

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

PRELIMINARY CONSIDERATIONS

In accordance with the request made by the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, in a letter dated 15 April 2020, this contribution focuses on main developments on ocean issues and the law of the sea within the areas of competence of IMO between September 2019 and May 2020 (inclusive).

In particular, this report highlights the way in which General Assembly Resolution 74/19 on Oceans and the Law of the Sea has been implemented by referring to the relevant paragraphs of the resolution.

MARITIME SAFETY AND SECURITY

REGULATORY SCOPING EXERCISE FOR THE USE OF MARITIME AUTONOMOUS SURFACE SHIPS (MASS)

(paragraphs 113-115 of the UN General Assembly Resolution 74/19 refer)

The Maritime Safety Committee (MSC) continued with the process of assessing the applicability of IMO conventions to ships with varying degrees of autonomy.

The initial review of mandatory instruments under the purview of the MSC has been conducted during the first half of 2019. The MSC identified 4 degrees of autonomy: ship with automated processes and decision support, remotely controlled ship with seafarers on board, remotely controlled ship without seafarers on board, fully autonomous ship.

The mandatory instruments relate to safety (SOLAS); collision regulations (COLREG); loading and stability (Load Lines); training of seafarers and fishers (STCW, STCW-F); search and rescue (SAR); tonnage measurement (Tonnage); safe transport of containers (CSC); and special trade passenger ship instruments (SPACE STP, STP). An intersessional MSC working group met in September 2019 to enable the completion of the regulatory scoping exercise in 2020.

The Legal Committee also began an analysis of conventions under its purview with regard to MASS. A web platform based on a similar framework and methodology as undertaken by the MSC was used to facilitate the work.

Furthermore, the Facilitation Committee agreed to review the Facilitation Convention as part of the regulatory scoping exercise for the use of MASS, using the same process. The aim was to complete the review and analysis for consideration by the Facilitation Committee at its next session in 2020.

Due to the outbreak of COVID-19, the 107th session of the Legal Committee, the 102nd session of the Maritime Safety Committee and the 44th session of the Facilitation Committee scheduled to take place in the first half of 2020 have been postponed. The regulatory scoping exercise will be undertaken and completed as soon as the Committees are able to meet.

GOAL-BASED STANDARDS AND SAFETY LEVEL APPROACH

(paragraphs 113-115 of the UN General Assembly Resolution 74/19 refer)

Following the adoption of Goal-based ship construction standards for bulk carriers and oil tankers (GBS) and the successful initial verification of 12 recognized organizations (ROs) by IMO GBS audit teams in 2016, the MSC confirmed, in 2018, another recognized organization

to be in conformity with the GBS, Türk Loydu. Those ROs which had successfully completed the initial verification underwent annual GBS maintenance audits in 2018 and 2019.

Taking into account the experience gained in conducting GBS audits, the MSC adopted *Revised guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers* (resolution MSC.454(100)) which came into effect on 1 January 2020 and introduced a scheduled three-year maintenance audit cycle, commencing in April 2022.

With the approval of the revision of the *Generic Guidelines for developing IMO goal-based standards* (MSC.1/Circ.1394/Rev.2) at MSC 101, the MSC paved the way for the general application of GBS in the IMO rule-making process.

SAFETY OF FISHING VESSELS AND IUU FISHING

(paragraphs 121-122 of the UN General Assembly Resolution 74/19 refer)

Concerned about the slow pace of acceptance of the Cape Town Agreement of 2012, the international instrument regulating the safety of fishing vessels, the Organization held a Ministerial Conference on Fishing Vessel Safety and Illegal, Unreported and Unregulated (IUU) Fishing, in Torremolinos, Spain, in October 2019. The Conference, which was attended by 125 States, including 70 Minister- and Ambassador-level representatives; four representatives of the United Nations and specialized agencies; and 30 international organizations, adopted the Torremolinos Statement on the Cape Town Agreement of 2012, relating to fishing vessel safety and combating IUU fishing.

During the Conference, 48 States signed the Torremolinos Declaration on the Cape Town Agreement of 2012 to indicate their determination to support the entry into force of the Agreement (i.e. 22 States with an aggregated number of 3,600 fishing vessels of 24 m in length and over operating on the high seas) by the tenth anniversary of its adoption (i.e. 11 October 2022). To date, 14 States have ratified the Agreement (Belgium, Congo, Cook Islands, Denmark, Finland, France, Germany, Iceland, Netherlands, Norway, Saint Kitts and Nevis, Sao Tome and Principe, South Africa and Spain).

MEASURES TO IMPROVE DOMESTIC FERRY SAFETY

(paragraphs 113 and 188 of the UN General Assembly Resolution 74/19 refer)

Having noted the unacceptable high numbers of lives lost through accidents involving domestic ferries, the MSC continued with the consideration of matters pertaining to their safety. Between sessions of the Committee, the Secretariat remained extensively engaged with stakeholders, including INTERFERRY, UN ESCAP, WHO, WFSA and WMU, and identified non-exhaustive causes leading to accidents that will be addressed through the development of framework Model Regulations on Domestic Ferry Safety, followed by guidance on their incorporation in domestic law, possible explanatory notes, and online education and training.

Based on the above and noting the vagueness of the term "domestic ferry", the *Bangkok Declaration on Enhancing Domestic Ferry Safety in Asia and the Pacific Region and the Development of Model Regulations on Domestic Ferry Safety* (adopted on 17 March 2020, Bangkok, Thailand) provides, *inter alia*, a potential basic structure of the model regulations and definitions of some of the key terms. The overarching framework model regulations, which are primarily goal-based, highlight the obligations to be met, yet provide flexibility on how to meet them, while acknowledging indigenous solutions and experts. The model regulations are expected to be adopted by the MSC in 2022.

REVISED GUIDELINES ON FATIGUE APPROVED

(paragraphs 113-120 of the UN General Assembly Resolution 74/19 refer)

The MSC approved revised *Guidelines on fatigue* (MSC.1/Circ.1598), which provide comprehensive information on the causes and consequences of fatigue, and the risks it poses to the safety and health of seafarers, operational safety, security and protection of the marine environment. The Guidelines will assist all stakeholders to contribute to the mitigation and management of fatigue on ships.

SAFETY OF SHIPS IN POLAR WATERS

(paragraph 187 of the UN General Assembly Resolution 74/19 refers)

The MSC discussed the development of possible mandatory and/or recommendatory measures for ships operating in polar waters which are not currently covered by the Polar Code¹. The IMO Assembly, at its thirty-first session in December 2019, adopted resolution A.1137(31) on *Interim safety measures for ships not certified under the SOLAS Convention operating in polar waters* which urges Member States to implement the safety measures of the Polar Code on a voluntary basis, as far as practicable, for ships operating in polar waters not certified under the SOLAS Convention, including fishing vessels of 24 metres in length and above and pleasure yachts of 300 gross tonnage and above not engaged in trade.

As a further step to address the safety of so-called non-SOLAS ships, MSC is expected to approve, at its next session, *Guidelines for safety measures for fishing vessels of 24m in length and over operating in polar waters* and *Guidelines for safety measures for pleasure yachts of 300 gross tonnage and above not engaged in trade operating in polar waters*.

SAFETY ISSUES RELATING TO THE 2020 SULPHUR LIMIT

(paragraphs 113-116 and 192-196 of the UN General Assembly Resolution 74/19 refer)

Member States and international organizations are expected to submit concrete proposals on the development of further measures to enhance the safety of ships relating to the use of fuel oil, for consideration at the next MSC meeting, following concerns about the potential need for guidance and advice regarding possible safety issues related to the implementation of the 0.50% limit of the sulphur content of fuel oil (outside emission control areas) which entered into force on 1 January 2020 under MARPOL.

The MSC endorsed the view that, while fuel safety was a longstanding existing concern needing thorough consideration, it should not affect Member States' commitment to implement the 2020 sulphur limit from the date of application.

The new 0.50% limit (reduced from 3.50%) of the sulphur content of ships' fuel oil will greatly benefit the environment and human health. In October 2018, the Marine Environment Protection Committee (MEPC) invited the MSC to consider relevant safety issues associated with the use of low-sulphur fuel oil. The MSC agreed to develop a joint MSC-MEPC guidance to ensure that fuel oil suppliers will deliver compliant fuel oils, noting the initiative of industry organizations to develop guidance to address potential safety and operational issues related to the supply and use of fuels with 0.50% sulphur content.

¹ The Polar Code is only mandatory for certain categories of ships under the SOLAS and MARPOL Conventions.

MARITIME SECURITY

(paragraphs 113-116 and 125-128 of the UN General Assembly Resolution 74/19 refer)

The MSC continues to emphasise the need for flag States and shipowners and operators to review the maritime security plans for their ships and implement necessary measures, including IMO guidance and industry Best Management Practices to address the heightened security risk to ships from piracy, armed robbery and other illicit acts, and supported Member States in strengthening maritime, port and ship security through its extensive Global Maritime Security, Djibouti Code of Conduct and West and Central Africa capacity building programmes.

MARINE ENVIRONMENT

Due to the COVID-19 pandemic, the seventy-fifth session of the Marine Environment Protection Committee (MEPC), originally scheduled from 30 March to 3 April 2020 has been postponed.

Reduction of Greenhouse Gas Emissions from Ships

(paragraph 233 of the UN General Assembly Resolution 74/19 refers)

As reported in 2019, the MEPC approved the Programme of follow-up actions of the initial IMO strategy on reduction of GHG emissions from ships up to 2023.

The sixth session of the Intersessional Working Group on Reduction of GHG Emissions from Ships, established by the MEPC, met 11-15 November 2019 at IMO. It was attended by nearly 400 representatives from nearly 70 Member States, as well as from the UNFCCC, the European Commission, the League of Arab States and around 30 non-governmental organizations.

The Working Group has made significant progress in pushing forward with work to help achieve the ambitious targets set out in the initial IMO strategy on reduction of GHG emissions from ships, which aims, as a matter of urgency, to decarbonise international shipping in this century.

The working group agreed the draft text of a resolution to be put forward to the next MEPC for adoption. The text would urge Member States to develop and update a voluntary National Action Plan (NAP) with a view to contributing to reducing GHG emissions from international shipping.

2020 Sulphur Limit

(paragraphs 192-194 of the UN General Assembly Resolution 74/19 refer)

A new 0.50% limit on sulphur in ships' fuel oil entered into force on 1 January 2020, under the MARPOL treaty. The new limit is applicable globally - while in designated emission control areas (ECAs) the limit is even lower, at 0.10%.

MARPOL amendment to prohibit the carriage of non-compliant fuel oil for combustion purposes for propulsion or operation on board a ship - unless the ship has an exhaust gas cleaning system ("scrubber") fitted entered into force on 1 March 2020.

Sulphur oxides (SOx) are known to be harmful to human health, causing respiratory symptoms and lung disease. In the atmosphere, SOx can lead to acid rain, which can harm crops, forests and aquatic species, and contributes to the acidification of the oceans. IMO is working towards consistent implementation of the 0.50% sulphur limit for all ships to ensure

a level playing field and is expected to improve the environment and human health (refer to the paragraph on Sulphur 2020 Limit – Safety issues above).

Ballast Water Management Treaty Implementation

(paragraph 230 of the UN General Assembly Resolution 74/19 refers)

The International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM Convention), entered into force in September 2017 and has been ratified, to date, by 83 countries, representing 90.98% of world merchant shipping tonnage. The BWM Convention aims to stop the spread of potentially invasive aquatic species in ships' ballast water and requires ships to manage their ballast water to remove, render harmless or avoid the uptake or discharge of aquatic organisms and pathogens within ballast water and sediments. In October 2019, the Code for the approval of the ballast water management systems became mandatory. The main focus of IMO now is on the effective and uniform implementation and application of the BWM treaty.

The MEPC approved BWM.2/Circ.67/Rev.1 on the revised Data gathering and analysis plan for the experience-building phase associated with the BWM Convention, to incorporate a link to standard operating procedures.

The MEPC approved amendments to the BWM Convention concerning commissioning testing of ballast water management systems and the form of the International Ballast Water Management Certificate. The amendments will be circulated with a view to adoption at MEPC 75. The Committee endorsed the view that commissioning testing should begin as soon as possible, in accordance with the already approved Guidance for the commissioning testing of ballast water management systems (BWM.2/Circ.70)

DUMPING OF WASTE AT SEA

(paragraphs 228 and 184 of the UN General Assembly Resolution 74/19 refer)

The forty-first Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Convention) and the fourteenth Meeting of Contracting Parties to the 1996 Protocol to the London Convention, 1972 (London Protocol) were concurrently held at IMO, from 7 to 11 October 2019 (document LC 41/17 and its addendum).

At this meeting, the Parties to the London Protocol adopted resolution LP.5(14) to allow provisional application of the 2009 amendment to article 6 (resolution LP.3(4), document LC 31/15, paragraph 5.17 and annex 5) of the Protocol to allow sub-seabed geological formations for sequestration projects to be shared across national boundaries. The decision and resolution can be found in document LC 41/17, paragraph 6.21 and annex 2.

ADDRESSING FRAUDULENT REGISTRATION AND FRAUDULENT REGISTRIES OF SHIPS

(paragraphs 132 and 184 of the UN General Assembly Resolution 74/19 refer)

The IMO Assembly, at its thirty-first session, in December 2019, approved resolution A.1142(31) on Measures to prevent the fraudulent registration and fraudulent registries of ships urging Governments to provide information on their registries of ships and communicate it to the Organization. The resolution includes a procedure for communicating this information to IMO, including information on the name of national governmental body(ies) and authorized or delegated entities in charge of ship registration. Its aim is to allow the IMO Secretariat to verify the information, through the appropriate channels, and to populate the new

comprehensive database of registries in the publicly available Contact Points Module in the Global Integrated Shipping Information System (GISIS).

The IMO Secretariat has improved the display of information on ships which have been confirmed as not legally registered. In such a case, a "false flag" is shown for the particular ship in the module on Ship and company particulars in GISIS.

WELLBEING OF SEAFARERS

(paragraph 116 of the UN General Assembly Resolution 74/19 refers)

As a result of COVID-19 pandemic the global shipping industry is facing significant challenges. Due to ongoing COVID-19 restrictions, large numbers of seafarers are having to extend their service on board ships after many months at sea, unable to be replaced after long tours of duty or be repatriated via aircraft to their home countries. Shipping is vital to the maintenance of global supply chains, but the current situation is unsustainable for the safety and wellbeing of ship crew and the safe operation of maritime trade. Each month about 150,000 seafarers need to be changed over to and from the ships which they operate to ensure compliance with international maritime regulations for ensuring safety, crew health and welfare, and the prevention of fatigue.

Travel restrictions mean some seafarers cannot leave their ships, be repatriated home, or get urgent medical assistance. Other seafarers have seen their contracts unilaterally terminated or have been quarantined on board ships for more than 14 days, without getting paid. A large number of seafarers, as well as their spouses and family members, have reached out to IMO to share their concerns about a variety of difficult situations caused by the COVID-19 pandemic.

IMO has established an internal team to help resolve individual cases, often working alongside other organizations like ILO, the International Transport Workers' Federation (ITF) and the International Chamber of Shipping (ICS). Since the beginning of the crisis, this dedicated team works around the clock – contacting representatives from national governments, NGOs, trade unions or relevant associations, or orienting seafarers towards the right organisation, to find solutions.

On 27 March 2020 IMO issued Circular Letter No.4204/Add.6 which contains, *inter alia*, recommendations to Member States about measures to facilitate ship crew changes in seaports during the coronavirus (COVID-19) pandemic.

Expanding on these recommendations, the Secretary-General has received a Recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic, proposed by a broad cross section of global industry associations in consultative status with the Organization representing the maritime transportation sector, as follows: ICS, IAPH, BIMCO, IFSMA, INTERTANKO, P&I Clubs, CLIA, INTERCARGO, InterManager, IPTA, IMCA, INTERFERRY, FONASBA, ITF and WSC; and which also take account of input from the International Air Transport Association (IATA).

On 27 April 2020 the Director-General of WHO, the Director-General of ILO and the Secretary-General of IMO have jointly issued statement on medical certificates of seafarers, ship sanitation certificates and medical care of seafarers in the context of the COVID-19 pandemic to assist States in ensuring that health measures are implemented in ways that minimize unnecessary interference with international traffic and trade (Circular Letter No.4202/Add.10).

On 26 May 2020 the Secretary-General of ICAO, the Director-General of ILO and the Secretary-General of IMO have jointly issued a statement to enlist the support of Governments

for the facilitation of crew changes in ports and airports in the context of the COVID-19 pandemic (Circular Letter No.4202/Add.18).

CAPACITY BUILDING

(paragraphs 17-19 of the UN General Assembly Resolution 74/19 refer)

With a view to assisting developing countries improve their ability to comply with international rules and standards relating to maritime safety, security, efficiency of maritime transport and the prevention and control of marine pollution, IMO, through its technical cooperation programme, continued to deliver technical assistance to Governments which lack the technical knowledge and resources needed to do so.

Priority was given to technical assistance programmes that focus on human resources development and institutional capacity-building, the implementation of the 2030 UN Agenda for Sustainable Development and the special needs of Small Island Developing States (SIDs) and Least Developed States (LDCs).

During the period under review, several technical cooperation activities were delivered, ranging from advisory and needs assessment missions and national and regional training events to guidance on the development of national maritime transport policies. Moreover, through its two global maritime training institutions, namely, the World Maritime University (WMU) located in Malmo, Sweden and the IMO International Maritime Law Institute (IMLI) based in Malta, IMO continued to offer the international maritime community the possibility to access high level post graduate maritime education.

As part of UN "Delivering as One" principle, IMO promoted the importance of the maritime sector through the United Nations Sustainable Development Cooperation Framework (UNSDCF) and participated actively in meetings of the Regional Coordination Mechanism for Africa (RCM-Africa), promoting the African Union Agenda 2063, the African Integrated Maritime Strategy 2050 and the African Maritime Transport Charter 2010, as well as promoting and supporting the 2030 Agenda and its Sustainable Development Goals globally.

MEASURES TO ADDRESS THE CONSEQUENCES OF THE COVID-19 PANDEMIC FOR INTERNATIONAL SHIPPING

ACTION TAKEN BY THE SECRETARIAT

IMO has worked in close cooperation with Member States, other UN agencies and the shipping industry on measures to address the fallout of the pandemic for the global maritime community, realizing that many Member States wished to have uniform recommendations on how to address certain issues.

Central repository of all COVID-19 related information is the IMO website (www.imo.org) which contains, in a special section entitled "COVID-19 information resources", statements by the Secretary-General, press briefings, technical advice issued by Circular Letters, summaries of COVID-19 related notifications received from Member States and WHO advice, as well as links to various information resources.

Technical advice has been issued by means of Circular Letter no.4204 and its addenda, disseminating a wide variety of guidance and measures to mitigate the effects of the pandemic on maritime trade and transport, including joint statements with other UN agencies such as WHO, ILO, ICAO and WCO, and guidance developed by the shipping industry.

Special emphasis has been placed on assisting seafarers in these challenging times and a Seafarer Crisis Action Team has been established to intervene in specific cases regarding crew changes, repatriation, access to medical care and/or abandonment, where resolution at the UN/diplomatic level is required.

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