



## 人权理事会

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#### 议程项目 3

促进和保护所有人权——公民权利、政治权利、  
经济、社会及文化权利，包括发展权

## 对国际海事组织的访问

### 危险物质及废物的无害环境管理和处置对人权的影响问题特别报告员 马科斯·奥雷利亚纳的报告\*

#### 概要

危险物质及废物的无害环境管理和处置对人权的影响问题特别报告员马科斯·奥雷利亚纳于2023年1月16日至20日访问了国际海事组织，并于2020年12月7日至18日与国际海事组织的官员举行了线上会议。航运与环境 and 人类之间有密切关联，因此国际海事组织的工作一向与人权领域相关。例如，石油和有毒物质泄漏给沿海社区造成了伤害；船舶排放的气体对港口城市有不利影响并加剧了气候变化；海员可能面临危险的工作环境和强迫劳动；危险货物的运输给海员和环境带来了风险。因此，航运影响着享有一系列人权的情况。国际海事组织作为公共监管机构，尚未在工作中采取明确的基于人权的方针。

\* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。



## Annex

# Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana, on his visit to the International Maritime Organization

## I. Introduction

1. The *MV Wakashio* accident on 25 July 2020 spilled 1,000 tons of fuel oil in environmentally sensitive waters near Mauritius.<sup>1</sup> As a result, fishing communities could no longer make a living.<sup>2</sup> Tanker accidents have led to the release of many thousand tons of oil, most prominently the 1967 *SS Torrey Canyon* grounding on the coast of England (releasing between 85,000 and 150,000 tons of oil plus 10,000 tons of solvent emulsifiers, 14,000 gallons of kerosene and napalm, 161 1000-lb bombs and causing one death) and the 2002 break-up of the *MV Prestige* off the coast of Spain (releasing approximately 60,000 tons of oil). Non-oil cargo on board ships can also harm the environment, as evidenced by the *Felicity Ace*, which caught fire and sank with 4,000 vehicles on board near the Azores. These accidents have direct impacts on individuals and communities, typically without adequate compensation, and have direct implications for the effective enjoyment of human rights.

2. The connection between shipping and human rights extends beyond accidents. The operation of vessels can have detrimental effects on humans and the environment due to exposure to toxic chemicals and other harsh working conditions for seafarers, greenhouse gas emissions, transfer of invasive species and legal and illegal discharges of wastewaters, among other factors. Shipping thus implicates a wide array of human rights, including the human rights to life, health, security of the person and bodily integrity, safe food and water, safe and healthy working conditions and the right to a healthy environment. States have clear responsibilities regarding these issues, including setting appropriate rules, monitoring the performance of private actors and investigating and prosecuting breaches of rules. The fact that shipping is primarily run by private shipowners or operators does not exonerate States from their human rights obligations, even though the private parties also have human rights responsibilities.<sup>3</sup>

3. The humanitarian crisis unleashed by the coronavirus disease (COVID-19) pandemic illustrated another linkage between shipping and human rights, as hundreds of thousands of seafarers were stranded on ships beyond the end of their contracts, while others were unable to get to their ships to work and thus lost their livelihoods.<sup>4</sup> Reportedly, a smaller but similar situation occurred in the Black Sea in 2022 when the Russian Federation invaded Ukraine.

4. The magnitude of the shipping industry's impact on human rights and the environment, as well as its importance for the global economy, are apparent from the large size of the maritime fleet and the volume of seaborne trade. Around 90 per cent of globally traded goods are carried by sea<sup>5</sup> and the world merchant fleet consists of over 58,000 ocean-going vessels,<sup>6</sup> with a tonnage volume of approximately 2.135 billion<sup>7</sup> and there are roughly 64,000 fishing

<sup>1</sup> See [A/HRC/51/35/Add.1](#).

<sup>2</sup> Dyani Lewis, "How Mauritius is cleaning up after major oil spill in biodiversity hotspot", *Nature*, vol. 585, No. 7824 (September 2020).

<sup>3</sup> See *Guiding Principles on Business and Human Rights*.

<sup>4</sup> United Nations News, "'An unwanted prison sentence' for seafarers stuck at home and stranded at sea", 6 January 2021.

<sup>5</sup> Organisation for Economic Co-operation and Development (OECD), "Ocean shipping and shipbuilding", available at <https://www.oecd.org/ocean/topics/ocean-shipping/>.

<sup>6</sup> Statista, "Number of ships in the world merchant fleet as of January 1, 2022, by type", 29 November 2022.

<sup>7</sup> *Review of Maritime Transport 2021* (United Nations publication, 2021), p. 38.

boats more than 24 metres in length. Developments in seaborne trade suggest that the tonnage volume will continue to increase, thus elevating the level of risk. This trend can be observed in the sector's greenhouse gas emissions, which increased between 2012 and 2018 by almost 10 per cent,<sup>8</sup> demonstrating the degree to which the shipping sector damages the environment and, ultimately, humans.

5. The Secretary-General of IMO has enhanced IMO efforts for human rights by outlining his human rights concerns in relation to seafarers.<sup>9</sup> His efforts have helped to improve the situation of seafarers generally, as well as in instances in which individual seafarers were in dire circumstances, such as needing medical care for life-threatening conditions. However, there is neither a dedicated stream of work on human rights, nor is there a dedicated human rights office within IMO. There is also no ombudsperson or special adviser to the Secretary-General dealing with human rights. The addition of the "human element" to the strategic direction of IMO indicates that it may be poised to pay formal attention to human rights and provides an avenue to do that.

6. The inextricable link between shipping, the environment and humans demonstrates the relevance for human rights of the work of IMO. However, IMO is largely unknown to the human rights community and there is little indication that the shipping industry considers human rights to be relevant to its work, including with respect to physical and reputational risks, claims and compensation.

7. IMO is responsible for maritime safety and security and preventing pollution by ships.<sup>10</sup> In its role as an international standard-setting authority, IMO facilitates the creation of regulatory frameworks that seek to be fair and effective, universally adopted and universally implemented. Its mandate has always included ship safety and by extension human safety. Environmental protection gained attention in the 1970s and the human dimension is now receiving increased focus, as evidenced by the recently adopted revised strategic plan (strategic direction 6 addressing the human element).<sup>11</sup> While IMO is ultimately subject to the will of its member States, the IMO secretariat nevertheless has considerable influence on its work.

8. IMO has facilitated the adoption of over 50 multilateral treaties and the development of several thousand codes, recommendations and guidelines. Twenty-one IMO treaties regulate environmental protection, underlining its environmental mandate. IMO also coordinates with other organizations such as the International Labour Organization (ILO) (on seafarer safety, fair treatment, abandonment and working and living conditions of seafarers, including fishers) and the Food and Agriculture Organization of the United Nations (on fishing vessels and fishers' safety). These regulatory frameworks have benefited billions. For example, the phasing-out of single-hulled oil tankers has decreased the risk of human loss and environmental damage in case of an accident;<sup>12</sup> banning the use of organotin compounds in anti-fouling paints on ships has led to fewer environmental and human health risks; and the adoption of several conventions creating compensation regimes has decreased the long-term consequences of accidents for affected communities and the environment. Nevertheless, gaps in substantive coverage and incomplete adherence to and implementation of IMO conventions hamper global success.

9. Balancing the interests of the shipping industry with those of the environment and humans is an inherent challenge. The fact that the issues IMO is facing are often highly technical exacerbates the risk of undue influence by vested economic interests. While IMO is a regulatory organization, it has not always exhibited the requisite transparency and participation called for by a human rights-based approach.

<sup>8</sup> IMO, *Fourth IMO Greenhouse Gas Study* (2020), p. 1.

<sup>9</sup> Kitack Lim, message on Human Rights Day, 10 December 2020, available at <https://www.imo.org/en/MediaCentre/PressBriefings/pages/45-Human-Rights-Day.aspx>.

<sup>10</sup> Convention on the Intergovernmental Maritime Consultative Organization. In 1977, the name was changed to International Maritime Organization by resolution A.371 (X).

<sup>11</sup> Resolution A.1149/32, annex.

<sup>12</sup> See [http://www.idgca.org/doc/app5\\_290115.pdf](http://www.idgca.org/doc/app5_290115.pdf).

10. The present report presents a selective overview of the most pressing issues regarding the work of IMO related to the Special Rapporteur's mandate.

11. The Special Rapporteur expresses his gratitude to the leadership and staff of IMO, member States and stakeholders who shared their expertise and perspectives. His findings are based on online sessions with IMO officials (7–18 December 2020) and an in-person visit to IMO (16–20 January 2023). The report also benefits from consultations with non-governmental organizations (NGOs), industry and academics, and considers the inputs of NGOs and member States from questionnaires.<sup>13</sup>

12. The Special Rapporteur emphasizes that throughout the online and in-person sessions and other communications with IMO leadership and staff, he consistently encountered openness to the relevance and importance of human rights for its mandate and activities, including not only the relevance of human rights to its work and the primary responsibility of States to respect, protect and promote human rights, but also the responsibility of IMO itself to do so. The report should be read with that in mind.

## II. Legal framework of IMO

13. IMO is a United Nations specialized agency established in 1948 by the Convention on the Intergovernmental Maritime Consultative Organization, which entered into force in 1958. There are 175 sovereign member States, representing all regions of the world, and three territories of member States are associate members.<sup>14</sup> Some non-member States have acceded to IMO conventions. The only IMO treaty that mentions human rights explicitly is the 2005 Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (which, inter alia, establishes environmental crimes and requires States parties to ensure that law enforcement at sea is environmentally sound).

14. IMO conventions fall into four categories: maritime safety and security; marine environment protection; liability and compensation; and other matters, such as facilitation and salvage. Major IMO conventions regulating these areas share one characteristic: they are a reaction to major maritime incidents. The Titanic disaster of 1912 led to the adoption of the first version of the International Convention for the Safety of Life at Sea in 1914 and the Torrey Canyon oil spill and subsequent tanker accidents led to the International Convention for the Prevention of Pollution from Ships and its Protocol, the establishment of the IMO Legal Committee and the Marine Environment Protection Committee and the addition of environmental protection to its mandate. This phenomenon risks contradicting the preventive, precautionary approach that is necessary to protect and promote human rights.

15. Major IMO conventions enjoy significant ratification, such as the International Convention for the Safety of Life at Sea (168 parties) and the International Convention for the Prevention of Pollution from Ships (161 parties). Other conventions regulate standards of training, certification and watchkeeping for seafarers (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers), load lines (International Convention on Load Lines) and preventing collisions at sea (Convention on the International Regulations for Preventing Collisions at Sea). Many conventions include annexes, sometimes adopted decades after the original convention, which add complex regulations for related areas.<sup>15</sup>

16. Not all States have ratified relevant conventions, or the most current version of a convention. Furthermore, existing conventions require updating to take the emerging implications of the shipping sector for humans and the environment into account. It is noteworthy, however, that many IMO conventions have adopted a dynamic process for amendments, highlighting the character of these conventions as living documents. Adoption of amendments can be done by majority vote and acceptance of the amendment often results

<sup>13</sup> Submissions are available at <https://www.ohchr.org/en/special-procedures/sr-toxics-and-human-rights/call-submission-sr-toxics-and-human-rights-impact-analysis-international-maritime-organization-imo>.

<sup>14</sup> See <https://www.imo.org/en/OurWork/ERO/Pages/MemberStates.aspx>.

<sup>15</sup> For example, annex VI to the International Convention for the Prevention of Pollution from Ships.

from the tacit acceptance procedure, which regards silence in a specified time frame as acceptance. This process allows instruments such as the International Maritime Dangerous Goods Code and the International Maritime Solid Bulk Cargoes Code to be modified expediently.<sup>16</sup>

17. IMO is not only a standard-setting authority. The operational nature of the organization, although limited, is evident in its audit mechanism, which allows it to monitor compliance of its member States with several conventions; its work in characterizing novel cargoes, such as hydrogen; and its work in crisis situations such as COVID-19 and the *FSO Safer* crisis off the coast of Yemen.

18. IMO assists member States to achieve adherence to and observation of IMO conventions and other relevant regulations through technical cooperation. Human rights have not played a major role in technical cooperation activities, although the integration of women into the maritime sector has formed an integral part of the technical cooperation programme. The IMO Assembly decided in 2021 to adopt a long-term strategy to reform technical cooperation.<sup>17</sup> That will include systematically considering outcomes identified through the IMO member State audit scheme, thus fostering a system of collective learning. Member States have raised several ideas for strengthening technical cooperation, including more full scholarships for officials of maritime administrations for training in the IMO maritime training institutions.<sup>18</sup>

19. IMO conventions and other instruments directly interact with the United Nations Convention on the Law of the Sea, which contains an explicit reference to IMO,<sup>19</sup> and references to “generally accepted international regulations” relate mainly to IMO instruments.<sup>20</sup> There is, however, an inherent tension between freedom of navigation and the need to regulate to secure maritime safety and environmental protection. The Convention mediates this tension by subjecting freedom of navigation to the conditions laid down by “other rules of international law”,<sup>21</sup> which include IMO instruments and arguably human rights norms.<sup>22</sup>

## A. Enforcement, flags of convenience and open registries

20. The United Nations Convention on the Law of the Sea is also relevant to enforcing IMO conventions. It provides that flag States (the State in which a vessel is registered), port States and coastal States are responsible for enforcement.<sup>23</sup> The coastal State has enforcement authority over its territorial sea and for some matters, including protection of the marine environment, in the exclusive economic zone.<sup>24</sup> This authority may be exercised by regulations “conforming to ... generally accepted international rules”,<sup>25</sup> which includes IMO conventions, thus indirectly making the coastal State part of the enforcement regime. While the flag State has the primary enforcement responsibility, the port State serves as corrective

<sup>16</sup> See, for example, the International Convention for the Prevention of Pollution from Ships, art. 16 (2) (f) (iii). In practice, amendments are passed by consensus. Even though the conventions allow for amendments by a two-thirds majority, voting rarely takes place. IMO committees can issue unified interpretations to conventions, thus clarifying the regulation and increasing common global standards.

<sup>17</sup> Resolution A.1166/32.

<sup>18</sup> See submission by Côte d’Ivoire.

<sup>19</sup> Annex VIII, art. 2 (2).

<sup>20</sup> IMO Secretariat, *Implications of the United Nations Convention on the Law of the Sea for the International Maritime Organization*, (LEG/MISC.8), p. 8.

<sup>21</sup> Art. 87 (1).

<sup>22</sup> See Anna Petrig and Martha Bo, “The International Tribunal for the Law of the Sea and human rights”, in *Human Rights Norms in “Other” International Courts*, Martin Scheinin, ed. (Cambridge, United Kingdom, Cambridge University Press, 2019).

<sup>23</sup> Arts. 217, 218 and 220.

<sup>24</sup> Arts. 2 (1) and 56 (1) (b) (iii).

<sup>25</sup> Art. 211 (5).

remedy and can take action,<sup>26</sup> such as inspecting ships that are suspected of violating the applicable requirements of an IMO convention.<sup>27</sup>

21. The flag State enforcement system requires that flag States be willing and technically equipped to enforce IMO conventions. That is especially significant because thousands of ships are registered in a small number of flag States<sup>28</sup> and roughly 70 per cent of the world fleet is registered under a foreign flag.<sup>29</sup> But several “flags of convenience” do not have the capacity to regulate the number of ships registered in them.

22. In addition, many flag States have established “open registries” that allow the registration of ships lacking a link to that State, further complicating enforcement. That situation is compounded because flag States and other entities are typically unable to identify the beneficial owner of a ship because of elaborate webs of limited liability companies.

23. Furthermore, certificates of compliance issued by flag States are often inaccurate,<sup>30</sup> raising the question of their compliance with IMO conventions, such as the critically important International Convention on Standards of Training, Certification and Watchkeeping for Seafarers. IMO relies on reporting by States to determine compliance with the Convention. A large number of States have failed to report, but are nevertheless maintained on the IMO list of States complying with the Convention (referred to colloquially as the “white list”).

24. A different type of enforcement problem arises because ships are sometimes fraudulently registered without any government authorization. A recent IMO effort includes introducing information on the registries of ships on the IMO global integrated shipping information system.<sup>31</sup> The Panel of Experts established pursuant to Security Council resolution 1874 (2009) recommended that flag States keep verified records and up-to-date photographs of the ships they certify and flag, including for submission to IMO.<sup>32</sup>

## B. IMO member State audit scheme

25. IMO developed the IMO member State audit scheme to determine to what extent member States are implementing and enforcing the applicable IMO instruments,<sup>33</sup> including observance and assessment of compliance with the audit standard.<sup>34</sup> The scheme became mandatory in 2016 and reviews the performance of member States at periodic intervals.<sup>35</sup> The applicable IMO instruments related to the areas covered by audits fall under six conventions and three related protocols.<sup>36</sup> Audits verify domestic jurisdiction, organization, implementation and promulgation of legislation and regulations, enforcement and reporting, among others.<sup>37</sup>

26. Since the audit scheme was made mandatory, 103 audits have been conducted (59 per cent of IMO member States).<sup>38</sup> After an audit, the audited State receives an interim report, a final report and an executive summary report, and develops a corrective action plan. The

<sup>26</sup> LEG/MISC.8, p.19.

<sup>27</sup> United Nations Convention on the Law of the Sea, art. 220 (3)–(5).

<sup>28</sup> See *Review of Maritime Transport 2021*, p. 38.

<sup>29</sup> *Ibid.*, pp. 36 and 37.

<sup>30</sup> See <https://shipsandports.com.ng/ems-audit-over-400000-filipino-seafarers-face-sailing-ban/>.

<sup>31</sup> Assembly resolution A.1142(31), annex.

<sup>32</sup> [S/2022/132](#), annex 93, para. 3.

<sup>33</sup> Assembly resolution A.1067(28), annex, part I, para. 5.

<sup>34</sup> Assembly resolution A.1070(28).

<sup>35</sup> Resolution A.1067(28), annex, part II, para. 4.1.1.

<sup>36</sup> *Ibid.*, annex, part I, para. 7.2.1. The conventions are the International Convention for the Safety of Life at Sea; International Convention for the Prevention of Pollution from Ships, as modified by the 1978 and 1997 Protocols; International Convention on Standards of Training, Certification and Watchkeeping for Seafarers; International Convention on Load Lines; International Convention on Tonnage Measurement of Ships; and Convention on the International Regulations for Preventing Collisions at Sea, as amended.

<sup>37</sup> Resolution A.1067(28), annex, part I, para. 7.4.2.

<sup>38</sup> Available from <https://gis.imo.org/Public/MSA/ReportsOverview.aspx>.

latter identifies the root cause(s) of any non-compliance (finding or observation) identified during the audit and defines corrective action(s) and target completion date(s), seen as a systemic action aimed at eliminating the cause of non-compliance. The scheme is a major achievement of IMO towards good governance and compliance.

27. The public, however, has no access to audit reports. While a list of all audits conducted is accessible, interim, final reports and executive summary reports, corrective action plans and comments on the progress in the implementation of corrective action plans are available only to audited member States, individuals nominated by other member States, the audit team and the IMO Secretary-General.<sup>39</sup> IMO may publish the final reports if the audited member State so authorizes.

28. A clear system for tackling non-compliance with IMO conventions, as identified in the audit reports, does not exist. However, there is a connection between the outcomes of the reports and the IMO technical cooperation programme and cooperation with other United Nations agencies.

### C. Transparency and participation

29. The right to information is crucial for protecting and promoting human rights, as it is for ship safety and environmental protection.<sup>40</sup> It is also key to holding organizations, States and private companies accountable for human rights violations and infringements.

30. Historically, the shipping industry has been characterized by opacity and has remained unnoticed by the public. However, it is in the industry's interest to interact with civil society, to meet the demand for qualified seafarers, to educate the public about the maritime world to tackle misconceptions and to increase public support for improvements in the sector generally. In recent years, IMO and the shipping industry have recognized the need for increased transparency.<sup>41</sup>

31. Criticism about the regulatory transparency of IMO has arisen, especially with regard to the influence of trade associations on IMO and member States due to their lobbying efforts and membership in the delegations of member States.<sup>42</sup> This criticism led to calls for reform by IMO member States<sup>43</sup> and to several decisions by the IMO Council.<sup>44</sup>

32. IMO has started to make its website more user-friendly and has increased the amount of information on it. Pre-meeting information, circulars and resolutions are made public on the IMO document repository with texts in all six United Nations languages (IMODOCS, registration required). The global integrated shipping information system provides the public with data on marine casualties, port reception facilities, distress signals and certifications, among others. The IMO maritime knowledge centre provides information on the shipping industry to the public. The United Nations terminology database (UNTerm) supports the public in understanding IMO terminology.

33. IMO does not provide a digital platform containing free, up-to-date and consolidated versions of IMO conventions, guidelines and codes. Hard copies and electronic (e-book) copies can be purchased, but some urge IMO to provide electronic copies to the public free of charge.<sup>45</sup> A model platform to this end is InforMEA, the United Nations information portal on multilateral environmental agreements.

<sup>39</sup> Resolution A.1067(28), annex, part I, paras. 6.3.2, 6.3.4 and 7.2.2; and part II, paras. 7.3.1, 7.5.1 and 8.5.

<sup>40</sup> See [A/74/480](#) and [A/HRC/30/40](#).

<sup>41</sup> See, for example, Richard Meade, "Shipping's transparency revolution", *Lloyd's List Intelligence*, 2 March 2021.

<sup>42</sup> See Harilaos N. Psaraftis and Christos A. Kontovas, "Influence and transparency at the IMO", *Maritime Economics and Logistics*, vol. 22, No. 1 (March 2020); and InfluenceMap, "Corporate capture of the IMO" (October 2017).

<sup>43</sup> See C 121/3(b)/5 and C 121/3(b)/13.

<sup>44</sup> C 121/D, para. 3(b).5.

<sup>45</sup> See C 121/3(b)/5; C 122/3(b)/5; LEG 106/16, paras. 11.6 and 11.7; and submission by Chile.

34. Anyone can create an account for the IMO document repository but not all information can be accessed. Meeting documents are often restricted to the IMO secretariat, member States and international organizations.

35. The IMO secretariat established a policy on access to information in March 2021,<sup>46</sup> allowing the public the possibility to request IMO documents. It is modelled in part on national freedom of information acts and contains ambiguous language regarding exceptions,<sup>47</sup> thus giving the secretariat wide discretion, which could inhibit the public's access to documents.

36. While the media can be accredited to observe meetings,<sup>48</sup> IMO organs may exclude the media if their presence would have a negative impact on the efficient conduct of meetings.<sup>49</sup> Recently, the IMO Council decided to amend its rules and allowed journalists to quote delegations' statements in plenary meetings without their prior consent, so long as an individual delegate is not personally named without their prior consent.<sup>50</sup>

37. Beyond access to information, meaningful participation in IMO meetings can have a more direct impact. NGOs with consultative status may speak and submit documents at IMO meetings and can thus play an important role in representing the voice of stakeholders. In 2021, the Inuit Circumpolar Council became the first Indigenous organization to be granted consultative status with IMO, on a provisional basis for a period of two years.

38. Obtaining consultative status might be difficult for NGOs, due to the various requirements in the rules and guidelines. Consultative status can be withdrawn by the IMO Council if the NGO has not substantially contributed to the work of IMO (for example, lack of participation in its meetings).<sup>51</sup> In the past 10 years, two NGOs have had their status withdrawn due to lack of participation in IMO meetings over two or more bienniums. Such decisions fall within the purview of the IMO Council.

#### D. Whistle-blowing

39. Seafarers and others who denounce illegal practices, including human rights violations, should be recognized as human rights defenders and afforded adequate protections. Whistle-blowers must be protected from intimidation, threats and other forms of reprisals.<sup>52</sup>

40. Seafarers in general rely on national whistle-blowing laws. However, in April 2020, in response to the crew change crisis caused by the COVID-19 pandemic, the IMO Secretary-General established a seafarer crisis action team. Travel restrictions through ports, airports and inland meant that thousands of seafarers could not leave their ships, be repatriated home, have crew changes or, in some instances, get urgent medical assistance. In addition, many seafarers had seen their contracts unilaterally terminated or had been quarantined on board ships or onshore, often for more than 14 days, without getting paid. To date, the team has been involved in approximately 700 individual seafarer cases and dealt directly with several thousands of seafarers.<sup>53</sup>

### III. Marine pollution from ships

41. Pollution and exposure to toxic chemicals in the context of shipping threatens a wide range of human rights, including the rights to life, health, security of the person and bodily

<sup>46</sup> Available from <https://wwwcdn.imo.org/localresources/en/MediaCentre/Documents/IMO%20SECRETARIAT%20POLICY%20ON%20ACCESS%20TO%20INFORMATION.pdf>.

<sup>47</sup> *Ibid.*, para. 10 (i) and (k).

<sup>48</sup> C 92/D, annex.

<sup>49</sup> See <https://www.imo.org/en/MediaCentre/IMOMediaAccreditation/Pages/TermsAndConditions.aspx>.

<sup>50</sup> C/ES.30/3(b), annex, para. 2.2.

<sup>51</sup> See resolution A.1144(31), annex, rule 12.

<sup>52</sup> [A/HRC/42/41](#), principle 11.

<sup>53</sup> See <https://www.imo.org/en/MediaCentre/HotTopics/Pages/SCAT.aspx>.



integrity, food, water and sanitation, and safe and healthy working conditions, as well as the right to a healthy environment.<sup>54</sup>

42. Article 1 (4) of the United Nations Convention on the Law of the Sea defines pollution of the marine environment as the “introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities”. Marine pollution may originate from a variety of sources, including space-launch debris, ocean dumping, operation of vessels, oil and gas activities, mining activities, accidents and land-based activities such as agricultural run-off.

43. The IMO mandate covers the regulation of pollution from ships. That includes oil, chemicals, garbage, sewage, air pollution, greenhouse gas emissions, dumping of waste, ballast water, anti-fouling, noise and ship recycling, among others. Marine pollution can have detrimental impacts on marine life, human health and coastal ecosystems, thus implicating all the above-mentioned human rights. The rights of people in vulnerable situations are disproportionately affected by pollution and other environmental harms, including climate change.<sup>55</sup>

## A. Air pollution, black carbon and climate change

44. Ships emit tons of gases and particles daily. Air pollutants can have severe, cumulative effects on human health.<sup>56</sup> This is especially relevant for coastal communities, including port cities, and seafarers. Air pollution causes increased risks of asthma, lung, bladder and lymphohematopoietic neoplasm, and cancers.<sup>57</sup> For example, fine particles and particulate matter can enter lungs, pass into the blood system and cause damage to organs, and eventually lead to premature death. Sulfur oxides (SOx) can lead to respiratory complications and lung diseases. Nitric oxides (NOx) can react with other compounds in the atmosphere to form ozone, which can cause serious respiratory diseases.<sup>58</sup> Marine transportation accounts for 10–15 per cent of the world’s anthropogenic SOx and NOx emissions.<sup>59</sup> Overall, sea-based pollution accounts for roughly one third of trade-related air emissions.<sup>60</sup>

45. IMO has initiated actions to reduce air pollution, including by limiting SOx emissions worldwide<sup>61</sup> and by establishing especially protected emission control areas with a lower limit on SOx and limits on NOx.<sup>62</sup> Effluent from exhaust gas cleaning systems, also known as scrubbers, have been installed on thousands of ships. Scrubbers remove SOx from exhaust gases using seawater or freshwater and a filter. However, hazardous substances in the resulting wastewaters pose serious threats to the marine environment.<sup>63</sup>

46. Black carbon is emitted after the combustion of carbon-based fuels, especially of heavy fuel oil. Black carbon emissions from shipping increased from 2012 to 2018.<sup>64</sup> Black

<sup>54</sup> See [A/74/480](#).

<sup>55</sup> Human Rights Council resolution 47/24.

<sup>56</sup> European Maritime Safety Agency and European Environment Agency, *European Maritime Transport Environmental Report 2021* (2021), p. 102.

<sup>57</sup> See, for example, [A/HRC/33/41](#).

<sup>58</sup> Kevin Cullinane and Sharon Cullinane, “Atmospheric emissions from shipping: the need for regulation and approaches to compliance”, *Transport Reviews*, vol. 33, No. 4 (2013).

<sup>59</sup> Elizabeth Lindstad and Gunnar S. Eskeland, “Environmental regulations in shipping: policies leaning towards globalization of scrubbers deserve scrutiny”, *Transportation Research Part D: Transport and Environment*, vol. 47 (August 2016).

<sup>60</sup> Anca Cristea and others, “Trade and the greenhouse gas emissions from international freight transport”, *Journal of Environmental Economics and Management*, vol. 65, No. 1 (2013).

<sup>61</sup> International Convention for the Prevention of Pollution from Ships, annex VI, regulation 14.

<sup>62</sup> *Ibid.*, regulation 13.

<sup>63</sup> Joint submission by Kawerak and Ocean Conservancy.

<sup>64</sup> IMO, Fourth IMO Greenhouse Gas Study, p. 121.

carbon can cause serious health effects<sup>65</sup> and is the second largest contributor to voyage-based greenhouse gas emissions after carbon dioxide.<sup>66</sup> As a light-absorbing dark particle, it can absorb high proportions of solar radiation.<sup>67</sup> In polar regions, black carbon settles on ice, emits heat and decreases the ability of the ice to reflect sunlight, thus accelerating the melting process.

47. No international regulations exist that directly regulate black carbon, but IMO has begun to address this problem in polar areas. In 2011, IMO banned the carriage and use of heavy fuel oil in the Antarctic.<sup>68</sup> In 2021, the IMO Marine Environment Protection Committee decided to prohibit the use and carriage of heavy fuel oil in the Arctic after 1 July 2024, with some exceptions,<sup>69</sup> and encouraged States to voluntarily use cleaner alternatives generally.<sup>70</sup>

48. IMO has made the response to climate change a strategic direction.<sup>71</sup> Greenhouse gas emissions from shipping were estimated to be 2.89 per cent of global anthropogenic greenhouse gas emissions.<sup>72</sup> In 2018, it adopted an initial strategy to reduce greenhouse gas emissions and in 2023, revised and strengthened it. The levels of ambition of the revised strategy include reaching net-zero greenhouse gas emission by 2050, with indicative checkpoints at 2030 and 2040. The revised strategy also includes the uptake of zero or near-zero greenhouse gas emission technologies, fuels and/or energy sources.<sup>73</sup> Other measures have been adopted. A mandatory energy efficiency existing ship index, a carbon intensity indicator rating system and a ship energy efficiency management plan entered into effect on 1 January 2023.<sup>74</sup> Under the carbon intensity indicator framework, ships with insufficient ratings are required to submit corrective action plans. The framework imposes annual targets on ships for reducing emissions, with revisions under discussion.<sup>75</sup>

49. To meet the new SO<sub>x</sub> air emission standards, the shipping industry is replacing heavy fuel oil with very low sulfur fuel oils. These new generation fuels, however, potentially cause other risks to the environment.<sup>76</sup> Alternative fuels and distillates with lower black carbon emissions are envisaged, such as ammonia, but some are more toxic than current fuels, thus highlighting the need for decarbonization to move alongside detoxification.

50. Discussions are ongoing at IMO on the development of a basket of measures including technical and economic measures. The latter could be a complementary model to existing mechanisms for tackling climate change. For example, a levy of \$100 per ton of CO<sub>2</sub> emitted has been proposed.<sup>77</sup>

51. IMO measures already adopted will result in a more energy-efficient fleet. Nevertheless, projections show that without additional measures, the growing international shipping fleet is likely to produce more greenhouse gas emissions and aggravate the global climate change threat.

<sup>65</sup> Bryan Comer, “Black carbon and maritime shipping: the long road to regulating a short-lived climate pollutant”, *Environmental Management* (April 2019).

<sup>66</sup> IMO, *Fourth IMO Greenhouse Gas Study*, p. 110.

<sup>67</sup> European Maritime Safety Agency and European Environment Agency, *European Maritime Transport Environmental Report 2021*, p. 49.

<sup>68</sup> International Convention for the Prevention of Pollution from Ships, annex I, regulation 43. See also MEPC 60/5.

<sup>69</sup> See MEPC 76/3/1.

<sup>70</sup> Resolution MEPC.342 (77).

<sup>71</sup> A32/9(a), annex.

<sup>72</sup> IMO, *Fourth IMO Greenhouse Gas Study*, p.1.

<sup>73</sup> Marine Environment Protection Committee resolution MEPC.304 (72) and MEPC.80WP.12.

<sup>74</sup> See MEPC 76/3, annex 1.

<sup>75</sup> See <https://www.imo.org/en/MediaCentre/PressBriefings/Pages/MEPC77.aspx>.

<sup>76</sup> See MEPC 76/5.

<sup>77</sup> See, for example, a proposal by the Marshall Islands and the Solomon Islands, MEPC 77/7/4.

## B. Water pollution

52. Ships invariably release hazardous substances to the marine environment. This can happen through biofouling and anti-fouling, or release of ballast water, black water, grey water or bilgewater. Releases can also result from spills of oil and hazardous and noxious substances, which, whether as bunkers or cargo, are likely to create hazards to human health, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea.

53. Oil and hazardous and noxious substance spills remain among the most significant and environmentally damaging disasters worldwide. They can originate from deliberate discharges, negligence or an accident. The *MV Wakashio* accident mentioned above caused the first spill of very low sulfur fuel oils, some types of which have a high degree of persistence on the sea surface, making spill response even more challenging.<sup>78</sup> Hazardous and noxious substance spills are less frequent than oil spills.<sup>79</sup> IMO does not maintain a database for hazardous and noxious substance spills.

54. Organisms often attach themselves to ships' hulls (biofouling). Anti-fouling paints are used on hulls because biofouling can lead to reduced fuel economy as ships can be slowed down by up to 80 per cent,<sup>80</sup> but anti-fouling agents that leach into the water endanger sea life.<sup>81</sup> To tackle anti-fouling risks, the use of organotin compounds (for example, tributyltin) is banned and, since 2023, so is biocide cybutryne.<sup>82</sup> As a result, copper-based compounds and other biocides have become the primary anti-fouling substances, which carry their own risks.

55. Release during loading and unloading of ballast water used by large ships to maintain stability introduces organisms (for example, eggs, larvae, spore cysts), some of which will become invasive, thus having long-term impacts on ecosystems<sup>83</sup> and endangering the livelihoods of people relying on those ecosystems. Ships must manage their ballast water in accordance with the provisions of the International Convention for the Control and Management of Ships' Ballast Water and Sediments.

56. Wastewaters also have a large impact on the environment. Sewage can contain plastics, rags, wipes and other sanitation products. Bilgewater can contain oil from the cargo hold,<sup>84</sup> lead, mercury and cadmium. The exact extent of illegal bilgewater dumping is unknown, but is significant.<sup>85</sup> Water from showers, sinks and washing machines is called grey water and contains bacteria, chemicals and pathogens among others.<sup>86</sup> Black water is the wastewater from toilets and contains different harmful bacteria.<sup>87</sup> Annex IV of the International Convention for the Prevention of Pollution from Ships regulates ships' black water, allowing vessels to discharge visible floating solids via sewage comminuting and disinfecting systems. Grey water is still unregulated, even though it can have comparable detrimental effects on the marine environment to those of black water.<sup>88</sup>

<sup>78</sup> Kristin Rist Sørheim and others, *Characterization of Low Sulfur Fuel Oils (LSFO): A New Generation of Marine Fuel Oils* (SINTEF Ocean AS, 2020), p. 10.

<sup>79</sup> European Maritime Safety Agency and European Environment Agency, *European Maritime Transport Environmental Report 2021*, p. 53.

<sup>80</sup> Ashley Coutts and others, "Effect of vessel voyage speed on survival of biofouling organisms: implications for translocation of non-indigenous marine species", *Biofouling*, vol. 26, No. 1 (2010).

<sup>81</sup> Bryan Comer, "Black carbon and maritime shipping: the long road to regulating a short-lived climate pollutant".

<sup>82</sup> See Anti-fouling Systems Convention and Marine Environment Protection Committee resolution MEPC.331/76.

<sup>83</sup> European Maritime Safety Agency and European Environment Agency, *European Maritime Transport Environmental Report 2021*, p. 82.

<sup>84</sup> OECD, "The environmental effects of freight" (Paris, 1997), p. 11.

<sup>85</sup> Max Muller and others, "Europe's black seas: disastrous discharge of oily wastewater continues despite monitoring", *Lighthouse Reports*, 22 March 2022.

<sup>86</sup> Joint submission by Kawerak and Ocean Conservancy.

<sup>87</sup> South Australia Environment Protection Authority, "Black and grey water management".

<sup>88</sup> Joint submission by Kawerak and Ocean Conservancy.

57. IMO instruments provide various regulations on oil spills. The International Convention for the Prevention of Pollution from Ships requires ships to maintain ship oil pollution emergency plans.<sup>89</sup> Coastal States are required to take any measures necessary to prevent, mitigate or eliminate dangers emanating from oil pollution.<sup>90</sup> Since one State alone can rarely adequately deal with an oil spill, a system of international assistance has been established.<sup>91</sup> While the number of oil spills has fallen by over 90 per cent since the 1970s,<sup>92</sup> major oil spills still occur, often imposing heavy burdens on the human rights of coastal communities.

58. Regarding hazardous and noxious substances, annex II of the International Convention for the Prevention of Pollution from Ships and chapter VI (part B) of the International Convention for the Safety of Life at Sea, in conjunction with the International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk, provide international standards for the safe carriage in bulk by sea of dangerous chemicals and noxious liquid substances. The International Convention for the Safety of Life at Sea also has regulations on the carriage of gases and solids in bulk.<sup>93</sup> Annex III of the International Convention for the Prevention of Pollution from Ships contains provisions for the transport of marine pollutants in packaged form and thus should be implemented through the International Maritime Dangerous Goods Code, which addresses substances classified as marine pollutants. States are required to establish domestic policies to deal with hazardous and noxious substance pollution accidents.<sup>94</sup>

59. IMO cooperates with coastal States to establish particularly sensitive sea areas, namely areas that need special protection because of their significance for recognized ecological, socioeconomic or scientific attributes.<sup>95</sup> Member States may designate them or parts of them as emission control areas and adopt regulations on the routing of ships or other tailored measures.<sup>96</sup> There are 15 particularly sensitive sea areas throughout the world. It is noteworthy that their enforcement falls under national jurisdictions and IMO does not have a formal process to evaluate their success. The interface of particularly sensitive sea areas and the agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of the marine biological diversity of areas beyond national jurisdiction<sup>97</sup> will be important, as is the relation to Sustainable Development Goal 14 (life below water).

### C. Marine litter, plastics and other solid wastes

60. The whole cycle of plastics, including transport by shipping, has become a global threat to human rights.<sup>98</sup> Plastics contain toxic additives, over 10,000 according to one study,<sup>99</sup> posing severe risks and harms to human health, the environment and human rights.

<sup>89</sup> Annex I, regulation 37.

<sup>90</sup> International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, art. 1 (1).

<sup>91</sup> International Convention on Oil Pollution Preparedness, Response and Cooperation.

<sup>92</sup> See <https://www.itopf.org/knowledge-resources/data-statistics/statistics/>.

<sup>93</sup> Chs. VII and VI respectively.

<sup>94</sup> See Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances.

<sup>95</sup> Assembly resolution A.982 (24), annex, para. 1.2.

<sup>96</sup> *Ibid.*, paras. 6.1.1–6.1.3.

<sup>97</sup> See <https://www.un.org/bbnj/>.

<sup>98</sup> See [A/76/207](#).

<sup>99</sup> Helene Wiesinger, Zhanyun Wang and Stefanie Hellweg, “Deep dive into plastic monomers, additives, and processing aids”, *Environmental Science & Technology*, vol. 55, No. 13 (2021).

61. Nearly 20 per cent of total marine plastic waste comes from marine-based sources that include cargo, fishing activities, and dumping.<sup>100</sup> The COVID-19 pandemic contributed to the rising amount of plastic waste in the oceans.<sup>101</sup>

62. Cargo can be lost during journeys due, for example, to bad weather, infrastructure failings, improper loading and accidents.<sup>102</sup> An average of 1,600 containers are lost every year.<sup>103</sup> Often, containers are loaded with plastic products.<sup>104</sup> A prominent example is the sinking of the *MV X-Press Pearl* in 2021: 87 containers with 1,680 tons of plastic pellets (nurdles) contaminated the seas and coastline of Sri Lanka. Annex III of the International Convention for the Prevention of Pollution from Ships does not specifically regulate the carriage of plastic pellets.

63. Plastics in the ocean can cause acidification and their component chemicals can affect plants and be ingested by marine animals. This endangers their health, the health of the people who eat them and ecosystems. Also, marine animals capture carbon, referred to as blue carbon. When plastics cause marine animals to die, the blue carbon stored in the oceans is reduced and thus climate change accelerates.<sup>105</sup>

64. Annex V of the International Convention for the Prevention of Pollution from Ships prohibits disposal into the sea of all plastics<sup>106</sup> and regulates the disposal of fishing gear. The IMO also adopted an action plan to address marine plastic litter from ships (which entails 30 measures).<sup>107</sup> The agreement on plastic pollution now being negotiated under the auspices of the United Nations Environment Programme (UNEP) may also be relevant.

65. Port reception facilities for the environmentally sound management and disposal of wastes are critical to the success of the International Convention for the Prevention of Pollution from Ships. Each party to the Convention undertakes to ensure the provision at ports of facilities for the reception of all wastes/residues applicable under the Convention. However, the inadequacy of port reception facilities is a long-standing problem that IMO is tackling.<sup>108</sup> Difficulties also arise because waste classification and fees vary from port to port.<sup>109</sup>

66. Prohibitions on the dumping of waste and other matters have been significantly strengthened by the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended, and the 1996 Protocol to the Convention. There are 100 parties in total to the two treaties, 87 of which are party to the Convention and 53 to the Protocol – far from enough to tackle global ocean dumping.

67. The dismantling of ships, also known as ship recycling and shipbreaking, often releases substances such as oil, lubricants and other hazardous chemicals, contaminating air, soil and water. During dismantling through “beaching”, namely grounding a ship on a tidal mudflat, substances are washed away, thus polluting waters and harming birds, fish and mammals.<sup>110</sup> Once persistent chemicals are in the ocean, they can travel to different regions making beaching a global issue. Ships often contain toxic anti-fouling paints,<sup>111</sup> asbestos,

<sup>100</sup> Jelena Čulin and Toni Bielic, “Plastic pollution from ships”, *Journal of Maritime & Transportation Science (Pomorski Zbornik)*, vol. 51, No. 1 (2016).

<sup>101</sup> Yiming Peng and others, “Plastic waste release caused by COVID-19 and its fate in the global ocean”, *Proceedings of the National Academy of Science*, vol. 118, No. 47 (2021).

<sup>102</sup> European Maritime Safety Agency and European Environment Agency, *European Maritime Transport Environmental Report 2021*, p. 66.

<sup>103</sup> See Marine Environment Protection Committee resolution MEPC.341(77) and World Shipping Council, “Containers lost at sea: 2022 update”, 22 June 2022.

<sup>104</sup> See [A/76/207](#).

<sup>105</sup> Peter I. Macreadie and others, “The future of Blue Carbon science”, *Nature Communications*, vol. 10, (September 2019).

<sup>106</sup> Regulation 3 (1) (a).

<sup>107</sup> Marine Environment Protection Committee resolution MEPC.310(73).

<sup>108</sup> See MEPC.1/Circ.834/Rev.1.

<sup>109</sup> Submission from Environmental Investigation Agency.

<sup>110</sup> [A/HRC/12/26](#), summary.

<sup>111</sup> Hanna Haaksi, “Policy brief: end-of-life-boats” (Baltic Marine Environment Protection Commission, 2021).

polychlorinated biphenyls (PCBs) and other toxic materials that threaten the lives and health of workers and local communities.<sup>112</sup> A great number of workers die or are seriously injured during ship recycling,<sup>113</sup> even in approved facilities.<sup>114</sup>

#### D. Liability and compensation

68. There are several IMO instruments dealing with liability and compensation. The conventions relating to civil liability and compensation for damage caused by oil pollution and bunker oil pollution have been acceded to by States representing more than 94 per cent of world tonnage. However, the regime provides strict liability for shipowners to provide adequate relief for plaintiffs quickly.

69. Even if conventions have been ratified, they might not provide compensation as, for instance, in the *MV Wakashio* accident. Given that the ship involved was a bulk carrier, international conventions specific to pollution damage caused by oil tankers (such as the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage) do not apply in this case.

70. The International Convention on Civil Liability for Bunker Oil Pollution Damage provides liability and compensation for loss resulting from bunker oil, as in the *MV Wakashio* case off the coast of Mauritius.<sup>115</sup> However, international and national law can limit the amount that can be recovered from the shipowner, for example the Convention on Limitation of Liability for Maritime Claims.<sup>116</sup> Mauritius is party to that Convention but has not ratified the Protocol of 1996, which includes the innovative feature that ratifying States benefit from increased limits that are determined through the tacit amendment procedure.<sup>117</sup> It is estimated that compensation will be capped in the *MV Wakashio* incident at SDR 46.19 million equalling \$65.17 million.<sup>118</sup> While the International Convention on Civil Liability for Bunker Oil Pollution Damage also covers damage to the environment, the compensation is limited to the cost of “reasonable measures”.<sup>119</sup> Whether that will be sufficient is unclear.

### IV. Maritime safety

71. Maritime safety, including preparedness, emergency plans and a system for assistance, plays a significant role in protecting human rights, and many IMO treaties address safety. That includes regulating general safety standards, for example the prohibition of the use of toxic fire-fighting foams containing perfluorooctane sulfonic acid (PFOS).<sup>120</sup> Improvements in maritime safety reduce the number of accidents and thus protect seafarers, the environment and coastal communities.

72. Because of gaps in coverage, incomplete adherence to relevant instruments and the fact that some member States do not uphold international standards,<sup>121</sup> constant evaluation of

<sup>112</sup> Wei-Te Wu and others, “Asbestos exposure increases risk of cancer in ship recycling workers: a matched-cohort study”, *Public Library of Science (PLoS One)*, vol. 10, No. 7 (2015).

<sup>113</sup> Greenpeace International and International Federation for Human Rights, *End of Life Ships: The Human Cost of Breaking Ships* (December 2005), pp. 15–42.

<sup>114</sup> Safety4Sea, “Two workers killed in Turkish EU-listed ship recycling yards in four months”, 10 February 2021.

<sup>115</sup> The Convention only applies to heavy fuel oil and does not consider alternative fuels; see Benjamin Robinson, “Carbon and compliance: trends and tension in the IMO’s emerging decarbonization program”, *Coast Guard Journal of Safety & Security at Sea*, vol. 79, No. 2 (2022), p. 13.

<sup>116</sup> The reason for the introduction of limits on liability is based on the consideration of insurability.

<sup>117</sup> Art. 8.

<sup>118</sup> See <https://unctad.org/news/mauritius-oil-spill-highlights-importance-adopting-latest-international-legal-instruments>.

<sup>119</sup> Art. 1 (9) (a).

<sup>120</sup> See <https://www.imo.org/en/MediaCentre/MeetingSummaries/Pages/SSE-8th-session.aspx>.

<sup>121</sup> See, for example, <https://maritime-executive.com/article/report-eu-considers-philipino-seafarer-ban-over-training-deficiencies>.

accidents and causes is necessary. The IMO casualty investigation code requires mandatory reporting by countries on serious marine casualties, thus assembling crucial information for preventing further accidents.<sup>122</sup> Global integrated shipping information system modules on marine casualties and incidents investigation are IMO databases that collect relevant reports.

73. The hull of a ship is critical in determining the consequences of accidents. Ships normally either have a single or a double hull. In case of collision or grounding, a double hull can reduce the risks of a cargo leak and of sinking.

74. The phase-out of single-hulled oil tankers, pursuant to annex I of the International Convention for the Prevention of Pollution from Ships, is a major IMO achievement. The International Convention for the Safety of Life at Sea requires that passenger ships be double-bottomed, as far as is practicable and compatible with the design and proper working of the ship. Double hulls are not required for other ships. However, IMO requires that vessels in the Arctic have a double wall around their fuel tank.

75. Human error is the primary factor in 75 per cent of maritime accidents.<sup>123</sup> Appropriate training of seafarers, as is required by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, and mechanisms that help prevent human error are therefore at the heart of preventive measures. The failure to enforce the reporting requirements of the Convention are particularly troubling in this respect.

76. To avoid collisions, speed restrictions and voluntary and mandatory traffic separation schemes have been established.<sup>124</sup> Coastal States are responsible for enforcement, typically through domestic laws. However, there is no systemized IMO compliance review process, so the extent of compliance remains unknown.

## V. Impacts on vulnerable groups

77. A human rights-based approach to shipping calls for particular attention to persons and groups in vulnerable situations, such as workers and coastal communities.

### A. Seafarers

78. It is estimated that one worker dies at least every 30 seconds worldwide from exposure to toxic chemicals, pesticides, radiation and other hazardous substances, including on ships.<sup>125</sup> The recent addition by ILO of occupational health and safety to its framework of fundamental principles and rights at work provides a new tool for the protection of seafarer's rights.<sup>126</sup>

#### 1. Impact of the COVID-19 pandemic

79. A humanitarian crisis unfolded as hundreds of thousands of seafarers were stranded globally on ships during the COVID-19 pandemic. In March 2021, around 400,000 seafarers had to endure an "unwanted prison sentence" being obliged to remain on their ships beyond the end of their contracts (and thus often without pay) due to national travel restrictions in many countries. Many seafarers were unable to go ashore for medical care.<sup>127</sup> Workloads increased and symptoms of depression became more frequent.<sup>128</sup> Furthermore, persons

<sup>122</sup> See, for example, [https://www.bsu-bund.de/EN/Publications/Lessons\\_learned/Lessons\\_learned\\_node.html](https://www.bsu-bund.de/EN/Publications/Lessons_learned/Lessons_learned_node.html).

<sup>123</sup> Carine Dominguez-Péry and others, "Reducing maritime accidents in ships by tackling human error: a bibliometric review and research agenda", *Journal of Shipping and Trade*, vol. 6 (November 2021).

<sup>124</sup> International Convention for the Safety of Life at Sea, annex, ch. V, regulation 8.

<sup>125</sup> See [A/HRC/39/48](#) and [A/HRC/39/48/Corr.1](#) and [A/HRC/42/41](#).

<sup>126</sup> See ILC.110/Resolution I.

<sup>127</sup> Birgit Pauksztat and others, "Seafarers' experiences during the COVID-19 pandemic", World Maritime University, 2020, p. 11.

<sup>128</sup> *Ibid.*, pp. 9, 17 and 18.

desiring to join ships to earn money for living were prevented from doing so. This was an unparalleled humanitarian crisis.

80. The IMO Secretary-General issued personal statements to exhort States to uphold human rights, including a statement in 2020 on Human Rights Day calling on Governments to designate seafarers as “key workers”, with the related priority for travel, transit and vaccinations. IMO established a multi-divisional seafarer crisis action team, which dealt with thousands of individual cases in 2020 alone and worked alongside ILO, the World Health Organization, transport organizations and others to protect workers and secure supply chains in future crises, including by supporting the protection of the health of seafarers and repatriation.<sup>129</sup>

## 2. Forced labour in the fisheries sector

81. Forced labour in the fisheries sector is a contemporary form of slavery that affects hundreds of thousands worldwide.<sup>130</sup> The mechanisms of recruitment, deception and coercion in the sector are known.<sup>131</sup> Fishers are subject to psychological and sexual abuse, trafficking and debt bondage, and experience work-related deaths. Their isolation far out at sea aggravates their vulnerability.<sup>132</sup>

82. IMO contributes to the fight against forced labour through several conventions that deal with training, safety of fishing vessels and facilitation, among others.<sup>133</sup> However, many issues remain. These include compliance generally, which is difficult for IMO to analyse in the light of the lack of a reporting mechanism in the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, as well as the lack of internationally binding safety standards for fishing vessels. The Cape Town Agreement on fishing vessel safety (not yet in force) was adopted in 2012 to increase the safety standards of over 64,000 fishing vessels.<sup>134</sup>

83. Cooperation with ILO is particularly important for IMO considering the areas of common interest in their mandates regarding seafarers and fishers. IMO and ILO cooperated closely in the adoption of the Maritime Labour Convention, 2006, and the Work in Fishing Convention, 2007 (No. 188).

## 3. Misdeclared and non-declared packaged toxic substances

84. Around 60 million containers are moved in the supply chain each year by ship. Of these, it is estimated that around 150,000 are volatile containers, including those containing dangerous goods that are either declared incorrectly or are not declared as containing dangerous goods.<sup>135</sup> Such containers have been identified as the most likely cause of fires on ships, which have also endangered seafarers.<sup>136</sup> Every worker has the right to information about their actual and potential exposures to toxic and otherwise hazardous substances.<sup>137</sup>

## 4. Just transition towards a decarbonized shipping industry

85. Human rights and environmental justice require that displaced seafarers, or those whose job duties have significantly changed due to changes, such as the move to decarbonize

<sup>129</sup> See JAG-TSC/2023.

<sup>130</sup> ILO, *Profits and Poverty: the Economics of Forced Labour* (Geneva, 2014), pp. 18–19.

<sup>131</sup> See ILO, *Caught at Sea: Forced Labour and Trafficking in Fisheries* (Geneva, 2013).

<sup>132</sup> See Human Rights Watch, *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry* (2018); United Nations Office on Drugs and Crime, *Transnational Organized Crime in the Fishing Industry* (2011).

<sup>133</sup> International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; Torremolinos International Convention for the Safety of Fishing Vessels; and Convention on Facilitation of International Maritime Traffic.

<sup>134</sup> Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.

<sup>135</sup> TT Club, “Campaign for greater container safety must focus first on dangerous goods”, 20 March 2019.

<sup>136</sup> For example, the *Yantian Express* and *KMTC Hong Kong* fires in 2019.

<sup>137</sup> Chemicals Convention, 1990 (No. 170), art. 18 (3) (a); and A/HRC/42/41, principle 8.



the shipping industry, be offered a just transition to quality jobs. By 2050, additional training will be necessary for about 750,000 seafarers to handle alternative fuels and new technologies.<sup>138</sup> In the absence of such training, seafarers will face new and significant health and safety risks or will lose their jobs altogether.<sup>139</sup> The advent of autonomous ships raises similar issues. To support a just transition, the Maritime Just Transition Task Force has been established by IMO, the International Chamber of Shipping, the International Transport Workers' Federation, the United Nations Global Compact and ILO.<sup>140</sup>

## B. Workers at ship recycling facilities

86. Workers endure extremely poor occupational conditions at recycling yards.<sup>141</sup> Shipbreaking largely occurs in South Asian States, primarily at beaches in Bangladesh, India and Pakistan.<sup>142</sup> Current ship dismantling practices reflect a global environmental injustice, as the hazardous and other wastes in end-of-life vessels are transferred to the global south where poor workers and communities suffer the environmental damage, while shipping interests reap the profits of seaborne trade.<sup>143</sup>

87. The 2009 Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships regulates the design, construction, operation and preparation of ships in order to support sustainable end-of-life recycling. It includes provisions on ship inventories of hazardous materials ("green passports"), inspection requirements during the process of recycling and authorization of recycling facilities. The Convention's control mechanism is based on surveys, certification, inspection, notifications and reporting.

88. Most prominently, the Convention does not prohibit beaching. Furthermore, it does not include provisions on the duty to re-import illegally transferred waste or the duty to minimize the transboundary movement of waste.<sup>144</sup> Flag States and recycling States are responsible for enforcement. The reliance on flag State jurisdiction has many risks, including reflagging to escape controls, as a ship's end of life approaches.<sup>145</sup>

89. The Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal governs the cross-border transfer of ships for recycling. Parties to the Basel Convention have not determined that the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships establishes an equivalent level of protection to the Basel Convention.<sup>146</sup>

## C. Coastal communities

90. Coastal communities are especially affected by marine pollution. Oil, hazardous and noxious substance spills and the discharge of bilgewater and sewage can pollute coastal regions. As a result, various human rights are at stake.

91. Of all ocean oil slicks, 90 per cent are within 160 km of shorelines.<sup>147</sup> Coastal communities around the world are inundated with marine plastic litter. Indigenous people

<sup>138</sup> Raymond Antoni Kaspersen and others, "Insights into seafarer training and skills needed to support a decarbonized shipping industry" (DNV, 2022), p. 5.

<sup>139</sup> Maritime Just Transition Task Force, "Mapping a maritime just transition for seafarers", position paper, November 2022.

<sup>140</sup> See <https://unglobalcompact.org/take-action/think-labs/just-transition/about>.

<sup>141</sup> See A/HRC/12/26.

<sup>142</sup> Ibid.

<sup>143</sup> See Md Saiful Karim, *Shipbreaking in Developing Countries: A Requiem for Environmental Justice from the Perspective of Bangladesh* (Routledge, 2018).

<sup>144</sup> Center for International Environmental Law, *Shipbreaking and the Basel Convention: Analysis of the Level of Control Established under the Hong Kong Convention* (April 2011), p. 57.

<sup>145</sup> Submission from Shipbreaking Platform.

<sup>146</sup> See UNEP/CHW.10/28, paras. 128–135.

<sup>147</sup> See Yanzhu Dong and others, "Chronic oiling in global oceans", *Science*, vol. 376, No. 6599 (2022).

and others living near coasts often rely on seafood, which is regularly exposed to marine pollution, including the toxic additives that leach from plastics.<sup>148</sup>

## VI. Conclusions and recommendations

92. The work of IMO has always been relevant to human rights, considering the close connection between shipping and the environment and human beings. For example, oil and toxic spills harm coastal communities; air emissions from vessels adversely affect port cities and contribute to climate change; seafarers are exposed to hazardous working conditions; and transport of hazardous cargo poses risks to crew and the environment. Shipping thus impacts the enjoyment of a range of human rights, including the rights to life, health and personal integrity; to food; to an adequate standard of living; to work and occupational health and safety; and to a clean, healthy and sustainable environment. For that reason, various IMO treaties implicitly protect and promote human rights through their policies on the environment and the human element, and other IMO treaties explicitly do so.

93. IMO is a public regulator. Its work establishes critical conditions for the exercise of the freedom of navigation. It addresses key issues concerning human rights, such as maritime safety and environmental protection. However, it has not always exhibited the transparency and participation called for by a human rights-based approach. On the contrary, IMO has often been seen as catering to, and even dominated by, the shipping industry. The opacity of the shipping industry, which often tries to hide the beneficial ownership of vessels, has at times reflected on the image of IMO.

94. Under the auspices of IMO, over 50 international treaties have been adopted, with wide-ranging and often highly technical regulations on international shipping. In its function as standard-setting authority, IMO has made impressive achievements; nevertheless, IMO conventions do not consider human rights sufficiently. While several IMO conventions implicitly foster the observance of human rights by improving safety and security at sea and the protection of the environment, there is an urgent need to make human rights a prominent topic on the IMO agenda and to interpret, implement and enforce IMO conventions in the light of the human rights obligations of States. There is no dedicated office, ombudsperson or special adviser at IMO dealing with human rights. Furthermore, to increase the positive impact IMO could have on humans and the environment, a stronger operational focus is necessary.

95. Maritime safety plays an important role in protecting human rights. Improvements in maritime safety reduce the number of accidents and thus protect seafarers, coastal communities and the environment. Maritime safety is a prominent topic on the IMO agenda.

96. The shipping industry damages the environment in various ways, thereby posing a continuous threat to several human rights. Sources of pollution by the shipping industry include the combustion of heavy fuel oil and hazardous and noxious substance spills, biofouling and anti-fouling, ship recycling, dumping, loss of containers and releases of ballast water, black water, grey water and bilgewater.

97. Certain groups are particularly vulnerable to the adverse impacts of shipping. Coastal communities are especially affected by marine pollution. Forced labour is still alarmingly present in the maritime sector, often in slavery-like conditions. During the COVID-19 pandemic, seafarers experienced an unprecedented crisis making some “prisoners at sea” and blocking others from joining their workplace.

98. In the process of breaking ships apart, oil, lubricants and other hazardous chemicals are released and contaminate air, soil and water. This occurs most often in the process of beaching. Many of the pollutants released are persistent and capable of moving long distances, thus posing a global threat. Workers are regularly mortally injured in the course of their work, even in approved ship recycling facilities.

<sup>148</sup> See [A/76/207](#).

99. While improvements in maritime safety have reduced the number of accidents at sea in the past decades and thus protected seafarers and coastal communities, there are still many areas where improvement is urgently needed.

100. Without adequate global enforcement, the de facto impact of the IMO conventions is vastly reduced. The limited scope of the IMO mandate emphasizes that only in conjunction with the United Nations Convention on the Law of the Sea can IMO conventions enjoy enforcement. However, this system requires that flag States are willing and technically equipped to enforce IMO conventions, which is often not the case. While the IMO audit scheme can be a helpful tool to increase observance, fundamental issues remain, for example with flags of convenience and fraudulent registries. Furthermore, technical cooperation and capacity-building efforts must increase in order to establish a system of international adherence.

101. Transparency and the participation of relevant stakeholders are important areas which require more attention. While there is the possibility of observing certain IMO meetings for some stakeholders, such as the media, the default confidential nature of meetings decreases the opportunity for the public to participate meaningfully in the decision-making process. The right to information is crucial for protecting human rights but is not fully realized at IMO. The policy of the IMO secretariat on access to information represents progress but contains ambiguous exceptions. Various documents are publicly available on websites administered by IMO; however, it does not provide a complete and free platform containing updated and consolidated versions of relevant conventions, codes and guidelines. None of the IMO platforms give the public access to interim or final audit reports. Without prior approval by IMO member States, observing the meetings of the Assembly, committees and the Council is not possible for the public.

102. The Special Rapporteur therefore recommends that IMO:

- (a) Include human rights as an explicit, prominent item on its agenda, such as in connection with the human element item;
- (b) Interpret and implement IMO conventions in the light of its human rights obligations and the human rights obligations of States;
- (c) Consider human rights in all decision-making processes, including in the process of facilitating the adoption of conventions, protocols, codes, guidelines, recommendations and strategies;
- (d) Develop a human rights-based analysis of IMO processes and ensure adequate incorporation of the human rights perspective into its stream of work, including establishing a dedicated office or special adviser to the IMO Secretary-General;
- (e) Clarify its mandate to undertake operational work during and beyond crises, and appropriately resource that work;
- (f) Reform the scope and practice of the IMO member State audit scheme to make human rights an explicit part of audits, publish the reports of the scheme and indicate where compliance is lacking;
- (g) Enhance efforts to tackle forced labour;
- (h) Facilitate the establishment of more, stricter and general rules on noise prevention;
- (i) Commit to examining and evaluating the human rights impact of shipbreaking, including the implications of beaching, with a view to amending the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships;
- (j) Remove States that do not report in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers from the “white list” in order to ensure accountability;

- (k) Support research efforts to identify the environmental impacts of very low sulfur fuel oils, especially with regard to air and water pollution;
- (l) Actively work to establish or enhance existing regulatory frameworks that tackle the environmental impact of grey water and bilgewater releases;
- (m) Increase efforts to prevent alien species introductions by, inter alia, supporting research into innovative methods of ballast water management;
- (n) Tackle the issue of plastic nurdles and coordinate with UNEP in the negotiations on a plastic pollution treaty;
- (o) Create a global integrated shipping information system module that makes information related to the loss of containers accessible to the public;
- (p) Consider extending the double-hull or double-bottom requirement to ships other than oil tankers and passenger ships;
- (q) Establish a systemized compliance review mechanism to monitor the compliance of vessels with traffic separation schemes;
- (r) Secure more financial support for technical cooperation and capacity-building;
- (s) Develop a global integrated shipping information system module on human rights in the context of shipping;
- (t) Provide free, up-to-date, consolidated and easily accessible electronic copies of IMO conventions, codes and guidelines;
- (u) Develop a single platform that functions as an interface for relevant platforms, such as the IMO document repository and the United Nations terminology database (UNTerm);
- (v) Implement a strategy for granting the public access to IMO discussions, including by facilitating the admission of observers;
- (w) Review the new policy on access to information by, inter alia, considering the introduction of clear language in the rules on the exceptions to access;
- (x) Fully implement the 2023 revised strategy on reduction of greenhouse gas emissions from ships and continue to strengthen it to align with the best available science;
- (y) Ensure that new zero greenhouse gas emission fuels do not aggravate the risks and harms of exposure to toxic substances and wastes;
- (z) Establish a pollution levy at a level that can accelerate the decarbonization of the shipping fleet and help secure funds for the sound management of wastes at port reception facilities worldwide.

103. The Special Rapporteur also recommends that IMO member States:

- (a) Undertake national and international efforts to tackle forced labour in their territorial seas and exclusive economic zones as well as on the high seas;
- (b) Ratify the Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, the Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, and the Cape Town Agreement on fishing vessel safety;
- (c) Fully implement all IMO conventions and other instruments to which they are a party;
- (d) Establish more particularly sensitive sea areas in relevant regions;
- (e) Introduce zero-emission maritime trade routes;

- (f) **Analyse shipbreaking activities closely by paying special attention to potential human rights violations and abuses, especially in the context of beaching;**
  - (g) **Properly fund IMO to allow it to function in a transparent and rule of law-based manner;**
  - (h) **Urge IMO to address the recommendations in the present report.**
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