



INTERNATIONAL CHAMBER OF SHIPPING (ICS)

INPUTS TO GLOBAL BUSINESSES' CONSULTATION ON THE INTERNATIONAL MARITIME ORGANIZATION (IMO) AND IMPLICATIONS FOR TOXICS AND HUMAN RIGHTS

(31 March 2021)

1 INTRODUCTION

In response to the call for submissions by the UN Special Rapporteur, the [International Chamber of Shipping \(ICS\)](http://www.ics-shipping.org) provides an overview of the ongoing work by IMO to mitigate the impact of shipping on the environment. ICS is a Non-Governmental Organisation in consultative status at IMO since 1961.

2 THE ROLE OF THE INTERNATIONAL MARITIME ORGANIZATION (IMO)

To operate efficiently as a global industry transporting 90% of world trade, shipping is dependent on the multiple IMO conventions, codes, guidelines and recommendations, which govern every facet of the industry (design, construction, equipment and operation).

The absence of IMO global standards enforced uniformly worldwide, would lead to a patchwork of unilateral regulations and inferior levels of safety and environmental protection. Unwelcome unilateral/regional regulations undermine the indispensable global regulatory framework applicable to international shipping. The contributions of IMO have been extremely positive, safeguarding effective enjoyment of human rights in the context of hazardous substances and wastes. We expect that to continue.

3 OCCUPATIONAL HEALTH

Covid-19: Crew change crisis and occupational health impact

Over 11bn tonnes of cargoes are carried by sea each year, including vital food, medicine, energy and raw materials. The 1.2m seafarers who continue to serve the global economy throughout the COVID-19 outbreak are the unsung heroes of the pandemic.

National COVID-19 restrictions have hindered industry's ability to repatriate seafarers and to effect crew changes. This is a priority with considerable

humanitarian and occupational health implications. More than 200,000 seafarers remain stranded on board or unable to join ships, as governments continue to overlook their crucial role and refuse to prioritise seafarer's travel.

Typically, seafarers work between four and six months on board, before a period of leave. Working 10-12 hour days, seven days a week, they perform tasks that require constant professional awareness, skills and physical exertion. Some seafarers have been at sea for over a year, unable to disembark. Cut off from physical contact with their loved ones, their mental wellbeing is rapidly deteriorating.

In 2020, the UN Secretary-General appealed to governments to address their plight by formally designating seafarers as 'key workers'. In December 2020, the International Labour Organisation (ILO) [determined](#) that governments had breached seafarers' rights and failed to comply with provisions of the Maritime Labour Convention during the pandemic.

Immediate policy actions are needed to address this humanitarian emergency, which risks contributing to safety and environmental issues. All governments should designate seafarers as '**key workers**', so that crew changeovers can occur in a safe and timely manner. Governments should prioritise seafarers for COVID-19 vaccinations, after the most vulnerable and health workers. ICS welcomed the recent joint statement by IMO and other UN organisations for "[seafarers and aircrew to be prioritized for COVID-19 vaccination](#)".

4 PREVENTION AND RESPONSE TO MARINE POLLUTION, INCLUDING OIL POLLUTION

IMO MARPOL Convention for pollution prevention from ships

In 1973 IMO adopted the International Convention for the Prevention of Pollution from Ships (MARPOL). This comprehensive regulatory framework addresses several major potential sources of pollution from ships, namely: oil; noxious liquid substances (chemicals); harmful substances in packaged form; sewage; garbage; air pollution and GHG.

This Convention applies to ~99% of the world fleet and is widely recognised as the driving force behind the considerable reduction in pollution from ships over the last 40 years.

Global oil pollution liability regime:

Ships often operate in difficult sea conditions with a high degree of physical risk. Despite tremendous improvements to safety performance, maritime casualties still occur occasionally. According to the International Tanker Owners Pollution Federation (ITOPF) on average, over the past decade, there have been two serious oil spills (over 700tns) each year, whereas there were ~30 such spills per annum in the 1970s, when the volume of maritime trade was a fraction of that carried in 2020.

Major incidents today are rarer due to improved ship designs and strict implementation of safety management systems on board, supported by a

comprehensive framework of IMO regulation. Nevertheless, oil spills can still have serious consequences for those affected. For 50 years, IMO has overseen the successful global system providing compensation for oil pollution damage.

The IMO Civil Liability (CLC) and Fund Conventions are remarkably effective, providing those affected by oil spills with prompt compensation, without protracted legal wrangling. Importantly, the shipowner's contribution is paid regardless of fault, and on the rare occasions that claims have exceeded the shipowner's liability under CLC, additional compensation is provided by the International Oil Pollution Compensation Fund (IOPCF).

The quid pro quo for shipowners' acceptance of liability is that this is limited to a level that allows the shipping industry to obtain access to the necessary cover through its third party liability insurers. In countries that have signed up to the 2003 IMO Supplementary Fund Protocol, over US\$1bn is available to cover the cost of clean-up and to compensate those affected by any single cargo spill.

The joint ICS-Comité Maritime International (CMI) '[Treaty Ratification Campaign](#)' strongly encourages governments to ratify these two regulatory frameworks, as a matter of urgency.

Global liability regime for Hazardous and Noxious Substances (HNS):

The HNS Convention and 2010 Protocol, modelled on the successful international oil pollution liability and compensation regime, establish an international regime for HNS damage, the cost of which will be shared between shipowners and HNS cargo receivers. IMO adopted the 2010 Protocol to overcome obstacles to ratification of the Convention, but government ratification unfortunately remains slow.

The transport of HNS cargo by sea is a major trade and IMO regulations ensure their safe transport. This framework is vital to ensure that those potentially affected by occasional incidents have access to a robust global regulatory.

The IMO Legal Committee is working to facilitate the entry into force of these indispensable regimes, including the proposed adoption of an Assembly Resolution on the matter.

5 SHIPBREAKING

The 2009 Hong Kong Convention on ship recycling is the main global regulatory framework to address ship recycling activities. These global standards include e.g. requirements to carry out an inventory of hazardous materials. Ship recycling yards must provide a Ship Recycling Plan, specifying how each ship will be recycled, depending on its inventory, ensuring that environmentally hazardous substances are appropriately managed. It also addresses working and environmental conditions in ship yards.

Three separate criteria must be fulfilled before the Convention can enter into effect: 24 months after it has been ratified by 15 countries, representing 40% of the world

merchant shipping by gross tonnage, and on average 3% of recycling tonnage for the previous 10 years. These criteria have not yet been met.

The shipping industry embraces its responsibility to comply with the spirit and provisions of the Convention even before it enters into force and the industry [Guidelines on Transitional Measures for Shipowners Selling Ships for Recycling](#) were developed as a result. The joint ICS-Comité Maritime International (CMI) [‘Treaty Ratification Campaign’](#) strongly encourages governments to ratify the Hong Kong Convention, as a matter of urgency.

In recent years there has been a general trend towards compliance with the requirements of the Convention. A major ship recycling nation, India’s accession to the Convention in 2019 was a sign of the global push to bring this legal framework into effect. Bangladesh is also making [good progress](#) towards ratifying the Convention; while there are some recent indications that China might be preparing to join.

As regards using the Basel Convention as an alternative Convention, this ICS-CMI [ratification campaign](#) explains that the Basel Convention was never intended to be applied to international shipping and would make efficient recycling of ships impractical. A recent [article](#) outlines the shortcomings of applying the Basel Convention to ships.

6 EMISSIONS OF GREENHOUSE GASES AND CLIMATE CHANGE

MARPOL Convention: Addressing GHG emissions from ships

IMO is the appropriate forum with a clear mandate, strategy and expertise to address air pollution and GHG emissions from ships. IMO conducts extensive work through MARPOL Annex VI, benefitting from cooperation between national governments, regional bodies, industry and civil society. IMO undertakes comprehensive GHG emission studies to inform its policy decisions, including on alternative low-carbon and zero-carbon fuels. To date, four major GHG Studies have been completed, with the [latest version](#) released last in 2020.

Energy efficiency measures: EEDI and SEEMP

In 2011, IMO adopted mandatory technical measures for new ships (‘Energy Efficiency Design Index’ (EEDI)), and operational measures for all ships (the Ship Energy Efficiency Management Plan (SEEMP)). This was the first mandatory global regime to reduce the impact of GHG emissions adopted by any international industry.

SEEMP provides a comprehensive framework for ship operators to develop a plan to improve energy efficiency through various ship specific measures. The EEDI establishes a minimum energy efficiency level for different ship types and sizes, phasing in up to 30% greater efficiency in new-build ships through 2025 and beyond. The efficiency level is expected to be tightened every five years (EEDI phases).

The EEDI is reviewed periodically to determine when to start each phase and the reduction rate. Such a review was concluded at IMO MEPC 74 (May 2019), which considered a [report](#) on the issue and agreed to strengthen the existing EEDI requirements, bringing forward the date of entry into effect of EEDI phase 3 (to 2022 from 2025), for several ship types including gas carriers, general cargo ships and LNG carriers. IMO's assessment of EEDI phase 3 requirements for different ship types was based on these [2013 Guidelines](#).

New energy efficiency measures: EEXI and CII

In October 2020, an IMO Intersessional Working Group (ISWG-GHG 7) agreed new requirements to measure the energy efficiency of all ships and to set the required emissions reduction values, helping further reduce carbon intensity of ships.

Subject to adoption at MEPC 76 (June 2021), the new technical measure is the Energy Efficiency Existing Ship Index (EEXI); and the new operational measure is the Carbon Intensity Indicator (CII). EEXI addresses how a ship is retrofitted and equipped, while CII addresses ship operation.

IMO Data Collection System (DCS):

Since March 2018 there is a [requirement](#) for ships of 5,000 gross tonnage and above to record and report their fuel oil consumption (e.g. type and amount of fuel used) to their flag State, which submit (following review) the aggregated data to a dedicated IMO database, used to compile and present an annual report to inform IMO's decision-making.

IMO Greenhouse Gas (GHG) Strategy:

In 2018, IMO adopted the [Initial GHG Strategy](#), setting out the sector's commitment to reducing CO₂ emissions and phasing them out completely as soon as possible.

It includes clear levels of ambition to cut shipping's total emissions by at least 50% by 2050 (compared to 2008), an agreed efficiency goal of a 40% improvement across the sector by 2030 and 70% by 2050. This Strategy also contains a list of candidate short-, mid- and long-term measures to reduce emissions.

This IMO process recognises the need for evidence-based impacts assessments of these potential new measures on States, especially developing countries. IMO agreed a comprehensive four-step framework to serve as the basis for these impact assessments.

IMO MARPOL Convention: Addressing air pollution from ships

Shipping is the most economically and environmentally sustainable method of transporting goods in bulk. Led by IMO, the sector continues to identify ways to meet its environmental responsibilities, including addressing the impact of sulphur emissions from ships.

2020 IMO sulphur cap

On 1 January 2020, a new IMO regulation limited the sulphur content permitted in ships' fuel – outside Emission Control Areas – to 0.5% (previously 3.5% from 2012 and 4.5% from 2005). [‘The switch to low sulphur fuel’](#) helps deliver substantial reductions in sulphur emissions, leading to health benefits felt globally, especially around coastal communities, including improvements in air quality and acid rain prevention meaning less harm to crops, forests and aquatic species, while tackling ocean acidification.

7 CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS AND BALLAST WATER MANAGEMENT

IMO's mandate responds to the UN Convention on the Law of the Sea (UNCLOS) which calls for global cooperation “to prevent, reduce and control human caused pollution of the marine environment, including the intentional or accidental introduction of harmful or alien species to a particular part of the marine environment.”

IMO has adopted two regulatory frameworks to prevent the transfer of invasive species to local marine environments, namely:

- 2004 Ballast Water Convention: This regime regulates ballast water management and disposal requirements, drastically cutting the risk posed by invasive marine organisms carried in ships' ballast water on local ecosystems.
- ‘International Convention on the Control of Harmful Anti-fouling Systems on Ships’ (AFS Convention): Prohibits use of harmful anti-fouling paints to coat ships' hulls to prevent barnacles and other growths from attaching to the hull, slowing down ships, increasing fuel consumption and reducing efficiency.

In 2011, IMO adopted the ‘Guidelines for the control and management of ships' biofouling to minimise the transfer of invasive aquatic species’, to address the transfer of invasive aquatic species through ships' biofouling, i.e. the accumulation of microorganisms/plants/algae/animals on submerged ship structures, especially hulls.

8 GAPS IN, AND EFFECTIVENESS OF, INTERNATIONAL MARITIME ANTI-POLLUTION CONVENTIONS

ICS supports the leadership role IMO plays to regulate pollution from ships. Regulations governing safety, environmental protection and shipowners' liability, must apply equally to all ships in international trade. The alternative would be conflicting national or regional rules that would create market distortion and uncertainty.

IMO Member States also benefit from inputs and expertise from both industry and various civil society stakeholders, which are able to participate proactively during IMO meetings.

In recent years, however, this global system's stability has been threatened by some national court judgements and legislation that are inconsistent with the principles of the IMO CLC and Fund Conventions. In some cases shipowners were denied the right to limit liability for politically motivated reasons, increasing uncertainty and destabilising the balance of this international compensation regime.

9 SAFETY OF LIFE AT SEA INCLUDING SAFETY OF NAVIGATION

Safety of navigation is vital for ensuring the safety of crews and passengers and for environmental protection. IMO continues to ensure that the adoption of environmental regulations and initiatives does not compromise the safety of ships.

The International Convention for the Safety of Life at Sea (SOLAS) is the overarching IMO Treaty that addresses maritime safety, including 'Safety of Navigation' (Chapter V). The other two major conventions relevant to safety of navigation include the 1972 Convention on the International Regulations for Preventing Collisions at Sea (COLREG), as amended; and the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), as amended. These frameworks are widely recognised as the driving force behind considerable improvements in ship safety over several decades.

10 IMPACTS ON LOCAL COMMUNITIES

IMO's safety and environmental standards have a positive effect in shaping the shipping industry, ensuring shipping's impact on local communities is minimised to the fullest extent. This ensures that shipping continues to deliver 90% of global trade, while remaining the most economically and environmentally sustainable transport mode for carrying goods in bulk.

11 FAIR TREATMENT OF SEAFARERS

In 2005 the IMO Assembly adopted Guidelines on the fair treatment of seafarers in the event of a maritime accident, in response to numerous cases where seafarers had been unfairly detained for lengthy periods by local authorities, following accidental ship-source pollution incidents.

The Guidelines provide a framework for States to ensure that accident investigations are conducted fairly, expeditiously and preserve seafarers' human rights, affording them due process protections. The IMO Legal Committee recently agreed to consider developing guidelines on the fair treatment of seafarers detained on suspicion of committing maritime crimes, to address cases where seafarers are detained for months without trial when vessels have been used for illicit purposes without their knowledge, e.g. drug trafficking.