The Shipping Industry, IMO and the Law of the Sea

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Outline

1. The shipping industry
2. Competent international organizations on shipping matters and the IMO
3. Examples of IMO functions in ocean governance
4. Conclusion
• Shipping industry is synonymous with international maritime trade
• Global economy works thanks to the movement of goods between countries as cargoes on board ships, “just in time”
• Fundamentally an international and globalized industry
• Highly regulated, both in public and private law
• Perhaps the most regulated marine industry and ocean use
Ships

• Nationality:
  • Registration in one jurisdiction at a time (flag State)
  • Traditional registers (based on beneficial ownership)
  • Open registers (based on any ownership, also known as flags of convenience)
  • International registers (blend)

• Ship ownership structure:
  • Based on a legislated number of shares
  • Each share may have more than one corporate owner
  • Each corporate owner may be owned by one or more corporate owner

• Ship managers, operators and charterers
## Largest flags (UNCTAD, 2015)

<table>
<thead>
<tr>
<th>Rank</th>
<th>Flag</th>
<th>Ships</th>
<th>Global share</th>
<th>DWT</th>
<th>DWT share</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Panama</td>
<td>8,351</td>
<td>9.33</td>
<td>352,192</td>
<td>20.13</td>
</tr>
<tr>
<td>2</td>
<td>Liberia</td>
<td>3,143</td>
<td>3.51</td>
<td>203,832</td>
<td>11.65</td>
</tr>
<tr>
<td>3</td>
<td>Marshall Islands</td>
<td>2,580</td>
<td>2.88</td>
<td>175,345</td>
<td>10.02</td>
</tr>
<tr>
<td>4</td>
<td>Hong Kong (China)</td>
<td>2,425</td>
<td>2.71</td>
<td>150,801</td>
<td>8.62</td>
</tr>
<tr>
<td>5</td>
<td>Singapore</td>
<td>3,689</td>
<td>4.12</td>
<td>115,022</td>
<td>6.58</td>
</tr>
<tr>
<td>6</td>
<td>Malta</td>
<td>1,895</td>
<td>2.12</td>
<td>82,002</td>
<td>4.69</td>
</tr>
<tr>
<td>7</td>
<td>Greece</td>
<td>1,484</td>
<td>1.66</td>
<td>78,728</td>
<td>4.50</td>
</tr>
<tr>
<td>8</td>
<td>Bahamas</td>
<td>1,421</td>
<td>1.59</td>
<td>75,779</td>
<td>4.33</td>
</tr>
<tr>
<td>9</td>
<td>China</td>
<td>3,941</td>
<td>4.41</td>
<td>75,676</td>
<td>4.33</td>
</tr>
<tr>
<td>10</td>
<td>Cyprus</td>
<td>1,629</td>
<td>1.82</td>
<td>33,664</td>
<td>1.92</td>
</tr>
</tbody>
</table>
Why is vessel tonnage important in the IMO and international maritime regulation?
ORs, “FOCs” according to the International Transport Workers Federation (Fair Practices Committee)
http://www.itfglobal.org/flags-convenience/flags-convenien-183.cfm

Antigua and Barbuda
Bahamas
Barbados
Belize
Bermuda (UK)
Bolivia
Burma
Cambodia
Cayman Islands
Comoros
Cyprus
Equatorial Guinea
Faroe Islands
French International Ship Register (FIS)
German International Ship Register (GIS)
Georgia
Gibraltar (UK)
Honduras
Jamaica
Lebanon
Liberia
Malta
Marshall Islands (USA)
Mauritius
Moldova
Mongolia
Netherlands Antilles
North Korea
Panama
Sao Tome and Principe
St Vincent
Sri Lanka
Tonga
Vanuatu
Why are open registers so popular?
Services

• Received
  • Surveys and classification
  • Insurance (global, but traditional markets in London, Scandinavian countries, etc.):
    • Hull and machinery + specialized cover clauses
    • Protection & indemnity
  • Necessaries: repairs, towage, supplies, bunkers, etc., received in various ports
  • Loading & unloading of cargo
  • Salvage
  • Etc.

• Provided
  • Maritime trade
    • Liner
    • Tramp
  • Carriage of passengers
    • Ferries
    • Cruise ships
  • Specialized ships and services
    • E.g., offshore platforms, OSVs, tugs, salvage vessels, etc.
  • Etc.
Projected impact of the North America Emission Control Area (MARPOL Annex VI) in the US & Canada combined

Source: EPA, 2009

<table>
<thead>
<tr>
<th>Mortality/illness</th>
<th>Annual w/o NAECA</th>
<th>Annual reduction with NAECA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premature Mortality</td>
<td>5,100 – 12,000</td>
<td>3,700 – 8,300</td>
</tr>
<tr>
<td>Chronic Bronchitis</td>
<td>4,600</td>
<td>3,500</td>
</tr>
<tr>
<td>Hospital Admissions</td>
<td>8,400</td>
<td>3,300</td>
</tr>
<tr>
<td>Emergency Room Visits</td>
<td>4,100</td>
<td>2,300</td>
</tr>
<tr>
<td>Acute Bronchitis</td>
<td>13,000</td>
<td>9,300</td>
</tr>
<tr>
<td>Acute Respiratory Symptoms</td>
<td>6,500,000</td>
<td>3,400,000</td>
</tr>
</tbody>
</table>
Standard contracts

• Usually standard agreements with clauses based on international conventions or model industry clauses, e.g.:

  • Convention-based:
    • Carriage of goods (carriers and shippers): Hague, Hague/Visby, Hamburg and Rotterdam Rules
    • Carriage of passengers (death, injury, luggage): Athens Convention
    • Salvage: Lloyd’s Open Form (LOF) based on Salvage Convention
  • Industry-based (e.g., BIMCO):
    • Insurance: Institute Hull Clauses
    • Towage: TOWCON, TOWHIRE
Industry international non-governmental associations

- International Chamber of Shipping (ICS)
- International Shipping Federation (ISF)
- Independent Tanker Owners Pollution Federation (ITOPF)
- Baltic and International Maritime Council (BIMCO)
- International Union of Marine Insurance (IUMI)
- International Group of Protection and Indemnity Clubs
- International Cargo Handling Coordinating Association (ICHCA)
- International Salvage Union (ISU)
- International Association of Classification Societies (IACS)
Crews, training, protection

- Multinational crews
- Crewing agencies
- Trained by maritime academies with curricula based on international standards

- International Transport Workers Federation (ITF)
- Missions to Seafarers
- International Association of Maritime Universities
2. Competent intergovernmental organizations for shipping and the IMO

• IAEA: use of atomic energy
• IHO: nautical charts and documents
• ILO: maritime labour standards
• IMO: navigation, shipping, security, trade facilitation, environment
• IOC (UNESCO): ocean science
• UNCITRAL: trade law, carriage of goods law
• UNCTAD: maritime trade and shipping matters
• UNEP: coordination of environmental programs within the UN system
• WMO: world weather, climate, hydrology and water resources, environment
The IMO

• Specialized agency of the UN
• Established by the Convention on the International Maritime Organization, 1948
• 171 Member States; 3 Associate Members (Faroes, Hong Kong & Macau)
• IMO = synonymous with international shipping regulation
• Arguably one of the most successful intergovernmental organizations

Koiji Sekimizu (Japan), outgoing SG
Kitack Lim (Republic of Korea), incoming SG as of 1 January 2016
Source: IMO, 2015
Contemporary IMO mandate

2. Tasks assigned by international maritime conventions.
3. Functions in UNCLOS wherever references to “competent international organization” apply to the Organization
“To provide machinery for co-operation 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 the maritime safety, efficiency of navigation and prevention and control of marine pollution from ships; and to deal with administrative and legal matters related to the purposes set out in this Article.”
IMO Structure

Source: ClassNK
Online: http://www.classnk.or.jp/hp/en/information_service/imo_and_iacs/topics_imo.html
What distinguishes IMO competence

• UNCLOS-related reasons:
  • Designated as “the competent international organization” with regard to shipping matters in UNCLOS
  • Key role in giving content to the protection of international navigation rights in UNCLOS.

• IMO Convention-related reasons:
  • General comprehensive mandate exclusively dedicated to navigation and shipping, without being restricted to a particular issue.
  • Functions for the development of international maritime public law and regulation for safe, secure and environmentally responsible shipping, and related private law matters.
International navigation rights in UNCLOS

Port:
• Entry is a privilege
• Subject to national law & jurisdiction

Coastal State jurisdiction

Flag State jurisdiction

Freedom of navigation
• Innocent passage
• Archipelagic sealanes passage
• Transit passage

LAND/IW/AW TS/12  CZ/24  EEZ/CS/200  CS  High sea
<table>
<thead>
<tr>
<th>UNCLOS Article</th>
<th>Part</th>
<th>Express or implied prescriptive function</th>
</tr>
</thead>
</table>
| 21(2), (4)     | II: Territorial Sea & Contiguous Zone     | - “generally accepted international rules or standards” on design, construction, manning or equipment of ships re laws relating to innocent passage  
- “generally accepted international regulations” concerning collision avoidance, applicable during innocent passage  |
|                |                                           | - “recommendations of the competent international organization” in designating sea lanes & prescription of traffic separation schemes, and their substitution  |
| 22(3)          |                                           | - Documents & special precautionary measures for nuclear-powered ships and ships carrying nuclear or inherently dangerous or noxious substances established by international agreements  |
| 23             |                                           | - “generally accepted international regulations, procedures and practices” for safety of life at sea and collision avoidance, applicable during transit passage  
- “generally accepted international regulations, procedures and practices” for vessel source pollution during transit passage  |
| 39(2)          |                                           | - “generally accepted international regulations, procedures and practices” for safety of life at sea and collision avoidance, applicable during archipelagic sea lanes passage  
- “generally accepted international regulations, procedures and practices” for vessel source pollution during archipelagic sea lanes passage  |
| 54             | IV: Archipelagic States                   | - “generally accepted international regulations, procedures and practices” for safety of life at sea and collision avoidance, applicable during archipelagic sea lanes passage  
- “generally accepted international regulations, procedures and practices” for vessel source pollution during archipelagic sea lanes passage  |
IMO functions in the law of the sea

- Prescriptive function
- Facilitation of compliance
- Facilitation of management of navigable waters
- Facilitation of regional cooperation
- Others
Key functions defined
(a) Prescriptive function

- UNCLOS (numerous provisions regarding shipping):
  - internationally/generally/applicable agreed international instruments/rules/regulations/standards/recommended practices/procedures
  - Roles where navigation and shipping are concerned

- Codes, guidelines, procedures, recommendations within the framework of IMO Conventions (safety, environment, security, trade facilitation)

- Amendments to conventions: tacit acceptance of amendments process ("quasi-legislative")
(b) Compliance facilitation

THE EXPECTATION

UNCLOS Article 94: Duties of the flag State:

Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

Duty to assume jurisdiction over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

Duty to take measures for ships flying its flag to ensure safety at sea.

State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.

THE REALITY

The UN General Assembly urges:

“... flag States without an effective maritime administration and appropriate legal frameworks to establish or enhance the necessary infrastructure, legislative and enforcement capabilities to ensure effective compliance with and implementation and enforcement of their responsibilities under international law, in particular the Convention, and, until such action is taken, to consider declining the granting of the right to fly their flag to new vessels, suspending their registry or not opening a registry, and calls upon flag and port States to take all measures consistent with international law necessary to prevent the operation of substandard vessels.”

Oceans and the Law of the Sea,” UN General Assembly Resolution UN Doc A/68/L.18, 27 November 2013, para 147
Compliance procedures and capacity-building

- Sub-Committee on Implementation of IMO Instruments (III)
- IMO Instruments Implementation Code, 2013 (III Code): mandatory audit scheme (flag, port and coastal States)
- Port state control system
- Integrated Technical Cooperation Programme
- IMO World Maritime University
(c) Facilitation of management of navigable waters

- Routeing measures:
  - Territorial sea, straits, archipelagic waters, EEZ, high seas(?)
  - Traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, precautionary areas and deep water routes, ship reporting and weather routeing
  - Archipelagic sea lanes

- Particularly sensitive sea areas (PSSAs)

- MARPOL special areas
(d) Facilitation of regional cooperation

- UNCLOS, Article 197:
  - State Parties expected to cooperate on global and regional levels, either directly or through competent international organizations for the protection and preservation of the marine environment, taking into account characteristic regional features
    - Role of IMO in some UNEP regional sea programmes, e.g., Mediterranean

- Article 43: States bordering straits to cooperate:
  - Role of IMO in facilitating the Cooperative Mechanism for the Straits of Malacca and
5. Examples of IMO functions in ocean governance

a) Facilitating cooperation among strait States (Cooperative Mechanism)

b) Providing content to UNCLOS provisions (routeing measures)

c) Supporting environment protection (PSSAs)
(a) Cooperative Mechanism

*UNCLOS Article 43*

Navigational and safety aids and other improvements and the prevention, reduction and control of pollution

User States and States bordering a strait should by agreement cooperate:

(a) in the establishment and maintenance in a strait of necessary navigational and safety aids or other improvements in aid of international navigation; and

(b) for the prevention, reduction and control of pollution from ships.

Cooperative Mechanism between the Littoral States and User States on Safety of Navigation and Environmental Protection in the Straits of Malacca and Singapore, Submitted by Indonesia, Malaysia and Singapore

- “to promote dialogue and facilitate close co-operation between the littoral States, user States and other stakeholders.”

- IMO-facilitated, but strait States-driven!

(IMO Doc. IMO/SGP 2.1/1, 16 August 2007)
Major components

1. The Co-operation Forum for open dialogues and discussions
2. Project Co-ordination Committee on the implementation of projects in cooperation with sponsoring users
3. Aids to Navigation Fund

UNCLOS Article 26
Charges which may be levied upon foreign ships

• 1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.
• 2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.
Aids to Navigation Fund

“The main purpose of the Aids to Navigation Fund is for the provision and maintenance of critical aids to navigation in the Straits of Malacca and Singapore that are identified and agreed” by the Tripartite Technical Experts Group on the Safety of Navigation in the Straits of Malacca and Singapore (TTEG).”


- Contributions to the Aids to Navigation Fund are voluntary basis.
- Contributors: States, industry, private benefactors, non-governmental organizations and inter-governmental organizations.
- The administration of the Aids to Navigation Fund will be by the littoral States on a rotational basis.
- Committee:
  - Strait States
  - China, India, Japan, the Republic of Korea, Saudi Arabia, the United Arab Emirates
  - International Foundation of Aids to Navigation, IMO, Malacca Strait Council and Nippon Foundation
(b) Routeing measures

• Area based management tools available under:
  • IMO is the only international body with competence to adopt/establish routeing measures
  • International Convention for the Safety of Life at Sea, 1974, as amended, Chapter V, Regulation 8
  • General Provisions on Ship Routeing, 1985, as amended
  • Guidance Note on the Preparation of Proposals on Ships Routeing Systems and Ship Reporting Systems, 2003

• Valuable tools for:
  • Promoting safety of navigation
  • Designating routes through archipelagic waters, straits and territorial sea
  • Marine spatial planning, especially where there are multiple ocean uses and congestion
  • Marine environment conservation and protection where shipping posed threats to species or the marine environment
Routeing measures in the Straits of Malacca and Singapore

- Navigation through the Straits of Malacca and Singapore, IMO Assembly Resolution A.375(X), 14 November 1977
- Mandatory Ship Reporting System Systems, MSC.73(69), 19 May 1998
Indonesian Government Regulation No. 37, 2002, following Maritime Safety Committee Resolution MSC.72(69), 1998
Area To Be Avoided in the vicinity of the Thornton & Bligh Banks, EEZ (IMO, 2011)
54 turbines (Thornton), 10% of Belgian energy production by 2020; 55 turbines (Bligh)
Netherlands: 8 proposals for new & amended routeing measures between Texel & North Hinder (IMO, 2012)
(c) Particularly Sensitive Sea Areas (PSSAs)

Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas (Resolution A 24/Res. 982, 1 December 2005).

• Definition:

“A PSSA is an area that needs special protection through action by IMO because of its significance for recognized ecological, socio-economic, or scientific attributes where such attributes may be vulnerable to damage by international shipping activities.”

A very useful tool to layer over an existing marine protected area (MPA) where threats to the MPA by international shipping
<table>
<thead>
<tr>
<th>PSSA</th>
<th>Year adopted</th>
<th>Proponent State(s)</th>
<th>Appropriate protective measures adopted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Great Barrier Reef</td>
<td>1990</td>
<td>Australia</td>
<td>IMO-recommended Australian system of pilotage (includes compulsory pilotage) Mandatory reporting</td>
</tr>
<tr>
<td>Sabana-Camaguey Archipelago</td>
<td>1997</td>
<td>Cuba</td>
<td>Mandatory deep water route</td>
</tr>
<tr>
<td>Wadden Sea</td>
<td>2002</td>
<td>Denmark, Germany, Netherlands</td>
<td>Mandatory no anchoring areas</td>
</tr>
<tr>
<td>Florida Keys sea area</td>
<td>2002</td>
<td>United States</td>
<td>Mandatory no anchoring areas</td>
</tr>
<tr>
<td>Malpelo Island</td>
<td>2002</td>
<td>Colombia</td>
<td>Mandatory no anchoring areas</td>
</tr>
<tr>
<td>Paracas National Reserve</td>
<td>2003</td>
<td>Peru</td>
<td>Mandatory no anchoring areas</td>
</tr>
<tr>
<td>Western European Area</td>
<td>2004</td>
<td>Belgium, France, Ireland, Portugal, Spain and United Kingdom</td>
<td>Mandatory ship-reporting system</td>
</tr>
<tr>
<td>Torres Strait (GBR PSSA extension)</td>
<td>2005</td>
<td>Australia and Papua New Guinea</td>
<td>IMO-recommended Australian system of pilotage Two-way shipping route</td>
</tr>
<tr>
<td>Canary Islands</td>
<td>2005</td>
<td>Spain</td>
<td>Mandatory ship reporting</td>
</tr>
<tr>
<td>Galapagos Archipelago</td>
<td>2005</td>
<td>Ecuador</td>
<td>Mandatory ship reporting system</td>
</tr>
<tr>
<td>Baltic Sea (less Russian waters)</td>
<td>2005</td>
<td>Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland, Sweden</td>
<td>Traffic separation schemes (including inshore traffic zones, precautionary areas) in three areas Deepwater route Areas to be avoided Mandatory ship reporting system MARPOL Special Area MARPOL SOx Emission Control Area</td>
</tr>
<tr>
<td>Papahānaumokuākea Marine National Monument (Hawaii)</td>
<td>2008</td>
<td>United States</td>
<td>Areas to be avoided Ship reporting system (mandatory for ships passing through PSSA to or from a US port; voluntary for all others)</td>
</tr>
<tr>
<td>The Strait of Bonifacio</td>
<td>2011</td>
<td>France, Italy</td>
<td>Recommendation on navigation</td>
</tr>
<tr>
<td>Saba Bank, Northeastern Caribbean</td>
<td>2012</td>
<td>The Netherlands</td>
<td>Mandatory no anchoring area</td>
</tr>
<tr>
<td>Southwest part of Coral Sea (extension to GBR PSSA)</td>
<td>2015</td>
<td>Australia</td>
<td>Two-way routes Areas to be avoided</td>
</tr>
</tbody>
</table>
Great Barrier Reef PSSA
Source: AMSA

- IMO-recommended Australian system of pilotage (includes compulsory pilotage)
- Mandatory reporting

Coral Sea (2015)
- Two-way routes
- Areas to be avoided
Fig 3.1 - Pilotage Areas in the Great Barrier Reef & Torres Strait

Charts AUS 4620 and AUS 4621 supplied by the Royal Australian Navy Hydrographic Service.

These charts are not to be used for navigation.

Recommended pilotage areas in Torres Strait are general outlines of the recommended tracks taken from IMO resolution A.710 (17)

Projection: Geographical
Note: Measurements in this coordinate system are not accurate

Great North East Channel (IMO Recommended Pilotage)

Existing Compulsory Pilotage Area

Whitsunday Islands Compulsory Pilotage Area

Prince of Wales Channel (IMO Recommended Pilotage)

AMSA Recommended Pilotage Area

Hydrographers Passage Compulsory Pilotage Area
Procedure for PSSA designation

• An application is submitted to the MEPC; a technical committee is appointed.

• The burden of the case to be proven lies with the proponent state(s).

• The case to be proven:
  • (1) the area’s environmental conditions evidence sensitivity;
  • (2) the area is vulnerable to international shipping; and
  • (3) the measures to address the area’s vulnerability are within the IMO’s competence.
The “teeth” in the PSSA: Associated protective measures (APMs)

• Mere designation of a PSSA has no particular effect - rather, it is the prescription and application of APMs which truly change the status and conditions of international navigation in the area.

• Hence the importance and necessity for APMs to have a demonstrated legal basis.

• The legal basis may consist of an existing legal instrument, or may be created through the adoption of a new or amendment of an existing legal instrument.

• The APM may apply within and outside of the territorial sea.
Legal basis of APMs

  - Special area designation (Annexes I, II, V) and emission control area designation (Annex VI).

- Convention on safety of Life at Sea, 1974 (SOLAS):
  - Measures aimed at promoting safe international navigation, e.g.: traffic separation schemes, ships routeing and reporting systems, and areas to be avoided (ATBs).

- UNCLOS Article 211(6):
  - Special mandatory measures.
UNCLOS Art. 211(6)(a)

“Where the international rules and standards referred to in paragraph 1 are inadequate to meet special circumstances and coastal States have reasonable grounds for believing that a particular, clearly defined area of their respective exclusive economic zones is an area where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognized technical reasons in relation to its oceanographical and ecological conditions, as well as its utilization or the protection of its resources and the particular character of its traffic, the coastal States, after appropriate consultations through the competent international organization with any other States concerned, may, for that area, direct a communication to that organization, submitting scientific and technical evidence in support and information on necessary reception facilities. Within 12 months after receiving such a communication, the organization shall determine whether the conditions in that area correspond to the requirements set out above. If the organization so determines, the coastal States may, for that area, adopt laws and regulations for the prevention, reduction and control of pollution from vessels implementing such international rules and standards or navigational practices as are made applicable, through the organization, for special areas. These laws and regulations shall not become applicable to foreign vessels until 15 months after the submission of the communication to the organization.”
Legal effect of PSSA/APM adoption

- The PSSA and its APMs become an “international rule/standard” for the area concerned.
- Coastal States are in a position to:
  - Exercise legislative jurisdiction, i.e., adopt national legislation to implement the PSSA and APMs.
  - Exercise enforcement jurisdiction, i.e., take enforcement steps against the ship in violation, but subject to UNCLOS enforcement restrictions.
  - Request the assistance of the flag state.
- Coastal States are required to inform IMO of steps they will take for enforcement purposes (consistently with UNCLOS).
Further legal effect

• All states are required to take steps to ensure that their ships comply with the PSSAs; the flag State has a duty to enforce violations of its ships.

• Once approved, PSSAs are formally identified on nautical charts in accordance with international symbols and methods of the International Hydrographic Organization.
Sensitivity criteria for the proposed area

• **Ecological**: uniqueness or rarity, critical habitat, dependency, representativeness, diversity, productivity, spawning or breeding grounds, naturalness, integrity, vulnerability, bio-geographical importance.

• **Social, cultural, economic**: economic benefit, recreation, human dependency.

• **Scientific and educational**: research, baseline and monitoring studies, education.

• Only one of the above needs to be satisfied!
Criteria for vessel threats

- Vessel traffic characteristics: operation factors, vessel types, traffic characteristics, harmful substances.
- Natural factors: hydrographical, meteorological, oceanographical
- Other: evidence of damage from shipping, patterns of accidents, foreseeable incidents, other environmental stresses, existing measures and their impact.
APM policy and examples

• IMO favours least restrictive options in the interests of commerce.

• Appropriateness is determined with reference to vulnerability and sensitivity, and the threat posed by shipping.

• Examples:
  • Ships’ routeing measures (areas to be avoided, traffic separation schemes, inshore traffic zones, deep water routes, precautionary areas, recommended routes, vessel traffic service systems, etc.).
  • Ship reporting systems (radar surveillance, interactive ship/shore reporting, etc.).

• Condition: domestic measures may not require new design, construction, manning or equipment standards; IMO-adopted standards must be applied.
Western European Waters PSSA
Source: IMO Doc., SN/Circ.242
13 December 2004
Western European Waters’ APM

• The original controversial measure:

1. Prohibiting the carriage of heavy grades of oil through the PSSA in vessels of more than 600 dwt, except in double-hull tankers, which will be obliged to comply with a reporting obligation with a 48 hour notice period; ...
2. At a later date, further associated measures may be proposed in accordance with ... (IMO PSSA Guidelines).

• The approved measure:

• Mandatory ship reporting system for laden (crude, heavy fuel oil, bitumen/tar) tankers of more than 600 tonnes; on entrance and departure from area.
Baltic Sea PSSA: A *politically* sensitive sea area?

What do you think was an issue in the designation of this PSSA?

Source: IMO Doc. MEPC 53/WP.15, 20 July 2005
• Various measures already in place in some areas at the time of submission of proposal to IMO (e.g., compulsory reporting and traffic surveillance, routeing systems, compulsory pilotage, special area under MARPOL 73/78 Annexes I, II, V, and annex VI (Sox Emission Control Area).

• Actual new measures approved: deep water route and areas to be avoided.
4. Conclusion

Mare liberum

Mare clausum

International navigation rights
Thank you
谢谢
Maraming salamat
Cám ơn
ขอบคุณ
Terima kasih
ကြောင်းကြည့်ပါ
Or-koon
ขอบใจ