

**CONTRIBUTION MADE BY THE MEMBER FOR ELIZABETH
DURING THE MERCHANT SHIPPING ACT DEBATE
WEDNESDAY DECEMBER 8, 2021**

MEMBER FOR ELIZABETH (HON. JOBETH COLEBY DAVIS):

Thank you, Madam Speaker. Madam Speaker before I go into my contribution, I just want to briefly bring Christmas greetings. Christmas has always been one of my most favourite times of the year because it is a time when kindness, joy and generosity abound. Between the festive holiday gatherings, good food and drinks, merriment and fellowship, we also take time to celebrate the birth of Jesus Christ, who is and will always be the reason for the season.

To the people of Elizabeth, my constituents, whom I have come to know so well and care for so deeply, I would like to wish each and every one of you a blessed and joyous Christmas. I hope to see as many of you as I can over the next few weeks, particularly at our upcoming Christmas event, which is scheduled for December 18th, 2021, at a location to be announced and I pray that the peace of Christ will fill your homes and your hearts this yuletide season, on behalf of my husband, Donovan, my daughter, Bethany, and myself, occasion for the passage of this Merchant Shipping Bill which was originally intended for the passage to coincide with the 25th Anniversary celebration of The Bahamas Maritime Authority during National Maritime Week 2020, but unfortunately, the Covid-19 protocols resulted in Maritime Week being cancelled. And so being cognisant of the urgent need for a modern Merchant Shipping Act, which began under the previous administration and the Christie administration led by the Member for Englerston, and to retain The Bahamas' competitive status as a leader in the maritime sector globally, we

recognized the critical importance of bringing this legislation to Parliament. By way of an historical overview, permit me to provide a brief synopsis of the origin of this legislation.

The Merchant Shipping Act, Chapter 268, Statute Law of The Bahamas, was enacted by Parliament in 1976. The Act made provisions for the registration of ships, the controlled regulation and orderly development of merchant shipping, the proper qualification of persons employed in the sea service and to regulate the term of services of persons so employed.

Madam Speaker, The Bahamas is a member of the International Maritime Organization, which is the United Nations specialized agency responsible for the development of international conventions, codes and guidance in relation to maritime safety, security and the prevention of pollution from ships and training for seafarers.

The principle IMO conventions being the Safety of Life at Sea Convention, the International Convention for the Prevention of Pollution from Ships, known as MARPOL, and the International Convention on Standards of Training Certification and Watch Keeping for Seafarers.

Madam Speaker, permit me to draw your attention to the alignment of the Bill with the environmental regulations, particularly recognising the need to counter the devastating effects of climate change and any implications to our fragile marine ecosystem upon which we are very much reliant, whether through tourism or fishers or broader finance.

When the Prime Minister Davis joined other world leaders in Glasgow to participate in the UN Climate Change Conference, COP 26, Hurricane Dorian and the existential threat to small island states like The Bahamas was very much at the forefront of our consideration. In this context, our legislation will aim to incorporate environmental requirements to address the

adverse environmental impact from ships, so as to protect our oceans, prevent or reduce pollution and promote biodiversity.

Madam Speaker, additionally, The Bahamas is a member of the ILO (International Labour Organization) the United Nations' agency responsible for the development of standards and policies for labour and decent working conditions for seafarers. The principal ILO convention being the Maritime Labour Convention, 2006. The Bahamas is also one the world's largest ship registries with the ships and the seafarers on board trading globally with a recognised reputation of quality standards through the ratification, adoption and application of the IMO and ILO internationally-binding conventions and codes.

This attribute of quality enables The Bahamas to attract tonnage to the ship registry with the revenue from this operation being applied to The Bahamas Consolidated Fund, to which over \$100 million has been contributed by the ship registry. The ship registry is managed by The Bahamas Maritime Authority, which also has the responsibility for representing The Bahamas at the IMO and the ILO meetings. Madam Speaker, the importance of this industry is further underscored by the former Secretary General. According to the former Secretary General of the IMO, Koji, when he stated, and I quote: "Shipping is the servant of world trade and is indispensable, but to secure a successful and sustainable future, shipping needs to attract investment, to attract high calibre people and to simulate creative thinking and technological innovation. Technical innovation and the regulatory imperative will continue to ensure that shipping becomes cleaner, greener and evermore efficient."

...advocates that International Maritime Organization member states strives to achieve successful and attainable futures and to attract investments by effective implementation and enforcement of international maritime conventions. The term 'implementation', in this context,

covers all relevant laws, regulations, policies and other measures and initiatives that a Member State adopts and takes to meet its obligations. These quotes from the pre-eminent industry leaders on the important role of shipping, and by extension, effective legislation, is further reinforced by the Covid-19 pandemic, where shipping and maintenance of the global supply chain was and continues to be critical to global economic sustainability, with ships and the seafarers serving on these ships at the forefront of the response from and the recovery to the pandemic.

Madam Speaker, this is indeed an opportune time to bring this legislation to the House as I am privileged and honoured to advise of The Bahamas' candidature for IMO Council membership for Category C. With the IMO Council being the executive organ for IMO and is responsible under the IMO Assembly for supervising the work of the IMO. In that regard, The Bahamas is seeking to be elected to one of the 40 seats on Imo Council for 2022-2023 Biennium, which will be facilitated by interagency corporation for engagement for all IMO Member States.

It is noteworthy that The Bahamas has served on the IMO Council continuously from 1999 to date, playing a leading role at all levels in promoting change within shipping. We have long been advocates of a goal-based approach to regulatory reform. I further wish to inform that The Bahamas has endorsed and supported the decision of the IMO Council to recognise and advance gender equality through the adoption of the International Day for Women in Maritime, to be observed on the 18th May annually. This aligns with the United National Sustainability Goal ... Gender Equality and, on May, I, as the Minister of Transport, will have the honour to celebrate and lead the national efforts in this area.

Madam Speaker, although I digress slightly, it is importantly so, since as a small island developing State, we uniquely encompass IMO Category C criteria with a strong maritime

heritage and deep roots with the Caribbean region. And so, with this in mind, a key to our continued partnerships is ensuring that we have the legislative and regulatory framework in place to bring about much needed reforms. To this extent, The Bahamas Maritime Authority, with the assistance of the Office of the Attorney General, undertook a comprehensive review of the Merchant Shipping Act and Regulations to update and address any gaps in the legislation.

Since 1976, The Merchant Shipping Act was amended on numerous occasions in order to remain consistent with the frequent amendments to various international conventions to which The Bahamas is a party.

The last comprehensive updating of the existing Act was undertaken in 1999 with several amendments having been undertaken to the Act and the subsidiary shipping regulations since that day. The Merchant Shipping Maritime Claims Limitations of Liabilities Act, Chapter 281, Statue Law of The Bahamas, was enacted by Parliament in 1989 and provided for the liability of ship owners and salvors. The new Merchant Shipping Bill seeks to continue to provide for the registration of Bahamian ships, the proprietary interest in ships, the training, certifications and watch-keeping related to seafarers, the conditions of employment of seafarers and the health and the well-being of seafarers on board a ship, the prevention of collisions and the safety of navigation. The safety of cargos, including transshipment activities, the prevention of pollution, maritime safety and security, the liability of ship owners and the investigation into marine casualties. Further, the Bill retains and updates the requirements for the regulation and development of merchant shipping and related services. The provisions of the Limitation of Liability Act will be incorporated into this new Bill. Accordingly, the new Bill will bring together Acts of Parliament in a single comprehensive Act, which embraces the subject matter of the enactment.

Madam Speaker, the process of formal adoption of an international convention regulates the affected country, to have in place the legislative mechanisms to incorporate relevant provisions into its law prior to or simultaneously with the presenting of its instruments of ratification or accession to the IMO or the ILO as appropriate. For The Bahamas, this process is currently covered in the existing Act but this requires continuous amendments due to the number of and frequency of changes to the international conventions and mandatory code requirements by the IMO and ILO.

This Bill aims primarily to incorporate the mandatory international convention and codes, among other things, into the laws of The Bahamas in an effort to further and expediently enhance the safety and security of the merchant shipping industry ships and sea farers, and to prevent marine pollution. Also, this Bill will provide a more dynamic and efficient legislative process to efficiently regulate and avoid unnecessary delays, which will ultimately contribute to the growth and development of the merchant shipping industry in The Bahamas.

Madam Speaker, this Bill retains the primary legislation to introduce powers through regulations to the Minister, and specific delegated authority to The Bahamas Maritime Authority, to pass directive or orders to give effect to and enforce IMO and ILO instruments, which are mainly of a technical nature. This approach is particularly relevant to those amendments to technical provisions of conventions brought by the ... acceptance process. For example, amendments to provision in a convention may be deemed to have been accepted by an IMO Member State within a slated period subject to conditions as per the convention.

Madam Speaker, the recommended approach taken with this is to the extent possible to make provisions for the fulfilment of responsibility in the relevant area by statements by principals where applicable, to note the current coverage of each responsibility by reference to

whether existing regulations or provisions of currently ratified applicable convention requirements and confer upon the Minister of Transport, or the BMA, the authority to make further provision by regulation of or otherwise for the attainment of the desired objective.

The BMA has consulted with a number of stakeholders, including ship owners and their legal representatives, shipping industry groups, the Maritime Committee of The Bahamas Bar Council, to ensure the broader consideration of proposed amendments and the practicality of implementation and enforcement. This consultation process was critical to draw from these strategic partners and factor in the practical aspects of the broader shipping services, so as to draft legislation that can effectively be implemented and enforced. This level of engagement also aligns with the desired goal of demonstrating legislative compliance with the international convention and codes that will also facilitate business opportunities, particularly in ship registration and alignment of The Bahamas environmental requirements.

Madam Speaker, the BMA utilized the services of an esteemed international maritime law firm, HFW, who undertook a review of the maritime and shipping laws and legal processes of other countries, including the United Kingdom, Malta and Singapore, amongst others, to gain an objective and comparative assessment of countries with international ship registries. The text of the Bill was also reviewed by the experienced and competent personnel of The Bahamas Maritime Authority, the Attorney General's Office and the Deputy Chairman of the Bahamas Maritime Authority, Mr. Peter John Goulondris. Madam Speaker, the Bill, along with the subsidiary regulations, is proposed to enter into effect in 2022 and would repeal the Merchant Shipping Act, 1976, and the Merchant Shipping Maritime Claims Limitation Liability Act, 1989.

In wrapping up my contribution, Madam Speaker, and in support of the passage of this Bill. I wish to reiterate that my Ministry, by way of The Bahamas Maritime Authority, is

unwavering in its commitment to facilitate efficient delivery of modern regulations and to advocate for the simplification and rationalization of regulations and guidelines. Therefore, the Member of Parliament for Elizabeth supports the passage of this Bill. Thank you.