Challenges BIMCO sees for the future success of the Maritime Industry

and what action needs to be taken

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BIMCO briefly…

1905: The Baltic and White Sea Maritime Conference

- Membership organization
- 2500 members in 123 countries
- Owners, port agents, brokers, insurers, lawyers, educational institutions
- Industry Advocate
  - International
  - Regional
  - Local
- Industry advisor

Meeting industry needs

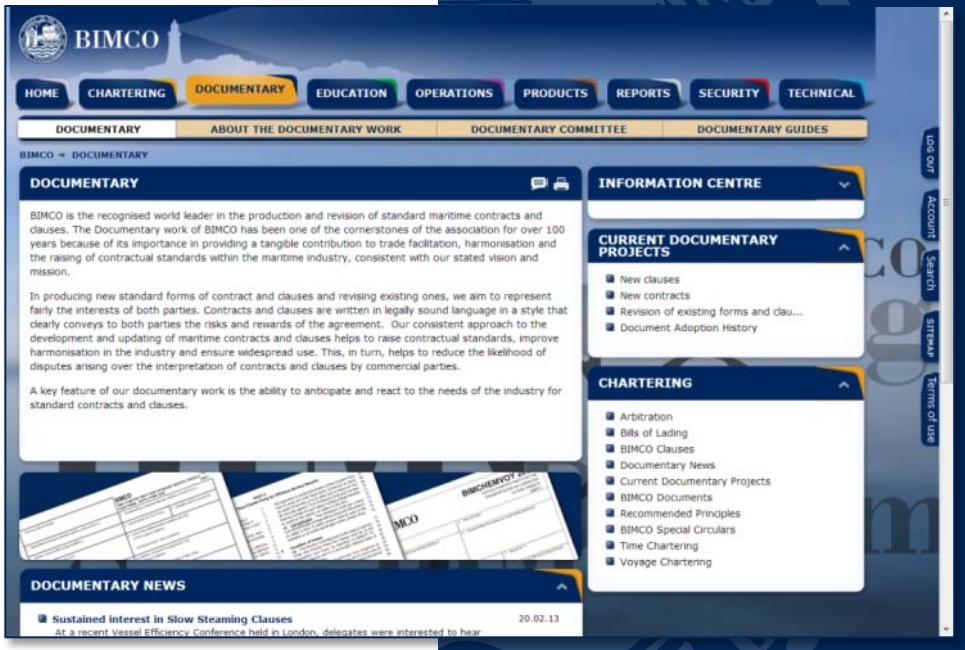
- Goals with BIMCO contracts;
  - Trade Facilitation
  - Harmonization
  - Raising Contractual Standards

- Balanced Contracts
- Legally Sound Language
- Minimize Disputes

- Contracts to cover life of the ship

Contracts & Forms

- > 100 standard Contracts
  - 1909: BALTIME
  - 2005: GASVOY 2005
  - 2007: NEWBUILDCON
  - 2011: LAYUPMAN
  - 2012: GUARDCON
- > 100 standard clauses
- > Used in <u>75%</u> of global shipping transactions



REFLECTIONS
2013

- *The Market*
- *Global regulation*
- *The Environment*
- *Human Element*
- *Piracy & Security*

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The Shipping Market in 2012 and Looking Forward

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GLOBAL ECONOMY: THINGS WILL GO UP FROM HERE

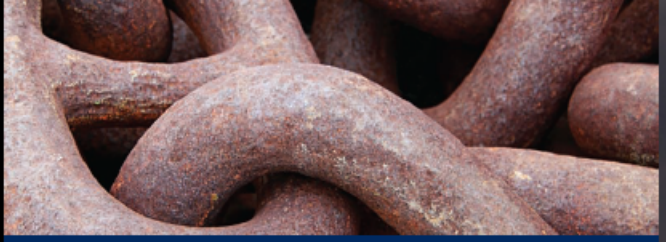
The global economy continues to grow, albeit at a slower pace than previous years. The slower economic development has been difficult for ship owners who, with a severe overhang of tonnage, have struggled with a depressed freight market since the start of the financial crisis back in 2008. The good news is that both GDP and world trade currently are expected to go up at 3.6% and 4.5% respectively in 2013, which may bring some relief to the shipping industry. The distribution of the global economic recovery will be a decisive factor in how the recovery is going to impact the different shipping segments.

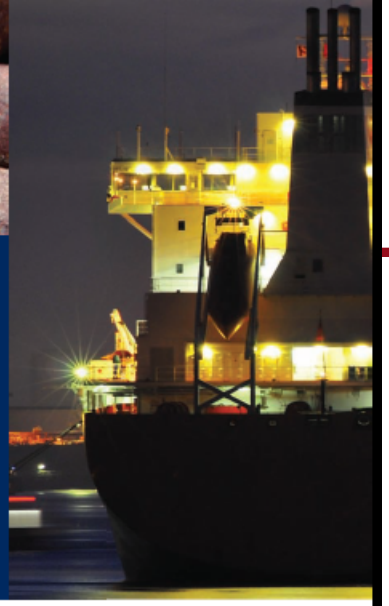
During the second half of 2012, strong political will from the major economies introducing fiscal and monetary policies underpinned the upturn in economic development. However, many of the sustainable growth indicators remain weak, clearly reflecting the fragility in the financial markets. In China, the HSBC/Markit Manufacturing PMI has been South of the threshold level of 50 throughout the year, indicating a slowdown. However, the November flash report gave rise to some optimism, probably spurred on by yet another economic stimulus. Meanwhile, the Eurozone continues to bear signs of a stand-still, as demand and consumer confidence remains very weak, but there are more positive signals coming from the US that expect a growth beyond 2% also next year.

BIMCO believes that 2013 will be the turning point on the macroeconomic scene. Our baseline scenario is that global GDP will grow stronger in 2013. This is founded in generally easier access to capital led by central banks, positive advocacy *vis-à-vis* policymakers in e.g. US, EU, Japan and China. This development is welcome and may well be the recipe to more effectively deal with the present challenges. Consumer confidence hinges on the employment situation and will be the catalyst supporting this development, creating demand for goods, housing and energy. In other words, the macroeconomic development should be a positive factor in the shipping markets in 2013, with a key risk being the fragile financial markets, fiscal consolidation in the advanced economies as well as a slowdown in some major emerging economies.

SUPPLY: OVERHANG OF TONNAGE IS A MAJOR CONCERN

The collapse of the financial markets in 2008 has taken its toll on ship owners, who in their predictions of a continued high growth in world trade back then, had ordered newbuildings at an unprecedented level. The effects of this overly-optimistic market outlook continue to haunt ship owners, who are trying their best to manage the overhang of tonnage by slow-steaming, idling and recycling. It will be some time before the fundamental supply and demand ratio is balanced. The fleet expansion during 2012 has not improved the situation,





Keep Regulation Global

ALL SHIPPING NEEDS IS GLOBAL REGULATION AND MARKET ACCESS

Shipping is one of the most international and dynamic industries in the world and impacts each and every one of us on a daily basis, however little this may be recognised. The reasons should probably be looked for in the fact that apart from people living in coastal and port areas or the container lorries we see on the roads, shipping is largely invisible. It is the discreet servant of mankind, providing us with all the necessities of daily life – such as food and fuel – with utmost predictability. For an industry entirely subjected to global market mechanisms, with high capital intensiveness and associated risks and hardly any barriers to entry, the existence of a transparent and internationally-accepted regulatory framework is vital. And so is free market access, if shipping is to continue to fulfil its role with high cost-efficiency as the facilitator of globalisation and growth.

MARKET ACCESS UNDER PRESSURE

In the wake of very challenging market conditions, protectionism is rearing its ugly head again, but only in debates around the world. The most recent example was the debate during the 2012 China Summit when the Vice-Minister for Transport, Xu Zuyuan, speaking on behalf of the Chinese Government, rejected the thought of a cargo sharing system, confirming to "shipping companies that China is open to the world". This was a reassuring and most welcome signal to ship owners, as it shows that one of the largest users of sea transport acknowledges the benefits of an open and competitive shipping industry. Although in certain quarters of the world nations have resorted to protecting national interests through cabotage covering domestic trade, market access for deep sea shipping remains largely open and fair around the world. The old UNCTAD cargo-sharing formulae are long gone and a revival of such protective measures appears unlikely, at least for now. Although the principles of free and fair trade have been largely formalised by e.g. the World Trade Organization, free market access for shipping has not. This we see as a recognition of practice, and a reflection of the clear advantages provided by the open and competitive environment under which the shipping industry performs its services. Shipping is a prerequisite for global trade and growth, and any hindrance to free market access to markets by national, regional or international regulations, will only impede performance and cost-efficiency.

INTERNATIONAL REGULATION THAT IS RATIFIED AND WORKS IN PRACTICE IS NEEDED

Shipping continues to address a barrage of regulatory initiatives under a mainly environmental agenda, covering ballast water treatment, CO_2, NOx and SOx emissions, the ILO Maritime Labour Convention and ship recycling. Shipping generally acknowledges its responsibilities to protect the environment and will, through innovation and technological developments, strive to reduce its carbon footprint and emissions of toxic substances generated by the fuel it burns. But the cost implications are significant to ship owners and must be absorbed in a smooth fashion, without negatively impacting the industry and the service it provides to mankind. In this respect, the very fragile world economy, poor market conditions and access to capital continue to haunt ship owners.

Some regulations present ship owners with business cases justifying the investment to save costs. With the ever-increasing cost of fuel, more energy-efficient ships represent one option, and another would be the fitting of scrubbers to enable ships to continue to burn heavy fuel oil at half the cost of distillates. The fitting of ballast water treatment systems, unfortunately, only represents cost to ship owners.

It is a prerequisite for a well-functioning shipping industry to operate in a truly international regulatory framework, providing a level playing field for all stakeholders, with the regulations duly ratified and implemented by a broad range of shipping and trading nations. Regrettably, a number of important international conventions have still to enter into force, having failed to have been ratified by the required number of states. The Hong Kong Convention regarding recycling of ships is just one such example. BIMCO continues to recommend, not only to the main shipping nations but also the main ship recycling nations, the ratification of this convention, primarily to achieve uniformity in the application of standards, in particular the protection of labour and the environment against possible toxic substances. Another example is the Rotterdam Rules on contracts for the international carriage of goods wholly or partly by sea. BIMCO recognises that the Rules may not appear entirely ideal to ship owners, who have had to forego access to some historic limitations in their liability, e.g. navigational error. BIMCO, however, supports the

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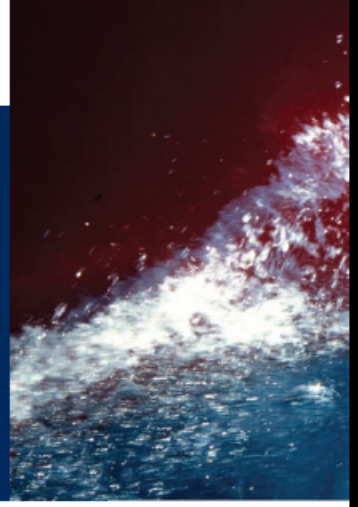
Shipping and the Environment



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SHIPPING AND THE ENVIRONMENT

Ships' perceived impact on the environment is increasingly driving regulatory developments, both internationally and regionally. There is no doubt that the environmental footprint of the shipping industry needs to be assessed and addressed as we all learn more about the possible negative impact stemming from the operation of ships. The relative environmental global impact of our industry measured against transport work delivered is similarly important, as with ever-increasing world trade, ships' individual improvements are diluted and not perceived as real from an aggregate perspective.

Today, the most important environmental elements on the regulatory agenda are: sulphur emissions, NOx emissions, Greenhouse Gas (GHG) emissions and the transfer of invasive species via ballast water.

SULPHUR OXIDES

With regard to sulphur emissions, the regulatory landscape is relatively stable. In 2008, the International Maritime Organization (IMO) adopted amendments to MARPOL Annex VI that significantly reduce emission levels from ships in a tiered approach that stretches all the way to 2020 (2025) - depending on the result of a fuel availability study in 2018. An important aspect of the adopted amendments was a significant reduction in the level of sulphur in fuels that may be consumed within a designated Emission Control Area (ECA). At the time of adoption, such areas were designated for the Baltic Sea, North Sea and the English Channel. Importantly, the stringency of the amendments made it possible for the US to accede to Annex VI of the MARPOL Convention and use its provisions for ECAs to submit an application for designation of an ECA around the coast of North America to IMO, which was approved by the IMO Member States. BIMCO appreciates that the provisions laid down in MARPOL Annex VI are used by governments when they seek to protect their own coastlines and waters from the impact of sulphur emission from ships.

The stringency level of the MARPOL Annex VI limits for sulphur in fuel also appear to have set an international standard. Not only are the provisions of the Annex being widely used by governments party to the Annex, but other governments that seeks to adopt unilateral or regional regulations are mostly using identical limits to those of Annex VI. This serves an important purpose in limiting the number of fuel types any one ship must carry to remain compliant throughout its journeys.

The European Union has recently revised its Directive on Sulphur in Fuels. BIMCO welcomes the general inclusion of MARPOL Annex VI provisions, but remains sceptical of the value of including a fixed date (2020) for entry into force of the global sulphur limit of 0.5% in fuels used within the waters of European Union Member States. It may become inconsistent with the provision of the Annex, depending on the outcome of the 2018 study. It may thus also create a special "European ECA" with different limits compared to IMO ECA's.

An important issue related to the global sulphur limit from 2020 is that going for 0.5% for all bunkers would have a massive impact - not only for shipping because of higher costs, but most certainly ashore. Sky-rocketing prices at the pump may well be a consequence of shore and sea basically demanding the same fuel, with shipping set to consuming some 30% of the world's entire distillate production.

NITROUS OXIDES

Internal combustion engines emits elevated levels of the harmful compound NOx which has several negative aspects related to GHG formation in the atmosphere, eutrophication of the oceans and respiratory health. This is why the IMO has already addressed NOx emissions as part of MARPOL Annex VI. Tier III of the regulations enter into force for new ships and engines from 1 January 2016 when in operation within IMO-designated ECA's for NOx. So far, only the North American ECA is designated for NOx control but BIMCO's assessment is that all existing IMO ECA's will be so designated in the coming years.

Control of NOx emissions to Tier III level is not a simple exercise. Complex selective catalytic reactor plants may be required which are sized similarly to the engines they are to control. Other means comprise complex in-engine controls which alter the combustion process in the engines to minimise formation of NOx.

In both cases, the solutions are provided by engine manufacturers and form part of the engine's certification according to the IMO NOx Technical Code.

GREENHOUSE GAS

The need to act against climate change may be evident, but the reality is that the financial situation in many countries has changed priorities. Climate change is presently not at the top of the agenda in most countries.

Within the UN Framework Convention on Climate Change (UNFCCC), the differences of opinion between emerging economies and advanced economies continue. This difference spills over to IMO, where it is equally difficult to get agreement on any way forward.

IMO has, however, already delivered an important element that reaches into the future and will contribute to an improved GHG footprint from shipping as we move forward. This element is the new Chapter 4 of MARPOL Annex VI introducing the Energy Efficiency Design Index (EEDI) for new ships and the Ship Energy Efficiency Management Plan (SEEMP) for all ships.

The Human Element: Fair Treatment, STCW/ ILO MLC and our Education Activities

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THE HUMAN ELEMENT: FAIR TREATMENT AND EDUCATION IN FOCUS

To paraphrase Churchill, "Never has so much been owed by so many to so few"! Had it not been for the men and women at sea, our seafarers, and their colleagues ashore that secure the cargo and provide the framework, the world would have looked significantly different from the one we know. This enormously under-valued and unacknowledged resource provides us with food, our clothes, cars, material for building our homes, and very importantly, fuel to heat them. We must praise our seafarers, willing to work in a violent, hostile and in the case of piracy, also life-threatening environment, often for long periods and away from the secure surroundings of home and family.

Without a very high degree of efficiency and professtonalism this would not have been possible, and the numbers speak for themselves - around 1.3 million seafarers servicing the needs of 7 billion people! Those of us who realise this also appreciate the need to encourage these seafarers to stay on, but ageing is creeping up and it is increasingly important to attract new talent to the profession and ensure that fair treatment prevails. To maintain this professtonalism and high standards, we must continue to provide training and education and we must continue to provide a safe working environment with high predictability in employment and a clearer overview of individual career paths. And last but not least, we must try to better mirror the life on board ships with that ashore through the application of modern communications technology.

FAIR TREATMENT

Until such time as seafarers' fundamental rights are generally and truly acknowledged by law and by all Governments, fair treatment of seafarers will continue to be an essential and intrinsic part of the maritime industry's agenda. BIMCO promotes fair treatment of seafarers in all respects and will continue to advocate against the drifting towards more severe liability regimes, including presumption of guilt rather than innocence of seafarers. This is, in particular, the introduction of strict criminal liability for oil pollution or other severe environmental incidents. According to available statistics, there is indeed a downward trend in high profile cases involving unfair treatment. However, one should not entirely rely on statistics, as cases may well be unreported. Yet, day-to-day problems experienced by seafarers in connection with port calls involving disrespect and criminalisation have proved difficult to eliminate and do occur in certain parts of the world.

INTERNATIONAL OBLIGATIONS SHOULD BE RESPECTED BY GOVERNMENTS

It is essential that states strictly observe and adhere to their international obligations under UNCLOS, including Article 230 barring states from imprisoning seafarers serving on board foreign ships passing through their territorial waters except in cases of wilful misconduct. Seafarers doing everything in their power to avoid an accident or mitigating its effects should not be penalised based on hindsight as to how they might ideally have acted.

Unfair treatment includes implications going beyond the incident itself. Even if absolved of responsibility for an incident, seafarers may be faced with consequential repercussions such as problems in obtaining employment or denial of entry visas to foreign countries. Furthermore, seafarers in certain jurisdictions are exposed to presumptions of guilt rather than innocence, deviating materially from the judicial norm of a person having to be proven guilty and given the benefit of the doubt. BIMCO will continue to oppose such discrimination and unfairness against seafarers.

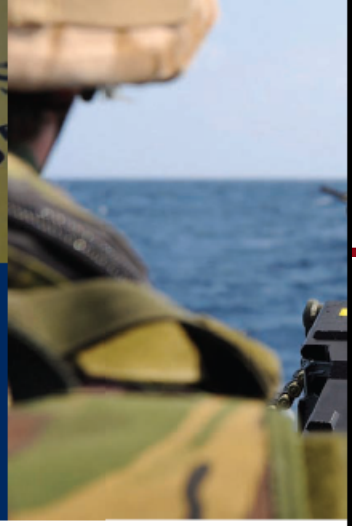
LEGISLATIVE FRAMEWORK CONTINUOUSLY DEVELOPING

The 2006 IMO/ILO Guidelines on fair treatment of seafarers and the 2010 IMO Casualty Investigation Code, containing mandatory provisions to observe when obtaining evidence from seafarers, continue to be essential and must be upheld. In a welcome effort, in November 2011 the IMO Assembly adopted a resolution urging states to comply with the Guidelines and implement them alongside the Code. The ILO Governing Body has endorsed the resolution and communicated it to all ILO Member States.

The entry into force of the ILO's Maritime Labour Convention in August 2013 will further contribute towards ensuring fair treatment, as it contains an obligation for states to hold official enquiries into any serious marine casualty leading to injury or loss of life and to co-operate with other states to facilitate such an investigation. This will complete the circle in respect of the internationally agreed regulatory framework for shipping, composed of MARPOL, SOLAS, STCW and now the Maritime Labour Convention (see diagram on the following page).

COMPLIANCE CONTINUES TO BE THE KEY

Seafarers, like any other individuals who knowingly and wilfully break the law, e.g. due to deliberate environmental pollution, withholding or



Piracy and Security

PIRACY AND THE NEED FOR WIDE-RANGING SOLUTIONS

In order to find an effective measure to curtail or eliminate a specific problem, one has to appreciate first what caused it. The same applies to piracy, or for that matter armed robbery, kidnapping and murder at sea. It all has to do with poverty and social instability that leads to crime. Robbery or pillage is not an unknown phenomenon to mankind – it has existed throughout history in many different guises, mostly committed by the "have-nots" or for pure greed. History has taught us that certain elements are always present: the attributes of daring and an adventurous spirit coupled with a high degree of greed and a search for change; the reward, quick wins with high income compared to a miserable or insignificant life at home.

So why would we think that the issue of piracy has its roots somewhere else? We should not! Piracy in coastal areas from the Gulf of Aden to Somalia, or for that matter the Western Indian Ocean, is a complex issue that can only be overcome by a combination of political, economic, legal and diplomatic efforts and likely supported by military action. But the development of assistance programmes and strong international co-ordination of these is a pre-requisite to tackling the symptoms and the very root of the problem. However, when seen in perspective, the form of piracy we are exposed to has to be understood as organised crime, with a very distinct business model, the holding of hostages for ransom and occasionally with very high-valued cargo as the icing on the cake. We have all the ingredients: the leaders, the financiers, the instigators and the buccaneers and those that we have caught and prosecuted so far are unfortunately only the latter, who end up in jail!

It is therefore vital to attack the business model itself and significantly increase the risk parameter in the risk/reward ratio for those that benefit from piracy. Many initiatives have been taken already and new ones are being developed including tracking and disrupting the financial flows. Investigations on piracy suspects are being better co-ordinated and more determined law enforcement has led to success. All countries in the region suffer immensely from the impact of piracy, with increased cost of transport and higher insurance premiums affecting their own economies. It is therefore in their own strategic interests to contribute to, and actively engage in, the fight against piracy. It is imperative that the waters of the Indian Ocean are secured by the region's nations, not international forces. This can, however, only be achieved by enhancing their ability to enforce security under a rule of law, political stability and sustained economic development. Initially, focus must be on Somalia and cover political stability, the capability to enforce the law and security, and the development of essential infrastructure whilst continuing to provide humanitarian aid.

The international community, supported by the continued relatively strong but still insufficient presence of naval assets and an effective application of the industry-recommended Best Management Practice, continue to have their effects and increasingly so. The success is a reflection of more robust action by navies, involving pirate disruptions, better communication and the increased use of private armed security guards on board passing ships. The newly elected and formal federal government in Somalia, creating a degree of direction and stability, has similarly had its effect, coupled with local individuals prepared to invest to help stability along. But we still have some way yet to go to truly tackle piracy or the root causes of it! To believe otherwise would be naive.

But the close co-operation and co-ordination between merchant shipping and navies has provided

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dirty dumper

Oil spills get a lot of media attention – but did you know that three times more oil ends up in the ocean from cars? Car engine oil drips onto the road and washes into drains, or is dumped directly into sewers. During storms, the drains overflow and send the oil and its load of toxic chemicals into the ocean.

Remedies

- Low Sulphur Fuel & ECAs
- Energy Efficiency Design Index
- Ship Energy Efficiency Management Plan
- Market Based Measures
- Slow Steaming/Virtual Arrival
- BWT Systems & sampling
- The Quality Coastal State

BIMCO in Asia

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THANK YOU

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