



**The local impact of International Maritime  
Conventions:  
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Shipping is one of the most international of industries and many of its activities are covered by international conventions. Many in the maritime community have a vague awareness of these conventions without understanding how they come about or how they end up affecting local maritime activity. For example, how is it that a meeting of bureaucrats in Torremolinos, Spain, in 1977 affects the construction of fishing vessels in New Zealand today. This article will focus on the most important international maritime institution (the IMO) and how it develops international conventions which are ultimately applied in New Zealand.

The International Maritime Organisation (IMO) is a United Nations Agency set up in 1948. It had long been recognised that the best way of improving safety at sea was by developing international regulations that were followed by all shipping nations, however it was not until after the establishment of the United Nations that development of international maritime rules began to gain momentum.

The purpose of the IMO is to provide machinery for cooperation between Governments so they can enact laws that will improve maritime safety and prevent pollution from ships. One of the main methods used by IMO to achieve its purposes is the development of international conventions. To date the IMO has been responsible for developing more than 40 conventions and agreements.

These mysterious conventions can come about as follows. A suggestion is made to an IMO Committee and the Committee then begins work on preparing a draft instrument to cover the identified problem. The Committee takes advice from a large number of inter-governmental and international non-government organisations. Once the draft convention is developed it is circulated to all

member states and an international conference is called to discuss the convention. The final convention is adopted by the conference and then deposited with the IMO. It is open for signature by member states for a specified period of time (usually 12 months). The first step in adopting the convention is for a country to sign it. The signature does not mean a country is bound by the convention, only that it will not to undermine it. Having signed the convention a country can then ratify it. A non-signatory country can accede to the convention.

A convention does not enter into force until it has to be accepted by a stipulated number of states. For example, acceptance may be required from 25 states whose merchant fleet comprises not less than 50% of the world's gross tonnage.

Acceptance of a convention by a Government places an obligation on it to develop laws to enforce the convention. It is not until the Government actually enacts domestic laws that the IMO convention has any practical effect within a country. In New Zealand IMO conventions normally enter domestic law as part of the Maritime Transport Act 1994 and the Maritime Rules developed under that Act. The conventions seldom make it intact into New Zealand law, but are amended to reflect local requirements.

Governments will enforce provisions against locally flagged vessels (known as flag state control), but also may have limited powers relating to vessels flagged in other states currently in their country's (port state control).

The majority of IMO conventions fall into three categories, being those concerned with marine safety, prevention of marine pollution and a third category dealing with liability and compensation. Some of the more important conventions are as follows.

The most important convention relating to vessel safety is the International Convention for the Safety of Life at Sea 1974 (SOLAS). The first version of this convention pre-dates IMO and was adopted in 1914, in response to the Titanic disaster. The main objective of SOLAS is to specify minimum standards for the construction, equipment and operation of ships. Under these headings the convention covers a large number of items, including fire protection equipment, life saving equipment, radio communications, navigation issues and issues relating to carriage of cargoes. The SOLAS provisions permeate the Maritime Transport Act and its rules. Take, for example, the Safe Ship Management Systems provisions of Part 21 Section 1 of the Maritime Rules.

In addition, the IMO has developed the International Management Code for the Safe Operation of Ships and for Pollution Prevention (the ISM code). The code is designed to encourage development of a safety culture in shipping.

As always fishing vessels have posed particular difficulties to the IMO and its attempts to develop standard rules that can be applied world-wide. Fishing vessels present a number of unique problems, which meant they could not be covered by SOLAS. SOLAS is more particularly aimed at larger vessels, particularly those over 500 tonnes. Just as an example of the differences, fishing vessels load their cargoes at sea, while other vessels take on cargo in port. Also, fishing vessels come in a bewildering variety throughout the world and operate in conditions ranging from the most sheltered lagoon through to the worst open sea conditions.

Notwithstanding the difficulties, an IMO conference held in Torremolinos, Spain, in 1977 managed to adopt an international convention on the safety of fishing vessels. The convention was largely rewritten in 1993. The convention covers a wide number of issues relating to vessel safety, including construction, stability, machinery, fire protection and life saving provisions. Some provisions from the Torremolinos convention have found their way into New Zealand law. For example, Part 40D of the Maritime Rules applies parts of the convention in respect of fishing vessels over 45 metres in length.

Another important IMO convention is that relating to Standards of Training, Certification and Watch-keeping for sea-farers 1978 (STCW). STCW deals with basic requirements for training, certification and watch-keeping. STCW has undergone a number of amendments and continues to evolve. It includes an element of port state control, whereby port authorities can detain vessels if they have concerns about the crewing standards on the vessel. The SOLAS provisions on safe manning and STCW have found their way into parts 31A, B and C of the Maritime Rules. In relation to STCW certifications, you may have heard of a "White List" maintained by the IMO. The IMO has been given a significant new role under STCW in that it has been asked to verify the measures put in place by member states. As part of its overseeing role, the IMO has produced the "White List", which lists countries deemed to be giving full effect to STCW. The White List is used by authorities around the world as a quick reference when considering competency of foreign crew. New Zealand is on the White List.

The final convention I will look at in any detail is the International Convention for the Prevention of Pollution from Ships 1973, as modified by the protocol of 1978 relating thereto (which, mercifully, is normally referred to as MARPOL). MARPOL is directed at preventing pollution of the marine environment by vessels from operational and accidental causes. Whilst accidental spills gain the most publicity, deliberate operational discharges actually lead to far greater discharges on a global basis. Deliberate discharges include flushing tanks in oil tankers or discharge of oily engine wastes. MARPOL covers pollution by oil, chemicals, harmful substances in packaged form, sewerage and garbage. It took many years for MARPOL to be adopted and, for those who have an interest in such things, development of the convention shows the intense bargaining that has to take place to obtain an agreement which satisfies both the vessel owning states and those which have a more ecological focus. Ultimately it was a series of oil tanker disasters in the mid-1970s, including the *Tory Canyon* sinking, which forced the hand of the vessel owning states. MARPOL provisions are adopted in New Zealand through various provisions in

the Maritime Transport Act and Maritime Rules.

The IMO's work is constantly ongoing. One of the many challenges to the IMO is to develop a process whereby rules can be developed and implemented before they are overtaken by technological advances. IMO grapples with many modern issues. For example, in December this year there will be an international conference on Maritime Security, which hopefully will lead to new rules to enhance ship and port security to prevent shipping from becoming the target of international terrorism. The IMO also

continues to grapple with ancient problems, for example how to prevent piracy on the High Seas.

It may seem that the international conferences involving bureaucrats and technocrats from around the world meeting in far off places may belong to a different world, however many of their decisions and rules can ultimately trickle down into New Zealand, resulting in a real impact on how you operate your vessel here.