

THE SIRC COLUMN



Modest improvements in the effectiveness of port state control could result in substantial safety gains, says

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In the shipping industry there is an economic incentive for owners to maintain ships poorly and for ship management companies and crewing companies to crew them inadequately. This is because required ship standards and labour standards, laid down by international conventions, are not enforced with sufficient effectiveness: it's no good making laws unless those laws are effectively policed. It is not a wild claim that, at present, profits are being made out of substandard shipping. Rather, it is the considered view of the Organisation for Economic Co-operation and Development, stated in successive reports of its Maritime Transport Committee,

How can we crack down on the cowboys?

that many substandard operators in the industry are saving a significant percentage of total operating costs through avoidance of compliance with international regulations.

Cracking down on the cowboy operators would be to the benefit of the whole industry, employers as well as employees. This is because the minority of cowboy operators, saving money through regulatory avoidance, are able to undercut freight rates at the expense of responsible operators running well-found, well-crewed ships, making it difficult for those responsible operators to make a profit. So the bad ships drive out the good and they will continue to do so until international regulations are effectively enforced.

Ship standards are regulated by a United Nations agency, the International Maritime Organisation (IMO). Labour standards – things like working hours, crew competency certification, medical certification, and minimum wages – are regulated by another UN

agency, the International Labour Organisation (ILO). Other bodies, like the European Commission, are also important regional regulators. But none of these regulatory bodies also acts to police its own regulations. Traditionally, the main responsibility for enforcing international regulations has lain with the flag states, but “flagging out” has made flag state control a very uneven tool of enforcement, as some flag of convenience registers lack the resources and/or the will to effectively police the ships in their registries.

Because flag state control has become less effective, an increasing policing role is being given to port states: countries that have signed up to IMO and ILO shipping conventions are expected to enforce the regulations in those ships which visit their ports. Port state control officers have the power to inspect all ships in their ports, to require that any defects they find are made good, and to detain defective ships in port until

those defects are rectified. So how effective is port state control?

First of all, the performance of these inspectors is very uneven from country to country and port to port. There are well-documented instances of some inspectors threatening to detain ships on spurious grounds and then extorting money in return for promising to speed the processing of the ship's documentation. But these problems are largely confined to small ports in countries widely known for their comparative lawlessness. If port state control can be made effective in the large-volume ports, the Rotterdams and Singapores, then the cowboys will be confined to limited routes and limited types of trade. But even in the large volume ports, port state control is only partially effective.

Effectiveness of inspections depends fundamentally on adequate resourcing and there are insufficient resources to inspect all ships in all ports. The major

European countries and Canada, as signatories of the Paris Memorandum of Understanding (MOU) on Port State Control, are committed to inspecting a minimum of 25 per cent of foreign-flagged ships visiting their ports. A recent survey of British merchant officers found that 71 per cent of those replying thought that inspecting one in four visiting ships was too low a minimum requirement.

But even a partial inspection regime can be effective if limited inspection resources are targeted on the worst ships. And inspectors do try to target those ships. The Paris MOU countries share a common computer database on inspections: an inspector can tap in the name of a newly-berthed ship and discover instantly when it was last inspected in a Paris MOU port, whether it was detained, why it was detained, what flag it flies, and so on, all in order to aid his or her decision about whether to inspect it or not. But could targeting be better if inspectors could

draw on intelligence from sources other than their fellow inspectors? For example, in many ports around the world, all berthing ships are routinely visited by the port health inspector. Those health inspectors visit more ships than the port state control inspectors, but they usually lack the port state control officers' powers of detention: the case for closer collaboration appears to be a strong one.

More important still as a source of intelligence on the worst ships are the seafarers themselves. Enlisting the aid of the workforce in improving workplace safety has been a principle of health and safety inspection in many industries and many countries around the world. Port state control officers will, of course, act upon a complaint from a member of the crew (or passengers or public), but crew rarely draw defects to the attention of inspectors, because they are

worried about victimisation and dismissal if their complaints are taken up by the inspector and cost the owner money for rectification work. An international anonymous “whistle-blowing” scheme for workers already operates very successfully in the civil aviation industry. Whether such a scheme could operate successfully in the shipping industry will depend crucially on whether the scheme operators can demonstrate to seafarers that they are absolutely safe from possible victimisation.

All global industries present problems for effective regulation, but substantial gains in industry safety can be made via relatively modest improvements in the effectiveness of port state control. There is no need for cowboy operators to be detained in every port: all that is necessary is a modest increase in the likelihood of detention occurring across a range of large-volume ports. Such a modest increase in the probability of detention will eliminate the profit in regulatory avoidance. Where there is no profit in being a cowboy, then the cowboys will turn their attentions elsewhere: to accountancy perhaps?