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93rd session
Agenda item 13

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**REPORT OF THE LEGAL COMMITTEE ON THE WORK OF ITS
NINETY-THIRD SESSION**

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1 INTRODUCTION

1.1 The Legal Committee held its ninety-third session at the Hotel El Panamá, Panama City, Panama, from 22 to 26 October 2007, under the chairmanship of Professor Lee-Sik Chai (Republic of Korea).

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

ANTIGUA AND BARBUDA	LATVIA
ARGENTINA	LIBERIA
AUSTRALIA	MALAYSIA
BAHAMAS	MARSHALL ISLANDS
BELGIUM	MEXICO
BELIZE	NETHERLANDS
BRAZIL	NIGERIA
BULGARIA	NORWAY
CANADA	PANAMA
CHILE	PERU
CHINA	POLAND
CROATIA	REPUBLIC OF KOREA
CUBA	ROMANIA
DENMARK	RUSSIAN FEDERATION
EGYPT	SAINT KITTS AND NEVIS
FINLAND	SAUDI ARABIA
FRANCE	SINGAPORE
GERMANY	SOUTH AFRICA
GHANA	SPAIN
GREECE	SWEDEN
INDIA	THAILAND
INDONESIA	TURKEY
ITALY	UKRAINE
JAMAICA	UNITED KINGDOM
JAPAN	UNITED STATES
KENYA	VENEZUELA
KUWAIT	

and the following Associate Member of IMO:

HONG KONG, CHINA

1.3 The session was also attended by representatives from the following United Nations and specialized agencies:

INTERNATIONAL LABOUR ORGANIZATION (ILO)
UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL
ORGANIZATION (UNESCO)

1.4 The session was also attended by observers from the following intergovernmental organization:

INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS (IOPC FUNDS)

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)
COMITÉ MARITIME INTERNATIONAL (CMI)
INTERNATIONAL GROUP OF P AND I ASSOCIATIONS (P & I CLUBS)
IBEROAMERICAN INSTITUTE OF MARITIME LAW (IIDM)
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)

The Secretary-General's opening address

1.5 In welcoming participants, the Secretary-General extended a special welcome to Mr. Fernando Solórzano, Administrator of the Panama Maritime Authority, whose portfolio covers, *inter alia*, the management of the registry of Panamanian vessels; coordination of the National Maritime Strategy; management and preservation of Panama's marine and coastal resources; oversight of the implementation of maritime treaties; maintenance of navigational aids and safeguarding the rights of seafarers.

Since this was the first time a regular session of a standing IMO Committee had been held in Latin America, the Secretary-General thanked the Government of Panama for its generous support and the excellent venue and facilities provided to ensure the Committee's successful outcome. Indeed, Panama City was a particularly apposite choice of venue for such a meeting: Panama's position as the world's leading ship register placed it in a unique position to exert influence over and play an instrumental role both in the shipping domain generally and in IMO's programmes and activities, as witnessed by its recent accession to the 2001 International Convention on the Control of Anti-Fouling Systems on Ships, which, due to the large proportion of the world's tonnage registered in Panama, had triggered the entry-into-force requirements of the treaty. It was to be hoped that Panama's influence in this regard could be extended to other IMO instruments requiring a certain percentage of the world tonnage as an entry-into-force criterion.

Panama's special status in international trade was due, in no small part, to the Panama Canal, an extraordinary feat of engineering located at the intersection of many of the world's major trade routes. Its impending expansion would consolidate Panama's position as a world trade, transportation and logistics centre and its remarkable safety record was evidence of the Government's high sense of responsibility with regard to this shipping lane of great strategic importance and significance, and witness of its determination not only to provide itself safety, security and environmental protection services – including pilotage services – but also to ensure that those using the Canal fully met the standards set out in IMO's major safety instruments: the SOLAS and MARPOL Conventions and the IBC, ISM and ISPS Codes, among others.

Referring to the International Maritime Prize for 2006, which he would present later that morning to Mr. Alfred Popp, of Canada, the Committee's former Chairman for many years, the Secretary-General said that it was particularly pleasing that Mr. Popp had agreed to travel to Panama to receive the prize during this session of the Committee.

The Secretary-General spoke about the Legal Committee's forty-year history, its fruitful collaboration with the Comité Maritime International (CMI) and the fact that some of the subjects which had been discussed during its initial sessions were, even today, guiding its deliberations. In fact, so many of its objectives had been successfully accomplished that there was now no major item emerging as a priority topic. He referred to the Committee's work programme for the 2008-2009 biennium and its guidelines on methods of work – both items on

its current agenda – and encouraged the Committee to undertake a thorough review of these in order to provide the Council and the Assembly with a clear understanding of its planned outputs and priorities for the coming biennium. He also referred to the suggestion, made at the last Council, in June 2007, that, due to cost constraints and the aforementioned lack of any priority item on its agenda, the Committee should hold three, instead of four, sessions during the next biennium; this would mean no spring session in 2008 and, consequently, the ninety-fourth session would be held in the autumn of 2008, in IMO's newly-refurbished premises. He also referred to the Council's request that, insofar as is reasonably possible and taking into account its differing needs, the Legal Committee should harmonize its work methods with those of the Maritime Safety and Marine Environment Protection Committees.

The Secretary-General then referred to the adoption, in May 2007, of the Nairobi International Convention on the Removal of Wrecks and reiterated his thanks, both to the Legal Committee for its preparatory work and particularly to the Government of Kenya, for hosting the Conference which adopted the Convention and for bearing the associated costs. He then spoke in general about the negotiation and adoption of treaties, the necessity to ensure that they enter into force internationally and are effectively implemented, and the important role the Legal Committee had to play in this regard. One such treaty was the HNS Convention, which still had not entered into force 11 years after its adoption. One of the problems in this regard related to the failure of Contracting States to lodge information relating to receipts of HNS cargoes with the Secretariat, and he, therefore, invited those States to comply promptly with this requirement. He also referred to the previously-mentioned Wreck Removal Convention and the consideration, by the Committee, of a resolution adopted by the Nairobi Conference calling for the development of a single insurance certificate to be issued by States Parties in respect of each and every ship, under all the relevant IMO liability and compensation conventions.

The Secretary-General then mentioned the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, which has two entry-into-force requirements, the second of which (the tonnage requirement) had already been met. Eighteen ratifications were required to fulfil the first entry-into-force requirement, and 17 had already been deposited. Only one more was needed, therefore, and he called upon all States, which had not yet done so, to accept the Convention at the earliest opportunity, together with all the other IMO instruments contributing to the protection and preservation of the marine atmospheric environment.

The 2005 Protocols to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and its Protocol relating to Fixed Platforms Located on the Continental Shelf (the "SUA treaties") also required, in view of their importance in the fight against terrorism, prompt action by States, since only two of the 12 States required to ratify the Protocol had as yet done so. Similarly, the number of Contracting States to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, remained at four, out of the 10 required to bring it into force, despite the Committee's work in developing the terms of a reservation aimed at facilitating States becoming party to it. In view of the substantial compensation to be afforded by the Protocol, it should enter into force as soon as possible, to become part of the international law regime of liability and compensation for victims of maritime accidents developed by the Organization.

Turning to the ongoing matters of the Guidelines on the fair treatment of seafarers in the event of a maritime accident, and the work of the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, the Secretary-General underlined the importance of developing legal standards for the protection and promotion of seafarers' rights and urged both IMO and ILO to continue

their oversight role in this regard. He further urged delegations to take the necessary action with their Governments to encourage ratification of the ILO Consolidated Maritime Labour Convention, 2006.

Finally, regarding capacity building, the Committee had been invited to consider a proposal emanating from the Maritime Safety Committee, to ensure that necessary guidance for implementation should be prepared when new instruments or amendments to existing ones were developed; and issues for consideration by the Technical Co-operation Committee for developing related technical co-operation and assistance programmes should also be identified. He hoped that the Committee would give the proposal the attention it deserved.

On a more general note, the Secretary-General touched on two further issues: the importance of being vigilant with regard to security matters; and the implementation of the Voluntary IMO Member State Audit Scheme, in respect of which he provided the Committee with an update. He looked forward to receiving nominations from Governments for individuals to be considered as auditors, particularly those working in the Arabic, French and Russian languages.

He concluded by wishing the Committee every success in its deliberations under the chairmanship of Professor Chai of the Republic of Korea. (The full text of the Secretary-General's opening address is reproduced in document LEG 93/INF.2.)

1.6 The Committee joined the Secretary-General in expressing its thanks to the Government of Panama for hosting the meeting and for providing such excellent facilities.

1.7 The Committee also congratulated Mr. Alfred Popp, of Canada, for his achievement in winning the International Maritime Prize, 2006 and further thanked the Government of Canada for its generosity in hosting a special lunch to celebrate the event.

Address of the Administrator of the Panama Maritime Authority

1.8 Mr. Solórzano, on behalf of the Republic of Panama, extended a warm welcome to all delegates. The Government of Panama was very pleased to be given the opportunity to host this session, following the recent visit by the Secretary-General of IMO to the Panama VIII Conference.

Mr. Solórzano underlined the importance of the maritime legal profession in the implementation of Panamanian maritime laws, as well as to the maintenance of the Panamanian ship and mortgage register and the on-board implementation of international regulations for which IMO was largely responsible. Hosting this session of the Legal Committee, therefore, gave Panamanian lawyers an excellent opportunity to participate closely with Member States in the consideration of legal issues within the Panama Maritime Authority.

The Legal Committee was particularly important for Panama, he said, since it highlighted the clear responsibility that IMO Member States have in the continued development and improvement of the maritime industry to make shipping safer and to establish standards that prevent pollution of the seas.

Mr. Solórzano then referred to three great landmarks for Panama in the maritime sector during the course of this year: the first was the expansion works of the Panama Canal, the second, Panama's request to be audited under the Voluntary IMO Member State Audit Scheme and the third, Panama's hosting of the ninety-third session of the Legal Committee.

These combined actions demonstrated Panama's desire to participate in multilateral bodies in order to address issues such as pollution control, as a means of strengthening its capacity as a port and flag State. He also mentioned that Panama was taking steps to ratify the ILO Consolidated Maritime Labour Convention, 2006.

In conclusion, he said that the work completed by the Legal Committee at this session would benefit seafarers, pollution prevention and maritime safety internationally. (The full statement of the Administrator of the Panama Maritime Authority is reproduced in document LEG 93/INF.3.)

Adoption of the agenda

1.9 The agenda for the session, as adopted by the Committee, is attached at annex 1.

1.10 A summary of the 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 by the representative of the Secretary-General that the credentials of all delegations attending the session were in due and proper form.

3 ELECTION OF OFFICERS

3.1 The Committee re-elected, by acclamation, Professor Lee-Sik Chai (Republic of Korea) as Chairman for 2008. The Committee also re-elected, by acclamation, Mr. Kofi Mbiah (Ghana) and Mr. Walter de Sá Leitão (Brazil) as Vice-Chairmen for 2008.

4 PROVISION OF FINANCIAL SECURITY: Progress report on the work of the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers

4.1 The IMO Secretariat introduced document LEG 93/4, which contains background information on the deliberations of the Committee on this agenda item, since the sixth meeting of the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers (the Group), held in September 2005.

4.2 The Committee noted that, following its invitation, at its ninety-second session, to reconvene the Group, the IMO and the ILO Secretariats would be able to arrange for its seventh meeting to be held during the first quarter of 2008. In this regard, the Committee noted, with thanks, the offer made by the representative of ILO to host the meeting at its premises in Geneva, in view of the ongoing refurbishment of the IMO Headquarters.

4.3 The delegation of France, speaking on behalf of Mr. Jean-Marc Schindler, Chairman of the Group, expressed agreement and support for its reconvening as early as possible in 2008.

4.4 The observer delegations of the International Chamber of Shipping (ICS) and the International Transport Workers' Federation (ITF) also expressed their support for the reconvening of the Group.

4.5 There was consensus that the Group should be reconvened as soon as possible. It was suggested that the Group should focus on practical and long-term sustainable solutions. It was also proposed that the Group should be particularly cautious when considering the adoption of mandatory instruments aimed at proposing long-term solutions. In this regard, it was noted that the Group should first demonstrate the existence of gaps in international law before considering further rules.

4.6 Two delegations reported on draft legislation for the protection of seafarers at present being considered by their Parliament. One of these delegations noted that this draft legislation included the establishment of a special fund to pay for the necessary support of abandoned foreign seafarers. It also referred to other issues regulated in the draft legislation, such as the requirement of a “bond or surety satisfactory” from the shipowner. It also suggested that delegations should exchange information on legislation in progress in connection with liability and compensation regarding claims for death, personal injury and abandonment of seafarers.

4.7 Some delegations commended the Database on abandonment of seafarers as a useful tool and the concern was expressed that there were still unresolved cases of abandonment. Concern was also expressed at the lack of prompt action by some States to deal with reported cases of abandonment involving ships flying their flag, and the consequent burden imposed upon port States to provide humanitarian assistance. In this regard, reference was made to the need for effective legal mechanisms to ensure that shipowners be made liable to pay for the related costs.

4.8 The Committee agreed to maintain this item on its work programme, bearing in mind the paramount importance to international shipping of promoting the welfare of seafarers. The terms of reference for the Group, adopted at the Committee’s ninety-second session, are attached at annex 2 to this report, for ease of reference.

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

5.1 The Committee recalled that the Guidelines on fair treatment of seafarers in the event of a maritime accident were adopted by the Committee at its ninety-first session on 27 April 2006, in resolution LEG.3(91), and that these Guidelines were also adopted by the ILO Governing Body at its 296th session on 12 June 2006, and subsequently circulated by IMO as Circular letter No.2711, dated 26 June 2006. Member Governments were invited to implement the Guidelines as from 1 July 2006.

5.2 The Committee further recalled that it decided to establish an *Ad Hoc* Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident (the *Ad Hoc* IMO Working Group) at its ninety-second session, to review the Guidelines and to consider concerns expressed by a number of delegations about their interpretation and application. The *Ad Hoc* IMO Working Group met and prepared a report for the Committee’s consideration. The Committee noted that it had generally been divided in its conclusions. Taking into account this lack of consensus, and in the absence of sufficient time to examine the issues and its terms of reference in more detail, the Committee decided to retain this matter on its agenda for this session. The report of the *Ad Hoc* IMO Working Group, contained in document LEG 92/WP.2 is reproduced in the annex to document LEG 93/5.

5.3 The Committee was informed, in document LEG 93/5/2, that the Maritime Safety Committee (MSC), at its eighty-third session (3-12 October 2007), had agreed to include a provision creating an obligation on contracting parties to ensure that a seafarer from whom

evidence is sought in a casualty investigation to “be informed, and allowed access to legal advice, regarding” the risk of self-incrimination. This decision was taken in the context of the MSC approval of the draft Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident, as an amendment to the SOLAS Convention, with a view to its adoption at the MSC’s eighty-fourth session. The MSC had requested the Secretariat to inform the Legal Committee and ILO of the outcome of its consideration of this issue.

5.4 The representative of ILO introduced document LEG 93/5/1, which reported on the outcome of the 298th session of the Governing Body of the International Labour Organization (March 2007) concerning the adoption of revised terms of reference for the Joint IMO/ILO *Ad Hoc* Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident (Joint IMO/ILO Working Group). The representative noted that the Governing Body had agreed to add the collection of information as an additional term of reference, subject to the agreement of the Legal Committee.

5.5 On behalf of the Chairman of the *Ad Hoc* IMO Working Group, which met at the Committee’s ninety-second session to review the Guidelines, the delegation of Australia noted that it had not reached a consensus on any proposed changes, with one exception (paragraph 12 of the annex to document LEG 93/5). There had been no objection to a revision of paragraph 1(6) in the introduction section of the Guidelines to the effect that the words “where applicable” should be inserted after the words “employment agreement”.

5.6 It was suggested that there was some confusion between investigations into accidents as a matter of technical information-gathering and administrative process, and investigations that had implications under criminal law. The view was expressed that the work of the MSC, in the context of the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident, presumably dealt with the technical and administrative aspects, and the Group should concentrate on legal aspects.

5.7 It was further suggested that there are two approaches to undertaking interviews following accidents, which could have important implications for fair treatment of seafarers. Under some systems, a seafarer could be assured that the statements made to an investigator would not be used in a court of law, while in other systems no such assurance could be offered. The present Guidelines are not suitable for both systems and, accordingly, a fresh approach might be needed, with both systems being described separately. This would encourage seafarers, owners’ representatives and others to ask appropriate questions before an interview commenced.

5.8 The Committee expressed its appreciation to the Chairman and members of the *Ad Hoc* IMO Working Group, and noted the contents of its report, contained in the annex to document LEG 93/5, as well as the fact that it had not reached a consensus on proposed changes to the Guidelines, with one exception. The Committee agreed that there was no compelling need to revise the Guidelines merely to introduce this modification.

5.9 The Committee reiterated its concern regarding the fair treatment of seafarers and agreed that it would be appropriate to gain experience with the current Guidelines before considering any revisions. It was suggested that the Guidelines be widely disseminated and their application encouraged. In this regard, the Committee agreed that the Joint IMO/ILO Working Group should be reconvened to monitor the implementation of the Guidelines on the basis of the terms of reference approved by the ILO Governing Body, including the addition concerning the collection of information. The text of the revised terms of reference is contained in annex 3 to this report.

The Committee requested the IMO and ILO Secretariats to consult with a view to determining an appropriate time and place for the next meeting of the Joint IMO/ILO Working Group.

5.10 The Committee decided to retain this matter on its work programme.

6 MONITORING THE IMPLEMENTATION OF THE HNS CONVENTION

6.1 The Secretariat introduced document LEG 93/6, which reports on the status of the HNS Convention and the initiatives taken by the Secretary-General to encourage Contracting States to comply with the obligation, pursuant to article 43 of the Convention, to submit information on contributing cargo received, or in the case of LNG, discharged, in those States, when depositing their instruments of ratification or acceptance with the Secretary-General and annually thereafter.

6.2 The representative of the observer delegation of the International Oil Pollution Compensation Funds (IOPC Funds) introduced document LEG 93/6/1, which reports on the action taken by the IOPC Funds in connection with the implementation of the HNS Convention, in compliance with a resolution of the Conference which adopted the HNS Convention. The IOPC Funds representative provided an additional, oral report on the conclusions reached by the 1992 Fund Assembly, at its twelfth session (15 to 19 October 2007).

6.3 In this connection, she noted that three key issues had been identified as inhibiting the entry into force of the HNS Convention, namely, contributions to the LNG account; the concept of receiver; and the non-submission of reports on contributing cargo.

6.4 She noted further that a majority of States had expressed the view that at least one of these issues could not be satisfactorily resolved within the current text of the Convention and that, as a result, the Convention would never be ratified by a sufficient number of States for it to enter into force. Accordingly, the Funds Assembly had decided to establish an HNS Focus Group to develop a draft protocol which would provide legally binding solutions to these three issues.

6.5 The draft protocol would be submitted for the consideration and approval by the Legal Committee at its ninety-fourth session, with a view to holding, as soon as possible thereafter, a diplomatic conference to consider and adopt it.

6.6 The representative of the IOPC Funds reiterated the commitment of the Focus Group to maintain the principle of shared responsibility of shipping and cargo interests and to restrict the scope of the draft protocol to provisions aimed at resolving the three key issues.

6.7 The Committee stressed the need for the earliest possible entry into force of the HNS Convention in order to prevent the development of regional or national alternatives. While there was a general willingness to participate in the work of the IOPC Focus Group, some differing views were expressed regarding the mandate of the IOPC Funds Assembly to develop a protocol, instead of implementing the present text of the Convention.

6.8 Most delegations that spoke commended the initiative taken by the IOPC Funds Assembly as the way forward, which would speed up the entry into force of the HNS Convention. In their view, the three issues that had been identified could not be resolved within the framework of the existing HNS Convention, but required a legally binding solution. The expertise available within the IOPC Funds Assembly and its past experience in the elaboration of protocols to the IOPC Funds Convention made it uniquely qualified to undertake

this task. Moreover, the work of the Focus Group would not preclude the Legal Committee's final consideration of the text of the draft protocol, as well as any recommendation the Committee might make as to the timing of any diplomatic conference that might be convened to adopt it.

6.9 Many delegations stressed that any future considerations of the HNS Convention should be based on the principle of shared liability of shipowners and cargo interests.

6.10 During the debate, the following reservations were also expressed:

- in dispensing with the present text of the HNS Convention, and pursuing a protocol, the IOPC Funds Assembly was exceeding the mandate bestowed upon it by the Diplomatic Conference which adopted the HNS Convention, which was restricted to administrative and organizational activities;
- the decision taken by the IOPC Funds Assembly to propose the development of an amending protocol compromised the position of existing Contracting States, as well as that of future EU Contracting States. It also impeded the progress towards ratification of the Convention by several States with large volumes of contributing cargo, whose preparations to implement the treaty in its present form were in an advanced stage; and
- impediments to the implementation of the present treaty could be resolved through administrative decisions to be taken by the HNS Funds Assembly once the treaty came into force.

6.11 The view was expressed that, if amendments to the present text were to be considered, the scope of such amendments should include provisions to facilitate the updating and management of the list of substances included in the treaty.

6.12 The observer delegation of the International Chamber of Shipping (ICS) expressed the view that the industry would have preferred that a solution could have been found within the current framework of the Convention and referred to the need to ensure that any proposal to introduce amendments to the HNS Convention should take account of two main principles, namely the internationality of any solution and the commitment not to weaken the principle of shared liability by way of extending the burden of the shipping interests in the first tier.

6.13 The observer delegation of the Iberoamerican Institute of Maritime Law (IIDM) highlighted the importance of ensuring that an international liability regime to compensate for HNS damage enter into force as soon as possible.

6.14 The Committee expressed its readiness to consider any proposals based on the outcome of the deliberations of the Focus Group.

7 REPORT ON THE INTERNATIONAL CONFERENCE ON THE REMOVAL OF WRECKS, 2007

7.1 The Secretariat introduced document LEG 93/7, reporting on the outcome of the International Conference on the Removal of Wrecks, 2007, and on the action resulting from the adoption of the Nairobi International Convention on the Removal of Wrecks, 2007

(Wreck Removal Convention). The annexes to this document contain the texts of the three Conference resolutions.

7.2 The Committee noted that the issue of capacity building was raised during the discussions at the Diplomatic Conference but had not been included in the text of the resolution on Technical Co-operation. Nevertheless, to facilitate a discussion on this issue, the Secretariat had prepared document LEG 93/12, which would be taken up under agenda item 12.

7.3 One delegation recalled that, during the Nairobi Conference and thereafter at the ninety-eighth session of the Council, a general response had been provided by the Secretariat regarding the Settlement of disputes provision in article 15 of the Wreck Removal Convention. In this regard, the delegation had also raised the issue of the “opt out” provision under Article 298 of UNCLOS, concerning the apparent practice whereby contracting parties to UNCLOS, which are also parties to the Wreck Removal Convention, may not comply, or have a preference regarding the choice of fora for settlement of disputes as provided under chapter XV of UNCLOS, in particular Article 287(1) of the said Convention. It suggested that the Secretariat may be able to provide a commentary on the Wreck Removal Convention to give a broader understanding of the essence and the substance provided in that Convention.

7.4 The Committee expressed its appreciation of the successful outcome of the International Conference and once again, extended its appreciation to the Government of Kenya for hosting it. The Committee also extended its thanks to the Chairman of the Committee of the Whole, Mr. Jan de Boer of the Netherlands, for the excellent work he had accomplished.

7.5 The Secretariat introduced document LEG 93/12/4, reporting on the resolution on compulsory insurance certificates under existing maritime liability conventions, including the Nairobi International Convention on the Removal of Wrecks, 2007, the text of which was reproduced at annex 2 to document LEG 93/7. Operative paragraph 2 of this resolution invited the Organization and, in particular, the Legal Committee, to develop a model for a single insurance certificate which may be issued by States Parties in respect of each and every ship under the relevant IMO liability and compensation conventions.

7.6 The Committee noted that operative paragraph 3 of this resolution invited IMO to follow the same procedure as that adopted in relation to the reciprocal recognition of certificates by States Parties to the 1969 and 1992 Civil Liability Conventions.

7.7 The representatives of the observer delegations of the International Chamber of Shipping (ICS) and the International Group of P&I Associations (P&I Clubs) supported the proposal to develop a single insurance certificate. The representative of ICS pointed out that this approach could minimize the bureaucracy, make it easier to exchange information in electronic format and could save cost for both government and industry. Both representatives suggested that, although the Legal Committee had taken steps to address the problem of liability in respect of acts of terrorism in the context of the 2002 Athens Convention, the problem still needed to be resolved with respect to other liability and compensation regimes, i.e., the 1996 HNS Convention, the 2001 Bunkers Convention and the 2007 Nairobi Wreck Removal Convention. These delegations recalled that the Committee had agreed a solution with regard to the 2002 Athens Convention at its ninety-second session in October 2006, in the form of a reservation and Guidelines. The Guidelines provided for a number of specific exclusions to reflect existing standard market conditions, most importantly, the Radioactive Contamination, Chemical, Biological, Bio-chemical and Electromagnetic Weapons Exclusion Clause, Cyber Attack Exclusion and War Automatic Termination and Exclusion Clauses.

7.8 The representatives pointed out that the state of the insurance market was the same as it had been at the time the issue was resolved in relation to the Athens Convention and, accordingly, this issue remained to be resolved in the context of the other liability and compensation regimes. There was an added urgency to resolving this issue since it was likely that the 2001 Bunkers Convention would enter into force towards the end of 2008. If this issue was not resolved, then it was difficult to see how the insurance and certification provisions in the Bunkers Convention could work.

7.9 These delegations, therefore, recommended that this issue be referred to a Correspondence Group, the purpose of which would be to progress the work of a single State certificate under the liability and compensation regimes, and simultaneously look into the issue of terrorism, with the aim of reporting back to the ninety-fourth session of the IMO Legal Committee.

7.10 The Committee, however, was of the view that the market had found a solution in this regard for the Civil Liability Convention and that the solution for the other liability Conventions should, therefore, also be sought in the insurance market. In addition, the Committee agreed that an insurance cover for terrorism was a different matter from the development of a single model insurance certificate for the liability Conventions and ought not to be dealt with simultaneously.

7.11 Although some delegations were not averse to establishing a correspondence group to find a solution to the problem of liability in respect of acts of terrorism, the Committee ultimately agreed only to take note of the information provided by the representatives of ICS and P&I Clubs and not to take any action, in the absence of any written submission.

7.12 The Committee agreed to develop a single model insurance certificate and requested the Secretariat to prepare a draft instrument for consideration at its ninety-fourth session.

8 MATTERS ARISING FROM THE NINETY-SEVENTH AND NINETY-EIGHTH SESSIONS OF THE COUNCIL

General

8.1 The Committee took note of the information provided by the Secretariat in document LEG 93/8 on matters arising from the ninety-seventh and ninety-eighth sessions of the Council.

United Nations Global Counter-Terrorism Strategy

8.2 The Committee also took note of the information provided by the Secretariat in document LEG 93/8/1 on the request made by the Council, at its ninety-seventh session, that the Committee submits specific proposals on how IMO might contribute to the United Nations Counter-Terrorist Strategy, as formulated in resolution 60/288, adopted by the United Nations General Assembly on 8 September 2006.

8.3 The Committee proposed that Member States consider, as a priority, the promotion of the prompt ratification and entry into force of the 2005 Protocols to the 1988 SUA treaties, adopted as a consequence of the work of the Committee.

8.4 The Committee also encouraged the continuation of technical co-operation activities, to ensure the availability of adequate capacity building in developing countries, to enable the SUA treaties to be effectively implemented, once they had entered into force.

9 TECHNICAL CO-OPERATION ACTIVITIES RELATED TO MARITIME LEGISLATION

9.1 The Committee noted the information provided in documents LEG 93/9 and LEG 93/9/1 concerning the outcome of the national seminars on maritime legislation dealing with implementation of the SUA treaties, held in Bangkok, Thailand (18 to 20 April 2007) and Colombo, Sri Lanka (23 to 25 April 2007).

9.2 The delegation of Thailand expressed its appreciation to the Organization and to the United States Coast Guard for their contributions to the Bangkok seminar and confirmed that it had significantly contributed to the efforts of the national interagency working group, which is working towards ratification of the SUA treaties.

9.3 It was noted that legal assistance may be needed not only to support implementation of the SUA Convention and Protocols but also to develop legislation to allow for prosecution or extradition in cases of piracy and armed robbery. However, the view was expressed that piracy was a special case under UNCLOS and, therefore, required different implementing legislation from the SUA Convention and Protocols. Additionally, it was noted that the SUA treaties did not only address terrorism but also offences involving proliferation, which should also be reflected in implementing legislation.

9.4 The delegation of the United States expressed its appreciation at being invited to participate in the national seminars since they had provided an opportunity for the United States, and, in particular, the United States Coast Guard, to assist the Organization and Member States in implementing the SUA Convention and Protocols. This delegation said it was willing to contribute to future seminars, and, more specifically, to develop training scenarios and uniform procedures to support implementation of the SUA Protocols, and to co-operate in the conduct of practical joint SUA-related exercises with the Navy and/or Coast Guard of other countries which request such co-operation. The United States also informed the Committee that it was making significant progress towards ratification of the 2005 Protocols and ratification was anticipated in the near future.

9.5 The representative of the Intergovernmental Oceanographic Commission (IOC) of UNESCO informed the Committee that it was developing guidelines, together with IMO, on how IMO Member States can address the effects of tsunamis on coastal and harbour operations and proposed adequate remedial action. The IOC representative said that new legal instruments may be required since Member States need to develop their own strategy for addressing tsunami-related evacuation measures for harbours. Additionally, the IOC representative said technology transfer played a key role in the establishment of any Tsunami Warning and Mitigation System and IOC was working to promote the Criteria and Guidelines on Transfer of Marine Technology (CGTMT) for collaboration between developed and developing countries.

9.6 The delegation of Indonesia informed the Committee that a national seminar on Flag State Implementation was taking place this week in Indonesia, and the delegation expressed its gratitude to the Organization for supporting and assisting in organizing the event.

9.7 The Committee also noted the information provided in document LEG 93/9/2 concerning the overall technical co-operation activities related to maritime legislation, which took place during the 12-month period, from July 2006 to June 2007.

9.8 With regard to document LEG 93/9/3 on the resolution on Promotion of technical co-operation and assistance adopted at the International Conference on the Removal of Wrecks, 2007, the Committee noted that the resolution did not request any specific action of the Committee, but that it was, nonetheless, relevant to the discussion under agenda item 12, in the context of discussing document LEG 93/12, which deals with capacity building when developing new instruments or amending existing ones.

10 REVIEW OF THE STATUS OF CONVENTIONS AND OTHER TREATY INSTRUMENTS ADOPTED AS A RESULT OF THE WORK OF THE LEGAL COMMITTEE

10.1 The Secretariat introduced documents LEG 93/10, LEG 93/10/Corr.1 and LEG 93/WP.1, containing information on the status of conventions and other treaty instruments adopted as a result of the work of the Legal Committee.

10.2 The Committee noted that the annex to document LEG 93/10 reported on the developments regarding these instruments since the Committee's last review, in October 2006, up to 17 August 2007, and that this information had been further updated to 18 October 2007 in document LEG 93/WP.1.

10.3 The delegation of Poland referred to Poland's ratification of the Bunkers Convention, in December 2006, and informed that the legislation process concerning the 2003 Supplementary Fund Protocol is well advanced and is expected to be completed in 2008.

10.4 The delegation of Denmark reported that Denmark hoped to be able to ratify the Bunkers Convention by the end of 2007, and that consideration was being given by the Maritime Law Committee to drafting the implementing legislation for the International Convention on Maritime Liens and Mortgages, 1993; the International Convention on the Arrest of Ships, 1999; and the 2005 SUA Protocols. The delegation also stated that primary legislation had been adopted to implement the 1996 HNS Convention, but that this would now have to be considered in the light of the recent developments with regard to that Convention within the IOPC Fund Assembly.

10.5 Following a suggestion from the observer delegation of the Iberoamerican Institute of Maritime Law (IIDM), the Committee agreed that, in future documentation under this agenda item, the acronyms of the treaties concerned should be provided.

11 WORK PROGRAMME

Planned outputs for the 2008-2009 biennium

11.1 The Secretariat introduced document LEG 93/11, providing information to assist the Committee with the review of its work programme and planned outputs for the 2008-2009 biennium, in the context of the Organization's Strategic and High-level Plans.

11.2 The Committee noted that its current Guidelines on work methods and organization of work call on the Committee, at each session, to examine its work programme and review the

allocation of meeting weeks and its future work programme to ensure all items to be addressed fall within the Organization's Strategic Plan.

11.3 The Committee recalled that it had agreed, at its ninety-second session, on its planned outputs for the 2008-2009 biennium (see document LEG 92/13, paragraph 10.6). These planned outputs were reported to the Council at its ninety-eighth session.

11.4 One delegation suggested that developments with respect to the HNS Convention should be included in the planned outputs, but this might have already been reflected under paragraph 1.2.1. It was suggested by another delegation that the wording of paragraph 1.2.1 might need to be suitably amended for this purpose.

11.5 The Committee took note of these suggestions and agreed to revert to this item in light of discussions that might take place during the course of the week.

11.6 The Committee reverted to this item at the end of the session and decided to make the following amendments to its work programme:

Paragraph 1.1.1

The Committee agreed to delete the text.

Paragraphs 1.1.2 and 6.3.1 (first paragraph)

The Committee agreed to replace the text of the first paragraph with the following wording:

“Monitor the application of the joint IMO/ILO Guidelines on the fair treatment of seafarers”

The Committee agreed to retain the text of the second and third paragraphs without change.

The Committee agreed to delete the fourth paragraph.

Paragraphs 1.2.1 and 2.1

The Committee agreed to replace the text with the following wording:

“Identification of reasons why certain instruments (eg. HNS) have not come into force and consider and develop strategies to facilitate their entry into force, and to encourage States to become Parties.”

Paragraph 7.2.1

The Committee agreed to delete the text.

Review of guidelines on methods of work

11.7 The Secretariat introduced document LEG 93/11/1, providing information to assist the Committee with a review of its methods of work, in accordance with the instruction of the Council at its ninety-seventh session.

11.8 At that session, the Council had agreed that it would be appropriate and beneficial that the Legal Committee, taking into consideration its differing needs, should harmonize, as far as possible, its work methods with those of the Maritime Safety Committee (MSC) and the Marine Environment Protection Committee (MEPC); the Council also endorsed a proposal by the Secretary-General that the Chairmen of all five IMO Committees and the Committees' Secretaries should meet to consider how best harmonization might be achieved.

11.9 The Committee noted that this meeting took place in June 2007. The Chairmen agreed that it would be appropriate for the report of its meeting to be made available to the Legal Committee for consideration at its ninety-third session, prior to the Council's twenty-fourth extraordinary session. Accordingly, the report of that meeting and a table comparing the Guidelines on methods of work of the MSC/MEPC, the Legal Committee and the Technical Co-operation Committee were attached at annexes 1 and 2 of document LEG 93/11/1, for consideration by the Committee.

11.10 One delegation suggested that the most practical way of approaching the task might be the establishment of a small group to discuss the document in more detail and to report back to the Committee with its initial conclusions.

11.11 Another delegation was of the view that the Committee should first decide whether it wished to change its work methods before establishing such a group and, if a group were established, it should have terms of reference.

11.12 Another delegation pointed out that the work of the Legal Committee was different from that of other Committees and, accordingly, harmonization of its work methods with those of the other Committees would only be acceptable if this were needed and if it were possible to do so taking into account the different nature of its work.

11.13 The Committee agreed to establish a small working group, under the chairmanship of Ms. Birgit Olsen (Denmark), to look into question of harmonizing its work methods with other Committees, using as its terms of reference the four principles contained in paragraph 15 of the report of the Chairmen's meeting contained at annex 1 of document LEG 93/11/1, as follows:

- guidelines on submission, processing and distribution should be harmonized, as far as possible, to assist the Secretariat in fulfilling its responsibilities, bearing in mind that deadlines for submission of documents may not be the same for all Committees, and considering that the Conference Division would need more time to process and translate the documents submitted to those Committees that usually handle a very large volume of documentation;
- subsidiary bodies such as working groups, sub-committees and correspondence groups should function in a similar manner;
- the same process should be followed in all Committees when assessing proposals for new items in the context of the Organization's Strategic Plan; and
- the best practices of any single Committee should be considered by the other Committees for possible implementation, adapted as may be appropriate.

11.14 The Chairperson of the Working Group, which met four times during the session, gave an oral presentation of the Group's conclusions on the subject matter.

11.15 The Working Group was attended by the following delegations:

Australia	Japan
Belgium	Nigeria
Croatia	Panama
Denmark	Republic of Korea
Ghana	Singapore
India	United Kingdom
Indonesia	United States
Italy	Iberoamerican Institute of Maritime Law (IIDM)
Jamaica	

11.16 When presenting the Group's recommendations, the Chairperson stressed that the Group had suggested that the Legal Committee guidelines should be amended so as to harmonize its methods of work with those of the MSC and the MEPC, as far as possible, taking into consideration the special needs of the Legal Committee. The Committee endorsed this basic approach.

11.17 The Chairperson, thereafter, presented detailed recommendations prepared by the Group. The Committee agreed that these recommendations would be reflected in a document to be prepared by the Secretariat, in consultation with the Chairperson, and would be presented to LEG 94 for its consideration and approval.

11.18 The Committee also agreed that, in preparing the document, the Secretariat should make the necessary editorial changes and also identify any other issues that the Committee may need to consider.

Proposal to reduce the number of sessions of the Committee from four to three in the 2008-2009 biennium

11.19 The Secretariat introduced document LEG 93/11/2 inviting the Committee to consider the possibility of reducing the number of its sessions in the 2008-2009 biennium from four to three. The background to this document stemmed from the Council's discussions, at its ninety-eighth session (June 2007), of the Organization's proposed budget for the 2008-2009 biennium and the Council's request to the Secretary-General to review the proposed budget, with a view to identifying possible savings and efficiency gains, without hampering the delivery of the planned outputs contained in the Strategic Plan. During the course of the discussion, it was suggested that, in view of the fact that work on the Wreck Removal Convention had been completed, the Committee might require only three, rather than four, sessions during the next biennium.

11.20 Following discussion of this issue, the Committee agreed to reduce the number of its sessions in the 2008-2009 biennium from four to three, so that only one session would be held, in the autumn of 2008. In arriving at this decision, the Committee noted that its agreement to reduce the number of sessions should not detract from the importance of the work of the Legal Committee, particularly its ongoing work in relation to the protection of seafarers. It also suggested that the other Committees might follow the lead of the Legal Committee on this matter and consider whether to forgo any of their sessions.

12 ANY OTHER BUSINESS

(a) Capacity-building when developing new instruments or amending existing ones

12(a).1 In introducing documents LEG 93/12 and LEG 93/12/6, the Secretariat recalled that, during MSC 82, it was proposed that the MSC and all its sub-committees should ensure that, when developing new instruments or amending existing ones, where necessary, guidance for implementation be prepared. The MSC should also identify issues which the Technical Co-operation Committee (TCC) might need to consider for the purpose of developing related technical co-operation and assistance programmes.

12(a).2 MSC 82 invited the other Committees (MEPC, FAL and LEG), as well as the Assembly and Diplomatic Conferences, to consider this issue. In line with that decision, the International Conference on the Removal of Wrecks, 2007 (14 to 18 May 2007), when adopting the Nairobi International Convention on the Removal of Wrecks, 2007, had adopted a resolution on promotion of technical co-operation and assistance. The resolution recognized the need for the development of appropriate legislation and the putting in place of appropriate infrastructure for the removal of wrecks where there may be limited infrastructure, facilities and training programmes to obtain the experience required in assessing the hazard which a wreck may pose. At the Diplomatic Conference, the Committee of the Whole invited the Legal Committee to develop guidelines on the implementation of the International Convention on the Removal of Wrecks, 2007.

12(a).3 The Republic of Korea informed the Committee that the First Seoul International Maritime Forum had been held from 6 to 8 September 2007 in Seoul, Republic of Korea. The main theme of the Forum was the Wreck Removal Convention (WRC), which was adopted in May 2007 in Nairobi, Kenya. The report would be provided to IMO and Member States in due course.

12(a).4 The Committee decided that there was no need, at this stage, to consider the development of guidelines for the Wreck Removal Convention, but that it might revisit the issue at a future session.

12(a).5 The Committee noted that, in line with the decision of MSC 82, a new item on “Capacity building when developing new instruments” had been included in the agenda of MSC 83, which met in October 2007. The Committee also noted that MSC 83 had agreed to submit to the Assembly, at its twenty-fifth regular session, a draft resolution on the need for capacity building when implementing new instruments and when developing and/or amending existing ones. Operative paragraphs 2 and 3 of the draft resolution recommended, respectively, that:

- the Council and the Committees as a means to promote and enhance capacity-building efforts consider proposals for the development of new instruments and/or amendment of existing ones after an assessment of implications for capacity building and technical co-operation has been undertaken; and
- the Committees establish a mechanism for the identification of new instruments requiring technical assistance intervention prior to implementation; identification of issues requiring special focus when developing related technical co-operation and assistance interventions relating to implementation of new measures; and the identification of new instruments requiring a simplified guide for implementation.

12(a).6 The Committee noted that, although MSC 83 did not expressly refer the draft Assembly resolution to LEG 93 for consideration, nonetheless, if adopted by the Assembly, this resolution would impose certain duties on the Legal Committee. The Committee, accordingly, decided to consider the draft resolution with a view to providing comments on its contents, including those of a drafting nature.

12(a).7 One delegation noted that the word “establish” in the third operative paragraph of the draft Assembly resolution had not been correctly translated in the Spanish version of the text.

12(a).8 The Committee, in principle, approved the draft Assembly resolution, but noted that the word “after” in the second operative paragraph, if maintained, might have the unfortunate effect of slowing down the process of the adoption of legal instruments, since it required the assessment of implications for capacity building to be made before embarking on the development of new instruments or the amendment of existing ones. Accordingly, the Committee agreed to suggest to the Assembly that the word “after” be replaced by the words “during or in parallel with”.

(b) Measures to protect crews and passengers from crimes committed on vessels

12(b).1 The delegation of India introduced document LEG 93/12/3 containing a proposal to reactivate the issue of a possible international instrument to facilitate expeditious investigation of shipboard offences and the possible involvement of the substantially interested State, on its request.

12(b).2 The observer delegation of the Comité Maritime International (CMI) introduced document LEG 93/12/1 containing proposed draft guidelines for national legislation on maritime criminal acts, in the light of the expanding problem of serious maritime criminal acts, including piracy.

12(b).3 The observer delegation of the International Transport Workers’ Federation (ITF) introduced document LEG 93/12/5, which comments on the CMI guidelines and requests further consideration to be given to the definition of maritime criminal acts, and the need to include measures to protect the rights of seafarers, suspects and defendants adequately.

12(b).4 The Committee thanked the delegations concerned for these documents, noting that they raised very serious legal issues relating to the prosecution and punishment of crimes committed at sea. In particular, one delegation expressed concern for illegal acts or negligence and the duty to render assistance after a collision on the high seas and proposed to discuss the issue along with the proposals made by India and the CMI. The Committee held an extensive discussion on the documents, with a view to deciding, in the first instance, whether the subject of crimes at sea should be reinstated as a separate item in the work programme of the Committee, and, if so, whether the Committee should pursue the format of a draft convention or guidelines for model legislation.

12(b).5 The Committee was divided on these issues. Several delegations suggested that either a convention or guidelines, or both, could be further developed by the Committee, in view of the increasing dangers posed by criminal activities at sea. In this regard, they referred to existing uncertainties with respect to the exercise of effective jurisdiction and observance of basic principles of due process, in connection with cases such as those involving missing persons and ships involved in collisions, which then escape to avoid prosecution, instead of co-operating with the investigation and helping to save human lives.

12(b).6 In the view of these delegations, existing international treaties, such as UNCLOS and the SUA Conventions, did not comprehensively address the effective prosecution and punishment of criminals. In particular, these treaties did not effectively address the interaction between coastal State jurisdiction, flag State jurisdiction and the jurisdiction which could be exerted by the State of a national affected by a crime at sea, leaving gaps in the investigation and punishment of criminal acts.

12(b).7 It was also suggested that consideration of crimes at sea should include, at some stage, the causes of the crimes, bearing in mind factors such as the often precarious conditions of welfare on board and the multicultural environment of crews employed.

12(b).8 The majority of delegations that spoke opposed the reinstatement of the issues under consideration as a separate item on the work programme of the Committee. In their view, the compelling need justifying such reinstatement had not been demonstrated and should be addressed in the light of comprehensive statistics. Only upon availability of this data could the need for the elaboration of new international rules be considered. In their absence, States should concentrate on the effective implementation of existing treaty law regimes. The importance of collecting information on national measures in dealing with crimes committed on board vessels was also stated.

12(b).9 Some delegations disagreed with the view that existing treaty law regimes left gaps which needed to be filled with additional international regulations. Reference was made to Article 27 of UNCLOS, which established clear principles governing cases justifying the exercise of criminal jurisdiction on board ships by coastal States *vis-à-vis* flag States. Article 97 of UNCLOS, which regulated principles of penal jurisdiction in matters of collision or any other incident to navigation, was also referred to, together with the duty to render assistance regulated by Article 98 of the same Convention.

12(b).10 In connection with piracy, it was noted that the definition proposed in the CMI guidelines went further than the provisions contained in Articles 100 to 107 of UNCLOS, thus creating the possibility of conflicts in the implementation of this Convention. Concern was also expressed regarding language referring to the obligation, rather than the discretion, of States to prosecute. In this regard, it was suggested that the word “may” should replace “should”, with reference to the instances justifying prosecution.

12(b).11 It was also noted that the purpose of guidelines on crimes at sea should be to aid Governments in filling existing gaps in national legislation that could hamper the exercise of criminal jurisdiction. However, this objective could be achieved only to the extent permitted by international law. The effort to develop model national legislation was beyond the competency of the Committee, and could potentially infringe on a range of sensitive issues of sovereignty of Member States.

12(b).12 The development of guidelines, or a treaty aiming at expanding the scope of criminal offences was considered by some delegations as an obstacle which could further complicate the difficult issues of the fair treatment of seafarers already addressed by the Committee.

12(b).13 Reservations were also expressed in relation to engaging IMO in the task of limiting the sovereign rights of States in the exercise of their criminal jurisdiction by introducing an international regime governing crimes at sea in general. In this regard, it was noted that internationalization of criminal law had been within the purview of IMO in connection with crimes of exceptional gravity, such as terrorism.

12(b).14 The Committee decided not to reinstate in its work programme the question of crimes at sea as a separate agenda item. However, delegations and observer delegations could gather data to assess the “compelling need” and present further submissions to be considered within the scope of “any other business”. The Committee also encouraged States and the CMI to continue with the consideration of this subject with a view to harmonizing legislation and strengthening the implementation of existing international law.

(c) Report on the IMO/MOWCA forum on the establishment of an integrated coastguard function network for West and Central African Countries, Dakar, Senegal, 23 to 25 October 2006

12(c).1 The Secretariat introduced document LEG 93/12/2 reporting on the IMO/MOWCA forum on the establishment of an integrated coastguard function network for West and Central African Countries, held in Dakar, Senegal, from 23 to 25 October 2006. The document also attached a resolution, which was adopted at the IMO/MOWCA forum, listing 22 action points in a variety of disciplines. This resolution had now been approved by the MOWCA General Assembly of Ministers, at its meeting on 11 September 2007 in Luanda, Angola. It was intended that the operative paragraphs of the resolution would form the basis of action plans to be developed for the implementation of the integrated coastguard function network, which would facilitate the co-ordination of specialized agencies’ and other donors’ capacity and capacity-building programmes in their own areas of expertise. The resolution, adopted by the forum, invited the Secretary-General to bring it to the attention of the Committees of the Organization, including the Legal Committee.

12(c).2 The Committee welcomed the information provided in this document and congratulated the forum for the adoption of the resolution, noting, in particular, that the establishment of the integrated coastguard function network would also assist in combating piracy, armed robbery, unlawful acts and transnational organized crime at sea.

ANNEX 1

AGENDA FOR THE NINETY-THIRD SESSION

- Opening of the session
- 1 Adoption of the agenda
 - 2 Report of the Secretary-General on credentials
 - 3 Election of officers
 - 4 Provision of financial security: progress report on the work of the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers
 - 5 Fair treatment of seafarers in the event of a maritime accident
 - 6 Monitoring the implementation of the HNS Convention
 - 7 Report on the International Conference on the Removal of Wrecks, 2007
 - 8 Matters arising from the ninety-seventh and ninety-eighth 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 adopted as a result of the work of the Legal Committee
 - 11 Work programme
 - 12 Any other business
 - Capacity-building when developing new instruments or amending existing ones
 - Maritime criminal acts: draft guidelines for national legislation
 - Measures to protect crews and passengers from crimes committed on vessels
 - Resolution on compulsory insurance certificates under existing maritime liability conventions, including the Nairobi International Convention on the Removal of Wrecks, 2007
 - 13 Report of the Committee

ANNEX 2

**TERMS OF REFERENCE FOR FURTHER WORK OF THE JOINT IMO/ILO
AD HOC EXPERT WORKING GROUP ON LIABILITY AND COMPENSATION
REGARDING CLAIMS FOR DEATH, PERSONAL INJURY
AND ABANDONMENT OF SEAFARERS**

- 1 The Joint IMO/ILO *Ad Hoc* Expert Working Group should continue with its examination of the issue of financial security for crew members/seafarers and their dependants with regard to compensation in cases of personal injury, death and abandonment.
- 2 In so doing the Joint Working Group should take account of relevant IMO and ILO instruments, including those currently under review or likely to be adopted in the near future.
- 3 It should continue the monitoring of the problem of abandonment of crew members/seafarers taking into account all relevant information including technical solutions available for financial security.
- 4 It should develop longer-term sustainable solutions to address the problem of financial security with regard to the compensation in cases of death or personal injury and abandonment.
- 5 At the next session it should make appropriate recommendations to the IMO Legal Committee and the ILO Governing Body.

ANNEX 3

**REVISED TERMS OF REFERENCE FOR THE JOINT IMO/ILO
AD HOC EXPERT WORKING GROUP ON FAIR TREATMENT
OF SEAFARERS IN THE EVENT OF A MARITIME ACCIDENT**

- 1 The Joint IMO/ILO *Ad Hoc* Expert Working Group should monitor and evaluate the implementation of the Guidelines on fair treatment of seafarers in the event of a maritime accident.
 - 2 In doing so, the Group should take into account resolution A.987(24) adopted by the Assembly of the International Maritime Organization, as well as IMO and ILO instruments relevant to the implementation of the Guidelines.
 - 3 In undertaking its work, the Group should collect information on cases of mistreatment of seafarers.
 - 4 The Group should make suitable recommendations to the IMO Legal Committee and the Governing Body of ILO in relation to any appropriate action for better implementation and wider acceptance of the Guidelines.
-