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INTERNATIONAL REGULATION OF MERCHANT SHIPPING

by

MR FRANK L. WISWALL JR. *+

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It is almost a cliche that the practice of maritime law is a practice in international law. But the extent to which the whole body of maritime law today derives its rules from international conventional rather than customary law is not generally appreciated. Another forum recently presented this writer with an opportunity to illustrate the extent to which international maritime regulation now determines or influences the outcome of maritime litigation.[1] This paper is a sequel: a closer examination of the benefits and the defects of such regulation in the hope that maritime lawyers will become aware of the real necessity of involving their national or regional professional organizations more directly in the formulation of conventional maritime law.

It is important to note at the outset that we are dealing with a recent phenomenon. Less than 15 years ago, in mid-1969, there were some 31 multilateral conventions in force which had either a direct or a significant tangential effect upon maritime law; in addition there were at that time 10 conventions of similar potential effect, which had been adopted but not yet received sufficient ratifications to bring them into force. By mid-1984, there will be some 46 multilateral conventions in force having like effect upon maritime law, and at least another 17 such conventions will have been adopted but will not yet have entered into force. And as to those conventions that have not yet entered into force, we must remember that certain of them, such as the gigantic Convention on the Law of the Sea, may be held to embody "new peremptory norms of international law", themselves having a binding effect even though

the convention as a whole does not.[2] In addition to the conventions, there are at present "on the books" literally hundreds of recommendations and resolutions of inter-governmental organizations. Although these are generally said to be of non-binding effect, some of them are not only binding but in themselves embody complete international codes of safe practice which, used as a reference standard, have had a profound effect upon the corresponding areas of maritime civil litigation.[3]

We cannot now spend time arguing whether international regulation is generally desirable or undesirable; we must simply accept it as fact. What is now important is to try to derive from the experience of the 1970's -- the decade of "explosion" in maritime regulation -- some principles which can usefully be applied in formulating or amending regulations during the remaining years of this century.

Principal Areas of Regulation

In the present day, the scope of international maritime regulation includes marine safety, legal liability from maritime claims, protection of the marine environment and the control of maritime commerce itself. Each of these will be briefly examined in turn.

Marine Safety

Although no one today would argue that the uniform international application of marine safety requirements is anything but desirable, those who take exception to the rapid burgeoning of

regulation to which we are increasingly subjected can point to the introduction of marine safety regulations as "foot in the door". Perhaps surprisingly, there have been very few expansions of the scope of marine safety regulation since the 1948 SOLAS Convention.[4] The 1960 and 1974 Conventions have built squarely upon the foundation of 1948, taking account of the advent of new types of vessels[5] and new developments in safety equipment.[6]

From the point of view of the maritime lawyer, the most significant innovation in marine safety regulation is likely to be the mandatory fitting and use of Automated Radar Plotting Aids (ARPA) such as Collision Avoidance Systems (CAS), mandated by the 1978 SOLAS Protocol.[7] At a single stroke, we will pass from the era of the radar-assisted collision into the era of the radar-controlled collision, which will be of obvious benefit to collision lawyers.[8]

Suffice it to say that, as one steps on board a newly-constructed merchant ship, there is virtully nothing fitted or carried -- with the exception of certain papers -- which is there solely by virtue of national requirement. What is aboard is required by international regulations, whether it be by convention or resolution of the International Maritime Organization (IMO) or the International Labour Organization (ILO) or by uniform classification rules requirements adopted by the International Association of Classification Societies (IACS). The simple truth is that international regulation has overtaken national law in the area of marine safety -- even to the point that offshore traffic separation schemes for port entry must now be approved by IMO if they are to be mandatory for foreign vessels.[9]

It is possible to argue that the great expansion of scope in

international maritime regulation from the late 1960's to date may be attributable in large part to the exhaustion of any reasonable possibility of further regulating marine safety itself. On this view, regulatory inertia simply poured over from the marine safety area into those of the marine environment and maritime commerce.

Legal Liability for Maritime Claims

International regulations have long had an effect upon the outcome of maritime civil litigation, but it was not until the activity of the Comite Maritime International (CMI) culminated in the 1924 Hague Rules [10] and Limitation of Liability[11] Conventions that international regulation sought by conventional law both to establish and limit maritime legal liabilities.

The activity of the CMI was interrupted by the Second World War, but it returned to the question of limitation of liability, producing the Convention of 1957[12] and then took up the question of liability arising out of incidents involving nuclear-propelled merchant ships, which were at that time thought to be the next and imminent evolutionary step in propulsion design. The nuclear ships Convention[13] was the first attempt to establish maritime legal liability per se by international regulation, and it failed only because the concept of nuclear propulsion failed. But the stage was set by that Convention for succeeding conventions which both impose and limit liability in the same instrument, e.g., the 1969 Oil Pollution Civil Liability Convention (CLC)[14] and the draft Hazardous and Noxious Substances Liability Convention (HNS).[15] It is easily predictable that there will be more international regulation to follow which imposes strict or absolute liability as well as granting limitation.

Environmental Protection

Although protection of the marine environment was not originally specified as one of the areas within the broad scope of IMO's purpose, the organization did not wait for the specification to be added before beginning work in this area. In 1969, while the newly-formed Legal Committee of the IMO was bringing its draft instruments before the Diplomatic Conference which produced the 1969 Civil Liability and Intervention[16] Conventions, the Third Sub-Committee of the newly-formed United Nations Seabed Committee was beginning its formal work on the marine pollution provisions of a new draft Law of the Sea Convention.[17]

It was not lost upon the Council of IMO that its logical jurisdiction over the issues of vessel-source marine pollution could be forfeit if the Organization did not take a lead in meeting the heightened concern of the world community over incidents such as TORREY CANYON[18] and OCEAN EAGLE.[19] Even before the Resolution of the Stockholm Conference which called for the establishment of a United Nations program to deal with environmental pollution,[20] plans were under way within IMO for the convening of a Diplomatic Conference to deal with vessel-source marine pollution in 1973. When the Ocean Dumping Conference met in London in 1972, it was not yet clear that jurisdiction in this area would fall to IMO; but following the successful conclusion of the Diplomatic Conference which adopted the MARPOL Convention[21] in 1973, calling as it did for the establishment of a Marine Environment Protection Committee within IMO[22] -- a step immediately taken by the IMO Assembly[23] -- the "exclusive" jurisdiction of the Organization over vessel-source pollution matters became finally established. In this

posture, it was a foregone conclusion that the 1982 Law of the Sea Convention would remit charge of vessel-source pollution measures to IMO.[24]

From 2 October 1983, the "umbrella" provisions of the Law of the Sea Convention, together with the Ocean Dumping Convention[25] and MARPOL 73/78, will form the body of international regulation dealing with the vessel-source marine pollution. As we shall see when looking more closely at MARPOL, that has proved to be at least as much regulation as (and possibly more than) the international maritime community has been able to absorb in this area.

Maritime Commerce

Thirty-four years later, it is interesting to observe that international maritime commerce, together with marine safety, was the chief concern of the London Diplomatic Conference which created the IMO.[26] Because the IMO Convention was modeled in significant part upon the International Civil Aviation Organization (ICAO) Convention,[27] it was then supposed that IMO would deal with the commercial -- and particularly the anti-competitive -- aspects of seaborne trade just as ICAO was already doing in the area of international civil aviation.

What was underestimated in 1949 was the growing power and influence of the liner conferences and their ability to secure government protection. It is almost certain that a willingness by the traditional maritime nations in the mid-1960's to move IMO to use its power to regulate the conference would have precluded the entry of the United Nations Conference on Trade and Development (UNCTAD) into this field with the 1972 Liner Conference Code[28] and

very probably the abandonment by the United Nations Commission on the International Trade Law (UNCITRAL) of the principles of Hague-Visby[29] in favour of the revolutionary Hamburg Rules.[30] Of course, the Liner Conference Code is entering into force only after a painful ten-year battle, and without participation by Australia, New Zealand, Canada and the United States. It will remain a crippled regime for the foreseeable future.[31] In the case of the Hamburg Rules, it is not even possible to predict now whether that regime will ever enter into force in its present form.

On the other hand, international regulation of the commercial aspects of maritime transport is really in its infancy, and is bound to grow, albeit slowly. With the exception of its work in the area of customs and other clearance documentation,[32] IMO has not become at all involved in what its founding fathers thought would comprise a very significant portion of its activity; and since these issues have become so highly politicized in the forum of UNCTAD, it is hardly desirable for IMO to attempt to take them up in the foreseeable future.

What is safely predictable is a continued attempt by UNCTAD to enlarge its jurisdiction in this area, with further consequent political battling between the traditional maritime nations and the developing states.

Outer Limits of Regulation

The present limits of effective international maritime regulation are well illustrated by three instruments: MARPOL 73/78, the International Convention of Standards of Training, Certification and Watchkeeping, 1978 (STCW), and the European "Memorandum of

Understanding on Port State Control" (Paris Memorandum).

The Marine Pollution Convention

The MARPOL Convention[33] regulates ship design, construction, equipment and operation. It deals with pollution hazards not only from oil, but also from chemicals and (in optional annexes) from garbage and sewage. It gives power to IMO and its organs to expand the list of substances to which the chemical provisions of the Convention apply, and to do this via the "tacit acceptance procedure" which requires no affirmative action by those States Parties to the Convention.[34]

MARPOL was designed to deal as completely as possible with a problem which the international community agreed to accord a number-one crash priority; it was easily the most advanced regulatory instrument of the early 1970's, setting the pattern for a number of instruments which followed. The aim of the Convention was not merely to minimize but to virtually eliminate pollution arising out of marine transportation, and to accomplish this it broke new ground in the means of establishment of regulation under international conventional law.

The Training and Watchkeeping Convention

The STCW Convention,[35] adopted five years after MARPOL, attempts to deal by regulation with the one problem which is most fundamental throughout the areas of marine safety, protection of the marine environment and liability for maritime claims: the problem of human error. The premise of the Convention is that the

establishment of high uniform standards for the training and certification of mariners will operate directly upon the root cause of maritime casualties.

To accomplish this, STCW spells out the elements of training courses and a syllabus for each examination in the required grades of ratings and officers. It lays down the training and experience criteria to be met by watchstanders and at last prescribes an internationally-uniform certificate of competence. This major Convention enters into force on 28 April 1984, and will at its inception bind all the world's major maritime countries. After that date, a licence issued to a mariner by the government of Australia will be a truly international licence, based upon standards common to all of the States Parties to the STCW Convention. STCW is at the outer limits of maritime regulation because it, for the first time, introduces international regulations which operate not only upon maritime administrations, but also upon nautical schools, instructors and even the "design and construction" of the students themselves.[36]

The Paris Memorandum

The growth of Port State Control is a phenomenon which is more apparent than real. In fact, Port State Control has been an accepted measure under customary international law from ancient times, and only the emphasis placed upon it as an enforcement tool is new. The Paris Memorandum[37] is in effect a compact between the Western European States that they will apply in a uniform fashion the control measures permitted to Port States under the SOLAS, Load Line,[38] MARPOL, STCW and ILO 147 (Minimum Standards)[39]

conventions.

Pursuant to the Memorandum, all Port State Control inspections conducted by the signatories will be identical in scope and form, and the results reported (to the Dutch Shipping Inspectorate as coordinator) for inclusion in a computer data bank which will not only provide a statistical base, but give specific alerting information with regard to persistent offenders. The Paris Memorandum is at the leading edge of international maritime regulation not only because it seeks to coordinate shipping inspection operations on a broad international scale, but also because it is designed to inspect "social" matters pursuant to ILO Convention 147 which fall within the internal economy of the foreign vessel, a matter which customary international law has assigned to the exclusive jurisidction of the flag state.[40]

One can only venture a guess as to whether the scope of international maritime regulation will expand beyond the limits exemplified by these three present instruments. The writer's guess is that the permissible limits in this regard have not only been reached, but have perhaps been exceeded in the case of the Paris Memorandum. Politically, the swing of the pendulum back in the direction of flag state sovereignty may already be seen in the chaotic struggling within UNCTAD as it attempts to lay down a code of strict requirements for registration of ships in the face of the firmly established principle of customary and conventional international law that each state is sovereign in determining which conditions shall be requisite for the granting of its registration and flag.[41]

Benefits and Defects of Regulation

The chief benefit of international maritime regulation is uniformity. Not only do flag and port state administrations need uniform understanding of what requirements have to be met -- and a uniform means of ascertaining that they are met -- but also mariners themselves must be rescued from the welter of differing regulatory requirements as they trade across the globe. We have already reached the point where failure to unify regulation will truly constrain the recovery of international maritime commerce.

Apart from the direct practical benefits of uniformity, there are obvious favourable economic consequences. From standard acceptance of design and equipment of ships, down to standard acceptance of international publications carried for guidance on board, uniform requirements operate to reduce costs in international trade. Once established and operational, international regulations will be amended or added to only after much broader consideration and input of technical and political expertise than is possible if done unilaterally; and the repercussions can be more easily evaluated in advance when more Statutes are directly affected. Finally, regulations are more easily enforced when they are common to a large number of States Parties, with the obligation upon those States to report to the responsible international organization concerning serious violations.

The chief defect of present international maritime regulation is that much of it has been too ambitious and too hastily adopted. Some of it has been rendered unenforceable in consequence, to the political detriment of the responsible organizations and the

disappointment of the international community.

That there is simply more regulation on the books at present than can soon be absorbed has been recognized explicitly by the IMO Assembly, which in its Resolution A.500 adopted two years ago[42] called upon the organs of IMO and upon Member States to concentrate upon bringing existing regulations into full force and effect and to refrain from adopting additional regulations unless there is a demonstrated need. If this was a step which perhaps came too late to save IMO from severe criticism, then let it at least be recognised that no other international organization has had the courage or wisdom to adopt such a resolution.

The single most important reason why many regulations once adopted have not become effective is that they attempted too much. A prime example is the MARPOL Convention: it laid down technical criteria which were impossible to meet at the time of the Diplomatic Conference but which -- it was insisted in 1973 -- could be met by the time the Convention was hoped to enter into force in 1975-76. In the event, some of the technical criteria cannot be fully met even today -- partly for economic reasons -- and the Convention will not enter into force until 10 years following its adoption. Meanwhile, the deadline dates embodied in the Convention for the construction and equipment of vessels have long since passed, and have been the subject of outright "gambling" by the flag administrations which chose either to implement them fully or ignore them partially. The confidence and ambition of the Diplomatic Conference in adopting an instrument as avant-garde as MARPOL in 1973 is perhaps admirable from a purely environmentalist point of view; but it postponed the entry into force of the Convention by at least five years and could have perhaps rendered it a dead letter

had not needed relaxations as well as extensions been adopted in the 1978 Protocol and subsequently by the MEPC.

At the same time as the attention and resources of IMO and its Member States were being directed towards the promulgation of new regulations, the "promotion" of some needed existing regulation was wrongly neglected. A prime illustration of this is found in the fate of the 1979 amendment to the Load Line Convention,[43] which really seeks to do nothing more than correct what all agree to be a mistake at the 1966 Diplomatic Conference in not configuring the Tropical Zone line to include Port Hedland, Australia. This very practical amendment has been sidetracked for 4 years because it is not as seductive an issue as those being dealt with in the proliferation of more "trendy" regulations. In short, we have been guilty even in the maritime sphere of putting perceived social relevance ahead of practicality and basic need.

The views just expressed are not wholly original, though they may be more pointedly expressed. There is a growing awareness that these defects are seriously hampering the beneficial results that uniform regulation should offer, and that it is time to become more determined in enforcement but more restrained in adoption.

The Future of Regulation

This writer does not share the view that the problems with present international maritime regulation are directly traceable to and end with the responsible international organization, whether that in question be IMO, ILO or UNCTAD. It may be true that international civil servants in the Secretariats of these organizations do urge and encourage the adoption of more regulation

than is necessary, but not only does this vary even between divisions of a single organization, it also begs the ultimate responsibility of the delegations of the Member States for what is adopted. Chiefly to blame for the present problems in international maritime regulation are the government bureaucracies of the Member States who, in making up delegations to international meetings and conferences, do not adequately consult the maritime industry or the professional organizations of practicing maritime lawyers; who generally omit representation from these groups in the makeup of their delegations; who are, in many government departments, determined that maritime regulation shall primarily be a tool for the construction of a new world economic order, and only secondarily for ensuring the protection of life, property and the environment; who are unconcerned and probably unaware that their own delegations in different fora addressing the same question may take diametrically opposed positions on behalf of the same government; and whose defense against justifiable protests at the outcome will predictably be that "this was done by (IMO) (ILO) (UNCTAD) -- not by us".

Because defective regulation engenders needless litigation, it has now become the special responsibility of the national maritime law associations and the CMI to take a more active role in monitoring the formulation of international maritime regulation. The CMI should consider attendance by its observers, not only at all meetings of the appropriate legal organs of the international organizations, but also at those meetings of the technical organs in which very broad issues of environmental protection and maritime commerce are addressed. At the national level, the associations individually have a positive obligation to advise and to seek

involvement in their government's delegations to the relevant and important meetings and conferences of the organizations -- and to persist in this whether such advice and involvement is gratefully accepted or not. Failure to do so will result not only in the proliferation of regulation of questionable need and possibly unanticipated legal impact but, with the increasing distance between practising maritime lawyers and those lawyers representing their governments at international maritime meetings and conferences, there may be an acceleration in what to this writer is an already perceptible decline in the quality of drafting of the more recent regulatory instruments.

We cannot take seriously the cynical view that a proliferation of ill-conceived regulation is a bonanza for the maritime legal profession; the destructive result of this would inescapably fall upon us as maritime lawyers as well as upon the inter-governmental organizations themselves.

What we are confronted with is a new challenge to our professional responsibility. Its acceptance will bring honor to our profession as well as to the integrity and competence of the international organizations which adopt, and the government departments charged with the enforcement of, international maritime regulations -- regulations which we can in future help to ensure are needed, sensible and understandable.

FOOTNOTES

*Ju.D., Cornell University; Ph.D. Juris., Cambridge University (Clare College); member of the Bars of Maine, New York, Virginia and the District of Columbia; Chairman of the Legal Committee, International Maritime Organisation (IMO), London; Admiralty Counsel to the Bureau of Maritime Affairs, Republic of Liberia.

+The views expressed herein are solely those of the writer, and are not intended to reflect the views or policy of any government or international organization.

[1]The Admiralty Law Institute at Tulane University Law School. See Wiswall, _Uniformity in Maritime Law: The Domestic Impact of International Maritime Regulation_, 57 Tulane L. Rev. ______ (1983).

[2]See Article 64 of the Vienna Convention on the Law of Treaties, 23 May 1969, Vienna (entered into force 27 January 1980).

[3]E.g. IMO Resolutions A.81 of 17 September 1965 embodying the Dangerous Goods Code - CDG), A.212 of 12 October 1971 (embodying the Bulk Chemical Code - BCH), A.328 and 329 of 12 November 1975 (embodying the Liquefied Gas Codes), and A.434 of 15 November 1979 (embodying the Code of Safe Practice for Bulk Cargoes - BC).

[4]International Convention for the Safety of Life at Sea (SOLAS '48), 10 June 1948, London; abrogated 26 May 1965 by entry into force of SOLAS '60.

[5]E.g. the Mobile Offshore Drilling Unit (MODU), which is covered by a special IMO Code embodied in Res A.414 of 15 November 1979.

[6]E.g. the "survival craft". A former "lifeboatman" is now a "survival craftsman".

[7]See the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS '74/'78), 17 February 1978, London, Chapter V, Regulation 12(a), and the standards adopted by IMO.

[8]This is not as humorous as one might suppose. We have already experienced the first radar-controlled grounding -- of a laden liquid natural gas carrier (LNGC)! The EL PASO PAUL KAYSER grounded on the shoal of La Perla in the Strait of Gibraltar on 29 June 1979. See the Liberian Government Report, published 17 November 1980.

[9]See Rule 10 of the Convention of the International Regulations for Preventing Collisions at Sea (COLREG), 20 October 1972, London (entered into force 15 July 1977).

[10]International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading, 25 August 1924, Brussels (entered into force 2 June 1931).

[11]International Convention for the Unification of Certain Rules of Law Relating to the Limitation of the Liability of Owners of Sea-Going Vessels, 25 August 1924, Brussels; abrogated 31 May 1968 by entry into force of the 1957 Brussels Limitation Convention.

[12]International Convention Relating to the Limitation of the Liability of owners of Sea-Going Ships, 10 October 1957, Brussels (entered into force 31 May 1968).

[13]Convention on the Liability of Operators of Nuclear Ships, 25 May 1962, Brussels.

[14]International Convention on Civil Liability for Oil Pollution Damage (CLC '69), 25 November 1969, Brussels (entered into force 19 June 1975).

[15]The draft approved by the 51st Sessions of the Legal Committee is to be placed before a Diplomatic Conference at IMO Headquarters in London on Monday 30 April 1984.

[16]International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 29 November 1969, Brussels (entered into force 6 May 1975; amended by entry into force of 1973 Protocol on 30 March 1983).

[17]United Nations Convention on the Law of the Sea, 10 December 1982, Montego Bay. For the historical development, see the series of articles from 1969 in, e.g. The American Journal of International Law. See also U.N. General Assembly Resolution 2749 (XXV) on the sea-bed.

[18]The TORREY CANYON grounded on Pollard Rock, Seven Stones Reef, off the Scilly Isles on 18 March 1967; 110,000 tons of crude oil were lost to the environment. See the Liberian Report, published 2 May 1967.

[19]The OCEAN EAGLE grounded and broke in two in the entrance to San Juan, Puerto Rico, on 3 March 1968; over 19,000 tons of crude oil were lost to the environment. See the Liberian Report, published 29 December 1968.

[20]See the Resolutions of the United Nations Conference on the Human Environment, 5-16 June 1972, Stockholm. This Conference gave rise to the United Nations Environment Programme (UNEP).

[21]International Convention for the Prevention of Pollution from Ships (MARPOL '73), 2 November 1973, London (enters into force 2 October 1983).

[22]See id. Articles I and III, and Resolution 26 of the 1973 Diplomatic Conference (appended to the official text of the Convention).

[23]See IMO Res A.297(VIII) of 23 November 1973, establishing the Marine Environment Protection Committee.

[24]United Nations Convention on the Law of the Sea, supra n. 17; see Articles 211, 217-219.

[25]Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (LDC '72) 13 November 1972, London (entered into force 30 August 1975).

[26]Convention on the International Maritime Organization, 6 March 1948, London (entered into force 17 March 1958). See Articles 1 and 4. Note that prior to the entry into force in 1982 of the 1975 Amendments, IMO was known as IMCO, the Inter-Governmental Maritime Consultative Organization.

[27]Convention on International Civil Aviation, 7 December 1944, Chicago (entry into force 4 April 1947).

[28]Convention on a Code of Conduct for Liner Conferences, 6 April 1974, Geneva (entered into force 6 October 1983).

[29]Protocol to amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading signed at Brussels on 25 August 1924, 23 February 1968, Brussels (entered into force 23 June 1977).

[30]United Nations Convention on the Carriage of Goods by Sea, 31 March 1978, Hamburg.

[31]See, e.g., remarks of Peter G. Sandlund of the Council of European and Japanese National Shipowners' Associations (CENSA) delivered at the Western Shippers Seminar on International Maritime Issues on 15 June 1983:

> "Consider the following factors: 64% of world liner trade is between OECD countries, 31% of world liner trade is between OECD countries and other (principally LDC) countries, and only 5% of the world liner cargoes are between LDC countries. Combine this with the fact that under the Provisions of the Liner Code and the Brussels Package, the cargo sharing provisions of the Code would not be applicable in OECD/OECD trades. They would only apply to 40% of the 31% represented by OECD/LDC trades and to 80% of the 5% in LDC/LDC trades. The mathematics of these factors lead you to the conclusion that only 16% of the world liner trade, at the most, would be affected by the cargo sharing provisions of the Code, where at least 84% would be unaffected.
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> "Add to this equation the fact that several OECD countries, notably the United States, Canada, Australia and New Zealand have indicated that they would remain non-Codist. If one assumes that their share of the OECD/LDC trades amounts to 15%, the portion of this trade that would be subject to the cargo sharing provisions would be reduced from 9% to 8%. Likewise, a number of LDC countries, notably Brazil and Argentina, appear likely to remain non-Codist. This would further reduce the OECD/LDC trade from an estimated 12% to about 9%, and it would also have an effect on the LDC/LDC trade, where the impact of the Code could be expected to be reduced to about 2%.

"The net result of these calculations shows that only about 10% of world conference liner trade would be subject to the Code. When one further considers that conference participation in the liner cargoes is well below 100% - probably around 70% - this would indicate that the actual impact of cargo sharing under the Code is in the area of 7% of world conference liner trade - not a very large share."

[32]Convention on Facilitation of Maritime Traffic (FAL '65), 9 April 1965, London (entered into force 15 April 1978). A Facilitation Committee, established as a subsidiary of the IMO Council, maintains the Documentary Supplement to the Annex.

[33]See n. 21, supra. The Convention enters into force as amended by the Protocol of 1978.

[34]See Article 16(2)(f)(iii) and (g)(ii) of MARPOL '73/'78, n. 21, supra.

[35]International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW '78), 7 July 1978, London (enters into force on 28 April 1984).

[36]See Articles VI and VII, the Annex and the 23 Resolutions appended to STCW '78. STCW is the first comprehensive instrument dealing with the qualifications of mariners, and its provisions for officers and Able Seamen are much more far-reaching than the old ILO Convention Nos. 53 Concerning the Minimum Requirements of Profession Capacity for Masters and Officers on board Merchant Ships, 24 October 1936, Geneva (entered into force 29 March 1939), and 74 Concerning the Certification of Able Seamen, 29 June 1946, Seattle (entered into force 14 July 1951).

[37]Memorandum of Understanding on Port State Control, 26 January 1982, Paris (fully implemented 1 July 1983).

[38]International Convention on Load Lines (LL '66), 5 April 1966, London (entered into force 21 July 1968).

[39]No. 147 Concerning Minimum Standards in Merchant Ships, 29 October 1976, Geneva (entered into force 19 November 1981).

[40]See Colombos, The International Law of the Sea, 324 (6th ed., London, 1967).

[41]See Article 91 of the Law of the Sea Convention, supra n.17

[42]See IMO Res A.500(XII) of 20 November 1981, "Objectives of the Organization in the 1980's", paragraph 3.

[43]Amendment to the International Convention on Load Lines, adopted by IMO Res A.411(XI), 15 November 1979, London.