

## The IMO – for 'safe, secure and efficient shipping on clean oceans'

### SUMMARY

The International Maritime Organization (IMO) is a United Nations specialised agency responsible for regulating international shipping. Since 1959, when it met for the first time, the IMO's overarching objectives have been the improvement of maritime safety and the prevention of marine pollution, to which maritime security was added later.

The organisation's functioning reflects the diverging interests of its 171 member states acting in diverse capacities as port, coastal and flag states on the one hand, and as developed, developing or least developed states, on the other.

The main legal instruments used by the IMO are conventions. Generally regarded as being of a high standard, the body of technical rules adopted through these conventions is widely accepted. In contrast, the IMO received criticism in 2015 for its approach to reducing greenhouse gas emissions from international shipping, perceived as insufficient.

While all EU Member States and the European Commission take part in IMO meetings, the EU has over the years developed and applied its own maritime legislation, which has on occasion stirred debate within the international shipping community.

In 2015, the European Parliament sent its first-ever delegation to an IMO meeting. Furthermore, the Parliament added its voice to the international community calling on the IMO to step up action on reducing shipping emissions.



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## Introduction to the IMO

Shipping is an international industry. To operate effectively, it needs global rules agreed by the largest possible number of countries. This process takes place in the International Maritime Organization (IMO), a specialised United Nations agency responsible for regulating international shipping, preventing marine pollution by ships, and handling matters of maritime security.

As an intergovernmental organisation, the IMO is the forum in which its member states exchange information and consult on maritime matters. It considers all kinds of maritime questions submitted by its member states, other UN bodies and intergovernmental organisations, gives advice and makes recommendations. Moreover, it drafts conventions, agreements and other instruments for adoption by governments, and convenes international conferences.

The IMO was established by a [convention](#) adopted at the UN Maritime Conference convened in Geneva in 1948. The convention entered into force 10 years later and the new organisation met for the first time in 1959 under the name of Intergovernmental Maritime Consultative Organization (IMCO), which was changed to IMO in 1982.

Early on, the IMO focused on the improvement of maritime safety and the prevention of marine pollution. Following the 2001 terrorist attacks on the United States of America, it stepped up its efforts in the area of maritime security. Currently, the IMO develops and maintains a regulatory framework for shipping in the areas of safety, environment, legal matters, technical cooperation, maritime security and efficiency. Its headquarters are in London.

## IMO membership

The IMO currently has [171](#) member states (including the EU-28) and three associate members (the Faroe Islands, Hong Kong and Macau). In addition, there are [65](#) intergovernmental organisations with observer status (the European Commission being one of them) and [77](#) international non-governmental organisations with consultative status. The EU is not a full member, since the IMO's founding convention only allows for the membership of states.

Within the IMO, two kinds of dynamics are at work.<sup>1</sup> The first stems from the conflicting roles of countries as **port**, **coastal** and **flag states**. A country can simultaneously be a flag state (that is, have a fleet of registered ships flying its flag), a port state and a coastal state, but for economic, geographical or environmental reasons, it may see only one of these roles as pivotal. For example, a country with a large registered merchant fleet which generates a significant part of its national income can be expected to attach more weight to the interests of its shipping companies. This is particularly true for 'flag of convenience' countries (see box). In contrast, a country with large sensitive coastal areas to protect, such as Australia, regards its role of coastal state as essential.

### Flags of convenience (FOC)

Each state sets its own ship registration standards and ship-owners can choose where to register their ships (the flag state). FOC is the business practice of registering a ship in a state different from the home of the ship's owner, to reduce operating costs or avoid regulations in the owner's country. It allows owners to be legally anonymous and difficult to prosecute. In [2012](#), about 70% of global merchant fleet tonnage sailed under a FOC (was 'flagged-out'). In [2013](#), the top three flag states (by tonnage) were Panama, Liberia and the Marshall Islands, while the leading three countries of beneficial ownership were Greece, Japan and China.

The second dynamic ensues from the split between **developed, developing** and **least developed states**, existing since the IMO's early days. Long-unresolved issues related to technology transfer and assistance to the less developed countries have kept the split open over the years and it has resurfaced again in the context of shipbreaking (end-of-life ship dismantling and recycling)<sup>2</sup> and climate change. While the least developed countries usually act as a group within the UN Framework Convention on Climate Change ([UNFCCC](#)), they do not necessarily do so in IMO negotiations, as their interests in the maritime sector diverge. Also, their limited capacity for sending delegations and experts to the numerous meetings of the different IMO bodies has allowed developed countries – at least until recently – to solidify their own positions within the IMO to such an extent that the organisation has been described as 'a club of developed countries with serious shipping interests'.<sup>3</sup>

## Stakeholders

Among the intergovernmental organisations (INGOs), with observer status, and non-governmental organisations (NGOs), with consultative status in the IMO, the strongest voices come from organisations representing ship owners and operators who aim to influence Member States with shipping interests. In addition, cargo owners, charterers (particularly big oil companies), classification societies, insurance firms and environmental NGOs actively contribute to IMO's functioning.<sup>4</sup>

Industry associations, business groups and NGOs feature more distinctly in the IMO than in other comparable international organisations. Their influence is mainly channelled through the IMO member states with similar interests. Indeed, the presence of FOC countries (see box above) and the size of their fleets open up possibilities for shipping companies to influence the IMO law-making process.

## How the IMO works

### Structure, operation and financing

The IMO consists of an Assembly, a Council and five committees. The governing body is the **Assembly**, which brings together all members in regular sessions once every two years, or more often if needed. The executive body – the **Council** – is composed of 40 members elected by the Assembly for a two-year term on the basis of a rotation [formula](#). The Council's responsibilities include, among other things, coordinating the activities of IMO bodies, preparing the budget and drafting the work programme.

The technical work is mostly done in five main **committees**, which are open for participation from all Member States. These are the Maritime Safety Committee, the Marine Environment Protection Committee, the Legal Committee, the Technical Cooperation Committee and the Facilitation Committee. Assisted by technical subcommittees, they meet once a year, usually for a week. Between the annual meetings, progress on specific issues can be achieved through correspondence groups.

The IMO has a secretariat of some 300 international staff, headed by a Secretary-General, who serves a four-year term. Since 1 January 2016, this office has been held by [Kitack Lim](#) (South Korea). The IMO [budget](#) for 2015 was £33 million (€42 million). The annual contribution of each member state depends on the tonnage of its merchant fleet. In [2014](#), the top three contributors were FOC countries, Panama coming first with £5 million (€7 million). In addition, some international organisations and member states' governments make donations to the IMO for specific activities, which could raise questions as to how resistant to influence the IMO law-making process is.

### Work instruments

When adopting new measures, which often have a major impact on shipping, the IMO usually [attempts](#) to act on the basis of consensus, so as to ensure that the measures will be widely supported, ratified and implemented.

The principal legal instruments that the IMO uses are **conventions**. Several international maritime conventions already existed before the organisation started its activity, the most important being the International convention for the safety of life at sea (SOLAS, 1948). The IMO's first task was to adopt a new version of the SOLAS convention, which it achieved in 1960. After that, it started adopting conventions to deal with issues such as the facilitation of international maritime traffic, load lines and the carriage of dangerous goods. Today, the IMO ensures that the existing conventions are kept up-to-date and develops new ones as needed, to keep pace with changes in shipping technology and follow the highest practicable standards.

Once a new convention is adopted, it needs to be ratified by the member states, then implemented and enforced in practice. A convention enters into force only after it has been ratified by the required number of IMO members, representing a defined share of world tonnage; this varies depending on the instrument. However, the ratification process can be long and difficult, especially in countries requiring a vote in the national parliament. It is then the responsibility of the member states' governments to implement the adopted regulations.

As the IMO itself has no enforcement powers, compliance with conventions is ensured by its member states. In their capacity of flag states, they inspect their ships and crews, issue certificates and claim penalties where applicable. In their capacity of port states, they also have certain powers towards ships of others states visiting their ports.

To amend technical rules within existing conventions, the IMO has used the 'tacit acceptance' procedure since the 1970s, meaning that an amendment enters into force after a particular time (usually 18 to 24 months) unless a specified number of parties object.

IMO has adopted more than [50](#) international conventions and agreements, followed by many protocols and amendments. Most conventions fall into three main [categories](#):

- maritime safety,
- prevention of marine pollution, and
- liability and compensation, especially in relation to damage caused by pollution.

Other conventions deal with facilitation of maritime traffic, tonnage measurement, unlawful acts against shipping, and salvage. Those most recently adopted relate to the marine environment and include one prohibiting harmful chemicals in special paints on ships ([2001](#)), a second aimed at preventing the spread of invasive aquatic organisms present in the ballast water, used for improving a ship's balance when on voyage without cargo ([2004](#), not yet in force), a third on the removal of wrecks ([2007](#)), and a fourth on ship recycling ([2009](#), not yet in force).

#### Key IMO conventions

- International Convention for the Safety of Life at Sea ([SOLAS](#)), 1974, as amended.
- International Convention for the Prevention of Pollution from Ships ([MARPOL](#)), 1973, as modified by the Protocols of 1978 and 1997.
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers ([STCW](#)), 1978, as amended in 1995 and 2010.

In addition, the IMO has adopted more than 1 000 **codes, guidelines** and **recommendations** on various subjects, such as search and rescue, and carriage of dangerous goods. These include, for example, the International code of signals and the International ship and port facility security ([ISPS](#)) Code. Even though these are usually non-binding, many Member States have incorporated them, in whole or in part, into their national regulations. Some codes have become mandatory under the SOLAS or MARPOL conventions.

While not tasked with the implementation of conventions, the IMO has the authority (since 1997) to vet the training, examination and certification procedures of the contracting parties to the STCW convention. Governments have to provide the relevant information and the IMO evaluates whether the country meets the convention requirements.

The IMO offers a [programme](#) of technical cooperation to member states lacking technical knowledge or resources to operate shipping safely and efficiently. In addition, it has opened the World Maritime University in Malmö and the International Maritime Law Institute in Malta. The IMO also runs a knowledge centre, offers information sources and publishes studies and guidance brochures.

#### **Current issues in and around the IMO**

Many IMO conventions apply to more than 98% of the world's merchant shipping tonnage, confirming the organisation's long-term success. Today, the IMO lays greater emphasis on the updating and proper implementation of adopted rules. Several [amendments](#) to existing conventions, mostly of a technical character, will enter into force in 2016 or in 2017.

However, some changes are of a more general nature. For instance, in 2005 the IMO introduced an [audit scheme](#) for its member states, to assess how effectively they implement the instruments covered by the scheme. At first voluntary, the audits became [mandatory](#) from 1 January 2016.

In 2015, the IMO's efforts to limit the impact of shipping on climate came under the spotlight in connection with the Paris COP21 climate conference. The IMO argues that international shipping is already contributing to emissions cuts by improving energy efficiency of ships (see box). In addition, since 2008, an internal IMO working group has been developing the technical basis for a regime to control greenhouse gas (GHG) emissions from international shipping. However, an agreement among member states actually to adopt concrete [measures](#) is not yet in sight. A recent [study](#)

#### **Shipping and climate change**

Shipping's greenhouse gas (GHG) emissions are [exempt](#) both from international (UNFCCC) and EU climate targets.

In 2011, the IMO adopted [measures](#) to improve the energy efficiency of ships, which entered into force in 2013 (Annex VI, MARPOL). By burning less fuel, ships will cut emissions.

However, recent studies show these measures to be weak: most ships built between 2009 and 2014 already meet the IMO energy efficiency [standards](#), and ships built in 2013 are even [less](#) energy efficient than those built in [1990](#).

According to the third IMO GHG study ([2014](#)), shipping emissions accounted for 2.2% of global GHG emissions in 2012. Despite the energy-efficiency measures adopted, they are expected to rise by 50–250% by 2050, mirroring world trade growth. CO<sub>2</sub> emissions from shipping are already up by [70%](#) since 1990. If left unregulated, they could make up to 17% of global CO<sub>2</sub> emissions by 2050, wiping out the energy-efficiency gains obtained.

The call for action on emissions from international shipping (and aviation) was one of the [hot topics](#) at the Paris COP21 climate conference. After negotiations and despite awareness of its [urgency](#), the call for action was finally [left out](#) of the new climate [agreement](#). [Welcoming](#) the conference outcome, the IMO Secretary-General invited its parties to put forward 'new, creative proposals and to approach them in a constructive and cooperative manner'.

commissioned by the European Parliament's Committee on Environment, Public Health and Food Safety (ENVI) concludes that, from an environmental perspective, the IMO's efforts to reduce GHG emissions have started late and have been insufficient. (For the EU debate on cutting shipping emissions, see below).

For now, shipping is the only industry to have global and legally binding energy-efficiency measures. However, it will take a [long](#) time for these measures to produce an impact on the global fleet, and moreover, they only limit the increase of shipping emissions, but do not reduce their volume. IMO discussions on further reduction possibilities, such as a market-based measure, ran aground due to the difficulty of combining the principle of flag-neutrality used in IMO conventions,<sup>5</sup> which applies to ships, with the principle of common but differentiated responsibility (CBDR),<sup>6</sup> which applies to states and is used by the UNFCCC.

In March 2015, the Marshall Islands – a small island state seriously threatened by climate change, but also a shipping heavyweight – asked the IMO Marine Environment Protection Committee (MEPC) to 'undertake the work necessary to establish a GHG emission reduction target for international shipping consistent with keeping global warming below 1.5°C, and to agree the measures necessary to reach that target'.<sup>7</sup> EU Member States and several island states supported this claim. The MEPC [refused](#) to adopt the proposal, but indicated that it could be further addressed at a future session.<sup>8</sup> Instead, it decided to continue work on technical and operational measures, in particular the data collection system, and wait for the outcome of the COP21 UNFCCC Paris climate conference.

### Relations with the European Union

After several major accidents involving passengers (*Estonia* in 1994, *Express Samina* in 2000) or polluting cargos (*Erika* in 1999, *Prestige* in 2002), concerns about the insufficiency of the existing IMO rules on maritime transport safety led the EU to introduce its own regulatory measures. The main reasons for this move were dissatisfaction with the IMO regulatory process,<sup>9</sup> perceived as slow, and the existence of a strong EU enforcement mechanism. Indeed, while failure to meet obligations under IMO conventions is unlikely to have any legal consequences, once these obligations become binding under EU law, non-compliance leads to penalties. As a result, a whole new layer of about 40 directives and regulations has been inserted between EU Member States' national legislation and the (mostly IMO) international rules and standards.

In its regulatory efforts, the EU has aimed to protect European waters from the negative effects of substandard shipping and, in the main, has targeted ships that do not comply with the safety and environmental standards already set by the IMO.<sup>10</sup> However, the EU has also repeatedly chosen to start a new regulatory process at Union (regional by global standards) level. To improve maritime safety in its waters, the EU has adopted its own rules, which it has consequently used as an argument in IMO negotiations. Arguably, the EU has 'become a driving force for IMO decision-making and effective implementation of IMO conventions'.<sup>11</sup> This, however, has given rise to certain tensions in the international shipping community,<sup>12</sup> confronted with the impractical situation of one set of standards applicable in EU waters and another in international seas. For its part, the European shipping sector has mostly been concerned that the stricter rules put EU shipping companies at a competitive disadvantage against their counterparts operating outside the scope of EU legislation.

This trend is highly apparent, for instance, in the case of GHG emissions from shipping. While IMO discussions and preparatory work have been going on for several years, the EU, in light of its international commitments to reduce GHG emissions, has gone one step ahead. In 2015, it [adopted](#) Regulation [2015/757/EU](#) establishing an EU system for monitoring, reporting and verification (MRV) of CO<sub>2</sub> emissions from maritime transport. Although still far from requiring ships actually to reduce their emissions, it is seen as a necessary basis for setting reduction targets later and applying a market-based measure. Simultaneously, the EU affirmed that once a global agreement is reached in the IMO, the Regulation would be amended to align the two systems. On this issue, the IMO sides with the shipping industry, opposing regional reduction measures and saying that to be efficient, any CO<sub>2</sub> reduction regime should be global, uniform and adopted within the IMO.

To ensure that the EU speaks with one voice in IMO meetings, it applies an informal process for coordinating the positions of the EU Member States, Norway and Iceland. For most IMO meetings, the European Commission prepares a coordination paper, suggesting the positions for the Member States to follow. Moreover, several weeks before key IMO sessions, a coordination meeting is held in Brussels for Member States' representatives to agree on joint positions. In practice though, while during IMO meetings the EU Council presidency advances the coordinated position, individual EU Member States can take the floor and express their own position, sometimes departing slightly from the joint one.

In parallel to adopting a body of maritime legislation, the EU has also established its own specialised maritime safety agency ([EMSA](#)). Far from being a competitor to the IMO, it has regional implementing and monitoring [responsibilities](#), but no regulatory or legislative functions.

#### **The European Parliament and the IMO**

Until recently, the EP was involved with IMO matters mainly indirectly. It monitored the IMO's work while helping to shape the body of EU maritime-safety legislation (for instance, the [Third Maritime Safety Package](#)) and gave its consent to draft Council decisions on IMO matters (for example, on Member States' ratification of the [convention](#) on standards for fishing vessel personnel). In 2015, however, the EP engaged directly with the environmental aspects of the IMO's work. For the first time, a delegation of three MEPs was present at the meeting of the Maritime Environment Protection Committee (MEPC 68) in May, as part of the EU team.

Before the Council [meeting](#) of 18 September 2015, held to finalise the EU's position for COP21, the coordinators of seven (of the eight) political groups within the ENVI Committee [urged](#) the EU-28 Environment Ministers to include international shipping and aviation in the global climate deal, and thereby push for action in the IMO.

In its [resolution](#) of 14 October 2015, 'Towards a new international climate agreement in Paris' (rapporteur: Gilles Pargneaux, S&D, France), the EP called on all parties to work through the international aviation ([ICAO](#)) and shipping (IMO) organisations to develop a global policy framework, take measures and set targets to limit global warming to 2°C. During the Paris negotiations, the EP delegation [pushed](#) for aviation and shipping not to be left out of the final agreement.

#### **Main references**

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The EU Maritime Safety Policy and International Law, H. Ringbom, Martinus Nijhoff publishers, 2008.

## Endnotes

<sup>1</sup> Prevention of Pollution of the Marine Environment from Vessels – The Potential and Limits of the International Maritime Organization, Md Saiful Karim, Springer International Publishing, 2015, p. 16.

<sup>2</sup> Dismantling end-of-life vessels consists of removing all the gear and equipment and then cutting down and recycling the ship's infrastructure. Common practice among ship-owners wishing to avoid EU [laws](#) is to change the end-of-life ship's flag ([most popular](#) flags: St Kitts and Nevis, Comoros and Tuvalu) and send the vessel for dismantling to poorer [countries](#) with low safety, health and environmental standards (such as [Bangladesh](#) or Pakistan). The International Labour Organization ([ILO](#)) ranks shipbreaking among the very hazardous occupations.

<sup>3</sup> Prevention of Pollution of the Marine Environment from Vessels - The Potential and Limits of the International Maritime Organization, Md Saiful Karim, Springer International Publishing, 2015, p. 29.

<sup>4</sup> *Idem*, p. 20.

<sup>5</sup> The IMO [advocates](#) the 'no more favourable treatment' rule, meaning that even ships flying the flag of a country that has not ratified IMO conventions are required to meet the conventions' requirements. Otherwise, the conventions would just promote the practice of 'flagging-out' to flag states with less strict regulation.

<sup>6</sup> According to the 'common but differentiated responsibility' [principle](#), all states are responsible for addressing global environmental destruction, yet are not equally responsible. The principle was formalised in international environmental law at the 1992 Earth Summit ([UNCED](#)) in Rio de Janeiro and has also been present in the UNFCCC conventions since the adoption of the [Kyoto Protocol](#). Under the Paris [Agreement](#), parties should act to protect the climate system on the 'principle of equity and common but differentiated responsibilities and respective capabilities, in the light of different national circumstances'.

<sup>7</sup> IMO, MEPC 68/5/1, 2015.

<sup>8</sup> IMO, MEPC 68/21, 2015.

<sup>9</sup> The External Dimension of European Union Marine Governance: Institutional Interplay between the EU and the International Maritime Organization, J. van Leeuwen and K. Kern, Global Environmental Politics, 2013, Vol.13(1), p.69.

<sup>10</sup> Such as with Directive [2012/33/EU](#) regulating the sulphur content of marine fuels, which amended Directive [1999/32/EC](#) to be in line with new, [stricter standards](#) for sulphur content set by IMO in 2008. The revised Annex VI to MARPOL [introduces](#), among other things, stricter sulphur limits for marine fuel in SO<sub>x</sub> Emission Control Areas (or SECAs – 1.00% as of 1 July 2010 and 0.10% as of 1 January 2015) as well as in sea areas outside SECAs (3.50% as of 1 January 2012 and, in principle, 0.50% as of 1 January 2020).

<sup>11</sup> The EU Maritime Safety Policy and International Law, H. Ringbom, Martinus Nijhoff publishers, 2008, p. 2.

<sup>12</sup> Such as with the introduction of double-hulled oil tankers in 2000, where the EU addressed a matter already regulated by an IMO convention. Acting on a political decision (Council [common approach](#)), the EU wanted to [maintain](#) its stricter regional legislation if the IMO failed to adapt the MARPOL convention accordingly. The matter was finally settled by coordinating both sets of rules in terms of substance and timing.

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