The Intergovernmental Maritime Consultative Organization (IMCO) was established as a global specialized agency of the United Nations by a treaty adopted at a United Nations Diplomatic Conference in 1948. The treaty came into force in 1958 and the new organization could hold its first Assembly in January 1959 with 21 member States, mainly developed countries. Fifty-four years later, the organization, renamed International Maritime Organization (IMO), has a membership of 162 States and an impressive record of achievement as a treaty law making UN agency. IMO has adopted 45 treaties in the field of safety of navigation, prevention of marine pollution and third party liability and compensation for maritime claims, of which 33 are in force.

This essay analyses the evolution of IMO under a historical-dynamic perspective. Rather than providing basic information on the structure of the Organization and its work, it highlights the political and legal thinking characterizing IMO’s activities along the process of continuous change experienced by the maritime world since the end of World War II. The circumstances that led to the birth of IMO are summarized in Part I. Part II focus on the way in which politics and business influenced the institutional structure of organization. Basic evolutional features of IMO’s regulatory work in the field of treaty law are referred to in Part III. Part IV explains the way in which the evolution of maritime law effected through IMO activities correlates with the making and implementation of the Constitution of the Oceans (1982 United Nations Convention on the Law of the Sea, hereinafter UNCLOS). Necessarily, this correlation constitutes a key factor to understand not only what happened, but also what can happen to IMO in years to come. It is in this regard that the strictly historical approach followed throughout this work is abandoned in Part V to describe briefly the terms of one of the most problematic issues faced by IMO at present, namely the conflict between regional and international law making in the field of shipping.

For the sake of simplicity the organization will be referred to in general as IMO, only using the name IMCO when the context so requires.

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The views expressed in this paper are exclusively those of the author and do not necessarily represent those of IMO and the United Nations.

Comprehensive information on IMO’s structure, work of its different deliberating bodies and contents of treaties and recommendations can be found in the excellent IMO website: <www.imo.Org>.

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I. After World War II

Peace and void

A predominant leit motiv to understand the history of IMO is the way in which the organization’s structure and treaty making activities mirror the post war evolution of the law of the sea, in particular in connection with the concept of freedom of navigation. It had survived World War II in its original grotian shape of *mare liberum*. Grotius’s approach to the freedom of the seas is essentially based upon the conceptualisation of the sea as *res communis* and accordingly not subject to territorial appropriation. Although the expression *res communis* implies common property, the concept is essentially a negative one. *Res communis* is in fact *res nullius*. To say that something belongs to everybody in the same way means exactly the same as saying that it belongs to nobody. It was an interpretation that could be peacefully accepted as long as sea and sea-bed resources were not recognized as sources of economic wealth. If the legal status of the sea was that of *res communis – res nullius* area beyond territorial appropriation, freedom of the sea could only mean freedom of navigation. Furthermore, freedom of navigation meant that ships were exclusively under the jurisdiction of the flag State, which excluded the operation on board of international rules regulating safety of navigation.

Against this background, maritime treaties before and after War World I mainly regulated matters of private international law such as salvage, collision liability, bills of lading or maritime liens and mortgages. Exceptionally, public law rules on safety of life at sea were included in the two conventions, adopted in 1914 and 1929, respectively, that triggered off the use of the well known SOLAS acronym. Even if these treaties did not find the degree of acceptance needed to get them established as effective international law, their very adoption meant that the existence of uniform technical safety rules applicable on board vessels navigation had at least become a conceivable subject matter of treaty law.

Still inconceivable was, however, the notion of adopting treaties preventing vessels from polluting the seas; this on account of the very simple reason that, not belonging to anyone the seas were the obvious place to dispose polluting matter of any kind. It was after World War II that the inexistence of safety and antipollution rules was acknowledged as a void to be filled by treaty law. In 1948 and 1954 this void started to be filled, respectively, by the adoption of a new version of SOLAS and OILPOL, the first maritime antipollution treaty. This treaty making process run parallel to the important question of who should be entrusted with the *travaux préparatoires* leading to the adoption of multilateral treaties. Should a group of States simply get together to concoct a text to be approved by a conference convened by one of them, as it had been invariably the case until then? Or should this task be delegated upon an international organization capable of ensuring wider international representation? In 1948, some of the States adopting the new SOLAS at a conference convened by the UK, had also met at a United Nations Conference that would adopt the treaty establishing IMCO. For most of these States, IMCO would be mainly a consultative body in charge of producing recommendations to be implemented by Governments through national legislation. The conferring upon the prospective organization of a mandate to prepare treaties and convene diplomatic conference to adopt them would be more reluctantly