

BENEFITS OF A RULE-BASED GLOBAL MARITIME ORDER

Have you ever wondered how the everyday things you use each day get to you – the smart phone in your pocket, the laptop on your desk, the TV in your home, the petrol in your car or the fuel to power the light in the room? It will occur to none of us that shipping had anything to do with it. Yet, every one of us here owes a debt of gratitude to the unsung industry on which our global community relies – shipping.

Shipping affects us all. No matter where in the world we may be, if we look around us, we are almost certain to see something that either has been, or will, be transported by sea – whether as raw materials, or semi-finished components of a bigger product, or finished goods ready for use or consumption. Despite this, very few people have any idea just how much we rely on shipping for our everyday needs. “No shipping, no shopping” as aptly put by one of the speakers at the WMU Global Leadership Conference in Malmo, Sweden in 2014.

The inability to recognize the importance of shipping does a huge disservice to the industry that quietly and efficiently, day and night, never pausing, never stopping, keeps the world turning and keeps the people of the world fed, clothed, housed and entertained. This is the reason why the theme which IMO has chosen for World Maritime Day 2016 is “Shipping, indispensable to the world.”

Shipping is the only truly cost effective and sustainable means by which countries can sell what they produce and buy what they lack. All people rely on ships to transport commodities, goods and products which we all depend on. Shipping is the backbone of international trade and the global economy.

Shipping is also the most international of all the world’s great industries. The ownership and management chain surrounding any vessel can embrace many different countries. It is not unusual to see ship designers, builders, repairers, owners, operators, shippers, charterers, insurers, classification societies, officers, crew, and recyclers all of different nationalities, and none of them from the country whose flag the ship flies.

It is in recognition of this reality that a clear framework of international standards to regulate shipping is important – standards which can be adopted, accepted, implemented and enforced by all. A common approach to shipping allows ships to ply their trade around the world with uniformity and predictability, and countries receiving these ships can be confident that, in accepting these ships, their safety, security and environmental integrity are not put at an unreasonable risk.

IMO’s main task has been to develop and maintain a comprehensive regulatory framework for international shipping. It is a framework based on rules that addresses issues affecting the overall efficiency of shipping or a rule-based approach. The framework is centered on IMO’s mission to promote safe, secure, environmentally sound, efficient and sustainable shipping through cooperation. This mission is pursued through the adoption of maritime regulations containing the highest practicable standards for maritime safety and security, efficiency of navigation, and the prevention and control of pollution from ships, as well as through

consideration of the related legal matters and effective implementation of IMO instruments, with a view to their universal and uniform application. The regulatory framework contained in the IMO instruments is built on a system of consensus and consultation through the work of the Assembly, Council, committees, sub-committees, working groups, and correspondence groups within the IMO structure. The structure allows all Member States to participate in the discussions at all levels and each one has an equal voice and an equal vote. No Member State may take advantage of its size, power or influence and use force to impose its own will upon other Member States.

The direct output of IMO's regulatory work in pursuit of this mission is a comprehensive body of international conventions, supported by hundreds of codes, guidelines and recommendations that govern practically every facet of the shipping industry – from design and construction, operation and through-life compliance, to recycling.

The regulatory framework of IMO works on three levels: prevention, mitigation and compensation. Preventive measures seek to deter the occurrence of accidents and cover design, construction, and operational standards for the ship and her crew. Mitigating measures cover specific action from States and response agencies to moderate the effects of any accident. Compensatory measures are intended to reinstate what has been damaged or lost because of a maritime casualty.

Preventive measures comprise three main areas: safety, security and marine environment protection. Mitigating measures cover: search and rescue, pollution preparedness, response, and cooperation, intervention, salvage, and wreck removal. Compensatory measures encompass compensation for damage or loss to passengers or their luggage, pollution from oil as cargo or as bunker or pollution from hazardous and noxious substances, wreck removal, and a global limitation of liability for maritime claims. A fourth set of rules not included in any of these three main areas is the facilitation of maritime trade to ensure that merchant ships can get in and out of ports at the shortest possible time.

IMO builds upon a system of shared responsibilities, where flag, port and coastal States, ship owners, recognized organizations and other stakeholders have an important role to play to ensure implementation and enforcement of global rules and raising the standards of shipping.

In pursuing its work, the IMO follows a three pronged approach: rule-making, implementation and enforcement, and capacity building through technical cooperation. Rule-making is undertaken by Member States in an inclusive and transparent manner through the different committees, sub-committees, and working groups of IMO. Implementation and enforcement are achieved through the system of flag State implementation, port State control and coastal State enforcement carried out by Member States. Capacity building through technical cooperation is carried out by the secretariat with extensive collaboration, assistance, funding, provision of experts, hosting arrangements and other support from Member States, IGOs, NGOs and other industry stakeholders.

The regulatory framework composed of conventions, codes, guidelines and recommendations which is based on consensus among the IMO Members and the expectation that Members will

comply with the agreed standards leads to the tacit understanding that international maritime law is the best recourse to ensure a level playing field and the achievement of IMO's mission.

IMO has recognized that the capacity for effective implementation and enforcement of IMO instruments by Member States is unequal. Developing countries, small-island developing States (SIDS) and least developed countries (LDCs) have limited resources and lack the technical knowledge that are needed to operate a shipping industry safely and efficiently. IMO has thus established the Integrated Technical Cooperation Programme or ITCP to help these countries to improve their ability to comply with international rules and standards relating to maritime safety, security and the prevention and control of maritime pollution. The ITCP gives priority to technical assistance programs that focus on human resources development and institutional capacity building.

IMO's response to assist States in effectively implementing and enforcing accepted standards for maritime safety and security, the prevention of pollution from ships and the facilitation of maritime traffic is through its technical cooperation and capacity building work which is undertaken through regional activities and national activities.

It is recognized that regional activities can only cover limited representation from maritime authorities and involve higher delivery costs. However, in areas like search and rescue, maritime security, pollution response, and port State control, where regional or sub-regional cooperation is necessary among neighboring States, regional activities have proven to be more effective.

National activities allow for a more targeted approach and gives the Member State and IMO an opportunity to look into specific weaknesses of the State's maritime administration and propose institutional and human resource capacity building activities that will allow the State means to meet its obligations to the maritime community and effectively implement and enforce IMO instruments. The delivery of national activities is built on a targeted approach which include needs assessment activities, the information sharing module which Member States are encouraged to fill up and regularly update known as the Country Maritime Profile, and the IMO Member State Mandatory Audit Scheme or IMSAS.

The delivery of the activities under the ITCP is focused on five geographical regions: Africa, Arab and Mediterranean, Asia and Pacific, Commonwealth of Independent States and EU, and Latin America and Caribbean. Activities are delivered keeping in mind the need to promote among Member States in these regions the uniform implementation & enforcement of IMO's rules and standards.

IMO's work also supports the UN's seventeen sustainable development goals or SDGs. It is presently reviewing and revising its strategic plan and work program to incorporate the SDGs into the ITCP work of the organization in the next biennium.

Key to the delivery of integrated technical cooperation work and capacity building programs is the sustainability of financing of this aspect of IMO's work. IMO is dependent on the technical cooperation or TC fund, multi-donor trust funds, bilateral agreements, one-off cash donations and other arrangements for funding of its capacity building activities.

Turning to maritime security which is at the center of our discussions in this dialogue, maritime security has the most number of multi-donor trust funds supporting it. These include: the International Maritime Security Trust Fund; IMO Malacca and Singapore Straits Trust Fund, IMO Djibouti Code of Conduct Trust Fund and West and Central Africa Maritime Security Trust Funds. Realizing the importance of maritime security, these trust funds have been created by IMO from funds received from donors who have expressed interest in supporting maritime security. These funds are specifically devoted to the delivery of capacity building activities on maritime security.

Apart from this specific support for capacity building in the area of maritime security, IMO has also created regional arrangements like the ReCAAP Information Sharing Center to enhance maritime security. It has also agreed on the Djibouti Code of Conduct as the framework for capacity building to counter the threat of piracy in the Gulf of Aden and the Western Indian Ocean. IMO has encouraged communication, cooperation and coordination and has supported the creation of three Information Sharing Centers in Dar Es Salaam, Mombasa and Sana'a. With the support of the Member States of the Djibouti Code of Conduct and other partners, it has built the Djibouti Regional Training Center to support capacity building activities. IMO is working on developing greater maritime domain awareness among States and projects to increase the use of tools like the AIS, LRIT, coastal radar and other sensors which are being implemented. It has also supported the creation of national legislation to ensure acts of piracy, armed robbery and other illicit activities at sea can be properly, legally and equally addressed by all States in the area so that no act of piracy, armed robbery or other illicit activities go unpunished. IMO has also done specific work at the national level to help Somalia rebuild its maritime sector. IMO will continue its partnership with this region in building capacity to counter piracy.

IMO also has arrangements in place to address piracy and illicit acts in West and Central Africa. The work in this area is patterned after the Djibouti Code of Conduct and builds on that framework.

Apart from these instruments and the capacity building activities being undertaken to address piracy and armed robbery against ships, IMO also has the International Ship and Port Facility Security or ISPS Code and Convention on the Suppression of Unlawful Acts against Ships or SUA Convention as amended as part of the framework to combat acts of terrorism against ships. All these instruments comprise the international framework for a rule-based global maritime order.

It is recognized that unless States have the capacity to effectively implement the legal framework of IMO by transposing this framework into national law and to efficiently enforce this legal framework by having the human and institutional capacity to apply the regulations on ships then the benefits of a rule-based approach to shipping which supports its overall sustainability will not succeed. Resort to the imposition of unreasonable standards, or the use of force or even to acts of terrorism will not benefit world trade. It will not support sustainable economic growth, continued employment, and prosperity and stability among nations.

We have seen the benefits of a more inter-connected world and the dismantling of trade barriers and this has been labeled globalization. We have also seen the technological advances in transport modes and the growth of information technology. Shipping has been essential to this evolution. We need to ensure that these advances trickle down so that developing countries, least developed countries and small-island developing States continue to benefit from globalization.

Maritime trade is expected to grow as the world's economy and population continue to expand. Without cost-efficient maritime transport, the movement of raw materials and energy in bulk to wherever these are needed, and the transport of manufactured goods and products where these are consumed will not be possible. Shipping will always need to respond to the demand for services and the stability, safety and security of shipping, the protection of the marine environment, and the facilitation of maritime trade are key aspects to the important role shipping plays in world trade. Creating conditions and the regulatory framework in which shipping can operate safely, securely, and with minimal impact on the global environment will remain central pillars of IMO's mission. Shipping's contribution to global trade is unmatched by any other transport sector and the need to continually support the legal framework in which it operates is critical to its sustainability.