The
Shipmaster’s
BUSINESS COMPANION

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The Nautical Institute
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Subject</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>MARITIME TREATIES</td>
<td>A-1 to -20</td>
</tr>
<tr>
<td>B</td>
<td>THE FLAG STATE</td>
<td>B-1 to -64</td>
</tr>
<tr>
<td>C</td>
<td>THE SHIPOWNERS, MANAGER AND OPERATOR</td>
<td>C-1 to -19</td>
</tr>
<tr>
<td>D</td>
<td>THE SHIP</td>
<td>D-1 to -183</td>
</tr>
<tr>
<td>E</td>
<td>THE MASTER AND CREW</td>
<td>E-1 to -166</td>
</tr>
<tr>
<td>F</td>
<td>THE SHIP’S EMPLOYMENT</td>
<td>F-1 to -89</td>
</tr>
<tr>
<td>G</td>
<td>INSURANCE AND CLAIMS</td>
<td>G-1 to -35</td>
</tr>
<tr>
<td>H</td>
<td>AT SEA</td>
<td>H-1 to -76</td>
</tr>
<tr>
<td>I</td>
<td>IN PORT</td>
<td>I-1 to -90</td>
</tr>
<tr>
<td></td>
<td>INDEX</td>
<td>Index 1 to 24</td>
</tr>
</tbody>
</table>
Malcolm Maclachlan was born in Dover in 1947 and first worked at sea - illegally - as a 14-year old pantry boy in the Townsend car ferry Halladale. In the early 1960s he trained as a cadet on the training ship HMS Worcester before serving a deck apprenticeship with Alfred Holt & Company, sailing as midshipman in general cargo liners of the Blue Funnel Line and Glen Line.

Deep sea and coastal service as a deck officer with several British and Danish liner, reefer, tramp and tanker companies, and a spell in Scottish fishery protection vessels, culminated in 1980 in an appointment as master in Bell Lines’ fleet of short-sea containerships.

Redundancy in 1982 led to a year of lecturing at the ill-fated Leith Nautical College, followed by four years as control room operator on North Sea drilling rigs. The 1986 oil slump and a second redundancy prompted the author to become a freelance marine journalist, writing and cartooning for Fairplay, Seascape and The Sea. During this period he wrote An Introduction to Marine Drilling, compiled The North Sea Field Development Guide (both published by OPL) and drew monthly cartoons for the NUMAST Telegraph, a collection of which NUMAST published as A Laugh on the Ocean Wave.

In 1989 the author returned to teaching, this time at Glasgow College of Nautical Studies, where he teaches Shipmaster’s Business and related subjects. Shipbroking studies and growing pressure of college work forced him to stop cartooning, but in compensation he won the 1995 Fairplay Prize for his Ship Management paper in the annual Institute of Chartered Shipbrokers examinations. He became an MICS in that year.

The author self-publishes - under his own North Sea Books houseflag - The Shipmaster’s Business Self-Examiner, a question-and-answer “orals” primer used by many “orals” candidates as well as seagoing officers, and is compiling a Dictionary of Merchant Shipping Terminology.

Malcolm Maclachlan is married and has a son - an engineer officer with Teekay Shipping (Canada) - and two daughters, one of whom sailed as a deck officer with BP Shipping and is now a bunker broker. He and his wife live in a small town in the Southern Uplands of Scotland. In his spare time he runs on the Scottish hills and plays blues harmonica.
Preface to the 1998 edition

In an increasingly litigious world where environmental concerns often place ships and their masters under official and public scrutiny, every serving and aspiring shipmaster needs to be fully aware of his obligations to his owners, managers, charterers, shippers, flag state, port state, coastal states, and crew. He can only know what his numerous obligations are, however, if he is armed with a sound knowledge of current ‘Shipmaster’s Business and Law’.

Most masters find it difficult, if not impossible, to keep abreast of current Business and Law while at sea. Few ships carry a good reference library, and even when they do, today’s maritime law and commercial practice is embodied in so many texts published by different organisations that a master may well be at a loss to know even what the relevant document is, far less what it states. Moreover, shipping legislation changes frequently and sometimes radically. The Merchant Shipping Act 1995 consolidated much of the primary British shipping legislation of the previous 101 years, while STCW 95 has brought radically new requirements for training, certification and safe manning, sweeping away old provisions with which masters were reasonably familiar, such as the deck and engineer officer manning scales, the European trading areas, and the ‘short-handed’ manning provisions. (Readers will find notes on the new STCW 95-based regulations in Section E along with notes on the ‘old’ provisions for comparison, where relevant.)

Shipmasters with enough on their plates do not usually welcome totally new legislation, but the Master’s Discretion Regulations 1997 (described in Section H) should be greeted warmly by all in command. No more need a safety-conscious master feel uneasy about resisting ‘commercial’ pressure to sail, or to increase speed in fog, or to take any suggested course of action of which he disapproves on grounds of navigational safety. This SI is long overdue.

Merchant Shipping Notices have now passed MSN1700, Marine Guidance Notes have reached their half-century and Marine Information Notes are at MIN17. It is clear that officers can no longer be expected to have even a working knowledge (as they once could) of M Notices in force, and references are therefore included in the text to any relevant MSN, MGN or MIN.

This book makes no pretence to be a definitive work on any particular aspect of maritime law or shipping business practice, and readers will not find tables of leading cases, annotations, footnotes or references. It is simply a compendium of Business and Law notes that may prove of some value to professional mariners in their day-to-day work. If it contributes anything to the commercial success of a voyage, or is useful to officers in their studies for higher certificates, or to shore-based shipping practitioners in some way, it will have exceeded my hopes and expectations.

A reference book for maritime professionals clearly needs to be up to date, and to this end the Nautical Institute intends to publish an annual supplement in its journal Seaways, and a fully revised edition in about three years’ time.

Malcolm Maclachlan
Biggar, Scotland
December 1997
Preface to the 2003 edition

This new edition is corrected to the end of June 2003. It incorporates the amendments contained in the two supplements to the 1998 edition, published by the Nautical Institute in 1999 and 2000, and includes much new information, as evidenced by the considerable increase in size.

Topics introduced include the revised SOLAS chapter V and the UK’s Merchant Shipping (Safety of Navigation) Regulations 2002, the International Ship and Port Facility Security (ISPS) Code (due to enter into force in July 2004), the revised ISM Code, the UK’s Domestic Safety Management (DSM) Code, EU passenger ship classes, operational requirements applicable to the principal vessel types, MCA codes of practice for small vessels, Shipboard Marine Pollution Emergency Plans (SMPEPs), the European Working Time Directive and the Merchant Shipping (Hours of Work) Regulations 2002, LOF 2002, the revised Scopic Clause and the International Hull Clauses (01/11/02). An extensive UK ship documentation index and a detailed table of mandatory Official Log Book entries are added to Section D, while the key points of the MCA’s Training and Certification Guidance are added to Section E. Numerous cross-references have been added throughout the text, and there are more references to relevant M Notices. The index – so important in a book of this size and scope - has been greatly expanded.

Users of the 1998 edition will find that much of the text has been rearranged and - hopefully - improved. Key words are highlighted in bold type, and footnotes have been added where relevant. Hyperlinks, originally added for the author’s own convenience whilst editing disc files, are left in the hard copy text as a guide to section contents. The value obtained from using hyperlinks whilst editing this edition led to the idea of a searchable CD-ROM edition, and I would like to record my thanks to Julian Parker, retiring Secretary of the Nautical Institute, for so enthusiastically embracing and pursuing this idea.

In the five years since publication of the last edition there has been a slight reduction in the annual output of new UK merchant shipping legislation, but the MCA has in that period published no less than 63 Merchant Shipping Notices, 110 Marine Information Notes and 151 Marine Guidance Notes. Meanwhile, external and “company” ISM audits have become part of routine shipboard operations and seafarers have had to adapt to the STCW 95 regime, including its onboard training requirements. With the ISPS Code now about to add in no small measure to the proliferation of paperwork and disruption of life on board, shipmasters and officers clearly need up-to-date guidance as to their numerous statutory and commercial obligations. In this respect, I sincerely hope that this new edition will be found of some help on board, and in the owners’ or managers’ office.

Malcolm Maclachlan
Biggar, Scotland
June 2003
Foreword

International shipping is a highly competitive industry that provides an essential service for Society through the economic transportation of goods, commodities and passengers. Because there are so many stakeholders, it is essential to have agreed and shared rules. For example - Shipping is a capital-intensive industry and companies need to finance their operations. This finance largely comes from banks that derive their own finance from loans and the investments of their shareholders. Banks and their shareholders, who might even guard our own pension funds, need a rule-based system to protect their risks. Similarly the carriage of cargo depends upon well-tested contracts and expertise, which in turn are used to determine the outcome of an insurance claim in the event of loss or damage.

Seafarers are also bound by contracts of employment and owners have obligations to provide seaworthy ships. Not only does this cover the physical condition of the vessels but the human element, the manning and qualifications of the crew, navigational outfit, fire protection, life saving capability and watertight integrity. It must not be forgotten that ships have to enter and work in ports. They require pilots, interact with stevedores and share facilities; they need services; stores; bunkers and water. The seafarers themselves become visitors with immigration and health controls, which are quite widely different in the various countries they visit. Customs too have a direct interest in ships, their cargo, crew and passengers for duties, contraband and drugs.

There is an understanding that the seas are used for many purposes, which include exploration, fishing, fish farming and leisure activities. The littoral is used for economic activities such as tourism and can also contain sensitive ecological habitats. How then is it possible to satisfy the needs of society for cheap efficient transport with the demands for safety and environmental protection.

The answer of course lies in the complex regulatory mechanisms, which have evolved over centuries. If laws stayed the same it would be possible to provide training in their use, but the situation is much more dynamic with new developments taking place at an increasing pace. New regulation, like the ISM Code do not yet have a body law tested in court concerning the commercial consequences of mismanagement and governments have not yet invoked their statutory powers: so the interpretation of specific clauses may lack precise definition. Operators, however, have to manage and run their ships and shipmasters in particular have to be aware of their legal obligations. The task is formidable.

When the first edition of the Shipmasters Business Companion was published in 1996 it contained 470 pages. In 2004 just 7 years later the current volume is expanded to some 900 pages. It is not until the full range of maritime legislation from portage bills to port state control, is put “on the table” that we can appreciate just how prescribed our industry has become.

The oil industry recognised some time ago that rule based behaviour had limitations and that sector of maritime activity undertook a complete revision of its operating practices following the Piper Alpha platform accident in 1988. This change was based mainly on self regulated Operational Industry Guidelines. They were to become guidelines, however, that could only be ignored at the operator’s peril.

The time has surely come in shipping when the burden of regulations should be lifted and turned into a similar culture with accepted industry codes of practice that will offer real support. If industry guidelines are ignored this would lead bad owners and operators into courts of law through failing to operate within an accepted “Duty of Care”. The bad owner or manager would then land up where they belong, brought to the courts by charterer, cargo owner, flag state, underwriter or even by their own staff.

This book tells us much about the way all aspects of shipping have become codified and the enormous burden placed upon those in responsible positions to know, understand and implement correct practices.

Malcolm Maclachlan has undertaken the Herculean task of compiling international, commercial and national legislation into one great volume with a style and precision which will be readily appreciated by all who need to know the current regulations covering maritime operations. His outstanding work has been recognised by the UK Government’s Maritime and Coastguard Agency who have made this book essential reading for certificates of competency.

The new package with the Compact Disc will enable supplements to be produced more economically in future: so enhancing this authoritative and practical reference work.

Nobody can keep the whole spectrum of maritime law in their heads any more. Surveyors, owners, managers, sea staff educationalists, lawyers and those concerned with maritime operations will find this book with its comprehensive index the perfect reference.

Captain R. B. Middleton FNI,
President, The Nautical Institute
Section A

MARITIME TREATIES
A01 International maritime law  
A01a Sources of international maritime law  

A02 UN Conferences on the Law of the Sea  
A02a UNCLOS  
A02b Implementation of UNCLOS provisions by UK  

A03 International Maritime Organization (IMO)  
A03a Nature and purposes of IMO  
A03b IMO procedures  
A03c IMO instruments  
A03d IMO action dates  
A03e IMO publications  

A04 International Labour Organization (ILO)  
A04a Nature and purposes of ILO  
A04b ILO procedures  
A04c ILO maritime conventions  

A05 Enforcement of IMO and ILO conventions  
A05a Convention provisions concerning enforcement  
A05b Regional port State control agreements  

A06 Other treaty provisions affecting shipping  
A06a International Health Regulations  
A06b International Telecommunication Regulations
A01 International maritime law

A01a SOURCES OF INTERNATIONAL MARITIME LAW

* Sources of international law include international law, customary law and treaties.

A01a.1 International law

- is the system of law regulating the relations between sovereign States and their rights and duties with respect to each other. It derives mainly from customary law and treaties.

A01a.2 Customary law

- derives from practice followed continuously in a particular location, or by particular States, such that the practice becomes accepted as part of the law in that location or of those States.
- is ascertained from the customary practice of States together with evidence that States regard these practices as a legal obligation.
- is sometimes regarded as the foundation stone of international law.

A01a.3 Treaties

* A treaty is a written international agreement between two States (a bilateral treaty) or between a number of States (a multilateral treaty), which is binding in international law.
* Treaties are usually made under the auspices of an internationally accepted organisation such as the United Nations or one of its agencies, such as IMO or ILO.
* Treaties are binding only on those States which are parties to the treaty (sometimes called "convention countries"), but they may be binding even on non-party States if their provisions are also a part of customary law.
* Treaties are generally first drafted (often by a specialist committee), then considered for adoption by a formally convened conference attended by representatives of States which are members of the sponsoring organisation. Drafting and adoption may take several years, although where quick responses are required in urgent cases, governments may be willing to accelerate this process.
* Once the conference has formally adopted a treaty it will be opened for signature by States, often for 12 months, after which it will remain open for accession.
* A treaty will often contain provisions wherein a State may become a party by either:
  • signature alone (without reservation as to ratification, acceptance or approval); or
  • signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  • accession.
* Where a State chooses the “signature subject to ratification” option the signature must be followed by deposit of an instrument of ratification with the host organisation (called the “depositary”). The words “acceptance” and “approval” basically mean the same as ratification, but pose fewer legal or constitutional problems. Many States choose the “subject to ratification” option since it gives them the chance to enact national legislation to give legal effect to the treaty’s provisions before entering into treaty commitments.
* Accession is the method used by a State to become a party to a treaty which it did not sign while it was open for signature. Technically, the State must deposit an instrument of accession with the depositary before the treaty becomes binding on the State.
* It may take several years before an adopted treaty enters into force (i.e. becomes binding on those governments which have formally accepted it by one of the above methods). A treaty normally enters into force in accordance with criteria incorporated into the treaty itself, e.g. 12 months after a stipulated number of States have become parties to it.
* A treaty usually has no legal effect in an accepting State until it has been incorporated by statute into the national law of the State (although some States give direct effect to treaties without national legislation). The duties of salvors in the UK would not be legally affected by the International Convention on Salvage 1989, for example, had the terms of the Convention not been embodied in the Merchant Shipping Act 1995 (see H05c).
* The more States that become parties to a treaty, the greater the influence that treaty will have on the development of customary law.
* The **law of the sea** has been made at various UN Conferences on the Law of the Sea (**UNCLOS**) (see A02a).

* The **chief international treaty-making bodies** making provisions which regulate merchant shipping are:
  - the International Maritime Organization (**IMO**) (see A03);
  - the International Labour Organization (**ILO**) (see A04);
  - the World Health Organization (**WHO**) (see A06a); and
  - the International Telecommunications Union (**ITU**) (see A06b).

### A02 UN Conferences on the Law of the Sea

#### A02a UNCLOS

##### A02a.1 UNCLOS conferences and Convention


* The outcome of UNCLOS III was the **United Nations Convention on the Law of the Sea** (catalogued by HMSO as Cmnd. 8941), commonly known as “**UNCLOS**”.

* **UNCLOS** -
  - attempts to codify the international law of the sea.
  - is a treaty document of 320 articles and 9 annexes, governing all aspects of ocean space, such as delimitation, environmental control, marine scientific research, economic and commercial activities, transfer of technology and the settlement of disputes relating to ocean matters.
  - came into force internationally on 16 November 1994.

##### A02a.2 UNCLOS provisions relating to zones of coastal State jurisdiction and the High Seas

* UNCLOS sets the width of the **territorial sea** at 12 nautical miles, with a **contiguous zone** at 24 nautical miles from the baseline. It defines **innocent passage** through the territorial sea and defines **transit passage** through international straits. It defines archipelagic States and allows for passage through archipelagic waters.

* UNCLOS establishes **exclusive economic zones** (EEZs) extending to 200 nautical miles from baselines. It defines the **continental shelf** and extends jurisdiction over the resources of the shelf beyond 200 miles where appropriate.

* UNCLOS defines the legal status of the **high seas** and establishes regulations for the control of marine pollution.

* States in dispute about their interpretation of UNCLOS may submit their disagreements to competent courts such as the **International Court of Justice** (in The Hague), or the **Law of the Sea Tribunal** (in Hamburg).

* For notes on the different **zones of coastal State jurisdiction**, and on the **high seas** see H01e.

##### A02a.3 UNCLOS provisions relating to port State, coastal State and flag State control of shipping

* Responsibility for **enforcement of regulations** rests mainly with flag States, but as vessels enter zones closer to the coast the influence of **coastal State jurisdiction** and, ultimately, **port State jurisdiction**, gradually increases.

* **Article 94** deals with **duties of the flag State**, while **Article 217** deals with **enforcement by flag States** (see Section B: The Flag State).

* **Article 218** deals with **port State jurisdiction**. When a vessel is voluntarily within a port or at an offshore terminal, the port State may, where the evidence warrants, begin proceedings in respect of discharges in violation of international rules (i.e. regulations in MARPOL 73/78). Another State in which a discharge violation has occurred, or the flag State, may request the port State to investigate the violation.

* **Article 200** deals with **coastal State jurisdiction** as applied in relation to pollution provisions. Where there are clear grounds for believing that a vessel navigating in the territorial sea of a State has violated laws and regulations of the coastal State adopted in accordance with UNCLOS or applicable international pollution regulations, the **coastal State may inspect the vessel** and, where evidence warrants, **institute proceedings including detention** of the vessel. Vessels believed to have violated pollution laws in an EEZ may be required to give identification and voyage information to the coastal State.
A02a.4 UNCLOS provisions relating to pollution prevention

* States must agree international rules and standards to prevent pollution from vessels (Article 211). (This obligation is currently met by MARPOL 73/78.)
* Coastal States may also promulgate and enforce pollution regulations in their own EEZs which may, in some circumstances, include imposition of routeing restrictions.
* In the territorial sea additional navigational restraints (e.g. traffic separation schemes and sea lanes) may be imposed on vessels with dangerous and hazardous cargoes.
  - Coastal States and ports may make entry to internal waters and harbours conditional on meeting additional pollution regulations.

A02b IMPLEMENTATION OF UNCLOS PROVISIONS BY UK

* The MS (Prevention of Pollution) (Law of the Sea Convention) Order 1996 (SI 1996/282) enables UK regulations to be made -
  - implementing provisions in UNCLOS 1982 (Cmnd. 8941) relating to pollution of the sea by ships; and
  - relating to the protection and preservation of the marine environment from pollution from ships caused beyond the UK’s territorial sea.
* The MS (Prevention of Pollution) (Limits) Regulations 1996 (SI 1996/2128) and the MS (Prevention of Pollution) (Limits) Regulations 1997 (SI 1997/506), which were made under powers conferred by the above Order, specify sea areas, called “controlled waters”, within which the jurisdiction and rights of the UK are exercisable in accordance with part XII of UNCLOS for the protection and preservation of the marine environment, i.e. in order to prevent pollution by discharges from ships. For a notes on controlled waters see I01a.1b.

A03 International Maritime Organization (IMO)

A03a NATURE AND PURPOSES OF IMO

* IMO is a specialised agency of the United Nations dealing with maritime affairs. Its membership consists of 162 signatory States that include the UK and every other major maritime country, and three Associate Members1. Together, IMO Member States control more than 96% of world merchant tonnage.
* IMO’s purposes are stated in Article 1 of the Convention on the International Maritime Organization. The chief purposes can be summarised as:
  - to facilitate inter-governmental co-operation on State regulation and practices relating to maritime technical matters; and
  - to encourage and facilitate the adoption of the highest practicable standards of maritime safety, efficiency of navigation and prevention and control of marine pollution from ships.
* Website: www.imo.org

A03b IMO PROCEDURES

A03b.1 IMO organs

* IMO’s main organs are its Assembly, Council, Maritime Safety Committee (MSC), Marine Environment Protection Committee (MEPC), Legal Committee, and Technical Co-operation Committee. There is also a Facilitation Committee and a number of sub-committees of the main technical committees.
* IMO’s work is mostly technical, and is carried out by the committees and sub-committees on which sit representatives of the governments of Member States. (For a note on the UK’s IMO Liaison Team and Permanent Representative to IMO see B05b.2a).

1 At 24 April 2003.
A03b.1a Assembly

- is the **highest governing body of IMO**. It consists of all Member States and meets once **every 2 years** in regular sessions, and in extraordinary sessions if necessary. The Assembly is responsible for approving IMO’s work programme, for voting IMO’s budget and for determining IMO’s financial arrangements. It elects IMO’s Council. Plenary sessions of the Assembly are open to the press and public, but the majority of its work is done in Committee.

A03b.1b Council

- is composed of 40 Member States elected by the Assembly for 2-year terms beginning after each regular session. 10 Council members are Member States with the largest interest in providing international shipping services, e.g. Greece and Norway. 10 are other States with the largest interest in international seaborne trade. 20 are other States with special interests in maritime transport or navigation and whose election to the Council will ensure the representation of all major geographic areas of the world.

* Council is the **executive organ of IMO**, responsible under the Assembly for supervising IMO’s work. It performs the functions of Assembly between sessions, except for making recommendations to governments on maritime safety and pollution.

A03b.1c Main committees

- include the **Maritime Safety Committee** (MSC), the **Marine Environment Protection Committee** (MEPC) and the **Legal Committee**.
- each have sub-committees which deal with detailed technical matters.
- may produce **resolutions** (see A03b.2d).

A03b.1d Secretariat

- consists of the Secretary-General and nearly 300 personnel, based at IMO’s London headquarters (for address see A03a).

A03b.2 IMO instruments

- include:
  - Conventions;
  - Protocols;
  - Amendments;
  - Recommendations, Codes and Guidelines; and
  - Resolutions.

* Amendments, guidelines and other measures are promulgated by the main committees (including the MSC and MEPC) by means of circulars, e.g. MSC/Circ. 666: Loading and unloading of bulk cargoes.

A03b.2a Conventions

- are multilateral treaty documents. (For notes on treaties see A01a.3.)
- are the **chief instruments** of IMO, being **binding legal instruments** regulating some aspect of maritime affairs of major concern to IMO, e.g. safety of life at sea or marine pollution.
- are identified by a **name** and the **year of adoption by the Assembly**, e.g. the “International Convention on the Safety of Life at Sea, 1974”.
- may have **detailed technical provisions** attached in annexes, e.g. the six annexes to the MARPOL Convention, each dealing with a different aspect of marine pollution.
- may also have detailed technical provisions in an associated **code**, e.g. the LSA Code, which contains technical provisions of equipment required under the provisions of SOLAS.
- are commonly referred to by a single-word **code-name**, e.g. “COLREG”, more correctly called “COLREG 1972” to indicate the year of adoption.

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2 The composition of the Council was changed by the 1993 amendments to the IMO Convention which came into effect on 7 November 2002.
**Maritime Treaties**

* A Member State which ratifies or accedes to an IMO convention is obliged to give effect to it by making its requirements part of its national law. Ratification involves a dual obligation for a Member State: it is both a formal commitment to apply the provisions of the convention, and an indication of willingness to accept a measure of international supervision.

**A03b.2b Protocols**

- are important treaty instruments made when major amendments are required to be made to a convention which, although already adopted, has not yet entered into force.

* The SOLAS Convention, 1974 has been amended twice by means of protocols: by the 1978 SOLAS Protocol (which entered into force on 1 May 1981) and by the 1988 SOLAS Protocol (which entered into force on 3 February 2000 and replaced and abrogated the 1978 Protocol as between Parties to the 1988 Protocol). The combined instruments, formerly known as SOLAS 74/78, are now collectively called SOLAS 74/88.

* The MARPOL Convention, 1973 has also been amended by means of protocols. The 1978 MARPOL Protocol made major changes to MARPOL in the wake of several large-scale pollution incidents in the 1970s, even though the 1973 Convention had not yet come into force; it also absorbed the parent Convention and ensured that the combined Convention/Protocol instrument (called MARPOL 73/78) would enter into force at an earlier date than the parent Convention would have done alone. (MARPOL 73/78 came into force on 2 October 1983.) The 1997 MARPOL Protocol (containing Annex VI – Regulations for the Prevention of Air Pollution from Ships) was adopted on 26 September 1997 and will enter into force 12 months after being accepted by at least 15 States with not less than 50% of world merchant shipping tonnage. (After that date MARPOL 73/78 may be referred to as MARPOL 73/78/97.)

* The International Convention on Load Lines, 1966 (LL 66) has been amended by a 1988 Protocol (which entered into force on 3 February 2000) and may now be referred to as LL 66/88.

**A03b.2c Recommendations, Codes and Guidelines**

* In addition to Conventions and other formal treaty instruments, IMO has adopted several hundred Recommendations and a number of Codes and Guidelines dealing with a wide range of subjects, most of them technical in nature. Each of these instruments is agreed by adoption of a Resolution, either of the Assembly or a main committee.

* Recommendations are not formal treaty documents like Conventions and Protocols and are not subject to ratification. They provide more specific guidelines than treaty documents. Although Recommendations are not legally binding on governments, they provide guidance in framing national regulations and requirements. Many governments do in fact apply the provisions of recommendations by incorporating them, in whole or in part, national legislation or regulations. Recommendations are generally intended to supplement or assist the implementation of the relevant provisions of conventions and, in some cases, the principal codes, guidelines, etc.

* Many Recommendations are closely linked to Conventions and are designed to assist in their implementation. For example, Resolution A.526(13) which was adopted in at the 13th Session of the Assembly in 1983 and lays down minimum performance standards for rate-of-turn indicators. (Where required to be fitted under SOLAS Regulation V/12, rate-of-turn indicators must meet or exceed the performance standards established by Resolution A.526(13).)

* Some Recommendations constitute Codes, Guidelines or Recommended Practices on important matters not considered suitable for regulation by formal treaty instruments such as Conventions or Protocols.

* Codes are named, e.g. the International Code of Signals (1969) and the ISM Code. Many Codes, such as the Timber Deck Cargoes Code, are non-mandatory but may be used by Governments as the basis for national regulations. Other codes, such as the ISM Code, the IBC Code and the IGC Code, are mandatory under a regulation of a “parent” Convention. For a list of the chief codes see A03c.5.

**A03b.2d Resolutions**

- are the final documents resulting from the agreement by the IMO Assembly or a main committee (e.g. MSC or MEPC) of some matter such as an Amendment or Recommendation.

- may be:
  - Resolutions of the Assembly, e.g. Resolution A.586(XIV), where “A” refers to the Assembly, “586” is the serial number of the resolution, and “XIV” indicates that it was made by the 14th Session of the Assembly; or
  - Resolutions of a main IMO committee, e.g. MEPC.54(32), where “MEPC” stands for “Marine Environment Protection Committee”, “54” is the serial number of the resolution, and “32” indicates that it was made by the 32nd session of the Committee.
* Where a Resolution is made by one of IMO’s main committees to take account of amendments to the provisions of a convention, a member State which has ratified the convention may enforce the Resolution through domestic legislation. For example, the UK Government made the (now revoked) MS (Pilot Ladders and Hoists) (Amendment) Regulations 1993 to take account of amendments made to regulation 17 of chapter V of SOLAS 74 by Resolution MSC.22(59) of the Maritime Safety Committee of IMO.

**A03b.3 Development of IMO Conventions**

* Developments in shipping and related industries are discussed by Member States in main IMO organs (Assembly, Council and 4 main committees). The need for a new convention or amendments to an existing convention can be raised in any of these, but is usually raised in one of the committees. The proposal goes to Council and, as necessary, to Assembly.
* With authorisation of Council or Assembly, the committee concerned considers the matter in greater detail and draws up a draft Convention. Detailed consideration may be given in a sub-committee. Inter-governmental and non-governmental organisations with a working relationship with IMO assist committees and sub-committees with views and advice.
* The draft Convention is reported to Council and Assembly with a recommendation that a conference be convened to consider draft for formal adoption.
* Invitations to attend a conference are sent to all Member States, all member States of the UN, and specialised agencies of the UN. The draft Convention is circulated for comment by governments and organisations.
* Conference examines the draft Convention and comments. Necessary changes are made before producing a draft acceptable to the majority of governments present. The Convention thus agreed on is adopted by the conference and deposited with the Secretary-General, who sends copies to all governments of Member States.
* The Convention is opened for signature by States, usually for 12 months. Signatories may ratify or accept the Convention. Non-signatories may accede to the Convention. (For notes on ratification and acceptance see A01a.3.)
* The Convention is not binding on any ratifying State until formally accepted by that State.

**A03b.4 Entry into force of IMO Conventions**

* Each Convention includes provisions stipulating conditions to be met before it enters into force. The more important and complex the document, the more stringent the conditions for entry into force. E.g. Tonnage 1969 required acceptance by 25 States with combined merchant tonnage totalling at least 65 per cent of world gross tonnage, whereas the International Convention for Safe Containers (CSC) only required acceptance by 10 States.
* Governments take measures to comply with Convention’s requirements. In many cases this means enacting or changing national legislation to enforce Convention provisions. (E.g. the UK made the Merchant Shipping (Safety of Navigation) Regulations 2002 to give effect to the revised Chapter V of SOLAS.)
* Governments deposit a formal instrument of acceptance and become Contracting States.
* When stipulated entry conditions have been met, the Convention enters into force for all States which have accepted it, generally after a period of grace to enable States to take measures for implementation.

**A03b.5 Amendment of IMO Conventions and other instruments**

* Amendments may be made to conventions, protocols or their annexes after discussion, agreement and adoption by the IMO Assembly.
* Amendments are made by adoption of a Resolution, such as MEPC.51(32) - Amendments to the Annex of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution by Ships, 1973 (Discharge criteria of Annex I of MARPOL 73/78).
* Amendments are suggested, discussed, agreed as with Conventions, described in A03b.3.
* The major IMO conventions such as SOLAS and MARPOL have been amended on numerous occasions.
* In early Conventions, amendments came into force only after a percentage of Contracting States, usually two thirds, had accepted them. This took several, and sometimes many, years. Newer Conventions incorporate procedure for tacit acceptance of amendments by States, which speeds up the amendment process. Under the tacit acceptance procedure, an amendment enters into force at a particular time unless, before that date, objections to the amendment are received from a specified number of Parties.
A03b.6 Enforcement of IMO conventions

* See A05.

**A03c IMO INSTRUMENTS**

* The “parent” instrument of IMO is the **IMO Convention**, which entered into force on 17 March 1958 and has (at 31 April 2003) 162 contracting States with 98.52% of world tonnage.

* The majority of other conventions and other instruments adopted under the auspices of IMO fall into three main categories:
  - **maritime safety instruments** (see A03c.1);
  - **marine pollution instruments** (see A03c.2); and
  - **liability and compensation instruments**, especially in relation to damage caused by pollution (see A03c.3).

* In addition there are several instruments concerning **other subjects** (see A03c.4) and many IMO **Codes** (see A03c.5).

### A03c.1 IMO maritime safety instruments

<table>
<thead>
<tr>
<th>Instrument name</th>
<th>Abbreviated name</th>
<th>Notes</th>
<th>Entry into force date. Number of Contracting Parties with percentage of world gross tonnage at 31 May 2003.</th>
<th>SBC ref.</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Convention for Safe Containers, 1972</td>
<td>CSC 1972</td>
<td>Aims to ensure safety in transport and handling of containers through acceptable test procedures and strength requirements. Also aims to facilitate international transport of containers by providing uniform international safety regulations, equally applicable to all modes of surface transport, so as to avoid proliferation of divergent national safety regulations. In force 6 Sep 1977. 72 Contracting States (59.75% world tonnage).</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Convention on the International Maritime Satellite Organization, 1976</td>
<td>INMARSAT C 1976</td>
<td>Parent of INMARSAT organisation. Defines purposes of INMARSAT as being to improve maritime communications, thereby assisting in improving distress and safety of life at sea communications, the efficiency and management of ships, maritime public correspondence services, and radio-determination capabilities. INMARSAT’S obligation to provide maritime distress and safety services via satellite were enshrined within 1988 (GMDSS) amendments to SOLAS. In force 16 Jul 1979. 88 Contracting States (92.30% world tonnage).</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>International Convention on Maritime Search and Rescue, 1979</td>
<td>SAR 1979</td>
<td>Aims at developing an international SAR plan, so that no matter where an accident occurs, rescue of persons in distress at sea will be co-ordinated by a SAR organisation and, when necessary, by co-operation between neighbouring SAR organisations. Parties must ensure arrangements are made for provision of adequate SAR services in their coastal waters and are encouraged to enter into SAR agreements with neighbouring States. In force 22 Jan 1985. 75 Contracting States (51.83% world tonnage).</td>
<td>H04b.12</td>
<td></td>
</tr>
<tr>
<td>International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995</td>
<td>STCW-F 1995</td>
<td>Aims to make standards of safety for crews of fishing vessels mandatory. Will apply to crews of seagoing fishing vessels of 24 metres in length and above. Short convention has an annex containing technical regulations. Will enter into force 12 months after being accepted by 15 States. 4 Contracting States (3.30% world tonnage).</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

*STCW 1978 was revised at a conference in London in July 1995; the revised convention is generally known as STCW 95 (see E01a).

### A03c.1a SOLAS chapters

* SOLAS 1974, as amended, comprises chapters as shown in the following table.

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Title</th>
<th>Related IMO Code(s)</th>
<th>Notes</th>
<th>Principal regulations giving effect in UK</th>
<th>SBC ref.</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>General provisions</td>
<td>-</td>
<td></td>
<td>MS (Survey and Certification) Regulations 1995</td>
<td>D04f</td>
</tr>
<tr>
<td>II-1</td>
<td>Construction – Structure, subdivision and stability, machinery and electrical installations</td>
<td>-</td>
<td></td>
<td>MS (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1995</td>
<td>D02a.1</td>
</tr>
<tr>
<td>III</td>
<td>Life-saving appliances and arrangements</td>
<td>LSA Code</td>
<td></td>
<td>MS (Life-Saving Appliances for Ships Other Than Ships of Classes III to VII(A)) Regulations 1999</td>
<td>D04k</td>
</tr>
<tr>
<td>IV</td>
<td>Radiocommunications</td>
<td>-</td>
<td></td>
<td>MS (Radio Installations) Regulations 1998</td>
<td>D04m</td>
</tr>
<tr>
<td>V</td>
<td>Safety of navigation</td>
<td>International Code of Signals</td>
<td>Revised chapter in force from 1 July 2002.</td>
<td>MS (Safety of Navigation) Regulations 2002</td>
<td>H01f</td>
</tr>
<tr>
<td>VI</td>
<td>Carriage of cargoes</td>
<td>BC Code; CSS Code; International Grain Code; Timber Deck Cargoes Code</td>
<td></td>
<td>MS (Carriage of Cargoes) Regulations 1999</td>
<td>F07g</td>
</tr>
<tr>
<td>VII</td>
<td>Carriage of dangerous goods</td>
<td>IMDG Code; IBC Code; IGC Code; INF Code</td>
<td></td>
<td>MS (Dangerous Goods and Marine Pollutants) Regulations 1997</td>
<td>F07l.2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MS (Gas Carriers) Regulations 1994</td>
<td>D03d.2a</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MS (Carriage of Packaged Irradiated Nuclear Fuel etc.) (INF Code) Regulations 2000</td>
<td>F07h</td>
</tr>
<tr>
<td>VIII</td>
<td>Nuclear ships</td>
<td>Code of Safety for Nuclear Ships</td>
<td>Applies to all nuclear ships except warships</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>IX</td>
<td>Management for the safe operation of ships</td>
<td>ISM Code</td>
<td></td>
<td>MS (International Safety Management (ISM) Code) Regulations 1998</td>
<td>C04b</td>
</tr>
<tr>
<td>X</td>
<td>Safety measures for high-speed craft</td>
<td>HSC Code</td>
<td>Applies to high-speed craft built on/after 1 Jan 1996</td>
<td>MS (High Speed Craft) Regulations 1996</td>
<td>D03l.1</td>
</tr>
<tr>
<td>XI-1</td>
<td>Special measures to enhance maritime safety</td>
<td>-</td>
<td>Contains regulations on (1) Authorisation of recognised organisations; (2) Enhanced surveys; (3) Ship identification number; (4) Port State control on operational requirements.</td>
<td>MS (Port State Control) Regulations 1995</td>
<td>D01h</td>
</tr>
</tbody>
</table>

THE NAUTICAL INSTITUTE 18
### A03c.2 IMO marine pollution instruments

<table>
<thead>
<tr>
<th>Instrument name</th>
<th>Abbreviated name</th>
<th>Notes</th>
<th>SBC ref.</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969</td>
<td>INTERVENTION 1969 INTERVENTION Protocol 1973</td>
<td>Affirms the right of a coastal State to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate danger to its coastline or related interests from pollution by oil or the threat thereof, following a maritime casualty. 1973 Protocol extends Convention to cover substances other than oil. In force 6 May 1975. 78 Contracting States (71.10% world tonnage).</td>
<td>H03c.2 H05c.2</td>
</tr>
<tr>
<td>Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972</td>
<td>LC 1972 LC Protocol 1996</td>
<td>Known as &quot;London Convention&quot;. Prohibits dumping of certain hazardous materials. Requires a prior special permit for dumping of a number of other identified materials and a prior general permit for other wastes or matter. Defines &quot;dumping&quot; as deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures, as well as the deliberate disposal of these vessels or platforms themselves. (Definition excludes wastes derived from exploration and exploitation of sea-bed mineral resources.) Contracting Parties undertake to designate an authority to deal with permits, keep records, and monitor the condition of sea. In force 30 Aug 1975. 80 Contracting States (70.44% world tonnage). 1996 Protocol not yet in force. 17 Contracting States (10.67% world tonnage).</td>
<td>-</td>
</tr>
<tr>
<td>International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto</td>
<td>MARPOL 73/78 Annexes I/II</td>
<td>Chief convention aimed at prevention of pollution of marine environment by ships from operational or accidental causes. Combination of two treaties, adopted 1973 and 1978. Annexes I and II are mandatory. Amended many times. Annex I given effect in UK by MS (Prevention of Oil Pollution) Regulations 1996 (SI 1996/2154); Annex II given effect in UK by MS (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996 (SI 1996/3010). In force 2 Oct 1983. 125 Contracting States (97.00% world tonnage).</td>
<td>D04g.1 D04g.2 D04g.3 H03a.1 H03b.1</td>
</tr>
<tr>
<td>International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto</td>
<td>MARPOL Protocol 1997 (Annex VI)</td>
<td>Provides controls for prevention of air pollution from ships. Will enter into force 12 months after ratification by 15 States with at least 50% world tonnage. 10 Contracting States (52.56% world tonnage).</td>
<td>D04g.10 H03f.1</td>
</tr>
</tbody>
</table>
### A03c.3 IMO liability and compensation instruments

<table>
<thead>
<tr>
<th>Instrument name</th>
<th>Abbreviated name</th>
<th>Notes</th>
<th>SBC ref.</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990</td>
<td>OPRC 1990</td>
<td>Parties must establish measures for dealing with pollution incidents, either nationally or in co-operation with other countries. Ships must carry a shipboard oil pollution emergency plan (SOPPEP). Ships must report incidents of pollution to coastal authorities. Provides for establishment of stockpiles of oil spill combating equipment, holding of oil spill combating exercises and the development of detailed plans for dealing with pollution incidents. Parties must provide assistance to others in the event of a pollution emergency and provision is made for the reimbursement of any assistance provided. Given effect in UK by MS (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056), as amended. In force 13 May 1995. 71 Contracting States (58.61% world tonnage).</td>
<td>H06c.2</td>
</tr>
<tr>
<td>Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000</td>
<td>OPRC/HNS 2000</td>
<td>Aims to provide a global framework for international co-operation in combating major incidents or threats of marine pollution. Parties must establish measures for dealing with pollution incidents, either nationally or in co-operation with other countries. Ships must carry a shipboard pollution emergency plan to deal specifically with incidents involving HNS. Will enter into force 12 months after ratification by 15 States party to OPRC Convention. 5 Contracting States (11.46% world tonnage).</td>
<td>-</td>
</tr>
<tr>
<td>International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001</td>
<td>AFS 2001</td>
<td>Prohibits use of harmful organotins in anti-fouling paints used on ships and establishes a mechanism to prevent potential future use of other harmful substances in anti-fouling systems. Will enter into force 12 months after ratification by 25 States with 25% of world tonnage. 3 contracting States (2.12% world tonnage).</td>
<td>-</td>
</tr>
</tbody>
</table>

#### Notes
- **International Convention on Civil Liability for Oil Pollution Damage, 1969**
  - **CLC 1969**
  - **CLC Protocol 1976**
  - **CLC Protocol 1992 (often called CLC Convention 1992)**
  - Aims at ensuring that adequate compensation is available to persons suffering oil pollution damage from maritime casualties involving oil-carrying ships. Applied to seagoing vessels carrying bulk oil cargoes. Ships carrying more than 2,000 tons of oil as cargo must maintain oil pollution insurance. Spills from tankers in ballast or bunker spills from ships other than other than tankers were not covered. 1969 convention replaced by 1992 Protocol, which extended cover to both loaded and unladen tankers, including bunker oil spills. CLC 1992 intended to eventually replace the CLC 1969. Some States Party to 1969 CLC have not yet ratified the 1992 Protocol; for the time being, therefore, both regimes are co-existing. Given effect in UK by Chapter III of the Merchant Shipping Act 1995. In force 19 Jun 1975. 43 Contracting States (4.83% world tonnage). 1992 Protocol in force 30 May 1996. 91 Contracting States (91.29% world tonnage). | G04d.1  G04d.2 |

- **International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971**
  - **FUND 1971**
  - **FUND Protocol 1976**
  - **FUND Protocol 1992 (often called Fund Convention 1992)**
  - **FUND Protocol 2003**

- **Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Materials, 1971**
  - **NUCLEAR 1971**
  - Aims to resolve difficulties and conflicts arising from simultaneous application to nuclear damage of certain conventions dealing with shipowners’ liability, as well as other conventions which placed liability arising from nuclear incidents on the operators of the nuclear installations from which or to which the material in question was being transported. Provides that a person otherwise liable for damage caused in a nuclear incident will be exonerated for liability if the operator of the nuclear installation is also liable for such damage under the Paris Convention, 1960 or the Vienna Convention, 1963, or national law similar in the scope of protection given to the persons suffering damage. In force 15 Jul 1975. 16 Contracting States (20.25% world tonnage). | - |

- **Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974**
  - **PAL 1974**
  - **PAL Protocol 1976**
  - **PAL Protocol 1990**
  - **PAL Protocol 2002**
  - Usually called the Athens Convention. Establishes liability regime for damage suffered by passengers carried on a seagoing vessel. Makes carrier liable for damage or loss suffered by a passenger if the incident causing the damage occurred in the course of the carriage and was due to the fault or neglect of the carrier. Unless carrier acted with intent to cause such damage, or recklessly and with knowledge that such damage would probably result, he can limit his liability. Sets limits of carrier’s liability. Given effect in UK by section 183 and Schedule 6 of Merchant Shipping Act 1995. In force 28 Apr 1987. 29 Contracting States (34.64% world tonnage). 1976 Protocol in force 30 Apr 1989. 23 Contracting States (34.33% world tonnage). 1990 Protocol not yet in force. 3 Contracting States (0.74% world tonnage). 2002 Protocol not yet in force. No contracting States. | F08a.2 |