

# Shipping and Maritime Industries

*Compiled by Nadine Kettaneh, Consultant Editor, with section on Maritime Law by B C Toms & Co*

After the breakup of the former Soviet Union Ukraine's shipping and maritime industries were in a state of complete disarray. Efforts by the Ukrainian authorities, although by no means sufficient to resolve the structural difficulties facing these industries, are at least putting recovery back on track. These efforts include the restructuring of the Soviet era Black Sea Shipping Company (Blasco), negotiating transport and shipping agreements with Russia and revising some crucial elements of maritime legislation.

## Shipping

Ukraine is still picking up the pieces of Blasco's insolvency. In 1997 the company was reported to own at least 185 vessels, some 20 of which are still under arrest in various ports of the world. As Blasco has been unable to raise the funds needed to pay off some of its debts the arrested vessels are facing the possibility of being auctioned off by port authorities, as has already happened to one vessel in Rotterdam.

The Ministry of Transport is establishing new shipping companies independent of Blasco and, via the State Property Fund, is transferring to their ownership vessels that were previously part of the Blasco fleet.

The four independent shipping companies established so far are Ukrferry, Ukrship, Ukrreefer, Ukrtanker; they are responsible for managing part of the country's merchant fleet and for the liabilities of each vessel they own. According to the ministry this transfer means that each vessel maintains the obligations it has as an individual ship but cannot be related to any liability on Blasco's part.

The two smallest of these companies are Ukrreefer, which owns five ageing reefers and Ukrtanker, which owns two pairs of small tankers of about 5,000 dwt and 10,000 dwt respectively.

Set up in October 1995, Ukrferry was the first state-owned shipping company established under the new Ukraine shipping policy. Entrusted with the ferry and ro-ro links between the states in the Black Sea region, it recently entered the passenger sector, planning to open a passenger ferry route between Ilichevsk in Ukraine and Poti in Georgia.

The largest of the four firms is Ukrship, founded in April 1996. It owns six ageing dry bulkers and general cargo ships of about 9,000 gt each and five 52,700 dwt bulk carriers. The latter are bare boat chartered until 2000 to Tor Shipping, the Odessa-based independent ship management firm. The company is aiming to become a joint-stock company soon via partial privatisation.

## Sea ports

Shipment	Ports
Black Sea Shipping	Belgorod-Dnestrovsk, Evpatoria, Feodosia, Ilichevsk, Kerch, Kherson, Nikolayev, Odessa, Oktyabrsk, Sevastopol, Skadovsk, Yalta and Yuzhny
Azov Shipping	Berdyansk and Mariupol
Danube Shipping	Izmail, Rev and Ust Dunaisk

With a theoretical capacity of 105 m tons of freight in the 18 Ukrainian ports, last year's throughput was only 38 m tons - 20.7 m of which came from exports, with Odessa accounting for about 45 per cent of the total.

### **Black Sea area**

Despite a law which prohibits port privatisation, Odessa has found a way through which independent terminal operators, backed by foreign capital, can take part in commercial activity. The injection of capital investment and resulting profits has encouraged other ports to adopt the same solution.

Other plans for development of the Black Sea ports, and more specifically the upgrading of terminals dedicated to the export of grain products, are related to the forecast growth of grain production in Ukraine. According to government figures the 1997 grain crop was expected to show a 63 per cent rise to 40 m tons, with at least 3.2 m tons destined to be exported by sea, and the crop level is expected to grow quickly in the next few years.

The Nikolayev seaport is planning to build a grain dedicated terminal while the nearby seaport of Yuzhny, north-east of Odessa, plans to upgrade its grain products export capacity through a new plant. It is claimed that, once completed, the Yuzhny plant will be the largest grain

complex in the Black Sea. It will include 250,000-ton silos as well as a transshipment system, which will make it possible to operate vessels of up to 50,000 dwt.

Another cereal products plant for vessels up to 50,000 dwt is being built in the port of Iljichevsk, 35 km south-west of Odessa, and will include warehousing capable of holding 120,000 tons.

### **Azov area**

The most widely known port of the Azov shipping area is Mariupol, the main sea transportation centre of the Donetsko-Pridneprovsky economic area. It is connected with all areas of Russia by the Volgo-Don channel, Mariinskaya system and Belomoro-Baltniysky channel. The traditional cargo of this port is coal, but most of its coal facilities are currently idle.

### **Transit trade**

Despite the region being a natural gateway for a large part of the former Soviet Union area, transit trade has suffered a severe blow as a result of poor state coordination. There are at least five bodies issuing regulatory documents setting out procedures for passage of export/import as well as transit of goods via the sea border. At present there is no coordination between the different state bodies, and many of these have full autonomy to impose new charges outside state control.

In addition, Ukraine's authorities require not just a Customs escort for excised goods transiting through the country, but also an additional armed security guard to defend its Customs officers from possible attack. It is estimated that these additional requirements result in additional charges of between US\$ 2,300 and US\$ 3,300 for the transit trucking of one 20ft container packed with excise goods from Odessa to Moscow.

The Ukraine government must issue stable rules for freight transit through the country to help attract back transit cargo. Its present policy is destroying Ukraine's chances of becoming a gateway for containerised traffic to and from a large part of the former Soviet Union.

### **Shipbuilding and repair**

The shipbuilding industry employs some 110,000 people. It comprises eight shipbuilding, five machine-building, 11 instrument-making companies and 27 specialised design offices and research institutes.

The industry's export potential is limited by the volume of foreign companies' orders for vessels. A major problem in this respect has been that

many of the shipbuilding and repair companies have been unable to win orders without the bank guarantees that had previously been underwritten by the government.

In the absence of any governmental assistance or coordination aimed at helping the shipyard industry to survive the financial crisis it is undergoing, two merchant shipbuilding Nikolayev-based yards are preparing for privatisation by becoming joint-stock companies.

## River navigation

River carriers are of great importance for domestic transportation as they connect the main production centres of Ukraine. The main water transportation way in Ukraine is the Dnepr and its tributaries. The leading company dealing with river transportation is Ukrrechflot. It currently owns some 300 ships, of which 70 are sea ships. The company carries passengers and small cargoes, mostly along the Dnepr, but also throughout all of the Black Sea region, east Mediterranean and Danube basin. It was the first shipping company to be privatised, which was completed in August 1995.

# Maritime Law

*Bate Toms and Konstantin Gribov,  
B C Toms & Co*

During recent years Ukraine has taken steps to lead its maritime transport sector out of crisis, including the development and improvement of the legal basis for the activity of this sector. Legislative and administrative regulation of maritime activity has increased. A number of new laws, decrees and other legal acts have been adopted, including most importantly the Merchant Shipping Code of Ukraine in 1994.

Ukrainian maritime legislation forms an integral part of and is subject to all of the present drawbacks of the general Ukrainian legal system. The unsatisfactory implementation and enforcement of the general laws in Ukraine and the inconsistency and contradictions in adopted laws are also reflected in maritime legislation. This is in part because the present development of maritime law partially depends upon the further development of property, privatisation, corporate, taxation and other laws.

Notwithstanding these difficulties, a significant legislative basis for a reformed maritime law has now been created and is being applied in Ukraine.

## **The Merchant Shipping Code**

At present the Merchant Shipping Code, which was adopted in December 1994 and which came into force in July 1995 (the Code), is the basic legal act regulating trade as well as other types of navigation.

The Code's conception of state vessel immunity changed what had been provided for by the previous Soviet-era Code, which was that a vessel owned by the Soviet state could not be arrested without the prior consent of the Cabinet of Ministers of the USSR. The new Code provides immunity only for vessels which are carrying out state services.

## **Ownership of a vessel**

Perhaps the most significant change in Ukrainian maritime law made by the Code was to allow companies with different types of ownership, including private, to own and operate vessels. The legislation of the former USSR, in particular the 1968 Code, stated that only the state could own vessels. Despite this change in legislation, most of the leading shipping companies are still state owned, such as the Black Sea Shipping Company (known as Blasco), and the joint-stock company, Azov Shipping Company.

## **Sources**

Lloyds List