



**ENVIRONMENT
PEOPLE LAW**

The rule of law for the protection of the environment

THE BASICS OF THE FUNCTIONING OF THE INTERNATIONAL MARITIME ORGANIZATION AND ITS IMPORTANCE FOR PRESERVATION OF THE MARINE ENVIRONMENT OF UKRAINE



The basics of the functioning of the International Maritime Organization and its importance for preservation of the marine environment of Ukraine

Policy note

The world ocean is one of the most valuable natural resources of our planet. The seas cover about 70% of the world's surface, providing people with raw materials, energy, food, jobs, a place to live, a place to relax, and means of transportation for more than 80% of world trade. Shipping industry is a key user of the oceans, delivering, for example, goods or transporting millions of tourists.

The United Nations is responsible for developing and adopting measures to improve the safety and security of international shipping, prevention of pollution from ships, and prevention of pollution resulting from waste dumping into sea. In connection with this, in 1948, an international conference in Geneva adopted a convention on official establishment of the International Maritime Organization (hereinafter also - IMO). Its original name was the Inter-Governmental Maritime Consultative Organization, or IMCO, but in 1982 the name was changed to the International Maritime Organization, or IMO. The Convention establishing the IMO entered into force in 1958, and the following year the new Organization met for the first time. Currently, the IMO plays an integral role in achieving the goals set by the UN in terms of protecting the marine environment.

The purposes of the Organization, as summarized by Article 1(a) of the Convention, are 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. The Organization is also empowered to deal with administrative and legal matters related to these purposes.

The International Maritime Organization is known as "the organization that has had the most significant direct influence on the law of the sea". Its governance structure consists of an Assembly, a Council and five main technical committees. IMO plays an important role in the management of the global marine environment. IMO's regulatory governance, in its mandated areas, is represented using legal norms and institutions, and current IMO regulatory governance is based on international instruments, numerous codes and guidelines. In order to ensure the smooth implementation of these legal instruments, the IMO performs supervisory functions in the area of marine environmental regulations.

The IMO mainly consists of 174 member states and three associate members (Hong Kong, Macau and the Faroe Islands). During the development of legal documents, member states can submit new proposals, revise existing laws and discuss any issues related to international shipping before submitting them to the IMO, which makes further recommendations to member states on the adoption of legal documents. Based on different standards, IMO member states are divided into coastal states, port states and flag states, or developed, developing and least developed states.

For many decades, the IMO has developed and adopted binding regulations, recommendations and guidelines to protect the marine environment from any potential negative impact of shipping activities. One of the key conventions protecting the oceans is the International Convention for the Prevention of Pollution from Ships (hereinafter MARPOL). MARPOL was first adopted in 1973 with annexes covering the prevention of pollution from ships with oil, chemicals carried in bulk, packaged goods, sewage and waste from ships. The Convention was expanded in 1997 to regulate air pollution and emissions from ships.

Other IMO treaties cover oil pollution preparedness, response and cooperation, prevention of the potentially devastating effects of the spread of invasive aquatic organisms, and safe environmental recycling of ships, but these are just examples of some of the subjects they regulate. And just as the oceans are connected to coastal and land-based activities, the IMO's work to protect our oceans goes beyond ships, regulating pollution prevention from marine dumping, including climate change mitigation options such as carbon sequestration. This is done through two treaties known as the London Convention and its Protocol.

The IMO recognizes the need for special protection in some areas due to environmental, socio-economic or scientific importance. Special Zones and Particularly Sensitive Sea Areas (PSSAs) are intended to provide a higher level of protection against damage caused by shipping. Therefore, there are procedures for identifying particularly sensitive marine areas that are subject to appropriate protective measures, such as mandatory vessel routing systems. There are currently 15 areas protected in this way, including those encompassing UNESCO Marine World Heritage Sites such as the Great Barrier Reef (Australia), the Galapagos Archipelago (Ecuador), Papahānaumokuākea National Marine Monument (the United States) and the Wadden Sea (Denmark, Germany, the Netherlands). This ancient practice of determining special zones and particularly sensitive territories is fully in line with the goal to increase coverage of marine protected areas.

Totally, 19 special districts were adopted. They include enclosed or semi-enclosed seas, such as areas of the Mediterranean, Baltic, Black and Red Seas, as well as much larger oceanic expanses, such as the waters of southern South Africa and the waters of Western Europe.

This recognition of special areas, together with their comprehensive regulation, is a clear indication of IMO's strong awareness of the fundamental importance of protecting and preserving the world's seas and oceans as vital life support systems for all people.

Among other things, IMO continues to strengthen its work on mitigating the effects of climate change and reducing emissions from ships. There is ongoing work to reduce plastic waste in the seas and to mitigate the impact of invasive aquatic species. IMO measures protect marine mammals from ship strikes, and guidelines have been adopted to reduce underwater noise from ships. By the way, some scientists warn that by 2050, the amount of plastic in the oceans will exceed the amount of fish.

Several global partnership projects implemented by IMO address a range of ocean issues, including action on marine litter, reducing industrial emissions from shipping to address climate change, and projects targeting the spread of potentially invasive aquatic species.

Coordination and cooperation are key in all ocean matters. The IMO serves as the secretariat for the Joint Group of Experts on Scientific Aspects of Marine Environment Protection (hereinafter referred to as GESAMP), which provides independent scientific advice to ten UN organizations. The IMO also plays an active role in other UN environmental cooperation mechanisms, such as UN-Oceans and the UN Environment Management Group.

In June 2017, the United Nations Headquarters in New York hosted the High-Level Ocean Conference to support the implementation of the goal of conservation and rational use of oceans, seas and marine resources for sustainable development. The UN Sustainable Development Goals, also known as the Global Goals, were adopted by all member states of the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure peace and prosperity for all people. The UN Sustainable Development Goals consist of a total of 17 points, of which Sustainable Development Goal No. 14 is closely related to the protection of the marine environment. The conference reached consensus on the declaration "Our Ocean, Our Future: A Call to Action" to support the implementation of Sustainable

Development Goal #14. The content of the "Call to Action" includes the necessity to decrease the amounts of marine plastic litter and microplastic.

It is important to mention that in 2021 the IMO adopted a strategy to address the problem of marine plastic litter from ships, which involves "strengthening the international framework and compliance with relevant IMO instruments, with the aim of achieving zero plastic waste discharges to sea from ships by 2025". This happened after the adoption in 2018 of the Action Plan to solve the problem of plastic waste from ships at sea. The plan aims to strengthen existing regulations and introduce new supporting measures to reduce plastic waste from ships at sea.

IMO's work to support marine biodiversity includes measures to prevent the spread of potentially invasive aquatic organisms.

It is worth noting that the IMO has adopted a number of different vessel routing measures to protect whales and other cetaceans from collisions with vessels during breeding seasons, as well as guidelines to minimize the risk of vessel collisions.

Regarding the role and status of Ukraine in the IMO, it should be noted that in accordance with the resolution of the Verkhovna Rada "On the adoption of the Convention on the International Maritime Organization of 1948 in the version of 1982" dated February 4, 1994 No. 3938-XI, Ukraine is a full member of the International Maritime Organization.

A factor proving attention of the IMO to the problems of Ukraine is the fact that the International Maritime Organization held an emergency session of its Council (C/ES.35) on March 10 and 11, 2022 to consider the impact on shipping and seamen of the situation in the Black and Azov Seas. As a result of this event, the following decisions were made, in particular: a demand for the Russian Federation to stop its illegal activities in the field of safety and welfare of seafarers, the safety of international shipping and the marine environment in all affected areas, a call to the Russian Federation about its obligation to respect its obligations according to relevant international treaties and conventions; call on all parties to seek a solution to the crisis through peaceful dialogue and diplomatic channels; the need to preserve the safety of international shipping and the maritime community, supply chains, which support other countries, supply chains that provide the necessary food and medicine for the people of Ukraine. It was emphasized that Ukraine should be granted without delay all its rights regarding the implementation of the documents adopted within the framework of this Organization as a flag state, a port state and a coastal state. The Council agreed to encourage the establishment, as a temporary and urgent measure, of a Blue Safe Sea Corridor to ensure the safe evacuation of seafarers and vessels from high-risk areas and affected areas in the Black and Azov Seas to safety. The Council welcomed the proposal to take a number of measures to alleviate the suffering of seafarers and their families.

It is worth emphasizing that due to hostilities, toxic substances from shells, sunken equipment, and the work of submarines enter the sea waters of the Black and Azov seas. Water quality is worsened by destroyed water purification stations in the occupied territories, through which dangerous substances can simply enter the sea. In addition, dolphins die from acoustic noise, and oil spills threaten the existence of unique bird species.

It should also be noted that thanks to the IMO, on July 27, 2022, a Joint Coordination Center was opened in Istanbul to promote the safe export of commercial food products and fertilizers from Ukrainian ports.

Most recently, IMO Secretary-General Kitack Lim established a Working Group on Emergency Situations to coordinate efforts to mitigate risks to the safety of shipping, ports and seafarers.

A form of notifying vessels that they have run aground has been introduced. Instructions and advice on informing flag states about a current situation are still being updated.

The IMO informs that at the beginning of this war, about 2,000 sailors remained on board 94 ships in Ukrainian ports. Later, 10 ships left the Sea of Azov, but there are still 84 merchant ships with almost 450 sailors on board. Local ship maintenance experts were hired to replace IMO crews on many ships, and some ships went into cold storage with no crew on board. There are also known cases when the crew decided to stay on board. This creates a complex picture that is constantly changing, complicated by communication problems with ships in some places.

With regard to humanitarian support for maritime personnel, the IMO Secretariat facilitates discussions with Ukrainian port authorities, charitable organizations and the International Labor Organization (ILO) on support for port workers and seafarers directly affected by the crisis caused by Russian aggression.

The active position of the IMO in terms of protecting the rights of Ukraine and Ukrainians, the increase in the level of barbaric actions aimed at harming the ecosystems of the Black Sea by the Russian Federation, indicate that our state should accept and develop the existing international mechanisms created by the IMO, expand the possibilities of assistance for Ukraine from international partners and actively promote cooperation with the IMO.

In turn, Ukraine repeatedly appealed to the IMO. In particular, on November 28, 2019, Ukraine called on IMO member states not to recognize the Russian Federation's implementation of IMO conventions in the maritime spaces adjacent to Crimea. After considering this appeal, the EU countries, Australia, Canada, Georgia, Iceland, Moldova, Norway and the United States condemned the illegal annexation of Crimea and called on the IMO member states to fully implement the policy of non-recognition of the attempted annexation of Crimea. Given this support, it seems that Ukraine is not fully utilizing the potential and competence of the IMO. In addition, our state does not raise the issue of damage to the marine environment as a result of Russian aggression before the IMO, does not point out the danger of floating mines that undermine shipping and harm the environment, does not raise the issue of dolphins thrown onto the shore as a result of navigation of Russian warships.

However, there are also opinions that the IMO is not taking enough measures to solve the issues of this war, to hold Russia accountable and to help Ukraine. After all, the Russian Federation violates the structure of the legal regime, which has been built by the IMO since its foundation. One of the arguments in favor of such an opinion is that the IMO Assembly elected the composition of the IMO Council states for the period of 2022-2023. Currently, Ukraine is not included in the list of 40 member countries of the IMO Council while the Russian Federation was elected to the new composition of the Council.

It is important to note that Ukraine has still not ratified a number of important acts adopted by the IMO, including the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC). Ukraine has been a member of the International Maritime Organization (IMO) for almost 30 years. In this context, it is possible to mention the lack of a documented procedure for determining and resolving issues of information transmission and mandatory reports to the IMO; lack of coordination between institutions responsible for IMO reporting; non-compliance with the requirements of SOLAS 1974 (International Convention for the Safety of Life at Sea) and MARPOL (International Convention for the Prevention of Pollution from Ships); lack of resources and processes to manage the safety and environmental protection program; incomplete implementation of the provisions of the Casualty Investigation Code in the national legislation etc.

Conclusions

The activities of the IMO are aimed at the abolition of discriminatory actions affecting international commercial shipping, the adoption of norms (standards) to ensure safety at sea and prevent environmental pollution from ships, primarily the marine environment. The IMO is engaged in the protection of the sea from various types of risks. Participation in the IMO and international cooperation within the framework of this organization are important for Ukraine. This is particularly so especially due to the illegal and destructive actions of the Russian Federation in the Black Sea. In connection with the above, our country should ratify a number of international acts adopted within the framework of the IMO, develop in terms of integration into projects and processes within the framework of the IMO, and participate in international cooperation within the framework of the IMO. It is important to use all existing legal mechanisms of influence on the aggressor, including those proposed by the IMO. Ukraine should take measures to respond to the tolerance of the Russian Federation in the IMO bodies. The involvement of such organizations as the IMO in resolving issues of pollution of the Black Sea can become one of the key factors on the way to quick and effective elimination of negative consequences for the marine environment of Ukraine.

References:

1. Convention on the International Maritime Organization of 1948 as amended in 1982/[Electronic resource]. - Access mode:https://zakon.rada.gov.ua/laws/show/995_219#Text
2. Brief History of IMO / [Electronic resource]. - Access mode:<https://www.imo.org/en/About/HistoryOfIMO/Pages/Default.aspx>
3. International Maritime Organization By The Editors of Encyclopaedia Britannica/[Electronic resource]. - Access mode:<https://www.britannica.com/topic/International-Maritime-Organization>
4. The Role of the International Maritime Organization in Preventing the Pollution of the World's Oceans from Ships and Shipping / [Electronic resource]. - Access mode:<https://www.un.org/en/chronicle/article/role-international-maritime-organization-preventing-pollution-worlds-oceans-ships-and-shipping>
5. Quantification of influence and interest at IMO in Maritime Safety and Human Element matters/[Electronic resource]. - Access mode:<https://www.sciencedirect.com/science/article/pii/S0308597X21003572>
6. The IMO Action Plan to Address Marine Plastic Litter from Ships and Its Follow-Up Timeline/[Electronic resource]. - Access mode:<https://www.tandfonline.com/doi/full/10.1080/25725084.2020.1779428>
7. IMO Extraordinary Council Session held to discuss the impacts on shipping and seafarers of the situation in the Black Sea and Sea of Azov/[Electronic resource]. - Access mode:<https://www.imo.org/en/MediaCentre/PressBriefings/pages/ECSSStatement.aspx>
8. Maritime Security and Safety in the Black Sea and Sea of Azov / [Electronic resource]. - Access mode:<https://www.imo.org/en/MediaCentre/HotTopics/Pages/MaritimeSecurityandSafetyintheBlackSeaandSeaofAzov.aspx>
9. Ukraine and the IMO/[Electronic resource]. - Access mode:<https://uk.mfa.gov.ua/en/partnership/3355-ukraine-and-imo>
10. Ukraine did not join the IMO Council / [Electronic resource]. - Access mode:<https://usm.media/ukraina-ne-voshla-v-sovet-imo/>