

CHAPTER

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**International Maritime  
Organization**





## International Maritime Organization

The International Maritime Organization (IMO)<sup>1</sup> is the UN specialized agency responsible for safe, secure and efficient shipping and the prevention of pollution from ships. The Organization's mandate covers issues related to the search and rescue of migrants involved in an incident at sea and the delivery of survivors to a place of safety.<sup>2</sup> Many thousands of people travel by sea to find better conditions of living in other countries, often in boats not properly manned, equipped or licensed to carry passengers on international voyages. Journeys can last several hours or days, usually in very difficult and hazardous circumstances, and many of the migrants travel without documents, in cramped conditions, facing severe weather at sea and, often, even death.

Two instruments of IMO, the International Convention of Life at Sea (SOLAS) and the International Convention on Maritime Search and Rescue (SAR), refer to specific obligations of shipmasters to rescue persons at sea, and to preserve the continuing integrity of the maritime SAR system. The issue of persons rescued at sea is the key focus of discussion in the Organization's Maritime Safety Committee and Facilitation Committee. The Organization has reviewed and adjusted safety measures for persons rescued at sea, in accordance with new circumstances and scenarios as they have arisen, and to ensure joint responsibilities and cooperation in such situations.<sup>3</sup> It maintains a database with reports on unsafe practices associated with the trafficking or transport of migrants by sea.<sup>4</sup> The information is provided on a voluntary basis by IMO Member States and serves to improve policies and practices within the maritime SAR system.

<sup>1</sup> In 1948 an international conference in Geneva adopted a convention formally establishing IMO. (The original name was "Inter-Governmental Maritime Consultative Organization"), but was changed to "International Maritime Organization" in 1982. The IMO Convention entered into force in 1958, and IMO met for the first time the following year. Headquartered in London, IMO currently has 170 Member States and 3 Associate Member States. The official website of the Organization is [www.imo.org](http://www.imo.org).

<sup>2</sup> Following the incident involving the Norwegian flag container ship Tampa off the coast of Australia in August 2001, the IMO Assembly adopted Resolution A.920(22) entitled "Review of safety measures and procedures for the treatment of persons rescued at sea". The resolution requested various IMO bodies to review selected conventions adopted under the aegis of the Organization, in order to identify any gaps, inconsistencies, ambiguities, vagueness or other inadequacies associated with the treatment of persons rescued at sea.

<sup>3</sup> The Maritime Safety Committee, at its seventy-eighth session in 2004, adopted amendments to the SOLAS and SAR Conventions to complement the obligation of the shipmaster to render assistance with the corresponding obligation of contracting governments to coordinate and cooperate in relieving the shipmaster of the responsibility to provide follow-up care to survivors and deliver persons retrieved at sea to a place of safety. See MSC resolutions 153(78), at [www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/Resolution%20MSC.153\(78\)-MSC%2078.pdf](http://www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/Resolution%20MSC.153(78)-MSC%2078.pdf), and 155(78), at [www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/Resolution%20MSC.155-%2078.pdf](http://www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/Resolution%20MSC.155-%2078.pdf), which entered into force on 1 July 2006. See also the guidelines on the treatment of persons rescued at sea approved by the committee (Resolution MSC.167(78), available from [www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/MSC.167\(78\).pdf](http://www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/MSC.167(78).pdf)).

<sup>4</sup> Currently the IMO database contains data for 2,157 incidents, involving a total of 103,958 migrants.

## 1. Migration and development activities since the 2006 High-level Dialogue

IMO did not participate in the first High-level Dialogue (HLD) on International Migration and Development held in 2006. Therefore, the contribution of IMO to the 2013 HLD consists of background information on the areas within its remit (which will be discussed at the HLD), in particular, on the problem of undocumented migrants rescued at sea.

### Specific incidents

In the past few years, the problem of persons rescued at sea, many of whom turn out to be trafficked and undocumented migrants has continued unabated in the Mediterranean region, particularly in the summer months, from North Africa towards Italy, Malta and Spain. The situation has recently been brought into sharper focus by the crisis in some North African countries and is equally disconcerting in the Gulf of Aden, with refugees leaving Somalia and neighbouring countries in an effort to reach the Arabian Peninsula and, from there, move onwards to Europe.

Italy, Malta and Spain have rescued tens of thousands of persons in distress at sea. These three IMO Member States, and Malta in particular, along with others in the same region, have reported severe problems in the onshore processing of such large numbers of undocumented migrants under their relevant immigration policies. In response to the situation, the IMO Facilitation Committee, at its thirty-fifth session in January 2009, issued Circular FAL.3/Circ.194<sup>5</sup> on Principles relating to administrative procedures for disembarking persons rescued at sea.

In March 2010 the IMO Secretary General promoted a regional memorandum of understanding in the Mediterranean Sea, to improve the coordination and cooperation among governments to ensure that shipmasters embarking persons in distress at sea are released from their obligations with minimum further delay and deviation from the ship's intended voyage. The primary responsibility to provide a place of safety, or to ensure that a place of safety is provided, falls on the government responsible for the concerned search and rescue region. This memorandum of understanding should be a pilot scheme, to be extended to other parts of the world experiencing the same or similar situations. The draft text contains the mandates of the SOLAS and SAR Conventions, the associated guidance already adopted by the Maritime Safety and IMO Facilitation Committees, as well as new aspects to promote the cooperation and exchange of information to promote and facilitate the disembarkation of persons rescued at sea.

On 12 October 2011 there was a regional meeting in Rome to consider a regional memorandum of understanding on concerted procedures relating to the disembarkation

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<sup>5</sup> The circular can be downloaded from [www.imo.org/OurWork/Facilitation/Documents/FAL.3%20Circ.194.pdf](http://www.imo.org/OurWork/Facilitation/Documents/FAL.3%20Circ.194.pdf).

of persons rescued at sea, attended by representatives from Algeria, Cyprus, France, Greece, Italy, Lebanon, Malta, Morocco, Spain, Turkey, the United Kingdom and the IMO Secretariat. The draft text of the MoU is still being discussed, as some contentious issues remain unresolved.

### **IMO coordination with other United Nations agencies**

Since 2002 the IMO Secretariat has liaised closely with the Office of the UN High Commissioner for Refugees (UNHCR) in particular, as well as with other relevant UN entities, such as the Office of Legal Affairs – Division for Ocean Affairs and the Law of the Sea, the UN Office for Drug Control and Crime Prevention (ODCCP), the UN Office of the High Commissioner for Human Rights (UNOHCHR) and IOM, in incidents involving the rescue of persons at sea who turn out to be undocumented migrants. Since then, there have been three UN inter-agency meetings on persons rescued at sea, including, most recently, in December 2007.

The respective areas of competence of UNHCR, ODCCP, OHCHR and IOM are multidisciplinary, as they relate to asylum, transnational organized crime, the smuggling of migrants and trafficking in human beings, human rights and migrants in general, on a global scale. Such an inter-agency effort focusing on State responsibilities for non-rescue issues, such as immigration and asylum that are beyond the competence of IMO, is an essential complement to IMO efforts.

The IMO Secretariat has also participated in several conferences organized by UNHCR in order to explain:

- (a) the situation of commercial vessels involved in such incidents, which, while fulfilling their obligations under the SOLAS Convention, subsequently face difficulties in disembarking the persons they rescued;
- (b) the effect that this has on the integrity of the global maritime SAR system.

In 2006 UNHCR and IMO published and distributed a leaflet entitled “Rescue at sea: A guide to principles and practice as applied to migrants and refugees”<sup>6</sup> as a quick guide for shipmasters on relevant legal provisions and practical procedures to ensure the prompt disembarkation of survivors of rescue operations, as well as measures to meet their specific needs, particularly in the case of refugees and asylum-seekers.

In 2011 the IMO Secretariat participated in an experts’ meeting organized by UNHCR in Djibouti on the development of a model framework for cooperation, following rescue-at-sea operations involving refugees and asylum-seekers. The general purpose of the

<sup>6</sup> The leaflet can be downloaded from [www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/Leaflet%20Rescue%20at%20sea.pdf](http://www.imo.org/OurWork/Facilitation/IllegalMigrants/Documents/Leaflet%20Rescue%20at%20sea.pdf).

meeting was to discuss a practical mechanism to enhance inter-State cooperation in distress at sea situations involving asylum-seekers and refugees, and specifically to:

- (a) identify challenges in responding to distress situations;
- (b) discuss concrete and practical mechanisms to improve responses based on inter-State cooperation and burden and responsibility-sharing;
- (c) discuss the development of a Model Framework for Cooperation to facilitate the conclusion of cooperative arrangements on rescue at sea;
- (d) develop a practical guide for shipmasters as regards the rescue and disembarkation of refugees and asylum-seekers.

## **2. Support provided to the Global Forum on Migration and Development**

IMO is not a member of the GFMD, and has not worked with the GFMD until now. Nevertheless, IMO has cooperated closely with some GFMD members, such as UNCHR and IOM, as explained above. IMO is ready and keen to participate in the work ahead coordinated by the UN Population Fund, IOM and the GMG.

## **3. Identified good practices**

The Organization considers the following to be good practices of value both to itself and to global efforts in rescue and safety at sea:

- (a) UN inter-agency coordination meetings on the specific problem of migrants rescued at sea;
- (b) the publication and distribution of the guidance leaflet entitled “Rescue at sea: A guide to principles and practice as applied to migrants and refugees.”

## **4. Challenges identified in carrying out IMO work**

The number of undocumented migrants at sea is increasing. The boats in which these migrants travel are usually unsafe for carrying passengers on international voyages, and the number of accidents remains high. Appropriate coordination measures for the rescue and disembarkation of undocumented migrants rescued at sea are increasingly crucial.

According to the adopted “Guidelines on the Treatment of Persons Rescued at Sea,” the government in charge of the SAR region in which the survivors are recovered is responsible for providing a place of safety or ensuring that such a place is provided; however, it is not compulsory for governments to accept these undocumented migrants in their country. The UN is committed to ensuring that competent UN specialized agencies and programmes also work towards a common approach to addressing these issues in an efficient and consistent manner.

IMO is working to improve the coordination between Member States in search and rescue operations and to reduce the disembarkation time of undocumented migrants rescued at sea, in order to ensure the integrity of the maritime SAR system and enhance the safety of life at sea. The IMO Assembly’s Resolution A.920(22) on the Review of safety measures and procedures for the treatment of persons rescued at sea further noted the Secretary General’s initiative to involve competent UN specialized agencies and programmes in these issues, for the purpose of agreeing on a common approach to resolve them in an efficient and consistent manner.

## **5. Recommendations for the 2013 High-level Dialogue**

Taking into account that the number of migrants rescued at sea continues to increase, it is very important to improve coordination between the countries affected, in order to guarantee the effective rescue of persons at sea and facilitate their disembarkation. IMO is working on the development of regional agreements on concerted procedures relating to the disembarkation of persons rescued at sea to that end. Work should continue to improve inter-State cooperation in distress-at-sea situations involving asylum-seekers and refugees.

