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**Key Trends in International Transport and
Implications for Development :
Legal Issues and Regulatory Developments**

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Legal Issues and Regulatory Developments

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Legal Issues and Regulatory Developments

Background and Current Activities at UNCTAD

Key Thematic Areas of Work

Recent Developments

- Transport Law
- Maritime and Supply Chain Security
 - Key Multilateral/International Security Initiatives
 - Regional/National Security Initiatives
 - Developments at Other Organizations
- Environmental Challenges in the Field of Transportation
 - Reduction of GHG Emissions from International Shipping
 - Ship-Source Pollution
 - Pollution of sea by oil and HNS
 - Air pollution from ships and emission control areas (ECAs)
 - Ship recycling
 - Ballast water management
 - Ship garbage management





Background and Current Activities at UNCTAD

UNCTAD: Long history in negotiating international transport law conventions, model laws and standards.

Current activities in line with UNCTAD's mandate include:

- **Research and analysis**
On policy, legal and regulatory issues and related developments affecting transport and trade, in particular that of developing countries.
- **Technical assistance, capacity building, and advisory services**
In respect of national implementation of international legal instruments and, as appropriate, in relevant negotiations.
- **Building consensus - intergovernmental activities**
Formal or informal meetings convened by UNCTAD also provide an important forum for discussion of relevant issues by Member States, public and private sector stakeholders and other experts.



Key Thematic Areas of Work

Based on mandate, expertise and demand, include:

- **Commercial transport law**
Focus on maritime law, but also multimodal transport, carriage of goods by air, liability for ship-source oil-pollution, transport documents.
- **Maritime and supply-chain security**
Following the events of September 11th 2001, focus on relevant international and regional security initiatives and developments, affecting the transport and trade of developing countries. Recently also focus on Piracy, as a key challenge entailing costs and disruption to trade.
- **Environmental challenges in the field of transportation**
So far, focus on reduction of GHG emissions, ship-source pollution, including air pollution from ships (MARPOL Annex VI), ballast water management and ship recycling.

Important developments are regularly covered in the Review of Maritime Transport (Chapter 5 on legal/regulatory developments).

Research and analytical studies cover topical and key issues in depth.



Recent Developments: Transport Law



- **2006 Maritime Labour Convention (2006 MLC)**
Entry into force in August 2013. Consolidates more than 68 international labour standards. Sets out responsibilities and rights of seafarers with regard to labour and social matters in the maritime sector.
- **1996 Convention on Limitation of Liability for Maritime Claims (1996 LLMC)**
Amendments adopted in 2012. Entry into force in April 2015. Liability limits increased around 50% over previous limits.
- **2002 Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (2002 PAL)**
Entry into force in April 2014. Liability limits increased more than 5 times in case of a ship passenger's death or personal injury. Also increased liability for loss or damage to luggage or vehicles carried on a ship.

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Maritime and Supply Chain Security

Key Multilateral/International Security Initiatives

- **IMO/International Ship and Port Facility Security (ISPS) Code**
Adopted in 2002. Entry into force in July 2004. Included in Chapter XI-2 to 1974 SOLAS. Sets security standards for ships and port facilities.
- **WCO Framework of Standards to Secure and Facilitate Global Trade (SAFE)**
Adopted in 2005. Well established. Latest update in 2012. Sets out standards and principles to be adopted as a minimum by national customs administrations. Embodies the concept of Authorized Economic Operator (AEO). Capacity building programme.

Regional/National Security Initiatives

Monitor developments at the U.S. and EU level.

Developments at Other International Organizations

IMO (various Committees), ISO, etc.

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Environmental Challenges in the Field of Transportation

Reduction of GHG Emissions from International Shipping

Emissions by international shipping not covered in UNFCCC Kyoto Protocol. Monitor developments at IMO. Some progress has been made:

- **Technical and operational measures to increase energy efficiency and reduce GHG emissions from international shipping**, (new chapter 4 of MARPOL Annex VI "Air Pollution From Ships") adopted at IMO in July 2011. Entry into force on 1 January 2013. (Adoption not by consensus - different views by Member States). Guidelines to assist in their implementation adopted in 2012 and 2013.
- **Resolution on promotion of technical cooperation and transfer of technology relating to the improvement of energy efficiency of ships**, adopted in May 2013.
- **Market-based measures (MBMs)** - Discussions at IMO continue and are not uncontroversial.



Ship-Source Pollution

Pollution by Oil and by Hazardous and Noxious Substances



- UNCTAD analytical study **Liability and Compensation for Ship - Source Oil Pollution: An Overview of the International Legal Framework for Oil Pollution Damage from Tankers, (2012)**

To assist States in their understanding of the complex international legal framework, and in considering to become members to the latest relevant legal instruments. Particularly relevant for coastal developing States, vulnerable to oil pollution from tankers.

- **Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended by its 2010 Protocol (2010 HNS Convention)**

Not yet in force. A set of guidelines for reporting contributing cargo under the convention, was endorsed at IMO in April 2013. Intended to assist States with their accession to 2010 HNS Convention.



Air Pollution From Ships and Emission Control Areas (ECAs)

- CO₂ is the main GHG emitted by ships. Other substances that significantly contribute to air pollution from ships are sulphur oxides (SO_x) and nitrogen oxides (NO_x).
- SO_x and NO_x emissions reduction is also covered by MARPOL Annex VI "Air Pollution from Ships", amended in 2008 to introduce more stringent controls.

SO_x emissions

- As of 1 January 2012, ships globally are allowed to burn fuels with no more than 3.5% (from 4.5%) sulphur. This threshold will be reduced further to 0.50% from 2020 subject to a feasibility review in 2018.
- In special SO_x emission control areas (ECAs) with more stringent controls on sulphur emissions:
 - Since 1 July 2010 - threshold for marine fuels of 1% (from 1.5%)
 - As of 1 January 2015 - threshold for marine fuels of 0.1%.

NO_x emissions

- Progressive reductions in NO_x emissions have also been agreed with the strictest controls applicable to ships constructed on or after 1 January 2016 (suggested amendment to change the date to 1 January 2021).

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Ship recycling

- Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (Hong Kong Convention).

Not yet in force. Six sets of Guidelines, adopted at IMO in 2011 and 2012, complete the development of all guidelines referred to in the Convention.

Ballast water management

- International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM)

Not yet in force, but close to fulfilling the requirements. A draft resolution will be submitted for approval to the IMO Assembly in November 2013, to facilitate its smooth implementation.

Ship garbage management

- MARPOL Annex V

Amendments entered into force on 1 January 2013. Discharge of all garbage into the sea is prohibited, except as provided otherwise in very restricted cases.

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International Conventions and non-mandatory rules adopted under auspices of UNCTAD

- International Convention on Arrest of Ships 1999; (with IMO)
- International Convention on Maritime Liens and Mortgages 1993; (with IMO)
- United Nations Convention on Conditions for Registration of Ships, 1986
- United Nations Convention on Multimodal Transport of Goods, 1980
- United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules), 1978
- United Nations Convention on a Code of Conduct for Liner Conferences, 1974
- UNCTAD/ICC Rules for Multimodal Transport Documents 1992
- UNCTAD Model Clauses on Marine Hull and Cargo Insurance, 1989
- UNCTAD Minimum Standards for Shipping Agents, 1988

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Analytical studies and reports

- **Rotterdam Rules 2008 (carriage by sea and multimodal transport)**
 - Analytical Overview of the Rotterdam Rules 2008 in Review of Maritime Transport 2009 (Ch.6)
 - Carrier Liability and Freedom of Contract under the UNCITRAL Draft Instrument on the Carriage of Goods [Wholly or Partly] [By Sea], Note by the UNCTAD Secretariat
 - Commentary by UNCTAD Secretariat on Draft Instrument on Transport Law
- **Aspects of Air law**
 - Carriage of Goods by Air: A Guide to the International Legal Framework
- **Multimodal transport and transport documents**
 - Multimodal Transport: The Feasibility of an International Legal Instrument
 - Implementation of Multimodal Transport Rules - and comparative Table
 - The Use of Transport Documents in International Trade
 - Electronic Commerce and International Transport Services
- **Maritime and Supply-Chain Security**
 - Container Security: Major Initiatives and Related International Developments
- **Ship-source oil pollution**
 - Liability and Compensation for Ship-Source Oil Pollution: An Overview of the International Legal Framework for Oil Pollution Damage from Tankers

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Thank You

For further information and relevant documentation, see our website at www.unctad.org/ti/legal

Contact:
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