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Agenda item 12

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

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1 INTRODUCTION

1.1 The Legal Committee held its 101st session at the IMO Headquarters from 28 April to 1 May 2014, under the chairmanship of Mr. Kofi Mbiah (Ghana).

1.2 The session was attended by delegations from Members and Associate Members; by representatives from the United Nations programmes, specialized agencies and other entities; 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 101/INF.1.

The Secretary-General's opening address

1.3 The Secretary-General 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/MediaCentre/SecretaryGeneral/Secretary-GeneralsSpeechesToMeetings/Pages/LEG-101-opening.aspx>.

1.4 The Secretary-General expressed his sympathy at the considerable loss of lives caused by the tragic accident of the ferry **Sewol**, which sank off the coast of the Republic of Korea on 16 April 2014. On behalf of the entire membership of IMO and the Secretariat, the Secretary-General reiterated his deepest condolences to the delegation of the Republic of Korea and to the bereaved families. A one-minute silence was observed in honour of the victims at the opening of the Committee session.

1.5 The delegation of the Republic of Korea expressed its deep appreciation to all Member States, the Secretary-General and the IMO Secretariat for their condolences. The full text of this statement is attached in annex 5 to this report.

The Chairman's remarks

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 Committee considered whether the sub-item "Liability and compensation issues connected with transboundary pollution damage from offshore oil exploration and exploitation activities" should be referred to under the agenda item "Any other business", as had been the case at the Committee's ninety-ninth and 100th sessions.

1.8 The Committee noted that three other issues under this agenda item were not specifically referred to, and that other committees did not specify sub-items under this agenda item.

1.9 One delegation referred to paragraphs 2.1.2 and 2.1.4 of the *Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization* and was of the opinion that the issue should not be listed as a sub-item under "Any other business" since transboundary pollution damage from offshore oil activities did not constitute a planned output. This view was supported by some other delegations.

1.10 The Committee decided not to make specific reference to any sub-item, including this sub-item, under "Any other business", in line with the agendas of the other committees.

1.11 The agenda for the session, as adopted by the Committee, is attached in annex 1 to this report.

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

2 REPORT OF THE SECRETARY-GENERAL ON CREDENTIALS

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

3 FACILITATION OF THE ENTRY INTO FORCE AND HARMONIZED IMPLEMENTATION OF THE HNS CONVENTION, 2010

3.1 The Committee recalled its endorsement, at its previous session, of the *Reporting guidelines on the submission of HNS contributing cargo* including its annexes and appendices, the outcome of the workshop on HNS reporting held in November 2012, in preparation for the entry into force of the 2010 HNS Convention. In so doing, the Committee had considered that the 2010 HNS Convention should be applied uniformly and that the guidelines could assist this process.

3.2 The Committee also recalled that, with the endorsement of the guidelines, there were no further obstacles to the implementation and ratification of the 2010 HNS Convention and therefore encouraged Member States to work actively in order to ratify it as soon as possible. It also noted that, given the contributory nature of the Convention, States should continue to monitor and, where possible, coordinate ratification or accession timelines. The Council, at its 110th regular session, had endorsed the Committee's decision that the issue of facilitation of the entry into force and harmonized interpretation of the 2010 HNS Convention should be included on the biennial agenda 2014-2015. This had been noted by the Assembly at its twenty-eighth session.

3.3 The delegation of Canada, on behalf of the co-sponsors, introduced document LEG 101/3. In so doing, it stated that its objectives were: 1) to report on developments, since the Committee's last meeting, regarding efforts to bring the 2010 HNS Convention into force, including the holding of an informal meeting of the representatives of 26 States in London in October 2013, the constitution of an informal correspondence group and the creation by the IOPC Funds Secretariat of the HNS Protocol Blog; and 2) to propose the reconstitution of the formal HNS Correspondence Group.

3.4 The delegation considered that a correspondence group would facilitate dialogue among States and assist the IOPC Funds in its task of facilitating the entry into force of the Convention. It stated that, with the entry into force of the 2007 Nairobi Wreck Removal Convention in April 2015, the 2010 HNS Convention would be the remaining gap in the global framework of liability and compensations conventions. The Committee was invited to adopt the proposed terms of reference and consider the election of the coordinator of the HNS Correspondence Group.

3.5 The Committee expressed its appreciation to Canada and the co-sponsors of the document. Among the views expressed were the following:

- the reconstitution of the HNS Correspondence Group was considered important by some delegations, and its draft terms of reference would facilitate the entry into force of the 2010 HNS Convention; however, some delegations were of the view that the terms of reference needed elaboration, and that correspondence groups should not be open-ended but re-established if necessary at each session;

- information exchange would facilitate coordination towards more concerted efforts aimed at ratification;
- in the absence of ratifications of the 2010 Convention, it was more appropriate to establish a working group than a correspondence group;
- it was not clear which 26 States had participated during the informal meeting; and
- preparing the ratification of the 2010 HNS Convention in the correspondence group was a pragmatic and straightforward solution to promote the entry into force of the Convention.

3.6 Following the discussion, the Committee agreed to reconstitute the HNS Correspondence Group. It was also agreed that Mr. François Marier, Canada (francois.marier@tc.gc.ca), would be the coordinator of the correspondence group, which would be open to all Member States and observer delegations. There was wide support for the HNS Protocol Blog as a means of communication.

3.7 The Committee agreed that the correspondence group should report at its next session. Its report would then be considered by the Committee, which would give further instructions as to whether the formation of a working group would be appropriate. The terms of reference of the HNS Correspondence Group were approved as amended and are attached in annex 2 to this report.

3.8 The delegation of Canada then introduced document LEG 101/3/1, informing the Committee about Canada's efforts to implement the 2010 HNS Convention. In so doing, the delegation explained that the legislative amendments necessary to implement the Convention in Canadian law were progressing through the parliamentary process, and that Canada already had a domestic compensation fund for ship-source oil pollution which would pay for the HNS Fund, as it does for the IOPC Fund, but only for oil. Following the adoption of the regulations, Canada would conduct its initial calendar year of receiving contributing cargo reports. The delegation of Canada explained that the provisions that gave the Convention force of law in Canada would only come into force once Canada had ratified the Convention and it entered into force internationally. That would require a coordinated approach to ensure that the HNS Fund could be supported to fill that critical gap in the international liability and compensation regime.

3.9 The Committee noted the information provided and expressed its appreciation to the delegation of Canada. The Committee acknowledged the need for a concerted effort to implement and coordinate the entry into force of the 2010 HNS Convention.

3.10 The delegation of Germany introduced document LEG 101/3/2, containing information on its proposed implementation of the 2010 HNS Convention. In particular, the delegation informed the Committee of the consultations taking place on whether States Party to the 2010 HNS Convention could provide in their domestic law that shipowners from States not party to the Convention had unlimited liability. The delegation pointed out that the question was being posed to the Committee for clarification only and not intended as a proposal.

3.11 The Committee expressed its appreciation to Germany for the information provided. Among the views expressed were the following:

- the approach that was suggested in the document was incompatible with the 2010 HNS Convention. The core objective of the Convention was to ensure that all vessels entering the territorial waters of States Parties benefited from limitation of liability and were covered by insurance. Reference was made in particular to articles 9 and 12 of the Convention;
- a reservation to exclude ships registered in States not party to the 2010 HNS Convention would contradict the main objective of the Convention;
- articles 2, 3 and 4 of the Convention did not exclude the possibility of a shipowner limiting liability when the ship was registered in a State not party to the Convention;
- the practical application of the CLC and Fund Conventions demonstrated that a shipowner registered in a State not party to the 2010 HNS Convention could not be deprived of its right to limit liability;
- insurance for liability could only be obtained if that liability was limited; in the absence of such limitation, ships registered in States not party to the 2010 Convention would not be able to obtain insurance and, consequently, such ships would not be able to enter or leave the ports of States Parties; and
- the document suggested that shipowners from States not party to the 2010 Convention might have unlimited liability as a result of a reservation made under article 18, paragraph 1(b), of the LLMC. Although each State had discretion on how to regulate its domestic legislation, the reservation clause was intended to avoid conflicts in claims for damage between the LLMC and the 2010 HNS Convention. Such a reservation would enable a State to set the limits of liability for an HNS incident in accordance with the 2010 HNS Convention in its domestic legislation, upon ratification. Therefore, the reservation should not be considered a disadvantage for shipowners from States not party to the Convention.

3.12 The Committee agreed that States party to the 2010 HNS Convention could not in their domestic law distinguish between shipowners from States parties and those from States not parties to the Convention. Therefore, shipowners from States not party to the Convention could limit their liability in States party to it.

3.13 The delegation of Germany clarified that it was not its intention to make a reservation on the issue.

3.14 The Committee encouraged Member States to ratify and bring into force the 2010 HNS Convention as soon as possible.

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

4.1 The Secretariat introduced document LEG/101/4, providing information on the subject of fair treatment of seafarers since the Committee's previous session. The Committee took note of the information submitted by the Secretariat.

4.2 A representative of the International Transport Workers' Federation (ITF) introduced document LEG 101/4/1, which had been submitted by ITF, the International Federation of Shipmasters' Associations (IFSMA) and the Comité Maritime International (CMI), reporting on the outcome of a survey commissioned by ITF and IFSMA and conducted by Seafarers' Rights International (SRI) concerning the implementation of the *2006 Guidelines on fair treatment of seafarers in the event of a maritime accident*.

4.3 Thirty-nine Member States of IMO had replied to the questionnaire, representing 22.5% of its membership, with, inter alia, the following findings:

- no State expressed the view that the guidelines inadequately or unduly protected the rights of seafarers, or were unfair to other parties;
- some States had already passed either all or some of the principles of the guidelines into their laws;
- some States replied that their existing laws already adequately protected the rights of seafarers;
- some States indicated that model legislation from IMO would assist them to pass the guidelines into their law; and
- some States specifically requested the provision of information by IMO regarding the meaning of the guidelines.

4.4 The Committee expressed the following views:

- it would be helpful if States that had not yet answered the survey would do so or provide information in some other form convenient to them, and if the sponsors of the survey could undertake to further analyse the responses and to report that analysis to the next session of the Committee for its consideration;
- different elements of the guidelines affected various Government departments, and the IMO Integrated Technical Cooperation Programme (ITCP) might be able to assist with resolving problems in that respect; and
- the availability of more literature would help the implementation of the guidelines.

4.5 The representative of the Islamic Republic of Iran stated that Assembly resolution A.1090(28), submitted by his Government, on the *Fair treatment of crew members in respect of shore leave and access to shore-side facilities* was a major step forward, and that such leave was recognized as a right of seafarers and not just a privilege. It was hoped that the principles in the resolution would be incorporated into the FAL Convention.

4.6 The Committee noted a statement by the delegation of Libya that seafarers involved in the incident of the tanker **Morning Glory** had been treated fairly by the Libyan authorities and that the investigation had taken place in the presence of a lawyer and an interpreter, with no coercion or intimidation. The seafarers had all later been released, given back their belongings and handed over to their respective embassies.

4.7 The Committee thanked the sponsors of the survey for their submission and for their funding of the work and suggested the need for further analysis of the responses. The Committee also stressed the potential for the ITCP to assist States with the implementation of the guidelines.

5 PIRACY

5.1 The Secretariat introduced documents LEG 101/5 and LEG 101/INF.2 reporting on the outcome of Working Group 2 (WG2) which had met in Djibouti as part of the fifteenth plenary session of the Contact Group on Piracy off the Coast of Somalia (CGPCS), between 10 and 14 November 2013.

5.2 The Committee noted the outcome of the discussions emanating from WG2, in particular the briefing provided to the members of WG2 by members of the Somali Contact Group on Counter-Piracy, also known as the "Kampala Process".

5.3 With regard to the outcome of WG2, the Committee noted in particular:

- the briefing provided to WG2 by members of the Kampala Process, in particular the development of a three-year training plan to assist Somali legal capacity building in relation to maritime crime and the development of a draft law for the establishment of a coastguard/maritime police, copies of which are attached as annexes to document LEG 101/INF.2;
- the legal aspects of the use of privately contracted armed security personnel (PCASP), and guidelines for private maritime security companies providing armed security personnel on board ships;
- the continuing infrastructure, training and mentoring focus of UNODC prisons and corrections work in Somalia;
- the disposal of seized pirate equipment and compensation issues involved; and
- detention and human rights aspects in the counter-piracy context.

5.4 The Committee noted that at the CGPCS Strategy Meeting held in Paris in January 2014, it had been decided that WG2 had successfully achieved all its aims and that, as a result, it would convene only on an ad hoc basis. The Committee also noted that the group would be renamed "Legal Forum of the CGPCS" and would be preserved as a virtual forum of legal experts to provide legal support to other working groups as requested.

5.5 The Committee expressed the following views:

- piracy continued to be an important international problem and there should be general support for IMO action in that regard;
- IMO should be involved in the work carried out within the framework of the Legal Forum of the CGPCS;
- in the light of escalating acts of piracy off the coast of Somalia, military presence in the region continued to be justified; and
- IMO was the proper forum to address the needs of the shipping industry in respect of guidance and recommendations on the issue of armed guards on board ships.

5.6 The Committee took note of the information submitted by the Secretariat.

6 MATTERS ARISING FROM THE 110TH AND 111TH REGULAR AND 27TH EXTRAORDINARY SESSIONS OF THE COUNCIL AND THE 28TH SESSION OF THE ASSEMBLY

6.1 The Secretariat introduced document LEG 101/6 on the decisions and conclusions of the 110th and 111th regular sessions of the Council, the twenty-seventh extraordinary session of the Council and the twenty-eighth regular session of the Assembly.

6.2 One delegation noted that the Council, at its twenty-seventh extraordinary session, had reiterated the need to maintain strict discipline regarding unplanned outputs at all levels, and reminded the committees, including the Legal Committee, that before any work was undertaken during a biennium, an appropriate output should be formulated and included in the High-level Action Plan.

6.3 The delegation also noted that resolution A.1062(28) requested all committees to review and revise the guidelines for the organization and method of their work, taking into account the Strategic Plan and the High-level Action Plan, where it was stated that an agenda should list the planned outputs to be considered by a specific meeting and that the application of the Guidelines on work was a strict requirement for all IMO organs.

6.4 The Committee took note of the information submitted by the Secretariat, as well as the intervention reported in paragraphs 6.2 and 6.3.

7 TECHNICAL COOPERATION ACTIVITIES RELATED TO MARITIME LEGISLATION

7.1 The representative of the Technical Cooperation Division (TCD) introduced document LEG 101/7, reviewing technical cooperation activities on maritime legislation from January to December 2013.

7.2 In so doing, he informed the Committee that:

- the Secretariat was currently implementing the ITCP for 2014-2015. At the request of many developing countries, TCD had increased the number of activities aimed at assisting Member States in drafting, updating and bringing into force primary and secondary maritime legislation in matters related to the implementation of all IMO instruments;
- in line with the 2014 World Maritime Day theme, several technical cooperation activities were planned in the ITCP for the benefit of developing countries, advising them on the legal (domestic and international) implications of acceptance of IMO conventions and the enactment of IMO codes and guidelines. The expected output was an increased number of acceptances of IMO instruments and systematic and consistent implementation of their provisions;
- to implement the above-mentioned activities, TCD saw a need to secure more experts on legal matters in the IMO roster for technical cooperation. The Secretariat had been exploring ways with the International Maritime Law Institute (IMLI) to make full use of IMLI graduates for IMO technical assistance activities;
- legal experts attending the current session were invited to put forward an online application for inclusion in the IMO roster to provide support for IMO capacity-building efforts in the legal field;

- at TC 63 there had been overwhelming support for the continuing development of country maritime profiles, which were intended to provide the basis for the development of the ITCP during future biennia. Currently, 59 IMO Member States had completed or partly completed their country maritime profiles, which were available as a module in GISIS on the IMO secure access website;
- the GISIS module had been developed by the Secretariat to enable countries (authorized users only) to input their data directly and provide storage for data, as well as to use it as a vehicle for retrieval and analysis of stored data. Each Member State had access only to its own country maritime profile;
- the Secretariat urged those Member States that had not yet done so to make the necessary effort and provide the required data, and to keep their country maritime profiles updated; and
- in order to facilitate the development of domestic maritime policies, a short guide had been prepared by the Secretariat incorporating the key elements and common issues of a typical domestic maritime policy. It was anticipated that, over the next several ITCP biennia, more technical advisory consultancies would be fielded to developing countries in need of assistance in the formulation of their domestic maritime policies.

7.3 Some delegations recalled that a number of States had applied for and received technical assistance. It was recognized and emphasized that IMO should be in a position to provide technical assistance to all Member States that required such assistance, and not only to developing States, SIDS and LDCs.

7.4 Ms. Gabriele Goettsche-Wanli, Director, Division for Ocean Affairs and the Law of the Sea (DOALOS), Office of Legal Affairs, United Nations, made a statement regarding the technical cooperation activities of DOALOS related to maritime legislation, and the importance of international and inter-agency cooperation in relation to such activities. The full text of this statement is attached in annex 5 to this report.

IMO International Maritime Law Institute

7.5 The Director of IMLI introduced document LEG 101/7/1, providing a preliminary report on IMLI activities in 2013 including information on the forthcoming publication of the IMLI Manual on International Maritime Law, and document LEG 101/INF.3, providing a list of dissertations and maritime legislation drafting projects undertaken by its students in the 2012-2013 academic year and an interim list of students' dissertations and maritime legislation projects for the LL.M. programme for the academic year 2013-2014.

7.6 The Director of IMLI informed the Committee that:

- in April 2013, 34 students had been awarded the LL.M. Degree in International Maritime Law, and that by the end of the academic year 2013-2014, a total of 683 students from 130 States and territories worldwide would have undergone studies in all IMLI programmes and courses;
- in the academic year 2013-2014, 33 students were pursuing studies under the LL.M. programme; and

- IMLI, with the general assistance of the Nippon Foundation, was currently producing the IMLI Manual on International Maritime Law. The manual would be published by the Oxford University Press and would adopt an all-encompassing approach to international maritime law, comprising the law of the sea, shipping law, marine environment law and maritime security law.

7.7 The Committee expressed its appreciation to the Institute and to the Director for the introduction and for its contribution to the development of international maritime law.

7.8 The Committee noted the IMLI activities in 2013, as well as the list of dissertations and maritime drafting projects, which had been issued as an information paper in order to save resources as agreed at its 100th session.

7.9 The Committee expressed its warmest congratulations to IMLI on its twenty-fifth anniversary.

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

8.1 The Secretariat introduced documents LEG 101/8 and LEG 101/WP.2, containing information on the status of conventions and other treaty instruments emanating from the Legal Committee.

8.2 The Committee noted that the annex to document LEG 101/8 provided updated status information, to 21 February 2014, on the developments that had occurred since the Committee's last review in February 2013, and that the information had been further updated to 25 April 2014 in document LEG 101/WP.2.

8.3 The Secretariat then introduced document LEG 101/8/1, inviting the Committee to consider a number of IMO conventions that had yet to come into force and, in light of the 2014 theme for World Maritime Day, "IMO conventions: effective implementation", inviting the Committee also to identify and address obstacles that may hinder progress towards widespread and effective implementation of measures already agreed or in place.

8.4 The Committee noted the entry into force, on 23 April 2014, of the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974. The Committee also noted that the Nairobi International Convention on the Removal of Wrecks, 2007, had met its entry-into-force requirement with the ratification by Denmark on 14 April 2014 and that the Convention would enter into force on 14 April 2015.

8.5 The Secretariat drew attention to a number of treaty instruments and the correct ratification process for each. The Secretariat reminded Governments intending to ratify the 2002 Athens Protocol to consider making the reservation adopted at the Committee's ninety-second session in 2006 and that, upon ratification, Governments must denounce the 1974 Athens Convention, the 1976 Athens Protocol and the 1990 Athens Protocol, if parties thereto.

8.6 The Secretariat invited the Committee to discuss a number of issues relating to the effective implementation of treaty instruments, in particular barriers at the national level where domestic implementing legislation was required, the significance of uniformity of implementation, and the scope for the Organization as a whole and/or the ITCP to assist and support Governments in the implementation process.

8.7 Several delegations provided updates on progress with regard to the ratification and implementation of IMO instruments.

8.8 The delegation of Greece informed the Committee that during the course of 2013, Greece had concluded the process of ratifying the 2005 SUA Protocols and the 2002 Athens Protocol and that the relevant instruments had been deposited with the Secretariat.

8.9 The delegation of Denmark informed the Committee of its deposit, on 14 April 2014, of an instrument of ratification of the 2007 Nairobi Wreck Removal Convention, thereby effecting its entry into force on 14 April 2015. The Government of Denmark was also working towards the ratification of the SUA 2005 Protocols and the 2010 HNS Convention.

8.10 The delegation of France informed the Committee of its Government's progress towards ratification of the 2002 Athens Protocol, the 2007 Nairobi Wreck Removal Convention and the 2009 Hong Kong Convention.

8.11 The delegation of Sweden informed the Committee that its Government expected to be in a position to ratify the 2005 SUA Protocols in summer 2014. A bill regarding the 2010 HNS Convention would be presented to Parliament later in 2014 or in early 2015. A bill to be presented to Parliament regarding the 2007 Nairobi Wreck Removal Convention was expected to be completed in 2015.

8.12 The delegation of the Netherlands informed the Committee that with regard to the 2007 Nairobi Wreck Removal Convention, legislation was currently going through Parliament and ratification was expected by the end of 2014. Concerning the 2009 Hong Kong Convention, the Netherlands was in the process of implementing its provisions and ratification would take at least one more year. The 2012 Cape Town Agreement was already in domestic legislation and the relevant instrument of ratification was expected to be deposited with the Secretariat shortly.

8.13 The delegation of Argentina informed the Committee that the Senate had approved the 2004 Ballast Water Management Convention, which was undergoing the final stages of ratification.

8.14 The delegation of Finland informed the Committee that progress had been made towards ratification of the 2004 Ballast Water Management Convention, the 2010 HNS Convention and the 2007 Nairobi Wreck Removal Convention.

8.15 The delegation of Belgium informed the Committee on the progress towards ratification and implementation of the 2007 Nairobi Wreck Removal Convention, the 2004 Ballast Water Management Convention, the 2009 Hong Kong Convention, the 2012 Cape Town Agreement and the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995. With regard to the 2010 HNS Convention, some difficulties had been encountered during the implementation process and Belgium would welcome the outcome of the HNS Correspondence Group to assist its progress towards ratification of the Convention.

8.16 The delegation of South Africa informed the Committee that it was awaiting parliamentary approval for both the 2007 Nairobi Wreck Removal Convention and the 2010 HNS Convention.

8.17 The delegation of the Philippines informed the Committee that its Government was receiving technical assistance for the immediate implementation and ratification of the 2004 Ballast Water Management Convention. Priority was also being given to the ratification of the 2009 Hong Kong Convention, the 2001 Anti-Fouling Convention and the 1997 Protocol to MARPOL 73/78.

8.18 The delegation of Indonesia informed the Committee that its Government was prioritizing ratification of the 2001 Bunkers Convention and the 2001 Anti-Fouling Convention. Indonesia was also beginning to consider ratification of the 2004 Ballast Water Management Convention.

8.19 The delegation of New Zealand reported on its recent deposit of instruments of ratification of the 1973 Intervention Protocol, the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976, and the 2001 Bunkers Convention.

8.20 The representative of UNODC introduced documents LEG 101/8/2 and LEG 101/INF.4, providing information on and presenting a draft of the Counter-Terrorism Legal Training Curriculum, Module 5, prepared by UNODC in cooperation with ICAO and IMO aimed at effective implementation of the SUA treaties.

8.21 The Committee noted the information provided, in particular that the main purpose of the module was to assist Governments and policymakers as well as practitioners in identifying, understanding and effectively implementing international legal instruments into domestic legislation.

8.22 The representative of the International Group of P&I Clubs introduced document LEG 101/8/3 inviting the Committee to consider insurance ramifications for vessels registered in States that had ratified or would ratify the 2002 Athens Protocol but had not deposited the 2006 reservation.

8.23 One delegation stated that the 1974 Athens Convention and its 2002 Protocol was incorporated into EU law and all EU Member States fully supported and effectively implemented the 2002 Protocol, and issued certificates in accordance with the requirements of article 4*bis*. Certificates issued by an EU Member State attesting that insurance or other financial security was in place were in full compliance with article 4*bis* and all States parties to the Protocol were strongly encouraged to accept them. With regard to the 2006 reservation and guidelines endorsed by resolution A.988(24), the delegation noted that the reservation was binding in the EU. The delegation supported the proposal by P&I Clubs, the International Chamber of Shipping (ICS) and Cruise Lines International Association (CLIA), urging States to make that reservation when depositing their instruments of ratification of the 2002 Athens Protocol. The views expressed were shared by other delegations.

8.24 The Committee noted that the reservation had been developed and agreed with the express intention of facilitating entry into force of the 2002 Athens Protocol, and urged States to include the 2006 reservation when depositing their instruments of ratification to ensure its uniform application and allow operators of passenger ships to obtain the necessary insurance cover and certification to trade.

8.25 The representative of the International Group of P&I Clubs introduced document LEG 101/8/4, inviting the Committee to comment on the scope of application of the 2007 Nairobi Wreck Removal Convention and reminding Contracting States that if they did not extend the scope of the Convention to their territory, including the territorial sea, in accordance with article 3.2 they would be unable to rely on the insurance certificates for

incidents occurring outside the Convention area defined in article 1.1, and the affected State would not be able to bring direct action claims against the insurer pursuant to article 12.

8.26 One delegation recalled that it had argued against the opt-in provision during the Conference and expressed the view that there were fundamental differences between the EEZ in which the coastal State enjoyed jurisdiction and the territorial sea in which the coastal State enjoyed sovereignty. In the case of an accident, different agencies would be involved depending on whether the accident took place in the EEZ or in the territorial sea. The delegation emphasized that the opt-in provision was voluntary.

8.27 The Committee noted the implications of not extending the 2007 Nairobi Wreck Removal Convention within the territory, including the territorial sea, with regard to insurance certification and encouraged States to apply the Convention within their territory, including their territorial sea.

8.28 The Committee also encouraged Member States that had acceded to the 2007 Nairobi Wreck Removal Convention but had not notified IMO of their intention to apply its provisions in their territory, including the territorial sea, to do so before the Convention entered into force.

8.29 The representative of CMI introduced document LEG 101/8/5 on the joint initiative by CMI and ICS towards encouraging Governments to ratify maritime conventions and implement them in an effective manner.

8.30 The Committee welcomed the joint initiative and the contribution that might be made towards that long-term project.

8.31 The Committee, while expressing support for all efforts aimed at the ratification and implementation of the IMO instruments, noted that it was a sovereign right of all States to decide whether to ratify a treaty instrument.

8.32 The Committee encouraged delegations to work with their respective Governments towards achieving effective and uniform implementation of relevant IMO conventions and to report any barriers to implementation to the Legal Committee for advice and guidance. The Committee also suggested that delegations should take action under the 2014 World Maritime Day theme by encouraging their respective Governments to work towards ratification of all relevant conventions, and in particular the 2010 HNS Convention.

9 WORK PROGRAMME

(a) Report on the status of planned outputs for the current biennium (2014-2015)

9.1 The Committee recalled that the Council, at its 110th session, had endorsed the Committee's decisions on proposals on planned outputs for the 2014-2015 biennium and the Committee's decision that two meeting weeks be allocated for the 2014-2015 biennium.

9.2 The Committee further recalled that the Council, at its twenty-seventh extraordinary session, had considered document C/ES.27/3 on the report of the thirteenth session of the Ad Hoc Working Group on the Organization's Strategic Plan (CWGSP 13) and had requested the Committee to observe strict discipline regarding unplanned outputs at all levels. Moreover, before any work was undertaken during a biennium, an appropriate output should be formulated and included in the High-level Action Plan (HLAP) of the Organization, in accordance with the relevant procedures, it being understood that minor corrections and/or issues could continue to be considered by the committees under the agenda item "Any other business".

9.3 The Secretariat introduced document LEG 101/9 and reminded the Committee that in accordance with paragraph 9.1 of the *Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization* (resolution A.1062(28)), the reports on the status of the planned outputs included in the HLAP should be prepared and annexed to the report of each session of the Sub-Committees and Committees, and to the biennial report of the Council to the Assembly. Such reports should separately identify unplanned outputs accepted for inclusion in the biennial agendas.

9.4 The Committee was also reminded that pursuant to the HLAP, the Assembly had requested the Legal Committee, when reporting to the Assembly at future sessions, to ensure that it reported any progress towards fulfilling the Organization's aims and objectives using the framework of the strategic directions, high-level actions and planned biennial outputs in the approved HLAP, in particular table 2 on high-level actions and related planned outputs, in full observance of the guidelines contained in resolution A.1062(28).

9.5 The Secretariat had prepared a draft report on the status of planned outputs for the current biennium (2014-2015), annexed to document LEG 101/9. The Council, at its 109th regular session, had endorsed the trial for using modified reporting formats; all planned outputs related to the Legal Committee were therefore presented in the annex. Planned outputs for which the Committee was not the coordinating organ were also included. In particular, the Committee was invited to consider deleting the square brackets in the column entitled "Status of output for Year 1" of the present biennium.

9.6 One delegation expressed the view that the draft report on the status of planned outputs as prepared by the Secretariat was a good initiative which could also be introduced in the other committees and sub-committees. The delegation further proposed to delete planned output 6.1.2.1 as that matter was covered under planned output 2.0.1.4.

9.7 The Committee agreed with the proposal to delete planned output 6.1.2.1 since it could also be covered under planned output 2.0.1.4. The Committee further agreed to report planned output 2.0.1.4 as "in progress", while changing the target completion year to 2015.

9.8 The Committee agreed to its report on the status of planned outputs for the current biennium, attached as annex 3 to this report, for submission to the Council.

(b) Items for inclusion in the agenda for LEG 102

9.9 The Committee approved the list of substantive items for inclusion in the agenda for its 102nd session, as contained in document LEG 101/WP.3 and attached as annex 4 to this report. In view of the present workload, the Committee agreed that the next session should be held over three meeting days and possibly in conjunction with another meeting. One delegation stressed that the Legal Committee should consider legal issues arising in other committees.

10 ELECTION OF OFFICERS

(a) Election of the Chairman

10.1 The Committee re-elected, by acclamation, Mr. Kofi Mbiah (Ghana) as Chairman for 2015.

(b) Election of the Vice-Chairman

10.2 The Committee re-elected, by acclamation, Mr. Walter de Sá Leitão (Brazil) as Vice-Chairman for 2015.

11 ANY OTHER BUSINESS**(i) Liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities**

11.1 The Committee recalled its decision, at its ninety-ninth session, to analyse further the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil and exploration activities. The aim was to develop guidance to assist States interested in pursuing bilateral or regional arrangements, without, however, revising strategic direction 7.2. That decision had been duly noted by the Council at its 108th session.

11.2 The Committee, at its 100th session, had expressed general support for increased cooperation between States on the subject, as well as for further work by the Committee. It was suggested that Indonesia should pursue the subject intersessionally and that more States should participate in such work. In particular, Member States were invited to send examples of existing bilateral and regional agreements to the Secretariat.

11.3 The Secretariat introduced document LEG 101/11, referring to relevant developments relating to liability and compensation issues concerning transboundary pollution damage from offshore oil exploration and exploitation activities following the discussion of the subject at the previous session of the Committee. For ease of reference, a summary list of instruments on liability and compensation for oil pollution damage from offshore activities, attached to document LEG 98/13, was provided in the annex to document LEG 101/11. To date, the Secretariat had not received any further examples of bilateral and regional agreements.

11.4 The delegation of Indonesia informed the Committee that it had withdrawn its document LEG 101/11/1 and would instead like to make a statement, attached in annex 5 to this report. The Committee was informed that Indonesia remained committed to this issue and ready to participate in further work. The delegation requested the Committee to remain seized of the issue.

11.5 All delegations that took the floor shared the concerns raised by the delegation of Indonesia that transboundary oil pollution damage from offshore exploration and exploitation activities remained a threat to the marine environment and ecosystems, and that the matter needed to be addressed. The Committee noted that since the previous session no examples of existing bilateral and multilateral agreements had been submitted to the Secretariat.

11.6 Among the views expressed were the following:

- in line with the decisions of the previous session of the Committee, a further request should be made for Member States to provide the Secretariat with examples of any other existing bilateral and multilateral agreements; and
- efficient and effective exchange of information could be beneficial in providing examples of best practice and raising new issues related to the consequences of transboundary oil pollution, thereby assisting coastal communities to anticipate potential difficulties and explore alternative liability and compensation regimes tailored to their specific needs.

11.7 One delegation stated that it supported capacity building for regional cooperation and offered to submit an example of an existing domestic liability arrangement to the delegation of Indonesia and the Secretariat.

11.8 The observer delegation of CMI informed the Committee that it had sent out a questionnaire to all its affiliated national maritime law associations to ascertain which States were parties to international, regional or bilateral agreements regarding transboundary pollution. The questionnaire also requested details of domestic legislation on liability and compensation from exploration and exploitation of offshore oil and gas. To date, replies had been received from 20 States. The observer delegation stated that the issue would be discussed at the CMI conference in Hamburg in June 2014. The observer delegation also drew the attention of the Committee to a study issued in February 2014 by the Institute for Sustainable Development and International Relations (IDDRI) entitled "Seeing beyond the horizon for deepwater oil and gas: strengthening the international regulation of offshore exploration and exploitation".

11.9 Following the discussion, the Committee expressed its appreciation to Indonesia and the Secretariat for their contributions and recommended that Member States, with the assistance of the Secretariat, should provide guidance, taking into account the comments made by the Committee. The Committee reminded Member States to send examples of existing bilateral and regional agreements to the Secretariat, and encouraged Member States and observer delegations to cooperate intersessionally and to lend their expertise.

11.10 The Committee further expressed its appreciation to Indonesia and Denmark for the information that they stood ready to co-chair the intersessional consultative group to develop guidance on bilateral and/or regional agreements or arrangements.

(ii) Advice and guidance on issues brought to the Legal Committee in connection with the implementation of IMO instruments; consideration of a proposal to extend the scope of the Guidelines for accepting documentation from insurance companies, financial security providers and P&I Clubs, adopted in respect of the Bunkers Convention, to CLC, HNS Convention and Nairobi WRC certificates

11.11 The Committee recalled that, at its previous session, two delegations had announced their intention to submit a proposal at LEG 101 to extend the *Guidelines for accepting documentation from insurance companies, financial security providers and P&I Clubs*, adopted in respect of the Bunkers Convention (Circular Letter No.3145), to CLC and HNS Convention certificates.

11.12 The delegation of Denmark on behalf of the co-sponsors introduced document LEG 101/11/2, containing a proposal to extend the scope of the existing Guidelines to CLC, HNS Convention and Nairobi WRC Certificates. The Committee noted that the issue related to the procedure for accepting certificates from P&I clubs, clubs outside the International Group of P&I Associations and insurance companies. During the implementation process of the 2001 Bunkers Convention, it had been discovered that States parties to the Convention had had different standards for accepting adequate documentation to fulfil the requirements of the Convention. A blue card issued by a P&I club was generally accepted by States with no further requirements.

11.13 The Committee noted that the existing Guidelines provide common criteria for States parties when considering the financial standing of insurance companies, other financial providers and P&I clubs outside the International Group. Those criteria could also apply in relation to CLC, HNS Convention and Nairobi WRC Certificates.

11.14 One delegation, while endorsing the extension of the scope of the Guidelines to all the conventions, recommended that the Guidelines should be reconsidered in light of their practical application. Some issues were not completely identified, such as due diligence and solvability, and the Guidelines should reflect all aspects when a specific certificate had to be issued under a specific convention. Furthermore, the delegation was uncertain what form the

guarantees referred to in paragraph 2(iv) of the guidelines might take. Approval by an insurer should consist of verifying that it acknowledged all commitments undertaken in issuing a blue card in relation to a convention, and that it understood that exceptions and restrictions to an insurance policy were not permitted in respect of third parties.

11.15 The observer delegation of the International Group of P&I Associations informed the Committee that their group members fully supported the extension of the Guidelines to the other liability and compensation regimes. The observer delegation also stated that it had already made reference to the existing Guidelines when advising administrations on regimes other than the 2001 Bunkers Convention. It would be a very good idea to keep the Guidelines under review.

11.16 Following the discussion, the Committee was in agreement with the proposal contained in document LEG 101/11/2 and its annex. The Committee approved the draft guidelines in the annex to the document. The Committee also decided that the guidelines would be disseminated by means of a circular letter and posted on the IMO website.

(iii) Information on the entry into force of the ILO Maritime Labour Convention, 2006 (MLC 2006), and an update on the proposed amendments to MLC 2006 to implement the recommendations of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, which were adopted in March 2009

11.17 The representative of ILO, Ms. Cleopatra Doumbia-Henry, Director, International Labour Standards Department, introduced document LEG 101/11/3, reporting on developments in connection with the entry into force of MLC 2006 on 20 August 2013. In particular, the Committee was informed that MLC 2006 was now in force in 39 countries and that many elements of IMO practice, such as "tacit acceptance", had been adapted. The ILO expected to receive the first 30 reports on domestic implementation from 20 August 2014. These would be considered by the ILO Committee of Experts on the Application of Conventions and Recommendations at its annual meeting in November-December 2014 and, ultimately, the report of the Committee of Experts would be considered by the International Labour Conference in June 2015. These reports would provide an important opportunity to identify specific areas of difficulty or differences in implementation as well as advice or other assistance to countries where necessary.

11.18 The representative of ILO also informed the Committee that the first meeting of the Special Tripartite Committee, held in Geneva from 7 to 11 April 2014, had adopted virtually unanimously amendments to the Code of the Convention to address the issue of financial security for crew members/seafarers and their dependants with regard to compensation in cases of personal injury, death and abandonment. These were based on the recommendations of the joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers adopted in March 2009. The adoption of the amendments was a good moment for the international maritime sector and demonstrated its cohesiveness and uniqueness. Full credit was given to the work of the joint IMO/ILO Working Group begun in the late 1990s. The adopted amendments would be transmitted for approval by the International Labour Conference in June 2014 and, if approved, would be referred to ILO members that had ratified the Convention for their consideration.

11.19 The Committee was also informed that the ILO continued to deliver a number of activities to promote widespread ratification and effective implementation of the Convention. The ILO International Training Centre in Turin would hold a one-week workshop from 16 to 20 June 2014 on legal implementation for legal counsels or others involved in domestic implementation of the Convention including completing the country report, and from

23 June to 4 July a two-week workshop for personnel involved in the inspection systems in flag and port States for the MLC 2006. The ILO, with the support of the Government of Sweden, might be able to provide some fellowships to assist with participation in these workshops, in particular the legal workshop.

11.20 The delegation of Tunisia informed the Committee that the Ministry of Transport had submitted to the Parliament a draft law on accession to MLC 2006. A tripartite working group consisting of Government representatives, shipowners and seafarers was working on the harmonization of domestic legislation with the provisions of the MLC 2006.

11.21 The delegation of Argentina informed the Committee that in November 2013 its Government had passed legislation approving accession to the MLC 2006 and that it was in the process of depositing the instrument of ratification.

11.22 The delegation of the Islamic Republic of Iran, while expressing its appreciation to the ILO for submitting document LEG 101/11/3, stated that its seafarers had encountered unfair treatment in some ports, and that it had therefore always been supportive of all efforts and initiatives taken by international organizations, in particular the ILO and IMO. Furthermore, the delegation stated that its Parliament had agreed to accede to MLC 2006, that the relevant authority was working on setting up the procedures for implementation of the Convention and that the deposit of the instrument of accession with ILO was in progress.

11.23 The Committee noted with satisfaction the entry into force, on 20 August 2013, of the ILO Maritime Labour Convention, 2006, and the adoption of the amendments relating to provision of financial security for abandonment, personal injury to and death of seafarers, and urged those Member States that had not already done so to consider ratification of the Maritime Labour Convention, 2006, at their earliest convenience.

(iv) Advice and guidance on issues brought to the Legal Committee in connection with the implementation of IMO instruments; places of refuge for ships in need of assistance

11.24 The observer delegation of ICS introduced document LEG 101/11/4, submitted by ICS, the International Group of P&I Clubs, the International Union of Marine Insurance (IUMI) and the International Salvage Union (ISU). The Committee was informed that a ship would request a place of refuge only if it was in distress or in need of assistance and that early and decisive intervention would minimize the risk of structural deterioration and mitigate the threat of pollution from the ship's cargo and bunkers. The statement by the observer delegation is attached in annex 5 to this report.

11.25 One delegation, with a view to raising awareness on the issue of places of refuge, informed the Committee of developments regarding the incident of the explosion and fire on the **MS Flaminia** in 2012. The ship had eventually found a place of refuge in Wilhelmshaven (Germany) after two months. In the aftermath of the incident, it had been concluded that the existing *Guidelines on maritime assistance service (MAS)* must be fully implemented.

11.26 Another delegation commented that the subject of places of refuge had undoubtedly been important and that the *Guidelines on places of refuge for ships in need of assistance* should be given due regard when coastal States were requested to provide a place of refuge to a ship in distress or in need of assistance. Referring to paragraph 3.12 of the Guidelines, the delegation reminded the Committee that there was no obligation for the coastal State to grant a place of refuge when requested: the coastal State would make a final decision after weighing all the factors and risks in a balanced manner on a case-by-case basis. For the promotion of access to places of refuge, the delegation considered that close cooperation

among all stakeholders was necessary. Enhancing the implementation of all the existing conventions on liability and compensation would assist the coastal State to grant access to places of refuge.

11.27 The Committee was also reminded that a place of refuge for a ship in need of assistance was not an absolute right under customary international law, and that a case of a ship entering a port in the event of force majeure was different from that of a ship in need of assistance being granted a place of refuge.

11.28 During the debate the Committee was informed by the observer delegation of IUMI that the delay in gaining access to safe places of refuge had created a large increase in the monetary quantum of salvage awards.

11.29 The observer delegation of BIMCO, in support of document LEG 101/11/4, emphasized that an efficient solution was needed to safeguard human life and referred to the recent events with the **Maritime Maisie**. Due regard had to be given to the *Guidelines on places of refuge for ships in need of assistance*. The observer delegation also underlined the importance of the 2007 Nairobi Wreck Removal Convention in this respect.

11.30 The observer delegation of the ISU took the view that States should establish a single point of contact to manage requests and to assess each case on its merits and free of any political interference. The assumption should be that a place of refuge would be granted and that there should be "no rejection without inspection". The observer delegation recommended that coastal States should adopt simple, robust, "single point" command and control models akin to that of the United Kingdom and in line with the requirements of the existing guidelines and legislation.

11.31 The observer delegation of CMI stated that it was apparent that the *Guidelines on places of refuge for ships in need of assistance* were not working as intended for shipowners and their insurers. The observer delegation reminded the Committee that it had submitted a draft convention on places of refuge at LEG 91. The draft had sought to strike a balance between shipowners' reasonable expectations of being granted access and the rights of coastal States to refuse access where they calculated that the risks were too great. In view of the incidents involving the **Prestige**, **Castor** and **Maritime Maisie**, the Committee might need to reconsider the need for imposing an obligation, including reservations, to grant access.

11.32 The Committee concluded that the issue of places of refuge was relevant in the context of the existing framework of international conventions, including the 1992 CLC, the 2001 Bunkers Convention, the 2010 HNS Convention and the 2007 Nairobi Wreck Removal Convention. The ratification and effective implementation of those conventions, along with the 1992 Fund Convention and the 2003 Supplementary Fund Protocol in respect of oil pollution damage, would bring into effect the provisions concerning liability and compensation for pollution prevention measures, clean-up operations and wreck removal, including when damage or losses occurred following a State's decision to grant a ship a place of refuge.

11.33 The delegation of Hong Kong, China, expressed thanks to the Republic of Korea for granting a place of refuge to the **Maritime Maisie**, registered to Hong Kong, China.

EXPRESSIONS OF CONDOLENCE

11.34 All delegations that spoke expressed sincere condolences to the Government of the Republic of Korea and the families of those who had lost their lives in the tragic accident that had taken place on 16 April 2014, when the ferry **Sewol** had sunk off the coast of the Republic of Korea. The Committee as a whole expressed heartfelt condolences to all those affected by the accident.

SPECIAL EVENT TO COMMEMORATE THE TWENTY-FIFTH ANNIVERSARY OF THE FOUNDING OF THE INTERNATIONAL MARITIME LAW INSTITUTE (IMLI)

11.35 Celebrations to commemorate the twenty-fifth anniversary of the founding of IMLI took place in the afternoon of 28 April 2014 at the IMO Headquarters. Speeches during the event were delivered by eminent speakers, including Professor David Attard, Director, IMLI; the Honourable Joe Mizzi, MP, Minister for Transport and Infrastructure of Malta; Mr. Mitsuyuki Unno, Executive Director, Nippon Foundation; Mr. Jim Harrison, Group Legal Director, Lloyd's Register Group; Dr. Kofi Mbiah, Chief Executive Officer, Ghana Shippers' Authority, and current Chairman, Legal Committee; Professor Dr. Frank Wiswall, IMLI Governing Board and Vice-President Honoris Causa, Comité Maritime International; and Ms. Gabriele Goettsche-Wanli, Director, Division for Oceans Affairs and the Law of the Sea, Office of Legal Affairs, United Nations. The presentations offered an insight into the many different dimensions of what had become a world-class academic institution as well as its past achievements, present challenges and increasingly influential role in developing countries. The event was hosted by Mr. Koji Sekimizu, IMO Secretary-General and Chairman of the IMLI Governing Board, who made the opening and closing remarks.

ANNEX 1

AGENDA FOR THE ONE HUNDRED AND FIRST 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 Fair treatment of seafarers in the event of a maritime accident
- 5 Piracy
- 6 Matters arising from the 110th and 111th regular and twenty-seventh extraordinary sessions of the Council and the twenty-eighth session of the Assembly
- 7 Technical cooperation activities related to maritime legislation
- 8 Review of the status of conventions and other treaty instruments emanating from the Legal Committee
- 9 Work programme
- 10 Election of officers
- 11 Any other business
- 12 Consideration of the report of the Committee on its 101st session

ANNEX 2

HNS CORRESPONDENCE GROUP

TERMS OF REFERENCE

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

1. to provide a forum for an exchange of views concerning HNS implementation issues and to monitor and inform the implementation process in States;
2. to provide – with a view to encouraging early entry into force of the 2010 HNS Convention at a global level, and for the benefit of both potential States parties and affected industries seeking a coordinated approach to ratification, accession or acceptance – guidance and assistance on issues regarding the implementation and operation of the Convention such as, but not limited, to:
 - (a) the collection of information on contributing cargo, the development of appropriate reporting and verification systems, and the contribution system in accordance with the *Guidelines on reporting of HNS contributing cargo*;
 - (b) the acceptability of insurance or other financial security for the purpose of article 12 of the 2010 HNS Convention;
 - (c) assisting the IOPC Fund 1992 with the development of the various documents and decisions required for the first sessions of the HNS Assembly, in accordance with resolution 1 on setting up the HNS Fund agreed to at the international conference that adopted the 2010 HNS Protocol; and
3. to report to the Legal Committee at its next session.

ANNEX 3

BIENNIAL STATUS REPORT 2014-2015

Legal Committee (LEG)								
Planned output number	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated 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	Annual	Assembly	Council	MSC / MEPC / FAL / LEG / TCC	Postponed		
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	Annual	Assembly	Council	MSC / MEPC / FAL / LEG / TCC	Postponed		
1.3.1.1	Advice and guidance on issues under the United Nations Law of the Sea Convention relevant to the role of the Organization	Annual	LEG			Postponed		
2.0.1.4	Strategies developed to facilitate entry into force of the HNS Protocol and harmonized interpretation	2015	LEG			In progress		

Legal Committee (LEG)								
Planned output number	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
2.0.1.5	Provide advice and guidance on issues brought to the Committee in connection with implementation of IMO instruments	Annual	LEG			Postponed		
2.0.2.1	Analysis of consolidated audit summary reports	2015	Assembly	Council	MSC / MEPC / LEG / III	No work requested by parent organ		
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 by parent organ		
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 by parent organ		
3.5.1.2	Input to the ITCP on emerging issues relating to sustainable development and achievement of the MDGs	2015	TCC		MSC / MEPC / FAL / LEG	No work requested by parent organ		
4.0.1.3	Endorsed proposals for unplanned outputs for the 2014-2015 biennium as accepted by the committees	Annual	Council		MSC / MEPC / FAL / LEG / TCC	No work requested by parent organ		

Legal Committee (LEG)								
Planned output number	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated 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 by parent organ		
4.0.5.1	Revised Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization ("GAP") and committee guidelines on organization and method of work, as appropriate	2015	Assembly	Council	MSC / MEPC / FAL / LEG / TCC	Postponed		
6.1.2.1	Provide advice and guidance in connection with implementation of SUA 1988/2005	Annual	LEG			Completed		
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 by parent organ		
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			Postponed		

Legal Committee (LEG)								
Planned output number	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
8.0.3.1	Requirements for access to or electronic versions of certificates and documents, including record books required to be carried on ships	2015	FAL	MSC / MEPC / LEG	III	No work requested by parent organ		

ANNEX 4

ITEMS TO BE INCLUDED IN THE AGENDA FOR LEG 102

- Facilitation of the entry into force and harmonized interpretation of the 2010 HNS Protocol
- Fair treatment of seafarers in the event of a maritime accident
- Piracy
- Matters arising from the 112th and 113th regular sessions of the Council
- 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 102nd session

ANNEX 5

STATEMENTS BY DELEGATIONS, REPRESENTATIVES FROM UNITED NATIONS AND SPECIALIZED AGENCIES AND OBSERVERS FROM NON-GOVERNMENTAL ORGANIZATIONS IN CONSULTATIVE STATUS¹

AGENDA ITEM 1

STATEMENT BY THE REPUBLIC OF KOREA

"Distinguished delegates, friends and colleagues at the IMO,

On behalf of the Korean Government and our people, this delegation would like to extend its deep appreciation to all Member States, the Secretary-General and IMO Secretariat for the thoughtful, kind words, sincere condolences and sympathy expressed to the families of the victims and the Korean people with regard to the recent domestic tragic accident, when the ferry **Sewol** sank off the south-west corner of the Korean peninsula.

As a nation we are heartbroken and our people are filled with deep sadness.

While faced with this tragedy, the kind words and support of IMO and international communities have been of some comfort to the Government and the people of Korea.

Our thoughts are with the victims, their families, friends, colleagues and fellow students and we are continuing to do search and rescue activities.

Moreover, this delegation would like to draw attention that this ferry operated only on domestic voyages under domestic rules and, under these difficult circumstances, is not in the opinion, at this stage, to make any reference to the cause of the accident.

Once again, this delegation would like to say "Thank you" for the kind concern shown."

AGENDA ITEM 7

Statement by Ms. Gabriele Goettsche-Wanli Director, Division for Ocean Affairs and the Law of the Sea United Nations Office of Legal Affairs

"Distinguished delegates,

It gives me great pleasure to address the IMO Legal Committee on behalf of the Division for Ocean Affairs and the Law of the Sea (DOALOS), United Nations Office of Legal Affairs, under this agenda item on technical cooperation activities related to maritime legislation.

Effective national legislation in the maritime field is critical not only for the implementation of IMO instruments but also for the implementation of the international legal regime for the oceans, as set out in the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and other related instruments. In this context, the work done by the International Maritime

¹ Statements have been included in this annex in the order in which they were given, sorted by agenda items, and in the language of submission (including translation into any other language if such translation was provided). Statements are available in all the official languages on audio file: <http://docs.imo.org/Meetings/Media.aspx>

Organization, the International Maritime Law Institute and others (as set out in the documents currently before the Committee) in providing technical cooperation related to maritime legislation is of vital importance.

In this context, I would like to take this opportunity to briefly inform delegations regarding the technical cooperation activities of DOALOS related to maritime legislation, as well as to highlight the importance of international and inter-agency cooperation in relation to such technical assistance activities.

The Division, as the Secretariat of UNCLOS, has been mandated by the General Assembly to provide information and advice to States in the uniform and consistent application of the provisions of the Convention, which sets out the legal framework within which all activities in the oceans and seas must be carried out. In this context, the Division provides technical assistance to States, at their request. It also maintains a substantial online database of national legislation on maritime issues on its website, which can serve as an important resource to States. It furthermore manages two fellowship programmes which are aimed at providing multidisciplinary human resource development customized for individuals from developing countries.

In the performance of its functions, the Division cooperates closely with other parts of the United Nations Secretariat, United Nations specialized agencies and international organizations. Such cooperation allows States to benefit from the expertise of various international entities in the areas of their respective competences, and therefore can substantially strengthen the output of technical cooperation activities. The General Assembly, in December 2013, recognized the importance of such cooperation in its resolution 68/70 on oceans and the law of the sea. In paragraph 101 of that resolution, the General Assembly:

"Notes the ongoing cooperation between the International Maritime Organization, the United Nations Office on Drugs and Crime and the Division with respect to the compilation of national legislation on piracy, also notes that copies of national legislation received by the Secretariat have been placed on the website of the Division, and encourages the aforementioned bodies to further cooperate with the view to assisting Member States, upon request, in developing their national laws on piracy."

There have been numerous examples of effective cooperation, including, recently, the collection of national legislation on piracy and the development of guidance on elements of national legislation on piracy which was presented before this Committee. Another example is the participation of DOALOS in the expert group which reviewed the Counter-Terrorism Legal Training Curriculum, Module 5, prepared by the United Nations Office on Drugs and Crime (UNODC), in cooperation with IMO and ICAO on transport-related (civil aviation and maritime) terrorist offences, which will be presented to the Committee later this week.

However, there are possibilities to further enhance cooperation, including with regard to the repression of piracy and maritime security more generally. In this regard, I would like to take this opportunity to emphasize that the Division stands ready to provide its expertise on the uniform and consistent application of provisions of UNCLOS to technical assistance activities which touch upon the interpretation and application of such provisions."

AGENDA ITEM 11

Statement by Indonesia

"Mr. Chairman, Mr. Secretary-General, Excellencies, distinguished delegates, ladies and gentlemen,

My delegation would like to recall that Indonesia, at the ninety-seventh session of the Legal Committee, submitted a proposal for the establishment of the international regime regarding the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities. However, my delegation also noted that there was no common view and consensus from the members of the Committee to further discuss this issue in this particular direction. At the ninety-ninth session, the Committee agreed to analyse these issues further, with the aim of developing guidance to assist States interested in pursuing bilateral or regional arrangements, without revising Strategic Direction 7.2. It is increasingly clear that there is wide support for the Committee to develop guidance or a model agreement to assist States to enter into bilateral or regional agreements, and that the Committee has special expertise in the area of liability and compensation issues. This agreement was further elaborated during the 100th session, as contained in its report which the Committee agreed, as follows:

Firstly, the keyword in providing guidance was collaboration by States and assistance to those States which are in need of guidance for bilateral and multilateral agreements.

Secondly, Member States were invited to send examples of existing bilateral and regional agreements to the Secretariat.

Thirdly, at the same time, the delegation was encouraged to continue its work intersessionally to facilitate further progress within the Committee.

Nevertheless, despite this decision, my delegation witnessed and regretted that there was no progress resulting from, nor follow up by, the members in providing examples of existing bilateral and regional agreements to the Secretariat. We also observed to our great disappointment that there was no wide support from the international community for sharing the common views with us.

In the same vein, my delegation would like to draw the attention of the Committee that the Montara oil spill, which occurred in Australian and Indonesian waters in August 2009, not only severely damaged the marine environment and ecosystem in the area but also created social and economic problems for the people living in the coastal areas in the southern part of the islands of Nusa Tenggara in Indonesia. It is very unfortunate that until present, after almost five years since the incident occurred, Indonesia's claim for liability and compensation has not yet been properly considered by the responsible party. The case is still pending, albeit going nowhere. Bilateral approaches and measures could not reach a success, and to my delegation, it is due to the absence of legal instruments stipulating the rights and duties of the parties on liability and compensation issues.

Mr. Chairman, distinguished delegates, ladies and gentlemen,

We certainly realize that to develop an international liability and compensation regime for environmental damage resulting from offshore exploration and exploitation activities requires high commitments and support from the international community. Indonesia has shown its commitment by convening two international conferences on this very important issue,

attended by relevant stakeholders: States, legal experts and practitioners, academics, as well as national and international oil companies. We were even prepared to work with the Committee to develop guidance on a model agreement to assist States to enter into a bilateral or regional agreement or arrangement in dealing with the issue, as reflected by our submissions last year. Presently, we welcome the increasing support by the international community in addressing liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities. We note a number of events, such as: (i) Symposium held by Comité Maritime International in cooperation with the Irish Maritime Law Association in Dublin, 29 September to 1 October 2013; (ii) Workshop on the Regional Capacity and Coordination to Major Oil Spill in the Mediterranean Sea in Athens, 10 to 12 December 2013; (iii) International Conference on "Transboundary Pollution: Evolving Issues of International Law and Policy" in Singapore, 27 to 28 February 2014; (iv) ASEAN Regional Forum – Maritime Security Workshop on Marine Environmental Protection in Hawaii, 4 to 5 March 2014; and (v) ASEAN Regional Forum – Seminar on the Regional Cooperation on Offshore Oil Spill in Qingdao, 27 to 28 March 2014. These events have proved and convinced us about the compelling needs for immediate response to this transboundary threat.

Mr. Chairman, distinguished delegates, ladies and gentlemen,

Let me conclude by reiterating that, while realizing the existence of divergent views among the members of the Committee, Indonesia therefore will no longer insist on the establishment of the international regime as time is not yet ripe for such undertaking, but would welcome a compromise during this last session of the Committee which has been mentioned earlier, in particular, the idea to provide guidance for bilateral and multilateral agreements. In this regard, it is timely for the Committee to take further steps necessary for achieving this objective. My delegation would leave it entirely to the Committee how to proceed with the provision of the guidance and stands ready to contribute to this undertaking.

Indonesia is looking forward to having this guidance as an embryonic effort toward a more clarified legal regime governing this issue. In addition, my delegation would like to also appeal to all IMO Member States to provide examples of existing bilateral and regional agreements as referred to at the last session of the Committee. In this regard, my delegation extends its gratitude to the work of the Secretariat in providing information on international and regional instruments, as well as other developments relating to liability and compensation issues connected with pollution damage from offshore activities, as contained in the annex of document LEG 101/11.

Indonesia remains committed to this very important issue and, as such, Indonesia will pursue its endeavours in other fora, especially those bilateral/regional in nature in order to develop further the elements and the legal principles to be incorporated in the bilateral/regional agreements or arrangements. We do believe that such instruments would positively contribute to other States that have similar experiences. It is our sincere hope that our previous submissions to IMO will contribute to the efforts in addressing this issue of common concern. In this regard, the existing consultative group could simultaneously be utilized as a discussion forum.

Last but not least, my delegation requests that the Committee remains seized of this issue. We also request the Secretariat to reflect and include this statement in the report of the 101st session of the Legal Committee.

Thank you."

Statement by the International Chamber of Shipping (ICS)

"Mr. Chairman,

This submission (document LEG 101/11/4) has been prompted by a number of recent incidents where ships in need of assistance have reportedly been denied prompt access to a place of refuge.

This is of great concern to the industry because experience has taught us that the best way of protecting a ship in distress and preventing pollution is to transfer its cargo and bunkers and undertake repair in a place of refuge.

After the **Erika**, **Castor**, and **Prestige** incidents, IMO developed guidelines to provide a common framework to assist coastal States to respond effectively to a request for a place of refuge.

These guidelines:

- Stress the importance of having emergency plans in place to be prepared to deal with a request for assistance.
- Recognise that granting access to a place of refuge should rely on an objective technical analysis that assesses risks to navigation, human health and the marine environment.
- Provide a non-exhaustive list of factors which the coastal State should consider 'in a balanced manner and give shelter whenever reasonably possible' (paragraph 3.12 of the guidelines)].
- Stress the importance of establishing an objective decision-making process assisted by independent expert advice, and the establishment of an authority tasked with coordinating information and resources. In this connection, complementary guidelines have been adopted recommending that all coastal States should establish a Maritime Assistance Service [*Guidelines on the control of ships in an emergency*, approved by the IMO Maritime Safety Committee in 2007 (document MSC.1/Circ.1251)].

The document notes the importance of ratification and effective implementation of the IMO liability and compensation conventions developed by this Committee; for example, the CLC 1992, the HNS, Bunkers Convention and the Wreck Removal Convention. This would ensure that provisions are in place concerning liability and compensation for pollution prevention measures, clean-up operations, and wreck removal, including where damage or losses occur following a State's decision to provide a place of refuge. These include the all-important provision of strict liability of the shipowner and compulsory insurance of these liabilities and would apply in situations where damage or losses occur following a State's decision to provide a place of refuge.

If States do not ratify these Conventions, they will not obtain the benefits of shipowners' strict liability, the high limits of liability and guaranteed rights to compensation that they provide.

Mr Chairman, the industry recognizes that it might not be appropriate for coastal States to follow the guidelines' recommended procedures in every single case. However, recent incidents would seem to indicate a need for States to be reminded of the importance of being prepared to deal with a request for assistance. And that the guidelines are there to provide a common framework to assist coastal States in providing an effective response."