From a Technical to a More Political Organization –

Is the IMO Changing Its Face?
Is the IMO Changing Its Face?

www.imo.org
How IMO works today...

General Assembly
170 Member States (+ 3 Assoc. Mem.)

COUNCIL
40 Member States

- Facilitation Committee
- Technical Co-operation Committee
- Legal Committee
- Marine Environment Protection Committee
- Maritime Safety Committee

5 Committees

9 Sub-Committees

- Fire Protection (FP)
- Bulk Liquids and Gases (BLG)
- Flag State Implementation (FSI)
- Ship Design and Equipment (DE)
- Sub-Committee on Safety of Navigation (NAV)
- Standards of Training, Certification and Watchkeeping (STCW)
- Radio communications and Search and Rescue (COMSAR)
- Stability and Load Lines and on Fishing Vessels' Safety (SLF)
- Dangerous Goods, Solid Cargoes and Containers (DSC)
How IMCO worked initially...

- **General Assembly**
  - 31 Member States

- **COUNCIL**
  - 16 Member States

  - **Maritime Safety Committee**
    - (14 Member States)

**IMCO = Intergovernmental Maritime Consultative Organization**
Structure

I. Creation of IMCO

II. Politics and shipping business influence on the institutional structure of IMCO

III. “Democratisation” of IMCO / IMO

IV. Some Evolution of IMCO + IMO's regulatory work in the field of treaty law

V. The IMCO / IMO and UNCLOS

VI. Future Challenges
Article 2

The functions of the Organization shall be consultative and advisory.

Article 3

In order to achieve the purposes set out in Part I, the functions of the Organization shall be:

(a) subject to the provisions of Article 4, to consider and make recommendations upon matters arising under Article 1 (a), (b) and (c) that may be remitted to it by Members, by any organ or Specialized Agency of the United Nations or by any other intergovernmental organization or upon matters referred to it under Article 1 (d);

(b) to provide for the drafting of conventions, agreements, or other suitable instruments, and to recommend these to Governments and to intergovernmental organizations, and to convene such conferences as may be necessary;

(c) to provide machinery for consultation among Members and the exchange of information among Governments.
Article 4

In those matters which appear to the Organization capable of settlement through the normal processes of international shipping business the Organization shall so recommend. When, in the opinion of the Organization, any matter concerning unfair restrictive practices by shipping concerns is incapable of settlement through the normal processes of international shipping business, or has in fact so proved, and provided it shall first have been the subject of direct negotiations between the Members concerned, the Organization shall, at the request of one of those Members, consider the matter.
PART I

PURPOSES OF THE ORGANIZATION

Article 1

The purposes of the Organization are:

(a)

(b) to encourage the removal of discriminatory action and unnecessary restrictions by Governments affecting shipping engaged in international trade so as to promote the availability of shipping services to the commerce of the world without discrimination;
PART I

PURPOSES OF THE ORGANIZATION

Article 1

The purposes of the Organization are:

(a) to provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade, and to encourage the general adoption of the highest practicable standards in matters concerning maritime safety and efficiency of navigation;
Regulation of commercial shipping activities?
Regulation of commercial shipping activities?

1972: IMCO drafts and adopts the International Convention for Safe Containers

1980: UNCTAD drafts and adopts the UN Convention on International Multimodal Transport of Goods
Regulation of commercial shipping activities?

forming of a „Joint Group“...
Joint IMO/UNCTAD Intergovernmental Group of Experts on Maritime Liens and Mortgages (JIGE)

Leading to the adoption of

→ 1993 International Convention on Maritime Liens and Mortgages

→ 1999 Convention on Arrest of Ships
IMO < --> ILO

Regulation of social factors in shipping activities?

forming of a „Joint Group“…

International Labour Organization
Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers

Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers

Joint ILO/IMO/BC Working Group on Ship Scrapping
Back to IMCO Origins

Was IMCO a „rich man‘s club“ for shipowner‘s interests?
How IMCO worked initially...

- **6 nations** with the largest interest in providing international shipping services

- **6 nations** with the largest interest in international seaborne trade

- + Election by the IMCO Assembly of **4 other nations**:
  - **2 nations** having a substantial interest in providing international shipping services
  - **2 nations** having a substantial interest in international trade
How IMCO worked initially...

- The 8 "largest shipowning nations"

- 6 nations "with an important interest in maritime safety, such as nations interested in the supply of large numbers of crews or in the carriage of large numbers of berthed and unberthed passengers, and of major geographical areas".
How IMCO worked initially...

- The 8 "largest shipowning nations"
- Panama and Liberia left out in the first elections...

INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

CONSTITUTION OF THE MARITIME SAFETY COMMITTEE OF THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

(ADVISORY OPINION OF 8 JUNE 1960)

ICJ : "open registries" can ensure the (legal) existence of a genuine link between ship and flag State...
Later:

- More “balance of power” among shipowning and shiptrading nations and the rest of IMO members achieved at Council level

- **Democratisation of the Maritime Safety Committee** through its opening to all members of the Organization, effective as from 1978
How IMO works today...

General Assembly
170 Member States
(+ 3 Assoc. Mem.)

COUNCIL
40 Member States

Facilitation Committee

Technical Co-operation Committee

Legal Committee

Marine Environment Protection Committee

Maritime Safety Committee

- **Category A**: 10 States with the largest interest in providing international shipping services

- **Category B**: 10 States with the largest interest in international seaborne trade

- **Category C**: 20 States not elected under (a) or (b) above, which have special interests in maritime transport or navigation and whose election to the Council will ensure the representation of all major geographic areas of the world
1982: From IMCO to IMO

Much more than a change of name…
1982: From IMCO to IMO

Much more than a change of name...

- SOLAS (1960, 1974, 1978)
- Load Lines (1966)
- COLREGS (1972)
- OILPOL 1954
  → MARPOL (1973/1978)
- STCW (1978)

- Intervention Convention (1969)

- CLC + Fund Conventions (1969, 1971)

...
International Convention for the Safety of Life at Sea (SOLAS), 1974
International Convention on Load Lines (LL), 1966
Convention on the International Regulations for Preventing Collisions at Sea (COLREG), 1972
The Torremolinos International Convention for the Safety of Fishing Vessels (SFV), 1977
International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978
International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel
International Convention on Maritime Search and Rescue (SAR), 1979

International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL73/78)
Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and Noxious Substances (HNS Protocol)
International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (INTERVENTION)
Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (LDC), 1972
International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990

International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969
International Convention on the Establishment of an International Fund for Compensation for Oil Pollution (FUND), 1971
Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material (NUCLEAR), 1996
Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS), 1996
1982: From IMCO to IMO

„Development phases“ according to Agustín Blanco-Bazán

1. 1958 to 1973 (IMCO)
2. 1973 to 1982 (IMCO)
3. 1982 to 1994 (IMO)
4. 1994 to present (IMO)

„Law of the Sea“-based approach…
1982: From IMCO to IMO

„Torrey Canyon“ (1967): A „godsend“ for the IMCO?
1982: From IMCO to IMO

Different approach on IMO „development phases“

1. Before „Torrey Canyon“ (IMCO)
2. After „Torrey Canyon“ (IMCO)
3. Co-Existence with UNCLOS (IMO)
4. After „9/11“ … (IMO)
1982:
From IMCO
to IMO

Also a „godsend“ for the IMCO / IMO?
UNCLOS makes about 25 references to

“the competent international organisations”

or

“the competent international organisation”
Most referrals in UNCLOS relate to the IMO

However, IMO has **shared** competency, e.g. with

<table>
<thead>
<tr>
<th>Maritime transport and navigation matters</th>
<th>Other than marine transport</th>
</tr>
</thead>
<tbody>
<tr>
<td>ILO</td>
<td>UNEP</td>
</tr>
<tr>
<td>WCO</td>
<td>UNESCO (IOC)</td>
</tr>
<tr>
<td>IAEA</td>
<td>WHO</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>FAO</td>
</tr>
<tr>
<td>UNCITRAL</td>
<td></td>
</tr>
</tbody>
</table>
"competent international organization“
UNCLOS / IMO interface

IMPLICATIONS OF
THE UNITED NATIONS CONVENTION ON
THE LAW OF THE SEA FOR THE
INTERNATIONAL MARITIME ORGANIZATION
ANNEX

PROVISIONS OF UNCLOS RELEVANT TO THE INSTRUMENTS AND WORK OF IMO

INNOCENT PASSAGE IN THE TERRITORIAL SEA
(rules applicable to all ships)

<table>
<thead>
<tr>
<th>Articles of UNCLOS</th>
<th>Subject-Matter</th>
<th>Specific provisions on the subject-matter</th>
<th>Relationship between UNCLOS and IMO instruments</th>
<th>Relevant IMO instruments</th>
<th>Comments/recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>Laws and regulations of the coastal State relating to innocent passage</td>
<td>Paragraph 1: Matters concerning which the coastal State is entitled to adopt laws and regulations including safety of navigation, regulation of maritime traffic, protection of navigational aids and facilities, prevention of marine pollution (also article 211(4))</td>
<td>Reference to “rules of international law”</td>
<td>SOLAS, Load Lines, COLREG, STCW, MARPOL</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Paragraph 2: Laws and regulations on design, construction, Manning or equipment</td>
<td>Reference to “generally accepted international rules or standards”</td>
<td>SOLAS, Load Lines, MARPOL, STCW</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Paragraph 4: Laws and regulations on prevention of collisions</td>
<td>Reference to “generally accepted international regulations relating to the prevention of collisions at sea”</td>
<td>COLREG</td>
<td></td>
</tr>
<tr>
<td>Articles of UNCLOS</td>
<td>Subject-Matter</td>
<td>Specific provisions on the subject-matter</td>
<td>Relationship between UNCLOS and IMO instruments</td>
<td>Relevant IMO instruments</td>
<td>Comments/recommendations</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>217</td>
<td>Flag State enforcement</td>
<td>Paragraph 1: Duty of flag States to ensure compliance by their vessels with applicable international rules and standards, established through the competent international organization</td>
<td>Reference to the &quot;applicable international rules and standards, established through the competent international organization&quot;</td>
<td>SOLAS, MARPOL</td>
<td>1. IMO is the competent international organization for establishing rules and standards on vessel-source pollution.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Paragraph 2: Duty of States to take appropriate measures in order to ensure that vessels flying their flag or of their registry are prohibited from sailing, until they can proceed to sea in compliance with the requirements of the international rules and standards established through the competent international organization</td>
<td>Mention of the international rules and standards referred to in paragraph 1 including those of design, construction, equipment and manning of ships</td>
<td>SOLAS, LL 1966, MARPOL, STCW</td>
<td>2. The flag State shall enforce MARPOL &quot;as far as applicable&quot;.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>As above.</td>
</tr>
</tbody>
</table>
An ever changing face…

- Search and rescue,
- Welfare of mariners,
- Marine casualty investigations,
- “Places of refuge” for vessels in need of a sheltered location to effect temporary repairs,
- State responsibilities for the safe recovery and disposition of migrants, refugees and other persons rescued at sea,
- Piracy and maritime armed robbery,
- Stowaways
- Maritime trafficking in drugs, psychotropic substances and precursor chemicals,
- Ship-breaking, recycling and disposal,
- Liability for injuries to passengers,
- Wreck removal,
- Polar navigation…
IMO – the International Maritime Organization

• Safe, secure and efficient shipping on cleaner oceans