

1. INTERNATIONAL ACTIVITIES

A. International Maritime Organization (IMO), Subcommittee on Safety of Navigation (NAV)

The 45th session of the Subcommittee on Safety of Navigation (NAV 45) was held at IMO Headquarters in London from September 20-24, 1999. The meeting was attended by 56 member governments, 1 associate member government, and 30 United Nations, intergovernmental, and nongovernmental organizations. The United States was represented by the Coast Guard with assistance from the Department of Defense, the National Oceanic and Atmospheric Administration, and several private sector advisers.

NAV 45 agenda items included the following: (1) routing of ships, ship reporting, and related matters; (2) amendments to the 1972 Convention on the International Regulations for Preventing Collisions at Sea, as amended, (COLREGs); (3) revision of chapter V of the 1974 International Convention for the Safety of Life at Sea, as amended, (SOLAS Convention); (4) navigational aids and related matters; (5) International Telecommunications Union (ITU) matters, including Radiocommunication ITU-R Study Group 8 matters; (6) ergonomic criteria for bridge equipment and layout; and (7) training and certification of maritime pilots and revision of resolution A.485(XII).

Significant actions taken at NAV 45 are as follows:

1. The Subcommittee approved a number of new routing measures in Chile, Peru, China, and the United States. The approved U.S. proposal concerned four recommended tracks for commercial ships 300 gross tons and above and ships carrying hazardous cargoes in bulk off the coast of California. Once implemented, the recommended tracks will move commercial maritime traffic a safer distance from shore and, in particular, farther from the Monterey Bay National Marine Sanctuary. The recommended tracks will also separate vessels carrying hazardous cargoes from other traffic. The NAV also approved a proposal for a new area to be avoided to protect the particularly sensitive sea area (PSSA) off the northern coast of Cuba.
2. The Subcommittee considered a proposal by Japan concerning amendments to the COLREGs with regard to provisions for whistle and sound signals. The intent is to reduce the burden on smaller vessels by allowing equipment more suitable to their size. The NAV continued its discussion on amendments to the COLREGs to address the emergence of high-speed craft. Final decisions on any COLREGs amendments were deferred to NAV 46.
3. The Subcommittee completed its work on the revision of SOLAS chapter V, which includes provisions dealing with carriage requirements for automatic identification systems (AISs), voyage data recorders (VDRs), and electronic chart display and information systems (ECDISs). In its present form, chapter V applies to all ships; however, administrative discretion is provided for small ships and fishing vessels.

The text of regulation 1 with regard to sovereign immune vessels was left in square brackets as the Subcommittee was not in agreement.

4. With regard to navigational aids and related matters, the NAV approved performance standards for night vision equipment for high-speed craft and performance standards for daylight signalling lamps. It also reviewed and prepared revisions to the performance standards for devices to indicate speed and distance and for shipborne satellite radionavigational receivers. The Subcommittee also approved a NAV circular containing guidance on chart datums and the accuracy of positions derived from electronic position-fixing systems plotted on charts. Furthermore, the NAV considered a reassessment of resolution A.860(20) regarding maritime policy for a future global navigation satellite system (GNSS). Members were invited to submit proposals and comments to NAV 46 for consideration with a view to revise A.860(20).
5. The Subcommittee considered the question assigned to Radiocommunication ITU-R Study Group 8 on compatibility of radionavigation and radiolocation services operating in the bands 2,900-3,300 MHz and 5,350-5650 MHz. The NAV was of the opinion that better protection could be sought for the 3 GHz band if there was a SOLAS requirement for the carriage of a 3 GHz radar. The Subcommittee approved an amendment to SOLAS chapter V to address this requirement. Furthermore, the NAV accepted language from a U.S. note, which was included in an IMO position paper for the ITU World Radiocommunication Conference 2000, warning of the possible consequences of sharing marine frequency bands for radar and GNSS systems with other non-maritime users.
6. The NAV approved a draft revised text of Annex 2 to resolution A.485 (XII) concerning operational procedures for maritime pilots other than deep-sea pilots. The approved text was forwarded to the Subcommittee on Standards of Training and Watchkeeping (STW) for information and action.

For further information, contact Mr. Edward J. LaRue, Chief, Navigation Rules Division, Office of Waterways Services (G-MWV), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-0416).

B. International Maritime Organization (IMO), London Convention (LC)

The 21st Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by the Dumping of Wastes and Other Matter (London Convention (LC)) was held at IMO Headquarters in London from October 4-8, 1999. Representatives of 31 contracting parties, 1 associate member, 7 nations that are not party to the LC, and 8 nongovernmental organizations attended the meeting. The United States was represented at LC 21 by the Department of State and the Environmental Protection Agency (EPA) with assistance from the Army Corps of Engineers (ACE) and the Department of Defense. The meeting was chaired by Alan Sielen of the United States.

Agenda items at LC 21 included the following: (1) status of the 1972 London Convention (LC), as amended, and of the 1996 LC Protocol; (2) administrative procedures and arrangements for the 1996 LC Protocol; (3) compliance issues; (4) consideration of the report of the LC Scientific Group; (5) matters related to the management of radioactive wastes, including the application of the *de minimis* concept; (6) technical cooperation and assistance under the LC; (7) monitoring for the purposes of the LC; and (8) relations with other organizations in the field of marine environment protection.

Significant actions taken at LC 21 include the following:

1. The secretariat reported that 18 countries have signed the LC Protocol and 6 are now contracting parties to both the LC and the LC Protocol (Denmark, Germany, Spain, South Africa, United Kingdom, and Vanuatu). Australia, Canada, Sweden, and the United States reported on progress in their countries toward entry into force of the Protocol. Australia, Canada, and Sweden stated that they would probably ratify in the first quarter of CY 2000. The Protocol will not enter force until 26 states have become contracting parties, including 15 parties to the LC. The Russian Federation announced that it was still not in a position to accept resolution LC.51(16) by which the parties amended the LC to ban the sea disposal of radioactive waste.
2. On the issue of public relations material to promote the LC and the Protocol, the secretariat introduced proposals for a full color brochure, a two-color leaflet, and a web site dedicated to the LC and the Protocol. The United Kingdom expressed a willingness to consider underwriting the cost of a leaflet and establishment of a web site. The United States and other delegations announced that they would make the full text of the LC and the Protocol available on their various web sites as soon as possible.
3. Under compliance issues, the meeting considered a series of documents including a so-called “gap-analysis” paper indicating which states have or have not reported on compliance, the 1996 and draft 1997 dumping reports by contracting parties, a secretariat paper on “minimum” requirements for implementation of the Protocol, a draft questionnaire on compliance, and a Canadian paper outlining various noncompliance scenarios. In the ensuing discussion, several delegations noted the dangers in advancing the concept of minimum compliance as opposed to full compliance. There was general agreement, as shown by the gap-analysis paper, that there is a need to continue to work toward greater compliance with the LC. The meeting agreed that a separate compliance body was not appropriate. It further agreed that an ad hoc working group on compliance and reporting would be established as needed during future consultative meetings and that specific issues could be referred to the Scientific Group. LC 21 also agreed to keep compliance issues as a standing agenda item for future consultative meetings. It was noted that technical assistance programs could also serve to improve reporting and compliance with the LC.

4. Concerning the report of the Scientific Group (SG), the SG chairman reported on the 22nd meeting of the Group (SG 22). It was noted that six sets of draft waste assessment guidelines (WAGs) have now been completed by the SG. Additional draft WAGs on assessment of vessels and dredged materials will be considered at SG 23. It is expected that a complete set of WAGs will be placed before LC 22 in CY 2000. The meeting agreed that WAGs are to be considered “living documents” which means that the guidance itself should be completed without delay, but that annotated references and other supporting technical information should be updated as the need arises. LC 21 also: (a) approved by consensus a revision of the SG’s terms of reference to add the review of reports on dumping permits and other scientific or technical issues concerning compliance with the LC; (b) noted the importance of the development of the WAG training set and endorsed its inclusion on the IMO web site; and (c) drew attention to the workshop on the prevention of marine pollution in the Asia-Pacific region to be held in Townsville, Australia, May 8-12, 2000.
5. Regarding matters related to the management of radioactive wastes, the meeting considered the report of the *de minimis* working group and the proposed draft guidelines for the application of the *de minimis* concept under the LC. After considerable discussion, an ad hoc drafting group was convened to address drafting of changes in the guidelines. The revised guidelines were introduced to the meeting by the *de minimis* group chairman. Recognizing that the guidelines are a “living document” and that further work is awaited from the International Atomic Energy Agency (IAEA) on guidance for the conduct of specific assessments and regarding the effects of ionizing radiation on the fauna and flora of the marine environment, the meeting adopted the guidelines and the report of the *de minimis* working group. It also endorsed the recommendation to regard IAEA Technical Document 1068 as an authoritative reference when considering a definition of *de minimis* levels of radioactivity under the LC. Furthermore, the meeting received IAEA Technical Document 1105, an updated inventory of radioactive waste disposal at sea from 1946 to 1993. The IAEA inventory included updated information on Russian Federation dumping of radioactive waste in the Arctic Sea and in the Northwest Pacific. The IAEA is also preparing inventories of accidental discharges at sea and radioactive contamination of the sea from landbased sources.
6. The chairman recalled that technical cooperation issues were of increasing importance to promote the effective implementation of the LC and to facilitate the entry into force of the Protocol. It is a critical element of implementation as well as an important tool to attract new parties. In light of this fact, the 19th consultative meeting (LC 19) had adopted a technical cooperation and assistance program. The secretariat introduced a status report on current projects, noting that there were seven. The United States presented a paper describing training available via the internet from the ACE on sound management of dredging operations and a joint EPA/ACE workshop to be held in San Diego in January 2000. The United States also reported on numerous activities in the wider Caribbean region.

7. Concerning monitoring, the United States submitted a paper on EPA's coastal monitoring and research activities including individual ocean dumping site management and monitoring programs, the National Estuary Program, and the 1998 Clean Water Action Plan. The delegations of the Russian Federation and China also described their countries' monitoring programs. The chairman noted the importance of monitoring activities and asked that other countries report on their activities at the next consultative meeting. It was agreed to review this subject at LC 22.

For further information, contact Mr. Harlan K. Cohen, Bureau of Oceans and International Environmental and Scientific Affairs (OES/OA), U.S. Department of State, Washington, DC 20520, (phone: (202) 647-3262).

C. International Maritime Organization (IMO), Legal Committee (LEG)

The 80th session of the Legal Committee (LEG 80) was held at IMO Headquarters in London from October 11-15, 1999. Delegations from 62 nations, 1 associate member, and 21 intergovernmental and nongovernmental organizations attended the meeting. The United States was represented by the Coast Guard with assistance from the Department of State and two private sector advisers. The U.S. goals at the LEG remain the same: (1) to continue to build the U.S. role as an active and leading participant in all agenda areas; (2) to conform, to the extent possible, positions adopted by the LEG to U.S. law and policy; and (3) to develop supportive relationships with other leading LEG members.

The principal agenda items discussed were: (1) provision of financial security for passenger claims under the Athens Convention; (2) a draft Convention on Liability and Compensation for Damage Resulting from Spills of Bunker Fuel; (3) guidelines on financial responsibility of shipowners for maritime claims; and (4) a draft Convention on Wreck Removal. The IMO/International Labor Organization (ILO) joint ad hoc expert working group on liability and compensation regarding claims for death, personal injury, and abandonment of seafarers also met at IMO Headquarters from October 11-15, 1999.

Among significant actions taken at LEG 80 are the following:

1. With regard to the draft Bunkers Convention, the Committee: (a) resolved all outstanding substantive issues; (b) decided to define "shipowner" as the owner, the registered owner, the bareboat and demise charterer, the manager, and the operator of the ship; (c) decided that the registered owner alone would be required to maintain liability insurance and that all "shipowners" would be held jointly and severally liable; (d) rejected a proposal by the International Group of Protection and Indemnity Clubs (P&I Clubs) that would eliminate the right of direct action against the insurer; (e) agreed that this convention would establish the sole basis for bringing claims of pollution damage only, leaving open the possibility that a claimant can bring other types of claims (i.e., natural resource damage claims) under other international or national laws; (f) rejected a proposal for third-person responder immunity for

negligent conduct; and (g) strongly endorsed submission of the draft Bunkers Convention to a diplomatic conference in the 2000-2001 biennium.

2. The LEG continued its consideration of a draft protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea that would mandate compulsory financial security and give a right of direct action against the insurer in respect of passenger claims. Four main issues were addressed: (a) the form of mandatory insurance; (b) jurisdiction over claims; (c) compatibility between the Athens Convention and the law of nuclear liability; and (d) limits of liability. After failing to reach consensus on a number of issues regarding the protocol, the Committee decided to make the protocol to the Athens Convention a priority item to be addressed immediately following the completion of the Bunkers Convention.
3. The Committee considered the United Kingdom submission containing the draft IMO guidelines on financial responsibility of shipowners for maritime claims. The LEG: (a) clarified that these guidelines are intended to encourage (not mandate) seagoing vessels of over 300 gross tons to carry insurance up to the internationally accepted limits and to discourage the operation of substandard ships; (b) voted to present these guidelines to the IMO Council for submission to the Assembly; and (c) noted that the impact of the guidelines will be monitored to assess the need for additional measures.
4. The LEG continued its consideration of the draft Convention on Wreck Removal. The Committee: (a) briefly discussed the correspondence group's submissions, which had deleted the following provisions from the draft reviewed at LEG 79: reporting requirements, financial responsibility provisions, and provisions dealing with contribution from cargo; (b) gave general comments to provide guidance to the correspondence group; and (c) concluded that the correspondence group would continue work and attempt to gain a consensus intersessionally.
5. Based on the terms of reference, the IMO/ILO ad hoc expert working group separated its discussion into two topics: abandonment of seafarers and personal injury and death of seafarers. The working group discussed the following aspects of each topic: extent of the problem worldwide, existing IMO and ILO conventions concerning each topic, effectiveness of existing conventions, and potential solutions to the problems facing seafarers. With regard to the problem of abandonment of seafarers, the working group: (a) recognized that a problem exists but the extent of the problem is unknown; (b) reviewed existing IMO and ILO conventions and determined that they do not adequately protect seafarers; and (c) discussed the following potential solutions: improve existing conventions, create national funds or an international fund, create a certificate system, and create a flag state notification system. Concerning the problem of personal injury and death of seafarers, the working group: (a) recognized that a problem exists but the extent of the problem is unknown; (b) reviewed existing IMO and ILO conventions and determined that they do not adequately protect seafarers; (c) discussed the problems associated with protection and indemnity cover for these incidents; and (d) discussed the following potential solutions: improve existing conventions, compulsory insurance, create national funds or an international

fund, and an intersessional meeting of a group comprised of shipowners, seafarers, and P&I Clubs. The report of the ad hoc working group will be discussed at LEG 81.

For further information, contact Capt. Malcolm J. Williams or Lt. Daniel J. Goettle, Office of Maritime and International Law (G-LMI), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-1527).

D. International Maritime Organization (IMO), Assembly (A)

The 21st session of the Assembly (A 21) was held at IMO Headquarters in London from November 15-25, 1999. The meeting was attended by representatives from 140 member nations, 2 associate members, 2 United Nations agencies, 8 intergovernmental organizations, and 35 nongovernmental organizations. The United States was represented by the Coast Guard, the Department of State, and a U.S. Congressional delegation.

Among significant agenda items at A 21 were the following: (1) reports of various committees, i.e., Maritime Safety Committee (MSC), Marine Environment Protection Committee (MEPC), Legal Committee (LEG), Technical Cooperation Committee (TCC), and Facilitation Committee (FAL); (2) reports of diplomatic conferences; and (3) the work program and budget. Among its major accomplishments, the Assembly adopted a zero nominal growth (ZNG) budget and also various resolutions promoting maritime safety and marine pollution prevention. Apart from the Credentials Committee, two additional Committees of the Assembly were formed, namely Committee 1 (Administrative, Financial, Legal) and Committee 2 (Technical).

Significant actions taken at A 21 include the following:

1. IMO Secretary-General William O'Neil, in reviewing the work of the IMO in this last session of the millennium, noted that the IMO's membership had grown to 157 member states and 2 associate members. He further noted that the IMO's membership encompasses 98.6 percent of world shipping tonnage and that its major treaty instruments have attained almost universal coverage, with 33 of 40 IMO treaty instruments currently in force. He stressed that the IMO's role is changing from rulemaking to implementation of existing regulations and standards, where shipowners, flag states, and port states each have a unique role to play. He noted the thrust of the IMO in the next decade and the major themes that have been incorporated into the IMO's "Millennium Resolution." While reducing excessive regulation, the Secretary-General nevertheless concluded that he was confident that the IMO would continue to maintain quality and safety standards at the highest order.
2. The Assembly adopted seven resolutions forwarded to it by Committee 1. Among key resolutions and other issues are the following:

Legal Committee (LEG). Committee 1 approved resolutions concerning: (a) guidelines on shipowners' responsibilities in respect of maritime claims and (b) acceptance of Civil Liability Convention (CLC) insurance certificates. Committee 1

concurrent with the Council's budget recommendation that the draft Ships' Bunkers Convention was ready for a diplomatic conference in the next biennium. The LEG had agreed to forego one of its four meeting weeks proposed for the next biennium in order to offset the cost of a diplomatic conference.

Technical Cooperation Committee (TCC). Committee 1 approved a resolution concerning the IMO and technical cooperation in the next decade. This resolution provides a clear direction to IMO's technical cooperation work at the beginning of the 21st century. The Committee noted, with appreciation, the increasingly substantive work being done by the TCC.

Arrears of Contributions. Committee 1 expressed concern that the level of contribution receipts had not been sustained and that the level of payments for 1999 was only 87.6 percent. Liberia is the largest nonpayer in 1999.

Work Program and budget for 2000-2001. Committee 1 expressed appreciation to the Secretary-General for his clear presentation of the proposal and his response to certain specific comments made by IMO Council members on the proposed budget allocations and on proposed transfers. The Committee appreciated the difficult choices that faced the Secretary-General in constructing a ZNG budget. It welcomed his attention to the internal oversight function and the recent reorganization of the internal audit and evaluation functions, and welcomed his commitment to ensuring that the oversight function would be strengthened and not diluted. The Committee also welcomed the Secretary-General's proposed new business plan for strengthening the IMO's revenue-raising activities and the identification and recovery of the IMO's relevant program costs in its publication activities. Committee 1 considered the IMO's business plan as a model for the United Nations common system on the cost-effective promulgation and implementation of international interests.

3. The Assembly adopted 18 resolutions recommended by Committee 2 relating to the MSC and the MEPC. Major technical resolutions adopted include the following:

Anti-fouling systems used on ships. This resolution commits the IMO to the development of a legally binding instrument to address the harmful effects of certain anti-fouling systems on ships. It also establishes target dates of 2003 for the elimination of the application of organotin compounds in anti-fouling systems and 2008 for the prohibition of organotin compounds in anti-fouling systems.

Implementation of the International Safety Management (ISM) Code. This resolution was initiated by the Secretary-General to remind all member governments that the second implementation date for the ISM Code is July 1, 2002. It also urges member governments to take appropriate action to ensure that those general cargo ships and mobile offshore drilling units be certified prior to this date.

Self-assessment of flag-state performance. This resolution establishes a self-assessment form for flag states to do a self-assessment of their performance. The

resolution encourages flag states to complete the form and submit it to the IMO so that a generic database can be established to assist in the implementation of IMO instruments. The United States submitted its completed self-assessment form to the Secretary-General on November 16, 1999.

Procedures for port-state control. This resolution adds procedures for the consistent enforcement of the ISM Code by port states. It also provides greater latitude to port-state control officers to conduct an examination of a ship.

Principles of safe manning. This resolution was initiated by the United States to improve existing guidance on manning of ships. It does not stipulate specific crew complements, but calls on administrations to apply a methodology that accounts for all workloads imposed on the crew as well as work-hour and rest-hour parameters.

Unlawful practices associated with certificates of competency issued under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention). This resolution calls attention to an increasing number of fraudulent seafarers certificates discovered during port-state control examinations. To address this problem, it is recommended that the details of the certificates be included when endorsements are issued based on certificates issued by another authority.

Procedures for the identification of particularly sensitive sea areas (PSSAs). The United States initiated this resolution to clarify the procedures for identification of PSSAs and their associated protective measures. These new procedures will reduce the proliferation of PSSAs that do not improve the environment or that have the potential for imposing navigational limits without justification.

4. The World Maritime Day celebrations in 1998 (IMO's 50th Anniversary: Shipping and the Oceans) and 1999 (IMO and the New Millennium) were recapped. The theme for 2000 will be IMO: Building Maritime Partnerships.
5. As part of the 50th anniversary celebration of the IMO, the Council, at its 80th session in June 1998, approved a proposal to establish a memorial to seafarers, as well as a seafarers trust fund, to be financed by voluntary contributions. Secretary-General O'Neil reported that sufficient funds have been donated to erect the physical memorial at the IMO Headquarters building. The memorial will be unveiled on World Maritime Day 2001, and available for inspection by delegates to the 22nd session of the Assembly.

For further information, contact Mr. Gerard P. Yoest, Director of International Affairs (G-CI), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-2280).