**Report on MLA Spring 2020 Meeting of the IOCS Committee**

**Chair: Vincent J. Foley**

The International Organizations Conventions and Standards Committee met for a virtual meeting on Wednesday April 29, 2020 from 11:00 a.m. to 12:30 p.m. via Zoom with fifty-one (51) attendees signing-on to participate in the meeting. We had several speakers address the members including Fred Kenney, Director of Legal and External Affairs at the IMO, Lt. Nat Eichler of the U.S. Coast Guard, Douglas Burnett, MARAD Chief Counsel, Phil Buhler on Polar, Arctic, and Antarctic Issues, and Dieter Schwampe of Hamburg Germany on EU Recycling Regulations implementing the Hong Kong Convention on Recycling.

**Report from Fred Kenney of the IMO:**

IMO has been working from home for 5 weeks, and all IMO meetings have been postponed through July. This is significant because every IMO committee is supposed to meet during the first half of year and a number of committees only meet once a year.

While virtual meetings are happening all over the world, the IMO has significant technical challenges to overcome, and restructuring the meeting schedule presents a significant challenge. For example, the Marine Environment Protection Committee (“MEPC”) hosts 1,000 delegates with requirements for simultaneous interpretation and voting capability. IMO is planning on holding remote sessions via written correspondence with a discreet set of issues focused on reconstruction of the IMO meeting schedule and reopening the HQ building, plus some additional issues to do with keeping shipping flowing. No meetings are expected to be scheduled before September 2020.

IMO has developed a priority listing of meetings that should occur when IMO is ready to begin meeting again. Priority is as follows: 1. full meeting of the Council in order to discuss budget, 2. Greenhouse Gas Emissions 3. Maritime Safety Committee (“MSC”) to discuss amendments to SOLAS. The Legal Committee is sixth priority to address abandoned seafarers, fraudulent registries, and a unified test for breaking limitation of liability. Informal coordination of the Committees will continue until the IMO meeting schedule is back on track.

IMO has fielded numerous questions about survey requirements, and extensions of certificate validity. Most member States are extending validity of certificates to the greatest extent permitted by the IMO (usually three months), but most extensions will run out in July. IMO is looking at options for addressing that issue.

Implementation of IMO 2020 low sulfur fuel cap has gone very well. Drop in oil prices has helped with compliance. Low rate of ships requesting fuel oil non-availability reports (FONARS), which indicates high compliance; and there have been very few enforcement incidents.

**Report from Lt. Nathaniel Eichler – U.S. Coast Guard**

U.S. Coast Guard is part of whole government approach to COVID-19, leveraging its Ports and Waterways Safety Authority to manage waterways and direct vessels. For a vessel which indicates some illness sucha s COVID-19, it is well within authority for the Coast Guard to direct and control traffic of the vessel. From an International Convention perspective, the United States is on a hiatus with suspension of work. completed participation in the Suppression of Unlawful Acts at Sea Convention. The U.S. position is that the Convention did not require amendment or interpretative guidance, but the U.S. is open to non-binding interpretations.

**Report from Douglas Burnett, Chief Counsel of MARAD**

MARAD has been hosting bi-weekly conference calls and receiving a lot of input from the industry on relief to get industry through pandemic. There have not been a lot of issues of U.S. flag ships because there has been general agreement among ship operators and unions that crews would stay aboard ships for 5 weeks. That agreement ends this week, so MARAD will be observing crew rotations for any issues with U.S. seafarers.

On April 8th, MARAD signed contracts for up to 5 NSMVs to supply to the five State Maritime Academies (SUNY, Mass., Maine, Texas and California). The first MARAD ships built since the 1960s – Tote was selected as the construction manager and Philadelphia Shipyard will build the ships. An order has been placed for two ships with options for two more. These are fixed price commercial contracts with firm delivery dates.

Boriana Farrar commented that the International Group P&I clubs are uniform in their approach to COVID-19 illness with regard to sick seaman and passenger ships, cover is provided for care for seamen and repatriation. Sick seamen are covered for quarantine, but quarantine of healthy seamen is a gray area – most likely expenses may not be covered. From a legal perspective, the American Club has seen its first lawsuit out of California for a COVID-19 related claim.

Douglas Burnett added that, with regard to COVID-19 issues, on an average commercial vessel, operator concern is what will happen to the ship with respect to quarantine, and whether a vessel with a COVID illness on board will be stopped from trading and isolated for 14 days or more.

Captain Joseph Kramek commented that the issue requires consideration/input from the CDC and from the the USCG. There is extensive guidance for large passenger vessels, but it’s being handled on a case by case basis depending on best practices for cleaning the ship, and leaning towards not taking a ship out of commerce if it’s safe and possible to do this.

**Chris Davis/John Kimball report on activities at the CMI:**

CMI Tokyo meeting for 2020 is postponed and will be rescheduled for last week of September 2021. CMI is working on planning of virtual meetings for Executive Committee. The latest newsletter has been published on the CMI website. CMI has created a new COVID-19 page on its website with updates regarding attachment, arrest, and procedures. The Young CMI essay contest has been postponed.

CMI is developing a handbook with updates on maritime conventions. CMI is planning a meeting for 2022 in Antwerp to commemorate the 125th anniversary of CMI, so working on a history of CMI project in preparation for that meeting.

As for status of Rotterdam Rules, Professor Sturley reported that they may have made a tactical error in talking too much about liability and have more recently focused on e-commerce and maritime safety aspects of the convention. The CMI has submitted papers to committees at the IMO focusing on how ratification of Rotterdam Rules would contribute to maritime safety.

**MLA – YLC Liaison - Chris Hannan status of CMI Project on Database of International Conventions**

MLA’s contribution to the CMI convention decision catalog project. Chris and Imran Shaukat plus 4 volunteers including Ashley Bane, Shawn Bevans, Adam Jaffe, and Rebecca Psowski, divided up conventions that CMI covers and drafted analyses of US court interpretations of these conventions. The majority of US decisions address the Salvage Convention, UNCLOS piracy prosecutions, and CLC (Civil Liability for Oil Pollution Damage). Project is hosted by the National University of Singapore, Centre for Maritime Law, available here: <https://law.nus.edu.sg/cmlcmidatabase>.

**Sub-Committeee on UNCLOS – Report from Alice Colarossi**

UNCLOS – Convention to extend Beyond Borders of National Jurisdiction (“BBNJ”): 1. requirement for environmental impact assessments; 2. establishment of marine protected areas.

The scope of all measures are under negotiation. BBNJ will likely be in form of a framework agreement and needs some implementation questions resolved. It will likely be a long time before BBNJ enters into force, similar to UNCLOS which took 12 years. US might seek to sign the BBNJ treaty, even though US is not a party to UNCLOS.

**Polar, Arctic and Antarctic Issues – Update from Phil Buhler**

Phil reported on substantial developments with Arctic Shipping including a 25% increase in the number of unique ships operating in the Polar Code area, and 41% of those unique ships are fishing vessels.

Canadian and Russian Federations have been adopting domestic regulations applicable to vessels operating in areas covered by the Polar Code. These regulations meet or exceed SOLAS and Polar Code requirements.

Inuit (native) and indigenous populations are having an increasing say and have applied for observer status at the IMO.

Arctic Council is meeting to develp guidelines for Arctic Marine Risk Assessment pursuant to ISO standards. The working group will be more focused on radiation from nuclear power vessels used in Arctic region, and notably less ability to respond to marine and environmental casualties.

Phil reported that the U.S. Coast Guard Polar Security Cutter program is constructing a multi-mission vessel (first since 1976) for a heavy icebreaker that can operate in 6-9 feet of ice. The contract for $745 million to construct the vessel was awarded to shipyard in Pascagoula, MS in 2021 for delivery in 2024.

As for Antarctic Issues, Phil reported on a grounding of a vessel in Antarctica which presented jurisdiction issues. Chile responded to assist with the grounding but demonstrates potential issues with jurisdiction of marine casualties which mainly falls to flag states. Antarctica is unique in that the Polar Code applies and also Antarctic treaty. UNCLOS and laws of high seas govern right up to the coastline.

**Hong Kong Convention – EU Regulations on Recycling – Report from Dieter Schwampe of Hamburg, Germany**

Hong Kong Convention 2009 – 15 ratifications achieved; but other requirements still in progress

EU Ship Recycling Regulation – applies to EU flagged ships and requires vessel owner/operators to maintain and updated an Inventory of Hazardous Materials (“IHM”) for all new ships under EU flag, includes several survey requirements prior to recycling

Also, the Ship Recycling facility for EU flag ships must be included in the EU List – must meet certain standards. For vessels flying third party country flag, i.e. any other ship coming to EU after end of 2020, the vessel owner/operator is required to have on board a completed and updated IHM. The suggestion is that the IHM has number of requirements, so will take some time to complete for each vessel and will have to be certified for compliance by the end of 2020. So, 7 months left to make the world fleet ready to come to Europe.

The committee meeting concluded at 12:40 p.m.