

1. INTERNATIONAL ACTIVITIES

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

The 81st session of the Legal Committee (LEG 81) was held at IMO Headquarters in London from March 27-31, 2000. Delegations from 61 nations, 1 associate member, and 22 intergovernmental and nongovernmental bodies attended the session. The United States was represented by the Coast Guard with assistance from the Department of State, the National Oceanic and Atmospheric Administration, and one private sector adviser. The goals of the United States at the LEG remain to: (1) continue to build the U.S. role as an active and leading participant in all agenda areas; (2) conform, to the extent possible, positions adopted by the LEG to U.S. law and policy; and (3) develop supportive relationships with other leading LEG members.

LEG 81 agenda items included the following: (1) a draft convention on civil liability and compensation for bunker oil pollution damage (draft bunkers convention); (2) the addition of provisions of financial security for passenger claims to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea; (3) a draft convention on wreck removal; (4) monitoring implementation of the 1996 International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention); and (5) the report of the Joint IMO/International Labor Organization (ILO) ad hoc working group on liability and compensation regarding claims for death, personal injury, and abandonment of seafarers.

Significant actions taken at LEG 81 include the following:

1. IMO Secretary-General William O'Neil was on travel, and his opening address was read by the IMO Director of Legal Affairs. Among his comments the Secretary-General: (a) urged the Committee to complete work on the bunkers convention, especially in the wake of the ERIKA oil spill; (b) stressed the importance of the IMO/ILO working group, stating that he could not think of a more relevant and worthy subject in the legal field; and (c) noted the importance of the implementation of the HNS Convention and the 1996 Protocol to amend the Convention on Limitation of Liability for Maritime Claims (1996 LLMC).
2. The Committee concluded work on the draft bunkers convention and reaffirmed its recommendation for a diplomatic conference to be convened in the 2000-2001 biennium to adopt the convention. The draft bunkers convention would: (a) establish liability and compensation for bunker oil spills from non-tank vessels; (b) provide for the joint and several liability of the shipowner; (c) require the registered owner to obtain insurance; (d) establish the form of the insurance certificate; and (e) provide for direct action.
3. The LEG continued its consideration of a protocol to amend the Athens Convention, which would mandate compulsory financial security and establish a right of direct

action against the insurer in respect of passenger claims for personal injury and death. Substantive issues discussed included: a two-tiered liability scheme, a global cap on compulsory insurance, limits of liability, jurisdiction over claims, and creation of a fund in the case of a calamity. The chair stated that there was a need for further informal discussions intersessionally to narrow the gap between varying positions. There is concern regarding the completion of this protocol because of the wide divergence of views.

4. Concerning the draft convention on wreck removal, the Committee considered the report of the correspondence group. The draft wreck removal convention would articulate coastal state authority to remove a wreck at the owner's expense. A "wreck" may be defined as a sunken or stranded ship, anything lost at sea from a ship, and a ship that is likely to become a wreck. The coastal state would have to find that the wreck constitutes a "hazard." This convention may include reporting requirements, financial responsibility provisions, and contribution from cargo provisions.
5. The LEG considered the report of the IMO/ILO working group on liability and compensation regarding claims for death, personal injury, and abandonment of seafarers. The report states that the working group recognized that the death, personal injury, and abandonment of seafarers posed a problem of both a human and social nature and agreed that further information was required to address a number of subjects, including the low rate of ratification of the relevant international instruments. All delegations that spoke supported the continued work of the working group and encouraged states to promptly complete the survey that the group will distribute in order to help evaluate the extent of the problem and the various national laws which have been enacted to deal with the problem.
6. The Committee considered the report of the correspondence group on monitoring the implementation of the HNS Convention. The report explained the division of responsibility between members of the correspondence group for various aspects of the monitoring process. All delegations that spoke supported the continued work of the group.

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B. International Maritime Organization (IMO), Subcommittee on Ship Design and Equipment (DE)

The 43rd session of the Subcommittee on Ship Design and Equipment (DE 43) was held at IMO Headquarters in London from April 10-14, 2000. Forty-six member nations, 1 associate member, 1 intergovernmental organization, and 19 nongovernmental organizations participated.

The United States was represented by the Coast Guard with assistance from the National Science Foundation and several private sector advisers.

DE 43 agenda items included the following: (1) international approval procedures for life-saving appliances; (2) revision of the High Speed Craft (HSC) Code; (3) casualty analysis; (4) asbestos-related problems on board ships; (5) low-powered radio homing devices for liferafts on ro-ro passenger ships; (6) development of requirements for wing-in-ground (WIG) craft; (7) improved thermal protection; (8) guidelines under Annex VI (prevention of air pollution from ships) of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, as amended, (MARPOL Convention); (9) revision of resolutions MEPC.60(33) and A.586(14); (10) development of guidelines for ships operating in ice-covered waters; (11) amendments to resolution A.744(18); and (12) safety of passenger submersible craft.

Significant actions taken at DE 43 include the following:

1. The revision of the HSC Code was completed at this session, including agreement on draft amendments to chapter X of the 1974 International Convention for the Safety of Life at Sea, as amended, (SOLAS Convention). It will be presented to the 72nd session of the Maritime Safety Committee (MSC 72) for approval with a view to adoption by MSC 73 in time for the next SOLAS revision.
2. The DE completed development of standard test and evaluation report forms for life-saving appliances in order to facilitate exchange of type approval documentation between administrations. The forms, under cover of a draft MSC circular, will be submitted for consideration by MSC 73.
3. The Subcommittee completed development of guidelines for the design, construction, and operation of passenger submersible craft, based on consolidated text from a U.S.-led drafting group. The guidelines will be submitted with a view to approval by MSC 73.
4. Considering the inherent risk of WIG craft, the DE decided that an entirely new risk-based approach to safety should be developed, and agreed to request a 2-year extension in the work program in order to complete the new approach on risk management. The DE agreed to re-establish a correspondence group, coordinated by the Russian Federation, to work intersessionally to develop guidelines, with a view to establishing a working or drafting group at DE 45.
5. With regard to guidelines under MARPOL Annex VI on prevention of air pollution from ships, the Subcommittee finalized development of guidelines on representative samples of the fuel delivered for use on board ships, with a view to approval by the 45th session of the Marine Environment Protection Committee (MEPC 45). Regarding the development of guidelines for on-board NO_x monitoring and recording devices, Germany agreed to continue acting as the focal point by working informally with other members to collect information in support of the development of the draft

guidelines, with a view to submittal of the consolidated document for consideration at DE 44.

6. Concerning the revision of resolutions on specifications for pollution prevention equipment, the DE agreed to establish a correspondence group under the coordination of the United Kingdom to produce a revised text of resolution MEPC.60(33) for consideration at DE 44. When the revision of MEPC.60(33) is completed, the revision A.586(14) would be initiated.
7. With regard to the development of guidelines for ships operating in ice-covered waters, the DE agreed to adopt the U.S. submission as the base document, while also taking into account all other submissions under this agenda item. A working group drafted revised guidelines that contained relatively few changes to the U.S. submission. Due to the complexities of matters within the draft guidelines proposed for referral to relevant IMO bodies, the Subcommittee agreed to refer the working group report for consideration at DE 44.
8. The Subcommittee completed a draft SOLAS amendment for prohibition of new installations of asbestos in all ships, for possible inclusion in SOLAS regulation II-1/3-5. With respect to safety considerations when removing or replacing asbestos on board existing ships, the DE established a correspondence group under the coordination of France to develop, intersessionally, guidelines for dealing with asbestos and with equipment and materials containing asbestos on board ships in service and to submit a report on this matter to DE 44.
9. The Subcommittee completed proposed amendments to resolution A.744(18) addressing further evaluation of longitudinal strength of tankers over 10 years old that exhibit diminution of scantlings by 10%. It was agreed to invite MSC 72 to consider the proposal as an urgent matter, with a view to approval at that session and adoption at MSC 73.

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C. International Maritime Organization (IMO), Maritime Safety Committee (MSC)

The 72nd session of the Maritime Safety Committee (MSC 72) was held at IMO Headquarters in London from May 17-26, 2000. Eighty-five member nations, 1 associate member, 2 United Nations specialized agencies, 6 intergovernmental organizations, and 34 nongovernmental organizations participated. The United States was represented by the Coast Guard with assistance from the Department of State, Department of Defense, National Oceanic and Atmospheric Administration, and several private sector advisers.

MSC 72 agenda items included the following: (1) consideration and adoption of amendments to mandatory instruments; (2) bulk carrier safety; (3) implementation of the revised International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention); (4) training and watchkeeping; (5) flag state implementation; (6) bulk liquids and gases; (7) radiocommunications and search and rescue; (8) safety of navigation; (9) dangerous goods, solid cargoes and containers; (10) fire protection; (11) ship design and equipment; (12) technical assistance subprogram in maritime safety; (13) role of the human element; (14) formal safety assessment (FSA); (15) piracy and armed robbery against ships; and (16) implementation of instruments and related matters.

Among major actions taken at MSC 72 are the following:

1. The MSC unanimously adopted amendments to chapter III of the 1974 International Convention for the Safety of Life at Sea, as amended, (SOLAS Convention) and the appendix to the Annex of the 1988 SOLAS Protocol. The amendment to SOLAS chapter III will require helicopter landing areas only on ro-ro passenger ships in lieu of all passenger ships as originally required. The amendment to the 1988 SOLAS Protocol includes bulk carriers on the certificates issued under the Protocol.
2. The Committee agreed to the Secretary-General's proposal to establish a working group on enhancing the safety of large passenger ships at its next session. The terms of reference for this working group are based on the U.S. proposed two-step approach: (a) conduct an overview of the existing situation to identify areas of concern, and (b) identify future developments to make short- and long-term proposals.
3. The MSC agreed to a timetable to encourage panels of competent persons to complete the evaluation of information submitted before August 1, 1998, in order to allow the Committee to identify at MSC 73 the parties to the STCW Convention that are giving the Convention full effect, i.e., the STCW white list.
4. The Committee approved for circulation and adoption at MSC 73 amendments to SOLAS chapter V regarding the Ice Patrol Service, together with the associated rules for the management, operation, and financing of the North Atlantic Ice Patrol. The MSC also approved a complete revision of SOLAS chapter V concerning safety of navigation, which is to be circulated with a view toward adoption at MSC 73.
5. The MSC approved the report of the 44th session of the Subcommittee on Fire Protection (FP 44) and took the following specific actions: (a) approved a revision of SOLAS chapter II-2 with a view to adoption at MSC 73; (b) approved the International Code for Fire Safety Systems (FSS Code) with a view to adoption at MSC 73; (c) agreed with the U.S. proposal prohibiting the use of perfluorocarbons (PFCs) in new installations of shipboard fire-extinguishing systems; and (d) approved MSC circulars on unified interpretations of the Fire Test Procedures (FTP) Code and on unified interpretations of vague expressions in SOLAS chapter II-2.

6. The MSC approved the report of the 42nd session of the Subcommittee on Ship Design and Equipment (DE 42), considered urgent matters from DE 43, and took the following specific actions: (a) approved the High Speed Craft (HSC) Code; (b) approved amendments to SOLAS regulation II-1/3-4 regarding emergency towing arrangements for tank vessels; (c) approved new SOLAS regulation II-1/3-5 prohibiting new installations of materials containing asbestos on ships; and (d) approved an amendment to resolution A.744(18) that no longer allows an underwater survey in lieu of dry docking for tankers and bulk carriers of 15 years of age and older.
7. The Committee approved the report of the 5th session of the Subcommittee on Dangerous Goods, Solid Cargoes, and Containers (DSC 5) and took the following specific actions: (a) adopted amendment 30 to the International Maritime Dangerous Goods (IMDG) Code; (b) agreed to defer consideration of mandatory application of the IMDG Code until MSC 73; (c) adopted amendments to the Code of Safe Practice for Solid Bulk Cargoes (BC Code); and (d) approved the MSC circular on the transport of calcium hypochlorite.
8. The MSC approved the reports of the 7th and 8th sessions of the Subcommittee on Flag State Implementation (FSI 7 and 8) and took the following specific actions: (a) concurred with the proposal that the United States provide the details and capabilities of the U.S. database for flag state assessment to enable the MSC to decide how to utilize the self-assessment form; (b) approved an MSC circular to eliminate the conflict between the SOLAS Convention and the 1988 SOLAS Protocol concerning service intervals of lifesaving appliances and radio communications equipment; and (c) agreed to consider at MSC 73 the request of the United Nations Commission on Sustainable Development (CSD) for the IMO to develop binding measures to ensure that ships of all flag states meet international rules and standards.
9. The MSC approved the report of the 4th session of the Subcommittee on Radiocommunications and Search and Rescue (COMSAR 4) and took the following specific actions: (a) agreed in principle with the UK proposal that all passenger ships should have on board a plan for cooperation with search and rescue (SAR) services and requested the UK to submit a proposed amendment to SOLAS; (b) requested the COMSAR to develop specific proposals regarding the use of an optional tacit acceptance procedure to facilitate completion of the global SAR plan; (c) authorized the COMSAR to prepare amendments to the SOLAS Convention to make carriage on board ships of volume III of the IAMSAR Manual mandatory; and (d) approved MSC circulars on the NAVTEX Manual, the World-Wide Navigational Warning Service, procedures for a maritime rescue coordination center (MRCC), and medical assistance at sea.
10. The Committee approved the report of the 45th session of the Subcommittee on Safety of Navigation (NAV 45) and took the following specific actions: (a) approved a number of routing measures for ships, including new or amended traffic separation schemes (TSS) off the coasts of Peru, China, and Chile; (b) approved a U.S. proposed

system of recommended tracks for navigation of certain vessels off the coast of California; and (c) approved an area to be avoided in the territorial waters of Cuba and a mandatory ship reporting system associated with the traffic separation scheme off the coast of China.

11. The MSC approved the report of the 31st session of the Subcommittee on Standards of Training and Watchkeeping (STW 31) and took the following specific actions: (a) adopted amendments to part B of the STCW Code in order to consolidate non-mandatory guidance that had been developed since the 1995 STCW amendments came into force, including guidance on physical ability standards for seafarers; and (b) approved the MSC circular concerning guidance on arrangements between parties to allow for the recognition of certificates under STCW regulation I/10.
12. The Committee approved the report of the 4th session of the Subcommittee on Bulk Liquids and Gases (BLG 4) and took the following specific actions: (a) approved amendments to SOLAS regulation II-2/63 regarding cargo pump-rooms, without the amendments proposed by the International Association of Classification Societies (IACS), with a view to adoption at MSC 73; and (b) approved amendments to the Bulk Chemical and Gas Carrier Codes concerning the carriage of carbon disulfide, revision of the Medical First Aid Guide, and cargo hose requirements, with a view to adoption at MSC 73.
13. The MSC took the following actions on bulk carrier safety: (a) instructed the Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) to review the survey report submitted by the UK; (b) agreed to an MSC circular on the safe loading and unloading of bulk carriers; and (c) agreed to await the outcome of the formal safety assessment of bulk carriers before deciding to amend the requirements for bulk carriers.
14. The Committee reviewed the report of joint MSC/Marine Environment Protection Committee (MEPC) working group on the human element and formal safety assessment and took the following actions: (a) approved the amendments to the International Safety Management (ISM) Code and consequential amendments to SOLAS chapter IX for circulation and adoption at MSC 73; (b) agreed that the intersessional correspondence group on fatigue should continue its work under coordination of the United States and report to MSC 74; (c) approved the work plan for future work of the group; (d) instructed the subcommittees to apply the human elements analyzing process to address human elements in their work; (e) invited member governments to supplement the human element database being maintained by the United States; (f) established an intersessional correspondence group on FSA under the coordination of Japan to report at MSC 74; (g) noted the offer of IACS to present at MSC 74 a training package on the basic understanding of FSA methodology; (h) urged member governments to include experts on protection of the marine environment in their delegations to MSC 74; and (i) approved the work plan for future FSA work.

15. The MSC recognized that piracy and armed robbery continue to pose a serious threat to navigational safety and environmental protection. The correspondence group on the preparation of a code of practice/instrument for the investigation and prosecution of the crime of piracy and armed robbery against ships was requested to continue its work intersessionally so that the draft instrument can be adopted at MSC 73. The Committee approved a circular providing guidance to maritime rescue coordination centers for dealing with reports of such acts. The MSC also requested the Secretary-General to bring the seriousness of piracy and armed robbery against ships to the attention of the United Nations.

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