

The IMO and its Role under UNCLOS

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Outline

1. Introduction
2. Contemporary mandate
3. Structure & decision-making
4. Competent international organizations on shipping matters
5. The IMO as “the” competent international organization for shipping under UNCLOS
6. Polar shipping regulation work
7. Conclusion

1. Introduction

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



Koji Sekimizu
(Japan),
outgoing SG

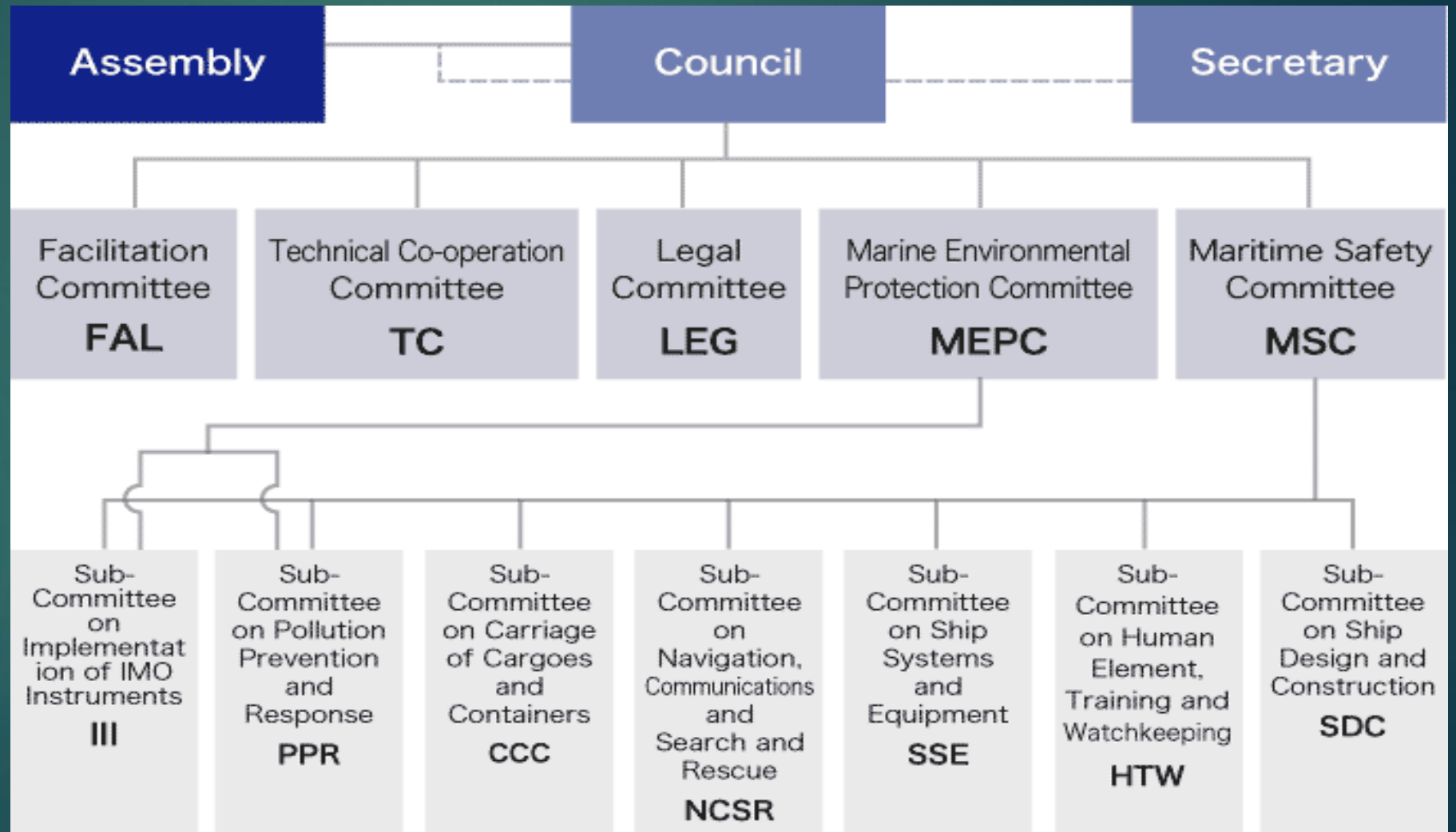
Kitack Lim
(Republic of
Korea),
incoming SG as
of 1 January
2016

Source: IMO,
2015

2. IMO Contemporary Mandate

1. Terms of reference under the Convention on the International Maritime Organization, 1948.
2. Tasks assigned by international maritime conventions.
3. Functions in UNCLOS wherever references to “competent international organization” apply to the Organization

3. IMO Structure



Source: ClassNK Online:
http://www.classnk.or.jp/hp/en/info_service/imo_and_iacs/topics_imo.html

4. Competent intergovernmental organizations for shipping

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

What distinguishes IMO competence

- ▶ UNCLOS-related reasons:
 - ▶ Designated as “the competent international organization” with regard to shipping matters in UNCLOS
 - ▶ Key role in giving content to the protection of international navigation rights in UNCLOS.
- ▶ IMO Convention-related reasons:
 - ▶ General comprehensive mandate exclusively dedicated to navigation and shipping, without being restricted to a particular issue.
 - ▶ Functions for the development of international maritime public law and regulation for safe, secure and environmentally responsible shipping.

5. IMO as “the” or “a” competent international organization in UNCLOS

Prescriptive
function

Facilitation of
compliance

Facilitation of
management
of navigable
waters

Facilitation of
regional
cooperation

Others
“a”

Key functions defined

Prescriptive function

- ▶ UNCLOS:
 - ▶ internationally/generally/applicable agreed international instruments/rules/regulations/standards/ recommended practices/procedures
 - ▶ Roles where navigation and shipping are concerned
- ▶ Codes, guidelines, procedures, recommendations within the framework of IMO Conventions (safety, environment, security, trade facilitation)
- ▶ Tacit acceptance of amendments process (“quasi-legislative”)

Compliance facilitation

- ▶ Sub-Committee on Implementation of IMO Instruments (III)
- ▶ IMO Instruments Implementation Code, 2013 (III Code): mandatory audit scheme (flag, port and coastal States)
- ▶ Port state control system
- ▶ Integrated Technical Cooperation Programme

Functions defined *continued*

10

Facilitation of management of navigable waters

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

Facilitation of regional cooperation

- ▶ Role in some regional sea programmes
 - ▶ E.g., Mediterranean
- ▶ Strait-bordering straits (art 43)
 - ▶ Cooperative Mechanism for the Straits of Malacca and Singapore as a model

6. Polar shipping regulation work

▶ SOLAS-related:

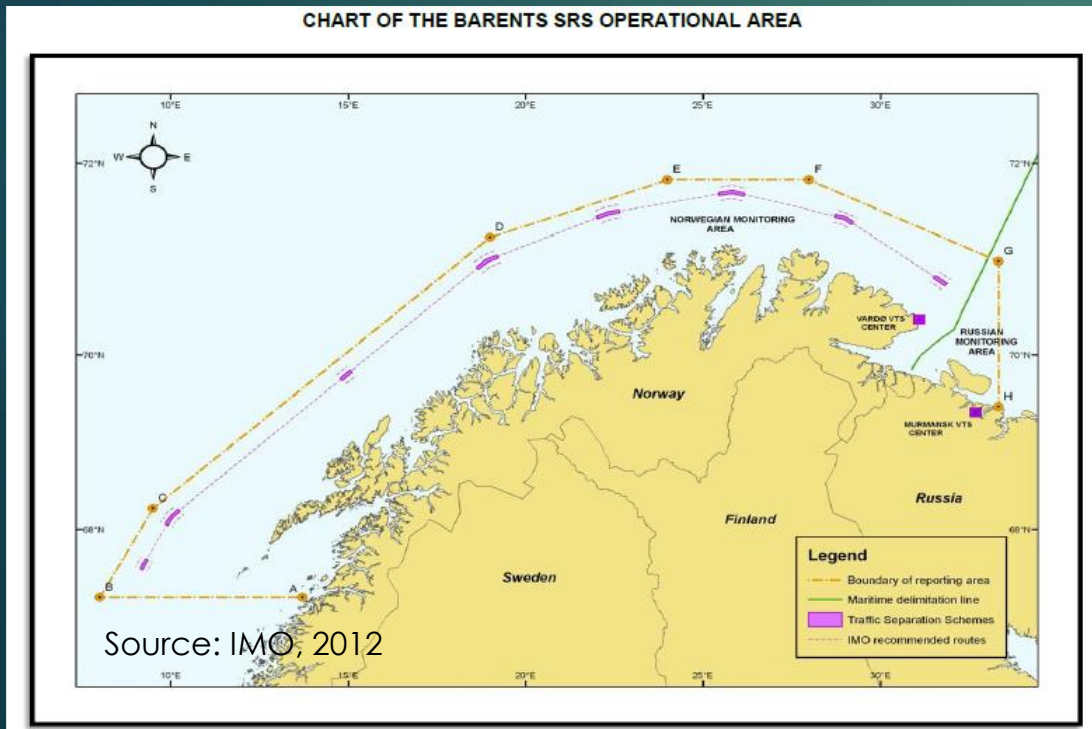
- ▶ Chapter II-1: Construction – Structure, Subdivision and Stability, Machinery and Electrical Installations
 - ▶ 2008: Intact Stability Code amendments (icing allowances)
- ▶ Chapter V: Safety of Navigation
 - ▶ North Atlantic Ice Patrol (since 1913)
 - ▶ 2007: creation of new NAVAREAs and METAREAs in Arctic waters
 - ▶ 2010: expansion of the World-Wide Navigational Warning System (WWNWS) into Arctic waters
 - ▶ 2013: inclusion of iridium mobile satellite system within the Global Maritime Distress and Safety System (GMDSS)

Polar shipping regulation work continued

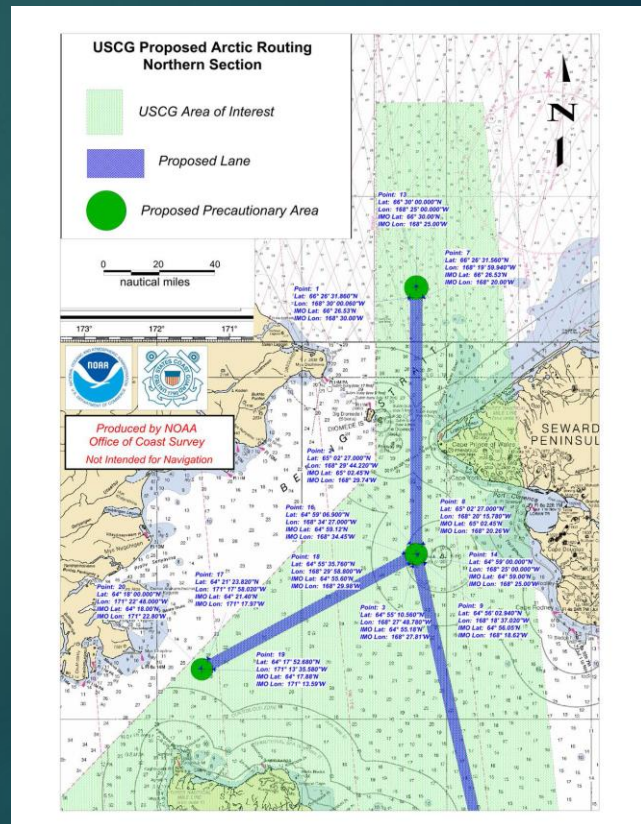
Chapter V, Reg 10 – Routeing:

2012: Barents -- Mandatory ship reporting system for vessels of 5000 tons (effective 2013)

Source: US Coast Guard, 2015



Future
Routeing?
Aleutian
Islands, Bering
Sea, Chukchi:
Future fairways,
traffic separation
schemes and
precautionary
areas?



Polar shipping regulation work

continued

▶ SOLAS-related:

- ▶ Chapter VII: Carriage of Dangerous Goods
 - ▶ 2013: amendment of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code) (procedure for the carriage of cargo at low temperature)
- ▶ Chapter XIV: Safety Measures for Ships Operating in Polar Waters (2014: brand new chapter)
 - ▶ Applies to all ships in polar waters certified under Chapter I (exception for government-owned ships on non-commercial service)
 - ▶ Ships to comply with Part 1A of Polar Code
 - ▶ Ships constructed before 1 January 2017 to meet Polar Code by the first intermediate or renewal survey, whichever occurs first, after 1 January 2018
 - ▶ “Nothing in this chapter shall prejudice the rights or obligations of States under international law.” [Reg 2(5)]

Polar shipping regulation work

continued

▶ SOLAS-related:

▶ Polar Code:

- ▶ Maritime safety: Parts IA (mandatory) –IB (recommendations)
- ▶ Marine environment protection: Parts IA (mandatory) –IB (recommendations)

▶ Other safety initiatives:

- ▶ 2007: Guidelines on Voyage Planning for Passenger Ships in Remote Areas (appraisal, planning and execution of a list of measures for the voyage and passage plan)
- ▶ 2008, 2012am: Guide for Cold Water Survival

Polar shipping regulation work

continued

15

▶ MARPOL-related:

- ▶ 2015: amendments to Annexes 1, 2, 4 and 5

▶ STCW-related:

- ▶ 2010: Manila amendments and resolution on Guidance regarding Training of Masters and Officers for Ships Operating in Polar Waters
 - ▶ ice characteristics, ships' performance in ice and cold climates, voyage and passage planning for ships in ice, operating and handling ships in ice, international regulations and local requirements, equipment limitations, safety precautions and emergency procedures, and environmental considerations

7. Conclusion

- ▶ If the IMO did not exist, would it have to be invented, given the delicate balances created in UNCLOS?
- ▶ How can the IMO's success be explained?
- ▶ What unfinished business is there in polar shipping regulation?
- ▶ Should the Arctic Council be working more closely with the IMO?