

COUNCIL
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Agenda item 17

C 117/17/1
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**REPORT ON THE STATUS OF CONVENTIONS AND OTHER MULTILATERAL
INSTRUMENTS IN RESPECT OF WHICH THE ORGANIZATION PERFORMS FUNCTIONS**

Tonnage calculation for the entry into force of IMO treaties

Note by the Secretary-General

SUMMARY

<i>Executive summary:</i>	As requested by C 116, this document informs the Council on the process followed by the Secretariat for the calculation of tonnage of Contracting States upon receipt of an IMO instrument
<i>Strategic direction:</i>	2.0
<i>High-level action:</i>	2.0.1
<i>Output:</i>	No related provisions
<i>Action to be taken:</i>	Paragraph 12
<i>Related documents:</i>	C 116/17/3 and C 116/D

1 The Council may recall that, at its 116th session, it considered document C 116/17/3 submitted by the Republic of Panama related to the calculation of tonnage of Contracting States upon the receipt of an IMO instrument. The ensuing debate covered a wide range of issues relating, inter alia, to the procedure followed by the Secretariat for the calculation of the tonnage of all Contracting States whenever an instrument of accession, ratification or approval was submitted to the Secretary-General in his role as Depository. The discussion focused, in particular, on the calculation of the tonnage of Contracting States to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM Convention), in relation to the conditions of its entry into force.

2 In the context of the above considerations, the Council noted that:

- (i) uniformity and transparency in the process of tonnage calculations for all IMO instruments were important;
- (ii) the Secretary-General, in fulfilling his role as Depository, shall continue the practice of recalculating tonnage of all Contracting States only upon receipt of a new instrument of ratification or accession to a treaty;

- (iii) the Secretariat will strive to use the most current, accurate data available in conducting the recalculation; and
- (iv) the Contracting States of a treaty, or the cognizant committees, may wish to address this matter further in the future.

3 The Council further requested the Secretary-General to submit to its next session a document elucidating the process thus far followed by the Secretariat for the calculation of tonnage upon acceptance of IMO instruments of ratification or accession, to enable the Council to make an informed decision (C 116/D, paragraph 17.4).

4 The long-standing practice of the Secretariat for all instruments where tonnage is a requirement for the entry into force has been to calculate and update the tonnage percentage whenever an instrument of accession, approval or ratification is received. When entry into force has been triggered for an instrument, the Secretariat has always stated the tonnage, or approximate tonnage, on the particular date the entry into force requirements have been met. The tonnage data being used has customarily been based on world fleet statistics supplied to the Secretariat by IHS Maritime & Trade (previously Lloyds Register Fairplay) around March every year, as at 31 December of the preceding year. On the date of deposit of an instrument, tonnage is calculated for all Contracting States and compared to the total world merchant shipping tonnage. This practice is consistent with the directions of the Council given above.

5 The same practice of recalculating tonnage when an instrument of ratification or accession is received has been followed with the BWM Convention. However, after receiving three instruments of ratification during the twenty-ninth session of the Assembly, a full verification of the tonnage data was conducted to ensure that the Secretariat was relying on information that was accurate and current, prior to determining whether or not the BWM Convention had met the entry-into-force requirements. That verification was completed by IHS Maritime & Trade in February 2016 and the tonnage percentage of the then 47 Contracting States (34.35%), based on world tonnage figures as at 31 December 2015, was announced through circular BWM.1/Circ.35 of 9 February 2016.

6 In view of the exceptional situation of the BWM Convention getting ever closer to meeting the requirements for entry into force, the Secretariat strived to obtain the most updated figures for the world fleet, accurate to within days, and not months. Thus, the Secretariat requested monthly tonnage updates to be supplied by IHS Maritime & Trade, to be used for any subsequent deposits for any treaty, in addition to the BWM Convention.

7 Consequently, when two instruments of accession from Belgium and Fiji were received on 7 and 8 March 2016, respectively, the calculation of the tonnage was based on IHS Maritime & Trade figures, as at 29 February 2016 and announced through circular BWM.1/Circ.36 of 8 March 2016. Similarly, when two instruments of accession from Saint Lucia and Peru were received on 26 May and 10 June 2016, respectively, the tonnage was calculated using the most current data available from IHS Maritime & Trade, as at 31 May 2016 and announced through circular BWM.1/Circ.37 of 10 June 2016.

8 In the knowledge of the impending deposit of an instrument of acceptance of the BWM Convention by Finland in September 2016, the Secretariat used the tonnage figures provided by IHS Maritime & Trade as of 31 August 2016 to evaluate the situation, but did not officially recalculate the tonnage until the instrument of acceptance was deposited by Finland on 8 September 2016. In this regard, upon Finland scheduling an appointment with the Secretary-General to effect its deposit, the Secretariat requested that IHS Maritime & Trade recalculate tonnage to as close to 8 September as possible. The list of the 52 Contracting States representing 35.14% of the gross tonnage of the world's merchant shipping as

of 8 September 2016 was officially announced through circular BWM.1/Circ.38 of the same date, based on data less than 36 hours old. The Secretary-General appreciates the responsiveness displayed by IHS Maritime & Trade in meeting these requests of the Secretariat to ensure current, accurate data.

9 The same process has been followed for the other IMO conventions and the same tonnage figures, updated monthly, have been used to state the percentage of the gross tonnage of the world's merchant shipping upon receipt of instruments of accession, approval or ratification in the relevant circulars.

10 With the BWM Convention having met its entry-into-force requirements, the Secretariat requested one additional monthly update, as at 30 September 2016, and will use those figures for subsequent deposits until the 31 December 2016 yearly update is provided to IMO in early 2017.

11 There are currently no other treaties with a tonnage requirement close to entry into force. Near-term tonnage calculations will be merely illustrative of ratification status and not legally significant. To avoid additional costs, IMO will revert to the use of the figures supplied yearly by IHS Maritime & Trade, as at 31 December of the preceding year for the calculation of the tonnage whenever an instrument of accession, approval or ratification is deposited and for the annual update of the legal status of IMO instruments. However, should another treaty achieve sufficient ratifications that entry into force is imminent, the Secretariat will again use the most current data possible to ascertain actual status.

Action requested of the Council

12 The Council is invited to take note of the information provided in this document and to comment or decide as may be deemed appropriate.
