

COUNCIL  
120th session  
Agenda item 9

C 120/9  
16 May 2018  
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## CONSIDERATION OF THE REPORT OF THE LEGAL COMMITTEE

### Note by the Secretary-General

#### SUMMARY

*Executive summary:* This document reports on the outcome of the 105th session of the Legal Committee

*Strategic direction, if applicable:* 1, 2, 4, 5, 6, 7 and OW

*Output:* 1.2; 1.4; 1.7; 4.2; 5.4; 6.12; 7.1; 7.9; OW 13; OW 17; OW 18; OW 20; OW 22; OW 23; OW 24; OW 44 and OW 45

*Action to be taken:* Paragraph 42

*Related document:* LEG 105/14

#### INTRODUCTION

1 The report of the 105th session of the Legal Committee (LEG 105/14) is submitted to the 120th session of the Council in accordance with the provisions of Article 34(b) of the IMO Convention.

2 The 105th session of the Legal Committee was held from 23 to 25 April 2018. 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 Chair was Mr. Volker Schöfisch (Germany) and the Vice-Chair was Ms. Gillian Grant (Canada).

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 105/14, the report of the session.

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

4 The Committee noted, with appreciation, that Canada and Turkey had deposited, on 23 April 2018, instruments of ratification of the 2010 HNS Protocol, thereby bringing the number of Contracting States to the Protocol to three. The Committee also noted that each of

these Contracting States had more than 2 million units of gross ship's tonnage, and that the three had received, in 2017, a total quantity of 28,713,155 tonnes of cargo contributing to the general account.

5 The Committee further noted the progress in the status of work on the 2010 HNS Protocol and that the issue would be dealt with in depth during a special workshop taking place at IMO on Thursday, 26 and Friday, 27 April just after LEG 105.

6 In conclusion, the Committee encouraged Member States to ratify and bring into force the 2010 HNS Protocol as soon as possible (LEG 105/14, paragraphs 3.3 to 3.8).

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

7 The Committee considered the IMO and ILO Secretariats' report on the IMO/ILO joint database of abandonment of seafarers, including information on the procedures regarding reporting to the database; and the incidents of abandonment of seafarers, which were reported to have increased drastically, from between 12 and 19 incidents between 2012 and 2016, to 55 in 2017.

8 The Committee also considered information on the cases of abandonment reported by ITF to the IMO/ILO joint database of abandonment of seafarers; the implementation of the requirement for financial security in respect of seafarer repatriation costs and liabilities as required under regulation 2.5.2 of the Maritime Labour Convention, 2006 (MLC, 2006); and also information on the International Maritime Health Association (IMHA)'s involvement in providing medical care for abandoned seafarers.

9 The Committee agreed that proposals for additional improvements to the database, and also proposals for further measures to improve the situation of the seafarers should be submitted to LEG 106.

10 The Committee concluded by requesting:

- .1 the Secretariat to consult with ILO to include information related to insurance, or lack thereof, for inclusion in the database for each new case, and to report to LEG 106; and
- .2 that the Secretariats of IMO and ILO look into creating a list of competent authorities and organizations that could assist in resolving the cases and to report to LEG 106 on those matters (LEG 105/14, paragraphs 4.5 to 4.11, and 4.19 to 4.22).

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

11 The Committee noted the information provided on the outcome of the international workshop on the fair treatment of seafarers that had taken place on 23 June 2017 at IMO and which had been organized by ITF and Seafarers' Rights International (SRI). The Committee also noted the information provided on a regional workshop that would take place in Asia in 2018.

12 The Committee further noted that work on the implementation of the *2006 Guidelines on fair treatment of seafarers in the event of a maritime accident* should continue at a regional level to allow for more detailed discussions on the national legislation. In this regard, the Committee noted that the first regional workshop would be hosted by the Government of the Philippines in Manila from 24 to 25 July 2018, for the Asian region, and Panama indicated that it would be ready to host any regional workshop that would be organized for the Latin American region (LEG 105/14, paragraphs 5.3 to 5.7).

## **ADVICE AND GUIDANCE IN CONNECTION WITH THE IMPLEMENTATION OF IMO INSTRUMENTS**

### **Automated digital solution for issuing CLC and Bunkers certificates**

13 The Committee noted document LEG 105/6 (Norway) providing information on Norway's digitalization project to issue electronic CLC and Bunkers certificates, in accordance with the *Guidelines for the use of electronic certificates* (FAL.5/Circ.39/Rev.2) (LEG105/14, paragraphs 6.1 to 6.3).

### **Legal advice on the status of the appendices to the FAL Convention**

14 The Committee considered documents LEG 105/6/1 (Australia, France, Greece, Iceland and United States) presenting the intersessional work in relation to the FAL 41 request for legal advice on the status of the appendices to the FAL Convention; LEG 105/6/2 (Secretariat) providing further background information on how each of the four appendices was introduced in the context of the FAL Convention; and LEG 105/WP.3 (Chair) summarizing the findings to provide a basis for discussion and to facilitate the finalization of the legal advice by the Committee.

15 The Committee also considered the revised draft legal advice prepared by the Chair based on the discussion, as contained in the annex to document LEG 105/WP.5, and approved it in general and agreed to submit it to the Facilitation Committee for its consideration, with amendments.

## **PIRACY**

16 The Committee considered document LEG 105/7 (Secretariat) reporting on developments related to piracy which had occurred since the 104th session of the Legal Committee, specifically the considerations by MSC 98 concerning floating armouries, the status of the Jeddah Amendment to the Djibouti Code of Conduct 2017, and the decisions taken at the twentieth plenary session of the Contact Group on Piracy off the Coast of Somalia (CGPCS), which had taken place in Mauritius from 5 to 7 July 2017.

17 The Committee also noted the information provided orally by the Secretariat on the discussions during the third meeting of the Special Tripartite Committee (STC) established under MLC, 2006, which had taken place in parallel to LEG 105, regarding continued payment of wages for seafarers in captivity by acts of piracy.

18 The Committee welcomed and noted the information provided by Japan on its continuous support to the Djibouti Regional Training Centre and its financial contribution to implement sustainable training programmes in the West Indian Ocean and the Gulf of Aden. The Committee expressed its support for all efforts to combat piracy and armed robbery at sea, and invited the Secretariat to continue reporting on piracy-related matters, including the relevant developments at ILO (LEG 105/14, paragraphs 7.3 to 7.8).

## **MATTERS ARISING FROM THE 118TH AND 119TH REGULAR SESSIONS OF THE COUNCIL, THE TWENTY-NINTH EXTRAORDINARY SESSION OF THE COUNCIL AND THE THIRTIETH REGULAR SESSION OF THE ASSEMBLY**

19 The Committee considered and noted the report on matters arising from the 118th and 119th regular sessions of the Council, the twenty-ninth extraordinary session of the Council and the thirtieth regular session of the Assembly.

20 The Committee decided to rename agenda item 8 to become "Work of other IMO bodies", and requested the Secretariat to report on the outcome of all organs of the Organization on issues relevant to the work of the Legal Committee (LEG 105/14, paragraphs 8.2 and 8.3).

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

#### **Technical cooperation activities on maritime legislation for 2017**

21 The Committee noted that the Legal Affairs Office in collaboration with the Technical Cooperation Division (TCD) had organized the first workshop on general principles of drafting national legislation to implement IMO conventions which had taken place at IMO Headquarters from 18 to 22 September 2017, for 20 countries scheduled to undergo the IMO Member State Audit in 2018 and 2019. The Committee also noted that the same workshop would be organized in October 2018.

22 The Committee was informed that the Secretariat had prepared a new publication to assist Member States with the effective and uniform implementation of IMO's liability and compensation regime, which contained the consolidated texts of all relevant conventions and related documents, which would be available for purchase from IMO Publications in the near future (LEG 105/14, paragraphs 9.2 to 9.5).

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

23 The Committee noted document LEG 105/9/2 (IOPC Funds) reporting on the work that the IOPC Funds Secretariat carried out in cooperation with IMO and regional organizations to promote the adoption and support the implementation of the 1992 CLC, the 1992 Fund Convention and the 2003 Supplementary Fund Protocol (LEG 105/14, paragraphs 9.6 and 9.7).

#### **IMO International Maritime Law Institute (IMLI)**

24 The Committee noted that, at the end of the academic year 2016-2017, 38 graduates had received their degree from IMLI, joining a network of 739 IMLI graduates from 135 States. The Committee also noted that, in September 2017, IMLI had launched a new specialized postgraduate programme leading to the degree of Master of Philosophy (M.Phil.) in International Maritime Law and Ocean Policy in cooperation with WMU.

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

25 The Committee noted that the SUA Convention and SUA Protocol of 1988 remained the most widely ratified IMO treaties that had emanated from its work, followed by the 1992 CLC Protocol, and further noted the good progress with the 2007 Nairobi Wreck Removal Convention which had received seven further ratifications since LEG 104.

26 The Committee encouraged Member States to work towards the ratification of all the conventions developed under the aegis of the Legal Committee and also encouraged delegations to work with their respective Governments towards the achievement of effective and uniform implementation of IMO conventions and to report any barriers to implementation to the Legal Committee for advice and guidance (LEG 105/14, paragraphs 10.2 to 10.4, and 10.6).

## **WORK PROGRAMME**

### **Proposals for new outputs**

#### ***Measures to prevent unlawful practices associated with the fraudulent registration of ships***

27 The Committee considered document LEG 105/11 (Cyprus, Democratic Republic of the Congo, Fiji, Germany, Morocco, Spain and Vanuatu), proposing a new output on measures to prevent unlawful practices associated with the fraudulent registration of ships, and document LEG 105/11/5 (United Arab Emirates) commenting on document LEG 105/11.

28 Following an in-depth discussion, the Committee agreed to:

- .1 include a new output on "Measures to prevent unlawful practices associated with the fraudulent registration and fraudulent registries of ships" in the 2018 2019 biennial agenda of the Legal Committee, with a target completion year of 2021;
- .2 invite concrete proposals to LEG 106 for consideration, and to take a decision on the scope of the new output, after detailed consideration of any proposed measures;
- .3 include the item in the provisional agenda for LEG 106; and
- .4 request the Secretariat to conduct a study on the cases received and to provide information on the capabilities of GISIS to address the issue, to potentially include contact points, sample certificates and a listing of registries, and to submit this information to LEG 106 (LEG 105/14, paragraphs 11.3 and 11.6).

#### ***Regulatory scoping exercise and gap analysis with respect to Maritime Autonomous Surface Ships (MASS)***

29 The Committee considered document LEG 105/11/1 (Canada, Finland, Georgia, the Marshall Islands, Norway, Republic of Korea, Turkey, CMI, ICS and P&I Clubs), proposing a new output for a regulatory scoping exercise and gap analysis of the conventions under the purview of the Legal Committee, to establish the extent to which the international regulatory framework should be modified to integrate the new and advancing technology of Maritime Autonomous Surface Ships (MASS).

30 Following an in-depth discussion on the proposal, the Committee agreed:

- .1 to include a new output entitled "Regulatory scoping exercise and gap analysis of conventions emanating from the Legal Committee with respect to Maritime Autonomous Surface Ships (MASS)" in the biennial agenda of the Legal Committee and the provisional agenda for LEG 106, with a target completion year of 2022; and

- .2 to invite concrete proposals and comments on the new output and a plan of action to LEG 106 for consideration, taking into account the outcome of MSC 99 and MSC 100, so that LEG 106 would be able to start its work on the new output (LEG 105/14, paragraphs 11.7 and 11.11).

### ***Additional session of interpretation for the Legal Committee***

31 In view of the decision of the Committee to include two new outputs on its biennial agenda and the related workload, the Committee agreed to request that the Council authorize one additional session of interpretation for LEG 106, that is, a three-day meeting with six full sessions of interpretation instead of five (LEG 105/14, paragraph 11.12).

### **Organization and method of work of the Legal Committee**

32 The Committee considered two documents proposing amendments to the document on the *Organization and method of work of the Legal Committee* (LEG.1/Circ.8): document LEG 105/11/2 (Secretariat) presenting draft amendments emanating from the adoption of the new Strategic Plan and the amended document on the *Application of the Strategic Plan of the Organization* approved by the Assembly at its thirtieth regular session; and document LEG 105/11/3 (Secretariat) proposing the inclusion of human element considerations into the document on the organization and method of work of the Legal Committee.

33 The Committee approved both sets of draft amendments to LEG.1/Circ.8, as set out in the respective Secretariat documents, and instructed the Secretariat to prepare a consolidated version of all amendments approved by the Committee, making any necessary editorial changes, and circulate it by means of a revised LEG circular (LEG.1/Circ.9) (LEG 105/14, paragraphs 11.13 and 11.16).

### **Report on the status of outputs for the current biennium (2018-2019)**

34 The Committee considered a draft report on the status of outputs for the current biennium (2018-2019), including all outputs related to the Legal Committee, prepared by the Secretariat and attached as an annex to document LEG 105/11/4. In particular, the Committee was invited to consider deleting the square brackets in the "Status of outputs for Year 1" of the present biennium.

35 The Committee agreed on its report on the status of outputs for the current biennium, attached as annex 2 to LEG 105/14, for submission to the Council. With regard to output Other work 22: "Provide advice and guidance to support availability of information on comprehensive national legislation and judicial capacity-building [on piracy]" the Committee decided to delete the words "on piracy" from the description (LEG 105/14, paragraphs 11.19 and 11.20, and annex 2).

### **Items for inclusion in the agenda for LEG 106**

36 The Committee approved the list of substantive items for inclusion in the agenda for LEG 106, as contained in document LEG 105/WP.4, and attached as annex 3 to document LEG 105/14 (LEG 105/14, paragraph 11.21 and annex 3).

### **ELECTION OF OFFICERS**

37 The Committee unanimously re-elected Mr. Volker Schöfisch (Germany) as Chair and Ms. Gillian Grant (Canada) as Vice-Chair, for 2019.

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## ANY OTHER BUSINESS

### New GISIS module on National Maritime Legislation

38 The Committee considered document LEG 105/13/1 (Secretariat) reporting on a new GISIS module on National Maritime Legislation developed by the Secretariat in the context of resolutions A.1029(26) on *Global Integrated Shipping Information System (GISIS)* and A.1074(28) on *Notification and circulation through the Global Integrated Shipping Information System (GISIS)*.

39 The Committee noted that the new GISIS module would enable Contracting Governments or Parties to directly upload their national maritime legislation to fulfil their obligation to communicate national legislative texts as required under the provisions of the relevant IMO conventions, and encouraged Member States to use the new module when it goes online (LEG 105/14, paragraphs 13.2 and 13.5).

### Submission of photographs by delegates during registration for meetings of the Legal Committee

40 The Committee considered a proposal for delegates to submit their photographs as part of the registration process for meetings of the Committee, and noted that the Secretariat would be submitting information in this regard to C 120, and that the Secretariat would provide the Committee with a report on the outcome of C 120 on this matter. The Committee therefore agreed not to consider the matter further, pending the outcome of C 120 (LEG 105/14, paragraphs 13.7 and 13.8).

### European Union General Data Protection Regulation

41 The Committee noted the information provided on the European Union General Data Protection Regulation (GDPR), which would take effect on 25 May 2018, and agreed that the most appropriate IMO organ to discuss general issues relating to the GDPR was the Council (LEG 105/14, paragraphs 13.9 and 13.10).

## ACTION REQUESTED OF THE COUNCIL

42 The Council is invited to:

- .1 consider the report of the 105th session of the Legal Committee (LEG 105/14), approve it in general and, in accordance with Article 21(b) of the IMO Convention, transmit it, with any comments and recommendations, to the thirty-first session of the Assembly;
- .2 endorse:
  - .1 the Committee's decision on the status of outputs for the current biennium (2018-2019), attached as annex 2 to document LEG 105/14;
  - .2 the planned agenda for the 106th session of the Committee, as set out in annex 3 to document LEG 105/14; and
- .3 authorize one additional session of interpretation for LEG 106, that is, a three-day meeting with six full sessions of interpretation, in view of the decision of the Committee to include two new outputs on its biennial agenda and the related workload.