

Memorandum to explain the reasons for the Year 2000 Safety Protocol

Much has been written on the subject of the millennium problem, some of it ill informed, but there is little doubt that there is potential for serious disruption to world trade. The maritime transport industry is especially vulnerable in view of the long chains of international inter-dependencies that exist between manufacturers, shippers, receivers, ports and terminals, owners, charterers and operators – and all those who act for them or supply services to them.

As a consequence, attention has been focused on the industry's systems and equipment and much vital work has been done to fix or replace suspect systems and equipment. However, it is now generally accepted that even the most thorough and conscientious remediation programme cannot guarantee that critical IT systems and electronic micro-processors will function correctly. Furthermore, even those who are successful and whose systems function perfectly may be at risk from others – customers, suppliers, business partners or third parties – who have not been so conscientious. And there is no sure way of knowing who those others are.

In the maritime transport industry, the consequences of errors or failures in electronic systems and equipment could be extremely serious and involve loss of life and damage to the environment. It is therefore recognised that it is essential for each party to make contingency plans to establish in advance what he will do if either his or others' equipment malfunctions. This realisation is reflected in the Year 2000 Code of Good Practice published by IMO in Circular No 2121 of 5th March 1999. The Code was adopted at a meeting of industry interests (listed at the foot of this memorandum) hosted by the US Coast Guard and the UK Maritime and Coastguard Agency.

The Code reiterates the owners', masters', port authorities' and terminal operators' respective responsibilities for safety and the environment and recommends, *inter alia*, that the following precautions should be adopted by ship operators, port authorities and terminal operators:

“Prior to a ship entering or navigating within a port, the port authority or terminal operator should advise the ship of any additional conditions or constraints on navigation or cargo handling that the port authority or terminal operator has decided are necessary in order to minimise the risks associated with any Year 2000 equipment malfunction. Such measures might include minimum separation between ships, speed constraints, the use of tugs, loading/discharge restrictions, etc.”

“Prior to entering confined or congested waters and areas where hazards to navigation exist, the master, taking into account the prevailing circumstances and any advice or instructions received, should decide on the appropriate action to be taken to ensure the continued safety of his ship, crew, passengers and cargo, bearing in mind that not only the ship, but other ships in the vicinity, could lose power, steering or the use of electronic navigation equipment. If the master deems that the safety of the ship is at risk, the master should consider measures to minimise the risk by such means as reducing speed, delaying entry to the port or steering an alternative course.”

In the maritime transport industry, simple adherence to these prudent safety measures could lay shipowners open to claims for deviation and delay and port authorities and/or terminal operators to claims for delay. As a consequence, the parties concerned may face a serious dilemma at a time when their only concern should be that of safety.

To overcome this problem, various industry organisations are advocating the adoption of the “*Year 2000 Safety Protocol*”. This Protocol will, hopefully, be supported by as wide a spectrum as possible of those serving or engaged in the maritime transport industry including regulatory, safety, judicial and trade bodies as well as individual commercial organisations. Acceptance of the Protocol will indicate that the body or organisation concerned believes that all the parties in the maritime transport industry should support the Code of Good Practice, while acceptance by individual commercial organisations will acknowledge that they waive any right to bring claims against any other party occasioned solely by compliance with the Code.

It should be made clear, however, that while the Year 2000 Safety Protocol seeks to protect the prudent shipowner, master, port authority and terminal operator from claims consequent on following the Code of Good Practice, it will not protect them from the consequences of any Year 2000 equipment and system failures. The Protocol is not a device to excuse those who have failed to exercise due diligence to remediate their systems and equipment.

Industry interests who were present at the meeting held at IMO on 3rd & 4th March 1999 at which the Code of Good Practice was approved.

International Association of Classification Societies (IACS)
International Association of Drilling Contractors (IADC)
International Association of Dry Cargo Shipowners (INTERCARGO)
International Association of Lighthouse Authorities (IALA)
International Association of Ports & Harbours (IAPH)
International Chamber of Shipping (ICS)
International Confederation of Free Trade Unions (ICFTU)
International Council of Cruise Liners (ICCL)
International Group of P&I Clubs
International Marine Contractors Association (IMCA)
International Parcel Tankers Association (IPTA)
International Union of Marine Insurers (IUMI)
Oil Companies International Marine Forum (OCIMF)
The Baltic & International Maritime Council (BIMCO)
The International Association of Independent Tanker Owners (INTERTANKO)
Society of International Gas Tanker & Terminal Operators (SIGTTO)