

Decision making in IMO Theory and Practice

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Introduction

- **IMO => ICAO ?**
 - **IMO is the most comparable international organization to ICAO in theory, but there are some significant differences in practice**
 - **I will inform you about IMO (and the EU in IMO)**
 - **You will have to determine what can be used for your discussions concerning ICAO**
- **IMO still has a lot of work to do in shipping**

Introduction

This is what you see from the outside



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Queen Mary 2 – 344 x 41 x 72/10 m – 142.000 gt (3873 pers) - 2004

Introduction

**This is what we see on the inside
(not the same ship)**



Content

- **IMO**

- What is IMO?
- How is IMO organized?
- How does IMO work in practice?

- **EU**

- How has the role of the EU in IMO developed?
- What is the position of the EU and the EC in IMO?
- How does the relationship between EC, EU and IMO work in practice?

IMO



IMO



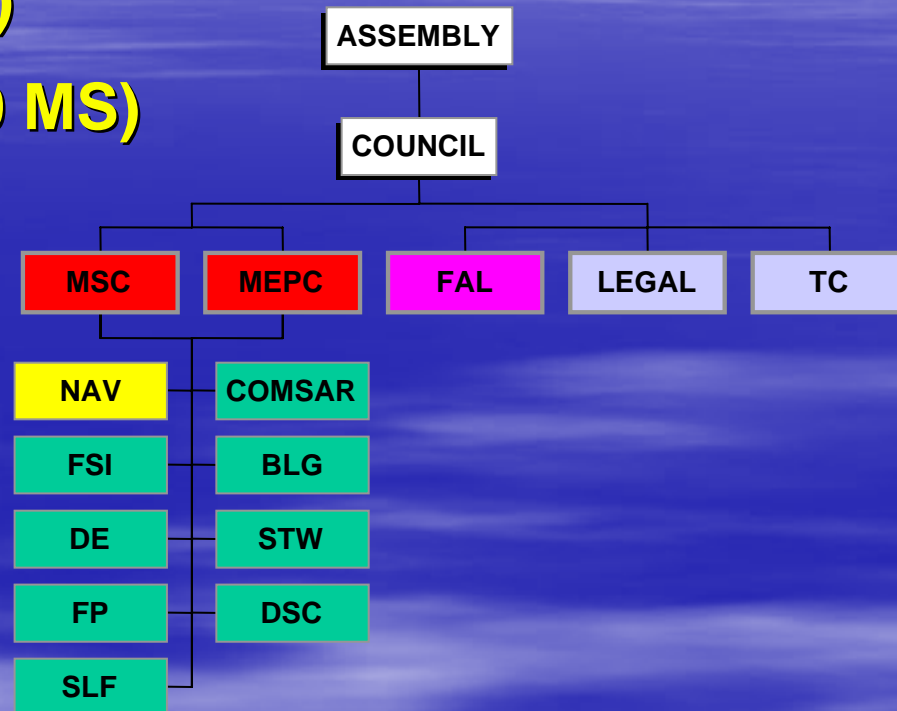
- ‘Daughter’ of the UN (like ICAO, UNICEF, UNCTAD, ..)
- Established in 1948; started in 1958 (as IMCO until 1982)
- Regulates shipping mostly outside territorial waters, on international voyages and above 400/500 gross tonnes
- Purpose:
 - “*To provide machinery for cooperation among governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships” + Security (ISPS Code)*
- Motto:
 - ‘Safe, secure and efficient shipping and cleaner oceans’

IMO – achievements

- **Membership:**
 - 167 Member States (out of 200+, even Mongolia)
 - 3 Associate Members (e.g. Hong Kong)
 - 36 Inter-Governmental Organizations (IGOs, e.g. EC)
 - 65 Non-governmental Organizations (NGOs, e.g. International Chamber of Shipping (= ship owners), International Transport Federation (= unions), Greenpeace)
- **40+ Conventions/Protocols**
 - on safety (SOLAS), environment (MARPOL), security, facilitation, liability/compensation (+ wreck removal + ship recycling)
- **800+ Recommendations (some mandatory)**
 - Codes, Guidelines, Performance Standards, Circulars, Unified Interpretations
- **Assists flag States**
 - e.g. Technical Cooperation, World Maritime University
- **Encourages/enables port State control**

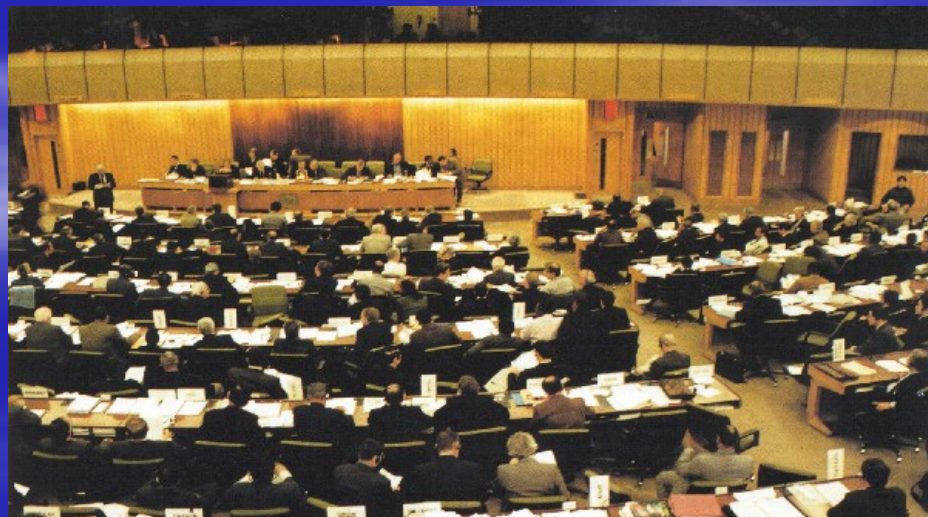
IMO – structure

- **Assembly (1 x 2Y)**
- **Council (2 x Y, 40 MS)**
- **Committees (1-2 x Y)**
 - **MSC**
 - **MEPC**
 - **FAL**
 - **LEGAL**
 - **TC(C)**
- **Sub-Committees (1 x Y)**



IMO – structure (2)

Participation	Sub-Committee	Committee
Participants	150-400	400-900
Member States	60-90	60-90
IGOs/NGOs	20-40	30-50



IMO – organization

- **Secretary-General:**
Timio Mitropoulos (Greece)
- **Staff: < 300**
(mainly translation)
- **Budget : < £ 25 M/year**
- **Contribution: mostly tonnage-based**
(=> Panama 18+ %)
- **Location: London**
(Albert Embankment)



IMO – procedures (1)

- **New Conventions/Protocols**
 - **Entry into force after sufficient ratifications**
 - **X Member States with Y % of the world tonnage**
 - **Ratification requires national (implementation) legislation in many countries**
 - **New Conventions take many years to enter into force after adoption in IMO**
 - **5+ years, sometimes never**

IMO – procedures (2)

- **Amendment of existing Conventions**
 - (often) possible by Tacit Amendment Procedure
 - Without renewed ratification
 - 16-18 months after adoption
- **In case of major modifications ...**
 - ‘Grandfather’ clause (= exemption for existing vessels)
 - Phase-in/out (mostly by vessel type or size)

IMO – procedures (3)

- **New Conventions/Protocols**
 - ½ year to get a new work programme item +
 - 3+ years in (Sub-)Committee +
 - ½ year for adoption in Diplomatic Conference +
 - 5+ years for ratification
 - 1 year for implementation
- **Amendments**
 - ½ year to get a new work programme item +
 - 2 years in (Sub-)Committee +
 - ½ to 1 ½ years for adoption in Committee/Assembly +
 - 1 ½ year for implementation (excl phase-in)

⇒ **New Conventions take 10+ years**

⇒ **Amendments take 4-5+ years**

IMO – implementation

- **Enforcement**
 - **Flag States (issue certificates + inspections)**
 - Withdrawal of certificates
 - Fines
 - **Port States (check certificates + inspection)**
 - Detention
 - **‘no favourable treatment’ clause**
 - To ensure compliance by non-Convention Parties
 - No full consensus needed
 - **Growing IMO involvement**
 - Vetting of nautical training institutes
 - Voluntary auditing of Flag State administrations

=> Still weak but improving

IMO – practice (1)

- Problems not easily raised
- Flag state domination
- Consensus not easy to obtain
- Lengthy decision making process
- Lengthy implementation process
- (still) Weak enforcement

IMO – practice (2)

- **(Still) more efficient than other international organizations (e.g. UNCTAD):**
 - **Committed experts**
 - **Naval architects/mariners**
 - **Less political / more pragmatic**
 - **but increasing political ‘control’ (e.g. GHG/Kyoto)**
 - **Proven results**
 - **Safety/environment/security**

IMO – practice (3)

- **Fast decision making is still possible**
 - **Often driven by the rare major (=> notable) incidents (safety + environment)**
 - **‘Under sufficient pressure everything can become fluid’**
 - **Threat of regional actions (US, EU)**
 - **Examples: double hull tankers, security**
 - **Adopted in less than 2 years**

IMO – practice (4)

- **Differing safety/environment cultures**
 - **More noticeable/prominent than in aviation**
 - 'Flags of Convenience'/open registers
 - **Mostly because of lower safety culture**
 - Carrying goods instead of people
 - Less in the 'public eye'
 - **(partly) 'resolved' by port State control**
 - = 'third line defence'
 - Owner => flag State => port State

EU



EU – developments (last 10 years)

- **More EU MS (15 -> 27)**
 - More 'power', but also more differences
- **More EU (= Community) maritime legislation**
 - Until mid 90ties hardly any maritime EU legislation
 - Now over 30 'maritime' safety/environment/security Regulations/Directives/Decisions
 - + many others (trade, biocides, asbestos, pleasure craft, Schengen, ..)
 - ⇒ Community competence is increasing
- **More EC (= Commission) maritime expertise**
 - European Maritime Safety Agency (EMSA)

EU – contribution to IMO

- **Offering EU facilities to IMO, e.g.**
 - **R&D results**
 - **Financial support (for IMO programmes)**
- **Putting IMO regulations/recommendations in EU legislation**
 - **Accelerates entry into force**
 - **Makes (some) IMO recommendations mandatory for EU flags/ports/waters**
 - **Extends application to domestic voyages in the EU**
 - **Harmonizes implementation in EU flags/ports/waters**
 - **Ensures compliance/enforcement by EU MS**
 - **Otherwise infringement by the EC**

EU – position in IMO

- **All 27 EU Member States are IMO Member States**
- **European Commission is IMO Observer (= IGO)**
- **European Community as IMO Member ?**
 - **Recommendation from COM to Council to open and conduct negotiation with IMO and ICAO on accession by the European Community (Doc 7826/02)**
 - **Proposal pending at Council**
 - **For now: European coordination**
- **European Community in IMO Conventions**
 - **Still rare (most IMO Conventions are not recent)**
 - **Problems with submissions and notifications on issues under Community competence**
 - **Initiative: insert REIO clause in new Conventions**

EU – ‘power’ in IMO

- **Flag-fleet** (deadweight tons)
 - EU 27 25 %
 - Panama 21 %
 - Liberia 9 %
- **IMO contribution**
 - EU 27 26 %
 - Panama 18 %
 - Liberia 8 %
- **IMO ‘votes’** (in practice)
 - EU 15-20
 - Open registers 5-10

EU – coordination in IMO

- **Community competence = Community position**
 - **Mandatory**
 - **QMV / minority to remain silent**
 - **Presentation by the Presidency**
- **MS competence = coordinated position**
 - **Voluntary**
 - **Consensus / ‘opt-out’ for a few**
- **Mixed competence = common position**

EU-IMO – practice (1)

- **Past: troubled relationship**
 - **(EC ⇔ EU MS =) EU ⇔ IMO MS/Secretariat**
 - **(Consideration of) regional action**
 - **US was first after the Exxon Valdez !**
 - **‘Block power play’**

=> Irritation/resistance

EU-IMO – practice (2)

- **Now: improvements**
 - **More specific Community competence**
 - **Willingness to promote global solutions**
 - => Level playing field between EU and non-EU vessels/ports
 - => Protection against passing non-EU vessels in EU waters
 - **More cooperation**
 - **More constructive contributions**



Thank you for your attention