AGENDA ITEM 2 – STRENGTHENING THE MEMORANDUM OF UNDERSTANDING ON FLAG STATE IMPLEMENTATION FOR DOMESTIC SHIPS IN THE PACIFIC ISLANDS REGION 2017

Purpose

1. The purpose of this paper is to seek Transport Ministers endorsement of the roadmap in Annex 1 and consider measures and funding options for the Memorandum of Understanding on Flag State Implementation for Domestic Ships in the Pacific Islands Region 2017 (Pacific MoU).

Background

2. The Pacific MoU is a world first in that it is the only MoU that focuses on flag State implementation (FSI). Ministers of Transport from nine (9) Pacific Island countries (PICs) signed the Pacific MoU on 28th April 2017, during the Third Pacific Regional Energy and Transport Ministers’ Meeting in Nukualofa, Tonga. Two other Members have signed the MoU since that meeting and another Pacific Islands Country (PIC) is in the process of seeking the endorsement of its Minister to sign on behalf of its Maritime Administration.

3. The main objective of the MoU is to provide PICs or territories with a framework to harmonise their standards and cooperate in or coordinate their activities concerning FSI. Specifically, it seeks to address the safety of domestic shipping by setting regional standards for domestic ship safety, regional training of ship safety inspectors or surveyors, and exchange of information.

4. As is the case for other existing MoUs, the parties to the Pacific MoU are not States but Maritime Administrations or their equivalents, such as the Marine Divisions or Departments of governments. The instrument does not have any legally binding effect and operates on a purely voluntary basis; in order to bring together as many Maritime Administrations as possible. As a result, the Pacific MoU has been carefully drafted to avoid use of mandatory language, dispenses with potential administrative burdens and allows it to evolve in an organic manner; dictated by the needs, capacities, interests and aspirations of its Members.

Current status

5. In November 2018, the heads of Maritime Administrations that are parties to the Pacific MoU held their first meeting in Suva, Fiji and agreed to begin to implement the MoU. To that end, the meeting -
   • highlighted the benefits of the Pacific MoU for Members such as harmonising standards for domestic ships in order to facilitate and support the development of Pacific cabotage;
   • agreed on the principle to build the Pacific MoU based on actions to respond to pressing issues common to the region, such as marine litter and plastic pollution;
   • agreed for the SPC to be the Secretariat of the Pacific MoU and to undertake the following tasks:
     a) develop the ToR for the Steering Committee with the assistance of a Governance working group;
     b) articulate the functions of the Secretariat;
     c) implement a Concentrated Survey Programme (CSP) in 2019-2020 on “preventing overloading of domestic ships in the Pacific”;
     d) promote the Pacific MoU to non-signatory countries and neighbouring countries such as Australia, US and New Zealand;
c) explore options such as for Flag State Inspectors/Surveyors of Member Administrations to be placed on secondment in other Members or with Administrations of neighbouring States in order to build their capacity to inspect convention and non-convention domestic vessels; and

f) submit a paper to IMO’s Technical Cooperation Committee and Sub-Committee on Implementation of IMO instruments in 2019.

6. The Secretariat has developed the instruction and or procedure for the CSP for 2019-2020 on “preventing overloading of domestic ships in the Pacific” and has disseminated it to Member Administrations through the official points of contact and looks forward to its vigorous implementation by Member Administrations.

Issues

7. The main issue regarding the implementation of the Pacific MoU is the fact that it has been set up just recently and lacks dedicated resources that are required to run it and carry out its stated objectives in a robust manner. This is evident in the following aspects:

a) As the Secretariat, the SPC has to spread its limited resources around to support the preparatory meetings leading up to the signing and two post-signing meetings for the MoU. In looking forward, New Zealand has generously provided funding to cover some secretariat and legislative drafting related costs from 2019-2021 but the MoU needs to access other funds in the next two years in order to support its work in a more robust manner.

b) The secretariat services provided by the SPC to the MoU is currently on a part-time basis; performed by a single desk officer. The outcome of this is that it may take up to two years to set up an efficient and effective secretariat service including advocacy, information technology, terms of reference of the Steering Committee, functions of secretariat, work plans, etc.

8. The resource and capacity constraints show the wisdom of Members in deciding that the MoU should develop in an organic manner; dictated by the needs, interests and aspirations of its Members. The business case in Annex 2 provides details on funding options building on existing mechanisms and future Members and partners’ contribution.

9. The roadmap in the Annex 1 has been developed and will serve to guide strengthening the MoU in the period from 2019-2021.

Recommendations

10. Transport Ministers are invited to:

i. **Endorse** the roadmap in Annex 1;

ii. **Task** the Secretariat to mobile resources from development partners to support the initial set-up and the functioning of the MoU, pending any future undertaking by Members to contribute to the funding of the MoU;

iii. **Agree** for Maritime Administrations to allocate financial and other resources for the activities of the Steering Committee;

iv. **Request** development partners to consider funding the Pacific MoU as presented in the Annex 2 either through dedicated funding or existing assistance programme;

v. **Acknowledge** the progress made in the development of the Pacific MoU and **encourage** all Members to implement the current Concentrated Survey Programme in 2020 with complementary measures and continue adopting laws to align with the Pacific MoU instruments.

[16 August 2019]
### Annex 1: Roadmap on Implementation of the Pacific MoU 2019-2021

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Timeframe</th>
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<td><strong>A) Secretariat and administration</strong></td>
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<tr>
<td>1) Develop and maintain website as portal for sharing information and facilitate dialogue</td>
<td>Secretariat</td>
<td>2019-2021</td>
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<td>2) Promote MoU and build networks</td>
<td>Secretariat</td>
<td>2019-2021</td>
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<td>3) Implement Concentrated Survey Programme</td>
<td>Secretariat + Members</td>
<td>2019-2020</td>
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<td>4) Articulate functions and services of Secretariat</td>
<td>Secretariat</td>
<td>2019-2020</td>
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<td>5) Develop TOR for Steering Committee</td>
<td>Secretariat</td>
<td>2019-2020</td>
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<td><strong>B) Funding Options</strong></td>
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<tr>
<td>1) Canvass and agree on funding options</td>
<td>Secretariat + Members</td>
<td>2019-2020</td>
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<tr>
<td><strong>C) Standards for domestic ship safety</strong></td>
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<tr>
<td>1) Promote and disseminate regional standards</td>
<td>Secretariat</td>
<td>2019-2021</td>
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<tr>
<td>2) Stocktake on current status of domestic ship safety standards in Members</td>
<td>Secretariat + Members</td>
<td>2019-2021</td>
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<tr>
<td>3) Upgrade national standards for domestic ship safety</td>
<td>Secretariat + Members</td>
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<tr>
<td><strong>D) Training and capacity development of ship’s surveyors and inspectors</strong></td>
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<tr>
<td>1) Survey on current capacity and training/capacity development needs in Members</td>
<td>Secretariat + Members</td>
<td>2019-2021</td>
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<tr>
<td>2) Organise trainings and capacity development activities for Members</td>
<td>Secretariat + Members + donors</td>
<td>2019-2021</td>
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<tr>
<td>3) Organise South-South collaborations for trainings and capacity development activities for Members</td>
<td>Secretariat + Members + donors</td>
<td>2019-2021</td>
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<tr>
<td><strong>E) Information sharing</strong></td>
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<tr>
<td>1) What information do Members need to share?</td>
<td>Secretariat + Members</td>
<td>2020-2021</td>
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<tr>
<td>2) How to maintain and keep data?</td>
<td>Secretariat + Members</td>
<td>2020-2021</td>
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<tr>
<td>3) Who to share information and data with?</td>
<td>Secretariat + Members</td>
<td>2020-2021</td>
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Annex 2: Business case 2020-2021

Financing the Memorandum of Understanding on Flag State Implementation for Domestic Ships in the Pacific Islands Region 2017

Purpose

The purpose of this document is to explore options for the financing of the Memorandum of Understanding on Flag State Implementation for Domestic Ships in the Pacific Islands Region 2017 (Pacific MoU).

Background

The article 1.1 of the MoU states that the purpose of the Pacific MoU is “to develop a harmonized system of regional flag State implementation over domestic ships in the Pacific Islands region in order to strengthen safety at sea and in ports and to protect the marine environment and its resources; through robust regional cooperation, exchange of information and compliance with the standards laid down in relevant instruments as defined in section 3”.

Although this MoU is not a legally binding instruments, provisions under section 2 state commitments made by the parties to give effect to its provisions. In particular, section 8 of the MoU describes the organisation of the MoU, comprising a Committee and an independent Secretariat, the Pacific Community (SPC). Among other duties, the Committee has fund raising and budgetary responsibilities.

Discussion

Since the signing of the MoU in 2017, the Secretariat function has been performed by SPC which has secured funding for the annual meeting of the Committee as stated in Article 8.2 of the MoU and provides support including some Secretariat function and legislative drafting in 2019-2021.

During the second meeting of the Committee in Port Vila, Vanuatu on 22 July 2019, Members agreed to explore options for the financial sustainability of the Pacific MoU and ensure its Committee and Secretariat can perform their duties in an efficient and effective manner.

Acknowledging the services delivered by SPC as secretariat and through various projects, the funding support and projects from other development partners and their own limited resources, the Committee Members tasked SPC to develop options allowing Members and partners contribution to the following needs:

- Meeting at least once a year of the Pacific MoU Committee;
- Performing Committee and Secretariat functions as per Articles 8.3 and 8.4 of the MoU;
- Legislative drafting support to Members; and
- Supporting Members to effectively implement their Flag State responsibilities including training and seminars, the harmonisation of procedures and practices relating to survey, inspection, marking and certification.
a) **Meeting of the Pacific MoU Committee** – **USD 28,025**/year

The budget of the Pacific MoU Committee annual meeting include travel costs of 11 Members (Director of Maritime). The costs cover travel and stay for 2-3 days in Suva, Fiji according to SPC Travel Policy.

b) **Basic Secretariat functions** – **USD 14,741** = **USD 42,766**/year

The Basic Pacific MoU Secretariat functions includes 1 working day per month of an Adviser and 5 days per year for an Administration and Finance Assistant based on SPC staff policy and rules. With this resource, the Secretariat carries out basic administrative tasks for the Committee to meet and monitor progress of the Pacific MoU Members. The total budget of USD 42,766 per year includes the annual meeting of the Committee.

c) **Extended Secretariat functions** – **USD 86,427** = **USD 129,192**/year

This Extended Pacific MoU Secretariat functions includes annually 25% of an Adviser to manage the Secretariat and coordinate the activities, and 10% of an Administrative and Finance Assistant based on SPC staff policy and rules. The Adviser can provide some legal drafting services, training or technical assistance depending on his/her expertise. The total budget of USD 129,192 per year includes the annual meeting of the Committee and the Basic Secretariat functions.

d) **Technical and Legal Assistance Programme** – **USD 258,902** = **USD 388,094**/year

The technical and legal assistance programme include legal drafting services and trainings with Secretariat function (100% of an Adviser to manage the Secretariat and coordinate the activities, and 10% of an Administrative and Finance Assistant based on SPC staff policy and rules. The technical and legal assistance programme is carried out by a combination of part-time legal or technical officer(s) including attachment and in-country presence.

**Conclusion**

Currently, SPC secures blended funding from limited resources within the Pacific Islands Domestic Ship Safety (PIDSS) Programme to organise annual meetings of the Committee and provide Basic Secretariat functions. PIDSS and other projects such as the New Zealand funded Pacific Maritime Safety Programme (PMSP) and through the Integrated Technical Cooperation Programme (ITCP) and IMO Presence, provide legal and technical services.

There is a need to better structure the Pacific MoU Committee and Secretariat functions to coordinate and monitor progress of Members’ implementation of the MoU provisions and their Flag State responsibilities. Members and partners' should explore coordinated contribution towards full Committee/Secretariat functions and a coordinated technical and legal assistance programme under the Pacific MoU.