

LEG 104 BRIEF on 26th APRIL 2017

1. **Adoption of the agenda**
 - a. Nothing significant to report.
2. **Agenda item 2** Report of the Secretary-General on credentials
 - a. LEG 104/2 – Secretariat – as above -
3. **Agenda item 3** – Facilitation of the entry into force and harmonized interpretation of the 2010 Hazardous and Noxious Substances (HNS) Protocol
 - a. **LEG 104/3** – Canada – Report of the Correspondence Group on the above.
 - b. Norway is the first State to ratify the Convention.
 - c. It was agreed that the draft resolution on the implementation and entry into force of the 2010 HNS Protocol in annex 3 should be sent to the Assembly for approval following some modification.
 - d. The Committee agreed on a workshop on the 2010 HNS Convention in annex 4 and decided this would take place in London, 2018 LEG 105, and perhaps subsequently incorporate more in TCC for Regional Workshops. However, the budget for this would have to be decided at the next Council Meeting.
 - e. Nothing Significant for IFSMA – but might be worth doing a small article for our Members in the Newsletter
4. **Agenda Item 4** – Provision of financial security in case of abandonment of seafarers, and shipowners' 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, 200
 - a. **LEG 104/4** – Secretariat of IMO and ILO - This document provides an update on the IMO/ILO joint database of Abandonment of Seafarers and on the entry into force of the 2014 amendments to the Maritime Labour Convention, 2006
 - i. An interesting update and it is concerning that so many remain unresolved. It is clear that a number of Flag/Port States are abrogating their responsibilities.
 - b. LEG 104/4/1 – ICS – Comments on above
 - i. Interesting comments and see above. Para 9 " Recent evidence has also shown that some States will only act when diplomatic measures are taken by the ILO and IMO Secretariats. However, the Secretariats have only a limited range of options available to encourage swift resolution. The Committee is invited to consider what additional assistance could be given, for example by agreeing on suitable tools that might be made available to the Organizations.
 - c. All of the many Nations who spoke stated how important this was for the Industry and for the Fair Treatment of Seafarers

around the World. The Secretariat added that this was a very important issue and that it was very close to the heart to the Secretary General. Secretariat will report to LEG 105 on any changes it can make, particularly with the information in GSIS. ILO Rep had to leave before the Papers were debated. IMO will consult with ILO and report to LEG 105. Nothing significant to report for IFSMA.

5. **Agenda Item 5** - Fair treatment of seafarers in the event of a maritime accident
 - a. **LEG 104/5** – ITF - This document invites members of the Legal Committee to a workshop on the fair treatment of seafarers in the event of a maritime accident that will be held in London on 23 June 2017 – I think this would be useful to attend for IFSMA and should be supported if necessary.
6. **Agenda Item 6** – Advice and guidance in connection with the implementation of IMO instruments
 - a. **LEG 104/6/1** – Sec - This document presents the work of the intersessional Correspondence Group on the delegation of authority to issue insurance certificates under the CLC and the HNS Convention. It recommends;
 - b. The Committee considers the Draft Resolution at Annex 2 that States Parties delegating the authority to issue the certificates of insurance required by the 1992 Civil Liability Convention and the 2010 HNS Convention should:
 - (a) fully guarantee the completeness and accuracy of those certificates and undertake to ensure the necessary arrangements to satisfy this obligation;
 - (b) notify the Secretary-General of:
 - (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by them,
 - (ii) the withdrawal of such authority, and
 - (iii) the date from which such authority or withdrawal of such authority takes effect;
 - (c) empower the institution or organization authorized to issue certificates to withdraw these certificates if the conditions under which they have been issued are not complied with;
 - (d) require the institution or organization to report such withdrawal to the State on whose behalf the certificate was issued; and
 - (e) submit information on the delegation of authority on the GISIS system;
 - c. This Draft Resolution was sent to the Drafting Group for

redrafting.

- d. LEG 104/6/2 – Sec - Urgent matters emanating from FAL 41: Legal advice on the status of the appendices to the FAL Convention – Nothing for IFSMA.

7. Agenda Item 7 – Piracy

- a. **LEG 104/7** – Sec – Note by Secretariat
- b. Informs Delegations of the continuance of Working Group 2 (WG2) of the Contact Group on Piracy off the Coast of Somalia (CGPCS) which is now known as the Legal Forum". In addition to the developments in the CGPCS, the Djibouti Code of Conduct, has seen its scope significantly broadened to cover other illicit maritime activities, including human trafficking and illegal, unreported and unregulated (IUU) fishing. In addition, a high-level meeting of signatories to the Djibouti Code of Conduct, held in Jeddah, Saudi Arabia, from 10 to 12 January 2017 adopted a revised Code of Conduct, which will be known as the "Jeddah Amendment to the Djibouti Code of Conduct 2017" and that it will expand its TOR to consider "Floating Arsenals".
- c. LEG 104/7/1 – India -This document provides information on the difficulties faced by Member States and seafarers in piracy situations. This document also proposes to the Committee to adopt a resolution, which may be forwarded to the International Labour Organization (ILO) for a possible amendment to the Maritime Labour Convention, 2006 (MLC) to incorporate enabling provisions for the continuation of the contractual obligations under the seafarers' employment agreement till the release of the seafarers from captivity in piracy situations.
 - i. Having noted that the issue had already been addressed in operative paragraph 8(I) of Assembly resolution A.1044(27) on Piracy and Armed Robbery against Ships in Waters off the Coast of Somalia, adopted by the Assembly at its twenty-seventh session, the Committee did not see the need for an additional LEG circular. The Committee recalled that, in the resolution, the Assembly, inter alia, strongly urged Governments, which have not already done so, to promptly "establish, as necessary and when requested, plans and procedures to keep substantially interested States informed, as appropriate, about welfare measures for seafarers in captivity on ships entitled to fly their flag, measures being taken for the early release of such seafarers and the status of payment of their wages".
 - ii. As regards the second issue, the document proposed to invite the ILO to explore the possibility of an amendment to the MLC 2006 to incorporate enabling provisions for

the continuation of seafarers' contracts when seafarers were held in captivity for protracted periods. Having noted the information provided by the Secretariat and the ILO, that an ILO working group of the Special Tripartite Committee (STC) established under the MLC 2006 was currently looking into exactly that matter and would submit its recommendations to the third meeting of the STC in April 2018, the Committee decided that this issue was already sufficiently addressed in the appropriate forum and there was no need to duplicate this work. In general, delegations were in favour of the inclusion of such a provision in the MLC 2006 and noted that promising progress was being made within the ILO Working Group towards the adoption of such an amendment. Some delegations informed the Committee that their national legislation already contained a provision ensuring the continuation of seafarers' wages when in captivity.

8. **Agenda Item 8** – Matters arising from the 116th and 117th regular sessions of the Council
 - a. **LEG 104/8** – Sec – only point of note is the Secretary-General's proposed theme for World Maritime Day 2018 — "IMO 70: Our Heritage – Better Shipping for a Better Future".
 - b. **LEG 104/Inf.4** – Sec - background information on document LEG 104/8/1. It sets out, in the annex, a comparison table containing the current text of the Rules of Procedure of the Legal Committee and the harmonized Rules of Procedure of the MEPC and MSC, used for the preparation of the draft revised Rules of Procedure of the Legal Committee, set out in the annex to document LEG 104/8/1.¹ The comparison table also contains some explanatory notes identifying the proposed substantive changes for each rule, where appropriate.
 - c. **LEG 104/8/1** – Chair of LEG – Nothing significant. It is only to inform on the Harmonisation of Rules with other Committees.

9. **Agenda Item 9** - Analysis and consideration of recommendations to reduce administrative burdens in IMO instruments as identified by the SG-RAR
 - a. **LEG 104/9** – Sec – The attached draft FAL.2-MEPC.1-MSA.1-LEG.1 circular contains the draft list of certificates and documents required to be carried on board, including insurance certificates under the 2002 Athens Convention and the 2007 Nairobi Wreck Removal Convention, for consideration and approval, if appropriate.
 - i. It should be noted that this circular lists only the certificates and documents that are required under IMO instruments and

it does not include certificates or documents required by other international organizations or governmental authorities and should not be used in the context of port State control inspections for which convention requirements should be referred to.

ii. Nothing significant for IFSMA

10. **Agenda Item 10** – Technical cooperation activities related to maritime legislation

- a. **LEG 104/10 – Sec** - reports on the technical cooperation activities relating to maritime legislation from January to December 2016
- b. **LEG 104/Inf.2 and Inf.3** – Sec – list of dissertations and maritime legislation drafting projects for the academic years 2015-2016 and 2016-2017 and the IMO International Maritime Law Institute (IMLI) dissertation written by Ms. Daffodil D'vore Maxwell (Trinidad and Tobago) entitled "Determining Causes of the Problem of Ineffective Implementation and Enforcement of Maritime Conventions Particularly in Dualist States: A Trinidad and Tobago Perspective".
- c. **LEG 104/10/1** – Sec - a summary of IMLI's activities in 2016; a final report will be submitted to the next session of IMLI's Governing Board and will subsequently be reported to the IMO Council.
- d. **LEG 104/10/2** – Sec - This document invites the Legal Committee to consider and agree on the thematic priorities for inclusion in the Integrated Technical Cooperation Programme (ITCP) covering the 2018-2019 biennium.
- e. **LEG 104/10/3** – IOPC Secretariat - information about the work that the IOPC Funds Secretariat has been carrying out in cooperation with IMO and regional organizations to promote the accession to, and the implementation of, the 1992 Civil Liability Convention and the 1992 Fund Convention.
 - i. **Nothing of significance for IFSMA**

11. **Agenda Item 11** – Review of the status of conventions and other treaty instruments emanating from the Legal Committee

- a. **LEG 104/11** – Sec - reports on the current status of the emanating from the Legal Committee.
 - i. Nothing of significance for IFSMA.

12. **Agenda Item 12** – Work programme

- a. **LEG 104/12** – Sec - the Committee's outputs for the current biennium (2016-2017) to enable the Committee to report on the status of its outputs for the current biennium. It also provides the draft outputs for inclusion in the post-biennial agenda.
 - i. For information only

13. **Agenda Item 14** - Any other business

- a. **LEG 104/14** – Sec Gen - This document notes that the year 2017 marks the 50th anniversary of the first session of the Legal Committee and highlights some of the major achievements and activities of the Committee during the past 50 years.
 - i. Useful update for Information
- b. **LEG 104/14/2** – Indonesia and Denmark - This document contains the finalized guidance for bilateral/regional arrangements or agreements on liability and compensation issues connected with transboundary oil pollution damage resulting from offshore exploration and exploitation activities
 - i. Nothing significant for IFSMA.