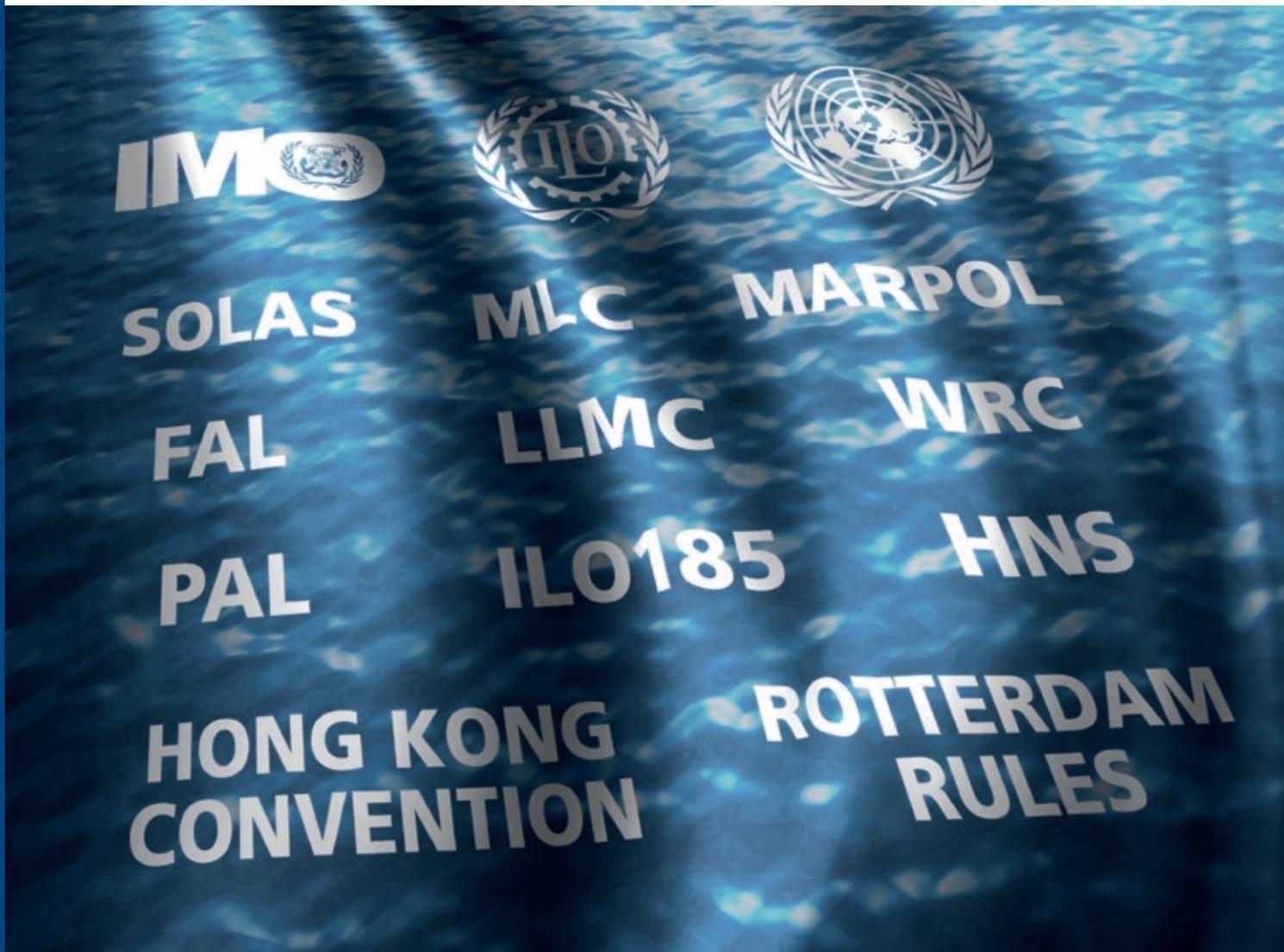


PROMOTING MARITIME TREATY RATIFICATION

THE ICS/ISF AND CMI CAMPAIGN



INTERNATIONAL CHAMBER OF SHIPPING
INTERNATIONAL SHIPPING FEDERATION



COMITÉ MARITIME
INTERNATIONAL



ICS is the principal international trade association representing all sectors and trades of the shipping industry. Together with representatives of its member national shipowners' associations, ICS participates actively at virtually every committee meeting of the International Maritime Organization (IMO), and contributes significantly to the development of all IMO regulations which impact on international shipping.



ISF is the principal international organisation for maritime employers. As an official International Labour Organization (ILO) 'social partner', ISF is responsible for co-ordinating the votes of the national shipowners' association representatives who adopt ILO maritime Conventions as part of the ILO tripartite process, together with governments and seafarers' representatives co-ordinated by the International Transport Workers' Federation (ITF). ISF also represents maritime employers at IMO.



CMI is an international association of maritime lawyers, established in Antwerp in 1897, the object of which is to contribute by all appropriate means and activities to the unification of maritime law in all its aspects. CMI's membership consists of national maritime law associations that work closely with ICS member national shipowners' associations.



IMO in session in London



ILO Maritime Conference in Geneva

PROMOTING TREATY RATIFI

ICS and ISF national shipowners' associations continually emphasise to their governments that shipping is an inherently international industry, dependent on a global regulatory system to operate efficiently. This endeavour is now also supported by CMI.

It is crucial that the same regulations governing such matters as safety, environmental protection, liability, and seafarers' working conditions apply to all ships in international trade, and that the same laws apply to all parts of the voyage. The alternative would be a web of conflicting rules and regulations that would compromise the efficiency of global trade, around 90% of which is carried by sea.

It is therefore very important that governments appreciate that the smooth operation of a global maritime regulatory regime is impeded by any failure or delay on their part in the ratification and implementation of international instruments to which they have agreed at IMO, ILO and other Diplomatic Conferences.

The failure of new Conventions to enter into force or become widely ratified also gives encouragement to the promotion of unwelcome unilateral or regional regulation.

This brochure highlights some particular international maritime Conventions which ICS, ISF and CMI believe are especially important for governments to ratify as a matter of priority.

However, there are many other Conventions that require wider ratification. Indeed, as can be seen by the ICS/ISF Flag State Performance Table (see www.ics-shipping.org/FlagStatePerformanceTable2012.pdf) there are several core Conventions that have been in force for many years but which have still not been ratified by a number of significant maritime nations.



For many years the **International Chamber of Shipping (ICS)** and the **International Shipping Federation (ISF)** have been conducting a global campaign to stress the vital necessity for governments to ratify and implement maritime Conventions adopted by the **International Maritime Organization (IMO)**, the **International Labour Organization (ILO)** and other United Nations bodies that impact on shipping. The **Comité Maritime International (CMI)** has now joined forces with ICS and ISF to assist those countries where there has been limited ratification of the major Conventions. This brochure reiterates the reasons behind the campaign and provides an update on recent developments.



ICATION : THE ICS/ISF AND CMI



Protocol of 1997 to MARPOL (Annex VI – Prevention of Air Pollution from Ships)

MARPOL Annex VI was amended in 2008 in order, inter alia, to reduce sulphur pollution dramatically. In 2011, it was further amended to include operational measures to reduce CO₂ emissions, the first global agreement of its kind covering an entire industrial sector, and which entered into force in January 2013. However, the relatively low number of ratifications could yet lead to problems with respect to maintenance of the level playing field and the avoidance of market distortion, especially if additional Market Based Measures are adopted by IMO in order to reduce CO₂ emissions. In the meantime, non-parties to Annex VI are less likely to comply with existing requirements concerning sulphur content in fuel, such as the need to ensure the provision of bunker delivery notes confirming that the fuel quality meets IMO requirements.

International Convention for the Safe and Environmentally Sound Recycling of Ships (Hong Kong), 2009

Early entry into force of this Convention will help improve safety and environmental standards in ship recycling yards and impose mandatory requirements on ships, such as the maintenance of inventories of hazardous materials, from the time of their construction to their final demolition. It will also require that ships are only sold to recycling yards that meet the new standards. The Convention is fully supported by the shipping industry as an alternative to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, which was never intended to be applied to international shipping and which would make efficient ship recycling extremely impractical. Lack of progress with respect to ratification has recently led to unwelcome proposals by the European Parliament for a regional regime that risks undermining the Hong Kong Convention and would do little to improve conditions in the majority of the world's ship recycling yards.

Convention on the Facilitation of International Maritime Traffic (FAL), 1965

The FAL Convention is an important instrument that is intended to make life easier for ships and their crews by reducing reporting formalities and administrative burdens, and ensuring the highest practicable degree of uniformity in formalities and other procedures when ships enter the ports of other nations. However, the importance of the Convention is often overlooked by governments, which since the events of '9/11' have been increasingly focussed upon security and immigration concerns. There is also a need for more widespread ratification of FAL by governments in developed and emerging economies.

Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976

The LLMC Protocol entered into force in 2004 and increased significantly the liability limits for a number of maritime claims. The increased levels of compensation for claimants agreed by the IMO Legal Committee in 2012, and the international community's continued endorsement of the concept of limitation of liability, are fully supported by ICS and CMI, which are promoting the global ratification of this important instrument.

Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974

The Protocol introduces compulsory insurance for passenger personal injury claims and other mechanisms to assist passengers in obtaining compensation, the level of which is increased significantly. The Protocol has so far only been ratified by a few countries, although since January 2013 its requirements are being enforced in EU waters by a separate EU regulation. In the interests of consumer protection, it is clearly desirable that it achieves global acceptance as soon as practicable.

International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS), 1996, and Protocol of 2010

The HNS Convention is modelled on the highly successful international oil pollution liability and compensation regime (established by the widely ratified IMO Civil Liability and Fund Conventions) and will establish an international regime for HNS damage, the cost of which will be shared between shipowners and HNS cargo receivers. However the failure to enter into force has been giving encouragement to regional action and has been cited in a number of European Commission proposals. In 2010, IMO adopted a Protocol to the HNS Convention intended to overcome obstacles to ratification, which governments should no longer have any reason to delay. Until the HNS Convention enters into force, an existing EU Directive on Environmental Liability for Preventing and Remedying Environmental Damage will apply to HNS incidents in the waters of EU Member States.

Nairobi International Convention on the Removal of Wrecks (Nairobi WRC), 2007

This completes the framework of liability and compensation Conventions adopted by IMO, establishing a regime of strict liability for shipowners for the costs of locating, marking and removing hazardous wrecks, backed by compulsory insurance and direct action against insurers. When ratifying, governments are urged to 'opt-in' and extend the application to wrecks located within their territorial sea, to ensure greater international uniformity in the measures to be taken to locate, mark and remove wrecks.

MI CAMPAIGN



ILO INSTRUMENTS

Maritime Labour Convention (MLC), 2006

The ILO MLC will enter into force in August 2013. For the first time, many existing ILO legal instruments covering such matters as conditions of employment, seafarers' hours of work, medical treatment, repatriation, and crew accommodation at sea have been consolidated into a single Convention that can be enforced internationally both by flag state inspection and port state control. Its entry into force will provide the level playing field of international maritime employment standards which shipowners and seafarers require, representing the 'fourth pillar' of global maritime regulation along with the IMO SOLAS, MARPOL and STCW Conventions. However, in the event that any nation fails to ratify the Convention this could create problems with respect to the overseas employment prospects of its national seafarers, while ships flying flags that have not ratified the MLC are likely to experience port state control problems due to the absence of the required flag state documentation, even if they are otherwise compliant.

Seafarers' Identity Documents Convention (Revised) (ILO 185), 2003

ILO 185 was adopted as part of the package of maritime security measures following the terrorist attacks of 2001. As a quid pro quo for requiring seafarers to carry new identity documents, port states are required to facilitate shore leave and transits to and from ships, for example by not requiring seafarers to obtain visas from overseas consulates in advance of their arrival. As well as addressing the security concerns of port states, the wide ratification of the Convention should materially assist the welfare of seafarers who are increasingly deprived of shore leave in certain countries.



OTHER UN INSTRUMENTS

United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Rotterdam Rules), 2009

The Rotterdam Rules, adopted by the United Nations Commission on International Trade Law (UNCITRAL), are intended to replace outdated cargo liability regimes such as the Hamburg and Hague/Visby Rules. It is vital that the new regime is ratified to prevent a proliferation of regional cargo liability regulations, and to ensure a global regime that reflects modern 'door to door' services involving other transport modes in addition to the sea-leg, and 'just in time' delivery practices. If the Rotterdam Rules do not take hold then the United States and the EU will almost certainly pursue their own regional regimes and the opportunity for global uniformity will be lost for another generation.

CAMPAIGN UPDATE

International Convention on Control and Management of Ships' Ballast Water (BWM), 2004



In principle, ICS fully supports the eventual entry into force of the BWM Convention. At present, however, ICS is not actively encouraging governments that have not yet done so to ratify the Convention until outstanding questions concerning the implementation of the requirements are resolved by IMO. This includes questions concerning the robustness of the type approval process for the expensive new treatment equipment required, methodology to be used for compliance sampling during port state control inspections, and the time scale that will be available in which existing ships will be able to retrofit the new equipment.

The **ILO Maritime Labour Convention** will enter force in August 2013. To help companies ensure compliance, ISF has produced *Guidelines on the Application of the ILO MLC*. ISF has also updated its popular *ISF Watchkeeper* work record software to reflect the requirements of the MLC (and STCW 2010).

In April 2012, with full ICS support, IMO agreed to increase the limits of liability under the **LLMC**, by 51%. In addition to general maritime claims, the new LLMC limits, which will come into effect in 2015, will apply to claims under IMO Conventions governing liabilities for bunker spills (other than claims covered by the Civil Liability Convention) and wreck removal once the Nairobi Convention enters into force. It is hoped that the increases will help ensure that the principle of limitation of liability will be maintained, which is vital if shipowners are to continue to have access to affordable insurance. It is also hoped that the new limits will not deter emerging economies from subscribing to the LLMC.

The **Rotterdam Rules** on cargo liability are being actively promoted by ICS and CMI. Early ratification by major trading nations will almost certainly give widespread acceptance critical momentum, and the United States administration is shortly expected to put ratification before Congress.

Published in April 2013 by

International Chamber of Shipping/International Shipping Federation

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