

COUNCIL
114th session
Agenda item 7

C 114/7
21 April 2015
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CONSIDERATION OF THE REPORT OF THE LEGAL COMMITTEE

Note by the Secretary-General

SUMMARY

<i>Executive summary:</i>	This document reports on the outcome of the 102nd session of the Legal Committee
<i>Strategic directions:</i>	1, 2, 3, 4, 6 and 8
<i>High-level actions:</i>	1.1.1, 1.1.2, 1.3.1, 2.0.1, 2.0.2, 3.4.1, 3.5.1, 4.0.1, 4.0.2, 4.0.5, 6.1.2, 6.2.1, 6.2.2, 6.3.1 and 8.0.3
<i>Planned outputs:</i>	1.1.1.1, 1.1.1.2, 1.1.2.1, 1.3.1.1, 2.0.1.4, 2.0.1.5, 2.0.2.1, 3.4.1.1, 3.5.1.1, 3.5.1.2, 4.0.1.3, 4.0.2.1, 4.0.5.1, 6.1.2.1, 6.2.1.2, 6.2.2.1, and 8.0.3.1
<i>Action to be taken:</i>	Paragraph 22
<i>Related document:</i>	LEG 102/12

INTRODUCTION

1 The report of the 102nd session of the Legal Committee (LEG 102/12) is submitted to the 114th session of the Council in accordance with the provisions of Article 34(b) of the IMO Convention.

2 The 102nd session of the Legal Committee was held from 14 to 16 April 2015. 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. The Chairman was Dr. Kofi Mbiah (Ghana) and the Vice-Chairman was Mr. Walter de Sá Leitão (Brazil), who were re-elected in their respective capacities for 2016.

3 Decisions of the Committee of interest to the Council are summarized in the ensuing paragraphs with reference to the relevant paragraphs of document LEG 102/12.

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

4 The Committee considered the report of the HNS Correspondence Group.

5 Following the discussion, the Committee thanked the correspondence group and its coordinator for its efforts thus far and agreed:

- to note the complexities of the Convention and the need for an internationally coordinated approach for ratification and implementation;
- to extend the mandate of the correspondence group until the next session, with due regard to the *Guidelines on the organization and method of work of the Committee* in respect of intersessional meetings, and that the Group should report to LEG 103¹; and
- to approve amended Terms of Reference of the Correspondence Group, attached as annex 2 to its report (LEG 102/12, paragraph 3.9).

6 The Committee noted the report of a workshop on the 2010 HNS Convention organized by the Italian government in Rome on 10 October 2014 (LEG 102/12, paragraphs 3.10 and 3.11) and encouraged Member States to ratify and bring into force the 2010 HNS Convention as soon as possible (LEG 102/12, paragraph 3.12).

FAIR TREATMENT OF SEAFARERS IN THE EVENT OF A MARITIME ACCIDENT

7 The Committee further analysed the outcome of the 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*. The Committee concluded that:

- it should consider guidance on the implementation of the guidelines, for any States that requested it;
- further consideration was needed regarding the progressive removal of legislation targeting seafarers and imposing criminal sanctions on them;
- technical support and assistance should be provided by TCC in order to facilitate the wide implementation of the guidelines to improve the conditions for seafarers, taking into account human rights issues; and
- seafarers should be given greater training and awareness of their rights.

8 The Committee expressed its thanks and appreciation to SRI and the co-sponsors for their excellent work and also noted with gratitude that the industry was prepared to contribute financially towards this work. Member States who had not yet given effect to the guidelines were encouraged to do so (LEG 102/12, paragraphs 4.5 to 4.7).

TECHNICAL COOPERATION ACTIVITIES RELATED TO MARITIME LEGISLATION

9 The Committee approved the proposal to insert the wording "With particular emphasis on the results and needs identified by the Voluntary IMO Member State Audit Scheme and in light of the upcoming mandatory audit scheme" in the fifth thematic priority, based on the outcome of the first session of the III Sub-Committee, which comprehensively analysed the difficulties encountered in the implementation of IMO instruments. The Committee further concluded that no further modifications were needed to its thematic priorities for the ITCP 2016-2017 (LEG 102/12, paragraph 7.4).

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

10 The Committee welcomed the entry into force of the Nairobi International Convention on the Removal of Wrecks, 2007 on 14 April 2015 as well as the most recent ratifications thereof, and noted that further ratifications would alleviate the administrative burdens related to the issuance of certificates to non-Party ships, currently shared amongst the Contracting States (LEG 102/12, paragraph 8.3).

11 The Committee encouraged Member States towards early ratification of those IMO conventions to which they were not yet party. Some delegations encouraged ratification of LLMC PROT 1996 in view of the entry into force, on 8 June 2015, of the 2012 amendments to raise the limits (LEG 102/12, paragraph 8.4).

WORK PROGRAMME

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

12 In accordance with the *Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization* (resolution A.1062(28)), the Committee considered a draft report on the status of planned outputs for the current biennium (2014-2015) submitted by the Secretariat, including all planned outputs related to the Legal Committee.

13 The Committee agreed to postpone planned output 1.1.1.2. and 2.0.1.4. The view was expressed that planned output 105 should refer to the joint IMO/ILO Guidelines on fair treatment of seafarers in the event of a maritime accident with any consequential actions to be discussed at C 114 and that the continued need for planned output 106 should be discussed with the UN DOALOS Secretariat taking into account the mandate and published core functions of that Division. The Committee further agreed its report on the status of planned outputs for the current biennium and on the planned outputs to be included in its post-biennial agenda, attached to its report as annexes 3 and 4, respectively, for submission to the Council (LEG 102/12, paragraphs 9.6 and 9.7).

Items for inclusion in the agenda for the 103rd session of the Legal Committee

14 The Committee decided to include in its agenda for the next session the following item: "Analysis and consideration of recommendations to reduce administrative burdens in IMO instruments as identified by the SG-RAR" and approved the list of substantive items for inclusion in the agenda for its 103rd session, attached to its report as annex 5 (LEG 102/12, paragraph 9.8).

Meetings in 2016-2017 biennium

15 The Committee agreed to meet annually during the next biennium (2016-2017) for a duration of three days at each meeting (LEG 102/12, paragraph 6.8).

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

16 The Committee encouraged Indonesia and Denmark to continue developing the guidance on bilateral and regional agreements, taking into account the comments made by the Committee, and requested Member States to send examples of existing bilateral and regional agreements to the Secretariat (LEG 102/12, paragraphs 11.8 to 11.10).

Interpretation of the 1971 Fund Convention and the 1992 Fund Convention in respect of liability for contributions after the convention has ceased to be in force

17 The Committee was invited to consider two conflicting interpretations of the 1971 Fund Convention put forward at a meeting of the IOPC Funds governing bodies in October 2014, regarding which States' contributors would be liable for contributions after the Convention ceased to be in force, for an incident that occurred whilst the Convention was in force, with respect to the interpretation of similar provisions contained in the 1992 Fund Convention.

18 The Committee concluded that, although there was a desire for clarity of interpretation, a majority felt that the Member States of the 1992 Fund Convention should interpret the Convention, and that the 1992 Fund Assembly, rather than the Legal Committee, would be a more suitable body for considering the issue. Moreover, there was no need or urgency to provide such an interpretation as the 1971 Fund had been wound up (LEG 102/12, paragraphs 11.17 and 11.23).

Outcome of the inter-agency High-level meeting to address unsafe mixed migration by sea

19 The Committee noted that the aim of the High-level meeting was to facilitate dialogue and promote enhanced cooperation and harmonization between United Nations agencies, international organizations, non-governmental organizations, Governments and the shipping industry.

20 The following views were expressed by the Committee:

- the issue of mixed migration was a global problem and search and rescue (SAR) systems maintained by the shipping community were not designed for rescuing hundreds of thousands of people drifting on small, unseaworthy boats left in shipping lanes;
- the Legal Committee should review the international legal regime dealing with the complex issue of migration by sea and identify gaps that needed to be addressed;
- the issue should also be referred to MSC, FAL and the Council as a matter of priority;
- the situation of migrants at sea, and SAR services in the Mediterranean region, was desperate with urgent action needed and procedural obstacles should not prevent the Legal Committee and IMO from addressing this problem; and
- some delegations expressed concerns at the proposed review of the definition of "distress" and that the issue was larger than for the Legal Committee.

21 The delegations of Malta and Italy, with support of the delegation of Denmark, offered to coordinate an intersessional discussion on the study of the current legal regime and gaps that needed to be addressed in relation to the drastic situation concerning migrants at sea (LEG 102/12, paragraphs 11.34, 11.35 and 11.37).

ACTION REQUESTED OF THE COUNCIL

22 The Council is invited to:

- .1 consider the report of the 102nd session of the Legal Committee (LEG 102/12) and, in accordance with Article 21(b) of the IMO Convention, transmit it, with any comments and recommendations, to the twenty-ninth session of the Assembly;
 - .2 endorse the Committee's decisions on planned outputs for the 2014-2015 biennium and the planned outputs for the 2016-2017 biennium, as well as the planned agenda for the 103rd session of the Committee;
 - .3 endorse the Committee's decision to meet annually during the next biennium (2016-2017) for a duration of three days at each meeting.
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