



# Annual Review 2009



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 40 countries.

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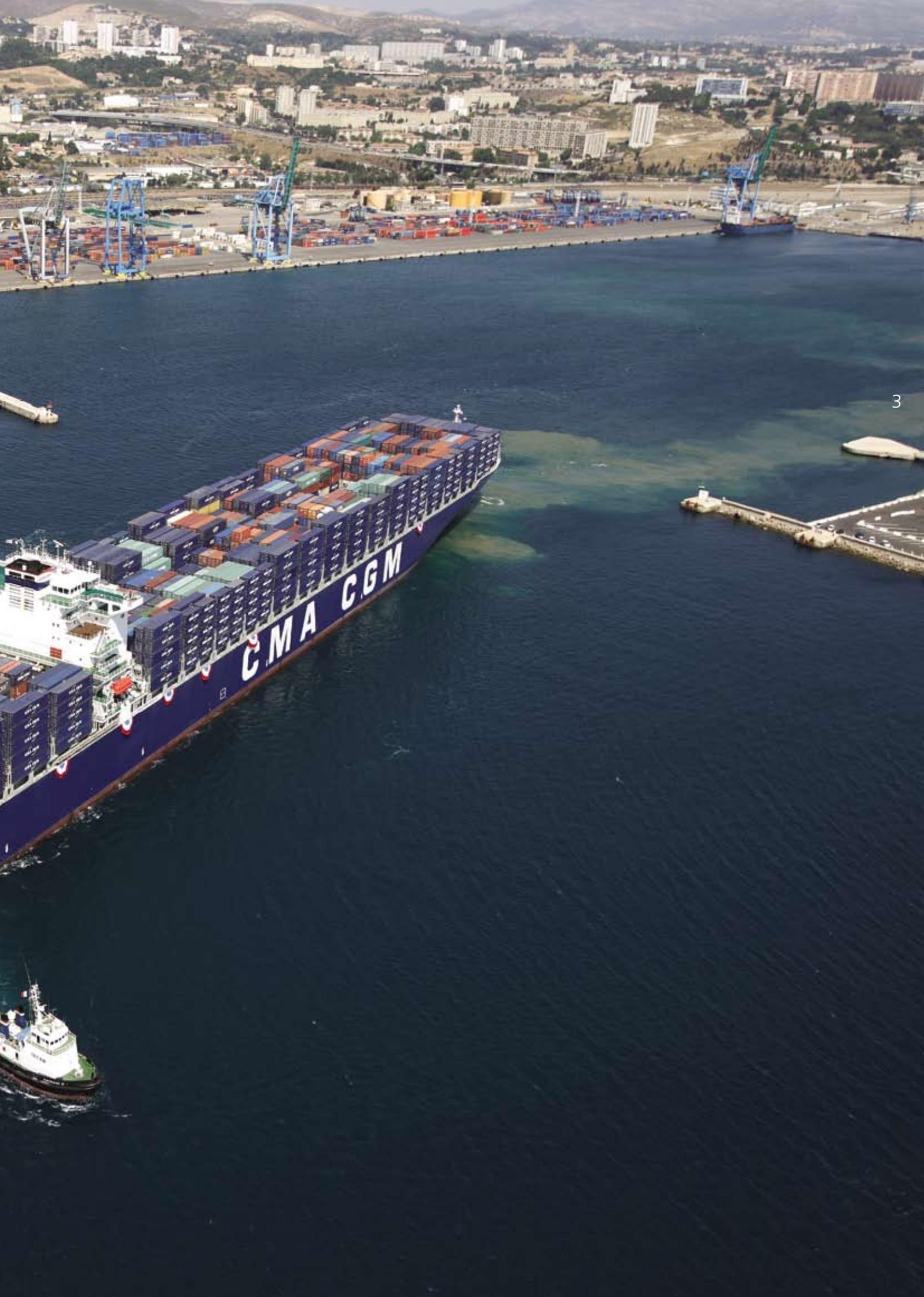
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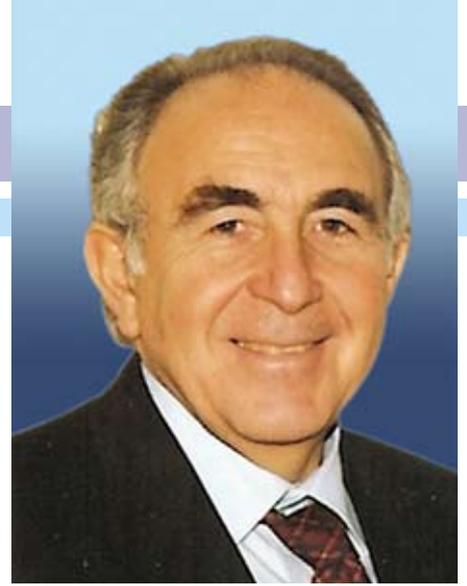
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**ICS Chairman and ISF President  
Mr Spyros M Polemis  
Greece**



# Introduction

4 **T**HE WORLD HAS BECOME a very different place since I wrote in last year's ICS/ISF Annual Review - the unprecedented good times enjoyed by shipowners unfortunately have come to a sudden end. Most shipping companies had anticipated that such fantastic markets could not go on for ever, and most have hopefully prepared accordingly. But I think few in the industry honestly expected that the downturn might inflict itself quite so rapidly.

The World Trade Organization has predicted that, as a consequence of the present turmoil, global trade volumes may contract by as much as 10% during 2009. As the servant of world trade, the international shipping industry must therefore brace itself for an extremely rough ride. As I write, the world's leaders have recently met in London for the G20 Summit, to agree on how they can collectively restore order to the world economy. While there is apparent consensus that nations must avoid protectionism if world trade is to recover, it must be hoped that this is more than just rhetoric. Worryingly, the WTO has reported that 17 of the G20 nations have already recently introduced new protectionist trade barriers.

Shipowners therefore have no choice but to concentrate on operating their ships in very challenging trading conditions. In spite of these difficult times, though, it remains critical that the industry continues to pursue the highest standards of safety and environmental protection, as well as ensuring we have properly trained and well motivated seafarers to man our ships.

The safety of the seafarers who serve at sea is always the industry's greatest

priority, so the massive increase in pirate attacks, with hundreds of seafarers being kidnapped, has required serious attention. This is not a problem that will go away easily or quickly and that is why governments must continue to provide military protection to ships in the Gulf of Aden and other danger areas for the foreseeable future. While the co-operation between governments and navies, under the auspices of the United Nations Security Council, has been welcome and most impressive, we will need to ensure that piracy remains in the media spotlight. Politicians must be persuaded of the importance of maintaining their commitment to protecting merchant shipping and the security of the international trade routes.

Notwithstanding the downturn, governments are publicly committed to delivering a new regime to reduce carbon dioxide emissions and limit the effects of climate change. A major priority of ICS in 2009 is to help IMO develop a package of substantial proposals on how CO2 emissions from ships might be regulated internationally, which can be presented to the next major United Nations Conference on Climate Change, in Copenhagen in December 2009.

Although shipping is by far the most carbon efficient form of transport, governments will almost certainly require the industry to do even more. Discussions on practical measures to reduce CO2 emissions are already well advanced. However, the possible role to be played by so called Market Based Instruments, such as emissions trading schemes or fuel levies, is rather more controversial. Notwithstanding the wide range of views among shipping companies about preferred solutions,

if the industry is to have an influence on the final outcome it will need to present a united position. Together with our member national shipowners' associations, we are therefore working hard to ensure that we are able to comment authoritatively on any of the possible options that are pursued.

Another issue very close to my heart is the unwarranted criminalisation of seafarers in the aftermath of accidents. Following the decision, in April, by the Korean Supreme Court, it is very much hoped that the two officers from the 'Hebei Spirit' will finally be allowed to return to their families. More generally, however, we need to find a better international understanding on how similar cases can be resolved in the future. We must get away from the premise that when a ship is involved in an accident the master must go to prison. Masters are not criminals, and every person must be assumed innocent until proven guilty in a court of law after due process.

Despite the seriousness of the issues before us, it is pleasant to be able to pause to celebrate some important anniversaries. In June 2008, I had the honour to represent ICS and ISF at a special event, attended by the Secretary-General of the United Nations, Mr Ban Ki-moon, to mark IMO's 60th anniversary. I am pleased that IMO continues, so effectively, to champion the cause of global regulation for a global industry. In 2009, we are celebrating the Centenary of ISF as the global employers' organisation for the shipping industry. As this Annual Review explains, manpower issues remain most important at this critical economic time. The longevity of ISF is a reminder that the shipping industry will always be with us, regardless of

## ICS/ISF Office Bearers 2008/9

### ICS Vice Chairmen



Mr Robert Ho  
*Hong Kong*



Mr Lars Vang  
Christensen  
*Denmark*

### ISF Vice Presidents



Mr Luis Ocejo  
*Mexico*



Captain Dirk Fry  
*Cyprus*

those challenges that confront us now or in the years ahead.

Finally, I would like to thank the ICS Vice Chairmen, the ISF Vice Presidents, the ICS Executive Committee and the ISF Council for their great support. I also acknowledge with appreciation the vital work and dedication of our Committee Chairmen, Committee members and indefatigable Secretariat. Last but not least, I am most grateful for the unswerving backing we receive from national shipowners' associations, and their member shipping companies, whom ICS and ISF exist to serve.

While the economic environment in which we work will certainly be difficult, I look forward to an interesting year ahead.

### Spyros M Polemis

*ICS Chairman and ISF President*

## Secretariat

### Mr Tony Mason, *Secretary General, ICS/ISF*

Mr Simon Bennett  
*Secretary, ICS*

Mr Peter Hinchliffe  
*Marine Director*

Ms Linda Howlett  
*General Manager (Legal)\**

Ms Kiran Khosla  
*General Manager (Legal)\**

Mr Alistair Hull  
*Marine Adviser*

Mr James Langley  
*Manning and Training Adviser*

Mrs Susan Gray  
*Accountant*

Mrs Kathryn Hall  
*Personal Assistant to  
Secretary General*

Ms Catherine Howlett  
*Administration Assistant*

Mr John Murray  
*Senior Marine Adviser*

Miss Emily Rowley  
*Policy Assistant*

Mrs Natalie Shaw  
*Secretary, ISF*

Mr John Stawpert  
*Marine Adviser*

Mr David Tongue  
*Marine Manager*

Mr Tim Watson  
*Policy Assistant*

Mrs Shantel Ryan  
*Publications Manager*

Mrs Anita Pow  
*Shipping Policy Administrator*

Miss Julie Rogers  
*Marine Department  
Administrator*

*\*position held jointly*

# Responding to the Global Downturn

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**F**OLLOWING SEVERAL YEARS of incredibly buoyant shipping markets, for many trades the best in living memory, much of the international shipping industry has fallen prey to the worldwide economic downturn. Shipping is inherently the servant of the economy, so the contraction in trade, following the beginning of the 'credit crunch' in late 2008, has translated into a dramatic and abrupt reduction in demand for shipping.

Perhaps worst hurt initially were the containership trades. By the spring of 2009 some 10% of the fleet was already laid up, much of it too modern and expensive to go to recycling yards. By April 2009, many oil tankers were also failing to cover their operating costs, while rates for product and chemical tankers had also fallen sharply. The dry bulk trades have also been severely affected, particularly by the reduction in demand for raw materials from China, with spot market freight rates for some bulk carriers being a fraction of the peak prices achieved in 2008. In general most shipping markets present a rather bleak picture.

A major concern of ICS national shipowners' associations is to discourage governments from responding to the crisis with protectionist measures, which will only damage world trade further. More particularly, governments must avoid measures that restrict fair and open access to shipping markets. Although most shipping today enjoys relatively liberalised trading conditions compared to the days of national cargo reservation in the 1980s, shipping is unusual in that it is one of the few major industries not yet covered by a global multilateral

trade agreement. However, the prospect of a new agreement under the auspices of the World Trade Organization (WTO) looks increasingly uncertain. The industry must therefore be extremely vigilant in reacting to any moves towards protectionism in maritime trades, especially those using safety and security as a pretext. In May 2009, the ICS Chairman will make this point at a meeting of the world's transport ministers in Leipzig, being organised by the OECD International Transport Forum, which will focus on the implications for transport of the economic downturn.

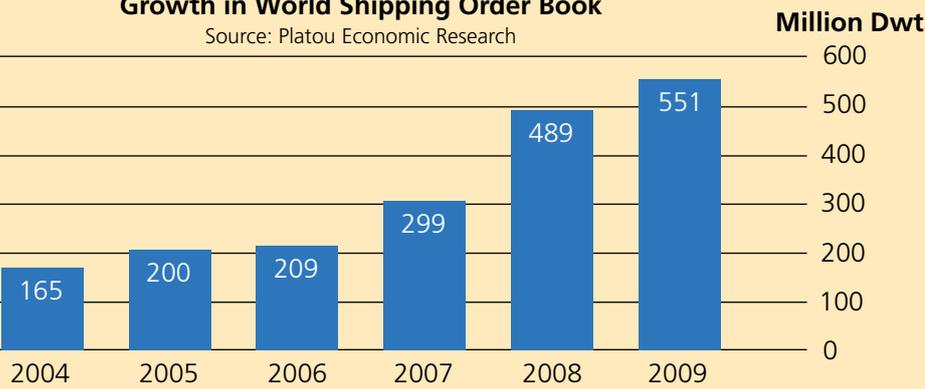
The shipping industry does not expect special treatment, or the billion dollars of support being granted by some governments to the likes of the banking and automobile industries. However, to operate competitively and efficiently in very difficult circumstances, shipping requires the maintenance of a regulatory 'level playing field' and continuation of the certainty now provided by the tonnage tax regimes that apply to shipowners in many countries.

Shipping is notoriously volatile, and its more experienced practitioners are familiar with the cyclical boom and bust nature of maritime freight rates. However, the contraction resulting from the general global downturn could well be exacerbated by the large number of new buildings due to come into service during the next few years, notwithstanding efforts by many shipowners to cancel or renegotiate contracts. Many of these ships were ordered at high prices at the top of the market.

In the face of this two-way pressure, there is likely to be a considerable increase in the number of older vessels

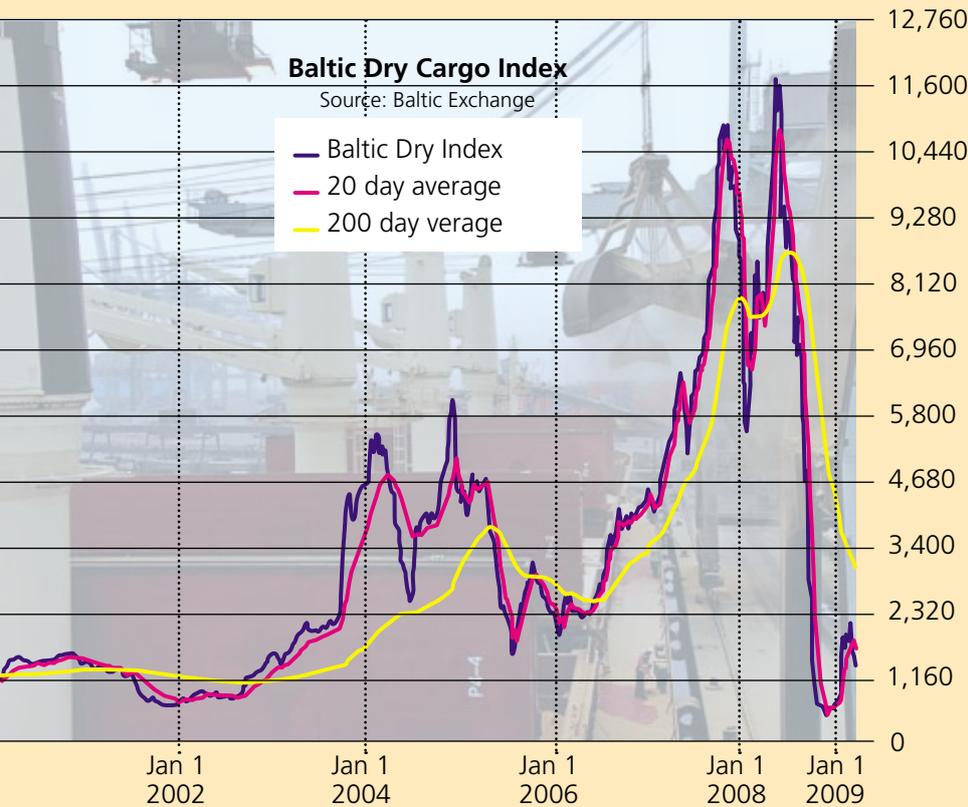
### Growth in World Shipping Order Book

Source: Platou Economic Research



### Baltic Dry Cargo Index

Source: Baltic Exchange



### Decline in Container Traffic: Europe - America Westbound Q4 2008 (Dry & Reefer)

Source: ELAA



that will be sent for dismantling and recycling. In view of the expected adoption, in May 2009, of a new IMO Convention to address concerns about working and environmental conditions in ship recycling yards, the need for governments to identify facilities that are acceptable for use will become all the more pressing.

As the IMO Secretary-General has forcefully identified, financial pressures on the industry must not be allowed to result in any reduction in standards. Much has been achieved in the last 20 years with regard to safety and environmental performance, and no one is suggesting a moratorium on new regulations that genuinely improve safety, which is always the industry's overriding priority. However, governments need to understand that any immediate regulatory and policy decisions they take must avoid impacting negatively on shipping as it struggles to deal with the current economic situation.

Notwithstanding the current gloom and doom, the longer term outlook for the industry remains very good. The world's population continues to expand, and emerging economies will continue to increase their requirements for the goods and raw materials that shipping transports so safely and efficiently. In the longer term, provided the politicians make sensible decisions, the fact that shipping is the most fuel efficient and carbon friendly form of commercial transport should work in favour of an even greater proportion of world trade being carried by sea.

## Piracy

8 **D**ESPITE THE PRESENT ECONOMIC uncertainty, it is important to remember that shipping will always be with us. Unfortunately so it seems, in one form or another, will be the scourge of maritime piracy. The principal focus of ICS and ISF during the last 12 months has been the appalling situation in the Gulf of Aden, where hundreds of seafarers have been kidnapped, along with their ships and cargoes, by organised and criminal gangs operating out of Somalia. The seriousness of these attacks has been difficult to exaggerate and has literally become a global 'front page' news story (rivalled at the end of 2008 only by coverage of the 'credit crunch' and the US elections). But it should not be forgotten that seafarers have also been attacked and killed in regions such as the Niger Delta, as well as other perennial black spots in parts of Asia.

Since the situation in the Gulf of Aden escalated during the summer of 2008, over 100 ships have been attacked by Somali pirates, often with automatic weapons and rocket propelled grenades. Over 40 ships have been hijacked and more than 600 seafarers have been taken hostage for ransom

money amounting to millions of dollars. Against this background, much has been done by the industry, including ICS and ISF, to emphasise to the international community that 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 (UNCLOS). Historically indeed, the primary role of navies has always been to protect merchant shipping and to keep the sea lanes open to trade.

In co-operation with the IMO Secretary-General, the shipping industry's efforts to persuade governments to act have undoubtedly been assisted by the truly massive publicity generated by the hijacking of the VLCC 'Sirius Star', in November 2008, complete with a major share of a full day of Saudi Arabian oil output. In April 2009, the dramatic rescue of the master of the 'Maersk Alabama' by United States special forces also received worldwide press attention, and the United States is now showing determination to find a solution.

While the task is far from over, the industry and IMO can take some satisfaction from their efforts to obtain the additional naval protection that shipping now enjoys. However, there remains an urgent need for even more to be done, particularly with regard to neutralising the 'motherships' that have enabled pirates to attack hundreds of miles out from their shore bases.

In what represents a most significant development, the establishment in December 2008 of a United Nations Security Council Contact Group on Somali piracy has also been very helpful. Following the adoption of a string of UN Security Council Resolutions in late 2008, giving authority to anti-piracy efforts by foreign navies, this important UN Contact Group comprises an impressive array of governments and their naval representatives. The Group now includes EU nations, the United States, Japan, India and Middle Eastern countries among several others, who are together displaying an almost unprecedented degree of military co-operation amongst global powers. ICS, as one of the leading industry



representatives, has been privileged to attend some of the UN Contact Group's meetings.

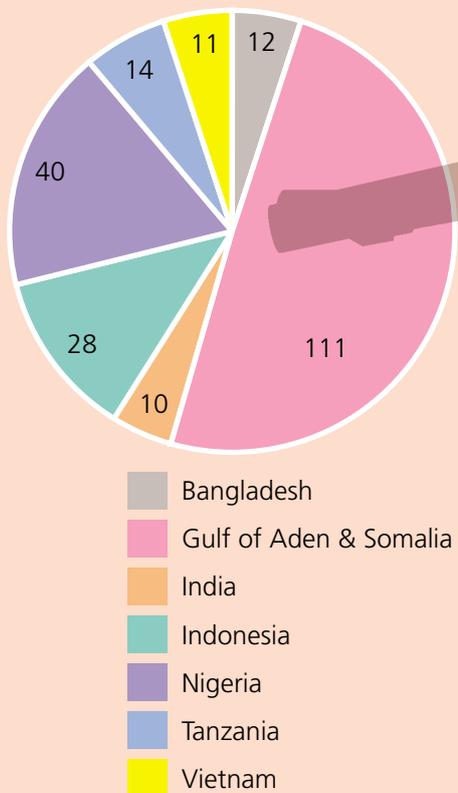
ICS and ISF have been centrally involved with the co-ordination of diplomatic efforts by the industry, at IMO and with the United Nations in New York, to help ensure that merchant shipping is adequately protected and to explore longer term solutions to the problem. But the answer is not merely to provide protected trade routes. While this is without doubt a very welcome step, the long term solution lies with the international community, and most especially neighbouring countries, taking action under their national laws to facilitate the arrest and prosecution of those engaged in piracy. The ultimate solution, of course, which is really beyond the influence of the industry, will be to restore law and order within Somalia itself.

For the past 12 months, the member national shipowners' associations of ICS and ISF have lobbied their governments very hard to ensure that naval forces have been made available to provide the security that shipping needs. On the other hand, through close liaison with naval forces in the Coalition Task Force and, more recently, with the EU NAVFOR command, ICS/ISF have been promulgating best management practice advice to ships approaching the Gulf of Aden.

In particular, ICS and ISF have been conveying to shipping companies the utmost importance for all ships transiting the Gulf of Aden to register with EU NAVFOR, via its website. Only in this way can ships ensure that military forces are aware of them, so that they can give them protection and intervene if needed. Another issue

### Locations with over 10 attacks in 2008

Source: ICC International Maritime Bureau



which ICS and ISF, amongst others, have had to highlight repeatedly is that the shipping industry in general remains strongly opposed to the use of armed security guards, which will only escalate the dangers to which seafarers are already exposed.

Much has been done to encourage governments to treat action against piracy as a serious priority, and collectively the industry can take some credit for bringing this issue to governments' attention. But the situation remains critical and the major challenge for the future is to ensure that politicians remain engaged, and that military protection is sustained, for as long as is required.



It is therefore most important that every effort is made to convey the shipping industry's appreciation of the commitment and courage of the military personnel protecting merchant shipping in the Gulf of Aden. Even if the current military efforts by the international community are successful in reducing the number of pirate attacks in the vicinity of Somalia, naval protection is likely to be needed for several years to come, unless the situation changes radically in Somalia itself. In conjunction with national associations, ICS and ISF will therefore continue to focus on maintaining awareness of the threat that piracy presents - to the lives of ships' crews and to the security of the free movement of trade - both with politicians and policy makers, and with the media and the public at large.

# Reducing Maritime CO<sub>2</sub> Emissions

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ICS IS AT THE CENTRE of the global discussions on reducing ships' CO<sub>2</sub> emissions, now being firmly led by IMO, which is aiming to develop a package of proposals for maritime transport by the end of 2009 for adoption globally, possibly in 2010. In December 2009, the 'post Kyoto' climate change regime, i.e. for the world economy as whole, will be developed further at a major UN Conference, in Copenhagen, under the banner of the UN Framework Convention on Climate Change (UNFCCC). It is very much hoped that UNFCCC will see fit to agree that the development of detailed measures for shipping should be directed by IMO, which as the industry's global regulator has just successfully delivered agreement on reducing pollutant emissions from ships, a similarly complicated and controversial subject but on which an impressive global consensus has been achieved.

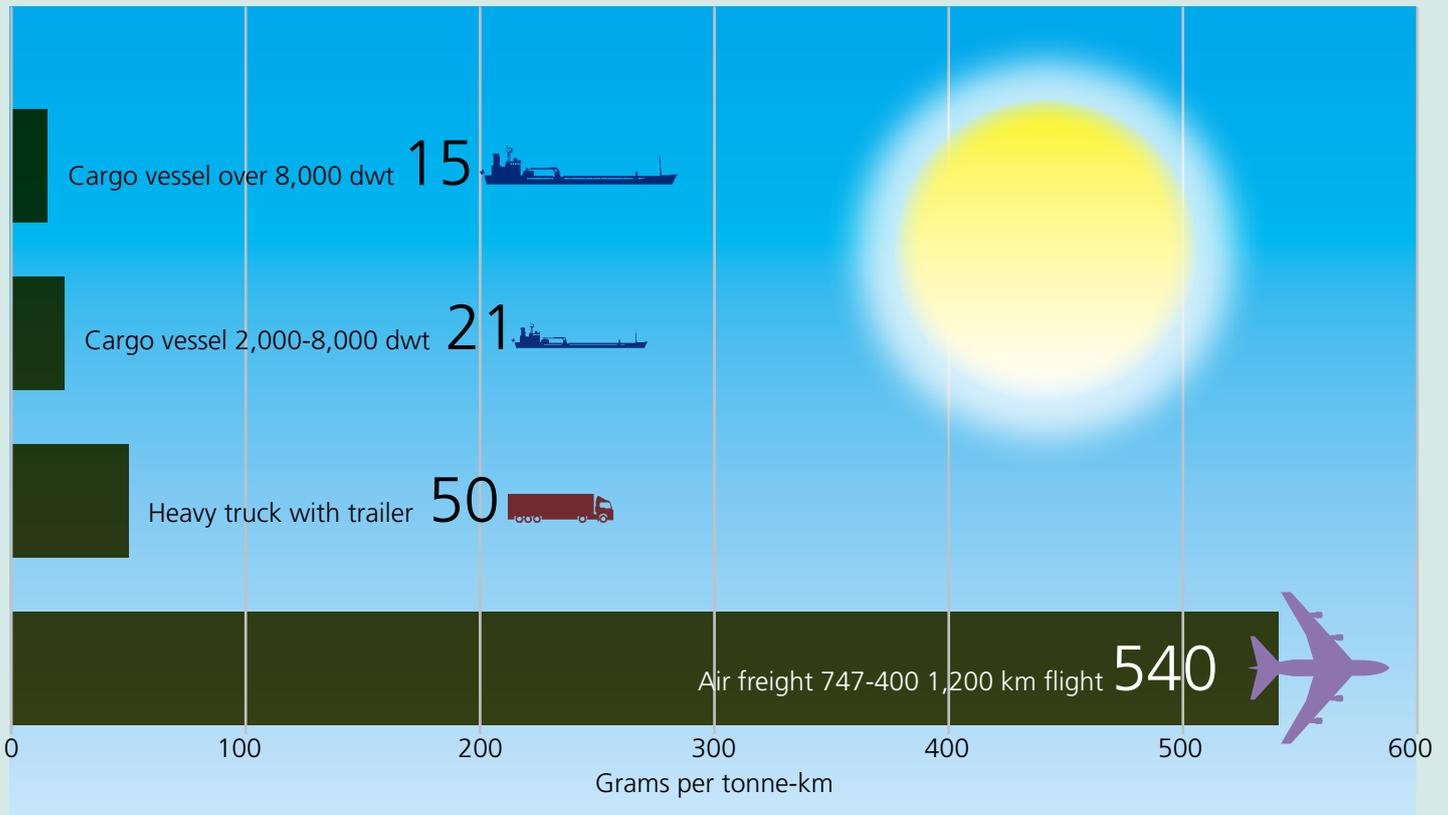
Notwithstanding the severe economic downturn, the challenge of reducing carbon emissions remains a critical issue for shipping, a global industry requiring global regulation applicable to all internationally trading ships, regardless of flag. The international community therefore needs to agree upon worldwide measures for shipping that will deliver genuine and tangible reductions in the consumption of fossil fuels, while being practical and feasible and having a minimal negative impact on global trade (about 90% of which is transported by sea). Whatever the final outcome of the negotiations, they will potentially have serious implications for the shipping industry's competitiveness and economic well being, at a time of great commercial uncertainty. Reducing emissions is the responsibility of all parties in the supply chain,

including the industry's customers, but the immediate focus of policy makers is on the performance of ships themselves.

Encouragingly, the European Commission has indicated that it would definitely prefer to see a global IMO response, rather than an outbreak of regional initiatives. However, the Commission has also made it clear that in the absence of an IMO solution by 2011 it may feel compelled to develop regional controls in order to help meet the firm EU political target for reducing all EU CO<sub>2</sub> emissions by 20% by 2020. It has also been suggested that if IMO does not achieve an agreement, shipping emissions might be included in the national emission reduction targets of EU Member States. Significantly, the latest climate change package proposed by the European Commission, in 2008, did not include shipping (as opposed to aviation) in the re-launched EU Emission Trading Scheme, on the understanding that IMO will deliver an acceptable solution for maritime CO<sub>2</sub> reductions.

The United States, both at the Federal and State level, is also expected to develop a more focused response on CO<sub>2</sub> following the 2008 presidential elections. While the new US Administration is understood to be more favourably disposed towards the UNFCCC negotiations, it is hoped that the US will also support IMO as the appropriate forum for the development of measures for shipping. In late 2008, the Chamber of Shipping of America made this point unequivocally on ICS's behalf, in comments to an important US Environment Protection Agency (EPA) consultation on future US climate change policy.

It may well be possible for shipping



### Comparison of CO<sub>2</sub> emissions between different transport modes

Source: Swedish Network for Transport and the Environment

to reduce the CO<sub>2</sub> emitted per tonne of cargo carried one kilometre by perhaps 15%-20% in the next 5-15 years, through a combination of technological and operational developments, as well as new and bigger ships. However, it appears impossible to guarantee any absolute reduction in emissions by the shipping sector as a whole, due to the projected (longer term) growth in demand for shipping arising from the growing world population and, when it recovers, the expanding global economy. Ironically, due to the recent dramatic contraction in demand for shipping, significant CO<sub>2</sub>

emission reductions will probably be 'achieved' by the industry as a whole during 2009, illustrating the dangers of setting targets for an entire sector that is the servant of world trade, as opposed to setting goals for improving the emissions of individual ships.

Shipping companies have a very strong incentive to reduce their fuel consumption and thus bring down their CO<sub>2</sub> emissions. Despite recent price reductions, bunker costs still represent a very significant proportion of a ship's operational expenses, which in the long term are expected to rise (not least as a result of the

recent IMO agreement mandating use of low sulphur fuels). Fuel costs are already having an impact on the competitiveness of certain trades, and in the current harsh economic conditions may even determine some companies' survival. For example, short sea and coastal shipping are often in direct competition with land transport modes, and regulators need to ensure that, as a result of efforts to reduce CO<sub>2</sub> emissions by ships, there is not in fact modal shift to less carbon efficient forms of transport that would actually increase global CO<sub>2</sub>.



## Discussions at IMO and UNFCCC



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*IMO is making genuine progress on technical measures for reducing shipping's CO<sub>2</sub> emissions, including the development of a system of energy efficiency indexing for new ships, and a template for a Ship Efficiency Management Plan (SEMP) for use by existing ships, industry development work on the latter being co-ordinated by ICS. However, Kyoto Annex II countries, such as China and India, are expected to remain reluctant to agree to binding international measures for reducing ships' CO<sub>2</sub> emissions prior to the completion of negotiations taking place under UNFCCC, in Copenhagen, in December 2009.*

*ICS now enjoys consultative status with UNFCCC and participated at the preparatory UN Conference in Poznan, Poland, in December 2008, which sought to make progress on a replacement to the Kyoto Protocol on climate change. There were encouraging indications that governments may be willing to leave the detailed means of CO<sub>2</sub> reduction by ships to be developed at IMO. However, a conflict remains between the 'flag blind' global uniformity required by shipping (the IMO principle of 'no more favourable treatment') and the concept of 'common but differentiated responsibility' enshrined in the existing Kyoto Protocol on climate change, whereby different standards can be applied to industries in emerging economies.*

*There are two specific strands of activity in which ICS is currently engaged, in order to help IMO present a meaningful progress report at the UNFCCC meeting in Copenhagen in December 2009. These are the development by ICS members and other industry associations of a model Ship Efficiency Management Plan (SEMP) that can be endorsed by IMO, and the approach to be taken by IMO with regard to so called Market Based Instruments (MBIs).*

*A major goal of ICS has been to ensure that the SEMP concept will be retained as an industry (rather than government) input to the development of IMO Green House Gas (GHG) measures. An interim version of the SEMP, presented to an IMO meeting in November 2008, was well received by maritime administrations. There was a broad political consensus at IMO that, due to the complex relationships between the technical and environmental parameters which have an impact on GHG emissions, the business of delivering operational efficiency (on a day to day basis) was essentially for the industry to manage and not one that could be regulated effectively by governments. However, this clearly passes responsibility to the shipping industry to develop a*

*transparent mechanism that delivers real and measurable emission reductions.*

*Market Based Instruments (MBIs) are proving to be the most difficult of subjects to address. Government proposals include 'cap and trade' Emission Trading Schemes (ETS), and carbon levies or taxes (possibly linked to a fund to help further deliver emission reductions). However, whatever measures may ultimately be decided, ICS is emphasising that as well as having a net environmental benefit, MBIs, if adopted, must be 'flag neutral' in their effects in order to avoid market distortions.*

*ICS itself is neither in favour nor opposed to the various MBI concepts that have been proposed as a possible means of encouraging emission reductions by ships, although it has been difficult to form a clear position given the lack of detail about how such schemes might work. On behalf of the shipping industry, and for the benefit of governments at IMO, ICS therefore prepared, in early 2009, a detailed analysis of the net environmental benefits and commercial implications of the various possibilities for MBIs that are being actively considered by governments. This is probably the only such analysis of its kind, developed on the basis that it is vital for industry to be engaged in discussions about the 'pros and cons' of all the various proposals, notwithstanding the differing initial preferences that have been expressed by different sectors of the industry.*

*There are expectations at IMO, and probably in the EU, that ICS will continue to take a leading industry role in determining how to reduce the carbon footprint of international shipping and to debate various options. It is hoped that, if necessary, the same role can be taken by ICS at UNFCCC. In short, ICS will assume an 'honest broker' role in the various inter-governmental discussions, in order to comment with authority on any option that a government brings to the table, to ensure that full account is taken of commercial and trade implications, as well as the ability of proposals to generate real CO<sub>2</sub> reductions.*

*In the meantime, IMO remains the focal point for maritime discussions. It will be vital for the industry and its regulators to ensure that IMO delivers, as soon as possible, an acceptable international framework for regulating maritime CO<sub>2</sub> emissions, so that the shipping industry can remain ahead of the pack and consolidate its status as the most carbon efficient form of commercial transport.*

# Criminalisation of Seafarers

IT HAS BEEN A MATTER OF SERIOUS concern 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. There is a real need for uniformity based on the internationally agreed IMO MARPOL standards so that seafarers know where they stand. The legal position of seafarers trading to Europe is even more uncertain after the loss of a case, at the European Court of Justice, put forward by an industry coalition concerning the legality of the EU Directive on Criminal Sanctions for Ship Source Pollution. While new recruits may be unaware of the legal risks to which seafarers are now exposed, fear of potential imprisonment is arguably prejudicing retention rates amongst existing officers, at a time when, notwithstanding current markets, the industry is still experiencing a shortage of appropriately qualified manpower.

The decision by a Korean Court, in December 2008, to imprison two senior officers from the tanker 'Hebei Spirit', for their alleged contribution to a major oil spill in late 2007, was regrettable indeed. It greatly added to concerns about the criminalisation of seafarers in general, and raised strong feelings throughout the industry globally. The 'Hebei Spirit' was at anchor when she was rammed by a barge that had broken free, and yet the officers from the anchored vessel had somehow ended up in jail. Whatever the legal arguments, the industry found it hard to comprehend such an outcome.

ICS and ISF lodged a letter of support for bail with the Supreme Court of



the Republic of Korea at the end of 2008, and greatly welcomed the Court's decision to grant bail, and release from prison, the two ship's officers in January 2009 (although they could not leave Korea). While enjoying good co-operation from the Korean maritime administration and the Korea Shipowners' Association, ICS and ISF have fully appreciated the independence of the Korean judiciary from the government. Subsequently, in April 2009, the Supreme Court ruled that the seafarers were not guilty of offences that warranted imprisonment.

The Korean authorities have stressed that due process under its law has been followed throughout, and that every effort has been made to adhere to the international principles enshrined in the 'IMO/ILO Guidelines on the Fair Treatment of Seafarers in the Event of a Maritime Accident'. The decision to release the ship's officers from prison pending the appeal hearing is fully consistent with these Guidelines, which ICS and ISF helped to negotiate with governments, at IMO and ILO, prior to their adoption in

2006. Following the recent Supreme Court ruling, ICS and ISF look forward to a positive conclusion to this drawn out process so that the seafarers are allowed to return to their families.

Notwithstanding concerns about the tendency to criminalise seafarers involved with unintentional oil spills, the industry's case generally has not been helped by continuing instances of deliberate non-compliance with MARPOL regulations. This is particularly a problem in the waters of the United States, where a small minority of seafarers continue to flout company procedures and MARPOL pollution prevention rules, despite the million-dollar fines being imposed on shipping companies. ICS remains engaged with the US Department of Justice and US Coast Guard on this critical matter. It is therefore of the utmost importance that companies take account of the 'Shipping Industry Guidance on Environmental Compliance' produced by ICS and ISF in 2008, with help from the Chamber of Shipping of America and the Liberian Shipowners' Council.

# ISF Celebrates 100 Years

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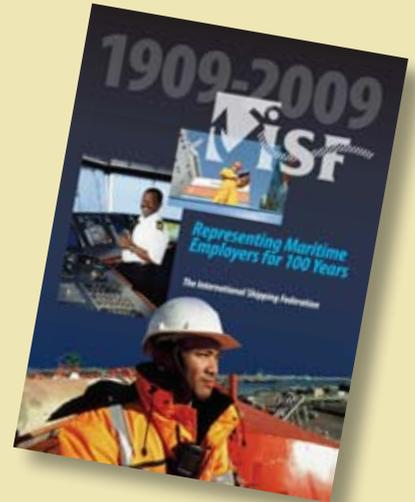
**T**HE INTERNATIONAL SHIPPING Federation (ISF) is celebrating its 100th anniversary throughout 2009, having been established as the principal international employers' organisation for shipowners in 1909.

To coincide with a Gala Dinner being held in London to mark the Centenary in May 2009, a booklet has been produced covering the origins and history of ISF. To launch its Centenary year, in January, ISF also issued a special brochure highlighting the organisation's recent achievements and identifying immediate priorities for the years ahead. These include: the promotion and implementation of the ILO Maritime Labour Convention (MLC), expected to enter into force in the next two years; the completion of the current IMO review of the Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), as well as measures to increase the worldwide recruitment and training of the next generation of seafarers, in conjunction with IMO's 'Go to Sea!' campaign.

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), and which for the last 50 years has determined the level of the ILO Minimum Wage for Able Seafarers, a recommendation applied globally.

ISF (along with ICS) was also amongst the very first industry organisations to gain consultative status with IMO in 1961. In more 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



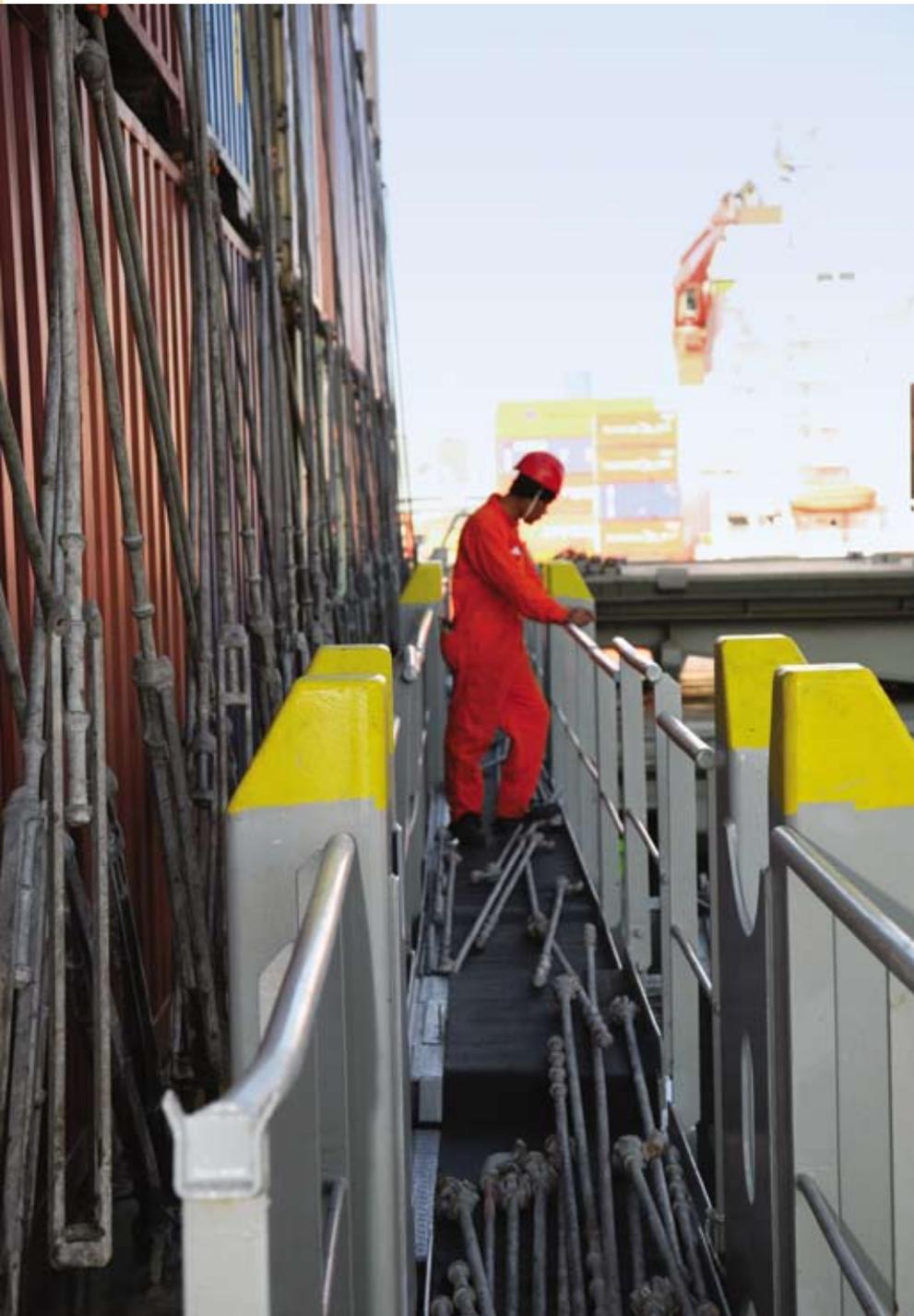
current IMO review of STCW standards which will culminate with a Diplomatic Conference in the Philippines in 2010, to adopt changes to the global regime governing crew training and certification.

In April 2009, to coincide with the ISF Centenary and as a part of IMO's 'Go to Sea!' campaign, ISF launched a short international DVD film to promote careers at sea. Translated into several languages, with the support of IMO and ISF members, it is hoped this new tool will be a useful complement to the careers promotion activities already being undertaken by national employers' associations.



ISF members in 1920

# Retrospect and Prospect



## IMO Agreement on MARPOL Annex VI

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Although the underlying deal was struck provisionally in April 2008, it is important to record that ICS has greatly welcomed the final agreement on 'SOx' and 'NOx', confirmed at IMO in October 2008, concerning the adoption of amendments to Annex VI (governing atmospheric pollution) of the MARPOL Convention. As well as regulating emissions of nitrous oxides, the new rules, to be phased in stages up until 2020, will significantly reduce the amount of sulphur and volatile organic compounds emitted by ships and hence the associated health hazards. The IMO agreement has had to take account of major economic implications (marine fuel costs could be as much as 50% higher as a result) and political sensitivities (the EU was threatening to introduce regional rules, while the US State of California already has). The achievement of IMO in delivering an agreement has rightly been described by the ICS Chairman as one of IMO's finest moments.

But the challenge involved in implementing the agreement will be considerable, and it remains to be seen if the oil refining industry will be able to respond to the substantial new demand for distillate fuel that will be created (ships will be in competition for the same types of fuel as used by diesel cars and trucks). This will particularly be the case in 2015 when the sulphur content of bunkers consumed in 'Emission Control Areas' will be reduced to just 0.1%, especially as these ECAs could be established throughout Europe, North America and elsewhere. A long awaited request for a new ECA, from the United States and Canada, extending 200 nautical miles from their entire

## Timetable

**for new limits to sulphur content in ships' fuel agreed by IMO**

### 2010

Emission Control Area (ECA) limit reduced to 1% (from current 1.5%)

Number and size of ECAs expected to increase.

### 2012

Global limit reduced to 3.5% (from current 4.5%)

### 2015

ECA limit reduced to 0.1%

### 2020

Global limit reduced to 0.5% but a review in 2018, with authority to delay implementation, will determine whether this is achievable.

### 2025

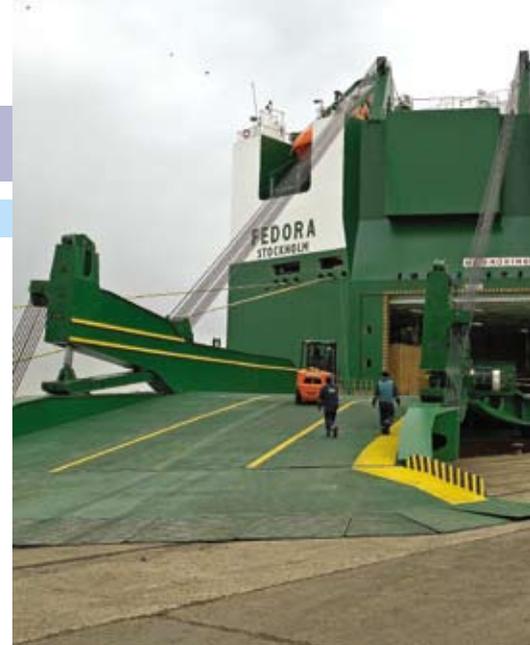
Global limit reduced to 0.5% notwithstanding the result of the 2018 review.

An 'alternative compliance' provision makes it clear that compliance can be achieved by alternative fuels or abatement equipment.

Eastern and Western seaboard, will be considered by IMO in July 2009. The implications of this far reaching proposal demand serious consideration prior to adoption.

ICS is now negotiating with the oil industry to establish a mechanism to review progress towards expanding refining capacity and increasing the availability of compliant fuel of required quality. Another immediate issue is the need to ensure that the competitiveness of short sea shipping is not unduly affected, an issue of particular concern to ship operators trading in European short sea trades and which is now being studied by the European Commission as well as nations bordering the Baltic Sea. Many EU governments are starting to acknowledge that a means needs to be found for mitigating the impact that the ECA limits may have in transferring cargo from short sea shipping to road networks, with greater net environmental costs and higher CO<sub>2</sub> emissions. Curiously, many of these same governments were the most vociferous advocates of the lowest sulphur limits during the three years of negotiations leading up to the IMO agreement.

Lessons will hopefully have been learned as governments now develop their positions on carbon emission reductions. The poor quality bunkers, that most ships have been forced to burn, have been something of an 'Achilles heel' for the industry's otherwise sound reputation for impressive environmental performance. With regard to CO<sub>2</sub> however, ships are already in the advantageous position of being, by far, the most carbon efficient mode of commercial transport.





## IMO 60th Anniversary

The International Maritime Organization (IMO) celebrated its 60th anniversary in 2008. The UN agency, which is responsible for the global regulation of safety of life at sea and pollution prevention, was established by United Nations treaty in 1948. ICS and ISF are very proud to have been the first international shipowner organisations to be granted consultative status with IMO in 1961, and have since been closely associated with the development by IMO of the comprehensive framework of regulations that now govern international shipping.

ICS/ISF Chairman/President, Mr Spyros M Polemis, took part in a special industry seminar to mark the anniversary, held during the meeting of the IMO Council in June 2008. ICS and ISF emphasised the importance of IMO continuing to provide globally enforceable regulation for an international industry. The celebrations also featured an address to the IMO Council by the Secretary General of the United Nations, Mr Ban Ki-moon.

A major part of ICS and ISF resources is dedicated to representing the shipping industry at every IMO meeting dealing with safety and environmental protection standards, as well as legal issues, security, trade facilitation and seafarers' training standards. ICS and ISF also participate in various IMO 'correspondence groups' that continue to be established by governments, despite repeated efforts to curtail their number.

Apart from the more high profile issues covered by this Annual Review, the full range of detailed technical issues in

which ICS and ISF are involved at IMO is too numerous to mention. These involve the virtually continuous review of the main IMO Conventions and Codes, affecting all types of ships, as well as specialist and very complex documents such as, for example, the International Maritime Dangerous Goods Code. ICS and ISF have also continued their global campaign to stress the vital necessity for governments to ratify and implement maritime Conventions adopted by IMO (and ILO). The most recent brochure providing an update on ratification developments can be downloaded at [www.marisec.org/ratification](http://www.marisec.org/ratification).

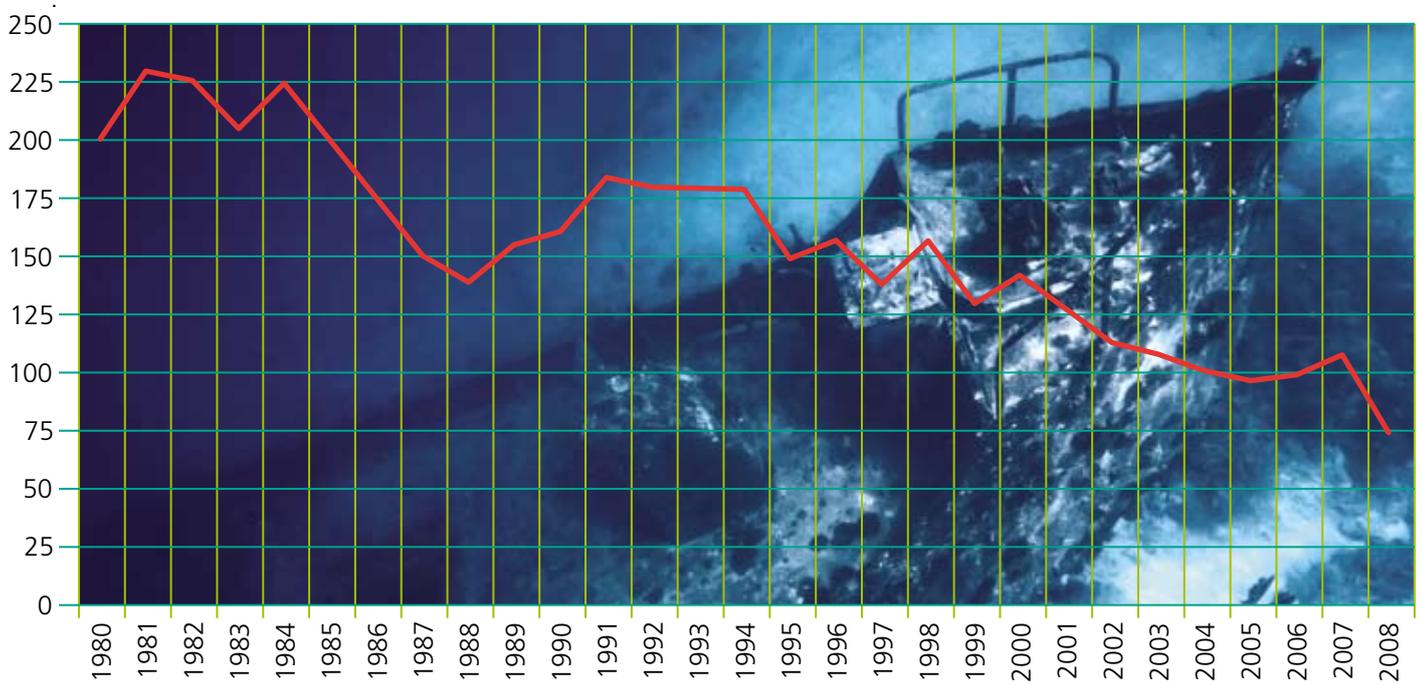
In recognition of IMO's 60th anniversary, which was also the theme of IMO World Maritime Day in September 2008, ICS (in conjunction with BIMCO, Intercargo and Intertanko) produced a special brochure which can be downloaded from [www.shippingfacts.com](http://www.shippingfacts.com).



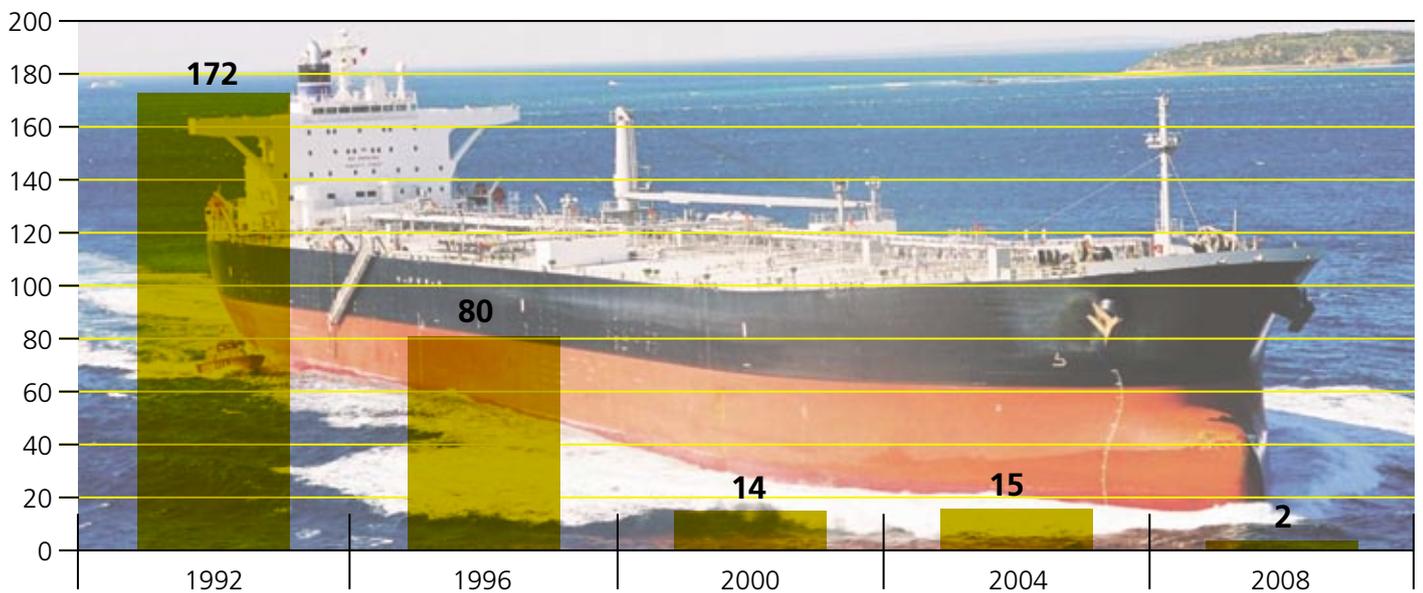


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**Total losses 1980-2008 by number (vessels>500GT)** Source: International Union of Marine Insurance



**Oil spilled ('000 tonnes) 1992-2008** Source: ITOPF





## Shipping and the Environment

2009 marks the 20th and 10th anniversaries of the 'Exxon Valdez' and 'Erika' disasters, when oil tankers caused major pollution to the coasts of Alaska and North West Europe respectively. These two particular incidents had a very negative effect on general perceptions, amongst politicians and the public at large, of an industry which is otherwise the most environmentally friendly form of commercial transport. They also directly resulted in the accelerated phase-out of all single hull tankers from international trades which will be complete in the next few years, with around 80% of the world tanker fleet now operating with a double hull, and single hull tankers being banned from most international trades in 2010. These incidents also led to a radical overhaul of the International Oil Pollution Compensation (IOPC) Fund regime, which now ensures that around one billion dollars is available to compensate those affected by pollution without undue delay; shipping companies, cargo owners and their insurers accepting financial liability regardless of fault.

The desire of US and EU politicians to respond to these oil spills with unilateral regulations, at variance to those agreed internationally, placed the global maritime regulatory system under severe strain. In the event, however, by responding rapidly and impressively to these intense political pressures, IMO has managed to maintain its framework of international Conventions governing safety and pollution prevention.

Encouragingly, although incidents still regrettably occur, the number of major oil spills has reduced significantly in

the last 20 years, primarily due to improved ship design and construction, operational practices and training. However, shipping is committed to continuous improvement and the goal remains zero pollution. A current project of ICS and ISF is to promote an even greater emphasis on compliance with the MARPOL Convention and environmental responsibilities as a part of ISM Code procedures.

Apart from continuing efforts to prevent oil pollution, and the high profile work at IMO on atmospheric pollution and CO<sub>2</sub> emissions discussed elsewhere, a critical issue for the industry, in which ICS is deeply involved, is the implementation of the IMO Ballast Water Management (BWM) Convention. The BWM Convention was adopted in 2004 to address concerns about the movement by ships of marine organisms to local ecosystems where they can cause considerable environmental damage. In November 2008, ICS was successful in persuading governments to modify the final IMO Guidelines on sampling for compliance control with the BWM Convention so that the sample will be based on an 'average' figure. Trials had found that the numbers of unwanted organisms detected were at a greatly elevated level in samples taken at the end of discharges. Meanwhile, there is still a real concern that insufficient ballast water treatment equipment will be available to meet the carriage requirements in the Convention. It is important that this issue is resolved by IMO in 2009, and that governments ratify the Convention so that it enters into force as soon as possible.

A new item on the IMO work programme is the consideration of measures to reduce 'biofouling',

whereby unwanted organisms are transported around the world on ship's hulls in 'niche' areas, and Australia and New Zealand have already enacted unilateral controls. This is somewhat ironic given the entry into force of the IMO Convention for the Control of Anti Fouling Systems in September 2008, which prohibited the use of, otherwise very effective, TBT based paints from ships' hulls due to concerns about their impact on the environment. In practice, reflecting the fixed date in the AFS Convention, such paints have not been applied to most ships' hulls since 2003, though doubts still remain about the effectiveness of some of the alternatives.

Another new item on IMO's agenda concerns the development of measures to protect whales from collision with ships, and potentially also the theoretical effects of radiated noise into the ocean. Given the relevance of these and other issues to other industries that use the sea, such as fisheries, oil exploration and deep sea mining, ICS has become a founder member of the World Ocean Council (WOC), which seeks to bring together such industries in order to exchange information on environmental issues.

## Technical Regulation and Safety Standards

In December 2008, the IMO Maritime Safety Committee finalised draft 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. IMO has also developed draft Guidelines for the verification of compliance to be undertaken by flag states and reached important

conclusions on technical issues such as the definition of 'net scantlings'. This is the culmination of several years of negotiations about how shipbuilding standards should be taken forward to ensure that, with an appropriate level of maintenance and allowing adequate margins for corrosion, new vessels are constructed 'fit for purpose' throughout their typical 25 year life-span. The final package of GBS measures should be adopted during 2009. But some important issues still need to be resolved, not least who should pay for the proposed verification process. The philosophy underlying Goal-based Standards may also have implications for the future development of other IMO standards, such as those for shipboard equipment.

Meanwhile, new SOLAS Regulations on damage stability, intended to ensure that new ships are designed to achieve a consistent level of safety, while being less prescriptive about issues such as bulkhead positions, came into effect in January 2009. Another important development is that IMO has now produced a clarification of the term "Bulk Carrier" (as defined in the SOLAS Convention) and has developed guidance on the revised interpretation that will have implications for the application of IMO standards. The Guidance is intended to cover new ships only, with the provisions divided into operational measures and structural considerations.

In July 2008, IMO agreed that there could be merit in amending the 1969 Tonnage Convention to address concerns that current measurement practices do not provide a sufficient incentive for shipbuilders to enhance levels of safety. However, governments at IMO agreed with an ICS request

that, while safety is the paramount consideration, economic factors relating to ship design could not be discounted in any review. ISF is also interested in tonnage issues, such as how additional crew accommodation for cadets might be encouraged without penalising the shipowner unduly when the greater tonnage, as currently calculated, results in higher charges and commercial dues. The means by which any amendments to the Tonnage Convention can be introduced are complicated since, unlike most other IMO Conventions, there is currently no 'tacit amendment' procedure. However, the issue is now part of IMO's agreed work programme, and ICS will be engaged in the lengthy discussions that are expected to follow.

A shocking statistic is that more seafarers have recently been killed or seriously injured during lifeboat drills than have been saved by their use in emergencies. ICS therefore remains 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. The ILG has successfully challenged the assertion that poor maintenance is the primary cause of recent accidents, and the attention of IMO has now been redirected to consider the design of lifeboat release mechanisms. The ILG has identified that in excess of 70 different release hook/mechanisms exist, many being of poor and excessively complex design, constructed of materials unsuited to the marine environment and having unrealistic maintenance requirements. ICS and the ILG are now developing proposals to amend the International Life-Saving Appliance (LSA) Code in order to specify criteria for safe release hook mechanisms.





## Tanker Explosions and Safety Culture

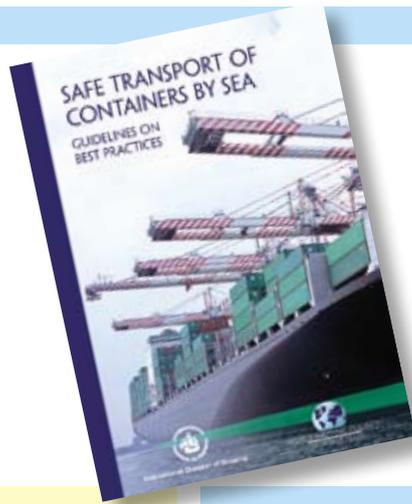
ICS remains engaged in the ongoing work on tanker safety, following a major report three years ago by the 'Inter Industry Working Group on Fires and Explosions on Board Tankers', which was asked to report to IMO after several explosions involving loss of life. As well as ICS, the Group comprised BIMCO, Intertanko, the Oil Companies International Marine Forum (OCIMF) and the International Parcel Tankers' Association (IPTA).

Following on from the industry's recommendations, a significant issue that still needs to be resolved by IMO concerns the extension of the practice of 'inerting' cargo tank atmospheres. ICS fully supports the Industry Group's recommendation that consideration be given, by IMO, to amending SOLAS to provide for the application of inert gas to new oil tankers of less than 20,000 dwt and to new chemical tankers. However, also in line with the Group's recommendations, which represented the industry consensus, ICS believes the full cost benefit analysis currently being conducted by IMO should be completed before a definitive view can be taken as to whether the application of inert gas to existing chemical tankers should also be made mandatory.

An important aspect of the Industry Group's work has been its 'human element sub-group', led by ICS, and its detailed proposals to help tackle the need to improve 'safety culture' and training. Specific proposals on tanker training were submitted by ICS (on behalf of the industry group) to various IMO Committees, and are now receiving attention as part of the general IMO review of the STCW Convention. ISF is also closely involved

with the STCW review, and is helping to ensure that the radical extra training requirements proposed by the industry will be practical and economic for employers to administer. Discussions will continue throughout 2009, with the IMO STCW Diplomatic Conference being held in the Philippines in 2010. Although an IMO meeting pursuing the review of STCW, in February 2009, was somewhat hesitant about some of the industry's ideas on tanker training, the IMO Maritime Safety Committee is expected to request that these proposals be looked at again.

A disturbing conclusion of the Industry Group report was that otherwise competent and qualified seafarers were still prone to bypass accepted procedures during cargo operations, and that this had been a factor in a number of sometimes fatal explosions on tankers which had precipitated the industry study. ICS and ISF are therefore now undertaking additional work to improve safety culture, building on the IMO ISM Code, through contacts with the offshore oil and gas industries which have developed a systematic approach to the issue. It is apparent that many of the human element issues facing the international shipping industry also present challenges to the offshore industry, not least the need to ensure a safe working environment supported by all levels of management, and a workforce totally committed to personal and collective safety. Initial discussions suggest a cross-industry tool might be developed to support the effective application of the ISM Code on board all types of ships.



Rotational	Linear
<p><b>Roll</b></p> <p>40° 40°</p>	<p><b>Sway</b></p> <p>Brief sideways motion along slope of sea surface</p>
<p><b>Pitch</b></p> <p>10° 10°</p>	<p><b>Surge</b></p> <p>Brief additional forward motion due to rise and fall of sea surface</p>
<p><b>Yaw</b></p> <p>Momentary deflection from projected course</p> <p>5° 5°</p>	<p><b>Heave</b></p> <p>Brief vertical motion due to rise and fall of sea surface</p>



## Safe Transport of Containers

The safety record of the containership industry is impressive and has progressively improved during the last 20 years. But when incidents still occur, the root cause normally involves a failure to comply with existing international rules, or else results from a failure to follow established procedures.

In December 2008, ICS and the World Shipping Council, which represents the world's major container lines, published 'Safe Transport of Containers by Sea: Guidelines on Industry Best Practices'. The Guidelines have been produced to minimise the dangers to containerships, their crews, and all personnel involved with containers throughout the transport chain, and were developed by an expert industry working group, meeting in London and Washington DC during 2008. This was in response to some recent incidents involving containerships, most notably the collapse of a stack of containers on board the 'Annabella' and issues arising from the loss of the 'MSC Napoli', as identified by the UK Marine Accident Investigation Branch. The Guidelines have now been presented to governments at IMO where they have been well received. Encouragingly, the Guidelines have also attracted a positive initial response from shippers' organisations.

The primary responsibility for the safe transport of containers by sea rests with containership operators. However, there are many other parties in the transport chain concerned with the safe movement of containers. There are those employed by shipping lines involved with the booking and assignment of cargoes, and

the subsequent arrangements for stowage planning; and there are the freight forwarders, ports and terminal operators and - particularly important - the shippers, from whom the cargo originates. All of these players have important responsibilities which are addressed by the Guidelines.

Particular emphasis is given by the Guidelines to the responsibilities of those involved with the correct packing, labelling and weighing of cargoes when they are stuffed into containers, and the accurate declaration of the goods by cargo interests. The Guidelines also address the safe handling and stowage of containers when they are received by a port facility and are loaded on board a ship, the latter requiring complex planning, calculations, and the use of sophisticated computer systems. All of these activities have a direct bearing on the safety of ships and the reduction of the risks to the lives of ships' crews and other personnel in the transport chain.

It is particularly important for shippers to understand the extreme forces to which containerships are exposed at sea, and the extent to which risks are increased dramatically if a container is stuffed incorrectly. It is vital for shippers to adhere to weight restrictions and to ensure that cargoes cannot shift within the container. It is also important for them to provide accurate and timely documentation and to label dangerous cargo properly. The immediate challenge is to promote awareness of the new Guidelines amongst the industry at large.



## 24 Navigational Safety

The widespread use of the latest edition of the 'ICS Bridge Procedures Guide' by tens of thousands of ships worldwide reflects ICS's central role in discussions on improving navigational safety. In the past 12 months there have been a number of significant developments.

A regulation mandating ECDIS (Electronic Chart Display Information Systems) was adopted by IMO in December 2008. Consistent with advice in the revised 'ICS Bridge Procedures Guide', ICS has long supported a mandatory carriage requirement for ECDIS and a submission to reflect this position was made to IMO. ICS was consequently able to influence the debate positively, and IMO has agreed that ICS's definition of "sufficient Electronic Navigation Chart (ENC) availability" would be met before the phased-in carriage requirement becomes effective. However, it will be necessary for ICS to monitor progress at the International Hydrographic Organization (IHO) towards meeting the ENC coverage necessary to make the mandatory carriage of ECDIS viable. ICS is also monitoring whether ENC licence agreements are sufficiently flexible to match the operating patterns of ships.

In December 2008, the IMO Maritime Safety Committee also approved an E-Navigation strategy to ensure that the future development of marine navigation systems will not be hampered by a lack of standardisation, onboard or ashore, or by incompatibility between vessels. While welcoming the potential for improving navigational safety, ICS has consistently argued



that E-Navigation must not be driven solely by the availability of new technology or the aspirations of equipment manufacturers. Pleasingly, the 'user focused' approach encouraged by ICS now appears to have been widely accepted by governments. While the end result of the concept cannot yet be predicted, enhanced communication and hence greater information flow between ship and shore are likely outcomes. Some comfort can be taken from the now widely held view that E-Navigation does not simply mean a new set of equipment on the bridge. ICS continues to liaise closely on these issues with the International Association of Marine Aids to Navigation and Light House Authorities (IALA).

ICS has also participated throughout the discussions at IMO on the implementation of Long Range Identification and Tracking of ships

(LRIT). In December 2008, IMO agreed transitional arrangements until 30 June 2009, following legal implementation on 31 December 2008. But the United States, amongst others, advised IMO that after 30 June 2009 ships could be detained if their flag state has not fully implemented LRIT. ICS has stressed to governments that imposing sanctions against shipping for non-compliance with LRIT measures that are the responsibility of administrations, and beyond the control of ships, would be inappropriate and unacceptable.

In 2008, ICS was granted consultative status at the International Mobile Satellite Organization (IMSO), which is the inter-governmental body that oversees public safety and security communication services provided via INMARSAT satellites including the Global Maritime Distress and Safety System (GMDSS). The industry should benefit from direct ICS participation in IMSO as governments implement the



new IMO requirements for LRIT - IMSO having been appointed by IMO as the International LRIT Co-ordinator.

In November 2008, the ICS Chairman spoke on behalf of the industry at a major symposium, in Kuala Lumpur (organised by the Nippon Foundation and the Round Table of international shipping associations, and supported by the governments of Indonesia, Malaysia and Singapore) which discussed current developments in support of safety of navigation and protection of the marine environment in the Straits of Malacca and Singapore. This included the delicate question of how the industry might share the burden of costs for navigational aids which, for several decades, have been generously funded by Japan. A major concern of ICS has been to ensure that any future funding by industry could be achieved in a manner consistent with the principles established by UNCLOS

with regard to international waterways, which prohibits the charging of individual ships. Following several years of discussion, the littoral states now appear to have accepted that voluntary contributions by the Middle East Navigation Aids Service (MENAS) to the funding of services in South East Asia should be seen as a *de facto* industry contribution. Japan will also continue to provide generous funding in the future.

Discussions are also taking place about the establishment of a Western Indian Ocean Marine Highway and the introduction of routing measures that could eventually extend from as far North as the approaches to the Gulf, all the way down the East coast of Africa and around the Cape of Good Hope. ICS attended a preliminary meeting to launch this World Bank funded project, in Johannesburg in February 2009. However, ICS is very concerned by proposals that the traffic lanes may be as narrow as 5 miles, seemingly presenting 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. The concept could also set an unwelcome precedent for the management of deep sea navigation elsewhere, and will require careful consideration by IMO.

### Ship Recycling

In the process of recycling ships that have reached the end of their working life almost nothing goes to waste. It is undoubtedly a 'green' industry and employs a large workforce. However, while the principles of ship recycling may be sound, the working practices and environmental standards in some recycling yards sometimes leave

much to be desired. The majority of facilities are located in the Indian Sub-Continent and China.

In May 2009, IMO is expected to adopt a new Convention for the Safe and Environmentally Sound Recycling of Ships, at a Diplomatic Conference in Hong Kong, to address concerns about conditions in recycling yards. This will be the culmination of more than 10 years of discussions, since the initial development by ICS of an 'Industry Code of Practice on Ship Recycling' which formed the basis of IMO Guidelines and many of the principles underpinning the current draft Convention. More recently, this industry Code has been superseded by an "Interim Measures" document, developed by the ICS-led Industry Working Group on Ship Recycling, which outlines key principles for shipowners to follow when selling redundant ships, such as the need for vessels to be delivered 'gas free' and with a comprehensive inventory of potentially hazardous materials.

In 2008, IMO made considerable progress with the final draft text and governments have accepted changes, suggested by ICS, to ensure that shipowners will know whether individual sales have been approved by governments. ICS continues to lead the Industry Working Group, which last met in January 2009 in order to ensure a co-ordinated approach by the industry in the run up to the Conference. The Group is now developing further voluntary measures, given the political reality that it will probably take several years for the new Convention to enter force. This additional guidance should be finalised as soon as the IMO Convention is adopted, but will be updated periodically as the IMO recycling



26 standards are implemented and more experience is gained.

There are still some outstanding issues to be resolved at the Diplomatic Conference, one of the most significant for shipowners being the method of determining concentration values for hazardous substances (or 'threshold values') that would trigger reporting requirements under the Convention. Further clarification is also required regarding the approval mechanisms for yards. In view of the large number of additional ships that are expected to be disposed of as a result of the economic downturn, these issues are all the more important.

Ultimate responsibility for conditions in the yards must rest with the countries where they are situated. However, the shipping industry has fully accepted responsibility to do what it can to minimise potential problems, and the adoption of the IMO Convention, including a mechanism for the approval of yards, should be very useful in helping the shipping industry to ensure that redundant tonnage is disposed of safely.

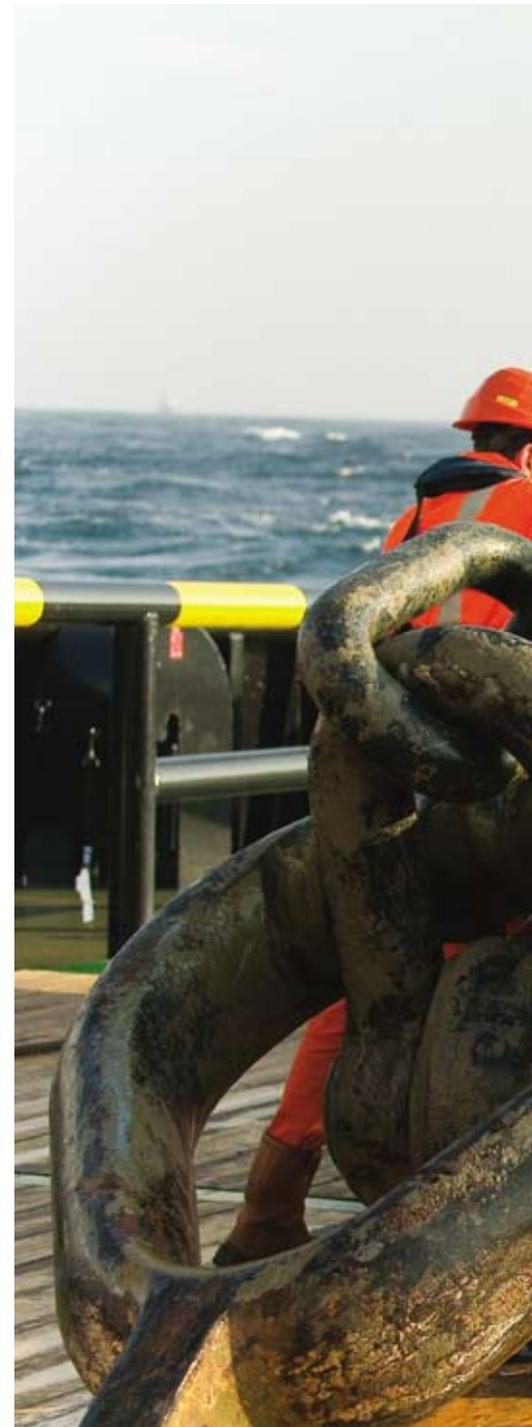
### Repatriation of Seafarers and Crew Claims

The vast majority of reputable maritime employers have arrangements in place to ensure that seafarers are always repatriated. Nevertheless, in March 2009, at a tripartite Joint IMO/ILO Working Group in Geneva, governments, seafarers' representatives and the ISF Shipowners' Group accepted a need to develop binding international regulations to address the possibility of crew abandonment for the small number of cases when normal arrangements fail, for example following a bankruptcy.

The proposal, subject to approval by the IMO Legal Committee and the ILO Governing Body, is to amend the ILO Maritime Labour Convention shortly after it enters into force, perhaps sometime in 2011. A set of principles has been identified, in the form of draft text, which can be incorporated into the Convention using its amendment procedure.

Despite the negative publicity such cases can attract, the number of reported instances of merchant seafarers being stranded around the world actually remains very small in proportion to the huge number of ships trading internationally. Moreover, in several reported "abandonment" cases, seafarers have apparently been reluctant to leave their ships, when they could have been repatriated, due to fears about losing any unpaid pay. However, it has also been suggested that the current economic downturn may lead to an increase in abandoned ships. There has therefore been strong support from governments and unions for a mandatory solution to ensure the effective provision of financial security for abandoned seafarers, so that they will always be repatriated and be paid their contractual entitlements, and that up to four months of outstanding wages and entitlements can be paid.

Although ISF and ICS had questioned the necessity of new regulations, governments have now accepted union arguments in support of mandatory financial security such as insurance for their claims following abandonment. ISF and ICS are therefore now engaged in discussions with the P&I Clubs and other interested parties to ensure that the liabilities proposed can be covered, even when a company might be bankrupt and not have







paid its insurance premium. It will be important to avoid additional administrative burdens, which could possibly be out of all proportion to the size of the problem.

In a separate development at the IMO/ILO meeting in March 2009, governments also accepted additional requests from seafarers' unions for a mandatory international rule providing for financial security from the shipowner for crew claims arising from fatality or personal injury. Principles for a text were also developed for incorporation into the ILO MLC. This issue is different to abandonment in that standard P&I insurance already provides cover for this liability.

### **ILO Maritime Labour Convention**

As the official 'social partner' responsible for co-ordinating national maritime employers' associations at the International Labour Organization (ILO), ISF continues to promote the ratification of the ILO Maritime Labour Convention (MLC), which ISF helped to negotiate, with the International Transport Workers' Federation (ITF), at the last major ILO Maritime Labour Conference in Geneva in 2006. The so called ILO "Super Convention" consolidates over 60 existing ILO maritime labour standards into a single instrument. 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 signs are very positive that the ILO MLC will come into force without undue delay, delivering the level playing field of high maritime



employment standards which employers and seafarers' unions require. It has already been ratified by the largest open registers - the Bahamas, Liberia, Marshall Islands and Panama - in addition to Norway. Meanwhile, an accord for a social agreement between employers represented by ECSA and European seafarers' unions, concluded in May 2008, means that the Convention is on course to be ratified by EU Member States, so that it should enter into force globally within the next two years. Important labour supply nations, such as China and the Philippines are also making progress towards ratification.

In September 2008, ISF co-ordinated the maritime employers' group at two intensive weeks of ILO tripartite meetings in Geneva, which finalised sets of guidelines, for use by flag states and port state control officers, concerning enforcement of the ILO MLC. The Employers' Group achieved its objective of ensuring that these Guidelines are fully consistent with the details of the ILO MLC and provide a level playing field. In 2009, ISF has also contributed to the development and trial of ILO training materials for use by those enforcing the Convention.

An important aspect of the Convention's enforcement will be the issuance of ILO Maritime Labour Certificates, usually following inspection by a classification society, and the requirement for ships to maintain a Declaration of Maritime Labour Compliance. ISF has therefore commenced dialogue about implementation of these new procedures with the classification societies, which will continue in 2009.

### ILO Minimum Wage

ISF, as the co-ordinator of the Employers' Group of the ILO Joint Maritime Commission (JMC) met with representatives of the International Transport Workers' Federation (ITF) in Geneva, in February 2009, to review the current figure for the ILO Minimum Wage for Able Seafarers, which currently stands at US\$ 545 basic pay per month.

This latest increase only came into effect in January 2009, in line with a schedule of annual increases agreed in 2006. Given that the last increase was so recent, and in view of the uncertainty of the global economic crisis, ISF explained that employers could not agree to any immediate further increase. Although most unions recognise the need to help safeguard employment for seafarers, some unions were disappointed by this response. However, ISF has agreed that, under the auspices of the JMC, employers and unions should meet again to review the situation if the market improves, or in February 2010.

ISF remains committed towards the principle of the ILO Minimum Wage for Able Seafarers which is now referenced in the new Maritime Labour Convention. Although only recommendatory, it is important for employers in developing countries. The ILO Minimum Wage also influences many collective bargaining agreements and is sometimes referred to in legal rulings. In the meantime the figure of US \$545, which came into effect in January 2009, remains in place.

It should be stressed that when overtime and other mandatory entitlements are also taken into account, the total wages received by seafarers being paid the ILO minimum are considerably greater. In practice, moreover, the basic wages of the vast majority of the world's 1.25 million seafarers are significantly greater than the ILO minimum. Indeed, the ILO minimum wage is substantially higher than that which most seafarers, two thirds of whom come from developing countries, would attain in comparable shore based employment.

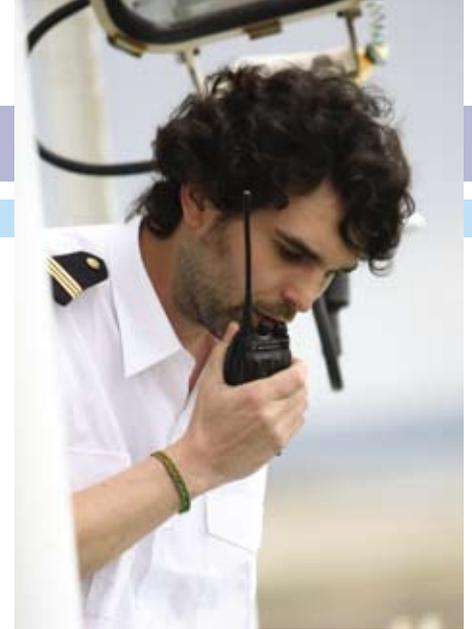
### Manpower Supply and Training

Prior to the economic downturn, increasing concern was expressed about the declining availability of sufficient numbers of suitably trained and qualified ships' officers to operate a rapidly expanding world fleet which is increasingly technically sophisticated.

Connected to this has been a worry about the impact any manpower shortage might have on the quality of the seagoing workforce. Despite the dramatic

improvement in the industry's safety record and environmental performance over the past 20 years, recent data from P&I Clubs has suggested an increase in the number of collisions and groundings caused by basic navigational errors. There has also been a regrettable resurgence in cases of non-compliance with elementary MARPOL regulations. Although the contraction in world trade has eased immediate pressures, ISF is keen to emphasise the





30 importance of companies continuing to train sufficient numbers of new officers for the future. Many senior officers still serving at sea are now aged 50 or older and are shortly expected to retire, a trend that may be given additional momentum by the downturn. This is particularly the case amongst officers from OECD countries, whereas officers from Asia have a tendency to retire even earlier. It is therefore crucial for the industry's long term future that it avoids mistakes made during the last major shipping recession in the 1980s, when recruitment and training were drastically curtailed and in some countries there was, in effect, a lost generation of young ships' officers.

In 2009, in co-operation with BIMCO and the Institute for Employment Research at the University of Warwick, ISF will commence work on a comprehensive study of the worldwide supply and demand for seafarers, for publication in 2010. The study has been conducted as a service to the industry, at 5 year intervals, since 1990. Data collected from ISF national associations in 2008 suggests that levels of training have indeed increased since the last major ISF/BIMCO Manpower Update in 2005, although acute shortages of officers have persisted in certain trades, 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 and make predictions for the decade ahead, taking full account of the recent slump in shipping markets.

In a most welcome development, the IMO Secretary-General launched a 'Go to Sea!' campaign in order to focus attention, amongst governments

and industry, on the importance of ensuring an adequate supply of high calibre seafarers. On behalf of the industry, the ISF Secretary General was invited to set out the attractions of careers at sea at the launch of the campaign at IMO headquarters in November 2008.

In conjunction with the IMO campaign, in April 2009 ISF launched its Centenary project, an international film to explain careers in shipping to young people, emphasising how a career at sea is a stepping stone to an exciting career in one of the world's most dynamic industries. Thousands of copies are being distributed internationally, free of charge, to complement the careers promotion efforts of national associations. The DVD version of the film is available in several languages: English, Arabic, Chinese, French, Greek, Italian, Russian and Spanish. It can also be accessed at [www.careers-at-sea.org](http://www.careers-at-sea.org).

Closely related to quantity, of course, is the quality of training of the seafaring workforce. In February 2009, ISF represented maritime employers at an important IMO meeting which substantially progressed the current review of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), last revised in 1995.

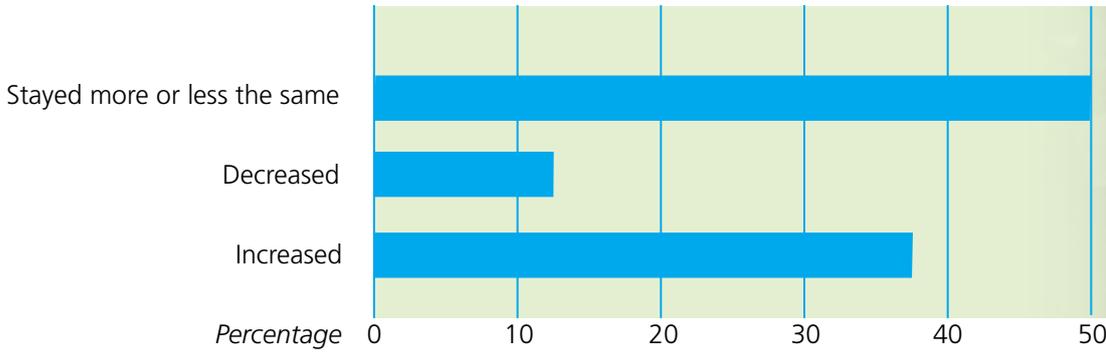
Matters under review include flag state recognition procedures for foreign seafarers, quality standards reporting procedures for governments approving training, and revalidation of basic training. Other issues include environmental training, the development of new competence standards for Able Seafarers, medical standards, and possible competences for 'electro-technical' personnel and

for service on offshore support vessels. As discussed elsewhere, the review will also take into account industry proposals for improving awareness of safety procedures amongst tanker personnel.

Some decisions have already been taken, for example requirements for knowledge of celestial navigation will be preserved, in spite of the universal use of GPS systems. Text for amendments to STCW will be discussed further in 2009, and is scheduled to be adopted by a Diplomatic Conference in the Philippines in 2010.

### % of Members reporting changes in Cadet Recruitment Levels since 2005

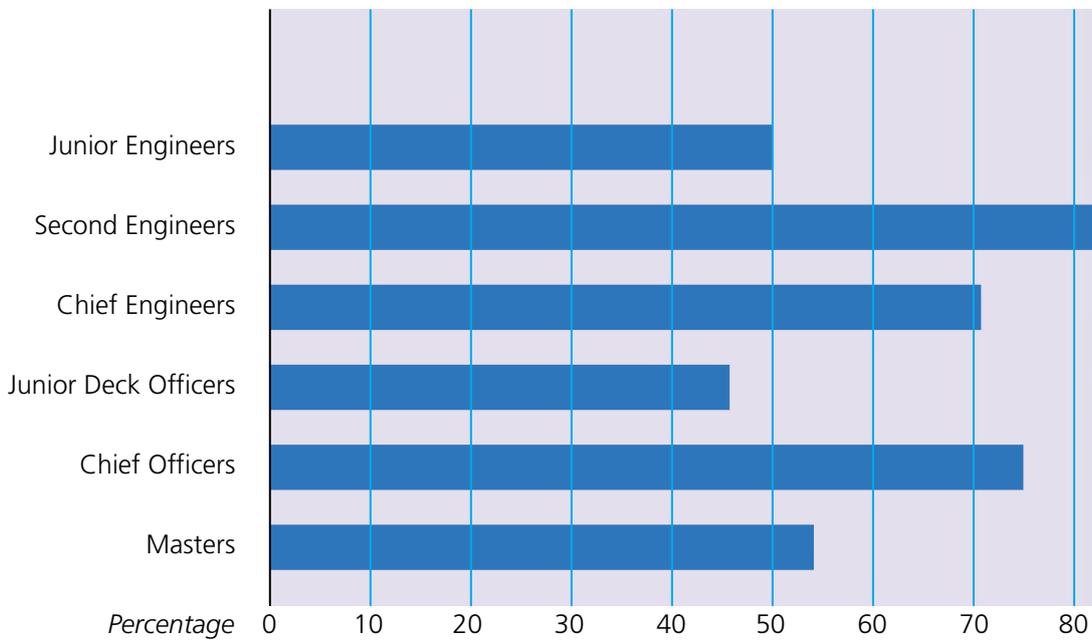
Source: ISF Interim Manpower Survey 2008



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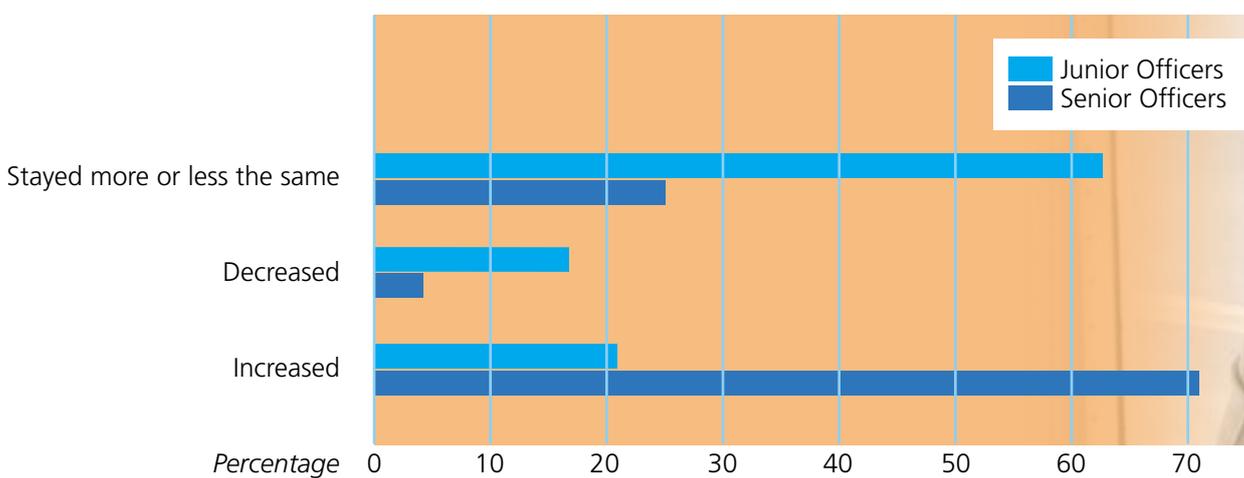
### % of Members reporting shortage of particular Officer Ranks since 2005

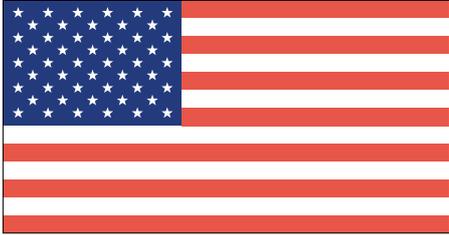
Source: ISF Interim Manpower Survey 2008



### % of Members reporting changes to Average Ages of Officers since 2005

Source: ISF Interim Manpower Survey 2008





## 32 United States Developments

The political landscape in the US has changed dramatically following the inauguration of the new Administration in January 2009, and the election of a Democrat majority in both Houses of Congress. In particular, greater focus is now expected to be given to environmental issues that will impact on shipping, and it remains to be seen if there will be any change in the propensity of individual US States and the Federal government to adopt local maritime rules at variance with IMO requirements.

In addition to the major issues discussed elsewhere, such as continuing industry opposition to 100% container scanning and the development of the US approach on CO<sub>2</sub> emission reductions, ICS, in conjunction with the Chamber of Shipping of America, remains closely involved with a number of ongoing regulatory discussions. These include the unilateral marine sulphur emission rules in California, the regulation of the treatment of ballast water (Congress wishes to impose a 'kill standard' for removing unwanted marine organisms 100 times higher than that agreed by IMO) and - an issue gaining momentum with the imposition of speed restrictions on the East Coast - measures to protect whales from both the risk of collision and the reported effects of ship sound.

An immediate challenge for ships trading to the US is to comply with the new NPDES general permits concerning the licensing of ships' discharges, which in addition to ballast includes water used as engine coolants or even deck run-off. The major challenge is largely bureaucratic, and the Chamber of Shipping of



America has been helpful in providing advice to the global industry on how to demonstrate compliance with the rules, which officially came into effect in January 2009. The introduction of the permits is the result of a legal technicality whereby the enforcement of MARPOL by the Environment Protection Agency was deemed by the courts to be inconsistent with the US

Clean Water Act. However, while the international industry can live with the Federal rules, the situation has been greatly complicated by individual US States adopting different requirements.

A broader concern is that the new US Administration may choose to disregard the spirit, if not the letter, of international understandings



participated in the most recent 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 is set to become all the more important. In the current economic and political climate, it may be necessary to anticipate the worst.

In a significant judgment, in June 2008, the US Supreme Court decided on a case put forward by Exxon, supported with a 'friend of the court' brief from ICS and others, ruling that punitive damages for oil spills may be awarded in addition to compensatory damages. However, in accordance with established maritime law principles, the Court ruled that a punitive award should be limited to an amount equal to the compensatory award. The amount of punitive damages payable by Exxon (for the 1989 'Exxon Valdez' disaster) was reduced to US\$ 500 million, i.e. the same amount as the compensatory damages awarded earlier by a District Court. This is a large reduction from the US\$ 5 billion initially awarded by a jury and the US\$ 2.5 billion decided by a lower court. It is disappointing that the Supreme Court decided that punitive damages could be awarded in addition to the remedies prescribed by US Federal law. Nevertheless, the Court's decision that the punitive damages should be limited to an amount equal to the compensatory damages is positive. It provides the much needed consistency and predictability which ICS and the industry urged the Supreme Court to maintain in maritime cases.

about liberalised shipping markets, as well as trade in general. While the 'buy American' provisions in President Obama's fiscal stimulus package may yet prove to be rhetoric, measures such as MARAD's aggressive promotion of the use of US flag LNG shipping and crews, in international trades, is a source of worry. In 2008, under the Bush administration, ICS

## European Union Developments

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ICS and ISF have welcomed the political agreement reached in Brussels, at the end of 2008, between the various EU institutions, for the adoption of the Third European Maritime Safety Package. The package includes a number of new Directives and political agreements, intended to address matters ranging from flag and port state enforcement to accident prevention and liability. It represents the final response to issues that emerged from the 'Erika' and 'Prestige' oil spills in 1999 and 2002.

It is probably fair to say that the EU institutions, not least EU governments, have generally demonstrated a willingness to take account of most of the issues raised by the international shipping industry during the last five or six years of discussion. In short, the major matters of concern to ICS and ISF have been addressed, and the package should genuinely help further improve maritime safety in Europe. Some detailed but important questions still need to be resolved on the precise meaning of the EU's position on civil liability issues, and the independence from 'political interference' of those charged with handling any immediate pollution response with regard to designating 'places of refuges' for ships in distress. ICS has also expressed concerns about the potential safety implications of the requirements for mutual recognition of classification society certificates. In the round, however, the final package is satisfactory.

Most importantly, the package appears to be compatible with the authority of IMO as the industry's global regulator, a point underlined by the separate review of EU maritime policy (the



## Asian Developments

A significant development in 2008 was the incorporation of Singapore and the Republic of Korea as members of the Consultative Shipping Group (CSG) of maritime governments, which seeks to uphold OECD maritime free trade principles. While the CSG might not yet be ready to invite China to join soon (notwithstanding China's commitment to working with the 'friends of maritime' group at WTO) ICS has suggested that Hong Kong might be a suitable member to join this important diplomatic grouping in the near future.

In India, however, there have been worrying signs that the government may seek to broaden protection of cargoes carried by national flag ships, in international trades, by extending the definition of 'government' cargoes. Efforts by the European Union to negotiate a bilateral maritime agreement with India have so far proved unsuccessful, with protection for LNG trades apparently being a particular sticking point. More routinely, with encouragement from ICS, the CSG has raised concerns about Vietnamese freight taxes, and the Indonesian government's intervention in the setting of Terminal Handling Charges, which would seem to be an undue interference in the commercial activities of international operators.

With the exception of Australia and New Zealand, which have developed unilateral requirements concerning ballast water management and bio-fouling, the need to raise concerns with Asian governments about the enactment of national regulations that may be in conflict with global technical rules adopted by IMO is

so called Borg review) completed by the European Commission in 2008. Following a decade of sometimes very difficult discussions, the possibility now exists of a period of more cordial relations between the global industry and the EU.

The role of the European Parliament in encouraging a robust response to pirate attacks off Somalia also needs to be acknowledged, as does the commitment of the EU to free trade principles and its pursuit of the incorporation of maritime services in a new global agreement at the World Trade Organization.

As reported elsewhere in this Review, the approach of the EU towards carbon emission reductions, as well as maritime competition rules and supply chain security, remain extremely important issues with which ICS continues to be engaged in co-operation with the European Community Shipowners' Associations (ECSA), which shares a common membership of national shipowners'

associations. While the 10 year maritime strategy announced by the Directorate General for Transport in January 2009 has been broadly welcomed by the European industry, ICS and ISF will need to monitor closely the implications for international shipping as the strategy is taken forward.

However, in 2009 at least, the intensive amount of work generated by the EU involvement in maritime affairs in recent years may hopefully be relaxed as the current Commissioners approach the end of their terms of office. While the European Commission now appears to have a better understanding of the need to avoid regional rules for shipping and of the industry's sound environmental performance, more probably needs to be done to increase this awareness amongst members of the European Parliament. ICS and ISF therefore remain committed to seeking opportunities, both formal and informal, for dialogue with MEPs on issues of common interest.



# REGIONAL DEVELOPMENTS



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infrequent in comparison to other regions. Nevertheless, it remains most important for ICS to engage with authorities in Asia as they seek to harmonise their shipping and trade policies with developments elsewhere. Given that the majority of the world's seafarers are recruited in Asia, this is also the case for ISF with regard to issues such as promotion of the ILO Maritime Labour Convention and the revision of the IMO STCW Convention.

Despite the EU prohibition of liner Conferences in trades to and from Europe as from October 2008, ICS has encouraged the maintenance of tried and tested Conference regimes in other Asian trades. China has recently indicated that it currently has no intention of prohibiting them, despite its review of general competition law and recently enforced requirements for Conferences to submit additional data about their activities. While the major review of maritime competition policy in Japan continues, with the support of the Japanese Ministry of Transport it is hoped that current arrangements can be maintained. However, the impact on maritime trades of a general overhaul of competition law in India is less certain.

As reported elsewhere, the ICS Chairman spoke on behalf of the industry at a major symposium organised by the Nippon Foundation, with the support of Malaysia, Singapore and Indonesia, in Kuala Lumpur in November 2008, which discussed current developments in support of safety of navigation and protection of the marine environment in the Straits of Malacca and Singapore. ICS also maintains good relations with the secretariat of ReCAPP (the Regional Co-operation Agreement on Combating Piracy and

Armed Robbery against ships in Asia). The ReCAPP initiative appears to be paying dividends, with a dramatic reduction in incidents in Asia, although the problem of armed robbery at sea has not yet been entirely eliminated.

ICS and ISF continue to co-operate with the Asian Shipowners' Forum (ASF), whose membership includes national shipowners' associations which are also ICS/ISF members, and will participate at the next ASF Annual Meeting in Taiwan, in May 2009.

### **Rotterdam Rules on Transport and Cargo Liability**

A new Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea has been adopted by the United Nations General Assembly, following years of negotiations, in New York and Vienna, under the auspices of the UN Commission on International Trade Law (UNCITRAL). It will be formally signed by governments at a ceremony in the Netherlands in September 2009, and will then be known as the 'Rotterdam Rules'. The intention is that the new Convention will replace outmoded cargo liability regimes such as the Hamburg and Hague/Visby Rules. Significantly, the new regime has been crafted with much input from the United States, which put aside its own proposal for a new domestic regime on cargo liability.

ICS has been centrally involved throughout the in-depth discussions, in order to 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. Principally of relevance to containership operators,

the Rules can in some circumstances also apply in other trades. Following a detailed analysis of the Rotterdam Rules by the ICS Maritime Law Committee, ICS has concluded that, although far from perfect, and in some respects overly complex, the new regime should be promoted by the industry in preference to the status quo and the risk of a proliferation of regional regulations. This is a view shared by BIMCO, and also the World Shipping Council which represents the major container lines. ICS is therefore now encouraging governments to sign, ratify and implement the Rotterdam Rules.

In view of the international consensus and difficult compromises agreed during three weeks of concluding negotiations in June 2008, at the United Nations in New York, it is very disappointing that the European Commission, with encouragement from the European Shippers' Council, is proceeding with the development of a regional EU cargo liability regime that could undermine the Rotterdam Rules and global uniformity. ICS and ECSA are therefore encouraging EU Member States to resist the Commission's proposals and implement the Rotterdam Rules as soon as possible.

### **Liability and Insurance Issues**

An IMO Convention establishing an international civil liability regime for pollution damage caused by bunker oil spills (the Bunkers Convention) entered into force in November 2008. While oil spills from tankers have long been covered by the Civil Liability and Fund Conventions, all ships greater than 1,000 GT are now required to obtain a certificate of insurance from a State Party to the Bunkers



Convention in order to enter ports/ terminals of States Parties. Despite initial concerns, the certification process has run relatively smoothly, assisted by the helpful decision of a small number of administrations to issue certificates to ships registered in non-Party states, irrespective of whether such ships would be calling at the issuing country's ports. By early 2009, the Convention had been ratified by a broad cross section of over 30 flag and coastal states.

There is now a comprehensive range of maritime liability Conventions in place addressing potential pollution from ships, so that claimants, if necessary, can have swift access to millions of dollars of compensation. The one significant remaining gap should be bridged once the liability and compensation Convention governing damage caused by hazardous and noxious substances (HNS) incidents comes into force, following years of delay since its adoption in 1996. This will hopefully be achieved sooner rather than later, following an important agreement by the IMO Legal Committee in April 2009 on the draft text of a new Protocol developed under the auspices of the International Oil Pollution Compensation Fund, which is likely to be responsible for administering the HNS Fund when the Convention enters into force. The Protocol is intended to address issues which some governments believe have been impediments to the entry into force of the existing HNS Convention.

These issues 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. ICS has worked hard to ensure that the Protocol will not impact on shipowners' liability (the "first tier") and that the "second tier" is preserved. To achieve this, ICS has agreed that the shipowner's liability in incidents involving packaged HNS will be increased as part of a compromise intended to achieve equitable sharing of the costs of compensation between shipowner and cargo interests. The draft Protocol is now scheduled for adoption at a Diplomatic Conference, in London, in early 2010.

Meanwhile, ICS remains firmly opposed to a proposal from the Comité Maritime International (CMI), the international association of maritime lawyers, that IMO should develop a special international regime to cover liability and compensation claims that may result from a coastal state's decision to grant or deny access to a ship in distress. The proposal has been rejected by governments at IMO, most recently in April 2009, in favour of implementation of the existing international regimes which would cover the vast majority of potential 'places of refuge' liabilities. As well as being unnecessary, the CMI proposal could complicate decisions, which have to be taken quickly, on granting access to places of refuge, when the only criteria for such decisions should be the protection of life and the environment.

The ICS Insurance Committee continues to fulfil its primary function of liaison with the London marine insurance market, with regular meetings held with representatives of the Joint Hull Committee and the Joint War Committee to discuss topical

issues of interest to property and war underwriters and shipowners. These include the Hull War, Strikes, Terrorism and Related Perils Listed Areas, which have been amended several times in response to advice from the JWC's security consultants. ICS continues to stress the need for greater dialogue between insurance interests and shipowners' organisations, particularly when changes are contemplated.

ICS is also leading shipowner representation (with the International Group of P&I Clubs) on salvage issues, particularly in relation to the smooth operation of the Lloyd's Open Form and SCOPIC systems. An International Salvage Union (ISU) proposal 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, is being considered by a working group established by the Lloyd's Salvage Group. ICS remains sceptical of the proposal, believing that salvage services are already generously rewarded under the present system.

### Facilitation of Maritime Trade

Trade facilitation is the maintenance and progressive development of an international framework to help simplify and harmonise those administrative procedures that impact on the efficiency of world trade. However, the importance of discussions on these issues at the World Trade Organization (WTO) and at the IMO Facilitation Committee (FAL) is often understated. During the buoyant markets experienced in recent years, incremental improvements have perhaps been taken for granted. But in the current economic climate, there is perhaps a greater danger that new bureaucratic procedures will be



introduced, unilaterally, as a pretext for measures motivated by protectionism.

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The IMO Facilitation Convention and its associated Committee have always been somewhat unique in terms of IMO institutions. Broadly speaking, the FAL Committee has always existed to make life easier for the shipping industry and its personnel, having the aim of simplifying procedures and reducing paperwork, rather than increasing it, which is sometimes a necessary by-product of much of IMO's other vital work to improve safety and pollution prevention. ICS has therefore greatly welcomed the institution of FAL, in January 2009, as a permanent IMO Committee under the IMO Convention, with the same status as the IMO Maritime Safety Committee (MSC) and the IMO Marine Environment Protection Committee (MEPC). The timing of this development is very appropriate, and as the leading industry representative at FAL, ICS was honoured to make a presentation to governments at a special ceremony marking the Committee's new elevated status.

Since its adoption in 1965, the FAL Convention has become ever more important, as maritime trade has expanded almost exponentially, and the world has become a more complex place. It would be foolish to deny that bureaucracy has its place and is often a necessary evil. But there has been an increasing need for balance between what can sometimes be over burdensome administration and the necessity for simplification of 'paperwork' when ships call at foreign ports.

For reasons well understood, there has been a far greater emphasis on security in recent years, both within



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IMO and society as a whole. But from the perspective of the shipping industry, the emphasis given to trade facilitation has possibly suffered as a result. Indeed, only a few years ago, the very survival of the FAL Committee was seemingly under threat. Now that the continuation of an important area of IMO work is assured, this is hopefully a sign that the pendulum may be about to move back in the opposite direction, so that in the interests of maritime trade, and the smooth functioning of the world economy, a more appropriate balance between the demands of facilitation and security might be struck.

It is important that governments ensure that there is appropriate representation in the FAL Committee (and the WTO facilitation negotiations) by officials who are concerned with promoting the objectives of the FAL Convention. While the need for participation by Customs officials is clearly vital, it is important that governments do not view the FAL Committee as a forum in which they only participate for defensive reasons.

The most recent FAL Committee in January 2009, addressed issues including the disembarkation of persons rescued at sea, stowaways, and the submission by ships of ISPS Code security information. Action was also taken to progress the 'single window concept' whereby shipping can submit data required by shored based agencies through a single focal point and, developing a proposal by ICS, to make possible the electronic submission of ships statutory certificates for port state control purposes.

## Supply Chain Security

ICS continues to engage with Customs authorities worldwide, as they develop ever more complicated supply chain security regulations, prompted by fears that ships might be used to deliver 'weapons of mass destruction'. Ship operators have already successfully implemented the stringent requirements of the post '9/11' IMO International Ship and Port Facility Security (ISPS) Code. However, responding to demands from politicians to maintain the integrity of cargo as it moves through the wider supply chain has proved an even greater challenge.

Over the past five years, the liner shipping industry in particular has successfully adapted to the requirements for details of cargo to be reported to Customs authorities, in the nation of delivery, at least 24 hours before loading on board a ship. Having initially been introduced by the United States, similar '24 hour' rules are now being implemented in Europe and China, as well as Canada and Australia. ICS's goal has been to ensure that, so far as possible, these rules are in accordance with principles adopted by the World Customs Organization (WCO) as part its SAFE framework. As well as attending WCO SAFE Framework oversight meetings, ICS (with the World Shipping Council) also participates at the regular meetings of the WCO Private Sector Consultative Group, which is becoming the principal industry sounding board for other WCO initiatives.

However, the task of maintaining international uniformity has been frustrated as politicians keep moving the goal posts in ways that are not always compatible with WCO principles, which are based on a 'risk based'



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approach to security. In particular, ICS is maintaining its opposition to the implementation of the US law on 100% container scanning of US bound cargo at foreign ports. In the interests of international uniformity, ICS has also been involved in helping WCO to amend its standards in line with the additional US Customs '10+2' rules, implementation of which started in January 2009 with full compliance required by January 2010. ICS has also submitted detailed comments to US Customs.

In addition, ICS has been working with ECSA and WSC to monitor the smooth implementation of the new EU supply chain security regime. Encouragingly, it appears that the introduction of the EU advance information reporting requirements will be deferred until December 2010, due to teething problems in establishing the necessary Customs IT systems. However, more probably needs to be done to alert shipping companies, in all trades, to be prepared for the administrative implications of the new regime, especially with regard to investment in IT systems that will be necessary to ensure compliance when the new EU regime is fully implemented.

In December 2008, ICS communicated formally with the Customs authorities in China, seeking clarification of some of the details of its new '24 hour' advance cargo reporting rules, which are due to be implemented during 2009, so that ship operators can comply without difficulties. The rules are understood to be largely compatible with EU and US requirements, which is encouraging. ICS received a helpful response from Chinese Customs which will hopefully pave the way for clarification of remaining questions.





## Competition Rules

In October 2008, liner Conferences were finally prohibited in trades to and from the European Union, the shipping industry having failed to persuade EU Member States of the advantages of maintaining the block exemption for liner shipping from EU competition rules. Container lines must therefore respond to the economic downturn without the benefit of this special form of co-operation between shipping companies that has existed since the 19th century.

Although EU law is unchanged, 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 in 2008, making the need for operators to conduct thorough self assessments of compliance all the more important, especially where they participate in shipping pools.

Liner Conferences have provided stability to markets, helping guarantee the maintenance of scheduled services to more remote destinations in what today are now chiefly containership trades. To replace one of the functions previously undertaken by Conferences, the European Liner Affairs Association (ELAA), which represents container lines trading to Europe, has evolved into a trade body providing market data for the liner industry with the approval of the European Commission. But the abolition of Conferences is something of a leap in the dark, and the result is likely to be an increase in market concentration. It is also possible that the availability of services on north-south trades will be reduced. Whether or not shippers will derive benefit from the changes they have advocated remains to be seen.

Meanwhile, ICS policy is still to defend the existence of liner Conferences elsewhere in the world and ICS has been involved with current and ongoing national policy competition policy reviews in China, India, Japan and Hong Kong. It will be particularly interesting to see how the United States chooses to react to developments in Europe. A review of the US Ocean Shipping Reform Act is quite possible at some point under the new US Administration, which will presumably be led by the Federal Maritime Commission (FMC), although in view of the current downturn it has been indicated that there are no immediate plans to do so.

In 2009, another pressing issue for the containership industry has been the review of the block exemption from EU competition rules for shipping consortia which, although principally of interest to liner trades, is also of potential relevance to other sectors. ICS has worked closely on this file with ECSA and ELAA. ICS has been encouraging the European Commission to hold a public hearing on the issue, which it is hoped will be held during 2009.

## Canals

ICS continues to liaise with the Panama Canal Authority (ACP) and the Suez Canal Authority (SCA). Tolls for use of the two major international canals can amount, for larger ships, to hundreds of thousands of dollars per transit, comprising a significant part of a ship's operating costs.

The Panama Canal expansion project is now well underway. The ACP issued preliminary guidance on vessel specifications for the third set of



44 locks in October 2008, and in early 2009 was evaluating bids from three international consortia for the most important contract of the expansion project, the technical design and construction of the new locks. In the meantime, ICS has been pressing the case for completing the planned expansion as quickly as possible, without incurring any extra costs to Canal users who have already provided considerable up front funding through recent toll increases. While pressure on the Canal's capacity has lessened due to the present downturn in trade, there is concern that when trade volumes start to recover, the Canal may not be able to cope before the target completion date of 2014.

Of more immediate concern has been the ACP's determination to press ahead with the third tranche of planned toll increases, scheduled to come into effect in May 2009. This is in spite of the deepening global financial crisis which has had a severe effect on the industry. In January 2009, ICS (on behalf of the Round Table of international shipping associations) wrote formally to the ACP to outline how seriously the industry has been affected by the downturn, which is expected to continue into 2010 and beyond. ICS has urged the ACP to take account of the extraordinary circumstances and to consider deferring the 2009 increase and even reduce tolls in the short term. ICS also elaborated its case at a meeting in London with the Panama Canal Administrator in February 2009. However, the ACP has so far declined to postpone the increases, arguing that any changes in tolls must go through lengthy hearing processes set out in Panamanian law, which were followed in 2007 when the current set of increases was planned. The ACP





did however indicate that it might be possible for shipowners to negotiate on other areas where cost reductions could be made, such as ancillary service charges.

Elsewhere, the Suez Canal Authority announced a welcome toll freeze in January 2009, in response to the reduction in traffic through the Canal, in the main caused by the economic downturn, but also partly by the continuing piracy problems in the Gulf of Aden. ICS wrote to the SCA, on behalf of the Round Table, in February 2009, welcoming the freeze but requesting the SCA to consider a temporary reduction in tolls in order to bring some much needed relief to Canal users.

## Promoting the Industry's Profile

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ICS and ISF remain committed to ensuring that senior politicians and decision makers are aware of the importance of an efficient merchant shipping industry to the health of the world economy. This is all the more important as global trade contracts, and major decisions are being taken with regard to CO<sub>2</sub> reductions that could have a radical impact on the economic competitiveness of shipping in comparison to other less environmental friendly transport modes. There is also a need to reiterate vital principles such as the importance of open shipping markets.



ICS and ISF therefore make considerable efforts to maintain the profile of the industry and thus the possibility of dialogue, with those non-maritime regulators and policy makers that may impact on shipping. Thus, 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, the World Trade Organization, the Organization for Economic Co-operation and Development, and the World Customs Organization. In so far as they impact on seafarers, ISF also engages with the

World Health Organization (WHO) and the International Organization for Migration.

In June 2008, ICS/ISF participated as a panelist at the UN's annual meeting to review the operation of the UN Law of the Sea, while in September 2008 ICS addressed governments at a WTO Open Dialogue meeting to review progress towards a new global trade agreement. ICS has also participated in meetings on climate change and transport held by UNFCCC, UNCTAD and OECD.

In the case of the European Commission and the European Parliament, ICS/ISF work closely with ECSA in communicating on issues 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 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).

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 'shipping facts' 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.

More generally, there is growing concern that the current economic downturn will lead to an encouragement of protectionist measures applicable to maritime services, particularly in the United States. ICS is therefore seeking to maintain good relations with the Consultative Shipping Group (CSG) of maritime administrations, and ICS has been invited to participate in the next CSG meeting in Vancouver, in May 2009, which will discuss current trade policy and regulatory developments.

ICS has also worked to ensure that the shipping industry's concerns will be adequately covered at the next annual meeting of the world's transport ministers in Leipzig, also in May 2009, hosted by the Organization for Economic Co-operation and Development (OECD) International Transport Forum, the topic for the ministerial discussions being transport and globalisation. The theme of this relatively new 'Davos style' event will provide an opportunity for the ICS Chairman, who will be participating as a panelist, to promote the positive attributes of shipping and convey important messages about the need to avoid protectionism, to transport ministers at the highest level.



## Publications

ICS and ISF devote significant resources to producing authoritative and comprehensive guidance to ship operators on the implementation of international maritime regulations in accordance with industry best practices. As reported elsewhere, 2008 witnessed the publication of completely new guidelines on 'Safe Transport of Containers by Sea' (produced with the World Shipping Council). ICS and ISF currently have a range of about 30 products, most of which are published under the banner of Marisec Publications.

In December 2008, ICS published a new edition of its 'Guide to Helicopter/Ship Operations', updated in conjunction with experts from the aviation industry to provide extensive advice regarding the role and responsibilities of both the ship and helicopter. Encouragingly, around 15,000 copies have already been sold for use on board ship. Definitions of helicopter performance have been both expanded and clarified, while information regarding the location and marking of landing and winching areas has been completely revised to reflect the latest requirements of the International Civil Aviation Authority (ICAO). In recognition of a practice that has grown since the last edition was published, the Guide now contains detailed advice regarding risk assessments to be conducted when planning for the winching of marine pilots to the bridge wing of ships.

Projects for 2009 include the development of new editions of the 'ICS/ISF Guidelines on the Application of the ISM Code', the widely used 'ISF Watchkeeper' (seafarers' work hours records) software and, with OCIMF, a revision of industry guidance on 'Peril and Salvage at Sea'.

# ICS Executive Committee and ISF Council 2008/9



## Administration

The joint secretariat of ICS and ISF continues to be provided by Maritime International Secretariat Services Limited (Marisec), a body established and owned by ICS and ISF. Marisec also provides secretariat services to the International Support Vessel Owners' Association (ISOA) and the International Maritime Employers' Committee (IMEC).

In early 2009, Marisec underwent some staff changes. Alistair Hull has been recruited as an additional Marine Adviser, James Langley has joined as Manning and Training Adviser, while Emily Rowley and Tim Watson have been recruited as Policy Assistants. Kathryn Hall, Julie Rogers and Catherine Howlett have also joined as administrators.

The 2008 ICS/ISF Annual General Meetings were hosted in May by the Union of Greek Shipowners in Athens. Members re-elected Mr Spyros M Polemis (Greece) as Chairman of ICS and President of ISF. Mr Robert Ho (Hong Kong) and Mr Lars Vang Christensen (Denmark) were elected ICS Vice Chairmen, while Mr Luis Ocejo (Mexico) and Captain Dirk Fry (Cyprus) were elected ISF Vice Presidents.

The 2009 Annual Meetings will be held in May in the Docklands area of London, kindly hosted by the UK Chamber of Shipping. The meetings will conclude with a special gala dinner at the Old Royal Naval College in Greenwich to celebrate the ISF Centenary.

## ICS Executive Committee

Mr Spyros M Polemis (*Chairman*)  
Mr Noel Hart *Australia*  
Captain Dirk Fry *Cyprus*  
Mr Lars Vang Christensen *Denmark*  
Mr Patrick Decavèle *France*  
Mr Anastasios Papagiannopoulos *Greece*  
Mr Robert Ho *Hong Kong*  
Mr Masamichi Morooka *Japan*  
Mr Samuel Cooperman *Liberia*  
Mr Luis Ocejo *Mexico*  
Mr Ed Nobel *Netherlands*  
Mr Trygve Seglem *Norway*  
Mr Lars Höglund *Sweden*  
Mr Michael Everard *United Kingdom*  
Mr Michael Bohlman *United States*

## ISF Council

Mr Spyros M Polemis (*President*)  
Ms Teresa Hatch *Australia*  
Mr Hans-Georg Wurmböck *Austria*  
Mr Nicolas Saverys *Belgium*  
Mr P S de Mello Cotta *Brazil*  
Mr Don Morrison *Canada*  
Mr E Strelow Castillo *Chile*  
Mr Li Shanmin *China*  
Captain Dirk Fry *Cyprus*  
Mr Leif Kristian Nielsen *Denmark*  
Mr Mika Nykanen *Finland*  
Mr Patrick Decavèle *France*  
Ms Uta Ordemann *Germany*  
Mr Anastasios Papagiannopoulos *Greece*  
Mr Arthur Bowring *Hong Kong*  
Mr Sabyasachi Hajara *India*  
Captain Eddie Keane *Ireland*  
Mr Robert Goodall *Isle of Man*  
Dr Giovanni Delle Piane *Italy*  
Mr Mitsuo Nakamoto *Japan*  
Mr Young-Moo Kim *Korea*  
Captain Saad Al-Matouq *Kuwait*  
Mr Joe Ludwiczak *Liberia*  
Mr Luis Ocejo *Mexico*  
Mr Ed Nobel *Netherlands*  
Mr Trygve Seglem *Norway*  
Mr Carlos Salinas *Philippines*  
Mr Manuel Carlier *Spain*  
Mr Per Cronér *Sweden*  
Mr Mark Brownrigg *United Kingdom*  
Mr Joseph Cox *United States*

# ICS Organisational Structure

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# ISF Organisational Structure

