

MARITIME INSTITUTE OF MALAYSIA

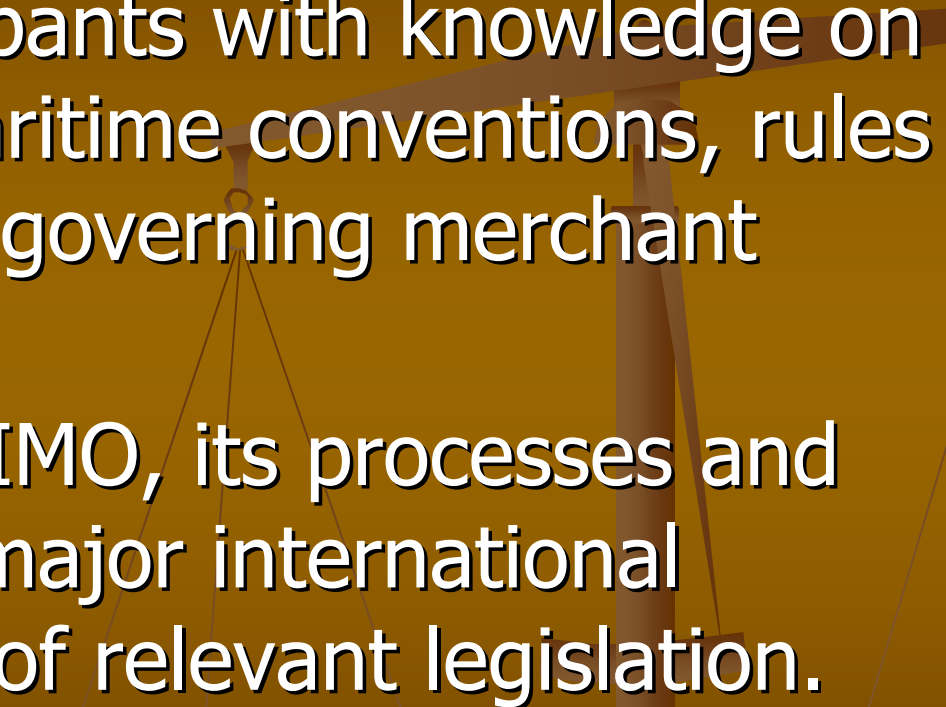
Maritime Conventions, Rules & Regulations

Advancing the Frontier of Maritime Knowledge

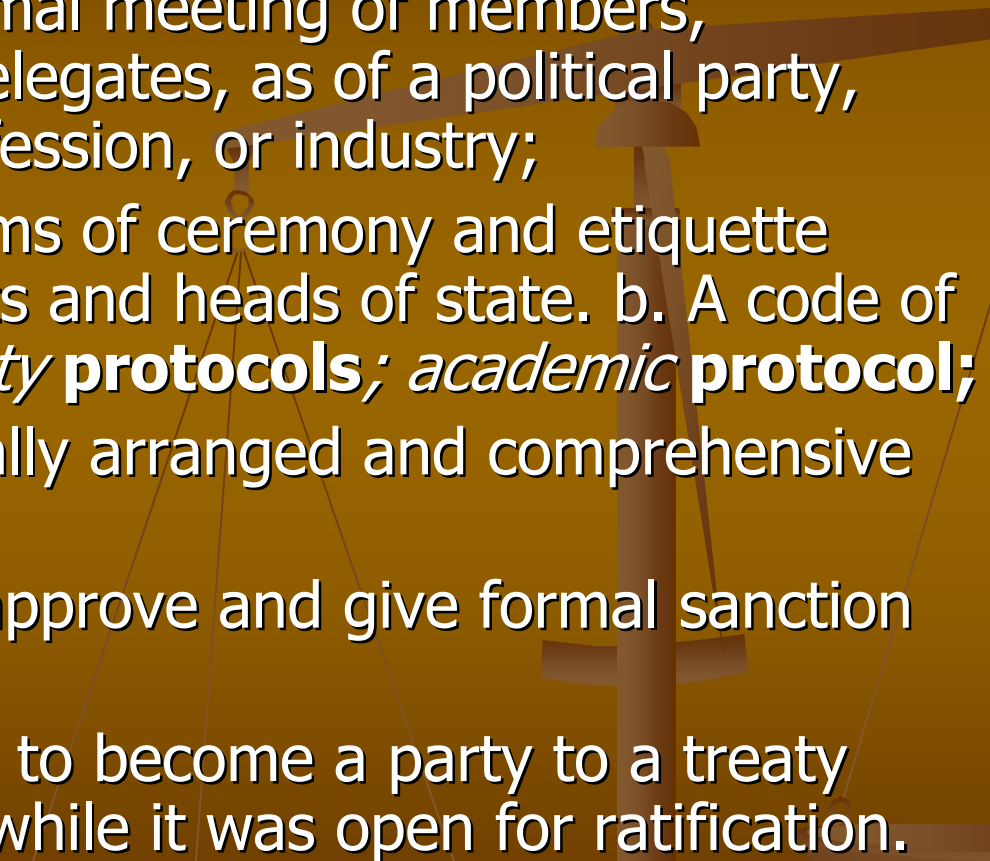


Noor Apandi Osnin
Centre for Ocean Law and Policy, MIMA
SHIP SUPERINTENDENCY INTENSIVE COURSE (SSIC)
10 - 12 JANUARY 2005
ARMADA HOTEL, PETALING JAYA

Objective & Scope

- To equip participants with knowledge on international maritime conventions, rules and regulations governing merchant shipping.
 - Introduction to IMO, its processes and outputs; list of major international convention; list of relevant legislation.
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Definition

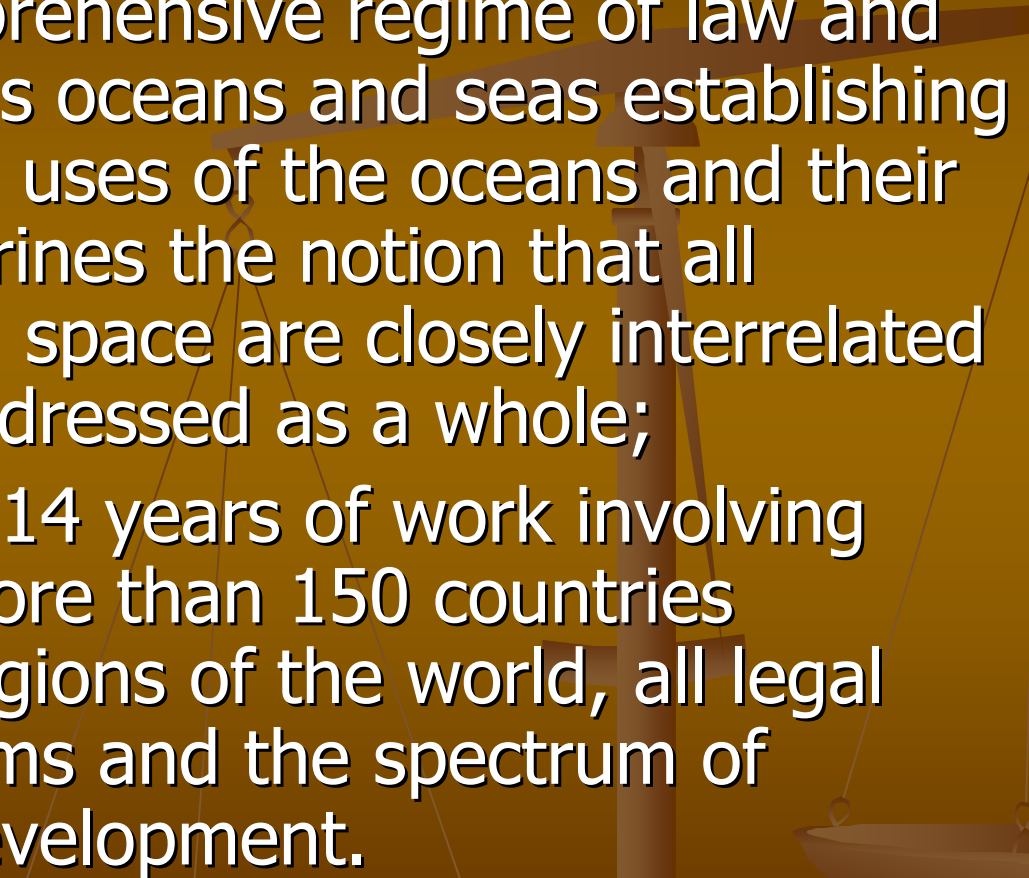
- CONVENTION - a formal meeting of members, representatives, or delegates, as of a political party, fraternal society, profession, or industry;
 - PROTOCOL - The forms of ceremony and etiquette observed by diplomats and heads of state. b. A code of correct conduct: *safety protocols*; *academic protocol*;
 - CODE - A systematically arranged and comprehensive collection of laws;
 - RATIFICATION - To approve and give formal sanction to; confirm;
 - ACCESSION – the act to become a party to a treaty which it did not sign while it was open for ratification.
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INTERNATIONAL LAW



- International law – system of law governing relations between states as well as other international entities;
- Based on customary law:
 - Emanates from state practice i.e. legislation, factual acts, judicial decisions
- and treaties:
 - Agreement between 2 or more parties intended to create legal relations.

UNCLOS

- Lays down a comprehensive regime of law and order in the world's oceans and seas establishing rules governing all uses of the oceans and their resources. It enshrines the notion that all problems of ocean space are closely interrelated and need to be addressed as a whole;
 - It took more than 14 years of work involving participation by more than 150 countries representing all regions of the world, all legal and political systems and the spectrum of socio/economic development.
- 

UNCLOS



- Open for signature on 10 December 1982 in Montego Bay, Jamaica and enters into force on 16 November 1994 after 60 ratification;
- 320 articles with 9 Annexes;
- There are 146 ratification as at 16 November 2004;
- Malaysia ratified UNCLOS in October 1996.

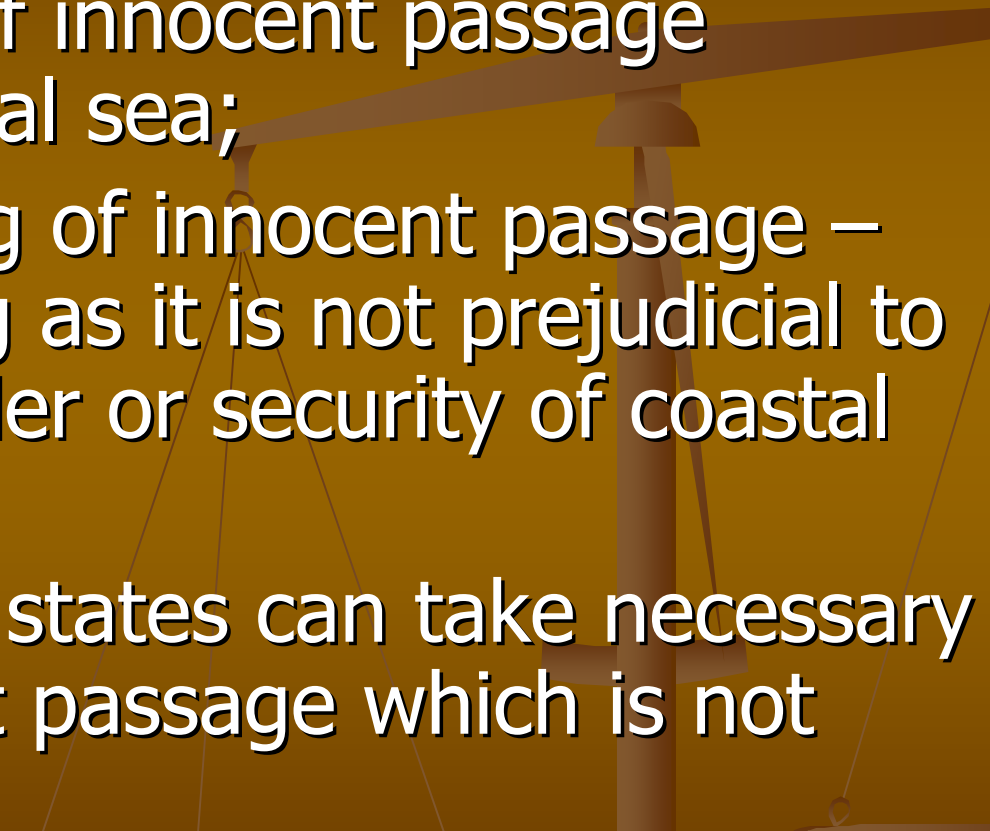
<http://www.un.org/Depts/los/index.htm>

UNCLOS covers...

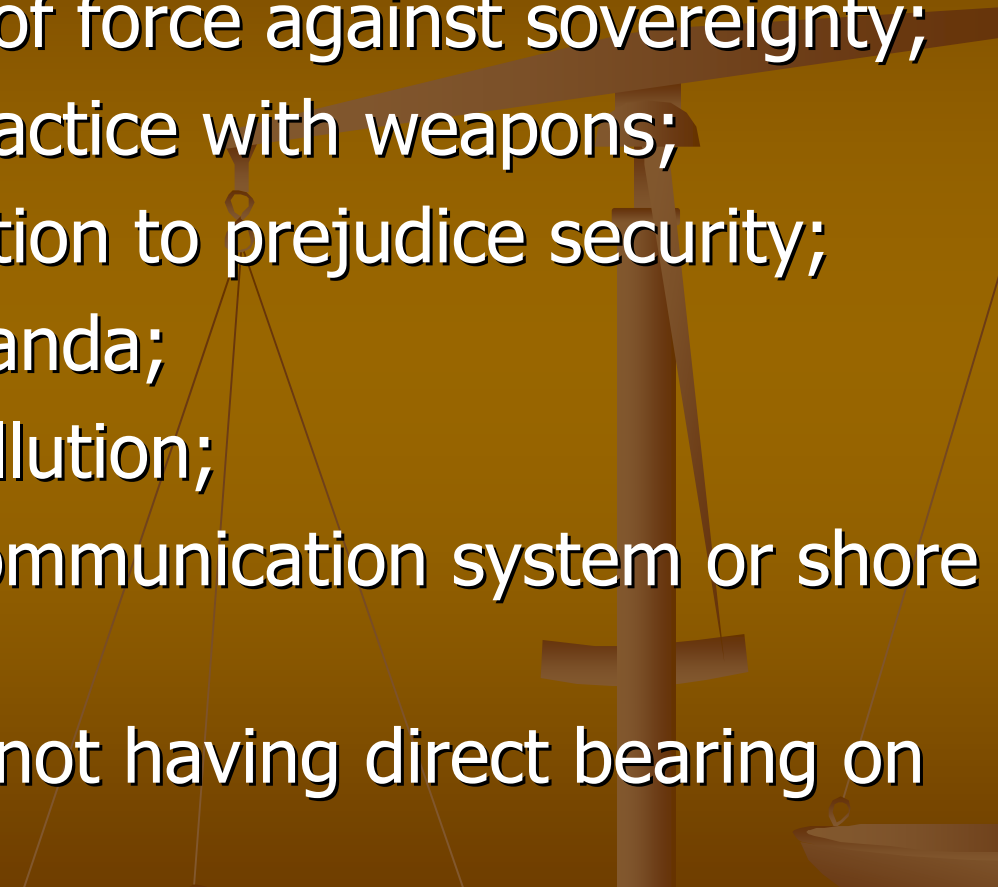
- Maritime zones:
 - Baselines;
 - Internal waters;
 - Territorial seas;
 - Contiguous zones;
 - Straits used for international navigation;
 - EEZ;
 - Continental shelf;
 - High seas.



Rights and obligations

- Arts. 17 – 32: Of innocent passage through territorial sea;
 - Art. 19: Meaning of innocent passage – innocent so long as it is not prejudicial to peace, good order or security of coastal states;
 - Art. 25: Coastal states can take necessary steps to prevent passage which is not innocent.
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Passages which are not innocent

- Any threat or use of force against sovereignty;
 - Any exercise or practice with weapons;
 - Collecting information to prejudice security;
 - Any act of propaganda;
 - Act resulting in pollution;
 - Interfering with communication system or shore installations;
 - Any other activity not having direct bearing on passage.
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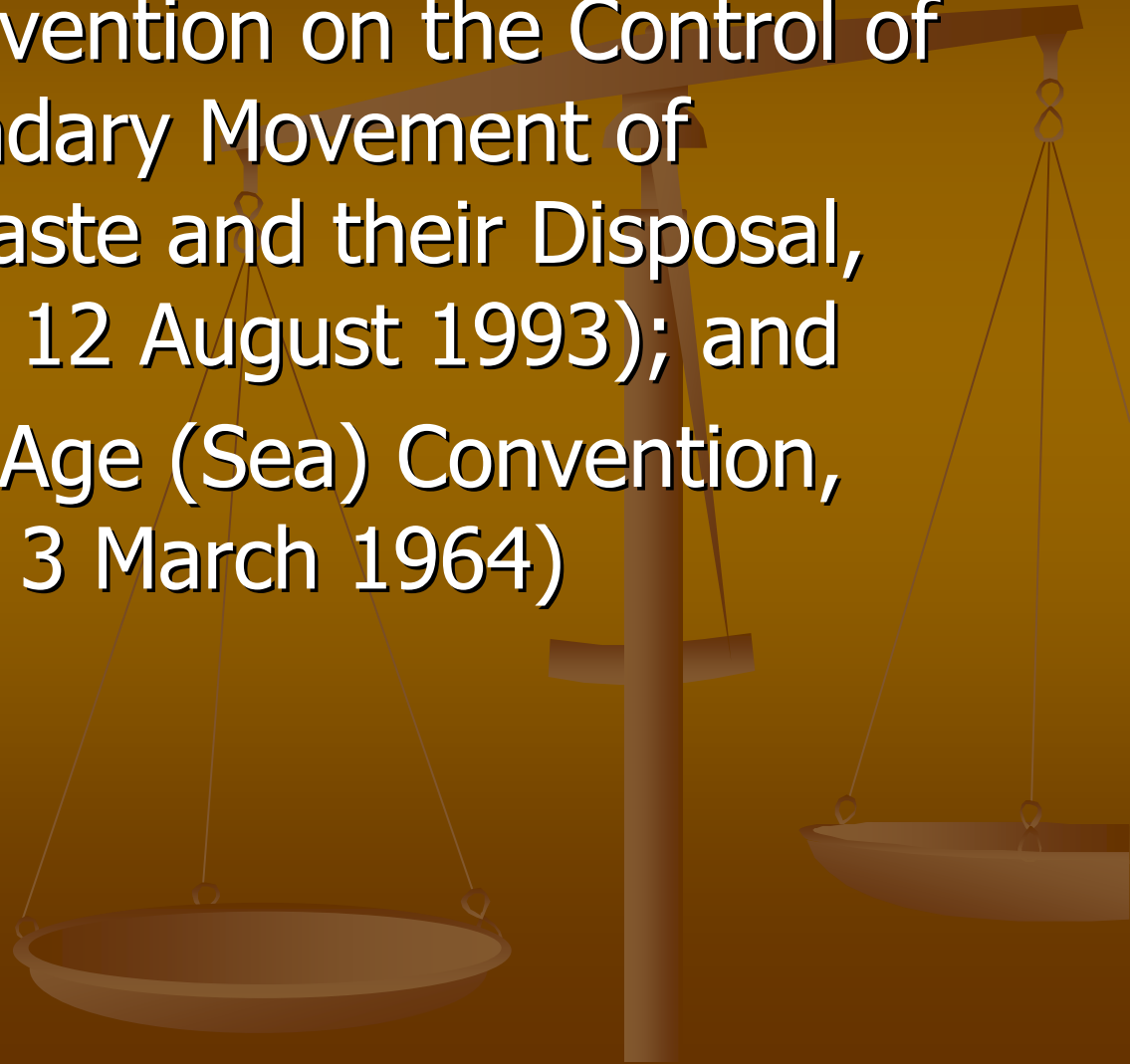
Relevant Articles



- Arts. 34 – 44: Straits used for international navigation and transit passage;
- Arts. 52 – 54: Rights of innocent & archipelagic passage, duties of foreign ships and aircraft;
- Art. 73: Rights of coastal states to board, inspect, arrest and enforce judicial proceedings;
- Art. 87: Freedom of high seas;
- Art. 100: Duty to cooperate in repression of piracy;
- Arts. 105 – 106: Seizure of pirate ship and liability for seizure without adequate grounds.

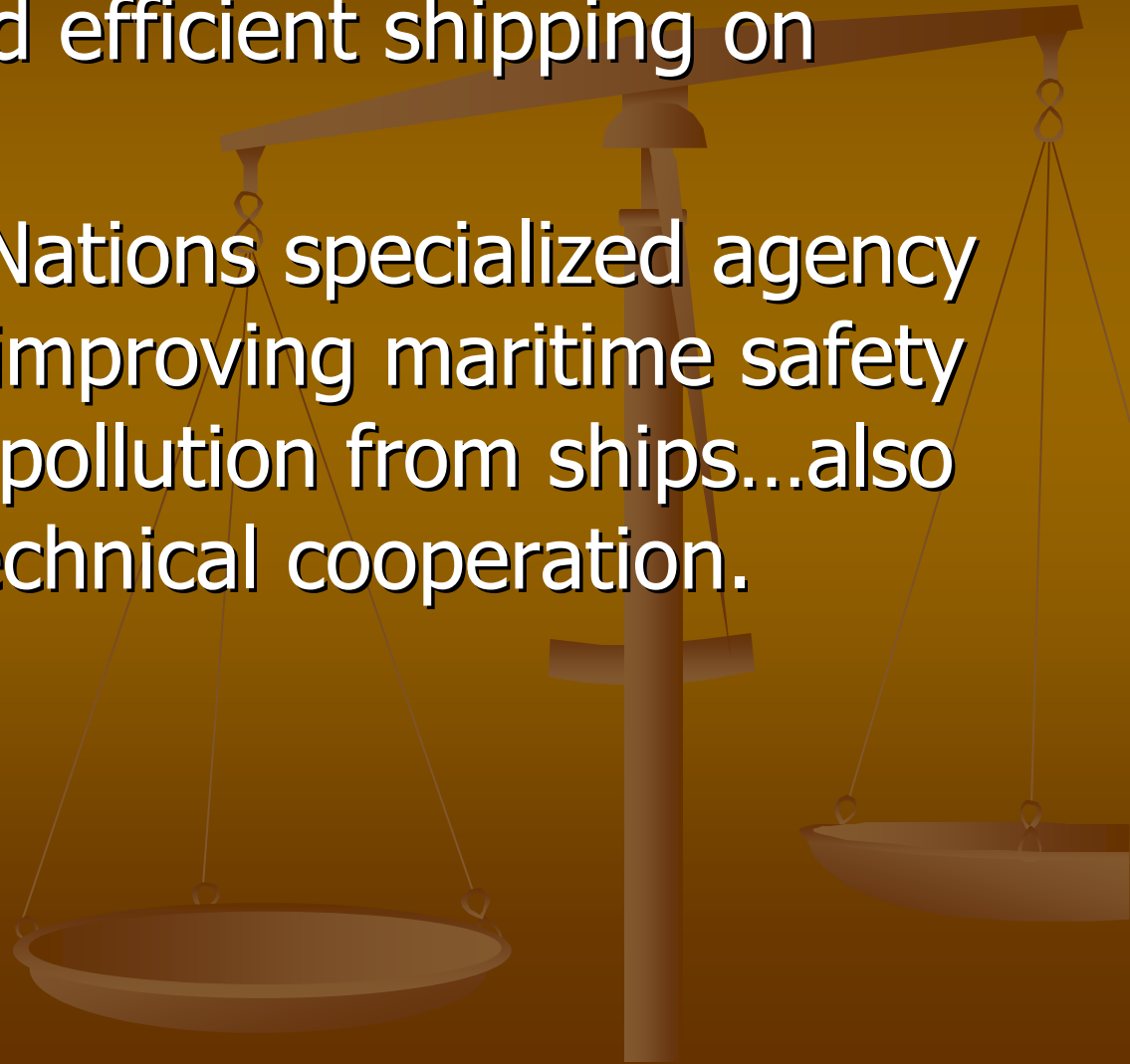
Other UN convention

- The Basle Convention on the Control of the Transboundary Movement of Hazardous Waste and their Disposal, 1989 (ratified, 12 August 1993); and
- The Minimum Age (Sea) Convention, 1920 (ratified, 3 March 1964)

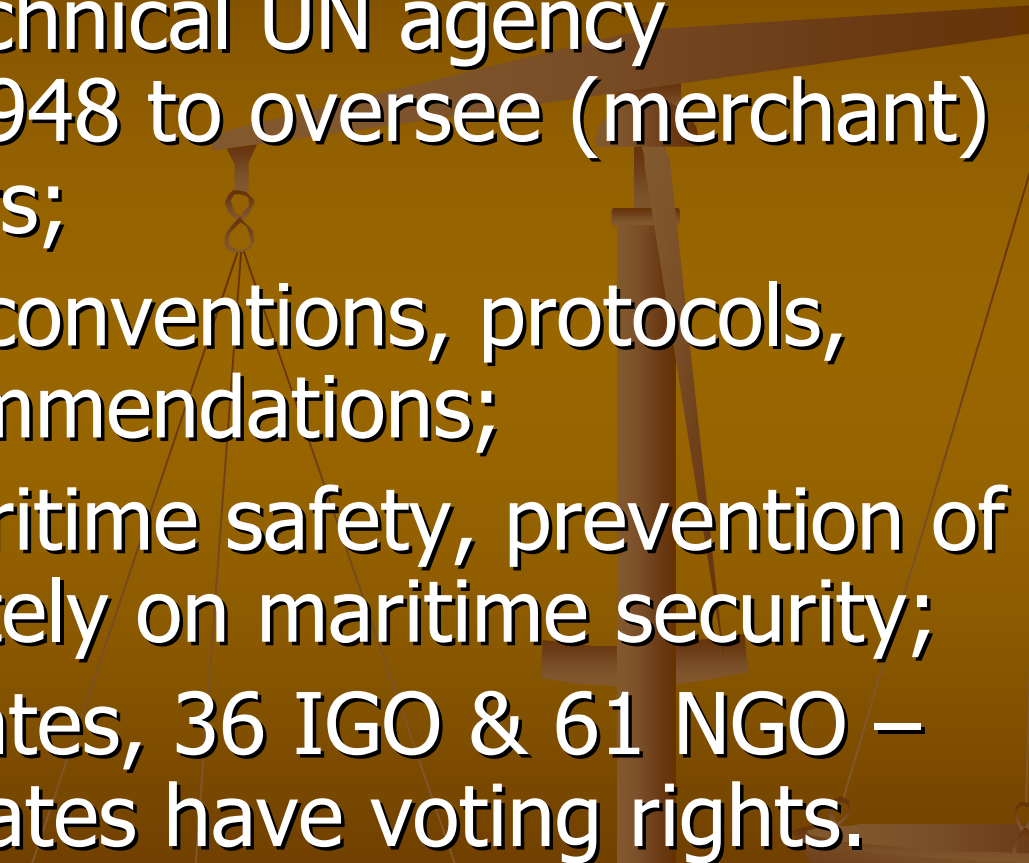


International Maritime Organisation

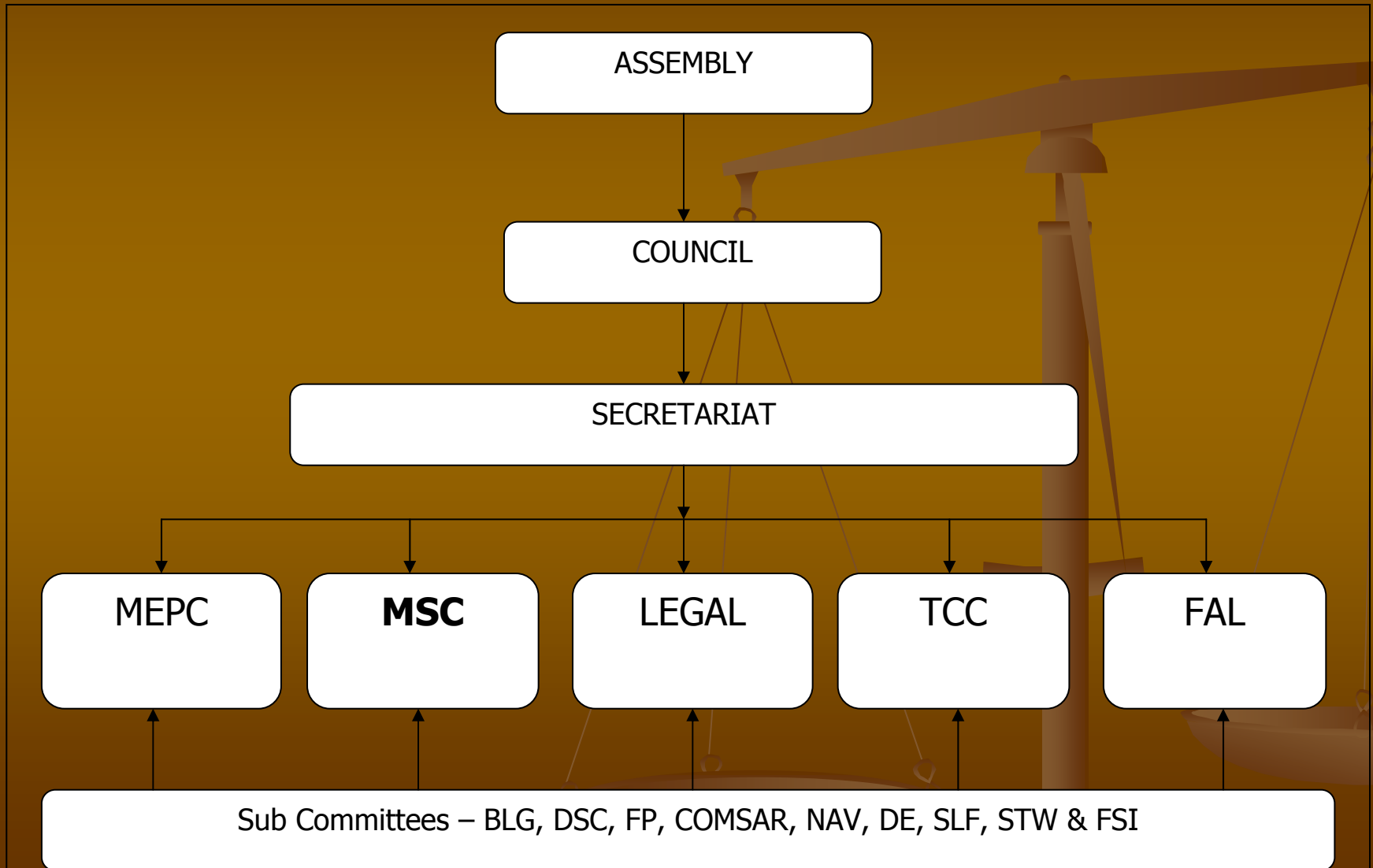
- Safe, secure and efficient shipping on clean oceans.
- ...is the United Nations specialized agency responsible for improving maritime safety and preventing pollution from ships...also committed to technical cooperation.



IMO

- A specialized technical UN agency established in 1948 to oversee (merchant) maritime matters;
 - Works through conventions, protocols, codes and recommendations;
 - Primarily on maritime safety, prevention of pollution and lately on maritime security;
 - 163 member states, 36 IGO & 61 NGO – only member states have voting rights.
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Structure of IMO

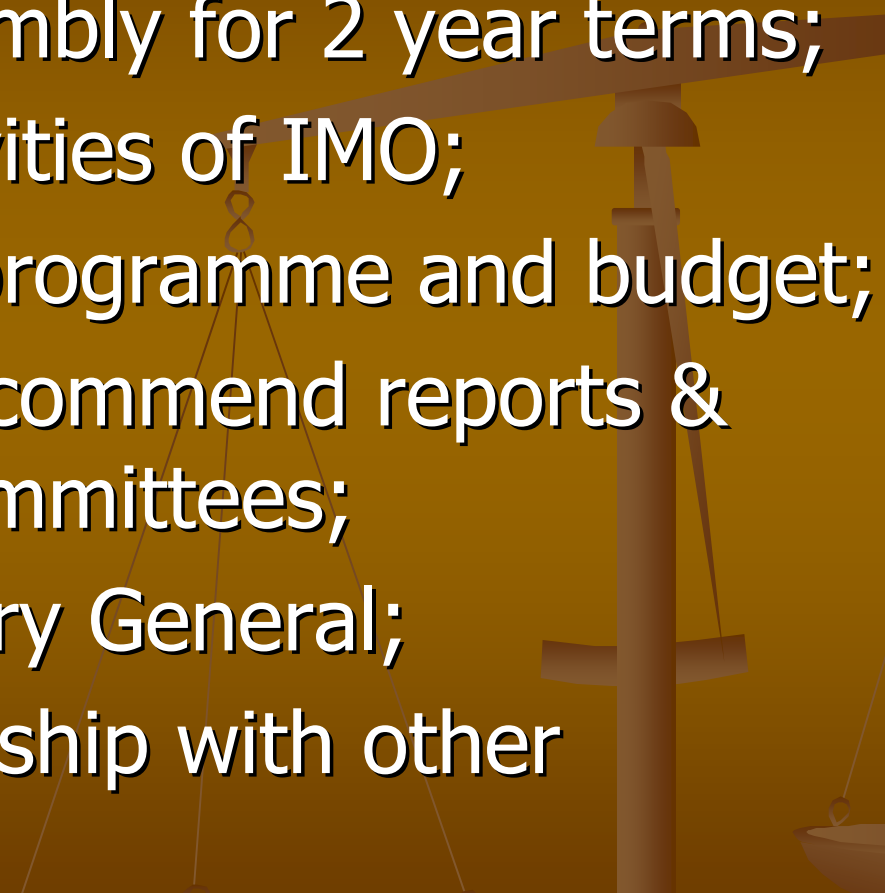


Assembly

- Highest governing body;
- Consists of all member states and meets every 2 years also in extraordinary sessions;
- Responsible for work programme, voting for budget & financial arrangements;
- Elects council members.
- Presided by Secretary General – Mr. Efthimios Mitropoulous of Greece. 4 year term beginning 1 January 2004.

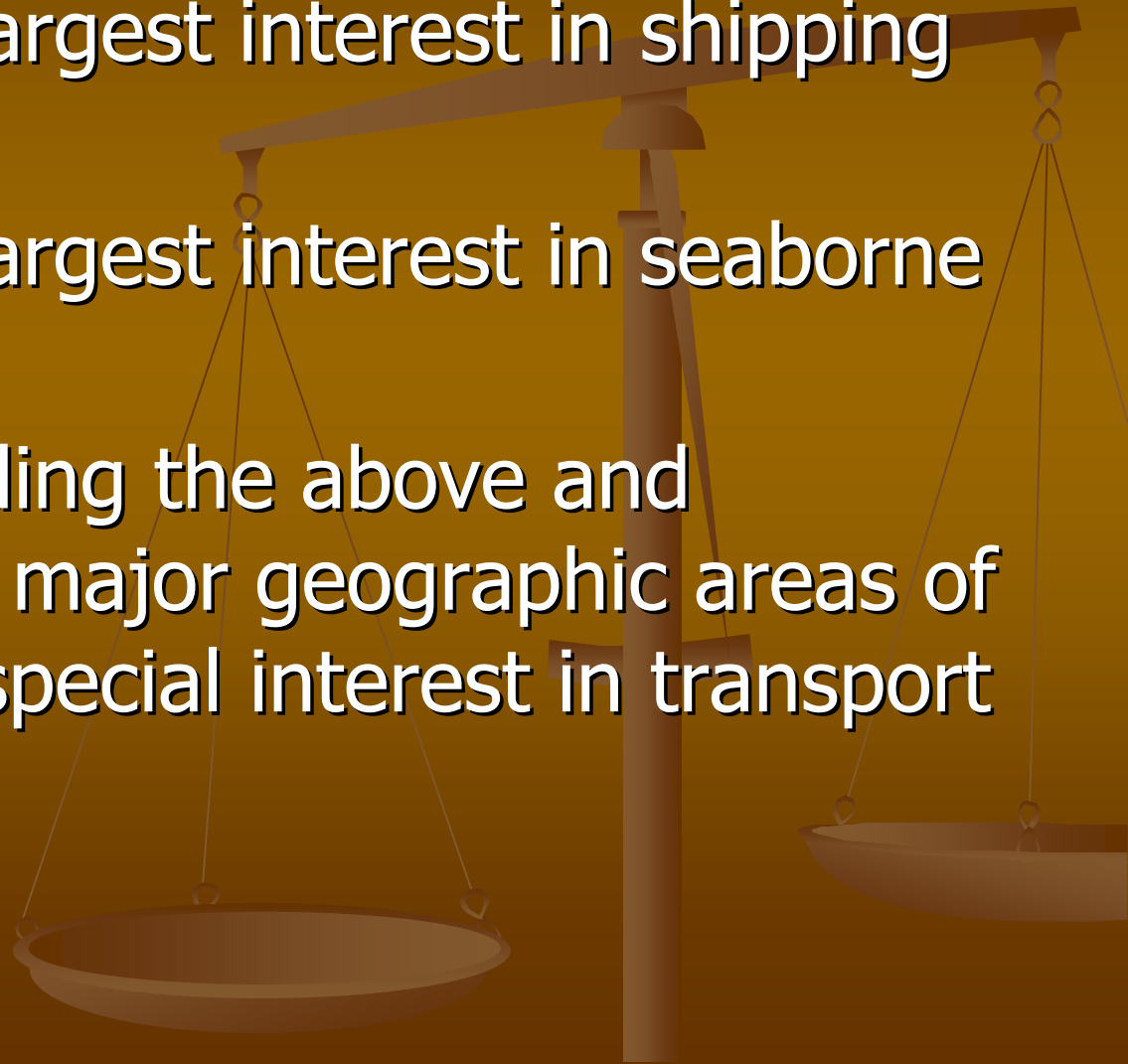


Council

- Elected by Assembly for 2 year terms;
 - Coordinate activities of IMO;
 - Consider work programme and budget;
 - Comments & recommend reports & proposals of Committees;
 - Appoint Secretary General;
 - Manage relationship with other organisation.
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Council members

- 10 states with largest interest in shipping services;
- 10 states with largest interest in seaborne trade;
- 20 states excluding the above and representing all major geographic areas of the world with special interest in transport and navigation.

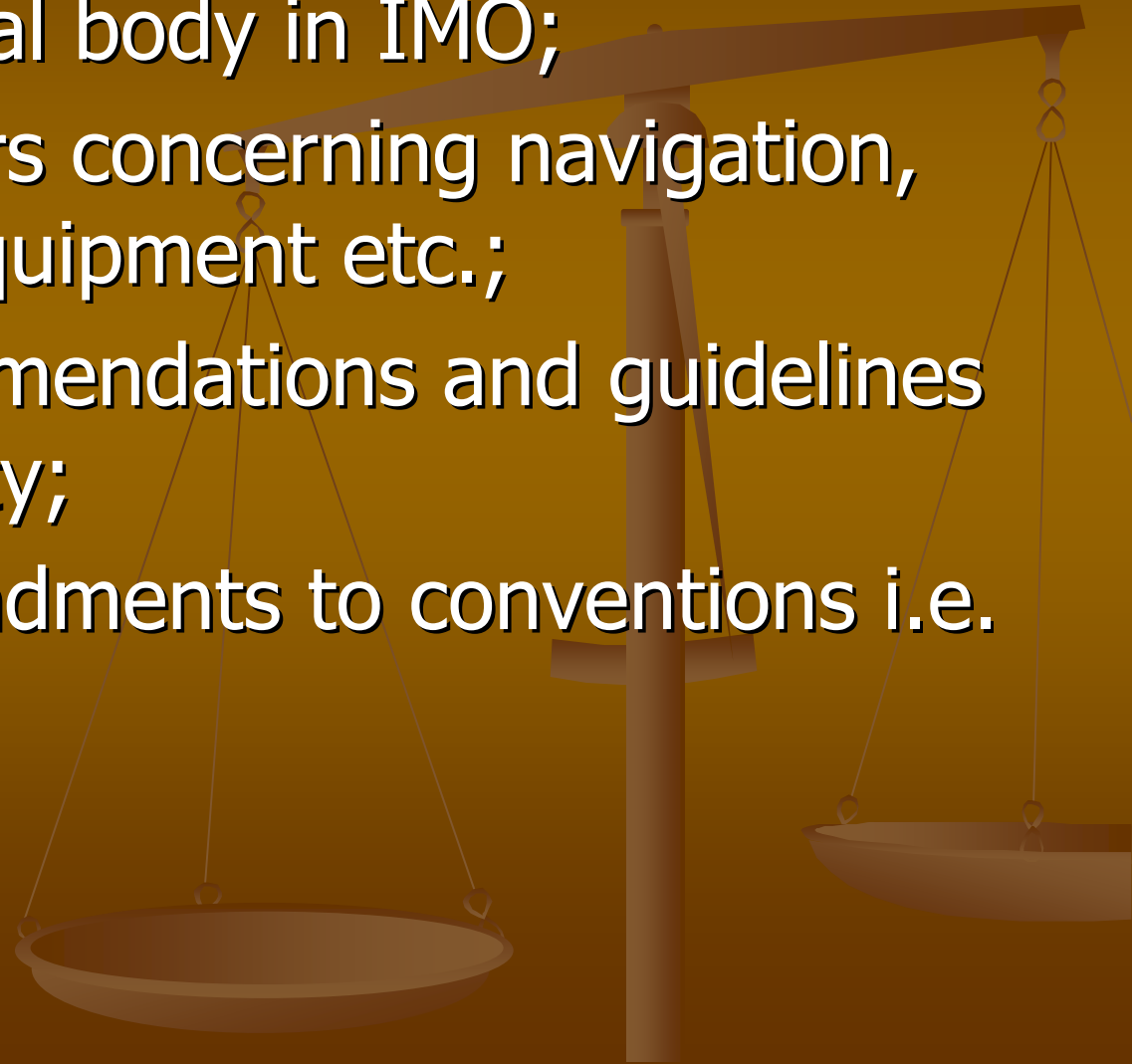


Council members 2004/05

Ship-owners	Traders	Others
China, Greece, Italy, Japan, Norway, Panama, Korea, Russia, UK, US.	Argentina, Bangladesh, Brazil, Canada, France, Germany, India, Netherlands, Spain, Sweden.	Algeria, Australia, Bahamas, Chile, Cyprus, Denmark, Egypt, Ghana, Indonesia, Malta, Mexico, Nigeria, Philippines, Poland, Portugal, Saudi Arabia, Singapore, South Africa, Turkey, Venezuela.

Maritime Safety Committee (MSC)

- Highest technical body in IMO;
- Consider matters concerning navigation, construction, equipment etc.;
- Provides recommendations and guidelines relating to safety;
- Considers amendments to conventions i.e. SOLAS.

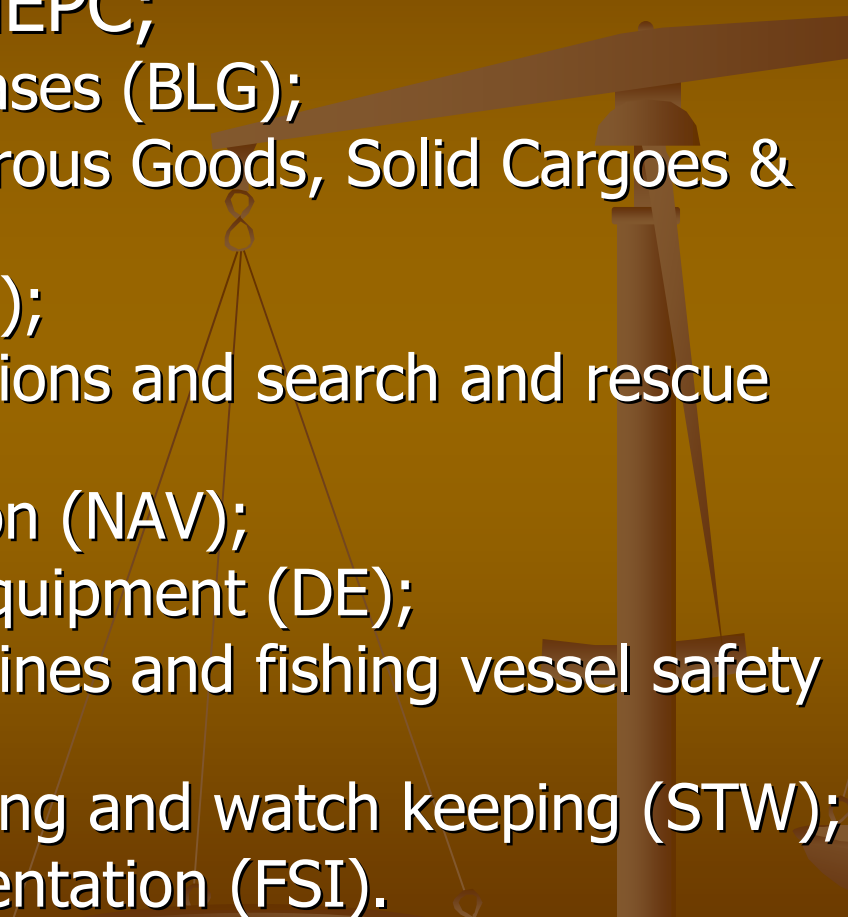


Marine Environment Protection Committee (MEPC)

- Prevention and control of pollution from ships;
- Adoption and amendment of conventions i.e. MARPOL.

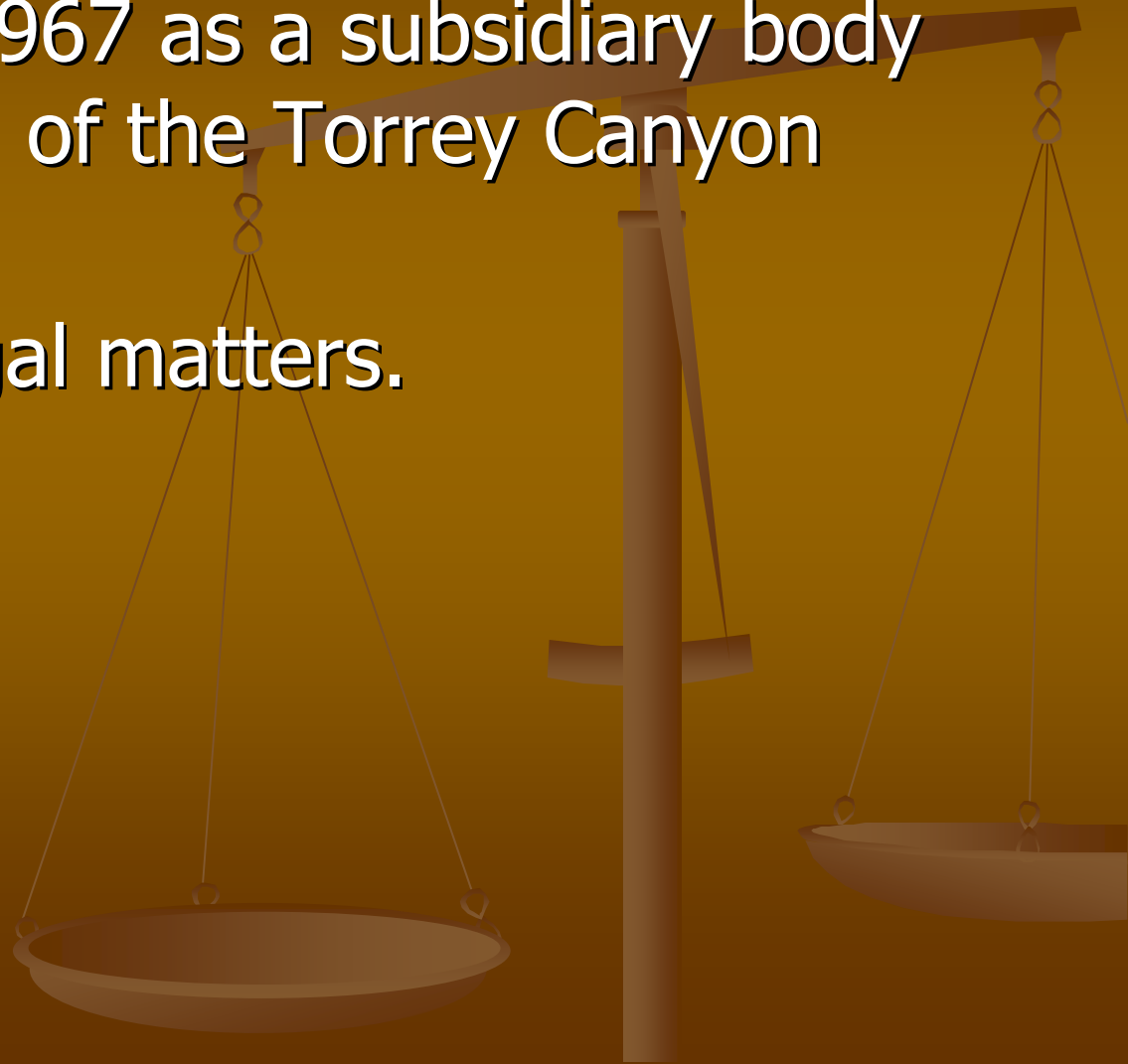


Sub-Committees

- To assist MSC & MEPC;
 - Bulk liquids and gases (BLG);
 - Carriage of Dangerous Goods, Solid Cargoes & Containers (DSC);
 - Fire protection (FP);
 - Radio communications and search and rescue (COMSAR);
 - Safety of navigation (NAV);
 - Ship design and equipment (DE);
 - Stability and load lines and fishing vessel safety (SLF);
 - Standards of training and watch keeping (STW);
 - Flag state implementation (FSI).
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Legal Committee (LEG)

- Established in 1967 as a subsidiary body as an aftermath of the Torrey Canyon disaster;
- Deal with all legal matters.



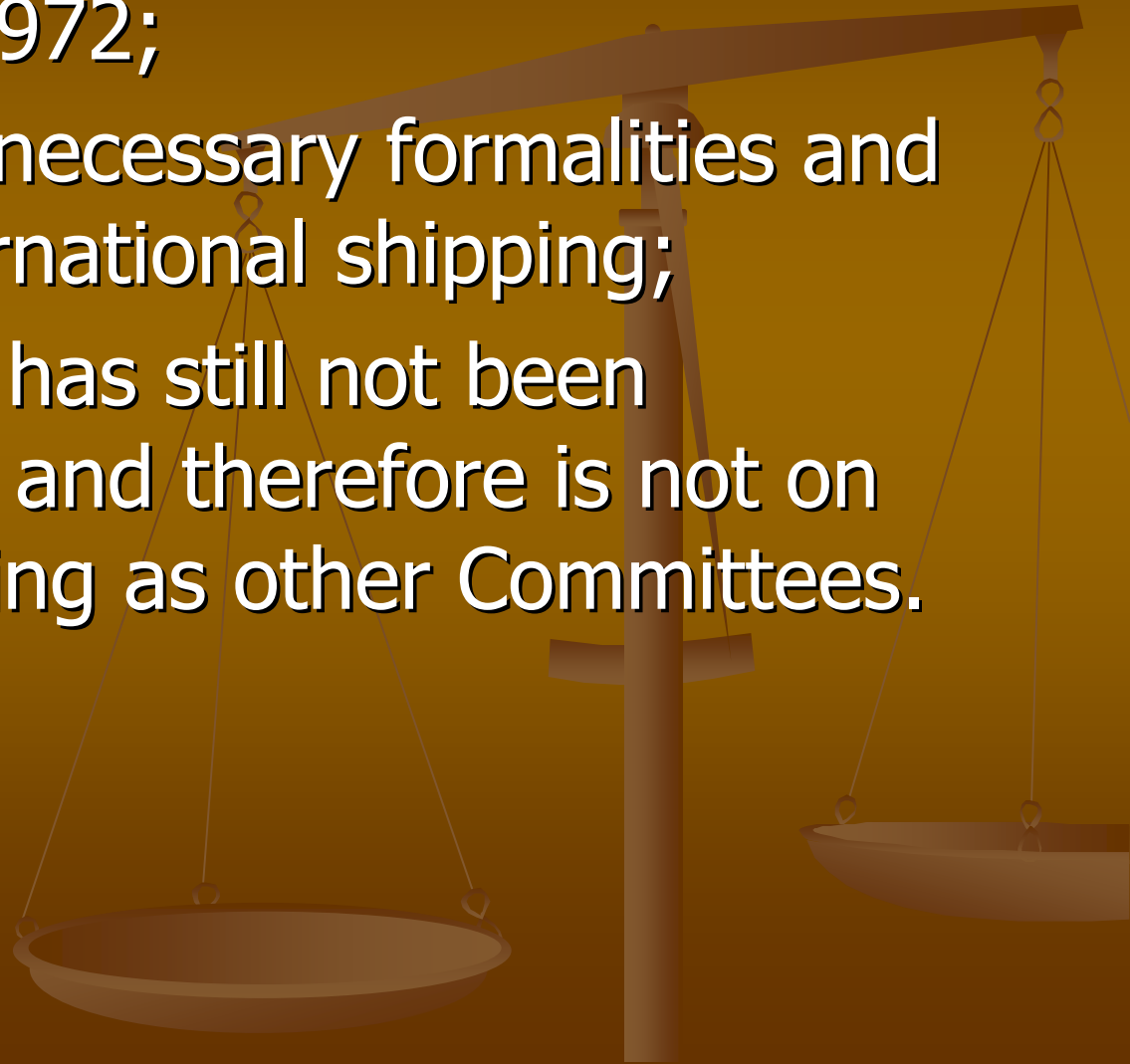
Technical Cooperation Committee (TCC)

- Implement technical cooperation projects;
- Act as executing agencies in IMO's technical cooperation activities.



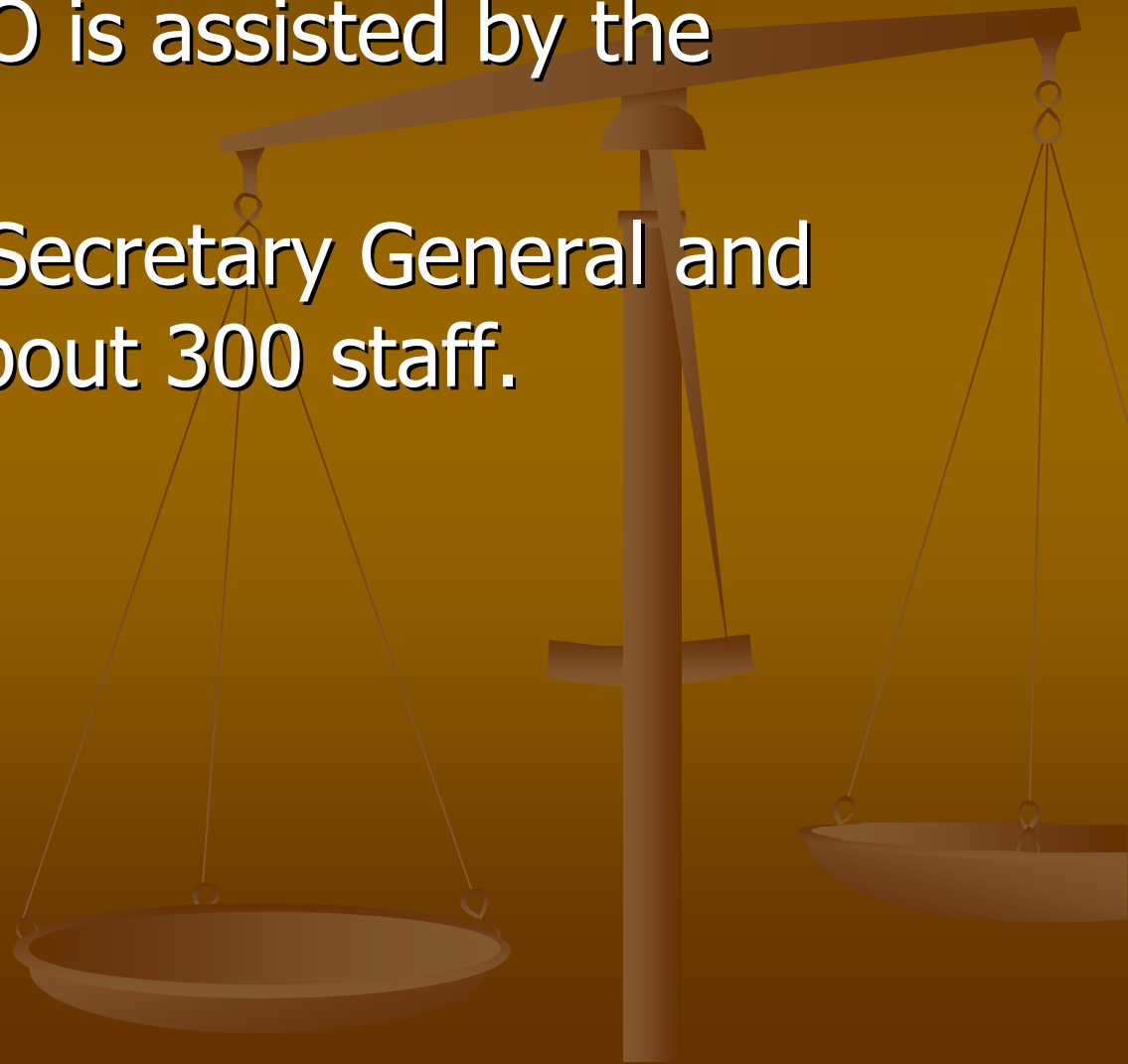
Facilitation Committee (FAL)

- Established in 1972;
- To eliminate unnecessary formalities and red tape in international shipping;
- This committee has still not been institutionalized and therefore is not on the same standing as other Committees.



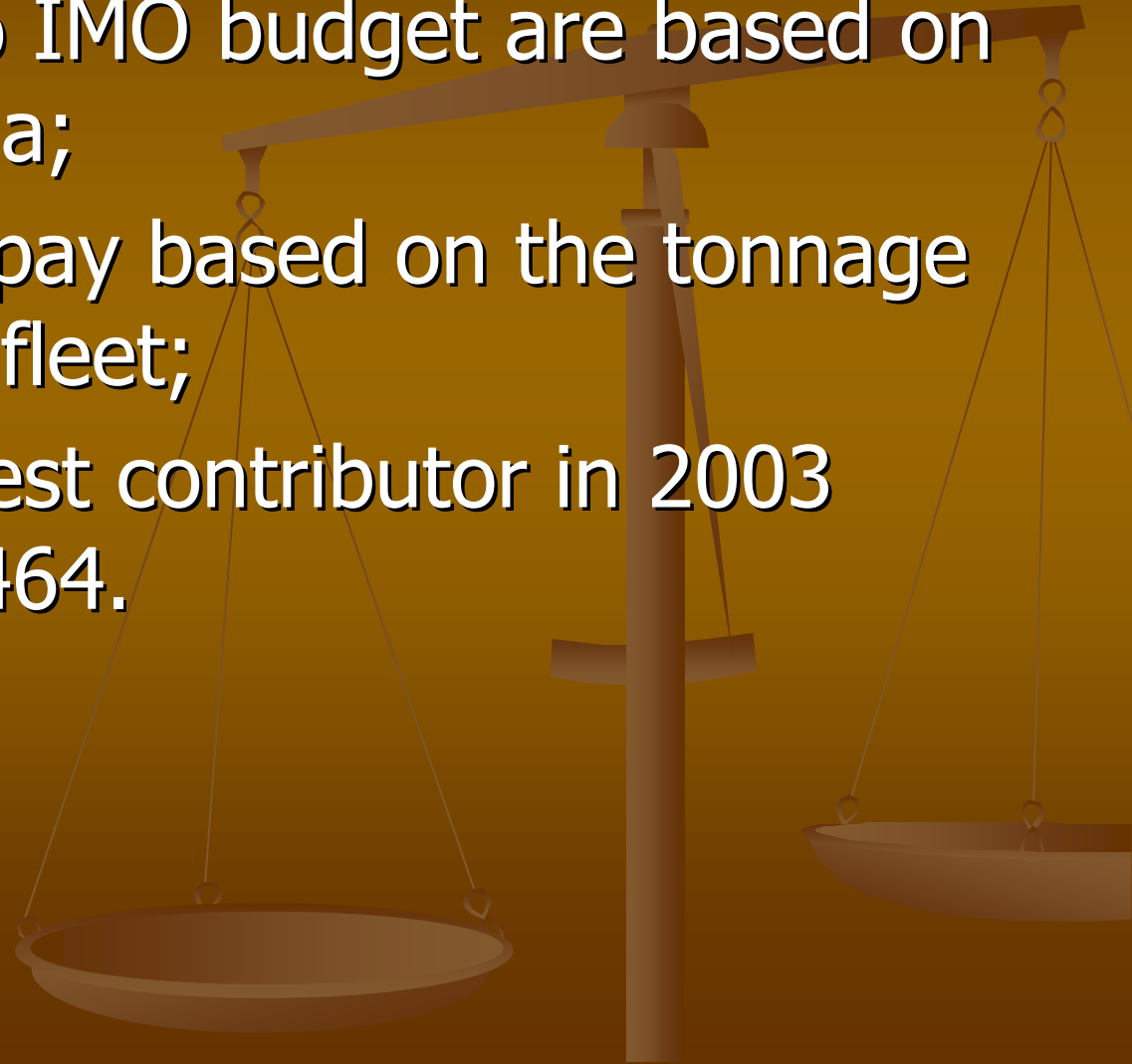
Secretariat

- The work of IMO is assisted by the secretariat;
- Headed by the Secretary General and supported by about 300 staff.



Budget

- Contributions to IMO budget are based on a unique formula;
- Member states pay based on the tonnage of its merchant fleet;
- Panama is highest contributor in 2003 paying £3,715,464.

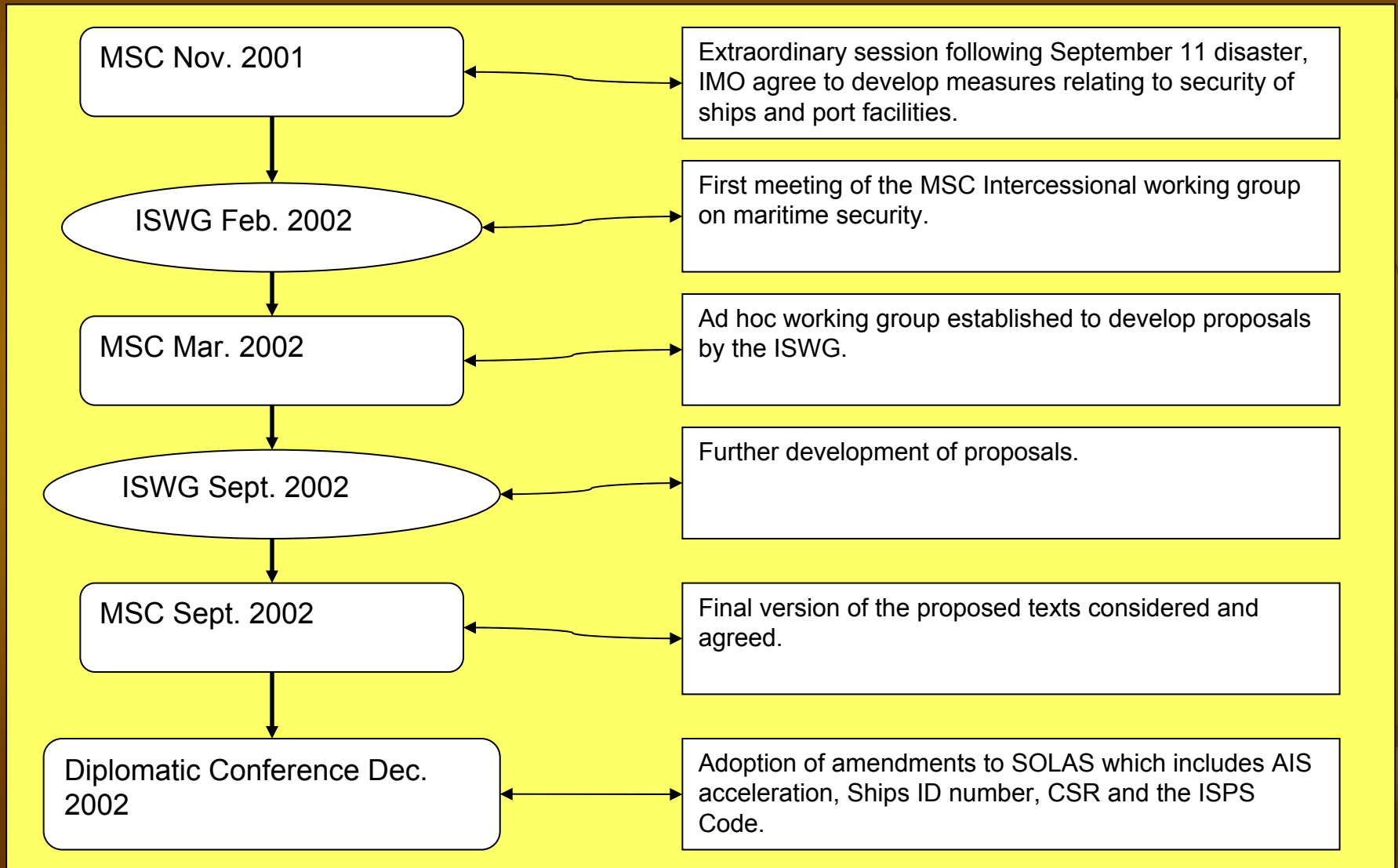


The Process



1. Issue submitted to Secretariat;
2. Tabled at appropriate forum i.e. MSC for security issue;
3. Agree for inclusion as agenda item – pass to sub-committee;
4. Draft instrument produced, discussed and agreed upon and passed to council;
5. Adopted by Assembly based on recommendation by council;
6. Deposited to Sec. Gen. for acceptance, ratification or accession;
7. Member state implement, IMO will keep up to date and promote ratification.

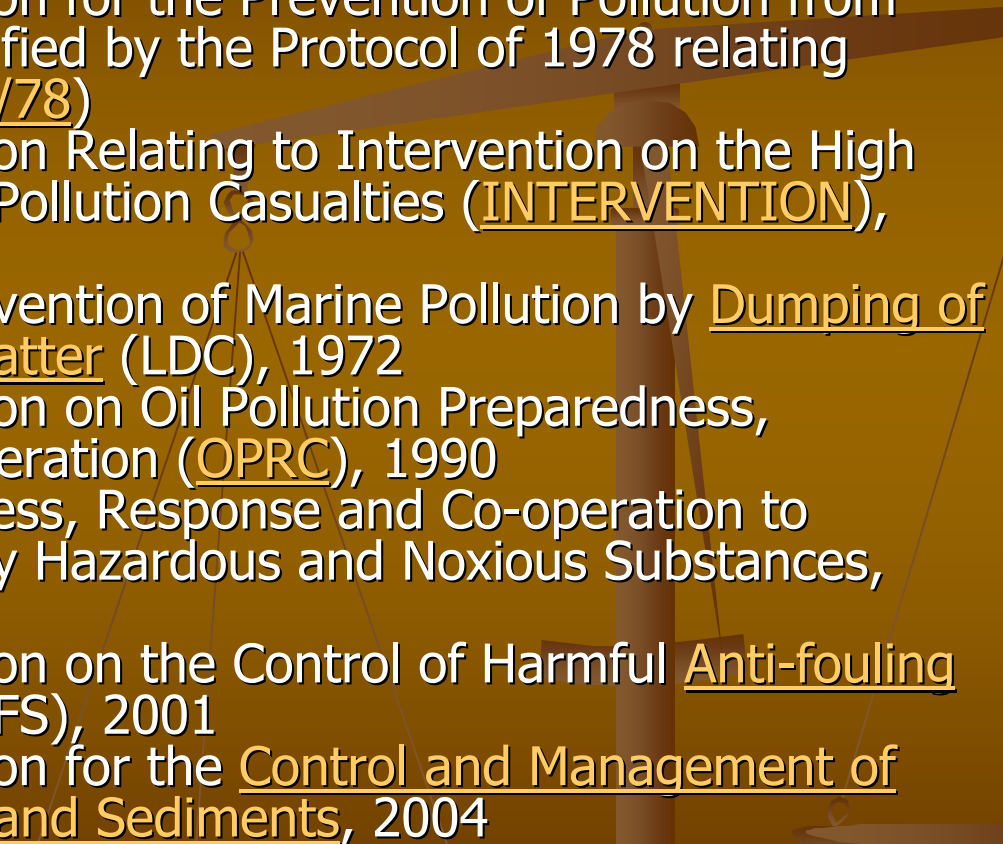
Sample proceedings



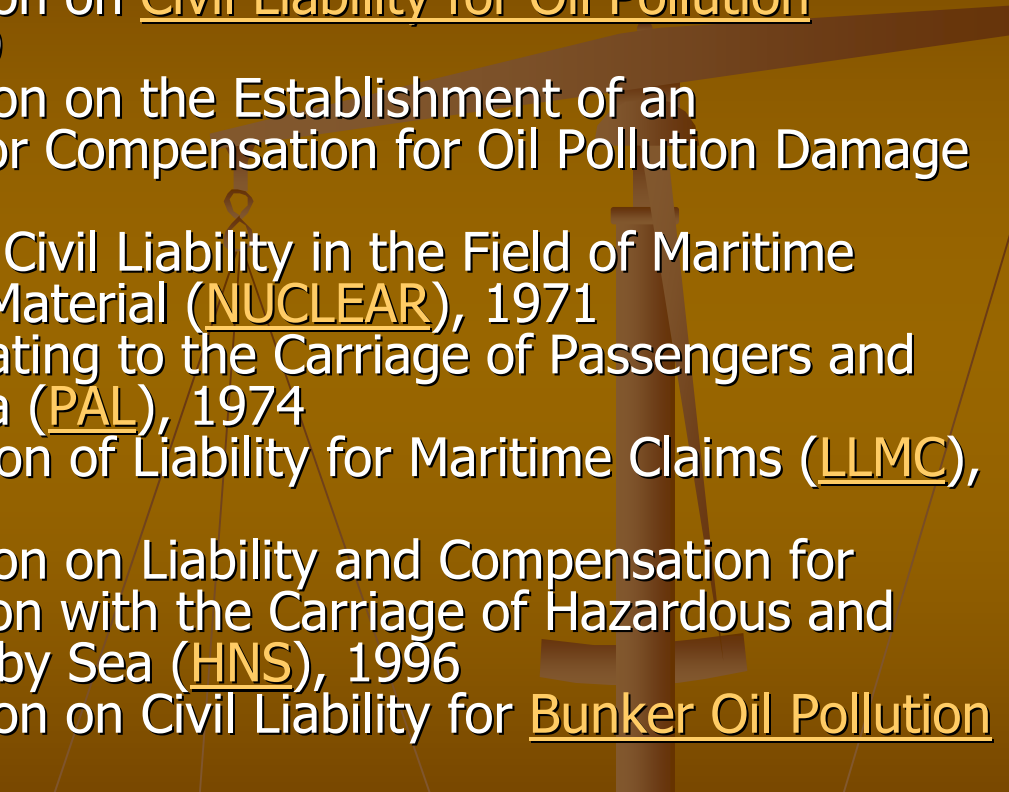
Maritime Safety

1. International Convention for the Safety of Life at Sea (SOLAS), 1974
2. International Convention on Load Lines (LL), 1966
3. Special Trade Passenger Ships Agreement (STP), 1971
4. Protocol on Space Requirements for Special Trade Passenger Ships, 1973
5. Convention on the International Regulations for Preventing Collisions at Sea (COLREG), 1972
6. International Convention for Safe Containers (CSC), 1972
7. Convention on the International Maritime Satellite Organization (INMARSAT), 1976
8. The Torremolinos International Convention for the Safety of Fishing Vessels (SFV), 1977
9. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978
10. International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995
11. International Convention on Maritime Search and Rescue (SAR), 1979

Marine Pollution

- 
12. International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78)
 13. International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (INTERVENTION), 1969
 14. Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (LDC), 1972
 15. International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990
 16. Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol)
 17. International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS), 2001
 18. International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004

Liability and compensation

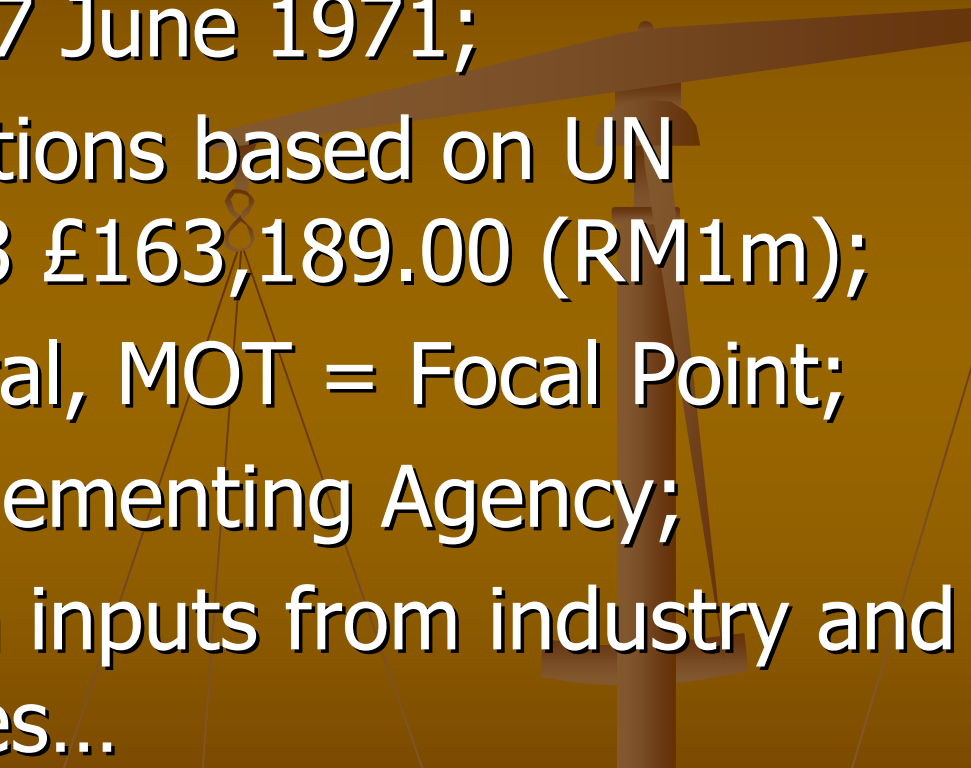
19. International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969
 20. International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND), 1971
 21. Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material (NUCLEAR), 1971
 22. Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974
 23. Convention on Limitation of Liability for Maritime Claims (LLMC), 1976
 24. International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS), 1996
 25. International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
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Other subjects



26. Convention on Facilitation of International Maritime Traffic (FAL), 1965
27. International Convention on Tonnage Measurement of Ships (TONNAGE), 1969
28. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), 1988
29. International Convention on Salvage (SALVAGE), 1989
30. Under development – Wreck Removal (WRC) Convention.

Malaysia & IMO

- Member since 17 June 1971;
 - Annual contributions based on UN formula, in 2003 £163,189.00 (RM1m);
 - Secretary General, MOT = Focal Point;
 - MARDEP = Implementing Agency;
 - Submission with inputs from industry and interested parties...
- 

Malaysia is party to...

- IMO 48 -The Geneva conference opened in February 1948 and on 6 March 1948 the Convention establishing the Inter-Governmental Maritime Consultative Organization (IMCO) was adopted;
- SOLAS 74 & Protocol 78 - The SOLAS Convention in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914, in response to the Titanic disaster, the second in 1929, the third in 1948 and the fourth in 1960;
- Load Line 66 - It has long been recognized that limitations on the draught to which a ship may be loaded make a significant contribution to her safety. These limits are given in the form of freeboards, which constitute, besides external weathertight and watertight integrity, the main objective of the Convention ;
- Tonnage 69 - adopted by IMO in 1969, was the first successful attempt to introduce a universal tonnage measurement system. The Convention provides for gross and net tonnages, both of which are calculated independently;

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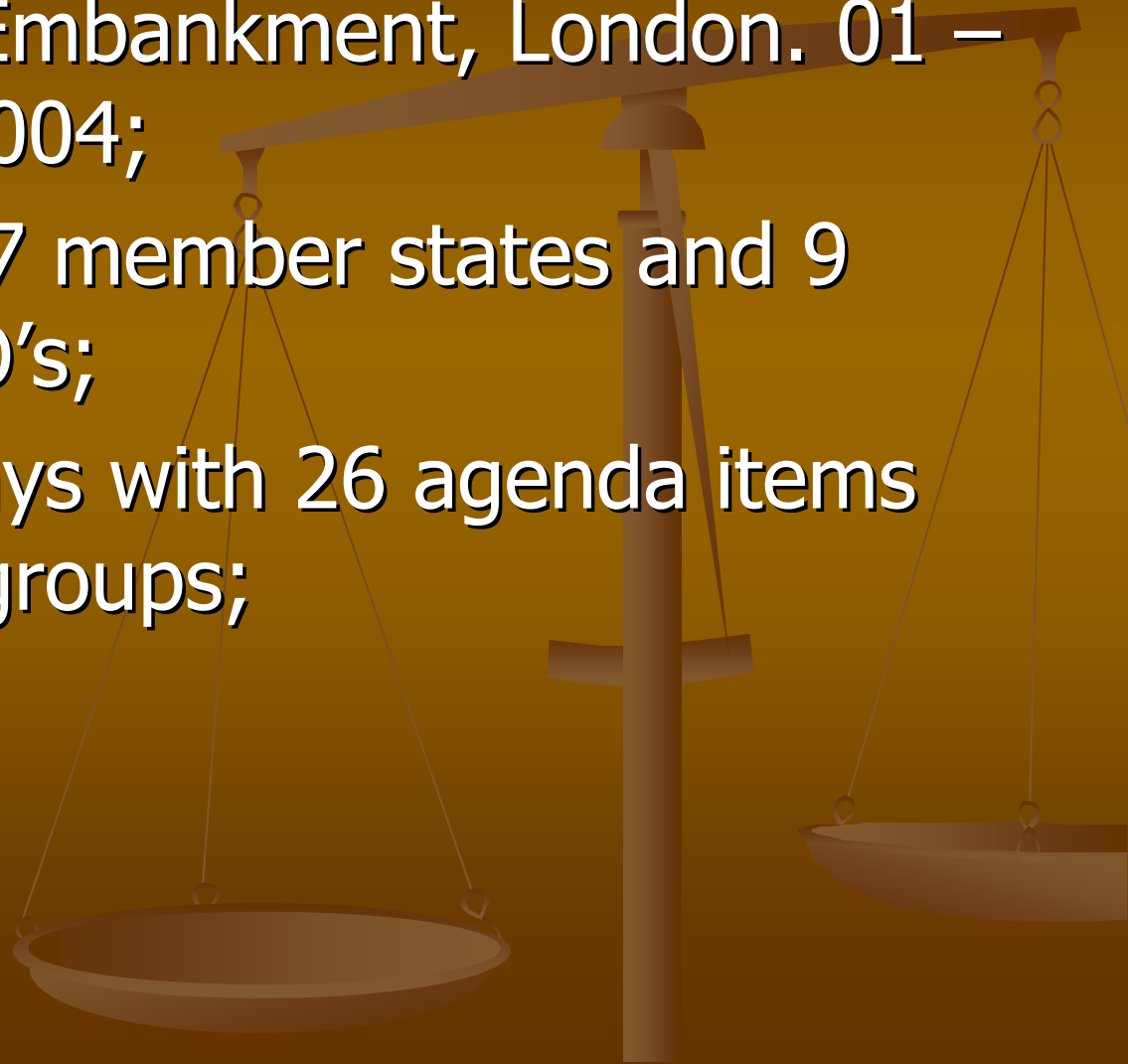
- COLREG 72 -The 1972 Convention was designed to update and replace the Collision Regulations of 1960 which were adopted at the same time as the 1960 SOLAS Convention ;
- STCW 78 - The 1978 STCW Convention was the first to establish basic requirements on training, certification and watchkeeping for seafarers on an international level. Previously the standards of training, certification and watchkeeping of officers and ratings were established by individual governments, usually without reference to practices in other countries. As a result standards and procedures varied widely, even though shipping is the most international of all industries;
- INMARSAT 76 - IMO recognized the potential for satellite communications to assist in distress situations at sea soon after the launch of the world's first telecommunications satellite, Telstar, in 1962;
- MARPOL 73/78, Annexes I, II & V - The MARPOL Convention is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. It is a combination of two treaties adopted in 1973 and 1978 respectively and updated by amendments through the years ;

...continue.

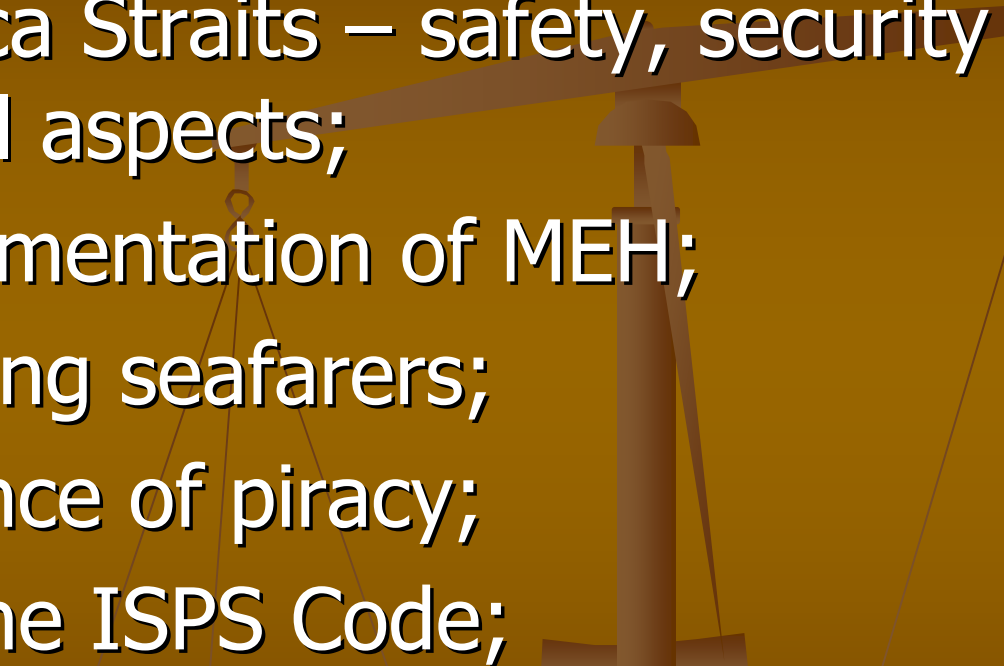
- CLC69/FUND71 – instrument of accession for CLC/FUND 92 -The Civil Liability Convention covers those who suffer oil pollution damage resulting from maritime casualties involving oil-carrying ships. The Convention places the liability for such damage on the owner of the ship from which the polluting oil escaped or was discharged. The Convention establishes a Fund for providing compensation for oil pollution incidents beyond that provided for by the CLC Convention. ;
- OPRC 90 - In July 1989, a conference of leading industrial nations in Paris called upon IMO to develop further measures to prevent pollution from ships. This call was endorsed by the IMO Assembly in November of the same year and work began on a draft convention aimed at providing a global framework for international co-operation in combating major incidents or threats of marine pollution .

MSC 79

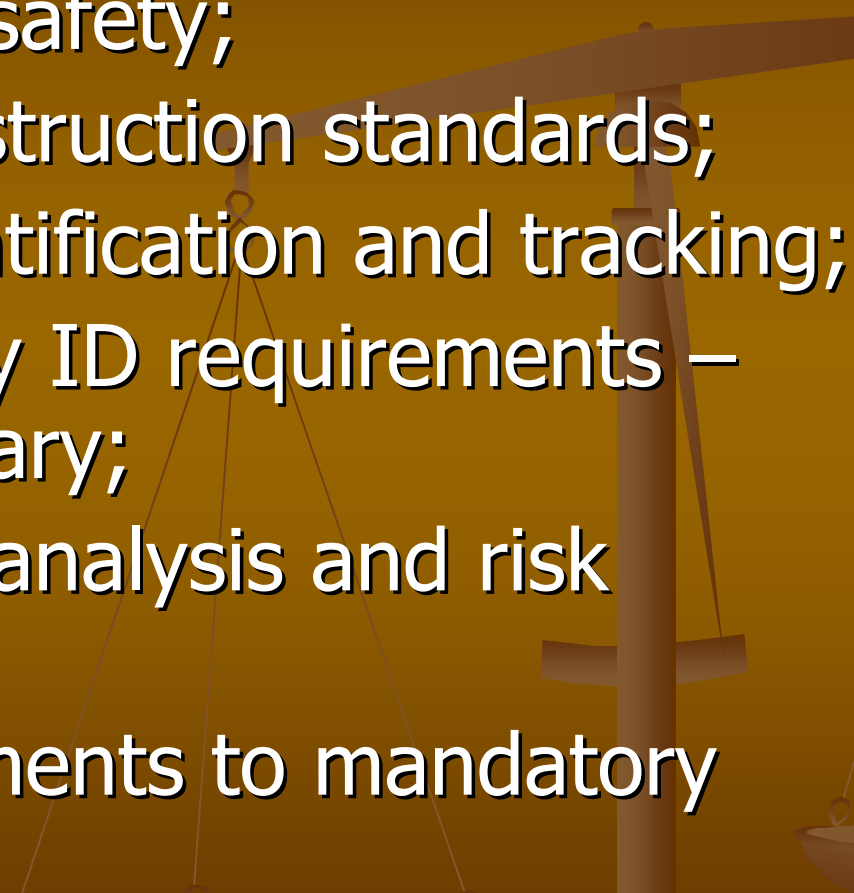
- IMO, 4, Albert Embankment, London. 01 – 11 November 2004;
- Attended by 107 member states and 9 IGO's & 38 NGO's;
- Held over 10 days with 26 agenda items and 3 working groups;



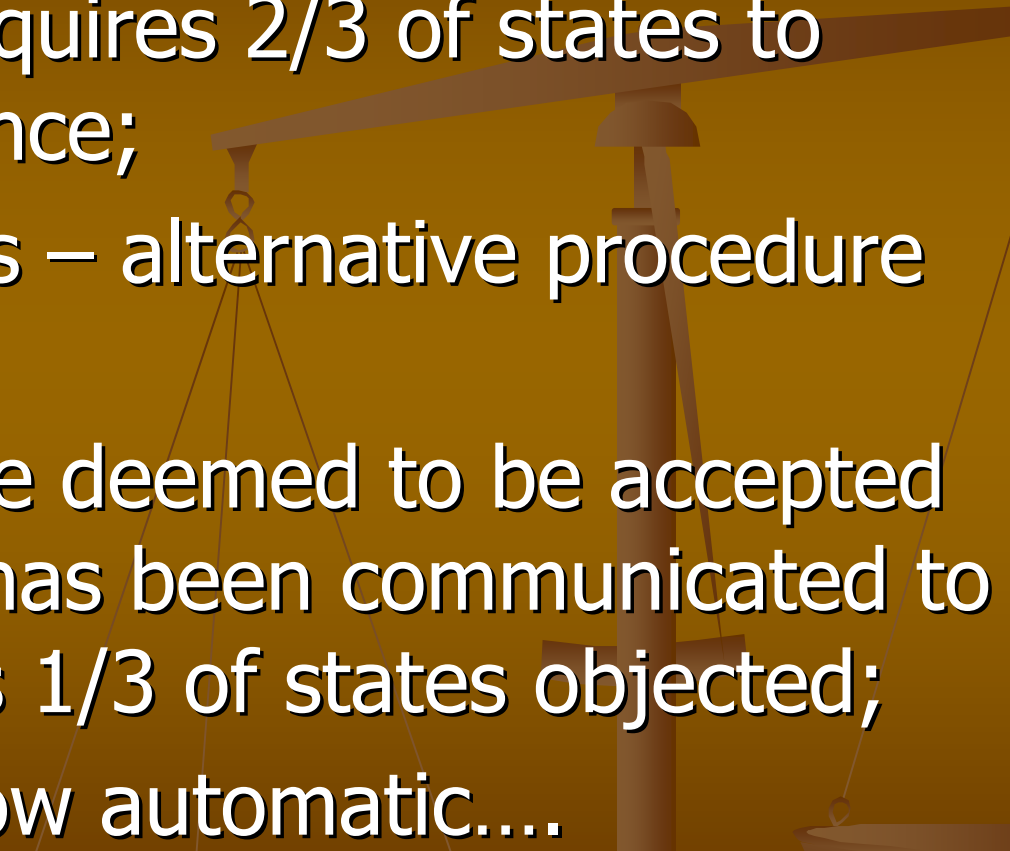
Highlights of MSC 79

- Focus on Malacca Straits – safety, security & environmental aspects;
 - Execution/implementation of MEH;
 - Shortage & ageing seafarers;
 - Escalating violence of piracy;
 - Fine tuning of the ISPS Code;
- 

New rules...

- Passenger ship safety;
 - Goal based construction standards;
 - Long range identification and tracking;
 - Unique company ID requirements – currently voluntary;
 - FSA in casualty analysis and risk evaluation;
 - Various amendments to mandatory instruments.
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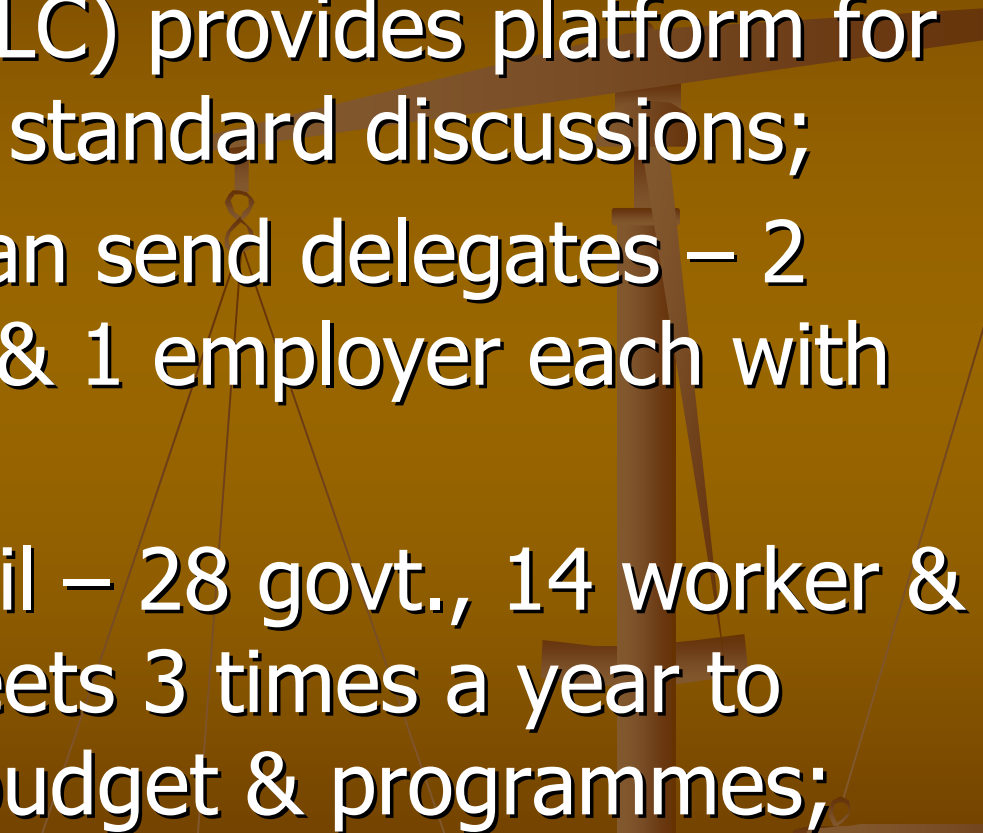
Tacit Acceptance

- Amendments requires $\frac{2}{3}$ of states to declare acceptance;
 - Results in delays – alternative procedure introduced;
 - Amendments are deemed to be accepted 2 years after it has been communicated to members unless $\frac{1}{3}$ of states objected;
 - Agreement is now automatic....
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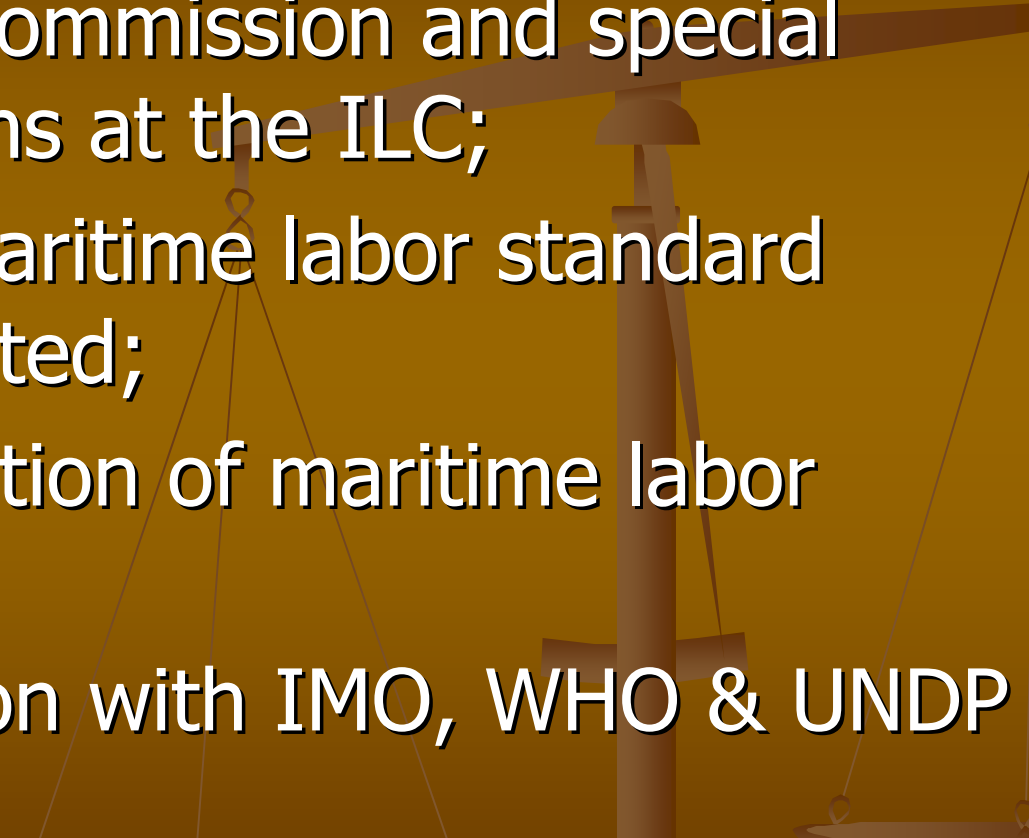
ILO

- The International Labor Organization is the UN specialized agency which seeks the promotion of social justice and internationally recognized human and labor rights. It was founded in 1919 and is the only surviving major creation of the Treaty of Versailles which brought the League of Nations into being and it became the first specialized agency of the UN in 1946.
- It promotes the development of independent employers' and workers' organizations and provides training and advisory services to those organizations. Within the UN system, the ILO has a unique tripartite structure with workers and employers participating as equal partners with governments in the work of its governing organs.
- Malaysia has been a member since 1957.

How it works

- Annual forum (ILC) provides platform for labor and social standard discussions;
 - Each member can send delegates – 2 govt., 1 worker & 1 employer each with voting right;
 - Executive council – 28 govt., 14 worker & 14 employer meets 3 times a year to discuss policy, budget & programmes;
- 

ILO & the sea

- Joint maritime commission and special maritime sessions at the ILC;
 - More than 60 maritime labor standard have been adopted;
 - Focus on promotion of maritime labor standards;
 - Close cooperation with IMO, WHO & UNDP offices.
- 

Malaysia is party to...

- **Forced Labor Convention, 1930 (No. 29) 11.11.1957**
- **Recruiting of Indigenous Workers Convention, 1936 (No. 50) 11.11.1957**
- **Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64) 11.11.1957**
- **Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65) 11.11.1957**
- **Labor Inspection Convention, 1947 (No. 81) 1.07.1963**
- **Employment Service Convention, 1948 (No. 88) 6.06.1974**
- **Protection of Wages Convention, 1949 (No. 95) 17.11.1961**
- **Right to Organize and Collective Bargaining Convention, 1949 (No. 98) 5.06.1961**
- **Equal Remuneration Convention, 1951 (No. 100) 9.09.1997**
- **Guarding of Machinery Convention, 1963 (No. 119) 6.06.1974**
- **Minimum Age (Underground Work) Convention, 1965 (No. 123)**
Minimum age specified: 16 years 6.06.1974
- **Minimum Age Convention, 1973 (No. 138)**
Minimum age specified: 15 years 9.09.1997
- **Tripartite Consultation (International Labor Standards) Convention, 1976 (No. 144) 14.06.2002**
- **Worst Forms of Child Labor Convention, 1999 (No. 182)**

Latest development

- ...shipping is the worlds first genuinely global industry...requires global standards applicable to the whole industry... ;
 - Consolidation of conventions and recommendations into a bill of rights;
 - Creation of a framework convention for maritime labor standard – International Seafarers Code;
 - Adoption expected at ILO Maritime Conference in 2005.
- 

Seafarers Union ?

...I BELIEVE THERE ARE ALREADY 2 LOCAL TRADE UNIONS REPRESENTING MALAYSIAN SEAFARERS REGISTERED WITH THE RTU. ONE IS THE **NATIONAL UNION OF SEAFARERS OF MALAYSIA** AND THE OTHER IS THE **MALAYSIAN MARITIME ASSOCIATION**. I BELIEVE THE LATTER IS FOR OFFICERS ONLY AND THEY HAVE AN OFFICE IN A SHOPLOT IN RAWANG.

MORE INFO (ADDRESSES, PHONE NOS ETC) ON BOTH UNIONS CAN BE FOUND ON THE NOTICE BOARD AT THE MARINERS CLUB IN PORT KLANG...

<http://finance.groups.yahoo.com/group/ikmalmembers/message/2002>

Why ?



- You have to ponder on how this information/knowledge can be used to your advantage or to avoid disadvantage;
- By being party to UNCLOS, IMO & ILO, Malaysia is bound by its requirements – Malaysia means you and your ships;
- So far developed nations have been using these international conventions to their business advantages...

Have you heard ?

- The superintendent who suggested that officers wear “PURDAH” during daylight hours instead of spending money to replace a damaged radar scope....
- His intention was good – save company money – was he wrong or right, practically, legally, socially ?
- *...conversely, there may be times when ambient light on the bridge is too strong for effective viewing of the display. Difficulties such as the foregoing may be overcome by the use of display visors... UK's MSNE: Instructions for the guidance of surveyors.*

TERIMA KASIH

- www.un.org/Depts/los/index.htm
- www.imo.org
- www.ilo.org
- www.marine.gov.my
- www.mima.gov.my
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