Panama upgrades merchant marine legislation

New laws have been drafted with the stated aim of enhancing the maritime services offered by the country

PANAMA has underlined its regional leadership in the maritime sphere with an extensive upgrade of its shipping laws. Three new laws, passed in August, extend to the country's merchant marine, ports and commercial code.

Modernisation of the country's merchant marine law will have a wide-ranging impact on the owners of the 7,000 commercial vessels already flying the Panamanian flag.

As the operator of the world's largest ship register, the Panama Maritime Authority is responsible for governing almost a quarter of the world's commercial fleet.

Changes to the Merchant Marine law provide the PMA with increased autonomy over the funds raised by the register's activities, allowing the administration to act more quickly in response to accidents through the establishment of an accident investigation fund and to introduce incentives to attract newer tonnage to the fleet.

It will also have more autonomy to implement fines in accordance with violations committed by Panamanian ships.

"Fundamentally, it is a big advance in the legislation of Panama," says Fernando Solorzano, PMA administrator. "We always considered that, when we took the decision to expand the Panama Canal, it was better not just to take this decision alone but also to look at the modernisation of all maritime legislation, which in some cases stretches back to 1925."

Lawyers have welcomed the changes as an important step in keeping pace with the improvements being implemented at other registers.

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and flexible legal regime to the maritime industry," says Roy Durling Jr, partner and head of the shipping and transportation department at Arias, Fábrega & Fábrega.

"The new laws were drafted with the stated aim of attending to the needs of the users of the maritime services offered by Panama. They are the result of the joint effort of government authorities and local and international users represented by the Panama Chamber of Shipping and maritime law firms." It is also an important leap forward in the PMA's ability to adopt new international guidelines.

Enrique de Alba, partner at Morgan & Morgan, says the legal package will bolster the country's efforts to, "put in force measures concerning overseas safety security practices on the ships registered in Panama and introduces administrative proceedings that will impose sanctions to be more in accordance with the fault committed".

Changes to the commercial code – legislation first drawn up in 1916 and shortly after the Panama Canal came into operation – has also updated contractual guidelines for shipowners passing through the waterway or working in the country's ports.

Modernisation of this legislation has involved the adoption of important international conventions affecting maritime risks and damages, including the Convention on International Regulations for Preventing Collisions at Sea, signed in London in 1972, and the International Convention of Salvage of 1989, signed in London.

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For cases where General Average has to be applied, the new code of commerce adopts the York-Antwerp Rules.

In addition, the International Convention Relating to the Carriage of Passengers and their Luggage by Sea signed in Athens, Greece, in 1974 has been adopted under the new code.

New guidelines

Finally, with the explosion of intermodal services in the country, the code of commerce includes guidelines governing these activities. This, coupled with a new port law, will underpin the future growth of this sector. "The new port law will serve as the single legal framework for the development of port activities," says Mr Durling.

"Up until recently, the rules applicable to the construction and operation of port facilities were not clear and, in many instances, the government, in order to satisfy the needs of private investors, had to improvise such rules by passing laws and regulations as the need arose," he adds.

"The new law is the result of the joint efforts of the government, port operators and the private sector in general. The government and private sector trust that the new port law will help consolidate Panama as the most important port hub in the Americas."

Last year, Panamanian ports handled 4.1m teu, a figure that is set to grow to 5m teu this year and 5.6m teu in 2009 as a result of more than $2bn of foreign investment in the country's ports in the last 10 years. ■