

## **Michael Julian**

Mr Julian was appointed Executive Manager International Relations, Australian Maritime Safety Authority (AMSA) in November 1997, in this position his primary role is as Chairman of the United Nation's International Maritime Organisation's Marine Environment Protection Committee.

Mr Julian was first elected Chairman of the Marine Environment Protection Committee (MEPC) in September 1997 and was re-elected in 1998, 1999 and again in October 2000 for the year 2001. Prior to his election to Chairman MEPC he was the leader of the Australian delegation to the Marine Environment Protection Committee from 1990 to 1997.

Mr Julian is also responsible for managing the strategic interface between AMSA and the maritime safety and marine environmental protection agencies of other nations particularly those in South East Asia and South West Pacific regions. He also maintains strong links with other relevant governmental agencies as well as with national and international shipping industry organisations.

Before his appointment to International Relations Mr Julian headed AMSA's Marine Environment Protection Services, responsible for the protection of Australia's marine environment from pollution caused by shipping, a position he held since the commencement of AMSA in January 1991.

Prior to his appointment to AMSA Mr Julian worked in the Department of Transport and Communications for 15 years in a number of maritime safety areas including Search and Rescue and as the Department's Regional Director in Victoria.

Before joining the Australian Commonwealth Public Service Mr Julian undertook a 15 years sea going career with the Peninsular and Oriental Steam Navigation Company (UK).

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**IMO Developments -  
Challenges Facing the  
Marine Environment Protection Committee**

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The Maritime Law Association of Australia & New Zealand  
28<sup>th</sup> Annual Conference  
Sydney 10 – 13 October 2001

## **Abstract**

*The IMO plays a fundamental role internationally in the protection of the marine environment and in the prevention of ship-sourced pollution. Part I of this paper identifies recent progress of some of the more significant challenges on the agenda of the IMO's Marine Environment Protection Committee for the 2001/2002 biennium with particular reference to the aftermath of the Erika incident but also includes the harmful effects of anti-fouling paint, harmful effects of aquatic organisms in ships ballast water, air pollution/greenhouse gas emissions, ship recycling, inadequate waste reception facilities in ports, response to spills of hazardous and noxious substances and the transportation of heavy oils both as cargo and bunkers.*

*Part II examines a number of challenges of a policy nature facing IMO Member Governments, including flag State implementation of IMO conventions, international concern with too much regulatory action by IMO, keeping up to date with IMO regulatory activity and significant organizational issues facing IMO.*

## **Introduction**

The international community as a whole, not just the maritime community, is continually demanding higher standards and improved measures to protect the environment globally.

There is also an ever-growing emphasis being placed on the protection of the marine environment. Events in Europe in the aftermath of the sinking of the *Erika* in December 1999 and the *Treasure* off South Africa in June 2000 as well as several other incidents where considerable damage to the marine environment occurred or was threatened, has clearly demonstrated the high level of public opinion with regard to such incidents. Which in turn is reflected by the reaction by politicians from national parliaments not only in Europe but internationally.

The aftermath of the *Erika* was extensively covered in the international maritime press, probably to a greater extent than any other maritime event in recent years, almost surpassing previous incidents such as *Exxon Valdez*, *Braer* and *Sea Empress*. IMO's ability to deal with this issue quickly and with an acceptable outcome was seen at the time as a 'litmus test' for the Organization, if it failed it would have had a significant adverse impact on the Organization's future.

It is very pleasing to note that IMO's MEPC in reaching a consensus position in April this year and adopting new regulations on the accelerated phase out of single hull oil tankers, proved the capability of the Organization in maintaining its pre-eminent role as the sole international ship regulatory body.

Where demands for improved safety and the environmental measures can be justified it is usually assumed, as in the case of the *Erika*, that governments will initiate the necessary

action. However, should this be case? Following incidents such as the *Erika*, clearly governments are the appropriate medium, however in other areas of marine environment protection from ship-sourced pollution; this may not necessarily be the case.

Why not let those likely to cause pollution take the lead and put in place appropriate strategies to minimize the risk of pollution? i.e. through industry self-regulation. In many circles this approach is dismissed as not providing an adequate basis for measuring performance against required criteria. However, some areas, which I will come to later in the paper, are worthy of investigation and trial. Because of the non-mandatory aspect of industry self regulated issues, particularly where new initiatives are concerned, these could be implemented more quickly than waiting for an IMO convention to be adopted.

### **Who and what is IMO?**

A lot has been said about IMO at this conference and while most of you are fully conversant with IMO and what it is, there could be some who may not be as familiar. I wish therefore, to make it quite clear that when we say 'IMO should do this' or 'IMO should have done that' we need to understand exactly who or what IMO is.

IMO is the United Nations specialised agency responsible for improving maritime safety and preventing pollution from ships. Quite simply IMO is the 159 member States and 2 Associated Member States which having accepted the Convention on the International Maritime Organization is collectively 'the IMO'. It is not Mr. William O'Neil, the Secretary General, or his secretariat staff located at the IMO headquarters building in London. The Secretary General, as the 'chief executive' of the secretariat, plays a very significant role in promoting IMO internationally, managing the secretariat and proposing new initiatives that Member States may wish to pursue. The Secretary General also acts in a support role to the IMO Council and Assembly, the Organizations; governing bodies.

IMO is a technical organisation with most of its work undertaken in a number of committees and sub committees.

In making decisions on maritime safety it is the responsibility of the Member States that attend meetings of the Maritime Safety Committee (MSC). Whereas decision-making on marine environment protection matters is undertaken by the Member States that attend meetings of the Marine Environment Protection Committee (MEPC).

Considerable value is given to the decision making process of the above committees by a large number of international non-government organizations (NGO's) which have consultative status and attend IMO meetings. NGO's represent the various groups that make up the shipping industry and include a number of environmental and other professional organizations such as BIMCO which is represented at this conference. Without the support and assistance of the NGOs with technical issues, the decision making process at IMO would be seriously disadvantaged.

## **PART 1 – Environmental Challenges**

### ***Aftermath of the Erica***

The key issue at IMO stemming from the *Erika* was the agreement to accelerate the phase out of single hull oil tankers and the introduction of the conditional assessment scheme to better monitor compliance with IMO conventions by older tankers. The new phase out timetable, is enshrined in a revised Regulation 13G of MARPOL 73/78. The April 2001 date for the MEPC meeting had been brought forward to ensure that the revised Regulation would enter into force at the earliest possible time permitted under the MARPOL Convention, September 2002.

Although the new phase out timetable sets 2015 as the principal cut off date for all single hull oil tankers, the flag State may allow for some ‘newer’ single hull oil tankers registered in its country that conform to certain technical requirements such as double bottoms or double sides, to continue trading until 2017 or until the 25<sup>th</sup> anniversary of their delivery.

A key element in reaching a consensus agreement among the Europeans regarding the extension from 2015 to 2017 for certain categories of oil tankers was the inclusion of a provision, taken from Section 5 of UNCLOS –International Rules and National Legislation to Prevent, Reduce and Control Pollution of the Marine Environment, Article 211 at paragraph 3 which provides as follows “*States which establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their off shore terminals shall give due publicity to such requirements and shall communicate them to the competent international organization*”

This is the first time that this port entry provision has been utilised in this way in an IMO Convention. The use of this provision in the context of the revised 13G is to allow those port States, which wish to, to deny entry to single hull oil tankers, which have been permitted to continue to trade after 2015 up to their 25<sup>th</sup> anniversary. At the time of the adoption of the revised 13G, Sweden on behalf of the full European Community as well as Cyprus and Malta advised they would use this provision. Australia is considering its position.

The use of Article 211 in this way will no doubt promote greater use of this mechanism in the future.

Another key element was the inclusion of the Condition Assessment Scheme (CAS), which will apply to pre MARPOL oil tankers from 2005 and to post MARPOL oil tankers after 2010. Key components of the CAS are to require more stringent and transparent verification of the reporting of the structural condition of the ship and that

documentary and survey procedures have been carried out and completed as required by MARPOL 73/78.

The new regulation identifies three categories of oil tanker as follows:

**Category 1 oil tanker** – oil tankers of 20 000 dwt and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo and of 30 000 dwt and above carrying other oils, which do not comply with the requirements for protectively located segregated ballast tanks, commonly known as Pre MARPOL tankers.

**Category 2 oil tanker** – oil tankers of 20 000 dwt and above carrying crude oil, fuel oil, heavy diesel oil or lubricating oil as cargo, and of 30 000 dwt and above carrying other oils, which do comply with the requirements for protectively located segregated ballast tanks, commonly known as MARPOL tankers.

**Category 3 oil tanker** – an oil tanker of 5 000 dwt and above but less than the tonnage specified for Category 1 and 2 tankers.

A key component of the agreement to bring forward the phase out date was conditional on also reaching agreement on the Condition Assessment Scheme (CAS). This will apply to all Category 1 vessels continuing to trade after 2005 and all Category 2 vessels after 2010. A resolution adopting the CAS was passed at the meeting. Although the CAS does not specify structural standards in excess of the provisions of other IMO Conventions, codes and recommendations, its requirements stipulate more stringent and transparent verification of the reportedly structural condition of the ship and that documentary and survey procedures have been properly carried out and completed.

The requirements of the CAS include enhanced verification of the reported structural condition of the ship and verification that the documentary and survey procedures have been properly out and completed.

However, in addition to the CAS there were some 23 other initiatives identified which will facilitate the elimination of substandard oil tankers, improve the safety of ships and generally reduce the risk of oil pollution from shipping. These initiatives are under further consideration by the IMO safety and environment technical committees and sub-committees. The more significant initiatives includes the need to:

- design ships, particularly large bulk carriers and oil tankers that are survey friendly, i.e. so that access by surveyors to all parts of the ship is made easier
- establish a design philosophy aimed at achieving higher structural standards
- review the response capability to spills of high density oils whether carried as cargo or as ships' bunkers
- prepare guidelines on places of safe refuge

## **Harmful Aquatic Organisms in Ballast Water**

The introduction of harmful aquatic organisms and pathogens to new environments in ships' ballast water has been identified as one of the four greatest threats to the world's oceans.

This has probably been one of the most complex issues that IMO has been asked to address for many years, probably more complex than establishing the first Oil Pollution Convention in 1959. After ten years of discussion, the development of guidelines, reviewing research into possible solutions and treatment options we are still a long way from achieving the final technical solution(s). Ballast water exchange at sea is seen only as an interim solution and one, which may in some areas increase the risk of introducing aquatic organisms.

A major stumbling block has been that no clear practical or cost effective means of treating ballast water to prevent the introduction of harmful organisms and pathogens has emerged. Another stumbling block has been the ability to adequately conceptualise the nature and extent of the problem and to come to grips on agreeing or setting environmental standards.

The first International Ballast Water Treatment R&D Symposium and Ballast Water Treatment Standards Workshop were held in London in March 2001 and I am pleased to say laid the groundwork for MEPC 46 in April this year to make good progress in agreeing the framework for an environmental standard. An MEPC Correspondence Group is taking this work further and is developing the ballast water standard for inclusion in the draft convention.

Another stumbling block over several meetings of the MEPC Ballast Water Working Group has been the application and geographical coverage of the draft convention. In the current draft the concept of a two-tier approach has been adopted. The first tier requires all ships to meet certain baseline requirements for ballast water management at all times throughout the world. Tier two enables ballast water control areas to be designated by contracting parties where additional measures may be required.

In light of the progress achieved by the Working Group during the April meeting of MEPC the Committee agreed to recommend that the IMO Council tentatively schedule the holding of a diplomatic conference in the latter part of 2003 dependent upon a satisfactory progress being made during 2002. Council agreed with this at its June 2001 meeting.

There is however, a lot of ground to cover before reaching the stage of holding a successful diplomatic conference, there are only three more meetings of MEPC in which to finalise the draft convention, this is now the major challenge facing MEPC as ballast water takes centre stage, replacing anti –fouling paints.

## **Harmful Effects of the use of Anti-fouling Paints for Ships**

Another significant environmental concern that has been under consideration by MEPC also for over ten years is the harmful effects of TBT and other organotin compounds used in anti-fouling paints. This is now at the final stages of becoming an international convention.

A Diplomatic Conference is to be held during the first week of October in London to adopt the International Convention on the control of Harmful Anti-fouling Systems. While at this stage it is out of MEPC's hands this remains a major challenge for IMO Member States and the NGO's to adopt this new convention. It is some two years since all representatives of government and industry at MEPC gave their agreement to the need to ban TBT and other organotin compounds. The challenge since and for the conference is how and when the ban should be implemented.

A number of critical areas have still to be agreed by the Conference, these include the sensitive entry into force provisions, interpretation of the complete ban (ie removal of existing antifouling or over coating with a sealer paint), effective ban dates, amendment procedures, compensation for damage and whether the precautionary principle should be in the preambular part or in an Article in the main body of the convention.

It is also likely that new proposals to amend the existing agreed draft text will be submitted to the Conference.

ANNEX 1 of the Convention will list those anti-fouling systems that MEPC agrees should not be applied to a ship's hull. Articles 6 and 7 of the Convention provide the mechanism by which anti-fouling systems will be considered for inclusion on the banned list. Articles 10 and 11 spell out the inspection regime and the action to be taken by the flag State Administration if a violation occurs.

Annexes 2 and 3 provide the mechanism and criteria to be considered when making a proposal for an anti-fouling substance to be banned.

Once the Convention has been adopted the challenge to quickly bring it into force will be a major issue for IMO Member States and the MEPC.

## **Recycling of Ships**

Ship scrapping or as it has now appropriately become known as 'ship recycling' was first raised at the MEPC by Norway in November 1998 when the committee agreed to put the matter on its agenda for the following meeting (MEPC 43) for initial discussion. Having considered several submissions the Committee agreed that IMO had a role to play in reducing the safety and environmental risks associated with the recycling of ships.



However, some delegations were of the view that IMO should not be directly involved and that the lead agency role should more appropriately be undertaken under the Basel Convention or ILO.

The Committee particularly welcomed the proactive approach being taken at the time by the shipping industry in establishing its own working group to examine the issue, with the objective of collectively determining what should be done, including the development of an industry code of practice.

After a thorough debate at MEPC 44 in April 2000 with a greater number of delegates now in favor of IMO having a role in the recycling of ships, a Correspondence Group was tasked to provide a report for consideration at MEPC 46 to be held in April 2002. With ship recycling gaining momentum both in and outside of IMO and with more delegates seeing the need for IMO to be involved, at least in examining the issue of the hazardous materials remaining on a ship when it goes to a recycling yard or beach. It was agreed to have a working group meet at MEPC 47 in March 2002 to look at the matter in more detail particularly the role of IMO.

With the anti-fouling paints matter moving to its final stage of a convention, the committee will now have the opportunity to spend more time assessing the necessary action to be taken regarding ship recycling.

At a recent Mare-Forum ship-recycling seminar a proposal was made to hold a joint IMO/UNEP/ILO meeting to further pursue this matter and determine where the division of responsibilities lies between these three international organizations. This will be considered more formally at MEPC 47 in April 2002. Industry should be encouraged to further develop and put in place its Code of Practice. I would advocate that ship recycling is a very good example where self-regulation could be used by industry to demonstrate its ability to 'self regulate' on an environmental issue.

It is worth noting that both the anti-fouling paints and ballast water issues have taken at least ten years before getting close to an international convention being adopted. Whereas an industry based code of practice on ship recycling has the opportunity of being introduced and made to work far more quickly and if successful may alleviate the need for an international convention which is the long term goal being suggested by a number of concerned organizations. An IMO Assembly resolution referring to the inclusion of an industry Code of Practice could well prove a short term as well as longer term solution.

### **Air Pollution from ships**

The MEPC broke new ground in September 1997 when it adopted a new protocol MARPOL - Annex VI on air pollution. Regrettably four years later only three Member States have ratified the protocol. With this slow progress it appears unlikely that Annex VI will enter into force by the time 'set' by a Conference resolution which urged Member States to sign up to the Protocol no later than 31 December 2002. If the conditions for entry into force have not been met by this date the MEPC will need to initiate a review to

identify the impediments to the entry into force of the Protocol and any necessary measures to alleviate those impediments.

To date it is not clear why more States have not ratified MARPOL Annex VI, MEPC at its last meeting asked Member States to advise the Secretary General of their progress in its ratification.

At the time the Air Pollution Annex was adopted very little work had been done on greenhouse gas emissions from ships, accordingly a conference resolution called on MEPC in the future to address this matter.

At the last MEPC meeting in March 2001 the Committee considered an IMO study, undertaken by a group of consultants, on greenhouse gas emissions from ships as well as a submission by Norway on the merits of developing an emission standard as a vehicle to facilitate the requirements of the Kyoto Protocol to limit or reduce greenhouse gas emissions from ships. The main issues include how and to what extent hydrocarbons and NO<sub>x</sub> emissions may contribute to the production of greenhouse gas and whether the potential exists to reduce greenhouse gas emissions from ships. In this context the two papers looked at both short and long term considerations ie reductions through current technologies or market-based approaches and through fuel switching or alternative plant designs.

At MEPC 47 in March 2002 the Committee will establish a Working Group to commence work on developing an IMO strategy on greenhouse gas emissions from ships for submission to the IMO Assembly in 2003 in advance of negotiations for the second Kyoto commitment period that begins in 2005.

### **Inadequate Ship Waste Facilities in Ports**

A significant problem being experienced by shipping worldwide is the inadequacy of ship waste reception facilities in many ports around the world, MEPC has been particularly concerned with this situation for some time.

At its March 2000 meeting the Committee approved Guidelines for Ensuring the Adequacy of Port Reception Facilities. One of the key recommendations contained in the guidelines is for IMO member governments to each undertake an audit of port reception facilities in their country and identify any shortfall to IMO with advice on the Member States plans to remedy the situation or if it needs assistance through the IMO Technical Cooperation Program to seek such assistance.

The guidelines were published by IMO with the assistance of INTERTANKO. The publication is also available on the IMO Website.

The result of inadequate waste reception facilities is obvious! Ships illegally dump their waste whether oily bilge water, oil or chemical cargo slops from washed tanks and general 'household' garbage at sea.

Under the provisions of MARPOL 73/78 parties to the convention, that is the governments who have ratified the convention, have signified their agreement to provide adequate ship waste facilities in their ports. It is therefore quite incongruous that these same governments do not put in place appropriate mechanisms to ensure provision of adequate waste reception facilities in their ports.

The petroleum industry is seen as being primarily responsible for providing facilities for oil cargo slops from oil tankers, as this is part of doing business in oil transportation. Generally speaking facilities are provided at most oil terminals, although one region where over 50% of the world's oil is loaded, the Arabian Gulf, has very few reception facilities. Consequently, oil tankers approaching the Gulf are cleaning their tanks prior to reaching their loading port are pumping oil slops into the sea at much greater levels than permitted under MARPOL Annex 1. Charterers, often the major oil companies, requiring oil tankers to arrive at the loading port with clean cargo tanks and clean ballast, exacerbate this situation.

I am pleased to say that the countries in the Gulf region have recently developed a strategic waste reception facility plan to overcome this deficiency and are in the process of implementing the installation of appropriate facilities at some twelve sites to receive all waste oil and thereby meet the assurances given some 27 years ago when MARPOL 73 was adopted. When these facilities are operational, sometime in early 2002, MEPC will be in a position to agree to the Special Area status of the Gulf, as already outlined in MARPOL 73/78, to come into force.

Similarly the chemical industry is seen as having a responsibility to ensure that appropriate reception facilities are available at ports their vessels trade to, although in most cases it will be a private contractor who undertakes the task. In this area MEPC still has to finalise MARPOL Annex II chemical categorization to make clear the appropriate means of disposing tank washings.

The issue of most concern is the lack of adequate waste reception facilities at ports where suitable facilities are required for oily bilge water and other waste including garbage from a variety of ship types.

Clearly this matter is a challenge not only for MEPC but also for the governments in those countries who have ratified the Convention but fail to ensure whether their port waste reception facilities are adequate.

### **Increasing Threat of Bunker Related Oil Spills**

Oil tankers have traditionally been seen as the major threat of oil pollution and causing significant damage to the marine environment. This perception has been reinforced by some dramatic incidents ranging from the *Torrey Canyon* and the *Amoco Cadiz* to the *Exxon Valdez*, *Sea Empress* and more recently the *Erika*. These incidents have succeeded in convincing politicians and the general public that oil tankers are the vessels posing the highest risk of pollution and of causing the most damage to the marine environment.

The sinking of the 143 000 dwt bulk carrier *Treasure* with 1300 tonnes of bunker oil off South Africa following several other similar incidents around the world suggests that this may not be the case.

Information provided by the International Tanker Owners Pollution Federation Limited (ITOPF) to the 74<sup>th</sup> Session of the IMO Legal Committee (LEG 74/4/2 Annex1) when it considered the requirement for a compulsory compensation regime for oil spills from vessels other than oil tankers, also supports this view.

ITOPF points out that various factors determine the seriousness and cost of an oil spill, one of the factors being the type of oil spilled. Heavy crude and heavy fuel oils such as is used in ship bunkers tend to cause significantly more damage to the marine environment and are more costly to deal with on the basis of \$ per tonne spilled than light refined products and some light crude oils.

South Africa's experience with the bulk carrier *Apollo Sea* found the response cost per ton of oil spilled at US \$4444 which is comparable with the US experience of 26 spills between 1980 and 1986 which show spills of heavy oils cost US \$ 4 127 per ton clean up compared with US \$3 237 for crude oil.

It is in this context that I wish to raise the issue of the increasing number of vessels, particularly bulk carriers, carrying upwards of 10 000 tonnes of heavy oil as bunkers and the threat this poses to the marine environment. The ITOPF paper also points out that many bulk carriers and container ships carry more heavy oil (10 000 tonnes or more) by way of bunker fuel than many of the world's coastal tankers carry as cargo.

The question that arises is whether some form of protection needs to be provided to the tanks containing heavy bunker oil in non-tankers in a similar manner to the protection given to cargo oil tanks in oil tankers.

The issue to be addressed is that while IMO spent considerable effort in the late 80's in developing a means to minimise oil outflow from an oil tanker in a low impact grounding or collision and developing the 'double hull' requirement, no such concern or effort has been directed at other vessel types particularly those carrying large amounts of bunker oil in double bottom tanks.

Accordingly, a new challenge for IMO member governments and the shipping industry, is the need to assess what protection measures should be considered for tanks containing bunker oil on all vessels to ensure zero or minimum oil outflow in the same low impact grounding and collision criteria used for oil tankers.

Some vessel owners already aware of the potential risk have been building their ships with deep tanks for the carriage of bunkers; these tanks are so constructed not to interface with the ships bottom or outer hull.

This now critical issue was identified post *Erika* as one of the measures which must be addressed by IMO and has been assigned by MEPC to the Sub Committee on Bulk Liquids and Gasses. This matter must be given a high priority by Member Governments and NGOs as it is the key to major improvements on reducing oil spills and the severity of the environmental harm caused by such spills.

### **Response to Spills of Hazardous and Noxious Substances**

A diplomatic conference held in London in March 2000 adopted a Protocol to the Oil Pollution Response & Cooperation Convention (OPRC Convention) to require member governments to provide response arrangements to spills of hazardous and noxious substances in a similar way to their provision of response arrangements for oil spills. The Protocol will enter into force twelve months after fifteen States have formally ratified or accepted it.

Essentially the contents of the Protocol are as follows:

- Parties to the Protocol either individually or jointly have to make necessary arrangements and establish the capability to prepare for and respond to a pollution incident by hazardous and noxious substances
- Parties shall require their flag ships to have a pollution incident emergency plan
- Port authorities and operators will be required to have appropriate HNS pollution emergency plans
- National and Regional systems for preparedness and response will have to be established, including having a national contingency plan, access to a minimum level of pre positioned response equipment, adequate and trained resources
- Parties agree to cooperate and provide assistance within the capability of their resources to international requests in severe incidents.

This will be a significant challenge to governments and that part of the shipping industry involved in the carriage of HNS cargoes. However, it is not a task to be undertaken in isolation of existing arrangements. The key element in the OPRC Convention is cooperation, particularly regional cooperation. A sensible approach is to combine the existing national or regional response arrangements for oil into one national or regional oil and chemical contingency plan.

IMO will shortly publish a new addition of its Manual on Chemical Pollution, which will assist those responsible for putting in place the necessary arrangements.

## **PART II – General Challenges**

### **Flag State Implementation of IMO Conventions**

A matter that is continuing to receive considerable attention at IMO and will remain a significant challenge in the future is overcoming the problem of flag States failing to implement and comply with IMO conventions.

There has been strong pressure from some countries for IMO to be given stronger perhaps a more executive role in 'policing' member government's adherence to the conventions, similar to other areas of the United Nations, such as in human rights, land based environmental matters and aviation.

Following a suggestion by the Secretary General in a paper he delivered in Australia in March this year and also contained in his budget proposals for 2002/2003 a number of countries are looking at the ICAO Universal Safety Oversight Audit Programme as a means of auditing flag State performance against the standards set out in IMO Conventions.

This approach would be far more beneficial than the current system of member governments undertaking a self-assessment process and making their own judgment as to their level of compliance.

While the current approach is a less than satisfactory outcome from the perspective of a number of countries, it is recognised as a step in the right direction. If substandard shipping is to be appropriately dealt with it is up to member governments and industry at MSC and MEPC to take this issue further in the 2000's to ensure, as close as possible, full compliance with maritime safety and environmental conventions.

The global community and the shipping industry should however, not expect governments alone to rid the world of substandard shipping. The shipping industry should in addition to the regulatory approach be capable of also using commercial means to assist eradicate sub standard operators. However, little seems to be happening in this regard by the shipping industry. There is continuing need for more meaningful dialogue on this matter between industry and government at the international level.

### **International Concern with Too much IMO Regulations**

With the progress made in recent years introducing many new safety and marine environment protection regulations there is general consensus, in the international maritime community, particularly with ship masters and ship owners, that sufficient rules

and regulations are now in place and far greater effort should be made in implementing and enforcing existing regulations. This is now the approach being adopted by IMO and one, which has been frequently espoused by the Secretary General during the opening sessions of IMO Committees and at various international conferences.

A resolution adopted at the last meeting of the IMO Assembly outlines the objectives of IMO in the 2000's and directs the MEPC and MSC to focus attention on seven specific points including the avoidance of excessive regulation.

Clearly for IMO to continue to develop new international conventions and to be continually revising existing legislation at a fast rate, will in the short-term, only act against the overall objective of safer ships and cleaner oceans. This is mainly because many nations experience great difficulties trying to keep up with the pace of introducing new legislation and amending existing regulations.

Some sections of the industry have suggested that a moratorium on IMO rule making should be considered. From a ship owner's, ship manager and shipmaster's viewpoint as well as those flag States experiencing problems keeping abreast of new requirements, there is some merit in such a suggestion.

However, here lies the dichotomy. Where clear grounds are demonstrated that either harm to the marine environment is being caused by shipping or on the safety side where an issue is threatening the safety of life of ship's crews, then IMO needs to quickly address the problem and take appropriate 'rule' making action. Such action should be on a clear needs and priority basis.

Whilst acknowledging the need to limit new regulations there has to be acceptance that new issues will arise and these will have to be dealt with, we simply cannot say 'no' where there is serious threat to the environment and take no action whatsoever. IMO has adopted the 'precautionary approach' in all its activities, this means it should not be necessary to wait for scientific proof that harm to the environment is likely to result before taking appropriate action.

All too often governments as well some of the non-government organisations come to IMO seeking a strong regulatory approach to solve their marine environmental as well as safety concerns.

One of the challenges for us is to explore possible 'preventative' alternatives to international regulations, such as to allow industry to demonstrate its ability to introduce elements of self-regulation where this is appropriate. Of course there will continue to be a requirement for some form of regulation, however in some areas we should be looking for innovative as well as alternative means of preventing pollution.

As mentioned earlier in the paper an approach where industry self-regulation could be trialed is in the current debate on ship recycling. Several policy issues need to be

addressed by a number of organisations most of which are industry based. If the shipping industry were able to demonstrate its ability in tackling the self-regulation concept, this would be a good example for the future.

### **Keeping up to date with IMO Requirements**

It is often being pointed out to me the difficulties that not only governments but also the maritime industry experience in keeping up to date with implementation and compliance with IMO's conventions dealing with safety and marine environment protection.

A few recent innovations will assist those trying to keep abreast of new requirements.

The 2001/2002 edition of the IMO Publications Catalogue available on the IMO website at [www.imo.org](http://www.imo.org) contains a comprehensive listing of 250 titles of IMO conventions, codes, regulations, recommendations, guidelines etc. In the printed catalogue these are translated into French and Spanish with an increasing number also into Arabic, Chinese and Russian; some of these translations will be available on the website in the future. Key conventions and codes are available in electronic form, such as a CD-ROM or diskette.

One of the most significant advances in recent years in providing the shipping industry with up to date information on key IMO conventions, codes of practice, IMO Resolutions and IMO Circulars is the IMO-Vega Database. Not only does the IMO-Vega Database provide all the essential information required by the shipping industry and government agencies responsible for ship safety and protection of the marine environment, it is now updated twice a year to keep the information as current as possible.

The IMO-Vega Database, which is a joint publication between IMO and Det Norske Veritas, also has an extensive search capability.

MARPOL 73/78 (including all six Annexes) and SOLAS 74 are available on CD-ROM. Both versions are the consolidated text incorporating all amendments in force at the end of 1999.

The recently upgraded and much improved IMO website at [www.imo.org](http://www.imo.org) provides a range of other essential information aimed at keeping the shipping industry up to-date as well as providing researchers with valuable assistance and links to other websites.

Another valuable source of IMO information is the IMODOCS website. Access at the moment is only available through IMO member governments or non-government organisations (NGO's) with consultative status via a country code and password. IMO Docs provides on line IMO documents for all IMO meetings, including Assembly, Council, the main committees and all sub committee meetings. Documents are held on the website for about a two- year period. Also included is a comprehensive section containing IMO Circulars. IMO is considering putting past documents on a CD-ROM.



Availability to the shipping industry of the appropriate country code and password depends to a large extent on each Administration. In Australia, the Australian Maritime Safety Authority (AMSA) has provide this to industry as well as having set up its own IMO documentation database as part of the AMSA website at <http://www.amsa.gov.au>.

Another frustrating issue, which industry as well as governments has to deal with, is the sometimes-ambiguous regulations that come out of IMO. This is often the result of compromises being made during what can be quite complex negotiations in developing a legal instrument, which includes the desire to reach universal acceptance.

IMO member governments must more closely examine this issue. A possible solution being to provide some form of an 'Explanatory Memorandum' which would accompany the legislation, giving a broad outline of the purpose of the legislation and reasons for some of the more significant regulations. Australia used this technique with good results with one of its submissions in developing the International Convention for the Control and Management of Ship's Ballast Water.

### **Organisational Challenges for IMO**

IMO is facing an unprecedented need to change and adapt to the requirements of the 21<sup>st</sup> century. The IMO Council is coming under greater demands to influence the way the Organization operates and to prepare the organization for the future. It has already set up two Council Working Groups to examine more closely the financial and human resource management policies and practices of the Secretariat with a requirement to develop an action plan to implement recommendations made by an external consultant who recently reviewed the Secretariat management structure.

The IMO Council, at future meetings, will spend more time looking at strategic issues facing the organization including matters of governance.

The Chairmen of the Maritime Safety Committee and the Marine Environment Protection Committee have been tasked to examine the structure of the IMO Sub Committees to find improved mechanisms for better managing the technical work of the organization, and avoiding duplication. This is an ideal opportunity to take a 'green fields' approach and plan a totally new approach building in more flexibilities in the timing and grouping of the various subsidiary bodies as well as benefiting from modern communication systems.

In the early stages of discussing possible new approaches it is clear that MEPC and MSC should have their own strategic working groups, which would meet once a year and identify issues likely to affect their Committees in the future and could particularly focus on the needs of developing countries. The Committees would then be in a position to better plan their future work programs.

## Conclusions

Clearly there are a number of environmental challenges facing MEPC also there are a number of initiatives that governments and industry bodies can take towards reducing the risk of pollution through enhanced preventative mechanisms such as greater clarity in IMO regulations, early entry into force of environmental conventions and fuller compliance with international conventions. Governments and NGO's can reduce the demand on new IMO regulations and work towards industry self regulation particularly in the ship recycling and protection of bunker fuel tanks in bulk carriers and other vessels carrying large quantities of heavy bunker oil.

In the response side of the equation education and increased capacity is required in the capability to respond to spills of heavy oils and to spills of HNS. Also national and regional contingency plans including shared arrangements for HNS spills need to be drawn up.

Government and industry must continue to work together in all these issues particularly with regard to eradicating sub standard shipping.

Finally IMO member governments need to address means of improving the effectiveness of the organization particularly with regard to the role of the IMO Council, modernizing and improving the secretariat's structure and ability to manage its human and financial resources. The Technical Committees and their subsidiary bodies must also refocus and modernize their approach including taking a more strategic approach.

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