



EUROPEAN COMMISSION CONSULTATION ON INTERNATIONAL OCEAN GOVERNANCE

SUBMISSION BY THE EUROPEAN COMMUNITY SHIPOWNERS' ASSOCIATIONS, ASIAN SHIPOWNERS' FORUM AND INTERNATIONAL CHAMBER OF SHIPPING

The European Community Shipowners' Associations (ECSA) is a trade association whose membership comprises the national shipowner associations of the European Union and Norway. The Asian Shipowners' Forum (ASF) is an association of national shipowners' associations of the Asia Pacific region. Many of the members of ECSA and ASF are also members of the International Chamber of Shipping (ICS) which is the global trade association for shipowners, with a membership comprising national shipowners' associations in 37 countries, representing all sectors and trades and over 80% of the world merchant fleet.

The three organisations are fully aligned on the issue of International Ocean Governance and respectfully submit the following answers to the consultation questions for consideration.

1. Context

Noted. ICS, ECSA and ASF share the European Commission's objective of achieving better governance of oceans and seas to the benefit of sustainable blue growth.

2. General Problem Definition

Recent discussions and initiatives conclude that the current framework for international ocean governance is not effective enough in ensuring the sustainable management of oceans and their resources. An example of this is the continuing problem of Illegal, Unregulated and Unreported (IUU) fishing, or the lack of implementation of relevant rules or ratification of relevant agreements that put sustainable management of fish stocks at risk. Also, the sheer number of oceans-relevant international institutions and sector-specific agreements and rules complicates or even hampers implementation.

Do you agree or disagree with this general problem definition? Please explain why.

Through ICS, the shipping industry has been engaged with the global discussions on Ocean Governance since their early stages and has been an active participant in the recent discussions and initiatives referred to in the consultation document. The shipping industry itself is very fortunate in already having a long-established and comprehensive framework of global Conventions that have been developed by the United Nations' International Maritime Organization (IMO). For the most part, these



IMO Conventions are fully implemented and enforced worldwide, through a combination of flag State inspection and port State control, which has directly contributed to the steady improvement of shipping's safety and environmental performance. Shipowners are nevertheless global citizens who share the growing concern about the vacuum that still exists with respect to wider governance and protection of the oceans, and agree to some extent with the general problem definition above that the current framework for international ocean governance may not be effective enough in ensuring the sustainable management of oceans and their resources. ICS, ECESA and ASF believe that the successful model provided by the IMO over the last few decades with respect to helping to improve the safety and environmental performance of ships may be worthy of study for application to other ocean activities such as fishing, and land based industries which impact on the ocean too.

ICS, ECESA and ASF agree that a proliferation of oceans-relevant institutions and regulations can complicate and even be unhelpful to implementation, especially where there is duplication in the work undertaken. For this reason, ICS, ECESA and ASF strongly support the notion of global regulation for global industries and discourage narrowly focused regional regulation. IMO is an excellent example of the benefits of such an approach, balancing as it does the sector specific knowledge needed to ensure practical and effective regulation, with a truly international approach that seeks to form consensus between nations which may have very different interests and promote globally applicable solutions.

3. Specific Problem Definition

What causes the overall problem?

The causes of ineffective international ocean governance could be explained by:

- Gaps in the existing international ocean governance framework*
- Inefficient use and implementation of existing international ocean governance framework, or insufficient coordination among its components*
- A lack of knowledge about the oceans*

Do you agree with the list of specific problems? If not, please explain

Which specific problems would you add? If you were to rank the list of specific problems by priority, which one would come first?

Speaking from the perspective of a well regulated industry, ICS, ECESA and ASF do not have a view as to the causes of ineffective international ocean governance with regard to other ocean users and overall ocean management. However, our experience in the shipping industry has shown that new regulation or legislation is sometimes proposed to solve problems where better or more coordinated implementation of existing rules and regulations would be more effective and efficient. This has been recognised by the IMO, which is focusing on effective implementation



of existing IMO Conventions, and supported by ICS with a campaign to promote the ratification of certain Conventions that are considered to be of particular importance. At the EU level, ongoing work on the development of operational guidelines on places of refuge for ships in need of assistance is a notable example of efforts to coordinate the implementation of existing international and regional regulations and guidelines. If the European Commission is contemplating action on international ocean governance, it would seem sensible to consider whether “inefficient use and implementation of existing international ocean governance framework, or insufficient coordination among its components” is a problem as a first priority. The European Union should also take great care to consider the global picture, and to ensure that any new proposals do not inadvertently affect areas of ocean governance that are already mature and well-functioning, or duplicate discussions that are already ongoing at a broader international level.

3.1 The existing international Ocean Governance Framework

ICS, ECSA and ASF agree that a lack of transparency or coherence of rules and differences in standards between regions can be an obstacle for operators as this can distort the market at the global level. In addition, the interconnectedness of the oceans makes coherent global policy vital. The guiding principle for any potential EU action should therefore be to contribute to finding global solutions to a global problem.

In this context, the discussion for a new UNCLOS implementing agreement, including the possible establishment of Marine Protected Areas on the High Seas and an agreement on biodiversity in areas beyond national jurisdiction is important and, as mentioned in the consultation document, quite far advanced in the UN process. The greatest value added for the EU to address potential gaps in international ocean governance would therefore be for EU Member States to participate fully in this global process, ensuring that any EU work done in the area does not duplicate, pre-empt or interfere with current efforts.

Whatever might be decided in the future with respect to UNCLOS, ICS, ECSA and ASF believe that great care should be taken with respect to the maintenance of freedom of the high seas and rights of navigation enshrined in Articles 87 and 90, and the current balance that exists between the rights and obligations of flag States coastal States and port States. In the context of regulating international shipping, the current balance has worked very well, as demonstrated by the reduction in the number of maritime accidents and pollution incidents, despite the massive increase in maritime transport which is responsible for the carriage of about 90% of world trade.

Finally, any potential action should be carefully considered in terms of the practicalities of implementation. The consultation document mentions that ‘the existing international ocean governance framework is often not effective for the reason that agreed rules



and policies are not ratified, complied with or implemented'. It also references the IMO Ballast Water Management Convention as an example of this.

As mentioned in response to question 2 above, this is not generally the case for the international shipping industry where the majority of Conventions agreed are widely ratified and fully enforced. However, where implementation problems have arisen, or where governments have failed to ratify this often indicates that there are practical problems. These can either be with States (for example technical difficulties in transposing legislation, or a high overall administrative/legislative burden) or practical problems with the legislation itself. This was the case for the IMO Ballast Water Management Convention, which when adopted set aspirational standards, for which the equipment needed to be fitted on board ships did not yet exist, and the various Guidelines needed to ensure smooth implementation had not yet been developed. During the course of 2015, ICS is planning to submit a proposal to the IMO Council suggesting a new approach towards the development of future IMO regulations. In particular, and while recognising the utmost importance of maritime safety and environmental protection, ICS will suggest full and proper regulatory impact assessments, which take account of the economic sustainability of maritime transport. This would be fully consistent with the UN philosophy with respect to sustainable development, which is that the environmental, social and economic pillars of development are all inextricably linked (UN Assembly Resolution A/RES/66/288) and is also in line with the European Commission's Blue Growth strategy.

3.2 Lack of knowledge

ICS, ECSA and ASF agree that obtaining accurate data and information about our oceans and seas is crucial for the development of an effective and sustainable framework for ocean governance. It is particularly important that any new policies and regulations for international ocean governance are developed with full and balanced information, are based on good science and risk assessment and are practical and implementable. With this in mind, the international shipping industry believes that the European Union and EU Member States could potentially take an important role in supporting scientific research into the world's oceans and could perhaps become a centre of coordination for such research. ICS, ECSA and ASF do not speak for the scientific ocean research industry, which will be better able to advise on the support it needs, but suggest that the European Union could consider establishing a knowledge sharing centre (perhaps web-based) that could be used as a resource to ensure that policy-makers, business and scientists alike are aware of current research and new developments.

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