Beyond Compliance: Why Maritime Governance Must Work in the Real World

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A ship can carry valid certificates, have its procedures in order and pass an inspection, yet still place its crew in circumstances where making the right decision is unnecessarily difficult.

That is an uncomfortable proposition for an industry built on standards. It is also one that deserves attention.

In two decades of international shipping, including shipboard operations and shore-based auditing, I have seen the value of well-designed rules. I have also become convinced that our understanding of good governance cannot end with proof that a rule has been followed.

Compliance is essential. It is not the same thing as effectiveness.

WHEN A RULE REACHES THE SHIP

The International Maritime Organization (IMO) and International Labour Organization (ILO) have given shipping a common foundation. SOLAS sets core safety requirements (International Maritime Organization [IMO], 1974). The International Safety Management (ISM) Code places structured risk management at the centre of company operations (IMO, 1993). The Maritime Labour Convention (MLC, 2006) addresses seafarers' conditions of employment and life onboard (International Labour Organization (ILO), 2006), while STCW establishes internationally recognised standards for training and watchkeeping (IMO, 1978).

We should not diminish these achievements. Without internationally agreed requirements, the challenges of operating across borders would be far greater.

Yet an international requirement eventually becomes a decision made by a person: a master deciding whether conditions permit a safe departure, a chief officer balancing cargo operations with rest, or a chief engineer deciding whether a defect can be managed safely until assistance is available.

Consider a seafarer who has spent many hours travelling through airports, crossing time zones and waiting for transport before joining a vessel facing an immediate turnaround. The work-and-rest records may be properly maintained from the point of joining, but those records alone cannot establish that the person is ready for a demanding handover. The IMO's Guidelines on Fatigue recognise the wider causes of fatigue and the need to manage the resulting risks (IMO, 2019).

The point is not that such an arrangement necessarily violates a convention. It is that a technically compliant arrangement can still deserve a second look from an operational risk perspective.

THE DIFFERENCE BETWEEN CLOSING A FINDING AND FIXING A PROBLEM

The same question arises in auditing. A finding is raised. Corrective action is recorded. Evidence is uploaded. The item is closed.

But what actually changed?

Did the company remove the underlying pressure, improve the handover, clarify who has authority to stop an operation, or give the crew a realistic way to report a recurring concern? If the only visible
outcome is another signature, we should hesitate before declaring success.

This is not an argument against audits or documentation. On the contrary, a credible audit should be capable of distinguishing a system that looks orderly from one that consistently supports safe decisions. The IMO's Casualty Investigation Code similarly reflects the importance of learning from incidents to prevent recurrence (IMO, 2008).

The difficulty is that responsibility in shipping is often distributed. A demanding turnaround may result from a commercial commitment made ashore; a local port constraint may be poorly communicated; a crew concern may be acknowledged without being resolved. By the time the risk becomes visible onboard, no single decision-maker owns the complete chain.

When something goes wrong, identifying the last person involved is easier than examining how the organisation made that person's choices harder. Effective governance must be willing to look further upstream.

A GLOBAL SYSTEM WITH LOCAL CONSEQUENCES

UNCTAD's Review of Maritime Transport 2025 describes a shipping system challenged by geopolitical disruption, rerouting and uncertainty (UN Trade and Development (UNCTAD), 2025). Those pressures are discussed at government and boardroom level, but they ultimately materialise in voyage plans, port schedules, crew workloads and operational decisions.

The regulatory landscape is equally international. Under Article 94 of UNCLOS, flag States have duties concerning ships flying their flags (United Nations, 1982). Port State control adds oversight of foreign ships visiting ports, with the IMO's Procedures for Port State Control, 2025 providing guidance for inspections (IMO, 2025b). The ISPS Code further illustrates the need for coordination between governments, ships and port facilities (IMO, 2002).

Each institution has a legitimate role. The challenge is that standards can be interpreted, resourced and enforced differently across jurisdictions. What appears straightforward in a meeting can become ambiguous when a vessel has to satisfy several authorities within a short

port stay.

These differences do not automatically indicate negligence or bad faith. They can reflect different legal systems, capabilities and local conditions. But inconsistency has a cost, and much of that cost is borne by crews who have little influence over the decisions that create it.

Diplomacy in maritime affairs should therefore be judged not only by the agreements we sign, but also by how coherently those agreements are implemented. The IMO Member State Audit Scheme, designed to assess the implementation of applicable IMO instruments, is an important acknowledgment of that responsibility (IMO, 2025a).

WHAT I WOULD CHANGE

I would start with three priorities.

First, bring serving mariners into policy development earlier. Consultation cannot be a formality held after the essential decisions have been made. Masters, engineers, deck officers and ratings understand the ship–shore interface in ways that are difficult to capture through committee papers alone. Their experience should test whether a proposed requirement is workable before it becomes another obligation.

Second, judge corrective action by results. An audit finding should not be considered truly resolved merely because a procedure has been revised. We should ask whether the risk has decreased, whether the improvement survives the next port call and whether those doing the work agree that it helped. That requires follow-up, evidence and professional curiosity, not simply more forms.

Third, make accountability clearer across organisational boundaries. Shipping companies, charterers, ports and administrations all influence conditions onboard, even when their responsibilities differ. A safety concern that sits between two organisations should not be allowed to disappear between them. Clear escalation channels, realistic operating assumptions and visible management support for conservative safety decisions matter more than ambitious slogans.

None of these measures replaces compliance. Nor should shipboard experience be treated as a substitute for law, evidence or independent oversight. Professional judgment is valuable precisely when it is informed, supported and accountable.

THE TEST THAT MATTERS

We can measure certificates, inspections, closed findings and completed training. We should measure them. But they are indicators of a safety system, not its ultimate purpose.

The more demanding question is whether that system helps people make responsible decisions when schedules are tight, information is incomplete and commercial pressure is real.

For policymakers, the challenge is to write standards that are both rigorous and usable. For companies, it is to make the commitments in their safety policies credible at the point of operation. For those of us at sea, it is to raise problems clearly and exercise judgment responsibly.

Maritime governance succeeds when these responsibilities reinforce one another. It fails when each party can demonstrate compliance while the practical risk remains untouched.

The certificate is important. What happens after it has been issued matters more.

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REFERENCES

International Labour Organization. (2006). Maritime Labour Convention, 2006, as amended. https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:92:0:::NO::P92_SECTION:MLC_A2

International Maritime Organization. (1974). International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended. https://www.imo.org/en/about/conventions/pages/international-convention-for-the-safety-of-life-at-sea-%28solas%29%2C-1974.aspx

International Maritime Organization. (1978). International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended. https://www.imo.org/en/ourwork/humanelement/pages/stcw-convention.aspx

International Maritime Organization. (1993). International Safety Management (ISM) Code (Resolution A.741(18), as amended). https://www.imo.org/en/ourwork/humanelement/pages/ismcode.aspx

International Maritime Organization. (2002). SOLAS Chapter XI-2 and the International Ship and Port Facility Security (ISPS) Code. https://www.imo.org/en/ourwork/security/pages/solas-xi-2%20isps%20code.aspx

International Maritime Organization. (2008). Casualty Investigation Code (Resolution MSC.255(84), as amended). https://www.imo.org/en/ourwork/iiis/pages/casualty.aspx

International Maritime Organization. (2019). Guidelines on fatigue (MSC.1/Circ.1598). https://www.imo.org/en/ourwork/humanelement/pages/fatigue.aspx

International Maritime Organization. (2025a). Framework and procedures for the IMO Member State Audit Scheme (Resolution A.1211(34)). https://www.imo.org/en/ourwork/msas

International Maritime Organization. (2025b). Procedures for port State control, 2025 (Resolution A.1206(34)). https://www.imo.org/en/ourwork/iiis/pages/port%20state%20control.aspx

UN Trade and Development. (2025). Review of maritime transport 2025: Staying the course in turbulent waters. https://unctad.org/publication/review-maritime-transport-2025

United Nations. (1982). United Nations Convention on the Law of the Sea (Article 94). https://www.un.org/Depts/los/convention_agreements/texts/unclos/part7.htm