REPORT OF THE NINTH MEETING OF THE COMPLIANCE GROUP UNDER THE LONDON PROTOCOL

1 INTRODUCTION

1.1 The ninth Meeting of the Compliance Group under the 1996 Protocol to the London Convention, 1972 was convened at IMO Headquarters, London, on 15 and 16 September 2016 and chaired by Dr. Felicia Chinwe Mogo (Nigeria).

1.2 The members of the Compliance Group in attendance were:
- Ms. Suzanne Agius (Canada, Vice-Chair)
- Prof. Akiko Okamatsu (Japan)
- Dr. Felicia Chinwe Mogo (Nigeria, Chair)
- Prof. Young Sok Kim (Republic of Korea, Vice-Chair)
- Ms. Radia Razack (South Africa)
- Mr. Gildardo Alarcon Daowz (Mexico)
- Mr. Felipe Gonzalez (Chile)

1.3 The members unable to attend, with apologies, were:
- Ms. Anja Elisenberg (Norway)
- Ms. Zhao Lei (China)

1.4 Observers from the following Contracting Parties to the London Protocol also attended the meeting:
- CHINA
- JAPAN
- MEXICO
- NIGERIA
- REPUBLIC OF KOREA
- SAUDI ARABIA

1.5 Observers from the following Contracting Parties to the London Convention also attended the meeting:
- ARGENTINA
- UNITED STATES

1.6 The Chair of the B2C Steering Group, Ms. Azara Prempeh (Ghana), also attended the meeting as an observer.

2 ADOPTION OF THE AGENDA

2.1 The group adopted the Provisional Agenda for the session, as presented in document LP-CG 9/1. LC 38/16 Annex 3, page 2
3 ORGANIZATIONAL MATTERS

3.1 The group considered the organizational matters and agreed to arrange the order of work in such a way that those items that were related could be addressed together.

4 REVIEW OF INDIVIDUAL SUBMISSIONS

4.1 The group noted that there were no individual submissions on non-compliance received, and that the meeting would focus mainly on systemic issues of non-compliance.

5 CONSIDERATION OF ANY REPORTS REFERRED UNDER PARAGRAPHS 6.2 AND 6.4 OF THE COMPLIANCE PROCEDURES AND MECHANISMS

5.1 The group noted that CPM paragraph 6.2 referred to the records Contracting Parties should keep under LP article 9.4.1, specifically articles 9.1.2 and 9.1.3, which concern dumping and monitoring reports that Contracting Parties are required to submit annually.

5.2 The group considered national situations that can constitute barriers to compliance whereby multiple agencies have authority to issue permits. Dr. Mogo explained how it coordinates activities of such agencies to ensure proper reporting to IMO, and mentioned that letters were written to such agencies advising them of the need to forward such information to the national focal point, Nigerian Maritime Administration and Safety Agency (NIMASA). Generally, networking with the agencies and producing the dumping report can be daunting as there were both overlapping of roles and conflict of responsibilities of the respective agencies.

5.3 A member of the group explained difficulties that can be experienced in complying with reporting under article 9.4.2 of the London Protocol, in view of the fact that there is no guidance about the meaning of reporting "on a regular basis". In addition, there is no guidance or format for reporting under this article. The member therefore suggests that the Compliance Group explores initiatives to assist parties to comply with article 9.4.2. The group agreed that Prof. Okamatsu can collaborate with Ms. Razack in developing a working template for the Compliance Group to consider and eventually forward to the governing bodies.

5.4 Mr. Alarcon noted that in previous dumping reports, it had included permits issued for placement activities (such as the construction of wharves, and the placement of aquaculture pens, etc.), which include materials that are not listed in Annex 1 of the Protocol. This reporting practice, which went beyond the minimum reporting obligations under the Protocol, generated questions about possible non-compliance.

5.5 In the ensuing discussion, the group agreed to:

.1 continue work intersessionally, under the lead of Prof. Okamatsu and Ms. Razack, to develop a working template for reporting under article 9.4.2, including a comparison of reports submitted under article 9.4.2 to date to determine how the template could be structured;

.2 request the Secretariat to continue the practice of sending letters to non-reporting Parties, and listing non-reporting Parties in meeting reports. In addition, the Compliance Group should continue the practice of meeting with non-reporting Parties
opportunistically to offer support to bring non-reporting parties in compliance. These measures were identified as being effective as non-reporting Parties can share this information internally to create incentives to improve coordination.

3 request the Secretariat to remind Parties that they can list contacts that should be copied whenever information is sent to LP focal points. For example, countries may consider listing contacts in agencies with a role to play in gathering information to meet LP reporting obligations, including reporting contacts for the LP/LC GISIS module; and

4 recommend that GISIS include a check box to indicate whether a permit was issued for a placement rather than a dumping activity, making clear that this is voluntary information that countries are not required to report.

6 IDENTIFICATION AND REVIEW OF FACTORS CONTRIBUTING TO THE DIFFICULTIES EXPERIENCED BY PROTOCOL PARTIES IN FULFILLING THEIR REPORTING OBLIGATIONS UNDER ARTICLES 9.4.1 AND 9.4.2 OF THE PROTOCOL

6.1 In 2016, the group continued its activities to identify and review factors contributing to the difficulties experienced by Protocol Parties in fulfilling their reporting obligations. Dr. Mogo suggested that documents on reporting are organic, implying that they will continue to be reviewed.

6.2 Previous Compliance Group meetings identified the development of a "Frequently Asked Questions" (FAQ) document as a potential measure to address some of the factors contributing to reporting difficulties. Under the lead of the Mr. Gonzalez and the observer from Estonia, the draft FAQ document presented in LC/SG 39/6/2 was distributed and commented on by members of the London Protocol Compliance Group (LP-CG). The results were presented during the Compliance Group meeting in document LP-CG 9/9. The LP-CG further revised this draft (results are presented in LC 38/WP.2, annex 1) beginning by answering the questions presented at the beginning of LP-CG 9/9 as follows:

1 Should the FAQ document address the London Convention beyond explaining its historical role as the precursor to the London Protocol? The LP-CG prioritized a revision of a "FAQ-type" document pursuant to the Compliance Procedures and Mechanisms (CPM) sections 2.2.4 and 2.2.8, which deal with promoting compliance with the Protocol and supporting countries that request assistance to become parties to the Protocol. Given the mandate of the LP-CG in promoting the Protocol and its ratification, it was decided that the FAQ document should not address the London Convention beyond explaining its historical role as the precursor to the London Protocol. Revisions to the draft were started to remove Convention references that went beyond this scope.

2 Does the document address all the obvious questions that a prospective London Protocol Party might want to have answered? The LP-CG reviewed the questions asked in the draft after reviewing the outputs of surveys conducted to examine the barriers to Protocol ratification (see LC 37/3/2 and LC 37/3/3). The barriers identified in those surveys ranged from a lack of domestic political awareness of the London Protocol and the benefits of ratification, to a need for support in developing national implementing legislation, and a belief that regional
agreements already regulated dumping at sea adequately. The draft was revised to ensure that questions addressed these issues at a minimum. As such, information was added to explain the advantages of the London Protocol over regional agreements, and to clearly explain how to seek assistance to ratify and implement the London Protocol.

In addition, the LP-CG wanted to ensure that the FAQ document contained at least a few questions that represent actual queries from countries that come up on a regular basis, rather than a list containing only questions that the LP-CG wants to answer for promotional purposes. The draft was reviewed with this objective in mind, and it was agreed that questions about the costs of implementation, sample permits, and developing implementing legislation are frequently asked. The LP-CG will reach out to countries during the intersessional period to identify other potential questions to include in the document.

.3 Do the LP benefits sufficiently reflect the messages in the new LP Benefits brochure? The draft was revised to refer to the benefits brochure being developed by the Barriers to Compliance Steering Group (see LC 38/8/4).

.4 To what extent should the FAQs rely on links to other guidance, versus repeating or summarizing the information they contain?

The LP-CG decided that the FAQ should not repeat information that is available elsewhere but, rather, should refer to this information through references and links. The intent is for the FAQ text to become part of the LP website, with cross-references to other information on the site wherever appropriate.

6.3 Additional recommendations by the group include:

.1 the group decided to continue to encourage Contracting Parties who had not reported for many years to report their dumping activities in accordance with their reporting obligations, particularly for the 2014 reporting year during which only 31% of Protocol parties had reported;

.2 the group also noted that with regard to the new GISIS reporting module, countries using the new system are encouraged to report technical issues with the module and make suggestions for improvement to the Secretariat;

.3 the group reviewed a document which summarized responses to a circular sent out in 2009. The group agreed that some of the information in the summary was outdated, particularly the column summarizing reporting under article 9.4.1. It was agreed that the information in this column is no longer useful and should be removed from future iterations of this paper; and

.4 the group agreed to continue the work intersessionally, under the lead of Mr. Gonzalez, towards completion of the FAQ document by 2017 for consideration by the governing bodies.

7 EXAMINATION OF REPORTS RECEIVED UNDER ARTICLES 9.4.2 AND 9.4.3 OF THE PROTOCOL
7.1 The group noted that it was not clear what information must be submitted by Contracting Parties to comply with reporting under articles 9.4.2 and 9.4.3 and decided to clarify the intention behind these requirements, and to identify the benefits of reporting. In particular, the group noted that the development of a reporting template and guidance as to the expectations around the requirement to "report on a regular basis" under these articles.

7.2 In addition, the group noted that another factor contributing to the lack of reporting under articles 9.4.2 and 9.4.3 is that when resources are limited, reporting under article 9.4.1 is often prioritized. Additional support for Parties that have not reported under these articles could therefore be beneficial.

7.3 The group reviewed progress by the Barriers to Compliance Steering Group towards the completion of a Guidance for National Implementation of the London Protocol, and agreed to provide comments on the guidance intersessionally by correspondence under the lead of Ms. Agius. The development of this guidance was identified as a key measure to overcome difficulties experienced by parties in developing measures to implement the Protocol.

7.4 The group identified the need to develop a library of sample legislation at its last meeting, and this work is being led by Prof. Kim. During the meeting, the Secretariat provided copies of administrative and legislative measures that have been provided by countries to date. The group noted that only 13 Protocol Parties have supplied this information as required under article 9.4.2. The group agreed to continue work on the library intersessionally, and to make efforts to collect electronic copies of measures submitted under article 9.4.2 for inclusion in the library of sample legislation. The group also noted that the ocean fertilization repository that is available on the Protocol website may serve as a useful model for consideration.

7.5 Additional recommendations by the group include:

.1 Prof. Okamatsu and Ms. Razack will lead efforts to develop a template and clarify reporting requirements under article 9.4.2, and provide recommendations as to meaning of "reporting on a regular basis" under article 9.4, and "effective measures" under article 9.4.3;

.2 the governing bodies are requested to ask parties to provide electronic versions of their administrative and legislative measures to the Secretariat, even if they have already provided paper copies; and

.3 Prof. Kim will continue to lead the development of a library of sample legislation.

8 CONSIDERATION OF COMPLIANCE ISSUES RELATED TO THE "BARRIERS TO COMPLIANCE (B2C)" PROJECT

8.1 A number of tasks were assigned to the B2C Steering Group in the past year following on from the Meeting of the Contracting Parties, the meeting of the Scientific Group and the meeting between the Compliance Group, the CGADR and the B2C Steering Group to streamline roles and functions.
8.2 The B2C Chair provided an update on B2C activities in the intersessional period. The update highlighted a number of documents that have been developed by the B2C Steering Group and submitted to the Meeting of the Contracting Parties:

.1 LC 38/8/4 – Documents on the benefits of ratifying the London Protocol;

.2 LC 38/8/3 – Update on Barriers to Compliance Steering Group activity;

.3 LC 38/8/2 – A guide to further Consideration of the Pilot Countries Concept; and


8.3 The Chair of the B2C Steering Group also informed the meeting about the revision of the "Guidance for National Implementation of the London Protocol" document. She indicated that Canada had kindly contracted a consultant to support the development of the revised "Guidance for National Implementation of the London Protocol" within the group and that the first draft has been circulated within the B2C Steering Group and will be further deliberated upon by the group on the sidelines of the Meeting of Contracting Parties if so directed by the governing bodies. It was agreed that the B2C Steering Group would officially forward a copy of the draft to the Compliance Group for comment.

8.4 The Compliance Group agreed to urge the CGADR, and other related correspondence groups to attend future Compliance Group meetings. It was recalled that the meetings of the Chairs of these groups were organized in order to avoid duplication of work.

8.5 The group agreed to:

.1 continue to hold meetings of the Compliance Group, B2C Steering Group and CGADR (or at least their Chairs), as this has been a useful means of collaborating and avoiding the duplication of work; and

.2 provide comments on the Guidance for National Implementation of the London Protocol during the intersessional period, under the lead of Canada.

9 REVIEW OF PROGRESS OF THE VIABILITY OF MAKING HISTORICAL DOCUMENTS RELATED TO THE DEVELOPMENT OF THE LONDON CONVENTION AND THE LONDON PROTOCOL AVAILABLE ON THE LC/LP WEBSITE

9.1 The Meeting of Contracting Parties had agreed that historical documents leading up to the adoption of the London Protocol should be made available on the website. The Secretariat confirmed that these documents cannot be housed on the IMO/Protocol website due to space restrictions. The Group was in agreement regarding the request for the Secretariat to follow up to see if the Maritime Knowledge Centre (MKC) will upload these documents on behalf of the London Protocol as was the case for the London Convention. The group recalled that although some documents were issued by IMO, many copies were obtained from the United Kingdom national archives and this may require permission from the archives to publish them.

9.2 The group member leading this work noted the difficulties experienced in compiling a complete list of historical documents in electronic format. The group needs to explore
options to convert hard copies of historical documents into electronic versions. The IMO MKC has agreed to help catalogue the documents once electronic copies are obtained, and so the group will consider this as a potential cataloguing option. Further advances on this task would benefit from having a locally based co-lead to chase down documents and hold discussions with MKC staff.

10 COMPLIANCE PROMOTION AND OUTREACH: DEVELOPMENT OF MATERIALS AND INPUTS INTO THE WORK OF OTHER LP BODIES

10.1 The group reviewed the list of tasks identified at previous meetings held between the Compliance Group, B2C Steering Group, and the CGADR, as outlined in LP-CG 9/7.

10.2 In relation to the second and third tasks identified in LP-CG 9/7, the group considered a draft set of slides summarizing reporting requirements under the London Protocol, which was developed by Mr. Alarcon. The draft was based on existing presentations used at previous workshops, modifying the content and adding slides to address important questions including:

.1 Why it is important that Contracting Parties submit the information required by the LP?
.2 What is its utility?
.3 Who can use this information?

10.3 Several members and observers made comments on the appropriateness of including specifications about the periodicity of many of the mandatory reporting requirements, and sought to clarify which reports are mandatory and which are optional. The results of these efforts are presented in LC 38/WP.2, annex 2.

10.4 The Secretariat provided an update concerning the fourth task identified in LP-CG 9/7, about interactive platforms to support and promote compliance. The Secretariat indicated that it cannot provide support to any interactive page with IMO branding. However, a Party could create such a page and the Secretariat could help to administer it. The Secretariat suggested "Trello" as a potential platform for further consideration by the group. Nigeria will continue to lead this work intersessionally.

10.5 With respect to the list of experts suggested in the sixth task, the group agreed that it was not practical to develop a list of experts to support the development of administrative and legislative measures, since queries on this topic will be highly case specific. A sample report or template was seen to be more useful for contracting parties seeking to meet their reporting obligations under article 9.4.2. On the other hand, a list of technical experts could be generated (or updated from the list provided in the appendices of "The London Protocol – What it is and how to implement it") to answer questions related to dumping and permitting reports.

10.6 To complete the ninth task, the group agreed to ask the Secretariat to revise the letters it sends to non-reporting parties to make it clear that the Compliance Group is available to provide support.
10.7 The group discussed recommendations to improve the London Protocol website, as presented in LP-CG 9/7. The recommendations were accepted with minor revisions to clarify the relevant website links, and are presented in LC 38/WP.2, annex 3.

10.8 The group noted the need to continue work to ensure a sustainable rate of participation in the LP-CG. While the decision to extend the majority of members for three years in 2015, and the addition of two new members at the last meeting, has greatly improved the current situation, the group noted that the majority of these members will see their terms expire in 2018, and the rate of new nominations this year has returned to zero. This presents ongoing challenges in terms of future participation and continuity of work within the LP-CG. The group discussed whether to recommend further extending the terms of current members this year, and even though no terms are expiring this year, it was decided that the governing bodies should be asked to consider extending the terms of the two members whose terms will expire in 2017. In the meantime, the group agreed to continue work during the intersessional period, under the lead of Prof. Kim and Ms. Agius, to continue to explore options for improving the participation rate and continuity (i.e. overlap in terms of old and new members) in the LP-CG. It was agreed that any permanent revision to the CPM should be approached with caution, but that a long-term solution to the challenges faced by the group should be found if possible. Intersessional work should consider updating the list of challenges being faced by the group that were presented in document LC 37/3/3, and to further develop the potential list of options to address these challenges also contained in that paper.

10.9 The group also expressed appreciation of Saudi Arabia’s recent efforts to improve regional implementation and compliance of the London Protocol through the establishment of an Environment Ministry who will deliver on the London Protocol.

10.10 The group agreed to:

.1 continue to work towards the completion of a set of slides summarizing LP reporting requirements by 2017, under the lead of Mexico;

.2 Nigeria will continue to lead work concerning interactive platforms to support and promote compliance, including a consideration of “Trello” as a potential interactive platform;

.3 request that the governing bodies instruct the Scientific Groups to update the list of technical experts contained in the appendices of “The London Protocol – What it is and how to implement it” and to instruct the Secretariat to make this list available online;

.4 request the Secretariat to revise the letters it sends to non-reporting parties to make it clear that the Compliance Group is available to provide support.

.5 request the governing bodies to consider extending the terms of the two members whose terms will expire in 2017 (Prof. Akiko Okamatsu (Japan) and Ms. Suzanne Agius (Canada)); and

.6 continue intersessional work related to improving the rate of participation and continuity of membership in the LP-CG.
FUTURE WORK PROGRAMME OF THE COMPLIANCE GROUP UP TO AND INCLUDING ITS TENTH SESSION IN 2017

11.1 The group reviewed its ongoing work programme and agreed that it was necessary to continue to keep the programme under review.

11.2 The group reviewed each item in its future work programme and agreed to make minor changes to a few items in order to clarify the exact nature of the work to be done, to remove duplication among listed tasks, and ensure better alignment with the Compliance Mechanisms and Procedures, and to ensure that work to potentially revise the CPM is reflected in the programme. The group recommended its future work programme to be as follows:

.1 treat individual submissions of possible non-compliance as a priority in the work programme when they arise;

.2 continue working relationships with other relevant LP groups;

.3 continue to review dumping reports referred to the Compliance Group pursuant to paragraph 6.2 of the CPM, including where concerns have been identified by the LP Scientific Group;

.4 consistent with the CPM, assist non-Contracting Parties requesting support in acceding to the Protocol;

.5 assist Contracting Parties to meet compliance obligations, and support interested non-Contracting Parties in strengthening reporting and other requirements that would facilitate their accession to the Protocol;

.6 continue to identify and review the factors contributing to the difficulties experienced by Contracting Parties in fulfilling their reporting obligations under article 9.4.1 of the Protocol; identify and review the factors contributing to the difficulties experienced by Contracting Parties in fulfilling their reporting obligations under article 9.4.2 of the Protocol; identify options to address those factors; and make recommendations for improving the rate of reporting under the Protocol and keep under review the presentation of the information contained in the reports;

.7 examine reports received under all relevant LP articles, use these results in combination with historical documents to clarify the intention behind these requirements, and develop materials to facilitate compliance with these reporting requirements;

.8 ensure historical documents related to the development of the London Protocol are available to Contracting Parties;

.9 review and develop materials and inputs regarding its role in compliance promotion in collaboration with the Secretariat;

.10 facilitate the creation of tools to support the development of implementing legislation for the London Protocol; and
11 develop recommendations to increase participation in the group, including potential revisions to the Compliance Procedures and Mechanisms, for submission to the next Meeting of Contracting Parties, in 2017 as per paragraph 7.31.2 of document LC 37/16.

11.3 At the seventh session of the Compliance Group, held in 2014, it was decided that the group would benefit from a detailed work plan outlining the specific tasks to be completed in support of the items outlined in its future work programme. This detailed work plan will continue to be used and developed intersessionally, and presented to the group for review.

12 ANY OTHER BUSINESS

12.1 Mr. Gonzalez informed the meeting of the harmful algal bloom (HAB) which caused an environmental emergency this year in the Los Lagos region that triggered mass mortality of fish that affected the salmon industry. He stated, further, that the fisheries authority swung into action in handling the disposal of the fish waste in accordance with the international rules and regulations and where they were in doubt they sought the advice of the International Maritime Organization. It is also expedient to note that the monitoring and the follow-up dumping activities was expeditiously carried out according to the established procedures. The group noted that there were no compliance issues associated with the report from Chile, and considered this an excellent example of implementation of the emergency requirements under the London Protocol.

12.2 Prof. Kim shared a success story about overcoming difficulties experienced in the Republic of Korea in ensuring compliance with a domestic ban on the disposal of sewage sludge that has been in place since 2015. The group agreed to share the Republic of Korea’s experiences further at the Meeting of Contracting Parties to the London Protocol and the London Convention.

13 ELECTION OF CHAIR AND VICE-CHAIRS FOR NEXT TERM

13.1 The current Chair, Dr. Felicia Mogo, who has been chairing the group since 2013, voluntarily decided to step down to give other members an opportunity to lead. She expressed her appreciation to the group and the Secretariat for the opportunity to serve. Members thereafter elected Ms. Suzanne Agius (Canada) as the new Chair for the next term (i.e. through to the end of the next Compliance Group meeting), and Prof. Young Sok Kim (Republic of Korea) and Ms. Radia Razack (South Africa) as Vice-Chairs.

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