

LEGAL COMMITTEE
100th session
Agenda item 14

LEG 100/14
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**REPORT OF THE LEGAL COMMITTEE ON THE WORK OF ITS
ONE HUNDREDTH SESSION**

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1 INTRODUCTION

1.1 The Legal Committee held its 100th session at IMO Headquarters from 15 to 19 April 2013, under the chairmanship of Dr. Kofi Mbiah (Ghana).

1.2 The session was attended by delegations from the following Member States:

ALGERIA	KENYA
ANGOLA	KIRIBATI
ANTIGUA AND BARBUDA	KUWAIT
ARGENTINA	LATVIA
AUSTRALIA	LIBERIA
AZERBAIJAN	LITHUANIA
BAHAMAS	LIBYA
BANGLADESH	MALAYSIA
BELGIUM	MALTA
BELIZE	MARSHALL ISLANDS
BRAZIL	MEXICO
BRUNEI DARUSSALAM	MOROCCO
BULGARIA	NETHERLANDS
CANADA	NEW ZEALAND
CHILE	NIGERIA
CHINA	NORWAY
COLOMBIA	OMAN
COOK ISLANDS	PANAMA
CÔTE D'IVOIRE	PERU
CROATIA	PHILIPPINES
CUBA	POLAND
CYPRUS	PORTUGAL
DEMOCRATIC PEOPLES' REPUBLIC OF KOREA	REPUBLIC OF KOREA
DENMARK	RUSSIAN FEDERATION
DOMINICA	SAINT VINCENT AND THE GRENADINES
DOMINICAN REPUBLIC	SAUDI ARABIA
ECUADOR	SINGAPORE
EGYPT	SOUTH AFRICA
EL SALVADOR	SPAIN
ESTONIA	SRI LANKA
FINLAND	SWEDEN
FRANCE	SWITZERLAND
GEORGIA	THAILAND
GERMANY	TUNISIA
GHANA	TURKEY
GREECE	TUVALU
GUATEMALA	UKRAINE
INDIA	UNITED KINGDOM
INDONESIA	UNITED REPUBLIC OF TANZANIA
IRAN (ISLAMIC REPUBLIC OF)	UNITED STATES
IRAQ	URUGUAY
IRELAND	VANUATU
ITALY	VENEZUELA (BOLIVARIAN REPUBLIC OF)
JAMAICA	
JAPAN	

and from the following Associate Members of IMO:

FAROES (the)

HONG KONG, CHINA

1.3 The session was also attended by a representative from the following United Nations agency:

UN INTERREGIONAL CRIME AND JUSTICE RESEARCH INSTITUTE (UNICRI)

by observers from the following intergovernmental organizations:

EUROPEAN COMMISSION (EC)

INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)

and by observers from the following non-governmental organizations in consultative status:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)

INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)

COMITÉ MARITIME INTERNATIONAL (CMI)

INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)

BIMCO

INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)

OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)

INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)

INTERNATIONAL SALVAGE UNION (ISU)

INTERNATIONAL ASSOCIATION OF OIL AND GAS PRODUCERS (OGP)

INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS
(INTERTANKO)

INTERNATIONAL GROUP OF P & I ASSOCIATIONS (P&I CLUBS)

CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA)

INTERNATIONAL SHIP MANAGERS' ASSOCIATION (InterManager)

INTERNATIONAL MARINE CONTRACTORS ASSOCIATION (IMCA)

WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)

INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)

INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)

THE NAUTICAL INSTITUTE (NI)

The Secretary-General's opening address

1.4 The Secretary-General welcomed participants and delivered his opening address, the full text of which can be downloaded from the IMO website at the following link: <http://www.imo.org/MediaCentre/SecretaryGeneral/Secretary-GeneralsSpeechesToMeetings/Pages/LEG-100-opening.aspx>.

The Chairman's remarks

1.5 The Chairman thanked the Secretary-General for his opening address and stated that his comments would be given every consideration in the deliberations of the Committee.

Adoption of the agenda

1.6 The agenda for the session, as adopted by the Committee, is attached in annex 1.

1.7 A summary of deliberations of the Committee with regard to the various agenda items is set out hereunder.

2 REPORT OF THE SECRETARY-GENERAL ON CREDENTIALS

2.1 The Committee noted the report of the Secretary-General that the credentials of all delegations attending the session were in due and proper form.

3 MONITORING THE IMPLEMENTATION OF THE HNS PROTOCOL, 2010

3.1 The delegation of Canada introduced document LEG 100/3, containing the outcome of the workshop on HNS Reporting, held at IMO in November 2012, in preparation for the entry into force of the HNS Protocol 2010. In so doing, the delegation noted that:

- the workshop was attended by 29 States and six non-governmental organizations;
- the main purpose of the workshop was to consider draft *Guidelines on the reporting of HNS receipts to facilitate the implementation of the HNS Protocol by States*;
- the Guidelines borrowed heavily from the reporting of oil receipts by Member States of the IOPC Funds, which have decades of experience of reporting oil receipts;
- the scope of the Guidelines was to assist States in their implementation and they had no binding status whatsoever;
- with the endorsement of the Guidelines, there were no further obstacles to the implementation and ratification of the HNS Protocol. It was now the responsibility of States to work actively towards its ratification or accession;
- given the contributory nature of the HNS Protocol, States should continue to monitor and coordinate, where possible, ratification or accession timelines; and
- IMO and the IOPC Funds had to continue their work to promote the entry into force of the HNS Protocol.

3.2 The Committee endorsed the Guidelines on reporting of HNS contributing cargo, contained in annex 3 to the document under consideration, including its annexes and appendices.

3.3 In so doing, the following views were expressed:

- the Guidelines were the result of the work of a large number of Member States and observers;
- it was of paramount importance that the Convention be applied uniformly and the Guidelines could assist this process;
- the Guidelines were not binding, but were merely intended to facilitate the implementation and entry into force of the 2010 HNS Protocol, particularly States' submission of contributing cargo to the Secretary-General of IMO, on ratification, or accession to the HNS Protocol; and

- the proposed solutions in the Guidelines should not exclude the use by implementing States of other options which were also provided for in the HNS Protocol.

3.4 The Committee thanked the delegation of Canada and congratulated the Chairman of the workshop, Mr. François Marier (Canada) on its successful outcome. The Committee also thanked the IMO and IOPC Funds Secretariats for jointly organizing the workshop; and encouraged Member States to ratify the 2010 HNS Protocol as soon as possible, to enable its early entry into force.

3.5 The delegation of Malaysia requested that a workshop be held in Malaysia to assist in the implementation of the HNS Protocol.

4 PROVISION OF FINANCIAL SECURITY IN CASES OF ABANDONMENT, PERSONAL INJURY TO, OR DEATH OF SEAFARERS IN THE LIGHT OF THE PROGRESS TOWARDS THE ENTRY INTO FORCE OF THE ILO MARITIME LABOUR CONVENTION, 2006 AND OF THE AMENDMENTS RELATING THERETO

4.1 In the absence of a representative of the International Labour Office (ILO), the Secretariat introduced document LEG 100/4.

4.2 In so doing, the Secretariat noted that the conditions for the entry into force of the ILO Maritime Labour Convention, 2006 ("the Convention" or MLC 2006) having now been met (i.e. ratification by at least 30 Members, with a total share in the world gross tonnage of ships of 33%), the Convention would enter into force on 20 August 2013.

4.3 In the context of the preparations for the entry into force of the Convention, the ILO Governing Body had adopted Standing Orders for the Special Tripartite Committee, a body mandated to keep the Convention under continuous review.

4.4 The first meeting of the Special Tripartite Committee was scheduled for early 2014 to discuss, inter alia, proposed amendments to the Code of the Convention, to address the issue of financial security for crew members/seafarers and their dependants, with regard to compensation in cases of personal injury, death and abandonment. These amendments were based on the recommendations of the joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, adopted in March 2009.

4.5 The Secretariat further reported that ILO continued to deliver a number of activities to promote widespread ratification and effective implementation of the Convention, and drew attention to the links to the ILO website, reflected in the document, containing information on those activities.

4.6 The delegation of Greece announced that the "Maria Tsakos" Foundation was organizing a seminar in Piraeus on the implementation of MLC 2006, to be held in May 2013.

4.7 The Committee noted with satisfaction the entry into force of MLC 2006, a landmark Convention designed to establish a level playing field for shipowners and to provide decent working and living conditions for seafarers. The Committee also noted the information in document LEG 100/4 on progress made towards the implementation of the Convention, as well as on the amendments relating to abandonment, personal injury to and death of seafarers; and urged those States that had not already done so to consider ratifying the Convention at their earliest convenience.

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

5.1 A representative of Seafarers' Rights International (SRI) introduced document LEG 100/5/1 on behalf of the observer delegations of the International Transport Workers' Federation (ITF) and the International Federation of Shipmasters' Associations (IFSMA) reporting on the findings of a survey conducted by SRI, concerning respect for the rights of seafarers facing criminal prosecution. The survey, conducted in eight languages, was carried out over a 12-month period, ending in February 2012. A total of 3,480 completed questionnaires had been submitted by seafarers from 68 different nationalities.

5.2 The findings strongly suggested that the rights of seafarers, as enshrined in the Guidelines on fair treatment of seafarers in the event of a maritime accident, adopted jointly by IMO and ILO, are often subject to violation.

5.3 Among the most important findings, the following should be emphasized:

- frequent lack of due process for seafarers who face criminal charges;
- unfair treatment, intimidation and lack of legal representation and interpretation services; and
- reluctance to cooperate with casualty enquiries due to a lack of trust in the authorities.

5.4 Copies of the full report were made available to delegations and the report is also available on the SRI website at the following link: www.seafarersrights.org.

5.5 Among the views expressed were the following:

- the statistics demonstrated the need to maintain the focus on the Guidelines and to keep up the pressure for their better implementation;
- seafarers are more exposed to criminal proceedings than many other workers and therefore need special assistance;
- legal assistance for seafarers should, in the first place, be provided by the shipowner; and
- the findings of the survey could be taken into account by the Committee during the drafting of Guidelines on the collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims.

5.6 The Committee thanked the co-sponsors for the document and expressed general support for the continuous promotion of the Guidelines. The Committee also agreed that the issue of fair treatment of seafarers in the event of a maritime accident should remain on the agenda of the Legal Committee and delegations were invited to submit proposals for outputs to improve compliance with the Guidelines to its next session.

5.7 The representative of the Islamic Republic of Iran introduced document LEG 100/5, containing information on the actions taken with regard to shore leave, both by the Legal and Facilitation Committees. The document proposed that the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident be reconvened to consider the issue; in this regard, the document included a draft resolution regarding shore leave and shore-side facilities.

5.8 The following points were emphasized by the delegation:

- the issue of securing the rights of seafarers in terms of shore leave and access to shore-based facilities is an urgent need and necessity, and consideration of this issue should not therefore be postponed;
- providing necessary procedural rights for seafarers is a prerequisite to enable them to exercise their substantive human rights; and
- violation of human rights of seafarers with regard to shore leave and access to shore-based medical facilities still continues to happen as before.

5.9 The Committee recalled the decision, taken at its ninety-eighth session, that document LEG 98/6 (Islamic Republic of Iran), which provides information and observations concerning unfair treatment of seafarers due to nationality or religion, and cites a number of cases where shore leave and access to shore-side medical facilities were denied, be referred, together with a summary of the Committee's discussion, to the thirty-seventh session of the Facilitation Committee (FAL).

5.10 The Committee noted that the Islamic Republic of Iran had subsequently submitted a draft amended text on the relevant Standard of the FAL Convention (3.44) to FAL 38 (document FAL 38/4/2), where, after due consideration, the Committee decided to proceed with the proposed amendments to Standard 3.44.

5.11 The Committee also noted that document LEG 100/5 referred to planned output 1.1.2.5 of the High-level Action Plan entitled Cooperation with ILO: development of Port State Control (PSC) Guidelines on seafarers' hours of rest taking into account the Maritime Labour Convention, 2006. This output was within the responsibility of the Maritime Safety Committee (MSC) under the coordination of the Sub-Committee on Flag State Implementation (FSI). The planned output of the Legal Committee for 2013 covers cooperation with ILO with regard to the Guidelines on fair treatment of seafarers in the event of a maritime accident. The issue of shore leave was not included in this planned output or in the scope of the Guidelines. Under the High-level Action Plan for 2012-2013, item 8.0.2.2, the FAL Committee is the responsible body for procedures to facilitate seafarers' access in and out of a port facility during shore leave, if necessary.

5.12 With regard to the issue of fair treatment of seafarers in respect of shore leave and shore-side facilities, wide support was expressed for the human rights principles included in the document. The view was expressed that seafarers should not be discriminated against on the basis, inter alia, of nationality, race, colour, sex, religion, political opinion, or social origin, irrespective of the flag State of the ship on which they are employed, engaged or work.

5.13 The following views were expressed on the procedural aspects of the proposal:

- the issue of seafarers' shore leave had been discussed by the Legal Committee on several occasions and had been referred by it to the FAL Committee, which was the responsible Committee;
- this resolution should also have been submitted to FAL;
- the planned output of the Legal Committee for 2013 includes cooperation with ILO with regard to the Guidelines on fair treatment of seafarers in the event of a maritime accident. The issue of shore leave was not included in this planned

output or the scope of the Guidelines and was not an appropriate output in this context; and

- under the High-level Action Plan for 2012-2013, item 8.0.2.2, FAL was the responsible body for procedures to facilitate seafarers' access in and out of a port facility during shore leave and had, at its thirty-eighth session, already agreed to amend the standard.

5.14 The Committee accordingly concluded that:

- in view of the decision taken at FAL 38 to proceed with the amendments to Standard 3.44 and in view of the fact that it was not procedurally appropriate to consider the proposal contained in document LEG 100/5 under this item of the Legal Committee's agenda, this issue should not be dealt with further by the Committee;
- there was therefore no need to reconvene the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident to consider the issue;
- notwithstanding that it may take some time for FAL to finalize the amendments to Standard 3.44, the issues raised by the Islamic Republic of Iran remain solely within the purview of the relevant provisions of the Convention on Facilitation of International Maritime Traffic, 1965 (FAL Convention). Work on this issue should therefore continue in FAL and brought to its natural conclusion there; and
- the Islamic Republic of Iran and other interested Member Governments were invited to consider submitting the issue, including the draft resolution, to an appropriate IMO organ, possibly to the forthcoming Assembly. Assuming the Assembly agreed to adopt it, on the basis of the recent decision of FAL 38, this would provide the short-term solution sought by the Islamic Republic of Iran and other delegations.

5.15 It was suggested, in the event that the issue was submitted to the Assembly, that any Assembly resolution should not levy conditions on the work of FAL, nor should it raise legal issues or those of a jurisdictional nature.

5.16 The delegation of the Islamic Republic of Iran expressed its appreciation to those delegations which supported the document and all delegations which actively participated in the discussion and supported the fundamental human rights of seafarers as well as those which endeavoured to find a way forward. The delegation also informed the Committee of its intention to submit the issue to the relevant IMO body, possibly the Assembly, keeping in mind the decisions of FAL 38 and invited other delegations to join them in co-sponsoring the submission and making proposals for a draft resolution.

6 PIRACY

6.1 The Secretariat introduced documents LEG 100/6 and LEG 100/WP.6 reporting on the eleventh and twelfth sessions of Working Group 2 (WG 2) of the Contact Group on Piracy off the Coast of Somalia, held in Copenhagen in September 2012 and in April 2013, respectively.

6.2 The Committee was informed that, although paragraph 9 of document LEG 100/6 stated that a special meeting for investigators and prosecutors would take place on 11 April 2013 and would be reported to the Legal Committee, it had been later decided that the participation would be by invitation. In this regard, the meeting was open only to prosecutors and investigators. In future, however, this new forum would be open to all interested parties.

6.3 The Secretariat introduced document LEG 100/6/1 providing information by the United Nations Office on Drugs and Crime (UNODC) in response to its request at LEG 99 that the Secretariat approaches agencies in those regions directly involved in combating piracy and armed robbery, primarily the European Union Naval Force Somalia (EU NAVFOR), the North Atlantic Treaty Organization (NATO) and UNODC for information on the number of pirates captured and handed ashore for further investigation, as well as information on the difficulties identified in the apprehension of pirates.

6.4 The Committee noted, with regret, that NATO had informed the Secretariat that it had no relevant records or information and that no response had been received from EU NAVFOR and expressed the wish that all relevant information be shared with IMO.

6.5 The representative of Ukraine introduced document LEG 100/6/2 providing comments on the information contained in document LEG 100/6/1, specifically on the need to strengthen the leading role of IMO in providing guidance to eradicate piracy. In so doing, he expressed Ukraine's belief that transparency in identifying problems related to the apprehension of pirates was beneficial to all parties involved in combating piracy or struggling with the consequences of these crimes. He suggested that Member States and organizations in consultative status with IMO share their experience in resolving problems related to the apprehension of pirates and any related information available to them.

6.6 The following views were expressed in respect of documents LEG 100/6/1 and LEG 100/6/2:

- transparency in identifying problems related to the apprehension of pirates was beneficial to all parties involved in combating piracy or struggling with the consequences of this crime;
- as the information on the number of pirates captured and handed ashore for further investigation, as well as information on the difficulties identified in the apprehension of pirates, had only been received from UNODC, the Committee was still far from meeting its goal of obtaining the information it was seeking;
- the information related to the piracy suspects/convicted pirates held in other States provided by UNODC in document LEG 100/6/1 needed to be updated following the reports provided by States attending the WG 2 piracy meeting which took place in April 2013;
- Member States and organizations in consultative status with IMO should share their experience in resolving problems related to apprehension of pirates and should provide related information to IMO;
- IMO is the primary forum within the United Nations system responsible for coordinating efforts of the wider international community in its fight against piracy; and
- it is important to include in the database States whose national law does not allow the use of Privately Contracted Armed Security Personnel (PCASP) in its territorial waters.

6.7 In response to the last point immediately above, the Secretariat informed the Committee that circular MSC-FAL.1/Circ.2, containing a questionnaire on information on port and coastal State requirements related to PCASP on board ships, includes information on national laws on the use of PCASP, firearms and security-related equipment. The answers provided by States to this questionnaire may be found on the IMO website in the Maritime security/piracy section.

6.8 The Committee was made aware of the need for mutual recognition between the International Group of P & I Associations (P&I Clubs) and Governments with regard to their respective lists of armed security companies, for insurance purposes. The P&I Clubs noted that no such list exists. Rather, the P&I Clubs provide advice to their shipowner members on the terms of PCASP contracts.

6.9 The Committee noted the information provided in documents LEG 100/6/1 and LEG 100/6/2. There was strong support for the proposal put forward by Ukraine in document LEG 100/6/2, paragraph 6, that organizations in consultative status with IMO share their experience in resolving problems relating to the apprehension of pirates as well as share with IMO any related information.

6.10 The representative of the United Nations Interregional Crime and Justice Research Institute (UNICRI) introduced document LEG 100/6/3, containing information on the database on court decisions related to piracy established by UNICRI, in response to the request made by the Committee at its ninety-ninth session. UNICRI also provided the Committee with statistics drawn from its Piracy Analysis, including the average age of pirates; the region and clans they come from; their occupations; when attacks are most likely to occur; the number of pirates participating in individual attacks; the use of motherships; the number of casualties occurring in pirate ranks and the number and type of ships boarded.

6.11 The representative of UNICRI also noted that the UNICRI piracy portal included scanned copies of court decisions, intended to make the database more comprehensive, as well as links to other databases in different jurisdictions and regions. It also included information on post-trial transfers, even though this occurred only after conviction.

6.12 There was general support for the database and the Committee agreed to collaborate closely with UNICRI with regard to piracy-related issues.

6.13 In response to a question on the inclusion of national legislation on piracy in the database, the Secretariat reminded the Committee that this information may be found in the database established by the Division for Ocean Affairs and the Law of the Sea (DOALOS), which is accessible through the DOALOS website.

6.14 The Committee recalled that, at its ninety-ninth session, it had invited Member Governments to submit court decisions related to piracy off the coast of Somalia, either directly to UNICRI or to IMO for forwarding to UNICRI, for inclusion in its database.

6.15 In this regard, the Committee noted that a court decision received by the Secretariat from the Government of Kenya since LEG 99 had been forwarded to UNICRI. The Committee also took note of the link to the UNICRI website on the IMO website, under the heading "Maritime Security/Piracy/Maritime Piracy Court Decisions (UNICRI)".

6.16 The Committee thanked Ukraine, the representative of UNICRI and the Secretariat for the information provided.

7 COLLATION AND PRESERVATION OF EVIDENCE FOLLOWING AN ALLEGATION OF A SERIOUS CRIME HAVING TAKEN PLACE ON BOARD A SHIP OR FOLLOWING A REPORT OF A MISSING PERSON FROM A SHIP, AND PASTORAL AND MEDICAL CARE OF VICTIMS

7.1 The Committee recalled that the Assembly, at its twenty-seventh session, adopted resolution A.1058(27) on *Collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims*. The resolution invited Member States and other parties concerned to submit proposals to the Legal Committee to enable consideration of the issues raised in the resolution, bearing in mind that issues of criminal jurisdiction should be consistent with international law.

7.2 The Committee also noted its agreement, at its last session, to include this item on its agenda, with a target completion date of 2014.

7.3 The delegation of the United Kingdom introduced document LEG 100/7, on behalf of the co-sponsoring delegations, proposing the development of *Guidelines on the collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims*. The draft guidelines were based on existing guidelines developed by MSC to assist in the investigation of the crimes of piracy and armed robbery against ships, adapted to fit the particular issues related to other alleged crimes at sea; and contained guidance on actions in the event of a missing person and the pastoral and medical care of victims.

7.4 The Committee expressed appreciation to the United Kingdom and the co-sponsors of the document. There was, in principle, support for the document as well as agreement that the proposed draft Guidelines could form a good basis for further discussion; however, further development was required. Among the preliminary views expressed were the following:

- the Guidelines should be as short and precise as possible as they would be used by individuals not familiar with these issues. This applied particularly to section 4;
- every effort should be made to finalize them at this session;
- the Guidelines should include a cross-reference to the fair treatment Guidelines concerning the right of the accused not to self-incriminate;
- a reference to consular assistance should be incorporated;
- the Guidelines should contain upfront a statement to the effect that the master should seek early advice from law enforcement agencies; and
- the role of the master should be made an integral part of the safety management of the ship.

7.5 The observer delegation of the Cruise Lines International Association (CLIA), supported by the observer delegation of the International Federation of Shipmasters' Associations (IFSMA), noted that it was important for the Guidelines to address the period of time between the occurrence of the crime and the coming on board of the investigator.

7.6 The Committee discussed the five substantive issues set out in paragraph 7 of the document, in respect of which the following views were expressed:

Paragraph 7(i): recognition of coastal States jurisdiction

Regarding the question of jurisdiction, the following views were expressed:

- the question of jurisdiction should be approached with caution as it was a complex issue; it may well differ from State to State; multiple parties may be involved;
- the Guidelines should focus on preserving evidence, not legal issues like jurisdiction;
- the Guidelines could not settle issues of jurisdiction;
- it was important to align the Guidelines with the United Nations Convention on the Law of the Sea (UNCLOS); and
- in developing the Guidelines, the emphasis should be on encouraging cooperation between interested States that might have competing jurisdictions.

Paragraph 7(ii): Should the Guidelines contain a stronger commitment to preventing people with past convictions for sexual assault, particularly rape, from sailing either as passenger or crew?

On the question of whether people with past convictions for sexual assault should be prevented from sailing either as passenger or crew, the following views were expressed:

- it would be impossible to execute such a prohibition in practice;
- preventing such individuals from sailing might run counter to human rights;
- prior behaviour should not be the determining factor unless national legislation provides otherwise;
- such a prohibition should not be included in the Guidelines as this was not their objective;
- the Guidelines should concentrate on preserving crime scenes and evidence rather than on preventing individuals from sailing;
- in many jurisdictions it would be impossible to prohibit any person who had served their sentence to sail either as a passenger or as crew;
- the matter should be left to the shipping company or other employer;
- such a prohibition should only apply to repeat offenders;
- no similar restrictions existed on airlines; and
- it was not practicable to exclude passengers.

Paragraph 7(iii): Should a ship's master have the authority to confiscate items of potential evidence, such as clothing, or conduct interviews without first contacting law enforcement agencies?

Regarding the right of the master of the ship to confiscate items of potential evidence, the following views were expressed:

- the master should contact the respective law enforcement agencies for instructions on how to proceed with the collation of evidence;
- the master should act in concert with law enforcement agencies;
- the role of the master with regard to the collation of evidence should be limited to the minimum;
- the role of the master was not to conduct the investigation but to preserve the evidence;
- it might be necessary for the master to confiscate some items in order to preserve them as evidence, especially in cases where there is a suspicion that evidence might be destroyed, otherwise the master should not have this authority;
- the master should have the authority to carry out all lawful actions but might need to contact flag States;
- the master should have the authority to do so but not the duty to do so; and
- the master should also be obliged to collect the electronic evidence.

Paragraph 7(iv): Should the Guidelines contain a list of crimes?

Regarding the question of the list of crimes and the definition of a crime, the following views were expressed:

- the Guidelines should contain a list of crimes; however, this list should be open;
- there is no need for a list of crimes and the definition of crime should be as wide and general as possible;
- there is no need to include in the Guidelines the definition of a crime;
- the Guidelines should define serious crimes but the current definitions were too vague and might include for example environmental damage;
- an indicative list only should be included;
- a list of indicative crimes was not helpful;
- the Guidelines should not cover crimes which are covered by other IMO instruments, for example piracy and environmental issues; and
- if the list of crimes was too lengthy it might deter the master from acting.

Paragraph 7(v): Should the Guidelines include a statement to the clear effect that the master should not be held criminally liable for any shortcomings by himself or the crew in preserving evidence?

Regarding the question of the liability of the master and the crew for any shortcomings in preserving evidence, the following views were expressed:

- the master and crew should not be liable for any shortcomings in preserving evidence;
- the master and crew should not be held liable for non-compliance with the Guidelines;
- the master and crew should not be liable except in cases of deliberate tampering with the evidence or gross negligence; and
- the master and crew should not be liable because they are not trained investigators.

7.7 The Committee agreed to establish a working group to discuss the Guidelines, with the terms of reference contained in document LEG 100/WP.3.

7.8 The report of the working group is contained in document LEG 100/WP.8.

7.9 The Committee expressed its appreciation to the working group and its Chair, Ms. Katy Ware (United Kingdom) for the excellent work accomplished.

7.10 Among the views expressed with regard to the report were the following:

- the text should be adopted in its entirety and be forwarded to the twenty-eighth session of the Assembly in the form of an Assembly resolution;
- the task of reformatting the text of the resolution should be entrusted to the Secretariat;
- in the paragraph on cooperation and coordination between interested States and parties, the Guidelines refer to international law; however, it should also include a specific reference to UNCLOS; and
- in the paragraph on the role of the master, the flag State, rather than the master, should report the allegation to interested States.

7.11 The point was made that the text of the Guidelines had been thoroughly discussed during the working group. All the ensuing views and proposals had been taken into account and extensive debate had taken place with regard to every paragraph of the proposed guidelines. The text, as reflected in the report, was a sensitive compromise that should not be amended at this stage.

7.12 Following the discussion, the Committee turned its attention to the action requested in paragraph 17 of document LEG 100/WP.8. In this connection, it agreed to the new title of the draft Guidelines; approved the draft Guidelines and the associated appendices; approved the associated draft resolution to the Guidelines; agreed to the working group's recommendation not to convene an intersessional working group or correspondence group to develop the Guidelines further; and approved the report of the working group.

7.13 The Committee further agreed that the draft Guidelines should be referred to the twenty-eighth session of the Assembly for adoption, subject to the Secretariat making any necessary editorial amendments to the text. The draft Guidelines and associated draft Assembly resolution are attached at annex 2 to this report.

8 MATTERS ARISING FROM THE 108TH AND 109TH REGULAR SESSIONS OF THE COUNCIL

8.1 The Secretariat introduced document LEG 100/8 on the decisions and conclusions of the 108th and 109th regular sessions of the Council, on matters of relevance to the Legal Committee.

8.2 The Committee took note of the information submitted by the Secretariat and, in particular:

- the Council's approval of the Committee's decision on the duplication of outputs for the 2012-2013 biennium, as well as the inclusion of a new agenda item on the collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims;
- the Council's noting of the Committee's decision to analyse further the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities, with the aim of developing guidance to assist States interested in pursuing bilateral or regional arrangements, without revising Strategic Direction 7.2;
- the Council's endorsement of the Secretary-General's proposal that the theme for 2013 should be "Sustainable Development: IMO's contribution beyond Rio+20";
- the Council's endorsement of the proposal that unplanned outputs only be accepted within a biennium in exceptional circumstances; and
- the Council's decision to adopt all the amendments to the Statute of the International Maritime Law Institute (IMLI). The revised IMLI Statute can be found on the IMO website, under the link IMODOCS, Circular letter No.3326.

9 TECHNICAL CO-OPERATION ACTIVITIES RELATED TO MARITIME LEGISLATION

9.1 The Secretariat introduced document LEG 100/9, providing a report on IMLI's activities for the year 2012; a list of dissertations and maritime legislation drafting projects undertaken by its students in the 2011-2012 academic year; an interim list of students' dissertations and maritime legislation projects for the LLM Programme for the year 2012-2013; and information on the forthcoming publication of the IMLI Manual on International Maritime Law.

9.2 The Committee, in noting the information, agreed that, as the theses and projects in the LLM Programme are written only in English, in order to save resources, the list of dissertations and maritime drafting projects should, in future, be issued as an information paper; any other information provided by IMLI should, however, be issued as a meeting document.

9.3 The Secretariat introduced document LEG 100/9/1 on the thematic priorities to be included in the Integrated Technical Cooperation Programme (ITCP) covering the 2014-2015 biennium. In so doing, the Secretariat noted that, although technical assistance in the field of maritime legislation was already available to States on request, the Committee might wish to adjust its thematic priorities, with the aim of stimulating new activities in the field of maritime legislation.

9.4 The Committee agreed to revise the first thematic priority, as set out in paragraph 6 of the document as follows:

"Providing means to strengthen the legal capacity, maritime policy and infrastructure of national maritime authorities, with particular emphasis on Least Developed Countries and Small Island Developing States."

9.5 The Director, Technical Co-operation Division (TCD), introduced document LEG 100/9/2, reviewing technical co-operation activities on maritime legislation from January to December 2012.

9.6 In so doing, he informed the Committee that:

- TCD was in the process of implementing the ITCP for 2014-2015. More activities had been planned to assist Member States in drafting, updating and bringing into force primary and secondary maritime legislation in matters related to the implementation of IMO instruments;
- regional and national training courses on drafting of maritime legislation in selected countries, including Least Developed Countries (LDCs) and Small Island Developing States (SIDS), were also planned to be carried out during the 2014-2015 biennium;
- in line with the general support by the Technical Co-operation Committee for the Secretary-General's initiative to enhance assistance in the formulation of national maritime strategies and policies, more activities in this area were also being developed;
- to implement the aforementioned activities, there was a need to secure more experts on legal matters in the IMO roster for technical co-operation. The IMO Secretariat had been exploring ways with IMLI to make full use of IMLI graduates for IMO's technical assistance activities; and
- legal experts attending this meeting were invited to put forward an online application for inclusion in the IMO roster to provide support for IMO's capacity-building efforts in the legal field.

9.7 In noting this information, the Committee expressed its support for the activities just outlined in paragraph 9.6. The Committee also expressed its appreciation to the Secretariat for acting on the Secretary-General's initiative to enhance assistance in the formulation of national maritime strategies and policies and, for taking the initiative to enlist IMLI graduates for IMO's technical assistance activities, the latter provided a good example to other United Nations agencies. The hope was also expressed that these initiatives would bear fruit in the form of increased ratifications of the IMO Conventions.

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

10.1 The Secretariat introduced documents LEG 100/10 and LEG 100/WP.2 containing information on the status of conventions and other treaty instruments emanating from the Legal Committee.

10.2 The Committee noted that the annex to document LEG 100/10 provided updated status information, to 8 February 2013, on the developments which had occurred since the Committee's last review, in April 2012; and that this information had been further updated to 12 April 2013 in document LEG 100/WP.2.

10.3 The Committee requested delegations to encourage their respective Governments to work towards ratification of all the conventions developed under the aegis of the Legal Committee, in particular the 2002 Athens Protocol, which needed only one more ratification to meet its first entry-into-force requirement, the 2005 SUA Protocols, the 2007 Nairobi Wreck Removal Convention and the 2010 HNS Protocol.

10.4 The delegation of Germany informed the Committee that the completion of the legislative procedures for the ratification of the 2007 Nairobi Wreck Removal Convention were expected to be completed in May 2013, following which the instrument of ratification would be deposited with the Secretary-General.

10.5 The delegation of Croatia informed the Committee that its Parliament had ratified the 2002 Athens Protocol and that the requisite instrument of ratification would be deposited shortly, hopefully the tenth one required to bring the treaty into force 12 months later.

10.6 The delegation of Canada informed the Committee that a bill had been introduced in the Canadian Parliament in March 2013 which would implement the 2010 HNS Protocol. Following the adoption of legislation, regulations were needed to put into place the HNS receipts reporting requirements. The delegation reminded the Committee that, with the adoption of the Guidelines, it was now up to States to undertake the work necessary to implement and ratify the Protocol in a coordinated fashion, to ensure the establishment and funding of the HNS Fund.

10.7 The delegation of Sweden informed the Committee that bills would be introduced in Parliament in 2014, concerning ratification of the 2002 Athens Protocol, the 2005 SUA Protocols and the 2010 HNS Protocol. With regard to the 2007 Nairobi Wreck Removal Convention, a Commission would be appointed in 2014 to consider which changes to Swedish national law would be necessary for ratification of the treaty and a bill was not expected to be presented to Parliament for at least another two or three years.

10.8 The delegation of the Netherlands informed the Committee of the situation with regard to the 2008 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (the Rotterdam Rules). Although not an IMO treaty, it is important since it modernizes the existing international rules relating to contracts of maritime carriage of goods. In view of the fact that 24 States had signed the treaty, but only two had ratified it, delegations were invited to inform the Committee of their plans in this regard.

10.9 The delegation of Denmark informed the Committee that Parliament had adopted implementing legislation with regard to the 2005 SUA Protocols and the 2007 Nairobi Wreck Removal Convention. With regard to the HNS Protocol, the legislation implementing the 1996 HNS Convention was adopted by the Danish Parliament some years ago and a bill on

the implementation of the HNS Protocol was introduced to the Parliament. Once the act has been adopted by the Parliament, Denmark would be able to ratify the Protocol.

10.10 The delegation of Belgium informed the Committee that the parliamentary process preparing for the ratification of the 2002 Athens Protocol, including the application of the Guidelines adopted by the Legal Committee, had been completed. The requisite instrument of ratification would be deposited soon.

10.11 The delegation of Australia informed the Committee that a National Interest Analysis and a Regulatory Impact Statement on Australian accession to the 2010 HNS Protocol had been tabled in the Australian Parliament. The Government had proposed Australia's accession to the Protocol without preconditions, and the Parliament's Joint Standing Committee on Treaties had held hearings on the Protocol. Its report was expected to be tabled to Parliament in May 2013. Bills implementing the Protocol under Australian law were scheduled to be introduced in the Parliament in May 2013, but whether they were passed or not would depend on the Government's legislative priorities before the general election in September 2013.

10.12 The delegation of Greece informed the Committee that bills aiming at the ratification of the 2002 Athens Protocol and the 2005 SUA Protocols had been drafted and the process was in its final stages.

11 APPLICATION OF THE COMMITTEE'S GUIDELINES

(a) Review of planned outputs

11.1 The Secretariat introduced document LEG 100/11, providing the Committee's Planned Outputs (POs) for the 2012-2013 biennium for its review, with the aim of ensuring compliance with the *Guidelines on the Application of the Strategic Plan and the High-level Action Plan of the Organization* (resolution A.1013(26)) (the GAP). The annex to document LEG 100/11 contains the Committee's report for the biennial agenda 2012-2013 (i.e. the current biennium) for the Committee's consideration.

11.2 The Committee recalled that the Council, at its twenty-sixth extraordinary session, had invited the organs of the Organization to review their POs at the first opportunity in the new biennium, to ensure compliance with the GAP. Subsequently, at its ninety-ninth session, the Legal Committee had considered some, but not all, of the issues identified by the Council Ad hoc Working Group on the Organization's Strategic Plan, such as outputs not in SMART terms, duplicate outputs, outputs identified as being continuous, and outputs on which no work had been undertaken for an extended period.

11.3 The Committee further recalled that the Council, at its 109th regular session, had requested the Secretary-General, as well as the committees and sub-committees, to specify interim outputs, or target completion years for these outputs, when proposing the next High-level Action Plan for the 2014-2015 biennium.

11.4 The Committee also recalled that the Council had endorsed a trial for using modified reporting formats. Therefore all POs related to the Committee were presented in the report for the biennial agenda 2012-2013, as contained in the annex to document LEG 100/11, including those for which the Committee is not the coordinating organ. However, the description of these latter POs (and also Unplanned Outputs (UOs)) as continuous was part of an internal process in the Secretariat, on which the Secretary-General will report to the Council in due course. No review at this session of the Committee of these POs and UOs was, therefore, necessary.

11.5 To assist the Committee, an informal group was established under the chairmanship of Mr. Gaute Sivertsen (Norway), to consider refinement of the Committee's POs for the 2012-2013 biennium and develop recommendations for the Committee's consideration, if appropriate, for the biennial agenda 2014-2015 to be submitted to the twenty-eighth regular session of the Assembly.

(i) Review of Planned Outputs for the 2012-2013 biennium

11.6 Following the outcome of the informal group's considerations, the Committee first considered POs for the current 2012-2013 biennium, as identified by the Council Working Group and summarized in document LEG 100/11, which had not been addressed by the Legal Committee at its ninety-ninth session.

11.7 The Committee agreed to its report on the status of POs for the current biennium, based on document LEG 100/WP.7 which was introduced by the delegation of Norway. The report is attached in annex 3 to this report.

(ii) Planned Outputs for the next biennium (2014-2015)

11.8 The Committee then considered a draft report for the biennial agenda 2014-2015 based on the annex to document LEG 100/11, as updated by document LEG 100/WP.7. The delegation of Norway pointed out that the proposed PO 1.1.2.41, as modified in the informal group, is intended to be included in the agenda for the biennium following the next 2014-2015 biennium. The delegation also drew the attention of the Committee to the proposed deletion of PO 5.2.4.5, which the informal group had considered to overlap with proposed PO 1.3.1.1, as modified by the informal group, while all other proposed changes were considered to be self-evident.

11.9 The Committee concurred with the content of the annex to document LEG 100/11 and the update contained in document LEG 100/WP.7, the latter subject to the deletion of all square brackets. The table of POs for the 2014-2015 biennium is set out in annex 4 to this report.

11.10 The Committee agreed to submit the above decisions to the 110th regular session of the Council for its endorsement.

(b) Items for inclusion in the agenda for the 101st session of the Legal Committee

11.11 It was suggested that the agenda, particularly the item on Any other business, be aligned with that of the other Committees and, accordingly, that the sub-item Liability and compensation issues connected with transboundary pollution damage from offshore oil exploration and exploitation activities should not be specifically referred to under this agenda item. In view of the differing opinions on this issue, it was decided to refer this matter to the Council for its consideration.

11.12 The Committee approved the list of substantive items for inclusion in the agenda for its 101st session, as contained in document LEG 100/WP.5, as amended. The amended list is contained in annex 5 to this report.

(c) Meeting-weeks in the 2014-2015 biennium

11.13 The Committee agreed that two meeting-weeks should be adequate for the 2014-2015 biennium.

12 ELECTION OF OFFICERS

(i) Election of the Chairman

12.1 The Committee re-elected, by acclamation, Dr. Kofi Mbiah (Ghana) as Chairman for 2014.

(ii) Election of the Vice-Chairman

12.2 The Committee elected, by acclamation, Mr. Walter de Sá Leitão (Brazil) as Vice-Chairman for 2014.

12.3 In order to align its practice with that of the other Committees, the Committee decided to revert to having only one Vice-Chairman.

12.4 The Committee instructed the Secretariat to amend rule 17 of its Rules of Procedure accordingly and introduce the necessary consequential amendments.

13 ANY OTHER BUSINESS

(i) Liability and compensation issues connected with transboundary pollution damage from offshore oil exploration and exploitation activities

13.1 The delegation of Indonesia introduced document LEG 100/13 on the outcome of the second International Conference on Liability and Compensation Regime for Transboundary Oil Damage Resulting from Offshore Exploration and Exploitation Activities, held in Bali in November 2012. In so doing, the delegation stated that:

- the issue of transboundary damage caused by offshore oil pollution is still a pressing matter and should be further discussed;
- there is a convergence of views that current international law in this area is insufficient and that the Legal Committee is the most appropriate forum to address this issue, due to its extensive expertise in the area of liability and compensation issues;
- the issue should be further discussed at a workshop of legal experts, which Indonesia was prepared to host, with the support of and in cooperation with IMO, to consider all legal aspects of the issue; and
- while Indonesia remained of the view that a legally binding international instrument would be the best way of responding to similar problems as those resulting from the Montara well-head platform incident, it was prepared to work with the Committee in the development of guidance to assist States to enter into bilateral or regional arrangements.

13.2 The Committee also considered the information provided by the delegation of Indonesia in document LEG 100/13/2. This contained principles for guidance on model bilateral/regional agreements or arrangements on liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities, which the delegation suggested might be further deliberated and developed with the aim of assisting States interested in pursuing such arrangements, in line with the Committee's previous decisions.

13.3 The Committee recalled its decision, at its ninety-ninth session, to inform the Council that it wished to analyse further the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities, with the aim of developing guidance to assist States interested in pursuing bilateral or regional arrangements, without revising Strategic Direction 7.2. This decision was duly noted by the Council at its 108th session.

13.4 The following views were expressed:

- further work was needed, since the existing framework does not provide for a sufficient mechanism and there is a need for a fair and effective model framework;
- the guidance should be aimed at assisting States to reach bilateral or regional agreements;
- the guidance should incorporate strict liability and other principles of international private law;
- the terminology employed should be consistent with UNCLOS;
- there was no need for IMO guidance in this area – regional arrangements remained the best means to address liability and compensation matters between States;
- an effort to develop templates or other guidance in IMO may have the unintended effect of delaying the development of regional arrangements;
- the development of principles may imply an effort to define legal norms and the topics that were presented and do not have uniformly accepted formulations or interpretations, and in particular should not be considered principles in a legal sense;
- coastal States have sovereign rights over their outer-continental shelves under international law, and each State needs to understand the legal regimes of neighbouring States even to start the process of creating a model template;
- the issue is not part of the High-level Action Plan and therefore the Committee may not draft a binding instrument. However, assistance could be rendered by those States which have already entered into regional or bilateral agreements;
- the Committee's expertise should be directed to develop a draft model for bilateral and regional agreements;
- the principles referred to in document LEG 100/13/2 are similar to those in the 1992 Civil Liability and Fund Conventions and the 2001 Bunkers Convention; these principles might be considered when drafting bilateral or regional agreements;
- the request by Indonesia for guidance could not be ignored and is worth consideration; there is no other option than to take the issue up in the Committee;

- the development of principles is not consistent with best practice; as agreed at LEG 99, the best way forward would be regional and bilateral agreements;
- in many States, legislation was restricted to domestic waters and shipping, therefore a more far-reaching initiative was needed, including a workshop or consultative group to draft guidelines for regional and bilateral agreements;
- the development of guidance was supported, which should be consistent with current international practice and which should not be a basis for any future international legal regime;
- some informal work could be undertaken in IMO with the assistance of industry observers; caution was needed, since principles may have a different meaning in different States, and the context may be different;
- as coastal States legislation also relates to the continental shelf, bilateral and multilateral agreements with neighbouring States were the best way forward, taking into account the geographical situation;
- shipping regimes differ from those applying to offshore installations. In that respect it remained to be seen how the provisions of the 2001 Bunkers Convention and the 2007 Wreck Removal Convention could be applied in case of transboundary pollution damage from offshore activities; any future instrument should be accompanied by a claims handling guide;
- providing guidance for bilateral and regional regimes would be a good starting point to address the issue; a broader solution might be considered at a later stage; and
- the relevant provisions of UNCLOS, in particular articles 192, 194 and 197 on cooperation by States, should be taken into consideration when establishing guidelines to protect the marine environment.

13.5 There was general support for increased cooperation between States on the subject, as well as for further work by the Committee. It was suggested that Indonesia should pursue the subject intersessionally and that more States should participate in such work.

13.6 Following the discussion, the Committee agreed that:

- the keyword in providing guidance was collaboration by States and assistance to those States which are in need of guidance for bilateral and multilateral agreements;
- Member States were invited to send examples of existing bilateral and regional agreements to the Secretariat; and
- at the same time, the delegation of Indonesia was encouraged to continue its work intersessionally to facilitate further progress within the Committee.

13.7 The delegation of Indonesia informed the Committee that it would continue coordinating the informal consultative group to discuss issues connected with transboundary pollution damage from offshore exploration and exploitation activities, taking into account the

views expressed by the Committee at this session. The online address for participating in this group is as follows: ind_offshorediscussion_imoleg@yahoo.com

13.8 The delegation of the Comité Maritime International (CMI) informed the Committee that CMI, in cooperation with the Irish Maritime Law Association, would be hosting a symposium in Dublin from 29 September to 1 October 2013, which would have on its agenda, inter alia, the need for liability and compensation for transboundary oil pollution damage resulting from offshore exploration and exploitation activities. CMI would share the results of the seminar with the delegation of Indonesia.

(ii) Advice and guidance on issues brought to the Legal Committee in connection with implementation of IMO instruments; advice on the implementation of the International Convention on Civil Liability for Oil Pollution Damage, 1992

13.9 The International Oil Pollution Compensation Funds (IOPC Funds) introduced document LEG 100/13/1 inviting the Committee to consider a request for advice on the possible consequences of the discrepancies between insurance policies, blue cards and certificates issued under the International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 92).

13.10 In particular, the Committee considered:

- whether the State issuing the CLC certificate has an obligation to investigate the terms, conditions and cover provided in certificates (blue cards) presented by insurers; and
- whether, as a consequence, the State would have a potential liability to the IOPC Fund, should the Fund suffer a loss as a result of the insurance cover being insufficient.

13.11 It was noted that the Committee was not requested to provide advice on a specific case, but instead was invited to express its views on the two questions listed above on the basis of CLC 92.

13.12 It was noted further that these questions go beyond the narrow limits of claims against the IOPC Fund under the 1992 Civil Liability and Fund Conventions but have much broader characteristics and implications that potentially touch upon a number of international conventions such as the 2001 Bunkers Convention and the 2002 Protocol to the Athens Convention, as well as other instruments providing for State certificates.

13.13 In analysing article VII of CLC 92, the following views were expressed:

(i) On the question of the obligation on the State to investigate the terms, conditions and cover provided in certificates (blue cards) presented by insurers:

- the obligation contained in article VII, paragraph 2 requires the State to "determine" whether the requirements of article VII, paragraph 1 have been complied with. Accordingly, the State issuing the certificate has an obligation to investigate the blue card;
- article VII, paragraph 2 does not state the manner in which contracting States should fulfil their obligation to investigate – accordingly, contracting States should normally be able to trust the blue card providing by the insurance company unless there is some indication that there is a need for further investigation;

- national administrations are responsible for investigating the blue card to the best of their ability. This is a relatively straightforward process where the insurer is a P&I Club and a member of the International Group or even another major insurer outside the Group; with foreign insurers the task may be more difficult, but not impossible;
- it is the general practice of national administrations to determine whether the requirements of the Convention have been complied with solely on the basis of blue cards. In so doing, the State acts in good faith. However, in case of any doubt as to the reliability of a blue card, the State should also examine the insurance policy and the condition of the insurer;
- article VII, paragraph 6 requires the State of registry to determine the conditions of issue and validity of the certificate and if a State is in doubt the need arises to investigate further;
- in case of any doubt, the State may consult another State on the reliability of the insurer;
- as a general rule, administrations issue the certificates on the basis of blue cards issued by the International Group of P&I Associations (P&I Clubs);
- administrations may also request proof of solvency of the company in line with the Assembly resolution on insurance certificates under the Bunkers Convention; and
- in case of any discrepancy between the blue card and the insurance policy, it will be up to national law to determine the legal consequences in such a case.

(ii) On the question of the liability of a State issuing a certificate:

- this was a more complex and difficult issue to address;
- CLC 92 does not clearly provide for the liability of the State if it issues a certificate on insufficient or invalid insurance. By contrast, the 1992 Fund Convention does place a liability on States who misreport oil receipts;
- since the aim of the blue card is to certify that a ship is covered in a manner consistent with CLC 92, liability should not arise on the part of the State issuing the certificate;
- the Convention imposes no strict liability on States;
- the contracting State is not automatically liable to pay damages if an incorrect certificate has been issued;
- in some jurisdictions State liability depends upon whether a duty of care applies and in such cases States may be liable in negligence in the same way as private individuals, if the convention regime or domestic law allows this interpretation;
- in theory, States may be liable at international law for improper implementation of their convention obligations;

- the conventions that regulate an obligation to issue a certificate do not provide for the channelling of liability to a State. Liability under these conventions is channeled either to economic actors operating for profit (namely the shipowner or insurer) or Funds, such as the IOPC Funds, which receive contributions specifically for the purpose of providing compensation;
- any interpretation to the effect of potentially channelling liability to the issuing State will result in transforming the State as a quasi-additional level of liability, thus upsetting the delicate balance of the liability and compensation regime established by the conventions; accordingly, any question of channeling liability should be approached in a manner fully consistent with the actual provisions and wording of the relevant conventions;
- the purpose of the CLC regime may not be suited to apportioning State liability and therefore whether liability would be attributed to the State is an open question;
- despite the potential lack of insurance, there is still the liability of the shipowner; and
- the 130 States Parties to CLC 92 must ensure the exercise of due diligence to ensure the long-term viability of the international regime.

13.14 Two delegations informed the Committee of their intention to submit a proposal at LEG 101 to extend the guidelines for accepting documentation from insurance companies, financial security providers and P&I Clubs, adopted in respect of the Bunkers Convention (Circular letter No.3145), to CLC and HNS Certificates.

13.15 The Director of the IOPC Funds thanked the Committee for its advice which would be duly reported to the Funds Governing Bodies.

EXPRESSION OF CONDOLENCES

The Secretary-General referred to the tragic events in Boston on 16 April 2013, when two bombs killed three people and injured more than one hundred at the finish line of the annual Boston Marathon. He condemned this atrocity as a senseless act of violence. The Committee expressed its deepest condolences to the delegation of the United States of America and to the bereaved families.

SPECIAL EVENT TO COMMEMORATE THE 100TH SESSION AND EXPRESSION OF APPRECIATION TO THE INTERNATIONAL MARITIME LAW INSTITUTE (IMLI)

On Thursday 18 April 2013, in the afternoon, a special event in the form of a seminar was held to commemorate the 100th session of the Legal Committee. The presentations from eminent speakers including past and present Chairmen of the Committee, were a reflection on some of the ground-breaking work carried out by this important body over the more than 45 years since its inception, as well as a *point de départ* towards new directions and challenges ahead. The texts of the presentations can be found at the following link: <http://www.imo.org/MediaCentre/HotTopics/LEG100/Pages/leg100presentations.aspx>.

The Legal Committee expressed its appreciation to Professor David Attard, Director of the International Maritime Law Institute, for his valedictory address and, in particular, for his presentation to the Legal Committee, on behalf of IMLI, of the Award for Meritorious Contribution towards the Progressive Development and Codification of International Maritime Law that brought to a close the special event.

STATEMENTS

Statements were made by the delegations of Chile and the Islamic Republic of Iran. These are attached as annexes 6 and 7 to this report.

ANNEX 1

AGENDA FOR THE ONE HUNDREDTH SESSION

Opening of the session

- 1 Adoption of the agenda
- 2 Report of the Secretary-General on credentials
- 3 Monitoring the implementation of the HNS Protocol, 2010
- 4 Provision of financial security in cases of abandonment, personal injury to, or death of seafarers in the light of the progress towards the entry into force of the ILO Maritime Labour Convention, 2006 and of the amendments relating thereto
- 5 Fair treatment of seafarers in the event of a maritime accident
- 6 Piracy
- 7 Collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims
- 8 Matters arising from the 108th and 109th regular sessions of the Council
- 9 Technical co-operation activities related to maritime legislation
- 10 Review of the status of conventions and other treaty instruments emanating from the Legal Committee
- 11 Application of the Committee's Guidelines
- 12 Election of officers
- 13 Any other business
 - (i) Liability and compensation issues connected with transboundary pollution damage from offshore oil exploration and exploitation activities
 - (ii) Advice and guidance on issues brought to the Legal Committee in connection with the implementation of IMO instruments; advice on the implementation of the International Convention on Civil Liability for Oil Pollution Damage, 1992
- 14 Report of the Committee

ANNEX 2

DRAFT ASSEMBLY RESOLUTION

PRESERVATION AND COLLECTION OF EVIDENCE FOLLOWING AN ALLEGATION OF A SERIOUS CRIME HAVING TAKEN PLACE ON BOARD A SHIP OR FOLLOWING A REPORT OF A MISSING PERSON FROM A SHIP, AND PASTORAL AND MEDICAL CARE OF PERSONS AFFECTED

THE ASSEMBLY,

RECALLING Article 15(j) of the Convention on the International Maritime Organization regarding the functions of the Assembly in relation to recommendations and guidelines concerning maritime safety,

BEARING IN MIND that the Assembly, at its twenty-seventh regular session, by resolution A.1058(27), invited submissions on the collation and preservation of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of victims,

RECALLING article 92 of the United Nations Convention on the Law of the Sea (UNCLOS) which provides that ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in UNCLOS, shall be subject to its exclusive jurisdiction on the high seas,

RECALLING FURTHER article 27 of UNCLOS, which provides that criminal jurisdiction of a coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or conduct any investigation in connection with any crime committed on board the ship during its passage, except in the circumstances set forth in that article,

NOTING that a thorough investigation of a serious crime on board a ship may be a lengthy process and that certain cases, in which more than one State may have jurisdiction, may present complications and challenges to the authorities responsible for such investigations,

NOTING ALSO that whilst voluntary, such guidance would assist shipowners, operators and masters in cooperating with relevant investigating authorities and contribute to effective and efficient criminal investigations in cases of serious crime or missing persons from ships and would further facilitate and expedite cooperation and coordination between investigating authorities, consistent with international law,

1. URGES Member Governments to consider the guidelines in the annex, and to advise shipowners, operators and masters to:

- .1 assist in the preservation and collection of evidence following an allegation of a serious crime on board a ship, or following a report of a missing person from a ship, noting that criminal jurisdiction should be exercised consistently with international law; and
- .2 provide pastoral and medical care to persons affected;

2. URGES ALSO Intergovernmental organizations and non-governmental organizations with consultative status to consider the Guidelines as set out in the annex and to advise their membership to act accordingly;

3. INVITES Member Governments, intergovernmental organizations and non-governmental organizations with consultative status to consider bringing the results of the experience gained from using the guidelines, as set out in the annex, to the attention of the Legal Committee.

ANNEX

DRAFT GUIDELINES ON THE PRESERVATION AND COLLECTION OF EVIDENCE FOLLOWING AN ALLEGATION OF A SERIOUS CRIME HAVING TAKEN PLACE ON BOARD A SHIP OR FOLLOWING A REPORT OF A MISSING PERSON FROM A SHIP, AND PASTORAL AND MEDICAL CARE OF PERSONS AFFECTED

Introduction

The primary purpose of these Guidelines is to assist masters¹, with respect to the preservation of evidence and the pastoral and medical care of persons affected and, when appropriate the collection of evidence, during the time period between the report or discovery of a possible serious crime and the time when law enforcement authorities or other professional crime scene investigators take action.

The master is not a professional crime scene investigator and does not act as a criminal law-enforcement official when applying these Guidelines. These guidelines should not be construed as establishing a basis of any liability, criminal or otherwise, of the master in preserving and/or handling evidence or related matters.

These Guidelines focus on what can practically be carried out on board a ship for the preservation and/or collection of evidence and protect persons affected by serious crimes until such time that the relevant law enforcement authorities commence an investigation. They are designed to apply to all vessels regardless of ship type, and should help facilitate the restoration of the normal operation of the ship, once the situation relating to the serious crime on board comes to an end.

It is recognized that the risk of a serious crime taking place on a ship may be addressed through the applicable onboard security arrangements. Although the emphasis is on the need for preventive measures, the risk of a serious crime on board ships cannot be completely eliminated. If a serious crime is committed, it is imperative for all involved that it is fully investigated by the appropriate authorities. In addition, it is of the utmost importance that allegations of sexual assault and other serious crimes are taken seriously, that the persons affected are protected and that their pastoral needs are fully addressed.

The investigation of serious crimes at sea presents particular challenges due to the different entities that may be involved including, but not limited to, flag States, coastal States, port States and States of nationalities of the persons on board.

Reportable serious crimes

Given the differences in laws of the many jurisdictions where a ship may sail, it is not practical to provide a comprehensive list of the types and legal definitions of serious crimes that require reporting. Generally, the master should report alleged or discovered serious crimes to the flag State, other interested States and parties involved, including law-enforcement authorities. These could include, but are not limited to, a suspicious death or disappearance, a criminal act leading to serious bodily injury, sexual assault, conduct endangering the safety of the vessel, or substantial loss of currency or property.

¹ Reference to the master herein includes officers or crew members to whom the master has delegated any functions outlined in these Guidelines.

Cooperation and coordination between interested States and parties

Swift response by law enforcement authorities is important to persons affected by serious crimes.

Cooperation and coordination between interested States and parties should be undertaken in a manner consistent with international law. All interested States and parties involved should cooperate and coordinate to ensure that a full and complete investigation is undertaken. Regardless of which State undertakes the investigation, all investigations should be conducted in the most expeditious manner possible.

The flag State and other interested States should maintain communications between themselves to inform each other about the initiation, progress and outcome of their criminal investigation(s).

Role of the master

The overriding role of the master is to ensure the safety of passengers and crew, which should take precedence over any concerns related to the preservation or collection of evidence.

Once an allegation of a serious crime on board a ship has been made, the master should, as soon as possible, report the allegation to the flag State. The master should, as appropriate, also report the allegation to the interested States and parties involved, including law enforcement authorities.

It is recognized that the master is not a professional crime-scene investigator and that crew and resources to preserve and collect evidence may be limited depending on the vessel type.

The master should ensure the persons affected are properly cared for and take measures to preserve the evidence and follow the advice of the appropriate authorities, including law enforcement authorities.

The master should attempt to secure the scene of the alleged crime as soon as possible, with the main aim of allowing professional crime scene investigators to be able to undertake their work. The best option for preserving evidence is to seal the space, if practicable, and for all persons to be prevented from entering it. An example would be where an incident has taken place in a cabin, then the best option would be for the cabin door to be locked, the key secured and notices posted which would inform that no one should enter.

Where an incident has occurred in a space that cannot be sealed, the master should aim to collect the evidence, as may be instructed by the flag State Administration, or as otherwise guided by the law enforcement authorities. While recognizing that collecting evidence will likely only be carried out in limited and exceptional circumstances, in such cases the master could use the techniques and procedures outlined in appendix 2.

Following the allegation of a serious crime, and given the master's inherent authority on board the ship, the master should draw up a list of persons who may have information and invite them to record their recollection of events on the pro forma attached at appendix 1. Any person may refuse to provide their recollection of events. Whenever possible, the master should attempt to obtain accurate contact information for persons believed to have information about an alleged crime or missing person, to facilitate subsequent contact by law-enforcement officials or other professional crime-scene investigators.

Missing persons

In the event that a person is reported or believed to be missing, immediate actions should be taken to find the missing person. The ship should be searched and consideration given to mustering those aboard as an efficient way of resolving the situation. If the missing person is not found, the relevant ship board emergency procedures should be followed, and it should be reported to the appropriate search and rescue organization². If, at any time, the master has any reasonable grounds to suspect that the person went missing due to a criminal act, the other relevant sections of these Guidelines should be followed.

Pastoral and medical care

All persons affected by alleged serious crimes deserve full consideration of the allegations and should receive pastoral and medical care, as appropriate.

In cases of allegations of a serious crime, especially sexual assaults and serious physical attacks, the persons affected should receive respect for coming forward, recognition that the allegation will be reported and given support during this time of trauma. They should be given every opportunity to explain what has happened, give a full account of the incident, and be reassured that every effort will be made to protect them from any further harm while they remain on board the vessel. The persons affected should also be free from any burden of decision-making relating to the alleged perpetrator.

In cases in which the master is aware that a person has attempted suicide or has threatened to commit suicide, the master should attempt to protect this person to the extent practicable. This person should be treated with care and respect. In such cases, the master should seek guidance on how to proceed, either from qualified medical persons if on board, from radio medical advice or from other medical advice that may be available through the flag State or other authorities. If it is determined that a person believed to be at risk of suicide should be disembarked from the ship, the master should coordinate such action with the flag State, coastal State and/or port State, as appropriate. If the circumstances indicate that the suicide or threat of suicide is related to a serious crime on board, the master should refer to applicable provisions in these Guidelines.

The persons mentioned in this section should have access to medical care and attention by a medical professional, either on board or ashore, as necessary. The privacy of the person affected should be respected during this process. Where relevant, radio medical advice should be sought.

² Reference should be made to the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual.

Appendix 1

Section 1 – Victim Statement

Statement of
(Given names) (Family name)

Name of Ship

Flag State

IMO No.

Victim Contact Information

Address

.....

Phone number(s).....

.....

Description of alleged perpetrators: The information given by the victim should be in as much detail as possible from what they personally saw, heard or experienced. Use a new sheet for each alleged perpetrator. Alleged perpetrators should be described as accurately as possible. If the names of the alleged perpetrators are not known then the alleged perpetrators should be given a number to distinguish them.

Alleged perpetrator No. ...

Name:
(If given or heard called by others)

Approximate Age:

Approximate Height:

Build:
(slim/medium/large/heavy)

Ethnic Origin:

Eye Colour: Hair Colour

Hair Length: (Cropped/short/medium/long/over ears/tied back)

Facial Hair: (Beard/moustache) Facial Scars:

Body Markings: (Description and location on body)

Tattoos: (Describe where and what if possible)

Clothing:
(Colour and type of outer clothing, for example red short-sleeve T-shirt, long blue trousers)

Footwear: (Barefoot/sandals/other)

Neck wear: Wrist wear: Ankle wear:

Weapons used:

Description of the incident:
.....
.....
.....
.....
.....

Section 2 – Alleged Perpetrator Statement

Statement of
(Given names) *(Family name)*

Name of Ship

Flag State

IMO No.

Description of the incident:
.....
.....
.....
.....
.....

Section 3 – Independent Witness Statement

Statement of
(Given names) *(Family name)*

Name of Ship

Flag State

IMO No.

Description of the incident:

.....
.....
.....
.....
.....

Appendix 2

Preface

The guidance provided in sections 1-4 of this appendix is derived from MSC.1/Circ.1404. That guidance was addressed to Member Governments and was originally developed to provide guidance to investigators to assist in the investigation of the crimes of piracy and armed robbery against ships. It is understood that the master is not a professional crime scene investigator and does not act in the capacity of a criminal law enforcement official and that the guidance in sections 1-4 will likely only be applied in limited and exceptional circumstances by masters who may be called upon to collect evidence that may otherwise be lost if no action is taken.

Section 1

Recovery and packaging of evidence

The following guidance is intended to assist the master to collect material which may assist in the subsequent investigation by a law enforcement authority.

The master should:

- .1 wear fresh protective clothing such as overalls, rubber gloves (for each separate item if practical) as well as have some facial protection, e.g. chemical/dust masks, to give some protection to himself and to avoid distribution of own fingerprints and biological material on the recovered items;
- .2 items in the open and vulnerable to weather conditions should be given priority over those that are enclosed, e.g. bridge, machinery spaces, cabins, mess room, etc.; and
- .3 all items are to be photographed, identified, labelled and logged at the location found before removal and packaging. The camera should be set to the correct date and time before starting. This will help ensure an accurate visual record which would be of evidential value. The film or digital imaging record will also be subject to evidential value.

Section 2

Identification and labelling

Each item recovered will need to be given an "identification reference" with a sequential number (i.e. 01, 02, 03, etc.) to link it to the point of recovery and by whom.

For example, an abbreviation of the vessel's name, the point of discovery, e.g. Deck 3 mid-ships stairwell in Zone 2, the initials (not full name) of the finder and the sequential number of the item recovered.

Each item, when packaged, will be given a label with the same unique reference to link it to the point of discovery. An example of this could be if the ship was named **Sea Spirit** and the person recovering was Ronaldo Fernandez, giving an identification reference of:

SS/Date & Time/Crew Mess Room /RF/1, .../RF/2, ...RF/3, etc.

Where an item of obvious significance is found, then the person recovering AND the person able to identify it in relation to alleged perpetrator should include this on their pro-forma statement (see appendix 1). Should more than one person be involved in recovering items, then the identification reference would include that person's initials, also starting from 01.

All items recovered will need to be safely stored in a clean and dry environment until such time as they are landed ashore.

If a paper sack or cardboard box is used to package the item, then the identification reference should be written in ink or similar (not pencil) on the outside of the package. In the case of plastic bags, glass jars or smaller containers, then a reference label will need to be attached. Please note that adhesive tape and NOT staples should be used to attach the label.

Example:

IDENTIFICATION REFERENCE

.....SS...../..03-03-2011..1425 / Crew Mess Room /.....RF...../...01.....
(Ship name) / (Date/Time) / (Location) / (Recovered by) / (Seq. number)

Brief description:

Signature:

Section 3

Log of Items Recovered From Search or Seizure

Item No.	Date/ Time	Location found	Description of item	Recovered by	Signature	Identification Reference	Remarks
01	03/03/2011 1425	Crew Mess Rm	Knife used by alleged perpetrator	Ronaldo Fernandez		As above	

Section 4

Guidelines on recovery and packaging of evidence

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
<p><u>WARNING:</u> THE HANDLING OF BODY FLUIDS CONSTITUTES A HEALTH HAZARD ALWAYS SEEK ADVICE IF UNSURE</p>			
<p>BLOOD</p>			
<p>A) Bloodstained items</p>	<p>If an easily removable item, e.g. knife, ashtray, bottle, etc. (see further down re: clothing), allow the item to dry completely and naturally before packaging.</p> <p>DO NOT accelerate drying.</p> <p>Make a note on exhibit seizure form if blood stain was wet when obtained.</p>	<p>Place each individual item in a <u>separate</u> suitable, properly sealed container, e.g. sealed strong paper bags or stout paper sacks. In the absence of sacks, cardboard boxes will suffice. Bags/sacks should be folded over twice and sealed with adhesive tape (adhesive tape or similar), boxes should also be sealed with tape.</p> <p>Clearly mark any sack or container that contains blood with "BIOHAZARD"</p>	<p>Bags/paper sacks must not have been used previously. If no "police issue" sacks are available, suitable sacks would be those used for paper waste disposal. If a cardboard box is used, it should be as clean as possible and lined with clean paper. Write the exhibit identification reference on the sack/box as you seal it.</p> <p>Note: Plastic bags should not be used for blood stained items as they promote dampness. Nor should staplers ever be used to seal bags.</p> <p>Seek advice and guidance from Ships Doctor/Medic and/or shore authorities if required.</p>
<p>B) Bloodstains on immovable objects</p>			<p>If possible seal off the room.</p> <p>Mark any sack or container that contains blood with "BIOHAZARD"</p>

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
<p>1) Pools of wet blood</p> <p>WARNING – Syringes and needles pose a serious health hazard and must be handled with extreme care</p> <p>Wherever possible seek medical advice before handling</p>	<p>Can be collected using a syringe.</p> <p>Sample of the blood can be taken by swabbing, ensuring that a sample is taken from each individual pool.</p>	<p>Blood (not syringe) to be placed into a clean, dry bottle/jar with a screw top. Syringe to be disposed of in proper "sharps" box.</p> <p>Area taken from to be indicated in notes, exhibit reference documented on outside of swab then placed in an exhibit bag</p> <p>Please make note as to type of stain, i.e. wet/dry</p>	<p>As above.</p>
<p>2) Partly clotted blood</p>	<p>Lift with a clean knife or scalpel blade.</p>	<p>As above.</p>	<p>As above.</p> <p>Keep all WET or SEMI-SOLID blood samples in a cool place. If delay likely in passing to authorities, consider deep freezing samples (away from food products). Take advice before doing so.</p>
<p>3) Dry blood</p>	<p>If practical and possible, cut away the surface containing the stain. A non-stained part of the item should also be taken as a control sample.</p> <p>OR</p> <p>Scrape dry blood onto a clean sheet of paper.</p>	<p>Place each individual item (including the control sample) into a separate suitable container, e.g. paper sack, cardboard box and seal properly with adhesive tape.</p> <p>Fold paper carefully and seal in a labelled envelope.</p>	<p>Seek advice from Ships Doctor/Medic and shore authorities.</p> <p>Never use staplers.</p>

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
4) Semen-stained items	<p>The whole item containing the stain should be taken. If the stain is still wet, ALLOW ITEM TO DRY NATURALLY in an isolated area, before packaging. Avoid talking over the item, as contamination can occur.</p> <p>If small items such as tampon, sanitary towel, knickers should be frozen where possible.</p> <p>Condoms should be sealed with either a clip or tied at the top.</p>	<p>Place each individual item in a sealed paper sack or clean cardboard box.</p> <p>Please note any stains which were wet when obtained, within the notes and on exhibit.</p>	<p>As above. May be impractical to obtain and store. However if possible could provide valuable evidence.</p>
FIBRES & HAIRS			
Items onto which fibres may have been transferred (e.g. from victim's clothing to other clothing, bedding, weapons)	Where possible recover the whole item with the minimum of disturbance. If it cannot be packaged, cut out approximately 20 cm square of material OR pull out tufts of fibres. Otherwise, seek advice from shore authorities as to fibre sampling.	Place in an envelope sealing all seams and openings. Large items should be placed in a clean paper sack or cardboard box. If there is more than one piece then wrap each item SEPARATELY and seal effectively with adhesive tape.	Do not use staplers, seal with adhesive tape. A plastic sack could be used if the item is completely dry. Polythene bags (providing no dampness) or paper sacks can be used.
Rope or Twine used by alleged offender	Recover the whole length of rope if possible OR obtain a length at least 30 cm long. For suspicious deaths or suicide, recover the whole item.	Wrap each item separately in a polythene or paper sack and seal effectively.	Do not use staplers to seal any bag. Always use adhesive tape.
Where there is a possibility of a PHYSICAL FIT between broken or cut ends	<p>If the rope must be cut to remove it, first clearly label the original cut or broken ends.</p> <p>Always leave knots intact.</p>	Protect the cut or broken ends with paper or polythene bags so that they cannot be damaged and place each individual piece of rope or twine in a separate polythene or paper sack.	As well as potential evidence re: a crime, such evidence could be of considerable value to an accident investigation or inquest re: suicide.

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
Items recovered that may have hairs present	Recover the whole item wherever possible.	Wrap each item separately in a polythene or paper sack and ensure the bag is completely sealed.	Do not use staples to secure the bag, only adhesive tape.
CLOTHING, BEDDING AND FOOTWEAR			
Clothing (used or left)	Recover the whole item of clothing.	As above.	As above.
Wet or damp items WARNING – See first page re: handling materials containing body fluids	Allow to dry naturally as soon as possible on a paper-lined surface.	When completely dry package as above. If cannot dry place in plastic bag and freeze. (if very wet)	Avoid risks of contamination by drying at separate locations where practical.
Footwear	Package any footwear used by the alleged offender(s).	Use separate paper sacks or cardboard boxes for each item and seal securely.	Suitable boxes might be those that contained photocopier paper. Do not place in plastic as will sweat.
Bedding	Where possible and practical recover whole item. Mark upper and lower surfaces head and foot to establish orientation of sheets, blankets, quilts, etc.	Wrap each item separately at the recovery location if possible. Place in a stout paper sack and seal with adhesive tape.	Ensure that all recovered items are kept separate to avoid cross contamination. If a number of cabins are involved, if practical, ensure different staff recovers bedding and bag and seal items at a separate location before storage.

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
FOOTWEAR MARKS			
Surface transfer marks	Where possible recover whole item, e.g. on paper(s), cardboard, glass, bedding, etc.	Place each item separately in an appropriate and clean container (e.g. cardboard box) to protect.	As above.
	If not possible to recover consider photographing placing two rulers at right angles to show size of mark.	If digital photographs taken, do not use any photo enhancement facilities. Leave for experts to improve on.	If film photography is used, package the entire film cassette.
GLASSWARE & CERAMICS			
Glasses, cups mugs, etc., used by the alleged offender(s)	Recover whole or broken items used by the alleged offender.	Place any broken pieces in a polythene bag or paper envelope and place in a sturdy cardboard box. Whole items should be individually packaged. Seal the box completely with adhesive tape.	If a box or sack contains broken items that could cut or injure, please label "CAUTION, INJURY HAZARD".
EXPLOSIVES, FIREARMS & OTHER WEAPONS			
IMPORTANT – Safety takes precedence over evidence collection. Specialist advice MUST be sought before ANY action is taken.			Seek urgent advice from shore authorities before taking action unless to do so is critical to preserving life.
Weapons other than firearms (e.g. knives, hammers, hatchets)	DO NOT attach any adhesive material to the blades or handles (this could destroy fingerprints or other evidence of value).	Place in cardboard box or other secure container and seal with adhesive tape.	Where there are items that could cut or injure, please label "CAUTION, INJURY HAZARD".

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
RECOVERY AND PROTECTION OF PROJECTILES			
WARNING – see above re: blood and firearms	Any wounds resulting from a firearm injury should (subject to medical advice) be photographed before surgery. Wherever possible a ruler or scale should be in the photograph adjacent to the wound.	Seek advice re: packaging from shore side authorities. Photographs of injuries should be in colour as this will show differentiation between blood staining and blackening. Films should not be processed unless it is essential, but retained for the relevant authorities.	As above.
	Unless it is absolutely essential to do so, do not attempt to remove a bullet or air pellet that is imbedded in walls, doors, etc. This should be left to forensic experts. Photograph any projectile in situ.		Wherever possible, seek advice from shore authorities before removal of area surrounding projectile. Mark the area clearly without touching or damaging the scene.
MODEL, REPLICA AND BLANK FIRING FIREARMS			
IMPORTANT – Safety takes precedence over evidence collection. Specialist advice MUST be sought before ANY action is taken.			Seek urgent advice from shore authorities before taking action unless to do so is critical to preserving life.

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
CLOTHING OF PERSON SUSPECTED OF DISCHARGING A FIREARM AND ANY VICTIM			
WARNING – See first page re: caution to be applied when dealing with body fluids	Clothing should be gently handled to preserve lightly adhering firearm discharge residue. As above. BUT bloodstained clothing must be allowed to dry naturally before packing.	Items of clothing must be individually packaged in paper sacks, sealed with adhesive tape and labelled.	Plastic sacks can be used where clothing is dry. Ensure that separate people deal with the suspect and victim's clothing at separate locations to eliminate the possibility of cross contamination.
Clothing of victim (crew)	As above.	As above.	As above.
DOCUMENTS (e.g. DEMANDS/RANSOM NOTES)			
Hand-written documents	Obtain the ORIGINAL document, place in a polycover and if possible make a photocopy to be used as a working document (e.g. to Fax to authorities or Head Office).	Place in a clean polyfolder or polythene bag. DO NOT WRITE ON OR MAKE ANY INDENTATIONS ON DOCUMENT.	

ANNEX 3

REPORT ON THE STATUS OF PLANNED OUTPUTS FOR THE CURRENT BIENNIUM (2012-2013)

Legal Committee (LEG)								
Planned output number in the High-level Action Plan for 2012-2013	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
1.1.1.1	Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally-friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the Millennium Development Goals (MDGs)	Continuous	Assembly	Council	MSC/MEPC/ FAL/LEG/TCC/ Secretariat			
1.1.2.6	Cooperation with ILO and others: approved recommendations based on the work, if any, of the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident, CMI, and others concerning the application of the joint IMO/ILO Guidelines on the fair treatment of seafarers and consequential further actions as necessary	2013	LEG			Ongoing	Completed	LEG 99 recommended retaining this PO and deleting PO 6.3.1.1; LEG 99 received a report of ILO's approval of the resolution (A.1058(27))

Planned output number in the High-level Action Plan for 2012-2013	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
1.1.2.8	Cooperation with data providers: protocols on data exchange with international, regional and national entities	Continuous	MSC/MEPC/ FAL/LEG/TCC	FSI/Secretariat	Secretariat			
1.1.2.40	Policy and strategy input to CTITF and any of its 30 entities for the implementation of the IMO related aspects of the UN Global Counter-Terrorism Strategy	Continuous	MSC/FAL/ LEG/TCC					
1.1.2.41	Assessment of the need to address the issue 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 the amendments to ILO MLC 2006	2013	LEG			In progress	Postponed	LEG 99 recommended retaining this PO and deleting the duplicate PO 6.3.1.2; progress report received from ILO on MLC 2006
1.3.1.1	Advice and guidance provided following referrals from other IMO organs and Member States	Annual	LEG			Ongoing	Ongoing	No issues referred to LEG 99 by other IMO organs or Member States

Planned output number in the High-level Action Plan for 2012-2013	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
2.0.1.14	Revised Guidelines on implementation of the HNS Protocol to facilitate ratifications and harmonized interpretation	2013	LEG			In progress	Completed	LEG 99 recommended retaining this PO and deleting duplicate PO 1.2.1.4. LEG 99 received progress report from IOPC Funds on HNS calculator and database
2.0.1.15	Strategies developed to facilitate entry into force of 2002 Athens Protocol, the 2005 SUA Protocols, and the 2007 Nairobi Wreck Removal Convention	2013	LEG			Completed		
2.0.1.16	Advice and guidance on issues brought to the Committee in connection with implementation of IMO instruments	Annual	LEG			Ongoing	Ongoing	LEG 100 is requested for advice on the implementation of the CLC 92
2.0.1.17	Consideration of proposal to amend the limits of liability of the Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC 96), in accordance with article 8 of LLMC 96	2012	LEG			Completed		LEG 99 adopted a resolution to increase the limits in article 3 of the LLMC Protocol 1996

Planned output number in the High-level Action Plan for 2012-2013	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
2.0.1.22	GISIS module on mandatory and non-mandatory requirements	Annual	MSC/MEPC/ FAL/LEG/TCC	Secretariat	FSI			
2.0.2.2	Implementation of approved proposals for the further development of the Audit Scheme	Continuous	Assembly	Council	MSC/MEPC/ FAL/LEG /TCC / Secretariat			
3.4.1.1	Guidance on identifying the emerging needs of developing countries, in particular SIDS and LDCs	Continuous	MSC/MEPC/ FAL/LEG/TCC					
3.5.1.4	Input to the ITCP on maritime legislation	Annual	LEG			Ongoing	Ongoing	
4.0.1.7 (UO)	Proposals to ensure a forward-looking, efficient and cost-conscious Organization with strengthened and knowledge-based authority in global standard setting through the Secretary-General's Review and Reform mechanism	2013	Secretariat	Council	MSC/MEPC/ FAL/LEG/TCC			
4.0.2.1	Guidance on the establishment or further development of information systems (databases, websites, etc.) as part of GISIS	Continuous	MSC/MEPC/ FAL/LEG/TCC	Secretariat	FSI			

Planned output number in the High-level Action Plan for 2012-2013	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
4.0.2.3	Protocols on data exchange with other international, regional and national data providers	Continuous	MSC/MEPC/ FAL/LEG/TCC	FSI	Secretariat			
5.2.1.36 (UO)	Initial consideration of guidance for the preservation of evidence of crimes committed on board a ship or of missing persons; pastoral and medical care of victims to be adopted by LEG 101	2013	LEG				Completed	
5.2.4.5	Guidance on interpretation of UNCLOS provisions vis-à-vis IMO instruments	Annual	LEG			Ongoing	Ongoing	
6.1.2.1	Advice and guidance on issues, as may be requested, in connection with implementation of SUA 1988/2005 in the context of international efforts to combat terrorism and proliferation of weapons of mass destruction and related materials	Annual	LEG	MSC		Ongoing	Ongoing	LEG 99 recommended retaining this PO and deleting the duplicate PO 1.1.2.42. No issues referred to LEG 99 on SUA

Planned output number in the High-level Action Plan for 2012-2013	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
6.2.1.2	Revised guidance relating to the prevention of piracy and armed robbery to reflect emerging trends and behaviour patterns	Annual	MSC / LEG			Ongoing	Ongoing	
6.2.2.3	Advice and guidance to support the review of IMO instruments on combating piracy and armed robbery; to support international efforts to ensure effective prosecution of perpetrators (piracy); and to support availability of information on comprehensive national legislation and judicial capacity-building	2013	LEG			In progress	Postponed	LEG 99 recommended retaining this PO and deleting the duplicate PO 6.2.1.3; LEG discussed need for information on prosecutions
8.0.3.2	Electronic access to, or electronic versions of, certificates and documents required to be carried on ships	2013	FAL	MSC/MEPC/LEG	LEG/FSI	In progress		No issues referred to LEG 99 by other IMO organs or Member States
8.0.4.3	First half of the stakeholders' consultation completed, second half ongoing; analysis of the responses (i.e. identification and assessment of administrative requirements in mandatory IMO instruments that are perceived as being a burden) ongoing	2013	Council	MSC/MEPC/ FAL/LEG/TCC	BLG/COMSAR/ DE/DSC/FP/ FSI/ NAV/SLF/ STW/ Secretariat			

Planned output number in the High-level Action Plan for 2012-2013	Description	Target completion year	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Status of output for Year 1	Status of output for Year 2	References
11.1.1.1	Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the MDGs	Continuous	Assembly	Council	MSC/MEPC/ FAL/LEG/TCC/ Secretariat			
13.0.2.2	Databases as part of GISIS and other means, including electronic ones	Continuous	MSC/MEPC/ FAL/LEG/TCC	Secretariat				

ANNEX 4
DRAFT REPORT FOR BIENNIAL AGENDA

Legal Committee (LEG)					
PLANNED OUTPUTS 2012-2013					
Number	Description	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Target completion year
1.1.1.1	Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the Millennium Development Goals (MDGs)	Assembly	Council	MSC/MEPC/FAL/ LEG/TCC/ Secretariat	Continuous
1.1.2.6	Cooperation with ILO and others: approved recommendations based on the work, if any, of the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident, CMI, and others concerning the application of the joint IMO/ILO Guidelines on the fair treatment of seafarers and consequential further actions as necessary	LEG			2013
Notes: LEG 100: To be included in the 2014-2015 biennium. The sentence: "approved ... concerning" to be changed into: "consideration of reports on". TCY changed to "Annual"					
1.1.2.8	Cooperation with data providers: protocols on data exchange with international, regional and national entities	MSC/MEPC/FAL/ LEG /TCC	FSI / Secretariat	Secretariat	Continuous
1.1.2.40	Policy and strategy input to CTITF and any of its 30 entities for the implementation of the IMO related aspects of the UN Global Counter-Terrorism Strategy	MSC/FAL/LEG/TCC			Continuous

Number	Description	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Target completion year
1.1.2.41	Assessment of the need to address the issue 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 the amendments to ILO MLC 2006	LEG			2013
Notes: LEG 100: To be included in the 2016-2017 biennium. The sentence "Assessment of the need to address" to be changed into: "consider reports on". TCY changed to "Annual"					
1.3.1.1	Advice and guidance provided following referrals from other IMO organs and Member States	LEG			Continuous
Notes: LEG 100: To be included in the 2014-2015 biennium. The description to be changed into: "Consider requests for advice and guidance on issues under the United Nations Law of the Sea Convention relevant to the role of the Organization". TCY changed to "Annual"					
2.0.1.14	Revised guidelines on implementation of the HNS Protocol to facilitate ratifications and harmonized interpretation	LEG			2013
Notes: LEG 100: To be included in the 2014-2015 biennium. "Revised guidelines on implementation of" replaced by: Strategies developed to facilitate entry into force of": The words "to facilitate ratifications" to be deleted. TCY changed to "Annual"					
2.0.1.15	Strategies developed to facilitate entry into force of 2002 Athens Protocol, the 2005 SUA Protocols, and the 2007 Nairobi Wreck Removal Convention	LEG			2013
Notes: LEG 100: LEG 99 agreed this was completed					
2.0.1.16	Advice and guidance on issues brought to the Committee in connection with implementation of IMO instruments	LEG			Continuous
Notes: LEG 100: To be included in the 2014-2015 biennium. "Provide" added before: "advice". TCY changed to "Annual"					

Number	Description	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Target completion year
2.0.1.17	Consideration of proposal to amend the limits of liability of the Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC 96), in accordance with article 8 of LLMC 96	LEG			2012
Notes: LEG 100: LEG 99 agreed this was completed					
2.0.1.22	GISIS module on mandatory and non-mandatory requirements	MSC/MEPC/FAL/LEG/TCC	Secretariat	FSI	Annual
2.0.2.2	Implementation of approved proposals for the further development of the Audit Scheme	Assembly	Council	MSC/MEPC/FAL/LEG/TCC/Secretariat	Continuous
3.4.1.1	Guidance on identifying the emerging needs of developing countries, in particular SIDS and LDCs	MSC/MEPC/FAL/LEG/TCC			Continuous
3.5.1.4	Input to the ITCP on maritime legislation	LEG			Continuous
Notes: LEG 100: To be included in the 2014-2015 biennium. TCY changed to "Annual"					
4.0.1.7 (UO)	Proposals to ensure a forward-looking, efficient and cost-conscious Organization with strengthened and knowledge-based authority in global standard setting through the Secretary-General's Review and Reform mechanism	Secretariat	Council	MSC/MEPC/FAL/LEG/TCC	2013
4.0.2.1	Guidance on the establishment or further development of information systems (databases, websites, etc.) as part of GISIS	MSC/MEPC/FAL/LEG/TCC	Secretariat	FSI	Continuous
4.0.2.3	Protocols on data exchange with other international, regional and national data providers	MSC/MEPC/FAL/LEG/TCC	FSI	Secretariat	Continuous

Number	Description	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Target completion year
5.2.1.36 (UO)	Initial consideration of guidance for the preservation of evidence of crimes committed on board a ship or of missing persons; pastoral and medical care of victims to be adopted by LEG 101	LEG			2013
Notes: LEG 100: completed at LEG 100					
5.2.4.5	Guidance on interpretation of UNCLOS provisions vis-à-vis IMO instruments	LEG			Continuous
Notes: LEG 100: Duplication of proposed PO 1.3.1.1					
6.1.2.1	Advice and guidance on issues, as may be requested, in connection with implementation of SUA 1988/2005 in the context of international efforts to combat terrorism and proliferation of weapons of mass destruction and related materials	LEG	MSC		Continuous
Notes: LEG 100: To be included in the 2014-2015 biennium. The description to be changed into: "Provide advice and guidance in connection with implementation of SUA 1988/2005".TCY changed to "Annual"					
6.2.1.2	Revised guidance relating to the prevention of piracy and armed robbery to reflect emerging trends and behaviour patterns	MSC/LEG			Continuous
Notes: LEG 100: To be included in the 2014-2015 biennium. TCY changed to "Annual"					
6.2.1.3	[Deleted]	LEG			

Number	Description	Parent organ(s)	Coordinating organ(s)	Associated organ(s)	Target completion year
6.2.2.3	Advice and guidance to support the review of IMO instruments on combating piracy and armed robbery; to support international efforts to ensure effective prosecution of perpetrators (piracy); and to support availability of information on comprehensive national legislation and judicial capacity-building	LEG			2013
Notes: LEG 100: To be included in the 2014-2015 biennium. "Provide" to be inserted before "advice": "to support.... robbery" deleted". TCY changed to "Annual"					
6.3.1.1	[Deleted]	LEG			
6.3.1.2	[Deleted]	LEG			
8.0.3.2	Electronic access to, or electronic versions of, certificates and documents required to be carried on ships	FAL	MSC/MEPC/LEG	LEG/FSI	2013
8.0.4.3	First half of the stakeholders' consultation completed, second half ongoing; analysis of the responses (i.e. identification and assessment of administrative requirements in mandatory IMO instruments that are perceived as being a burden) ongoing	Council	MSC/MEPC/FAL/ LEG/TCC	BLG/COMSAR/DE/ DSC/FP/FSI/NAV/ SLF/STW/ Secretariat	2013
11.1.1.1	Permanent analysis, demonstration and promotion of the linkage between a safe, secure, efficient and environmentally friendly maritime transport infrastructure, the development of global trade and the world economy and the achievement of the MDGs	Assembly	Council	MSC/MEPC/FAL/ LEG/TCC/ Secretariat	Continuous
13.0.2.2	Databases as part of GISIS and other means, including electronic ones	MSC/MEPC/FAL/ LEG/TCC	Secretariat		Continuous

ANNEX 5

ITEMS TO BE INCLUDED IN THE AGENDA FOR LEG 101

- Facilitation of the entry into force and harmonized interpretation of the HNS Protocol, 2010
- Fair treatment of seafarers in the event of a maritime accident
- Piracy
- Matters arising from the 110th and 111th regular and twenty-seventh extraordinary sessions of the Council and the twenty-eighth session of the Assembly
- Technical cooperation activities related to maritime legislation
- Review of the status of conventions and other treaty instruments emanating from the Legal Committee:
 - Work programme
 - Election of officers
- Any other business:
- [Liability and compensation issues connected with transboundary pollution damage from offshore oil exploration and exploitation activities]
- Consideration of the report of the Committee on its 101st session

[Translation]

ANNEX 6

STATEMENT BY CHILE CONCERNING A RESCUE OPERATION ON A FISHING VESSEL IN THE ATLANTIC OCEAN

The Maritime Administration of Chile wishes to report that 97 crew members have been rescued unharmed from a Chinese fishing vessel named the **Kai Xin**, which suffered a fire in the Antarctic, 55 km northeast of the Chilean O'Higgins base.

According to the Chilean navy, the crew members were all rescued by other ships located nearby when the emergency struck, one of which was the **Sky Frost**, a ship providing logistical support for the Chinese fishing fleet; it had the equipment needed to lend assistance.

Six hours after the emergency was given following the fire on board the **Kai Xin**, the **Sky Frost** assisted the Norwegian merchant vessel **Juvel** to take aboard the 97 Chinese crew members, whose health was unaffected.

At the same time, the Chilean navy alerted its MRCC and activated the anti-pollution contingency plan in expectation of the shipowner coordinating a salvage operation.

The **Kai Xin**, 104 m in length and with a beam of 16 m, had left the port of Montevideo on 17 February heading for the frozen continent.

ANNEX 7

STATEMENT BY THE ISLAMIC REPUBLIC OF IRAN CONCERNING IMPOSED UNFAIR AND DISCRIMINATORY TECHNICAL AND COMMERCIAL RESTRICTIONS IN IRAN'S COMMERCIAL SHIPPING AND THE SEAFARERS EMPLOYED ON IRANIAN SHIPS

The delegation of the Islamic Republic of Iran would like to bring to the attention of the one hundredth session of the Legal Committee that during the recent years and months some undue and unfair commercial and technical restrictions have been imposed on Iran's commercial shipping which are contrary to international law, and could result in undesirable implications and consequences for the safety of shipping, the marine environment and international commercial shipping.

It is worth mentioning that the scope of these restrictions has been expanded to international classification societies as well, in such a way that during recent months the said societies have been prevented from providing technical services to Iranian ships and even to foreign vessels within Iran's territorial waters.

This delegation strongly believes that the aforementioned restrictions not only contradict the objectives provided in Article 1 of IMO Convention, but are also clearly against the goal and essence of international maritime conventions such as SOLAS and MARPOL, the aim of which is to secure the safety of shipping, marine environment protection as well as respecting the health and dignity of commercial ships' passengers and maintaining their safety; reference is also made to IMO Assembly resolution A 27/Res/1037 on the strategic plan for the organization, in particular paragraph 1 regarding the mission statement.

Distinguished delegations are well aware that the necessity for using the services of internationally qualified classification societies is recognized by many countries, including Iran, and their practical role in ensuring compliance of commercial vessels with technical standards as stipulated in the SOLAS and MARPOL Conventions is a certain and undeniable reality for continued safe shipping at an international level. That is why the IMO Assembly has set up organizational standards and technical potentialities for classification societies to ensure the approval and control of the technical capabilities of vessels by the said classification societies and delegating authority to such institutes by Governments for performing the said actions.

Accordingly, IMO, on the basis of its mission and functions shall react properly to prevent such restrictions, in order to ensure exact and thorough implementation of international maritime instruments and conventions. To this end, the Sub-Committee on Flag State Implementation (FSI) has been constituted; and one of the most important permanent items on its agenda is identification of required actions for assurance of effective and organized implementation of the international maritime Instruments including investigation of the problems in the developing countries.

Having said this, it is necessary that the issue of removing these unfair technical restrictions be considered by IMO especially the Maritime Safety Committee and FSI.

It is worth mentioning that the Government of the Islamic Republic of Iran has made every possible effort, with all its capacity and seeking every possible means, to preserve and improve the safety of ships under its flag. However, the concern is the expansion of the unacceptable strategy of misusing technical means for gaining political aims, and if no proper international reaction is taken against it, it could certainly lead to deprivation and restriction in the implementation of the principle and right of freedom of navigation in international waters and securing shipping safety for other States.

It has to be recalled that securing international shipping safety is one of the most significant goals of IMO, which is naturally based on international cooperation among its Member States. Realization of this fact needs the attention of all IMO Member States in order to remove the said restrictions. It should not be forgotten that we are all passengers on the same ship and therefore any action taken against it can endanger all.
