

UNCTAD Review of Maritime Transport 2020 **and key trends in ports and shipping, in times of the COVID-19 pandemic**

- Legal Issues and Regulatory Developments

Anila Premti

Regina Asariotis

Policy and Legislation Section, TLB/UNCTAD

policy.legislation@unctad.org

**Short courses on key international economic and development issues
for delegates from permanent missions to the United Nations Office at Geneva
and the World Trade Organization**

First semester 2021



UNCTAD - Transport Policy and Legislation

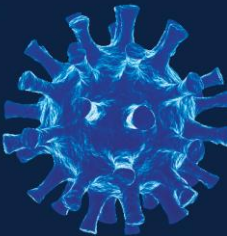
- **Maritime transport – key legal, regulatory and policy issues for global trade**
- Main thematic areas of work:
 - *Commercial transport law*
 - *Maritime and supply-chain security*
 - *Technological developments and emerging issues in the maritime industry*
 - *Environmental challenges and implications of climate change*
- **Current activities** in line with UNCTAD's mandate:
 - *Research and analysis*
 - *Technical assistance, capacity building, and advisory services*
 - *Building consensus - intergovernmental activities*
- **Research and analysis**
 - Some of the key issues and developments of interest - **Review of Maritime Transport**
 - **Research and analytical studies** cover topical and key issues in depth

See <https://unctad.org/ttl/legal> and [Climate change and Maritime Transport](#)



REVIEW
OF MARITIME
TRANSPORT

2020



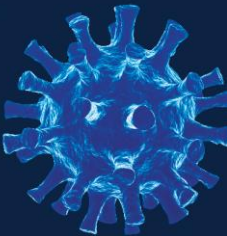
Review of Maritime Transport 2020

Legal Issues and Regulatory Developments – Chapter 5

- Technological developments and emerging issues in the maritime industry
- Regulatory developments relating to the reduction of GHG emissions from international shipping, climate change and other environmental issues
- Other legal and regulatory developments affecting transportation
- COVID-19 legal and regulatory challenges for international shipping and collaborative action in response to the crisis

REVIEW
OF MARITIME
TRANSPORT

2020



Technological developments and emerging issues in the maritime industry

Ensuring cybersecurity

- Ships and ports – Better connected and integrated into IT networks - growing shift towards **digitalization, smart navigation and advanced analytics**
- **Strengthening cybersecurity** – Essential priority for shipowners, managers and port operators
- Ships - **Implementing IMO Resolution MSC.428(98)** on Maritime Cyberrisk Management in SMS, from 1 January 2021
- During COVID-19 - Virtual platforms facilitating communication and operations – however, increase in shipping cyberattacks – coordinated efforts to develop appropriate protection measures as a matter of urgency

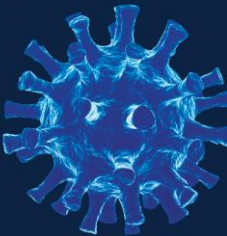
Technological developments in shipping

- **Autonomous ships and drones** – development, testing, operation – work is progressing
- **Electronic trade documents** - calls on governments to remove restrictions on their use and processing – ease requirements for presenting documents in hard copy



REVIEW
OF MARITIME
TRANSPORT

2020



GHG emissions from international shipping, climate change and other environmental issues

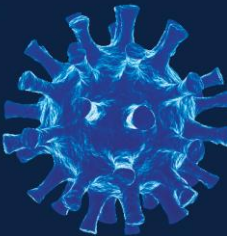
Developments at IMO related to the reduction of GHG emissions from ships

- IMO - progress towards achieving levels of ambition set out in the *Initial Strategy on reduction of GHG emissions from ships (2018)* – by at least 50% by 2050 as compared with 2008, while pursuing efforts towards phasing them out entirely
- Progress on *ship energy efficiency, alternative fuels* and the *development of NAPs* to address GHGs from international shipping
- *Assessment of impacts of the proposals on States*, with particular attention to be paid to the needs of developing countries, especially LDCs and SIDS - *Collaboration with UNCTAD* - review of the comprehensiveness of impact assessments proposals
- *Fourth IMO GHG study* - Inventory of current global emissions of GHGs and relevant substances emitted between 2012 and 2018 from ships of 100 GT and above engaged in international voyages, as well as their carbon intensity - and projects scenarios for future international shipping emissions from 2018–2050
- *IMO multi-donor trust fund for reduction of GHG emissions from ships* - To support implementation of the Initial Strategy



REVIEW
OF MARITIME
TRANSPORT

2020



GHG emissions from international shipping, climate change and other environmental issues (cont.)

Developments under the UNFCCC and related issues

UNFCCC COP 25 (Madrid, December 2019)

- Work still do be done with regard to climate action consistent with the goals of the Paris Agreement
- GHG emissions from international shipping - discussions postponed until COP 26 (November 2021)
- Marrakech Partnership for [Global Climate Action \(GCA\) Pathways](#) and Milestones for transport and resilience

CC adaptation and resilience-building for key transport infrastructure – UNCTAD work

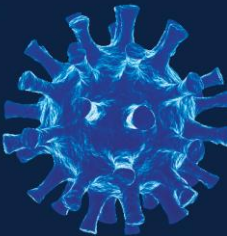
- *Extensive work by PLS, since 2008, including research, TA and expert meetings. Important for implementation of 2030 Agenda; benefits from strong support by member States (Maafikiano).*
- *Failure to adapt transport infrastructure assets to impacts of CC may give rise to significant economic/trade-related losses and jeopardize sustainable development prospects. For SIDS, critical coastal transport infrastructure, notably ports and airports - lifelines for external trade, food and energy security, and tourism, and including in the context of DRR*
- Recent studies, including [peer-reviewed](#) research under UNCTAD TA, focusing on 8 ports and airports in Caribbean SIDS, highlight **growing risk of coastal flooding**, from as early as in the 2030s, unless effective adaptation action is taken ([SIDSport-ClimateAdapt.unctad.org](#); Monioudi et al, 2018; IPCC 2018, IPCC 2019).

Most recent UNCTAD work on this complex of issues includes

- UNCTAD *Ad Hoc Expert Meeting on CC Adaptation for International Transport: Preparing for the Future* (16-17 April 2019)
- Joint UNCTAD-UNEP project, funded by Germany, including COP 25 HL panel discussion on [Climate resilient transport infrastructure for sustainable trade, tourism and development in SIDS](#)
- Substantive report - [Climate Change Impacts and Adaptation for Coastal Transport Infrastructure: A Compilation of Policies and Practices](#) (2020)
- UNCTAD MYEM on Transport, Trade Logistics and Trade Facilitation: [Climate change adaptation for seaports in support of the 2030 Agenda for Sustainable Development](#) (27-28 October 2020)
- Contribution to development of MP [GCA Pathways/Milestones 2019 and 2020 revision](#)
- Collaboration with related initiatives (UN, IGOs and NGOs), including PIANC (preparation of port industry guidelines) and UNECE EG (established following a joint UNCTAD-UNECE workshop in 2010; mandate of EG recently extended for another five years)

REVIEW
OF MARITIME
TRANSPORT

2020



GHG emissions from international shipping, climate change and other environmental issues (cont.)

Protection of the marine environment and conservation and sustainable use of marine biodiversity

Implementing the 2020 sulphur limit of the IMO

- **IMO regulation** limiting the sulphur content in ship fuel oil to 0.50%, down from 3.50% (eif 1 January 2020) – In designated ECAs, the limit remained 0.10% - **implementation** relatively smooth - compliant fuel oil widely available – some difficulties from COVID-19 disruptions
- Additional **MARPOL amendment** (eif 1 March 2020) - prohibits also the carriage of non-compliant fuel oil for combustion purposes, unless the ship is fitted with a scrubber - enforcement by PSC authorities suspended, due to COVID-19 measures

Ballast water management

- BWM Convention, 2004 (eif Sep. 2017 - 86 SP, 91.12% GT) – preventing the transfer of invasive species - current focus on implementation

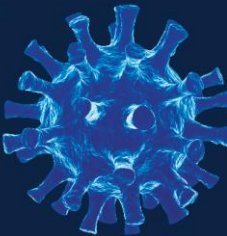
Biofouling

- Biofouling Convention, 2001 (eif September 2008 - 91 SP, 96.13% GT) – regulates the use of chemical compounds, which act as biocides in anti-fouling systems (e.g., organotin, cybutryne)



REVIEW
OF MARITIME
TRANSPORT

2020



GHG emissions from international shipping, climate change and other environmental issues (cont.)

Protection of the marine environment and conservation and sustainable use of marine biodiversity (cont)

Marine pollution from plastics and microplastics

- **Global transboundary environmental issue** - no existing int'l legal instrument specifically designed to prevent or comprehensively manage plastic pollution – ongoing discussions at MEPC on: **provision of adequate facilities at ports and terminals** for the reception of plastic waste from ships; **sharing of research results** to better understand microplastics from ships; and preparing amendments to **facilitate and enhance reporting of the accidental loss or discharge of fishing gear**

Safety considerations of new fuel blends and alternative marine fuels

- MSC - in the context of discussions on the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels (LNG and other fuel types)

Conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction: Legally binding instrument under UNCLOS, 1982

- UNCLOS – no express reference to marine biodiversity or to the exploration and exploitation of resources within the water column in ABNJ. Ongoing IG conference for negotiating a new international legal instrument – still no agreement on important issues - 4th session scheduled for March 2020 - postponed due to COVID-19

Other legal and regulatory developments affecting transportation

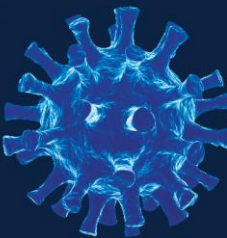
Extension of the EU Consortia Block Exemption Regulation up to 2024

- EC – Efficiencies for carriers - better use of vessel capacity, offer more connections -result in lower prices and better quality of service for consumers and a decrease in costs for carriers



REVIEW
OF MARITIME
TRANSPORT

2020



COVID-19 legal and regulatory challenges for international shipping and collaborative action in response to the crisis

Maritime health preparedness and response to the COVID-19 pandemic

- IMO, industry, international organizations (WHO, ILO, EU, UNCTAD) - *practical advice and guidance on technical and operational matters related to the pandemic* – port workers and seafarers protected from COVID-19, had access to medical care, and ships met sanitary requirements

Maritime certification

- Temporary guidance for Flag States to extend validity of seafarers and ship licences and certificates under *IMO and ILO* mandatory instruments; extended periods for surveys, inspections and audits - *pragmatic* and *harmonized* approach

Crew changes and key worker status

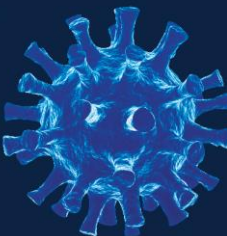
- *Seafarers – major challenges* - service extended on board ships after many months at sea, unable to be replaced or repatriated after long tours of duty
- Calls to designate as *key workers*, regardless of nationality, and exempt them from travel restrictions; denouncing '*no crew change*' clauses
- *Gradual trend towards the easing of restrictions* on crew changes – however subject to conditions (travel history and/or crew nationalities)

Commercial law implications of the COVID-19 crisis

- Important and wide-ranging commercial law implications - collaborative approaches by Governments and industry, policy coherence and synergy required to minimize adverse effects – commercial risk-allocation through standard contractual clauses drafted to address legal rights and obligations
- UNCTAD led 'International commercial transport and trade law' component of UNDA project on "Transport and trade connectivity in the age of pandemics: Contactless, seamless and collaborative UN solutions"; including two Briefing Notes with a focus on International Sale of Goods and Cargo Claims (Phase I).

REVIEW
OF MARITIME
TRANSPORT

2020



For further information:

UNCTAD work in the field of trade logistics:

<https://unctad.org/en/Pages/DTL/Trade-Logistics-Branch.aspx>

UNCTAD work in the field of transport policy and legislation:

unctad.org/ttl/legal;

<https://unctad.org/en/Pages/DTL/TTL/Legal/Climate-Change-Impacts-on-SIDS.aspx>

Review of Maritime Transport:

[https://unctad.org/en/pages/publications/Review-of-Maritime-Transport-\(Series\).aspx](https://unctad.org/en/pages/publications/Review-of-Maritime-Transport-(Series).aspx)

UNCTAD maritime statistics and country profiles:

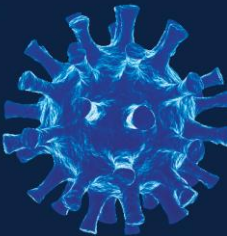
<http://stats.unctad.org/maritime>



Thank you!

**REVIEW
OF MARITIME
TRANSPORT**

2020



UNITED NATIONS
UNCTAD