

Maritime Governance in South Asia - What the International Maritime Organization Can Do



Dr. Ms. Jivanta Schottli

Institute of South Asian Studies, National University of Singapore

The region of South Asia is home to more than one-fifth of the world's population and is the most densely populated region in the world.¹ It is also currently, the fastest growing region in the world. With the right mix of policies and reforms, growth is expected to accelerate to 6.9 percent in 2018 and 7.1 percent next year. This means however, that alongside growing aspirations there is an urgent need for jobs, at a time when manufacturing is shrinking. Furthermore, thanks to growing populations and ongoing industrialisation, the pressure on resources is high in South Asia.

By and large these challenges and prospects have been viewed through the lens of the South Asian landmass. In fact *maritime* South Asia, constituting the coastal states of Bangladesh, India, Pakistan and the island states of Maldives and Sri Lanka is a vital and dynamic source of jobs, growth and development. In recent times, the importance of the 'blue economy' and the potential to unleash 'blue growth' as policy goals have gained traction and prominence in government strategies. However, the maritime future of South Asia is constrained, and driven, by a number of important factors. While the region may be rich in potential

it is also exceptionally vulnerable to the exigencies of climate change. Furthermore, as each country embarks on a concerted push to upgrade and develop maritime infrastructure and industries, there is the pressure for regulatory oversight and compliance with international standards. And finally, as the South Asian economies grow, their reliance on seaborne transport and trade will only increase and the need for a system that upholds a level-playing field. In reality the rules of economic globalisation have been written by those with an upper hand – for example even a global institution like the International Maritime Organization has been criticised for representing interests of the shipping corporate sector.

However, as borders have grown increasingly porous with the flows of goods, services, people and capital, governments have become more mindful of the need to coordinate efforts and to use international institutions to co-develop and deliver global standards that at least aim to be universal and uniformly applied. While the focus in many studies has been on the international organisations themselves and their governance arrangements, this paper looks at countries as the key stakeholders and

1. <https://www.worldbank.org/en/news/press-release/2018/04/15/south-asia-focus-growth-lead-jobless-growth-create-more-jobs> April 15, 2018

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shaper of rules. In part one, the IMO as an inter-governmental specialised agency of the United Nations is presented in terms of its mandate, objectives and structure. It is argued, in part two that amongst South Asian countries there is a growing capacity and interest to be active rule-makers in maritime governance, especially thanks to the momentum created by 'blue economy' initiatives. Their growing involvement strengthens international institutions and global governance by enhancing their legitimacy. Two specific regulatory frameworks of the IMO, in the areas of Marine Environment and Maritime Security are examined in part three: the *Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009* (the Hong Kong Convention), adopted in 2009 but not yet in force and *the IMO's Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships* adopted in 2009. The interests of, and action taken by specific South Asian countries vis-à-vis the two examples will be analysed. Part four offers a short conclusion.

The International Maritime Organisation and Global Governance

Shipping is a truly globalised industry and unlike land-based industries which are regulated mainly through national legislation, it requires global regulations. International shipping continues to be the cheapest and safest means of transport, and the principal vehicle for the movement of more than 90% of global trade. The international nature of the sector is further

complicated by the fact that there are an array of stakeholders of different nationalities involved in the design, construction, ownership, operation and crew of a typical ocean-going merchant vessel aside from the classification, finance, insurance and cargo ownership aspects. Coordinating and harmonizing rules as well as standard-setting therefore become crucial. In fact merchant shipping is one of the most heavily regulated industries and was amongst the first to adopt widely implemented international safety standards. While the IMO adopts international shipping regulations, it is the responsibility of Governments to implement those regulations.

The IMO was formally established in 1948 at an international conference in Geneva and entered into force in 1958. The purpose of the Organisation stated in Article 1(a) of the Convention was "to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships." The organisation is also empowered to deal with administrative and legal matters related to these purposes.

The Organization consists of an Assembly², a Council³ and five main Committees: the Maritime Safety Committee⁴; the Marine Environment Protection Committee⁵; the Legal Committee;

2 The highest Governing Body of the Organization, consisting of all Member States. It meets once every two years in regular sessions, but may also meet in an extraordinary session if necessary. The Assembly is responsible for approving the work programme, voting the budget and determining the financial arrangements of the Organization. The Assembly also elects the Council.

3 The Council is elected by the Assembly for two-year terms beginning after each regular session of the Assembly. It is the Executive Organ of IMO and responsible, under the Assembly, for supervising the work of the Organization. There are three categories of members: Category (a) 10 States with the largest interest in providing international shipping services; Category (b) 10 States with the largest interest in international seaborne trade and, Category (c) 20 States not elected under (a) or (b) above, which have special interests in maritime transport or navigation and whose election to the Council will ensure the representation of all major geographic areas of the world.

4 The MSC is the highest technical body of the Organization, consisting of all Member States. The Committee is also required to provide machinery for performing any duties assigned to it by the IMO Convention or any duty within its scope of work.

5 The MEPC, which consists of all Member States, is empowered to consider any matter within the scope of the Organization concerned with prevention and control of pollution from ships. 6 Limitations on the draught to which a ship may be loaded, which makes a significant contribution to her safety.

the Technical Cooperation Committee and the Facilitation Committee and a number of Sub-Committees support the work of the main technical committees. As of 2018, IMO has 174 Member States and three Associate Members. The Secretariat of the IMO consists of the Secretary-General and some 300 international personnel based at the headquarters of the Organization in London.

The first task of the IMO was to update the *International Convention for the Safety of Life at Sea* (SOLAS), which is considered to be the most important of all treaties dealing with maritime safety. This was achieved in 1960 and the IMO subsequently turned its attention to facilitation of international maritime traffic, load lines⁶, the carriage of dangerous goods, measuring the tonnage of ships. Alongside safety the problem of pollution gathered growing attention especially with the Torrey Canyon disaster of 1967 in which 120,000 tonnes of oil was spilled when a supertanker ran aground on a reef off the south-west coast of the United Kingdom. A series of measures were introduced to prevent tanker accidents, minimize their consequences as well as the environmental threat caused by routine operations such as the cleaning of oil cargo tanks.

The most important measures taken up by the IMO on pollution was the *International Convention for the Prevention of Pollution from Ships* in 1973 (modified in 1978) covering accidental as well as operational oil pollution as well as pollution by chemicals, goods in packaged form, sewage, garbage and air pollution. The IMO also established a system for providing compensation to those who had suffered financially as a result of pollution in the form of two treaties: 1969 and 1971, amended in 1992 and 2000. Also in the 1970s a global search and rescue system was initiated with the establishment of the *International Mobile Satellite Organisation* (IMSO). A *Global Maritime Distress and Safety System* (GMDSS) was adopted in 1988, becoming fully operational in 1999 so that a ship in distress anywhere in the world could be guaranteed assistance through an automatic message transmitting mechanism. On

1 July 1998 the *International Safety Management Code* entered into force, applicable to passenger ships, oil and chemical tankers, bulk carriers, gas carriers and cargo high speed craft of 500 gross tonnage and above (later extended to other cargo ships and mobile offshore drilling units of 500 gross tonnage and above).

New conventions relating to the marine environment were adopted in the 2000s including one on anti-fouling systems, on ballast water management to prevent the invasion of alien species and on ship recycling. A more comprehensive security regime for international shipping entered into force in July 2004 including the *International Ship and Port Facility Security (ISPS) Code*, later made mandatory under amendments to SOLAS. Furthermore in 2005 an amendment introduced the right of a State Party to board a ship flying the flag of another State Party when the requesting Party had reasonable grounds to suspect that the ship, or a person on board, has been or is about to be involved in, the commission of an offence under the *Convention for the Suppression of Unlawful Acts*.

National governments, as members of the IMO, are required to implement and enforce the international rules, and ensure that the ships which are registered under their national flags comply. In fact, it is noted that the level of ratification and enforcement of IMO Conventions is generally very high in comparison with international rules adopted for shore based industries. The principal responsibility for enforcing IMO regulations concerning ship safety and environmental protection rests with the flag states (i.e. the countries in which merchant ships are registered - which may be different to the country in which they are owned). Flag states enforce IMO requirements through inspections of ships conducted by a network of international surveyors. Much of this work is delegated to bodies called classification societies.

To improve implementation records, the IMO's *Integrated Technical Co-operation Programme* (ITCP) is a flagship programme and

designed to assist Governments. Furthermore on 1 January 2016 an IMO *Member State Audit Scheme* became mandatory which will prove the audited member state with a comprehensive and objective assessment of how effectively it administers and implements certain mandatory IMO instruments covered by the Scheme.

In 2017, IMO Assembly adopted a new Strategic Plan for the six-year period, 2018-2023 developed by the IMO Council, including seven newly-identified strategic directions, as well as a revised mission statement, and a vision statement (included for the first time). Each of these it was argued was done to ensure the IMO can support the implementation of the United Nations Sustainable Development Goals and the 2030 Agenda for Sustainable Development.

South Asia, Maritime Governance and the IMO

Maritime Governance is of immense concern and interest to the maritime states of South Asia given the geography of the countries and their location in the Indian Ocean, home to the world's principal waterways and shipping lanes. All the maritime South Asian states are members of the IMO. Pakistan joined in 1958, India in 1959, Maldives in 1967 Sri Lanka joined in 1972 and, Bangladesh joined the IMO in 1976. India has been elected to the IMO Council ever since it started functioning, except for a two-year hiatus during 1983 – 84. Chandrika Prasad Srivastava, a retired Indian civil servant, international administrator and diplomat held the position of Secretary-General at IMO in the year 1974 and stayed on to become the longest serving Secretary-General of the Organization⁷.

Most recently, in 2017 India was re-elected to the Council of the International Maritime

Organisation under a category that represents nations with the largest interests in international sea borne trade. Indian High Commissioner to the UK Y K Sinha represented India at the assembly where India secured the second-highest number of votes (144) from member-countries, just after Germany's 146 and ahead of Australia's 143. 2017 was unusual for the fact that there was a contest. The other countries to make the cut included France (140), Canada (138), Spain (137), Brazil (131), Sweden (129), The Netherlands (124) and the UAE (115).

India has a large merchant marine fleet of 1359 vessels, both on foreign going and coastal operations, with a combined Gross Tonnage of 12.2 million. Nearly 90% of India's overseas trade by volume is carried through marine transport. Nearly 92% of these goods are carried through foreign flag vessels. India has a contingent of more than 145,000 active seafarers who are much in demand for specialised vessels. India is party to 34 IMO Conventions and protocols.

South Asia's role in the IMO has been relatively limited in the past but this is likely to change, given the growing awareness about the potential and need for a 'blue economy'⁸. Definitions and usage of the term 'Blue Economy' have burgeoned over the last decade⁹ with international organisations¹⁰ and countries using it to spearhead long-term strategies¹¹. In South Asia a number of countries have followed suit, most notably Bangladesh.

Bangladesh has been one of the forerunners in terms of exploring how coastal and ocean areas could become an engine for sustainable development and economic growth. Interaction with the ocean has shaped the country, and indeed some 32 percent of the terrestrial

7 <http://www.maritimetraining.in/documents/IMO-Secretary-Dr-C-P-Srivastava-passes-away.pdf>

8 The Blue Economy conceptualizes oceans and seas as "Development Spaces" where spatial planning integrates conservation, sustainable use of living resources, oil and mineral wealth extraction, bio-prospecting, sustainable energy production and marine transport.

9 See the article "Shades of blue: what do competing interpretations of the Blue Economy mean for oceans governance? By Michelle Voyer et al. in *Journal of Environmental Policy & Planning*, 2018, Vol. 20?No. 5, pp. 595 – 616.

10 The OECD, The United Nations Sustainable Development Forum, the Food and Agricultural Organisation.

11 See the Economist Report for a discussion of different Blue growth initiatives: https://www.oceanprosperityroadmap.org/wp-content/uploads/2015/05/2.-State-of-the-Blue-Economy_briefing-paper_WOS2015.pdf

area of Bangladesh is defined as the coastal zone (Iftikhar, 2006). Following the 2012 and 2014 decisions of the International Tribunal for the Law of the Sea (ITLOS) that resolved maritime boundary disputes, the country now exercises jurisdiction over the use of ocean resources in an area estimated to cover 121,110 square kilometers – equivalent to over 80 percent of the country’s total land area (Chowdhury, 2017; Islam et al. 2017; Hossain et al. 2014; FAO, 2014). Employment data in the Bangladesh ocean economy is limited but estimates suggest that over 17 million are involved (Meisner et al. 2016). An estimated 6 million more people are employed in sea salt production and ship breaking. Other reports cite estimates as high as 30 million people dependent on the ocean economy in Bangladesh (Failler et al. 2017), almost 20 percent of the total population in 2015 (UN DESA Population Division, 2017).

In 2014 the government hosted the First International Blue Economy Dialogue in Dhaka and in late 2017 this was followed up with a Second International Blue Economy Dialogue. The Government of Bangladesh had the foresight to see that economic activities associated with ocean space include a number of sectors, policy-maker and regulatory agencies. As a result, a high-level committee was formed under the direction of the Secretary to the Prime Minister’s office in order to coordinate efforts and inputs to develop policies and operational strategies and in 2017 a Blue Economy Cell was established, with the mandate to coordinate across sectoral ministries. Bangladesh was also successful in getting the European Union (EU) to provide a 2-year technical assistance program in collaboration with the World Bank, to develop the country’s blue economy strategy, including the publication of a comprehensive report¹².

Fisheries is an important economic activity in all the South Asian maritime states. The contribution of the fisheries sector to the GNP of

these countries may be marginal; yet fishing is important to their economies for several reasons. Fish is the most important animal-based protein food of the people in these countries, primarily because it is the least affected by cultural and religious biases and prejudices. The fishing industry provides employment and sustenance to large numbers of people. Based on a recent estimate, the total number employed on a full-time basis in fisheries in the area covered by the Bay of Bengal Programme (BOBP) is 1.85 million (see Table 1). In addition, a large number of people are engaged in fishing as a part-time activity. The total population in the household of those engaged in fishing, full-time or part-time, in this area, is estimated at around ten million. In recent years, the fishing industry has developed into an important earner of foreign exchange through the export of marine and aquatic products. In the Maldives, 77 per cent of the total foreign exchange earnings is derived from the export of fish and fish products and in Bangladesh fish exports account for 15 per cent of the total export earnings. Though the percentage contribution of the fisheries sector to total export earnings of the country is yet marginal in the other countries in absolute terms, the export earnings have been increasing very fast. As export items, fish and fish products are very important, as the net earnings from these products are extremely high, a result of their being almost one hundred per cent local resource-based.

In India efforts to launch a vision for the Indian Ocean, formulated as SAGAR, or ‘Security and Growth for All in the Region’ is underpinned by a belief in the need for a home-grown ‘blue revolution’¹³. Under the Sagarmala Project¹⁴, various initiatives have been launched to promote coastal shipping, to modernize existing ports and build new ones, in order to stimulate ‘port-led development’. Globally countries such as China and Netherlands have achieved a modal share of

12 Available here: <http://documents.worldbank.org/curated/en/857451527590649905/pdf/Toward-a-Blue-Economy-A-Path-way-for-Bangladesh-s-Sustainable-Growth.pdf>

13 See various speeches by Indian Prime Minister Narendra Modi: <https://www.financialexpress.com/india-news/full-text-pm-narendra-modis-address-at-world-food-india-2017/918601/>

14 <http://sagarmala.gov.in/about-sagarmala/vision>

24 percent for coastal shipping and inland water navigation. India's Sagarmala

Project envisages doubling the current share of coastal shipping in India's overall modal mix from six percent to 12 percent by 2025. While there has been criticism of the potential environmental costs of port-led development, the drive to enhance India's shipping capacity is going forward. This includes a recent and controversial decision to relax Cabotage law¹⁵ allowing foreign flag ships to operate in Indian waters¹⁶, described by the CEO of the Indian National Shipowners' Association (INSA), the local ship-owners lobby, as a "retrograde move".

Given the growing interest and will to enact reforms and pursue policies to stimulate shipping and maritime capacities at home, what role can the IMO play in supporting and supplementing state-led efforts? The following section examines how the IMO has been used and by India and Bangladesh to further their maritime interests and priorities, contributing to, in the process, to the effectiveness and legitimacy of the IMO's regulatory framework.

Safety and Security at Sea: the examples of Ship-Recycling and Piracy

On 10 April 2014, the International Maritime Organization (IMO) and the Government of the People's Republic of Bangladesh signed a landmark agreement to work together to improve safety and environmental standards in the country's ship-recycling (also known as the ship-breaking) industry. The IMO and Bangladesh jointly implemented a project entitled "Safe and Environmentally Sound Ship Recycling in Bangladesh – Phase I" (SENSREC). Discussions about such a project date back to at least 2011¹⁷.

(1) Two studies assessing the economic and environmental impact of the ship recycling industry in Bangladesh;

(2) An assessment of the prevailing conditions and needs for environmentally sound hazardous waste management, including the compilation of a hazardous waste inventory, hazardous waste assessment report and the preliminary infrastructure design and site selection for a hazardous waste storage, treatment and disposal facility;

(3) Recommendations on strengthening the Government's One-Stop Service, in which all the various ministries with a responsibility for ship recycling (e.g. Industries, Environment, Labour, Shipping) offer a single point of contact for related matters;

(4) review and upgrade of existing training courses on occupational health, safety and environmental issues and piloting of the new training material; and

(5) The development of a detailed project document for a possible follow-up project to implement the recommendations of phase I.

In the long term the project results are expected to assist the industry to eventually meet the requirements of the *Hong Kong International Convention on the Safe and Environmentally Sound Recycling of Ships*, 2009 (the Hong Kong Convention), so that the Government of Bangladesh may be in a position to accede to the Convention at an appropriate time. The total budget for this project was US\$1,516,275 with principal funding from the Norwegian Agency for Development Cooperation (Norad), while the Secretariat of the Basel, Rotterdam and Stockholm

15 Shipping goods from one Indian port to another is known as "cabotage." It is governed by the Merchant Shipping Act 1958 (MSA). As per the earlier Indian Cabotage rules contained in sections 406 and 407 of the MSA, only Indian flagged vessels or vessels chartered by an Indian citizen or company, operating under a licence granted by the Director General of Shipping (DG, shipping), were allowed to carry cargo from one Indian port to another.

16 For an extensive discussion see <https://thewire.in/economy/how-a-change-in-shipping-policy-will-cripple-indias-largest-government-owned-port>

17 <http://www.imo.org/en/MediaCentre/PressBriefings/Pages/Briefing-03-2011-bangladesh.aspx#.W6njlXszaUk>

Conventions (BRS) also supported the project having mobilized some EU funding towards the work package related to the management of hazardous materials, which has been implemented by the BRS.

The SENSREC project was commenced in January 2015, and by March 2017 most of its deliverable reports were prepared and approved by the Project Steering Committee - a multi-stakeholder committee that played an advisory role, and provided crucial guidance on all technical components of the project. Following successful completion of phase I activities, the Norwegian Government agreed in-principle to continue its financial support for the capacity building of Bangladesh ship recycling industry through implementing the training materials developed under phase I, and institutionalising a sustainable training approach for the country's ship recycling workforces¹⁸.

The project was executed by the Marine Environment Division of IMO as the implementing and executing agency, in partnership with the Ministry of Industries (MOI) of Bangladesh as the national executing partner. The MOI coordinated the input from the different stakeholder ministries within the country, and most importantly from the industry represented by the Bangladesh Ship Breakers & Recyclers Association (BSBRA), while IMO also collaborated with other relevant UN agencies including BRS, the International Labour Organization (ILO) and the United Nations Industrial Development Organization (UNIDO) to ensure the successful delivery of the project.

The second phase of the IMO-implemented project to enhance safe and environmentally sound ship recycling in Bangladesh was launched in July 2018. The SENSREC Project Phase II - Capacity Building, funded under a US\$1.1 million agreement with Norway, focuses on legal and institutional analysis of ship recycling in the country and

will develop a roadmap for the Government of Bangladesh to accede to the 2009 Hong Kong Convention. The two-year project will also provide training for workers in ship recycling yards, supervisors and government officials. In January this year, the Parliament of Bangladesh approved its Ship Recycling Bill, which includes a timeframe for accession to the Hong Kong Convention by Bangladesh within five years.

Ship-breaking as a green industry

The Shipping industry has been described as one of the world's biggest polluters, creating a huge amount of waste every day. While ships dispose hundreds of tonnes of garbage from day to day operations, the breaking up of a ship after it reaches the end of its service life also leaves a huge amount of waste that is hazardous to the environment. Shipbreaking became the most common method of ship disposal among them with dirty and highly dangerous shipbreaking practices taking root in developing countries. South Asian countries became the top destination due to lax labour and environmental laws and also due to certain tidal advantages that enabled the 'beaching' method of companies simply offloading their vessels onto beaches.

In recent times however, there is an awareness of seeing ship-breaking as ship-recycling and the move towards a green industry. Best practices have therefore been developed to help isolate those parts of the ship which are harmful and dangerous to both marine and human lives; conserve marine ecosystem by proper discarding of ship breaking waste; reuse of those parts of the ship that are important and can be re-used successfully while making new ships; and extract value from other ship parts.

The valuable components of a ship that can be reused include steel, aluminium, silver and brass, among others. Since a major part of a

18 Final report can be found here: <http://www.imo.org/en/OurWork/Environment/MajorProjects/Documents/Ship%20recycling/WP1a%20Economic%20Impacts%20Study.pdf>

19 The text of the Convention, as adopted by the Hong Kong Conference, is available at <http://ec.europa.eu/environment/waste/ships/pdf/Convention.pdf> (checked 13 July 2009)

ship's weight is in steel, the steel scrap from the vessel is converted into bars and rods for several other uses. However, in addition to the metal that can be recycled, there are a number of the toxic components inside a vessel. These harmful substances include lead, asbestos, mercury and oil sludge etc. The inefficient shipbreaking methods, especially those carried out on beaches than the dry-dock ship recycling facilities, allow these toxic and hazardous waste to be disposed of unsafely.

The International Convention for the Safe and Environmentally Sound Recycling of Ships (the Convention) was developed in order to address the variety of environmental and occupational health and safety risks that arise from ship dismantling. The Convention was adopted on 15 May 2009 by a diplomatic conference convened by the International Maritime Organization (IMO) in Hong Kong¹⁹. Its conclusion marked the culmination of a number of years of work on the part of the IMO, in close co-operation with the International Labour Organization (ILO) and the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes (Basel COP).

The Convention is the first international treaty to deal exclusively with the subject of ship dismantling. However, prior to its adoption, this issue was already regulated by a number of international instruments, both binding and non-binding. Aspects of ship dismantling have also been on the agenda of the IMO Marine Environment Protection Committee (MEPC) since 1998.¹² Discussions in the MEPC led to the adoption of Guidelines on Ship Recycling by the IMO Assembly in 2003.¹³ The IMO Guidelines address a wide range of issues, including the identification of hazardous materials on-board a ship, the carrying of a "Green Passport", and the preparation of a ship for recycling. Although the Guidelines are non-binding, IMO Members were invited to "take urgent action to apply the . . . Guidelines" and to "report to the 12 [MEPC] on any experience gained in their implementation."

Moreover, the MEPC was instructed to keep the matter under review in co-operation with other interested international organizations.

There are two principal ways in which the Convention seeks to address the risks raised by ship dismantling. First, it sets technical standards for the construction and operation of ships prior to recycling. Second, it creates a regulatory framework for ship recycling facilities.

However, to date none of the South Asian countries are a party to the Hong Kong Convention. The Convention has not yet entered into force, and will not enter into force until "24 months after ratification by 15 States, representing 40 per cent of world merchant shipping by gross tonnage, combined maximum annual ship recycling volume not less than 3 per cent of their combined tonnage" (IMO; Anonymous n.d.-b).

In 2017 India announced its intention to ratify the Convention. The importance of the announcement cannot be overstated, as it is believed that India holds the key to the future of Hong Kong Convention. The Convention's third condition for entry into force requires the accession or ratification by countries that have recycling capacity that is proportionate to the tonnage of the fleets under the scope of the Convention. The recycling capacities of China plus Turkey plus the rest of the world (but excluding the three South Asian countries) is currently only 69 percent of the capacity required under the third condition of Hong Kong Convention. On the other hand, the combined capacities of China plus any one out of the three South Asian ship recycling countries meet the requirement of the third condition.

In India, the Ministry of Shipping has already introduced the Shipbreaking Code 2013, replicating the full requirements of Hong Kong Convention in its domestic legislation. Even earlier, Gujarat Maritime Board had organized the setting up of facilities for the disposal of hazardous waste materials and for the provision of training for all ship recycling workers. Since 2015, an increasing

20 For a list of guidance documents adopted by the IMO in the area of maritime security see:

<http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Guidance/Pages/default.aspx>

21 See full text of the Security Council Resolution: <https://www.un.org/press/en/2017/sc13058.doc.htm>

number of Indian yards have been upgrading their procedures, training and infrastructure to meet the standards of Hong Kong Convention, with the result that now half of the yards in Alang have obtained, or are in the process of obtaining Statements Of Compliance from classification societies, testifying that they meet the technical standards of Hong Kong Convention.

In his speech at the 2017 IMO Assembly meeting, Shipping Minister Nitin Gadkari stated,

“As we expand our maritime activities, the guidance of IMO will become even more valuable. India has been one of the founder members of IMO and has been part of the IMO Council since then, except in 1983-84. In Category B of the Council, India represents the developing world and the nations with the largest share in international sea borne trade.”

Piracy

The IMO has been addressing maritime piracy for some time. A series of measures, developed in co-operation with Member States and the shipping industry evolved over time, to significantly reduce piracy in the hot spots of the world. In the late 1990s and the early 2000s the focus was on the South China Sea and the Straits of Malacca and Singapore; and since 2005, IMO has addressed piracy off the coast of Somalia, in the Gulf of Aden and the wider Indian Ocean. IMO has issued guidance to Governments, shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships; investigation of offences and the use of armed personnel. Regionally focussed Best Management Practices, developed by international shipping industry bodies, have also been disseminated by IMO²⁰.

Despite rapidly falling rates of piracy in the Horn of Africa, on 7th November 2017 the UN Security Council renewed for another year its

authorization for international naval forces to join in fighting piracy off Somalia's coast. The IMO was given recognition for its work in developing and updating guidance, best management practices and recommendations to assist ships in the prevention and suppression of piracy attacks.²¹

The Indian Navy and Coast Guard have played a very important role in patrolling the high seas and providing armed naval escorts to ships moving in the western Indian Ocean. During the height of piracy all the ships calling on and leaving Indian ports passing through what was known as the *High Risk Area* (HRA) were required to pay an additional premium to insurance companies most of whom were based outside India. This line was drawn at the Indian Ocean area west of 78 degrees E longitude, affecting it was estimated almost 22000 ships calling on and leaving from Indian ports. The extended HRA came almost near the Indian coastline as close as about 35 nautical miles from the baseline. This was seen as an unwarranted encroachment into India's EEZ (Exclusive Economic Zone) and it was estimated that this premium, called Additional War Risk Premium (AWRP) amounted to around Rupees 8500 crores during the years 2010 to 2015. This premium amount was added in the overall freight charges, ultimately traveling to the Indian consumer.

Finally, in October 2015, India succeeded in convincing the IMO, and others, to push back the High Risk Area (HRA) from 78 degrees East longitude to the 65 degrees East longitude.

Conclusion

Although the IMO is widely lauded for its achievements, governing the seas remains a huge and growing challenge. While 90 per cent of official global trade is transported by sea, there are also untold numbers of undocumented refugees and job seekers, illegal fishing and international smuggling that occurs through the oceans. Today,

even as maritime data has exploded thanks to satellites and information-sharing services, their remains the vulnerability to human error and manipulation. A broad range of tactics have easily circumvented the regulatory framework including changing identities, making ship-to-ship transfers of goods mid-voyage. Ports are critical economic links and processes and legal measures are in place to equip and authorise ports to become active agents in combatting crime but there is a limitation in terms of capacity.

A number of proposals have been made to enhance the effectiveness of IMO conventions and implantation of protocols that are in place, including the argument that more focus needs to be placed on maritime information-sharing programs at the regional level as well as greater transparency in the IMO's own governance structures.

As has been showcased in this paper, Bangladesh and India have both been active in leveraging the resources and machinery of the IMO. This reflects a growing willingness to lobby the IMO pro-actively so as to shape the architecture of maritime governance. India, does not have the same clout as the shipowning lobby groups and countries within the IMO. However, it is pushing forward its own interests, using its weight as a major seafaring nation and economy, with the fact of its geographical location. In the process, the desire to shape discussions, deliberations and outcomes at the IMO gains a strategic value for policy makers²².

In 2017 India filed an application to recognise its indigenous satellite navigation system, the "Indian Regional Navigation Satellite System (IRNSS)" as a future component of the World-

Wide Radio-navigation System (WWRNS) and to develop performance standards for shipborne IRNSS receiver equipment²³. Ships and ports have come to rely on global navigation satellite systems (GNSS) for a huge array of applications relating to position, velocity and precise universal and local time. However, ships do not rely on just GNSS alone for position fixing. A shipmaster can also deploy radar, or cross bearings using compass; terrestrial radio navigation; even sextants. This allows ships to mitigate the impact of GPS disruption. While the IMO does not operate GNSS systems, it has an important role in accepting and recognizing worldwide radio-navigation systems which can be used by international shipping. For example, the BeiDou Navigation Satellite System (BDS), proposed by the People's Republic of China, was developed in the 2000s and IMO was requested to develop performance standards for BDS receivers. The performance standards were adopted in 2014 (resolution MSC.379(93)) Full operational capability for BeiDou is anticipated to be reached by 2020.

India's willingness and role within major global governance institutions are being projected as a mark of success and as earning the country respect in the process. In his speech to the Joint Sitting of the Two Houses of Parliament, on 29 January 2018, the President of India, Shri Ram Nath Kovind noted that, "Due to the successful diplomatic efforts of my Government, there has been a new found respect for India. As a result, India has been able to secure representation in the International Tribunal for the Law of the Sea, International Maritime Organization and Economic and Social Council. In a keenly contested election to the International Court of Justice, India emerged victorious."

22 <http://pib.nic.in/newsite/PrintRelease.aspx?relid=181098>

23 [file:///C:/Users/ISASSJ/Downloads/NCSR%205-5%20-%20Preliminary%20review%20of%20the%20Indian%20Regional%20Navigation%20Satellite%20System%20\(IRNSS\)%20\(India\).pdf](file:///C:/Users/ISASSJ/Downloads/NCSR%205-5%20-%20Preliminary%20review%20of%20the%20Indian%20Regional%20Navigation%20Satellite%20System%20(IRNSS)%20(India).pdf)