in workshops in
developing countries.

As an important further step towards the more effective
global implementation of its Conventions, the IMO Assembly
in December 2013 took the important step of deciding to
make its Member State Audit Scheme mandatory. The IMO
Assembly also adopted an IMO Instrument Implementation
(III) Code, which will underpin the mandatory audit scheme.

In the interests of transparency, and notwithstanding
sensitivities about matters of sovereignty, ICS believes that
the results of the IMO audits should eventually be published.

As a minimum, information should be made available by IMO
as to whether maritime administrations have actually put
themselves forward for inspection. In the meantime, ICS has
welcomed the practice of some regional Port State Control
(PSC) authorities to request information from flag states as to
whether the IMO audits have been conducted, including this
in their criteria for targeting inspections.

ICS has also welcomed the full roll-out of new targeting
systems by PSC authorities whereby ships that enjoy a good
inspection record are less likely to be subject to frequent
inspections so that resources can be focused on those vessels
that are more likely to have deficiencies.

ICS maintains good relations with both the Paris (Europe
and North Atlantic) and Tokyo (Asia-Pacific) MOUs on PSC.
ICS has also been in dialogue with the MOU Secretariats
with respect to details of enforcement of the ILO MLC (for
which concentrated inspection campaigns are taking place
in September 2014) and the way in which the Ballast Water
Management Convention will be inspected once it enters
into force.

One of ICS’s current priorities is to seek clarification from
regional Port State Control authorities as to the way in which
the 0.1% sulphur in fuel requirements will be implemented in
Emission Control Areas from January 2015.

ICS SHIPPING INDUSTRY FLAG STATE PERFORMANCE TABLE

In the interests of promoting the effective implementation
of IMO Conventions, and as a complement to the IMO
Member State Audit Scheme, ICS publishes an annual
Shipping Industry Flag State Performance Table. The ICS
Table collates various data available in the public domain
and can be downloaded from the ICS website.

The purpose of the ICS Table is two-fold:
to encourage shipowners to
examine whether a flag state
has substance before using
it and to encourage them
to pressure their flag
administrations to effect any
improvements that might be
necessary. ICS makes no
apology for continuing to
subject flag states to scrutiny,
in the same way that ships
and company procedures are
rightly subjected to inspection
by governments.

The feedback that ICS receives suggests that the Table is
now treated very seriously by maritime administrations. In
response to comments from governments, ICS has made
further adjustments to the presentation, including data
relating to the inspection record of flags whose ships have
only made a small number of port calls in some of the
main PSC regions. Whether or not a country has ratified
the ILO MLC has also been added to the criteria used in
the Table, following its entry into force in August 2013.