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**ROLE OF INTERNATIONAL ASSOCIATION OF CLASSIFICATION
SOCIETIES (IACS) IN INTERNATIONAL MARITIME LAW: AN ANALYSIS**- Shivam Bose¹**Abstract**

"This paper aims to summarise the utility of the International Association of Classification Societies using research into the benefit of minimum standards and their importance in ensuring the safety and security of seafarers and the marine environment. The paper seeks to answer whether classification societies are necessary and whether their work has improved the aspects of marine trade they govern."

CHAPTER 1**Introduction**

Seven leading classification societies founded the International Association of Classification Societies ('IACS') to promote safety at sea by ensuring an improvement in the standards of pollution prevention for the marine environment, enhancing communication between and among national and international organisations within the maritime industry, which would allow for improved cooperation from all stakeholders involved. The IACS has been recognised internationally, and its current registration numbers include organisations and countries making up 90% of the world's gross tonnage in shipping.²

¹ LLM, University of Sydney

² ClassNK, 'IACS Organisational Structure' (website, 2024)
<https://www.classnk.or.jp/hp/en/info_service/imo_and_iacs/topics_iacs.html#:~:text=The%20main%20role%20of%20the,protection%20of%20the%20marine%20environment>

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The IACS works as a conglomeration of classification societies to create uniformity in ship safety standards worldwide. This is an effort to protect the resources within shipping and the marine environment. The importance of this classification society was understood by the International Maritime Organisation (IMO), and it was granted consultative status with the IMO and still, to date, remains the only non-governmental organisation that has been granted observer status while also having the authority to develop and apply Rules.³

IACS members include the American Bureau of Shipping (USA), Bureau Veritas (France), China Classification Society (China), Croatian Register of Shipping (Croatia), DNV GL (Germany), Indian Register of Shipping (India), Korean Register (South Korea), Lloyd's Register (UK), Polish Register of Shipping (Poland), RINA (Italy), Russian Maritime Register of Shipping (Russia) and ClassNK (Japan). As stated earlier, these members advise nearly 90% of the gross tonnage of shipping undertaken in the world, and given the importance of both importing and exporting countries as founding members of IACS, its elevation to such an important status in international maritime law is not uncanny, nor surprising.

Bindel states that even though classification societies have existed for two and a half centuries, their founding principles have not changed. A classification company is, first and foremost, an organisation that establishes technical and administrative rules through government and private aid and publishes them for stakeholder collaboration.⁴

The Council governs the IACS, while the General Policy Group (GPG) handles the organisation's general policy matters. The IACS has its secretariat performing administrative roles, not unlike the secretariat for other important international treaties and councils. The Society is further divided into teams to carry out specific objectives. The Quality Committee overlooks and manages the safety standards released by the other branches of the IACS to ensure that they meet the technical requirements of performing their designated function.

³ IACS, 'Classification societies – what, why and how?' (Report, 2024) <<https://iacs.s3.af-south-1.amazonaws.com/wp-content/uploads/2022/05/09132251/classification-what-why-how.pdf>>

⁴ François Fulconis, Raphael Lissillour, 'Toward a Behavioural Approach of International Shipping: a Study of the Interorganisational Dynamics of Maritime Safety (2021), *Journal of Shipping and Trade* 6(1), pp.1-23.

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The GPG, the other hand, have seven committees working under them, categorised as panels, and each 'panel' takes charge of a separate technical or environmental standard. These are the

1. Hull Panel
2. Cyber Systems Panel
3. Machinery Panel
4. Survey Panel
5. Environmental Panel
6. Safe Decarbonisation Panel
7. Safety Panel.

These panels are responsible for their particular expertise and work together to update and maintain the Unified Requirements and Unified Interpretations. Each panel engages in research, scientific experimentations, surveys and consultations with industry leaders to better understand how their policies affect ships and ship safety in the real world.

CHAPTER 2

Why Classification is Important

A majority of the international trade in the world is carried out through vessels at sea. Oceanic shipping is one of the cheapest and most efficient methods to conduct high-volume trade, and compared to air travel, it is also more environmentally friendly. Thus, it is the apparent choice for cargo transport across continents.⁵

Since the age of discovery in the early 15th century, when European adventures set out to sea, it has always been essential to identify a ship as its origin. Sailors from England, Portugal, Spain, etc., would prominently fly their nation's flags to show ships passing by that they were aligned to a particular country and not hostile. As Ocean travel grew and globalisation increased international trade even more, this practice never stopped being important. A ship travelling the high seas or attempting to dock at a port state would need some way to show that they were from a friendly nation, which is why flying flags is essential.

⁵ United National Conference on Trade and Development, 'review of Maritime Transport (Report, 2023) <<https://unctad.org/publication/review-maritime-transport-2023>>

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In the modern age, ships are still obligated to fly a flag for the country where the vessel is registered, not where it began its journey. A shipping company registered in the UK might have ships transporting cargo all across Africa and Asia without ever returning to Europe. In this scenario, the flag, or the country of registration of the boat, is crucial because it is the responsibility of the registering country to ensure the vessel meets the minimum safety and environmental compliance standards.⁶

In this sense, flag states are directly responsible for ensuring that ships flying their flag are following the regulations set for ship construction and safety. Developing these standards and classification is a very technical and elaborate process, which is why many States outsource the development of these to private parties within their country.⁷ However, this invariably meant that each country would have a slightly different standard. In the current age, when ships travel to and from multiple jurisdictions, it becomes the responsibility of the port state to inspect incoming vessels for their safety and environmental compliance. The issue of differing standards arose, which caused delays in shipping, and consequently, many ships would fail the port-specific standards test for the country in which they were docked.⁸

This created dissonance between flag state and port state regulations, where even though the intent of the two was similar, to set standards for safety and security and to ease doing business, it resulted in bureaucratic red tape and fines for failing to comply with regulations most ships did not even know existed. The World Bank releases the “Ease of Doing Business” rankings, and most countries want to be featured at the top of such lists.⁹ If countries were seen as overly strict with their enforcement, they would lose out on essential trading deals. The alternative was to be

⁶ Nivedita M. Hosanee, ‘A Critical Analysis of Flag State Duties as Laid Down Under Article 94 Of UNCLOS’ (Presentation, 2009), *The United Nations-Nippon Foundation Fellowship Programme*. <https://www.un.org/depts/los/nippon/unff_programme_home/fellows_pages/fellows_papers/hosanee_0910_mauritius_PPT.pdf>

⁷ Saba Mokhtari, ‘The Legal Role and Responsibility Of Classification Societies’ (2016), *Regulation* 6.

⁸ Nicolai I Lagoni, ‘The Relevance of Classification Societies for the International Community’ in *The Liability of Classification Societies* (Springer Science and Business Media 2007) page 22.

⁹ Government of India, ‘Ease of Doing Business’ (website, 2024) <<https://archive.doingbusiness.org/en/rankings>>

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lax with safety regulations, which could result in dangerous accidents harming the lives of people and the Marine environment.¹⁰

The Aim of Classification Societies

Leading research attributes most maritime accidents to human error caused by poor safety standards. Empirical data shows Bennet¹¹ that human error at sea leading to accidents can be mitigated if the standards for officer training were improved. Another example is the STCW Convention (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers). It led the charge as early as 1978. To set up essential seafarers' training, certification, and watchkeeping requirements. The aim was to raise the minimum level of seafarers to reduce accidents at sea from human error.¹²

Basic standards, however, are not restricted to just the maritime industry but are used across multiple industries. The Intellectual Property Rights regime uses minimum standards established via multilateral treaties such as The Berne Convention for the Protection of Literary and Artistic Works 1971 or the Treaty on Intellectual Property in Respect of Integrated Circuits 1989 to protect the rights of creators in various art forms. Countries party to these treaties are forced to adopt, at minimum, the standards established by the treaty. This signals to other nationalities that their inventions and artworks will be protected, to a pre-defined standard, if exported to any nation that is a party to the treaty.

Without these international minimum standards, uncertainty would prevail in the maritime industry regarding the level to which the construction of the ship has been built to prevent environmental pollution during operation, whether it uses the necessary LRIT (Long Range

¹⁰ Gabriela Arguello et al., 'Regulation of ships at anchor: Safety and environmental implications' (2022), *Marine Policy* 140, page 105052.

¹¹ Javier Sanchez-Beaskoetxea et al., 'Human error in marine accidents: Is the crew normally to blame?' (2021), *Maritime Transport Research* 2, page 100016.

¹² International Maritime Organisation, 'International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978' (Website, 2024) <<https://www.imo.org/en/OurWork/HumanElement/Pages/STCW-Convention.aspx>>

Information and Tracking) systems and whether the crew is trained to a competent level to handle the working of the ship.

Thus, Classification societies became imperative for the smooth functioning of their international maritime market. At a glance, it seems like classification societies only work with shipowners and governments; their work is deathly important for other industry professionals such as insurers, shippers, charterers, buyers of ships, banks, the military and any other stakeholders involved, even tangentially to the use and operation of a boat.¹³

Working Of IACS

Being a body of private organisations worldwide, the IACS has had to set up procedural norms to ensure anonymity when developing technical standards. The Working Groups of the IACS are the heart and soul of the organisation from a technical standpoint. The Working Groups draft the resolutions and policy changes. Each working group is divided depending on competency and area of speciality. Ad-hoc panels of experts accompany these WGs.¹⁴

Each panel will contain one member from each classification society within IACS, with a chair assigned by the Council to convene and lead the meetings. The chair and the technical experts must keep in mind that the development of regulations must be grounded in reality, and their suggestions or ideas need to be enforceable and capable of being uniformly applied across regions regardless of the economic or technological capabilities of the shipowner. Regulations being developed by IACS WGs must be unanimously accepted in most cases, as these working groups contain members from all Societies and non-IACS members. The purpose of unanimity is to give additional trust in the regulations. If, however, there is disagreement and voting must occur, the minimum requirement of votes is two-thirds of the members present.¹⁵

The next step in the life of the draft resolution is adoption in front of the General Policy Group (GPG). The GPG composition is similar to the WGs in terms of membership. However, it

¹³Supra Note 3.

¹⁴IACS Procedures Volume 1, note 19, Rule B2.4. <<https://iacs.s3.af-south-1.amazonaws.com/wp-content/uploads/2022/02/18175944/IACS-Procedures-Vol-1-Rev-18-CLN.pdf>>

¹⁵ IACS Procedures Volume 1, note 19, Rule C4.2.5 <<https://iacs.s3.af-south-1.amazonaws.com/wp-content/uploads/2022/02/18175944/IACS-Procedures-Vol-1-Rev-18-CLN.pdf>>

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requires a simple majority while voting to pass resolutions. The simple majority is at least 50% of the gross tonnage represented by IACS and more than half of the members of IACS.

CHAPTER 3

Analysis Of The Work Done By IACS

Classification Societies spearhead the development of rules and carry out another public service known as ‘certification’. Under this service, the IACS examines the ship of the flag state they have been hired by to check whether they comply with international standards and treaties and not the IACS regulations. They are usually employed by flag states that do not have the technical or financial assets to conduct inspections themselves.

The IACS must keep abreast of the various developments within conventions such as the Safety of Life at Sea (SOLAS), MARPOL, and other such conventions that are imperative for the safety of the crew at sea and the marine environment.¹⁶The flag states that these inspections for paying customers are justified since they are in the same line of work, creating different classification standards. However, the nature of their business model calls into question their authenticity.

The private nature of the classification societies means they are in the business of profit-making. Thus, their public role of making standards and their private role of being a certification authority intertwine in a way that makes them dependent on shipowners and flag states and their complacent towards certifying certain ships to international standards. The evolution of classification societies, Latrech writes, moves them from a simple functionary providing information about best practices and safety standards to a very technical role of rating ships and being hired by flag states to hand out safety titles to their boats.

Article 94(4)(a) of the UNCLOS hints at delegating state authority to private bodies to ensure sea ships comply with the latest measures necessary to determine seaworthiness. This hint is through the words “qualified surveyor of ships”.¹⁷

¹⁶Julien Raynaud, ‘Navigation: Classification Societies at The Heart Of Maritime Safety’ (News report, 2019), *Factualite Maritime*. <<https://actumaritime.com/2019/09/30/navigation-les-societes-de-classification-au-coeur-de-la-securite-maritime/>>

¹⁷ Convention on the Law of the Sea, Dec 10, 1982, 1833 UNTS 397

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Flags Of Convenience And IACS

By international law, being a vessel on the high seas necessitated that the ship be attached to a nationality. This nationality gives many advantages to a boat. For example, this flag state has jurisdiction over the vessel in all its conduct, both legal and illegal, and is responsible for enforcing international law.¹⁸ Earlier in this article, we spoke about the importance of having a flag; however, as economies grew, it became possible to get registered under a State the ship had never even visited; these are known as flags of convenience.

Countries operate registries of registration for ships flying their flag. Under international law, each state must determine its open registration requirements, provided these requirements are above the minimum requirement the state might have agreed to in any international treaty. Many shipowners in Western countries choose not to register their ships in their own country but look to third-world countries running registries for economic profit. Small nations such as Panama and Liberia have the largest share of registered vessels, amounting to 30% of the world.¹⁹ The flag of convenience receives money from shipowners for using their flag, while the shipowner gets to avoid stricter regulations than those in developed countries.²⁰ An American shipping company might register all its ships in Panama, as the vessel would have to meet a lower threshold of safety to be certified compared to American regulations, thereby saving the shipowner money and hassle.

Port Authorities usually do not have the workforce to examine every vessel docking at their ports. Therefore, they have to decide which ships to inspect at what times. One method used by Port State authorities is to examine the registered flagships since the impact of registration to a particular State vis-a-vis casualty rates has been well-researched and measured. It is shown that

¹⁸ 1958 Geneva Convention on the High Seas, 13 UST 2313.

¹⁹ Anna Fleck, 'Flags of Convenience Dominate Maritime Freight' (News Report 2023), Statista<<https://www.statista.com/chart/29086/flags-of-convenience/>>

²⁰ Anderson H, 'The Nationality of Ships and Flags of Convenience: Economics, Politics. And alternatives' (1996), *Tulane Maritime Law Journal* 21(1), 150.

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vessels prone to fail international standards are prone to flag-hopping, which is the practice of repeatedly changing their registered flag state.²¹

Once again, noting the questionable motivation of classification societies, Goh²² documented their essential role in maritime security and safety but also noted that due to their dependence on flag state businesses and shipowners, they might show partiality to repeat customers. This issue was being discussed as early as 1996 when the privatisation of marine safety was called into question, and the need for government audits into classification society workings was requested.²³

Global Influence Of Classification Societies

The IACS has near universal cover for merchant shipping worldwide when it comes to providing internal standards and evaluating the condition of ships. They also release reports and working papers clarifying ambiguous rules released from the IMO, thus interpreting these IMO rules in ways that make sense to them and their clients; the member states adopt these interpretations wholeheartedly.

After everything is said, it makes logical sense to say that classification societies hold a dominant position in the maritime industry. The IACS can outrightly deny a ship its classification, making the boat illegible for international seafaring or transporting cargo. This also means an uncertified ship loses its value in the second-hand market. On the other hand, large conglomerate companies and rich countries can pay to change their flag state and the classification society with it, thereby increasing their bargaining power.²⁴

The IMO further puts pressure on classification societies, specifically IACS, to continue to develop their standards, especially after maritime disasters, either great in quantity or a singular

²¹Pierre Cariou & Francois-Charles Wolff, 'Do Port State Control Inspections Influence Flag-And Class-Hopping Phenomena in Shipping?' *Journal of Transport, Economics and Policy* 45(2), 155–177.

²²Lam-Bee Goh & Tsz Leung Yip, 'A Way Forward for Ship Classification and Technical Services' (2014) *The Asian Journal of Shipping and Logistics* 30(1), page 51-74.

²³Mary Brooks, 'The Privatization of Ship Safety' (1996), *Maritime Policy & Management: The Flagship Journal of International Shipping and Port Research*, 23(3), page 271-288.

²⁴ Supra Note 16

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noteworthy event, and this has been noted as a “prime mover” for the development of classification standards.²⁵ On the other hand, every time there’s a new IMO regulation requiring the certification of ships, the IACS organisations get new customers to certify vessels to the latest IMO regulations. IACS also assists the IMO in creating new classification standards²⁶ and regulations; this dual nature of work brings into question the ethical nature of the IACS organisations, even if they perform their classification job properly.

Maritime stakeholders have also noticed this dual nature, sometimes resulting in conflict between the various stakeholders and the IACS. The main point of contention is what takes precedence in the IACS organisation's offices when deciding on new regulations. They are balancing the pursuit of profit with safety, and which wins out when lobbying for new laws or their stricter implementation?²⁷

In most circumstances, when Port State Authorities inspect ships within their ports, they prefer ensuring that the crew can handle the equipment and have sufficient control of the vessel, or they check the cargo but usually leave the machinery and instruments since they trust the classification societies to perform these checks regularly, as needed. However, blind faith in instruments does, in many cases, lead to accidents.²⁸

Most non-state actors, such as NGOs and corporations, are not subjects of international law and, in most cases, do not have a right to vote on or confirm changes made at a global forum. However, they can still influence the decision-making of States through research and persuasion.

²⁵ Hartmut Hormann, ‘Classification Societies - What Is Their Role, What Is Their Future?’ (2006) *WMU Journal of Maritime Affairs* 5(1), page 5–16.

²⁶Marine Port Authority, Singapore, ‘Maritime and Port Authority of Singapore and Eight Classification Societies Sign Letter of Intent to Collaborate on Maritime Digitalisation and Decarbonisation’ (News Report 2023), *Government of Singapore*. <<https://www.mpa.gov.sg/media-centre/details/maritime-and-port-authority-of-singapore-and-eight-classification-societies-sign-letter-of-intent-to-collaborate-on-maritime-digitalisation-and-decarbonisation>>

²⁷ Kristen Vedal Størkersen, ‘Survival Versus Safety at Sea. Regulators’ Portrayal Paralysis Safety Regulation Development’ (2015) *Safety Science* 75, page 90–99

²⁸ Supra Note 3.

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However, private organisations being offered the role of an observer is exceedingly rare, providing these organisations an avenue to negotiate on the international platform.

The IACS regularly uses its consultative status in IMO discussions. The rules governing IACS are that it must shy away from making proposals containing amendments to mandatory IMO procedures and documents directly but must have the endorsement of member states. More often than not, because of the trust placed in the classification societies' expertise, member states are always willing to propose these policy documents. Member societies of the IACS can also lobby States individually instead of through their unified IACS body.²⁹ Given this phenomenon, classification societies can join delegations to IMO negotiations from different member states, and this dual nature of IACS members makes it difficult to accurately gauge their impact on the proposal and acceptance of new IMO regulations.³⁰ It is also essential to consider whether multiple channels of representation, for what should be one body, is fair and reasonable.

CHAPTER 4

Conclusion

The IACS, as an organisation, has a lot of influence over the international shipping industry. It was formed as an alternative to countries' maritime safety and security standards, causing a bureaucratic nightmare. Its development and subsequent effect on the marine sector has been significant, and even today, many organisations swear by the work IACS is doing. Regardless of their composition, the primary mission to make the sea safer is accomplished mainly by IACS and its collaborations with different governments.

Its secondary role as a certifying body for private actors and governments is an unfortunate consequence of economic and technological disparity between countries. This role is also an important method to keep all shipping sailing the sea up to date with the relevant technology and

²⁹H. N. Psaraftis and C. A. Kontovas, "Influence and transparency at the IMO: the name of the game" (2020) 22 *Marine Economics and Logistics* 155, 160.

³⁰Zhongui Li & Makoto Seta, 'The Expanding role of Classification Societies in Conserving the Marine Environment: The case of the 2004 BWM Convention' (2022), *Ocean Development & International Law* 53(4), page 318-345.

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safety standards, not just those rich countries who have to afford to create their government-backed certification authority.



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