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Legislative Activity of the International Maritime Organization (IMO)

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The International Maritime Organization (IMO) is the United Nations specialized agency responsible for navigation and prevention of both nautical and atmospheric pollution caused by ships. In addition to that and since it is a specialized agency responsible for the safety of navigation, it is responsible for the application of environmental standards in international navigation. The highest importance of creation of a legislative framework for navigational nautical activity is based on its universal acceptance, implementation and the effective and fair application. It is also necessary to emphasize that the application of these standards has to be fully effective regardless of financial constraints, hence in every part of the international community. The attitude of the kind makes both innovation and efficiency possible. According to a widespread opinion, the development of the IMO legislation has been especially strengthened after the adoption of the 1982 Law of the Sea Convention. The Convention actually reflects a strong and universally valid attempt to get an exhaustive and comprehensive legal regime for the oceans and seas established. The Convention has been colloquially known as the Sea Constitution. It has emerged as a result of detailed perennial negotiations. It used to comprise numerous compromises that relieved many substantial divergences between countries.

Keywords: International Maritime Organization, pollution, acceptance, implementation, maritime domain, convention, agency, navigation

Introduction

Maritime navigation could be regarded as a specific, necessary kind of activity existing in the accepted normative framework implemented on international level. In addition to that, the IMO itself, as a specialized agency, is a forum within which the legislative process has been highly developed.

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International navigation transports 80% of total visible trade of the World. This kind of transport offers lower and more favorable prices, therefore making it unavoidable and the most acceptable model of global transportation. In addition to that, it is an example of the way visible trade among nations of the World brings prosperity and wealth to the nations themselves. International trade is the global economy mover, obviously and mostly thanks to maritime trade and legislation passed within IMO, apart from its other actions.

Maritime trade of the range inevitably becomes a part of every sustainable development program. By the medium of the agency itself, in addition to activities of member states and civil society, continuous work on the increase of green ecology and sustainable development has been collectively achieved. Promotion of development of the kind makes one of the IMO priorities for the future.

As a part of the UNIMO system, it actively participates in activities according to Agenda 30 for sustainable development including 17 development goals (SDGs)[1].

As a part of the UNIMO system, it actively participates in activities according to Agenda 30 for sustainable development, as well as to the Program SDGs, since 2015 when both the Agenda for sustainable development and 17 development goals (SDGs)[2] were adopted by 193 states.

These are energy efficiency, technologies and innovations, education of seamen and trainings, maritime security, nautical traffic management, development of nautical infrastructure and implementation of it through IMO, as comprised by global standards and supported by dynamic activities of the Agency and committees as imposed by the institutional framework of the Global green nautical transportation system.

IMO does not address other aspects of maritime activities such as fishing, navigation rights and duties, navigation, exploitation of minerals in the continental shelf or scientific ecological studies of the sea and oceans.

Nevertheless, despite the extensive production of documents, several basic provisions of the 1982 Convention on the Law of the Sea have a great influence on the work of the International Maritime Organization, especially on its normative-legislative activity.

This organization performs this activity very specifically, differing from the individual specialized agencies in the United Nations system. Its Assembly, together with the committees, performs a primary quasi-legislative activity. This applies above all to two committees, namely: 1) for maritime protection and 2) for maritime ecological protection.

These bodies are open to all member states. They are authorized to discuss the problems burdening the IMO's activity. They can agree on the necessary solutions to the problems and ways to overcome them. Within these activities, creation of regulation makes one of the most important ones.

Committees are the bearers of the creation of the necessary regulation without which it is almost impossible to carry out business in this domain.

The IMO Committees have prepared several important Conventions governing the efficiency and effectiveness of maritime service, nautical safety and maritime environmental protection.

The following ones are of particular importance:

1) Convention on the Advancement of International Maritime Transport

[1] Turcinović F, *Sustainable Development and its Non-Sustainable International Law Frame*, Medijskidijalozi, Podgorica 2013; No. 17, pages 570-573.

[2] Actually, SDGs make a call for action for sustainable development and elimination of poverty and hunger. In addition to that, it should provide for dignity of human life.

It affirms, by its provisions, the uniformity and formalization of documentation when drafting requirements regarding customs, immigration, and health procedures during the stay of ships in foreign ports[3].

2) International Convention for the Prevention of Pollution from Ships

This Convention regulates the loading and unloading of harmful waste and other harmful substances, including oils and other substances which could have adverse effects on the maritime area and the life in it[4].

This Convention addresses the prevention of pollution and the other detrimental cargo sinking from ships and aircrafts. These activities are subject to the approval of a competent national authority. It is necessary if the sinking is carried out in a territorial sea, exclusive economic zone or epi-continental shelf. It comprises categorization of cargoes in three types: first is a black list in which is, for instance, mercury, transport of which is subject to a special permission, the second makes a gray list with materials such as zinc, and the third one is subject to the so-called General permission.

3) Convention on International Rules for the Prevention of Collisions at Sea 1972[5]

The 1972 Convention on the Prevention of Collisions at Sea is also known by the acronym COLREG. This document primarily refers to light and light signals, power outages, and regulation on the appropriate speed of movement of vessels, rules for the avoidance of accidents, the establishment of special traffic routes and standards for the movement of ships in sudden and unforeseen situations. In addition to that, there is a scheme of movement of ships in the situations presented above when ships are heading or crossing individual routes.

The most important novelty in this document is that it has identified maritime traffic routes, safe navigation speed and risks that may occur in the vicinity of separation movement patterns.

A large number of issues are regulated by these Conventions but, by the very nature of the matter, this is not sufficient as the new circumstances necessitate resorting to amendments and annexes to them. They are brought to the Assembly and recommended to Member States. They are a very important model of overcoming legislative problems within the IMO.

IMO Recommendations

The first category of recommendations is provided for in the Article 1-abc. This provision mainly deals with the purpose of the IMO work.

The second category of recommendations makes these that are made on the basis of the Article 2 (b), i.e. on the basis of the IMO legislative capacity, being recommended to Member States.

The recommendations concern resolving of the disputes arising out of unfair and restrictive business practices as specified by the Article 3 of the Convention on the Law of the Sea.

Article 15 of the Convention provides for authorization of the Assembly to recommend to the Member States the adoption of regulations and instructions aimed to regulate the issues of maritime security, prevention and control of maritime pollution from ships, as well as making amendments to such regulations and instructions.[6]

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[3] See: 591 U.N.T.S 265.

[4] See: ILM Nov. 1973, 1319 with Protocol Feb. 17. 1978. See further: www:IMO.org/en/about/Convention/ListofConvention/ Pages/Coleg.aspx.

[5] See: 1046 U.N.T.S 120, December 29, 1972 Convention on International Rules for the Prevention of Collisions at Sea 1972, as known by the acronim COLREG. Visit web-site 10.12.2019:IMO.org/en/about/Convention/ListofConvention/Pages/Coleg.aspx See more in: Kreća M., Međunarodnojavnopravo 2007, pages 362-363.

[6] See in general on recommendations in: Turčinović F., Preporuke UNESCO Recommendations on Cultural and Natural Heritage, Pravnivjesnik, Faculty of Law, Osijek, Croatia No. 3-4, 1989.

Initially, the Convention made a distinction between regulations and guidelines, but no definition was offered. While adhering to its mandate, the IMO issued numerous recommendations under different names. Apart from the above, there are codes and procedures added to them.

The issue of the names of legal documents, which, as we have already said, are produced in large numbers by the Assembly and its committees, gained importance in parallel with the growth of the maritime industry. It was necessary to make difference between them, having in mind various legal features they took. However and apart from that, many cases show that there is no justification for usage of specific names given to these documents. Regarding that, the case of resolutions, which are mainly advisory in their character, is indicative. In the case of relation between resolutions and codes, it should be emphasized that their nature makes something between non-mandatory recommendations and mandatory conventions. Notwithstanding the above fact, in both the IMO conventions and its practice there is no mention of the above differences. Real dimensions of issues concerned prove adequacy of naming the above stated legal instruments.

For example, guidelines on the use of technical gases with life protection standards in the aquatic environment require, in the cases of transport and storage of them, that the Member States implement these guidelines in their own legislation.[7]

It is possible that, by looking through the legal effects of these documents, especially if we consider the purpose of their creation, we would reach a different conclusion. Obviously, the codex is broader in its intentions and purpose than recommendations or manuals. In support of that is assessment made by legal experts that this kind of legal documents is necessary and indispensable in the management and operation of maritime navigation.

The legal language of the code is facultative. It is not limited by the formal content of draft conventions. It is descriptive and often presents an alternative to addressing a specific problem. It is used as a testing base for final concept of a report through which it could be incorporated into a convention.

It is indisputable that the IMO recommendations emerge as the product of two legally-technical methods. The first one is to show, first of all, the intention for a particular issue to be precisely regulated—sometimes without specifying particular meanings.

The second method goes further by setting significant notions. In the cases of emergencies, a third method emerges to eliminate this urgent necessity by suggesting a harmonized solution that would allow carrying out of certain necessary tasks.

As an example, here we cite the “Recommendation on the use of pilotage in the Gulf of Sunda”. The Recommendation was established fast due to the many sensitive and vulnerable relationships in the region.[8]

The recommendation applies to all oil tankers with a draft of seven meters or more and to all tankers carrying chemical gas cargoes, regardless of their length, when sailing in the Gulf of Sunda portion approximately designated as the navigation route Swinbaden, Hornbaek Harbor, Alfadohage which was established by the governments of Sweden and Denmark.

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[7] See: Guidelines for Inert Gas Systems adopted in 42 MSG Session and published by IMO in 2009. It was already comprised by the IMO Resolution A, 567(14) Annex Regulation for inert Gas system on Chemical Tankers—Adopted by the IMO Assembly Fourteenth Session on November 20, 1985. In addition to that it was included into the IMO Inert Gas Systems 1990 Edition, IMO 860 E. Web-site was visited on: December 10, 2019 (Ocimf.org/org7medija/8922/c50f7d07-4688-8033- 79d13c).

[8] Recommendation on the use of pilotage in the Gulf of Sunda; web-site was visited on December 10, 2019 Sr.wikipedija.org/wiki/Eresund.

It should be a functionalist approach if we are to assess the significance of the recommendations as IMO legal instruments. The analysis of functions would not be able to fully determine their legal importance. This approach considers bearing in mind the fact that they are of the great importance in generation of legal rules. Many of these rules were incorporated in individual international treaties.

In addition, the IMO Recommendation then adopts the traffic separation schemes contained in the Annexes to Regulation 10 to the COLREG Convention. Therefore, those rules of the IMO Recommendation became parts of the mandatory rules for the COLREG Contracting Parties (Higgins, 1987, pp. 21-25).

IMO is known only as the international body responsible for making recommendations on the maritime routing on the international level. Within many of the Conventions, IMO is the depositary and, in this context, performs all the necessary administrative tasks, especially having the ability to adopt additional standards and more detailed regulations.

Recommendation on fire protection for passengers on passenger ships with more than 36 passengers[9]

Additions to the Recommendation comprise a part II-2 under the title Constructions, fire protection, fire detection and extinguishing.

There are the other types of recommendations relating to their implementation in conventions. Here we are to point at the two following examples that could be illustrative of this type of legal instrument:

1) Ship control procedure;

2) Non-standard ships—Guide to control procedures.

These recommendations clarify procedures in the above mentioned areas of the Member States, especially in filing complaints and in lawsuits. Recommendations sometimes address issues that are not accepted in binding international treaties. They are devoid of legal effect and are developmentally hovering, waiting to be covered by a mandatory legal document. In that sense, they are forerunners to suggestions concerning mandatory legal instruments adopted by the competent organs of the Organization, and on the basis of the proposal laid down therein.

Therefore, it could be noted that it is important for all states, taking into account their practice to use the standards included in the text of these recommendations often. By this they start a certain harmonization and achieve the uniformity of the included rules before they become parts of the convention.

Legal Effects of the International Organizations' Recommendations

The legal effects of international organizations' recommendations are conditioned by a number of major factors. First, they are conditioned by objective circumstances prevailing in the area to be covered and, as the second, by content and modalities of possibility for their implementation. Generally speaking, recommendations are considered optional.

Contrary to the above, some IMO recommendations relating to the "special traffic schemes" of the COLREG Convention could be said to mean that individual countries have used the abovementioned transport schemes on their ships' navigation routes (Castaneda, 1969).

Obviously, the Recommendations strongly influence and reflect on the safety of people, goods in maritime transport and storage, maritime environment and the wider environment. Such circumstances have caused these legal instruments to be of great practical value. It prompts strong activity making the factors in charge to shape

[9] The Recommendation was adopted in accordance to the Resolution 1 Item 3 of the International Conference on the Safety of the Life at Sea, in 1974.

that multifaceted interest in a mandatory legal document.

On the other hand, it is hard to imagine that a state would refuse to apply the standards of the recommendations in the field of navigation safety to ships flying its flag. Similar things happened in situations where COLREG had not yet taken its effect.

The Importance of Recommendations for Shaping of Common Law

The Recommendations have very important role in shaping of the international common law in the domain of maritime traffic. In maritime countries, common law as a source of maritime law can be proven by making the insight into the practice of those states.

Public and private law, collections of bilateral treaties, diplomatic notes, orders of naval officers and other numerous decisions are important documents of common international maritime law.

Much of the law of the sea has its original and uniform standards, criteria, and specifications, although they are of a non-contractual character and are the result of a legislative process different from the similar national processes.

In spite of the above, the non-contractual IMO lawmaking model could be more fruitful and effective in this area of peaceful activity management than the contracts themselves.

Recommendations and codes appear to be widely applied, especially having in mind the fact that the application has been the voluntary action of states, which is proven by their large numbers.

Objectively, the visible effect which has been realized is more important than, say, conventions which were ratified but applied by scarce number of states. This is why this approach could be considered as very efficient and convenient to be applied. Maybe it could be said that this is actually a kind of compromise making the wider application of standards possible. Of the special importance is the fact that it is the way of strengthening the conciliatory model of resolving numerous issues and eliminating radical solutions that would lead into a disadvantageous practice in the real life.

If this way of formation of legal rules in the IMO stopped, that would inevitably have an adverse effect on its overall process of work. It would certainly have a negative impact on the process of creating international maritime law standards. By that effect it would reduce the importance of unification of legal rules to be applied as enforced by both the profession and safety and security rules. Many of these rules become binding upon implementation in international conventions or through national legislation

Thus, for instance, more than 55 countries have implemented the Code on the Construction and Equipment of Ships Carrying Cargoes with Harmful Chemical Properties. Ten countries have voluntarily accepted them.

The Code for the Construction and Equipment of Carrying Ships has been implemented in the whole or partly by 115 states, while nine states apply the Gas Carrier Code for Existing Ships. In addition to that, it should be noted that the IMDG Code has been applied by 37 countries. On the basis of the above stated, it could be said that it is small number of states and that it has been only superficially applied.

However, it should be noted that a number of countries that have a very effective share of maritime transport and transport of particular interest have a major influence on the implementation and adoption of the standards set out in the recommendations.

However, without their cooperation in this area, a large number of recommendations made during IMO activities have lost their relevance, despite the fact that these countries have almost 90% share of the world’s

shipping capacity.

In the legislative sphere, the Recommendations contain very precise elements that can be used directly in the drafting of regulations in the national field. In this area, the Recommendations play a very important role. The procedure and effective elaboration of the issues to be resolved are not always a guarantee of efficiency and effectiveness. However and apart from that, they have been used very often in adoption of conventions (Turčinović, 2013, pp. 569-573).

Experts sent by governments, as well as by private corporations in the course of doing their work on drafting IMO rules bear, in many cases, personal responsibility for their implementation on the national level.

These experts represent a wide range of numerous interests, while their knowledge makes an enormous influence on legal qualities of these documents as well, since they are, by the rule, products of very comprehensive research.

Particular IMO recommendations comprise a kind of reciprocity referring to sanctions for non-execution of obligations, for instance in cases when states which adopted high maritime ecology standards forbid ships from the states whose adopted standards are lower to land in their ports (Turcinovic & Kovačevic, 2018, pp. 344-349).

If we accepted as uncontested that maritime economy is a very competitive one, we would consider numerous examples of reciprocity within it not unusual. This is one among models on the basis of which states with competitive maritime economy are successful in promotion, without lowering their advantages, of the tendency of deflecting of numerous navigation risks which would otherwise emerge by landing in ports with lower ecology standards.

Making decisions within IMO is subject, taken provisionally, of the efficient procedure. By the rule, decisions are made by majority of vote. Some agencies make decisions by consensus implying absence of objections to relational standards already adopted or having general consent.

It could eventually be concluded that the Recommendations adopted in the IMO framework comprise norms and standards that are most often the result of long and detailed research made by the experts coming mostly from maritime states, non-governmental organizations, private industry guided by its own interests and developmental perspective, and from various phases in adoption procedure originating from various sources implemented during institutional operation. Having that in mind, it should be noted that this method of elaboration of these Recommendations brings the great practical value, high level of flexibility, in addition to embodiment of the principle of reciprocity which is raised to the status that surpasses simple recommendations and allows these legal IMO instruments to be considered as international legislative acts.

A number of authors believe that high applicability of the IMO Recommendations comes from the fact that they are adopted by almost the same methodology as international contracts (Higgins, 1987, p. 21).

At the beginning, a member state, a group of states, a concerned international organization or the other authorized entity, indicate a course of action and make their suggestions to the Assembly or to the Council. They forward their suggestion to the relevant Committee or Sub-Committee due to preparation of the necessary documents. The subsequently made drafts are submitted to the states and international organizations to provide their comments. Their consideration and comments are directed towards adoption and implementation of these documents. Thereby it should be borne in mind, depending on whether it is a contract or a suggestion under consideration, that there is ratification needed when it comes to a contract, and that it is not necessary when it comes to a recommendation.

In the 1970s IMO organized the Convention engaged in enormously rising problems of pollution, spillage

and dropping of harmful substances from naval vessels during their transportation.[10]

The Convention was annexed in 1978 by the Protocol commonly named MARPOL 73/78, with the annexes 73/78 and appendices to these annexes establishing the detailed systems of decrease, elimination, and discharge of certain pollutants.

These related to oils are included in the Annex I; in the Annex II there are harmful liquid substances included; in the Annex III are included very harmful substances carried in appropriate containers; in the Annex IV are regulated waste, canal and sewage waters, and in the Annex V harmful waste and garbage.

All the above stated Annexes and Appendices comprise numerous rules applied to ships in the course of their voyage, as well as while they are in ports in order to fulfill various needs related to passengers, shipments, and disembarkation of their loads.

These Annexes and Appendices comprise lists of hazardous substances covered by regulation within. There are also four forms of the certificates of consent, acceptance of prescribed rules and books of necessary records provided. They are very important instruments of creation of international legislation. The applicability of these rules lays in their ability to adapt quickly to technological changes causing the change of composition of these substances. This is important especially taking into account the slow process of adoption of amendments by Conventions.

Instead of it, MARPOL 73/78 solves problems of the kind partly through legislative activities of the IMO Committee. It is true that the Convention on prevention of pollution from ships stipulates, in the Article 14, the annex-making procedure and the mandatory character of these. These provisions make each party of the Convention due to applying of the appropriate annexes. Thereby, it should be noted that the Article 16 of the above Convention regulates the procedure of bringing an amendment forth in detail.[11]

Amendments to annexes shall be made by the competent authority (the Committee) by two-thirds majority of the parties to the Convention present and voting.

The case of Peru, which was the party to the Convention that attended the session but refrained from voting, is also known.

The competent IMO authorities have decided to implement specific procedure regulated by the Article 16 (2) (f) (ii). After voting participated by two-thirds of the contractual parties with the share of 50% gross register tons of total world merchant fleet, the question is what would happen if Peru remained silent during the above described procedure. Would Peru be due to apply the adopted amendment? In the assumed case, if the IMO agencies did not accept the adoption procedure according to the Article 16 but designate 10 months for issuing a complaint from the Article 16 (2) (f) (iii) of the Convention, would Peru be due to comply if in due time only one tenth of the world's merchant fleet voted in favor of it? What would the reasoning be if that state professed itself, for instance, in eleventh month in favor of the necessity of consent of all contractual parties of the Convention?

These issues would bring numerous controversies impossible to be analyzed in the frame of this paper. We have, therefore, decided to make a summary analysis of the main issues only.

In doing so, it would be necessary to start from the fact that two thirds of the members, making about 75% of the gross tonnage of the world's merchant fleet, would be needed to agree to meet the requirements from the

[10] IMO was previously named the Intergovernmental Maritime Consultative Organization.

[11] See: ILM Convention 1319 1973, Par. 17 id.546 (1978). MAR-POL 73-78 is the International Convention for Prevention of Pollution from Ships, with the 1978 Protocol.

Article 16 (2) (f) (ii). The question therefore arises as to whether the procedure provided for in the Article 16 (2) (c) should be updated. It may be the most rational to eliminate the procedure by adopting amendments to the IMO Conventions. That would eliminate the complicated and controversial procedure from the previously cited Article 16 (2) and make it possible to apply consideration of the amendments at the MARPOL convention in accordance to the simpler and more productive procedure provided for in the Article 16 (3).

Making Amendments at Conventions

Following a request made by a contracting party supported by at least one third of the contracting parties to the Convention, the Organization shall convene a Conference of the Contracting Parties to consider the proposed amendments.

Every amendment accepted by two-thirds majority vote of present voters shall be submitted to the Secretary General to contact all contracting parties requesting their consent to the text of the amendment.

Unless the Conference decides otherwise, the amendment shall be considered accepted and it becomes effective in accordance to the procedure established by the Article 16(2) (f) i (g)[12].

The Importance of the 1982 Convention on the Law of the Sea

Due to a widespread opinion, lawmaking within the IMO gained its power especially after the Convention on the Law of the Sea was passed in 1982. The Convention includes numerous rules taken from the previously passed documents of the domain.

The United States opposed the rules on high-depth mining. Due to this disagreement, they refused to ratify the 1982 Convention. However, on the other hand, most countries in the world ratified the document.[13]

In this paper, we will focus on the provisions of Part XII concerning the protection and conservation of the marine environment. Some provisions of the Part relate to pollution from ships, included in MARPOL 73/78 as well, being very important since it was to be very useful for maritime and coastal States.

The 1982 Convention on the Law of the Sea, in its Article 194, considers measures for the prevention, reduction, and control of pollution in the maritime environment. According to these provisions, all states are due to, individually or together with the other ones, adopt the appropriate measures in accordance to the Convention as the necessary ones for prevention, reduction, and control of pollution. These measures are implemented for the purpose of elimination of harmful consequences of both pollution and sources of it, as well as of coordination of their capacities and policy in the domain. In addition to that, it is necessary to make the ones practiced in order to get pollution eliminated non harmful to the other states' environment (Turčinović, 2009, pp. 327-330).

The Article 197 regulates cooperation on both global and regional base. This is realized through direct contacts in international organizations on occasions of formulation and elaboration of international rules, standards, and recommendations by which a desired practice is established. At the regional level, in accordance to the above Article, regional features and characteristics of pollution are taken into account (Turčinović, 2010, pp. 95-110).

Specificity of Pollution From Naval Vessels

[12] See: Article 16, International convention for prevention of pollution from ships, in ILM 1319 &17, 1978.
[13] See: UN.Doc.A/CONF.62/122,1833U.N.T.S 3,21.1261 ILM 1982.

States take their parts in the work of the competent international organizations or diplomatic conventions when it comes to passing international regulation and standards of prevention, reduction, and control of pollution in maritime environment. It is also important that, by the rule, coastal states take their parts in establishment of maritime routes system in order to get risks of pollution and damages reduced. The regulation and standards could be reconsidered and, if necessary, changed from time to time.

In addition to that, states adopt rules in order to regulate prevention, reduction, and control of pollution from ships flying their flags or being registered as their ones, as well as to regulate their impact on the environment in the maritime area.

The above stated rules must be of at least the same legal effect as those in the field of international maritime law which were adopted through activities of the competent international organizations or at a general diplomatic conference.

The states which have special requirements for the prevention, reduction, and control of pollution as a prerequisite for the entry of foreign ships into their ports, inland waters or offshore terminals, must make those requirements public. In addition, they are due to submit them to the competent international organizations.

Coastal states shall, within the framework of their sovereign rights in the territorial sea, pass the rules for the prevention, reduction, and control of pollution from ships, including ships in harmless passage. Such rules shall be in accordance with the principle of continuous harmless passage, or with the Part II of Section 8 of the Convention on the Law of the Sea.[14]

Also, coastal states shall, in their exclusive economic zones, in accordance with the Section 6 of the Convention on the Law of the Sea, pass rules for the prevention, reduction, and control of ship-borne pollution according to generally accepted rules in international organizations or at diplomatic conferences.

Logically, if the international rules and standards referred to by the Article 211 (1) are found to be inadequate to provide the necessary protection against pollution from ships in the specific circumstances of a particular part of the exclusive economic zone, the necessary mandatory measures to prevent damage would be applied. This goes especially if dictated by the specific environmental and oceanographic conditions that could jeopardize resources and transport in the area. In the circumstances of the kind, the necessary information and assistance is obtained from the competent international organization and interested countries—upon consultation with them based on the previously submitted referent scientific evidence.

Within 12 months, the organization shall approve whether the coastal state for that part of the zone can pass and apply regulation applicable and consistent with international maritime law for zones of the kind. If these measures were not applied within 15 months from the date of submission to the organization, they would not be applied to foreign ships after the deadline.

Conclusion

An important role in the creation of public international law within the UN has been played by the International Law Commission, composed of 34 eminent international lawyers.

It was established on the basis of the Article 13 of the United Nations Charter, starting, immediately at the beginning of its work, formulation of certain legal rules. It worked within the legal capacity arising from the codification and progressive development of international public law within the United Nations system.

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[14] See: Article 211, 1982 Convention on the Law of the Sea.

When it comes to the General Assembly resolutions, it should be noted that they are not binding for UN member states. It is a widely held and widely accepted opinion. However, the truth is that some resolutions in the fiscal and administrative spheres are mandatory.

Resolutions comprised by the Chapter VII are mandatory as well, being in accordance with the Article 25 of the UN Charter. On the other hand, resolutions in the Chapter VI are not binding since they do not provide legal mechanisms to make them enforced.

The General Assembly operates on the principles of representation, sovereign equality of states and on the one-state one-vote principle.

In addition to the above, the executive branch of government does not objectively represent the people of the states. Therefore, the General Assembly was given the right to adopt resolutions, probably because of the need to create a certain balance of power among UN agencies.

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