

11. The efforts on the Comité Maritime International led to adoption of the International Convention for the Unification of Certain Rules relating to Bills of Lading, by the Diplomatic Conference on Maritime Law, at Brussels, on August 25, 1924.¹⁵ This Convention lays down provisions concerning the contracts of carriage covered by a bill of lading or any similar document of title. The lack of uniformity in the laws of maritime nations as regards the limitation of liability of a shipowner for the wrongful acts of the master or any person in the service of his vessel, also engaged the attention of the Comité Maritime International. As a result of its efforts the International Convention for the Unification of Certain Rules relating to Limitation of the Liability of Owners of Seagoing Vessels was signed at Brussels on August 25, 1924.¹⁶ The Convention adopted the principle that the shipowner's liability is limited to an amount equal to the value of the vessel, the freight, and the accessories of the vessel, in respect of certain property claims as well as in respect of salvage remuneration, general average contribution and obligations arising out of contracts entered into by the master for the presentation of the vessel while away from the home port. The International Law Association at its 33rd Conference framed the new revised York-Antwerp Rules of 1924 on general average.

12. The efforts of Comité Maritime International led to adoption, in 1926, of two Conventions: the International Convention for the Unification of Certain Rules of Law relating to Maritime Liens and Mortgages, Brussels, April 10, 1926,¹⁷ and the International Convention for the Unification of Certain Rules concerning the Immunity of State-owned Ships, Brussels, April 10, 1926.¹⁸ The liens and mortgages Convention recog-

15. *Ibid.*, at p. 1080.

16. *Ibid.*, at p. 1051.

17. *Ibid.*, at p. 1087.

18. *Ibid.*, at p. 1121.

nized a number of maritime claims for maritime nations against foreign ships lying in their waters, as maritime liens. The Immunity Convention sought to settle, to some extent, the question of jurisdictional immunity of State-owned vessels. With the object of preventing the spread of diseases on account of international shipping, an International Sanitary Convention was signed in Paris, in 1926.

13. In 1929, the Conference held in London 'at the invitation of the Government of the United Kingdom, adopted the International Convention on Safety of Life at Sea, 1929,¹⁹ laying down uniform measures for the safety of life at sea. In 1930, the International Convention respecting Loadlines was signed in London, on July 5, 1930,²⁰ for the purpose of adopting common rules as regards the loading of vessels, so that life and property were not jeopardized on the seas by the manner in which vessels were loaded. Also in 1930, the League of Nations convened the Hague Codification Conference, which prepared a draft Convention on "the Legal Status of the Territorial Sea". However, the Conference was not able to reach agreement on the subject of territorial waters.

14. In 1931, the Simla Rules,²¹ concerning safety of life at sea, were adopted to enforce compliance with the requirements of Chapters II and III of the International Convention for the Safety of Life at Sea, 1929. In 1932, the Rules for C.I.F. Contracts, known as Warsaw-Oxford Rules,²² were adopted by the Oxford Conference of the International Law Association. These Rules provide for duties of the seller as to shipment, bills of lading, condition of goods, insurance, duties of buyer as to payment of price and his rights as to inspection of goods; and time and notice of shipment etc. In 1934,

19. *Ibid.*, at p. 101.

20. *Ibid.*, at p. 58.

21. *Ibid.*, at p. 101.

22. *Ibid.*, at p. 1092.

through the efforts of the League of Nations, the Convention relating to Tonnage Measurement of Merchant Ships was adopted at Warsaw on April 16, 1934,²³ seeking to lay down uniform rules for tonnage measurement of ships. In 1936, came the Convention regarding the Regime of Straits, Montreux, July, 1936,²⁴ as a result of efforts of the League of Nations.

15. In 1940, at the Second South American Congress on Private International Law held at Montevideo on March 6 to 19, 1940, the International Convention on Commercial Navigation Law²⁵ was adopted. The Convention makes provisions in regard to vessels, collisions, assistance and salvage, average, ship-master and personnel on board ship, charter-parties and transport of merchandise or persons, insurance, hypothecation, bottomery loans, and vessels belonging to the State.

16. The first inter-governmental organisation to deal with shipping matters was set up in 1944. This organization was called the United Maritime Authority and its object was to arrange for necessary shipping for the requirements of demobilisation, civil needs and relief and rehabilitation. It was replaced in 1946 by the United Maritime Consultations Council. The Council, in its two Sessions, held in June and October, 1946 at Amsterdam and Washington respectively, prepared a draft convention for the setting up of a permanent inter-governmental maritime organisation.

17. In 1947, the Convention for a Uniform System of Tonnage Measurement was signed at Oslo on June 10, 1947,²⁶ on the basis of a draft proposed by the technical experts of the League of Nations Transit Committee. The draft forms an annex to the Convention.

23. *Ibid.*, at p. 631.

24. *Ibid.*, at p. 1189.

25. *Ibid.*, at p. 1099.

26. *Ibid.*, at p. 633.

18. In 1948, at the instance of the Economic and Social Council of the United Nations, a Conference of representatives of Governments on a world-wide basis was called at Geneva, which adopted the Convention on the Inter-Governmental Maritime Consultative Organization.²⁷ The Convention establishes the organization (IMCO) and lays down its scope and functions. The aims of IMCO are to achieve the highest practicable standards of Maritime safety and efficient navigation, the prevention of pollution of the sea by oil, and the unification of regulations for the tonnage measurement of ships, among other things. The Convention also affirms the principle of non-discrimination between vessels on the basis of the flag, and freedom of shipping of all flags to participate in international trade. Also in 1948, the Conference on Safety of Life at Sea adopted the International Convention for Safety of Life at Sea and the International Regulations for Preventing Collisions at Sea.²⁸

19. The York-Antwerp Rules of 1950, concerning general average, were adopted by a Conference convened by the Comité Maritime International and the International Law Association. Rule A stated: "There is a general average act when, and only when, any extraordinary sacrifice or expenditure is intentionally and reasonably made or incurred for the common safety or the purpose of preserving from peril the property involved in a common maritime adventure". Rule B provides that general average sacrifices and expenses shall be borne by the different constituting interests.

In 1951, the World Health Organization was instrumental in adoption of the International Sanitary Regulations, Geneva 1951.²⁹

20. As a result of efforts of the Comité Maritime International, three conventions were concluded in Brussels on

27. *Ibid.*, at p. 1253.

28. *Ibid.*, at p. 102.

29. *Ibid.*, at p. 783 (The regulations were amended by the World Health Assemblies of 1955, 1956 and 1961).

May 10, 1952, the International Convention on Certain Rules concerning Civil Jurisdiction in Matters of Collision, May 10, 1952,³⁰ the International Convention for the Unification of Certain Rules relating to Penal Jurisdiction in Matters of Collisions and other Incidents of Navigation, May 10, 1952,³¹ and the International Convention relating to the Arrest of Sea-going ships, May 10, 1952.³² The Convention concerning Civil Jurisdiction seeks to minimize conflicts of jurisdiction in cases of collisions. The Convention concerning Penal Jurisdiction provides for proceedings against the master or any other person responsible for the damage caused by his ship, and also for arrest or detention and investigation of the ship. The Convention concerning Arrest of Sea-going Ships, provides for arrest by the contracting parties to secure a maritime claim.

21. On the initiative of the United Kingdom Government, an International Conference on Prevention of Pollution of Sea by Oil was convened in London in 1954, which adopted the International Convention for the Prevention of Pollution of Sea by Oil, 1954.³³ This Convention deals with cases of pollution of sea caused by vessels which discharge into the sea large quantities of oil while washing their tanks and disposing of oily ballast water leading to serious damage to coasts and beaches and also destruction of sea birds and damage to fish.

22. In 1957, the efforts of Comité Maritime International led to adoption of two Conventions: the International Convention for the Unification of Certain Rules relating to the Limitation of Liability of Owners of Sea-going

30. *Ibid.*, at p. 1131.

31. *Ibid.*, at p. 1134.

32. *Ibid.*, at p. 1126.

33. *Ibid.*, at p. 1157.

Vessels, Brussels, October 10, 1957,³⁴ and the International Convention relating to Stowaways, Brussels, October 10, 1957.³⁵ The Convention of Limitation of Liability revised the 1924 Convention on the subject and established a fixed liability of 1,000 gold francs for each ton of ship's tonnage in respect of property claims and 3,100 gold francs for each ton of the ship's tonnage in respect of claims for loss of life and personal injury. The provisions of the Convention apply not only to the owner of the vessel, but also the charterer, manager and operator as well as the master, crew and other servants. The Convention concerning stowaways lays down that if a stowaway is discovered in a port or at sea, the master may deliver him to the appropriate authority at the first convenient port of a contracting State and he may be sent to the State of which he claims to be a national at the shipowner's expense. In 1957, the Agreement relating to Refugee Seamen was also adopted at the Hague on November 23, 1957.³⁶

23. In 1958, the U.N. Conference on the Law of Sea held at Geneva, adopted the Convention on Territorial Sea and Contiguous Zone,³⁷ and the Convention on the High Seas.³⁸ Under the Convention on Territorial Sea and Contiguous Zone, all foreign merchant ships in the territorial waters of a State are subject to local jurisdiction, except in regard to exercise of their right of innocent passage, which right has been recognized by the Convention. The Convention of High Seas provides in regard to grant of nationality by a State to ships, their registration in its territory and the right to fly its flag; the rights and obligations of such State in regard to the said ship; and the right of hot pursuit by a warship.

34. *Ibid.*, at p. 1050.

35. *Ibid.*, at p. 1064.

36. *Ibid.*, at p. 1040.

37. *Ibid.*, at p. 1139.

38. *Ibid.*, at p. 1145.

Both the above-mentioned Conventions draw a distinction between government ships "used only on governmental non-commercial service" and other governmental ships, and recognize the immunity of the former from the jurisdiction of any State other than the flag State, while the latter are treated on a par with private merchant ships.

24. In 1960, the Inter-Governmental Maritime Consultative Organization (IMCO) convened the International Conference on Safety of Life at Sea, which, thoroughly revised the earlier Conventions and Regulations on the subject, and adopted the International Convention for the Safety of Life at Sea, June 17, 1960,³⁹ and the International Regulations for Preventing Collisions at Sea, June 17, 1960.⁴⁰ The Convention contains provisions relating to construction, survey and certificates, communications, casualties, fire protection, life-saving appliances applicable to passenger and cargo ships, carriage of grains, carriage of dangerous goods and nuclear ships. The Convention and the Regulations are administered by IMCO.

25. The efforts of the Comité Maritime International led to adoption, on April 29, 1961, of the International Convention for the Unification of Certain Rules relating to the Carriage of Passengers by Sea.⁴¹ The Convention contains a number of provisions which may be relevant to certain aspects of the problems concerning the carriage of goods by sea. It provides for certain obligations of the carrier and the shipowner. Also on the initiative of the Comité Maritime International, the International Convention on the Liability of Operators of Nuclear Ships, May 25, 1945,⁴² was adopted at Brussels. Further in 1962, the

39. *Ibid.*, at p. 114.

40. *Ibid.*, at p. 260.

41. *Ibid.*, at p. 1067.

42. *Ibid.*, at p. 1071.

IMCO was instrumental in amendment of the International Convention for the Prevention of Pollution of Sea by Oil of 1954.⁴³

26. The U.N. General Assembly, by its resolution 1945 (XIX) of December 30, 1964, established the United Nations Conference on Trade and Development (UNCTAD) as a permanent organ of the Assembly, to consider *inter alia*, the appropriate institutional means for dealing with the problems of shipping. The Trade and Development Board of UNCTAD, by its resolution 11 (I) of April 29, 1965 established a Committee on Shipping, and by its decision 12(I) called on the Committee to "study and make recommendations on the ways in which, and the conditions under which, international shipping can most effectively contribute to the expansion of world trade, in particular the trade of developing countries. Particular attention was required to be paid to economic aspects of shipping, to those shipping matters which affect the trade and balance of payments of developing countries and to related shipping policies and legislation of governments on matters which fall within the competence of the Trade and Development Board". The UNCTAD also convened the United Nations Conference on the Transit Trade of Land-Locked Countries, which on July 8, 1965, adopted the Convention on Transit Trade of Land-Locked States.⁴⁴ The Convention reaffirmed, among other things, the principle adopted by the UNCTAD that in territorial and internal waters, the coastal State shall not discriminate between vessels of Land-Locked States and those of other States. Vessels flying the flag of land-locked States shall have the same freedom of access to and the use of seaports, as is accorded to the vessels of the coastal State or any other State.

43. *Ibid.*, at p. 1173.

44. See Official Records of the Trade & Development Board, Second Session, Annexes, Agenda item 10, Document TD/B/18.