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KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION - 2015

Paper Laid
Paper Laid on the
Table of the Ho
on Wednesday
1st April 2015
by Hon Mwangi
Kamanda Chair
of the DC Transport
Public Works
& Housing

THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING
REPORT ON THE CONSIDERATION OF EIGHT INTERNATIONAL CONVENTIONS AND
PROTOCOLS RELATING TO MARITIME INDUSTRY

CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

APRIL, 2015

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1. The 1988 Protocol To The Load Lines Convention, 1966;
2. The 1978 Protocol To The 1974 Safety of Life At Sea (Solus) Convention (Solus 78 Protocol);
3. The Protocol of 1988 Relating to the International Convention for the Safety Of Life At Sea, 1974;
4. The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
5. Convention on The Limitation of Liability For Maritime Claims 1976 (LLMC 1976) ;
6. The 1996 Protocol to the Convention on Limitation of Liability For Maritime Claims (LLMC), 1976;
7. The Nairobi International Convention on Removal of Wrecks, 2007; and
8. The International Convention on the Control of Harmful Anti-Fouling Systems On Ships, 2001

1.0 PREFACE

Hon. Speaker,

The Committee is established pursuant to the provisions of Standing Order No. 216, with the following terms of reference: -

- a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- c) to study and review all legislation referred to it;
- d) to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister;
- f) to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
- g) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

Hon. Speaker,

The Committee is mandated to consider matters of, transport, roads, public works, construction, maintenance of roads, rails and buildings, air, seaports and housing and oversees the following Government Ministry and State Department, namely: -

- a) Ministry of Transport and Infrastructure;
- b) State Department for Housing
- c) Directorate of Public Works and Urban Development

Hon. Speaker,

The Committee was constituted on May 20th 2013 and its membership is as follows:-

1. The Hon. Maina Kamanda, M.P. – (Chairperson)
2. The Hon. Eng. Mahamud M. Mohamed, M.P. – (Vice Chairperson)
3. The Hon. Eng. Stephen Ngare, M.P.
4. The Hon. Ali Wario, M.P.
5. The Hon. Arch. David Kiaraho, M.P.
6. The Hon. Cecily Mbarire, M.P.
7. The Hon. Capt. Clement Wambugu, M.P.
8. The Hon. Eng. John Kiragu, M.P.
9. The Hon. Gideon Konchella, M.P.
10. The Hon. Barchilei Kipruto, M.P.
11. The Hon. Mark Lomunokol, M.P.
12. The Hon. Grace Kipchoim, M.P.
13. The Hon. Mathias Robi, M.P.
14. The Hon. Joseph Lomwa, M.P.
15. The Hon. Peter Shehe, M.P.
16. The Hon. Stephen Manoti, M.P.
17. The Hon. Emmanuel Wangwe, M.P.
18. The Hon. K.K. Stephen Kinyanjui Mburu, M.P.
19. The Hon. Suleiman Dori, M.P.
20. The Hon. Edick Omondi Anyanga, M.P.
21. The Hon. Simon Nyaundi Ogari, M.P.
22. The Hon. Johnson Manya Naicca, M.P.
23. The Hon. Mishi Juma, M.P.
24. The Hon. Aduma Owuor, M.P.
25. The Hon. Chachu Ganya, M.P.
26. The Hon. Omar Mwinyi, M.P.
27. The Hon. Ahmed Abbas Ibrahim, M.P.

28.The Hon. Omulele Christopher, M.P.

29.The Hon. Mukwe James Lusweti, M.P.

Hon. Speaker,

On Thursday 12th March, 2015, the Majority Leader tabled the following conventions in the House:-

- i. The 1988 Protocol To The Load Lines Convention, 1966;
- ii. The 1978 Protocol To The 1974 Safety Of Life At Sea (Solas) Convention (Solas 78 Protocol);
- iii. The Protocol Of 1988 relating to the International Convention For The Safety Of Life At Sea, 1974;
- iv. The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- v. The Convention on the Limitation of Liability For Maritime Claims 1976 (LLMC 1976) ;
- vi. The 1996 Protocol to the Convention On Limitation Of Liability For Maritime Claims (LLMC), 1976;
- vii. The Nairobi International Convention on Removal Of Wrecks, 2007;
- viii. The International Convention on the Control Of Harmful Anti-Fouling Systems On Ships, 2001.

Subsequently the conventions were committed to the Committee on Transport, Public Works and Housing for consideration.

Pursuant to Section 8 of the Treaty Making and Ratification Act, No. 45 of 2012 which provides for consideration of treaties by Parliament, the committee considered the Conventions forthwith.

Committee Meetings

The Committee held two Sittings during which the representatives of the Ministry of Transport and Infrastructure appeared before the Committee and the considerations of the Conventions were conducted in accordance with the Treaty Making and Ratification Act, No. 45 of 2012.

Submission of Memoranda

The Committee invited interested members of the public by placing an advert on the dailies on Wednesday 18th March, 2015 to submit any representations they had on the Convention. The Committee received one written submission from Seaport Operations.

Hon. Speaker,

In considering the Conventions, the Committee was guided by the following provisions of the Treaty Making and Ratification Act, No. 45 of 2012:-

- (1) Where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of the National Assembly.
- (2) A treaty approved for ratification by the Cabinet under section 7 of the Act shall, depending on its subject matter, be considered by both or the relevant House of Parliament paying due regard to Part 1 and Part 2 of Chapter Eight of the Constitution.
- (3) The relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures.
- (4) Parliament may approve the ratification of a treaty with or without reservations to specific provisions of the treaty.
- (5) A proposed reservation shall be introduced as a provision into the treaty in accordance with the procedure set out in the Standing Orders.
- (6) Where one House approves the ratification of a treaty and the other House refuses to approve the ratification of a treaty, the treaty shall be referred to the mediation committee in accordance with Article 112 of the Constitution.
- (7) Where the both Houses refuse to approve the ratification of a treaty, the Speakers of the two Houses shall submit their decision to the relevant Cabinet Secretary within fourteen days of the decision.
- (8) Nothing in this Act precludes the resubmission of a treaty to National Assembly and where applicable the Senate, where approval for the ratification of the treaty had been refused.
- (9) Parliament shall not approve the ratification of a treaty or part of it if its provisions are contrary to the Constitution, nor shall the House approve a reservation to a treaty or part of it if that reservation negates any of the provisions of the Constitution even if the reservation is permitted under the relevant treaty.
- (10) Approval for ratification
 - (1) Where the ratification of a treaty referred to in section 7 of the Act is approved by Parliament without any reservations to the treaty, the

relevant Cabinet Secretary shall, within thirty days from the date of the approval of the ratification of treaty request the Cabinet Secretary to prepare the instrument of ratification of the treaty.

(2) Where a treaty referred to in section 7 is approved for ratification with reservations to some provisions of the treaty, the treaty shall be ratified with those reservations to the corresponding article in the treaty.

(3) Where Parliament refuses to approve the ratification of the treaty referred to in section 7, the Government shall not ratify the treaty.”

Hon. Speaker,

The Committee observed that:-

- i. The country will benefit from the International Maritime Organization's Technical Cooperation Programme and other development partners who assist developing countries to develop capacity for implementation and enforcement purposes.
- ii. The ratification and implementation of the Protocols and Conventions will enhance Kenya Maritime Authority's powers to conduct Port State Control functions and render the coastline safe.
- iii. There will be a favorable increase in Kenya's tonnage and further increase revenue to the Government in terms of the annual fees so earned.
- iv. The country will be in line with the globally accepted liability limits that are agreed and prescribed and therefore putting claimants in our jurisdiction at an advantage in any action against a ship owner for loss or damage occasioned by a ship.
- v. Kenyans who serve in the ships as seafarers would be highly compensated in case of personal injury or loss of life.
- vi. The ratification and implementation of the Protocols and Conventions would lead to better maritime safety, reduction in the costs and risks to maritime transport, and better protection of the global maritime environment
- vii. It also proposes guidelines that will enable Member States to enforce regulations on locating and marking wrecks, as well as determining the liabilities of responsible parties in removing the hazardous wrecks and materials.

- viii. National Assembly approves the 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976; subject to reservation of the right to exclude claims for damage within the meaning of the Hazardous and Noxious Substances (HNS) convention to Avoid two systems of liability arising from the consolidated LLMC and the HNS convention;

Hon. Speaker,

The Committee therefore recommends that:-

Pursuant to Section 8 of the Treaty Making and Ratification Act No. 45 of 2012, the House Approves the ratification of:-

- a. The 1988 Protocol To The Load Lines Convention, 1966;
- b. The 1978 Protocol To The 1974 Safety Of Life At Sea (Solas) Convention (Solas 78 Protocol);
- c. The Protocol of 1988 Relating to the International Convention for the Safety Of Life At Sea, 1974;
- d. The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- e. Convention On The Limitation Of Liability For Maritime Claims 1976 (LLMC 1976) ;
- f. The 1996 Protocol to the Convention On Limitation Of Liability For Maritime Claims (LLMC), 1976; *subject to reservation of the right to exclude claims for damage within the meaning of the HNS convention to Avoid two systems of liability arising from the consolidated LLMC and the HNS convention;*
- g. The Nairobi International Convention on Removal of Wrecks, 2007; and
- h. The International Convention on the Control of Harmful Anti-Fouling Systems On Ships, 2001

Hon. Speaker,

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Acknowledgement

1. The Committee is grateful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings.
2. On behalf of the Committee, and pursuant to Standing Order 199(6), it is now my pleasant duty to table the Report of the Departmental Committee on Transport, Public Works and Housing on the consideration of International Conventions and Protocols, for debate and adoption.

Signed..........Date.....31/3/015.....

Hon. Maina Kamanda, EGH, MP,
Chairperson of the Departmental Committee on Transport, Public Works and Housing

THE NATIONAL ASSEMBLY

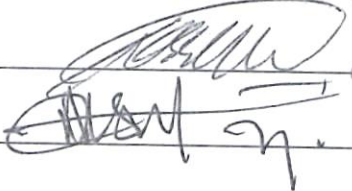

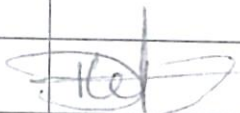
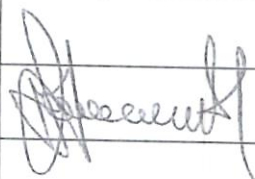



ELEVENTH PARLIAMENT – 3RD SESSION

DEPARTMENTAL COMMITTEE – L: TRANSPORT, PUBLIC WORKS AND HOUSING

Attendance for the Adoption of the report on Conventions and Protocols – Tuesday 31st March, 2015 9:30 am

NO.	MEMBER	SIGNATURE
1.	Hon. Maina Kamanda (Chairperson), MP	
2.	Hon. (Eng.) Mohamed M. Mahamud (Vice Chairperson), MP	
3.	Hon. KK Stephen Kinyanjui Mburu, MP	
4.	Hon. Christopher Omulele, MP	
5.	Hon. (Eng.) Stephen Ngare, MP	
6.	Hon. Johnson M. Naicca, MP	
7.	Hon. (Eng.) John Kiragu, MP	
8.	Hon. Stephen K. Manoti, MP	
9.	Hon. Joseph Lomwa, MP	
10.	Hon. (Capt.) Clement M. Wambugu, MP	
11.	Hon. Emmanuel Wangwe, MP	
12.	Hon. Grace J. Kipchoim, MP	
13.	Hon. Cecily M. Mbarire, MP	
14.	Hon. Mishi Juma Khamis, MP	

15.	Hon. Peter Shehe, MP	
16.	Hon. Omar Mwinyi, MP	
17.	Hon. Suleiman Dori, MP	
18.	Hon. Edick O. Anyanga, MP	
19.	Hon. Aduma Owuor, MP	
20.	Hon. Gideon Konchella, MP	
21.	Hon. Abass Ahmed Ibrahim, MP	
22.	Hon. Ali Wario, MP	
23.	Hon. David Kiaraho, MP	
24.	Hon. Barchilei Kipruto, MP	
25.	Hon. Simon Nyaundi Ogari, MP	
26.	Hon. Chachu Ganya , MP	
27.	Hon. Mathias N. Robi , MP	
28.	Hon. Mukwe James Lusweti, MP	
29.	Hon. Mark Lomunokol, MP	

Mr. Samuel Kalama – First Clerk Assistant

For: CLERK OF THE NATIONAL ASSEMBLY

2.0 CONSIDERATION OF CONVENTIONS

2.1 CONSIDERATION OF THE 1988 PROTOCOL TO THE LOAD LINES CONVENTION, 1966

Background information on the convention

Kenya became a contracting party to the 1966 Load Lines Convention (the Load Lines Convention) on 12th September, 1975, which convention was adopted by the International Maritime Organization (IMO) in London in 1966 through a Diplomatic Conference and entered into force in 1968.

Kenya is yet to ratify the 1988 Protocol amending the Load Lines Convention (the Protocol). At adoption of the Protocol, only 9 member states signed subject to accession/ratification. The Protocol was adopted in 1988 entering into force in 2000 and it has 98 contracting states.

It has long been recognized that limitations on the draught to which a ship may be loaded make a significant contribution to her safety. These limits are given in the form of free boards, which constitute, besides external weather tight and watertight integrity, the main objective of the Load Lines Convention.

The Load Lines Convention sets out rules for calculation and assignment of freeboard and takes into account the potential hazards present in different zones and different seasons. The purpose of the convention's safety measures is to ensure the watertight integrity of ship's hulls below the free board deck.

The Protocol was primarily adopted in order to harmonize the Load Lines Convention's survey and certification requirements with those contained in the Safety of Life at Sea (SOLAS 74/78) Convention and the Marine Pollution Convention of 73/78 (MARPOL).

All three instruments require the issuing of certificates to show that requirements have been met and this has to be done by means of a survey which can involve the ship being out of service for several years. The harmonized system alleviates the problems caused by survey dates and intervals between surveys which do not coincide, so that a ship should no longer have to go to port or repair yard for a survey required by one convention shortly after doing the same thing in connection with another instrument.

The Protocol revised certain regulations in the technical Annexes to the Load Lines Convention and introduced the tacit amendment procedure which was already applicable to the 1974 SOLAS Convention.

The Protocol introduced the tacit agreement procedure and therefore reservations are not applicable in ratifying the protocol.

The Protocol is provided for in the Merchant Shipping Act, 2009.

Prior to enactment, the public was sensitized on the need for ratification as well as the benefits of the protocol which, amongst others, include ensuring ships and crew safety, protection of the marine environment from pollution by ships resulting from unseaworthiness etc. and also reduces the cost involved in surveys which are now harmonized. The public supported ratification of the Protocol.

Objectives

- i. The main purpose of both the Load Lines Convention and the Protocol is to establish uniform principles and rules with respect to the limits to which ships on international voyages may be loaded having regard to the need for safeguarding life and property at sea.
- ii. The 1988 Load Lines Protocol harmonizes the Conventions survey and certification requirement with those contained in SOLAS 74/78 and MARPOL 73/78. Hence facilitating implementation of the three instruments by contracting parties.

The harmonized system resolves the problems caused by survey dates and intervals between surveys which do not coincide. A ship therefore does not have to go to a port or repair yard for a survey as required by one convention shortly after going through the same process in connection with another instrument.

The Committee deliberated on the Convention and the detailed analysis is provided below:

Article	Highlight	Comments
Article 1	General obligations	Each party to the Convention shall undertake all measures to give full and complete effect to the provisions of the Convention..
Article 2	Definition	Definition section. It defines the technical terminologies used in the Convention
Article 3	General provisions	Provides that ships on an international voyage must be surveyed, marked and provided with an International Load line Certificate(1966) or an International Load line Exemption Certificate

Article 4	Application	<p>The Convention applies to;</p> <ol style="list-style-type: none"> 1) Ships registered of contracting governments; 2) Ships registered to territories in which the Convention is extended; 3) Unregistered ships of contracting Government's; 4) Ships engaged on international voyages and 5) Existing and new ships
Article 5	Exceptions	<p>The Convention does not apply to;</p> <ol style="list-style-type: none"> 1) Warships 2) New ships of less than 24 meters in length 3) Existing ships of less than 150 tons gross 4) Pleasure yachts not engaged in trade 5) Fishing vessels
Article 6	Exemptions	<ol style="list-style-type: none"> 1) Ships engaged in international voyages between the near neighboring ports of two or more States 2) A ship not normally engaged on international voyages but is required to make a single international voyage.
Article 7	Force majeure	<p>This Convention does not apply to a ship on account of any deviation from it's intended voyage due to stress of weather or any other cause.</p>
Article 8	Equivalents	<p>The Administration may allow any fitting, material, appliance or apparatus to be fitted other than that required by the Convention if satisfied by trial that the fitting is at least as effective as that required by the Convention. It shall then be communicated to the organization by circulation to the contracting Governments particulars together with a report of any trials made.</p>
Article 9	Approvals for experimental purposes	<p>An Administration may make specific approvals for experimental purposes and such approval shall be communicated to the Organization for circulation to the contracting Governments.</p>

Article 10	Repairs, alterations and modifications	Provides that repairs, alterations and modifications of a major character should meet the requirements for a new ship in so far as the Administration deems reasonable and practicable.
Article 11	Zones and areas	Ships shall comply with the requirements applicable to that ship in the zones and areas.
Article 12	Submersion	<p>The appropriate load lines on the sides of the ship corresponding to the season of the year and the zone or area in which the ship may be shall not be submerged at any time when the ship puts to sea, during the voyage or on arrival.</p> <p>Ships in fresh water may be submerged by the amount of her fresh water allowance shown on the Certificate.</p>
Article 13	Survey, inspection and marking	Officers of the Administration carry out the surveys, inspections and markings of ships and the granting of exemptions; however they may entrust either to surveyors nominated or to organizations recognized by it.
Article 14	Initial and periodical surveys and inspections	<p>An initial survey shall be before the ship is put in service.</p> <p>An annual inspection shall be 3 months before and after each annual anniversary date (date of issuance of the Certificate) of the Certificate.</p> <p>A renewal survey shall be at intervals specified by the Administration but not exceeding 5 years.</p> <p>Periodic surveys and inspections include the protection of openings, guard rails, freeing ports and means of access to crew's quarters.</p>
Article 15	Maintenance of conditions after survey	No changes shall be made without the approval of the Administration after any survey has been completed.
Article 16	Issue of Certificates	An International Load Line Certificate or an International Load Line Exemption Certificate will be issued by the Administration or by any person or organization duly authorized by it after a ship has been surveyed and marked.

Article 17	Issue of Certificate by another Government	A contracting Government may, at the request of another contracting Government cause the ship to be surveyed and if satisfied issue or authorize the issue of an International Load Line Certificate. A certificate so issued must contain a statement to the effect that it has been issued at the request of the Government of the State whose flag the ship is or will be flying. No International Load Line Certificate shall be issued to a ship which is flying the flag of a State the Government of which is not a Contracting Government.
Article 18	Form Certificates of	The Certificates shall be drawn up in the official language or languages of the issuing countries and if it's neither English nor French, the text shall include a translation into one of the languages.
Article 19	Duration Certificates of	The International Load Line Certificate and the International Load Line Exemption Certificate is valid for five years from the date of issue. The Certificate may be cancelled by the Administration if: <ol style="list-style-type: none"> 1) Any material alterations have taken place that would necessitate the assignment of an increased the freeboard 2) The fittings and appliances are not maintained in an effective condition 3) The Certificate is not endorsed to show the ship has been inspected 4) The structural strength of the ship is lowered to such an extent that the ship is unsafe
Article 20	Acceptance Certificates of	The Certificate issued by a contracting Government shall be accepted by other contracting Governments and has the same force as issued to them.
Article 21	Control	Ships are subject to control when in ports of other contracting Governments and such control is limited to the purpose of determining: <ol style="list-style-type: none"> 1) There is a valid Certificate on board 2) The ship is not over-loaded 3) The position of the load line corresponds with the Certificate

		4) The ship is fit to proceed to sea without any danger to human life
Article 22	Privileges	The privileges of this Convention shall not be claimed by any ship unless it holds a valid International Load Line Certificate.
Article 23	Casualties	Each Administration shall conduct an investigation of any casualty occurring to ships flying its flag and to supply the Organization with pertinent information concerning the findings of such investigations.
Article 24	Prior Treaties and Conventions	All treaties, conventions and arrangements relating to load line matters in force between Government Parties shall continue to have full and complete effect as regards to ships to which the present Convention does not apply and ships which the present Convention applies in respect of matters which it has not expressly provided. If there is conflict with the provisions of this Convention, the provisions of this Convention shall prevail.
Article 25	Special rules drawn by agreement	Special rules may be drawn by agreement among all or some of the contracting Governments and such rules shall be communicated to the Organization for circulation to all contracting Governments.
Article 26	Communication of information	Contracting Governments shall communicate to and deposit with the organization a sufficient number of specimens of their certificates issued, the text of laws, decrees, orders or regulations promulgated on the various matters and a list of non-governmental agencies which are authorized to act on their behalf.
Article 27	Signature, acceptance and accession	Provides that the Convention is open for signature for three months from 5 th April 1966 and shall thereafter remain open for accession States may become Parties to the Convention by; ❖ signature not subject to ratification, acceptance or approval; ❖ signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval ;or ❖ accession.

Article 28	Coming into force	<p>Provides for the entry into force of the convention twelve months after the date on which not less than fifteen states have either signed it without reservation as to ratification, acceptance or approval.</p> <p>Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of the Convention shall take effect three months after the date of deposit</p>
Article 29	Amendments	The Convention may be amended upon the proposal of a contracting Government by either unanimous acceptance or after consideration in the organization
Article 30	Denunciation	<p>Provides that any Party may denounce the Convention after the expiry of five years from the date the Convention enters into force for that party.</p> <p>Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.</p>
Article 31	Suspension	In case of hostilities or other extraordinary circumstances, the Government may suspend the operation of the whole or any part of the Convention and it shall immediately give notice of such suspension to the Organization
Article 32	Territories	The UN in cases where they are the administering authority for a territory shall as soon as possible consult with such territory and any at any time by notification to the Organization declare that the present Convention shall extend to that territory.
Article 33	Registration	As soon as the Convention enters into force, the Secretary General is to transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the UN.
Article 34	Languages	Provides for the establishment of the Convention in a single original in the English and French languages each text being equally authentic.

Committee Observations

The Committee observed the following:-

That

- i. The ratification and implementation, the Protocol will enhance Kenya Maritime Authority's powers to conduct Port State Control functions and render the coastline free from unseaworthy ships among others.
- ii. Enhanced safety of life, property and protection of the marine environment in connection with ships on international voyages calling at Kenyan Ports will be achieved.
- iii. The country's opportunity to earn revenue from future ship surveys and certification as well as develop related capacity will be ensured.
- iv. The country will benefit from the IMO's Technical Co-operation Programme and other development partners who assist developing countries to develop capacity for implementation and enforcement purposes.
- v. There are no financial or budgetary implications in ratifying the Protocol. However, implementation of the same will require building of capacity and development and or review of policy or legislation. The required funds should be budgeted for by the Ministry of Transport and Infrastructure, Kenya Maritime Authority and other agencies.

2.2 CONSIDERATION OF THE 1978 PROTOCOL TO THE 1974 SAFETY OF LIFE AT SEA (SOLAS) CONVENTION (SOLAS 78 PROTOCOL)

Background information to the convention

The Safety of Life at Sea (SOLAS) Convention is generally regarded as the most important of all international treaties concerning the safety of life and property at sea.

The origin of SOLAS goes back to 1914 in response to the Titanic disaster, following which various amendments were considered until 1974 when a complete new Convention was adopted by International Maritime Organization (IMO).

Kenya is a Contracting Party to the 1974 SOLAS, effective 21st October, 1999. However, it is yet to ratify the Convention's Protocol of 1978 (the 1978 Protocol). The 1978 Protocol entered into force in 1981 and has 119 contracting

states to-date. 11 member states excluding Kenya signed the Protocol during adoption.

The 1974 Convention has been updated and amended on numerous occasions to cater for various safety issues in the rapidly evolving technology based shipping industry.

The 1978 Protocol was adopted at the International Conference on Tanker Safety and Pollution Prevention which was convened in response to a spate of tanker accidents during 1976 to 1977.

The Conference adopted measures affecting tanker design and operation.

The 1978 Protocol introduced the tacit agreement procedure and therefore reservations are not applicable in ratifying the protocol.

The 1978 Protocol is provided for in the Merchant Shipping Act, 2009. Prior to enactment, the public was sensitized on the need for ratification as well as the benefits of the protocol which, amongst others, include ensuring ships and crew safety, protection of the marine environment from pollution by ships which may result from unseaworthiness of ships. It will strengthen Kenya's port state control inspection measures to ensure unseaworthy vessels do not call at our ports. The surveys and inspections enhance revenue generation for the country. The public stakeholders supported ratification of the Protocol.

Objectives of the Convention

The 1978 Protocol made important changes to Chapter 1 of SOLAS 74 by introducing unscheduled inspections and/or mandatory annual surveys thus strengthening of port state control requirements.

This ensures seaworthiness requirements particularly when port state control inspection such as those undertaken by Kenya Maritime Authority (KMA) is enforced.

The importance of this Protocol to the country cannot be underestimated as it is estimated that about fifty ships of various types are in the major shipping lanes off the coast of Kenya at any given time. Of these, approximately nine are oil tankers whose risks to the marine environment in case of oil spill are enormous. Hence the need to ratify the 1978 Protocol.

Under the 1978 Protocol, new crude oil carriers and product carriers of 20,000 deadweight (dwt) and above are required to be fitted with an inert gas system that is required when crude oil washing is undertaken to avoid explosion due to chemical reactions.

All ships of 10,000 gross tonnage and above are to be fitted with two radars, two remote steering gear control systems with the main steering gear of new tankers having two or more identical power units. This ensures safe operation of the tankers, hence prevention of marine pollution from ships.

The Committee deliberated on the Convention and the detailed analysis is as provided below:

Article	Highlights	Comments
Article 1	General obligations under the Convention	Provides that the contracting Governments shall undertake to give effect to the provisions of the Convention
Article 2	Application	The Convention shall apply to ships entitled to fly the flags of States the Governments of which are contracting Governments.
Article 3	Laws, Regulations	Contracting Governments are to communicate and deposit with the Secretary General of the Intergovernmental Maritime Consultative Organization (the Organization): <ul style="list-style-type: none"> ❖ a list of non-governmental agencies authorized to act on their behalf for circulation to the contracting Governments for the information of their officers, ❖ laws ,decrees, orders and regulations promulgated on various matters within the scope of the Convention and ❖ a sufficient number of specimens of their certificates issued.
Article 4	Cases of force majeure	A ship which is not subject to the provisions of the convention at the time of departure on any voyage, shall not become subject to the provisions of the present convention on account of any deviation from it's intended voyage due to stress of weather or any other case

Article 5	Carriage of persons in emergencies	<p>For the purpose of evacuating persons in order to avoid a threat to the security of their lives, a contracting government may permit the carriage of a larger number of persons in its ships than is otherwise permissible under the present Convention.</p> <p>Notice of any such permissions together with a statement of the circumstances shall be sent to the Secretary general of the Organization by the contracting Governments granting such permissions</p>
Article 6	Prior treaties and Conventions	<p>All other treaties, Conventions and arrangements relating to safety of life at sea shall continue to have full and complete effect as regards to ships which the present Convention does not apply and ship which the present Convention applies, in respect of matters for which it has not expressly provided.</p> <p>If there is a conflict, the provisions of the present Convention shall prevail.</p>
Article 7	Special rules drawn by agreement	<p>When special rules are drawn by the agreement between all or some of the contracting Governments, such rules shall be communicated to the Secretary General of the Organization for circulation to all contracting Governments</p>
Article 8	Amendments	<p>Provides for the procedures for amendment of the Convention;</p> <p>Amendment after consideration within the Organization</p> <ul style="list-style-type: none"> ❖ Any Party may propose an amendment to the Convention which shall be submitted to the Secretary General who shall then circulate to the Parties at least six months prior to its consideration. ❖ The amendment shall then be referred to the Committee for consideration and Parties whether members or not shall be entitled to participate in the proceedings. ❖ Amendments shall then be adopted by a two-thirds majority of the Parties present and voting in the committee, on condition that at least one third of the Parties shall be present at the time of voting. ❖ The amendments shall then be communicated

		<p>by the Secretary-General to the Parties for acceptance and it shall be deemed to have been accepted on the date when two-thirds of the Parties have notified the Secretary-General of the acceptance or twelve months after the date of adoption or such other date as may be determined by the Committee. However if by that date more than one-third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.</p>
		<p>An amendment shall enter into force</p> <ul style="list-style-type: none"> ❖ For those parties which have declared that they have accepted six months after the date in which it is deemed to have been accepted <p>A Party that has notified an objection may subsequently notify the Secretary General of its acceptance and such an amendment shall enter into force six months after the date of notification of acceptance or the date on which the amendment enters into force.</p> <p>Amendment by a conference Upon the request of a Party concurred by at least one-third of the Parties, the Organization can convene a conference of the Parties to consider amendments and if adopted by two-thirds majority of the Parties present, it be communicated by the Secretary-General to all parties for acceptance.</p> <p>The Secretary-General shall inform the Parties and members of the organization of any amendment that enters into force and the date of entry.</p>
Article 9	Signature, ratification, acceptance, approval and accession	<p>Provides that the Convention is open for signature by any state at the Headquarters of the Organization from 1st November 1974 to 1st July 1975 and shall thereafter remain open for accession by any state.</p> <p>States may become Parties to the Convention by;</p>

		<ul style="list-style-type: none"> ❖ signature not subject to ratification, acceptance or approval; ❖ signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval ;or ❖ accession.
Article 10	Entry into force	<p>Provides for the entry into force of the convention twelve months after the date on which not less than twenty-five states have either signed it without reservation as to ratification, acceptance or approval.</p> <p>Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of the Convention shall take effect three months after the date of deposit.</p>
Article 11	Denunciation	<p>Provides that any Party may denounce the Convention after the expiry of five years from the date the Convention enters into force for that party.</p> <p>Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.</p>
Article 12	Deposit and registration	<p>Provides that the Secretary-General shall transmit certified copies of the Convention to all state Parties which have signed the Convention including informing all states each new signature or deposit of an instrument of ratification together with the date, the date of entry into force of the Convention and the deposit of any instrument of denunciation together with the date.</p> <p>Further, as soon as the Convention enters into force, the Secretary General is to transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the UN.</p>
Article 13	Languages	<p>Provides for the establishment of the Convention in a single original in the, Chinese, English, French, Russian and Spanish languages each text being equally authentic.</p> <p>Official translation in the Arabic, German and Italian languages shall be prepared and deposited with the signed original.</p>

Committee observations

The Committee made the following observations:

That:-

- a. The ratification and implementation of the 1978 Protocol will enhance KMA's powers to conduct port state control especially on tankers and render our coastline free from unseaworthy ships.

- b. There will be enhanced safety of life, property and prevention of marine pollution from ships on international voyages calling at Kenyan ports.

- c. The country's opportunity to earn revenue from future ship surveys and certification as well as develop related capacity will be ensured.
- d. The country will benefit from the IMO's Technical Cooperation Programme and other development partners who assist developing countries to develop capacity for implementation and enforcement purposes.
- e. Kenya's maritime zones lie on a busy shipping route plied by large oil tankers from Middle East to Europe and America. Any oil spill would be a disaster to these maritime zones.
- f. Many aquaculture activities take place along Kenya's coastline, for example, tourist beach hotels, fishing, off-shore marine parks, and existence of coral reefs, archipelagos, mangroves and sandbanks. Ratification of the 1978 protocol would ensure protection of all these foreign exchange earning activities from unforeseeable tanker oil spill.
- g. There are no financial and budgetary implications on the ratification of this Protocol. However, implementation will require building of capacity and development and or review of policy and legislation both of which are ongoing programmes in the Ministry and its agencies. Required funds should be budgeted for by the Ministry, KMA, Kenya Ports Authority and other agencies.

2.3 CONSIDERATION OF THE PROTOCOL OF 1988 RELATING TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

Background information to the convention

The Protocol of 1988 relating to the International Convention for the Safety of Life at Sea (the 1988 SOLAS Protocol) introduced a new coordinated system of surveys and certification. It Harmonized Ship Survey and Certification (HSSC) as provided in the Loadlines 1966 Convention and MARPOL 73/78 as well as with various codes dealing with construction and equipment of ships carrying dangerous chemicals in bulk.

Kenya is party to the International Conventions on Safety of Life at Sea 1974 (SOLAS 74), MARPOL 73/78 and the International Convention on Load lines 1966 and therefore there is need to ratify the Protocol so as to benefit from the changes brought about by the same.

The 1988 SOLAS Protocol entered into force in 2000 and has 105 contracting States. Nine member States signed the 1988 SOLAS Protocol subject to ratification. Kenya did not sign it. The 1988 SOLAS Protocol introduced the tacit agreement procedure and therefore reservations are not applicable in ratifying the protocol.

The 1988 SOLAS Protocol is provided for in the Merchant Shipping Act, 2009. Prior to enactment, the public was sensitized on the need for ratification as well as the benefits of the 1988 SOLAS Protocol which, amongst others, include ensuring ships and crew safety, protection of the marine environment from pollution by ships which may result from unseaworthiness of ships. It will strengthen Kenya's port state control inspection measures to ensure unseaworthy vessels do not call at our ports. The surveys and inspections enhance revenue generation for the country. The public stakeholders supported ratification of the Protocol.

Objectives of the convention

The aim of the 1988 SOLAS Protocol is to alleviate problems caused by the fact that as requirements in the three instruments vary. Ships may be obliged to go into dry-dock for a survey required by one convention shortly after being surveyed in connection with another. By enabling the required surveys to be carried out at the same time, the system will reduce costs for ship Owners and Administrations, namely Kenya Maritime Authority in carrying out Port State Control activities. Surveys would now be carried out at the same time.

The Committee deliberated on the Convention and the detailed analysis is provided below:-

Articles	Highlight	Comments
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Article 1	General obligations	Parties undertake to give effect to the Convention and the present Protocol as may be necessary to provide for the need for survey and certification.
Article 2	Prior Treaties	The present Protocol replaces the Protocol of 1978 relating to the Convention. Any certificate issued under the Convention or supplement to the certificate issued under the Protocol of 1978 shall remain valid until it expires under the terms of the Convention or Protocol of 1978 relating to the Convention.
Article 3	Communication of information	Contracting Governments are to communicate and deposit with the Secretary General of the Intergovernmental Maritime Consultative Organization (the Organization): ❖ a list of nominated surveyors or recognized organizations authorized to act on their behalf for circulation to the contracting Governments for the information of their officers, ❖ laws ,decrees, orders and regulations promulgated on various matters within the scope of the Convention and ❖ a sufficient number of specimens of their certificates issued.
Article 4	Signature, ratification ,acceptance, approval and accession	Provides that the Protocol is open for signature by any state at the Headquarters of the Organization from 1 st March 1989 to 28 th February 1990 and shall thereafter remain open for accession by any state. States may express their consent to be bound by the present Protocol by; ❖ signature not subject to ratification, acceptance or approval; ❖ signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval ;or ❖ accession.
Article 5	Entry into force	Provides for the entry into force of the Protocol twelve months after the date on which: ❖ not less than fifteen states have expressed their consent to be bound by it and ❖ the conditions for the entry into force of the Protocol of 1988 relating to the International Convention on Load Lines 1966 have been met

		<p>provided that the present Protocol shall not enter into force before 1st February 1992</p> <p>Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of the Protocol shall take effect three months after the date of deposit.</p>
Article 6	Amendments	The procedures set out in the Convention shall apply to amendments to the present Protocol.
Article 7	Denunciation	<p>Provides that any Party may denounce the Protocol after the expiry of five years from the date the Convention enters into force for that party.</p> <p>Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.</p>
Article 8	Depository	<p>Provides that the Secretary-General shall transmit certified copies of the Protocol to all State Parties which have signed the Protocol including informing all states each new signature or deposit of an instrument of ratification together with the date, the date of entry into force of the Protocol and the deposit of any instrument of denunciation together with the date.</p> <p>Further, as soon as the Protocol enters into force, the Secretary General is to transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the UN.</p>
Article 21	Languages	<p>Provides for the establishment of the Convention in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages each text being equally authentic.</p> <p>Official translation in the Italian language shall be prepared and deposited with the signed original.</p>

Committee observations

The Committee made the following observations, that:-

1. The Harmonized System of Survey and Certification (HSSC) simplifies the survey and certification process thus reducing time and money spent by the Kenya's Surveyors on the process.

2. There will be flexibility on survey schedules thus benefiting the ship owners by allowing them ample time to do business.
3. Vessel owners will be able to receive their certificates of inspection (both SOLAS and Load lines certificates) simultaneously thus reducing costs for ship owners and administrations alike.
4. The system encourages ship owners to register their ships in Kenya due to decreased costs associated with statutory compliance. This will earn Kenya Foreign-exchange required for development.
5. There will be a favorable increase in Kenya's tonnage and further increase revenue to the Government in terms of the annual fees so earned.
6. There are no financial and budgetary implications on the ratification of this Protocol. However, implementation will require building of capacity and development and or review of policy and legislation both of which are ongoing programmes in the Ministry and its agencies. Required funds are budgeted for by the Ministry, KMA, Kenya Ports Authority and other agencies.

2.3 CONSIDERATION OF THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE, 2001

Background information to the Convention

The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention) was adopted by an International Conference held during the IMO Legal Committee meeting on 23rd March, 2001.

Eleven member States excluding Kenya signed the Convention during its adoption. To-date seventy-seven contracting States have ratified. The driving force for the development of the Bunkers Convention was the realization by many countries that bunker spills were causing significant damage and there was no orderly international regime to insure coverage or to establish limits.

The Bunkers Convention was adopted to ensure that adequate, prompt, and effective compensation is available to persons who suffer damage caused by spills of oil, when carried as fuel in ships' bunkers. The Convention applies to damage caused on the territory, including the territorial sea, and in exclusive economic zones of States Parties.

The Bunkers Convention is modeled after the International Convention on Civil Liability for Oil Pollution Damage (CLC) 1969, as amended by the

1992 Protocol, but is not applicable to oil tankers and vessels transporting 2000 DWT of persistent oils as cargo, the bunkers from which are already covered by the CLC. As with the CLC Convention, a key requirement in the Bunkers Convention is the need for the registered owner of a vessel to maintain compulsory insurance cover.

Another key provision is the requirement for direct action. This would allow a claim for compensation for pollution damage to be brought directly against an insurer. The Convention requires ships over 1,000 gross registered tonnage to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims (LLMC) 1976, as amended by the Protocol of 1996.

The Bunkers Convention provides a free-standing instrument covering pollution damage. "Pollution damage" under the Convention means:

loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and the costs of preventive measures and further loss or damage caused by preventive measures.

Unlike the CLC Convention and the Hazardous and Noxious Substances (HNS) Conventions, there is no funding mechanism established or administered as part of the Bunkers Convention. Rather, it relies on the premise that most ships already have adequate P & I coverage in excess of the limits specified in the Convention.

Objective of the convention

The aim of the Bunkers Convention is to improve the process by which claimants are able to recover costs incurred as a result of pollution from ships' bunker fuel oils, whether in responding to a bunker pollution incident or as a result of damage caused by bunker oil pollution. The Bunkers Convention will help to achieve this by:

Establishing a strict liability regime on the ship-owner for pollution damage arising from all types of oil used in the operation or propulsion of ships (i.e. the ship-owner is liable regardless of fault);

Requiring all registered owners of vessels over 1,000 gross tonnes entering or leaving a Kenyan Port or terminal to maintain insurance certified by the State to meet their liability; and introducing a provision that entitles claimants to sue ships' insurers via the right of direct action.

Allowing claims to be pursued in the State in which the damage occurred. This makes it much easier for victims to pursue a claim for cost recovery.

The Committee deliberated on the Agreement and the detailed analysis is provided below:-

Article	Highlight	Comments
Article 1	Definition	Definition section. It defines the technical terminologies used in the Convention e.g bunker oil means any hydrocarbon mineral oil, including lubricant oil, used or intended to be used for the operation of the ship and any residues of such oil.
Article 2	Scope of application	Provides that the Convention shall apply exclusively to pollution damage caused in the territory including the territorial sea of a state party and in the exclusive economic zone of a state Party established in accordance with international law.
Article 3	Liability of the ship owner	Provides that the ship owner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship and if it consists of a series of occurrences having the same origin, the liability shall attach to the ship owner at the time of the first of such occurrences. Where more than one person is liable, their liability shall be joint and several. No liability for pollution damage shall attach to the ship owner if the ship owner proves that the damage resulted from an act of war or natural phenomenon, the damage was wholly caused

		by an act or omission with the intent to cause damage by a third party or the damage was wholly caused by the negligence of the government or other authority.
Article 4	Exclusions	Provides that the Convention shall not apply to war ships or other ships owned or operated by a State and used only on Government non-commercial service.
Article 5	Incidents involving two or more ships	When pollution damage involves two or more ships, the ship owners of all the ships concerned, unless exonerated shall jointly and severally be liable for all such damage which is not reasonably separable.
Article 6	Limitation of liability	Provides that nothing in the Convention shall affect the right of a ship owner or the persons providing insurance or other financial security to limit liability under any applicable national or international regime.
Article 7	Compulsory insurance or financial security	<p>The registered owner of a ship shall be required to maintain insurance to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international regime.</p> <p>A Certificate attesting that insurance is in force shall be issued to each ship in accordance with the provisions of the Convention or by the appropriate authority if registered in a State Party</p> <p>A State Party may authorize an organization recognized by it to issue the Certificate and such institution shall inform the State of the issue of each Certificate.</p> <p>A State Party shall notify the Secretary-General of the specific responsibilities and conditions of the authority delegated to an institution; the withdrawal of such authority and the date from which such authority or withdrawal of such authority takes effect.</p> <p>An authority delegated shall not take effect prior to three months from the date on which the notification to that effect was given by the Secretary-General.</p>

		<p>The certificate shall be in the official language(s) of the issuing state and it shall be carried on board and a copy deposited with the authorities. The State of the ship's registry shall determine the conditions of issue and validity of the certificate and the Certificate's issued under the authority of a State Party shall be accepted by other State Parties for the purposes of the Convention.</p> <p>Any claim for compensation for pollution damage may be brought directly against the insurer.</p>
Article 8	Time limits	<p>Provides that the rights to compensation shall be extinguished unless an action is brought within three years from the date when the damage occurred.</p> <p>No action shall be brought more than six years from the date of the incident which caused the damage and where the incident consists of a series of occurrences, the six year's period shall run from the date of the first such occurrence.</p>
Article 9	Jurisdiction	<p>Where an incident has caused pollution damage in the territorial sea or in an area of one or more State Parties or preventive measures have been taken to prevent or minimize pollution damage in such territory, compensation against the ship owner or insurer may be brought only in the courts of any such States Parties.</p>
Article 10	Recognition and enforcement	<p>Provides that any judgment given by a court with jurisdiction which is enforceable in the State of origin shall be recognized in any state party except where the judgment was obtained by fraud or the defendant was not given reasonable notice and a fair opportunity to present his or her case</p>
Article 11	Supersession Clause	<p>Provides that the Convention shall supersede any Convention in force or open for signature at the date at the date the Convention is opened for signature but only to the extent that there would be conflict.</p>
Article	Signature,	<p>Provides that the Convention shall be open for</p>

12	ratification, acceptance, approval and accession.	signature at the Headquarters of the Organization from 1 st October 2001 to 30 th September 2002 and shall thereafter remain open for accession. States may become Parties to the Convention by: ❖ signature not subject to ratification, acceptance or approval; ❖ signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval ;or ❖ accession.
Article 13	States with more than one system of law	Provides that if a state has two or more territorial units in which different systems of law are applicable, it may at the time of signature, ratification, acceptance or approval declare that the Convention shall extend to all its territorial units or only one or more of them.
Article 14	Entry into force	Provides for the entry into force of the convention twelve months after the date on which not less than 18 states have either signed it without reservation as to ratification, acceptance or approval. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of the Convention shall take effect three months after the date of deposit.
Article 15	Denunciation	Provides that any Party may denounce the Convention at any time from the date the Convention enters into force for that party. Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.
Article 16	Revision or amendment.	Provides that a conference for the purpose of amending the Convention may be convened by the Organization at the request of not less than one-third of the State Parties.
Article	Depositary	Provides that the Secretary-General shall

17		transmit certified copies of the Convention to all state Parties which have signed the Convention including informing all states each new signature or deposit of an instrument of ratification together with the date, the date of entry into force of the Convention and the deposit of any instrument of denunciation together with the date.
Article 18	Transmission to United Nations	As soon as the Convention enters into force, the Secretary General is to transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the UN.
Article 19	Languages	Provides for the establishment of the Convention in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages each text being equally authentic.

Committee Observations

The Committee made the following observations, that:-

- a. A registered owner's liability for pollution damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, would be limited to costs of reasonable measures of reinstatement of the impairment to the environment actually undertaken or to be undertaken.
- b. Insurers would be more inclined to provide the coverage knowing that there are defined limits to liability claims made upon them.
- c. The Convention would provide protection for Kenya through a regularized and certain regime.
- d. The International Maritime Organization technical cooperation assistance is provided to facilitate countries which need to develop implementation instruments for effective implementation and enforcement of the convention in accordance with a resolution adopted.
- e. Ratification and subsequent implementation of the convention will create a national legal framework to empower the contracting State to control and manage damage from spills from ships' bunkers to the marine and coastal environment.

- f. Victims of bunker oil pollution, including local fishing and tourism industries, are less likely to suffer financial hardship as a result of improved cost recovery provisions.
- g. Upon implementation in Kenya, anyone who suffers damage as a result of bunker oil pollution, or the threat of such pollution, will obtain adequate compensation and also benefit anyone likely to be affected by a bunker oil incident including individuals, businesses such as local fishing and tourism industries, local authorities and the Government.
- h. There are no financial/budgetary implications in ratifying the Convention. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds are budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

2.4 CONSIDERATION OF THE CONVENTION ON THE LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976 (LLMC 1976)

Background to the Convention

Kenya as a coastal state depends on shipping as 95% of its international trade is transported by sea and therefore effective regulation of international and domestic shipping directly impacts on its economy.

The Convention on the Limitation of Liability for Maritime Claims (LLMC) 1976 was adopted on 19th November 1976 and entered into force on 1st December 1986. It has 8 signatories excluding Kenya and 54 contracting states. The LLMC 1976 replaces the International Convention relating to the Limitation of the Liability of Owners of Seagoing Ships, which was signed in Brussels in 1957 and came into force in 1968. The LLMC 1976 raises the limit of liability for claims covered in some cases up to 250-300 per cent. Limits are specified for two types of claims – claims for loss of life or personal injury, and property claims. The LLMC 1976 establishes uniform rules relating to the limitation of liability for maritime claims. The claims include those of loss of life or personal injury and loss or damage to property, occurring on board or in connection with operations of ship or salvage operations including damage to other ships, property, harbor works and waterways amongst others.

The LLMC 1976 safeguards interests of both the ship owners and potential claimants by providing greater certainty in the event of a claim.

Kenya is not signatory to the LLMC 1976 and therefore seeks to ratify it.

The LLMC 1976 is incorporated in Chapter XVII of the Merchant Shipping Act, 2009.

Objective of the Convention

The LLMC 1976 aims at providing manageable liability regime for maritime claims. Under the convention, the ship-owner's liability limit is based on the size of the ship. Large ships carrying more passengers or large quantities of cargo carry higher liability than small ships.

The Committee deliberated on the Convention and the detailed analysis is provided below:-

Article	Title	Comments
Article 1	Persons entitled to limit liability	<p>Ship-owners and salvors, may limit their liability in accordance with the rules of this Convention "ship-owner" means the owner, charterer, manager and operator of a seagoing ship;</p> <p>The liability of a ship-owner shall include liability in an action brought against the vessel itself.</p> <p>An insurer of liability for claims subject to limitation shall be entitled to the benefits of the Convention to the same extent as the assured.</p> <p>The act of invoking limitation of liability shall not constitute an admission of liability.</p>
Article 2	Claims subject to limitation	<p>The following claims, whatever the basis of liability may be, shall be subject to limitation of liability:</p> <p>(a) claims in respect of loss of life or personal injury or loss of or damage to, occurring on board or in direct connation with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;</p> <p>(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their</p>

		<p>luggage;</p> <p>(c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;</p> <p>(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;</p> <p>(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;</p> <p>(f) Claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.</p>
Article 3	Claims excepted from limitation	<p>The rules of this Convention shall not apply to:</p> <p>(a) claims for salvage or contribution in general average;</p> <p>(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage;</p> <p>(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;</p> <p>(d) claims against the ship-owner of a nuclear ship for nuclear damage;</p> <p>(e) claims by servants of the ship-owner or salvor whose duties are connected with the ship or the salvage operations.</p>

Article 4	Conduct barring limitation	A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.
Article 5	Counterclaims	Where a person entitled to limitation of liability under the rules of the Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of the Convention shall only apply to the balance, if any.
Article 6	The general limits	<p>Sets out the limits of liability for claims arising on any distinct occasion, in respect of claims for loss of life or personal injury and in respect of other claims e.g 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons.</p> <p>Where the amount calculated is insufficient to pay the claims, the amount calculated shall be available for payment of the unpaid balance of claims and such unpaid balance shall rank rateably with claims.</p> <p>However, a State Party may provide in its national law that claims in respect of damage to harbour works, basins and waterways and aids to navigation shall have such priority over other as is provided by that law.</p>
Article 7	The limit for passenger claims	In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the ship-owner thereof shall be an amount of 46,666 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate, but not exceeding 25 million Units of Account.

Article 8	Unit of Account	<p>The Unit of Account is the Special Drawing Right as defined by the International Monetary Fund.</p> <p>The amounts are to be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.</p> <p>The value of a national currency in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.</p> <p>The value of a national currency in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.</p> <p>Those States which are not members of the International Monetary Fund may, at the time of signature without reservation as to ratification, acceptance or approval or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in the Convention to be applied in their territories shall be fixed.</p>
Article 9	Aggregation of claims	<p>The limits of liability shall apply to the aggregate of all claims which arise on any distinct occasion:</p> <p>(a) against any person for whose act, neglect or</p>

		<p>default he or they are responsible; or</p> <p>(b) against the ship-owner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or</p>
		<p>(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.</p>
Article 10	Limitation of liability without constitution of a limitation fund	<p>Limitation of liability may be invoked notwithstanding that a limitation fund as has not been constituted.</p> <p>However, a State Party may provide in its national law that, where an action is brought in its Courts to enforce a claim subject to limitation, a person liable may only invoke the right to limit liability if a limitation fund has been constituted in accordance with the provisions of the Convention or is constituted when the right to limit liability is invoked.</p>
Article 11	Constitution of the fund	<p>Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation.</p> <p>The fund shall be constituted in the sum of such of the amounts as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund.</p> <p>Any fund thus constituted shall be available only for the payment of claims in respect of which</p>

		<p>limitation of liability can be invoked.</p> <p>A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.</p>
Article 12	Distribution of the fund	<p>The fund shall be distributed among the claimants in proportion to their established claims against the fund.</p> <p>If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under the Convention.</p> <p>The right of subrogation may also be exercised by persons in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.</p>
Article 13	Bar to other actions	<p>Where a limitation fund has been constituted, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.</p> <p>After a limitation fund has been constituted, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State.</p>

			<p>However, such release shall always be ordered if the limitation fund has been constituted.</p>
Article 14	Governing law		<p>The rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connexion therewith, shall be governed by the law of the State Party in which the fund is constituted.</p>
Article 15	Scope Application	Of	<p>The Convention shall apply whenever any person seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.</p> <p>Nevertheless, each State Party may exclude wholly or partially from the application of the Convention any person who at the time when the rules of the Convention are invoked before the Courts of that State does not have his habitual residence in a State Party or does not have his principal place of business in a State Party or any ship in relation to which the right of limitation is invoked or whose release is sought and which does not at the time specified above fly the flag of a State Party.</p> <p>A State Party may regulate by specific provisions of national law the system of limitation of liability to be applied to claims arising in cases in which interests of persons who are nationals of other States Parties are in no way involved.</p>

		The Courts of a State Party shall not apply the Convention to ships constructed for, or adapted to, and engaged in, drilling.
Article 16	Signature, ratification and accession	<p>Provides that the Convention is open for signature by any state at the Headquarters of the Organization from 1 February 1977 until 31 December 1977 and shall thereafter remain open for accession by any state.</p> <p>States may become Parties to the Convention by;</p> <ul style="list-style-type: none"> ❖ signature not subject to ratification, acceptance or approval; ❖ signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval ;or ❖ accession.
Article 17	Entry into force	<p>Provides for the entry into force of the convention twelve months after the date on which not less twelve states have either signed it without reservation as to ratification, acceptance or approval.</p> <p>Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of the Convention shall take effect three months after the date of deposit.</p> <p>In respect to States which ratify, accept, or approve the Convention or accede to it, the Convention shall replace and abrogate the International Convention relating to the Limitation of the Liability of Owners of Sea-going Ships, 1957, and the International Convention for the Unification of certain Rules relating to the Limitation of Liability of the Owners of Sea-going Vessels 1924.</p>
Article 18	Reservations	Any State may, at the time of signature, ratification, acceptance, approval or accession,

		<p>reserve the right to exclude the application of Article 2 paragraph 1(d) and (e).</p> <p>No other reservations shall be admissible to the substantive provisions of the Convention.</p> <p>Any State which has made a reservation to the Convention may withdraw it at any time by means of a notification addressed to the Secretary-General.</p>
Article 19	Denunciation	<p>Provides that any Party may denounce the Convention after the expiry of one year from the date the Convention enters into force for that party.</p> <p>Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.</p>
Article 20	Revision and amendment	<p>A Conference for the purpose of revising or amending the Convention may be convened by the Organization at the request of not less than one-third of the Parties.</p> <p>After the date of the entry into force of an amendment to the Convention, any instrument of ratification, acceptance, approval or accession deposited shall be deemed to apply to the Convention as amended, unless a contrary intention is expressed in the instrument</p>
Article 21	Revision of the limitation amounts and of Unit of Account or monetary unit	<p>A Conference only for the purposes of altering the amounts or of substituting either or both of the Units in the Convention shall be convened by the Organization at the request of not less than one fourth of the States Parties.</p>

		<p>A decision to alter the amounts or to substitute the Units by other units of account shall be taken by a two-thirds majority of the States Parties present and voting in such Conference.</p> <p>Any State depositing its instrument of ratification, acceptance, approval or accession to the Convention, after entry into force of an amendment, shall apply the Convention as amended.</p>
Article 22	Depository	<p>Provides that the Secretary-General shall transmit certified copies of the Convention to all state Parties which have signed the Convention including informing all states each new signature or deposit of an instrument of ratification together with the date, the date of entry into force of the Convention and the deposit of any instrument of denunciation together with the date.</p> <p>Further, as soon as the Convention enters into force, the Secretary General is to transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the UN.</p>
Article 23	Languages	<p>The Convention is established in a single original in the English, French, Russian and Spanish languages, each text being equally authentic.</p>

Committee Observations

The Committee made the following observations:-

That:-

- a. The ratification and implementation of the Convention will help to safeguard the interests of the shipping community, ship owners and insurers

in particular and provide certainty to the outcome of the compensation regime.

- b. The country will be in line with the globally accepted liability limits that are agreed and prescribed and therefore putting claimants in our jurisdiction at an advantage in any action against a ship owner for loss or damage occasioned by a ship.
- c. As a trading nation that imports and exports large quantities of cargo by sea, Kenya obtains economic benefits from the universal rules of law established. The international rules promote commerce and trade by standardizing regulations and requirements of ships in the ports they visit.
- d. The country will benefit from the International Maritime Organization's Technical Co-operation Programmes and from other development partners who assist developing countries to develop capacity for implementation and enforcement purposes.
- e. There are no financial or budgetary implications in ratifying the LLMC 1976. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds should be budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

2.5 CONSIDERATION OF THE 1996 PROTOCOL TO THE CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS (LLMC), 1976

Background to the Convention

The Protocol to the Convention on Limitation of Liability for Maritime Claims (1996 LLMC Protocol) which entered into force in 2004 increases the amount of compensation payable in the event of an incident and also introduces a "tacit acceptance" procedure for updating these amounts.

To introduce a "tacit acceptance" procedure for updating the amounts. The 1996 LLMC Protocol was signed by 9 member states excluding Kenya and to-date 49 States have ratified it.

Objectives of the Convention

The main purpose of the 1996 LLMC Protocol is to increase compensation in the event of an incident.

The Committee deliberated on the Convention and the detailed analysis is provided below:-

Articles	Highlight	Comments
Article 1	Definitions	"Convention" means the Convention on Limitation of Liability for Maritime Claims, 1976.
Article 2	Claims excepted from limitation	<p>Article 3, subparagraph (a) of the Convention is replaced by the following text:</p> <p>(a) claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;</p>
Article 3	The general limits	<p>Article 6, paragraph 1 of the Convention is replaced by the following text:</p> <p>1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:</p> <p>(a) in respect of claims for loss of life or personal injury,</p> <p>(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,</p> <p>(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):</p> <p style="padding-left: 40px;">for each ton from 2,001 to 30,000 tons, 800 Units of Account;</p> <p style="padding-left: 40px;">for each ton from 30,001 to 70,000 tons, 600 Units of Account; and for each</p>

		<p>ton in excess of 70,000 tons, 400 Units of Account,</p> <p>(b) in respect of any other claims,</p> <p>(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,</p> <p>(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):</p> <p>for each ton from 2,001 to 30,000 tons, 400 Units of Account;</p> <p>for each ton from 30,001 to 70,000 tons, 300 Units of Account; and</p> <p>for each ton in excess of 70,000 tons, 200 Units of Account.</p>
Article 4	The limit for passenger claims	<p>Article 7, paragraph 1 of the Convention is replaced by the following text:</p> <p>1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.</p>
Article 5	Unit of Account	<p>Article 8, paragraph 2 of the Convention is replaced by the following text:</p> <p>2. Nevertheless, those States which are not members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the</p>

		<p>time of signature without reservation as to ratification, acceptance or approval or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in their territories shall be fixed as follows:</p> <p>(a) in respect of Article 6, paragraph 1(a), at an amount of</p> <ul style="list-style-type: none">(a) 30 million monetary units for a ship with a tonnage not exceeding 2,000 tons;(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i): for each ton from 2,001 to 30,000 tons, 12,000 monetary units; for each ton from 30,001 to 70,000 tons, 9,000 monetary units; and for each ton in excess of 70,000 tons, 6,000 monetary units; and <p>(b) in respect of Article 6, paragraph 1(b), at an amount of:</p> <ul style="list-style-type: none">(i) 15 million monetary units for a ship with a tonnage not exceeding 2,000 tons;(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i): for each ton from 2,001 to 30,000 tons, 6,000 monetary units; for each ton from 30,001 to 70,000 tons, 4,500 monetary units; and
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		<p>for each ton in excess of 70,000 tons, 3,000 monetary units; and</p> <p>(c) in respect of Article 7, paragraph 1, at an amount of 2,625,000 monetary units multiplied by the number of passengers which the ship is authorized to carry according to its certificate.</p> <p>Paragraphs 2 and 3 of Article 6 apply correspondingly to subparagraphs (a) and (b) of this paragraph.</p>
Article 6	Scope Of Application	<p>The following text is added as paragraph <i>3 bis</i> in Article 15 of the Convention:</p> <p><i>3 bis</i> .Notwithstanding the limit of liability prescribed in paragraph 1 of Article 7, a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship, provided that the limit of liability is not lower than that prescribed in paragraph 1 of Article 7. A State Party which makes use of the option provided for in this paragraph shall inform the Secretary-General of the limits of liability adopted or of the fact that there are none.</p>
Article 8	Amendment of limits	<p>1. Upon the request of at least one half, but in no case less than six, of the States Parties to this Protocol, any proposal to amend the limits specified in the Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and</p>

	<p>to all Contracting States.</p> <p>2. Any amendment proposed and circulated shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.</p> <p>3. All Contracting States to the Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.</p> <p>4. Amendments shall be adopted by a two-thirds majority of the Contracting States to the Convention as amended by this Protocol present and voting in the Legal Committee on condition that at least one half of the Contracting States to the Convention as amended by this Protocol shall be present at the time of voting.</p> <p>5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting, changes in the monetary values and the effect of the proposed amendment on the cost of insurance.</p> <p>6. No amendment of the limits may be considered less than five years from the date on which this Protocol was opened for signature nor less than five years from the date of entry into force of a previous amendment under</p>
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		<p>that period not less than one-fourth of the States that were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.</p>
		<p>8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.</p>
		<p>9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with paragraphs 1 and 2 of Article 12 at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.</p>
		<p>10. When an amendment has been adopted but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes</p>

		bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.
Article 9		<p>1. The Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.</p> <p>2. A State which is Party to this Protocol but not a Party to the Convention shall be bound by the provisions of the Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the Convention in relation to States Parties only to the Convention.</p> <p>3. The Convention as amended by this Protocol shall apply only to claims arising out of occurrences which take place after the entry into force for each State of this Protocol.</p> <p>4. Nothing in this Protocol shall affect the obligations of a State which is a Party both to the Convention and to this Protocol with respect to a State which is a Party to the Convention but not a Party to this Protocol.</p>
Article 10	Signature, ratification, acceptance, approval and accession	<p>1. This Protocol shall be open for signature at the Headquarters of the Organization from 1 October 1996 to 30 September 1997 by all States.</p> <p>2. Any State may express its consent to be bound by this Protocol by:</p>

		<p>(a) Signature without reservation as to ratification, acceptance or approval; or</p> <p>(b) Signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or</p>
		<p>(c) Accession.</p> <p>3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.</p> <p>4. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.</p>
Article 11	Entry into force	The Protocol is to enter into force ninety days following the date on which ten States have expressed their consent to be bound by it or ninety days following the date of expression of such consent.
Article 12	Denunciation	<p>Provides that any Party may denounce the Protocol after the expiry of twelve months from the date the Convention enters into force for that party.</p> <p>Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.</p>
Article 13	Amendment or Revision	A conference for the purpose of revising or amending this Protocol may be convened by

		the Organization at the request of not less than one-third of the Contracting States.
Article 14	Depositary	Provides that the Secretary-General shall transmit certified copies of the Protocol to all state Parties which have signed the Protocol including informing all states each new signature or deposit of an instrument of ratification together with the date, the date of entry into force of the Protocol and the deposit of any instrument of denunciation together with the date.
Article 15	Languages	This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic

Committee Observations

The Committee made the following observations:-

That:-

1. The ratification and implementation of the Protocol will enable Kenyans who are importers to draw increased amounts in compensation in case of an incident where their property is lost in the sea. Compensation will be 1 million SDR (US \$ 1.586 Million) in a ship not exceeding 2,000 gross tonnage.
2. Kenyans who serve in the ships as seafarers would be highly compensated in case of personal injury or loss of life.
3. They will be able to earn 2 Million SDR equivalent to US \$ 3.17 Million if they were serving in a ship whose gross tonnage does not exceed 2,000.
4. There are no financial or budgetary implications in ratifying the 1996 LLMC Protocol. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds are budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

Reservation on the Protocol

Article 18 of the consolidated LLMC (i.e. the 1976 LLMC as amended by the 1996 LLMC Protocol) enables a contracting State to reserve the right “to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment or protocol thereto (HNS Convention).” It is advisable upon ratification for Kenya to reserve the right to exclude claims for damage within the meaning of the HNS Convention because should Kenya, in future, ratify the HNS Convention, without this reservation, there will be two systems of liability arising from the consolidated LLMC and the HNS Convention.

2.6 CONSIDERATION OF THE NAIROBI INTERNATIONAL CONVENTION ON REMOVAL OF WRECKS, 2007

Background to the Convention

Kenya became a member of the International Maritime Organization (IMO) in 1973. It has since ratified several international Conventions. The International Convention on Removal of Wrecks 2007 was adopted by a five day Diplomatic Conference held at the United Nations Office in Nairobi (UNON) on 18th May 2007. Kenya signed the Convention on the date of adoption. The Convention to-date has 11 contracting States and it is scheduled to enter into force in April 2015 having met the entry into force requirement of 10 contracting states.

The Convention provides an international legal framework by providing a set of unified international rules aimed at ensuring prompt and effective removal of wrecks located beyond the territorial sea.

The Convention’s provisions contain a clause enabling State parties to apply certain provisions to their territory and territorial sea. Though marine casualties have decreased in recent years, there are a big number of abandoned marine wrecks that have posed big challenges to Coastal States and shipping.

This can be from wreck being a hazard to navigation; it’s potential to cause damage to the marine/coastal environment and the costly issue of marking and removing hazardous wrecks.

Wreck is a ship or any part of a ship or object that has been on board a ship but has become detached e.g. cargo that as a consequence of a maritime casualty has sunk or stranded or is adrift.

The new Convention provides a sound legal basis for Coastal States to remove or have a hazard removed from their coastlines, wrecks which pose a hazard to the safety of navigation or to the marine and coastal environments or both environments. It will make ship owners financially liable and require them to take out insurance or provide other financial security to cover the costs of wreck removal. It will also provide states with a right of direct action against insurers.

The public have been sensitized on the Convention under the Merchant Shipping Act of 2009.

Objectives of the convention

The Nairobi International Convention on Removal of wreck's main objective is to;

Provide an international legal framework aimed at ensuring the prompt and effective removal of wrecks located beyond the territorial sea.

To enable State parties apply certain provisions to their territory including the territorial sea.

Alleviate the problems caused to Coastal States by the increasing number of wrecks worldwide which are estimated to be thirteen hundred.

The Committee deliberated on the Convention and the detailed analysis is provided below:-

Article	Highlight	Comments
Article 1	Definition	Definition section. It defines the technical terminologies used in the Convention e.g wreck means a sunken or stranded ship or any part of a sunken or stranded ship including any object that has been or is on board such a ship.
Article 2	Objectives and general principles	Provides that a State Party may take measures in accordance to the Convention in relation to the removal of a wreck which poses a hazard in the Convention area and such measures shall not go beyond what is reasonably necessary.
Article 3	Scope of application	Provides that the Convention shall apply to wrecks in the Convention area but a State Party may extend the application of this Convention to wrecks located within its territory including the territorial sea upon notifying the Secretary General accordingly.
Article 4	Exclusions	Provides that the Convention shall not apply to

		measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, to war ships or other ships owned or operated by a State and used only on Government non-commercial service.
Article 5	Reporting wrecks	A State Party shall require the master and operator of a ship flying it's flag to report to the affected State without delay when the ship has been involved in a maritime casualty resulting in a wreck. Such reports shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the affected State to determine whether the wreck poses a hazard.
Article 6	Determination of hazard	The following criteria shall be taken into account by the affected State: <ul style="list-style-type: none"> ❖ Type and size of the wreck ❖ Depth of water in the area ❖ Tidal range and currents in the area ❖ Sensitive sea areas or an exclusive economic zone ❖ Proximity of shipping routes or established traffic lanes ❖ Traffic density and frequency ❖ Type of traffic ❖ Nature and quantity of the wrecks cargo, amounts and types of oil on board the wreck and the damage likely to result should the cargo or oil be released into the marine environment ❖ Vulnerability of port facilities ❖ Prevailing meteorological conditions ❖ Sub-marine topography of the area ❖ Height of the wreck above or below the surface of the water at the lowest astronomical tide ❖ Acoustic and magnetic profiles of the wreck ❖ Proximity of off-shore installations, pipelines, telecommunications cables and similar structures ❖ Any other circumstances that might necessitate the removal of the wreck.
Article 7	Locating wrecks	Upon becoming aware of a wreck, the affected State shall use all practicable means, including the good offices of States and organizations to warn mariners and the States concerned of the nature and location of the wreck as a matter of urgency.
Article 8	Marking of wrecks	If the affected State determines that a wreck constitutes a hazard, that state shall ensure that all

		reasonable steps are taken to mark the wreck
Article 9	Measures to facilitate the removal of wrecks	If the affected State determines that a wreck constitutes a hazard, that state shall immediately inform the State of the ships registry and the registered owner and further proceed to consult the State of the ships registry and other States affected by the wreck regarding measures to be taken.
Article 10	Liability of the owner	The registered owner shall be liable for the costs of locating, marking and removing the wreck unless the owner proves that the maritime casualty that caused the wreck; <ul style="list-style-type: none"> ❖ resulted from an act of war or hostilities or a natural phenomenon ❖ was wholly caused by an act or omission done with intent to cause damage by a third party. ❖ Was wholly caused by the negligence or wrongful act of any government or authority responsible for the maintenance of lights or navigational aids
Article 11	Exceptions to liability	The registered owner shall not be liable under the Convention to the extent that: Liability for such costs would be in conflict with: <ul style="list-style-type: none"> ❖ International Convention on Civil Liability for Oil Pollution Damage,1969 as am emended ❖ International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea,1996 as amended ❖ Convention on third Party Liability in the field of Nuclear Energy,1960 as amended or the Vienna Convention on Civil Liability for Nuclear Damage,1963 as amended or national law governing or prohibiting limitation of liability of nuclear damage or ❖ International Convention on Civil Liability for Bunker Oil Pollution Damage,2001 as amended and Measures under this Convention are considered to be salvaged under applicable national law or International Convention
Article 12	Compulsory Insurance and other Financial Security	The registered owner of a ship of 300 gross tonnage and above and flying the flag of a State Party shall be required to maintain insurance or other financial security to cover liability under this Convention in an amount equal to the limits of liability under the

		<p>applicable national or International limitation regime.</p> <p>A certificate confirming insurance shall be issued to each ship of 300 gross tonnage and above by the appropriate authority of the State of the ships registry or an organization recognized by it.</p>
Article 13	Time limits	Rights to recover costs shall be extinguished unless an action is brought within three years from the date when the hazard has been determined.
Article 14	Amendment provisions	At the request of not less than one third of State Parties, a conference shall be convened by the Organization for the purpose of amending the Convention.
Article 15	Settlement of disputes	<p>Provides that Parties shall settle any dispute between them concerning the interpretation or application of the Convention by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or other peaceful means of their own.</p> <p>If no settlement is possible within a reasonable period of time not exceeding twelve months, the provisions relating to the settlement of disputes set out in the UN Convention on the Law of the Sea shall apply whether or not the States Party to the dispute are also States Parties to the UN Convention of the Law of the Sea.</p>
Article 16	Relationship to other Conventions and International Agreements	Nothing in the Convention shall prejudice any obligation of any state on the UN Convention on the law of the Sea 1982 and under the customary International law of the sea.
Article 17	Signature, ratification, acceptance, approval and accession	<p>Provides that the Convention is open for signature by any state at the Headquarters of the Organization from 19th November 2007 to 18th November 2008 and shall thereafter remain open for accession by any state.</p> <p>States may become Parties to the Convention by;</p> <ul style="list-style-type: none"> ❖ signature not subject to ratification, acceptance or approval; ❖ signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval ;or

		❖ Accession.
Article 18	Entry into force	<p>Provides for the entry into force of the convention twelve months after the date on which ten states have either signed it without reservation as to ratification, acceptance or approval.</p> <p>Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of the Convention shall take effect three months after the date of deposit.</p>
Article 19	Denunciation	<p>Provides that any Party may denounce the Convention after the expiry of twelve months from the date the Convention enters into force for that party.</p> <p>Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.</p>
Article 20	Depository	<p>Provides that the Secretary-General shall transmit certified copies of the Convention to all state Parties which have signed the Convention including informing all states each new signature or deposit of an instrument of ratification together with the date, the date of entry into force of the Convention and the deposit of any instrument of denunciation together with the date.</p> <p>Further, as soon as the Convention enters into force, the Secretary General is to transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the UN.</p>
Article 21	Languages	<p>Provides for the establishment of the Convention in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages each text being equally authentic.</p>

Committee Observations

The Committee made the following observations:

That:-

- a. The Convention has clear benefits to Kenya's maritime industry and Kenya's ratification will indicate her lead role since the Convention was adopted in Nairobi, Kenya.
- b. The International Maritime Organization technical cooperation assistance is provided to facilitate countries which need to develop implementation instruments for effective implementation and enforcement of the Convention in accordance with a resolution adopted during the Nairobi International Convention on Removal of Wrecks, 2007.
- c. Ratification and subsequent implementation of the Convention will create a legal framework on the removal of wrecks in our waters. This will empower the country to control and manage wrecks with a view to eliminate hazards that damage the marine and coastal environment as well as shipping.
- d. It also proposes guidelines that will enable Member States to enforce regulations on locating and marking wrecks, as well as determining the liabilities of responsible parties in removing the hazardous wrecks and materials.
- e. Would lead to better maritime safety, reduction in the costs and risks to maritime transport, and better protection of the global maritime environment.
- f. Prevent marine pollution of Kenya's territorial waters especially the port areas, marinas, moorings and areas of high ship traffic.
- g. Kenya will benefit from international programs aimed at eliminating the problem through implementing unified provisions and regulations.
- h. Ship owners will be made financially liable and make them take insurance. On the other hand, removal of wrecks will make it easier for costing of the cargo which was in the ship for compensation purpose from insurers.
- i. Tourism industry including hotels, fisheries etc. will thrive in free pollution environment.
- j. There are no financial/budgetary implications in ratifying the Convention. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies and on review and policy of legislation both of which are ongoing programmes in the Ministry and its agencies. Required

funds are budgeted by the Ministry, Kenya Maritime Authority and other agencies.

2.7 CONSIDERATION OF THE INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS, 2001

Background to the Convention

The International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 was adopted at an International Diplomatic Conference at the International Maritime Organization Headquarters in London on 5th October, 2001. It came into force on 17th September, 2008. Kenya as a Port State needs to ratify the Antifouling Systems Convention as a big number of ships call our ports and some of them have paint coats that endanger our marine environment.

The Convention was signed by 8 Member States at adoption. To-date it has 68 contracting Member States who's combined merchant fleet is approximately 83.2% of gross tonnage of world merchant fleet.

The Convention requirements forbid application of anti-fouling coatings to new and existing ships, fixed and floating platforms, floating productions and/or storage units, regardless of size after January 2003. It will also reduce/eliminate any risk to the marine environment, human health, marine life and resources from the use of compounds that contain harmful anti-fouling systems. Ships required to comply with the requirements of the Convention since January 2008.

Anti-fouling systems are a coating, paint, surface treatment, surface or device that is used on a ship to control or prevent attachment of unwanted organisms. The anti-fouling paints are used to coat the bottoms of ships to prevent sea life such as algae and molasses attaching them to the hull, thereby slowing down the ship and increasing fuel consumption.

Anti-fouling paints replaced lime, later arsenical and mercurical compounds and pesticides which were used in the past as anti-fouling systems, but have proved to persist in the water killing sea life, harming the environment and possibly entering the food chain.

The Convention is incorporated in the Merchant Shipping Act, 2009 as it provides enforcement mechanism for Port State Control Surveys and Inspections amongst others.

Objectives of the Convention

The Anti-Fouling Systems 2001 Convention's main objective is to;

- a. Prohibit the use of harmful compounds in anti-fouling paints used on ships.
- b. Establish a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.
- c. Encourage contracting Parties to the Convention to have national laws that prohibit and restrict the use of harmful anti-fouling systems on ships flying their flag, as well as foreign ships not entitled to fly their flag but which operate under their jurisdiction.

The Committee deliberated on the Convention and the detailed analysis is provided below:-

Article	Highlights	Comments
Article 1	General obligations	Each party to the convention is to give full and complete effect to it's provisions in order to reduce or eliminate adverse effects on the marine environment and human health caused by anti-fouling systems.
Article 2	Definition	Definition section. It defines the technical terminologies used in the Convention e.g Anti-fouling means a coating, paint, surface treatment, surface or device that is used on a ship to control or prevent attachment of unwanted organisms.
Article 3	Application	<p>The Convention shall apply to;</p> <ol style="list-style-type: none"> a) Ships entitled to fly the flag of a party; b) Ships not entitled to fly the flag of a party, do but which operate under the authority of a party; and c) ships that enter a port, shipyard or offshore terminal of a party but do not fall within subparagraph (a) and (b). <p>This Convention shall not apply to any warships, naval auxiliary or other ships owned or operated by a party and used for the time being only on government non-commercial service.</p> <p>Parties shall apply the requirements of this Convention to ensure that no more favorable treatment is given to non-parties to this Convention.</p>

Article 4	Controls on anti-fouling systems	Each party is to prohibit or restrict the application, re-application, installation or use of harmful anti-fouling systems on ships as in Article 3(1).
Article 5	Controls of Annex 1 waste materials	A party shall take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system are collected, handled, treated and disposed of in a safe and environmentally sound manner to protect human health and the environment.
Article 6	Process for proposing amendments to controls on anti-fouling systems	<p>Any party may propose to the IMO an amendment which shall contain information on the anti-fouling system, the risk it may pose on health or the environment. The committee shall decide whether the anti-fouling system in question warrants a more in-depth review based on the initial proposal. If the committee decides that further review is warranted, it shall require the proposing party to submit a comprehensive proposal.</p> <p>If the committee is of the view that there is a threat of serious or irreversible damage, the committee shall establish a technical group to review the comprehensive proposal along with any additional data and evaluate and report to the committee. The technical group's report shall be circulated to the Parties, IMO, The UN and its specialized agencies, Intergovernmental organizations and the NGO'S.</p> <p>The committee shall then decide whether to approve any proposal to amend.</p> <p>If the committee finds a threat of serious or irreversible damage, lack of scientific certainty shall not be used as a reason to prevent a decision from being taken.</p> <p>The proposed amendments if approved by the committee shall be circulated and a decision not to approve the proposal shall not preclude future submission of a new proposal with respect to a particular anti-</p>

		fouling system if new information comes to light.
Article 7	Technical groups	<p>The committee shall establish a technical group when a comprehensive proposal is received and any party may participate in the deliberations of the technical group.</p> <p>The committee shall decide on the terms of reference, organization and operation of the technical group so as to provide protection of any confidential information that may be submitted.</p> <p>Only the representatives of the parties may participate in formulating any recommendation to the committee.</p>
Article 8	Scientific and technical research and monitoring.	<p>The parties shall take appropriate measures to promote and facilitate scientific and technical research on the effects of anti-fouling systems as well as monitoring such effects.</p> <p>Each Party shall promote the availability of relevant information to other parties who request it on scientific and technical activities undertaken, marine scientific and technological programmes and the effects observed from any monitoring and assessment programmes relating to anti-fouling systems.</p>
Article 9	Communication and exchange of information	<p>Each Party undertakes to communicate to the Organization a list of the nominated surveyors or recognized organizations which are authorized to act on behalf of the Party in the administration of matters relating to the control of anti-fouling systems in accordance with the Convention and;</p> <p>On an annual basis information regarding any anti-fouling systems approved, restricted or prohibited under it'd domestic law.</p> <p>For those anti-fouling systems approved, registered or licensed by a Party, such Party shall either provide or require the manufacturers to provide to those Parties that request it, relevant information on which it's</p>

		decision was based.
Article 10	Survey and certification	Provides that Parties shall ensure that ships entitled to fly their flag or operating under their authority are surveyed and certified.
Article 11	Inspection of ships and detection of violations	<p>Provides that a ship to which this Convention applies may in any port, shipyard or offshore terminal of a Party be inspected by officers authorized by that Party for the purpose of determining whether the ship is in compliance with the Convention and it shall be limited to verifying that, where required there is on board a valid International Anti-fouling System Certificate or a brief sampling of the ship's anti-fouling system.</p> <p>If there are clear grounds to believe the ship is in violation, a thorough investigation may be carried out taking into account guidelines developed by the organization.</p> <p>If an violation, the Party carrying out the inspection may take steps to warn, detain, dismiss or exclude the ship from its ports. The Party shall then inform the Administration of the ship concerned.</p> <p>Parties are to cooperate in the detection of violations and the enforcement of the Convention.</p>
Article 12	Violations	<p>The violation of the Convention is prohibited and sanctions are to be established under the law of the administration of the ship concerned wherever the violation occurs.</p> <p>Any violation of the Convention within the jurisdiction of any Party is prohibited and sanctions are to be established under the law of that Party.</p>
Article 13	Undue delay or detention of ships	Provides that all possible efforts shall be made to avoid a ship being unduly detained or delayed and if it happens the ship shall be entitled to compensation for any loss or damage suffered.

Article 14	Dispute settlement	Provides that Parties shall settle any dispute between them concerning the interpretation or application of the Convention by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or other peaceful means of their own.
Article 15	Relationship to international law of the Sea	Provides that nothing in the Convention shall prejudice the rights and obligations of any state under customary international law as reflected in the United Nations Convention on the Law of the Sea.
Article 16	Amendments	<p>Provides for the procedures for amendment of the Convention;</p> <ul style="list-style-type: none"> ❖ Any Party may propose an amendment to the Convention which shall be submitted to the Secretary General who shall then circulate to the Parties at least six months prior to it's consideration. ❖ The amendment shall then be referred to the Committee for consideration and Parties whether members or not shall be entitled to participate in the proceedings. ❖ Amendments shall then be adopted by a two-thirds majority of the Parties present and voting in the committee, on condition that at least one third of the Parties shall be present at the time of voting. ❖ The amendments shall then be communicated by the Secretary-General to the Parties for acceptance and it shall be deemed to have been accepted on the date when two-thirds of the Parties have notified the Secretary-General of the acceptance or twelve months after the date of adoption or such other date as may be determined by the Committee. However if by that date more than one-third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted. <p>An amendment shall enter into force</p>

		<ul style="list-style-type: none"> ❖ For those parties which have declared that they have accepted six months after the date in which it is deemed to have been accepted <p>A Party that has notified an objection may subsequently notify the Secretary General of its acceptance and such an amendment shall enter into force six months after the date of notification of acceptance or the date on which the amendment enters into force.</p> <p>Amendment by a conference Upon the request of a Party concurred by at least one-third of the Parties, the Organization can convene a conference of the Parties to consider amendments and if adopted by two-thirds majority of the Parties present, it be communicated by the Secretary-General to all parties for acceptance.</p> <p>The Secretary-General shall inform the Parties and members of the organization of any amendment that enters into force and the date of entry.</p>
Article 17	Signature, ratification, acceptance, approval and accession	<p>Provides that the Convention is open for signature by any state at the Headquarters of the Organization from 1st February 2002 to 31st December 2002 and shall thereafter remain open for accession by any state.</p> <p>States may become Parties to the Convention by;</p> <ul style="list-style-type: none"> ❖ signature not subject to ratification, acceptance or approval; ❖ signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval ;or ❖ accession.
Article 18	Entry into force	<p>Provides for the entry into force of the convention twelve months after the date on which not less than twenty-five states have</p>

		<p>either signed it without reservation as to ratification, acceptance or approval.</p> <p>Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of the Convention shall take effect three months after the date of deposit.</p>
Article 19	Denunciation	<p>Provides that any Party may denounce the Convention after the expiry of two months from the date the Convention enters into force for that party.</p> <p>Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in the notice.</p>
Article 20	Depository	<p>Provides that the Secretary-General shall transmit certified copies of the Convention to all state Parties which have signed the Convention including informing all states each new signature or deposit of an instrument of ratification together with the date, the date of entry into force of the Convention and the deposit of any instrument of denunciation together with the date.</p> <p>Further, as soon as the Convention enters into force, the Secretary General is to transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the UN.</p>
Article 21	Languages	<p>Provides for the establishment of the Convention in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages each text being equally authentic.</p>

Committee Observations

The Committee made the following observations that:-

- a. The International Maritime Organization technical cooperation assistance is provided to facilitate countries which need to develop implementation instruments and introduce other measures including training of personnel, for effective implementation and enforcement of the Convention.
- b. Ships expected to operate with a clean hull that is non-threatening to the environment.
- c. Use of environment friendly Anti-fouling Systems will enhance reduction of air pollution from sulphur oxide and nitrogen oxide emissions from ship exhausts as well as ozone depleting substances.
- d. Use of clean Anti-fouling Systems will prevent marine pollution of Kenya's territorial waters especially the port areas, marinas, moorings and areas of high ship traffic.
- e. Kenya will benefit from international programs aimed at eliminating the problem through implementing unified provisions and regulations.
- f. Tourism industry including hotels, fisheries etc. will thrive in free pollution.
- g. Use of Anti-fouling Systems by ships with clean hulls will ensure fuel consumption efficiency.
- h. There are no financial or budgetary implications in ratifying the Convention on the Limitation of Liability for Maritime Claims 1976. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds should be budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

3.0 COMMITTEE RECOMMENDATIONS

Pursuant to Section 8 of the Treaty Making and Ratification Act No. 45 of 2012, the Committee recommends that the House Approves the ratification of:-

1. The 1988 Protocol to the Load Lines Convention, 1966;
2. The 1978 Protocol to the 1974 Safety of Life At Sea (Solas) Convention (Solas 78 Protocol);

3. The Protocol of 1988 Relating to the International Convention for the Safety Of Life At Sea, 1974;
4. The International Convention on Civil Liability or Bunker Oil Pollution Damage, 2001;
5. Convention on the Limitation of Liability for Maritime Claims 1976 (LLMC 1976) ;
6. ~~The 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976; subject to reservation of the right to exclude claims for damage within the meaning of the HNS convention to Avoid two systems of liability arising from the consolidated LLMC and the HNs Convention.~~
7. The Nairobi International Convention on Removal of Wrecks, 2007; and
8. The International Convention on The Control of Harmful Anti-Fouling Systems On Ships, 2001

MINUTES OF THE 16TH SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON THURSDAY 26TH MARCH, 2015 IN THE SMALL DINING, MAIN PARLIAMENT BUILDING AT 10: 10 AM.

Present

1. Hon. Maina Kamanda, M.P. – Chairperson
2. Hon. (Eng.) Mahamud M. Mohamed, M.P. –Vice Chairman
3. Hon. Aduma Owuor, M.P.
4. Hon. Emmanuel Wangwe, M.P.
5. Hon. Stephen Manoti, M.P.
6. Hon. (Eng.) Stephen Ngare, M.P.
7. Hon. Johnson Many Naicca, M.P.
8. Hon. Omulele Christopher, M.P.
9. Hon. Mathias Robi, M.P.
10. Hon. Grace Kipchoim, M.P.
11. Hon. Simon Nyaundi Ogari, M.P.
12. Hon. Mishi Juma, M.P.
13. Hon. Suleiman Dori, M.P.
14. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
15. Hon. Mark Lomunokol, M.P.
16. Hon. Mukwe James Lusweti, M.P.
17. Hon. Barchilei Kipruto, M.P.
18. Hon. Ahmed Abbas Ibrahim, M.P.
19. Hon. Chachu Ganya, M.P.
20. Hon. Cecily Mbarire, M.P.
21. Hon. (Eng.) John Kiragu, M.P.
22. Hon. Joseph Lomwa, M.P.
23. Hon. Gideon Konchella, M.P.

Apologies

1. Hon. Ali Wario, MP.
2. Hon. (Capt.) Clement Wambugu, M.P.
3. Hon. Omar Mwinyi, M.P.
4. Hon. Edick Omondi Anyanga, M.P.
5. Hon. Peter Shehe, M.P.
6. Hon. (Arch.) David Kiaraho, M.P.

In Attendance

1. Mr. Samuel Kalama
2. Ms. Mercy Wanyonyi
3. Ms. Nuri K. Nataan
4. Mr. Abdifatah Bule

National Assembly

- First Clerk Assistant
- Legal Counsel
- Third Clerk Assistant
- Third Clerk Assistant

In Attendance

1. Eng. P. C Kilimo
2. Eng. Francis Gitau
3. Mr. Nicholas Bodo
4. Ms. Nancy Karigithu
5. Eng. Peter Mundina
6. Mr. Geraldine Mwangi
7. Mr. Cyril Wayong'o
8. Mr. Wilfred Kagimbi
9. Mr. Danish Onyango
10. Mr. Ousa Okello
11. Mr. Johnson Naktari
12. Mr. Ivan Ochieng
13. Mr. Anthony Kirori

Ministry of Transport & Infrastructure

- Infrastructure Secretary
- MOTI
- Ag. Director Air Transport
- Director General-KMA
- Ag. Director General-KURA
- MOTI
- Legal Officer KCAA
- KMA
- MOTI
- KMA
- MOTI
- Petitioner
- Petitioner

Agenda

1. Preliminaries
2. Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. **Petition**

Meeting with Officials from the Ministry of Transport and Infrastructure and Petitioners on the petition regarding intervention to have high quality road studs installed on all tarmac roads in the Country

6. Consideration of the following international Conventions:-

- i. Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation
- ii. The 1988 Protocol To The Load Lines Convention, 1966;
- iii. The 1978 Protocol To The 1974 Safety Of Life At Sea (Solus) Convention (Solus 78 Protocol);

- iv. The Protocol Of 1988 Relating To The International Convention For The Safety Of Life At Sea, 1974;
 - v. The International Convention On Civil Liability For Bunker Oil Pollution Damage, 2001;
 - vi. The Convention On The Limitation Of Liability For Maritime Claims 1976 (LLMC 1976);
 - vii. The 1996 Protocol To The Convention On Limitation Of Liability For Maritime Claims (LLMC), 1976;
 - viii. The Nairobi International Convention On Removal Of Wrecks, 2007; and
 - ix. The International Convention On The Control Of Harmful Anti-Fouling Systems On Ships, 2001
7. Any Other Business
8. Adjournment.

Min/DC-TPWH/2015/072 Preliminaries

The Chair called the meeting to order at 10:10 am and proceeded to say the opening prayer.

Min/DC-TPWH/2015/073 Communication from the Chair

There was no communication from the Chair.

Min/DC-TPWH/2015/074 Confirmation of Minutes

Agenda deferred.

Min/DC-TPWH/2015/075 Matters Arising

Agenda deferred.

Min/DC-TPWH/2015/076 Petition

Agenda deferred to when the Cabinet Secretary for the Ministry of Transport and Infrastructure or the Principal Secretary for the State Department of Infrastructure is present.

Min/DC-TPWH/2015/077 Consideration of the International Conventions

i. Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation

The Chair invited the Ministry Officials to take the Committee through the Conventions.

The Director Air Transport, Mr. Nicholas Bodo informed the Committee that there was one Convention and one protocol before the Committee regarding the Civil Aviation Industry. He further briefed the Committee on each Convention and Protocol as follows:-

ICAO sets the Standards and Recommended Practices (SARPs) that guide the oversight of safety and security in civil aviation. Kenya is a Contracting State to ICAO having formally given notice of its adherence to the Convention on International Civil Aviation on May 1, 1964. As a Contracting State to ICAO Kenya has ratified 27 Conventions and Protocols relating to civil aviation since it joined the Organization.

A delegation from Kenya attended the Diplomatic Conference on Aviation Security held in Beijing, China from 30th September 2010 to 10th September, 2010 where the Beijing Convention and Beijing Protocol were concluded. The International Civil Aviation Organization (ICAO) Assembly, under resolution A37-22, has urged all States to support and encourage the universal adoption and ratification of the Beijing Convention, 2010 and the Beijing Protocol, 2010.

The Beijing Convention 2010 modernizes and consolidates the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September, 1971 (Montreal Convention, 1971) and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to Montreal Convention, 1971 (the Montreal Protocol, 1988) done at Montreal on 24th February, 1988.

The Beijing Protocol supplements the Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16th December, 1970 (the Hague Convention, 1970).

Kenya is a signatory to the Hague Convention, 1970, Montreal Convention, 1971 and the Montreal Protocol, 1988.

The Beijing Convention and Beijing Protocol seek to among other things:

- i. Criminalize the acts of using civil aircraft as a weapon for the purpose of causing death, serious bodily injury or serious damage. The 2 instruments further provided for the criminal liability of directors and organizers of an offence involving civil aircraft, as well as the liability of those who knowingly assist an offender to evade

investigation, prosecution or punishment. The 2 instruments also criminalize the making of a threat to commit an offence and agreement to contribute or contribution to an offence that is likely to contribute to endanger the safety of an aircraft.

- ii. The Beijing Convention also criminalizes the use of civil aircraft to release or discharge any biological, chemical or nuclear (BCN) weapons or similar substances to cause death, serious bodily injury or serious damage. Further, cyber-attacks on air navigation facilities constitute an offence under this Convention;
- iii. Expand the grounds of jurisdiction under the earlier instruments by requiring each State Party to establish jurisdiction when the offence is committed by its national, and by enabling each State Party to establish jurisdiction when the victim of the offence is its national.;
- iv. Beijing Protocol 2010 expands the scope of the Hague Convention, 1970 to cover different forms of aircraft hijackings, including through modern technological means.
- v. 30 states (including Australia, Brazil, China, France, Uganda, Nigeria and South Africa) are signatories to the Beijing Convention while 32 States (including Australia, China, France, Nigeria and South Africa) are signatories to the Beijing Protocol. 10 states (including Angola, Cuba, Czech Republic, Kuwait, Mali, and Switzerland) have ratified the 2 instruments.

Reservation of the Convention and Protocol

Article 20(3) of the Beijing Convention, 2010 and Article 12 of the Hague Convention, 1970 permits Contracting States to enter reservations relating to dispute resolution by arbitration at the time of signature, ratification, acceptance, approval or accession.

In conclusion he informed the Committee that unlawful acts against civil aviation jeopardizes the safety and security of persons and property, seriously affect the operations of air services, airports and air navigation and undermine the confidence of people in the use of aviation as mode of transport.

Committee observations

The Committee observed that the Conventions and Protocols be approved for ratification by the National Assembly.

The Chair invited the Director General for Kenya Maritime Authority, Ms. Nancy Karigithu to brief the Committee on the Conventions.

Ms. Karigithu informed the Committee on each Convention and Protocol as follows:-

ii. The 1988 Protocol to the Load Lines Convention, 1966;

The Committee was informed that:-

Kenya became a contracting party to the 1966 Load Lines Convention (the Load Lines Convention) on 12th September, 1975, which convention was adopted by the International Maritime Organization (IMO) in London in 1966 through a Diplomatic Conference and entered into force in 1968. Kenya is yet to ratify the 1988 Protocol amending the Load Lines Convention (the Protocol). At adoption of the Protocol, only 9 member states signed subject to accession/ratification. The Protocol was adopted in 1988 entering into force in 2000 and it has 98 contracting states.

The Load Lines Convention sets out rules for calculation and assignment of freeboard and takes into account the potential hazards present in different zones and different seasons. The purpose of the convention's safety measures is to ensure the watertight integrity of ship's hulls below the free board deck.

The Protocol was primarily adopted in order to harmonize the Load Lines Convention's survey and certification requirements with those contained in the Safety of Life at Sea (SOLAS 74/78) Convention and the Marine Pollution Convention of 73/78 (MARPOL).

The Protocol revised certain regulations in the technical Annexes to the Load Lines Convention and introduced the tacit amendment procedure which was already applicable to the 1974 SOLAS Convention.

The Protocol is provided for in the Merchant Shipping Act, 2009.

Committee Observations

The Committee made the following observations that:-

- i. The ratification and implementation, the Protocol will enhance Kenya Maritime Authority's powers to conduct Port State Control functions and render the coastline free from unseaworthy ships among others.
- ii. Enhanced safety of life, property and protection of the marine environment in connection with ships on international voyages calling at Kenyan Ports will be achieved.
- iii. The country's opportunity to earn revenue from future ship surveys and certification as well as develop related capacity will be ensured.
- iv. The country will benefit from the IMO's Technical Co-operation Programme and other development partners who assist developing countries to develop capacity for implementation and enforcement purposes.

- v. There are no financial or budgetary implications in ratifying the Protocol. However, implementation of the same will require building of capacity and development and or review of policy or legislation. The required funds should be budgeted for by the Ministry of Transport and Infrastructure, Kenya Maritime Authority and other agencies.

iii. The 1978 Protocol to the 1974 Safety of Life at Sea (Solas) Convention (Solas 78 Protocol);

The Committee was informed that:-

The Safety of Life at Sea (SOLAS) Convention is generally regarded as the most important of all international treaties concerning the safety of life and property at sea.

The origin of SOLAS goes back to 1914 in response to the Titanic disaster, following which various amendments were considered until 1974 when a complete new Convention was adopted by International Maritime Organization (IMO).

Kenya is a Contracting Party to the 1974 SOLAS, effective 21st October, 1999. However, it is yet to ratify the Convention's Protocol of 1978 (the 1978 Protocol). The 1978 Protocol entered into force in 1981 and has 119 contracting states to-date. 11 member states excluding Kenya signed the Protocol during its adoption.

The 1974 Convention has been updated and amended on numerous occasions to cater for various safety issues in the rapidly evolving technology based shipping industry.

The 1978 Protocol was adopted at the International Conference on Tanker Safety and Pollution Prevention which was convened in response to a spate of tanker accidents during 1976 to 1977.

The Conference adopted measures affecting tanker design and operation.

The 1978 Protocol introduced the tacit agreement procedure and therefore reservations are not applicable in ratifying the protocol.

The 1978 Protocol is provided for in the Merchant Shipping Act, 2009. The surveys and inspections enhance revenue generation for the country. The public stakeholders supported ratification of the Protocol.

Committee Observations

The Committee made the following observations that:-

- a. The ratification and implementation of the 1978 Protocol will enhance KMA's powers to conduct port state control especially on tankers and render our coastline free from unseaworthy ships.
 - b. There will be enhanced safety of life, property and prevention of marine pollution from ships on international voyages calling at Kenyan ports.
 - c. The country's opportunity to earn revenue from future ship surveys and certification as well as develop related capacity will be ensured.
 - d. The country will benefit from the IMO's Technical Cooperation Programme and other development partners who assist developing countries to develop capacity for implementation and enforcement purposes.
 - e. Kenya's maritime zones lie on a busy shipping route plied by large oil tankers from Middle East to Europe and America. Any oil spill would be a disaster to these maritime zones.
 - f. Many aquaculture activities take place along Kenya's coastline, for example, tourist beach hotels, fishing, off-shore marine parks, and existence of coral reefs, archipelagos, mangroves and sandbanks. Ratification of the 1978 protocol would ensure protection of all these foreign exchange earning activities from unforeseeable tanker oil spill.
 - g. There are no financial and budgetary implications on the ratification of this Protocol. However, implementation will require building of capacity and development and or review of policy and legislation both of which are ongoing programmes in the Ministry and its agencies. Required funds should be budgeted for by the Ministry, KMA, Kenya Ports Authority and other agencies.
- v. The Protocol of 1988 Relating to the International Convention for the Safety of Life at Sea, 1974;

The Committee was informed that:-

The Protocol of 1988 relating to the International Convention for the Safety of Life at Sea (the 1988 SOLAS Protocol) introduced a new coordinated system of surveys and certification. It Harmonized Ship Survey and Certification (HSSC) as provided in the Loadlines 1966 Convention and MARPOL 73/78 as well as with various codes dealing with construction and equipment of ships carrying dangerous chemicals in bulk.

Kenya is party to the International Conventions on Safety of Life at Sea 1974 (SOLAS 74), MARPOL 73/78 and the International Convention on Loadlines 1966 and therefore there is need to ratify the Protocol so as to benefit from the changes brought about by the same.

The 1988 SOLAS Protocol entered into force in 2000 and has 105 contracting States. Nine member States signed the 1988 SOLAS Protocol subject to ratification. Kenya did not sign it. The 1988 SOLAS Protocol introduced the tacit agreement procedure and therefore reservations are not applicable in ratifying the protocol.

The 1988 SOLAS Protocol is provided for in the Merchant Shipping Act, 2009. It will strengthen Kenya's port state control inspection measures to ensure unseaworthy vessels do not call at our ports. The surveys and inspections enhance revenue generation for the country. The public stakeholders supported ratification of the Protocol.

Committee Observations

The Committee made the following observations, that:-

1. The Harmonized System of Survey and Certification (HSSC) simplifies the survey and certification process thus reducing time and money spent by the Kenya's Surveyors on the process.
2. There will be flexibility on survey schedules thus benefiting the ship owners by allowing them ample time to do business.
3. Vessel owners will be able to receive their certificates of inspection (both SOLAS and Loadlines certificates) simultaneously thus reducing costs for ship owners and administrations alike.
4. The system encourages ship owners to register their ships in Kenya due to decreased costs associated with statutory compliance. This will earn Kenya Foreign-exchange required for development.
5. There will be a favourable increase in Kenya's tonnage and further increase revenue to the Government in terms of the annual fees so earned.
6. There are no financial and budgetary implications on the ratification of this Protocol. However, implementation will require building of capacity and development and or review of policy and legislation both of which are ongoing programmes in the Ministry and its agencies. Required funds are budgeted for by the Ministry, KMA, Kenya Ports Authority and other agencies.

vi. The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;

The Committee was informed that:-

The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention) was adopted by an International Conference held during the IMO Legal Committee meeting on 23rd March, 2001. Eleven member States excluding Kenya signed the Convention during its adoption. To-date seventy-seven contracting States have ratified. The driving force for the development of the Bunkers Convention was the realization by many countries that bunker spills were causing significant damage and there was no orderly international regime to insure coverage or to establish limits. The Bunkers Convention was adopted to ensure that adequate, prompt, and effective compensation is available to persons who suffer damage caused by spills of oil, when carried as fuel in ships' bunkers. The Convention applies to damage caused on the territory, including the territorial sea, and in exclusive economic zones of States Parties.

The Bunkers Convention is modeled after the International Convention on Civil Liability for Oil Pollution Damage (CLC) 1969, as amended by the 1992 Protocol, but is not applicable to oil tankers and vessels transporting 2000 DWT of persistent oils as cargo, the bunkers from which are already covered by the CLC.

Committee Observations

The Committee made the following observations, that:-

- a. A registered owner's liability for pollution damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, would be limited to costs of reasonable measures of reinstatement of the impairment to the environment actually undertaken or to be undertaken.
- b. Insurers would be more inclined to provide the coverage knowing that there are defined limits to liability claims made upon them.
- c. The Convention would provide protection for Kenya through a regularized and certain regime.
- d. The International Maritime Organization technical cooperation assistance is provided to facilitate countries which need to develop implementation instruments for effective implementation and enforcement of the convention in accordance with a resolution adopted.

- e. Ratification and subsequent implementation of the convention will create a national legal framework to empower the contracting State to control and manage damage from spills from ships' bunkers to the marine and coastal environment.
- f. Victims of bunker oil pollution, including local fishing and tourism industries, are less likely to suffer financial hardship as a result of improved cost recovery provisions.
- g. Upon implementation in Kenya, anyone who suffers damage as a result of bunker oil pollution, or the threat of such pollution, will obtain adequate compensation and also benefit anyone likely to be affected by a bunker oil incident including individuals, businesses such as local fishing and tourism industries, local authorities and the Government.
- h. There are no financial/budgetary implications in ratifying the Convention. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds are budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

vii. The Convention on the Limitation of Liability for Maritime Claims 1976 (LLMC 1976);

The Committee was informed that:-

Kenya as a coastal state depends on shipping as 95% of its international trade is transported by sea and therefore effective regulation of international and domestic shipping directly impacts on its economy.

The Convention on the Limitation of Liability for Maritime Claims (LLMC) 1976 was adopted on 19th November 1976 and entered into force on 1st December 1986. It has 8 signatories excluding Kenya and 54 contracting states. The LLMC 1976 replaces the International Convention relating to the Limitation of the Liability of Owners of Seagoing Ships, which was signed in Brussels in 1957 and came into force in 1968. The LLMC 1976 raises the limit of liability for claims covered in some cases up to 250-300 per cent. Limits are specified for two types of claims – claims for loss of life or personal injury, and property claims. The LLMC 1976 establishes uniform rules relating to the limitation of liability for maritime claims. The claims include those of loss of life or personal injury and loss or damage to property, occurring on board or in connection with operations of ship or salvage operations including damage to other ships, property, harbor works and waterways amongst others.

The LLMC 1976 safeguards interests of both the ship owners and potential claimants by providing greater certainty in the event of a claim.

Kenya is not signatory to the LLMC 1976 and therefore seeks to ratify it. Lastly the committee was that the LLMC 1976 is incorporated in Chapter XVII of the Merchant Shipping Act, 2009.

Committee Observations

The Committee made the following observations that:-

- a. The ratification and implementation of the convention will help to safeguard the interests of the shipping community, ship owners and insurers in particular and provide certainty to the outcome of the compensation regime.
- b. The country will be in line with the globally accepted liability limits that are agreed and prescribed and therefore putting claimants in our jurisdiction at an advantage in any action against a ship owner for loss or damage occasioned by a ship.
- c. As a trading nation that imports and exports large quantities of cargo by sea, Kenya obtains economic benefits from the universal rules of law established. The international rules promote commerce and trade by standardizing regulations and requirements of ships in the ports they visit.
- d. The country will benefit from the International Maritime Organization's Technical Co-operation Programmes and from other development partners who assist developing countries to develop capacity for implementation and enforcement purposes.
- e. There are no financial or budgetary implications in ratifying the LLMC 1976. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds should be budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

viii. **The 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976;**

The Committee was Informed that:-

The Protocol to the Convention on Limitation of Liability for Maritime Claims (1996 LLMC Protocol) which entered into force in 2004 increases the amount of compensation payable in the event of an incident and also introduces a "tacit acceptance" procedure for updating these amounts. The 1996 LLMC Protocol was signed by 9 member states excluding Kenya and to-date 49 States have ratified it.

Committee Observations

The Committee made the following observations that:-

1. The ratification and implementation of the Protocol will enable Kenyans who are importers to draw increased amounts in compensation in case of an incident where their property is lost in the sea. Compensation will be 1 million SDR (US \$ 1.586 Million) in a ship not exceeding 2,000 gross tonnages.
2. Kenyans who serve in the ships as seafarers would be highly compensated in case of personal injury or loss of life.
3. They will be able to earn 2 Million SDR equivalent to US \$ 3.17 Million if they were serving in a ship whose gross tonnage does not exceed 2,000.
4. There are no financial or budgetary implications in ratifying the 1996 LLMC Protocol. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds are budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

Reservation on the protocol

Article 18 of the consolidated LLMC (i.e. the 1976 LLMC as amended by the 1996 LLMC Protocol) enables a contracting State to reserve the right "to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment or protocol thereto (HNS Convention)." It is advisable upon ratification for Kenya to reserve the right to exclude claims for damage within the meaning of the HNS Convention because should Kenya, in future, ratify the HNS Convention, without this reservation, there will be two systems of liability arising from the consolidated LLMC and the HNS Convention.

ix. The Nairobi International Convention on the Removal of Wrecks, 2007;

The Committee was informed that:-

Kenya became a member of the International Maritime Organization (IMO) in 1973. It has since ratified several international Conventions. The International Convention on Removal of Wrecks 2007 was adopted by a five day Diplomatic Conference held at the United Nations Office in Nairobi (UNON) on 18th May 2007. Kenya signed the Convention on the date of adoption. The Convention to-date has 11 contracting States and it is scheduled to enter into force in April 2015 having met the entry into force requirement of 10 contracting states.

The Convention provides an international legal framework by providing a set of unified international rules aimed at ensuring prompt and effective removal of wrecks located beyond the territorial sea.

The public have been sensitized on the Convention under the Merchant Shipping Act of 2009.

Committee Observations

The Committee made the following observations that:-

- a. The Convention has clear benefits to Kenya's maritime industry and Kenya's ratification will indicate her lead role since the Convention was adopted in Nairobi, Kenya.
- b. The International Maritime Organization technical cooperation assistance is provided to facilitate countries which need to develop implementation instruments for effective implementation and enforcement of the Convention in accordance with a resolution adopted during the Nairobi International Convention on Removal of Wrecks, 2007.
- c. Ratification and subsequent implementation of the Convention will create a legal framework on the removal of wrecks in our waters. This will empower the country to control and manage wrecks with a view to eliminate hazards that damage the marine and coastal environment as well as shipping.
- d. It also proposes guidelines that will enable Member States to enforce regulations on locating and marking wrecks, as well as determining the liabilities of responsible parties in removing the hazardous wrecks and materials.
- e. Would lead to better maritime safety, reduction in the costs and risks to maritime transport, and better protection of the global maritime environment.
- f. Prevent marine pollution of Kenya's territorial waters especially the port areas, marinas, moorings and areas of high ship traffic.
- g. Kenya will benefit from international programs aimed at eliminating the problem through implementing unified provisions and regulations.

- h. Ship owners will be made financially liable and make them take insurance. On the other hand, removal of wrecks will make it easier for costing of the cargo which was in the ship for compensation purpose from insurers.
- i. Tourism industry including hotels, fisheries etc. will thrive in free pollution environment.
- j. There are no financial/budgetary implications in ratifying the Convention. However, implementation will require building of capacity and development of regulations

both of which are ongoing programmes in the Ministry and its agencies and on review and policy of legislation both of which are ongoing programmes in the Ministry and its agencies. Required funds are budgeted by the Ministry, Kenya Maritime Authority and other agencies.

x. The International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001

The Committee was informed that:-

The International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 was adopted at an International Diplomatic Conference at the International Maritime Organization Headquarters in London on 5th October, 2001. It came into force on 17th September, 2008. Kenya as a Port State needs to ratify the Antifouling Systems Convention has a big number of ships call our ports and some of them have paint coats that endanger our marine environment.

The Convention was signed by 8 Member States at adoption. To-date it has 68 contracting Member States whose combined merchant fleet is approximately 83.2% of gross tonnage of world merchant fleet.

The Convention requirements forbid application of anti-fouling coatings to new and existing ships, fixed and floating platforms, floating productions and/or storage units, regardless of size after January 2003. It will also reduce/eliminate any risk to the marine environment, human health, marine life and resources from the use of compounds that contain harmful anti-fouling systems. Ships required to comply with the requirements of the Convention since January 2008.

Anti-fouling systems are a coating, paint, surface treatment, surface or device that is used on a ship to control or prevent attachment of unwanted organisms. The Convention is incorporated in the Merchant Shipping Act, 2009 as it provides enforcement mechanism for Port State Control Surveys and Inspections amongst others.

Committee Observations

The Committee made the following observations that:-

- a. The International Maritime Organization technical cooperation assistance is provided to facilitate countries which need to develop implementation instruments and introduce other measures including training of personnel, for effective implementation and enforcement of the Convention.

- b. Ships expected to operate with a clean hull that is non-threatening to the environment.
- c. Use of environment friendly Anti-fouling Systems will enhance reduction of air pollution from sulphur oxide and nitrogen oxide emissions from ship exhausts as well as ozone depleting substances.
- d. Use of clean Anti-fouling Systems will prevent marine pollution of Kenya's territorial waters especially the port areas, marinas, moorings and areas of high ship traffic.
- e. Kenya will benefit from international programs aimed at eliminating the problem through implementing unified provisions and regulations.
- f. Tourism industry including hotels, fisheries etc. will thrive in free pollution.
- g. Use of Anti-fouling Systems by ships with clean hulls will ensure fuel consumption efficiency.
- h. There are no financial or budgetary implications in ratifying the Convention on the Limitation of Liability for Maritime Claims 1976. However, implementation will require building of capacity and development of regulations both of which are ongoing programmes in the Ministry and its agencies. Required funds should be budgeted for by the Ministry, Kenya Maritime Authority, Kenya Ports Authority and other agencies.

Min/DC-TPWH/2015/078

Committee Recommendations

The Committee recommended that all the Conventions and Protocols be approved for ratification by the National Assembly for the interest of the Country's Maritime and Civil Aviation Industry.

Min/DC-TPWH/2015/079

Adjournment and date of next meeting

And the time being 12.30 pm the meeting was adjourned to be reconvened on Monday 30th March, 2015 at 2.00pm.

SIGNED.....

HON MAINA KAMANDA, M.P

(Chairperson)

DATE..... 31/3/15

Load Lines

International Convention on Load Lines, 1966
and Protocol of 1988, as amended in 2003

CONSOLIDATED EDITION, 2005



KENYA MARITIME AUTHORITY
LIBRARY
08 JUN 2011
RECEIVED
P. O. Box 95076-80104, MOMBASA

First published in 1987
by the INTERNATIONAL MARITIME ORGANIZATION
4 Albert Embankment, London SE1 7SR
www.imo.org

Third edition 2005

Printed in the United Kingdom by CPI Books Limited, Reading RG1 8EX



ISBN 978-92-801-4194-9

IMO PUBLICATION
Sales number: IB701E

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Foreword

Introduction

1 The International Convention on Load Lines, 1966 (LL Convention) was adopted by the International Conference on Load Lines on 5 April 1966 and entered into force on 21 July 1968. It has since been amended by means of Assembly resolutions as follows:

- .1 by Assembly resolution A.231(VII), which was adopted on 12 October 1971;
- .2 by Assembly resolution A.319(IX), which was adopted on 12 November 1975;
- .3 by Assembly resolution A.411(XI), which was adopted on 15 November 1979;
- .4 by Assembly resolution A.513(13), which was adopted on 17 November 1983; and
- .5 by Assembly resolution A.784(19), which was adopted on 23 November 1995.

As far as the 1966 LL Convention is concerned, these amendments had not entered into force at the time of publication of the present consolidated edition.

2 The 1966 LL Convention was modified by the 1988 Protocol relating thereto, which was adopted on 11 November 1988 by the International Conference on the Harmonized System of Survey and Certification and entered into force on 3 February 2000. The intention of the 1988 Protocol is to harmonize the Convention's survey and certification requirements with those contained in SOLAS and MARPOL. The 1988 LL Protocol itself has been modified by the 2003 Amendments, which were adopted by resolution MSC.143(77) on 5 June 2003 and entered into force on 1 January 2005, and by the 2004 Amendments, which were adopted by resolution MSC.172(79) on 9 December 2004 and are expected to enter into force on 1 July 2006. The 1971, 1975, 1979, 1983 and 1995 amendments to the 1966 LL Convention referred to in paragraphs 1.1 to 1.5 above were incorporated into the 1988 LL Protocol, as amended by resolution MSC.143(77).

Content of the consolidated text

3 This publication contains the 1966 LL Convention; the articles of the 1988 LL Protocol; a consolidated text of the 1966 LL Convention as modified by the 1988 LL Protocol, which has been amended by resolution MSC.143(77); the 2004 Amendments to the 1988 LL Protocol, which have

Foreword

not yet entered into force; and the unified interpretations of the 1966 LL Convention approved by the Maritime Safety Committee up to December 2004.

- 4 The publication has been arranged in six parts:
 - 1 part 1, which contains a reproduction of the original text of the 1966 LL Convention;
 - 2 part 2, which contains the Articles of the 1988 LL Protocol;
 - 3 part 3, containing the 1966 LL Convention as modified by the 1988 LL Protocol, which has been amended by resolution MSC.143(77);
 - 4 part 4, which contains the 2004 amendments to the 1988 LL Protocol, which were adopted by resolution MSC.172(79) and are expected to enter into force on 1 July 2006;
 - 5 part 5, which contains the unified interpretations of the 1966 LL Convention approved by the Maritime Safety Committee up to December 2004. These interpretations were originally disseminated by circulars LL.3/Circ. 69, LL.3/Circ. 77, LL.3/Circ. 130 and LL.3/Circ.155; and
 - 6 part 6, consisting of the Form of Record of conditions of assignment of load lines accepted by the Maritime Safety Committee.
- 5 In Part 3, those articles and regulations of the 1966 LL Convention which have been modified by the 1988 Protocol, as amended, are indicated by the symbol ¶. It should be noted that, from the legal point of view, the 1988 Protocol is only applicable to ships entitled to fly the flag of a State which is a Party to the Protocol.
- 6 In accordance with resolution A.351(IX), whereby the Assembly resolved that metric units in the "Système international d'unités" (SI System) should be introduced in the 1974 SOLAS Convention at the first opportunity and also in all future instruments to be adopted under the auspices of the Organization, the text of the 1966 LL Convention as modified by the 1988 Protocol contained in the present publication shows values and dimensions in SI units only. Thus, the values and dimensions in imperial units are omitted only for the purposes of the present publication and also for consistency with the regulations of the Convention that have been modified by the 1988 Protocol, where all dimensions are given in SI units only.

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Part 1
International Convention
on Load Lines, 1966

INTERNATIONAL CONVENTION ON LOAD LINES, 1966

The Contracting Governments,

DESIRING to establish uniform principles and rules with respect to the limits to which ships on international voyages may be loaded having regard to the need for safeguarding life and property at sea;

CONSIDERING that this end may best be achieved by conclusion of a Convention;

HAVE AGREED as follows:

Article 1

General obligation under the Convention

- (1) The Contracting Governments undertake to give effect to the provisions of the present Convention and the annexes hereto, which shall constitute an integral part of the present Convention. Every reference to the present Convention constitutes at the same time a reference to the annexes.
- (2) The Contracting Governments shall undertake all measures which may be necessary to give effect to the present Convention.

Article 2

Definitions

For the purpose of the present Convention, unless expressly provided otherwise:

- (1) *Regulations* means the regulations annexed to the present Convention.
- (2) *Administration* means the Government of the State whose flag the ship is flying.
- (3) *Approved* means approved by the Administration.
- (4) *International voyage* means a sea voyage from a country to which the present Convention applies to a port outside such country, or conversely. For this purpose, every territory for the international relations of which a Contracting Government is responsible or for which the United Nations are the administering authority is regarded as a separate country.
- (5) A *fishing vessel* is a ship used for catching fish, whales, seals, walrus or other living resources of the sea.
- (6) *New ship* means a ship the keel of which is laid, or which is at a similar stage of construction, on or after the date of coming into force of the present Convention for each Contracting Government.

Consultative Organization" (hereinafter called "the Organization") particulars of the same and reasons therefor which the Organization shall circulate to the Contracting Governments for their information.

(4) A ship which is not normally engaged on international voyages but which, in exceptional circumstances, is required to undertake a single international voyage may be exempted by the Administration from any of the requirements of the present Convention, provided that it complies with safety requirements which, in the opinion of that Administration, are adequate for the voyage which is to be undertaken by the ship.

Article 7

Force majeure

(1) A ship which is not subject to the provisions of the present Convention at the time of its departure on any voyage shall not become subject to such provisions on account of any deviation from its intended voyage due to stress of weather or any other cause of *force majeure*.

(2) In applying the provisions of the present Convention, the Contracting Government shall give due consideration to any deviation or delay caused to any ship owing to stress of weather or any other cause of *force majeure*.

Article 8

Equivalents

(1) The Administration may allow any fitting, material, appliance or apparatus to be fitted, or any other provision to be made in a ship, other than that required by the present Convention, if it is satisfied by trial thereof or otherwise that such fitting, material, appliance or apparatus, is at least as effective as that required by the Convention.

(2) The Administration which allows a fitting, material, appliance or apparatus, or provision, other than that required by the present Convention, shall communicate to the Organization for circulation to the Contracting Governments particulars thereof, together with a report on any trials made.

Article 9

Approvals for experimental purposes

(1) Nothing in the present Convention shall prevent an Administration from making specific approvals for experimental purposes in respect of a ship to which the Convention applies.

(2) An Administration which makes any such approval shall communicate to the Organization for circulation to the Contracting Governments particulars thereof.

"The name of the Organization was changed to "International Maritime Organization" by virtue of amendments to the Organization's Convention which entered into force on 22 May 1982.

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Article 10
Repairs, alterations and modifications

- (1) A ship which undergoes repairs, alterations, modifications and outfitting related thereto shall continue to comply with at least the requirements previously applicable to the ship. An existing ship in such a case shall not, as a rule, comply to a lesser extent with the requirements for a new ship than it did before.
- (2) Repairs, alterations and modifications of a major character and outfitting related thereto should meet the requirements for a new ship in so far as the Administration deems reasonable and practicable.

Article 11
Zones and areas

- (1) A ship to which the present Convention applies shall comply with the requirements applicable to that ship in the zones and areas described in annex II.
- (2) A port standing on the boundary line between two zones or areas shall be regarded as within the zone or area from or into which the ship arrives or departs.

Article 12
Submersion

- (1) Except as provided in paragraphs (2) and (3) of this article, the appropriate load lines on the sides of the ship corresponding to the season of the year and the zone or area in which the ship may be shall not be submerged at any time when the ship puts to sea, during the voyage or on arrival.
- (2) When a ship is in fresh water of unit density the appropriate load line may be submerged by the amount of the fresh water allowance shown on the International Load Line Certificate (1966). Where the density is other than unity, an allowance shall be made proportional to the difference between 1.025 and the actual density.
- (3) When a ship departs from a port situated on a river or inland waters, deeper loading shall be permitted corresponding to the weight of fuel and all other materials required for consumption between the point of departure and the sea.

Article 13
Survey, inspection and marking

The survey, inspection and marking of ships, as regards the enforcement of the provisions of the present Convention and the granting of exemptions therefrom, shall be carried out by officers of the Administration. The Administration may, however, entrust the survey, inspection and marking either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned fully guarantees the completeness and efficiency of the survey, inspection and marking.

Article 14
Initial and periodical surveys and inspections

- (1) A ship shall be subjected to the surveys and inspections specified below:
- (a) A survey before the ship is put in service, which shall include a complete inspection of its structure and equipment insofar as the ship is covered by the present Convention. This survey shall be such as to ensure that the arrangements, material, and scantlings fully comply with the requirements of the present Convention.
 - (b) A periodical survey at intervals specified by the Administration, but not exceeding five years, which shall be such as to ensure that the structure, equipment, arrangements, materials and scantlings fully comply with the requirements of the present Convention.
 - (c) An annual inspection within 3 months either way of each annual anniversary date of the certificate to ensure that alterations have not been made to the hull or superstructures which would affect the calculations determining the position of the load line and so as to ensure the maintenance in an effective condition of fittings and appliances for:
 - (i) protection of openings;
 - (ii) guard rails;
 - (iii) freeing ports; and
 - (iv) means of access to crew's quarters.
 - (2) The periodical inspections referred to in paragraph (1)(c) of this article shall be endorsed on the International Load Line Certificate (1966) or on the International Load Line Exemption Certificate issued to a ship exempted under paragraph (2) of article 6 of the present Convention.

Article 15

Maintenance of conditions after survey

After any survey of the ship under article 14 has been completed, no change shall be made in the structure, equipment, arrangements, material or scantlings covered by the survey, without the sanction of the Administration.

Article 16

Issue of certificates

- (1) An International Load Line Certificate (1966) shall be issued to every ship which has been surveyed and marked in accordance with the present Convention.
- (2) An International Load Line Exemption Certificate shall be issued to any ship to which an exemption has been granted under and in accordance with paragraph (2) or (4) of article 6.
- (3) Such certificates shall be issued by the Administration or by any person or organization duly authorized by it. In every case, the Administration assumes full responsibility for the certificate.

(9) Notwithstanding any other provision of the present Convention, any international load line certificate which is current when the present Convention comes into force in respect of the Government of the State whose flag the ship is flying shall remain valid for two years or until it expires, whichever is earlier. After that time an International Load Line Certificate (1966) shall be required.

Article 17

Issue of certificate by another Government

- (1) A Contracting Government may, at the request of another Contracting Government, cause a ship to be surveyed and, if satisfied that the provisions of the present Convention are complied with, shall issue or authorize the issue of an International Load Line Certificate (1966) to the ship in accordance with the present Convention.
- (2) A copy of the certificate, a copy of the survey report used for computing the freeboard, and a copy of the computations shall be transmitted as early as possible to the requesting Government.
- (3) A certificate so issued must contain a statement to the effect that it has been issued at the request of the Government of the State whose flag the ship is or will be flying and it shall have the same force and receive the same recognition as a certificate issued under article 16.
- (4) No International Load Line Certificate (1966) shall be issued to a ship which is flying the flag of a State the Government of which is not a Contracting Government.

Article 18

Form of certificates

- (1) The certificates shall be drawn up in the official language or languages of the issuing country. If the language used is neither English nor French, the text shall include a translation into one of these languages.
- (2) The form of the certificates shall be that of the models given in annex III. The arrangement of the printed part of each model certificate shall be exactly reproduced in any certificates issued, and in any certified copies thereof.

see also the unified interpretation

Article 19

Duration of certificates

- (1) An International Load Line Certificate (1966) shall be issued for a period specified by the Administration, which shall not exceed 5 years from the date of issue.
- (2) If, after the periodical survey referred to in paragraph (1)(b) of article 14, a new certificate cannot be issued to the ship before the expiry of the certificate originally issued, the person or organization carrying out the survey may extend

months. This extension shall be endorsed on the certificate, and shall be granted only where there have been no alterations in the structure, equipment, arrangements, material or scantlings which affect the ship's freeboard.

(3) An International Load Line Certificate (1966) shall be cancelled by the Administration if any of the following circumstances exist:

- (a) material alterations have taken place in the hull or superstructures of the ship such as would necessitate the assignment of an increased freeboard;
- (b) the fittings and appliances mentioned in sub-paragraph (c) of paragraph (1) of article 14 are not maintained in an effective condition;
- (c) the certificate is not endorsed to show that the ship has been inspected as provided in sub-paragraph (c) of paragraph (1) of article 14;
- (d) the structural strength of the ship is lowered to such an extent that the ship is unsafe.

(4) (a) The duration of an International Load Line Exemption Certificate issued by an Administration to a ship exempted under paragraph (2) of article 6 shall not exceed five years from the date of issue. Such certificate shall be subject to a renewal, endorsement and cancellation procedure similar to that provided for an International Load Line Certificate (1966) under this article.

(b) The duration of an International Load Line Exemption Certificate issued to a ship exempted under paragraph (4) of article 6 shall be limited to the single voyage for which it is issued.

(5) A certificate issued to a ship by an Administration shall cease to be valid upon the transfer of such a ship to the flag of another State.

Article 20 *Acceptance of certificates*

The certificates issued under the authority of a Contracting Government in accordance with the present Convention shall be accepted by the other Contracting Governments and regarded for all purposes covered by the present Convention as having the same force as certificates issued by them.

Article 21 *Control*

(1) Ships holding a certificate issued under article 16 or article 17 are subject, when in the ports of other Contracting Governments, to control by officers duly authorized by such Governments. Contracting Governments shall ensure that such control is exercised as far as is reasonable and practicable with a view to verifying that there is on board a valid certificate under the present Convention. If there is a valid International Load Line Certificate (1966) on board the ship, such control shall be limited to the purpose of determining that:

- (a) the ship is not loaded beyond the limits allowed by the certificate;
- (b) the position of the load line of the ship corresponds with the certificate; and
- (c) the ship has not been so materially altered in respect of the matters set out in sub-paragraphs (a) and (b) of paragraph (3) of article 19 that the ship is manifestly unfit to proceed to sea without danger to human life.

If there is a valid International Load Line Exemption Certificate on board, such control shall be limited to the purpose of determining that any conditions stipulated in that certificate are complied with.

(2) If such control is exercised under sub-paragraph (c) of paragraph (1) of this article, it shall only be exercised in so far as may be necessary to ensure that the ship shall not sail until it can proceed to sea without danger to the passengers or the crew.

(3) In the event of the control provided for in this article giving rise to intervention of any kind, the officer carrying out the control shall immediately inform in writing the Consul or the diplomatic representative of the State whose flag the ship is flying of this decision and of all the circumstances in which intervention was deemed to be necessary.

Article 22

Privileges

The privileges of the present Convention may not be claimed in favour of any ship unless it holds a valid certificate under the Convention.

Article 23

Casualties

(1) Each Administration undertakes to conduct an investigation of any casualty occurring to ships for which it is responsible and which are subject to the provisions of the present Convention when it judges that such an investigation may assist in determining what changes in the Convention might be desirable.

(2) Each Contracting Government undertakes to supply the Organization with the pertinent information concerning the findings of such investigations. No reports or recommendations of the Organization based upon such information shall disclose the identity or nationality of the ships concerned or in any manner fix or imply responsibility upon any ship or person.

Article 24
Prior treaties and conventions

- (1) All other treaties, conventions and arrangements relating to load line matters at present in force between Governments Parties to the present Convention shall continue to have full and complete effect during the terms thereof as regards:
- (a) ships to which the present Convention does not apply; and
- (b) ships to which the present Convention applies, in respect of matters for which it has not expressly provided.
- (2) To the extent, however, that such treaties, conventions or arrangements conflict with the provisions of the present Convention, the provisions of the present Convention shall prevail.

Article 25

Special rules drawn up by agreement

When, in accordance with the present Convention special rules are drawn up by agreement among all or some of the Contracting Governments, such rules shall be communicated to the Organization for circulation to all Contracting Governments.

Article 26

Communication of information

- (1) The Contracting Governments undertake to communicate to and deposit with the Organization:

(a) a sufficient number of specimens of their certificates issued under the provisions of the present Convention for circulation to the Contracting Governments;

(b) the text of the laws, decrees, orders, regulations and other instruments which shall have been promulgated on the various matters within the scope of the present Convention; and

(c) a list of non-governmental agencies which are authorized to act in their behalf in the administration of load line matters for circulation to the Contracting Governments.

(2) Each Contracting Government agrees to make its strength standards available to any other Contracting Government, upon request.

Article 27

Signature, acceptance and accession

- (1) The present Convention shall remain open for signature for three months from 5 April 1966 and shall thereafter remain open for accession. Governments of States Members of the United Nations, or of any of the

Specialized Agencies, or of the International Atomic Energy Agency, or parties to the Statute of the International Court of Justice may become parties to the Convention by:

- (a) signature without reservation as to acceptance;
- (b) signature subject to acceptance followed by acceptance; or
- (c) accession.

(2) Acceptance or accession shall be effected by the deposit of an instrument of acceptance or accession with the Organization which shall inform all Governments that have signed the Convention or acceded to it of each new acceptance or accession and of the date of its deposit.

Article 28

Coming into force

(1) The present Convention shall come into force twelve months after the date on which not less than fifteen Governments of the States, including seven each with not less than one million gross tons of shipping, have signed without reservation as to acceptance or deposited instruments of acceptance or accession in accordance with article 27. The Organization shall inform all Governments which have signed or acceded to the present Convention of the date on which it comes into force.

(2) For Governments which have deposited an instrument of acceptance or accession to the present Convention during the twelve months mentioned in paragraph (1) of this article, the acceptance or accession shall take effect on the coming into force of the present Convention or three months after the date of deposit of the instrument of acceptance or accession, whichever is the later date.

(3) For Governments which have deposited an instrument of acceptance or accession to the present Convention after the date on which it comes into force, the Convention shall come into force three months after the date of the deposit of such instrument.

(4) After the date on which all the measures required to bring an amendment to the present Convention into force have been completed, or all necessary acceptances are deemed to have been given under sub-paragraph (b) of paragraph (2) of article 29 in case of amendment by unanimous acceptance, any instrument of acceptance or accession deposited shall be deemed to apply to the Convention as amended.

Article 29

Amendments

(1) The present Convention may be amended upon the proposal of a Contracting Government by any of the procedures specified in this article.

(2) Amendment by unanimous acceptance:

- (a) Upon the request of a Contracting Government, any amendment proposed by it to the present Convention shall be communicated

- by the Organization to all Contracting Governments for consideration with a view to unanimous acceptance.
- (b) Any such amendment shall enter into force twelve months after the date of its acceptance by all Contracting Governments unless an earlier date is agreed upon. A Contracting Government which does not communicate its acceptance or rejection of the amendment to the Organization within three years of its first communication by the latter shall be deemed to have accepted the amendment.
 - (c) Any proposed amendment shall be deemed to be rejected if it is not accepted under sub-paragraph (b) of the present paragraph within three years after it has been first communicated to all Contracting Governments by the Organization.
- (3) Amendment after consideration in the Organization:
- (a) Upon the request of a Contracting Government, any amendment proposed by it to the present Convention will be considered in the Organization. If adopted by a majority of two-thirds of those present and voting in the Maritime Safety Committee of the Organization, such amendment shall be communicated to all Members of the Organization and all Contracting Governments at least six months prior to its consideration by the Assembly of the Organization.
 - (b) If adopted by a two-thirds majority of those present and voting in the Assembly, the amendment shall be communicated by the Organization to all Contracting Governments for their acceptance.
 - (c) Such amendment shall come into force twelve months after the date on which it is accepted by two-thirds of the Contracting Governments. The amendment shall come into force with respect to all Contracting Governments except those which, before it comes into force, make a declaration that they do not accept the amendment.
 - (d) The Assembly, by a two-thirds majority of those present and voting, including two-thirds of the Governments represented on the Maritime Safety Committee and present and voting in the Assembly, may propose a determination at the time of its adoption that an amendment is of such an important nature that any Contracting Government which makes a declaration under sub-paragraph (c), and which does not accept the amendment within a period of twelve months after it comes into force, shall cease to be a party to the present Convention upon the expiry of that period. This determination shall be subject to the prior acceptance of two-thirds of the Contracting Governments to the present Convention.
 - (e) Nothing in this paragraph shall prevent the Contracting Government which first proposed action under this paragraph on an amendment to the present Convention from taking at any time such alternative action as it deems desirable in accordance with paragraph (2) or (4) of this article.

- (a) Upon the request of a Contracting Government, concurred in by at least one-third of the Contracting Governments, a conference of Governments will be convened by the Organization to consider amendments to the present Convention.
- (b) Every amendment adopted by such a conference by a two-thirds majority of those present and voting of the Contracting Governments shall be communicated by the Organization to all Contracting Governments for their acceptance.
- (c) Such amendment shall come into force twelve months after the date on which it is accepted by two-thirds of the Contracting Governments. The amendment shall come into force with respect to all Contracting Governments except those which, before it comes into force, make a declaration that they do not accept the amendment.
- (d) By a two-thirds majority of those present and voting, a conference convened under sub-paragraph (a) may determine at the time of its adoption that an amendment is of such an important nature that any Contracting Government which makes a declaration under sub-paragraph (c), and which does not accept the amendment within a period of twelve months after it comes into force, shall cease to be a party to the present Convention upon the expiry of that period.
- (5) Any amendments to the present Convention made under this article which relate to the structure of a ship shall apply only to ships the keels of which are laid, or which are at a similar stage of construction, on or after the date on which the amendment comes into force.
- (6) The Organization shall inform all Contracting Governments of any amendments which come into force under this article, together with the date on which each such amendment will come into force.
- (7) Any acceptance or declaration under this article shall be made by a notification in writing to the Organization which shall notify all Contracting Governments of the receipt of the acceptance or declaration.

Article 30

Denunciation

- (1) The present Convention may be denounced by any Contracting Government at any time after the expiry of five years from the date on which the Convention comes into force for that Government.
- (2) Denunciation shall be effected by a notification in writing addressed to the Organization which shall inform all the other Contracting Governments of any such notification received and of the date of its receipt.
- (3) A denunciation shall take effect one year, or such longer period as may be specified in the notification, after its receipt by the Organization.

Article 31
Suspension

- (1) In case of hostilities or other extraordinary circumstances which affect the vital interests of a State the Government of which is a Contracting Government, that Government may suspend the operation of the whole or any part of the present Convention. The suspending Government shall immediately give notice of any such suspension to the Organization.
- (2) Such suspension shall not deprive other Contracting Governments of any right of control under the present Convention over the ships of the suspending Government when such ships are within their ports.
- (3) The suspending Government may at any time terminate such suspension and shall immediately give notice of such termination to the Organization.
- (4) The Organization shall notify all Contracting Governments of any suspension or termination of suspension under this article.

Article 32
Territories

- (1) (a) The United Nations, in cases where they are the administering authority for a territory, or any Contracting Government responsible for the international relations of a territory, shall as soon as possible consult with such territory in an endeavour to extend the present Convention to that territory and may at any time by notification in writing to the Organization declare that the present Convention shall extend to such territory.
(b) The present Convention shall, from the date of the receipt of the notification or from such other date as may be specified in the notification, extend to the territory named therein.
- (2) (a) The United Nations, or any Contracting Government which has made a declaration under sub-paragraph (a) of paragraph (1) of this article, at any time after the expiry of a period of five years from the date on which the Convention has been so extended to any territory, may by notification in writing to the Organization declare that the present Convention shall cease to extend to any such territory named in the notification.
(b) The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be specified therein, after the date of receipt of the notification by the Organization.
- (3) The Organization shall inform all the Contracting Governments of the extension of the present Convention to any territories under paragraph (1) of this article, and of the termination of any such extension under the provisions of paragraph (2), stating in each case the date from which the present Convention has been or will cease to be so extended.

Article 33

Registration

(1) The present Convention shall be deposited with the Organization and the Secretary-General of the Organization shall transmit certified true copies thereof to all Signatory Governments and to all Governments which accede to the present Convention.

(2) As soon as the present Convention comes into force it shall be registered by the Organization in accordance with Article 102 of the Charter of the United Nations.

Article 34

Languages

The present Convention is established in a single copy in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.*

DONE at London this fifth day of April 1966.

Annex I

Regulations for determining load lines

Chapter I

General

The regulations assume that the nature and stowage of the cargo, ballast, etc., are such as to secure sufficient stability of the ship and the avoidance of excessive structural stress.

The regulations also assume that where there are international requirements relating to stability or subdivision, these requirements have been complied with.

Regulation 1

Strength of hull

The Administration shall satisfy itself that the general structural strength of the hull is sufficient for the draught corresponding to the freeboard assigned. Ships built and maintained in conformity with the requirements of a classification society recognized by the Administration may be considered to possess adequate strength.

Regulation 2

Application

- (1) Ships with mechanical means of propulsion or lighters, barges or other ships without independent means of propulsion shall be assigned freeboards in accordance with the provisions of regulations 1—40 inclusive of this annex.
- (2) Ships carrying timber deck cargoes may be assigned, in addition to the freeboards prescribed in paragraph (1) of this regulation, timber freeboards in accordance with the provisions of regulations 41—45 inclusive of this annex.
- (3) Ships designed to carry sail, whether as the sole means of propulsion or as a supplementary means, and tugs, shall be assigned freeboards in accordance with the provisions of regulations 1—40 inclusive of this annex. Such additional freeboard shall be required as determined by the Administration.
- (4) Ships of wood or of composite construction, or of other materials the use of which the Administration has approved, or ships whose constructional features are such as to render the application of the provisions of this annex unreasonable or impracticable, shall be assigned freeboards as determined by the Administration.

- (5) Regulations 10-26 inclusive of this annex shall apply to every ship to which a minimum freeboard is assigned. Relaxations from these requirements may be granted to a ship to which a greater than minimum freeboard is assigned on condition that the Administration is satisfied with the safety conditions provided.

see also the unified interpretation

Regulation 3

Definitions of terms used in the annexes

- (1) *Length*. The length (L) shall be taken as 96% of the total length on a waterline at 85% of the least moulded depth measured from the top of the keel, or as the length from the fore side of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline.
- (2) *Perpendiculars*. The forward and after perpendiculars shall be taken at the forward and after ends of the length (L). The forward perpendicular shall coincide with the fore side of the stem on the waterline on which the length is measured.
- (3) *Amidships*. Amidships is at the middle of the length (L).
- (4) *Breadth*. Unless expressly provided otherwise, the breadth (B) is the maximum breadth of the ship, measured amidships to the moulded line of the frame in a ship with a metal shell and to the outer surface of the hull in a ship with a shell of any other material.
- (5) *Moulded depth*
- (a) The moulded depth is the vertical distance measured from the top of the keel to the top of the freeboard deck beam at side. In wood and composite ships the distance is measured from the lower edge of the keel rabbet. Where the form at the lower part of the midship section is of a hollow character, or where thick garboards are fitted, the distance is measured from the point where the line of the flat of the bottom continued inwards cuts the side of the keel.
- (b) In ships having rounded gunwales, the moulded depth shall be measured to the point of intersection of the moulded lines of the deck and side shell plating, the lines extending as though the gunwale were of angular design.
- (c) Where the freeboard deck is stepped and the raised part of the deck extends over the point at which the moulded depth is to be determined, the moulded depth shall be measured to a line of reference extending from the lower part of the deck along a line parallel with the raised part.

see also the unified interpretation

(a) The depth for freeboard (D) is the moulded depth amidships, plus the thickness of the freeboard deck stringer plate, where fitted, plus $\frac{T(L-S)}{L}$ if the exposed freeboard deck is sheathed, where T is the mean thickness of the exposed sheathing clear of deck openings, and

S is the total length of superstructures as defined in subparagraph (10)(d) of this regulation.

(b) The depth for freeboard (D) in a ship having a rounded gunwale with a radius greater than 4% of the breadth (B) or having topsides of unusual form is the depth for freeboard of a ship having a midship section with vertical topsides and with the same round of beam and area of topside section equal to that provided by the actual midship section.

see also the unified interpretation

(7) *Block coefficient.* The block coefficient (C_b) is given by:

$$C_b = \frac{V}{L \cdot B \cdot d_1}; \text{ where}$$

V is the volume of the moulded displacement of the ship, excluding bossing, in a ship with a metal shell, and is the volume of displacement to the outer surface of the hull in a ship with a shell of any other material, both taken at a moulded draught of d_1 ; and where

d_1 is 85% of the least moulded depth.

(8) *Freeboard.* The freeboard assigned is the distance measured vertically downwards amidships from the upper edge of the deck line to the upper edge of the related load line.

(9) *Freeboard deck.* The freeboard deck is normally the uppermost complete deck exposed to weather and sea, which has permanent means of closing all openings in the weather part thereof, and below which all openings in the sides of the ship are fitted with permanent means of watertight closing. In a ship having a discontinuous freeboard deck, the lowest line of the exposed deck and the continuation of that line parallel to the upper part of the deck is taken as the freeboard deck. At the option of the owner and subject to the approval of the Administration, a lower deck may be designated as the freeboard deck provided it is a complete and permanent deck continuous in a fore and aft direction at least between the machinery space and peak bulkheads and continuous athwartships. When this lower deck is stepped the lowest line of the deck and the continuation of that line parallel to the upper part of the deck is taken as the freeboard deck. When a lower deck is designated as the freeboard deck, that part of the hull which extends above the freeboard deck is treated as a superstructure so far as concerns the application of the conditions of assignment and the calculation of freeboard. It is from this deck that the freeboard is calculated.

see also the unified interpretations

- (a) A superstructure is a decked structure on the freeboard deck, extending from side to side of the ship or with the side plating not being inboard of the shell plating more than 4% of the breadth (B). A raised quarter-deck is regarded as a superstructure.
- (b) An enclosed superstructure is a superstructure with:
- (i) enclosing bulkheads of efficient construction;
 - (ii) access openings, if any, in these bulkheads fitted with doors complying with the requirements of regulation 12;
 - (iii) all other openings in sides or ends of the superstructure fitted with efficient weathertight means of closing.

A bridge or poop shall not be regarded as enclosed unless access is provided for the crew to reach machinery and other working spaces inside these superstructures by alternative means which are available at all times when bulkhead openings are closed.

see also the unified interpretation

- (c) The height of a superstructure is the least vertical height measured at side from the top of the superstructure deck beams to the top of the freeboard deck beams.
- (d) The length of a superstructure (S) is the mean length of the part of the superstructure which lies within the length (L).
- (11) *Flush deck ship.* A flush deck ship is one which has no superstructure on the freeboard deck.
- (12) *Weathertight.* "Weathertight" means that in any sea conditions water will not penetrate into the ship.

Regulation 4 Deck line

The deck line is a horizontal line 300 mm (12 inches) in length and 25 mm (1 inch) in breadth. It shall be marked amidships on each side of the ship, and its upper edge shall normally pass through the point where the continuation outwards of the upper surface of the freeboard deck intersects the outer surface of the shell (as illustrated in figure 1), provided that the deck line may be placed with reference to another fixed point on the ship on condition that the freeboard is correspondingly corrected. The location of the reference point and the identification of the freeboard deck shall in all cases be indicated on the International Load Line Certificate (1966).

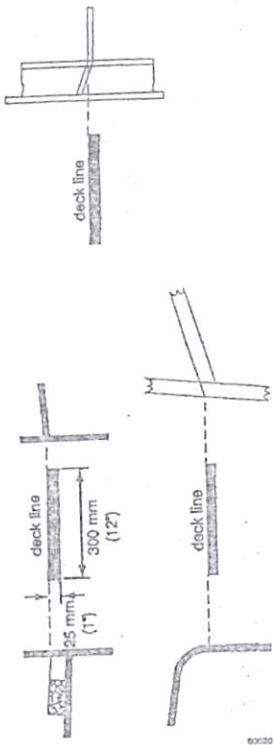


Figure 1 - Deck line

Regulation 5
Load Line Mark

The Load Line Mark shall consist of a ring 300 mm (12 inches) in outside diameter and 25 mm (1 inch) wide which is intersected by a horizontal line 450 mm (18 inches) in length and 25 mm (1 inch) in breadth, the upper edge of which passes through the centre of the ring. The centre of the ring shall be placed amidships and at a distance equal to the assigned summer freeboard measured vertically below the upper edge of the deck line (as illustrated in figure 2).

Regulation 6
Lines to be used with the Load Line Mark

(1) The lines which indicate the load line assigned in accordance with these regulations shall be horizontal lines 230 mm (9 inches) in length and 25 mm (1 inch) in breadth which extend forward of, unless expressly provided otherwise, and at right angles to, a vertical line 25 mm (1 inch) in breadth marked at a distance 540 mm (21 inches) forward of the centre of the ring (as illustrated in figure 2).

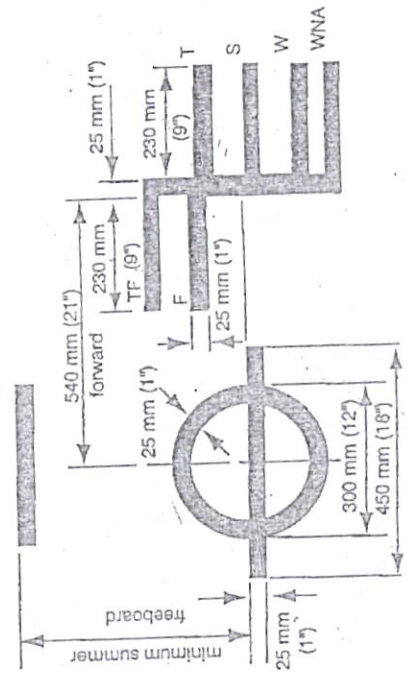


Figure 2 - Load Line Mark and lines to be used with their mark

- (2) The following load lines shall be used:
- The Summer Load Line indicated by the upper edge of the line which passes through the centre of the ring and also by a line marked S.
 - The Winter Load Line indicated by the upper edge of a line marked W.
 - The Winter North Atlantic Load Line indicated by the upper edge of a line marked WNA.
 - The Tropical Load Line indicated by the upper edge of a line marked T.
 - The Fresh Water Load Line in summer indicated by the upper edge of a line marked F. The Fresh Water Load Line in summer is Water Load Line in summer and the Summer Load Line is the allowance to be made for loading in fresh water at the other load lines.
 - The Tropical Fresh Water Load Line indicated by the upper edge of a line marked TF, and marked abaft the vertical line.
- (3) If timber foreboards are assigned in accordance with these regulations, the timber load lines shall be marked in addition to ordinary load lines. These lines shall be horizontal lines 230 mm (9 inches) in length and 25 mm (1 inch) in breadth which extend abaft unless expressly provided otherwise, and are at right angles to, a vertical line 25 mm (1 inch) in breadth marked at a distance 540 mm (21 inches) abaft the centre of the ring (as illustrated in figure 3).
- (4) The following timber load lines shall be used:
- The Summer Timber Load Line indicated by the upper edge of a line marked LS.
 - The Winter Timber Load Line indicated by the upper edge of a line marked LW.
 - The Winter North Atlantic Timber Load Line indicated by the upper edge of a line marked LWNA.

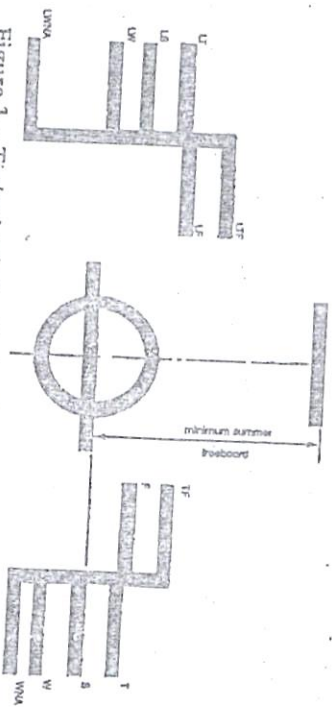


Figure 3 - Timber Load Line Mark and lines to be used with this mark

- (d) The Tropical Timber Load Line indicated by the upper edge of a line marked LT.
- (e) The Fresh Water Timber Load Line in summer indicated by the upper edge of a line marked LF and marked forward of the vertical line. The difference between the Fresh Water Timber Load Line in summer and the Summer Timber Load Line is the allowance to be made for loading in fresh water at the other timber load lines.
- (f) The Tropical Fresh Water Timber Load Line indicated by the upper edge of a line marked LTF and marked forward of the vertical line.

(5) Where the characteristics of a ship or the nature of the ship's service or navigational limits make any of the seasonal lines inapplicable, these lines may be omitted.

(6) Where a ship is assigned a greater than minimum freeboard so that the load line is marked at a position corresponding to, or lower than, the lowest seasonal load line assigned at minimum freeboard in accordance with the present Convention, only the Fresh Water Load Line need be marked.

(7) On sailing ships only the Fresh Water Load Line and the Winter North Atlantic Load Line need be marked (as illustrated in figure 4).

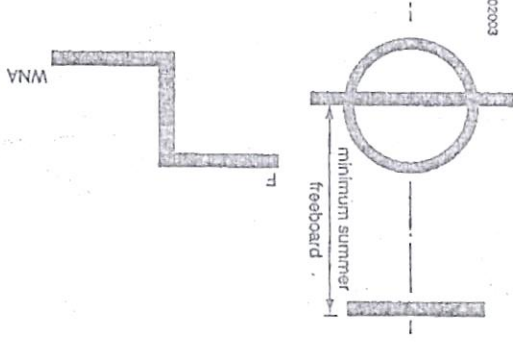


Figure 4 - Load Line Mark on sailing ships and lines to be used with this mark

(8) Where a Winter North Atlantic Load Line is identical with the Winter Load Line corresponding to the same vertical line, this load line shall be marked W.

(9) Additional load lines required by other international conventions in force may be marked at right angles to and abaft the vertical line specified in paragraph (1) of this regulation.

Regulation 7

Mark of assigning Authority

The mark of the Authority by whom the load lines are assigned may be indicated alongside the load line ring above the horizontal line which passes through the centre of the ring, or above and below it. This mark shall consist of not more than four initials to identify the Authority's name; each measuring approximately 115 mm ($4\frac{1}{2}$ inches) in height and 75 mm (3 inches) in width.

Regulation 8

Details of marking

The ring, lines and letters shall be painted in white or yellow on a dark ground or in black on a light ground. They shall also be permanently marked on the sides of the ships to the satisfaction of the Administration. The marks shall be plainly visible and, if necessary, special arrangements shall be made for this purpose.

see also the unified interpretation

Regulation 9

Verification of marks

The International Load Line Certificate (1966) shall not be delivered to the ship until the officer or surveyor acting under the provisions of article 13 of the present Convention has certified that the marks are correctly and permanently indicated on the ship's sides.

Chapter II

Conditions of assignment of freeboard

Regulation 10

Information to be supplied to the master

- (1) The master of every new ship shall be supplied with sufficient information, in an approved form, to enable him to arrange for the loading and ballasting of his ship in such a way as to avoid the creation of any unacceptable stresses in the ship's structure, provided that this requirement need not apply to any particular length, design or class of ship where the Administration considers it to be unnecessary.
- (2) The master of every new ship which is not already provided with stability information under an international convention for the safety of life at sea in force shall be supplied with sufficient information in an approved form to give him guidance as to the stability of the ship under varying conditions of service, and a copy shall be furnished to the Administration.

Regulation 11

Superstructure end bulkheads

Bulkheads at exposed ends of enclosed superstructures shall be of efficient construction and shall be to the satisfaction of the Administration

Regulation 12

Doors

see also the unified interpretation

(1) All access openings in bulkheads at ends of enclosed superstructures shall be fitted with doors of steel or other equivalent material, permanently and strongly attached to the bulkhead, and framed, stiffened and fitted so that the whole structure is of equivalent strength to the unpierced bulkhead and weathertight when closed. The means for securing these doors weathertight shall consist of gaskets and clamping devices or other equivalent means and shall be permanently attached to the bulkhead or to the doors themselves, and the doors shall be so arranged that they can be operated from both sides of the bulkhead.

(2) Except as otherwise provided in these regulations, the height of the sills of access openings in bulkheads at ends of enclosed superstructures shall be at least 380 mm (15 inches) above the deck.

Regulation 13

Position 1 - Upon exposed foreboard and raised quarter-decks, and upon exposed superstructure decks situated forward of a point located a quarter of the ship's length from the forward perpendicular.

Position 2 - Upon exposed superstructure decks situated abaft a quarter of the ship's length from the forward perpendicular.

Regulation 14 *Cargo and other hatchways*

- (1) The construction and the means for securing the weather-tightness of the cargo and other hatchways in positions 1 and 2 shall be at least equivalent to the requirements of regulations 15 and 16 of this annex.
- (2) Coamings and hatchway covers to exposed hatchways on decks above the superstructure deck shall comply with the requirements of the Administration.

Regulation 15

Hatchways closed by portable covers and secured weather-tight by tarpaulins and battening devices

Hatchway coamings

- (1) The coamings of hatchways closed by portable covers secured weather-tight by tarpaulins and battening devices shall be of substantial construction, and their height above the deck shall be at least as follows:
- 600 mm (23½ inches) if in position 1
450 mm (17½ inches) if in position 2.

Hatchway covers

- (2) The width of each bearing surface for hatchway covers shall be at least 65 mm (2½ inches).
- (3) Where covers are made of wood, the finished thickness shall be at least 60 mm (2¾ inches) in association with a span of not more than 1.5 m (4.9 feet).
- (4) Where covers are made of mild steel the strength shall be calculated with assumed loads not less than 1.75 metric tons per square metre (358 pounds per square foot) on hatchways in position 1, and not less than 1.30 metric tons per square metre (266 pounds per square foot) on hatchways in position 2, and the product of the maximum stress thus calculated and the factor 4.25 shall not exceed the minimum ultimate strength of the material. They shall be so designed as to limit the deflection to not more than 0.0028 times the span under these loads.

see also the unified interpretation

- (5) The assumed loads on hatchways in position 1 may be reduced to 1 metric ton per square metre (205 pounds per square foot) for ships of 24 m (79 feet) in length and shall be not less than 1.75 metric tons per square metre (358 pounds per square foot) for ships of more than 24 m in length.

corresponding loads on hatchways in position 2 may be reduced to 0.75 metric tons per square metre (154 pounds per square foot) and 1.30 metric tons per square metre (266 pounds per square foot) respectively. In all cases values at intermediate lengths shall be obtained by interpolation.

see also the unified interpretation

Portable beams

(6) Where portable beams for supporting hatchway covers are made of mild steel the strength shall be calculated with assumed loads not less than 1.75 metric tons per square metre (358 pounds per square foot) on hatchways in position 1 and not less than 1.30 metric tons per square metre (266 pounds per square foot) on hatchways in position 2 and the product of the maximum stress thus calculated and the factor 5 shall not exceed the minimum ultimate strength of the material. They shall be so designed as to limit the deflection to not more than 0.0022 times the span under these loads. For ships of not more than 100 metres (328 feet) in length the requirements of paragraph (5) of this regulation are applicable.

see also the unified interpretation

Pontoon covers

(7) Where pontoon covers used in place of portable beams and covers are made of mild steel the strength shall be calculated with the assumed loads given in paragraph (4) of this regulation, and the product of the maximum stress thus calculated and the factor 5 shall not exceed the minimum ultimate strength of the material. They shall be so designed as to limit the deflection to not more than 0.0022 times the span. Mild steel plating forming the tops of covers shall be not less in thickness than 1% of the spacing of stiffeners or 6 mm (0.24 inches) if that be greater. For ships of not more than 100 m (328 feet) in length the requirements of paragraph (5) of this regulation are applicable.

see also the unified interpretation

(8) The strength and stiffness of covers made of materials other than mild steel shall be equivalent to those of mild steel to the satisfaction of the Administration.

Carriers or sockets

(9) Carriers or sockets for portable beams shall be of substantial construction, and shall provide means for the efficient fitting and securing of the beams. Where rolling types of beams are used, the arrangements shall ensure that the beams remain properly in position when the hatchway is closed.

Cleats

(10) Cleats shall be set to fit the taper of the wedges. They shall be at least 65 mm (2½ inches) wide and spaced not more than 600 mm (23½ inches) centre to centre; the cleats along each side or end shall be not more than 150 mm (6 inches) from the hatch corners.

Battens and wedges

(11) Battens and wedges shall be efficient and in good condition. Wedges shall be of tough wood or other equivalent material. They shall have a taper of not more than 1 in 6 and shall be not less than 13 mm ($\frac{1}{2}$ inch) thick at the toes.

Tarpaulins

(12) At least two layers of tarpaulin in good condition shall be provided for each hatchway in position 1 or 2. The tarpaulins shall be waterproof and of ample strength. They shall be of a material of at least an approved standard weight and quality.

Security of hatchway covers

(13) For all hatchways in position 1 or 2 steel bars or other equivalent means shall be provided in order efficiently and independently to secure each section of hatchway covers after the tarpaulins are battened down. Hatchway covers of more than 1.5 m (4.9 feet) in length shall be secured by at least two such securing appliances.

see also the unified interpretation

Regulation 16

Hatchways closed by weathertight covers of steel or other equivalent material fitted with gaskets and clamping devices

see also the unified interpretations

Hatchway coamings

(1) At positions 1 and 2 the height above the deck of hatchway coamings fitted with weathertight hatch covers of steel or other equivalent material fitted with gaskets and clamping devices shall be as specified in regulation 15(1). The height of these coamings may be reduced, or the coamings omitted entirely, on condition that the Administration is satisfied that the safety of the ship is not thereby impaired in any sea conditions. Where coamings are provided they shall be of substantial construction.

Weathertight covers

(2) Where weathertight covers are of mild steel the strength shall be calculated with assumed loads not less than 1.75 metric tons per square metre (358 pounds per square foot) on hatchways in position 1, and not less than 1.30 metric tons per square metre (266 pounds per square foot) on hatchways in position 2, and the product of the maximum stress thus calculated and the factor of 4.25 shall not exceed the minimum ultimate strength of the material. They shall be so designed as to limit the deflection to not more than 0.0028 times the span under these loads. Mild steel plating forming the tops of covers shall be not less in thickness than 1% of the spacing of stiffeners or 6 mm (0.24 inches) if that be greater. The provisions of regulation 15(5) are applicable for ships of not more than 100 m (328 feet) in length.

(3) The strength and stiffness of covers made of materials other than mild steel shall be equivalent to those of mild steel to the satisfaction of the Administration.

Means for securing weather-tightness

(4) The means for securing and maintaining weather-tightness shall be to the satisfaction of the Administration. The arrangements shall ensure that the tightness can be maintained in any sea conditions, and for this purpose tests for tightness shall be required at the initial survey, and may be required at periodical surveys and at annual inspections or at more frequent intervals.

Regulation 17

Machinery space openings

(1) Machinery space openings in position 1 or 2 shall be properly framed and efficiently enclosed by steel casings of ample strength, and where the casings are not protected by other structures their strength shall be specially considered. Access openings in such casings shall be fitted with doors complying with the requirements of regulation 12(1), the sills of which shall be at least 600 mm (23½ inches) above the deck if in position 1, and at least 380 mm (15 inches) above the deck if in position 2. Other openings in such casings shall be fitted with equivalent covers, permanently attached in their proper positions.

see also the unified interpretation

(2) Casings of any fiddley, funnel or machinery space ventilator in an exposed position on the freeboard or superstructure deck shall be as high above the deck as is reasonable and practicable. Fiddley openings shall be fitted with strong covers of steel or other equivalent material permanently attached in their proper positions and capable of being secured weather-tight.

see also the unified interpretation

Regulation 18

Miscellaneous openings in freeboard and superstructure decks

(1) Manholes and flush scutles in position 1 or 2 or within superstructures other than enclosed superstructures shall be closed by substantial covers capable of being made water-tight. Unless secured by closely spaced bolts, the covers shall be permanently attached.

(2) Openings in freeboard decks other than hatchways, machinery space openings, manholes and flush scutles shall be protected by an enclosed superstructure, or by a deckhouse or companionway of equivalent strength and weather-tightness. Any such opening in an exposed superstructure deck, or in the top of a deckhouse on the freeboard or a space within an enclosed superstructure space below the freeboard deck or a space within an enclosed superstructure shall be protected by an efficient deckhouse or companionway. Doorways in such deckhouses or companionways shall be fitted with doors complying with the requirements of regulation 12(1).

see also the unified interpretations

- (3) In position 1 the height above the deck of sills to the doorways in companionways shall be at least 600 mm (23½ inches). In position 2 it shall be at least 380 mm (15 inches).

see also the unified interpretation

Regulation 19 Ventilators

see also the unified interpretation

- (1) Ventilators in position 1 or 2 to spaces below freeboard decks or decks of enclosed superstructures shall have coamings of steel or other equivalent material, substantially constructed and efficiently connected to the deck. Where the coaming of any ventilator exceeds 900 mm (35½ inches) in height it shall be specially supported.

- (2) Ventilators passing through superstructures other than enclosed superstructures shall have substantially constructed coamings of steel or other equivalent material at the freeboard deck.

- (3) Ventilators in position 1 the coamings of which extend to more than 4.5 m (14.8 feet) above the deck, and in position 2 the coamings of which extend to more than 2.3 m (7.5 feet) above the deck, need not be fitted with closing arrangements unless specifically required by the Administration.

see also the unified interpretation

- (4) Except as provided in paragraph (3) of this regulation, ventilator openings shall be provided with weathertight closing appliances. In ships of not more than 100 m (328 feet) in length the closing appliances shall be permanently attached; where not so provided in other ships, they shall be conveniently stowed near the ventilators to which they are to be fitted. Ventilators in position 1 shall have coamings of a height of at least 900 mm (35½ inches) above the deck; in position 2 the coamings shall be of a height at least 760 mm (30 inches) above the deck.

see also the unified interpretation

- (5) In exposed positions, the height of coamings may be required to be increased to the satisfaction of the Administration.

Regulation 20 Air pipes

Where air pipes to ballast and other tanks extend above the freeboard or superstructure decks, the exposed parts of the pipes shall be of substantial construction; the height from the deck to the point where water may have access below shall be at least 760 mm (30 inches) on the freeboard deck and 450 mm (17½ inches) on the superstructure deck.

interfere with the working of the ship, a lower height may be approved, provided the Administration is satisfied that the closing arrangements and other circumstances justify a lower height. Satisfactory means, permanently attached, shall be provided for closing the openings of the air pipes.

see also the unified interpretations

Regulation 21

Cargo ports and other similar openings

see also the unified interpretation

(1) Cargo ports and other similar openings in the sides of ships below the freeboard deck shall be fitted with doors so designed as to ensure watertightness and structural integrity commensurate with the surrounding shell plating. The number of such openings shall be the minimum compatible with the design and proper working of the ship.

see also the unified interpretation

(2) Unless permitted by the Administration, the lower edge of such openings shall not be below a line drawn parallel to the freeboard deck at side, which has at its lowest point the upper edge of the uppermost load line.

see also the unified interpretation

Regulation 22

Scuppers, inlets and discharges

see also the unified interpretation

(1) Discharges led through the shell either from spaces below the freeboard deck or from within superstructures and deckhouses on the freeboard deck fitted with doors complying with the requirements of regulation 12 shall, be fitted with efficient and accessible means for preventing water from passing inboard. Normally each separate discharge shall have one automatic non-return valve with a positive means of closing it from a position above the freeboard deck. Where, however, the vertical distance from the summer load waterline to the inboard end of the discharge pipe exceeds 0.01L, the discharge may have two automatic non-return valves without positive means of closing, provided that the inboard valve is always accessible for examination under service conditions; where that vertical distance exceeds 0.02L, a single automatic non-return valve without positive means of closing may be accepted subject to the approval of the Administration. The means for operating the positive-action valve shall be readily accessible and provided with an indicator showing whether the valve is open or closed.

see also the unified interpretations

(2) In manned machinery spaces, main and auxiliary sea inlets and discharges in connection with the operation of machinery may be controlled locally. The controls shall be readily accessible and shall be provided with indicators showing whether the valves are open or closed.

(3) Scuppers and discharge pipes originating at any level and penetrating the shell either more than 450 mm (17½ inches) below the freeboard deck or less than 600 mm (23½ inches) above the summer load waterline shall be provided with a non-return valve at the shell. This valve, unless required by paragraph (1), may be omitted if the piping is of substantial thickness.

(4) Scuppers leading from superstructures or deckhouses not fitted with doors complying with the requirements of regulation 12 shall be led overboard.

(5) All valves and shell fittings required by this regulation shall be of steel, bronze or other approved ductile material. Valves of ordinary cast iron or similar material are not acceptable. All pipes to which this regulation refers shall be of steel or other equivalent material to the satisfaction of the Administration.

Regulation 23

Sidescuttles

see also the unified interpretations

(1) Sidescuttles to spaces below the freeboard deck or to spaces within enclosed superstructures shall be fitted with efficient hinged inside deadlights arranged so that they can be effectively closed and secured watertight.

(2) No sidescuttle shall be fitted in a position so that its sill is below a line drawn parallel to the freeboard deck at side and having its lowest point 2.5% of the breadth (*B*) above the load waterline or 500 mm (19½ inches), whichever is the greater distance.

(3) The sidescuttles, together with their glasses, if fitted, and deadlights, shall be of substantial and approved construction.

Regulation 24

Freeing ports

(1) Where bulwarks on the weather portions of freeboard or superstructure decks form wells, ample provision shall be made for rapidly freeing the decks of water and for draining them. Except as provided in paragraphs (2) and (3) of this regulation, the minimum freeing port area (*A*) on each side of the ship for each well on the freeboard deck shall be that given by the following formulae in cases where the sheer in way of the well is standard or greater than standard. The minimum area for each well on superstructure decks shall be one-half of the area given by the formulae.

Where the length of bulwark (*l*) in the well is 20 m or less

$$A = 0.7 + 0.035l \text{ m}^2.$$

Where *l* exceeds 20 m

$$A = 0.07l \text{ m}^2.$$

l need in no case be taken as greater than 0.7*L*.

If the bulwark is more than 1.2 m in average height, the required area shall be increased by 0.004 m² per metre of length of well for each 0.1 m difference in

height. If the bulwark is less than 0.9 m in average height, the required area may be decreased by 0.004 m² per metre of length of well for each 0.1 m difference in height.

Or

Where the length of bulwark (l) in the well is 66 feet or less

$$A = 7.6 + 0.115l \text{ (square feet).}$$

Where l exceeds 66 feet

$$A = 0.23l \text{ (square feet)}$$

l need in no case be taken as greater than 0.7L.

If the bulwark is more than 3.9 feet in average height, the required area shall be increased by 0.04 square feet per foot of length of well for each foot difference in height. If the bulwark is less than 3 feet in average height, the required area may be decreased by 0.04 square feet per foot of length for each foot difference in height.

..... see also the unified interpretations

(2) In ships with no sheer, the calculated area shall be increased by 50%. Where the sheer is less than the standard, the percentage shall be obtained by interpolation.

(3) Where a ship fitted with a trunk does not comply with the requirements of regulation 36(1)(c) or where continuous or substantially continuous hatchway side coamings are fitted between detached superstructures, the minimum area of the freeing port openings shall be calculated from the following table:

Breadth of hatchway or trunk in relation to the breadth of ship	Area of freeing ports in relation to the total area of the bulwarks
40% or less	20%
75% or more	10%

The area of freeing ports at intermediate breadths shall be obtained by linear interpolation.

..... see also the unified interpretation

(4) In ships having superstructures which are open at either or both ends, adequate provision for freeing the space within such superstructures shall be provided to the satisfaction of the Administration.

..... see also the unified interpretation

(5) The lower edges of the freeing ports shall be as near the deck as practicable. Two-thirds of the freeing port area required shall be provided in the half of the well nearest the lowest point of the sheer curve.

..... see also the unified interpretation

(6) All such openings in the bulwarks shall be protected by rails or bars spaced approximately 230 mm (9 inches) apart. If shutters are fitted to freeing ports, ample clearance shall be provided to prevent jamming. Hinges shall have pins or bearings of non-corrodible material. If shutters are fitted with securing appliances, these appliances shall be of approved construction.

Regulation 25
Protection of the crew

- (1) The strength of the deckhouses used for the accommodation of the crew shall be to the satisfaction of the Administration.
- (2) Efficient guard rails or bulwarks shall be fitted to all exposed parts of the freeboard and superstructure decks. The height of the bulwarks or guard rails shall be at least 1 m (39 1/2 inches) from the deck, provided that where this height would interfere with the normal operation of the ship, a lesser height may be approved if the Administration is satisfied that adequate protection is provided.

see also the unified interpretations

(3) The opening below the lowest course of the guard rails shall not exceed 230 mm (9 inches). The other courses shall be not more than 380 mm (15 inches) apart. In the case of ships with rounded gunwales the guard rail supports shall be placed on the flat of the deck.

see also the unified interpretation

(4) Satisfactory means (in the form of guard rails, lifelines, gangways or underdeck passages, etc.) shall be provided for the protection of the crew in getting to and from their quarters, the machinery space and all other parts used in the necessary work of the ship.

see also the unified interpretation

(5) Deck cargo carried on any ship shall be so stowed that any opening which is in way of the cargo and which gives access to and from the crew's quarters, the machinery space and all other parts used in the necessary work of the ship, can be properly closed and secured against the admission of water. Effective protection for the crew in the form of guard rails or lifelines shall be provided above the deck cargo if there is no convenient passage on or below the deck of the ship.

Regulation 26
Special conditions of assignment for type 'A' ships

see also the unified interpretation

Machinery casings

(1) Machinery casings on type 'A' ships, as defined in regulation 27, shall be protected by an enclosed poop or bridge of at least standard height, or by a deckhouse of equal height and equivalent strength, provided that machinery casings may be exposed if there are no openings giving direct access from the freeboard deck to the machinery space.

requirements of regulation 12 may, however, be permitted in the machinery casing, provided that it leads to a space or passageway which is as strongly constructed as the casing and is separated from the stairway to the engine-room by a second weathertight door of steel or other equivalent material.

see also the unified interpretation

Gangway and access

(2) An efficiently constructed fore and aft permanent gangway sufficient strength shall be fitted on type 'A' ships at the level of the superstructure deck between the poop and the midship bridge or deckhouse where fitted, or equivalent means of access shall be provided to carry out the purpose of the gangway, such as passages below deck. Elsewhere, and on type 'A' ships without a midship bridge, arrangements to the satisfaction of the Administration shall be provided to safeguard the crew in reaching all parts used in the necessary work of the ship.

see also the unified interpretation

(3) Safe and satisfactory access from the gangway level shall be available between separate crew accommodations and also between crew accommodations and the machinery space.

Hatchways

(4) Exposed hatchways on the freeboard and forecastle decks or on the tops of expansion trunks on type 'A' ships shall be provided with efficient watertight covers of steel or other equivalent material.

Freecing arrangements

(5) Type 'A' ships with bulwarks shall have open rails fitted for at least half the length of the exposed parts of the weather deck or other effective freecing arrangements. The upper edge of the sheer strake shall be kept as low as practicable.

see also the unified interpretation

(6) Where superstructures are connected by trunks, open rails shall be fitted for the whole length of the exposed parts of the freeboard deck.

Chapter III

Freeboards

Regulation 27 Types of ships

(1) For the purposes of freeboard computation ships shall be divided into type 'A' and type 'B'.

Type 'A' ships

(2) A type 'A' ship is one which is designed to carry only liquid cargoes in bulk, and in which cargo tanks have only small access openings closed by watertight gasketed covers of steel or equivalent material. Such a ship necessarily has the following inherent features:

- (a) high integrity of the exposed deck; and
- (b) high degree of safety against flooding, resulting from the low permeability of loaded cargo spaces and the degree of subdivision usually provided.

(3) A type 'A' ship if over 150 m (492 feet) in length, and designed to have empty compartments when loaded to her summer load waterline, shall be able to withstand the flooding of any one of these empty compartments at an assumed permeability of 0.95, and remain afloat in a condition of equilibrium 225 m (738 feet) in length, the machinery space shall be treated as a floodable compartment but with a permeability of 0.85.

For the guidance of Administrations the following limits may be regarded as satisfactory:

- (a) The final waterline after flooding is below the lower edge of any opening through which progressive flooding may take place.
- (b) The maximum angle of heel due to unsymmetrical flooding is of the order of 15°.
- (c) The metacentric height in the flooded condition is positive.

(4) A type 'A' ship shall be assigned a freeboard not less than that based on table A of regulation 28.

Type 'B' ships

(5) All ships which do not come within the provisions regarding type 'A' ships in paragraphs (2) and (3) of this regulation shall be considered as type 'B' ships.

(6) Type 'B' ships which in position 1 have hatchways fitted with hatch covers complying with the requirements of regulation 15(7) or 16 shall, except as provided in paragraphs (7) to (10) inclusive of this regulation, be assigned freeboards based on table B of regulation 28.

(7) Any type 'B' ship of over 100 m (328 feet) in length may be assigned freeboards less than that required under paragraph (6) of this regulation provided that, in relation to the amount of reduction granted, the Administration is satisfied that:

- (a) the measures provided for the protection of the crew are adequate;
- (b) the freeing arrangements are adequate;
- (c) the covers in positions 1 and 2 comply with the provisions of regulation 16 and have adequate strength, special care being given to their sealing and securing arrangements;

see also the unified interpretation

- (d) the ship, when loaded to her summer load waterline, will remain afloat in a satisfactory condition of equilibrium after flooding of any single damaged compartment at an assumed permeability of 0.95 excluding the machinery space; and
- (e) in such a ship, over 225 m (738 feet) in length, the machinery space shall be treated as a floodable compartment but with a permeability of 0.85.

For the guidance of Administrations in applying sub-paragraphs (d) and (e) of this paragraph the limits given in sub-paragraphs (3) (a), (b) and (c) may be regarded as satisfactory.

The relevant calculations may be based upon the following main assumptions:

- the vertical extent of damage is equal to the depth of the ship;
- the penetration of damage is not more than $\frac{B}{5}$
- no main transverse bulkhead is damaged;
- the height of the centre of gravity above the base line is assessed allowing for homogeneous loading of cargo holds, and for 50% of the designed capacity of consumable fluids and stores, etc.

see also the unified interpretation

(8) In calculating the freeboards for type 'B' ships which comply with the requirements of paragraph (7) of this regulation, the values from table B of regulation 28 shall not be reduced by more than 60% of the difference between the 'B' and 'A' tabular values for the appropriate ship lengths.

(9) The reduction in tabular freeboard allowed under paragraph (8) of this regulation may be increased up to the total difference between the values in table A and those in table B of regulation 28 on condition that the ship complies with the requirements of regulation 26(1), (2), (3), (5) and (6), as if it were a type 'A' ship, and further complies with the provisions of paragraph 7 (a) to (d) inclusive of this regulation except that the reference in sub-paragraph (d) to the flooding of any single damaged compartment shall be treated as a reference to the flooding of any two adjacent fore and aft compartments, neither of which is the machinery space. Also any such ship of over 225 m (738 feet) in length, when loaded to her summer load waterline, shall remain afloat in a satisfactory condition of equilibrium after flooding of the machinery space, taken alone, at an assumed permeability of 0.85.

see also the unified interpretation

(10) Type 'B' ships, which in position 1 have hatchways fitted with hatch covers which comply with the requirements of regulation 15, other than paragraph (7), shall be assigned freeboards based upon the values given in table B of regulation 28 increased by the values given in the following table:

Freeboard increase over tabular freeboard for type 'B' ships, for ships with hatch covers not complying with regulation 15(7) or 16

Length of ship (m)	Freeboard increase (mm)	Length of ship (m)	Freeboard increase (mm)	Length of ship (m)	Freeboard increase (mm)
108 and below	50	139	175	171	292
109	52	140	181	172	294
110	55	141	186	173	297
111	57	142	191	174	299
112	59	143	196	175	301
113	62	144	201	176	304
114	64	145	206	177	306
115	68	146	210	178	308
116	70	147	215	179	311
117	73	148	219	180	313
118	76	149	224	181	315
119	80	150	228	182	318
120	84	151	232	183	320
121	87	152	236	184	322
122	91	153	240	185	325
123	95	154	244	186	327
124	99	155	247	187	329
125	103	156	251	188	332
126	108	157	254	189	334
127	112	158	258	190	336
128	116	159	261	191	339
129	121	160	264	192	341
130	126	161	267	193	343
131	131	162	270	194	346
132	136	163	273	195	348
133	142	164	275	196	350
134	147	165	278	197	353
135	153	166	280	198	355
136	159	167	283	199	357
137	164	168	285	200	358
138	170	169	287		
		170	290		

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation. Ships above 200 m in length shall be dealt with by the Administration.

Freeboard increase over tabular freeboard for type 'B' ships, for ships with hatch covers not complying with regulation 15(7) or 16

Length of ship (feet)	Freeboard increase (inches)	Length of ship (feet)	Freeboard increase (inches)
350	2.0	510	9.6
and below		520	10.0
360	2.3	530	10.4
370	2.6	540	10.7
380	2.9	550	11.0
390	3.3	560	11.4
400	3.7	570	11.8
410	4.2	580	12.1
420	4.7	590	12.5
430	5.2	600	12.8
440	5.8	610	13.1
450	6.4	620	13.4
460	7.0	630	13.6
470	7.6	640	13.9
480	8.2	650	14.1
490	8.7	660	14.3
500	9.2		

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation. Ship above 660 feet in length shall be dealt with by the Administration.

|| see also the unified interpretation

(11) A lighter, barge or other ship without independent means of propulsion shall be assigned a freeboard in accordance with the provisions of these regulations. However, in the case of barges which are unmanned the requirements of regulations 25, 26(2) and (3) and 39 shall not apply. Such unmanned barges which have on the freeboard deck only small access openings closed by weathertight gasketed covers of steel or equivalent material may be assigned freeboards 25% less than those calculated in accordance with these regulations.

see also the unified interpretations

Regulation 28 Freeboard tables

see also the unified interpretation

Type 'A' ships

(1) The tabular freeboard for type 'A' ships shall be determined from the following table:

Table A - Freeboard table for type 'A' ships

Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)
24	200	69	693	114	1359
25	208	70	706	115	1376
26	217	71	720	116	1392
27	225	72	733	117	1409
28	233	73	746	118	1426
29	242	74	760	119	1442
30	250	75	773	120	1459
31	258	76	786	121	1476
32	267	77	800	122	1494
33	275	78	814	123	1511
34	283	79	828	124	1528
35	292	80	841	125	1546
36	300	81	855	126	1563
37	308	82	869	127	1580
38	316	83	883	128	1598
39	325	84	897	129	1615
40	334	85	911	130	1632
41	344	86	926	131	1650
42	354	87	940	132	1667
43	364	88	955	133	1684
44	374	89	969	134	1702
45	385	90	984	135	1719
46	396	91	999	136	1736
47	408	92	1014	137	1753
48	420	93	1029	138	1770
49	432	94	1044	139	1787
50	443	95	1059	140	1803
51	455	96	1074	141	1820
52	467	97	1089	142	1837
53	478	98	1105	143	1853
54	490	99	1120	144	1870
55	503	100	1135	145	1886
56	516	101	1151	146	1903
57	530	102	1166	147	1919
58	544	103	1181	148	1935
59	559	104	1196	149	1952
60	573	105	1212	150	1968
61	587	106	1228	151	1984
62	600	107	1244	152	2000
63	613	108	1260	153	2016
64	626	109	1276	154	2032
65	639	110	1293	155	2048
66	653	111	1309	156	2064
67	666	112	1326	157	2080
68	680	113	1342	158	2096

Table A (continued)

Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)
159	2111	204	2650	249	3006
160	2126	205	2659	250	3012
161	2141	206	2669	251	3018
162	2155	207	2678	252	3024
163	2169	208	2687	253	3030
164	2184	209	2696	254	3036
165	2198	210	2705	255	3042
166	2212	211	2714	256	3048
167	2226	212	2723	257	3054
168	2240	213	2732	258	3060
169	2254	214	2741	259	3066
170	2268	215	2749	260	3072
171	2281	216	2758	261	3078
172	2294	217	2767	262	3084
173	2307	218	2775	263	3089
174	2320	219	2784	264	3095
175	2332	220	2792	265	3101
176	2345	221	2801	266	3106
177	2357	222	2809	267	3112
178	2369	223	2817	268	3117
179	2381	224	2825	269	3123
180	2393	225	2833	270	3128
181	2405	226	2841	271	3133
182	2416	227	2849	272	3138
183	2428	228	2857	273	3143
184	2440	229	2865	274	3148
185	2451	230	2872	275	3153
186	2463	231	2880	276	3158
187	2474	232	2888	277	3163
188	2486	233	2895	278	3167
189	2497	234	2903	279	3172
190	2508	235	2910	280	3176
191	2519	236	2918	281	3181
192	2530	237	2925	282	3185
193	2541	238	2932	283	3189
194	2552	239	2939	284	3194
195	2562	240	2946	285	3198
196	2572	241	2953	286	3202
197	2582	242	2959	287	3207
198	2592	243	2966	288	3211
199	2602	244	2973	289	3215
200	2612	245	2979	290	3220
201	2622	246	2986	291	3224
202	2632	247	2993	292	3228
203	2641	248	3000	293	3233

Table A (continued)

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation.
Ships above 365 m in length shall be dealt with by the Administration.

Length of ship (m)	Length of Freeboard (mm)	Length of ship (m)	Length of Freeboard (mm)	Length of ship (m)	Length of Freeboard (mm)
294	3237	318	3325	342	3387
295	3241	319	3328	343	3389
296	3246	320	3331	344	3392
297	3250	321	3334	345	3394
298	3254	322	3337	346	3396
299	3258	323	3339	347	3399
300	3262	324	3342	348	3401
301	3266	325	3345	349	3403
302	3270	326	3347	350	3406
303	3274	327	3350	351	3408
304	3278	328	3353	352	3410
305	3281	329	3355	353	3412
306	3285	330	3358	354	3414
307	3288	331	3361	355	3416
308	3292	332	3363	356	3418
309	3295	333	3366	357	3420
310	3298	334	3368	358	3422
311	3302	335	3371	359	3423
312	3305	336	3373	360	3425
313	3308	337	3375	361	3427
314	3312	338	3378	362	3428
315	3315	339	3380	363	3430
316	3318	340	3382	364	3432
317	3322	341	3385	365	3433

Table A - Freeboard table for type 'A' ships

Length of ship (feet)	Length of Freeboard (inches)	Length of ship (feet)	Length of Freeboard (inches)	Length of ship (feet)	Length of Freeboard (inches)
80	8.0	180	19.8	280	36.3
90	8.9	190	21.3	290	38.0
100	9.8	200	22.9	300	39.7
110	10.8	210	24.5	310	41.4
120	11.9	220	26.2	320	43.2
130	13.0	230	27.8	330	45.0
140	14.2	240	29.5	340	46.9
150	15.5	250	31.1	350	48.8
160	16.9	260	32.8	360	50.7
170	18.3	270	34.6	370	52.7

Table A (continued)

Length of ship (feet)	Freeboard (inches)	Length of ship (feet)	Freeboard (inches)	Length of ship (feet)	Freeboard (inches)
380	54.7	660	103.3	940	126.2
390	56.8	670	104.4	950	126.7
400	58.8	680	105.5	960	127.2
410	60.9	690	106.6	970	127.7
420	62.9	700	107.7	980	128.1
430	65.0	710	108.7	990	128.6
440	67.0	720	109.7	1000	129.0
450	69.1	730	110.7	1010	129.4
460	71.1	740	111.7	1020	129.9
470	73.1	750	112.6	1030	130.3
480	75.1	760	113.5	1040	130.7
490	77.1	770	114.4	1050	131.0
500	79.0	780	115.3	1060	131.4
510	80.9	790	116.1	1070	131.7
520	82.7	800	117.0	1080	132.0
530	84.5	810	117.8	1090	132.3
540	86.3	820	118.6	1100	132.6
550	88.0	830	119.3	1110	132.9
560	89.6	840	120.1	1120	133.2
570	91.1	850	120.7	1130	133.5
580	92.6	860	121.4	1140	133.8
590	94.1	870	122.1	1150	134.0
600	95.5	880	122.7	1160	134.3
610	96.9	890	123.4	1170	134.5
620	98.3	900	124.0	1180	134.7
630	99.6	910	124.6	1190	135.0
640	100.9	920	125.2	1200	135.2
650	102.1	930	125.7		

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation. Ships above 1200 feet in length shall be dealt with by the Administration.

Type 'B' ships

(2) The tabular freeboard for type 'B' ships shall be determined from the following table:

Table B - Freeboard table for type 'B' ships

Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)
24	200	28	233	32	267
25	208	29	242	33	275
26	217	30	250	34	283
27	225	31	258	35	292

Table B (continued)

Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)	Length of ship (m)	Freeboard (mm)
36	300	81	905	126	1815
37	308	82	923	127	1837
38	316	83	942	128	1859
39	325	84	960	129	1880
40	334	85	978	130	1901
41	344	86	996	131	1921
42	354	87	1015	132	1940
43	364	88	1034	133	1959
44	374	89	1054	134	1979
45	385	90	1075	135	2000
46	396	91	1096	136	2021
47	408	92	1116	137	2043
48	420	93	1135	138	2065
49	432	94	1154	139	2087
50	443	95	1172	140	2109
51	455	96	1190	141	2130
52	467	97	1209	142	2151
53	478	98	1229	143	2171
54	490	99	1250	144	2190
55	503	100	1271	145	2209
56	516	101	1293	146	2229
57	530	102	1315	147	2250
58	544	103	1337	148	2271
59	559	104	1359	149	2293
60	573	105	1380	150	2315
61	587	106	1401	151	2334
62	601	107	1421	152	2354
63	615	108	1440	153	2375
64	629	109	1459	154	2396
65	644	110	1479	155	2418
66	659	111	1500	156	2440
67	674	112	1521	157	2460
68	689	113	1543	158	2480
69	705	114	1565	159	2500
70	721	115	1587	160	2520
71	738	116	1609	161	2540
72	754	117	1630	162	2560
73	769	118	1651	163	2580
74	784	119	1671	164	2600
75	800	120	1690	165	2620
76	816	121	1709	166	2640
77	833	122	1729	167	2660
78	850	123	1750	168	2680
79	868	124	1771	169	2698
80	887	125	1793	170	2716

Table B (continued)

Length of Freeboard (m)	Length of Freeboard (mm)	Length of Freeboard (m)	Length of Freeboard (mm)	Length of Freeboard (m)	Length of Freeboard (mm)
171	2735	216	3520	261	4165
172	2754	217	3537	262	4177
173	2774	218	3554	263	4189
174	2795	219	3570	264	4201
175	2815	220	3586	265	4214
176	2835	221	3601	266	4227
177	2855	222	3615	267	4240
178	2875	223	3630	268	4252
179	2895	224	3645	269	4264
180	2915	225	3660	270	4276
181	2933	226	3675	271	4289
182	2952	227	3690	272	4302
183	2970	228	3705	273	4315
184	2988	229	3720	274	4327
185	3007	230	3735	275	4339
186	3025	231	3750	276	4350
187	3044	232	3765	277	4362
188	3062	233	3780	278	4373
189	3080	234	3795	279	4385
190	3098	235	3808	280	4397
191	3116	236	3821	281	4408
192	3134	237	3835	282	4420
193	3151	238	3849	283	4432
194	3167	239	3864	284	4443
195	3185	240	3880	285	4455
196	3202	241	3893	286	4467
197	3219	242	3906	287	4478
198	3235	243	3920	288	4490
199	3249	244	3934	289	4502
200	3264	245	3949	290	4513
201	3280	246	3965	291	4525
202	3296	247	3978	292	4537
203	3313	248	3992	293	4548
204	3330	249	4005	294	4560
205	3347	250	4018	295	4572
206	3363	251	4032	296	4583
207	3380	252	4045	297	4595
208	3397	253	4058	298	4607
209	3413	254	4072	299	4618
210	3430	255	4085	300	4630
211	3445	256	4098	301	4642
212	3460	257	4112	302	4654
213	3475	258	4125	303	4665
214	3490	259	4139	304	4676
215	3505	260	4152	305	4686

Table B (continued)

Length of Ship (m)	Freeboard (mm)	Length of Ship (m)	Freeboard (mm)	Length of Ship (m)	Freeboard (mm)	Length of Ship (m)	Freeboard (mm)
306	4695	326	4909	346	5119		
307	4704	327	4920	347	5130		
308	4714	328	4931	348	5140		
309	4725	329	4943	349	5150		
310	4736	330	4955	350	5160		
311	4748	331	4965	351	5170		
312	4757	332	4975	352	5180		
313	4768	333	4985	353	5190		
314	4779	334	4995	354	5200		
315	4790	335	5005	355	5210		
316	4801	336	5015	356	5220		
317	4812	337	5025	357	5230		
318	4823	338	5035	358	5240		
319	4834	339	5045	359	5250		
320	4844	340	5055	360	5260		
321	4855	341	5065	361	5268		
322	4866	342	5075	362	5276		
323	4878	343	5086	363	5285		
324	4890	344	5097	364	5294		
325	4899	345	5108	365	5303		

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation. Ships above 365 m in length shall be dealt with by the Administration.

Table B - Freeboard table for type 'B' ships

Length of ship (feet)	Freeboard (inches)	Length of ship (feet)	Freeboard (inches)	Length of ship (feet)	Freeboard (inches)
80	8.0	240	30.4	400	68.2
90	8.9	250	32.4	410	70.7
100	9.8	260	34.4	420	73.2
110	10.8	270	36.5	430	75.7
120	11.9	280	38.7	440	78.2
130	13.0	290	41.0	450	80.7
140	14.2	300	43.3	460	83.1
150	15.5	310	45.7	470	85.6
160	16.9	320	48.2	480	88.1
170	18.3	330	50.7	490	90.6
180	19.8	340	53.2	500	93.1
190	21.3	350	55.7	510	95.6
200	22.9	360	58.2	520	98.1
210	24.7	370	60.7	530	100.6
220	26.6	380	63.2	540	103.0
230	28.5	390	65.7	550	105.4

Table B (continued)

Length of ship (feet)	Freeboard (inches)	Length of ship (feet)	Freeboard (inches)	Length of ship (feet)	Freeboard (inches)
560	107.7	780	151.5	1000	184.4
570	110.0	790	153.2	1010	185.8
580	112.3	800	154.8	1020	187.2
590	114.6	810	156.4	1030	188.5
600	116.8	820	158.0	1040	189.8
610	119.0	830	159.6	1050	191.0
620	121.1	840	161.2	1060	192.3
630	123.2	850	162.8	1070	193.5
640	125.3	860	164.3	1080	194.8
650	127.3	870	165.9	1090	196.1
660	129.3	880	167.4	1100	197.3
670	131.3	890	168.9	1110	198.6
680	133.3	900	170.4	1120	199.9
690	135.3	910	171.8	1130	201.2
700	137.1	920	173.3	1140	202.3
710	139.0	930	174.7	1150	203.5
720	140.9	940	176.1	1160	204.6
730	142.7	950	177.5	1170	205.8
740	144.5	960	178.9	1180	206.9
750	146.3	970	180.3	1190	208.1
760	148.1	980	181.7	1200	209.3
770	149.8	990	183.1		

Freeboards at intermediate lengths of ship shall be obtained by linear interpolation. Ships above 1200 feet in length shall be dealt with by the Administration.

Regulation 29
Correction to the freeboard for ships under 100 m (328 feet) in length

see also the unified interpretation

The tabular freeboard for a type 'B' ship of between 24 m (79 feet) and 100 m (328 feet) in length having enclosed superstructures with an effective length of up to 35% of the length of the ship shall be increased by:

$$7.5 (100 - L) (0.35 - \frac{E}{L}) \text{ mm}$$

where L = length of ship in metres,

E = effective length of superstructure in metres as defined in regulation 35

or

$$0.09 (328 - L) (0.35 - \frac{E}{L}) \text{ inches}$$

where L = length of ship in feet

E = effective length of superstructure in feet as defined in regulation 35.

Regulation 30

Correction for block coefficient

Where the block coefficient (C_b) exceeds 0.68, the tabular freeboard specified in regulation 28 as modified, if applicable, by regulations 27(8), 27(10) and 29 shall be multiplied by the factor $\frac{C_b + 0.68}{1.36}$.

Regulation 31

Correction for depth

see also the unified interpretation

(1) Where D exceeds $\frac{L}{15}$ the freeboard shall be increased by $(D - \frac{L}{15})R$ mm, where R is $\frac{L}{0.48}$ at lengths less than 120 m and 250 at 120 m length and above, or $(D - \frac{L}{15})R$ inches, where R is $\frac{L}{131.2}$ at lengths less than 393.6 feet and 3 at 393.6 feet length and above.

(2) Where D is less than $\frac{L}{15}$ no reduction shall be made except in a ship with an enclosed superstructure covering at least 0.6L amidships, with a complete trunk, or combination of detached enclosed superstructures and trunks which extend all fore and aft, where the freeboard shall be reduced at the rate prescribed in paragraph (1) of this regulation.

(3) Where the height of superstructure or trunk is less than the standard height, the reduction shall be in the ratio of the actual to the standard height as defined in regulation 33.

see also the unified interpretation

Regulation 32

Correction for position of deck line

Where the actual depth to the upper edge of the deck line is greater or less than D , the difference between the depths shall be added to or deducted from the freeboard.

- (8) *Length* means 96% of the total length on a waterline at 85% of the least moulded depth measured from the top of the keel, or the length from the fore side of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline.

see also the unified interpretation

Article 3

General provisions

- (1) No ship to which the present Convention applies shall proceed to sea on an international voyage after the date on which the present Convention comes into force unless it has been surveyed, marked and provided with an International Load Line Certificate (1966) or, where appropriate, an International Load Line Exemption Certificate in accordance with the provisions of the present Convention.
- (2) Nothing in this Convention shall prevent an Administration from assigning a greater freeboard than the minimum freeboard determined in accordance with annex I.

Article 4

Application

- (1) The present Convention shall apply to:
- (a) ships registered in countries the Governments of which are Contracting Governments;
 - (b) ships registered in territories to which the present Convention is extended under article 32; and
 - (c) unregistered ships flying the flag of a State, the Government of which is a Contracting Government.
- (2) The present Convention shall apply to ships engaged on international voyages.
- (3) The regulations contained in annex I are specifically applicable to new ships.
- (4) Existing ships which do not fully comply with the requirements of the regulations contained in annex I or any part thereof shall meet at least such lesser related requirements as the Administration applied to ships on international voyages prior to the coming into force of the present Convention; in no case shall such ships be required to increase their freeboards. In order to take advantage of any reduction in freeboard from that previously assigned, existing ships shall comply with all the requirements of the present Convention.

see also the unified interpretation

- (5) The regulations contained in annex II are applicable to new and existing ships to which the present Convention applies.

Article 5

Exceptions

- (1) The present Convention shall not apply to:
- (a) ships of war;
 - (b) new ships of less than 24 metres (79 feet) in length;
 - (c) existing ships of less than 150 tons gross;
 - (d) pleasure yachts not engaged in trade;
 - (e) fishing vessels.
- (2) Nothing herein shall apply to ships solely navigating:
- (a) the Great Lakes of North America and the River St. Lawrence as far east as a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island, and, on the north side of Anticosti Island, the meridian of longitude 63° W;
 - (b) the Caspian Sea;
 - (c) the Plate, Parana and Uruguay Rivers as far east as a rhumb line drawn between Punta Norte, Argentina, and Punta del Este, Uruguay.

Article 6

Exemptions

- (1) Ships when engaged on international voyages between the near neighbouring ports of two or more States may be exempted by the Administration from the provisions of the present Convention, so long as they shall remain engaged on such voyages, if the Governments of the States in which such ports are situated shall be satisfied that the sheltered nature or conditions of such voyages between such ports make it unreasonable or impracticable to apply the provisions of the present Convention to ships engaged on such voyages.
- (2) The Administration may exempt any ship which embodies features of a novel kind from any of the provisions of this Convention the application of which might seriously impede research into the development of such features and their incorporation in ships engaged on international voyages. Any such ship shall, however, comply with safety requirements which, in the opinion of that Administration, are adequate for the service for which it is intended and are such as to ensure the overall safety of the ship and which are acceptable to the Governments of the States to be visited by the ship.
- (3) The Administration which allows any exemption under paragraphs (1) and (2) of this article shall communicate to the Inter-Governmental Maritime

- (6) *Length* means 96% of the total length on a waterline at 85% of the least moulded depth measured from the top of the keel, or the length from the fore side of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline.

see also the unified interpretation

Article 3

General provisions

(1) No ship to which the present Convention applies shall proceed to sea on an international voyage after the date on which the present Convention comes into force unless it has been surveyed, marked and provided with an International Load Line Certificate (1966) or, where appropriate, an International Load Line Exemption Certificate in accordance with the provisions of the present Convention.

(2) Nothing in this Convention shall prevent an Administration from assigning a greater freeboard than the minimum freeboard determined in accordance with annex I.

Article 4

Application

(1) The present Convention shall apply to:

- (a) ships registered in countries the Governments of which are Contracting Governments;
- (b) ships registered in territories to which the present Convention is extended under article 32; and
- (c) unregistered ships flying the flag of a State, the Government of which is a Contracting Government.

(2) The present Convention shall apply to ships engaged on international voyages.

(3) The regulations contained in annex I are specifically applicable to new ships.

(4) Existing ships which do not fully comply with the requirements of the regulations contained in annex I or any part thereof shall meet at least such lesser related requirements as the Administration applied to ships on international voyages prior to the coming into force of the present Convention; in no case shall such ships be required to increase their freeboards. In order to take advantage of any reduction in freeboard from that previously assigned, existing ships shall comply with all the requirements of the present Convention.

see also the unified interpretation

Regulation 33
Standard height of superstructure

The standard height of a superstructure shall be as given in the following table:

<i>L</i> (m)	Standard height (m)	
	Raised quarter-deck	All other superstructures
30 or less	0.90	1.80
75	1.20	1.80
125 or more	1.80	2.30

<i>L</i> (feet)	Standard height (feet)	
	Raised quarter-deck	All other superstructures
98.5 or less	3.0	5.9
246	3.9	5.9
410 or more	5.9	7.5

The standard heights at intermediate lengths of the ship shall be obtained by linear interpolation.

Regulation 34
Length of superstructure

see also the unified interpretation

(1) Except as provided in paragraph (2) of this regulation, the length of a superstructure (*S*) shall be the mean length of the parts of the superstructure which lie within the length (*L*).

see also the unified interpretation

(2) Where the end bulkhead of an enclosed superstructure extends in a fair convex curve beyond its intersection with the superstructure sides, the length of the superstructure may be increased on the basis of an equivalent plane bulkhead. This increase shall be two-thirds of the fore and aft extent of the curvature. The maximum curvature which may be taken into account in determining this increase is one-half the breadth of the superstructure at the point of intersection of the curved end of the superstructure with its side.

see also the unified interpretation

Regulation 35

Effective length of superstructure

see also the unified interpretations

(1) Except as provided for in paragraph (2) of this regulation, the effective length (E) of an enclosed superstructure of standard height shall be its length.

(2) In all cases where an enclosed superstructure of standard height is set in from the sides of the ship as permitted in regulation 3(10), the effective length shall be the length modified by the ratio of b/B_s , where

b is the breadth of the superstructure at the middle of its length; and

B_s is the breadth of the ship at the middle of the length of the superstructure.

Where a superstructure is set in for a part of its length, this modification shall be applied only to the set-in part.

(3) Where the height of an enclosed superstructure is less than the standard height, the effective length shall be its length reduced in the ratio of the actual height to the standard height. Where the height exceeds the standard, no increase shall be made to the effective length of the superstructure.

see also the unified interpretation

(4) The effective length of a raised quarter-deck, if fitted with an intact front bulkhead, shall be its length up to a maximum of $0.6L$. Where the bulkhead is not intact, the raised quarter-deck shall be treated as a poop of less than standard height.

see also the unified interpretations

(5) Superstructures which are not enclosed shall have no effective length.

Regulation 36

Trunks

see also the unified interpretations

(1) A trunk or similar structure which does not extend to the sides of the ship shall be regarded as efficient on the following conditions:

- (a) the trunk is at least as strong as a superstructure;
- (b) the hatchways are in the trunk deck, and the hatchway coamings and covers comply with the requirements of regulations 13 to 16 inclusive and the width of the trunk deck stringer provides a satisfactory gangway and sufficient lateral stiffness. However, small access openings with watertight covers may be permitted in the freeboard deck;
- (c) a permanent working platform fore and aft fitted with guard rails is provided by the trunk deck, or by detached trunks connected to superstructures by efficient permanent gangways;
- (d) ventilators are protected by the trunk, by watertight covers or by other equivalent means;

way of the trunk for at least half their length;

see also the unified interpretation

- (f) the machinery casings are protected by the trunk, by a superstructure of at least standard height, or by a deckhouse of the same height and of equivalent strength;
 - (g) the breadth of the trunk is at least 60% of the breadth of the ship; and
 - (h) where there is no superstructure, the length of the trunk is at least 0.6L.
- (2) The full length of an efficient trunk reduced in the ratio of its mean breadth to B shall be its effective length.
- (3) The standard height of a trunk is the standard height of a superstructure other than a raised quarter-deck.
- (4) Where the height of a trunk is less than the standard height, its effective length shall be reduced in the ratio of the actual to the standard height. Where the height of hatchway coamings on the trunk deck is less than that required under regulation 15(1); a reduction from the actual height of trunk shall be made which corresponds to the difference between the actual and the required height of coaming.

see also the unified interpretation

Regulation 37

Deduction for superstructures and trunks

see also the unified interpretation

- (1) Where the effective length of superstructures and trunks is 1.0L, the deduction from the freeboard shall be 350 mm at 24 m length of ship, 860 mm at 85 m length, and 1070 mm at 122 m length and above (14 inches at 79 feet length of ship, 34 inches at 279 feet length, and 42 inches at 400 feet length and above); deductions at intermediate lengths shall be obtained by linear interpolation.
- (2) Where the total effective length of superstructures and trunks is less than 1.0L the deduction shall be a percentage obtained from one of the following tables:

Percentage of deduction for type 'A' ships

Percentage of deduction for all types of superstructures	Total effective length of superstructures and trunks										
	0	0.1L	0.2L	0.3L	0.4L	0.5L	0.6L	0.7L	0.8L	0.9L	1.0L
	0	7	14	21	31	41	52	63	75.3	87.7	100

Percentages at intermediate lengths of superstructures shall be obtained by linear interpolation.

Percentage of deduction for type 'B' ships

	Line Total effective length of superstructures and trunks											
	0	0.1L	0.2L	0.3L	0.4L	0.5L	0.6L	0.7L	0.8L	0.9L	1.0L	
Ships with forecastle and without detached bridge	I	0	5	10	15	23.5	32	46	63	75.3	87.7	100
Ships with forecastle and detached bridge	II	0	6.3	12.7	19	27.5	36	46	63	75.3	87.7	100

Percentages at intermediate lengths of superstructures shall be obtained by linear interpolation.

(3) For ships of type 'B':

- (a) Where the effective length of a bridge is less than 0.2L, the percentages shall be obtained by linear interpolation between lines I and II.
- (b) Where the effective length of a forecastle is more than 0.4L, the percentages shall be obtained from line II.
- (c) Where the effective length of a forecastle is less than 0.07L, the above percentages shall be reduced by:

$$5 \times \frac{(0.07L - f)}{0.07L}$$

where f is the effective length of the forecastle.

Regulation 38
Sheer

see also the unified interpretation

General

- (1) The sheer shall be measured from the deck at side to a line of reference drawn parallel to the keel through the sheer line amidships.
- (2) In ships designed with a rake of keel, the sheer shall be measured in relation to a reference line drawn parallel to the design load waterline.
- (3) In flush deck ships and in ships with detached superstructures the sheer shall be measured at the freeboard deck.

(4) In ships with topsides of unusual form in which there is a step or break in the topsides, the sheer shall be considered in relation to the equivalent depth amidships.

(5) In ships with a superstructure of standard height which extends over the whole length of the freeboard deck, the sheer shall be measured at the superstructure deck. Where the height exceeds the standard the least difference (Z) between the actual and standard heights shall be added to each end ordinate. Similarly, the intermediate ordinates at distances of $\frac{1}{6}L$ and $\frac{1}{3}L$ from each perpendicular shall be increased by $0.444Z$ and $0.111Z$ respectively.

see also the unified interpretation

(6) Where the deck of an enclosed superstructure has at least the same sheer as the exposed freeboard deck, the sheer of the enclosed portion of the freeboard deck shall not be taken into account.

(7) Where an enclosed poop or forecastle is of standard height with greater sheer than that of the freeboard deck, or is of more than standard height, an addition to the sheer of the freeboard deck shall be made as provided in paragraph (12) of this regulation.

see also the unified interpretations

Standard sheer profile

(8) The ordinates of the standard sheer profile are given in the following table:

Standard sheer profile
(where L is in metres)

Station	Ordinate (mm)	Factor
After perpendicular	$25(\frac{L}{3} + 10)$	1
$\frac{1}{6}L$ from A.P.	$11.1(\frac{L}{3} + 10)$	3
After half $\frac{1}{3}L$ from A.P.	$2.8(\frac{L}{3} + 10)$	3
Amidships	0	1
Amidships	0	1
$\frac{1}{3}L$ from F.P.	$5.6(\frac{L}{3} + 10)$	3
Forward half $\frac{1}{6}L$ from F.P.	$22.2(\frac{L}{3} + 10)$	3
Forward perpendicular	$50(\frac{L}{3} + 10)$	1

Standard sheer profile
(where L is in feet)

	Station	Ordinate (inches)	Factor
After half	After perpendicular	$0.1L + 10$	1
	$\frac{1}{8}L$ from A.P.	$0.0444L + 4.44$	3
	$\frac{1}{3}L$ from A.P.	$0.0111L + 1.11$	3
For-ward half	Amidships	0	1
	Amidships	0	1
	$\frac{1}{3}L$ from F.P.	$0.0222L + 2.22$	3
	$\frac{1}{8}L$ from F.P.	$0.0888L + 8.88$	3
	Forward perpendicular	$0.2L + 20$	1

Measurement of variation from standard sheer profile

(9) Where the sheer profile differs from the standard, the four ordinates of each profile in the forward or after half shall be multiplied by the appropriate factors given in the table of ordinates. The difference between the sums of the respective products and those of the standard divided by 8 measures the deficiency or excess of sheer in the forward or after half. The arithmetical mean of the excess or deficiency in the forward and after halves measures the excess or deficiency of sheer.

(10) Where the after half of the sheer profile is greater than the standard and the forward half is less than the standard, no credit shall be allowed for the part in excess and deficiency only shall be measured.

(11) Where the forward half of the sheer profile exceeds the standard, and the after portion of the sheer profile is not less than 75% of the standard, credit shall be allowed for the part in excess; where the after part is less than 50% of the standard no credit shall be given for the excess sheer forward. Where the after sheer is between 50% and 75% of the standard, intermediate allowances may be granted for excess sheer forward.

(12) Where sheer credit is given for a poop or forecastle the following formula shall be used:

$$s = \frac{\gamma L'}{3L}$$

where s = sheer credit, to be deducted from the deficiency or added to the excess of sheer,

γ = difference between actual and standard height of superstructure at the end of sheer.

L = mean enclosed length of poop or forecastle up to a maximum length of $0.5L$,

L = length of ship as defined in regulation 3(1) of this annex.

The above formula provides a curve in the form of a parabola tangent to the actual sheer curve at the freeboard deck and intersecting the end ordinate at a point below the superstructure deck a distance equal to the standard height of a superstructure. The superstructure deck shall not be less than standard height above this curve at any point. This curve shall be used in determining the sheer profile for forward and after halves of the ship.

see also the unified interpretations

Correction for variations from standard sheer profile

(13) The correction for sheer shall be the deficiency or excess of sheer (see paragraphs (9) to (11) inclusive of this regulation), multiplied by

$$0.75 - \frac{S}{2L}$$

where S is the total length of enclosed superstructures.

Addition for deficiency in sheer

(14) Where the sheer is less than the standard, the correction for deficiency in sheer (see paragraph (13) of this regulation) shall be added to the freeboard.

Deduction for excess sheer

(15) In ships where an enclosed superstructure covers 0.1L before and 0.1L abaft amidships, the correction for excess of sheer as calculated under the provisions of paragraph (13) of this regulation shall be deducted from the freeboard; in ships where no enclosed superstructure covers amidships, no deduction shall be made from the freeboard; where an enclosed superstructure covers less than 0.1L before and 0.1L abaft amidships, the deduction shall be obtained by linear interpolation. The maximum deduction for excess sheer shall be at the rate of 125 mm per 100 m of length ($1\frac{1}{2}$ inches per 100 feet of length).

see also the unified interpretation

Regulation 39

Minimum bow height

see also the unified interpretation

(1) The bow height defined as the vertical distance at the forward perpendicular between the waterline corresponding to the assigned summer freeboard and the designed trim and the top of the exposed deck at side shall be not less than:

for ships below 250 m in length,

$$56L\left(1 - \frac{L}{500}\right) \frac{1.36}{C_b + 0.68} \text{ mm;}$$

for ships of 250 m and above in length,

$$7000 \frac{1.36}{C_b + 0.68} \text{ mm;}$$

where L is the length of the ship in metres,

C_b is the block coefficient which is to be taken as not less than 0.68

or,

for ships below 820 feet in length,

$$0.672L\left(1 - \frac{L}{1640}\right) \frac{1.36}{C_b + 0.68} \text{ inches;}$$

for ships of 820 feet and above in length,

$$275.6 \frac{1.36}{C_b + 0.68} \text{ inches;}$$

where L is the length of the ship in feet,

C_b is the block coefficient which is to be taken as not less than 0.68

(2) Where the bow height required in paragraph (1) of this regulation is obtained by sheer, the sheer shall extend for at least 15% of the length of the ship measured from the forward perpendicular. Where it is obtained by fitting a superstructure, such superstructure shall extend from the stem to a point at least $0.07L$ abaft the forward perpendicular, and it shall comply with the following requirements:

- (a) for ships not over 100 m (328 feet) in length it shall be enclosed as defined in regulation 3(10), and
- (b) for ships over 100 m (328 feet) in length it need not comply with regulation 3(10), but shall be fitted with closing appliances to the satisfaction of the Administration.

see also the unified interpretation

(3) Ships which, to suit exceptional operational requirements, cannot meet the requirements of paragraphs (1) and (2) of this regulation may be given special consideration by the Administration.

Minimum freeboards

see also the unified interpretation

Summer freeboard

- (1) The minimum freeboard in summer shall be the freeboard derived from the tables in regulation 28 as modified by the corrections in regulations 27, as applicable, 29, 30, 31, 32, 37, 38 and, if applicable, 39.

see also the unified interpretation

- (2) The freeboard in salt water, as calculated in accordance with paragraph (1) of this regulation, but without the correction for deck line, as provided by regulation 32, shall not be less than 50 mm (2 inches). For ships having in position 1 hatchways with covers which do not comply with the requirements of regulations 15(7), 16 or 26, the freeboard shall be not less than 150 mm (6 inches).

Tropical freeboard

- (3) The minimum freeboard in the Tropical Zone shall be the freeboard obtained by a deduction from the summer freeboard of one forty-eighth of the summer draught measured from the top of the keel to the centre of the ring of the load line mark.

- (4) The freeboard in salt water, as calculated in accordance with paragraph (1) of this regulation, but without the correction for deck line, as provided by regulation 32, shall not be less than 50 mm (2 inches). For ships having in position 1 hatchways with covers which do not comply with the requirements of regulations 15(7), 16 or 26, the freeboard shall be not less than 150 mm (6 inches).

Winter freeboard

- (5) The minimum freeboard in winter shall be the freeboard obtained by an addition to the summer freeboard of one forty-eighth of summer draught, measured from the top of the keel to the centre of the ring of the load line mark.

Winter North Atlantic freeboard

- (6) The minimum freeboard for ships of not more than 100 m (328 feet) in length which enter any part of the North Atlantic defined in regulation 52 (annex II) during the winter seasonal period shall be the winter freeboard plus 50 mm (2 inches). For other ships, the Winter North Atlantic freeboard shall be the winter freeboard.

International Convention on Load Lines, 1966

Fresh water freeboard

(7) The minimum freeboard in fresh water of unit density shall be obtained by deducting from the minimum freeboard in salt water:

$$\frac{\Delta}{40T} \text{ cm (inches)}$$

where Δ = displacement in salt water in tons at the summer load waterline

T = tons per centimetre (inch) immersion in salt water at the summer load waterline.

(8) Where the displacement at the summer load waterline cannot be certified, the deduction shall be one forty-eighth of summer draught, measured from the top of the keel to the centre of the ring of the load line mark.

Chapter IV

Special requirements for ships assigned timber freeboards

Regulation 41

Application of this chapter

Regulations 42 to 45 inclusive apply only to ships to which timber load lines are assigned.

Regulation 42

Definitions

- (1) *Timber deck cargo.* The term "timber deck cargo" means a cargo of timber carried on an uncovered part of a freeboard or superstructure deck. The term does not include wood pulp or similar cargo.
- (2) *Timber load line.* A timber-deck cargo may be regarded as giving a ship a certain additional buoyancy and a greater degree of protection against the sea. For that reason, ships carrying a timber deck cargo may be granted a reduction of freeboard calculated according to the provisions of regulation 45 and marked on the ship's side in accordance with the provisions of regulations 6(3) and (4). However, in order that such special freeboard may be granted and used, the timber deck cargo shall comply with certain conditions which are laid down in regulation 44, and the ship itself shall also comply with certain conditions relating to its construction which are set out in regulation 43.

Regulation 43

Construction of ship

Superstructure

- (1) Ships shall have a forecastle of at least standard height and a length of at least 0,07L. In addition, if the ship is less than 100 m (328 feet) in length, a poop of at least standard height, or a raised quarter-deck with either a deckhouse or a strong steel hood of at least the same total height shall be fitted aft.

Double bottom tanks

- (2) Double bottom tanks where fitted within the midship half length of the ship shall have adequate watertight longitudinal subdivision.

Bulwarks

- (3) The ship shall be fitted either with permanent bulwarks at least 1 m (39½ inches) in height, specially stiffened on the upper edge and supported by strong bulwark stays attached to the deck and provided with necessary feeding ports, or with efficient rails of the same height and of specially strong construction.

Regulation 44 Stowage

see also the unified interpretation

General

- (1) Openings in the weather deck over which cargo is stowed shall be securely closed and battened down. The ventilators shall be efficiently protected.
- (2) Timber deck cargo shall extend over at least the entire available length which is the total length of the well or wells between superstructures. Where there is no limiting superstructure at the after end, the timber shall extend at least to the after end of the aftermost hatchway. The timber shall be stowed as solidly as possible to at least the standard height of the superstructure.
- (3) On a ship within a seasonal winter zone in winter, the height of the deck cargo above the weather deck shall not exceed one-third of the extreme breadth of the ship.
- (4) The timber deck cargo shall be compactly stowed, lashed and secured. It shall not interfere in any way with the navigation and necessary work of the ship.

Uprights

- (5) Uprights, when required by the nature of the timber, shall be of adequate strength considering the breadth of the ship; the spacing shall be suitable for the length and character of timber carried, but shall not exceed 3 m (9.8 feet). Strong angles or metal sockets or equally efficient means shall be provided for securing the uprights.

Lashings

- (6) Timber deck cargo shall be efficiently secured throughout its length by independent over-all lashings spaced not more than 3 m (9.8 feet) apart. Eye plates for these lashings shall be efficiently attached to the sheer strake or to the deck stringer plate at intervals of not more than 3 m (9.8 feet). The distance from an end bulkhead of a superstructure to the first eye plate shall be not more than 2 m (6.6 feet). Eye plates and lashings shall be provided 0.6 m (23 $\frac{1}{2}$ inches) and 1.5 m (4.9 feet) from the ends of timber deck cargoes where there is no bulkhead.
- (7) Lashings shall be not less than 19 mm ($\frac{3}{4}$ inch) close link chain or flexible wire rope of equivalent strength, fitted with sliphooks and turn-buckles, which shall be accessible at all times. Wire rope lashings shall have a short length of long link chain to permit the length of lashings to be regulated.
- (8) When timber is in lengths less than 3.6 m (11.8 feet) the spacing of the lashings shall be reduced or other suitable provisions made to suit the length of timber.
- (9) All fittings required for securing the lashings shall be of strength corresponding to the strength of the lashings.

Stability

(10) Provision shall be made for a safe margin of stability at all stages of the voyage, regard being given to additions of weight, such as those due to absorption of water and icing, and to losses of weight such as those due to consumption of fuel and stores.

Protection of crew, access to machinery spaces, etc.

(11) In addition to the requirements of regulation 25(5) of this annex guard rails or lifelines not more than 33 cm (13 inches) apart vertically shall be provided on each side of the deck cargo to a height of at least 1 m (39½ inches) above the cargo.

Steering arrangements

(12) Steering arrangements shall be effectively protected from damage by cargo and, as far as practicable, shall be accessible. Efficient provision shall be made for steering in the event of a breakdown in the main steering arrangements.

Regulation 45
Computation for freeboard

(1) The minimum summer freeboards shall be computed in accordance with regulations 27(5), 27(6), 27(11), 28, 29, 30, 31, 32, 37 and 38, except that regulation 37 is modified by substituting the following percentages for those given in regulation 37:

Total effective length of superstructures	
0	0.1L 0.2L 0.3L 0.4L 0.5L 0.6L 0.7L 0.8L 0.9L 1.0L
Percentage of deduction for all types of superstructure	20 31 42 53 64 70 76 82 88 94 100

Percentages at intermediate lengths of superstructures shall be obtained by linear interpolation.

(2) The Winter Timber Freeboard shall be obtained by adding to the Summer Timber Freeboard one thirty-sixth of the moulded summer timber draught.

see also the unified interpretation

(3) The Winter North Atlantic Timber Freeboard shall be the same as the Winter North Atlantic Freeboard prescribed in regulation 40(6).

see also the unified interpretation