

## 1. INTERNATIONAL ACTIVITIES

### A. International Maritime Organization (IMO), London Convention (LC)

The 22<sup>nd</sup> Consultative Meeting of the 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 September 18-22, 2000. Representatives of 33 LC contracting parties, 1 associate IMO member, 10 states not party to the LC, and a number of United Nations (UN) and non-governmental organizations attended LC 22. The United States was represented by the Department of State with assistance from the Environmental Protection Agency, Army Corps of Engineers, Department of Defense (Navy), and Minerals Management Service.

LC 22 agenda items included: (1) status of the 1972 London Convention (LC) and the 1996 LC Protocol; (2) compliance issues; (3) administrative arrangements for the LC and LC Protocol, including budgets and rules of procedure; (4) consideration of the report of the Scientific Group (SG); (5) interpretation of the term “industrial waste”; (6) matters related to the management of radioactive wastes; (7) technical cooperation and assistance under the LC; (8) monitoring for the purposes of the LC; and (9) relations with other organizations in the field of marine environment protection.

Among significant actions taken at LC 22 are the following:

1. After a presentation on IMO funding and budget issues by IMO Secretary-General William A. O’Neil, who also informed the meeting of the creation of an IMO correspondence group on the recycling of ships, the meeting chairman, Alan Sielen of the United States, noted that, as the entry into force of the Protocol gets closer, it is important to begin addressing many of the practical aspects of implementation to help ensure a smooth transition from the Convention to the Protocol. The chairman emphasized the need for full financial support for the LC, including filling the still vacant second position in the LC secretariat, and a permanent resolution of the funding issue.
2. The LC secretariat reported that 78 governments have ratified or acceded to the LC and that 11 states have ratified the Protocol, 9 of which are also contracting parties to the LC. Australia and France stated that they would likely ratify the Protocol by the end of the year. Belgium and the Netherlands said that they would ratify in 2001, and

was established. The recommendations of the working group, which were approved by the meeting, included: (a) the secretariat should reissue the questionnaire with some editorial changes and a new cover note; (b) the secretariat should follow-up more actively with parties to encourage a higher response rate; and (c) a correspondence group should be established to review and revise the draft guidance prepared by Canada and the Netherlands on national implementation of the Protocol, with a view to adopting that guidance at the 23<sup>rd</sup> consultative meeting (LC 23).

4. The meeting discussed the issue of the IMO's support for the activities of the LC in light of the organizational review currently underway in the IMO and the decision of the IMO Council to continue IMO funding for the LC through the 2000-2001 biennium. The sense of the meeting was that a clear message should be sent to the IMO Council strongly and unanimously requesting continuation of the existing support arrangements and that there is no support for the option of funding LC activities solely from resources provided by the parties. It is also premature to consider any integration of LC activities into the IMO.
5. The meeting reviewed the latest draft of proposed rules of procedure for the LC and the Protocol. In order to make further progress, an ad hoc working group was formed. The meeting adopted the recommendation of the working group to place the rules of procedure on the agenda of the next meeting with a view to adopting amendments to the LC rules and to approving draft rules of procedure for the Protocol, which would be submitted for consideration to the first meeting of contracting parties to the Protocol (upon its entry into force).
6. The meeting considered the package of eight waste-specific guidelines for assessment of each of the waste categories (WAGs), which the SG has been developing since 1997, (i.e., dredged material, sewage sludge, fish waste, vessels, platforms and other man-made structures at sea, inert and inorganic geologic material, organic material of natural origin, and bulky items primarily comprising iron, steel, concrete, etc.). The meeting agreed to adopt the eight waste-specific guidelines as developed and noted that they are internally consistent and that they should be regarded as "living documents" to be updated every 5 years or as needed due to technical developments and/or scientific research. The meeting invited parties to implement the guidelines and to report any experience gained.
7. The meeting considered a paper submitted by the United Kingdom which noted that placement of matter for a purpose other than mere disposal is excluded from the

implementing the waste-specific guidance for the assessment of vessels and in light of the activities of the IMO Marine Environment Protection Committee (MEPC) concerning the recycling of decommissioned vessels.

9. The meeting considered a paper submitted by the United Kingdom that focused on the issue of whether or not uncontaminated inert geological materials and uncontaminated organic materials of natural origin would be outside of the definition of “industrial waste” if they had been subject to a manufacturing or processing operation. No consensus was reached, and it was agreed to keep the issue on the agenda for the next LC meeting.
10. The meeting considered a draft International Atomic Energy Agency (IAEA) report that provided guidance on radiological assessment procedures to determine if materials for disposal at sea are within the scope of the LC. The IAEA report provides the specific assessment required as the last step in the six-step evaluation procedure (adopted by LC 21) of materials being considered for dumping at sea to determine if their radiological characteristics can be declared *de minimus*. An ad hoc working group reviewed the report in detail. The meeting adopted the recommendations of the working group and agreed that parties should submit any further comments directly to the IAEA by November 15, 2000, with a view to adoption of a final IAEA report at the 23<sup>rd</sup> consultative meeting in 2001.
11. The Russian Federation presented an overview of recent developments on the processing of low-level radioactive waste. The Russian delegation stated that it continues to observe a voluntary moratorium on dumping of radioactive wastes at sea pending the completion and commissioning of treatment facilities in Murmansk and in Vladivostok. When these facilities are operational, the Russian Federation will be in a position to withdraw its declaration of non-acceptance of resolution LC.51(16).
12. The secretariat introduced reports on an initial evaluation of the accomplishments of the LC technical assistance program since its inception and an informal financial overview of completed technical cooperation projects. The secretariat noted that the SG had asked the secretariat to assess the possibilities of coordinated technical activities with other organizations such as the secretariat of the Basel Convention. The meeting reaffirmed the importance of technical cooperation, outreach, and cooperating with other organizations, and noted the need to develop a long-term strategy for technical cooperation linked to the basic purposes and objectives of the LC.

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B. International Maritime Organization (IMO), Marine Environment Protection Committee (MEPC)

The 45<sup>th</sup> session of the Marine Environment Protection Committee (MEPC 45) was held at IMO Headquarters in London from October 2-6, 2000. The meeting was attended by 78 member governments, 1 associate member, 1 United Nations (UN) agency, 6 intergovernmental organizations, and 35 non-governmental organizations. The United States was represented by the Coast Guard with assistance from the Environmental Protection Agency, the Department of State, the National Oceanic and Atmospheric Administration, the Department of Defense, and several private sector advisers.

MEPC 45 agenda items included: (1) harmful aquatic organisms in ballast water; (2) implementation of the 1990 International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC Convention) and the OPRC-Hazardous and Noxious Substances (HNS) Protocol and relevant conference resolutions; (3) harmful effects of the use of anti-fouling paints for ships; (4) consideration and adoption of amendments to mandatory instruments; (5) identification and protection of Special Areas and Particularly Sensitive Sea Areas (PSSAs); (6) interpretation and amendments of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, as amended, (MARPOL 73/78 or MARPOL Convention); (7) prevention of air pollution from ships; (8) promotion of implementation and enforcement of MARPOL 73/78 and related codes; (9) matters related to the Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes in Flasks on Board Ships (INF Code); (10) formal safety assessment including environmental indexing of ships; and (11) matters related to the 1973 Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, as amended, (Intervention Protocol).

Among significant actions taken at MEPC 45 are the following:

1. The Committee unanimously adopted amendments to MARPOL Annex V (garbage) regarding the prohibition of the disposal at sea of waste ash from the incineration of plastics containing heavy metals or toxic materials. Also unanimously adopted were amendments to the International Bulk Chemical (IBC) Code and the Bulk Chemical

requirements for double-hull tankers under the U.S. Oil Pollution Act of 1990 (OPA 90) and because an international solution at the IMO was preferable to a regional solution within the European Union. The U.S. proposal to approve the OPA 90 requirements as the alternative to regulation 13G was favorably reviewed but not accepted. The Committee approved a compromise revision of regulation 13G for consideration for adoption at MEPC 46. The United States reserved its position on this revised text.

3. The Committee undertook an article-by-article review of the draft treaty for the control of harmful anti-fouling systems on ships, and agreed to circulate the draft text for consideration at the next session of the MEPC and at a diplomatic conference. The MEPC further agreed that the articles addressing provisions on entry-into-force and amendment of the treaty would remain blank at this point in recognition that further debate and discussion will be necessary on these issues.
4. The working group on ballast water made substantial progress in developing the details of the “two-tier” concept to ballast water management, which was introduced at MEPC 44. Using papers from the United States, Australia, and Brazil as a basis for discussion, the working group drafted text for base level ballast water management actions that would be required of all nonpublic vessels. Consideration was also given to a contracting party’s ability to designate areas where additional ballast water management measures could be required. There are a number of issues related to a ballast water treatment/discharge standard, jurisdiction, and implementation procedures that could not be resolved at this meeting. These issues will be central to discussions at MEPC 46 where the draft legally binding instrument will be further developed. The United States has agreed to submit a consolidated draft text of the instrument for detailed consideration at MEPC 46.
5. The Committee finalized guidelines for designating Special Areas and guidelines for identifying and designating PSSAs. These guidance documents will be considered for approval at MEPC 46; when approved, they will be forwarded to the 21<sup>st</sup> Assembly (A 21) for adoption.
6. At MEPC 44, the Committee approved a revised text incorporating enforcement guidance in the publication titled “MARPOL, How To Do It.” At MEPC 45, the Committee approved two non-substantive technical amendments to the text. The revised text will be forwarded for publishing.

presented to the Committee at MEPC 46 for approval and publication as joint IMO/FAO guidance. In addition, there was agreement, in principle, on holding a third International Oil Spill R&D Forum to be held in France during 2002 with a focus on the technical and operational aspects of responding to spills of heavy oils.

8. The MEPC noted the submission of the IMO secretariat that provides background information on greenhouse gas emissions from ships for the purpose of considering an IMO strategy for greenhouse gas reduction. The Committee agreed to consider this issue at its next session. The submissions by Japan and Korea regarding shipboard incinerator standards were referred to the Subcommittee on Ship Design and Equipment (DE); the draft guidelines regarding sampling of fuel oil were referred back to the DE to consider comments.
9. The Committee noted the completion of the joint IMO/International Atomic Energy Agency (IAEA)/United Nations Environment Program (UNEP) literature review of potential hazards of radioactive material in the environment. In view of the large volume of the document, it was agreed to consider this issue at MEPC 46.
10. The Committee instructed the IMO secretariat to prepare a draft text of amendments to the list of substances annexed to the 1973 Intervention Protocol for consideration at MEPC 46. The Committee also urged members to submit information on their centers of expertise on oil and hazardous and noxious substances for inclusion in an IMO directory. The United States submitted this information earlier this year.

The Committee agreed that MEPC 46 would be held from April 23-27, 2001. Major agenda items will include: adoption of amendments to MARPOL 73/78 regarding double-hull requirements for tankers, ballast water management, anti-fouling systems, recycling of ships, implementation of the OPRC Convention, air pollution matters, identification of PSSAs, and INF Code matters.

For further information, contact Cdr. Scott A. Newsham, Chief, or Lt. David Beck, Environmental Standards Division, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-1354).

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

The 82<sup>nd</sup> session of the Legal Committee (LEG 82) was held at IMO Headquarters in London

Committee; and (5) monitoring implementation of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention).

Among major actions taken at LEG 82 are the following:

1. The IMO Secretary-General made the following comments: (a) noted that the December 1999 oil spill from the *Erika* has generated calls to take immediate action to prevent future spills and to increase the liability of those responsible for such spills; (b) stated that the proposal to amend the 1992 Protocols to the 1969 International Convention on Civil Liability for Oil Pollution Damage (CLC) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND) was prompted by the damage caused by this incident; (c) recognized that the adequate compensation of victims of pollution is an issue of great concern and that the IMO must evaluate the CLC and FUND amendment proposal in an effort to reaffirm the role of the IMO in the compensation of victims; and (d) stated that the HNS Convention and the work on the draft protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea show that the IMO anticipates and does not just react.
2. Nineteen nations have co-sponsored a proposal recommending an increase of the liability limits and compensation amounts to the maximum allowable under the 1992 CLC and FUND Protocols, namely by 6 percent per year compounded annually. Both protocols provide for the use of the tacit acceptance procedure. Most delegations that spoke supported an increase of both the liability limits and compensation amounts by the identical percentage of 50.37 percent, the maximum allowable under a more conservative interpretation of the 1992 Protocols. France and Hong Kong contended that the increases should be on the order of 79 percent. The Committee adopted the resolutions to increase the liability limits and compensation amounts by 50.37 percent.
3. The draft protocol to the Athens Convention would add compulsory insurance provisions, provide for the right of direct action, and establish direct action jurisdictions. At LEG 82, a compromise was reached on a basis of liability, which many delegations favored, although further intersessional work appeared necessary. Other issues addressed concerned the limit of liability, compulsory insurance, and the diplomatic conference. The Committee recommended submission of the draft protocol to a diplomatic conference to be held in the next biennium.

draft WRC would be a primary agenda item after completion of work on the draft Athens Protocol.

5. The LEG took note of the information provided in the submissions regarding the draft Bunkers Convention, but deferred debate on the convention to the diplomatic conference, which will be held from March 19-23, 2001, in lieu of a Legal Committee meeting week.
6. At LEG 80, the Committee agreed that a correspondence group would be formed and would monitor the efforts and achievements of states in implementing the HNS Convention, and, by doing so, would also encourage other states to become party to the convention. At LEG 82, the Committee considered a submission by the United Kingdom containing the report of the correspondence group. The United Kingdom will host an informal meeting on HNS Convention implementation on March 16, 2001, at IMO Headquarters to evaluate the progress made on the implementation of the convention and to address any concerns in that regard. All delegations supported the continued work of the group because such work may accelerate the date of the convention's entry into force.

For further information, contact Capt. Joseph F. Ahern, Chief, 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), Facilitation Committee (FAL)

The 28<sup>th</sup> session of the Committee for the Facilitation of International Maritime Traffic (FAL 28) was held at IMO Headquarters in London from October 30 – November 3, 2000. The session was attended by 56 member governments, 2 associate member governments, 1 United Nations specialized agency, 3 intergovernmental organizations, and 15 non-governmental organizations. The United States was represented by the Coast Guard with assistance from the Customs Service, the Immigration and Naturalization Service, and 1 private sector adviser.

FAL 28 agenda items included: (1) the Convention on Facilitation of International Maritime Traffic (FAL Convention); (2) consideration and adoption of proposed amendments to the Annex to the FAL Convention; (3) electronic data interchange (EDI) messages for the clearance of ships; (4) application of the Committee's guidelines; (5) general review of the FAL Convention; (6) formalities connected with the arrival, stay, and departure of ships; (7) formalities related to

refining the draft amendments to the Annex to the FAL Convention related to stowaways. In the working group, the United States was instrumental in devising language that parallels national legislation, while reducing the number of reservations from other member states. After receiving the report of the working group, the Committee approved the draft amendments. The results are a set of draft amendments that will be eligible for adoption at FAL 29.

2. The SPI working group dealt with matters directed to it by the Maritime Safety Committee (MSC), Marine Environment Protection Committee (MEPC), and FAL Committee and its work program. The SPI working group reported back to the Committee regarding: (a) a recommendation to publish the completed model course for the safe and secure packing of cargo transport units (CTUs); (b) a draft list of revisions required to update the SPI bibliography; (c) a recommendation on how to proceed with the work on the assessment of methods for adequate tug assistance in ports; (d) recommendations, which were to be forwarded to the Subcommittee on Dangerous Goods, Solid Cargoes, and Containers (DSC), to continue development of a manual on loading and unloading of solid bulk cargoes for terminal personnel; and (e) a request for further information from industry and member states before continuing work on the minimum standards for the training and education of port marine personnel. The SPI working group also completed a report to the MSC, MEPC, and FAL on its work regarding: (a) availability of adequate tug assistance and (b) a model course on the safe and secure packing of CTU. A supplemental SPI working group report was drafted on non-urgent matters to be considered at FAL 29.
3. The Committee recommended to the IMO Council that consultative status be granted to the International Christian Maritime Association and the International Federation of Freight Forwarders Association.

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