

Maintaining High Standard Flag State Administrations for Combating Vessel-Source Marine Pollution

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ABSTRACT:

The impediment in enhancing the ship safety and combating vessel-source marine pollution depends on the combination of the immediate and mediate factors. The former is mainly caused by human errors and failure in compliance with the international convention standards in operation of vessel. The latter by the attitudes and activities of some of the flag states taking little responsibilities with appropriate seriousness in policing their fleets due to the lack of implementing capability of administrations.

So long as there exists a large size of variation in implementing capability of administration between flag states, a globally remarked progress cannot expect to be made in assuring the ship safety and preventing the vessel-source pollution.

Therefore a new regulatory regime is suggested to be adopted by IMO to maintain high standard flag state administrations by recommending standard paradigm to member states, so that the development of a implementing culture is encouraged and supported.

I. Introduction

It is widely known that considerable progress has been made in reducing the vessel-source marine pollution thanks to the adoption, and ratification of international conventions, pertaining to both ship safety and marine pollution prevention. However, the estimate of the relative contribution of the oil entering the sea from marine transportation activities reportedly amounts to 24% of total discharges into the world's oceans. What is worse, the pollution by chemicals and disposal of wastes at sea is

becoming serious issues. As sea remains a dangerous place and the improvement in accident rate has slowed and even reversed, the sea is still being contaminated sporadically by catastrophic oil spill disaster and operational pollutions.

It is not deniable that such a state of marine environment is caused mainly by the large size of gap between the incentive and capability of flag states administrations in implementing all the international measures, not by the lack of international law bannings for the ship safety and marine protection.

Since the oceans play a critical role in maintaining the earth's life-support systems, in moderating its climate and in sustaining living things and also they provide protein, transportation, employment, energy, and recreation as well as the final buffer against ecological catastrophe, national governments have universally commitment to work towards the restoration, preservation, enhanacement, and monitoring on the quality of oceans environment.

Therefore, by focusing on the large size of variation in the capability level of fag states' implementation, this paper intends to suggest a new regulatory paradigm of international basis which has to be adopted by IMO to enhance implementing capability of the emerging maritime nations for combating vessel-source marine pollution on

Subsequently, this paper deals with the state of vessel-source marine pollution and its counter measures, the analysis of the current situation of the shipping contributable to the marine pollution, and recommendations for combating problems effectively.

II. State of vessel-source marine pollution

Pollution by tanker accidents
by ships operation
by chemicals at sea
by garbage and sewage

III. Regulatory regime for combating vessel-source marine pollution

As for the safety of ship: SOLAS STCW

As for combating marine pollution

1) regulatory scheme for pollution from ship operation
MARPOL

2) Responding pollution:

Intervention 1969

International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990(OPRC)

3) Regulating Dumping: London Dumping Convention

4) Liability and compensation for pollution

Civil Liability convention(CLC)

International Oil Pollution Compensation Fund(IOP Fund 1978)

IV. Cause analysis of contemporary vessel-source marine pollution

1. Ownership/operator of a ship is globally diversified

2. Detection, prosecution and finding for oil-spill activities are difficult to enforce

3. Shipping has been left to the fierce competition internationally.

(Substandard owner, operator, insurer, manager, crews and classification of societies)

4. The size of variation in the degree of implementing capability of flag states is too large to be justified.

(average tonnage/loss ratio, delay/detention record)

5. The countermeasures adopted recently by IMO have limitation

1) PSC

2) ISM Code: The International Management Code for the Safe Operation of Ships and for Pollution Prevention

3) Flag State Implementation Subcommittee

V. summary and recommendation

Summary

Shipping has been left to the limitless competition burdening with even operating cost pressure which is to bring about substandard owner, substandard operator, substandard manager, substandard insurer and substandard classification societies. Such a state of this shipping is more facilitated by open registries of ships. So long as shipping is locked into such a vicious circle of substandard interested parties, international conventions, treaties, codes, recommendations and guidelines can not be enough to reduce the potential of casualties at sea which contribute the marine environmental pollution.

Since 1959, IMO has developed more than 30 international treaties, several hundred codes and recommendations. But almost all of IMO's efforts

have focused on helping and cooperating in the respect of scientific and technological measures and human resources but not concerned on the quality of flag state implementing administration, which works as substantial role for observance of the convention standards. This one-side oriented endeavour of IMO is the main reasons why it has been powerless to ensure observance of its conventions particularly in some of the emerging maritime countries.

It has been widely known that some of the flag states lack an national infrastructure to adequately police their fleets and some of the port states are not able to take responsibility for enforcing treaty obligation, even if they are financially enough to respond to the management of them. As the effectiveness of convention standards depends on how they are implemented by governments with appropriate seriousness, it cannot be enhanced expectedly without strong will and positive attitude of the administration. Therefore, high level of implementing capability of a administration has to be maintained by the effective integration of various function into a synergistic whole, with the adequate organization capable of providing a full range of systematic maritime services such as waterway management, vessel traffic control, aids to navigation, let alone the marine inspection, oil spill and clean-up operations.

Recommendation

Considering all the above, it is clear that because of the unique propensity to the international regime of shipping, the limitation of the voluntary observance of standards from interested parties is inevitable. Therefore, another international effort has to be made to upgrade the implementing capability of flag states' administrations from the standpoints that safety at sea and marine environment protection are two sides of the same coin.

But in many aspects of shipping, it has been proved that to introduce a law-banning is one thing, enforcing the law is something else. Subsequently reducing the size of gap between law-banning and law enforcement is regarded as one of prolems facing the combating projects for vessel-source marine pollution.

Consequently, a new international regulatory paradigm may have to be introduced to level up quality of flag state administrations. For this purpose, several types of administration standards have to be suggested so that one of the types can be chosen by the government depending on the cultural and social backgrounds. In any type of administration standards'

frameworks, the following factors have to be included universally:

- ①Administration has to be an integrated instrument which covers all the fields related with ship safety and marine environment protection such as vessel inspection, aids to navigation, waterway management, vessel traffic services and marine environment response.
- ②Administration climate has to be made where extensive knowledge of marine environment is treated with respectably not less than broad governmental experience.
- ③Quick cooperations have to be assured nationally by minimizing the vertical steps of beauracrtic system removing barriers between divisions.
- ④Minimum requirement of training and education for the staffs has to be specified to maintain the good quality of job performance pertaining to the marine environment protection, as it is done with STCW convention.
- ⑤A quality assurance program for flag states' administation has to adopted by self-testing and examining the implenting capability of member states as it is being done with IACS for self-purification of its members.
- ⑥Inherent impediments of implementing in each administration can be amended by applying standards and procedures laid down by international basis as it is going to do with ISM code for shipping companies.
- ⑦Reasonble administration infrastructure has to be maintained where experts have more rights and obligations in implementing convention standards.
- ⑧The standards' frame works have to deal with the administration capability of vessel inspection, monitoring shipping activities, respoincing to management of oceans, traffice service and contingency plan human resource trained, modernized facitilites and equipment, quick communication system, reasonable orgaization, phisosophy to put priority

In short, now is the time that IMO has to start to request to member states to level up the quality of implementing capability of the flag states by recommending several types of standard frameworks of administration for combating vessel-source marine pollution. And that has to be perceived as one of the IMO roles which are going to be reinforced by the entry into force of UNCLOS.