

**CONTRIBUTION OF THE INTERNATIONAL MARITIME ORGANIZATION
TO THE UN SECRETARY-GENERAL'S REPORT ON OCEANS
AND THE LAW OF THE SEA**

PART I

PRELIMINARY CONSIDERATIONS

In accordance with the request made by the Assistant Secretary-General in charge of the Office of the Legal Affairs of the United Nations in a letter dated 12 December 2012, this contribution focuses on major developments on ocean issues within the areas of competence of IMO between May 2012 and April 2013.

The 1982 Convention on the Law of the Sea is referred to throughout this contribution as "UNCLOS" or "the Convention".

PART II

MARITIME SAFETY AND SECURITY

PIRACY AND ARMED ROBBERY AGAINST SHIPS

The Maritime Safety Committee (MSC), at its 90th session, in May 2012 approved Interim Guidance to private maritime security companies (PMSC) providing contracted armed security personnel (PCASP) on board ships in the High Risk Area.

The guidance covers:

- **PMSC Professional Certification**, including the recommendation that PMSC should seek certification with relevant national and international private maritime security service standards when these are established;
- **PMSC Company requirements**, including the recommendation that PMSC should establish procedures to provide maritime security services to ship owners and ship operators and comply with all relevant legal requirements;
- Management, including recommendations on selection, vetting and training of personnel for a PCASP team; and
- Deployment considerations, addressing the specific aspects of PCASP deployment and the role of the PMSC in ensuring efficient and successful deployments, including communications with the ship owner or operator, and including recommendations relating to management of firearms and ammunition from embarkation to disembarkation and use of force. (The PMSC should recognize that laws governing the use of force may differ over time and according to location. The applicable national law, including any criminal laws, for an incident on a ship from which PCASP will be operating will be principally that of the flag State. It may also include the laws and regulations of coastal, port and other States.)

The MSC agreed that the International Organization for Standardization (ISO) would be best place to develop international standards for PMSCs based on the IMO-developed guidance and with relevant IMO liaison and participation in the ISO process for standards' development. In line with this decision, ISO developed ISO PAS28007 for Private Maritime Security Companies.

The MSC also agreed to consequential revisions to the interim guidance for shipowners, ship operators and shipmasters; flag States; and port and coastal States on the use of PCASP on board ships to counter Somali-based piracy, to reflect the new guidance to PMSCs.

The MSC also approved interim guidance for flag States on measures to prevent and mitigate Somalia-based piracy, which lists recommended practices that flag States are encouraged to apply, taking into account their own circumstances and subject to their national law, in order to maximize their efforts to implement counter-piracy measures.

The MSC at its 91st session, in November 2012, welcomed the availability of ISO PAS28007 and encouraged Member States to bring the PAS to the attention of their national standards bodies; and PMSCs, shipowners and other stakeholders to study and use this PAS as appropriate.

The MSC, at its 91st session also reviewed the latest statistics on piracy and armed robbery against ships and noted the encouraging downward trend in piracy attacks in the western Indian Ocean. However, there were still many innocent seafarers held hostage in Somalia, some for more than two years. The increase in the number of incidents of piracy and armed robbery against ships in the Gulf of Guinea and the increasing level of violence of those attacks was also a major concern.

Technical co-operation update

Activities to counter piracy pursuant to the Djibouti Code of Conduct, an IMO-initiated, regional agreement signed by 20 states from the Gulf of Aden and western Indian Ocean area, are on-going. In addition to this, since August 2012, IMO has been conducting a series of "table top exercises" aimed at developing and promoting a multi-agency, whole of government approach to maritime security and maritime law enforcement issues in States throughout the West and Central African region. The exercises build on the 2008 Memorandum of Understanding of the Maritime Association of West and Central Africa (MOWCA) on the Establishment of a Sub-Regional Integrated Coast Guard Function Network. Expected outputs are the development of national maritime strategies, national maritime security strategies, national maritime security committees and national maritime security implementation plans and procedures.

UN Security Council resolutions 2018(2011) and 2039(2012) have given new impetus to maritime security issues in the region and IMO is actively assisting the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS) and the Gulf of Guinea Commission (GoGC) to develop their integrated maritime strategies and to develop a Code of Conduct concerning the repression of piracy, armed robbery against ships and illicit maritime activity in West and Central Africa. This Code of Conduct was adopted by a ministerial meeting held in Benin in March 2013 and is expected to be opened for signature at the Heads of State meeting to be held in Cameroon later this year.

In addition, IMO has a global programme on the Enhancement of Maritime Security within its Integrated Technical Co-operation Programme (ITCP).

The aim of this global programme is to assist and support the efforts of governments and industry towards the enhancement of security in the international maritime transport sector. For the period under review, IMO sent 5 technical advisory and needs assessment missions to identify the maritime security needs in 5 countries. Furthermore, IMO organized 9 national and regional training events where 254 participants from 33 countries were trained.

THE GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM (GMDSS)

The MSC, at its 90th session, agreed to review the GMDSS, and then to develop a modernization programme. The modernization programme would implement findings of the review, include more modern and efficient communications technologies in the GMDSS, and support the communications needs of the e-navigation strategy. The review should take place over a three-year period (2013-2015).

SEARCH AND RESCUE (SAR)

Regional activities have been organised to encourage, in particular, developing countries to become parties to the 1979 SAR Convention, to establish/improve SAR services as well as building up co-operation amongst countries in certain regions. Continuous activities have been undertaken in the African countries bordering the Indian and Atlantic Oceans in establishing Maritime Rescue Coordination Centres (MRCCs) and support sub-regional meetings and training activities. Other areas where capacity building activities have been deployed were, among others, the Asia/Pacific region, the Black Sea and Central America.

LONG-RANGE IDENTIFICATION AND TRACKING (LRIT)

LRIT status update

MSC, at its 90th session, noted with appreciation an offer made by the countries of the European Union and the European Commission for the continued hosting, maintenance and operation of the International LRIT Data Exchange (IDE) by the European Maritime Safety Agency (EMSA), beyond 2013. The Maritime Safety Committee also noted with appreciation that the United States was prepared to continue hosting, maintaining and operating the disaster recovery site of the IDE, beyond 2013, subject to their national procurement regulations. Both offers have been made at no cost either to the SOLAS Contracting Governments or to the Organization.

The Maritime Safety Committee adopted resolution MSC.331(90) on Amendments to resolution MSC.298(87) on establishment of a distribution facility, by which it was agreed on the addition of polling functionalities to the Information Distribution Facility (IDF), established, maintained and operated by the IMO Secretariat for the provision of flag State LRIT information to security forces operating in the Gulf of Aden and the western Indian Ocean.

IMPLEMENTATION OF IMO INSTRUMENTS

Mandatory IMO audit scheme

The MSC, at its 91st session, approved the draft IMO Instruments Implementation Code (III Code), which sets the standard for the IMO audit scheme, and approved draft amendments to the following treaties to make the III Code and auditing mandatory: International Convention for the Safety of Life at Sea, (SOLAS), 1974, as amended, and the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (1988 Load Lines Protocol), as amended, for adoption by MSC 93. The MSC also approved amendments to the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 1972), the International Convention on Load Lines, 1966

(LL 1966) and the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 1969).

Similar draft amendments to the International Convention on Standards of Training, Certification and Watchkeeping (STCW), 1978, as amended and the Seafarers' Training, Certification and Watchkeeping (STCW) Code were referred to the Sub-Committee on Standards of Training and Watchkeeping for further review with a view to their approval at the next session of the MSC.

The aim is to adopt the remaining treaty amendments in 2014, once the III Code, together with the amendments to COLREG 1972, LL 1966 and Tonnage 1969, have been formally adopted by the IMO Assembly, in 2013.

Code for Recognized Organizations

The MSC, at its 91st session, approved the draft Code for Recognized Organizations (RO Code) and related draft amendments to SOLAS, 1974, and the Load Lines 1988 Protocol, to make it mandatory, for adoption, in 2013. The RO Code will provide a consolidated text containing criteria against which ROs (which may be authorized by flag States to carry out surveys and issue certificates on their behalf) are assessed and authorized/recognized, and give guidance for subsequent monitoring of ROs by Administrations.

Capacity-building initiatives

In order to assist Member States prepare for and implement the IMO Audit Scheme, IMO has dedicated a global programme through which it organized 5 regional training events where 78 professionals from 52 countries were trained.

Under this global programme, IMO's technical assistance will continue to focus on the implementation of the IMO Audit Scheme, with more emphasis on training of maritime administrators from developing countries in preparation for, and participation in, the IMO Audit Scheme.

SHIP DESIGN AND EQUIPMENT

Passenger ship safety

Recommended interim measures aimed at enhancing the safety of passenger ships, in the wake of the **Costa Concordia** incident in January, were agreed by MSC at its 90th session.

The MSC adopted a resolution, which invites Member States to recommend that passenger ship companies conduct a review of operational safety measures, to ships flying their flag, on a voluntary basis and "with all possible urgency and efficiency", taking into consideration the recommended interim operational measures listed in an MSC circular.

The recommended interim measures include:

- carrying additional lifejackets, to be readily accessible in public spaces, at the muster/assembly stations, on deck or in lifeboats, so that in the event of an emergency passengers need not return to their cabins to retrieve the lifejacket stored there;
- reviewing the adequacy of the dissemination and communication of the emergency instructions on board ships;

- carrying out the muster for embarking passengers prior to departure from every port of embarkation, if the duration is 24 hours or more;
- limiting access to the bridge to those with operational or operationally related functions, during any period of restricted manoeuvring, or while manoeuvring in conditions that the master or company bridge procedures/policy deems to require increased vigilance (e.g. arrival/departure from port, heavy traffic, poor visibility); and
- ensuring that the ship's voyage plan has taken into account IMO's Guidelines for voyage planning, and, if appropriate, Guidelines on voyage planning for passenger ships operating in remote areas.

The adoption of the resolution followed consideration of information provided by the Government of Italy on the investigation into the **Costa Concordia** incident, as well as preliminary proposals on enhancing the safety of passenger ships brought to the Committee's attention by the Government of Italy and other Member States, as well as by the Cruise Industry Operational Safety Review.

The resolution encourages "Member States and the passenger ship industry to take the necessary actions to ensure that their current safety standards, procedures and best management practices are fully and effectively implemented".

The MSC also agreed, in principle, to an action plan on long-term work for passenger ship safety, pending the review of the report of investigation into the loss of the **Costa Concordia**.

The MSC, at its MSC 91, session adopted, new draft SOLAS requirements (new regulation III/17-1) to require ships to have plans and procedures to recover persons from the water, as well as related Guidelines for development of plans and procedures for recovery of persons from the water. The MSC also adopted a related MSC resolution on Implementation of SOLAS regulation III/17-1 to ships other than those engaged in international voyages.

In regard to matters related to the **Costa Concordia**, MSC 91 approved a draft amendment to SOLAS regulation III/19 to require musters of newly embarked passengers prior to or immediately upon departure, instead of "within 24 hours", as stated in the current regulations. The draft amendment has been circulated with a view to adoption at MSC 92, in June 2013.

The Committee also agreed a revised MSC circular on Recommended operational measures to be implemented on a voluntary basis, and updated its long-term action plan on passenger ship safety.

FISHING VESSEL SAFETY

Pursuant to the decisions of the Assembly, at its 27th session, the Council at its 106th session and the Maritime Safety Committee at its 89th session, a diplomatic conference was convened in Cape Town, South Africa, from 9 to 11 October 2012, to consider the adoption of an Agreement on the implementation of the provisions of the 1993 Torremolinos Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.

As a result of its deliberations, the Conference adopted the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (the Agreement).

The Agreement will enter into force 12 months after the date on which not less than 22 States the aggregate number of whose fishing vessels of 24 m in length and over operating on the high seas is not less than 3,600 have expressed their consent to be bound by it.

The Conference also adopted resolutions on the following subjects:

- Resolution 1: Early implementation of the Agreement
- Resolution 2: Avoidance of a situation in which two conflicting treaty regimes are operational
- Resolution 3: Promotion of technical co-operation and provisions of technical assistance
- Resolution 4: Preparation of a consolidated text
- Resolution 5: Procedure for calculating the number of fishing vessels of each Contracting State by the Depositary
- Resolution 6: Expression of appreciation to the host Government

PART III

MARINE POLLUTION FROM VESSEL'S SOURCE

AIR POLLUTION AND ENERGY EFFICIENCY

Work on energy-efficiency measures for ships

The Marine Environment Protection Committee (MEPC), at its 64th session, in October 2012, continued its work on further developing technical and operational measures relating to energy-efficiency measures for ships, based on a work plan agreed at the previous session. This followed the adoption of the new chapter 4 of MARPOL Annex VI, which entered into force on 1 January 2013 and included new requirements mandating the Energy Efficiency Design Index (EEDI), for new ships, and the Ship Energy Efficiency Management Plan (SEEMP) for all ships.

The MEPC adopted amendments to the 2012 Guidelines on the method of calculation of the attained EEDI for new ships (resolution MEPC.212(63)), relating to the calculation of shaft-generator power and shaft-motor power.

The MEPC also approved an amendment to the 2012 Guidelines on survey and certification of the EEDI (resolution MEPC.214(63)), to update a footnote referring to International Towing Tank Conference (ITTC) Recommended Procedure 7.5-04-01-01.2 as the preferable standard.

An intersessional Correspondence Group on Energy-Efficiency Measures for Ships was established to develop the draft guidelines for determining minimum propulsion power to enable safe manoeuvring in adverse conditions; improve further the draft guidance on treatment of innovative energy-efficiency technologies; and review the interim guidelines for the calculation of the coefficient f_w for decrease of ship speed in representative sea conditions for trial use.

Technical co-operation and transfer of technology for the implementation of mandatory energy efficiency measures

Regulation 23 of chapter 4 of MARPOL Annex VI on Promotion of technical co-operation and transfer of technology relating to the improvement of energy efficiency of ships requires Administrations, in co-operation with the Organization and other international bodies, to promote and provide, as appropriate, support directly or through IMO to States, especially developing States that request technical assistance. It also requires the Administration of a Party to MARPOL Annex VI to co-operate actively with other Parties, subject to its national laws, regulations and policies, to promote the development and transfer of technology and exchange of information to States which request technical assistance, particularly developing States.

A Working Group further developed a text of a draft resolution on Promotion of Technical Co-operation and Transfer of Technology relating to the improvement of energy efficiency of ships. The Committee agreed to use the text as a basis to finalize the draft resolution, with a view to its adoption at MEPC 65 in May 2013.

Update on GHG emissions estimate

Work to update the greenhouse gas (GHG) emissions estimate for international shipping moved forward during an Expert Workshop at IMO Headquarters in Spring 2013, which was attended by experts with demonstrable expertise and experience in the field of estimating fuel consumption and GHG emissions for the international maritime sector. The Expert Workshop recommended that the MEPC at its 65th meeting in May 2013, agree Terms of Reference for the update including the methodology, so that work could begin in 2013, with a view to the final report of the Update Study being submitted to the 66th session of the MEPC, to be held in 2014.

As the current estimate contained in the Second IMO GHG Study 2009 does not take account of the economic downturn experienced globally since 2008, an updated GHG emissions estimate should provide MEPC with reliable and up-to-date information to base its decisions on when considering further possible measures to address GHG emissions from international shipping. An updated emissions estimate would also provide a baseline to enable the impact to be assessed of technical and operational energy efficiency measures for international shipping that entered into force on 1 January 2013.

Market-based Measures (MBMs)

The MEPC received updates to several of the proposed (MBMs) to reduce GHG emissions, which would complement the technical and operational measures already adopted. However, the MEPC postponed detailed debate on MBMs to MEPC 65.

This would include discussion of the methodology and criteria for a comprehensive impact assessment, which would study in detail the direct and indirect impacts on (consumers and industries in) developing countries of the introduction, or non-introduction, of an MBM for international shipping, under the auspices of IMO.

Fuel oil availability to meet air pollution requirements

The MEPC discussed proposals related to a review on the availability of compliant fuel oil to meet the requirements set out in the MARPOL Annex VI regulation 14 on emissions of sulphur oxides (SOx) from ships.

Fuel oil sulphur content (expressed in terms of % m/m – that is, by weight) is required to be a maximum of 3.50% m/m (outside an Emission Control Area (ECA)), falling to 0.50% m/m on and after 1 January 2020. Depending on the outcome of a review, to be completed by 2018, as to the availability of compliant fuel oil, this requirement could be deferred to 1 January 2025.

It should be noted that, within ECAs, fuel oil sulphur content (expressed in terms of % m/m: that is, by weight) must be no more than 1.00% m/m; falling to 0.10% m/m on and after 1 January 2015.

The MEPC noted that, in 2011, the average sulphur content of residual fuel worldwide was 2.65% m/m. For distillate fuel the average sulphur content was 0.14%, based on the monitoring of the worldwide average sulphur content of marine fuel oils supplied for use on board ship.

The Committee agreed to revisit the matter of a review at a future session, and invited relevant submissions to MEPC 66 (in 2014).

Ballast water management

The MEPC, at its 64th session, considered the reports of the twenty-first, twenty-second and twenty-third meetings of the Joint Group of Experts on the Scientific Aspects of Marine Environment Protection (GESAMP) Ballast Water Working Group (held during 2012), and granted Basic Approval to five, and Final Approval to three, ballast water management systems that make use of Active Substances.

The MEPC noted that there are now 28 type-approved ballast water management systems available. The MEPC urged those States, which have not yet done so, to ratify the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM), 2004, to achieve its entry into force at the earliest opportunity. To date, 36 States, with an aggregate merchant shipping tonnage of 29.07 per cent of the world total, have ratified the Convention. The Convention will enter into force twelve months after the date on which not fewer than 30 States, the combined merchant fleets of which constitute not less than 35 per cent of the gross tonnage of the world's merchant shipping, have become Parties to it.

Following discussion in the Ballast Water Review Group (BWRG), the Committee agreed that appropriate technologies are available to achieve the standard contained in regulation D-2 of the BWM Convention. It requested, however, delegations to submit case studies including quantitative data and information to document problems with the supply, operation and suitability of type-approved ballast water management systems to the Sub-Committee on Bulk Liquids and Gases (BLG), to facilitate more informed analysis of these aspects if appropriate.

The MEPC also addressed a number of issues relating to implementation of the BWM Convention.

It approved a circular on issuance of Ballast Water Management Certificates during the 12-month period between the conditions of entry into force being met and the actual date of

entry into force of the BWM Convention. The circular addresses the concern that the Convention allows no phase-in period for ships constructed prior to the entry into force of the Convention by recommending that Administrations may allow the issuance of International Ballast Water Management Certificates for such ships prior to entry into force of the Convention. The Certificates should be annotated to state that validity begins from the entry into force date, combined with a statement issued to the company when the BWM Plan was received, thereby allowing the vessel to trade for three months with an unapproved BWM Plan on board.

MEPC 64 instructed BLG 17, meeting in 2013, to consider updating resolution MEPC.175(58) on information reporting on type-approved systems. The resolution invites Member States to submit information to IMO on type-approved systems.

BLG 17 was also instructed to consider issues relating to monitoring and sampling of certain ballast water management systems.

The Committee also instructed a correspondence group to develop a draft IMO Assembly resolution on the implementation of regulation B-3 of the BWM Convention, with a view to approval by MEPC 65 and adoption by the 28th session of the Assembly in 2013. Regulation B-3 refers to specific dates for implementation of certain provisions of the BWM Convention, for ships constructed before 2009, between 2009 and 2012, and after 2012.

Recycling of ships

The MEPC, at its 64th session, adopted the 2012 Guidelines for the survey and certification of ships under the Hong Kong Convention and the 2012 Guidelines for the inspection of ships under the Hong Kong Convention.

These two sets of guidelines, together with the four sets of other guidelines previously adopted, complete the development of all guidelines referred to in the text of the Hong Kong Convention. The guidelines that have been adopted by the Organization can now assist ship-recycling facilities and shipping companies to commence introducing voluntary improvements to meet the requirements of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, which was adopted in May 2009. The treaty will enter into force 24 months after ratification by 15 States, representing 40 per cent of world merchant shipping by gross tonnage, and combined maximum annual ship-recycling volume not less than 3 per cent of their combined tonnage.

An intersessional correspondence group was established to develop threshold values and exemptions applicable to the materials to be listed in Inventories of Hazardous Materials and consider the need to amend, accordingly, the 2011 Guidelines for the Development of the Inventory of Hazardous Materials.

Capacity-building initiatives

Giving special attention to marine environment protection, IMO has established a linkage between its ITCP and 5 Millennium Development Goals (MDGs) including MDG 7 – “Ensure environmental sustainability”. In this regard, IMO organized 38 national and regional training events where 1,308 professionals and strategy officials were trained on implementation of IMO instruments related to marine environment protection.

Under emerging issues, three regional and five national workshops to address greenhouse gas (GHG) emissions from international shipping were conducted in the Asia and Pacific region.

Furthermore, IMO has dedicated a global programme on Mitigation of Climate Change under which 3 national and regional training events were organized resulting in 74 professionals from 19 countries being trained.

Mandatory audit scheme

The MEPC, at its 64th session, approved the draft IMO Instruments Implementation Code (III Code), which sets the standard for the IMO audit scheme, and approved draft amendments to MARPOL to make the III Code and auditing mandatory under that treaty.

The aim is to adopt the MARPOL amendments in 2014, once the III Code has been formally adopted by the IMO Assembly, in 2013.

Code for Recognized Organizations

The MEPC, at its 64th session, approved the draft Code for Recognized Organizations (ROs) and related draft amendments to MARPOL (Annexes I and II) to make it mandatory, for adoption, concurrently with the MSC, at a future session.

The Code will provide a consolidated text containing criteria against which ROs (which may be authorized by flag States to carry out surveys and issue certificates on their behalf) are assessed and authorized/recognized, and give guidance for subsequent monitoring of ROs by Administrations.

Particularly Sensitive Sea Area

The Saba Bank, in the north-eastern Caribbean area of the Kingdom of the Netherlands, was designated as a Particularly Sensitive Sea Area (PSSA), following approval, in principle, at the previous session.

Associated Protective Measures were approved by the Sub Committee on Safety of Navigation (NAV), at its meeting in July 2012, namely, the establishment of a new mandatory 'no anchoring' area for all ships and a new 'area to be avoided' (for ships of 300 gross tonnage or over) in the proposed PSSA.

The Saba Bank is the fourteenth PSSA to be designated by IMO.

Capacity-building initiatives

IMO organized 2 regional training events where 49 professionals from 27 countries were trained on the subject of PSSA.

LONDON CONVENTION AND PROTOCOL (REGULATION OF DUMPING AT SEA)

Marine geo-engineering

When the governing bodies adopted resolution LC LP.2(2010) on the "Assessment Framework for Scientific Research Involving Ocean Fertilization", which had been developed as required under resolution LC-LP.1(2008), they agreed that further work should be undertaken, intersessionally, to work towards providing a global, transparent and effective control and regulatory mechanism for ocean fertilization activities and other activities that fall within the scope of the London Convention and Protocol and have the potential to cause harm to the marine environment.

In 2012, the governing bodies reviewed the outcomes of intersessional work and focussed on four options to regulate marine geo-engineering activities, including ocean fertilization. A proposal to amend the London Protocol, directed at regulating marine geo-engineering activities, has since been submitted for consideration by the governing bodies at their next joint session in October 2013. The draft also proposes to include a mechanism for the future listing of other marine geo-engineering activities.

CO₂ Sequestration in transboundary sub-seabed geological formations

The Meeting of Contracting Parties to the London Protocol adopted the revised "Specific Guidelines for Assessment of Carbon Dioxide Streams for Disposal into Sub-seabed Geological Formations" to take into account transboundary migration of carbon dioxide waste streams within sub-seabed geological formations after injection in the light of the 2009 amendment of article 6 of the London Protocol.

The Meeting further considered a draft text for the "Development and implementation of arrangements or agreements for the export of CO₂ streams for storage in sub-seabed geological formations", which will be further developed by an intersessional correspondence group, under the leadership of Canada.

LIABILITY CONVENTIONS

2010 HNS Convention

Guidelines to assist countries in complying with the reporting requirements under the 2010 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious substances by Sea, 2010 (2010 HNS Convention) were endorsed by the Legal Committee at its 100th session, in April 2013.

The guidelines were developed and adopted at a two-day workshop convened jointly by the IMO and the International Oil Pollution Compensation Funds (IOPC Funds) Secretariats, held at IMO in October 2012. The workshop was attended by more than 100 participants.

The guidelines are expected to help in overcoming one of the main obstacles preventing States from ratifying the Protocol, namely the difficulty of complying with the reporting requirements in article 20(4) and (6) of the 2010 HNS Protocol, particularly in view of the enormous variety of HNS substances that are potentially subject to reporting. As well as the guidelines, the Committee also approved a model letter to accompany the model form for receivers, a State model reporting form, a receiver model reporting form and an HNS contributing cargo declaration form.

Capacity-building initiatives

With regard to 2010 HNS Convention, IMO organized 3 national and regional training events where 118 professionals from 13 countries were trained on the implementation of the Convention in their respective countries/regions.

Preservation and collection of evidence following an allegation of a serious crime having taken place on board a ship

Draft guidelines on preservation and collection of evidence following an allegation of a serious crime having taken place on board a ship, or following a report of a missing person from a ship, and on pastoral and medical care of victims were approved by the Legal Committee, at its 100th session.

The draft guidelines will be submitted to the IMO Assembly 28th session, in November 2013, along with an associated draft resolution, for consideration with a view to adoption.

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

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

The draft guidelines include sections covering co-operation and coordination between interested States and parties; which should be undertaken in a manner consistent with international law; the role of the master; missing persons; and pastoral and medical care.

Appendix 1 includes suggested formats for Victim Statement; Alleged Perpetrator Statement; and Independent Witness Statement.

Appendix 2 includes guidance derived from MSC.1/Circ.1404 (Guidelines to assist in the investigation of the crimes of piracy and armed robbery against ships), including guidelines on recovery and packaging of evidence. The guidelines establish that the master is not a professional crime scene investigator and does not act in the capacity of a criminal law enforcement official and that the guidance will likely only be applied in limited and exceptional circumstances by masters who may be called upon to collect evidence that may otherwise be lost if no action is taken.
