



International Federation of  
Shipmasters' Associations  
202 Lambeth Road  
LONDON SE1 7JY  
Tel.: +44 20 7261 0450  
Fax: +44 20 7928 9030  
Email: HQ@ifsma.org  
Web Site: "http://www.ifsma.org"  
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## **I F S M A - NEWSLETTER**

### **The International Shipmasters Link**

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**IFSMA Register of Technical Consultants and Maritime Experts  
(RTCME) now Available on the Internet at "www.ifsma.org"**

**IFSMA 31st Annual General Assembly to be held in  
Mariehamn, Åland, Finland - Thursday 16th and Friday 17th June**

**An Electronic Version (pdf) of this Newsletter is available at "www.ifsma.org"**

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## The IFSMA President and Executive Council

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- ❖ **President of IFSMA**  
Captain Christer Lindvall, FNI - **SWEDEN**  
Elected: 23/05/1998
- ❖ **Deputy President**  
Captain Dave Hopkins - **IRELAND**  
Elected: 1/06/2002
- ❖ **Vice President**  
Captain Koichi Akatsuka, FNI - **JAPAN**  
Elected 01/6/2002
- ❖ **Vice President**  
Captain Yannick Lauri - **LA REUNION**  
Elected: 23/05/1998
- ❖ **Vice President**  
Captain Patrick A Moloney - **USA**  
Elected: 23/05/1998
- ❖ **Vice President**  
Captain Petr Osichansky - **RUSSIA**  
Elected: 01/06/2002
- ❖ **Vice President**  
Captain Antti Palola - **FINLAND**  
Elected: 01/06/2002

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## The IFSMA Secretariat

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Headquarters contact details on front page.

- ❖ **Secretary General**  
**Captain Rodger M. MacDonald, FNI**  
Appointed: 01/08/2001
- ❖ **Assistant Secretary General**  
**Captain Paul R Owen, FNI**  
Appointed: 01/10/1996
- ❖ **Administration Officer**  
**Mrs. Roberta Howlett**  
Appointed: 08/10/2002

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## IFSMA Honorary Members

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- ❖ **Dr C P Srivastava (K.C.M.G.) - UK**  
Elected: 23/05/1985
- ❖ **Captain Nic W C Rutherford - UK**  
Elected: 15/05/1992
- ❖ **Mr. William A O'Neil - UK**  
Elected: 07/10/1993
- ❖ **Captain Henrik Sem - SCOTLAND**  
Elected: 07/10/1993
- ❖ **Captain Gerhard Goldberg - GERMANY**  
Elected: 12/05/1995
- ❖ **Captain Genji Yoshinaga - UK**  
Elected: 23/05/1997
- ❖ **Captain Hiroshi Kawashima - JAPAN**  
Elected: 23/05/1998
- ❖ **Captain Roger Clipsham FNI - UK**  
Elected: 01/06/2002
- ❖ **Mr. Efthimios Mitropoulos FNI - UK**  
Elected: 12/05/2004

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## The IFSMA 31st AGA

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The IFSMA 31st Annual General Assembly will be held in Mariehamn (Maria's Town), on the Finnish Island of Åland, which is situated in the Baltic Sea between Sweden and Finland. The AGA will be jointly hosted by the Swedish Ship Officers' Association and the Finnish Ship's Officers' Union.

This event will take place on Thursday 16th and Friday 17th June 2005. Submissions from Members for General Assembly Papers should reach the IFSMA Office by no later than 15th February so the Executive Council may consider them.

Members should already have received full details, including Hotel Booking information and a Registration form for completion and return to the IFSMA Secretariat. If you have not received the necessary information please contact the office.

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## Some thoughts from your Secretary General

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In retrospect, I think we had a good year in 2004 and made progress on several aspects of our work. We all may reflect on the year that has passed and make our own evaluation of how well or bad it was overall, but at the end of this year in particular I am looking forward to 2005 with growing optimism. We are finally addressing the issues of criminalisation which will start at the joint ILO/IMO working group on this matter in January 2005. In February IFSMA is chairing the First Lloyd's Conference on Criminalisation in London. In May I shall be discussing the same topic at the European Manning and Training Conference in Riga. Meanwhile, growing concern is being expressed from a number of other groups on the Fatigue Issue and the suggestion of more debate on appropriate manning levels for the increased responsibilities faced by the Shipmaster and officers in the 21<sup>st</sup> century.

The 31<sup>st</sup> Annual AGA in 2005 will be held on June 16<sup>th</sup> to 17<sup>th</sup> at the island of Åland which lies between Finland and Sweden. These two countries are hosting the occasion and it promises to be an excellent occasion. I would like to ask each of you to consider presenting a paper at this Assembly. There is no restriction on the topic as long as it is relevant to the interests of today's Shipmasters. However as we will be printing part A of the Annual Report in a more formal style this year, it would help if the papers were sent in as soon as possible.

As I mentioned before the Nautical Institute, IFSMA, Trinity House and the Honourable Company of Master Mariners are taking the Command Seminar around the world and the first for 2005 will be held in Oslo on the 9th and 10th June, conveniently close to our AGA. So please come and enjoy the Scandinavian summer and contribute to these important meetings.

We have completed the revised IFSMA Policy document which has been sent to all the Associations and we have kept some in the office for those members attending meetings on behalf of the Federation. Should you want a hard copy of the 2005 Policy Document please let us know and we will send one to you.

Finally on behalf of Roberta, Paul and myself may I wish all our members and their families a peaceful 2005.

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## IMO to Organize Piracy and Security Seminar in Yemen

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The International Maritime Organization (IMO) is to organize a high-level, sub-regional seminar in Aden, Yemen, on maritime security and prevention of piracy and armed robbery against ships.

Aimed at senior officials in the maritime and port authorities of selected countries in the region, the seminar, to be convened in April 2005, will provide an opportunity for participants to gain a deeper insight into measures to prevent and eradicate acts of piracy and armed robbery against ships and of the provisions to strengthen ship and port security, in particular those contained in the Safety of Life at Sea (SOLAS) Convention chapter XI/2 and the International Ship and Port Facility Security (ISPS) Code.

The five-day event will be split into three subject-specific sections. One will deal with piracy and armed robbery, another with maritime security and a third with related legal matters. As well as lecturers from the IMO secretariat, specialist external consultant speakers and a representative from the United Nations Office for Drugs and Crime will offer participants the benefit of their knowledge and experience.

In addition to the host country Yemen, other countries invited to participate will be Djibouti, Egypt, Eritrea, Ethiopia, Jordan, Oman, Saudi Arabia, Somalia and Sudan. The event will be organized under the auspices of IMO's Integrated Technical Co-operation Programme.

The countries of the sub-region border the key shipping route through the Suez Canal, Red Sea and Gulf of Aden and any serious disruption to the flow of maritime traffic therein could have a widespread and far-reaching detrimental effect. The seminar can thus be seen in the wider context of IMO's initiatives on maritime security including its special efforts to keep shipping lanes of vital importance and significance open to international navigation.

## EU Directive on Criminal Sanctions for Ship-Source Pollution - Industry Comments on the Council's Common Position

### Summary

This paper comments on the Transport Council's common position on the proposal for a Directive on ship-source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences. The paper concludes that in order to avoid legal, economic and political difficulties the proposed Directive must be fully in line with MARPOL and UNCLOS:

- The Directive should provide the same legal regime in respect of accidental (unintentional) ship-source pollution as that of MARPOL, i.e. accidental ship-source pollution within the scope of MARPOL Annex I Regulation 11 and Annex II Regulation 6 should not be a criminal offence.
- **The liability basis in the Directive should be aligned with that of MARPOL, i.e. “*intent to cause damage or recklessly and with knowledge that damage would probably result*”.**
- **The proposed imposition of a different basis of liability on ships of MARPOL States in territorial waters, the high seas and the EEZ is contrary to both MARPOL and UNCLOS.**
- **The impact on the human rights of seafarers and others should be considered, including the need for appropriate safeguards both before and after trial, in line with UNCLOS and international human rights law.**

### Content

The Industry, represented by ECSA, ICS, ISF, INTERTANKO, INTERCARGO, BIMCO, OCIMF, the International Group of P&I Clubs, the International Salvage Union, the ITF, the ETF and **IFSMA**, has the following comments on the Transport Council's common position on the proposal for a Directive on ship-source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences.

Every legal system in Europe guarantees the

personal freedom of the individual. Criminal law restricts that freedom in certain specified circumstances; therefore, the imposition of criminal liability is a serious matter that must be guided by certain fundamental principles. Firstly, sanctions must be proportionate to the degree of personal fault on the part of the accused. Secondly, criminal law must be drafted in a clear, concise and unambiguous way and must be of restrictive interpretation so that it does not result in unintentional or unfair penalties against the accused. Thirdly, it must respect the standards set by international conventions and customary international law, including the law on human rights.

The Industry supports the general principle that persons responsible for ship-source pollution in contravention of the applicable international law, i.e. MARPOL and UNCLOS, should be subject to appropriate sanctions, including criminal sanctions. However, as shipping is an international industry, discharges from ships should continue to be regulated by international law (IMO Conventions) rather than regional law. National or regional rules (Community Law) on criminal sanctions and their scope of application to global shipping should strictly comply with international law, in particular UNCLOS.

**In its first reading, the European Parliament adopted a position mainly consistent with these principles, concluding that ship-source pollution should be sanctioned in conformity with MARPOL and UNCLOS.** The Industry hopes that the new European Parliament will maintain this general position in its second reading and it is looking forward to further fruitful co-operation with the new Members of the European Parliament in that respect.

**However, the Industry is very concerned about the Transport Council's common position on the Directive, as adopted in June. The Industry fears that this common position, were it to become applicable legislation, would create legal uncertainty. It is also discriminatory and it will raise practical difficulties.**

1. The common position will create legal uncertainty by criminalising accidental, i.e. unintentional, ship-source pollution, which is explicitly exempted from being an offence under MARPOL. In so doing, the Directive is in clear contradiction with MARPOL. Accordingly, all EU Member States, being Parties to MARPOL,

- will no longer be able to comply with their treaty obligations and will be obliged to denounce that international Convention. As MARPOL is the fundamental global convention for the protection of the marine environment and works very well and efficiently, denunciation would appear to be beyond reasonable political decision-making.
2. The Industry draws attention to the fact that a stated major aim of the Commission's draft Directive was the harmonisation of the MARPOL rules and standards in Community law. However, the common position no longer supports this aim, allowing Member States to determine which person – legal and/or natural – should be liable for ship-source pollution. Today all EU Member States have implemented MARPOL in their national laws and have already provided sanctions, including criminal sanctions, for ship-source pollution in accordance with MARPOL and UNCLOS. Since harmonisation will no longer be achieved through the draft Directive, the Industry can see no purpose in further prolonging discussions on the Council Framework Decision to strengthen the criminal law framework for the enforcement of the law against ship-source pollution, which seeks to harmonise penalties applicable in the case of ship-source pollution.
  3. The common position will create further legal uncertainty by providing a different basis of liability in respect of ship-source pollution in direct conflict with MARPOL. The liability basis under MARPOL is "*intent to cause damage or recklessly and with knowledge that damage would probably result*", a phrase well recognised, understood and common to numerous other international conventions. However, the Transport Council proposes that the liability basis under the Directive should be "*intent, recklessly or by serious negligence*".
  4. It is difficult to understand politically why the proposed threshold for criminal liability should be lower than that for civil liability. Under the international regimes of civil liability and compensation for oil pollution damage (to which most of the EU Member States are Contracting Parties) and hazardous and noxious substances damage, the registered shipowner is not entitled to limit liability where the damage resulted from his personal act or omission committed with intent to cause damage or recklessly and with knowledge that such damage would probably result. Yet the Transport Council proposes that "serious negligence" should be sufficient for the establishment of criminal liability under the draft Directive.
  5. The term "serious negligence" is not defined by the Directive or by any European legal system and is likely to lead to varying subjective interpretations by Courts in Member States, thus destroying the desire for uniform application of the Directive. It is especially necessary to avoid the use of vague phrases in criminal law when the consequences of an infringement may be very serious. In the climate following a serious pollution incident, there will be a significant risk of seafarers, with no criminal intent, becoming the "scapegoats". In such cases interpretation of the term "serious negligence" may be confused with the seriousness of the consequences of an incident rather than the seriousness of the action constituting an infringement. For this reason, liability under MARPOL is restricted to those acting with intent, or recklessly and with knowledge that damage would probably result. Criminalising unintentional acts of pollution is counter-productive in that it is a discouragement to seafarers and to accident investigation.
  6. The draft Directive is silent as regards the human rights of seafarers and others, and the need for appropriate safeguards both before and after trial. UNCLOS provides that the recognised rights of the accused shall be observed in the conduct of proceedings in respect of violations of pollution prevention laws.
  7. The Transport Council proposes that accidental ship-source pollution may or may not be an infringement depending on the sea area where the pollution occurs and/or the capacity of the accused. However, the imposition of a different basis of liability on ships of MARPOL States in territorial waters, the high seas and the EEZ would be contrary to both MARPOL and UNCLOS. States Parties to MARPOL have treaty obligations that prevent them from imposing standards beyond those set in MARPOL on foreign flag ships of other MARPOL States.
- In conclusion, and as supported by the European Parliament, the Industry is strongly of the opinion that the proposed Directive must be fully in line with MARPOL and UNCLOS.**

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## 7<sup>th</sup> Cadwallader Annual Memorial Lecture

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**“Criminalisation in Shipping: Human Pawns in Legal and Political Games”**

**Held on 6<sup>th</sup> October 2004 at Lloyd’s  
of London, Captain’s Room**

The London Shipping Law Centre is an Industry Forum, based at University College London, for continued education, exchange of ideas, research in shipping law, interaction with the new generation in shipping, and the development of professional links. It is for the benefit and the promotion of interests of all the sectors of the shipping industry.

The London Shipping Law Centre has its origins in a fund set up in 1993 by Dr. Aleka Mandaraka-Sheppard, Director of postgraduate shipping law studies for the University of London, in memory of Professor F. J. J. Cadwallader. He taught shipping law at University College London from 1963 to 1982, having himself obtained his LL.B, LL.M and Ph.D degrees from the College. The fund promoted excellence in teaching and research of shipping law for students of the University of London and at University College London in particular, taking its inspiration from Professor Cadwallader and his ability to encourage and inspire his students.

The fund evolved into the London Shipping Law Centre which was founded at UCL in 1994 by Dr. Aleka Mandaraka-Sheppard. It was felt essential to create a Centre providing an open forum for the promotion of the interests of the shipping industry and for further education and training. The Centre is able to focus the concerns of the various sectors of the shipping community to this common goal of promoting a quality shipping industry and London as the centre of it.

**Paper presented by IFSMA Secretary General - Rodger MacDonald:-**

For nearly two years a senior Greek citizen, regarded by the maritime world at large as an innocent hero, has been incarcerated in a foreign country without trial. Furthermore, during the first three months of his detention he was kept in a high security prison and denied access to legal assistance or allowed any contact with those trying to help him.

Only after a P&I club provided a bail bond for three million euros was he moved from prison to detention within a country that is foreign to him. Even now he is too scared to meet any friends or colleagues who may give him moral support, as he feels it might prejudice his case.

He is without doubt a political hostage.

Of course today’s media headlines fully illustrate to us far worse situations than this case, but the fact that Captain Mangouras is not being held by terrorists or the dictatorship of a third world country, but by a democratic member of the European Union should make everyone of us here feel very uncomfortable.

Captain Apostolos Mangouras was the unfortunate Greek Shipmaster of the *MT Prestige* which broke in two and subsequently sank off the western coast of Spain on November nineteenth 2002. During the voyage part of the ship’s steel plating had failed and the strength of the hull was compromised.

The ship would have been more likely to survive intact in sheltered waters, where the remaining cargo of crude oil could have been discharged, if the stresses and the impact damage caused by heavy seas could be minimised. So the Master requested a port of refuge, but he was refused.

With his ship listing thirty degrees and in danger of breaking up, the Captain safely evacuated 24 crew members leaving only himself and two officers on board to correct the list and support an attempted salvage operation.

Is this the action of a criminal?

Whilst we must all feel total sympathy for those suffering from the damage caused by oil pollution to their coastline, however legitimate their claim for compensation, there can be no cause or grievance that can justify an abuse of human rights. That our Governments permit this to happen in Europe today reflects our collective failure to uphold the rule of International and European law, and can only fail to instil respect for those laws by other countries that trade in the maritime industry.

For the moment we will have to wait for some time until the courts decide on the fate of Captain Mangouras, so I will not go deeper into this case but ask you to consider a very similar case from which I base my evidence on a report provided by the IMO document FSI 10/9 dated 4<sup>th</sup> January 2002

On the eighth of December 1999 the twenty five year old ship *Erika* sailed from Dunkirk for Livorno in Italy laden with approximately 31,000 tonnes of fuel oil. Soon after sailing the ship encountered heavy seas in a force nine gale. Whilst these weather conditions are bad, they are not unexpected in the Bay of Biscay at this time of the year, and ships are actually designed for these conditions. During the early afternoon of December 11<sup>th</sup>, the Master observed a progressive list to starboard and tried to correct it. He also transmitted a distress alert.

On checking the cargo and ballast tank tanks he found the segregated No 2 starboard ballast tank which should have been empty contained both sea water and fuel oil with the ullage equal to the sea level. Cracks and buckling were noticed on deck in the way of this tank. The Master decided to head for a port of refuge.

On the 12<sup>th</sup> of December large quantities of oil were observed escaping into sea and part of the steel plating of No. 2 starboard tank had been torn away. At this time a second distress message was transmitted and with the assistance of French naval helicopters and using the ship's port lifeboat the Master was able to abandon the ship without loss of life prior to the *Erika* breaking in two and sinking.

The Master of *Erika*, Captain Karun Sunder Mathur, was arrested and charged by the French authorities with putting life in danger and causing marine pollution. He was detained behind bars but after formal pleas from IFSMA and others he was eventually released from prison on 23<sup>rd</sup> of December 1999 but detained in Paris. He was eventually allowed to return home to India in February 2000.

Captain Mathur acted promptly in a seaman-like manner, with acute awareness of the deteriorating situation in respect of the vessel's hull structure and he deserves full credit for ensuring that the entire crew were rescued without injury in severe weather conditions. In fact the IMO document observes that the real blame lies elsewhere. Structural weaknesses of the vessel were not detected by the Classification Society that monitored the vessel, or by the agents responsible for its nautical management despite signs reported by the crew, nor by the vetting of Port State Control inspections.

On the other hand the IMO document observes that the Master with his solid marine training and fifteen years experience had correctly discharged his duties within the state of his knowledge. IFSMA stands by its belief that there was no justification

whatsoever for the incarceration of this Shipmaster, or the ruining of his career. In spite of this evidence, the French authorities still want to extradite him to face trial in a French court.

In the meantime, the French courts have announced that they will not attempt to put the Authorities responsible for ensuring and certifying that vessel was seaworthy on trial as they represent a sovereign state. I am not a lawyer, but I strongly believe in the principle that no one is above the law and that includes Government and Government officials, and no one should be denied the protection of the law, and that includes Shipmasters. Surely every nation that proclaims the rule of law at home must respect it abroad; and every nation that insists on it abroad must enforce it at home.

Sadly, the *Erika* and the *Prestige* are not isolated cases.

There are many others such as the *Tasman Spirit* earlier this year in Pakistan where the Secretary General of the IMO played a key role in negotiating the release from custody of the Ship's Master, Officers and crew as well as the Salvage Master. In this case the EU also used its political muscle which is commendable, but also shows its hypocrisy in their failure to deal with the abuse of the law by one of their own members in the case of the *Prestige*

The examples I have mentioned relate to the more publicised pollution incidents but there are many other examples of injustice relating to other types of incident.

What would you expect to happen if your employers went bust? In 1999, Captain Costas Litsakos, a Greek Shipmaster of the *MV Achilles 1* discovered that the owners of his ship had declared bankruptcy and abandoned the vessel while she was at an Algerian port.

The Algerian Authorities detained the vessel and the Master until such time that the port agent's dues and stevedoring expenses were paid. Captain Costas Litsakos' passport was confiscated and the port authorities stated that he would only be able to leave after he had been replaced by a similarly qualified Master Mariner. There was no hope of this and he was detained indefinitely in Algeria. With no money left, the 63 year old Captain became seriously ill. He was offered an opportunity of escape by the Master of another ship and happily arrived safely home.

A similar case had already happened with Captain Maqsood Ahmed, a Pakistani Master of the *MV Delta Pride*. The owners filed bankruptcy in March 1998.

During May 1998 while in Tampico, the ship's Mexican agent confiscated the ship's documents and the crews' passports against a small supply of provisions. Abandoned by the owners, and in utter desperation, the Master sailed out from Tampico and on the 24<sup>th</sup> November 1998 anchored 3 miles off South Padre Island near Brownsville, Texas - hoping for justice in the USA. They were in for a shock.

The ship was not allowed to enter port and it was given no assistance. The Master and crew almost starved for several weeks, relying on sea fish and rain water for their survival. Meanwhile in Brownsville, the Court ordered the auction of the vessel which was sold for a measly price of US \$350,000.

The crew's certified claim for wages amounted to US \$270,000 and the Master and crew rightly expected that the USA Court would follow internationally accepted procedures and give crew wages first priority from the proceeds of sale. This did not happen. Instead the crew was taken into custody by Immigration Authorities and kept in the Brownsville immigration detention centre for over 6 months.

Of course we have to admit to the fact that human errors occur. Collisions and groundings are generally caused through human error, and where a serious case has occurred there should be an investigation as to its cause. But does a pending investigation give the Authorities the automatic right to criminalise the Shipmaster?

I do not have time to fully explain the following examples but ask you to take a look at their case studies and draw your own conclusions.

First, the *MT Nissos Amorgas* a laden tanker sailing down the Maracaibo Channel in Venezuela with the assistance of a local pilot. The vessel struck something just before midnight on 28 February 1997 and her two forward centre tanks were ruptured and she immediately began leaking oil and spilling around 4000 tonnes of Venezuelan crude. Captain Konstantinos Spiropoulos the Greek Shipmaster claimed that his tanker had struck a submerged object, which was quite possible from the alleged deplorable condition of the Maracaibo Channel at that time.

For five months the Shipmaster was kept under house arrest without any official charges being made against him. He was then allowed compassionate leave on two occasions but honoured his commitment each time and returned to Venezuela. Over a year later on 12<sup>th</sup> March 1998 he was finally charged with causing pollution. Interestingly there was no specific allegation of negligence on the Shipmaster's part.

Consider the plight of the two British Shipmasters whose ships collided off Fujairah on March 30<sup>th</sup> 1994 Captain Terry Lau Chung Hui in command of the Panama Registered VLCC *MY Seki* and Captain Donald Shields of the UAE registered *MT Baynunah*. Both Shipmasters were detained by UAE authorities without any charges, placed in hotels in Dubai although they were not under any kind of restraint. However their passports were confiscated so that they could not leave the United Arab Emirates.

The Fujairah Court held the "Seki" 60 percent responsible for the collision and the "Bayanah" 40 percent. Both Masters were fined the equivalent of US \$2,700 in June 1994 but Captain Lau's passport was not released until August 1994.

Finally a case that shows it is not just the administrations who seem to treat Shipmasters with disdain. Captain Michael Thompson was in command of the bulk carrier *MV Union* which grounded on rocks off Japan on the 6<sup>th</sup> of February 1995. Although the ship was damaged there was no pollution, no injuries to ships personnel and no damage to its cargo of coal.

The Master safely took the ship to port, discharged the cargo and proceeded to Tokuyama for repairs. He admitted he made an error of judgement to the Japanese Maritime Safety Agency and for this was arrested, although free to move around within the confines of Moji and Tokuyama, the Japanese authorities did not allow him to discuss the matter with anyone.

What justification did the Japanese authorities have with a Hong Kong registered vessel when no damage was caused to their own country's interests?

The Master was demoralised and very depressed after the casualty. Finally at a court hearing three weeks later the Master was freed from responsibility for the incident and fined Japanese yen 150,000

Yes the Master made one error of judgement, but

subsequently carried out his responsibilities and saw the ship and its cargo safely delivered. However during his ordeal with the authorities, the ship-owners offered no support and there was no response from the ship managers.

I do not wish to argue about the result of these enquiries or their judgement, but I would ask what justification is there to detain Shipmasters pending an accident investigation.

Reflecting on the IMO Erica report, perhaps the courts should be looking at the deeper reasons of why these casualties occur and the underlying issues that may have led to the above incidents.

During my lifetime I have seen considerable changes in the shipping industry.

For a start there are much fewer traditional shipping companies today that are vertically integrated, and Shipmasters, Officers and crew are most likely to be working for a manning agency rather than the ship-owner.

How can this promote any sense of loyalty, especially from the owner to the crew?

But worse than that, it hides the fact of who actually does own what some people may regard as a substandard ship. It also explains why authorities grasp at holding on to their only possible link to those responsible; the Shipmaster

Ships are larger, faster and more sophisticated. For example a post-panamax container ship today carries ten times the cargo of a conventional break bulk cargo ship of the 1960s at twice the speed. These ships also turn round in port in less than twenty four hours when forty years ago the crew could expect almost a week and gain some rest.

These developments have created higher productivity and the world economy as a whole has gained from these advances in efficiency.

But there is a price to pay for this progress. It has become a very competitive world and ships are built to meet the minimum scantling requirements. There is a view that the less steel built in the ship the more cargo it can carry and the more money it can make.

The prudence of ship-owners in the past to add 50% to scantling requirements as an insurance policy did not survive the pressures from shareholders de-

manding a higher return from their investment.

I also believe the regulatory bodies have failed the industry. Administrations compete for tonnage to register under their Flag and their aim is to minimise the specifications required to meet the necessary standards. This is especially true in their minimum manning requirement for each ship.

Crew costs are a large part of the ship's operating costs and shipping managers want to be able to pay for the minimum amount of crew. This is in spite of the fact that fatigue is a known problem amongst seafarers. Another recent added task for the officers of every ship that falls within the SOLAS Convention is to carry out additional duties as the ship's security officer which are defined and required under the ISPS Code. Some of the administrations were asked by IFSMA if they would increase their minimum manning requirements for an additional officer to carry out this task. The reply was blunt and along the lines that if we did that we would lose ships to other Flags.

So with a minimum amount of officers and crew to assist him a Master will join his ship under instructions to load and carry his cargo to a distant destination through whatever conditions the vessel will encounter.

He or she may judge the condition of the vessel only from what they can see on deck and the hull above the waterline. The Master can only judge if the ship is legally seaworthy by ensuring that all the ship's mandatory certificates are in order and that his officers have the certificates of competency required.

Accidents do happen, systems do fail, companies do go bust, and structures can collapse in every activity. The sea is an unforgiving environment, and provided that there has been no malicious intent or gross negligence, no Shipmaster should ever be treated like a criminal following a marine casualty.

The Shipmaster and officers of the watch have immense responsibility, to protect the lives of their crew, the ship and its cargo as well as the environment. The industry and the world at large needs well trained competent Shipmasters, Officers and crews but what will attract potential recruits of a high calibre if they read in the newspapers how Shipmasters can be treated so unjustly. There must be an international law to protect the Shipmaster from unjust actions.

IFSMA strongly believes that the IMO is the correct forum to provide an effective mechanism through which to seek common maritime solutions to common maritime problems.

It acts within the concept of the United Nations Convention of the Law of the Sea (UNCLOS) which with its own MARPOL Convention covers the situation of the *Prestige*. As a signatory to both, Spain has shamelessly disregarded the conditions set out for the treatment of the Master.

At the international level every maritime state needs a framework of fair rules which they can be confident that the others will obey. IMO has provided such a framework. But it seems that this framework is riddled with gaps and weaknesses and is too often applied selectively, and enforced arbitrarily.

I was fortunate to be able to watch the UN Secretary General give his speech last month prior to President Bush addressing the United Nations. He made some excellent observations. I quote: 'Those who seek to bestow legitimacy must themselves embody it; and those who invoke international law must themselves submit to it. Just as, within a country, respect for the law depends on the sense that all have a say in making and implementing it, so it is in our global community. No nation must feel excluded. All must feel that international law belongs to them, and protects their legitimate interests. Rule of law as a mere concept is not enough. Laws must be put into practice, and permeate the fabric of our lives'.

Kofi Annan then urged the delegates to do more to foster the rule of law at home and abroad and to take advantage of the arrangements that have been made to sign treaties on the protection of civilians – 'treaties that you yourselves negotiated' he reminded them – and then, go back home, and implement them fully and in good faith.

Shipmasters would like to have the same message respected and observed by the IMO member nations.

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*Editor's Comment* - As will be seen from the article starting on Page 4, the message is finally getting across to the people who count.

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## Should the Master be designated as the SSO?

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By Captain. J.B. McGrath MNI

*General Secretary - International Maritime & Shipping Security Organisation*

The definition of the Ship Security Officer (SSO) as given in Part A Section 2.1.6 "means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship....".

It is interesting to note the word "accountable" is used – the definition of accountable is "liable to account for one's actions".

This implies that as the SSO is accountable to the Master, the Master cannot by strict definition be designated as the SSO as he cannot be accountable to himself! The SSO is the only one of the three categories defined by Part A Section 2 that is held accountable.

The question of the Master being the SSO was addressed at the IMO during MSC 78 in May 2004 where it was decided that the definition of the SSO should be viewed in conjunction with SOLAS Chapter XI-2 Regulation 8 "Master's discretion for ship safety and security".

It was agreed that the phrase "accountable to the master" was intended for large ships such as passenger ships, where the Master is not the SSO, how do we know this is true? – we don't. In fact, large container ships, 6,000 to 8,000 TEU are much more complex than any passenger ship, is the Master to be the SSO on this type of ship?

The shipping industry knows that certain companies use definitions to get the cheapest and easiest solutions to any problem, in this case the Master as SSO is one of them. Any playing around with words to suit a vocal minority causes confusion.

The Master, who after all, has the ultimate responsibility for all that occurs on board his ship is not usually appointed the Safety Officer, Catering Officer, Communications Officer (under GMDSS) or any other ..... Officer for that matter, so why as Security Officer, especially where the definition states that the Ship Security Officer is "**accountable to the master**"?

The problem stems from the beginning when Companies were deciding on who should be the SSO. Some Companies decided that the Master should NOT be the SSO due to the extra workload that would be imposed on him.

Meanwhile other Companies decided that the Master should be the SSO as he was the person who dealt with the Port Authorities, but could in actual fact delegate the day to day work of the SSO to a junior officer who was trained as a SSO.

It was only when the European Union in its wisdom decreed that the Master could not be the SSO and would not allow ships with the Master as the SSO to enter EU waters was the question raised rather urgently at the IMO. As usual a compromise was reached where it was found that the definition did not mean what it was meant to mean after all, but should be read in conjunction with SOLAS.

Taking into account the many other duties and responsibilities that the Master has on his shoulders, the SSO duties are not really welcome. I know that some Companies canvassed their Masters who, it was reported, were quite happy to take on these extra duties, I suspect without really knowing the implications.

Many decisions of who should be the SSO were taken very early on in the implementation period, quite rightly so, as a decision had to be made to allow the process to continue at a pretty rapid pace to meet the 1<sup>st</sup> July 2004 deadline.

The fact that the decision was made to designate the Master as the SSO does not mean it was the correct one, it may have been at the time, but after experience has been gained changes can and should be made if it is found that the workload of the Master has greatly increased.

The duties of the SSO as set out in the ISPS Code Parts A & B are many and onerous, especially as he must be much more proactive in the role as SSO as in other roles such as Safety Officer, to ensure that the SSP stays alive and current at all times and the ship complies with the ISPS Code.

In time the role of the Master as the SSO will, I believe disappear as the STCW requirements come into force for all Officers to have received ISPS Code training at the time of studying for their first Certificate of Competency. This will allow the Companies to appoint any officer as the SSO.

The Code does not require an "Officer" to be the SSO, it states "the person on board", so the argument for the Master as the SSO is further diluted.

The whole argument will come to a head when a Master is put in goal due to a "security" incident and is criminalised due no doubt, to no fault of his. The wisdom of appointing the Master may then be realised and revisited.

It is the opinion of this writer that the Master should not be appointed to any subsidiary role onboard as he is the one person with sole responsibility for all that occurs onboard his ship and should be permitted to keep his role as the overall decision maker.

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## Who can you trust?

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Capt. Klaus Pedersen. Individual Member.

Hardly anyone in the shipping industry today cannot have heard of Maritime Security, ISPS, Terrorists or Piracy. Security issues have become the word of the day. Everybody talks about it and everybody has an opinion on the subject. It seems to me that the importance of security issues is growing each day. Every now and then we receive alarming reports about attacks, bombings, threats against ships, the last one being the bombing of Superferry 14, probably by Abu Sayyaf.

The ratification and implementation of the ISPS Code went smoother and faster than anyone had imagined. The experience so far is that our way of life as seafarers, as Masters has changed forever, and there is no going back. We have to adapt to the fact that Maritime Security, is here to stay. Now what is worrying me is that sometimes the security issues seem to out rank safety issues. This happens not only onboard, but in particular in the press and media. And if we are not careful, perhaps this will also be the effect how we will be working and living.

Before everything gets out of hand, before security issues are allowed to escalate to a level where no one has control there should be an initiative to submit a proposal to the IMO and ask them to set up a new sub-committee on Maritime Security. There is no single, Inter Governmental, body today that collects, process and presents maritime security intelligence, at least not any that have come to my attention. We have IMO's Global Integrated Shipping Information System (GISIS) and we have ICC's International Maritime Bureau (IMB). What

more? Probably each State with some self respect has Security Police that gathers information, but this is nothing that I, as the highest responsible for all this (the ship) has any benefit from.

What we need is standardised definitions of Maritime related crime, we need reliable statistics, we need timely information, we need information about developments, interpretations of regulations, the SSO's and Masters need this reliable information, just as we need Tide tables, Pilot Books and charts to plan our route ahead. The International Chamber of Commerce in London deals with lots of issues relating to maritime crime, especially commercial crime such as fraud, but also Piracy. Unfortunately some of this information will never reach me, it costs money or is inadequate. There is a lot of co-operation regarding general terrorism, search the links in this sight; [http://www.un.org/Docs/sc/committees/1373/useful\\_links.html](http://www.un.org/Docs/sc/committees/1373/useful_links.html)

Someone will probably raise the question whether or not IMO should deal with commercial crime, but it is proven that commercial crime sometimes finances terrorism and political motivated crime so they go together, and it threatens the lives, security and comfort of mariners, world wide.

If we look at Maritime Crime, as we know it today, it is a much broader concept than just terrorism and piracy. Furthermore the definitions of the various crimes are not yet clear.

- Terrorism is defined in the *Code of Federal Regulations* as "...the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives."<sup>1</sup> In the UN, the General Assembly's Sixth Committee is currently considering a draft Comprehensive Convention on International Terrorism which would include a definition of terrorism if adopted. But I found another definition: Terrorism means any act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperilling their lives, honour, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or

sovereignty of independent States.<sup>2</sup>

- Piracy is defined according to UNCLOS Article 101 as: Piracy consists of any of the following acts: (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).
- Piracy is defined by IMB as: An act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of that act<sup>3</sup>
- Hi-jacking. Crime of seizing possession or control of a vehicle from another by force or threat of force.<sup>4</sup>
- Stowaways. The proposed amendments to the FAL Convention give the following definitions:

"Stowaway". A person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the ship-owner or the master or any other responsible person and who is detected on board the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival, and is reported as a stowaway by the master to the appropriate authorities.

"Attempted stowaway". A person who is secreted on a ship or in cargo which is subsequently loaded on the ship, without the consent of the ship-owner or the master or any other responsible person, and who is detected on board the ship before it has departed from the port. (Ref IMO Doc. FAL 28/10 Annex 1)

- Trafficking. "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to

achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.

- Contraband. Goods whose importation or exportation or possession is prohibited by law . Illegal import or export of goods can be done with the intention of financing other illegal activities or just for the sheer profit.
- Phantom ships. “Phantom ships” are basically vessels with false identities, their registration papers having been falsified or forged, or false information on their tonnage, dimensions, and previous ownership having been entered into their records. Owners of “phantom ships” are usually shelf companies, which quickly disappear once they are detected, or after they receive large payments.
- Maritime fraud, Fraudulent documents and certificates
- The use of the vessel as a weapon. A vessel carrying highly explosive, toxic and/or pollutant material can be seized with the purpose of causing harm to people, communities, States and or the environment in order to achieve own political or other interests.
- Corruption. Is the lack of integrity or honesty (especially susceptibility to bribery); use of a position of trust for dishonest gain . What shipmaster has not have had to “grease” officials in order to keep the business running, or to avoid “inspections” or “delayed Pilots etc?

To me it is quite obvious that we the stakeholders to the shipping industry need a single and reliable source of maritime security intelligence, just as we need maritime safety related intelligence. We also need a single organization where the shipmasters can report violations, threats, acts of piracy, smuggling, and corruption.

## **Exercising (1)**

Walking can add minutes to your life. This enables you at 85 years old to spend an additional 5 months in a nursing home at £2500 per month.

My grandmother started walking five miles a day when she was 60. Now she’s 97 years old and we don’t know where the hell she is.

## **IALA Long Range Tracking Seminar, Nov. 3-5, 2004**

### **Conclusions and Recommendations**

The Seminar reached the following draft Conclusions:

1. Global tracking of vessels is currently taking place by some ship owners and maritime authorities.
2. There was overwhelming agreement to have mandatory global tracking of certain types of vessels.
3. Operational use of Global tracking of vessels can open possibilities for more efficient management of maritime traffic.
4. Global tracking of vessels should be technology neutral. The Functional requirements must be clearly identified.
5. There is a need for an approval procedure for system providers for the global tracking of vessels.
6. Global tracking of vessels should be simple to implement, with minimum requirement for additional equipment on board, maximizing the use of existing carriage requirements.
7. The system data shall be protected from source to end user.
8. Data transmission costs should be borne by the end-users.
9. The end users should have the capability to determine the reporting rate in real-time and on demand.
10. Information in the global tracking messages should support a number of associated maritime activities, including search and rescue (SAR), Ship Reporting Systems (SRS), Vessel Traffic Services (VTS), protection of the environment, and security.
11. Information from the global tracking of vessels should be sent to data management centre(s) that collect and disseminate the information. There should be an overseeing intergovernmental agency accountable to the international community that assures the integrity of the

data management centres – IMSO should be considered for this role.

The Seminar agreed the following draft Recommendations

1. IMO member states participating in this seminar should put forward a joint paper recognizing the results of this seminar to COMSAR 9 by Dec. 6<sup>th</sup> 2004.
2. IALA should prepare an information paper with the results of this seminar for IMO – COMSAR 9.
3. IALA should continue to contribute to the development of a global vessel tracking system.

### Observations

Although not identified as an objective of the seminar, AIS was brought out in many areas of discussion. It was agreed that the following observations be included in the report:

AIS is a tool that can be used for maritime safety, maritime security and tracking and should be developed to fulfil these requirements.

Shipborn use of AIS will be improved with integrated operational displays replacing the MKD.

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## Legal Committee (LEG) - 89th Session: 25-29 October 2004

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### Amendments to Suppression of Unlawful Acts (SUA) treaties set for adoption October 2005

A diplomatic Conference to adopt amendments to the 1988 SUA Convention and Protocol will be held in October 2005, IMO's Legal Committee agreed at its 89th session from 25 to 29 October 2004.

The main purpose of the SUA Convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships. These acts include the seizure of ships by force; acts of violence against persons on board ships and the placing of devices on board a ship which are likely to destroy or damage it. The Convention obliges Contracting Governments either to extradite or prosecute alleged offenders. Similar provisions are contained in the SUA Protocol, relating to unlawful acts against fixed platforms located on the continental shelf.

The 2005 Conference will consider the adoption of two Protocols incorporating substantial amendments aimed at strengthening the SUA treaties in order to provide an appropriate response to the increasing risks posed to maritime navigation by international terrorism.

In preparation for the October 2005 diplomatic Conference, the Legal Committee agreed to hold a second session of its working group on the revision of the SUA Convention and Protocol (from 31 January to 4 February 2005), followed by a two-week Legal Committee meeting from 18 to 29 April 2005 to continue its consideration of the draft Protocols (as well as to consider other Legal Committee issues).

Proposed amendments to the treaties in the revised draft Protocols include a substantial broadening of the range of offences included in Article 3 of the SUA Convention and the introduction of provisions for boarding vessels suspected of being involved in terrorist activities in Article 8.

Work on the revision of the SUA treaties followed the adoption in 2001 of Assembly resolution A.924(22) which called for a review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships. The SUA amendments will complement the International Ship and Port Facilities Security (ISPS) Code, which entered into force in July 2004, by providing a legal basis for the arrest, detention and extradition of terrorists in the unfortunate event that a terrorist attack against shipping nevertheless occurs.

### Draft Convention on wreck removal

The Committee continued its consideration of the draft Wreck Removal Convention (WRC). The WRC is intended to provide international rules on the rights and obligations of States and shipowners with respect to wrecks and drifting or sunken cargo which may pose a hazard to navigation and/or pose a threat to the marine environment.

The Convention is intended to clarify the rights and obligations regarding the identification, reporting, locating and removal of hazardous wrecks, in particular those found beyond territorial waters. The proposed Convention will also cover the issue of compensation in the event that the coastal State itself needs to take relevant action.

### Implementation of guidelines on claims for death, personal injury and abandonment of seafarers

The Committee received a progress report on the work of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers.

The Committee urged member States and non governmental organizations to respond, without delay, to requests for information on the implementation of resolution A.930(22) Guidelines on Provision of Financial Security Cases of Abandonment of Seafarers and to report any cases of abandonment in order to assist the Committee in furthering its work on the subject.

Follow-up to resolutions adopted by the International Conference on the Revision of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 The Committee reviewed the interim results of a study into the current practice of bareboat charterer registration and the implications for certificate-issuing obligations under IMO liability conventions carried out by the Comité Maritime International (CMI) with support from the IMO Secretariat. The Committee encouraged the CMI to continue its work.

The Committee also invited member States to contribute to further work on two issues relating to the Athens Convention on passenger liability: firstly, the fact that the Convention requires a higher amount of compulsory insurance and of liability than existing IMO pollution prevention conventions; and secondly, the fact that article 3 of the Athens Convention is not strictly confined to non-war protection and indemnity insurance, but may also affect war risk insurance. It was generally agreed that these issues should be addressed by the Committee, but not through amendments to the Athens Convention.

### Places of refuge

The Committee reviewed a report from the CMI on its thirty-eighth conference in Vancouver, Canada in June 2004, which had discussed topics relevant to places of refuge. The CMI informed the Committee that it had identified several concerns in the present arrangements (based on IMO's Guidelines on places of refuge for ships in need of assistance), one of which was that there was no single international convention establishing the rights and obligations of a coastal State when it was faced with a request to provide a place of refuge. The Committee agreed that the issues raised in the report needed further study.

Measures to protect crews and passengers against crimes committed on vessels

The Committee considered a resolution on Criminal offences on board foreign-flagged ships adopted by the CMI at its Vancouver conference, which recommended that the CMI establish a Joint International Working Group to draft a model national law concerning such offences.

The Committee took note of the information and suggested that, rather than developing a model national law, the CMI might consider working with the Legal Committee with a view to developing an instrument that might be developed into customary international law.

### Fair Treatment of Seafarers

*Note: IFSMA had a major input into this agenda item – see previous Newsletter.*

The Committee agreed the terms of reference for the Joint IMO/ILO Ad Hoc Expert Working Group on the Fair Treatment of Seafarers in the Event of a Maritime Accident and nominated eight IMO Member Governments to represent the Organization at the Group's first meeting, scheduled for 17 to 19 January 2005 at IMO Headquarters.

IMO, in co-operation with ILO, will consider the development of appropriate guidelines based not only on the principles of UNCLOS but also on the fact that unwarranted detention is a violation of basic human rights. IMO member Governments and the Social Partners (employer and employee representatives) were encouraged to submit proposals for consideration by the Group.

### Implementation of the HNS Convention

The Committee was updated on the status of the implementation of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances (HNS) by Sea, 1996.

The HNS Convention is intended to add a vital component in the international compensation regime for pollution damage at sea. At the end of September 2004, it had been ratified by six States, representing 1.73 per cent of world merchant shipping tonnage. The Committee noted that the ratification process had been held back by some States to ensure that as many States as possible ratify at or about the same time, thereby triggering the entry into force of the treaty.

For entry into force, the HNS Conference requires ratification by 12 States, four of which have not less than two million units of gross tonnage, provided that persons in these States who would be responsible for paying contributions to the general account have received a total quantity of at least 40 million tonnes of contributing cargo in the preceding calendar year.

The Committee was informed that the IOPC Fund had a database for identifying and recording contributing cargo. Governments were also reminded that article 43 of the HNS Convention imposes a requirement on contracting Governments to report information on contributing cargo at the time of ratification and annually basis, including nil reports.

### **Compulsory pilotage arrangement in a strait used for international navigation**

Following a request from the Marine Environment Protection Committee (MEPC) and the Sub-committee on Safety of Navigation (NAV), the Legal Committee reviewed the legal aspects of compulsory pilotage in a strait used for international navigation.

There was general agreement on some of the fundamental principles of international law as codified in UNCLOS, in particular the right of transit passage through a strait used for international navigation. There was also agreement that IMO is the competent international organization to adopt measures such as the one proposed by Australia and Papua New Guinea to extend the existing Great Barrier Reef compulsory pilotage scheme to the Torres Strait.

However, the Committee remained divided and was unable to resolve the issue of the legality of adopting requirements for compulsory pilotage in straits used for international navigation.

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## **Exercising (2)**

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The only reason I would take up exercising is so that I could hear heavy breathing again.

I joined a health club last year, spent about £400. Haven't lost a pound. Apparently you have to go there.

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## **International Maritime Prize 2003.**

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The prestigious International Maritime Prize for 2003 has been presented to IMO Secretary-General emeritus Mr William A. O'Neil of Canada.

Mr. Efthimios E. Mitropoulos, Secretary-General of the International Maritime Organization, presented the prize to Mr. O'Neil during a special ceremony (on Monday, 15 November) at IMO's London Headquarters during the Organization's 93rd Council session.

The International Maritime Prize is awarded annually by IMO to the individual or organization judged to have made the most significant contribution to the work and objectives of IMO. The 92nd session of the IMO Council in June took the decision to award the prize to Mr. O'Neil in recognition of his long service to the cause of maritime safety.

### **Mr. William O'Neil**

During his fourteen-year tenure as Secretary-General of IMO, William O'Neil always demonstrated a passionate and genuine interest in the values that the Organization seeks to promote. He developed a strong track record of personal intervention in the work of the Organization. In his early years in office, for example, there was a sharp and, in his view, unacceptable increase in bulk carrier accidents. Mr O'Neil's response was to present the IMO Assembly with a resolution on the matter, the first time such an initiative had come from the Secretary-General. It was not to be the last.

Throughout his career with IMO, Mr O'Neil took a detailed interest in all the work of the Organization, as one would expect. But certain other issues prompted his particular attention and, over the years, the Organization benefited from his personal intervention in major work items such as ro-ro passenger ship safety, large passenger vessels' safety, the shift in emphasis onto the human element and the massive efforts undertaken by the Organization to establish a regulatory framework for an effective security regime to cover international shipping and port activities.

During his period at the helm, Secretary-General O'Neil worked hard to broaden participation in the Organization to reflect its expanding role. One important consequence of the increased Membership during Mr. O'Neil's tenure is that almost all the nations of the world that have a significant interest in shipping, whether as shipowning countries, coastal

states, suppliers of maritime services or simply as trading nations, now have a voice in the Organization's work. The most important IMO Conventions, such as SOLAS, MARPOL, STCW, the Collision Regulations and the Tonnage Convention, now apply to more than 90 per cent of the world fleet.

Mr. O'Neil also gave strong encouragement to the active participation in the Organization's work by all sectors of the industry. As a result, there are now more than 60 non-governmental organizations and over 30 intergovernmental organisations that enjoy consultative status with IMO and which regularly attend meetings and participate in the Organization's decision-making process. Bodies representing all facets of shipping's many and diverse participants, from naval architects through ship builders, ship operators, ship suppliers, terminal operators and many more, all play their part, as indeed do interests from outside the industry, such as environmental, legal and financial organizations.

In developing the scope of the Organization and expanding the base of those who actively participate, Mr. O'Neil also sought to pursue new sources of extra-budgetary funding to support the Organization's technical co-operation programme, which over many years made a massive contribution to the ability of the Membership, and of developing countries in particular, to adopt and implement the Organization's instruments.

To this end, Mr. O'Neil took a notable and personal interest in strengthening the relevance and capacity of the Organization's educational institutions, which have become firmly established global providers of maritime training and education, serving as Chancellor of the World Maritime University in Sweden and Chairman of the Governing Board of the International Maritime Law Institute in Malta. His commitment to these training institutes becoming institutions of excellence, was duly recognized recently when he was made, by the IMO Council, Chancellor Emeritus of the WMU and was awarded by IMLI for his contribution to the progressive development and codification of international maritime law.

William O'Neil himself has been associated with IMO since 1972, when he attended the IMO Council as Canada's representative. In 1979 he was elected Chairman of that body and held the post until his appointment by the Council to serve his first four-year term as Secretary-General, which began in 1990.

Mr. O'Neil was unanimously re-elected to serve a second four-year term as Secretary-General beginning in 1994 and was again re-elected for a third four-year term beginning in 1998. He was elected for a further two-year term, beginning in 2002. His contribution to international shipping activities has been recognized by the world maritime and engineering communities through the award of many decorations, honours and memberships of professional institutions. On November 3rd this year he was invested in the Most Distinguished Order of Saint Michael and Saint George, which is one of the most senior orders of the British honours system.

But, perhaps most importantly, during his tenure as IMO Secretary-General there was a material and sustained reduction in both the loss of life at sea and marine pollution from ships. It is in the immense efforts that lie behind these simple statistics that William O'Neil will draw his greatest satisfaction.

### **International Maritime Prize**

The International Maritime Prize consists of a sculpture in the form of a dolphin and includes a financial award. The winner of the annual prize is also invited to write a paper on a theme relating to the work of IMO. The paper is published in IMO's quarterly magazine, IMO News.

### **New Federation of Hydrographic Societies Formed**

The International Federation of Hydrographic Societies (IFHS), a newly constituted organisation serving the worldwide interests of hydrography at all levels of expertise, has been formally established as the successor body of the Hydrographic Society.

Membership of the new body comprises national hydrographic societies of the former Hydrographic Society representing members in Australasia, Benelux, Denmark, UK and the US. Other national societies are expected to affiliate in the near future.

Chairman of the Federation is Paul Hornsby, Director of Navy Improvement Strategies for the Royal Australian Navy who also heads the Australasian Hydrographic Society. Other elected officials are William Heaps, Port Hydrographer of ABP Southampton, as Vice-Chairman, and Dr Victor Abbott, Senior Lecturer, Hydrographic Surveying at Plymouth University's School of Earth, Ocean & Environmental Sciences, as Treasurer; Helen Atkinson, Operations & Publications Manager of the former

Hydrographic Society, is Company Secretary and David Goodfellow an ex-officio member.

Announcing the Federation's establishment at the recent Hydro4 international symposium in Galway, Paul Hornsby said that the new organisation, with its diverse membership drawn from individuals and companies as well as major maritime authorities and institutions, would make a decisive contribution to global hydrographic practices and their continuing development; it would also, he added, complement activities of other recognised bodies such as the International Hydrographic Organisation in Monaco and FIG Commission 4 for Hydrography.

The Federation's headquarters are based at PO Box 103, Plymouth PL4 7YP, UK (Tel-Fax: 01752 223512 Web: <http://www.hydrographicsociety.org>).

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## **Marine Environment Protection Committee (MEPC) - 52nd session: 11-15 October 2004**

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### **Revised MARPOL Annex I, Annex II and IBC Code adopted at environment meeting**

Revised regulations to prevent marine pollution by ships carrying oil or chemicals were adopted by the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO), when it met for its 52nd session from 11-15 October 2004.

The MEPC also designated the Oman Area of the Arabian Seas as a special area and the Western European Waters as a new Particularly Sensitive Sea Area (PSSA). Work also continued on other issues including guidelines on ballast water management, ship recycling and prevention of air pollution.

### **Revised MARPOL Annex I (oil)**

The revised MARPOL Annex I Regulations for the prevention of pollution by oil was adopted by the Committee and is expected to enter into force on 1 January 2007.

It incorporates the various amendments adopted since MARPOL entered into force in 1983, including the amended regulation 13G (regulation 20 in the revised annex) and regulation 13H (regulation 21 in the revised annex) on the phasing-in of double hull requirements for oil tankers. It also separates, in different chapters, the construction and equipment

provisions from the operational requirements and makes clear the distinctions between the requirements for new ships and those for existing ships. The revision provides a more user-friendly, simplified Annex I.

New requirements in the revised Annex I include the following:

- \* Regulation 22 Pump-room bottom protection: on oil tankers of 5,000 tonnes deadweight and above constructed on or after 1 January 2007, the pump-room shall be provided with a double bottom.
- \* Regulation 23 Accidental oil outflow performance - applicable to oil tankers delivered on or after 1 January 2010; construction requirements to provide adequate protection against oil pollution in the event of stranding or collision.

The MEPC also adopted a resolution giving explanatory notes on matters related to the accidental oil outflow performance required under regulation 23.

The MEPC approved the revised Unified Interpretations to the revised MARPOL Annex I and a Circular on cross-reference lists between the "old" and "new" regulations of MARPOL Annex I which is intended to facilitate familiarisation with the new numbering system of the revised Annex I.

### **Oman Sea - new special area under MARPOL Annex I**

The MEPC agreed to designate the Oman Sea area of the Arabian Seas as a special area and the designation is included in the revised Annex I.

The other special areas in Annex I are: Mediterranean Sea area; Baltic Sea area; Black Sea area; Red Sea area; "Gulfs" area; Gulf of Aden area; Antarctic area; and North West European Waters. In the special areas, there are stricter controls on discharge of oily wastes.

### **Revised MARPOL Annex II (noxious liquid substances carried in bulk)**

The revised Annex II Regulations for the control of pollution by noxious liquid substances in bulk includes a new four-category categorization system for noxious and liquid substances. The revised annex is expected to enter into force on 1 January 2007.

The new categories are:

- \* Category X: Noxious Liquid Substances which, if discharged into the sea from tank cleaning or deballasting operations, are deemed to present a major hazard to either marine resources or human health and, therefore, justify the prohibition of the discharge into the marine environment;
- \* Category Y: Noxious Liquid Substances which, if discharged into the sea from tank cleaning or deballasting operations, are deemed to present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea and therefore justify a limitation on the quality and quantity of the discharge into the marine environment;
- \* Category Z: Noxious Liquid Substances which, if discharged into the sea from tank cleaning or deballasting operations, are deemed to present a minor hazard to either marine resources or human health and therefore justify less stringent restrictions on the quality and quantity of the discharge into the marine environment; and
- \* Other Substances: substances which have been evaluated and found to fall outside Category X, Y or Z because they are considered to present no harm to marine resources, human health, amenities or other legitimate uses of the sea when discharged into the sea from tank cleaning or deballasting operations. The discharge of bilge or ballast water or other residues or mixtures containing these substances are not subject to any requirements of MARPOL Annex II.

The revised annex includes a number of other significant changes. Improvements in ship technology, such as efficient stripping techniques, has made possible significantly lower permitted discharge levels of certain products which have been incorporated into Annex II. For ships constructed on or after 1 January 2007 the maximum permitted residue in the tank and its associated piping left after discharge will be set at a maximum of 75 litres for products in categories X, Y and Z - compared with previous limits which set a maximum of 100 or 300 litres, depending on the product category.

Alongside the revision of Annex II, the marine pollution hazards of thousands of chemicals have been evaluated by the Evaluation of Hazardous Substances Working Group, giving a resultant GE-

SAMP Hazard Profile which indexes the substance according to its bio-accumulation; bio-degradation; acute toxicity; chronic toxicity; long-term health effects; and effects on marine wildlife and on benthic habitats.

As a result of the hazard evaluation process and the new categorization system, vegetable oils which were previously categorized as being unrestricted will now be required to be carried in chemical tankers. The revised Annex includes, under regulation 4 Exemptions, provision for the Administration to exempt ships certified to carry individually identified vegetable oils, subject to certain provisions relating to the location of the cargo tanks carrying the identified vegetable oil.

### **Transport of vegetable oils**

The MEPC also adopted a resolution on Guidelines for the transport of vegetable oils in deep tanks or in independent tanks specially designed for the carriage of such vegetable oils on board dry cargo ships. The guidelines have been developed to allow general dry cargo ships that are currently certified to carry vegetable oil in bulk to continue to carry these vegetable oils on specific trades. The guidelines will take effect on 1 January 2007.

### **Consequential amendments to the IBC Code**

Consequential amendments to the International Bulk Chemical Code (IBC Code) were also adopted at the session, reflecting the changes to MARPOL Annex II. The amendments incorporate revisions to the categorization of certain products relating to their properties as potential marine pollutants as well as revisions to ship type and carriage requirements following their evaluation by the Evaluation of Hazardous Substances Working Group.

Ships constructed after 1986 carrying substances identified in chapter 17 of the IBC Code must follow the requirements for design, construction, equipment and operation of ships contained in the Code.

### **Particularly Sensitive Sea Areas (PSSAs)**

The MEPC agreed to designate of the Western European Waters as a new PSSA.

There are now seven designated PSSAs: the Great Barrier Reef, Australia (designated a PSSA in 1990); the Sabana-Camagüey Archipelago in Cuba (1997); Malpelo Island, Colombia (2002); Around

the Florida Keys, United States (2002); the Wadden Sea, Denmark, Germany, Netherlands (2002); Paracas National Reserve, Peru (2003); and Western European Waters (2004).

In relation to the proposed extension of the existing Great Barrier Reef PSSA to include the Torres Strait Region, the MEPC agreed to refer the legal aspects of compulsory pilotage in straits used for international navigation to the Legal Committee for advice.

### **Review of PSSA guidelines**

The MEPC agreed to establish a correspondence group to review, with the objective of clarifying, and, where appropriate, strengthening the current PSSA Guidelines (contained in resolution A.927(22)). The group is expected to report to the next session of the MEPC and any revisions proposed are expected to be presented to the next Assembly in late 2005 for adoption.

### **Harmful aquatic organisms in ballast water**

The MEPC finalized the Guidelines for approval of ballast water management systems and approved the Procedure for approval of active substances, with a view to their consideration for adoption at MEPC 53 by an MEPC resolution. The development of other guidelines will continue at the Bulk Liquids and Gases (BLG) Sub-Committee and future sessions of the MEPC.

Member Governments were urged to work towards ratification of the International Convention for the Control and Management of Ships' Ballast Water and Sediments, adopted in February 2004.

### **Recycling of ships**

The MEPC, having considered the need for developing mandatory measures for ship recycling, agreed that certain parts of the IMO Guidelines on Ship Recycling might be given mandatory effect.

The Working Group on Ship Recycling developed an initial list of the elements of the Guidelines for which a mandatory scheme might be regarded as the most suitable option for their implementation. In considering how the implementation of such a possible mandatory scheme could be achieved, the Working Group agreed that a new IMO instrument could be developed with a view to providing legally binding and globally applicable ship recycling regulations and that further work was needed before a

concrete proposal could be made on this issue.

Regarding the reporting system for ships destined for recycling, the MEPC developed, as a starting point, a draft outline of this system in order to identify, in a schematic way, what should be reported, to where and by whom. It was noted that additional work was needed for the further development of this system with the aim of considering, amongst other issues, the appropriate time-frame for the reporting, a harmonized reporting format and the possible need for additional flow of information between the involved stakeholders.

The MEPC approved the Guidelines for the development of the ship recycling plan, which provide further technical information and guidance for the preparation of a suitable ship recycling plan (SRP), as recommended in section 8.3.2 of the IMO Guidelines on Ship Recycling.

The MEPC agreed that a "single list" of the potentially hazardous materials on board should be developed replacing the existing Appendices 1, 2 and 3 of the IMO Guidelines and providing guidance on the identification of potentially hazardous materials on board ships and the preparation of the relevant inventories.

The MEPC considered a proposal to establish an International Ship Recycling Fund with the aim of facilitating the technical co-operation activities for capacity building, training and the necessary funding mechanisms.

It was agreed that the ship recycling should be included in the future thematic priorities of the Organization's Integrated Technical Co-operation Programme (ITCP) with the aim of assisting developing countries to improve environment and safety levels in ship recycling operations and the Technical Co-operation Committee was invited to consider further the arrangements to establish a dedicated fund.

The MEPC noted the continued co-operation with the International Labour Organization and the relevant bodies of the Basel Convention on ship recycling. The first Joint ILO/IMO/BC Working Group on Ship Scrapping is scheduled to take place at IMO Headquarters from 15 to 17 February 2005.

The MEPC, taking into account the need to progress the work on ship recycling issues in an expeditious manner:

- \* agreed to the establishment of a correspondence group to further progress the work in the intersessional period;
- \* approved a three-day intersessional meeting of the Working Group on Ship Recycling during the week before MEPC 53; and
- \* agreed to re-establish the Working Group on Ship Recycling at the next session of the Committee.

### **Air pollution**

Regulations for the Prevention of Air Pollution from Ships, contained in MARPOL Annex VI, will enter into force on 19 May 2005.

The MEPC further reviewed the draft amendments to MARPOL Annex VI which were approved at previous sessions of the Committee, with a view to their adoption at MEPC 53. The draft amendments relate to the designation of the North Sea area as a "SOx Emission Control Area" and the introduction of the Harmonized System of Survey and Certification into MARPOL Annex VI. In addition, the Committee instructed the Sub-Committee on Ship Design and Equipment to consider a number of proposed Unified Interpretations.

The Committee made progress on developing draft Guidelines on the CO<sub>2</sub> Indexing Scheme and urged Members to carry out trials using the scheme and to report to the next session. One purpose of developing guidelines on CO<sub>2</sub> emission indexing is to develop a simple system that could be used voluntarily by ship operators during a trial period.

The Committee agreed that a CO<sub>2</sub> indexing scheme should be simple and easy to apply and take into consideration matters related to construction and operation of the ship, and market based incentives.

Meanwhile, the Committee recognized that IMO guidelines on greenhouse gas emissions have to address all six greenhouse gases covered by the Kyoto Protocol (Carbon dioxide (CO<sub>2</sub>); Methane (CH<sub>4</sub>); Nitrous oxide (N<sub>2</sub>O); Hydrofluorocarbons (HFCs); Perfluorocarbons (PFCs); and Sulphur hexafluoride (SF<sub>6</sub>).

### **Oil and HNS Pollution Preparedness, Response and Co-operation**

The MEPC agreed to the development of a joint IMO/UNEP Manual on Natural Resource Damage Assessment and Restoration Following Major Oil Spills, to be submitted for consideration at MEPC 53.

Following work by the Oil Pollution Preparedness, Response and Co-operation (OPRC)/OPRC-HNS (Hazardous and Noxious Substances) Technical Group, the MEPC approved draft Guidelines on facilitation of response to pollution incidents for submission to the 24th Assembly in November 2005 for adoption.

The MEPC also approved OPRC Model Training Courses (Introductory course and Levels 1, 2 and 3).

### **Inadequacy of reception facilities**

Recognizing that provision of reception facilities is crucial for effective MARPOL implementation, the MEPC strongly encouraged Member States, particularly those Parties to the MARPOL Convention as port States, to fulfil their treaty obligations on providing adequate reception facilities. Governments were also urged to respond to a questionnaire on alleged inadequacy of port reception facilities (MEPC/Circ.417) and to report their experiences to MEPC 53 with the aim of identifying problem areas and developing a future action plan.

### **IMO to take Straits Initiative**

IMO is to convene a high-level conference to consider ways and means of enhancing safety, security and environmental protection in the Straits of Malacca and Singapore. The event, which is to take place in Jakarta, Indonesia, probably during July 2005, received the go-ahead from the Organization's Council during its 93rd session which met from 15-19 November 2004 at the IMO's London headquarters.

The Council also urged the Organization and the Secretary-General, in co operation with the littoral States concerned, to continue their efforts to enhance safety, security and environmental protection in the Strait of Malacca to ensure that the Strait continues to remain safe, secure and open to international navigation, through awareness-increasing; information sharing; personnel training; capacity-building; and technical co operation. In seeking attainment of these objectives, the intention will also be to promote the IMO's visionary Marine Electronic Highway project and to seek advice from

the participants on how to configure it in a manner that can best serve the cause of maritime security in addition to its original goals of enhancing safety and environmental protection in the Straits.

The event is envisaged as a practical demonstration of the seriousness IMO attributes to the protection of shipping lanes of strategic significance and importance and will serve as a vehicle for identifying issues which need to be addressed. It will enable the littoral and user States, other stakeholders and the Organization to develop and put in place appropriate action plans. The IMO initiative to seek an international approach on a delicate and sensitive issue such as the protection of the Malacca Strait against terrorism has also been welcomed by the United Nations General Assembly which, in a resolution on Oceans and Law of the Sea adopted on 10 November 2004, encourages the Secretary-General of IMO to continue work on the issue in collaboration with the littoral States and user States.

### **Background information**

The Straits of Malacca and Singapore have been identified by IMO as an indicative example highlighting various issues relevant to the security discussion of shipping lanes in general. At 520 nautical miles in length and, in places, extremely narrow, the Malacca Strait links the Indian Ocean and the South China Sea and provides the artery through which a huge proportion of global trade is carried. Tankers and bulk carriers move vast quantities of oil, coal, iron ore and minerals to the manufacturing centres of south-east and north-east Asia, while millions of containers flow in the opposite direction to feed consumer markets all over the world. Some 50,000 ship movements carrying as much as one quarter of the world's commerce and half the world's oil pass through the Straits of Malacca and Singapore each year.

It is quite clear that any serious disruption to the flow of maritime traffic through this channel would have a widespread and far-reaching detrimental effect, presenting ships with a detour of around 600 miles and, without doubt, higher freight rates and costlier goods and commodities as a result. That is why the preservation of its integrity is such an important issue.

With south-east Asia still, unfortunately, recording the highest number of pirate attacks globally, there have been suggestions that an upturn in crew abductions could signal a move by terrorists to train themselves in operating and navigating large commercial vessels - mirroring the actions of

the 9/11 terrorists. Being a natural "choke point" for shipping, the Malacca Strait has been a haven for pirates for centuries, and today its shallow reefs, innumerable small islands and the fact that the sheer volume of traffic often forces ships to transit at greatly reduced speeds makes the area particularly vulnerable and thus the perfect environment for those who would wish to board ships illegally, or, once in control of ships, to block the passage of others.

The Marine Electronic Highway project aims to use the very latest information technologies available to shipping, such as electronic charts, automatic identification systems, highly accurate satellite-based positioning systems, ship-shore data communication, environmental mapping and databases and meteorological information to create a regional information network that would provide a platform for the management of safe and efficient navigation through the Singapore and Malacca Straits.

It could also play a major part in a number of activities that have a bearing on the marine and coastal environments, namely environmental monitoring, protection and management, emergency response and risk/damage assessment.

IMO is a co-sponsor of the project along with the Global Environment Facility and the World Bank. Indonesia, Malaysia and Singapore are the participating countries within the project and other organizations such as International Hydrographic Organization (IHO), International Association of Independent Tanker Owners (INTERTANKO) and the International Chamber of Shipping (ICS) are taking an active involvement.

### **2005 World Maritime Day theme**

The Council endorsed the proposal of Secretary-General Mitropoulos that the theme for World Maritime Day 2005 would be "International Shipping - Carrier of World Trade". The theme was chosen to provide an ideal opportunity to draw attention to the vital role that shipping plays in underpinning the international economy and its significant contribution to international trade and the world economy as the most efficient, safe and environmentally friendly method of transporting goods around the globe. Mr. Mitropoulos is also exploring the possibility of holding an event focusing on the year's theme in another city of a Member country (in addition to London) in order to highlight the role of IMO in safety, security and marine pollution prevention in all regions of the world.

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## MARE FORUM 2004

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### Maritime Transportation of Energy from Russia and Central Asia.

**Challenges and Opportunities - - From Russia with love - 5 & 6 October 2004. St. Petersburg**

*MARE FORUM's goal as a professional conference organisation is to bring together policy makers and chief executives of industry in a decisive dialogue and debate, where business strategy and policy-making for today and tomorrow's issues can be realised with optimal results.*

### CONCLUSIONS

by the conference chairman

**Michael Grey**

This conference focused on the problems and solutions attached to the maritime delivery of energy from Russia and Central Asia, the challenges and opportunities of its title given equal prominence. It was held against a background of spiralling oil prices, rapidly increasing energy exports from Russia and a growing realisation that these sources were likely to be as important as the Middle East in the mid-term future. Nor was it possible to forget that the economic renaissance and prosperity of Russia was closely bound up with the development of its energy industry and moreover, the development of an infrastructure that would carry that energy into world markets; the ships, ports and pipelines necessary for that exploitation and delivery.

### Essential energy

"Without Russia and its oil, the world would be facing a crisis" was a statement in the "setting the scene" inaugural session that seemed to sum up the importance of this resource, with the corollary that most of this energy will have to be sea-delivered, due to the absence of pipelines, their colossal cost and the fact that many would have to be routed over countries other than Russia. And sea delivery brought with it no ordinary problems, as geography, topography and meteorology conspired to ensure that there was no "easy" route from any Russian coast to the deep waters of the international sea routes. The alternatives of seasonal ice, extreme weather, shallow water and the choke points of the Baltic sounds and Turkish Straits ensured that the delivery system has to be both sophisticated and of high quality.

Moreover, this huge expansion in energy exports from Russia was accompanied by a growing global

intolerance of any form of marine pollution, along with a new militancy among coastal states, which felt unable to countenance the unchallenged transit of potential pollutants along their coasts. The coastal states and regions, where transit traffic included large numbers of tankers, now demanded reassurance about the risks that were being taken by others with "their" coastal environment. Moreover, coastal states now felt justified in intervening, almost regardless of the traditional dictates of international law of the sea, which seemed curiously impotent in the circumstances.

### Perceptions and reality

Political perceptions also cast a shadow over the proceedings, with noises of concern emanating from Brussels at the quality of shipping being employed for the transport of Russian oil around the European coastline. The statistical decline in accidents and the modernisation of the Russian tanker fleet, along with the increase in ice strengthened tonnage available might be reality, but political and public concerns could not be left unaddressed. "Policy is determined" it was rightly said "by politicians and politicians react to public opinion".

Challenges of political perception will require to be addressed, but addressed they must be, if the world's second largest oil producer is to be able to realise its true potential. But no less daunting are the physical challenges, with no ports able to accommodate VLCCs and the problems of winter and constricted accesses requiring expensive alternative solutions.

### Capacity questions

Thus there were practical issues over ship capacity, with the requirement that only ice strengthened tankers could hope to carry Russian cargoes year round out of the Baltic and far north ports, while the capacity of the Turkish Straits was limited and also affected by delays in bad weather, not to mention the Turkish alarm at the unrestricted expansion of water-hauled oil passing through the congested waterway which divides their country and its largest city.

It was true that capacity was being addressed with the shipping industry building large numbers of ice-class tankers (although not all were the highest class) with the emphasis shifting to the Baltic and its principal oil export port of Primorsk, which was expanding from a 12m tonne capacity in 2002 to 62.5m from next year. Much of the oil was short haul to European destinations, (which obviously helped), but there was still some alarm at the number of laden tankers passing through the

sounds and other navigational choke points, and the problems of ice, which was not helped by the restricted capabilities of Russian icebreakers, the only ones permitted to work in Russian waters, and which were too small to effectively break channels for Suezmax and Aframax tankers.

Continuing controversies between the Baltic states over the criteria for ice-class notation, and which had surfaced during the 2002-2003 winter season (described as “average”, rather than severe) have not been completely addressed, while there have been worries about the use of inexperienced crews from warm weather routes in Baltic winters. There is thus some enthusiasm for the common tanker rules currently being rolled out by the classification societies, which will eventually, (it is hoped) consider the diversities in ice classes.

Thus it might be suggested that the export of Russian energy remains in a developmental stage, albeit with huge strides being made in Russia and with the tanker sector which must carry the oil, but with substantial investment needs still required to deepen and develop ports and terminals, and renew the icebreaker fleet.

### **Coastal state fears**

From other Baltic states came expressions of concern at the overnight increase of some 75% in the tonnage of oil being shipped along this route. There is concern as a result of recent accidents in the Baltic, mostly human element related, with an increase in the number of ships grounding and colliding. There is downright alarm in Danish circles about the growth in ship to ship transfers close to busy traffic routes and at the number of ships which fail to supplement their navigational strength with the employment of a pilot. There is an underlying threat that a serious pollution incident in the Baltic or its approaches could cause all manner of undesirable political consequences.

Similarly, if there is to be safe and effective expansion of the northern sea routes from the Barents and Kara seas, there is a need for even more infrastructural investment. The huge nuclear icebreakers built for the Arctic operations are still operational, but are old and only one large replacement breaker is presently under construction. And there is a need, it is stressed by those who have experienced it, to properly appreciate the awesome winter weather conditions, with perpetual darkness, extreme temperatures and icing conditions that can lead to ships accreting thousands of tonnes of ice on their decks. It could be that a de-icing facility could be an important element in a ship's cold weather capabilities.

Here, even more than the Baltic, was there a need for real specialists in ice navigation along with the special ships, while the prospect of laden tankers moving around the North Cape and down the Arctic Norwegian coast in severe winter weather brought demands for reassurances about the probable increase in risks. The consequences of pollution in cold, northern waters, and boulder strewn coasts of great environmental sensitivity were, it was stressed far worse than accidents in warmer climes.

### **Ice expertise**

The fact that operating in ice was a specialist business was stressed at length. Even the operation of tugs in ice required special training, - “you don't take ice lightly” - but there was a substantial amount of this relevant expertise available in Russia. Human error was seen as the main reason for accidents and this risk was managed with more and better training. Company policies were crucial in this respect. And while the safety of ships in extreme climate was a concern, safety of personnel in severe ice conditions was also of great importance.

In the consideration of the LNG trades developing chiefly in the Russian far east, there was a curious similarity with the operation of LNG carriers being as demanding and unforgiving as those of tankers in low temperature trades. Here too, Russia has to cope with its share in a 500% growth in the seaborne transport of LNG. And with the working fleet of about 170 LNG carriers being supplemented with 100 more on order, there were concerns about the supply of expertise and the possible dilution of the sector's safety standards. Sakhalin however requires highly specialist ships capable of working in low temperatures and ice conditions.

The importance of the political “drivers” was stressed, noting, in particular the way in which marine accidents affected political opinion and led to precipitate regulatory changes, before the cause of the accidents were established, and largely to a political agenda, with little technical input. These “symptom-based initiatives” are now seen to be driving the discussions at IMO, which hitherto have been technically based. Highly relevant to the export of Russian oil is the likely issue of a Baltic PSSA, which is likely to ignore the reality of Baltic pollution, 80% of which is from land sources.

Not for the first time did delegates hear that the key to safety was not additional regulation, but better implementation of that which was already available. And on the regulatory front, there was a demand for governments to strengthen their port state controls, to ensure that only quality ships and

experienced crews were employed in the carriage of these demanding cargoes. A robust IMO, flag states and port states doing their respective jobs properly would provide the reassurance that was needed. And as for the owners, who were at the heart of safe ship operation, "double hulls were no substitute for good management, manning and maintenance" Enforcement was seen as an important key.

Something of the heroic dimensions of the Russian effort to develop its oil export infrastructure was provided by Russian speakers, who, however noted the considerable investment under way. This was providing ice strengthened tanker tonnage, and had been allocated for port development and the technical innovation which would enable larger ships to be used, with the use of offshore terminals, sophisticated training in ice navigation and with private oil companies building equipment for the state to use.

### Research requirements

Again, this also signalled the need for more research, notably to capture operational experience and develop solutions to the special operational problems, notably those which bore upon safety. New engineering solutions were making ice operations safety, such as azimuthing thrusters, but there still remained a requirement for careful planning for all ice and low temperature operations of all kinds, which included attention paid to contingencies. It was necessary to remember that winters were always different and the ice and environment were constantly changing. There had been 63 incidents in the ice during the 2002-3 winter, which suggested that inexperienced people should keep out of these areas. The need to train, to cherish experience and retain expertise were all seen as crucial "human element" requirements. Safety depends upon these.

And it was the safety mandate which, while requiring adequate ability to respond to accidents and in particular pollution, also demanded attention be paid to prevention of accidents, especially preventable human element issues, which constantly arose. Better port state/flag state links were required, (too much international inconsistency on port state control remained) while a strong focus upon risk-reduction tools such as AIS, VTS and routeing was required.

Improvements were being witnessed, notably in the case of ship quality, although it was noted that tanker tonnage in the "Turkish Straits" shared the waterway with a great deal of tonnage which could be described as "high risk". Similarly, tanker terminals in the Black Sea left much to be desired, only

two out of 30 being described as "good". There was a need to strike balance between maritime safety and economic development.

While the age and capability of the Russian deep sea tanker fleet were improving fast, there was concern at the age and quality of the short sea and river fleet, presently the second largest in Europe. A scrap and invest scheme was recommended. Nevertheless, there was seen to be a reassuring degree of optimism in the Russian shipping sector in a country which was undoubtedly booming. Tax reforms, better accountancy standards, competent business planning and good security would assist investors in this Russian boom, where there remained a degree of political risk, minimised by competent domestic law practitioners.

### Conclusions

A whole range of discussion points emerged from this valuable conference. Six in particular might commend themselves to policy-makers for further study.

**1. Capacity problems**, while the Russian export build-up continues, need to be addressed, with special attention to ship quality, operational capability and the capability of shore infrastructure.

**2. Issues of human element** need attention, notably the training and experience of crews operating in extreme conditions, and the need to provide sufficient expertise as the export fleet grows in size.

**3. Issues of traffic density and the capacity of Baltic and Black Sea** routes need attention at the highest level. Routeing, VTS, pilotage, general safety, preparedness and contingency elements need to be examined to provide a greater degree of reassurance to the coastal states, which will not tolerate massive environmental damage from oil carrying vessels. There are political issues to be faced here, notably concerning the Danish sounds and Turkish Straits, outside the remit of the industry.

**4. Perceptions of ship quality** need to be crystallised and notably reassurances given on the quality of Russian controlled (as opposed to owned) tonnage.

**5.** There are questions to be answered on issues of investment, with substantial **modernisation needed in the Russian icebreaker fleet**, dredging provision and Black Sea terminal modernisation.

**6. There is important research needed on such matters as ice class harmonisation**, and the development of more robust ships capable of working in ice.

*The sponsors who made this conference possible are :*

**Russian Maritime Registry of Shipping - OCIMF - Concordia Maritime - Stena Bulk - Braemar Seascope - DNV - Moore Stephens - Dutch Maritime Network - Lloyd's Register - Royal Association of Netherlands' Shipowners - Green Award - Hazardous Cargo Bulletin.**

Set for the first time in the Russian Federation, the location of this Mare Forum was St. Petersburg, a major energy and shipping centre.

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### **Subject: French Class**

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A French teacher was explaining to her class that in French, unlike English, nouns are designated as either masculine or feminine. "House" is feminine -- "la maison." "Pencil" is masculine -- "le crayon."

A student asked, "What gender is a computer?"

Instead of giving the answer, the teacher split the class into two groups -- male and female and asked them to decide for themselves whether "computer" should be a masculine or a feminine noun. Each group was asked to give four reasons for their recommendation.

The men's group decided that "computer" should definitely be of the feminine gender ("la computer"), because:

- 1) No one but their creator understands their internal logic;
- 2) The native language they use to communicate with other computers is incomprehensible to everyone else;
- 3) Even the smallest mistakes are stored in long term memory for possible later retrieval; and
- 4) As soon as you make a commitment to one, you find yourself spending half your salary on accessories for it.

The women's group, however, concluded that computers should be masculine ("le computer"), because:

- 1) In order to do anything with them, you have to turn them on;
- 2) They have a lot of data but still can't think for themselves;
- 3) They are supposed to help you solve problems, but half the time they ARE the problem; and
- 4) As soon as you commit to one, you realize that if you had waited a little longer, you could have had a better model!

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### **WMU's 2004 Graduation Ceremony**

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On Sunday, 12 October, 104 students from 47 different countries received their Master of Science degrees from WMU's Chancellor, Mr. Efthimios Mitropoulos, Secretary-General of the International Maritime Organization.

The Guests of Honour were Mr. Weng Mengyong, China, Vice-Minister for Communications and Professor Christopher Ameyaw-Akumfi, Ghana, Minister for Ports, Harbours and Railways.

For the first time, WMU awarded two degrees of Doctor of Science in Maritime Affairs, *honoris causa*. The honorary doctors were:

Mr. Yohei Sasakawa, President of the Nippon Foundation and Special UN Ambassador for the Elimination of Leprosy

Mr. William O'Neil, formerly Secretary-General of the International Maritime Organization and WMU Chancellor.

The awards marked the outstanding global contribution made by both, and also the particular support that each had given to the growth and development of WMU.

The Chancellor's Medal for Academic Excellence was awarded to Ms Li Ying of the Chinese Ministry of Communications, and the C P Srivastava Award for International Fellowship was presented to Fred Asiedu-Dartey of Ghana Shippers' Council. The names of the two award-winners were only revealed when they were announced at the ceremony.

Each year, the graduates present the City of Malmö with a gift. This year, the students decided to leave behind them a living legacy: trees for all the people of Malmö to enjoy. "We hope that the trees will symbolise the living and growing friendship between Malmö and WMU students from across the globe," said the idea's originator, Rogelio Villanueva, Sasakawa Fellow and officer from the Philippine Coast Guard. The trees were planted on 30 September – World Maritime Day – when the students were joined by Malmö's Deputy Mayor, Mr. Kent Andersson. 21 new whitebeams were planted to replace the old elms, stricken with disease.

The students graduating in 2004 bring the total of WMU graduates to almost 2,000 from 149 countries around the world. The graduates take up senior positions as managers, administrators, policy advisers and educators in the maritime field, and their impact on safety and marine pollution prevention world-wide is growing every year. The University offers five specialisations within the Master of Science programme: in Maritime Safety & Environmental Protection, Maritime Administration, Port Management, Shipping Management and Maritime Education & Training, as well as an extensive programme of short-term Professional Development Courses, and a new PhD programme, developed in collaboration with the University of Wales Swansea in the UK, a recognised centre of excellence.

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## **Revised Load Lines Protocol Annex Enters into Force 1 January 2005**

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Revisions to the 1988 Load Lines Protocol enter into force on 1 January 2005. Also entering into force on the same date are amendments to the Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers (resolution A.744(18)).

### **Amendments to the 1988 Load Lines Protocol**

The amendments adopted in June 2003 to Annex B to the 1988 Load Lines Protocol include a number of important revisions, in particular to regulations concerning: strength and intact stability of ships; definitions; superstructure and bulkheads; doors; position of hatchways, doorways and ventilators; hatchway coamings; hatch covers; machinery space openings; miscellaneous openings in freeboard and superstructure decks; cargo ports and other similar openings; spurling pipes and cable lockers; side scuttles; windows and skylights; calculation of freeing ports; protection of the crew and means of safe passage for crew; calculation of freeboard; sheer; minimum bow height and reserve buoyancy; and others.

The amendments, which amount to a comprehensive revision of the technical regulations of the Protocol, will apply to approximately two-thirds of the world's fleet, i.e., to those ships flying the flags of States Party to the 1988 LL Protocol. The amendments do not affect the 1966 LL Convention.

### **June 2003 amendments to the enhanced survey programme for tankers and bulk carriers**

Also entering into force on the 1 January 2005 are amendments to the Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers (resolution A.744(18)), to include a new appendix 3 to annex 12 of Annex B to the Guidelines relating to the sampling method of thickness measurements for longitudinal strength evaluation and repair methods.

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## **IFSMA Log September 2004**

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IFSMA attended two meetings at IMO this month: The 47th Sub Committee on Stability and Load Lines and on Fishing Vessel Safety (SLF) and the 9th Sub Committee on Dangerous Goods, Solid Cargoes and Containers (DSC). IFSMA was also represented by Eddie Agbakoba at the Port Reception Facilities Forum

Overseas IFSMA was represented by Arnolds Zantmans at the 17th meeting of EMRF held in Riga, Latvia.

SLF discussed a number of key topics but the focus for IFSMA was the review of the Intact Stability Code, with particular reference to MSC 78 which had concurred that MSC/Circ707, the Guidance for the shipmaster for avoiding dangerous situations in following and quartering seas, should be revised and that this document should be a stand alone document rather than part of Intact Stability code. The result of these discussions in SLF was the re-establishment of the Correspondence Group under the co-ordination of Germany. This group will prepare a draft revision of MSC Circ 707 for submission at SLF 48.

Captain Bjorn Haave represented IFSMA at the DSC meeting which ran into October and we still await the final outcome of this sub committee meeting. However a number of issues were discussed including the review of the Bulk Carrier code and the development of a manual on loading and unloading solid bulk cargoes for terminal representatives.

Some countries reported on the deficiencies discovered in the results of inspections on packaged dangerous goods. There seemed to be an alarmingly high percentage of deficiency ranging from 30% to 45% of those recorded and labelling and marking of packages seemed to be the main problem.

In the Intertanko led forum on Port Reception Facilities, the concern or perceived view that managers of marine terminals do not have the best interests of the ship and environment as a priority. One problem may be the IMO's choice of the ambiguous word Adequate as a measure of in best describing the requirements of

waste facilities to be provided for ships. The Forum's aim is to lobby for improved response to the ship's needs for proper waste management facilities.

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## IFSMA Log October 2004

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*Please read in conjunction separate articles on the two IMO Committees.*

IFSMA attended two meetings at IMO this month: The MEPC and Legal Committees

MEPC 52nd session was held from the 11th to the 15th October 2004.

A number of issues were discussed including the recycling of ships and the revision of MARPOL Annex I, Annex II and IBC Code which were adopted. The MEPC also adopted a resolution on Guidelines for the transport of vegetable oils in deep tanks or in independent tanks specially designed for the carriage of such vegetable oils on board dry cargo ships. The guidelines have been developed to allow general dry cargo ships that are currently certified to carry vegetable oil in bulk to continue to carry these vegetable oils on specific trades. The guidelines will take effect on 1 January 2007.

The MEPC also finalized the Guidelines for approval of ballast water management systems and approved the Procedure for approval of active substances, with a view to their consideration for adoption at MEPC 53 by an MEPC resolution. The development of other guidelines will continue at the Bulk Liquids and Gases (BLG) Sub-Committee and future sessions of the MEPC.

Of particular interest to serving shipmasters is the increasing number of Particularly Sensitive Sea Areas (PSSAs). It was agreed to designate of the Western European Waters as a new PSSA.

There are now seven designated PSSAs: the Great Barrier Reef, Australia (designated a PSSA in 1990); the Sabana-Camagüey Archipelago in Cuba (1997); Malpelo Island, Colombia (2002); Around the Florida Keys, United States (2002); the Wadden Sea, Denmark, Germany, Netherlands (2002); Paracas National Reserve, Peru (2003); and Western European Waters (2004). In relation to the proposed extension of the existing Great Barrier Reef PSSA to include the Torres Strait Region, the MEPC agreed to refer the legal aspects of compulsory pilotage in straits used for international navigation to the Legal Committee for advice.

Furthermore The MEPC agreed to designate the Oman Sea area of the Arabian Seas as a special area and the designation is included in the revised Annex I. The other special areas in Annex I are: Mediterra-

nean Sea area; Baltic Sea area; Black Sea area; Red Sea area; "Gulfs" area; Gulf of Aden area; Antarctic area; and North West European Waters. In the special areas, there are stricter controls on discharge of oily wastes.

The MEPC finalized the Guidelines for approval of ballast water management systems and approved the Procedure for approval of active substances, with a view to their consideration for adoption at MEPC 53 by an MEPC resolution. The development of other guidelines will continue at the Bulk Liquids and Gases (BLG) Sub-Committee and future sessions of the MEPC.

Regulations for the Prevention of Air Pollution from Ships, contained in MARPOL Annex VI, will enter into force on 19 May 2005.

The MEPC further reviewed the draft amendments to MARPOL Annex VI which were approved at previous sessions of the Committee, with a view to their adoption at MEPC 53. The draft amendments relate to the designation of the North Sea area as a "SOx Emission Control Area" and the introduction of the Harmonized System of Survey and Certification into MARPOL Annex VI. In addition, the Committee instructed the Sub-Committee on Ship Design and Equipment to consider a number of proposed Unified Interpretations.

The Committee made progress on developing draft Guidelines on the CO2 Indexing Scheme and urged Members to carry out trials using the scheme and to report to the next session. One purpose of developing guidelines on CO2 emission indexing is to develop a simple system that could be used voluntarily by ship operators during a trial period.

The Committee agreed that a CO2 indexing scheme should be simple and easy to apply and take into consideration matters related to construction and operation of the ship, and market based incentives.

Meanwhile, the Committee recognized that IMO guidelines on greenhouse gas emissions have to address all six greenhouse gases covered by the Kyoto Protocol (Carbon dioxide (CO2); Methane (CH4); Nitrous oxide (N2O); Hydro fluorocarbons (HFCs); Per fluorocarbons (PFCs); and Sulphur hexafluoride (SF6).

The MEPC agreed to the development of a joint IMO/UNEP Manual on Natural Resource Damage Assessment and Restoration Following Major Oil Spills, to be submitted for consideration at MEPC 53. Following work by the Oil Pollution Preparedness, Response and Co-operation (OPRC)/OPRC-HNS (Hazardous and Noxious Substances) Technical Group, the MEPC approved draft Guidelines on facilitation of response to pollution incidents for submission to the 24th As-

sembly in November 2005 for adoption.

The inadequacy of reception facilities was also discussed Recognizing that provision of reception facilities is crucial for effective MARPOL implementation, the MEPC strongly encouraged Member States, particularly those Parties to the MARPOL Convention as port States, to fulfil their treaty obligations on providing adequate reception facilities. Governments were also urged to respond to a questionnaire on alleged inadequacy of port reception facilities (MEPC/Circ.417) and to report their experiences to MEPC 53 with the aim of identifying problem areas and developing a future action plan.

The 89th Session of the Legal Committee met from 25th to 29th October 2004

The first two and a half days were dominated by two important discussions to finalise the SUA convention and the draft Convention on Wreck Removal. With regard to the SUA Convention, work is continuing to reach a conclusion to present to the Diplomatic Conference in October 2005. This convention is having to be brought up to date with regard to the concerns of terrorism that have increased since the existing Convention was accepted and the current work follows the IMO resolution A.924(22)

The draft Convention on Wreck Removal (WRC) is also a major topic in the legal committee and is trying to address the rights and obligations regarding wrecks, drifting or sunken cargo which create hazards to navigation and may damage the environment. One particular issue is who will deal with hazardous wrecks that are beyond territorial waters.

IFSMA presented its paper on the fair treatment for seafarers. This received much praise from several delegations and the paper will form part of the working documents at the joint ILO/IMO working group which will commence its meetings in January 2005. As only 16 representatives will form this working group IFSMA will be attending as an observer.

Other issues debated were places of refuge with CMI stating that it had identified several concerns on the present arrangements emphasising that there was no single International Convention establishing the rights and obligations of a coastal state when face with a request for a place of refuge for a ship.

Finally, the committee failed to find agreement on the issue of compulsory pilotage for ships transiting a strait used for international navigation.

## **IFSMA Log November 2004**

During November IFSMA held its Executive Council Meeting in London and also attended the IMO Council meeting as an observer.

### The Executive Council Meeting November 4<sup>th</sup> / 5<sup>th</sup>

In addition to discussions on the progress of IFSMA during the last 6 months the Executive committee agreed to implement the 2005 Policy document.

Furthermore the arrangements were confirmed for the 2005 annual General assembly to be held on the 16<sup>th</sup> and 17<sup>th</sup> June 2005 in Mariehavem, Aaland, Finland. Aaland is an Island between Sweden and Finland and is appropriate as both Finland and Sweden will host this event.

It was also confirmed that IFSMA would participate in the Command Seminars during 2005 jointly with the Nautical Institute, Trinity House and the Honourable Company of Master Mariners,

The 2005 Policy Document was accepted and will be distributed in December to all Associations, and will be made available to any member wishing to represent IFSMA at IMO or other relevant meetings.

It was also agreed that in future links would be established so that this Log Book could be readily assessed by all members of the associations.

### The 93<sup>rd</sup> Session of the IMO Council: November 15<sup>th</sup> – 19<sup>th</sup>

Much of the debate related to the internal workings of IMO and the budgetary requirements for the future including the refurbishment of the IMO building. However the Council did note the Legal Committees approval of the terms of reference for the Joint IMO/ILO ad hoc expert working group on the Fair Treatment of Seafarers in the event of a Maritime Accident.

An important debate was on the vital role IMO had in protecting shipping lanes of strategic importance. In particular the focus was on Straits of Malacca and Singapore are planning to sponsor a meeting on this subject in Jakarta during 2005.

### Captain Hubert Wardelmann

Finally it is with deep sadness that we learnt of the passing of our dear friend and colleague Hubert Wardelmann. He was a very active member and a strong supporter of our aims at IMO. We have sent our deepest condolences to his family.