

International Chamber of Shipping

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Mr Alberto Alemán Zubieta
Administrator
Autoridad del Canal de Panama
Balboa – Ancon
Republic of Panama

25 May 2010

Dear Mr Alemán,

PROPOSAL TO MODIFY THE PANAMA CANAL TOLLS

1. Reference is made to the proposal to modify the Panama Canal Tolls, published by the ACP on 27 April 2010. The Round Table of international shipping associations (RT), which comprises BIMCO, the International Chamber of Shipping, INTERCARGO and INTERTANKO, appreciates the opportunity to comment on these proposals. (Brief details of the Round Table associations are attached in **annex 1**.)

Indeed, we greatly value the ongoing open dialogue with the ACP on all matters to do with the Panama Canal and look forward to the continuation of this relationship.

2. Firstly the RT would like to express its appreciation on behalf of the industry for ACP's willingness to listen to the industry arguments previously put forward on the severe problems associated with a toll increase at the present time, which, as mentioned in earlier correspondence and discussions, are founded in the current financial hardships and the depressed market conditions experienced by many of your Panama Canal customers.

While the industry believes that the strong arguments put forward in our letter of 29 March (attached as **annex 2** for reference) fully support a reduction from the present level of tolls, those affected by the present commercial difficulties clearly will appreciate your proposed deferral of all transit toll increases until

1 January 2011, which will provide a welcome, yet brief, breathing space in cost increases.

3. It is, however, equally clear that the proposed level of tolls now planned to be implemented on 1 January 2011 will mean a sudden 12-16% increase over today's levels. Indeed our analysis suggests that the increase proposed for 1 January 2011 is broadly the sum of the two annual increases in 2010 and 2011 as put forward in your earlier proposals. This does not seem to us to provide a genuine deferral of increases, where one would expect all increases to be phased back, whereas your proposal does de facto advance one set of increases.

Our brief analysis of shipping markets included in our letter of 29 March (**annex 2**) remains valid today, and shows the severity of the downturn experienced by shipowners and operators in the last two years. Predictions of where the markets will stand by 1 January 2011 are of course difficult, but analysts expect that any recovery will be fragile, and none expect that the market falls quoted in our earlier letter will have been corrected by that date.

4. In short therefore the proposed increase on 1 January, comprising the amalgamation of the increases for both 2010 and 2011 is likely to provide a major economic challenge to your customers. We would therefore urge that serious consideration be given to the following:
 - Making a reduction in overall toll levels (for the reasons advanced in our letter of 29 March) or at least extending the period of the standstill.
 - Increases should only be considered when the economic environment is such that they can be absorbed without disruption to the commercial activities of your customers
 - The quantum of any increases should be determined within a longer term structural plan (and we repeat our earlier offer to engage in discussions on such a structural approach) rather than by the proposed 'one off' increase which, we would suggest, bears no relation to the increases in day to day operating costs experienced by ACP.

There are also several specific aspects of your proposal on which we would like to comment:

6. Timing of increases

Notwithstanding our general comments on the justification for deferral of increases, we would like to raise the following specific points on the timing of the proposed 1 January increase:

- For those sectors where increased tolls have customarily been introduced on 1 October, the deferral by only three months, followed by a double digit increase on 1 January 2011 seems particularly harsh, and likely to cause economic damage.
- For the container sector, a structure where increases (where justified) take place on 1 May (or slightly later) is strongly preferred, as this relates to the contracting period specifically in the Trans Pacific trade.

7. Proposed structure for containership tolls

The container sector certainly sees possible merit in the proposed changes in how tolls are levied for containerships with the greater emphasis on charging for revenue earning units. Proper consideration of this proposal is however clouded by:

- The general objection to the overall quantum of increase (around 12 -13%) which is inherent in your proposal and which makes it difficult to distinguish the specific positive impact of the proposal to charge an element on loaded containers only.
- A lack of certainty as to your ongoing intentions on toll structures and levels.

Again, these comments would support the need for a considered discussion on longer term toll structures.

8. Economic Considerations

References are made in your proposal/annexes to arguments that the new structure would not affect the flow of goods. We beg to differ with such statements. Double digit increases in costs can certainly impact on the many ship operators who are currently struggling on extremely small margins with negative impact on their ability to sustain their business. Moreover the economic case for the routing of some services/goods via the Panama Canal will also be affected, and announcement of these increases has undoubtedly stimulated some operators to start reviewing their options.

While perhaps the basis on which canal tolls are established in the longer term is something we can analyse and debate in discussions on overall structures, we would observe that the Suez Canal Authority whose canal likewise offers its customers a 'shorter' route from the origin of goods to their market has responded to the present economic environment with a further standstill in tolls, and we would commend their approach to you.

9. We note the acknowledgement in your proposal that the basis for the proposed increase in tolls is not linked to the funding requirement for the expansion project, which recognises the position that the industry should not pay now for future benefits.

However the expansion of canal capacity is also of importance to the industry, and we certainly wish to see the project succeed.

Toll increases which are seen to be disproportionate, or which lead to uncertainty for the longer term charging regime, will not create a business climate in which shipowners can make their own business plans to take advantage of the significant capacity increase which this project will offer. The success of the expansion proposals will, in part, be dependent on the ACP's ability to develop a reasonable and sustainable funding system and it would be a major problem both for the industry and for the ACP, if these new locks were significantly under utilised because short-term increases had undermined long-term confidence.

10. We advised in our letter of 29 March that member governments of the Consultative Shipping Group had discussed concerns over the increasing cost of using the Panama Canal. It is our intention to ensure that the issues of concern raised in this letter are brought to the attention of the dialogue meeting between the Consultative Shipping Group and the US Government taking place on 15-16 June.

11. In summary:

- The RT is most grateful for the opportunity to make our views known, and for the ongoing constructive dialogue with the ACP.
- We greatly appreciate the proposal to defer any increases in tolls until 2011.
- We do have considerable concerns about the quantum of the increase now proposed for 1 January 2011 which in many ways could negate the positive impact on your customers of the planned deferral.
- There are several issues related to the longer term approach to tolls – both their levels and their structure - raised above in our detailed submission, and we repeat the proposal made in our letter of 29 March (**annex 2**) that an open dialogue to debate these issues will be more fruitful than working within the constraints of a formal response to your proposal, which does not permit the dialogue needed.

With our grateful thanks for your careful consideration of our comments,

Yours sincerely,

P.P. 

Tony Mason
Secretary General,
International Chamber of Shipping
(also on behalf of BIMCO, INTERCARGO and INTERTANKO)

THE ROUND TABLE OF INTERNATIONAL SHIPPING ASSOCIATIONS

BIMCO is an independent international shipping association, with a membership composed of ship owners, managers, brokers agents and many other stakeholders with vested interests in the shipping industry. The association acts on behalf of its global membership to promote higher standards and greater harmony in regulatory matters. It is a catalyst for the development and promotion of fair and equitable international shipping policy BIMCO is accredited as a Non-Governmental Organisation (NGO), holds observer status with a number of United Nations organs and is in close dialogue with maritime administrations regulatory institutions and other stakeholders within the EU the USA and Asia. The association provides one of the most comprehensive sources of practical shipping information and a broad range of advisory and consulting services to its members www.bimco.org

INTERCARGO is the short name for the International Association of Dry Cargo Ship-owners. Since 1980, it has represented the interests of owners, operators and managers of dry cargo shipping and works closely with the other international associations to promote a safe, high quality, efficient and profitable industry.

INTERTANKO is the International Association of Independent Tanker Owners INTERTANKO has been the voice of independent tanker owners since 1970, ensuring that the oil that keeps the world turning is shipped safely, responsibly and competitively. Membership is open to independent tanker owners and operators of oil and chemical tankers, i.e. non-oil companies and non-state controlled tanker owners, who fulfil the Association's membership criteria. Independent owners operate some 80% of the world's tanker fleet and the vast majority are INTERTANKO members. As of January 2007, the organisation has 260 members, whose combined fleet comprises some 2,900 tankers totalling 236 million dwt, which is 75% of the world's independent tanker fleet. INTERTANKO's associate membership stands at some 300 companies with an interest in shipping of oil and chemicals. www.intertanko.com

The International Chamber of Shipping (ICS) is the principal international trade association for merchant ship operators. ICS represents the collective views of the international industry from different nations, sectors and trades. ICS membership comprises national shipowners' associations representing over 75% of the world's merchant fleet. A major focus of ICS activity is the International Maritime Organization (IMO) the United Nations agency with responsibility for the safety of life at sea and the protection of the marine environment. ICS is heavily involved in a wide variety of areas including any technical, legal and operational matters affecting merchant ships. ICS is unique in that it represents the global interests of all the different trades in the industry: bulk carrier operators, tanker operators, passenger ship operators and container liner trades, including shipowners and third party ship managers.

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Mr. Alberto Aléman Zubieta
Administrator
Autoridad del Canal de Panama,
Balboa – Ancón
Republic of Panama

29 March 2010

Dear Administrator,

Panama Canal 2010 Toll Increases

I am writing on behalf of the Round Table of shipping associations (BIMCO, Intercargo, the International Chamber of Shipping and INTERTANKO) regarding the Panama Canal Authority's expressed intention to implement toll increases for the years 2010 and 2011.

I would like to start by again conveying our thanks for the recent useful meeting which took place between your colleagues Rodolfo Sabonge and Lilibeth Langoni and industry representatives at the offices of the International Chamber of Shipping, on 17 March 2010. The industry is grateful for the open, friendly and professional dialogue between the ACP and the shipping industry, and for the opportunity to again address matters of common interest, importance and concern.

However it cannot be denied that the proposal to increase transit tolls by over 6% in 2010 and again in 2011 is an issue which has caused great concern and

disappointment for ship operators who are still struggling to cope with the repercussions of the recent severe global economic and financial crisis. The announced increases for this year and next, coupled with the uncertainty over what increases may follow in 2012 and thereafter, will represent a further burden which is most unwelcome in the current climate. The timing of the announcement, when it is too late for the increased costs to be taken into account in many commercial negotiations is also very disappointing.

In respect of the details of the proposal, dry bulk interests have highlighted that the present scale for ballast transits permits welcome operational flexibility in marginal trades and that any adverse weighting of the increase to ballast transits could be counterproductive to such activities.

Despite some recent indications of a small recovery in the global economic picture, it should be borne in mind that this has not yet translated into a recovery for the shipping industry. While volume levels have shown some recovery in some sectors in the last few months, they have not yet reached the levels of 2008 (still leaving a two year deficit compared to the volumes which might have been expected for 2010), and economists still express concern as to whether the recovery will be sustained.

However what is entirely clear is that freight/charter rates have not seen such a recovery, and this is what drives the lack of profitability for shipowners and operators. With the volume trajectory running well below expectations, and therefore an inevitable excess of supply of ships over demand for the next few years, there is no prospect of this situation being corrected for the time being.

In the limited time available to respond to your informal proposals, as presented last week, a detailed economic analysis has not been possible, but by way of illustration, over the last two years:

Sector	Toll Increases (% change over two years)	Market Indices
Containers	+33	-27 (Drewry Average Freight Rate)
Dry Bulk	+17	-58 (Baltic Dry Index)
Tankers	+21	-33(Baltic Dirty Tanker Index) -35(Baltic Clean Tanker Index)

Furthermore, we would like to remind the ACP that when the increases, which were substantially in excess of inflation, were imposed in 2007 covering the following three years, the understanding was that this was to place the tolls at a

level needed to provide funding for the canal expansion project, and on the basis that further sharp rises would not be required in subsequent years. In addition, we note that the ACP's 2009 Annual Report indicates that Total Revenue as related to the Panama Canal Master Plan (2005 – 2025) was up 17.2% above the originally estimated figures.

The 2009 increase was implemented when the economic situation both for the shipping industry and for the world as a whole was extremely difficult, and it was reluctantly that the shipping industry accepted that the ACP was politically unable to contemplate a departure from the published tolls at that time.

Although a more in-depth analysis of the above figures could not be made in the time available, it is our belief that the above provides a clear indication that the total economic picture for the Canal is positive and above expectations, while your customers are in a situation where they experience severe economic difficulties and expect to continue to do so for some time.

Over the last five years, tolls have been increased dramatically. We estimate by way of illustration, increases of 42% for tankers and 72% for containerships (indeed we estimate the increase for containerships to be around 150%, taking account of the change in the method of calculating tolls introduced in 2005). We therefore believe that a return of tolls to 2008 (May/October) levels for the next 12 months would still leave the ACP in a favourable financial position, while allowing your customers some much needed breathing space with regards to transit costs.

In making this proposal, we draw attention to the fact that the Suez Canal has frozen toll charges for the second year running, after very modest increases in the preceding years.

We would also like to draw your attention (as mentioned at the meeting on 17 March) to the fact that member governments of the Consultative Shipping Group recently discussed the concerns over the increasing cost of using the canal and agreed to closely monitor the consultation between the industry and the ACP.

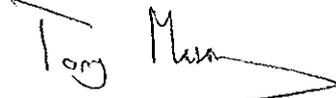
We believe that our proposal would also provide the time needed for a more detailed dialogue on the ideas which you have put forward for restructuring tolls (where it may well be that individual shipping sectors would wish to take up different commercial approaches) as well as seeking a longer term understanding on how tolls will develop (of importance to many commercial negotiations), which we believe could improve the somewhat adversarial way in which tolls are periodically increased in the present way of working.

We would greatly appreciate your giving serious consideration to the industry's perspective as put forward above, and we would indeed value the opportunity for a proper dialogue on the subject before you publish your formal proposals, after

which, as we understand it, dialogue is no longer possible, and our communications will be limited to submitting detailed written comments on the proposals.

We look forward to hearing from you, and reiterate that an industry delegation would be happy to meet with you to discuss the subject further.

Yours sincerely

A handwritten signature in black ink that reads "Tony Mason". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Tony Mason
Secretary General, ICS