

“An Outlook of Maritime law and International Maritime Organisation: An Appraisal ”

Author: Rishabh Kumar Joshi , Law student, Kalinga University, Raipur

Co-author: Tripti Bhushan, Assistant Professor ,Kalinga University, Raipur

Abstract

This paper will discuss about the concept of International laws and also laws relating to maritime .We will be talking about the protection of Marine environment and biodiversity .This paper also deals with International Maritime Organisation to give a clear and better understanding of the maritime laws. In recent years there has been a surge in piracy off the coast of Somalia and in the Gulf of Guinea. Pirate attacks are a danger to the welfare of seafarers and the security of navigation and commerce.

Introduction

Maritime law is generally governed by the international law along with municipal laws of State parties. Some aspects like for e.g., the registration of the ships are usually governed by municipal laws of the nation concerned while others for e.g., commercial aspects are governed by international maritime law. The international maritime law has its source either in the customary law based on general practice followed by maritime

Maritime law :Meaning

Maritime law, also known as admiralty law, is a body of laws, conventions, and treaties that govern private maritime business and other nautical matters, such as shipping or offenses occurring on open water. International rules, governing the use of the oceans and seas, are known as the Law of the Sea.

In most developed nations, admiralty law follows a separate code and is an independent jurisdiction from national laws. The United Nations (UN), through the International Maritime Organization (IMO), has issued numerous conventions which will be enforced by the navies and coast guards of nations that have signed the treaty outlining these rules. admiralty law governs many of

the insurance claims concerning ships and cargo; civil matters between ship-owners, seamen, and passengers; and piracy.

Conventions are regularly amended to stay up with new business practices and technologies. Additionally, admiralty law regulates registration, license, and inspection procedures for ships and shipping contracts; maritime insurance; and therefore the carriage of products and passengers.

The IMO (established in 1948 because the Inter-Governmental Maritime Consultative Organization, and coming into force in 1958) is liable for ensuring that existing international maritime conventions are maintained so far , also as developing new agreements as and when the necessity arises.

Today, there are dozens of conventions regulating all aspects of maritime commerce and transport. The IMO names three conventions as its core:

- The International Convention for the security of Life stumped
- The International Convention for the Prevention of Pollution from Ships
- The International Convention on Standards of coaching , Certification, and Watchkeeping for Seafarers

On its website, the IMO features a complete list of existing conventions, historical amendments, and explanatory notes.

The governments of the 174 IMO member states are liable for the implementation of IMO conventions for ships registered in their nation. Local governments enforce the provisions of IMO conventions as far as their ships are concerned and set the penalties for infringements. In some cases, ships must carry certificates onboard to point out that they need been inspected and have met the specified standards.

Special Considerations

The country of registration determines a ship's nationality. For many ships, the national registry is that the country where the owners live and operate their business.

Ship owners will often register their ships in countries that allow foreign registration. Called "flags of convenience," the foreign registration is beneficial for tax planning and to require advantage of lenient local laws. Two samples of "flags of convenience" countries are Panama and Bermuda.

International Maritime Organisation

The International Maritime Organization (IMO) is a specialized agency of the United Nations that is responsible for measures to improve the safety and security of international shipping and to prevent marine pollution from ships. The IMO sets standards for the safety and security of international shipping. It oversees every aspect of worldwide shipping regulations, including legal issues and shipping efficiency.

Understanding the International Maritime Organization (IMO)

The International Maritime Organization's objectives can be best summed up by its slogan—"Safe, secure and efficient shipping on clean oceans." Basically, the IMO sets policy for international shipping, discouraging shippers from compromising on safety, security and environmental performance to address financial concerns, and encouraging innovation and efficiency.

The IMO is also involved in legal issues matters pertaining to international shipping, such as liability and compensation matters, and the facilitation of international maritime traffic. The IMO's governing body, which is the Assembly that is made up of all 173 member states, generally meets every two years. The Assembly addresses items such as council elections, deciding upon the work program, and looking at the budget.

To break down the workload and to ensure each area of concern of the IMO is getting the attention it deserves, there are five committees tasked with making policies and developing, going over, and overhauling rules and guidelines. Those committees include the Technical Co-operation Committee, the Maritime Safety Committee, the Marine Environmental Protection Committee, the Legal Committee, and the Facilitation Committee. Furthermore, there are seven sub-committees working under these committees.

The International Convention for the Safety of Life at Sea (SOLAS), the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW), and the International Convention for the Prevention of Pollution from Ships (MARPOL) are some of the vital International Maritime Organization treaties.

History of the International Maritime Organization (IMO)

The IMO was established by means of a convention adopted in Geneva in 1948. It entered into force in 1958, and first met in 1959. Based in the United Kingdom, the IMO has 173 member states as of Sept. 2019. It also has Non-Governmental Organizations (NGOs) and Intergovernmental Organizations (IGO) as representatives. Among the organizations which have been integral to the policy developments at the IMO is the U.S. Coast Guard.

Beyond shipping, an IMO is also known as an independent marketing organization. This is an organization that works with insurance companies to market its products. The duties of an IMO can include other marketing tasks, such as distribution.

Life itself arose from the oceans. The ocean is vast and covers 140 million square miles, some 72 per cent of the surface. The ocean has always been a crucial source of food for the life it helped generate, and from earliest recorded history it's also served trade and commerce, adventure and discovery. It's separated and brought people together.

Even now, when the continents are mapped and their interiors made accessible by road, river and air, most of the world's people live no quite 200 miles from the ocean and relate closely thereto .

Overview :Freedom of the Seas

The oceans had long been subject to the liberty of-the-seas doctrine - a principle put forth within the 17th century, essentially limiting national rights and jurisdiction over the oceans to a narrow sea belt surrounding a nation's coastline. the remainder of the seas were declared free for all and belonged to none. While this example lasted into the 20 th century, by mid-century there was an impetus to increase national claims over offshore resources.

There was a growing concern over the toll taken on coastal fish stocks by long-distance fishing fleets and over the threat of pollution and wastes from transport vessels and oil tankers carrying noxious cargoes that plied sea routes across the world . The threat of pollution was always present for coastal resorts and every one sorts of ocean life. The navies of the maritime powers were competing for a worldwide presence in surface waters and even under the ocean

Protection of marine environment and biodiversity

The United Nations Environment Programme (UN Environment), particularly through its Regional Seas Programme, acts to protect oceans and seas and promote the sustainable use of marine resources. The Regional Seas Conventions and Action Plans is the world's only legal framework for protecting the oceans and seas at the regional level. UNEP also created The Global Programme of Action for the Protection of the Marine Environment from Land-based Activities. It is the only global intergovernmental mechanism directly addressing the link between terrestrial, freshwater, coastal and marine ecosystems.

The United Nations Educational, Scientific and Cultural Organization (UNESCO), through its Intergovernmental Oceanographic Commission, coordinates programmes in marine research, observation systems, hazard mitigation and better managing ocean and coastal areas.

The International Maritime Organization (IMO) is the key United Nations institution for the development of international maritime law. Its main task is to create a fair and effective, generally accepted and implemented legal framework for the shipping industry.

Concept of Piracy

In recent years there has been a surge in piracy off the coast of Somalia and in the Gulf of Guinea. Pirate attacks are a danger to the welfare of seafarers and the security of navigation and commerce. These criminal acts may result in the loss of life, physical harm or hostage-taking of seafarers, significant disruptions to commerce and navigation, financial losses to shipowners, increased insurance premiums and security costs, increased costs to consumers and producers, and damage to the marine environment.

Pirate attacks can have widespread ramifications, including preventing humanitarian assistance and increasing the costs of future shipments to the affected areas. The IMO and UN have adopted additional resolutions to complement the rules in the Law of the Sea Convention for dealing with piracy.

The United Nations Office on Drugs and Crime (UNODC), through its Global Maritime Crime Programme (GMCP) combats transnational organized crime in Africa focusing on countering piracy of the Horn of Africa and Gulf of Guinea. The programme has delivered support to states in the region by carrying out trials and imprisonment of piracy suspects as well as developing maritime law enforcement capabilities through the facilitation of training programmes. From the piracy prosecution model, prisoner transfers and training of members in the judicial system of the Atlantic and Indian Ocean, to full-time mentoring to coast guards and police units in Somalia, Kenya and Ghana, the UNODC GMCP has accomplished many successes in a challenging environment. This has been achieved through a variety of programmes aimed at promoting maritime safety and bolstering the countries' rule of law and justice systems.

Components of Maritime laws

1. Maritime liens -Although admiralty actions are frequently brought in personam, against individual or corporate defendants only, the most distinctive feature of admiralty practice is the proceeding in rem, against maritime property, that is, a vessel, a cargo, or “freight,” which in shipping means the compensation to which a carrier is entitled for the carriage of cargo.

Under American maritime law, the ship is personified to the extent that it may sometimes be held responsible under circumstances in which the shipowner himself is under no liability. The classic example of personification is the “compulsory pilotage” case. Some state statutes impose a penalty on a shipowner whose vessel fails to take a pilot when entering or leaving the waters of the state.

Maritime liens can arise not only when the personified ship is charged with a maritime tort¹ such as a negligent collision or personal injury, but also for salvage services, for general average contributions, and for breach of certain maritime contracts.

In a proceeding in rem, the vessel, cargo, or freight can be arrested and kept in the custody of the court unless the owner obtains its release by posting a bond or such other security as may be required under the applicable law or as may be acceptable to the plaintiff. More frequently, however, the owner will post security to avoid a threatened arrest, and the property never has to be taken into custody.

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