

COUNCIL  
116th session  
Agenda item 9

C 116/9  
14 June 2016  
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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 103rd session of the Legal Committee
<i>Strategic directions:</i>	1, 2, 3, 4, 6, 8 and 14
<i>High-level actions:</i>	1.1.1, 1.1.2, 1.3.1, 1.3.4, 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, 8.0.3 and 14.0.1
<i>Outputs:</i>	1.1.1.1, 1.1.1.2, 1.1.2.1, 1.3.1.1, 1.3.4.2, 2.0.1.3, 2.0.1.4, 2.0.2.1, 3.4.1.1, 3.5.1.1, 3.5.1.2, 4.0.1.3, 4.0.2.1, 4.0.3.1; 4.0.5.1, 6.2.1.2, 6.2.2.1, 8.0.3.1 and 14.0.1.1
<i>Action to be taken:</i>	Paragraph 23
<i>Related document:</i>	LEG 103/14

#### INTRODUCTION

1 The report of the 103rd session of the Legal Committee (LEG 103/14) is submitted to the 116th session of the Council in accordance with the provisions of Article 34(b) of the IMO Convention.

2 The 103rd session of the Legal Committee was held from 8 to 10 June 2016. The session was attended by delegations from Member States and Associate Members, by observers from 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).

3 Decisions of the Committee of interest to the Council are summarized in the ensuing paragraphs with reference made to the relevant paragraphs of document LEG 103/14.

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

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 and agreed<sup>1</sup>:

- .1 to extend the mandate of the Correspondence Group until the next session, with the revised terms of reference as set out in annex 2 to document LEG 103/14;
- .2 to endorse the proposed outline of the HNS Incidents Scenarios and to further develop the presentation in the HNS Correspondence Group with a view to consideration at LEG 104;
- .3 in principle, on a draft resolution regarding ratification of the HNS Convention, provided that there will be no reference to a target ratification date; no reference to group ratification; no reference to the HNS Correspondence Group; that the need for the HNS Convention and the risks of not ratifying it will be further explained; and that LEG 104 will decide on its nature and to refer the draft resolution to the HNS Correspondence Group for finalization with a view to further consideration at LEG 104; and
- .4 to consider at LEG 104 whether to hold a workshop on the HNS Convention on the basis of a programme to be developed by the HNS Correspondence Group.

6 The Committee noted the report of a workshop on the 2010 HNS Convention hosted by Canada on 17 and 18 March 2016 in Montreal, and encouraged Member States to ratify and bring into force the 2010 HNS Convention as soon as possible (LEG 103/14, paragraphs 3.9 to 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 International Transport Workers' Federation (ITF) and International Federation of Shipmasters' Associations (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*.

8 The Committee concluded that the different approaches in the implementation of the Guidelines could be streamlined through the development of a guidance and therefore decided that the workshop proposed by ITF would be useful to provide assistance to Member States to give effect to the Guidelines in a uniform and consistent way. The Committee further invited Member States to continue to comply with the Guidelines (LEG 103/14, paragraph 5.7).

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

9 Having considered document LEG 103/8 providing the Secretariat's analysis and recommendations for each requirement identified as an administrative burden by the SG-RAR, the Committee decided to:

- .1 encourage States Parties to use the expanded GISIS module on "Recognized organizations" to fulfil the relevant reporting requirements as

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required by the 2001 Bunkers Convention, the 2002 Athens Convention and the 2007 Nairobi Wreck Removal Convention, taking into account resolution A.1074(28);

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

10 The Committee also agreed that, apart from the consideration of the single model certificate issue considered and ultimately rejected under agenda item 13, the remaining decisions are meeting the recommendations of the SG-RAR (LEG 103/14, paragraphs 8.4, 8.5 and 13.23).

#### **TECHNICAL COOPERATION ACTIVITIES RELATED TO MARITIME LEGISLATION**

11 The Committee noted that the Legal Affairs Office of the Secretariat was developing training courses aimed at improving the understanding of the principles of IMO instruments and their legal implications, to guide lawyers and legislative drafters, responsible for the implementation of the conventions into their domestic legislation, on legislative drafting techniques and mechanisms that should be applied when developing national law, as well as a comprehensive training on the implementation and enforcement of all the IMO civil liability conventions and associated guidelines.

12 The Committee noted that IMLI had developed a Master of Science in International Maritime Law and Logistics (IMLLog) degree programme, to begin in October 2016 in cooperation with Kühne Logistics University (KLU) in Hamburg and that it would, together with the World Maritime University (WMU), provide a joint Master of Philosophy Programme (M.Phil.) in International Maritime Law and Ocean Policy beginning in September 2017. In addition, the Committee noted that IMLI had also announced a Master of Humanities (M.Hum) degree programme in International Maritime Legislation. In this context the Committee expressed its gratitude to the Nippon Foundation for providing 126 scholarships and donating two chairs to improve the academic capacity of the Institute, which would increase the annual number of scholarships from 10 to 15 and the number of chairs from two to three in 2017 (LEG 103/14, paragraphs 9.1 to 9.14).

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

13 Upon being informed by several delegations on progress with regard to the ratification and implementation of IMO instruments, the Committee encouraged delegations to work with their respective Governments towards achieving effective and uniform implementation of IMO conventions and to report any barriers to implementation to LEG for advice and guidance (LEG 103/14, paragraphs 10.2 to 10.6).

### **WORK PROGRAMME**

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

14 In accordance with the *Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization* (resolution A.1099(29)), the Committee considered a draft report on the status of outputs for the current biennium (2016-2017) submitted by the Secretariat, including all outputs related to the Legal Committee. The Committee decided to delete the square brackets and approved the report as set out in annex 3 to document LEG 103/14 (LEG 103/14, paragraph 11.4 and annex 3).

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

15 The Committee approved the amendments to the Committee's Guidelines, both those resulting from the alignment with resolution A.1099(29) and those relating to the document submission deadlines, taking into account comments made by the Committee, and noting that further amendments to the document submission guidelines may be required in light of subsequent action by the MSC. The Committee instructed the Secretariat to prepare the revised document, incorporating any additional amendments agreed by the Committee and making any necessary editorial changes, and circulate it by means of a revised LEG circular (LEG.1/Circ.8) (LEG 103/14, paragraphs 11.8 to 11.12).

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

16 The Committee noted the proposal by China, the Republic of Korea and Comité Maritime International (CMI) for consideration of a new instrument to be added to the work programme. The Committee considered preliminary assessment of the proposed new output prepared by the Chairman and concluded that, while there had been support for the proposal and appreciation for the information provided by CMI, a compelling need had not been established and the Committee did not accept, at this time, the specific proposal for the inclusion of a new output to develop a new instrument on the foreign judicial sales of ships and their recognition. Member States could of course raise the subject again at a later session of the Committee under the standing agenda item "Work programme" (LEG 103/14, paragraph 11.15).

#### **Items for inclusion in the agenda for the 104th session of the Legal Committee**

17 The Committee approved the list of substantive items for inclusion in the agenda for LEG 104. When considering the inclusion of the issue of piracy on the agenda of the next session, the Committee decided to amend Output 6.2.2.1 as follows: Provide advice and guidance to support availability of information on comprehensive national legislation and judicial capacity-building, and retain the item on the agenda for LEG 104 (LEG 103/14, paragraphs 11.16 and 11.17, and annex 4).

## **ELECTION OF OFFICERS**

18 The Committee re-elected Mr. Kofi Mbiah (Ghana) as Chairman and elected Ms. Gillian Grant (Canada) as Vice-Chairman for 2017. The Committee expressed its deep appreciation to the outgoing Vice-Chairman, Mr. Walter de Sá Leitão (Brazil), for his long and distinguished service to the Committee and to the Organization.

19 After considering the Chairman's proposal to amend the Committee's Rules of Procedure to limit the term of office of the Chairman and Vice-Chairman to four years, taking into account that the Bahamas, in document C 116/4/3, has proposed to the Council that the terms of officers at all IMO Committees be limited to five years, the Committee decided to defer the discussion on this matter to its next session (LEG 103/14, paragraphs 12.1 to 12.5).

## **ANY OTHER BUSINESS**

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

20 The Committee endorsed the updated list contained in the annex to document LEG 103/13 and authorized the Secretariat to migrate this list into the GISIS module and to keep it updated thereafter and invited Member States to take into account, when developing a new instrument, the consequential impact of its approval and/or adoption on existing non-mandatory instruments, so that the list can be kept updated (LEG 103/14, paragraphs 13.1 to 13.5).

### **Transboundary pollution damage**

21 The Committee agreed not to change the outcome of earlier considerations on this issue and restated that there was no compelling need to develop an international instrument and that the guidance developed by Indonesia and Denmark could be a useful document to assist States in concluding voluntary bilateral and regional arrangements or agreements. The Committee encouraged Indonesia and Denmark to continue developing the guidance, 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 103/14, paragraphs 13.13 to 13.15).

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

22 The Committee supported the development of an Assembly resolution to allow for the delegation of authority to issue insurance certificates under the CLC and the HNS Convention. The Committee further agreed in principle with the elements of the draft Assembly resolution contained in document LEG 103/13/2. The Committee therefore decided to establish an intersessional Correspondence Group under the coordination of France<sup>2</sup>, with the instruction to further develop the draft Assembly resolution using the text in the annex to document LEG 103/13/2 as a basis, for consideration by LEG 104 (LEG 103/14, paragraphs 13.25 and 13.26).

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**ACTION REQUESTED OF THE COUNCIL**

23 The Council is invited to:

- .1 consider the report of the 103rd session of the Legal Committee (LEG 103/14) and, in accordance with Article 21(b) of the IMO Convention, transmit it, with any comments and recommendations, to the thirtieth session of the Assembly; and
- .2 endorse the Committee's decisions on status of outputs for the 2016-2017 biennium and the planned agenda for the 104th session of the Committee.

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