

**IN THE THIRD SESSION OF THE SEVENTH
PARLIAMENT OF THE FOURTH REPUBLIC OF
GHANA**

**REPORT OF THE COMMITTEE ON ROADS
AND TRANSPORT**

ON

MARITIME PROTOCOLS AND CONVENTIONS

MARCH, 2019

**THE REPORT OF THE COMMITTEE ON ROADS AND TRANSPORT ON PROTOCOLS
AND CONVENTIONS ON MARITIME NAVIGATION**

1.0 INTRODUCTION

On Tuesday, 29th January 2019, the Hon. Deputy Minister of Transport, Mr Daniel Nii Kwartei Titus-Glover, on behalf of the Hon. Minister of Transport, Mr. Kwaku Ofori-Asiamah laid before the House eight (8) Conventions and Protocols. The Conventions and Protocols are on Security, Safety, Environmental and Membership of the International Hydrographic Organisation (IHO). The Conventions and Protocols are:

a) Security Conventions

- i) The Protocol of 2005 to the Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation (SUA Convention)
- ii) The Protocol Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf, 2005

b) Safety Conventions

- i) Protocol of 1988 relating to the International Convention for the Safety of Life at Sea (SOLAS), 1974
- ii) Protocol of 1988 relating to the International Convention on Load Lines, 1966

c) Environmental Conventions

- i) International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
- ii) Nairobi International Convention on the Removal of Wrecks, 2007
- iii) Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009

d) Membership

- i. The Convention on the International Hydrographic Organisation as Amended by the Protocol of 2005

Pursuant to Article 75(2)(b) of the 1992 Constitution of Ghana and Standing Order 189, Mr Speaker referred the above listed Conventions and Protocols to the Select Committee on Roads and Transport for consideration and report.

During the consideration of the Protocols and Conventions, the Committee was assisted by the Deputy Minister for Transport, Hon. Daniel Nii Kwartei Titus-Glover, the Acting Director General of Ghana Maritime Authority (GMA) and Officers from GMA and the Ministry of Transport.

2.0 REFERENCE DOCUMENTS

In the course of the Committee's work, references were made to the following documents:

- i. The 1992 Constitution of Ghana
- ii. The Standing Orders of Parliament
- iii. The Protocol of 2005 to the Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation (SUA Convention)
- iv. The Protocol Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf, 2005
- v. Protocol of 1988 relating to the International Convention for the Safety of Life at Sea (SOLAS), 1974
- vi. Protocol of 1988 relating to the International Convention on Load Lines, 1966
- vii. International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
- viii. Nairobi International Convention on the Removal of Wrecks, 2007
- ix. Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009
- x. The Convention on the International Hydrographic Organisation as Amended by the Protocol of 2005

3.0 *The 2005 Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and*

The Protocol of 2005 to the Suppression of unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (2005 SUA Convention and Protocol)

3.1.1 Background of Instrument

In the 1980's, concern grew about unlawful acts which threaten the safety of ships and the security of their passengers and crew. Reports emerged of crews being kidnapped, ships being hijacked and deliberately run around or blown by explosives. Passengers were threatened and sometimes killed.

On March 10th 1988, an International Conference was convened in Rome which resulted in the adoption of the SUA Convention. On March 1st 1992, the SUA Convention and its protocol entered into force. Ghana is a party to both instruments.

The 1988 SUA protocol extends coverage of the SUA Convention to fixed platforms located on the Continental Shelf.

Following the 9/11 terrorist attacks on the United States, the international maritime organization realised the compelling need to review the 1988 SUA Convention and its protocol to provide for a comprehensive suppression of unlawful acts committed against the safety of maritime navigation. These unlawful acts place innocent human lives in danger and jeopardise the safety of persons and property which affected the operation of maritime services and caused grave concern to the international maritime community.

As a consequence of the heightened concerns, an international conference was held in London on October 2005 which resulted in the adoption of the protocol of 2005 to the convention on the suppression of Unlawful Acts against the safety of Maritime Navigation and the Protocol of 2005 to the protocol for the suppression of Unlawful Acts against the safety of fixed platforms located on the continental shelf.

The 2005 SUA Convention and Protocol provide an international framework for combating and prosecuting anyone who uses a ship or its cargo as a weapon or to carry out a terrorist attack or who transport persons knowing that they have committed offence under the convention.

The 2005 SUA Convention includes a variety of new offences that relate to the international and unlawful carriage, use or operation of biological, chemical, liquefied natural gas or other hazardous and noxious substances on board vessels in a manner that causes death or serious injury or damage.

The new offence relate to the use or carriage of radioactive or fissile material knowingly and intended for use in an explosive activity.

Under the Convention it is also an offence for any person to unlawfully and intentionally transport another person on board a ship knowing that that person has committed an act that constitute an offence under the convention. The 2005 protocol to the protocol of SUA applies to a broad range of offences created in the 2005 SUA convention to fixed platforms located on the continental shelf.

3.1.2 Object of the Convention

The object of the Convention is to ensure that appropriate action is taken against persons who commit unlawful acts against ships. The acts include the seizure of ships through the use of force, acts of violence against persons on board ships and placing devices on board ships, likely to destroy or cause damage to the ship.

3.1.3 Justification for the Convention

The Maritime Community has increasingly become concerned about safety regulations since the 2001 September 9th terrorist attack in the United States and that has necessitated the need for a legal framework that would make international shipping and maritime traffic less vulnerable to misuse by terrorists.

3.1.4 Observations

- The Committee noted that Ghana's ratification of this Convention and related Protocol would not impose any financial costs to the country other than facilitating the travelling cost of delegations that would represent the country at meetings.

The Committee took cognisance that in the absence of an international adopted framework, it would be legally incorrect to order a ship flying another nation's flag and suspected of committing an unlawful activity to stop and be searched without running the risk of a major diplomatic incident.

- The Committee noted that ratification of the 2005 SUA Convention and its related protocol, would allow Ghana and other contracting states the power to visit, board, and search and seize a ship suspected of having committed an offence under the convention.

At a time when our territorial fishing waters is being plundered by foreign vessels and where piracy is on the rise, ratification of this convention puts our naval patrols in a good stead to protect our marine resources.

The Committee also noted that under the convention, the power to board a ship and conduct inspection is subject to the authorisation of the flag state to ensure the protection of legitimate trade and seafarers, and prevent the right to act being construed as an act of war.

- The Committee took cognisance of the provisions in the convention which addresses boarding procedures and also provides the responsibilities of roles of the master of the ship, flag state and the receiving state in delivering any person believed to have committed an offence under the convention. This goes to ensure safety of officials and persons on board.
- The Committee further noted that, Ghana is a member of the International Maritime Organization (IMO) a specialised United Nations agency and shipping

is an international business, for this reason, there is no alternative to consider other than Ghana adhering to international accepted norm.

- The Committee noted the right of extradition under the convention and the fact that offences stipulated under the convention should not be deemed as extraditable offense in any extradition treat existing between parties for the purpose of using extradition as a political offence. The Committee also noted that request for extradition may not be refused on the sole grounds that the offence is inspired by political motive.

3.2 *Protocol of 1988 Relating to the International Convention for the Safety of Life at Sea (SOLAS), 1974 and the International Convention on Loadlines (LL) 1966*

3.2.1 Background

The SOLAS Convention as amended severally is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914 in response to the Titanic disaster, the second in 1929, the third in 1948 and fourth in 1960. The 1960 SOLAS Convention was the first major task for the International Maritime Organisation (IMO) after the organisation's creation in 1959 and it represented a considerable step forward in modernising regulations and keeping pace with technological advancements in the maritime industry.

A new SOLAS Convention was adopted in 1974 which included amendments agreed upon (until that date) and a new amendment procedure called the tacit acceptance procedure designed to ensure that modification could be made within a specified time. SOLAS 1974 entered into force on 25th May, 1980 and Ghana is a contracting party to SOLAS.

The 1966 International Convention on Loadlines relates to safety of ships, specifically on Loadlines of ships and borders on three main principles. The principles are:

- To ensure the watertight integrity of ships' hull below the freeboard deck,

- To preserve reserve buoyancy, by establishing minimum permissible freeboards, and
- The protection of the safe means of access for the crew.

The Convention on loadlines has provisions for determining loadlines, details of marking and verification of marks. The Loadlines Convention also requires ship surveys and certification to attest to compliance of the requirements of the convention.

The 1988 Protocols to SOLAS and LL introduced a harmonised system for survey and certification of ships to attest compliance or otherwise with the provisions of the International Convention for the Prevention of Pollution from ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78).

3.2.2 Justification for Convention

Ghana is expected to accede to the 1988 Protocols as a consequential requirement of both the 1974 SOLAS Convention and the LL Convention to which she is a contracting party.

3.2.3 Objective of Convention

The main objective of the Convention is to specify minimum standards for the construction, equipment and operation of ships to enhance their safety. It requires contracting states to ensure that ships under their flag comply with the requisite safety requirements and the generally accepted certification formats for ships.

3.2.4 Observations

- The accession by Ghana to these conventions will not incur any financial responsibility as Ghana is already a party to the 1974 SOLAS Convention and the 1966 LL Convention.
- The Committee noted that there is currently no alternative to consider other than adhering to the internationally accepted norm, if we don't, Ghana's Ship

registry would become uncompetitive and would lose out, as shipping is an international business mainly regulated by the IMO, a specialised UN Agency.

- The accession and implementation of these protocols by Ghana will signify to the International Maritime Community that Ghana is complying with the requirements of the provisions of these conventions and this will enhance the attractiveness of Ghanaian registered ships to foreign commercial seaports which have become sensitive to safety and security matters.
- Further, the accession to the Protocols will enable Ghana to harmonise its system of surveys and certification for ships thereby reducing the burden of duplicating surveys PSC Officers and the ships as well and consequently enhance the turnaround time for ships.

3.3 *The International Convention on Civil Liability for the Bunker Oil Pollution Damage, 2001*

3.3.1 Background

The Bunker convention was adopted by the International Maritime Organisation (IMO) in March 2001 and came into force on 21st November 2008. The convention was intended to fill the last significant gap in the international regime for compensating victims of oil spills from ships. It is worth noting that until the adoption of the Bunkers convention the existing international regimes only addressed pollution damage caused by oil spillage from tankers.

3.3.1 Object of Convention

The object of the Bunker convention is to establish uniform international regime for ensuring the availability and payment of adequate, prompt and effective compensation to persons who suffer damage caused by pollution that has resulted from the escape or discharges of bunker oil from ship.

3.3.2 Observations

- The Committee noted that accession by Ghana to the convention would benefit the country as it would be a major contributory factor towards the protection of the maritime environment and would benefit coastal states and victims of pollution caused by Bunker Oil Spills.
- The Committee noted that even though majority of all ships source pollution are attributed to bunker oil spills, Ghana currently does not have a law regulating bunker oil operations of our waters. The Ghana Maritime Authority only issues operational permits to vessels to engage in bunkering trade within our waters.

Ghana's oil potential and increasing production capacity coupled with the growth in the national economy is likely to lead to increased shipping activities as more ships call on the nation's ports and offshore installations, to ensure that in the interim, Ghana does not lose out in the lucrative bunkering trade. Ghana's accession to the convention is in the right direction.

- The Committee took cognisance of the fact that Ghana has a sizeable domestic fleet comprising fishing vessels, offshore supply vessels, cargo vessels and harbour crafts, which together are likely to increase bunker operations and the risk of a bunker oil spill.
- The Committee noted that accession of the convention will enable Ghana access the necessary technical assistance from the IMO and put in place the requisite national legislation that will regulate bunker operations and deal with matters relating to liability and compensation for bunker oil pollution damage.

3.4 *Nairobi International Convention on Wreck Removal, 2007*

3.4.1 Background

The Nairobi international Convention on the Removal of Wrecks, 2007 was adopted by an international conference held in Kenya in 2007 and entered into force in 14th April, 2015. The Convention provides set of uniform

international rules aimed at ensuring the legal basis for States to remove, or have removed, shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine environment.

It has become evident that although the incidence of marine casualties has decreased dramatically in recent years, the number of abandoned wrecks, estimated at almost thirteen hundred worldwide, has increased causing acute problems to coastal States and shipping in general.

Depending on its location, a wreck may constitute a hazard to navigation, potentially endangering other vessels and their crew. A wreck depending on its nature of cargo may cause substantial damage to the marine and coastal environments, and the costs involved in the marking and removal of hazardous wrecks in an age where goods and services are becoming increasingly expensive.

3.4.2 Justification for the Convention

Ghana as a coastal State has maritime interest to protect and this can only be achieved in a clean marine environment. With the advent of Oil exploration and exploitation in our exclusive economic zone, there is the need for Ghana to sign this Convention to cater for wrecks should the unforeseen happen in order to make our seaways navigable, preventing unnecessary delays in our maritime domain.

3.4.3 Observations

- The Committee noted that no financial costs to Ghana are foreseen in the ratification of the wreck removal convention.
- Ratification of the Nairobi Convention would enhance the protection of Ghana's marine environment against pollution from shipping activities and also empower Ghanaian officials to promptly and effectively remove wrecks in our maritime domain.

- It was observed that the Convention places strict liability on registered ship owners for locating, marking and removing wrecks deemed to be hazardous to navigation. The ship-owners are required to maintain compulsory insurance or other financial security to cover liability under the convention. State certification to attest that insurance is in place is provided for as well as State parties having a right of direct action against insurers.

3.5 *The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009*

3.5.1 Background

The IMO in the early 2000s saw the need to address risks associated with ship recycling. An International conference was held in Hong Kong, China in May 2009 with inputs from IMO Member States and non-governmental organizations, and in co-operation with the International Labour Organization adopted by the convention. The Convention is yet to enter into force.

3.5.2 Object of Convention

The Hong Kong Convention is aimed at ensuring that ships, when being recycled after reaching the end of their operational lives do not create any unnecessary risk to human health and safety or to the environment

3.5.3 Justification for the Convention

Ghana currently has a lot of abandoned ships along its coast that need to be properly disposed of. The beaches of Prampram, Keta and Ada to mention a few are scattered with sunken vessels that destroy the beauty of our beaches and pose various threats to the environment. Fortunately, skilled labour to dismantle and properly dispose of these vessels is readily available since ship cutting has been an active business for the last twenty-five years in Ghana with companies like Aluworks in Tema making good use of the scrap metal from these ships.

It is therefore imperative that Ghana ratifies the Hong Kong Convention for Ship Recycling, 2009, to create the environment to regulate the activities of companies and individuals that undertake these functions.

3.5.4 Observations

- The Committee noted that the Convention addresses all issues concerning ship recycling. Regulations in the Convention caters for the design, construction, operation and preparation of ships to facilitate safe and environmentally sound recycling, without compromising the safety and operational efficiency of ships as well as the operation of ship recycling facilities in a safe and environmentally sound manner. It also addresses the establishment of an appropriate enforcement mechanism for ship recycling, incorporating certification and reporting requirements.
- The Committee noted that under the Convention, ships to be sent for recycling will be required to carry an inventory of hazardous materials, which will be specific to each ship. An appendix to the Convention provides a list of hazardous materials, the installation or use of which is prohibited or restricted in shipyards, ship repair yards and ships of Parties to the Convention. Ships will be required to have an initial survey to verify the inventory of hazardous materials, renewal surveys during the life of the ship, and a final survey prior to recycling.
- Furthermore, ship recycling yards will also be required to provide a Ship Recycling Plan, to specify the manner in which each individual ship will be recycled, depending on its particulars and its inventory. Parties will be required to take effective measures to ensure that ship recycling facilities under their jurisdiction comply with the Convention.
- The Committee noted that, ratifying the Convention will also make it possible for recycling activities to be guided by standards set by the IMO. It will also enable Ghana to address the potential environmental, economic and health threats that is eminent, should these vessels be left unattended.
- The Convention, when ratified, will enable Ghana to legislate and focus on important issues regarding ship recycling. Additionally, Ghana stands to benefit economically since the process of recycling makes it possible for all

materials and equipment to be re-used. When properly regulated, ship recycling activities can generate employment for both skilled and unskilled personnel.

3.6 *The Convention on the International Hydrographic Organization as Amended by the Protocol of 2005*

3.6.1 Background

The International Hydrographic Organization is an intergovernmental body recognised by the United Nation (UN) as its competent Technical Authority for Hydrography and nautical charting. The organization seeks to promote the application of hydrography and Nautical charting and the application of hydrography for safe navigation, improve global hydrographic capacity and to ensure the highest level of uniformity in carrying out hydrographic surveys and the production of nautical charts to prevent accidents.

In achieving their objectives, the International Hydrographic Organization is responsible to ensure a close and permanent association between all National Hydrographic Officers and to study matters that relate to hydrography and the allied sciences. The Organization will also encourage the coordination of hydrographic activities as well as cooperate with other International Organizations and scientific institutions which have related activities, among other functions.

3.6.2 Justification for the Protocol and Convention

Ghana, a coastal state has responsibility to ensure that its waters are surveyed and charted to enhance the safety of navigation. As a contracting party to the International Convention on the safety of life At Sea (SOLAS) Ghana, is obliged to ensure the provisions of the hydrographic and nautical charting services. Hydrography encompasses nautical cartography and promulgation of navigational warnings which are key factors for maritime safety and protection of the marine environment. The absence of these services pose a real threat to safety of life at sea.

3.6.3 Benefit of Membership

Ghana as a member of the International Hydrographic Organization will benefit from technical assistance to develop its hydrographic capacity and be assisted to establish in-country hydrographic services through the International Hydrographic Organization technical support and capacity building programmes.

3.6.4 Observations

- The Committee was informed that the financial outlay of Ghana's membership to the International Hydrographic Organization will involve payment of annual membership contributions and bearing the cost of travel allowances of its delegations to meetings of the International Hydrographic Organization.
- The Committee noted that as a member of IHO, Ghana stands to benefit from the national hydrographic services, including the charting of Ghana's waters for safe navigation, delimitation of Ghana's maritime boundaries, protection of offshore operations and assets and exploration and gas among others. Various agencies in Ghana, such as the Ghana Ports and Harbours Authority, the Ghana National Petroleum Corporation, the Ghana Navy, the Fisheries Commission and oil companies in the upstream sub-sector also stand to benefit.
- The Committee noted that the Ghana Maritime Authority would benefit from data derived from hydrographic surveys in charting navigational routes on the Volta Lakes to enhance transportation and that would help minimize boat accidents.
Further, Ghana's membership would benefit the Regional Maritime University, the University of Ghana and other educational institutions by way of training and capacity building.

4.0 RECOMMENDATION AND CONCLUSION

As a coastal State, Ghana needs to have a secure, safe and environmentally friendly coast to enable the nation derive the maximum benefits from the maritime industry. Hence the need for Ghana to accede to the International Conventions and Protocols.

The Committee unanimously recommends to the House to approve its report and ratify the eight (8) International Conventions and Protocols below in line with Article 75(2) of the 1992 Constitution.

- (i) The Protocol of 2005 to the Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation (SUA Convention)
- (ii) The Protocol Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf, 2005
- (iii) Protocol of 1998 relating to the International Convention for the Safety of Life at Sea (SOLAS), 1974
- (iv) Protocol of 1988 relating to the International Convention on Load Lines, 1966
- (v) International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
- (vi) Nairobi International Convention on the Removal of Wrecks, 2007
- (vii) Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009
- (viii) The Convention on the International Hydrographic Organisation as Amended by the Protocol of 2005

Respectfully submitted.

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HON. SAMUEL AYEN-PAYE
CHAIRMAN, COMMITTEE ON ROADS AND
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MR. ASANTE AMOAKO-ATTA
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