



LEGAL COMMITTEE
97th session
Agenda item 15

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REPORT OF THE LEGAL COMMITTEE ON ITS NINETY-SEVENTH SESSION

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1 INTRODUCTION

1.1 The Legal Committee held its ninety-seventh session at IMO Headquarters from 15 to 19 November 2010, under the chairmanship of Professor Lee-Sik Chai (Republic of Korea).

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

ALGERIA	LIBYAN ARAB JAMAHIRIYA
ANGOLA	LUXEMBOURG
ANTIGUA AND BARBUDA	MALAYSIA
ARGENTINA	MALTA
AUSTRALIA	MARSHALL ISLANDS
AZERBAIJAN	MEXICO
BAHAMAS	MOROCCO
BANGLADESH	NAMIBIA
BELGIUM	NETHERLANDS
BELIZE	NIGERIA
BRAZIL	NORWAY
BULGARIA	PANAMA
CANADA	PAPUA NEW GUINEA
CHILE	PERU
CHINA	PHILIPPINES
COOK ISLANDS	POLAND
CÔTE D'IVOIRE	PORTUGAL
CUBA	REPUBLIC OF KOREA
CYPRUS	ROMANIA
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	RUSSIAN FEDERATION
DENMARK	SAINT VINCENT AND THE GRENADINES
ECUADOR	SAUDI ARABIA
EGYPT	SINGAPORE
ESTONIA	SOUTH AFRICA
FINLAND	SPAIN
FRANCE	SWEDEN
GEORGIA	SWITZERLAND
GERMANY	SYRIAN ARAB REPUBLIC
GHANA	THAILAND
GREECE	TURKEY
INDIA	TUVALU
INDONESIA	UKRAINE
IRAN (ISLAMIC REPUBLIC OF)	UNITED KINGDOM
ITALY	UNITED REPUBLIC OF TANZANIA
JAMAICA	UNITED STATES
JAPAN	VANUATU
KENYA	VENEZUELA (BOLIVARIAN REPUBLIC OF)
KIRIBATI	
LATVIA	
LIBERIA	

and the following Associate Members of IMO:

FAROES

HONG KONG, CHINA

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

UNITED NATIONS (UN)
UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)
INTERNATIONAL LABOUR ORGANIZATION (ILO)

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

EUROPEAN COMMISSION (EC)
INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS (IOPC FUNDS)
MARITIME ORGANIZATION FOR WEST AND CENTRAL AFRICA (MOWCA)

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 INDEPENDENT TANKER OWNERS
(INTERTANKO)
THE INTERNATIONAL GROUP OF P&I ASSOCIATIONS (P&I CLUBS)
SOCIETY OF INTERNATIONAL GAS TANKER AND TERMINAL OPERATORS
LIMITED (SIGTTO)
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS
(INTERCARGO)
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)
INTERNATIONAL BUNKER INDUSTRY ASSOCIATION (IBIA)
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)
THE NAUTICAL INSTITUTE (NI)

The Secretary-General's opening address

1.5 The full text of the Secretary-General's opening address is reproduced in document LEG 97/INF.2.

The Chairman's remarks

1.6 The Chairman thanked the Secretary-General for his remarks and said that the Committee would bear them in mind during the course of its deliberations.

Adoption of the agenda

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

1.8 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 ELECTION OF OFFICERS

(a) Election of the Chairman

3.1 The Committee noted that Professor Lee-Sik Chai (Republic of Korea) would not stand as a candidate for re-election as Chairman of the Committee for 2011.

3.2 The Committee elected, by acclamation, Mr. Kofi Mbiah (Ghana) as Chairman for 2011.

(b) Election of the two Vice-Chairmen

3.3 The Committee noted that Mr. Jan E. De Boer (the Netherlands) and Mr. Gaute Sivertsen (Norway) were, respectively, available for election as first Vice-Chairman of the Committee.

3.4 The Committee proceeded to hold a vote in accordance with its Rules of Procedure, as a result of which, Mr. Jan De Boer (the Netherlands) was elected as first Vice-Chairman of the Committee for 2011.

3.5 The Committee re-elected, by acclamation, Mr. Walter de Sá Leitão (Brazil) as second Vice-Chairman for 2011.

3.6 Mr. Kofi Mbiah thanked the Committee for having elected him as Chairman. He praised Professor Lee-Sik Chai for the manner in which he had led the Committee over the past years. He shared with the Committee his vision of the Legal Committee playing a pivotal role in supervising, formulating and implementing international maritime law and invited members of the Committee to work together in pursuance of this goal.

3.7 The Secretary-General paid tribute to Professor Lee-Sik Chai's service to the Organization, reflected in his many years of active participation in the Legal Committee, the last five of them as its Chairman. He also referred to Professor Chai's involvement in international legal conferences convened by IMO, in particular the 2007 International Conference on the Removal of Wrecks, where he acted as one of the Vice-Presidents of the Conference.

3.8 The Secretary-General also welcomed the new Chairman and the two Vice-Chairmen appointed for 2011.

4 REPORT ON THE 2010 CONFERENCE ON THE REVISION OF THE HNS CONVENTION

4.1 The Secretariat introduced document LEG 97/4, reporting on the outcome of the 2010 International Conference on the Revision of the HNS Convention and the adoption of the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996. The texts of the four Conference resolutions were attached as annexes to the document:

-
- resolution 1: Setting up the HNS Fund;
- resolution 2: Promotion of technical co-operation and assistance;
- resolution 3: Avoidance of a situation in which two conflicting treaty regimes are operational; and
- resolution 4: Implementation of the 2010 HNS Protocol.

The discussion relating to resolution 2 (technical co-operation) is reported under agenda item 11.

4.2 The Secretariat informed the Committee that Circular letter No.3111, dated 11 October 2010, containing the text of resolution 3, and drawing attention, in particular, to its operative paragraph 3, had been transmitted to States.

4.3 The Committee expressed satisfaction at the outcome of the International Conference.

4.4 The observer delegation of the International Oil Pollution Compensation Funds (IOPC Funds) introduced document LEG 97/4/3, providing an update on actions taken to date by the 1992 Funds Secretariat on setting up the HNS Fund, as follows:

- a system for calculating contributing cargo under the Convention has been established, and the work on updating it with the revised list of substances can commence as soon as such a list is approved by the Committee;
- the information brochure on the HNS Convention has been revised to take into account the adoption of the 2010 HNS Protocol;
- the IOPC Funds and IMO Secretariats have met to discuss the coordination of work required by both organizations; and
- the 1992 Fund Administrative Council instructed the Director to carry out the preparatory tasks for the setting up of the HNS Fund, in accordance with Conference resolution 1. Although a new resolution was adopted as part of the 2010 HNS Protocol, a consensus had been reached previously that the 1992 Fund and the HNS Fund should share the same Secretariat; accordingly, there was no reason to question that consensus; instead, the focus should be on the practical measures necessary to set up the HNS Fund.

4.5 The Committee thanked the IOPC Funds Secretariat for the information provided and requested it to keep the Committee updated on the preparations for entry into force of the HNS Convention.

4.6 The Secretariat introduced documents LEG 97/4/1, LEG 97/4/1/Add.1 and LEG 97/4/1/Add.2, providing technical advice on issues identified during the preparatory work on the 2010 HNS Protocol, including the need to clarify the list of substances to be included in the definition of HNS in article 1, paragraph 5(a)(vii) of the Protocol.

4.7 The Committee considered document LEG 97/4/2, submitted by France, which proposed, with reference to resolution 4, an examination of the problems of implementation posed by simultaneous combined reference to the International Maritime Dangerous Goods Code (IMDG Code) and the International Maritime Solid Bulk Cargoes Code (IMSBC Code)

in the definition in article 1, paragraph 5(a)(vii) of the HNS Convention, as amended by the 2010 Protocol.

4.8 The Committee noted the information provided in document LEG 97/4/1 and its addenda, including the fact that the complete text of the IMDG Code, incorporating amendment 27-94, which was in effect in 1996, will be placed on the IMO website in Portable Document Format (PDF).

4.9 The Committee also noted the lists of materials attached as annexes to document LEG 97/4/1/Add.1, as follows:

- solid bulk materials possessing chemical hazards which are mentioned by name in the IMSBC Code and which are also mentioned by name in the IMDG Code in effect in 1996; and
- solid bulk materials possessing chemical hazards which are mentioned by name in the IMSBC Code, but which are not mentioned by name in the IMDG Code in effect in 1996.

4.10 The Committee expressed the view that the document presented by France was not raising an interpretation issue which could be accommodated under resolution 4 of the HNS Protocol, but was, rather, raising a substantive issue. At this point in time, the Committee should focus on bringing the Protocol into force, rather than opening up new issues. The document presented by France, however, contained valuable comments on technical aspects which might assist in implementing the Protocol, which should be noted by the Secretariat.

4.11 Further comments were made, as follows:

- States should focus on the ratification and implementation of the Protocol. In this regard, technical assistance might be required to facilitate this process;
- the IOPC Funds and the IMO Secretariats should collaborate in the establishment of the HNS Fund, to prevent the duplication of work;
- following the entry into force of the Protocol, the HNS Fund should start dealing with all the outstanding issues relating to its implementation, including reviewing the lists of HNS substances;
- the initial lists of HNS substances, annexed to document LEG 97/4/1/Add.1, should be disseminated by means of a circular and updated in accordance with amendments to the IMSBC Code;
- the lists explicitly mentioned in both the IMSBC Code and the IMDG Code 96 would be indicative but, at the same time, dynamic;
- in view of the amendment and application cycle of amendments to the IMSBC Code, it would be prudent to review the lists of materials possessing chemical hazards on a two-year cycle;
- there was no need to establish a Correspondence Group;

- the Committee should invite the Maritime Safety Committee (MSC) to request the Sub-Committee on Bulk Liquids and Gases (BLG) and the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) to consider issues raised in documents LEG 97/4/1 and LEG 97/4/2 and advise the Committee accordingly.

4.12 The Committee agreed that:

- States should give preliminary focus to the ratification and implementation of the HNS Protocol; the lists set out in annexes 1 and 2 to document LEG 97/4/1/Add.1 should be circulated as information for use by States which are considering becoming Party to the 2010 HNS Protocol;
- the lists of materials possessing chemical hazards shall be reviewed by the relevant bodies of the Organization, probably on a two-year cycle; and
- when the Convention enters into force, the work should thereafter be carried out under the auspices of the HNS Funds Assembly.

5 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

5.1 The observer delegation of the International Labour Organization (ILO), represented by Mrs. Cleopatra Doumbia-Henry, Director, International Labour Standards Department, in introducing document LEG 97/5/1, thanked the Secretary-General of IMO for his support in encouraging Governments to ratify the Maritime Labour Convention, 2006 (MLC 2006); and provided the following information on the outcome of the ILO Preparatory Tripartite MLC 2006 Committee meeting, held from 20 to 23 September 2010, namely:

- the progress towards the entry into force of MLC 2006, ratified by a total of 11 countries. All States were encouraged to ratify this Convention (19 further ratifications being needed) to enable it to enter into force in 2012, in the same year as the 2010 Manila STCW amendments;
- the recommendation by the Preparatory Tripartite MLC 2006 Committee that the principles adopted by the Joint Working Group be directly transmitted to the Special Tripartite Committee, for consideration for inclusion in MLC 2006, without any further preparatory work, soon after its entry into force; and
- the outcome of the Tripartite Consultation on the Seafarers' Identity Documents Convention (revised), 2003 (No. 185), held on 24 and 25 September 2010, which considered a proposal by the International Organization for Standardization (ISO), with respect to various adjustments, such as the inclusion of an optional chip, to help ensure the interoperability of seafarers' identity documents with other border security technologies.

5.2 The Committee noted, with satisfaction, the information contained in document LEG 97/5/1, as amplified by the observer delegation of ILO.

5.3 Most delegations that spoke supported the early amendment of MLC 2006 to introduce mandatory provisions of financial security for abandonment, personal injury to and death of seafarers; however, one delegation expressed concern that amending the MLC 2006 so soon after its entry into force might pose a problem for those States in the process of ratification.

5.4 In introducing document LEG 97/5, the Executive Director of Seafarers' Rights International, Ms. Deirdre Fitzpatrick, informed the Committee of the launch, on World Maritime Day 2010, of the Centre and outlined its aim of advancing the rights and interests of seafarers through research, education and training. All delegations which spoke unanimously welcomed the creation of the Centre.

5.5 The Committee noted the suggestion that IMLI and WMU should include Seafarers' Rights in their curricula.

5.6 The Committee noted an invitation by the delegation of Poland to the annual European Maritime Day Stakeholder Conference, the theme of which will be the human element at sea. The Conference will be held in Gdańsk, Poland on 19 and 20 May 2011 and is open to everyone. Full details are available at: <http://ec.europa.eu/maritimeaffairs/maritimeday>.

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

6.1 The Committee noted the information provided by the Secretariat, in response to the Committee's request at its ninety-sixth session, that it continue to consult with the Secretariat of the International Labour Organization (ILO) and the Social Partners, to determine a convenient date for reconvening the Joint *Ad Hoc* Expert Working Group on Fair Treatment of Seafarers, to the effect that both the ILO Secretariat and the Social Partners had indicated that there was no need for such a meeting. This information was confirmed by the representative of the observer delegation of ILO, Mrs. Cleopatra Doumbia-Henry, who also noted that the Social Partners saw a need for a range of materials which could be used to promote application of the Guidelines on fair treatment of seafarers in the event of a maritime accident.

6.2 The delegation of the Islamic Republic of Iran introduced document LEG 97/6/2, providing observations on the unfair treatment of seafarers because of nationality or religion and citing a number of cases concerning denial of shore leave and denial of medical care for ill or injured Iranian seafarers, or seafarers on Iranian ships, in foreign ports just because of their nationality or nationality of their workplace.

6.3 While the legitimate security concerns of coastal States were recognized, most delegations that spoke shared the concerns raised in document LEG 97/6/2 regarding discriminatory treatment of seafarers in the context of shore leave, and recognized shore leave as a right for seafarers. It was noted that the Facilitation Committee had recently approved guidelines relating to shore leave, and those guidelines "acknowledged that port States, while giving effect to the special measures envisaged to prevent security incidents affecting ships or port facilities and to exercise control over access to their territories, have to recognize that shore leave for seafarers constitutes their right – not a privilege" (FAL.3/Circ.201). It was further noted that the Maritime Safety Committee, at its eighty-seventh session, had also approved a circular on this subject (MSC.1/Circ.1342, Guidance on shore leave and access to ships).

6.4 The Committee requested the Secretariat to bring to the attention of the Facilitation Committee and the Maritime Safety Committee the sections of those documents which were pertinent to the issue of discrimination in shore leave, as well as the relevant sections of the

report of this session; and to discuss with the secretaries of those Committees the question of which Committee was the most appropriate forum for considering the issue and developing measures to address it.

6.5 The Committee agreed that humanitarian considerations should prevail in cases where seafarers in port on foreign ships are ill or injured and require access to shore-side medical facilities.

6.6 The observer delegation of BIMCO introduced documents LEG 97/6 and LEG 97/INF.3, summarizing the main findings of BIMCO's recently-revised study on the treatment of seafarers, as well as its two surveys on fair treatment and abandonment of seafarers.

6.7 In discussing these documents, the Committee agreed that the report indicated that the unfair treatment of seafarers continued to be a problem; however, a number of comments were made regarding specific aspects of the study and surveys, including the following:

- the information analysed in the study and surveys included generalizations and had been based largely on the internet and media reports and therefore might lack completeness or be misunderstood;
- discussion of cases where allegations of deliberate pollution, tampering with pollution prevention equipment, falsification of records, destruction of evidence, or interference with witnesses, do not relate to the IMO/ILO Guidelines and should not have been included in a study of unfair treatment of seafarers;
- with reference to the **Coral Sea** incident, it was clarified that imprisonment of the master was a decision of the national court which should be respected. Furthermore, this case did not follow a maritime accident and therefore fell outside the scope of the Guidelines. The delegation concerned suggested that the title of the agenda item might be broadened to "Fair Treatment of Seafarers" to allow for a wider discussion of other cases of unfair treatment;
- with reference to the legislation referred to in the report concerning a shift in the burden of proof, it was clarified that it had been enacted following consultation and due process and it would be up to the courts of that country to interpret the new law;
- with reference to the **Full City** incident, it was clarified that it took place in internal waters and was currently the subject of an independent judicial process and the rights of the accused would be respected; further, it was clarified that the master and the third officer were not imprisoned during the investigative stages of the case but had had their passports seized, a decision that was ultimately reversed by the Norwegian Supreme Court;
- with reference to the **Cosco Busan** incident, it was clarified that it took place in internal waters and that the stay of the ship's crew (which was not prosecuted) was made longer due to their falsification of key ship records that obstructed the investigation;
- references to specific countries and incidents in such studies can inhibit a full discussion of the issues and recommendations and should be avoided; and

- while it was noted that coastal States wanted strict environmental laws, the application of these should be in conformity with the United Nations Convention on the Law of the Sea (UNCLOS) and customary International Law as well as Human Rights Law.

6.8 The observer delegation of the Comité Maritime International (CMI) introduced document LEG 97/6/1 on behalf of the co-sponsors. The document expressed concern that many States are failing to comply with their treaty obligations under International Law, notably article 230 of UNCLOS, which strictly limits the use of a custodial penalty for violations of international rules on prevention, reduction and control of pollution of the marine environment. The co-sponsors invited the Committee to consider how the proper application of UNCLOS, article 230, might best be promoted in order to discourage artificially-brought "holding" charges.

6.9 The observer delegation of the United Nations Office of Legal Affairs/Division for Ocean Affairs and the Law of the Sea (UN/DOALOS), in commenting on document LEG 97/6/1, noted that other provisions of UNCLOS were also applicable to proceedings relating to pollution of the marine environment by foreign vessels, depending on the circumstances, including section 6 of Part XII, and section 7 of Part XII. Additionally, article 73 on enforcement of laws and regulations of the coastal State and article 292 on prompt release of vessels and crews, might also be relevant depending on the circumstances. The observer noted that UN/DOALOS has a mandate to raise awareness of UNCLOS and to assist States and intergovernmental organizations in the uniform and consistent application of the provisions of the Convention. The observer delegation also noted that IMO document LEG/MISC.6 dated 10 September 2008, entitled "Implications of the United Nations Convention on the Law of the Sea for the International Maritime Organization", might be of assistance to the Committee.

6.10 The following views were expressed regarding the interpretation and application of article 230 of UNCLOS:

- article 230 applies only to natural persons on a ship at the time of a pollution incident;
- article 230 does not apply to incidents that take place in the internal waters of a State;
- the reference to "only monetary penalties" in article 230 only applies to imprisonment and corporal punishment;
- the reference to "wilful" in article 230 does not exclude prosecution for gross negligence; and
- in determining whether an incident is "serious" for purposes of article 230, a State may take into account cumulative acts over time and non-compliance with generally accepted international standards.

6.11 One delegation informed the Committee that a new law had recently been enacted in its jurisdiction, which assured seafarers shore leave without cost. The observer delegation of ITF expressed its appreciation for this change in legislation.

6.12 The Committee agreed that:

- the IMO/ILO Guidelines on fair treatment of seafarers in the event of a maritime accident, resolution LEG.3(91), should be implemented in tandem with the IMO Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident, resolution MSC.255(84), (Casualty Investigation Code); and
- ineffective implementation of the Guidelines and the continued unfair treatment of seafarers could have an adverse impact on recruitment of seafarers and on IMO's "Go to Sea!" campaign.

7 INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE, 2001: IMPLEMENTATION OF THE CONVENTION

7.1 Mrs. Birgit Sølling Olsen (Denmark), as coordinator of the Bunkers Correspondence Group (BCG), which was established originally at the Committee's ninety-fifth session, introduced document LEG 97/7, containing the report of the Correspondence Group on how to facilitate further ratifications and promote harmonized implementation of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention). Among the issues considered in the report were the following:

(i) Interface between the International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC), and the Bunkers Convention

7.2 The coordinator of the BCG explained that the text of the draft resolution contained in annex 1 to document LEG 97/7 reflected the majority view of the BCG that oil tankers falling within the provisions of the Civil Liability Convention (CLC) are not excluded from the definition of "ship" under article 1(1) of the Bunkers Convention, and, as a consequence, oil tankers holding CLC certificates are also required to hold bunkers certificates.

7.3 With the exception of one delegation, all delegations which spoke expressed support for conclusions arrived at in paragraphs 11 and 12 of the document, as well as for the draft resolution set out at annex 1 thereto.

7.4 Among the comments made were the following:

- a delegation noted that there was a contradiction between the definition of "ship" in the CLC and the Bunkers Convention; although its Government only issued CLC certificates, it was flexible in recognizing both certificates, but also recommended that the Committee should draw up a clear and harmonized regime;
- ships could carry both certificates, but it is not a requirement for oil tankers to carry a bunkers certificate; the draft resolution could be accepted but could not go beyond the text in the Convention; and
- the CLC certificate is sufficient for oil tankers. Requiring both certificates would not conform to IMO's Strategic Plan or High-level Action Plan for reducing the administrative burden.

7.5 The Committee approved the draft resolution on the Issuing of bunkers certificates to ships that are also required to hold a CLC certificate, set out in annex 1 to document LEG 97/7, and reproduced as annex 2 to this report, and decided to submit it to the 106th regular session

of the Council for consideration and, thereafter, for submission to the twenty-seventh regular session of the Assembly for adoption.

(ii) Insurance and liability for claims where the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC 76) does not apply (claims concerning Mobile Offshore Drilling Units (MODUs)) or claims covered by a reservation under article 18, paragraph 1 of LLMC 76

7.6 The Coordinator explained that there was general agreement in the BCG that MODUs fell under the provisions of the Bunkers Convention, as they would be covered by the definition of "ship" under article 1. The issue was, however, that MODUs are not covered by LLMC 76 and, consequently, it is uncertain how to calculate the insurance amount according to LLMC 76 where no other (lower) national limit is applicable. The majority of the BCG felt that it was necessary to separate the insurance requirement and the liability limits for insurance purposes. The BCG concluded that MODUs are covered by the insurance requirement under article 7 of the Bunkers Convention. The amount of insurance for all types of ship falling under the definition of "ship" in the Bunkers Convention, including MODUs, should be calculated under LLMC 76, or a national system, but should in no case exceed the maximum LLMC 76 amount in force internationally. The reference made in article 7(1) of the Bunkers Convention specifies the maximum amount of insurance required, if no lower limit is applicable. This does not, however, prevent a State Party from having higher national limitation amounts, but the Bunkers Convention insurance will be limited, as it provides for special provisions (for example, direct action does not apply to these higher limits). The BCG urged States to consider allowing MODUs the right to limitation of liability in accordance with LLMC 76 in national law, in order to ensure insurance coverage under the Bunkers Convention.

7.7 Concerns were expressed about the suggestion that Member States should be urged to consider allowing MODUs the right to limitation of liability in accordance with the LLMC in order to ensure insurance coverage under the Bunkers Convention. It was argued that the assumption that a MODU might fall under the Bunkers Convention, but not under the LLMC, was questionable, since the notion "ship" used in the Bunkers Convention would be the same as the notion "ship" used in the LLMC. Thus, if a MODU would qualify as a ship it would, in principle, fall under both the Bunkers Convention and the LLMC. It would, however, be questionable, whether all MODUs would qualify as a ship. Furthermore, it was argued that the Bunkers Convention would only apply if the ship in question would use bunker oil for its operation or propulsion. This requirement, would, however, rarely be met by MODUs. Finally it was pointed out that article 15(5)(b) of the LLMC expressly excluded floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof from its scope of application. Thus, it would not make sense to urge Member States to allow the owner of MODUs to limit their liability in accordance with the LLMC.

7.8 Among other views expressed during the discussion were the following:

- as regards the insurance requirement under article 7 of the Bunkers Convention, it was possible that some States may choose not to limit liability and it was necessary to ensure that there were such limits and that the insurance confirmed the limits;
- with regard to paragraph 20 of the document, urging Member States to consider allowing MODUs the right to limitation of liability in accordance with the LLMC in national law in order to ensure insurance coverage under the Bunkers

Convention, in some States MODUs were excluded from limitation of liability by law; and

- it may be difficult for MODUs to obtain insurance if they are not entitled to limit their liability.

7.9 The Committee agreed with the conclusions of the BCG.

(iii) The issuance of bunkers certificates to new buildings

7.10 Two issues were considered under this heading, the first being when a hull (ship under construction) becomes a ship, as defined in the Bunkers Convention, i.e. when the hull is seagoing; the second being, who is obliged to maintain insurance for the hull.

7.11 With regard to the first issue, the coordinator of the BCG explained that the BCG had agreed that a hull fitted with machinery or equipment constructed to use or contain bunker oil for its operation or propulsion will be seagoing when it performs restricted sea journeys, for example, for testing the hull and/or equipment, as well as when it is being moved, towed or floating on its own.

7.12 With regard to the question as to who is obliged to maintain insurance for the hull, the coordinator of the BCG explained that the majority of the BCG was in favour of leaving the matter to national law. The BCG's conclusion was that when a hull is registered, the registered owner should take out insurance when the hull is seagoing, and the State of registry should issue the insurance certificate, and when there is no registered owner, the issue of determining the owner should be left to individual States. In all other cases it is left to national legislation.

7.13 With reference to the words "the issue of determining the owner should be left to individual States" in the last two lines of paragraph 26, the comment was made that the "individual State" might be the State where the shipyard is located, or where the order for the new build was placed, or where the building yard is located and in whose waters the ship performs its trials – the answer was dependent on the precise terms of the contract.

7.14 The Committee agreed with the conclusions of the BCG as set out in paragraphs 26 and 27 of the document.

(iv) Procedure for accepting International Group of P&I Associations' (P&I Clubs) certificates and certificates from Clubs outside the International Group of P&I Associations and insurance companies

7.15 The coordinator of the BCG referred to the recommendation on the acceptance of Blue Cards contained in paragraph 31 of document LEG 97/7 and introduced the draft resolution contained in annex 2 to the document, which reflected the majority view of the BCG members, to the effect that it would be useful to clarify the subject matter in a common understanding in the form of Guidelines, with criteria for States Parties to apply when considering the financial standing of insurance companies, other financial providers and P&I Clubs outside the International Group of P&I Associations.

7.16 Among the views expressed during the discussion were the following:

- the acceptance of Blue Cards in electronic format is a matter for national law;

- criterion (iv) might be unnecessary, because the Blue Card issued by the insurer guarantees that there is cover up to the LLMC limits;
- as the question of the acceptance of "e" certificates is being considered by the Facilitation Committee (FAL), the Legal Committee may wish to revert to it once FAL has completed its consideration; and
- in order to resolve ambiguities in the Bunkers Convention, amendments to the Convention should be undertaken in accordance with article 16 and not left to interpretation.

7.17 The observer delegation of the P&I Clubs stated that, without a widespread acceptance of Blue Cards issued in electronic format by the vast majority of States Parties, rather than original hard copy Blue Cards, the International Group Clubs, shipowners and the States Parties would have been faced with a system that would be close to unworkable, given the levels of bureaucracy that would need to be involved. A small number of States Parties still required original, hand signed and stamped Blue Cards and annual approval procedures involving excessive documentary requirements that would seem to run contrary to the aims of the BCG. Antiquated procedures create unnecessary workloads and bureaucracy for no added benefit and the P&I Clubs would hope that the approaches adopted by the vast majority of States Parties will be followed by all States in the near future.

7.18 The Committee approved the draft guidelines at annex 2 to document LEG 97/7 (as reproduced in annex 3 to this report) and decided that the BCG's conclusions, together with the guidelines, should be disseminated by means of a Circular letter and posted on the IMO website.

Additional issues

7.19 The Committee approved the recommendation of the BCG, contained in paragraph 49 of the document, to the effect that States Parties to the Convention should in general co-operate on matters relating to the issue of certificates, provide the information stipulated in the Bunkers Convention which was relevant for the issuance of insurance certificates, and give reasons for withdrawal or cancellation of insurance certificates.

7.20 The Committee further agreed that the BCG had satisfied its terms of reference and expressed its appreciation to the Correspondence Group and to its coordinator, Mrs. Birgit Olsen (Denmark) for the excellent work done.

7.21 One delegation noted the need for transparency, consistency and solidarity in applying the Convention. In its view, merely arriving at a common understanding and interpretation of the important issues considered by the BCG would not satisfy this need. The best means of removing the Convention's existing and potential ambiguities would be by amending the Convention, in accordance with its article 16.

8 CONSIDERATION OF A 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

8.1 The delegation of Australia introduced documents LEG 97/8, LEG 97/8/1, LEG 97/8/2 and LEG 97/8/3, which discussed (a) timelines and other procedural requirements for amending the limits of liability of the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC 96) under the

Convention's tacit amendment procedure (document LEG 97/8); (b) detailed indicative increases to ensure that limits reflect the increasing cost of bunker oil spills and likely future levels of costs (document LEG 97/8/1); (c) several incidents and the amount of damage caused (document LEG 97/8/2); and (d) changes in monetary values and possible effects of amendments on insurance costs (document LEG 97/8/3).

8.2 The observer delegation of the Comité Maritime International (CMI) introduced document LEG 97/8/4, providing information on the historical background to the concept of limitation of liability for maritime claims, and the reasons for maintaining the ratios between personal injury claims and property damage.

8.3 The observer delegation of the International Group of P&I Associations (P&I Clubs) introduced document LEG 97/8/5, providing information and claims data on damage from bunker oil spill spills and other claims data to supplement the information provided at the Committee's last session.

8.4 The Committee noted the information provided in documents LEG 97/8, LEG 97/8/1, LEG 97/8/2, LEG 97/8/3, LEG 97/8/4 and LEG 97/8/5.

8.5 There was wide agreement on the need to review the limits in LLMC 96 in order to ensure the availability of adequate compensation to victims and to apply the tacit amendment procedure to bring any revisions of the limits into force. It was also agreed that no decisions would be taken by the Committee at this stage, since a formal proposal for an amendment under article 8 had not yet been presented to the Committee. Among the observations made in a preliminary exchange of views were the following:

- there are two broad issues to be addressed: (a) how much of an increase there should be, and (b) the scope of any increase, i.e. whether it should focus only on property damage or extend to personal injury and passenger claims, and, if so, what ratio should be used for calculating the increase in the limits applicable to such claims;
- the limits for personal injury claims and property damage were inter-related and the ratio between them should be maintained in any amendment to increase limits of liability under LLMC 96;
- the ratio between personal injury claims and property damage was currently 2:1, but this was not based on a fixed legal principle and could be adjusted;
- it may be desirable, if the passenger claims are raised, to correlate the increase to the limits in the 2002 Athens Protocol;
- if an amendment to the passenger claims limit is to be considered, then information is needed with regard to any use which may have been made by States Parties of the opt-out provisions which allow for higher limits under national law;
- the wisdom of raising the limits just for bunker pollution damage was questioned, particularly as this could not be achieved through the tacit amendment procedure;
- if the primary objective was to raise the limits for bunker pollution damage, then a better approach might be to amend the Bunkers Convention by means of a protocol and stipulate therein specific limits;

- article 8, paragraph 5 of LLMC 96 requires the Committee, when considering amendment of the limits, to take into account "the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendments on the cost of insurance," and data on each of these elements should be available to the Committee before a decision is taken;
- data available so far on the changes in monetary values and the indexes on cost of living or inflation may not be applicable on a world-wide basis;
- the concept of limits of liability implied that some claims would exceed the limits; and a small number of unusual cases where limits were exceeded would not necessarily justify an increase in the current limits;
- a different view was also expressed to the effect that, while the number of incidents in which the limits were exceeded might be few, the costs involved were very high;
- compelling need should be established, based on experience with claims, on a global basis, since the entry into force of LLMC 96;
- doubt was expressed as to whether the statistics warranted an increase in limits of liability; and
- introducing large increases to the limits through the tacit amendment process at this stage may discourage States which are not currently Party to LLMC 96 from becoming Party.

8.6 With regard to its review of claims since the 1996 Protocol entered into force (document LEG 97/8/5), the observer delegation of the P&I Clubs advised the Committee that it had not identified any passenger claims where the LLMC 96 limits had been applied and were exceeded. Their review, however, had not looked into cases where higher domestic limits may have been applied, but to undertake such a review would be difficult.

8.7 The delegation of Australia drew the Committee's attention to paragraph 16 of document LEG 97/8/1 which invited discussion on amending: "the limits of liability of articles 6(1)(a), 7(1) and 8(2) of LLMC 76/96, in order to maintain the existing ratios between the indicative liability limits applicable to property damage, personal injury and limits for passenger claims and to meet the needs of States whose law does not permit the application of the SDR.

8.8 The Committee was informed by the delegation of Australia that, in accordance with the tacit amendment procedure in article 8 of LLMC 76/96, it had submitted a document to the Secretariat, on 10 November 2010, on behalf of 20 co-sponsors, proposing that the limits of liability as set by article 6.1(b) of the Convention should be increased by an amount permitted by article 8, to be determined by the Legal Committee and that the limits set in article 6.1(a) be increased proportionately.

8.9 The Secretariat informed the Committee that the Secretary-General expected to circulate the proposal in the near future.

9 PIRACY: REVIEW OF NATIONAL LEGISLATION

9.1 The Secretariat introduced document LEG 97/9, providing an updated assessment of national legislation on piracy on the basis of information submitted by 42 Member States and one other jurisdiction, in response to Circular letter No.2933, dated 23 December 2008. The Secretariat confirmed its observation, made at the ninety-sixth session of the Legal Committee, that this implementing legislation is not currently harmonized, and that this factor, coupled with the uneven incorporation into national law of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS) definition of piracy, might have an adverse effect on the process of prosecution.

9.2 The Secretariat also introduced document LEG 97/9/1, providing information on Working Group 2 (WG2) of the Contact Group on Piracy off the Coast of Somalia, and a summary of the report of the UN Secretary-General to the UN Security Council on possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia.

9.3 The representative of the International Transport Workers' Federation (ITF) introduced document LEG 97/9/2, advising the Committee of the presentation to the Secretary-General of a petition of nearly one million signatures, calling for Governments to "End Piracy Now". The document also referred to the Council's decision that the World Maritime Day theme for 2011 would be "Piracy: orchestrating the response".

9.4 The representative of ITF, on behalf of the co-sponsors, introduced document LEG 97/9/3, calling for more robust prosecution of pirates caught in the act of attacking merchant ships. In commending the protective services provided by naval forces, there had, nevertheless, been several incidents where the opportunity to arrest and prosecute captured pirates had been lost due to an alleged lack of a legal framework. Consequently, pirates caught in the act had been set free. In this regard, it was suggested that a circular be issued, inviting States to take action to ensure that captured pirates are prosecuted to the fullest extent, in accordance with robust laws.

9.5 The representative of the Islamic Republic of Iran introduced document LEG 97/9/4, drawing attention to the concept of "private ends" in the definition of "piracy" in article 101 of UNCLOS and its relation to the description of unlawful acts in article 3.1(a) and (b) of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA). As "private ends" is a subjective criterion, and there is no specific difference between the *actus reus* of the two mentioned offences, distinguishing between them would, in practice, be very difficult.

9.6 The Committee noted the information provided by the Secretariat concerning the activities of WG2 and requested the Secretariat to bring to WG2's attention the following views regarding the options for the prosecution and imprisonment of pirates, set out in document LEG 97/9/1, namely:

- in the case of piracy in waters off the coast of Somalia, the crisis had been provoked in the first place more by the unstable political situation on land than by the absence of viable legal mechanisms to fight piracy, therefore, the first priority was the stabilization of Somalia, which would take time;
- international efforts to stabilize the region might cost less than the proposed enforcement options;

- regional action was strongly supported, including prosecution by States in the area where pirates are arrested;
- one State in the region, which had prosecuted pirates and provided for their subsequent imprisonment, noting the high costs involved and the fact that piracy is an international problem, urged more States to share this burden;
- some countries providing naval forces from outside the region found it impracticable to take captured pirates back to their countries or otherwise assist with prosecutions;
- States in the region were seen as being able to deal most effectively with prosecutions in accordance with their national laws;
- the ability of States in the region to successfully prosecute pirates would be greatly enhanced by extensive international support;
- States that are victims of a pirate attack, whether the nexus is flag registry, vessel ownership or nationality of crew, should take primary responsibility for prosecuting pirates in their national courts;
- as a matter of priority, the international community should proceed with option 1 (the enhancement of UN assistance to build the capacity of States in the region to prosecute and imprison pirates). This was seen as vital to terminate the present state of impunity;
- many issues needed to be explored, including national prosecutions supported by international assistance and the establishment of special chambers within the national jurisdiction of a State or States in the region, as proposed in options 3 and 4;
- there was some support for option 2 (the establishment of a Somali court in another country in the region);
- the establishment of an international tribunal did not seem to be a viable alternative; and
- option 7 (the establishment of an international tribunal by a Security Council resolution under Chapter VII of the UN Charter) was a last resort.

9.7 The Committee noted information provided by the Secretariat, Maritime Safety Division, on the implementation of the Djibouti Code of Conduct. With the addition of six new signatory States since the ninety-sixth session of the Legal Committee (October 2009), the total number of signatories to the Code was now 16 (namely: Comoros, Djibouti, Egypt, Ethiopia, Jordan, Kenya, Madagascar, Maldives, Mauritius, Oman, Saudi Arabia, Seychelles, Somalia, Sudan, United Republic of Tanzania and Yemen). Further signatures were expected soon.

9.8 The Djibouti Code of Conduct Project Implementation Unit, established in April 2010 and financed by the Djibouti Code Trust Fund, was making significant progress on:

- equipping the three regional counter-piracy information sharing centres in Dar es Salaam, Mombasa and Sana'a — which were expected to commence operations in the new year;
- the construction of the regional training facility in Djibouti, for which architectural plans had been finalized and building preparations had commenced; and
- the delivery of a regional workshop on legislation and maritime law enforcement, the first in the series of which was held in Djibouti in September 2010. Further training events, in co-operation with UNODC, were programmed for early 2011.

9.9 The delegations of Japan and Vanuatu made general statements with regard to piracy off the coasts of Somalia and Nigeria, respectively; these are attached as annexes 4 and 5 to this report.

9.10 The following further comments were made:

- piracy should be considered a high priority issue and the Committee should remain seized of it;
- there could be no improvement in the resolution of the piracy issue, unless improvements were made in resolving Somalia's political problem;
- IMO's work should be carefully coordinated with that of the United Nations Office on Drugs and Crime (UNODC) and the United Nations Office of Legal Affairs/Division for Ocean Affairs and the Law of the Sea (UN/DOALOS), particularly in connection with the establishment of an appropriate legal framework;
- the efforts undertaken by IMO, DOALOS and UNODC, with regard to the compilation and analysis of national legislation, should provide the basis for the preparation of model law or guidelines;
- the IMO Secretariat should continue to gather information on legislation and provide copies to DOALOS for incorporation in the UN database;
- model legislation or guidelines would assist States planning new laws on piracy;
- with regard to document LEG 97/9/4, views were expressed that there was consistency between the definition of "piracy" in UNCLOS and the offences in SUA, both of which were well established and could be readily interpreted and applied by national courts; there was no problem arising from the reference to "private ends" in the UNCLOS definition, and the same act could be treated by courts as a crime under more than one law;
- it was pointed out that all of the action being taken by IMO and the wider international community was not, in fact, giving comfort to seafarers who were suffering capture by pirates;
- development of a solid framework for the prosecution of pirates and implementation of the Best Management Practice developed by the industry were crucial in ending the scourge of piracy; and

- a global strategy should be developed covering use of naval forces, more effective rules of engagement and co-operation between States to achieve prosecution.

9.11 It was suggested that the Legal Committee's views regarding the UN Secretary-General's report be sent directly to him, given IMO's large membership in comparison to that of WG2. A contrary view was expressed that WG2 was open to all IMO Members and, as it had the mandate to consider these matters, the Committee's views should be sent to that Group.

9.12 In response to the clarification sought by a delegation regarding the complementary nature of SUA offences to UNCLOS provisions on piracy and the possibility of application of article 3.1(a) and (b) of the SUA Convention to piracy, as referred to in paragraph 3 (viii) of document LEG 97/9, the Secretariat noted that, in their responses to Circular letter No.2933, Member States had chosen to submit legislation on SUA as well as on UNCLOS; it would be for national courts to decide on the applicability of these treaties in particular cases.

9.13 The observer delegation of UN/DOALOS noted that various norms of international law governed prosecution of pirates, including UNCLOS and SUA. Domestic legislation was necessary to implement those laws, and all States should send their legislation to the UN for inclusion in its publicly accessible database.

9.14 The observer delegation of the Comité Maritime International (CMI), responding to a suggestion about the provision of framework national legislation, referred to its draft guidelines on that subject in document LEG 93/12/1, dated 15 August 2007.

9.15 The observer delegation of BIMCO, referring to document LEG 97/9/3, reiterated the need for clear and unambiguous national laws, while noting that, due to the military classification of the rules of engagement, it was unable to determine whether these were sufficient.

9.16 The Committee, while expressing its appreciation to those States which had dispatched naval forces to police pirate-infested areas in the Gulf of Aden and adjacent Indian Ocean, as well as those States, in particular Kenya, the Seychelles and the Netherlands, which had prosecuted pirates, expressed grave concern for the continuing incidence of piracy therein.

9.17 The Secretary-General, while fully sharing the concerns expressed about the desperate plight of seafarers held in captivity by pirates, and the need for urgent action to be taken to resolve the situation, drew the Committee's attention to the critical role played by the United Nations, IMO and other international bodies in expediting the resolution of the problem. He informed the Committee of the acceptance by the UN Secretary-General of his invitation to come to IMO early in 2011 to launch the 2011 World Maritime Day theme, namely: "Piracy: orchestrating the response" and the action plan elaborated to deliver it.

9.18 The Committee agreed that:

- there was a need for all States to have a comprehensive legal regime to prosecute pirates, consistent with international law;
- national-based solutions in the region, coupled with capacity building in the countries involved, were a more certain way forward;

- option 1 of the UN Secretary-General's proposals was the preferred solution, with some support also for options 2, 3 and 4;
- the views of the Committee with respect to options for the prosecution and imprisonment of pirates would be forwarded to WG2; and
- the Secretariat should be requested to send national legislation received from Member States to UN/DOALOS for inclusion in the UN database, and also to re-issue the Circular letter requesting Member States, which had not already done so, to provide information about their piracy laws.

10 MATTERS ARISING FROM THE 25TH EXTRAORDINARY AND THE 104TH AND 105TH REGULAR SESSIONS OF THE COUNCIL; AND THE 26TH REGULAR SESSION OF THE ASSEMBLY

10.1 The Committee noted the information provided by the Secretariat in document LEG 97/10, on matters arising from the twenty-fifth extraordinary and the 104th regular sessions of the Council; and the twenty-sixth regular session of the Assembly.

10.2 The Committee's attention was drawn, as well, to the Council's decision, at its 105th session (1 to 5 November 2010), to re-establish the Joint Working Group on the Member State Audit Scheme (JWGMSA) and its invitation to members of the Legal Committee to participate in the Group's next meeting, which is scheduled to be held from 28 February to 2 March 2011. The terms of reference of the JWGMSA were reproduced, for information, in document LEG 97/WP.3.

10.3 The Committee noted this information.

11 TECHNICAL CO-OPERATION ACTIVITIES RELATED TO MARITIME LEGISLATION

11.1 The Senior Deputy Director, Technical Co-operation Division (TCD), introduced document LEG 97/11, reviewing technical co-operation activities on maritime legislation from July 2009 to June 2010.

11.2 Founded on the Organization's strategic principles and related High-level Action Plan, delivery of technical assistance in maritime legislation matters was planned, funded and implemented through the Integrated Technical Co-operation Programme (ITCP) under three distinct categories:

- institution-building activities, which typically took the form of short-term technical advisory consultancies;
- capacity-building and training through discrete fellowships or through regional workshops on specific issues; and
- assistance in drafting or revising national maritime legislation and regulations.

11.3 National capacities were reinforced every year through the training imparted at the International Maritime Law Institute (IMLI), Malta, which remained at the apex of specialized post-graduate training for this discipline. In May 2010, 35 students from 24 countries graduated from IMLI, including five students who were funded by IMO under the ITCP, bringing the total to 464 graduates from 112 countries. Mindful of the valuable potential resource that IMLI graduates represent, they were included under IMO's Roster of Experts

and Consultants to provide the core expertise for short-term advisory and training missions. A list of the research activities carried out by IMLI students in the 2009-2010 academic year is available on request from the Secretariat. Please contact the Legal Affairs and External Relations Division at the following email addresses: mspinard@imo.org or ggibson@imo.org.

11.4 In accordance with the provisions of Assembly resolution A.1006(25) on "The linkage between the Integrated Technical Co-operation Programme and the Millennium Development Goals" (MDGs), adopted by the twenty-fifth session of the Assembly in November 2007, Africa remained a priority region for IMO's technical co-operation programme. The document shows that 11 recipient countries out of a total of 12 were from the Africa region.

11.5 The observation was made, with particular reference to Africa, that a long-term aim of the Programme should be to develop capacity building and self-sufficiency, for example in legislative drafting. The transfer of skills to IMLI graduates through their participation in IMO technical co-operation activities will help to achieve this.

11.6 The Committee was informed that IMO maintains a roster of experts from many countries and that, whenever suitable, an expert from a country receiving assistance under IMO's programme, was included on the team, as part of capacity building in that country.

11.7 It was also informed that a large component of IMLI courses involve training IMLI graduates on legislative drafting and that experts from a region were often included in IMO technical missions.

11.8 In introducing document LEG 97/11/1, the Secretariat drew attention to the status of six IMO treaty instruments adopted at Legal Conferences since 2000; as well as to resolutions adopted at three of these Conferences, calling for technical co-operation to assist Member States in implementing the instruments, including making provision for financial assistance in IMO's Integrated Technical Co-operation Programme (ITCP). The Secretariat noted further 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, set out in annex 2 to the document, with the aim of stimulating new activities in the field of maritime legislation.

11.9 With regard to discussion of HNS Conference resolution 2: "Promotion of technical co-operation and assistance", deferred from agenda item 4, the view was expressed that the Organization could be more proactive in promoting the HNS Protocol instead of awaiting Member States' requests and also that a special programme might be developed through the Technical Co-operation Division and offered to the States.

11.10 Strong support was expressed for the technical co-operation programme, and for the statement of the Legal Committee's thematic priorities currently in effect for the ITCP.

11.11 The Committee decided that no modifications need be made in its medium-term goals or thematic priorities for the ITCP 2012-2013.

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

12.1 The Secretariat introduced document LEG 97/12 containing information on the status of conventions and other treaty instruments adopted as a result of the work of the Legal Committee.

12.2 The Committee noted that the annex to document LEG 97/12 reported on the developments regarding these instruments as at 10 September 2010 and that this information had been further updated to 12 November 2010 in document LEG 97/WP.4.

12.3 The delegation of Cyprus informed the Committee of the progress made by its Government regarding the ratification and implementation of the 1989 Salvage Convention, the 2002 Athens Protocol, the 1993 Maritime Liens and Mortgages Convention, the 2005 SUA Protocols and the 2007 Nairobi Wreck Removal Convention. It was envisaged that the necessary legislation would be in place to enable the requisite instruments of accession with regard to the 2002 Athens Protocol and the 2005 SUA Protocols to be deposited in 2012.

12.4 The delegation of the Netherlands informed the Committee of the progress made by its Government regarding the ratification and implementation of the 1996 LLMC Protocol, the 2001 Bunkers Convention, the 2002 Athens Protocol and the 2005 SUA Protocols.

12.5 The delegation of Denmark informed the Committee of the progress made by its Government regarding the ratification and implementation of the 2002 Athens Protocol, the 2005 SUA Protocol and the 2007 Nairobi Wreck Removal Convention. It was hoped that Denmark would be shortly in a position to sign the 2010 HNS Protocol "subject to ratification".

12.6 The delegation of the Islamic Republic of Iran informed the Committee of the progress made by its Government towards the ratification and implementation of the 2000 OPRC-HNS Protocol, the 2001 AFS Convention, the 2001 Bunkers Convention, the 2004 BWM Convention and the 2007 Nairobi Wreck Removal Convention. The delegation also informed the Committee that ratification of the 2006 ILO Maritime Labour Convention was currently under consideration by its Parliament.

12.7 The Committee requested the Secretariat to issue a Circular letter inviting Member States to provide information on the progress being made towards ratification of the 2002 Athens Protocol, the 2005 SUA Protocols and the 2007 Nairobi Wreck Removal Convention, as part of its campaign to promote ratification and implementation of conventions which had been adopted as a result of its work.

13 WORK PROGRAMME

(i) Review of outputs

13.1 The Secretariat introduced document LEG 97/13, providing, at annex, a draft report on the status of planned outputs for the 2010-2011 biennium for the Legal Committee, taking into account the Guidelines on the application of the Strategic Plan and the High-level Action Plan, as adopted by resolution A.1013(26).

13.2 The Committee approved the annex to document LEG 97/13, with a change to the target date from 2011 to 2012 for planned output number 2.0.1.23 (amendments of LLMC 96 limits), as its report on the status of planned outputs for the 2010-2011 biennium. The report is attached at annex 6.

(ii) Review of Guidelines on work methods and organization of work of the Legal Committee

13.3 The Secretariat introduced document LEG 97/13/1, providing, the proposed revised Guidelines on the organization and method of work of the Legal Committee (LEG.1/Circ.5) which had been prepared by the Secretariat to align them with the provisions of the Guidelines on the application of the Strategic Plan and the High-level Action Plan of the

Organization (resolution A.1013(26)), and to harmonize them with the corresponding Guidelines of the Maritime Safety Committee and the Marine Environment Protection Committee. The revised Guidelines will be issued as document LEG.1/Circ.6.

13.4 The Committee approved the revised Guidelines, subject to two modifications:

- (a) the following text (footnote to paragraph 6.6.1 in the annex to document LEG 97/13/1) should be added as new paragraph 6.10, with the understanding that this restriction on translation would not limit the translation of a legal text:

"To reduce the number of pages for meetings, documents other than information documents, which contain more than 20 pages, should not be translated into all working languages in their entirety. They should include, for translation purposes, a summary of the document not longer than 4 pages, with the technical content submitted as an annex in the language needed by Working Groups (e.g., English)."; and

- (b) the following text should be added as new paragraph 6.11:

"All concerned should be continuously aware of the financial and environmental impact of the volume of documentation generated by IMO meetings and should limit, to the greatest possible extent, the number of pages of documents submitted to such meetings."

13.5 While noting that it had two Vice-Chairmen, the Committee decided that it was unnecessary to revise paragraph 4.3 of annex 1 to the Guidelines which provides that, "in order to facilitate the assessment of capacity-building implications by the Committee, its Vice-Chairman should, in consultation with the Chairman and assisted by the Secretariat, undertake a preliminary assessment of capacity-building implications."

13.6 The Committee requested the Secretariat to issue the revised Guidelines, with the above changes, as a LEG circular.

13.7 The Committee also agreed to revise the title of this agenda item (i.e. "Work programme") to read: "Application of the Committee's Guidelines" for its future sessions.

(iii) Items to be included on the draft provisional agenda for the ninety-eighth session of the Legal Committee

13.8 The Secretariat introduced document LEG 97/WP.2 listing items for possible inclusion in the draft agenda of the ninety-eighth session of the Legal Committee.

13.9 Subject to minor revisions, the Committee approved items to be included on the agenda for its ninety-eighth session, as attached at annex 7.

(iv) Date of the next session

13.10 The Committee noted that its ninety-eighth session had been scheduled to take place from 4 to 8 April 2011.

14 ANY OTHER BUSINESS**(i) List of non-mandatory instruments related to the work of the Legal Committee**

14.1 The Secretariat introduced document LEG 97/14, calling the Committee's attention to an invitation from the Maritime Safety Committee (MSC) to initiate a process for compiling a list of codes, recommendations, guidelines, and other non-mandatory instruments related to the work of the Legal Committee. The list will be issued as document LEG.2/Circ.1.

14.2 The Committee approved the draft Circular letter and list of codes, recommendations, guidelines and other non-mandatory instruments related to the work of the Committee, contained in the annex to document LEG 97/14, with the following additional references:

- a Circular letter to be issued attaching (a) the list of solid bulk materials possessing chemical hazards which are mentioned by name in the IMSBC Code and also in the IMDG Code in effect in 1996; and (b) the list of solid bulk materials possessing chemical hazards which are mentioned by name in the IMSBC Code but *not* in the IMDG Code in effect in 1996, as attached to document LEG 97/4/1/Add.1;
- a draft Assembly resolution on the issuing of bunkers certificates to ships that are also required to hold a CLC certificate, as attached as annex 2 to this report; and
- Guidelines for accepting documentation from insurance companies, financial security providers and P&I Clubs, agreed under agenda item 7 (International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001: implementation of the Convention) as attached as annex 3 to this report, to be issued as a Circular letter.

14.3 The Committee agreed that the Secretariat should keep the list up to date by means of circulars, as and when needed, containing amendments to the consolidated list.

14.4 The Committee noted that a continuously updated consolidated list would soon be made available for electronic download, using the GISIS facilities, and invited individual Member States to enter information into GISIS, once the module has been developed, on the implementation of only those non-mandatory instruments adopted by means of Assembly or Committee resolutions, and to upload the corresponding national legislation, as deemed appropriate.

(ii) Proposal to add a new work programme item to address liability and compensation for oil pollution damage resulting from offshore oil exploration and exploitation

14.5 The delegation of Indonesia introduced document LEG 97/14/1, proposing a new work programme item to develop an international regime addressing liability and compensation in case of transboundary oil pollution damage caused by offshore exploration and exploitation activities, in the wake of the Montara well offshore oil platform accident.

14.6 With regard to document LEG 97/WP.1, containing the Chairman's preliminary assessment as to whether the proposal complies with the criteria for general acceptance, in accordance with paragraph 2.4 of the Committee's Guidelines on work methods and organization of work, the Committee noted that, should it decide, in principle, to accept the

proposal, Strategic Direction 7.2 of the Organization's Strategic Plan, as contained in resolution A.1011(26), would require modification.

14.7 Among the views expressed in favour of exploring the Indonesian proposal, as further elaborated by the delegation of Indonesia, namely to consider further the liability and compensation issues for transboundary pollution damage resulting from offshore oil exploration and exploitation activities, were the following:

- prompt measures were necessary to fill the gap where pollution damage was caused by transboundary oil spills;
- this was an appropriate time for the Organization to discuss this issue, in light of the recent Deepwater Horizon incident and the Montara well offshore oil platform incident;
- incidents involving transboundary pollution damage from offshore platforms might occur in any part of the world and not every country was able to tackle the problem on its own; accordingly, international regulation was advisable;
- immovable oil storage units are outside the scope of the Civil Liability and Fund Conventions and should be regulated;
- the proposal, as modified by the subsequent intervention by the delegation of Indonesia, was within the scope of IMO's mandate and IMO has in the past developed regulations relating to fixed platforms, including the 1988 and 2005 SUA Fixed Platforms Protocols;
- there is no other international forum with a better mandate to deal with the issue; and
- oil pollution knows no borders and, accordingly, it was important to have in place a mechanism to compensate victims.

14.8 Other comments made in connection with the proposal, as modified, included the following:

- oil spills from offshore rigs differ from those from ships, since offshore exploration and exploitation activities are normally carried out on the continental shelf of States and are regulated by national law and bilateral agreements, making the need for a uniform, global regime questionable;
- IMO's mandate to deal with such issues was questioned;
- although IMO could be considered the competent Organization by elimination, it was advisable to consult with other international bodies, which might have a role to play, including the United Nations Environment Programme (UNEP), the International Seabed Authority (ISA), the United Nations Office of Legal Affairs/Division for Ocean Affairs and the Law of the Sea (UN/DOALOS) and the International Law Commission;
- some reservations were expressed as to whether the CLC/FUND model was the most appropriate. Issues such as limitation of liability and the establishment of a fund would require special consideration to determine how exactly it might operate in the context of the proposal;

- under the United Nations Convention on the Law of the Sea (UNCLOS) States have the right to establish limits of liability for this type of activity;
- the matter should be considered only with regard to oil pollution extending beyond national jurisdiction;
- while the proposal was theoretically attractive, many practical issues needed to be discussed;
- to assess the need to undertake work on this proposal, the Committee should consider the international and regional instruments already in existence, as well as a proposal on a global initiative to protect the marine environment, recently submitted by the Russian Federation to the G20 Summit (Canada); and
- further study was needed, including a survey of national laws and regional solutions, to assess the existing legal structures and their effectiveness and to identify gaps, if any, relating to the availability of compensation.

14.9 The Committee noted, with appreciation, the offer of assistance from the observer delegations of UNEP and the Comité Maritime International (CMI), in view of the work they had undertaken in the areas of liability and compensation for environmental damage, especially in connection with craft which do not easily fall within the generally-accepted definition of a ship.

14.10 Most delegations that spoke expressed support, in principle, for the inclusion of an item in the Committee's work programme to consider liability and compensation issues for transboundary pollution damage resulting from offshore oil exploration and exploitation activities.

14.11 It was noted that Strategic Direction 7.2 of the Organization's Strategic Plan, as currently worded, refers to "shipping", and therefore does not cover pollution caused by offshore oil exploration and exploitation activities. Accordingly, the Committee approved the proposal in document LEG 97/WP.6, to recommend that the Council, and through it, the Assembly, revise Strategic Direction 7.2.

14.12 The Committee recommended that Strategic Direction 7.2 should be revised to read as follows:

"IMO will focus on reducing and eliminating any adverse impact by shipping or by offshore oil exploration and exploitation activities on the environment by ... developing effective measures for mitigating and responding to the impact on the environment caused by shipping incidents and operational pollution from ships and liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities."

14.13 The Committee recommended that interested States and Organizations should work together intersessionally, to develop the proposal further. The delegation of Indonesia, Captain Hadi Supriyono, e-mail: hadispri06@gmail.com and Ms. Ira Mamesah, e-mail: ira.mamesah@indonesianembassy.org.uk offered to coordinate this work.

ANNEX 1

AGENDA FOR THE NINETY-SEVENTH SESSION

- Opening of the session
- 1 Adoption of the agenda
 - 2 Report of the Secretary-General on credentials
 - 3 Election of officers
 - 4 Report on the 2010 Conference on the revision of the HNS Convention
 - 5 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
 - 6 Fair treatment of seafarers in the event of a maritime accident
 - 7 International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001: implementation of the Convention
 - 8 Consideration of a 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
 - 9 Piracy: review of national legislation
 - 10 Matters arising from the 25th extraordinary and the 104th regular sessions of the Council; and the 26th regular session of the Assembly
 - 11 Technical co-operation activities related to maritime legislation
 - 12 Review of the status of conventions and other treaty instruments adopted as a result of the work of the Legal Committee
 - 13 Work programme:
 - (i) Review of outputs; and
 - (ii) Review of Guidelines on Work Methods and Organization of Work of the Legal Committee
 - 14 Any other business:
 - (i) List of non-mandatory instruments related to the work of the Legal Committee; and
 - (ii) Proposal to add a new work programme item to address liability and compensation for oil pollution damage resulting from offshore oil exploration and exploitation
 - 15 Report of the Committee

ANNEX 2

DRAFT RESOLUTION ON THE ISSUING OF BUNKERS CERTIFICATES TO SHIPS THAT ARE ALSO REQUIRED TO HOLD A CLC CERTIFICATE

The ASSEMBLY,

RECALLING Article 33 of the Convention on the International Maritime Organization concerning the functions of the Legal Committee,

BEARING IN MIND the International Convention on Civil Liability for Oil Pollution Damage 1992, as amended (hereinafter referred to as "the Civil Liability Convention"),

RECALLING FURTHER the adoption by the International Conference on Liability and Compensation for Bunker Oil Pollution Damage, held at the Organization's Headquarters in 2001, of the International Convention on Civil Liability for Bunker Oil Pollution Damage (hereinafter referred to as "the Bunkers Convention"),

RECALLING ALSO that according to both the Civil Liability Convention and the Bunkers Convention, the registered owner is required to obtain liability insurance and hold certificates attesting that such insurance is in force,

ACKNOWLEDGING that the Bunkers Convention has a broader scope of application than the Civil Liability Convention, because both the definition of ship and the types of oil included are more comprehensive,

ACKNOWLEDGING ALSO that the Bunkers Convention does not provide a clear guidance on the subject matter and may lead to States Parties to the Bunkers Convention having differing interpretations on whether both certificates should be required,

DESIRING to remove ambiguity and assist present and future States Parties to the Bunkers Convention to apply it in a uniform manner,

BEING CONSCIOUS of the need to provide certainty in the application of the Bunkers Convention, thereby assisting shipowners, ship operators, ship managers and ship companies in avoiding unnecessary delay or detention of ships and desiring to minimize administrative burdens imposed on the shipping industry,

CONCERNED that, if shipowners do not have effective and adequate insurance coverage or equivalent financial security, eligible claimants may not obtain prompt and adequate compensation,

HAVING CONSIDERED the recommendations made by the Legal Committee at its ninety-seventh session,

1. RECOMMENDS that:

- .1 all States Parties to the Bunkers Convention issue the certificate prescribed by the Bunkers Convention even when the ship also holds a CLC certificate;

- .2 all States Parties to the Bunkers Convention require ships having a gross tonnage greater than 1,000, flying their flag or entering or leaving ports or offshore facilities in their territory, to be insured and to hold a bunkers certificate as prescribed by the Bunkers Convention even when the ship already holds a CLC certificate; and
- .3 States Parties should avoid taking action that could cause unnecessary bureaucracy.

2. REQUESTS that States Parties bring the content of this resolution to the attention of shipowners, ship managers, shipping companies and all other parties concerned, for information and action, as appropriate.

ANNEX 3

GUIDELINES FOR ACCEPTING DOCUMENTATION FROM INSURANCE COMPANIES, FINANCIAL SECURITY PROVIDERS AND P&I CLUBS

The purpose of these guidelines is to provide States Parties to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (hereinafter "the Bunkers Convention") guidance for accepting Blue Cards or similar documentation from insurance companies.

A State Party to the Bunkers Convention should accept Blue Cards issued by a member of the International Group of P&I Associations (hereinafter P&I Clubs) when it is possible to verify the Blue Card from the P&I Clubs website.

A State Party to the Bunkers Convention should, when receiving a Blue Card or similar documentation from insurance companies, financial security providers and P&I Clubs outside the International Group, verify the financial standing and hence the solvency of such company in order to make sure that prompt and adequate compensation for the victims is available.

1 Exchange of information

In order to minimize the administrative burdens States Parties should, when appropriate, exchange information including which P&I Clubs outside the International Group they have accepted in the process of issuing bunkers certificates.

2 Criteria for acceptance

The following list of criteria may be used by States Parties for accepting Blue Cards or similar documentation including from P&I Clubs outside the International Group:

- (i) adequate documentation on the company's financial standing and hence solvency. Adequate documentation could be in the form of audited financial statements from the past three years duly authenticated and signed by the auditor;
- (ii) adequate documentation on approval by the relevant authority that the company is eligible to carry out insurance business in the country of the authority;
- (iii) adequate documentation on reinsurance coverage on claims met by the company for liability incurred under the Bunkers Convention;
- (iv) a guarantee by the company and its parent company, if one exists, that it will cover liability incurred under the Bunkers Convention and up to the limits of liability according to the International Convention on Limitation of Liability for Maritime Claims 1976, as amended;
- (v) a statement to the effect that liability incurred under the Bunkers Convention due to an act of terrorism is covered; and
- (vi) the rating that the insurance company and/or its reinsurers hold by an independent and internationally recognized rating agency.

ANNEX 4

STATEMENT BY JAPAN CONCERNING PIRACY

We would like to make a statement on the issue of Piracy off the Coast of Somalia.

In the face of increasing and widespread piracy incidents occurring off the Coast of Somalia, especially in the Somalia Basin and the Indian Ocean, the Japanese Government wishes to express its continued grave concern for the safety of navigation in this area.

These incidents are a very serious threat for the safe passage of navigating ships and victims include, unfortunately, ships registered in Japan or ships owned or operated by Japanese companies.

Needless to say, the safety of navigation is at the heart of all maritime activities. Taking very seriously the impact of this problem affecting the international maritime community, the Japanese Government expects IMO to continue its efforts by all appropriate means and activities, in order to tackle the issue.

The Japanese Government also expresses its intention to continue with its efforts in close co-operation with IMO and other Member States.

ANNEX 5

STATEMENT BY VANUATU CONCERNING PIRACY

Gunmen in speedboats kidnapped five workers and wounded two others in an attack on Monday 8 November 2010 on a Vanuatu-flagged oil rig, **High Island VII**, operating off the coast of Nigeria.

Two workers were evacuated by helicopter to a shore-based clinic. There has been no communication from the kidnappers thus far and no ransom has been demanded.

The shipowner has hired two Nigerian naval gun boats to patrol the area. The Government of Vanuatu, the shipowner and all stakeholders are working with the relevant authorities and the rig is now under the control of the company.

Every year for the last five years, one or two Vanuatu-flagged vessels have been attacked by pirates while operating off the coast of Nigeria.

Seaborne piracy against transport vessels off the Somali coast is of course of great concern, as the Secretary-General pointed out in his opening statement. However, Vanuatu is also deeply concerned by the surge in piracy off the coast of Nigeria.

ANNEX 6

REPORT ON THE STATUS OF PLANNED OUTPUTS FOR THE 2010-2011 BIENNIUM

Planned output number in the HLAP for 2010-2011 (resolution A.1012(26))	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 MDGs	Continuous	Assembly Council Committees			Ongoing		
1.1.2.5 6.3.1.1	Co-operation with ILO and others: approved recommendations based on the work, if any, of the Joint IMO/ILO <i>Ad Hoc</i> 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	2011	LEG			In progress		Circular letter No.2711 (26/6/06)
1.1.2.38	Policy and strategy for the implementation of the IMO-related aspects of the UN Global Counter-Terrorism Strategy	Continuous	MSC/LEG/ TCC/FAL			Ongoing		UN General Assembly resolution A/RES/60/288; LEG 93/13, paragraphs 8.2 to 8.4 (2007)

Planned output number in the HLAP for 2010-2011 (resolution A.1012(26))	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
1.1.2.39 6.3.1.2	Monitor the progress of the amendments to ILO MLC 2006 and 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, should it be necessary	2011	LEG			In progress		Resolution A.931(22) Guidelines on shipowners' responsibilities in respect of contractual claims for personal injury to or death of seafarers; see LEG 96/13, paragraphs 4.1 to 4.22 where Committee approved the recommendations of the Joint Expert Working Group
1.1.2.40 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	2011	LEG			Postponed		
1.2.1.1 2.0.1.19	Protocol to the HNS Convention adopted as soon as possible	2010	LEG			Completed		Diplomatic Conference to revise the 1996 HNS Convention (April 2010)
1.2.1.5 2.0.1.20	Revised Guidelines on implementation of the HNS Protocol to facilitate ratifications and harmonized interpretation	2011	LEG			In progress		"An overview of the 1996 HNS Convention" (LEG 84/9, annex) under review pursuant to 2010 HNS Conference resolution 4
1.2.1.6 2.0.1.21	Strategies developed to facilitate entry into force of the 2002 Athens Protocol, the 2005 SUA Protocols and the 2007 Nairobi Wreck Removal Convention	2011	LEG			In progress		Circular letter No.2758 – Guidelines for the implementation of Athens 2002 (Nov. 2006); see LEG 93/13, paragraph 12(a).4 where Committee decided there is no need for guidelines on NWRC

Planned output number in the HLAP for 2010-2011 (resolution A.1012(26))	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
1.3.1.1	Advice and guidance provided following referrals from other IMO organs and Member States	Continuous	LEG			Ongoing		
2.0.1.22	Advice and guidance on issues brought to the Committee in connection with implementation of IMO instruments	Continuous	LEG			Ongoing		
2.0.1.23	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			In progress		
3.5.1.4	Input to the ITCP on maritime legislation	Continuous	LEG			Ongoing		
3.5.3.2	A capacity-building mechanism for new measures or instruments, as called for under resolution A.998(25)	Continuous	All Committees			Ongoing		LEG 97/13 doc on revised G/Ls on methods of work with an annex on capacity building; see also LEG 93/13, paragraphs 12(a).1 to 12(a).8 with discussion of draft text that became resolution A.998(25); LEG 96/13, paragraphs 11.4 and 11.5
4.0.5.1	Revised guidelines on organization and method of work, as appropriate	Continuous	Council and all Committees			Ongoing		LEG 97/13
6.2.1.2	Revised guidance relating to the prevention of piracy and armed robbery to reflect emerging trends and behaviour patterns	2011	MSC and LEG			In progress		LEG 97/9

Planned output number in the HLAP for 2010-2011 (resolution A.1012(26))	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
6.2.1.3 6.2.2.3	Advice and guidance to support the review of IMO instruments on combating piracy and armed robbery	2011	LEG			In progress		LEG 97/9
6.2.1.4 6.2.2.4	Advice and guidance to support international efforts to ensure effective prosecution of perpetrators (piracy)	2011	LEG			In progress		LEG 97/9 (see Circular letter No.2933)
6.2.1.5 6.2.2.5	Advice and guidance to support availability of information on comprehensive national legislation and judicial capacity building	2011	LEG			In progress		LEG 97/9

ANNEX 7

ITEMS TO BE INCLUDED IN THE AGENDA FOR LEG 98

Election of officers

Guidelines on Implementation of the HNS Protocol, 2010

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

Fair treatment of seafarers in the event of a maritime accident

Consideration of a 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

Piracy

Matters arising from the 105th regular session of the Council

Technical co-operation activities related to maritime legislation

Review of the status of conventions and other treaty instruments emanating from the Legal Committee

Application of the Committee's Guidelines

Any other business

Consideration of the report of the Committee on its ninety-eighth session
