

The wide acceptance and uncontested legitimacy of IMO's universal mandate in accordance with international law is evidenced by the following facts:

- 162 sovereign States representing all regions of the world are Members of IMO;
- all Members may participate at meetings of IMO bodies in charge of the elaboration and adoption of recommendations containing safety and antipollution rules and standards. These rules and standards are normally adopted by consensus; and
- all States irrespective of whether they are or are not Members of IMO or

II

**IMPLICATIONS OF THE UNITED NATIONS CONVENTION ON
THE LAW OF THE SEA FOR THE**

INTERNATIONAL MARITIME ORGANIZATION

An undated version of the IMO study ¹ on Implications of the United Nations
Convention on the Law of the Sea for the International Maritime Organization

The purpose of the Code is to provide a standardized, consistent framework

vulnerabilities. Ships will be subject to a system of survey, verification, certification, and control to ensure that their security measures are implemented. This system will be based on a considerably expanded control system as stipulated in the 1974 Convention for Safety of Life at Sea (SOLAS). Port facilities will also be required to report certain security related information to the Contracting Government concerned, which in turn will submit a list of approved port facility security plans, including location and contact details to IMO.

Under the terms of the Code, shipping companies will be required to designate a Company Security Officer for the Company and a Ship Security Officer for each of its ships. The Company Security Officer's responsibilities include ensuring that a



Ship Security Assessment is properly carried out, that Ship Security Plans are prepared and submitted for approval by (or on behalf of) the Administration and thereafter is placed on board each ship.

The Ship Security Plan should indicate the operational and physical security measures the ship itself should take to ensure it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the ship itself can take to move to and operate at security level 2 when instructed to do so. Furthermore, the plan should indicate the possible preparatory actions the ship could take to allow prompt response to instructions that may be issued to the ship at security level 3.

Ships will have to carry an International Ship Security Certificate indicating that they comply with the requirements of SOLAS chapter XI-2 and part A of the ISPS Code. When a ship is at a port or is proceeding to a port of Contracting

Government, the Contracting Government has the right, under the provisions of



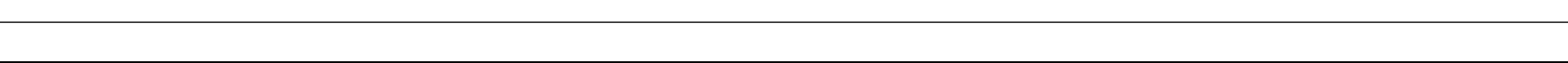






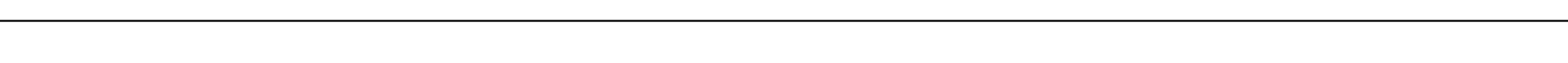

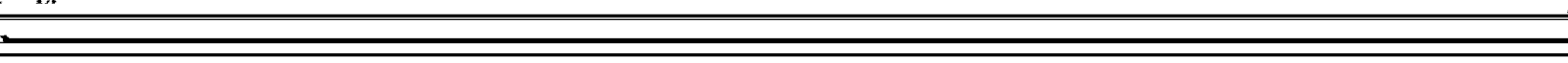





operates at security level 1. The plan should also indicate the additional, or
identified, security measures the port facility can take to move to and operate at

security level 2 when instructed to do so. It should also indicate the possible
preparatory actions the port facility could take to allow prompt response to the
instructions that may be issued at security level 3.

Ships using port facilities may be subject to port State control inspections and
additional control measures. The relevant authorities may request the provision of
information regarding the ship, its cargo, passengers and ship's personnel prior to the

A new regulation XI-1/5 requires ships to be issued with a Continuous Synopsis Record (CSR) which is intended to provide an on-board record of the history of the ship. The CSR shall be issued by the Administration and shall contain information such as the name of the ship and of the State whose flag the ship is entitled to fly, the date on which the ship was registered with that State, the ship's identification number, the port at which the ship is registered and the name of the registered owner(s) and their registered address. Any changes shall be recorded in the CSR so as to provide updated and current information together with the history of the changes.

A brand-new Chapter XI-2 (Special measures to enhance maritime security) is added after the renumbered Chapter XI-1.



restriction of operations including movement within the port, or expulsion of a ship from port), and the specific responsibility of Companies.

The conference adopted 11 resolutions, the main points of which are outlined

Conference resolution 1 (Adoption of amendments to the annex to the international convention for the safety of life at sea, 1974, as amended),

and invites donors, international organizations and the shipping and port industry to contribute financial, human and/or in-kind resources to the Integrated Technical Co-operation Programme of the Organization for its maritime and port security activities.

It also invites the Secretary General to give early consideration to establishing a Maritime Security Trust Fund for the purpose of providing a dedicated source of financial support for maritime security technical-co-operation activities and, in particular, for providing support for national initiatives in developing countries to strengthen their maritime security infrastructure and measures.

Conference resolution 6 (Early implementation of the special measures to enhance maritime security) refers to the difficulties experienced during

the implementation of the International Safety Management (ISM) Code and during the

attention of Contracting Governments and the industry to the fact that chapter VI 2 of

Conference resolution 9 (Enhancement of security in co-operation with the World Customs Organization) invites the WCO to consider urgently measures to

Secretary-General of IMO to contribute expertise relating to maritime traffic to the discussions at the WCO.

Conference resolution 10 (Early implementation of long-range ships'

Correspondence Group which develops a working paper on the scope of possible

[REDACTED]

The MSC noted and concurred with the recommendations and conclusions of both

meetings, including:

- The Guayaquil meeting's agreement on the need for the review of the relevant IMO instruments on the prevention and suppression of acts of terrorism against ships, their passengers and crews - with action already being undertaken by the

were used by pirates and armed robbers as bases for their illegal activities. The Meeting therefore recommended that IMO should assist coastal States in the

robbery against ships, given that the issue was progressing rather slowly. The MSC also instructed the IMO Secretariat to follow-up the proposals, involving ROCRAM and MOWCA, towards convening regional meetings to promote the case of regional co-operation in appropriate areas.

The MSC noted that the second phase of the anti-piracy project was now complete and it was the intention of the Secretariat to make every effort to provide technical assistance and co-ordinate missions to countries which were expected to request assistance.

The MSC also invited the Secretariat to follow closely the developments at United

attendant aspects at the United Nations inter-agency level. The Secretary-General had also proposed the establishment of a co-ordinating mechanism (possibly in the form of an inter-agency co-ordinating panel to be activated when the circumstances so dictate) to ensure that the response of the United Nations in any future emergency could be co-ordinated in a consistent manner. As a result, a meeting was being organized between representatives of the United Nations Division for Ocean Affairs and the Law of the Sea, the Office of the United Nations High Commissioner for Refugees (UNHCR), the UN Office for Drug Control and Crime Prevention (ODCCP), the Office of the UN High Commissioner for Human Rights (UNCHR), the International Organization for Migration (IOM) and the IMO Secretariat, to take

provision of release of confessions and relevant operations in both a general and a case

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

promulgate notices to mariners in order that nautical charts and publications are kept, as far as possible, up to date;

provide data management arrangements to support these services;

promote, through their national maritime administrations, the use of Electronic Chart Display and Information Systems (ECDIS) together with official Electronic Navigational Charts (ENCs);

co-operate with other Governments having little or no hydrographic capabilities as appropriate in the collection and dissemination of hydrographic data;

promote in consultation with, and with the assistance of, the Organization and the International Hydrographic Organization support for a Government which may request technical assistance in hydrographic matters; and

establish Hydrographic Offices where they do not exist in

consultation with the IHO.

PROMULGATED BY THE IHO

The MSC agreed to a joint MSC/Marine Environment Protection Committee (MEPC)/Technical Co-operation Committee (TCC) Working Group on the voluntary IMO Model Audit Scheme, to meet during the MSC's 77th session in mid-2003.

LIABILITY AND COMPENSATION FOR DAMAGE TO SEA PASSENGERS AND THEIR LUGGAGE

Compulsory insurance to cover passengers on ships will become international law and limits of liability will be raised under amendments to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, adopted at a diplomatic conference held from 21 October to 1 November at IMO Headquarters in London.

The amendments to the Convention are contained in the 2002 Protocol to the Athens Convention.

For some time now it had been recognized that the limits of liability in the 1974 Convention were no longer adequate to meet the needs of the international community. An 1990 Protocol, in the eyes of many States, suffered from the same defect. Therefore it never entered into force.

The new protocol instrument will remedy this deficiencies by providing for adequate compensation for death and personal injury claims and claims for loss of or damage to

The limit of the compulsory insurance or other financial security shall not be less than 250,000 Special Drawing Rights (SDR) (about US\$325,000) per passenger on each ~~distinct occasion. Ships are to be issued with a certificate attesting that insurance or~~

other financial security is in force and a model certificate is attached to the Protocol in an Annex.

~~The limits of liability have been raised significantly under the Protocol to reflect~~

present day conditions and the mechanism for raising limits in the future has been made easier. The liability of the carrier for the death of or personal injury to a ~~passenger is limited to 250,000 SDR (about US\$325,000) per passenger on each~~

and not exceeding 149 (about US\$220) SDR per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

The Protocol introduces a new procedure for amending the limits of liability under the Convention, so that any future raises in limits can be achieved more readily. Under the 1974 Convention, limits can only be raised by adopting amendments to the Convention which require a specified number of States' acceptances to bring the amendments into force. This has meant, for example, that the 1990 Protocol, which was intended to raise the limits, has not yet entered into force and indeed is being superseded by the 2002 Protocol.

The 2002 Protocol therefore introduces a tacit acceptance procedure for raising the

exercise these in a shared manner. The resolution requests IMO to carry out a study of the issue, and, if found necessary, to develop appropriate provisions which may be considered in new treaties it may develop, or in amendments to existing treaties, when there will be a need for such provisions to be included so as to enable present and future regional economic integration organizations and their Member States to become parties to such treaties.

Conference Resolution 2 - Certificates of insurance or other financial security and ships flying the flag of a State under the terms of a bareboat charter registration

The resolution addresses the fact that a number of States allow ships to fly their flag under the terms of bareboat charter, through which the bareboat charterer assumes all the duties and responsibilities of the owner for the operation of the ship whilst the ownership and encumbrances remain registered in another State which suspends the right of the ship to fly its flag. The resolution requests IMO to carry out a study of the issuing of certificates of insurance or financial security in these cases and, if found necessary, to develop appropriate guidelines.

Conference Resolution 3 - Framework of Good Practice with respect to carriers' Liabilities

facilitate the removal of wrecks but noted the diverging views on whether to replace the expression "State of the ship's registry" with "flag State" as well as with regard to the power of the Coastal State to remove wrecks.

A debate was held on the contents of Article 13 regulating financial security. The
Committee invited the representatives of the International Group of D&I Clubs to

Recommendations on the Transport of Dangerous Goods, Model Regulations adopted

1. IBC Code for the Transport of Dangerous Goods of its twenty

[REDACTED]

the designation of special areas are not mutually exclusive. In many cases a Particularly Sensitive Sea Area may be identified within a Special Area and vice versa. ~~Whenever an area is approved as a particularly sensitive sea area, specific measures~~

environmentally acceptable; (3) practical; (4) cost effective; and (5) biologically effective.

The Committee concurred with the Working Group that the ballast water exchange standard would be one of the tools within the legal instrument, alongside one or more treatment standards. There will be provision for the review of both ballast water exchange and treatment standards based upon submissions to the Organization in view of developing technology.

The Working Group agreed that only a 100% removal or inactivation standard can be guaranteed to be effective in eliminating the transfer of unwanted organisms and

benefit. A large proportion of the Group was of the opinion that a 95% reduction

needed to ensure a seamless implementation of the forthcoming IMO
Convention; and
4 In January 2002, at the Global Project Task Force Meeting in Goa

reprocessed to become, for instance, reinforcing rods for use in the construction industry or as corner castings and hinges for containers. Ships' generators are reused ashore. Batteries find their way into the local economy. Hydrocarbons on board become reclaimed oil products to be used as fuel in rolling mills or brick kilns; light

steel requires only one third of the energy used for steel production from raw materials. Recycling makes a positive contribution to the global conservation of energy and resources and, in the process, employs a large, if predominantly unskilled, workforce. Properly handled, ship recycling is, without question, a "green" industry.

However, the guidelines recognize that, while the principle of ship recycling may be sound, the working practices and environmental standards in the yards often leave much to be desired. While ultimate responsibility for conditions in the yards has to lie with the countries in which they are situated, other stakeholders must be encouraged to contribute towards minimising potential problems in the yards.

The guidelines have been developed to give advice to all stakeholders in the recycling process, including administrations of ship building and maritime equipment supplying countries, flag, port and recycling states, as well as intergovernmental organizations and commercial bodies such as shipowners, ship builders, repairers and recycling yards.

The concept of a "Green Passport" for ships is included in the guidelines. It is envisaged that this document, containing an inventory of all materials potentially hazardous to human health or the environment, used in the construction of a ship,

ships under the Kyoto Protocol of the United Nations Framework Convention on Climate Change (UNFCCC).

At its 47th session in London, the Working Group agreed to develop the MEPC agreed to

establish a Correspondence Group to collate information received and prepare an IMO Strategy/Policy on greenhouse gas emissions from ships. This would include development of a draft Assembly resolution on the matter.

The Working Group noted that one approach included the idea of an environmental indexing system for ships, to assess an individual ship's environmental performance in relation to greenhouse gas emissions. The Committee agreed that the idea provided a basis for future work.

At its 48th session the Committee made progress in developing a draft Assembly resolution on greenhouse gas emissions from ships and invited Members to submit comments on the draft to the next meeting of the MEPC. The Committee agreed that policy issues on greenhouse gas emission in the context of Article 2.2 of the Kyoto

2. Guidelines for inspection of ships anti-fouling systems; and
3. Guidelines for survey.

The MEPC requested the FSI Sub-Committee to give priority to the development of the Guidelines on Surveys of Anti-fouling Systems which should be finalized by the

The harmful environmental effects of organotin compounds were recognized by IMO

1990. In 1999, IMO's Marine Environment Protection Committee (MEPC)

adopted a resolution which recommended that Governments adopt measures to eliminate the use of anti-fouling paint containing TBT on non-aluminium hulled vessels of less than 25 metres in length and eliminate the use of anti-fouling paints with a leaching rate of more than four microgrammes of TBT per day.

In November 1999, IMO adopted an Assembly resolution that called on the MEPC to develop an instrument, legally binding throughout the world, to address the harmful effects of anti-fouling systems used on ships. The resolution called for a global

The MEPC agreed to further consider implementation of the reporting mechanism of inadequate reception facility at MEPC 48 in October 2002.

The MEPC also strongly encouraged the Member States, particularly those Parties to MARPOL 73/78 as port States, to fulfil their treaty obligations on providing adequate reception facilities.
