The 101st session of the IMO’s Legal Committee was held from 28 April to 1 May 2014, under the chairmanship of Mr. Kofi Mbiah (Ghana).

The session was attended by delegations from 88 Member Governments and two Associate Members of IMO; by observers from three United Nations specialized agencies, four intergovernmental organizations, and by 17 non-governmental organizations in consultative status. IADC was not represented.

The following is a summary of issues addressed by the session that may interest to organizations involved in offshore oil gas operations:

**Updates on progress with regard to the ratification and implementation of IMO instruments**

The following updates were provided to the Committee:

- Greece had concluded the process of ratifying the 2005 SUA Protocols and the 2002 Athens Protocol and that the relevant instruments had been deposited with the Secretariat.
- Denmark deposited, on 14 April 2014, of an instrument of ratification of the 2007 Nairobi Wreck Removal Convention, thereby effecting its entry into force on 14 April 2015. Denmark is also working towards the ratification of the SUA 2005 Protocols and the 2010 HNS Convention.
- Sweden informed the Committee that its Government expected to be in a position to ratify the 2005 SUA Protocols in summer 2014. A bill regarding the 2010 HNS Convention would be presented to Parliament later in 2014 or in early 2015. A bill to be presented to Parliament regarding the 2007 Nairobi Wreck Removal Convention was expected to be completed in 2015.
- The Netherlands informed the Committee that with regard to the 2007 Nairobi Wreck Removal Convention, legislation was currently going through Parliament and ratification was expected by the end of 2014. Concerning the 2009 Hong Kong Convention, the Netherlands was in the process of implementing its provisions and ratification would take at least one more year. The 2012 Cape Town Agreement was already in domestic legislation and the relevant instrument of ratification was expected to be deposited with the Secretariat shortly.
- Argentina informed the Committee that the Senate had approved the 2004 Ballast Water Management Convention, which was undergoing the final stages of ratification.
- South Africa informed the Committee that it was awaiting parliamentary approval for both the 2007 Nairobi Wreck Removal Convention and the 2010 HNS Convention.
**Work program**

The Committee reported to Council the following planned outputs for the current biennium potentially affecting offshore oil gas operations:

<table>
<thead>
<tr>
<th>Output</th>
<th>Description</th>
<th>Parent</th>
<th>Coordinating</th>
<th>Associated</th>
<th>Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.0.3.1</td>
<td>Requirements for access to or electronic versions of certificates and documents, including record books required to be carried on ships</td>
<td>FAL</td>
<td>MSC / MEPC / LEG</td>
<td>III</td>
<td>2015</td>
</tr>
</tbody>
</table>

**Liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities**

At its 99th session Committee had decided to analyse further the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil and exploration activities. The aim was to develop guidance to assist States interested in pursuing bilateral or regional arrangements, without, however, revising strategic direction 7.2. That decision had been duly noted by the Council at its 108th session.

The Committee, at its 100th session, expressed general support for increased cooperation between States on the subject, as well as for further work by the Committee. It was suggested that Indonesia should pursue the subject intersessionally and that more States should participate in such work. Member States were invited to send examples of existing bilateral and regional agreements to the Secretariat.

The Secretariat (LEG 101/11) summarized developments relating to liability and compensation issues concerning transboundary pollution damage from offshore oil exploration and exploitation activities following the Committee’s last session. This included a summary list of instruments on liability and compensation for oil pollution damage from offshore activities previously provided with document LEG 98/13. The Secretariat had not received any further examples of bilateral and regional agreements.

The delegation of Indonesia provided the statement, attached to this report. The Committee was informed that Indonesia remained committed to this issue and ready to participate in further work. The delegation requested the Committee to remain seized of the issue.

Various delegations shared the concerns raised by the delegation of Indonesia that transboundary oil pollution damage from offshore exploration and exploitation activities remained a threat to the marine environment and ecosystems, and that the matter needed to be addressed.

**Arrangements for the next session**

In view of the present workload, the Committee agreed that the next session should be held over three meeting days and possibly in conjunction with another meeting.

**Election of Chairman and Vice-Chairman for 2015**

The Sub-Committee unanimously re-elected Mr. Kofi Mbiah (Ghana) as Chairman and Mr. Walter de Sá Leitão (Brazil) as Vice-Chairman, for 2015.

The complete IMO report (37 pages) for the session is available on the IMO portion of the IADC Website.

Please feel free to contact me by phone (+1 713 292 1945) or e-mail (alan.spackman@iadc.org) with any questions you may have regarding this report.
Statement by Indonesia

"Mr. Chairman, Mr. Secretary-General, Excellencies, distinguished delegates, ladies and gentlemen,

My delegation would like to recall that Indonesia, at the ninety-seventh session of the Legal Committee, submitted a proposal for the establishment of the international regime regarding the liability and compensation issues connected with transboundary pollution damage resulting from offshore oil exploration and exploitation activities. However, my delegation also noted that there was no common view and consensus from the members of the Committee to further discuss this issue in this particular direction. At the ninety-ninth session, the Committee agreed to analyse these issues further, with the aim of developing guidance to assist States interested in pursuing bilateral or regional arrangements, without revising Strategic Direction 7.2. It is increasingly clear that there is wide support for the Committee to develop guidance or a model agreement to assist States to enter into bilateral or regional agreements, and that the Committee has special expertise in the area of liability and compensation issues. This agreement was further elaborated during the 100th session, as contained in its report which the Committee agreed, as follows:

Firstly, the keyword in providing guidance was collaboration by States and assistance to those States which are in need of guidance for bilateral and multilateral agreements.

Secondly, Member States were invited to send examples of existing bilateral and regional agreements to the Secretariat.

Thirdly, at the same time, the delegation was encouraged to continue its work intersessionally to facilitate further progress within the Committee.

Nevertheless, despite this decision, my delegation witnessed and regretted that there was no progress resulting from, nor follow up by, the members in providing examples of existing bilateral and regional agreements to the Secretariat. We also observed to our great disappointment that there was no wide support from the international community for sharing the common views with us.

In the same vein, my delegation would like to draw the attention of the Committee that the Montara oil spill, which occurred in Australian and Indonesian waters in August 2009, not only severely damaged the marine environment and ecosystem in the area but also created social and economic problems for the people living in the coastal areas in the southern part of the islands of Nusa Tenggara in Indonesia. It is very unfortunate that until present, after almost five years since the incident occurred, Indonesia's claim for liability and compensation has not yet been properly considered by the responsible party. The case is still pending, albeit going nowhere. Bilateral approaches and measures could not reach a success, and to my delegation, it is due to the absence of legal instruments stipulating the rights and duties of the parties on liability and compensation issues.

Mr. Chairman, distinguished delegates, ladies and gentlemen,

We certainly realize that to develop an international liability and compensation regime for environmental damage resulting from offshore exploration and exploitation activities requires high commitments and support from the international community. Indonesia has shown its commitment by convening two international conferences on this very important issue, attended by relevant stakeholders: States, legal experts and practitioners, academics, as well as national and international oil companies. We were even prepared to work with the Committee to develop guidance on a model agreement to assist States to enter into a bilateral or regional agreement or arrangement in dealing with the issue, as reflected by our submissions last year. Presently, we welcome the increasing support by the international community in addressing liability and compensation issues connected with transboundary pollution damage from offshore exploration and exploitation activities. We note a number of events, such as: (i) Symposium held by Comité Maritime International in cooperation with the Irish Maritime Law Association in Dublin, 29
September to 1 October 2013; (ii) Workshop on the Regional Capacity and Coordination to Major Oil Spill in the Mediterranean Sea in Athens, 10 to 12 December 2013; (iii) International Conference on "Transboundary Pollution: Evolving Issues of International Law and Policy" in Singapore, 27 to 28 February 2014; (iv) ASEAN Regional Forum – Maritime Security Workshop on Marine Environmental Protection in Hawaii, 4 to 5 March 2014; and (v) ASEAN Regional Forum – Seminar on the Regional Cooperation on Offshore Oil Spill in Qingdao, 27 to 28 March 2014. These events have proved and convinced us about the compelling needs for immediate response to this transboundary threat.

Mr. Chairman, distinguished delegates, ladies and gentlemen,

Let me conclude by reiterating that, while realizing the existence of divergent views among the members of the Committee, Indonesia therefore will no longer insist on the establishment of the international regime as time is not yet ripe for such undertaking, but would welcome a compromise during this last session of the Committee which has been mentioned earlier, in particular, the idea to provide guidance for bilateral and multilateral agreements. In this regard, it is timely for the Committee to take further steps necessary for achieving this objective. My delegation would leave it entirely to the Committee how to proceed with the provision of the guidance and stands ready to contribute to this undertaking.

Indonesia is looking forward to having this guidance as an embryonic effort toward a more clarified legal regime governing this issue. In addition, my delegation would like to also appeal to all IMO Member States to provide examples of existing bilateral and regional agreements as referred to at the last session of the Committee. In this regard, my delegation extends its gratitude to the work of the Secretariat in providing information on international and regional instruments, as well as other developments relating to liability and compensation issues connected with pollution damage from offshore activities, as contained in the annex of document LEG 101/11.

Indonesia remains committed to this very important issue and, as such, Indonesia will pursue its endeavours in other fora, especially those bilateral/regional in nature in order to develop further the elements and the legal principles to be incorporated in the bilateral/regional agreements or arrangements. We do believe that such instruments would positively contribute to other States that have similar experiences. It is our sincere hope that our previous submissions to IMO will contribute to the efforts in addressing this issue of common concern. In this regard, the existing consultative group could simultaneously be utilized as a discussion forum.

Last but not least, my delegation requests that the Committee remains seized of this issue. We also request the Secretariat to reflect and include this statement in the report of the 101st session of the Legal Committee.

Thank you."