



International
Chamber of Shipping

Shaping the Future of Shipping



Promoting Maritime Treaty Ratification

The ICS and CMI Campaign

March 2025



A global industry requires global rules

The shipping industry, which transports about 90% of world trade, is fortunate to enjoy the comprehensive regulatory framework provided by the UN International Maritime Organization (IMO) and other United Nations bodies such as the International Labour Organization (ILO).

It is critical that the same regulations governing matters such as safety, environmental protection and shipowners' liability, as well as seafarers' training and employment standards, apply equally to all ships engaged in international trade, and that the same rules apply during all parts of the voyage.

The alternative would be a plethora of conflicting national or regional rules that would seriously compromise the efficiency of world trade, creating market distortion and administrative confusion. The absence of global standards, genuinely enforced worldwide on a uniform basis, would lead to a patchwork of unilateral regulations and inferior levels of safety and environmental protection.

Whenever new maritime Conventions are adopted, it is therefore most important that governments seek to ratify them as soon as practicable.

When liaising with their respective governments, ICS and CMI members are always keen to emphasise that shipping is an inherently global industry, dependent on a global regulatory system to operate efficiently.

Any delay to the entry into force of new Conventions can encourage the promotion of unwelcome unilateral regulation by national or regional authorities which may undermine both the highly developed global regulatory framework that applies to international shipping and the authority of IMO and the ILO.

For these reasons, ICS and CMI have long campaigned for governments to ratify and implement those maritime Conventions adopted at IMO, ILO and the various other UN bodies that impact on shipping.

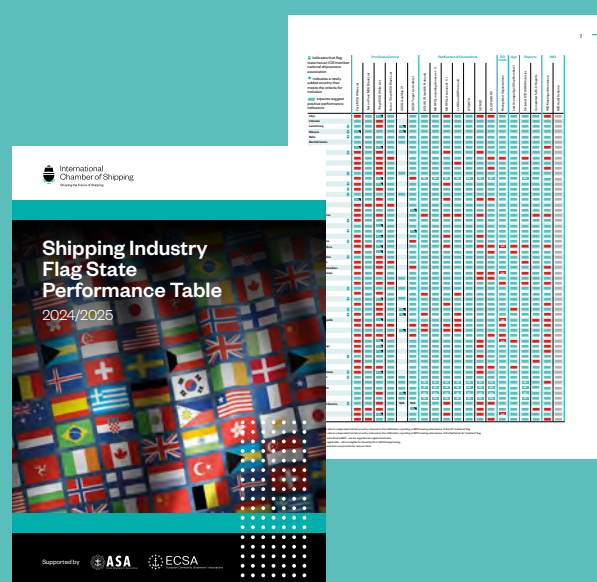
The core Conventions governing shipping – Safety of Life at Sea (SOLAS), Prevention of Pollution from Ships (MARPOL), Standards of Training and Watchkeeping (STCW) and the ILO Maritime Labour Convention (MLC) – all enjoy very impressive levels of ratification by governments. They are implemented on a global basis across virtually the entire merchant fleet. The same can be said for the highly successful 1992 Civil Liability and Fund Conventions.

But there are a number of other maritime instruments that would benefit from a greater level of ratification. This includes several international Conventions which still require additional ratifications by governments in order to enter into force worldwide.

While this brochure highlights those international maritime Conventions which ICS and CMI believe are especially important for governments to ratify, there are also many other Conventions that still require wider ratification. Indeed, as can be seen by the ICS *Shipping Industry Flag State Performance Table* (www.ics-shipping.org/resource/shipping-industry-flag-state-performance-table-2024-2025) there are several important Conventions that have been in force for many years but which have not been ratified by every maritime nation.

The International Chamber of Shipping (ICS) is the global trade association for shipowners, comprising national shipowners' associations representing all sectors and trades, and over 80% of the world merchant fleet.

The Comité Maritime International (CMI) is the global association representing national maritime law associations.



Priority Conventions for 2025-2027

The following Conventions are the main focus of the current ICS/CMI campaign. Ratification of these instruments by governments is strongly encouraged as a matter of urgency.

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

What is it? The Nairobi WRC entered into force in 2015. It establishes a regime of strict liability on shipowners for the costs of locating, marking and removing wrecks that pose a hazard, with requirements that shipowners maintain insurance or other financial security to cover their liabilities and with claimants' rights of direct action against such providers and a flag state certification regime.

Why is it important? There is no other international regulatory regime governing liability and compensation for the removal of wrecks. Research undertaken by the International Group of P&I Clubs evidences the increasingly expensive nature of wreck removal operations and, without the Nairobi WRC in force, coastal states can often find themselves having to cover the expense of wreck removal without recompense from any party involved in the ships' operations. The Nairobi WRC mitigates any such risk for coastal states by following the same approach to liability and financial security that is taken by the successful IMO Conventions governing liability

and compensation for ship-sourced pollution damage. The Nairobi WRC applies in coastal states' parties Exclusive Economic Zones or equivalent areas. When ratifying, governments are urged to make use of the 'opt-in' in the Convention to extend the application to wrecks within their territorial seas, where most such incidents occur. This will ensure both greater international uniformity and that the strict liability and financial security provisions will apply to the measures taken to locate, mark and remove such wrecks.

Recent developments Surprisingly, given the increasing cost of wreck removal operations, the list of states parties to the Nairobi WRC is only 70 as of January 2025 and significantly behind the numbers of states parties to the IMO liability and compensation Conventions governing ship sourced oil pollution damage. Only three states acceded to the Convention in 2024, therefore suggesting the need for a renewed effort among states. Existing states parties that have not applied the 'opt-in' should do so, as it is available at any time after accession or ratification, to obtain the full benefits of the WRC within their territorial seas.

IMO Technical Co-operation

IMO is the United Nations agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships.

This ongoing ICS/CMI campaign to promote treaty ratification has the full support of IMO which is increasingly focused on the need to further improve the effective implementation of its existing maritime instruments, in addition to its vital rule-making function.

Ratification of treaties is ultimately the responsibility of governments. It is therefore important that governments appreciate that the smooth operation of global shipping can be impeded by any failure on their part to ratify the instruments adopted at the IMO. For treaties to be successful they must also be fully implemented, consistently and effectively. This requires various legislative,

administrative and practical measures to be put in place by governments at a national level. The IMO Member State Audit Scheme, which became mandatory in 2016, intends to provide states with an objective assessment of how effectively they are implementing key IMO instruments. It also helps governments to identify any areas where they might need additional support or resources.

IMO, through its extensive technical co-operation programme, can provide significant assistance to its member states (in their capacities as flag, port and coastal states), particularly if they lack the necessary technical expertise or resources to ratify and implement particular instruments. The IMO secretariat is ready to assist in drafting or updating national maritime legislation for the effective implementation of IMO regulations. But it is important to note that in order for IMO to provide such assistance it must first be approached by the nation concerned.

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

What is it? The HNS Convention is modelled on the highly successful international oil pollution liability and compensation regime. When it enters into force, it will establish an international regime for HNS damage, the cost of which will be shared between shipowners and HNS cargo receivers. The adoption of the Protocol to the HNS Convention in 2010 overcame some of the obstacles to ratification, but governments unfortunately have remained slow to act, although momentum is now building towards entry into force.

Why is it important? The transport of HNS by sea is a major global trade. Chemicals and other hazardous products underpin many manufacturing processes and IMO regulations ensure their safe transport. However, incidents do happen and the Convention is needed to ensure that those who might suffer damage will have access to a comprehensive, global liability and compensation

regime, similar to that available to those affected by spills of persistent oil cargoes and bunker fuel oil.

The shared system of liability and compensation under the Convention between shipowners and HNS cargo receivers means that the responsible parties involved in the carriage of HNS by sea will be liable and the levels of compensation available will be sufficient to cover damage arising from most ship sourced HNS incidents. When in force, the Convention will establish a similar governing structure to the 1992 IOPC Fund, namely an HNS Fund that will work closely with shipowners and their insurers to ensure prompt and adequate payment of compensation.

Recent developments The Convention's entry into force requirements are close to being met and a number of states are coordinating work on implementation. In recent years, the IMO Legal Committee and IOPC Funds have conducted focused work to facilitate entry into force and implementation of the Convention, with the production of education materials, online resources (see www.hnsconvention.org), and workshops for states and industry. The number of contracting states has increased as a result and momentum is building to suggest that the Convention will enter into force in the near future.

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

What is it? The Hong Kong Convention sets global standards to improve environmental and working conditions in ship recycling yards, most of which are located in developing nations in Asia. It will enter into force on 26 June 2025.

It requires that end-of-life ships are only sold to recycling yards that meet the new standards.

The Convention also requires ships to maintain inventories of hazardous materials from the time of their construction to their final demolition. The Hong Kong Convention is fully supported by the shipping industry as demonstrated by the expanded *Transitional Measures for Shipowners Selling Ships for Recycling*, published in 2016 to help shipowners adhere to the Convention as far as practicably possible, in advance of the full implementation of a binding global regime.

Why is it important? The entry into force will help improve safety standards in ship recycling yards worldwide. The length of time that it has taken to trigger the entry into force provisions has led to the establishment of a separate regional regulation in the European Union (EU). Ship recycling however is a competitive global market that requires global solutions. Hence the importance of further ratifications of the Convention by states to give it a truly global application.

Recent developments A number of large flag states have ratified the Convention and a number of major ship recycling nations have also done so, including Bangladesh, India, Pakistan and Türkiye. Published in 2023, the *ICS Ship Recycling Guide, First Edition* provides expanded advice to shipowners and other key stakeholders on compliance with the Hong Kong Convention and explains the differences between the Convention and the above-mentioned EU Regulation.



Safe and sustainable ship recycling project in Bangladesh

UNIFORM INTERPRETATION OF IMO CONVENTIONS

Shipping is an international business that necessitates regulation at the international level to ensure global uniformity and harmonisation of rules. This extends to uniform interpretation of rules and regulations adopted by the IMO. Without such a uniform interpretation, the adoption of international treaties to provide for global uniformity would be largely futile. The IMO's liability and compensation Conventions are underpinned by the right of the shipowner and their insurer to limit their liability, and that the nature of such a right is inextricably linked to higher limits of liability and the insurability

of such liabilities. To ensure a uniform interpretation of the test to break the owner's right to limit their liability under the relevant IMO Conventions, the IMO Assembly issued three Resolutions (A. 32/ Res.1163, 1164 and 1165) in 2022 that affirm that the test is to be interpreted in a manner intended by the drafters when first adopted by the IMO in 1976. It is crucial to the functioning of the IMO's framework of liability and compensation Conventions that a consistent approach is taken in accordance with these Resolutions so that eligible claimants are not deprived of prompt compensation under the IMO instruments.

United Nations Convention on the International Effects of Judicial Sales of Ships, 2023 (the Beijing Convention)

What is it? The Beijing Convention, adopted by the United Nations Commission on International Trade Law (UNCITRAL), is intended to remedy the absence of an international instrument dealing with the transborder effects of judicial sales. It aims to clarify the uncertainty regarding the clean title which the judicial sale is supposed to confer upon the purchaser of a ship in a judicial sale.

Why is it important? The lack of harmonisation, legal certainty and fairness for all stakeholders in judicial sales of ships, be they shipowners, their creditors, purchasers, shipping financiers and cargo interests, often leads to issues or even to deadlock situations when purchasers try to deregister the ship in its original flag state or to register the ship in the register of their choice. Moreover, purchasers risk facing claims or even the arrest of the ship for claims predating the judicial sale if states fail to give proper effect to the free and unencumbered title conferred by the state of the judicial sale. The legal uncertainty surrounding judicial sales of ships leads to risks, losses, costs and consequently, to loss of confidence by potential buyers and their financiers and eventually to reduced sale proceeds to the detriment of the ship's creditors, including the crew, shipping financiers and suppliers of shipping services.

Recent developments On 30 December 2024 Ghana signed the Convention as the 31st signatory to the treaty, joining Antigua and Barbuda, Belgium, Burkina Faso, China, Comoros, Côte d'Ivoire, Croatia, Cyprus, the Dominican Republic, Ecuador, El Salvador, Gabon, Grenada, Honduras, Italy, Kiribati, Liberia, Libya, Luxembourg, Malta, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Spain, Switzerland, Syria, the United Republic of Tanzania and the EU. El Salvador became the first state party to the Convention on 23 May 2024.

Although three ratifications suffice for the Convention to enter into force, the Convention applies on a basis of reciprocity between states parties, and so it is important that further states and especially flag states and states where judicial sales tend to take place, proceed with ratification. Widespread entry into force is expected to take place in 2025 with a spate of ratifications likely to follow the EU's green light for its member states to ratify.



Instruments which would benefit from wider ratification

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

The BWM Convention entered into force in September 2017. ICS and CMI fully support the intention to prevent invasive marine organisms being inadvertently transported in ships' ballast water tanks, potentially damaging local ecosystems. Now that IMO has addressed many of the concerns raised by the shipping industry, ICS and CMI are determined to help make implementation a success. To ensure uniform implementation of what are very complex technical requirements, it is vital that as many nations as possible now ratify this important Convention.

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

In 2010, major amendments to MARPOL Annex VI entered into force to reduce sulphur and NO_x emissions. In 2013, further amendments entered into force concerning technical and operational measures to reduce CO₂ emissions, the first global agreement of its kind covering an entire industrial sector. However, a greater number of ratifications of Annex VI is required to help avoid any unfair competition, with the 0.5% global sulphur in fuel cap taking effect in 2020, which dramatically increased the cost of compliant marine fuel.

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

The LLMC Protocol entered into force in 2004 and significantly increased the liability limits for a number of maritime claims. In 2015 a further 51% increase in compensation available for claimants came into effect. This increased amount, agreed under the tacit amendment procedure contained in the Convention, also applies to claims under IMO Conventions governing liabilities for bunker spills and wreck removal. It is hoped that this increase will help ensure that the principle of limitation is maintained, which is vital if shipowners are to continue to have access to affordable insurance. However, more nations still need to ratify the Convention in the interests of global uniformity. In addition, states that have already ratified the Convention need to ensure that the increase in the liability limits is duly implemented in their national legislation.

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

The FAL Convention 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 when ships enter the ports of other nations. Significant amendments were adopted by IMO in 2016. Despite a high level of ratification in terms of tonnage covered, there is still a need for more widespread ratification by port states, particularly less developed economies which will benefit from the removal of administrative inefficiencies.

ILO 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 of port states, the wider ratification of the Convention should materially assist the welfare of seafarers who are increasingly deprived of shore leave in certain countries. In 2016, ILO adopted amendments to the technical annexes of the Convention aligning the requirements of seafarer identity documents with other machine-readable travel documents such as e-passports, which should overcome a significant practical obstacle to ratification.





IMO Assembly

IMO 2003 Supplementary Fund Protocol to the 1992 Fund Convention (2003 Protocol)

The 2003 Protocol provides additional compensation above that available under the 1992 Civil Liability and Fund Conventions for pollution caused by persistent oil cargo spills from tankers, but only in those states that have ratified it. The 2003 Protocol means that claimants in states parties have access to a third tier of compensation amounting to around US\$1 billion per incident and which is more than three times that available under the 1992 Fund Convention. While it is rare for the total costs of valid claims to exceed the level of compensation available from the 1992 Fund, a number of high-profile tanker incidents have evidenced the need for and importance of the 2003 Protocol.

United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ)

The BBNJ Agreement was adopted in 2023 and builds on the requirement contained in UNCLOS to protect the marine environment and sets out a process to enable the establishment of cross-sectoral Marine Protected Areas and other area-based management tools in the high seas and the underlying seabed. The Agreement will come into effect after ratification by 60 states. It is encouraging that a number of states have already expressed their consent to be bound by the Agreement, but there is a clear need for more widespread ratification in order to reach the necessary number for the Agreement to enter into force.

IMO 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 compared to the original Convention. The Protocol entered into force in 2014, but more widespread ratification would help to ensure that passengers have access to the same level of protection no matter where in the world they are travelling. When ratifying, governments are urged to make the Reservation contained in the 2006 IMO Guidelines for Implementation of the Athens Convention with respect to the limitation of liability of carriers and insurers, and compulsory insurance/certification for terrorism risks.

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

The Rotterdam Rules, adopted by the UNCITRAL, are intended to provide a modern cargo liability regime to replace the long-standing Hamburg and Hague/Visby Rules. It is vital that the new regime enters into force 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.



The International Chamber of Shipping (ICS) is the global trade association representing national shipowners' associations from Asia, Africa, the Americas and Europe and more than 80% of the world merchant fleet. Established in 1921, ICS is concerned with all aspects of maritime affairs particularly maritime safety, environmental protection, maritime law and employment affairs. ICS enjoys consultative status with the UN International Maritime Organization (IMO) and International Labour Organization (ILO).



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. To this end CMI collaborates closely with IMO on matters of mutual interest. CMI's membership consists of national maritime law associations that work closely with ICS member national shipowners' associations.

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