

MARITIME TRANSPORT COMMITTEE

Policy Statement on Substandard Shipping by the Maritime Transport Committee of the OECD

Preamble

The Maritime Transport Committee considers that substandard ships¹ carry with them a higher than normal risk of being involved in serious incidents, which impose large costs on communities, including loss of life and environmental damage. This is a situation which should not be tolerated by governments, shipowners, shippers and the maritime industry generally.

While the MTC recognises that the International Maritime Organization has prime competence for the regulation of shipping engaged in international trade from the maritime safety, efficiency of navigation and prevention and control of marine pollution from the ship's point of view, there is much that can be done by Governments, international organisations and other players in the maritime industry to minimise the incidence of substandard shipping. This is a collective responsibility that requires efforts on everyone's part.

The Maritime Transport Committee therefore urges all flag and port states, shipowners, ship operators, shipping companies, shippers, and other parties involved in the maritime sector to act effectively and conscientiously in their approach to substandard shipping, so that the ability of unscrupulous operators to offer substandard ships, and the opportunity for unscrupulous or gullible charterers and shippers to accept them, is severely limited or removed completely.

To further this objective, the Maritime Transport Committee, and its Member states have endorsed this Policy Statement to demonstrate the importance attached to the campaign to eliminate substandard shipping, and to highlight the actions that will be taken by the Committee and its Member states in pursuance of that objective.

The MTC also invites all non-OECD states that share this concern to associate themselves with this Statement, in order to highlight to the operators and users of substandard ships of the weight of international opinion that is ranged against them.

With this background firmly in mind, the Maritime Transport Committee and its Member states endorses the following actions as reflecting their policy stance with respect to substandard shipping.

1 . For the purposes of this policy statement a “substandard ship” is regarded as a vessel that, through its physical condition, its operation or the activities of its crew, fails to meet basic standards of seaworthiness and thereby poses a threat to life and/or the environment. This would be evidenced by the failure of the vessel to meet regulations contained in international maritime conventions to the extent that it would be considered unfit to sail by a reasonable flag state or port state inspection.



Flag States

- Flag States have principal responsibility for identifying and dealing with substandard ships, and must take effective action to ensure that such ships cannot operate as long as they fail to meet international maritime conventions. Flag states should not accept new vessels on their registers without ensuring that they meet all international requirements.
- The Committee notes the large number of international maritime conventions that if effectively implemented would deal with the problem of substandard shipping. However, the Committee also notes with great concern that there is clear evidence that these conventions are often applied ineffectually, or inconsistently, and therefore urges all flag states to ensure that these conventions are effectively implemented in their jurisdictions.
- MTC members support IMO efforts to strengthen the implementation of international rules and standards, including action by the IMO to review flag state performance.
- MTC members also support proposals to examine the extension of the IMO's charter to give it the ability to actively review the performance of flag states, as well as the means of enforcing mandatory requirements.

Port States

- Port States can be effective in identifying substandard ships, and they are encouraged to communicate with flag States concerned and freely exchange all available information among themselves. Port states should also ensure that existing internationally accepted rules and standards are rigorously and uniformly applied within their jurisdictions. For their part, MTC members will work actively through other fora, such as the various Port State Control Memoranda of Understanding and regional Agreements, to encourage the widespread development of a safety culture and environmental conscience in as many jurisdictions as possible.
- Without discriminating in form or fact against vessels of any State, Port states should apply sanctions (including detentions) and penalties that are adequate to discourage operators and users of substandard ships.

Classification Societies

- Classification societies play an extremely important role in the process, and must perform their tasks effectively and with great diligence. Classification societies should ensure that their own standards are maintained. This applies especially those under the IACS umbrella which could provide the standard against which other societies could be measured. MTC members encourage all classification societies to achieve a cohesive and uniform approach to ship inspections.
- If incident and detention statistics indicate that some classification societies are unable to ensure appropriately high standards, MTC members will consider establishing, maintaining and publicising a list of these societies that are not applying adequate standards.
- MTC Member countries will also consider the possibility of promoting an international licensing system, perhaps operated by the IMO, aimed at ensuring that classification societies meet acceptable standards of performance.



Marine Insurance

- The insurance industry provides a crucial financial safety net for commercial enterprises. At the same time (and probably as an unintended consequence) it also provides a very effective cover for substandard ships by allowing their risk to be spread over many players in the transportation chain, and ultimately to consumers. The insurance industry should therefore identify and target providers and users of substandard ships and should consider refraining from providing insurance cover unless the deficiencies which make these ships unsafe are eliminated.
- In support of the above measure, MTC members, with the assistance of the insurance industry, will undertake a study of the international maritime insurance system to establish whether, without prejudice to potential victims, it is feasible to remove the cover available to substandard shipping, while still maintaining the necessary risk spreading coverage for the rest of the industry.
- Furthermore, MTC members will actively promote the introduction of compulsory insurance by the IMO for all vessels, including provisions preventing insurers paying fines for shipowners when prosecuted and found guilty of safety or pollution related offences.

Substandard Crews

- While the MTC accepts that there is a clear place for crews that are low cost and efficient, substandard crews or substandard crew conditions should not be tolerated. The MTC therefore strongly supports the IMO's strenuous efforts to enhance the training and qualifications of seafarers, as well as the intent and concepts behind the ILO's maritime conventions, and welcomes the recent decision by the ILO to revisit its maritime instruments in order to improve their relevance and encourage their wider ratification.

Incentives and Rewards

- Incentive and reward programs can be an effective tools to help combat substandard shipping. It is noted by the MTC that some programs currently exist and others are being developed. MTC members strongly endorse the acceleration and expansion of efforts to reward responsible shipowners and other industry parties, through incentives and other recognition programs aimed at maintaining high standards, and to assist regulators in combating substandard ships. These programs could encompass for example, reduced classification fees, lower insurance premiums, fewer and less time consuming port state inspections and where this is possible, lower port charges.
- MTC members will work with industry to develop the concept of incentives for responsible shipowners and other parties in the industry, in order to encourage them to attain appropriate standards, and to be able to better combat the non-market competition posed by operators and users of substandard shipping.

Information and Publicity

- Good, as well as bad, publicity can be an important tool in combating substandard shipping. MTC members recognise the many efforts already underway, such as white lists, black lists and detention lists regularly and readily available over the Internet and in publications. MTC members will examine whether this information lends itself to further consolidation and release on the MTC's substandard shipping website. MTC members will positively co-operate to use the EQUASIS and expand its content.
- Industry should help to avoid the development of unnecessary or excessive regulation; instead every effort should be made to facilitate the effective enforcement of existing regulations, for example through the free exchange of information and facilitating the identification of substandard ships and their operators and users.



- Also, the MTC urges all of its members to ensure that their maritime administrations freely and frequently make information on substandard shipping publicly available, *inter alia*, through EQUASIS.
- While the Committee recognises that there may be some legal problems associated with identifying and publicising those involved in the operation, use of, or other involvement in, substandard ships, this should not prevent the increasing use of such a powerful deterrent. MTC members will join with all other interested parties to address problems that may arise through the reasonable dissemination and use of such information, in good faith and in the public interest.

Legal Matter

- MTC members will work actively, including through the IMO, to consider some international means of facilitating proof of negligence not only for shipowners, but also charterers, cargo interests, classification societies and others, where they have wilfully taken advantage of the existence of substandard shipping.

Conclusion

This Policy Statement represents a strong demonstration of the determination of the Maritime Transport Committee, and its Member states, to ensure that continued high priority is given to the elimination of substandard shipping. This remains an issue of great concern and potentially of great cost, and pressure on those who would operate or use such ships must not be eased in any way.

The Policy Statement also highlights the strong view held by the MTC that if this problem is to be resolved industry itself must play a major role in this effort. However, if this is going to succeed responsible shipowners and users must be given every incentive to ensure that they will not be disadvantaged by acting responsibly. In other words, irresponsible operators and users must be detected and held accountable, and must not be permitted by the international system to profit unfairly from their actions. Those who operate or use substandard ships in contravention of internationally accepted rules and standards should face strong disincentives and penalties, and these should not be permitted to be simply added to the list of risks against which the perpetrators can already insure.

The MTC also considers that its 1998 Action Plan to Combat Substandard Shipping, adopted as a result of a roundtable meeting with industry, can still make a considerable contribution, as it aims to strengthen industry involvement and attempts to promote effective exchanges of information between various industry players. Therefore, the Action Plan will continue to be implemented in support of this Policy Statement, but will now be treated as a longer term activity, aimed at gradually strengthening action against substandard shipping.

Action by the MTC

A number of the actions mentioned above (for example, activities at the IMO) can only be undertaken by MTC member governments. However, consistent with the points contained in this Policy Statement the Committee will itself:

- Work with industry to develop the concept of incentives for responsible shipowners and other parties in the industry, in order to encourage them to attain appropriate standards and to be able to better combat the non-market competition of operators and users of substandard shipping.
- Consult with the IMO on what economic, legal, policy and political avenues could be explored by the MTC to support the IMO's own activities to enhance compliance with existing international marine conventions, and help it to pursue new activities such as compulsory insurance.
- With the assistance of industry, the MTC will agree on a mandate to undertake a study of the international maritime insurance system to establish whether scope exists to remove the cover available to substandard shipping, while still maintaining the necessary risk spreading coverage for the rest of the industry.



- Examine whether existing information on substandard shipping from various sources lends itself to further consolidation and release on the MTC's substandard shipping web-site, in order to expose operators and users of substandard shipping or promote responsible shipowners and other industry parties.
- Continue with the implementation of those aspects of the 1998 Action Plan to Combat Substandard Shipping that are of interest to the various industry players, and which provide an incentive to sustain high quality participation in shipping. These aspects are likely to involve enhancing the availability of information, and perhaps the construction of various detailed Codes of Best Practice, aimed primarily at setting a benchmark against which individual enterprises can be measured. This may facilitate the identification of those who do not meet minimum acceptable standards.