

LEGAL COMMITTEE
103rd session
Agenda item 14

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**REPORT OF THE LEGAL COMMITTEE ON THE WORK OF ITS
ONE HUNDRED AND THIRD SESSION**

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1 INTRODUCTION

1.1 The Legal Committee (LEG) held its 103rd session at IMO Headquarters from 8 to 10 June 2016, under the chairmanship of Dr. Kofi Mbiah (Ghana).

1.2 The session was attended by delegations from Members and Associate Members; by observers from the intergovernmental organizations with agreements of cooperation and by observers from non-governmental organizations in consultative status, as listed in document LEG 103/INF.1.

1.3 The session was also attended by the Chairman of the Marine Environment Protection Committee (MEPC), Mr. Arsenio Domínguez (Panama), Chairman of the Technical Cooperation Committee (TCC), Mr. Zulkurnain Ayub (Malaysia), and Chairman of the Facilitation Committee (FAL), Mr. Yury Melenas (Russian Federation).

Expressions of condolences

1.4 The Secretary-General referred to the terrorist attacks committed in Brussels on 22 March 2016 and expressed the Organization's, the Secretariat's and his own condolences to the delegation of Belgium and the bereaved families, friends and colleagues of the innocent victims. The Committee held a minute of silence in memory of Mr. Johan Van Steen, a highly esteemed and respected member of the Committee, who had sadly been one of the victims. Following the minute of silence, other delegations and the Chairman joined the Secretary-General in his words of condolences to the delegation of Belgium and the family of Mr. Johan Van Steen.

The Secretary-General's opening address

1.5 The Secretary-General then welcomed participants and delivered his opening address, the full text of which can be downloaded from the IMO website at the following link: <http://www.imo.org/en/MediaCentre/SecretaryGeneral/Secretary-GeneralsSpeechesToMeetings/Pages/LEG-103-opening.aspx>

1.6 The Chairman thanked the Secretary-General for his opening address and stated that his comments would be given every consideration in the deliberations of the Committee.

Adoption of the agenda

1.7 The agenda for the session, as adopted by the Committee, is set out in annex 1.

1.8 A summary of deliberations of the Committee with regard to the various agenda items is set out below.

Audio file: Wednesday, 8 June 2016: a.m.

2 REPORT OF THE SECRETARY-GENERAL ON CREDENTIALS

2.1 The Committee noted the report of the Secretary-General that the credentials of 79 delegations attending the session were in due and proper form.

Audio file: Wednesday, 8 June 2016: a.m.

3 FACILITATION OF THE ENTRY INTO FORCE AND HARMONIZED INTERPRETATION OF THE 2010 HNS PROTOCOL

3.1 The Committee recalled that, with the entry into force of the Nairobi International Convention on the Removal of Wrecks, 2007 on 14 April 2015, the 2010 HNS Convention was the remaining gap in the global framework of liability and compensation conventions.

3.2 The Committee also recalled that, at its previous session, it had agreed that an internationally coordinated approach for ratification and implementation of the 2010 HNS Protocol was needed, and that it had therefore extended the mandate of the HNS Correspondence Group.

3.3 The Committee considered the report of the correspondence group contained in document LEG 103/3 and was informed by the Coordinator of the HNS Correspondence Group, Mr. François Marier (Canada), of the publication of the brochure "The HNS Convention: Why it is Needed", the work done on HNS Incident Scenarios and developments regarding drafting an Assembly resolution on implementation and entry into force of the 2010 HNS Protocol.

3.4 The Committee then considered document LEG 103/3/1 (Canada) providing an outline and proposed text of the HNS Incident Scenarios presentation for endorsement by the Committee. The Coordinator referred to an editorial error regarding slide 9 on page 2 of the annex to this document and informed the Committee that "26 million SDR" should read "37 million SDR".

3.5 The Committee finally considered document LEG 103/3/2 (Canada, Norway and Turkey) introducing the principles and concept of a potential resolution on the implementation and entry into force of the 2010 HNS Protocol.

3.6 The Committee noted that the HNS Correspondence Group had identified three specific items that could be further developed by the group, if its mandate was extended, namely "HNS Incident Scenarios"; a resolution on the implementation and entry into force of the 2010 HNS Protocol; and a programme for a workshop in conjunction with the 104th session of the Committee. In this regard, the Committee was invited to extend the mandate of the HNS Correspondence Group until the next session of the Committee and to hold a workshop in conjunction with that session.

3.7 Among the views expressed were the following:

- the Member States and organizations which had participated in the work of the HNS Correspondence Group should be indicated in the report of the group;
- paragraphs 1 and 2 of the terms of reference of the HNS Correspondence Group had not been addressed in the report of the group and therefore should be deleted;
- the HNS Correspondence Group should carry on working on the finalization of the draft resolution on the HNS Convention and the completion of the presentation on the HNS Incident Scenarios for consideration at LEG 104;
- the draft resolution was acceptable in principle but there should be no reference to the target entry-into-force date, which is not embodied in the text of the Convention;

-
- with due regard to the global nature of IMO as an international organization, the draft resolution should not refer to ratification or accession to the HNS Protocol by groups of Member States;
 - LEG 104 should decide on the nature of the resolution, specifically whether it should be adopted by LEG or by the Assembly;
 - major incidents with ships carrying HNS are not rare and therefore there was an urgent need for the entry into force of the HNS Convention;
 - the HNS Scenarios presentation would be very helpful to identify the type of incidents for which the HNS Convention is relevant, and to highlight the benefits the Convention will bring by creating a safety net for States;
 - the brochure "The HNS Convention: Why it is needed" is a very informative tool for all stakeholders to the HNS Convention;
 - the HNS Incident Scenarios presentation should list the incidents and their impact since the adoption of the 1996 HNS Convention as previously identified by a document submitted by the International Group of P&I Associations in preparation for the 2010 HNS Diplomatic Conference;
 - the HNS Correspondence Group should fine-tune the Scenarios by taking into account incidents that have actually happened, showing how the HNS Convention, if in force, would have helped in resolving the problems related to these incidents;
 - the draft HNS Scenarios presentation should be considered at LEG 104 for final approval;
 - the wish expressed earlier by Member States to ratify the HNS Convention had still not changed; and
 - a workshop could be held, but the timing, place and the format had to be further considered in relation to possible budgetary implications and the schedule of meetings in 2017.

3.8 The Secretariat informed the Committee that a list of Member States and organizations which had participated in the work of the HNS Correspondence Group will be added to the report of the correspondence group in the form of a revision.

3.9 Following the discussion, the Committee agreed:

- to extend the mandate of the HNS Correspondence Group until its next session under the coordination of Canada¹ with the amended terms of reference as set out in annex 2;

¹ **Coordinator:**
Mr. François Marier (Canada)
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- to endorse the proposed outline of the HNS Incidents Scenarios and to further develop the presentation in the HNS Correspondence Group with a view to consideration at LEG 104;
- that consideration should be given to the statistics on HNS-related claims that were made available to the 2010 International Conference on HNS by the International Group of P&I Associations and to refer questions on such statistics to the HNS Correspondence Group for consideration or clarification;
- in principle, on the draft resolution, provided that there will be no reference to a target ratification date; no reference to group ratification; no reference to the HNS Correspondence Group; that the need for the HNS Convention and the risks of not ratifying it will be further explained; and that LEG 104 will decide on its nature;
- to refer the draft resolution to the HNS Correspondence Group for finalization with a view to further consideration at LEG 104; and
- to consider at LEG 104 whether to hold a workshop on the HNS Convention on the basis of a programme to be developed by the HNS Correspondence Group.

3.10 The Committee expressed its appreciation to the correspondence group and its coordinator and thanked the delegations of Canada, Norway and Turkey for their submissions.

3.11 The Committee noted document LEG 103/3/3 (Canada) containing a report of an international workshop on the 2010 HNS Convention hosted by Canada on 17 and 18 March 2016 in Montréal, Canada. It also provided a status of the implementation of the HNS Convention in Canada.

3.12 In conclusion, the Committee encouraged Member States to ratify and bring into force the 2010 HNS Protocol as soon as possible.

Audio file: Wednesday, 8 June 2016: a.m. and p.m.

4 PROVISION OF FINANCIAL SECURITY IN CASE OF ABANDONMENT OF SEAFARERS, AND SHIPOWNERS' RESPONSIBILITIES IN RESPECT OF CONTRACTUAL CLAIMS FOR PERSONAL INJURY TO, OR DEATH OF SEAFARERS, IN LIGHT OF THE PROGRESS OF AMENDMENTS TO THE ILO MARITIME LABOUR CONVENTION, 2006

4.1 The Committee recalled the entry into force, on 20 August 2013, of the ILO Maritime Labour Convention, 2006 (MLC), and the adoption, in April 2014, of amendments relating to the provision of financial security for abandonment, personal injury to and death of seafarers by the first meeting of the Special Tripartite Committee established under the MLC.

4.2 The Committee recalled also that the International Labour Conference (ILC), at the 103rd annual meeting of the International Labour Organization (ILO) in June 2014, had voted in favour of the MLC amendments in order to better protect abandoned seafarers, and to provide financial security for compensation to seafarers and their families in cases of seafarers' death or long-term disability.

4.3 The Secretariat then introduced document LEG 103/4 informing the Committee that the amendments to the MLC were developed over nearly a decade of discussion in a Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers.

4.4 The Committee noted that, as of March 2016, the ILO's Abandonment of Seafarers Database lists 192 abandoned merchant ships, some dating back to 2006 with abandonment cases still unresolved. Many abandoned seafarers are working and living on board ships without pay, often for several months, and lack food and water supplies, medical care or means to return home.

4.5 The Committee also noted that the MLC amendments will enter into force on 18 January 2017.

4.6 The Committee recalled that, at its ninety-sixth session in October 2009, it had agreed that it should remain seized of the issue and keep it under consideration in the event that the amendments to the MLC 2006 proved not to be feasible or timely. Accordingly, the Committee, at its 100th session in April 2013, inserted a corresponding planned output in its agenda for the biennium 2016-2017.

4.7 Having been invited to comment on the information provided by the Secretariat and, in particular, as to whether it should keep the issue under consideration, the Committee expressed the following views:

- the amendments to the MLC have been completed in a timely manner and will likely enter into force in only six months on 18 January 2017, so that there would be no need to follow up on this in the current biennium 2016-2017;
- abandonment can be a very distressing experience for seafarers, while quite a number of reported cases in the ILO Database have not been resolved. This should be taken very seriously and the item should therefore, for the time being, be retained on the agenda of the Committee to look into reports on abandonment incidents at LEG 104;
- working conditions of seafarers are very important and cases of abandonment of seafarers happen on a daily basis for which charitable organizations render a lot of assistance; and
- it will still take some months before the entry into force of the amendments to the MLC in January next year, therefore LEG 104 should consider whether further action is required regarding the implementation of the amendments.

4.8 The Committee noted with appreciation the information on the entry into force of the amendments to the MLC relating to the provision of financial security for abandonment, personal injury to and death of seafarers.

4.9 In the light of the discussion on the serious issue of abandonment of seafarers, and because the ILO data indicates that there still remain a number of unresolved cases, the Committee agreed that it should keep the issue under consideration.

Audio file: Wednesday, 8 June 2016: p.m.

5 FAIR TREATMENT OF SEAFARERS IN THE EVENT OF A MARITIME ACCIDENT

5.1 The Committee recalled that, at its 102nd session, it further analysed the outcome of a survey concerning the implementation of the *2006 Guidelines on fair treatment of seafarers in the event of a maritime accident* (the Guidelines) (LEG 102/4), which had been commissioned by the International Transport Workers' Federation (ITF) and the International Federation of Shipmasters' Associations (IFSMA), and which was conducted by Seafarers' Rights International (SRI).

5.2 The Committee further recalled that, at that session, a substantial number of delegations had supported the document and that it had concluded, inter alia, that technical support and assistance should be provided by the Technical Cooperation Committee (TCC) in order to facilitate the wide implementation of the Guidelines to improve the conditions for seafarers, taking into account human rights issues.

5.3 The representative of ITF introduced document LEG 103/5 providing further information on the analysis of the laws of the Member States giving effect to the Guidelines. ITF reminded the Committee that, at its last session, it had concluded that fair treatment of seafarers was an important issue and consequently should be placed on the work programme of the Committee. Furthermore, ITF informed the Committee that, as agreed at LEG 102, it was preparing guidance for States on the implementation of the Guidelines, drawing on all the materials, answers and comments that it had received in response to the survey. In view of the different approaches that States had taken in implementing the Guidelines, ITF suggested that an effective way to promote the Guidelines would be to organize regional or national workshops to discuss and refine the guidance being prepared, to make it useful for as many States as possible. ITF also proposed that a workshop could be organized to develop and approve the guidance to be submitted to the next session of the Committee for endorsement.

5.4 The Committee expressed its appreciation to ITF for presenting a further analysis of the survey on compliance with the Guidelines and for their continuous efforts. Numerous delegations spoke in support of the organization of a workshop on the implementation of the Guidelines. In the ensuing discussion, the following views were expressed:

- it was important that seafarers all over the world be treated fairly and with dignity in the event of a maritime accident;
- fair treatment of seafarers should be promoted at the global level;
- educational and research institutions related to IMO should concentrate more on training and research activities concerning the legislative and implementing aspects of the Guidelines;
- Member States were mindful that they had different approaches in interpreting and implementing the Guidelines and that the organization of a workshop to develop a guidance on the Guidelines would therefore be a great opportunity to adopt a common and consistent approach for their effective and uniform implementation;
- consideration should also be given to the current discussions on the development of a new chapter of SOLAS regulating industrial personnel, and to how the Guidelines would apply to industrial personnel;
- fair treatment of seafarers should not be an isolated issue and an effective linkage has to be established between the work of the Maritime Safety Committee (MSC) dealing with the reports on marine casualty investigations (that could lead to unfair treatment of seafarers) and TCC through which the workshop and further assistance should be requested; and
- the organization of a workshop would be useful to provide assistance to Member States and should be requested through the Integrated Technical Cooperation Programme (ITCP) of TCC.

5.5 A number of delegations also offered their support and help in the organization of the workshop proposed by ITF.

5.6 The Secretary-General congratulated ITF for its work. He highlighted the importance of the human element issues relating to both safety aspects and the fair treatment of seafarers, and of finding the proper linkage between the work of TCC and the work of MSC on this issue. In this context, the Secretariat would report the outcome of the Committee on this issue to TCC and MSC.

5.7 The Committee concluded that the different approaches in the implementation of the Guidelines could be streamlined through the development of a guidance and therefore decided that the workshop proposed by ITF would be useful to provide assistance to Member States to give effect to the Guidelines in a uniform and consistent way. The Committee further invited Member States to continue to comply with the Guidelines.

Audio file: Wednesday, 8 June 2016: p.m.

6 PIRACY

6.1 The Committee noted that no submissions relating to this agenda item had been received at this session.

6.2 At previous sessions of LEG, the Secretariat had reported on the work undertaken by Working Group 2 of the Contact Group on Piracy off the Coast of Somalia (CGPCS), including that, in January 2014, at the CGPCS Strategy Meeting held in Paris, it was agreed that Working Group 2 had successfully achieved all of the aims it had intended and that, as a result, it would only convene on an ad hoc basis.

6.3 The Committee noted the following information provided by the Secretariat:

- the "Legal Forum of the CGPCS" had not convened since January 2014;
- the Legal Affairs Office of IMO had not conducted or participated in any activities related to piracy since LEG 102;
- there had also been no activity relating to High-level Action No. 6.2.2 to "Promulgate information on prevention and suppression of acts of piracy and armed robbery against ships"; and output No. 6.2.2.1 to "Provide advice and guidance to support international efforts to ensure effective prosecution of perpetrators (piracy); and to support availability of information on comprehensive national legislation and judicial capacity-building" since LEG 102; and
- all counter-piracy initiatives undertaken by the Maritime Safety Division of IMO and any developments related to output 6.2.1.1 on "Consideration and analysis of reports on piracy and armed robbery against ships" have been and will continue to be reported to MSC under agenda item "Piracy and armed robbery against ships".

6.4 Following the information provided by the Secretariat, the delegation of India raised two issues regarding the provision of rescue, relief and rehabilitation to seafarers who have become victims of piracy, as follows:

- there was no consistent practice by flag States regarding the provision of information to the seafarer's State on rescue operations, no medical support to seafarers in captivity, and no assistance from flag States to ensure that shipowners continue to pay the seafarers' wages; and

- the short duration of seafarers' contracts, usually three to six months, often meant that contracts would run out during the captivity of the seafarer and shipowners would not feel contractually obliged to continue paying the wages.

6.5 The Committee noted the two issues raised and invited the delegation of India to submit a document addressing these issues to LEG 104 for its consideration, if they wished to pursue this further.

Audio file: Wednesday, 8 June 2016: p.m.

7 MATTERS ARISING FROM THE 114TH AND 115TH REGULAR SESSIONS OF THE COUNCIL, THE TWENTY-EIGHTH EXTRAORDINARY SESSION OF THE COUNCIL AND THE TWENTY-NINTH REGULAR SESSION OF THE ASSEMBLY

7.1 The Committee considered document LEG 103/7 providing information on matters arising from the 114th and 115th regular sessions of the Council, the twenty-eighth extraordinary session of the Council, and the twenty-ninth regular session of the Assembly, all held in 2015.

7.2 The Committee took note of the information of relevance to it contained in LEG 103/7.

7.3 In view of the request of the delegation of the Bahamas during the twenty-ninth session of the Assembly, to bring to the attention of the Secretariat a need to prepare a suitable corrigendum to paragraph 11.27 of the report of LEG 102 (LEG 102/12), the Secretariat introduced document LEG 103/7/1 containing a transcription of the relevant parts of the discussion during LEG 102 as recorded on audio files.

7.4 One delegation was of the opinion that the report adopted at LEG 102 correctly reflected the discussion and should remain as is; however, others who spoke emphasized that a corrigendum to the report was normal practice in other committees of the Organization and that it should also be issued in this case.

7.5 The Committee instructed the Secretariat to issue a corrigendum to paragraph 11.27 of the report of its 102nd session based on the text of paragraph 7 of document LEG 103/7/1.

Audio file: Thursday, 9 June 2016: p.m.

8 ANALYSIS AND CONSIDERATION OF RECOMMENDATIONS TO REDUCE ADMINISTRATIVE BURDENS IN IMO INSTRUMENTS AS IDENTIFIED BY THE SG-RAR

8.1 The Committee recalled that the Council, at its 113th regular session, requested the relevant committees to review administrative requirements under their purview and to consider how to proceed with the outcome of the Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR), with a view to developing appropriate outputs to be included in the High-level Action Plan (HLAP) for 2016-2017.

8.2 The Committee also recalled that, at its previous session, it had noted the requirements considered by the SG-RAR related to the work of LEG, which had been identified as an administrative burden, and that it had included a new planned output in the 2016-2017 HLAP on "Analysis and consideration of recommendations to reduce administrative burdens in IMO instruments as identified by the SG-RAR". The target completion year for this task is 2017.

8.3 The Committee further recalled that several requirements related to the depositary role of IMO and that there was currently no legal mechanism for accepting deposits of instruments electronically in a manner that would satisfy its obligations as depositary under part VII of the Vienna Convention on the Law of Treaties, 1969.

8.4 Having considered document LEG 103/8 providing the Secretariat's analysis of the information set out in the annex to document LEG 102/6 together with recommendations for each requirement identified as an administrative burden by the SG-RAR, the Committee decided:

- .1 to encourage States Parties to use the expanded GISIS module on "Recognized organizations" to fulfil the relevant reporting requirements as required by the 2001 Bunkers Convention, the 2002 Athens Convention and the 2007 Nairobi Wreck Removal Convention, taking into account resolution A.1074(28);
- .2 to request the Secretariat to expand the GISIS module on "Recognized organizations" to include all the relevant data as required by the 2001 Bunkers Convention, the 2002 Athens Convention and the 2007 Nairobi Wreck Removal Convention;
- .3 to urge States Parties to expedite the implementation of electronic certificates under CLC 1969, CLC 1992 and the 2001 Bunkers Convention taking into account the guidance provided in FAL.5/Circ.39/Rev.2;
- .4 to request the Secretariat to include insurance certificates under the 2002 Athens Convention, the 2007 Nairobi Wreck Removal Convention and the 2010 HNS Convention into the list of certificates and documents required to be carried on board ships contained in the annex to FAL.2/Circ.127, MEPC.1/Circ.817 and MSC.1/Circ.1462, and to issue a new LEG circular on the subject;
- .5 to defer the issue of the use of the single model certificate, as contained in LEG 96/4, for consideration under agenda item 13; and
- .6 to agree that no action is necessary with regard to requirements relating to the work of the IMO depositary.

8.5 The Committee also agreed, that with the exception of the consideration of the single model certificate issue considered and ultimately rejected under agenda item 13, the remaining decisions are meeting the recommendations of the SG-RAR and will be reported as such to the Council.

Audio file: Thursday, 9 June 2016: a.m.

9 TECHNICAL COOPERATION ACTIVITIES RELATED TO MARITIME LEGISLATION

Technical cooperation activities on maritime legislation for 2015

9.1 The Secretariat introduced document LEG 103/9 reporting on IMO's technical cooperation activities related to maritime legislation for 2015. The Committee recalled that, at its last session, it had approved its thematic priorities for the 2016-2017 ITCP emphasizing the outcome of the upcoming Mandatory Audit Scheme and the assistance which Member States

may need in drafting, updating and bringing into force primary and secondary maritime legislation in matters related to IMO instruments. In this context, the Committee noted that the Legal Affairs Office of the Secretariat was developing training aimed at improving the understanding of the principles of IMO instruments and their legal implications, to guide lawyers and legislative drafters, responsible for the implementation of the conventions into their domestic legislation, on legislative drafting techniques and mechanisms that should be applied when developing national law.

9.2 The Committee also noted that the second main priority of the 2016-2017 ITCP in the legal field was the promotion of a wider acceptance of the limitation of liability and compensation conventions and that, in this context, the Legal Affairs Office of the Secretariat was offering a comprehensive training on the implementation and enforcement of all the IMO civil liability conventions and associated guidelines.

9.3 The Committee further noted that there was a critical need for experienced French- and Arabic-speaking maritime lawyers and legal drafters to participate in IMO's capacity-building and technical cooperation efforts in the fields of maritime legislation and general maritime administration and policy in francophone and arabophone countries.

9.4 The delegation of Denmark informed the Committee that most of their domestic legislation implementing IMO conventions had been translated into English and that it could be shared with Member States, as needed.

9.5 Other views expressed included the following:

- training of lawyers as well as non-lawyers in maritime administrations on IMO instruments is very important and should be further pursued;
- in this respect, IMLI short courses were extremely useful, as personnel from maritime administrations could not always attend long courses;
- an online training course could also be developed; and
- IMLI dissertations and legislation drafting projects should be made readily available for the use of national Governments.

9.6 The Secretariat informed the Committee about an active discussion with IMLI regarding the organization of short courses on legislative drafting and regarding the electronic dissemination of the dissertations and drafting projects. Furthermore, the Secretariat will also look into the possibility to organize online courses.

9.7 The Committee concluded by noting the efforts of the Secretariat to provide assistance on legal drafting within the framework of the Mandatory Audit Scheme. The Committee also noted the importance of the internet and online training to complement these efforts and, finally, encouraged French- and Arabic-speaking maritime lawyers and legal drafters to register on IMO's e-roster of consultants.

IMO International Maritime Law Institute

9.8 The Director of IMLI introduced document LEG 103/9/1 reporting on the activities of IMLI for the year 2015 and officially launched Volume III of the IMLI Manual on International Maritime Law by presenting it to the Secretary-General.

9.9 The Committee noted that IMLI had developed a Master of Science in International Maritime Law and Logistics (IMLLog) degree programme, to begin in October 2016 in cooperation with Kühne Logistics University (KLU) in Hamburg and that it would, together with the World Maritime University (WMU), provide a joint Master of Philosophy Programme (M.Phil.) in International Maritime Law and Ocean Policy beginning in September 2017. In addition, the Committee noted that IMLI had also announced a Master of Humanities (M.Hum) degree programme in International Maritime Legislation, to include a requirement that candidates complete a roadmap for successful development of domestic implementing legislation in their home countries, to begin in October 2016.

9.10 The Committee expressed its sincere appreciation to the Director of IMLI and acknowledged his stewardship and personal contribution to IMLI's excellence and congratulated the nine recent IMLI graduates present at the session.

9.11 The delegation of Japan indicated that the Nippon Foundation had provided 126 scholarships and donated two chairs to improve the academic capacity of the Institute and that it would increase the annual number of scholarships from 10 to 15 and the number of chairs from two to three in 2017.

9.12 The Committee expressed its gratitude to the Nippon Foundation for its continuous support.

9.13 The Committee also noted document LEG 103/INF.3 providing the lists of dissertations and maritime legislation drafting projects undertaken by IMLI students in the 2014-2015 academic year and an interim list of students' dissertations and maritime legislation projects for the LLM Programme for the year 2015-2016.

9.14 In this context, the delegation of the Islamic Republic of Iran noted the inappropriate use of terms referring to the Persian Gulf in the title of two of the dissertations. The full statement is provided in annex 5.

Activities to support the implementation of the international tanker oil pollution liability and compensation regime

9.15 The Director of the IOPC Funds introduced document LEG 103/9/2 reporting on the work that it had carried out in cooperation with IMO and regional organizations to promote the accession to, and implementation of, the 1992 CLC and the 1992 Fund Convention during the biennium 2014-2015. The Director also mentioned that the IOPC Funds was running annual short courses covering the oil pollution liability and compensation regime and invited Member States to nominate participants for the next course in 2017.

9.16 The Committee thanked the IOPC Funds Secretariat and noted the information provided in document LEG 103/9/2.

9.17 The Secretary-General, noting the discussions on the technical activities related to maritime legislation and the interest expressed by Member States during the discussions, to receive technical assistance in this field, confirmed that the outcome of the Committee on this item would be duly reported to TCC.

Audio file: Wednesday, 8 June 2016: p.m. and Thursday, 9 June 2016: a.m.

10 REVIEW OF THE STATUS OF CONVENTIONS AND OTHER TREATY INSTRUMENTS EMANATING FROM THE LEGAL COMMITTEE

10.1 The Committee noted the information contained in documents LEG 103/10 and LEG 103/WP.3 on the status of conventions and other treaty instruments emanating from the Legal Committee.

10.2 Several delegations provided updates on progress with regard to the ratification and implementation of IMO instruments as follows:

- (i) following their ratification in August last year of SUA 2005 and SUA PROT 2005 the United States of America submitted a notification, pursuant to article 8*bis*, paragraph 15 of SUA 2005, providing the contact details of the designated authority to receive and respond to requests for assistance, confirmation of nationality, and authorization to take appropriate measures (circular SUA.3/Circ.38). In this regard, the delegation of the United States encouraged States Parties to SUA to submit such information for dissemination among interested Governments. The delegation further encouraged Member States towards widespread ratification and implementation of these essential instruments for the prevention of, and response to, transnational maritime security threats;
- (ii) the delegation of Japan, noting that the 1996 LLMC Protocol had a current status of 52 ratifications, encouraged Member States, which had not yet done so, to consider early ratification and implementation of this Protocol;
- (iii) the delegation of Canada informed the Committee that the Canadian Parliament had adopted, in 2014, legislation for the implementation of the 2010 HNS Protocol in their national law and that the regulations that govern the reporting requirements under the Protocol would be published by the end of 2016, enabling reporting to take place in 2017 and thus ratification in 2018. The Committee was further informed that Canada was considering ratification of the NAIROBI WRC 2007;
- (iv) the delegation of Greece informed the Committee that there had been good progress towards ratification of the NAIROBI WRC 2007; and
- (v) the delegation of Australia informed the Committee that new implementing legislation for the BWM Convention would enter into force on 16 June 2016 and that its Government intended to ratify the BWM Convention, subject to the approval by the Parliament, by the end of 2016.

10.3 Member States were invited, when acceding to the NAIROBI WRC 2007 to apply the Convention in its territory, including the territorial sea. Member States that had already acceded to the Convention but had not notified IMO of the intention to apply the Convention in their territory, including the territorial sea, were also encouraged to do so.

10.4 The Committee encouraged delegations to consider ratifying the 2010 HNS Protocol to enable its entry into force (see section 3 of this document).

10.5 The Committee noted the denunciation requirements when ratifying certain treaty instruments, in particular upon ratification of the 2002 Athens Protocol, to denounce the 1974 Athens Convention and its 1976 and 1990 Protocols.

10.6 The Committee encouraged delegations to work with their respective Governments towards achieving effective and uniform implementation of IMO conventions and to report any barriers to implementation to LEG for advice and guidance.

10.7 Additional statements were made by the delegations of Bulgaria, Spain and the United Kingdom, which are set out in annex 5 of the report.

Audio file: Thursday, 9 June 2016: p.m.

11 WORK PROGRAMME

Report on status of planned outputs for the current biennium (2016-2017)

11.1 The Committee recalled that the Council, at its 114th regular session, had endorsed the Committee's decisions taken at LEG 102 on planned outputs for the 2016-2017 biennium.

11.2 The Secretariat introduced document LEG 103/11 and reminded the Committee that, in accordance with paragraph 9.1 of the document on the *Application of the Strategic Plan and the High-level Action Plan of the Organization* (resolution A.1099(29)), the reports on the status of outputs included in the High-level Action Plan (HLAP) should be prepared and annexed to the report of each session of the Committee, and to the biennial report of the Council to the Assembly.

11.3 The Committee considered a draft report prepared by the Secretariat, as set out in the annex to document LEG 103/11, on the status of planned outputs for the current biennium (2016-2017), including all planned outputs (POs) related to LEG.

11.4 Having considered the information provided in the column "Status of output for Year 1" of the draft report, the Committee decided to delete the square brackets and approved the report, as set out in annex 3, for submission to the Council.

Audio file: Thursday, 9 June 2016: p.m.

Draft amendments to the Guidelines on the Organization and Method of Work of the Legal Committee (Committee's Guidelines)

11.5 The Committee noted that the Secretariat had prepared two documents proposing draft amendments to the *Guidelines on the Organization and Method of Work of the Legal Committee* (LEG.1/Circ.7), as set out in the annex to documents LEG 103/11/1 and LEG 103/11/2, and a consolidated track-change version of all draft amendments, as set out in the annex to document LEG 103/WP.2.

11.6 The Committee was informed that the Assembly, at its twenty-ninth session, had adopted resolution A.1099(29) on the *Application of the Strategic Plan and the High-level Action Plan of the Organization*, which requested the Council and the committees to review and revise, during the 2016-2017 biennium, their guidelines on the organization and method of work, taking into account the resolution, as appropriate.

11.7 The Committee noted the main changes introduced by resolution A.1099(29), and also noted that, in addition to the draft amendments required for the alignment with resolution A.1099(29), the Secretariat prepared further draft amendments to paragraphs 6.6 and 6.8 of the Committee's Guidelines, as set out in the annex to document LEG 103/11/2, proposing an extension of the document submission deadlines for LEG, in order to align them with those of other IMO committees and to facilitate the work of the translation sections in IMO's Conference Division.

11.8 Following the introduction of the documents by the Secretariat, the Committee approved the amendments to the Committee's Guidelines, both those resulting from the alignment with resolution A.1099(29) (LEG 103/11/1) and those relating to the document submission deadlines (LEG 103/11/2), provided that the following amendments were made for the purpose of further alignment with resolution A.1099(29) and other Committees' Guidelines:

- in paragraph 4.7, the word "should" is replaced with the word "must" as proposed by a delegation;
- in paragraph 4.17, the second sentence starting "Notwithstanding" is deleted;
- in paragraph 4.25, the chapeau is amended to be fully aligned with paragraph 6.1 of the annex to Assembly resolution A.1099(29);
- in paragraph 4.31, the word "Committee" is replaced with the word "Member States"; and
- paragraph 6.2 is aligned with paragraph 6.2 of MSC-MEPC.1/Circ.4/Rev.4 and, accordingly, the proposed new reference to documents submitted in electronic form in paragraph 6.6.3 is deleted.

11.9 The Committee also agreed to the following additional amendments to the Committee's Guidelines, as proposed by a delegation:

- section 3 is aligned with section 3 of FAL.3/Circ.211, as appropriate;
- paragraphs 4.20 to 4.24 are moved to a new section; and
- paragraph 6.8 is split into two paragraphs with the first paragraph ending after the words "following consultation with the Secretariat".

11.10 Also, having noted the information provided by the Secretariat, that FAL 40 and MSC 96 had already revised their guidelines in line with resolution A.1099(29) and, taking into account the mandatory language used in the resolution, had agreed to delete the word "Guidelines" from the title and to replace it with the word "document" throughout the text (FAL 40/19, paragraph 19.5.1 and MSC 96/WP.1/Add.1, paragraph 22.7), the Committee agreed to apply the same approach to the Legal Committee's Guidelines.

11.11 Having agreed with the proposal in document LEG 103/11/2 to align the document submission deadlines of LEG to those of other Committees, the Committee noted the concern of one delegation that the document submission deadlines and the deadlines for posting documents on IMODOCS would in some cases not allow enough time for commenting documents. The Committee referred to discussions that had taken place at MSC 96 on the same subject and noted that this issue would be further considered at MSC 97 following a thorough analysis of the issue. In this regard, the Committee decided to await the outcome of MSC 97 before further aligning the deadlines in the future.

11.12 Having approved the Committee's Guidelines, as amended following the decisions taken, the Committee instructed the Secretariat to prepare the revised Committee's Guidelines, incorporating any additional amendments agreed by the Committee and making any necessary editorial changes, and circulate it by means of a revised LEG circular (LEG.1/Circ.8).

Audio file: Thursday, 9 June 2016: p.m.

Proposal to add a new output to develop a new instrument on foreign judicial sales of ships and their recognition

11.13 The Committee noted document LEG 103/11/3 (China, the Republic of Korea and CMI) proposing the inclusion of a new output to develop a new instrument on the foreign judicial sales of ships and their recognition based on a draft convention prepared by CMI, in order to ensure that the purchaser of a ship in a judicial sale can be confident of obtaining clean title to the ship, free of any pre-existing mortgages, liens or other encumbrances. The co-sponsors argued that there was no uniform international instrument providing a solution to common problems arising in connection with the recognition of foreign judicial sales of ships and presented the Committee with specific cases in order to demonstrate that the problems were increasing and that there was a compelling need for action. The co-sponsors pointed out that the Organization had previously been involved in the development of the *International Convention on Maritime Liens and Mortgages, 1993* and the *International Convention on Arrest of Ships, 1999* with a view to establishing that the Committee was the correct forum for the further consideration of the issue.

11.14 In considering the preliminary assessment of the proposed new output prepared by the Chairman in accordance with paragraph 4.10 of the Committee's Guidelines, as set out in the annex to document LEG 103/WP.5, the following views were expressed:

- while most delegations felt that this was an important subject of interest to the Committee, some argued that the development of a new instrument on the foreign judicial sales of ships and their recognition was a matter of private and commercial law and did, therefore, not fall within the remit of the Committee, in particular with a view to articles 2 and 3 of the IMO Convention;
- it was also argued that the proposed output did not fit within the scope of Strategic Directions 1 and 12.2 and did also not fall under the proposed High-level Action 1.3.3;
- others, however, held that IMO's past involvement in similar legislative initiatives was a strong argument that this issue was in fact within the Organization's scope and that LEG was the proper forum to discuss this issue further, also with a view to Article 1 of the IMO Convention;
- some delegations who spoke were of the opinion that, if this issue was pursued at all, it should be done in cooperation with UNCTAD;
- considering the question as to whether or not there was a compelling need for the development of a relevant instrument, the Committee was divided as to whether the co-sponsors had provided enough evidence in this regard;
- some delegations highlighted that they accepted foreign judicial sales of ships in their national legislation and that it entailed a lot of benefits, in particular because it provided certainty to all stakeholders;
- it was pointed out that this was also an important issue from the perspective of the port industry, as arrests of vessels can negatively affect the efficient port operation; and
- some delegations felt that they needed further information as to whether this was, in fact, within the remit of the Organization, and that further work needed to be done, before discussing this further at the next session.

11.15 Following the discussion, the Committee concluded that, while there had been support for the proposal and appreciation for the information provided by CMI, a compelling need had not been established at this point in time. Therefore, the Committee did not accept, at this time, the specific proposal for the inclusion of a new output to develop a new instrument on the foreign judicial sales of ships and their recognition. Member States could of course raise the subject again at a later session of the Committee under the standing agenda item "Work programme". The Committee noted that CMI intended to bring the matter to the attention of other relevant international fora, and may report back to the Committee at a later stage.

Audio file: Thursday, 9 June 2016: p.m. and Friday, 10 June 2016: a.m.

Items for inclusion in the agenda for LEG 104

11.16 The Committee approved the list of substantive items for inclusion in the agenda for LEG 104, as set out in annex 4.

11.17 When considering the inclusion of the issue of piracy on the agenda of the next session, the Committee decided to amend Output 6.2.2.1 as follows: Provide advice and guidance to support availability of information on comprehensive national legislation and judicial capacity-building, and retain the item on the agenda for LEG 104.

Audio file: Friday, 10 June 2016: a.m.

12 ELECTION OF OFFICERS

Election of the Chairman

12.1 The Committee, in accordance with rule 17 of its Rules of Procedure, as amended, and after requesting that he serve another term, unanimously re-elected Mr. Kofi Mbiah (Ghana) as Chairman for 2017.

Election of the Vice-Chairman

12.2 The Committee, in accordance with rule 17 of its Rules of Procedure, as amended, unanimously elected Ms. Gillian Grant (Canada) as Vice-Chairman for 2017.

12.3 The Committee expressed its deep appreciation to the outgoing Vice-Chairman, Mr. Walter de Sá Leitão for Brazil, for his long and distinguished service to the Committee and to the Organization.

Audio file: Friday, 10 June 2016: a.m.

Proposed amendment to the Committee's Rules of Procedure

12.4 The Chairman introduced document LEG 103/12/1 containing a proposal to amend the Committee's Rules of Procedure with a view to limiting the term of office of the Chairman and the Vice-Chairman to four years in order to align the practice of LEG with that of MSC and TCC.

12.5 Taking into account that the Bahamas, in document C 116/4/3 has proposed to the Council that the terms of officers at all IMO Committees be limited to five years, the Committee decided to defer the discussion in this matter to the next session.

Audio file: Friday, 10 June 2016: a.m.

13 ANY OTHER BUSINESS

List of codes, recommendations, guidelines and other non-mandatory instruments related to the work of the Legal Committee

13.1 The Committee noted the information contained in document LEG 103/13 on the Global Integrated Shipping Information System (GISIS) module on "Non-mandatory instruments" and proposals for an updating mechanism of the list of codes, recommendations, guidelines and other non-mandatory instruments related to the work of the Legal Committee.

13.2 The Committee noted that the GISIS module entitled "Non-mandatory instruments" was released in January 2015. The module intends to provide, inter alia, an indexed list of valid IMO non-mandatory instruments, as well as information on their implementation by Member States on a voluntary basis. It further offers Member States the possibility to upload the corresponding domestic legislation with regard to non-mandatory instruments which have been adopted by means of Assembly or Committee resolutions.

13.3 The Committee endorsed the updated list contained in the annex to document LEG 103/13 and authorized the Secretariat to migrate this list into the GISIS module and to keep it updated thereafter. However, one delegation suggested that Assembly resolutions A.930(22) and A.931(22), listed in the annex, may need to be reconsidered in light of the entry into force of the Maritime Labour Convention, 2006.

13.4 The Committee invited Member States to take into account, when developing a new instrument, the consequential impact of its approval and/or adoption on existing non-mandatory instruments, so that the list can be kept updated.

13.5 The Committee further invited Member States, IGOs and NGOs to provide the Secretariat with feedback in order to maintain the accuracy of the list, while issues of a more sensitive nature would be reported to the relevant Committee by the Secretariat for consideration.

Audio file: Thursday, 9 June 2016: a.m.

Transboundary pollution damage

13.6 The Committee recalled its agreement, at its ninety-ninth session, to inform the Council that it wished to further analyse the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities, with the aim of developing guidance to assist States interested in pursuing bilateral or regional arrangements, without revising Strategic Direction 7.2. This decision was duly noted by C 108.

13.7 The Committee also recalled its recommendation, at its previous session, that Member States should send examples of existing bilateral and regional agreements to the Secretariat. Member States and observer delegations had been encouraged to continue to cooperate with the delegations of Indonesia and Denmark intersessionally, lending their expertise to develop elements and legal principles for incorporation into the guidance on bilateral and regional arrangements or agreements.

13.8 The delegation of Indonesia, also on behalf of the co-sponsor (Denmark), introduced document LEG 103/13/1, containing in its annex the revised draft guidance for bilateral/regional arrangements or agreements on liability and compensation issues connected with transboundary oil pollution damage resulting from offshore exploration and exploitation activities for review by the Committee.

13.9 The Committee was informed that the draft guidance contained two sections: an introduction and examples of elements that may be included in bilateral/regional arrangements or agreements. The second section consisted of a non-exclusive list of elements which could be discussed and elaborated upon when States are considering and negotiating a bilateral/regional arrangement or an international agreement.

13.10 The Committee noted document LEG 103/INF.2 submitted by the Secretariat presenting two examples of regional agreements which were provided by the Ministry of Transport of the Kingdom of Saudi Arabia.

13.11 The Committee made the following comments:

- Guidance on this issue could not be in the form of an IMO instrument as the subject matter would require amending Strategic Direction 7.2;
- there was no compelling need for the development of an international instrument on the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities;
- coastal States have full responsibility in the areas that are covered by their sovereign rights;
- the guidance should not contain any reference to an international agreement or to IMO Member States and therefore, paragraphs 1.3, 1.4 and 1.5 of the draft guidance should be removed;
- the scope of responsibility and geographical scope of application of the guidance need to be further clarified;
- the guidance consisted of a non-exclusive list of issues and therefore the voluntary nature of the annex was consistent with international law; and
- the guidance was in the interest of strategic environmental concerns.

13.12 The statement made by the delegation of Argentina is set out in annex 5 of the report.

13.13 The Committee agreed not to change the outcome of earlier considerations on this issue and restated that there is no compelling need to develop an international instrument. The guidance could be a useful document to assist States in concluding voluntary bilateral and regional arrangements or agreements.

13.14 The Committee encouraged Indonesia, Denmark and other interested parties to finalize the guidance, taking into account the comments made in plenary.

13.15 The Committee reiterated its recommendation that Member States should send examples of existing bilateral and regional agreements to the Secretariat.

13.16 The Committee expressed its appreciation to the delegations of Indonesia and Denmark for their submission, and thanked the Kingdom of Saudi Arabia for sending examples of regional agreements to the Secretariat.

Audio file: Thursday, 9 June 2016: a.m. and p.m.

Delegating the authority of issuing certificates under the CLC and HNS Convention and other matters related to insurance certificates

13.17 The Committee recalled that LEG 102 considered document LEG 102/11/5 submitted by France on the delegation of authority to issue certificates under the 1992 CLC and the 2010 HNS Convention. The Committee also recalled that, there had been a general agreement that the delegation of authority to issue certificates under the 1992 CLC and the 2010 HNS Convention was possible, but that further deliberations at future sessions of the Committee could be carried out.

13.18 The delegation of France introduced document LEG 103/13/2 inviting the Committee to continue the discussions that had taken place at LEG 102 on this issue and requesting the Committee to consider the most appropriate approach to confirm the possibility for States Parties to delegate the authority to issue certificates of insurance under the CLC and the HNS Convention and how to regulate such delegation. The Committee was invited to consider three different approaches as follows:

- .1 an Assembly resolution to be prepared by LEG; or
- .2 a resolution adopted by a conference of the States Parties to provide a uniform interpretation of the CLC (as the HNS Convention is not in force); or
- .3 an amendment of the Conventions through a Protocol.

13.19 The delegation of France indicated that the conference procedure was more burdensome but would allow to convene simultaneously a conference of Parties for all conventions under the purview of IMO and could be the opportunity to tackle other issues relating to certification. In this context, the delegation of France recalled the deliberations at LEG 94 and LEG 95 on a single model insurance certificate and recalled that at that time the Committee considered necessary to amend all the liability conventions since model certificates were an integral part of them. Harmonization of provisions on electronic certificates would also be a possible issue to be discussed if the conventions were going to be amended, and the definition of the State of registration of the ship, as the State responsible for the issuing of the certificates, could also be reconsidered.

13.20 The delegation of France noted that, although they were open to any of the approaches outlined, their preferred option was a draft Assembly resolution confirming the possibility of delegation of the issuance of certificates under the CLC and HNS Convention by States Parties, under certain conditions, as this was considered to be a simple and rapid solution that would bring the necessary clarification.

13.21 The Committee thanked the delegation of France for the document. In considering it, the Chairman suggested to structure the discussion around two main issues.

13.22 On the first issue of the single model certificate pursuant to the request of the SG-RAR, considered under agenda item 8, the Committee expressed the following views:

- a single insurance certificate could reduce administrative burdens, however, adoption of a non-binding resolution would create some practical problems, including the acceptance of a single certificate by port State control officers;

- the introduction of a single model certificate would require amendments to all liability conventions currently in force, however the discussion on the revision of the conventions should not be reopened;
- the in-depth consideration of a single model certificate should be done through the presentation of a new output for the Committee and the compelling need to reintroduce this issue should be demonstrated; and
- in view of the fact that the liability insurance regime was not yet fully in force, the issue of a single model certificate should be reconsidered at a future session of the Committee.

13.23 In view of the above, the Committee decided not to pursue further the issue of a single model certificate under all civil liability conventions.

13.24 On the delegation of authority to issue insurance certificates under the CLC and the HNS Convention, the Committee expressed the following views:

- the delegation of authority to issue certificates under CLC and HNS Convention is in principle possible;
- the adoption of an Assembly resolution was not necessary; States Parties already have the authority to decide whether they could delegate the issuance of insurance certificates under the conventions and nothing was preventing them from doing so in the absence of explicit provisions to the contrary in the conventions;
- the possibility to delegate the authority to issue insurance certificates has to be explicitly provided for by the CLC and HNS Convention and they would have to be amended;
- the delegation of authority to recognized organizations or P&I Clubs could be problematic for some States and this would need to be addressed in the proposed Assembly resolution;
- States Parties need clarity on the possibility to delegate the authority to issue insurance certificates;
- an Assembly resolution was not the most appropriate approach;
- the Assembly resolution would be a non-binding instrument and its appropriate implementation would be left to the discretion of Member States, some of whom had been faced with problems arising from inappropriate certificates under the CLC. Therefore, delegating States need to stay aware that they would remain liable if the delegated insurance certificate did not satisfy the requirements of the 1992 CLC or the 2010 HNS Convention in the same way they would be liable for certificates not delegated;
- the draft Assembly resolution should clearly provide the conditions to allow for the delegation of authority to issue insurance certificates under the CLC and the HNS Convention to ensure that the certificates meet the requirements set out in the conventions;
- there was a need to consider the international standards for ROs to whom the issuance of insurance certificates would be delegated by analogy with the Code for recognized organizations;

- an Assembly resolution on the delegation of authority to issue insurance certificates would be the most speedy process, but there was a need to discuss its contents and the safeguards it should contain;
- further work needed to be done on the draft Assembly resolution in document LEG 103/13/2;
- the delegation was legally possible under CLC and HNS, but only the issuance could be delegated, whilst the responsibility should remain with the State, and it was necessary to further consider the risks and consequences of the delegation; and
- although the HNS Convention is not yet in force, the resolution on the delegation of authority should cover both the CLC and the HNS Convention.

13.25 Taking into account the above views, the Committee supported the development of an Assembly resolution to allow for the delegation of authority to issue insurance certificates under the CLC and the HNS Convention. The Committee further agreed in principle with the elements of the draft Assembly resolution contained in document LEG 103/13/2. The Committee therefore decided to establish an intersessional Correspondence Group under the coordination of France², with the instruction to further develop the draft Assembly resolution using the text in the annex to document LEG 103/13/2 as a basis, for consideration by LEG 104.

13.26 The proposed terms of reference of the intersessional Correspondence Group are:

Taking into account any comments, proposals and decisions made at LEG 103, the intersessional Correspondence Group on the delegation of authority to issue insurance certificates under the CLC and the HNS Convention is instructed to:

- .1 further develop the draft Assembly resolution on the delegation of authority to issue insurance certificates required under the CLC and the HNS Convention using the text in the annex to document LEG 103/13/2 as a basis, for consideration by LEG 104, with a view to adoption by A 30; and
- .2 submit a written report and the draft Assembly resolution to LEG 104.

13.27 The Committee agreed to the suggestion that the content of the Assembly resolution, when adopted and in force, should be brought to the attention of all Member States and possibly as well circulated to the Secretaries of the PSC MoUs to ensure that PSC officers are aware that the authority to issue insurance certificates can be delegated by States Parties to the CLC and the HNS Convention.

Audio file: Thursday, 9 June 2016: a.m.

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ANNEX 1

AGENDA FOR THE 103RD SESSION

- Opening of the session
- 1 Adoption of the agenda
 - 2 Report of the Secretary-General on credentials
 - 3 Facilitation of the entry into force and harmonized interpretation of the 2010 HNS Protocol
 - 4 Provision of financial security in case of abandonment of seafarers, and shipowners' responsibilities in respect of contractual claims for personal injury to, or death of seafarers, in light of the progress of amendments to the ILO Maritime Labour Convention, 2006
 - 5 Fair treatment of seafarers in the event of a maritime accident
 - 6 Piracy
 - 7 Matters arising from the 114th and 115th regular sessions of the Council, the twenty-eighth extraordinary session of the Council and the twenty-ninth regular session of the Assembly
 - 8 Analysis and consideration of recommendations to reduce administrative burdens in IMO instruments as identified by the SG-RAR
 - 9 Technical cooperation activities related to maritime legislation
 - 10 Review of the status of conventions and other treaty instruments emanating from the Legal Committee
 - 11 Work programme
 - 12 Election of officers
 - 13 Any other business
 - 14 Consideration of the report of the Committee on its 103rd session

ANNEX 2

HNS CORRESPONDENCE GROUP

Revised terms of reference

The terms of reference for the HNS Correspondence Group are as follows:

1. to develop three specific items:
 - .1 presentation on HNS Incident Scenarios (PowerPoint) for approval by the Committee;
 - .2 draft resolution on implementation and entry into force of the 2010 HNS Protocol; and
 - .3 programme for a workshop for consideration by the Committee.
2. to report to the 104th session of the Legal Committee.

ANNEX 3

BIENNIAL STATUS REPORT 2016-2017

LEGAL Committee (LEG)								
Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ(s)	Status of output for Year 1	Status of output for Year 2	References
1.1.1.1	Cooperate with the United Nations on matters of mutual interest, as well as provide relevant input/guidance	2017	Assembly	MSC / MEPC / FAL / LEG / TCC	Council	In progress		
1.1.1.2	Consideration of reports on the application of the joint IMO/ILO Guidelines on the fair treatment of seafarers and consequential further actions as necessary	Annual	LEG			Postponed		
1.1.2.1	Cooperate with other international bodies on matters of mutual interest, as well as provide relevant input/guidance	2017	Assembly	MSC / MEPC / FAL / LEG / TCC	Council	In progress		
1.3.1.1	Advice and guidance on issues under UNCLOS relevant to the role of the Organization	Annual	LEG			Completed		
1.3.4.2	Consider reports on the issue of financial security in case of abandonment of seafarers, and shipowners' responsibilities in respect of contractual claims for personal injury to or death of seafarers, in light of the progress of the amendments to ILO MLC 2006	2017	LEG			In progress		

Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ(s)	Status of output for Year 1	Status of output for Year 2	References
2.0.1.3	Provide advice and guidance on issues brought to the Committee in connection with implementation of IMO instruments	Annual	LEG			Completed		
2.0.1.4	Strategies developed to facilitate entry into force and harmonized interpretation of the HNS Protocol	2017	LEG			In progress		
2.0.2.1	Analysis of consolidated audit summary reports	Annual	Assembly	MSC / MEPC / LEG / TCC / III	Council	No work requested		
3.4.1.1	Input on identifying emerging needs of developing countries, in particular SIDS and LDCs to be included in the ITCP	Continuous	TCC	MSC / MEPC / FAL / LEG		No work requested		
3.5.1.1	Identify thematic priorities within the area of maritime safety and security, marine environmental protection, facilitation of maritime traffic and maritime legislation	Annual	TCC	MSC / MEPC / FAL / LEG		No work requested		
3.5.1.2	Input to the ITCP on emerging issues relating to sustainable development and achievement of the MDGs	2017	TCC	MSC / MEPC / FAL / LEG		No work requested		
4.0.1.3	Endorsed proposals for new outputs for the 2016-2017 biennium as accepted by the Committees	Annual	Council	MSC / MEPC / FAL / LEG / TCC		No work requested		

Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ(s)	Status of output for Year 1	Status of output for Year 2	References
4.0.2.1	Endorsed proposals for the development, maintenance and enhancement of information systems and related guidance (GISIS, websites, etc.)	Continuous	Council	MSC / MEPC / FAL / LEG / TCC		No work requested		
4.0.3.1	Development of a new strategic framework for the Organization for 2018-2023	2017	Council	MSC / MEPC / FAL / LEG / TCC		In progress		
4.0.5.1	Revised guidelines on organization and method of work, as appropriate	2016	Council	MSC / MEPC / FAL / LEG / TCC		Completed		
5.1.2.3	IMO's contribution to addressing Unsafe Mixed Migration by Sea	2017	MSC / FAL / LEG			In progress		
6.2.1.2	Revised guidance relating to the prevention of piracy and armed robbery to reflect emerging trends and behaviour patterns	Annual	MSC	LEG		No work requested		
6.2.2.1	Provide advice and guidance to support international efforts to ensure effective prosecution of perpetrators (piracy); and to support availability of information on comprehensive national legislation and judicial capacity-building	Annual	LEG			Completed		
8.0.3.1	Requirements for access to, or electronic versions of, certificates and documents, including record books required to be carried on ships	2017	FAL	MSC / MEPC / LEG / III		In progress		

Output number	Description	Target completion year	Parent organ(s)	Associated organ(s)	Coordinating organ(s)	Status of output for Year 1	Status of output for Year 2	References
14.0.1.1	Analysis and consideration of recommendations to reduce administrative burdens in IMO instruments including those identified by the SG-RAR	2017	Council	III / HTW / PPR / CCC / SDC / SSE / NCSR	MSC / MEPC / FAL / LEG	In progress		

ANNEX 4

ITEMS TO BE INCLUDED IN THE AGENDA FOR LEG 104

- Facilitation of the entry into force and harmonized interpretation of the 2010 HNS Protocol
- Provision of financial security in case of abandonment of seafarers, and shipowners' responsibilities in respect of contractual claims for personal injury to, or death of seafarers, in light of the progress of amendments to the ILO Maritime Labour Convention, 2006
- Fair treatment of seafarers in the event of a maritime accident
- Piracy
- Advice and guidance in connection with implementation of IMO instruments
- Matters arising from the 116th and 117th regular sessions of the Council
- Analysis and consideration of recommendations to reduce administrative burdens in IMO instruments as identified by the SG-RAR
- Technical cooperation activities related to maritime legislation
- Review of the status of conventions and other treaty instruments emanating from the Legal Committee
- Work programme
- Election of officers
- Any other business
- Consideration of the report of the Committee on its 104th session

ANNEX 5

Statements

Statement by the Islamic Republic of Iran on the use of the term "Persian Gulf"

This delegation would like to thank IMLI and the Secretariat for preparing document LEG 103/INF.3 on the list of dissertations and maritime legislation drafting projects during the academic years 2014-2015 and 2015-2016, among which there are many useful and interesting topics. However, among the list of dissertations, we have noticed inappropriate use of the term Persian Gulf and for that matter, mindful of the fact that it is the title of dissertation only, hence we would like to remind the Committee that in accordance with the UN Directive ST/CS/SER/A/29/Add.2 of 18 August 1994, the full name term of Persian Gulf has always been as the standard geographical designation for the sea area between Arabian peninsula and the Islamic Republic of Iran. Having said that, the Islamic Republic of Iran draws all attention to the proper use of the term Persian Gulf and no other name.

Statement by Bulgaria concerning the United Nations Convention on the Law of the Sea

The Republic of Bulgaria has accepted the jurisdiction of the International Tribunal of the Law of the Sea.

The Republic of Bulgaria would like to express its gratitude and appreciation to the Chair of the Legal Committee, the Vice Chair and the Rapporteur. We would like to thank the Committee's Secretariat for its excellent work in preparing for and facilitating the session.

The Republic of Bulgaria has the honour to inform the distinguished delegates of the Legal Committee that in accordance with Article 278, paragraph 1 of the United Nations Convention on the Law of the Sea, the Republic of Bulgaria has accepted the jurisdiction of the International Tribunal of the Law of the Sea for the settlement of disputes concerning the interpretation or application of the UNCLOS.

This decision has been effective since the 2nd of December 2015.

Bulgaria's choice is based on the facts that the Tribunal is composed of 21 independent judges, elected from among persons of recognized competence in the field of the Law of the Sea and enjoying the highest reputation for fairness and integrity, in addition Bulgaria recognizes that throughout the years the Tribunal has established itself as an independent, quick and effective judicial institution specialized in solving disputes in the field of the Law of the Sea.

In conclusion, on behalf of the Republic of Bulgaria I would like to thank delegations attending the 103th session of the Legal Committee for their attention.

Statement by Spain concerning the extension, by the United Kingdom of the Nairobi International Convention on the Removal of Wrecks, 2007, to Gibraltar

En relación con el punto del orden del día relativo a la notificación por el Reino Unido de extensión a Gibraltar del Convenio de Nairobi de 2007 sobre remoción de restos de naufragio, la delegación española desea hacer constar lo siguiente:

De acuerdo con Naciones Unidas, Gibraltar es un territorio no autónomo pendiente de descolonización. Naciones Unidas recuerda desde 1965 que la cuestión de Gibraltar debe ser resuelta mediante negociaciones bilaterales entre España y el Reino Unido y que la situación colonial de Gibraltar destruye la unidad nacional y la integridad territorial de España y es incompatible con la Resolución 1514 (XV), párrafo 6, de 1960, sobre descolonización en general. Gibraltar, cuyas relaciones exteriores son responsabilidad del Reino Unido, constituye por tanto una colonia en territorio europeo, una situación anacrónica en pleno Tercer Decenio Internacional para la Erradicación del Colonialismo (2011-2020).

El Peñón fue cedido por España al Reino Unido en el Tratado de Utrecht de 1713 que especifica claramente lo que se cede: la ciudad y el Castillo de Gibraltar junto con su puerto (con sus aguas interiores únicamente), defensas y fortalezas que le pertenecen. En ningún momento ni con posterioridad se cedieron las aguas que rodean al Peñón, por lo que dichas aguas permanecen hasta la actualidad bajo soberanía española. España no reconoce ninguna otra jurisdicción sobre dichas aguas ni, por tanto, unas pretendidas "aguas territoriales británicas de Gibraltar".

En relación con las aguas que rodean Gibraltar, al ratificar en Nueva York, el 5 de diciembre de 1984, la Convención de las Naciones Unidas sobre el Derecho del Mar el Gobierno español declaró que ese acto "no puede ser interpretado como reconocimiento de cualesquiera derechos o situaciones relativas a los espacios marítimos de Gibraltar que no estén comprendidos en el artículo 10 del Tratado de Utrecht, de 13 de julio de 1713, suscrito por las Coronas de España y Gran Bretaña."

Por tanto, a pesar de que España no es parte en el Convenio de Nairobi, no puede aceptar la declaración gibraltareña de que "aplicará la Convención a restos de naufragio localizados en su territorio, incluyendo su Mar Territorial", debido a que las aguas a las que se está refiriendo están bajo jurisdicción española.

Este asunto presenta una particular importancia política para mi país, ya que afecta a la soberanía e integridad territorial del Reino de España, por lo que estoy convencido de que la OMI entenderá los argumentos de España.

Statement by the United Kingdom with regard to the statement made by Spain above

With regard to the Government of Spain's statement (above) on the Nairobi International Convention on the Removal of Wrecks, the Government of the United Kingdom has no doubt about the sovereignty of the United Kingdom over Gibraltar, including its territorial waters. The Government of the United Kingdom, as the administering authority of Gibraltar, extended the Convention with effect from 16 April 2015. The Government of the United Kingdom therefore rejects as unfounded the Spanish statement.

Statement by Argentina on guidance for transboundary pollution damage

Agradecemos a las delegaciones de Dinamarca e Indonesia la elaboración y la presentación del documento LEG 103/13/1. Asimismo, tomamos nota sobre las objeciones relativas a la competencia de esta Organización para el tratamiento de esta temática, lo cual que ha sido objeto de reiterados debates en el ámbito de este Comité.

Compartimos con los autores de este documento lo manifestado en los párrafos 1.1. y 1.2. del Anexo a ese documento, a saber, que la Convención de las Naciones Unidas sobre el Derecho del Mar establece obligaciones muy claras y específicas para cada Estado ribereño que autorice la realización de actividades de exploración y explotación de hidrocarburos en su plataforma continental. En síntesis, no cabe duda alguna que los Estados son plenamente responsables por las consecuencias ambientales de esas actividades.

Por la misma razón, no llegamos a coincidir en cuanto a la segunda oración del punto 1.3. del Anexo de ese documento. En efecto, allí se sostiene que -no obstante la vigencia de las normas mencionadas- no existen instrumentos internacionales que regulen lo relativo a la responsabilidad y las compensaciones derivadas de este tipo de daños. Al respecto, cabe advertir que la propia Convención de las Naciones Unidas sobre el Derecho del Mar establece diferentes mecanismos de solución de controversias en cuyo ámbito pueden abordarse tales aspectos sin necesidad de celebrar instrumentos adicionales a la Convención de 1982.

Agradeceré que esta intervención quede adecuadamente reflejada en las actas.
