

MARITIME SAFETY COMMITTEE  
89th session  
Agenda item 25

MSC 89/WP.1  
16 May 2011  
Original: ENGLISH

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**DRAFT REPORT OF THE MARITIME SAFETY COMMITTEE ON ITS  
EIGHTY-NINTH SESSION**

**1 INTRODUCTION – ADOPTION OF THE AGENDA**

1.1 The eighty-ninth session of the Maritime Safety Committee was held from 11 to 20 May 2011 under the chairmanship of Mr. Neil Ferrer (Philippines). The Committee Vice-Chairman, Mr. Christian Breinholt (Denmark), was also present.

1.2 The session was attended by delegations from the following Member Governments:

[ALGERIA	DOMINICA
ANGOLA	ECUADOR
ANTIGUA AND BARBUDA	EGYPT
ARGENTINA	ESTONIA
AUSTRALIA	ETHIOPIA
AZERBAIJAN	FINLAND
BAHAMAS	FRANCE
BAHRAIN	GEORGIA
BARBADOS	GERMANY
BELGIUM	GHANA
BELIZE	GREECE
BOLIVIA (PLURINATIONAL STATE OF)	ICELAND
BRAZIL	INDIA
BULGARIA	INDONESIA
CAMBODIA	IRAN (ISLAMIC REPUBLIC OF)
CAMEROON	IRAQ
CANADA	IRELAND
CHILE	ISRAEL
CHINA	ITALY
COLOMBIA	JAMAICA
COOK ISLANDS	JAPAN
CUBA	JORDAN
CYPRUS	KAZAKHSTAN
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	KENYA
DENMARK	KIRIBATI
	KUWAIT
	LATVIA

LIBERIA	SAN MARINO
LIBYAN ARAB JAMAHIRIYA	SAUDI ARABIA
LITHUANIA	SERBIA
LUXEMBOURG	SINGAPORE
MALAYSIA	SOUTH AFRICA
MALTA	SPAIN
MARSHALL ISLANDS	SWEDEN
MEXICO	SWITZERLAND
MOROCCO	SYRIAN ARAB REPUBLIC
NETHERLANDS	THAILAND
NEW ZEALAND	TONGA
NIGERIA	TUNISIA
NORWAY	TURKEY
OMAN	TUVALU
PANAMA	UKRAINE
PAPUA NEW GUINEA	UNITED ARAB EMIRATES
PERU	UNITED KINGDOM
PHILIPPINES	UNITED REPUBLIC OF
POLAND	TANZANIA
PORTUGAL	UNITED STATES
QATAR	URUGUAY
REPUBLIC OF KOREA	VANUATU
ROMANIA	VENEZUELA (BOLIVARIAN
RUSSIAN FEDERATION	REPUBLIC OF)
SAINT KITTS AND NEVIS	YEMEN]
SAINT VINCENT AND THE GRENADINES	

and the following Associate Members of IMO:

[HONG KONG, CHINA	MACAO, CHINA]
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1.3 The session was also attended by representatives from the following United Nations and specialized agencies:

[OFFICE OF THE UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)  
WORLD METEOROLOGICAL ORGANIZATION (WMO)  
INTERNATIONAL LABOUR ORGANIZATION (ILO)  
FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)]

1.4 The session was also attended by observers from the following intergovernmental organizations:

[INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)  
EUROPEAN COMMISSION (EC)  
MARITIME ORGANISATION OF WEST AND CENTRAL AFRICA (MOWCA)  
LEAGUE OF ARAB STATES  
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)  
REGIONAL COOPERATION AGREEMENT ON COMBATING PIRACY  
AND ARMED ROBBERY AGAINST SHIPS IN ASIA (ReCAAP-ISC)  
MARINE ACCIDENT INVESTIGATORS' INTERNATIONAL FORUM (MAIIF)]

observers from the following non-governmental organizations in consultative status:

[INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)  
INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)  
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)  
INTERNATIONAL CHAMBER OF COMMERCE (ICC)  
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)  
INTERNATIONAL ASSOCIATION OF MARINE AIDS TO NAVIGATION  
AND LIGHTHOUSE AUTHORITIES (IALA)  
COMITÉ INTERNATIONAL RADIO-MARITIME (CIRM)  
BIMCO  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
ICHCA INTERNATIONAL LIMITED  
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)  
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)  
INTERNATIONAL COUNCIL OF MARINE INDUSTRY ASSOCIATIONS (ICOMIA)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL LIFE-SAVING APPLIANCE MANUFACTURERS'  
ASSOCIATION (ILAMA)  
COMMUNITY OF EUROPEAN SHIPYARDS' ASSOCIATIONS (CESA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER  
OWNERS (INTERTANKO)  
INTERNATIONAL GROUP OF P&I ASSOCIATIONS (P&I Clubs)  
SOCIETY OF INTERNATIONAL GAS TANKER AND TERMINAL OPERATORS  
LIMITED (SIGTTO)  
INTERNATIONAL MARITIME RESCUE FEDERATION (IMRF)  
CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA)  
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS  
(INTERCARGO)  
INTERNATIONAL SHIP MANAGERS' ASSOCIATION (InterManager)  
INTERNATIONAL PARCEL TANKERS ASSOCIATION (IPTA)  
INTERNATIONAL SAILING FEDERATION (ISAF)  
THE INTERNATIONAL MARINE CONTRACTORS ASSOCIATION (IMCA)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL HARBOUR MASTERS' ASSOCIATION (IHMA)  
INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)  
THE ROYAL INSTITUTION OF NAVAL ARCHITECTS (RINA)  
INTERFERRY  
INTERNATIONAL PAINT AND PRINTING INK COUNCIL (IPPIC)  
WORLD SHIPPING COUNCIL (WSC)  
NACE INTERNATIONAL  
INTERNATIONAL ASSOCIATION OF AIRPORT AND SEAPORT POLICE  
(IAASP)  
THE NAUTICAL INSTITUTE (NI)  
BUREAU INTERNATIONAL DES CONTAINERS ET DU TRANSPORT  
INTERMODAL (BIC)

and by a representative from the:

WORLD MARITIME UNIVERSITY (WMU)]

1.5 The Chairmen of all sub-committees were also present.

### **Opening address of the Secretary-General**

1.6 The Secretary-General welcomed the participants and delivered his opening address, the full text of which is reproduced in document MSC 89/INF.26.

### **Chairman's remark**

1.7 In responding, the Chairman thanked the Secretary-General for his words and advice and stated that his advice and requests would be given every consideration in the deliberations of the Committee and its working groups.

### **Statements by delegations**

1.8 While thanking the Secretary-General and those delegations that spoke for their kind words and actions for Japan regarding the Great East Japan Earthquake, the delegation of Japan provided the Committee with an update on the situation in their country. The statement is set out in annex [...]. Still on the sadness of natural catastrophes, the delegation of Spain thanked the Committee for its kind words regarding the recent earthquakes in the South-East of Spain.

1.9 In expressing their appreciation for the Secretary-General's words on the issue of piracy off the coast of Somalia and in the Gulf of Aden, the delegation of the Philippines stressed the fact that 120 Filipino seafarers were still in captivity. The observer from ITF who emphasized the seafarers' frustration that not enough was being done to eliminate the threat of piracy, stated that they were being severely abused and traumatized, thus also profoundly impacting on their families. The delegation of India, having further indicated that 46 Indian seafarers were also captive, introduced the counter piracy activities of the Indian Navy and Maritime Administration while putting forward a series of suggestions, as set out in annex [...].

1.10 Still on the issue of piracy, the delegation of Kenya referred to the operative further responsibilities of the Regional Maritime Rescue Coordination Centre in Mombasa as a Piracy Information Sharing Centre and the observer from ICC informed the Committee about the forthcoming issuance of a "Call for action on Piracy" during the International Transport Forum which will take place in Leipzig (Germany) from 25 to 27 May 2011.

1.11 Referring to the maritime consequences of the troubled situation in the North African sub-region, the delegation of Tunisia informed the Committee about the uninterrupted

implementation of the provisions of the ISPS Code in the Tunisian ports during the past events and the supporting role of Tunisia for the repatriation, and care, of refugees from Libya. The delegation of Panama intervened to report the incident which involved the Panamanian-flagged ship **Red Star One**, earlier in May 2011, in the context of her humanitarian mission for the International Organization for Migration, when she came under a rocket attack in the port of Misrata.

1.12 In turn, the delegation of Italy confirmed that their country would continue to make every possible effort to assist people of every ethnic group who risk their lives in the Mediterranean Sea seeking better living conditions.

### **Adoption of the agenda and related matters**

1.13 The Committee adopted the agenda (MSC 89/1) and agreed to be guided during the session by the annotated agenda (MSC 89/1/1) and the provisional timetable referred to in the annex to document MSC 89/1/2, as amended. The agenda, as adopted, with a list of documents considered under each agenda item, is set out in document MSC 89/INF.[...].

1.14 The Committee agreed to the arrangement for the working and drafting groups as proposed by the Secretariat in document MSC 89/1/2 and further reflected under respective sections of this report.

### **Credentials**

1.15 The Committee was informed that the credentials of delegations attending the session were in due and proper form.

## **2 DECISIONS OF OTHER IMO BODIES**

### **OUTCOME OF THE NINETY-SEVENTH AND NINETY-EIGHTH SESSIONS OF THE LEGAL COMMITTEE**

2.1 The Committee noted that LEG 97 (MSC 89/2), after consideration of document LEG 97/6/2 (Islamic Republic of Iran) relating to the unfair treatment of seafarers because of nationality or religion and citing a number of cases concerning denial of shore leave and of medical care for ill or injured Iranian seafarers, or seafarers on Iranian ships in foreign ports due to their nationality or nationality of their workplace, had shared the above concerns and requested the Secretariat to bring them to the attention of the Facilitation Committee and the Maritime Safety Committee. In this context, LEG 97 had agreed that humanitarian considerations should prevail in cases where seafarers in port on foreign ships are ill or

injured and require access to shore-side medical facilities. Furthermore, LEG 97 had also agreed that:

- .1 the IMO/ILO Guidelines on fair treatment of seafarers in the event of a maritime accident (resolution LEG.3(91)), should be implemented in tandem with the IMO Casualty Investigation Code (resolution MSC.255(84)); and
- .2 ineffective implementation of the above Guidelines and the continued unfair treatment of seafarers could have an adverse impact on recruitment of seafarers and on IMO's "Go to Sea!" campaign.

2.2 The Committee also noted that LEG 98 (MSC 89/2/Add.1) had:

- .1 urged those States that had not already done so, to consider ratifying the Maritime Labour Convention, 2006, at their earliest convenience; and
- .2 invited Member States and interested organizations to submit information on cases of abandonment for inclusion in the database in a timely manner, to ensure the accuracy of the information contained therein.

2.3 The Committee further noted that LEG 98 had approved the draft Assembly resolution on Guidelines on fair treatment of seafarers in the event of a maritime casualty (LEG 98/14, annex 2) to promote compliance with the IMO/ILO Guidelines on fair treatment of seafarers in the event of a maritime accident and had decided to submit it to C 106 for consideration with a view to submission to A 27 for adoption. The Committee also took action on other items related to its work as reported under the relevant agenda items.

## **4 MEASURES TO ENHANCE MARITIME SECURITY**

### **Outcome of FSI 19**

4.1 In considering the outcome of FSI 19 (MSC 89/12) with respect to maritime security, the Committee recalled that control and compliance measures with respect to security-related matters are covered by SOLAS regulation XI-2/9 and in the ISPS Code and that additional guidance was detailed in the Interim guidance on control and compliance measures to enhance maritime security (resolution MSC.159(78)) as well as in the Guidance relating to the implementation of SOLAS chapter XI-2 and the ISPS Code (MSC/Circ.1111).

4.2 The Committee noted that FSI 19 had agreed that the new set of guidance related to the ISPS Code should not be incorporated into the draft revised Port State Control (PSC) procedures that have been submitted to this session of the Committee for approval (FSI 19/19/Add.1, annex 3). However, the draft revised PSC procedures did include, in appendix 9, new draft guidelines for PSC officers related to long-range identification and tracking of ships (LRIT), which took into consideration the provision of SOLAS regulation V/19-1, the revised performance standards, the Guidance on the Implementation of the LRIT system (MSC.1/Circ.1298), the outcome of the LRIT-related discussions at MSC 88 and the outcome of the eighth session of the *Ad Hoc* LRIT Group to finalize the aforementioned draft guidelines for PSC officers related to LRIT.

### **Communication of information to the Organization**

4.3 In considering document MSC 89/4 (Secretariat), the Committee recalled that MSC 88 (MSC 88/26, paragraph 4.5) had invited SOLAS Contracting Governments to review, as soon as possible, the information that they had provided to the maritime security module of the IMO Global Integrated Shipping Information System (GISIS) to ensure that it was complete and accurate, and to ensure that the information would be updated as and when changes occurred.

4.4 The Committee also recalled the support given at MSC 88 to the proposal by the Secretariat to improve the maritime security module of GISIS by adding two fields in the section of port facilities: one field relates to port facilities reflecting the requirement of a regular review of port facilities pursuant to SOLAS regulation XI-2/10.2 and the other field provides for input on a Statement of Compliance (SoCPF), if applicable.

4.5 The Committee also recalled that SOLAS regulation XI-2/13.4 requires that "Contracting Governments shall, at five year intervals after 1 July 2004, communicate to the Organization a revised and updated list of all approved port facility security plans (PFSPs) for the port facilities located in their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval (and the date of approval of any amendments thereto), which will supersede and replace all information communicated to the Organization, pursuant to paragraph 3 (SOLAS regulation XI-2/13.3), during the preceding five years. The Committee reiterated that there was no requirement to reapprove plans every five years, but there was a requirement that PFSPs be regularly reviewed. The recent changes to the GISIS module enabled Contracting

Governments to indicate when PFSPs were last reviewed or updated in accordance with part A, section 16.3.8, of the ISPS Code.

4.6 The Committee noted with concern the information provided by the Secretariat that a significant proportion of the port facilities and locations in GISIS, declared as being covered by port facility security plans, did not appear to have been updated or reviewed since initial approvals were given prior to 1 July 2004. As the changes in GISIS had only been recently incorporated, the Secretariat conceded that many Contracting Governments had not had the opportunity to update the information therein.

4.7 The Committee, in this respect, noted the outcome of the request initiated by the Secretariat (MSC 89/4) addressing Contracting Governments to update their information in accordance with SOLAS regulation XI-2/13 on Communication of information which requires Contracting Governments to communicate to the Organization various information related to maritime security, including the names and contact details of their national authority or authorities responsible for ship and port facility security.

4.8 The Secretariat informed the Committee that, in order to keep the information provided in the maritime security module up-to-date as well as to promote an increased use of GISIS, the Secretariat had contacted all national focal points stored in the system, requesting each to verify and, if necessary, update the information provided by their respective Member State. This was followed by a subsequent appeal requesting those Contracting Governments that had not responded to confirm they had received the request and reviewed the relevant information.

4.9 The Committee urged SOLAS Contracting Governments to meet their obligations under the provisions of SOLAS regulation XI-2/13 by reviewing, as soon as possible, the information which they had provided to the maritime security module of GISIS to ensure that it was complete and accurate, and to continue to update their information in GISIS as and when changes occurred.

## **Implementation of SOLAS chapter XI-2 and the ISPS Code**

### ***Report of the Correspondence Group on the Maritime Security Manual***

4.10 The Committee recalled that MSC 88 had established the Correspondence Group on the Maritime Security Manual (the MSM Correspondence Group), co-led by Canada and the United States, with the terms of reference set out in paragraph 4.40 of



document MSC 88/26 and instructed the group to submit a report to MSC 89. All members of the Working Group on Maritime Security including Piracy and Armed Robbery against Ships (MSPWG), established at MSC 88 had been invited to participate in the MSM Correspondence Group and were sent an electronic copy of the draft Manual, as were individuals who had not participated in the MSPWG but expressed an interest in participating. The MSM Correspondence Group conducted a review of the draft Manual and suggested amendments to ensure accuracy, consistency and completeness against existing guidance. Explanatory text was also reviewed and supplemented where required. A matrix of all proposed amendments, the stated rationale for their submission and the action taken on each, was provided to all members of the MSM Correspondence Group to ensure transparency. The MSM Correspondence Group was encouraged to provide any further proposed amendments to the coordinators so as to inform discussions on the Manual at MSC 89.

4.11 In considering the report of the MSM Correspondence Group (MSC 89/4/1), the Committee noted that, during the review process, the MSM Correspondence Group discovered a number of minor editorial errors in existing guidance; however, beyond noting those corrections and ensuring that applicable guidance was accurately and comprehensively reflected in the Manual, the MSM Correspondence Group did not make any recommendations with respect to expansion or revocation of existing IMO guidance.

4.12 In considering the text of the draft Manual (MSC 89/INF.13), the Committee thanked the co-chairs and members of the MSM Correspondence Group, the Secretariat and consultants for the work done. The Committee noted the suggested improvements to the text of the Manual, including reviewing the title of the Manual and the need to clarify ambiguities with respect to initial and interim inspections; and considerations on how best to distribute the final product. The Committee expressed its unanimous support for finalizing the Manual at this session and instructed the MSPWG accordingly (see paragraph 4...).

4.13 The Committee agreed with the MSM Correspondence Group's recommendation to consider a supplementary document on long-range identification and tracking of ships, which was addressed at a high level in the Manual, and a separate document on piracy and armed robbery against ships, which was not addressed in any detail in the Manual.

**Consideration of periodical survey to Ship Security Alert System (SSAS)**

4.14 The Committee recalled that the survey of the Ship Security Alert System (SSAS) by radio inspectors had been discussed during FSI 14, which subsequently had referred the matter to this Committee, and that MSC 82 had decided that it was not appropriate at that time to make it mandatory for SSAS to be included in the list of items to be surveyed by radio inspectors. However, the Committee had noted the recommendation of the Working Group on Maritime Security (MSWG) that it may wish to re-examine the issue at a future date on the basis of information to be provided by SOLAS Contracting Governments attesting to the need to instigate a system of inspections for all or for specific types of SSAS.

4.15 The Committee also recalled that MSC 82 had agreed with the conclusions of the MSWG that the survey of the SSAS by radio inspectors would require the disclosure to a radio inspector of almost all details relating to the SSAS, which would open the possibility of recording the related information in the radio survey report, which was not necessarily subject to the same protection of confidentiality as the information contained in the Ship Security Plan (SSP).

4.16 In considering document MSC 89/4/2 (Republic of Korea), the Committee expressed its appreciation for the research carried out by the Republic of Korea on the necessity of a periodical survey of SSAS and the current problems associated with the absence of a periodical survey. The Committee noted in particular the malfunction rate of approximately 11% of inspected SSAS inspections. After an extensive debate, the Committee agreed that the reliability of SSAS equipment was an important issue and that there were two main issues to be resolved: whether to make the surveys of SSAS mandatory; and, if applicable, by whom this should be done. Views were expressed on the need for confidentiality; the diversity of SSAS equipment *vis-à-vis* the difficulty of introducing clear regulations; whether a periodic testing regime mandated by the ISPS Code was an adequate substitute for an inspection; and national regulation by the flag State as opposed to global regulation.

4.17 The Committee instructed the MSPWG to further consider the issue and to provide recommendations on the need to conduct periodical surveys of SSAS equipment and, if appropriate, advise on how this issue should be taken forward.

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**Report on application and implementation of the ISPS Code including measures taken to enhance maritime security**

4.18 The Committee recalled that, at both MSC 85 and MSC 86, SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status had been urged to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of the guidance in MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194 for consideration of action to be taken.

4.19 The Committee noted the measures taken by the Republic of Korea (MSC 89/4/3) to enhance maritime security in port facilities within its territorial waters and on vessels entitled to fly its flag, and the outcomes thereof. In addition to noting details of the application and implementation of the ISPS Code, the Committee also noted details of the Republic of Korea's anti-piracy efforts.

**Enhancement of the security of ships other than those already covered by SOLAS chapter XI-2 and the ISPS Code**

4.20 The Committee recalled that MSC 85 had approved the Non-mandatory guidelines on security aspects of the operation of vessels which do not fall within the scope of SOLAS chapter XI-2 and the ISPS Code (MSC.1/Circ.1283).

4.21 The Committee also recalled that the United States released its Small Vessel Security Strategy (SVSS) in 2008, with copies and a presentation supplied to MSC 84. The Committee noted that on 24 January 2011, the United States had released its DHS Small Vessel Security Implementation Plan (SVS-IP), which was developed from the goals and objectives of the SVSS and was intended to reduce the risk of a small vessel being used by a terrorist for an attack on the maritime transportation system. The Committee noted with appreciation that copies of the SVS-IP had been distributed to delegations and that a presentation on the subject was held during the session.

**Establishment of the Working Group on Maritime Security including Piracy and Armed Robbery against Ships**

4.22 Following consideration of agenda item 18, the Committee established the Working Group on Maritime Security including Piracy and Armed Robbery against Ships under the chairmanship of Mr. Arsenio Domínguez (Panama) with the following terms of reference:

[more to come]

## **5 GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS**

### **General**

5.1 The Committee recalled that MSC 88, in considering the future work on GBS, had agreed that this work should continue and supported relevant proposals made by Germany (MSC 88/5/1) and the Republic of Korea (MSC 88/5/2), in particular the way forward suggested by Germany, i.e. finalization of the draft Generic guidelines for developing goal-based standards and specification of the acceptable safety level and of the model to determine it. At the same time, the Committee acknowledged that this would be a longer term project during which a number of unresolved issues needed to be considered, such as the role of FSA in the context of GBS, the availability of relevant data and statistics and the expansion of the scope beyond structural requirements.

5.2 The Committee also recalled that MSC 88, having invited Member Governments and international organizations to submit detailed proposals to this session, had requested the Secretariat to submit a background document listing any relevant documents submitted to previous sessions consideration of which the Committee had postponed until after the finalization of the GBS for bulk carriers and oil tankers, including a brief summary of such documents, and agreed to establish a joint GBS/FSA Working Group at this session to, *inter alia*, finalize the draft Generic guidelines for developing goal-based standards and to consider any proposals submitted.

### **Generic guidelines for developing goal-based standards and further work on GBS**

5.3 The Committee noted documents MSC 89/5 and MSC 89/5/Add.1 (Secretariat), listing relevant documents submitted to previous sessions, consideration of which the Committee had postponed until after the finalization of the GBS for bulk carriers and oil tankers, and recalled that the latest version of the draft Generic guidelines for developing goal-based standards was set out in the annex to document MSC 87/5 (Secretariat), which contained a consolidated text, based on the report of the GBS Working Group at MSC 84 (MSC 84/WP.4) and incorporating amendments to the Guidelines proposed by the GBS Correspondence Group established at MSC 84 (MSC 86/5/2).

5.4 The Committee considered document MSC 89/5/2 (Germany), proposing the further development of the draft Guidelines, in particular concerning the structure of goal-based frameworks and regulations, the determination and formulation of goals and functional requirements and the terminology to be used; and the need for monitoring the effectiveness of IMO regulations with possible use of GISIS database.

5.5 The Committee noted that many delegations generally supported the proposals by Germany, in particular the proposed structure for the development of the draft Generic guidelines for GBS. The Committee also noted the views expressed regarding the need for monitoring IMO regulations using the GISIS database and that the working group should develop a long-term work plan for goal-based standards.

### **Establishment of a working group**

5.6 Following discussion, the Committee established the GBS/FSA Working Group and instructed the group (see also paragraph 16...), with regard to this agenda item, taking into account the comments made in plenary and documents MSC 89/5 and MSC 89/5/Add.1, to:

- .1 finalize the draft Generic guidelines for developing goal-based standards, on the basis of document MSC 87/5 and taking into account the proposals made in document MSC 89/5/2, and prepare a covering draft MSC circular; and
- .2 discuss how the work on GBS should be progressed, taking into account documents MSC 88/5/1 and MSC 88/5/2, and prepare relevant recommendations for the consideration of the Committee.

### **Implementation of the GBS verification scheme**

5.7 The Committee considered documents MSC 89/5/1 and Corr.1 (Secretariat), informing the Committee of the activities of the Secretariat regarding the implementation of the GBS verification scheme, carried out in accordance with the timetable and schedule of activities agreed at MSC 87 and based on relevant replies received from Member Governments and international organizations.

5.8 The Committee noted that the number of GBS auditors nominated so far by Member Governments (13) was not sufficient to allow for the proper selection and establishment of GBS Audit Teams and that the lack of nominations may endanger the timely implementation of the GBS verification scheme.

5.9 Subsequently, the Committee urged Member Governments and, in particular, international organizations to submit further nominations for GBS auditors to the Secretariat as a matter of priority.

**Report of the GBS/FSA Working Group**

5.10 Having considered the part of the report of the GBS/FSA Working Group (MSC 89/WP...), dealing with the agenda item, the Committee took action as indicated below.

[more to come]

**7 DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS****REPORT OF THE FIFTEENTH SESSION OF THE SUB-COMMITTEE****General**

7.1 The Committee approved, in general, the report of the fifteenth session of the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) (DSC 15/18 and MSC 89/7) and took action as indicated hereunder, recalling that MSC 88 had already taken action on urgent matters emanating from DSC 15.

**Lists of solid bulk cargoes for which a fixed gas fire-extinguishing system may be exempted or for which a fixed gas fire-extinguishing system is ineffective**

7.2 The Committee considered the draft MSC circular on Lists of solid bulk cargoes for which a fixed gas fire-extinguishing system may be exempted or for which a fixed gas fire-extinguishing system is ineffective, together with document MSC 89/7/5 (Japan), proposing to modify Table 1 to address cargoes which are not listed in the IMSBC Code since the carriage of non-IMSBC Code cargoes may be accepted in accordance with section 1.3 of the IMSBC Code and, having agreed to the proposed modifications, as amended, approved MSC.1/Circ.... on Lists of solid bulk cargoes for which a fixed gas fire-extinguishing system may be exempted or for which a fixed gas fire-extinguishing system is ineffective.

**Safe use of pesticides for the fumigation of cargo holds**

7.3 The Committee approved MSC.1/Circ.... on Recommendations on the safe use of pesticides in ships applicable to the fumigation of cargo holds.

**Racking strength of timber deck cargoes when revising ISO 4472:1983**

7.4 The Committee endorsed the Sub-Committee's action to request ISO to consider the issue of the racking strength of timber deck cargoes when revising ISO 4472:1983.

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**Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011 (2011 TDC Code)**

7.5 The Committee noted that DSC 15, having agreed to the draft Assembly resolution on Adoption of the Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011 (2011 TDC Code), had requested the Secretariat to prepare updated line diagrams to replace the existing diagrams contained in chapter 2 of the draft 2011 TDC Code, for consideration at MSC 89.

7.6 The Committee had the following documents for its consideration:

- .1 MSC 89/7/2 and Corr.1 (Secretariat), proposing new diagrams for the replacement of the existing diagrams contained in figures 2.3, 2.4 and 2.5 and the new diagram 2.6, as requested by DSC 15;
- .2 MSC 89/7/3 (New Zealand), expressing the view that it is not the intent of the draft TDC Code to exclude or infer that loop lashings are not an appropriate method of securing logs, poles, cants and similar cargoes, and proposing that a new paragraph 5.4.5 be inserted into the draft Code to clarify that such cargoes may be secured by chain or wire loop lashing; and
- .3 MSC 89/7/8 (IACS), providing comments and proposing modifications to the technical requirements of the draft 2011 TDC Code.

7.7 Recognizing that many of the technical issues raised in the above documents could not be resolved at this session, the Committee approved, in principle, the draft Assembly resolution on Adoption of the Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011 (2011 TDC Code), as set out in annex ..., for submission to the twenty-seventh session of the Assembly for adoption; instructed DSC 16 to further consider documents MSC 89/7/2 and Corr.1, MSC 89/7/3 and MSC 89/7/8 with a view to preparing proposed amendments to the draft 2011 TDC Code; and authorized the Sub-Committee to submit them directly to the twenty-seventh session of the Assembly.

**IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs)**

7.8 The Committee approved the draft amendments to the IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs), as set out in annex ..., and requested the Secretariat to forward them to ILO and the UNECE for concurrent approval, as appropriate.

**Fitting of low pressure audible alarms on breathing apparatus**

7.9 The Committee noted that the Sub-Committee's views on the need for mandatory provisions on the fitting of a low pressure audible alarm on breathing apparatus had been forwarded to FP 55.

**Revised recommendations for entering enclosed spaces aboard ships**

7.10 The Committee decided to consider this matter under agenda item 11 (Bulk liquids and gases), when considering the related outcome of BLG 15 (see paragraph 11...).

**Container inspection programmes to assist developing countries**

7.11 The Committee, having noted the views expressed on the need for training related to container inspection programmes to assist developing countries in carrying out such programmes, invited the Technical Co-operation Committee to consider including the aforementioned training in its Integrated Technical Co-operation Programme (ITCP).

**Installation of equipment for detection of radioactive sources and radioactive contaminated objects in ports**

7.12 The Committee noted the actions taken by the Sub-Committee in regard to the installation of equipment for detection of radioactive contaminated objects in ports.

**Amendments to SOLAS to mandate enclosed space entry and rescue drills**

7.13 The Committee noted that DSC 15 was unable to reach a consensus on a way forward due to time constraints and had decided to establish a working group on the matter at DSC 16.

**OUTCOME OF THE GLOBAL DIALOGUE FORUM ON SAFETY IN THE SUPPLY CHAIN IN RELATION TO THE PACKING OF CONTAINERS**

7.14 The Committee, having considered document MSC 89/7/6 (ILO), proposing the elevation of the status of the IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs) to a non-mandatory Code of Practice, as recommended by the Global Dialogue Forum on Safety in the Supply Chain in relation to the Packing of Containers, endorsed the proposal of ILO and instructed DSC 16 to develop the new Code under its existing agenda item on "Revised Guidelines for packing of cargo transport units".



**PROPOSED EDITORIAL AND TECHNICAL GROUP ON THE IMSBC CODE**

7.15 The Committee considered document MSC 89/7/1 (Australia, France, Germany, United Kingdom and INTERCARGO), proposing to establish an Editorial and Technical (E&T) Group for dealing with matters related to the IMSBC Code, and agreed to expand the terms of reference of the existing E&T Group, established for preparation of amendments to the IMDG Code, to include the preparation of amendments to the IMSBC Code and supplements. In this regard, the Committee agreed that the E&T Group would meet twice every even year (the first session would take place in April or May before the meeting of the Sub-Committee and the second session would take place just after the meeting of the Sub-Committee) to prepare and finalize, respectively, amendments to the IMSBC Code. In addition, the group would continue to meet twice every odd year to prepare and finalize the IMDG Code amendments. As in the case of the preparation of amendments to the IMDG Code, all decisions would be taken in principle in plenary and the documents, along with the comments, would be referred to the E&T Group for finalization.

**MEASURES FOR SAFE TRANSPORTATION OF SOLID BULK CARGOES BY SHIPS**

7.16 The Committee, having considered document MSC 89/7/4 (China), proposing measures for the safe transportation of solid bulk cargoes, together with document MSC 89/7/7 (INTERCARGO and BIMCO), containing comments on document MSC 89/7/4, decided to forward the aforementioned documents to DSC 16 for consideration under its existing agenda item on "Amendments to the IMSBC Code, including evaluation of properties of solid bulk cargoes" and instructed the Sub-Committee to advise MSC 90 accordingly.

7.17 Taking into account the many comments and concerns expressed during the discussion, the Committee also invited Member Governments and international organizations to submit any studies, comments, proposals and reports on incidents involving solid bulk cargoes directly to the Sub-Committee in order to assist it in taking an informed decision.

**8 SHIP DESIGN AND EQUIPMENT****REPORT OF THE FIFTY-FOURTH SESSION OF THE SUB-COMMITTEE****General**

8.1 The Committee approved, in general, the report of the fifty-fourth session of the Sub-Committee on Ship Design and Equipment (DE) (DE 54/23, DE 54/23/Add.1 and MSC 89/8) and took action as indicated hereunder, recalling that MSC 88 had already taken action on urgent matters emanating from DE 54.

**Unified interpretations**

8.2 The Committee approved MSC.1/Circ... on Unified interpretation of SOLAS regulation III/15.1 concerning the stowage of marine evacuation systems.

8.3 In considering the draft MSC circular on Unified interpretation of SOLAS regulations II-1/28 and II-1/29 concerning mechanical, hydraulic and electrical independency and failure detection and response of steering control systems, the Committee, having noted document MSC 89/8/2 (IACS), providing additional information on the proposed unified interpretation, approved MSC.1/Circ... on Unified interpretation of SOLAS regulation II-1/29.

**Unified interpretations related to conversions of single-hull tankers to double-hull tankers or bulk carriers**

8.4 With regard to the draft MSC-MEPC circular on Unified interpretations on the application of SOLAS, MARPOL and Load Lines requirements to conversions of single-hull tankers to double-hull tankers or bulk carriers (DE 54/23, annex 4), the Committee concurred with the decision of the Sub-Committee to refer paragraph 9 of appendix 1 to the unified interpretations, concerning navigation bridge visibility, to NAV 57 for comments, so that any changes that may be proposed by the NAV Sub-Committee could be included before final approval of the draft circular by MEPC 62.

8.5 In considering the draft MSC-MEPC circular, the Committee took into account document MSC 89/8/3 (IACS), proposing improvements to clarify the text of the unified interpretations, and approved, as modified, subject to comments from NAV 57 (see paragraph 8...) and the concurrent decision by MEPC 62, the draft MSC-MEPC circular on Unified interpretations on the application of SOLAS, MARPOL and Load Lines requirements to conversions of single-hull tankers to double-hull tankers or bulk carriers. Subsequently, the Committee requested the Secretariat to forward the above draft MSC-MEPC circular to NAV 57 for comments and MEPC 62 for concurrent approval.

8.6 In considering the draft Unified interpretations to SOLAS chapter III, the Committee noted the concerns expressed by the delegation of Norway, with respect to the fitting of free-fall lifeboats, that the Unified interpretations allow for ships converted into bulk carriers to maintain their existing lifeboat arrangements; and that puts restrictions on the Administrations on requiring existing lifeboats arrangements complying with requirements in force at the time of the conversion.

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**Application of amendments to SOLAS chapter III and the LSA Code**

8.7 The Committee endorsed the decision of the Sub-Committee to refer the outcome of its considerations of the agenda item on "Application of amendments to SOLAS chapter III and the LSA Code" to FSI 19, in view of MSC 87's instruction to the FSI Sub-Committee to consider the issue of the scope of application of amendments to SOLAS and related Codes and Guidelines from a holistic point of view, taking into account that FSI 19 had established a correspondence group to consider the issue further.

**Performance standards for recovery systems**

8.8 The Committee noted that the Sub-Committee would continue its consideration of performance standards for recovery systems at DE 55, with a view to finalization (see also paragraph 8...).

**Guidelines for passenger ship tenders**

8.9 The Committee noted that the Sub-Committee had decided to postpone further consideration of the draft Guidelines for passenger ship tenders to DE 55, when the contributions of other cooperating sub-committees would be available (see also paragraph 8...).

**Amendments to resolution A.744(18)**

8.10 The Committee endorsed the decision of the Sub-Committee to prepare a new draft Assembly resolution, superseding resolution A.744(18) on Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers (ESP Guidelines), and associated draft amendments to SOLAS regulation XI-1/2.

8.11 The Committee noted the recommendation of the Sub-Committee to rename the output "Consideration of IACS unified interpretations" as "Consideration of IACS unified interpretations and amendments to the ESP Guidelines" when preparing the proposals for the new High-level Action Plan for the 2012-2013 biennium and decided to deal with the matter under agenda item 22 (Work programme).

8.12 The Committee agreed, in principle, to the draft revised ESP Guidelines (DE 54/23/Add.1) and noted that the draft Assembly resolution for their adoption by the twenty-seventh session of the Assembly and associated SOLAS amendments were prepared at DE 55 (see also paragraphs 8.21 and 8.22).

**Development of a mandatory Polar Code**

8.13 The Committee noted the progress made in the development of a mandatory Polar Code, in particular that the Sub-Committee had:

- .1 agreed that the question of addressing the societal differences between the Arctic and the Antarctic regions and how to address possible risks posed by Arctic shipping to vulnerable indigenous and other local communities in the Arctic was outside its remit;
- .2 endorsed the utilization of a risk-based/goal-based approach, including the development of goals and functional requirements which would be accompanied by prescriptive provisions; and
- .3 noted the view that after the Polar Code has been finalized, training requirements for navigation in polar waters and an associated model course should be developed.

**Amendments to the Revised recommendation on testing of life-saving appliances**

8.14 The Committee adopted resolution MSC...(89) on Amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)), as set out in annex ...

**Counterfeit life-saving appliances**

8.15 The Committee noted that the Sub-Committee had agreed that awareness should be raised with regard to counterfeit life-saving appliances and had decided to consider the matter further at DE 55 (see also paragraph 8...).

**URGENT MATTERS EMANATING FROM THE FIFTY-FIFTH SESSION OF THE SUB-COMMITTEE****General**

8.16 The Committee considered urgent matters referred to it (MSC 89/8/4), emanating from the fifty-fifth session of the Sub-Committee (DE 55/22) and took action as indicated hereunder.

**Performance standards for recovery systems**

8.17 The Committee noted that the Sub-Committee would further consider the draft performance standards for recovery systems and the associated draft new SOLAS regulation III/17-1 at DE 56, with a view to finalization.

**Amendments to SOLAS regulation III/20.11.2 concerning testing of free-fall lifeboat release systems**

8.18 With regard to the testing of free-fall lifeboat release systems, the Committee approved the draft amendments to SOLAS regulation III/20.11.2 and requested the Secretary-General to circulate the aforementioned draft amendments in accordance with SOLAS article VIII, with a view to adoption at MSC 90.

8.19 With regard to the early implementation of the aforementioned SOLAS amendments, the Committee noted that the Sub-Committee had agreed on the need for their early implementation and requested the Secretariat to prepare a draft MSC circular on the early implementation of the amendments to SOLAS regulation III/20.11.2, for consideration at MSC 90, in conjunction with the adoption of the draft amendments.

**Matters related to evaluation and replacement of lifeboat release and retrieval systems**

8.20 The Committee agreed to consider the draft MSC circular on Guidelines for evaluation and replacement of lifeboat release and retrieval systems and the associated amendments to SOLAS regulation III/1, the LSA Code and the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)), as well as the draft MSC circular on Early application of new SOLAS regulation III/1.5, under agenda item 3 (see paragraphs 3... to 3...)

**Amendments to resolution A.744(18)**

8.21 The Committee, having recalled that it had agreed, in principle, to the draft revised ESP Guidelines (see paragraph 8...), approved the draft Assembly resolution on Adoption of the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code), as set out in annex ..., with a view to submission to the twenty-seventh session of the Assembly for adoption. In this connection, the Committee authorized the Secretariat to make the necessary consequential changes to the draft 2011 ESP Code (i.e. replace "Guidelines" by "Code"), as proposed by DE 55.

8.22 The Committee also approved the draft amendments to SOLAS regulation XI-1/2 and requested the Secretary-General to circulate them in accordance with SOLAS article VIII, with a view to adoption at MSC 90.

8.23 With respect to consequential amendments to related mandatory instruments emanating from the adoption of the 2011 ESP Code, the Committee endorsed the Sub-Committee's decision to prepare the consequential amendments to related mandatory instruments, as appropriate.

#### **Guidelines on procedures for in-service maintenance and repair of coating systems for cargo oil tanks of crude oil tankers**

8.24 The Committee approved MSC.1/Circ... on Guidelines on procedures for in-service maintenance and repair of coating systems for cargo oil tanks of crude oil tankers.

#### **Application of SOLAS regulation II-1/3-2 to ore carriers and combination carriers**

8.25 The Committee considered document MSC 89/8/1 (IACS), seeking clarification on a possibly unintended application of SOLAS regulation II-1/3-2, as amended by resolution MSC.216(82), to void wing spaces on ore carriers or combination carriers, which, from IACS's point of view, was not intended by the regulation, and noted that differing views had been expressed at DE 54 on the same issue when considering the relevant document DE 54/22/2 (IACS).

8.26 In considering the above document, the Committee noted that the majority of the delegations that spoke on this matter were of the view that SOLAS regulation II-1/3-2 was clear that double-side skin spaces on ore carriers and combination carriers must be coated since the aforementioned regulation should be applied to all dedicated seawater ballast tanks arranged in ships and double-side skin spaces arranged in bulk carriers of 150 m in length and upwards, including on ore carriers and combination carriers taking into account the definition of bulk carriers stipulated in SOLAS regulation XII/1.1. In this regard, the Committee also agreed that any interpretation that differed from the above views would constitute an amendment to the SOLAS Convention.

## **11 BULK LIQUIDS AND GASES**

### **REPORT OF THE FIFTEENTH SESSION OF THE BLG SUB-COMMITTEE**

11.1 The Committee approved, in general, the report of the fifteenth session of the Sub-Committee on Bulk Liquids and Gases (BLG) (BLG 15/19 and MSC 89/11) and took action as indicated in the ensuing paragraphs.

**Outcome of ESPH 16**

11.2 The Committee endorsed, subject to MEPC 62's concurrent decision, the decisions taken by the Sub-Committee regarding the outcome of ESPH 16.

**Decisions on the categorization and classification of products**

11.3 The Committee endorsed, subject to MEPC 62's concurrent decision, the issuance of BLG.1/Circ.31 on Decisions on the categorization and classification of products.

**Timeline for amendments to chapters 17, 18 and 19 of the IBC Code**

11.4 The Committee approved, subject to MEPC 62's concurrent decision, the timeline for the preparation of the draft amendments to chapters 17, 18 and 19 of the IBC Code with a view to adoption by MSC 91.

**Carriage conditions and special requirements assigned for Mixed C4**

11.5 The Committee endorsed, subject to MEPC 62's concurrent decision, the issuance of BLG.1/Circ.32 on Carriage conditions and special requirements assigned for Mixed C4, which will be included as a new entry into the revised IGC Code.

**Prohibition of the blending of bulk liquid cargoes during the sea voyage**

11.6 The Committee, in considering the draft amendments to SOLAS chapter VI, regarding the prohibition of the blending of bulk liquid cargoes during the sea voyage, considered document MSC 89/11/1 (Netherlands), proposing that an additional regulation be added to specifically prohibit production processes on board ships that result in new products and, having noted the general support for the importance of the issues raised by the Netherlands, decided to refer the above document to BLG 16 for further consideration under its existing agenda item on "Evaluation of safety and pollution hazards of chemicals and preparation of consequential amendments" and instructed the Sub-Committee to advise MSC 90 accordingly.

11.7 Having considered the above matter, the Committee approved the draft amendments to SOLAS chapter VI, as set out in annex ..., and requested the Secretary-General to circulate them in accordance with SOLAS article VIII, with a view to adoption at MSC 90.

**Guidelines on tank entry for tankers using nitrogen as an inerting medium**

11.8 The Committee recalled that, when considering the outcome of DSC 15 under agenda item 7 (see paragraph 7...), it had decided to consider the approval of the draft Assembly resolution on Adoption of the Revised Recommendations for entering enclosed spaces aboard ships, under this agenda item, taking into account the draft MSC circular on Guidelines on tank entry for tankers using nitrogen as an inerting medium, which was prepared by BLG 15.

11.9 In this context, the Committee noted that it had the following two documents for its consideration on this matter:

- .1 MSC 89/11/2 (Argentina), expressing the view that the draft MSC guidelines prepared by BLG 15 are not necessarily specific to ships using nitrogen for inerting and that they largely reproduce, verbatim in some cases, the guidance contained in the Revised Recommendations prepared by DSC 15; and
- .2 MSC 89/11/3 (Norway, INTERTANKO, OCIMF, IFSMA, ITF, NI and BIMCO), expressing the view that the need for separate guidelines has not been fully considered and that it may be detrimental having two sets of guidelines for what is essentially a single issue (i.e. dangers associated with entering enclosed spaces), which runs contrary to the goal of reducing complexity for seafarers, and proposing modifications to the draft Revised Recommendations.

11.10 After an extensive discussion on the pros and cons of having two sets of guidelines dealing with the dangers associated with entering enclosed spaces, the Committee noted that the vast majority of delegations that spoke on the issue supported the outcome of BLG 15, taking into account that this issue had been under intensive discussion since 2007. Notwithstanding the above decision, the Committee agreed to replace the title of section 10.4 of the draft Revised Recommendations with the following new text: "Inerted spaces" and agreed to add a footnote to section 10.4 referring to the Guidelines on tank entry for tankers using nitrogen as an inerting medium, as proposed by BLG 15.

11.11 Having considered the above issues, the Committee approved the draft Assembly resolution on Adoption of the Revised Recommendations for entering enclosed spaces aboard ships, as set out in annex ..., for submission to the twenty-seventh session of the



Assembly for adoption, and approved MSC.1/Circ.... on Guidelines on tank entry for tankers using nitrogen as an inerting medium.

### **Amendments to chapter 14 of the FSS Code**

11.12 The Committee noted that the draft amendments to chapter 14 of the FSS Code have been forwarded to FP 55 for consideration and action, as appropriate.

## **16 FORMAL SAFETY ASSESSMENT**

### **General**

16.1 The Committee recalled that MSC 87 had established a Correspondence Group on Formal Safety Assessment (FSA) and instructed it to prepare the draft revisions of the FSA Guidelines (MSC/Circ.1023 – MEPC/Circ.392) and the Guidance on the use of HEAP and FSA (MSC-MEPC.2/Circ.6), for submission to this session

16.2 The Committee also recalled (MSC 89/16) that MSC 88 had agreed that the amendments to the aforementioned Guidelines and Guidance should be further considered by a joint GBS/FSA Working Group, to be established at this session.

16.3 The Committee further recalled that MSC 88 had established an FSA Experts Group, which met prior to this session, on 9 and 10 May 2011, to review the FSA studies on general cargo ship safety submitted by IACS to previous sessions of the Committee.

16.4 The Committee agreed to consider the report of the FSA Experts Group (MSC 89/WP.3) under agenda item 17 (General cargo ship safety) (see section 17).

### **Amendments to FSA related guidelines and guidance**

16.5 The Committee considered the report of the FSA Correspondence Group (MSC 89/16/1), submitted by Japan, containing amendments to the FSA Guidelines and the Guidance on the use of HEAP and FSA, together with a list of discussion points and suggestions for further consideration, noting that the matter of the cost/benefit indicator for environmental issues was still under consideration by the MEPC. In this connection, the Chairman of the FSA Experts Group verbally reported on the group's recommendation (MSC 89/WP.3, paragraph 17) that the FSA Guidelines should be amended to strengthen the feedback for steps 1 to 3 and to include consideration of the application of the recommended measures in the final recommendation (step 5). He also reported the group's

recommendations that future FSA studies should more fully take into account the role of the human element.

16.6 The Committee noted document MSC 89/INF.12 (United States), providing information on the use of expert judgment and expert elicitation (requirement gathering) which could be useful to Member Governments and/or organizations that plan to conduct an FSA or are currently working on one.

### **Instructions for the GBS/FSA Working Group**

16.7 Following discussions, the Committee instructed the GBS/FSA Working Group, established under agenda item 5, taking into account the comments made and decisions taken in plenary, and based on the correspondence group's report (MSC 89/16/1), to:

- .1 finalize the draft revised Guidelines for Formal Safety Assessment (FSA) for use in the IMO rule-making process (MSC/Circ.1023 – MEPC/Circ.392, as amended);
- .2 finalize the draft revised Guidance on the use of human element analysing process (HEAP) and Formal Safety Assessment (FSA) in the IMO rule-making process (MSC/Circ.1022 – MEPC/Circ.391, as amended by MSC-MEPC.2/Circ.6); and
- .3 consider whether it is necessary to re-establish the FSA correspondence group and, if so, advise the Committee as appropriate.

### **Report of the GBS/FSA Working Group**

16.8 Having considered the part of the report of the GBS/FSA Working Group (MSC 89/WP...) dealing with the agenda item, the Committee took action as indicated below.

[more to come]

## **18 PIRACY AND ARMED ROBBERY AGAINST SHIPS**

### **General**

18.1 Prior to the initial consideration of this agenda item, the Secretary-General addressed two issues raised in Circular letter No.3164 on "Responding to the scourge of piracy": firstly, the need for full compliance with best management practices and, secondly,

the need for more assets to support under-resourced navies. The Committee noted that the Secretary-General had written letters to Baroness Ashton of the European Union and Secretary-General Rasmussen of NATO on the need for greater support to navies, and also noted his appeal to all Member Governments to spare no effort in providing more assets to the region for the protection of seafarers and the safeguarding of vital shipping lanes.

### **Statistical information**

18.2 The Committee recalled that, since MSC 77, the usual monthly and quarterly reports on piracy and armed robbery against ships had been circulated under the MSC.4 circular series.

18.3 The Committee also recalled that, since June 2001 and in accordance with the instructions of MSC 74, the MSC.4 circulars reporting on acts of piracy and armed robbery differentiate (in separate annexes) acts of piracy and armed robbery actually "committed" from those "attempted".

18.4 The Committee noted the information contained in document MSC 89/18 (Secretariat), in particular that the number of acts of piracy and armed robbery against ships reported to have occurred during 2010 was 489 against 406 during 2009, representing an increase of 20.4% from the figure for 2009. In the first four months of 2011, 214 incidents were reported to the Organization.

18.5 The Committee also noted that during the period under review (i.e. 1 January 2010 to 31 December 2010), it emerged that the areas most affected (i.e. five incidents reported or more) in 2010 were East Africa and the Indian Ocean as well as the Far East and, in particular, the South China Sea, followed by West Africa, South America and the Caribbean. Over the period under review, the number of acts reported to have occurred, or to have been attempted, in East Africa decreased from 222 to 172; however, the number of incidents in the Indian Ocean increased from 27 to 77 and in the Arabian Sea the number increased from two (2) to 16, largely as a result of Somalia-based piracy. The number of incidents in the South China Sea increased from 77 to 134. The areas less affected were South America, where the number of incidents increased from 36 to 40, and West Africa, with an increase from 46 to 47 reported incidents. Three reported attacks occurred in the Malacca Strait, compared with two (2) reported for 2009. Most of the attacks worldwide were reported to have occurred or to have been attempted outside of coastal States' territorial waters.

In many of the reports received, the crews were violently attacked by groups of five (5) to 10 people carrying knives or guns.

18.6 The Committee expressed its concern that, in many of the reports received, the crews had been violently attacked, at least two (2) crew members had been killed and at least 30 crew members were reportedly injured/assaulted. About 1,027 crew members were reportedly taken hostage/kidnapped and 57 ships were reportedly hijacked, largely off the coast of Somalia.

18.7 The Committee urged, once again, all Governments and the industry to intensify and coordinate their efforts to eradicate piracy and armed robbery against ships.

18.8 The Committee noted that despite numerous requests at previous sessions of the Committee, the Secretariat still receives very few, if any, reports from Member Governments on action taken with regard to incidents reported to have occurred in their territorial waters. Therefore, the Committee reiterated the urgent need for all Governments to provide the Organization with the information requested.

18.9 The Committee recalled that, at MSC 88, the Secretariat had advised of its intention to open a "piracy and armed robbery against ships" module on the Global Integrated Shipping Information System (GISIS) in order to improve the timeliness of reporting of incidents and to enable users to generate their own search criteria and produce customizable reports. The Committee noted that details of all incidents of piracy and armed robbery against ships that have been reported to the Organization since 1994 are recorded in the Piracy and armed robbery against ships database within GISIS (<http://gisis.imo.org>). This database is now configured for public, read-only access and is searchable. Reports can be compiled in GISIS directly by Member States and registered public users. These reports can now include follow-up information, for example, dates of release of hijacked ships.

18.10 The Committee noted that monthly reports under the MSC.4 series of circulars would continue to be issued; however, given that the new functionality in GISIS allowed for user-defined piracy reports, the Committee agreed that the practice of publishing quarterly summaries was no longer warranted.

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**Activities of ReCAAP-ISC**

18.11 The Committee recalled that ReCAAP-ISC was an ongoing contributor to the IMO piracy reports, and regularly provided updates on the achievements of the ReCAAP-ISC and the work done in co-operation with IMO. In this regard, the Committee noted the information provided in documents MSC 89/INF.18 and MSC 89/INF.19 (ReCAAP-ISC) with respect to the RECAAP-ISC; the situation of piracy and armed robbery against ships in Asia; ReCAAP's capacity-building activities; the outcome of the investigation of the hijacking of the tug **Atlantic 3**, the hijacking of which was reported to MSC 88; and a new case study on the attempted hijacking of the tanker **MT Chios** on 5 February 2011, which demonstrated the concerted efforts by the Indian authorities in combating and suppressing incidents of piracy carried out by Somali pirates in the Arabian Sea overlapping India's area of responsibility. The Committee also noted the commitment of ReCAAP-ISC to share information with information sharing centres established under the Djibouti Code of Conduct.

**Reports on initiatives to suppress piracy and armed robbery*****Action by the Secretariat***

18.12 The Committee noted documents MSC 89/18/2, MSC 89/18/2/Add.1 and MSC 89/INF.25 (Secretariat) reporting on the actions taken by the Secretariat since MSC 88, pursuant to the repression of piracy and armed robbery against ships in waters off the coast of Somalia and in the context of the 2011 World Maritime Day theme: "Piracy: orchestrating the response". Key actions had included the development of the Action Plan to promote the 2011 World Maritime Day theme; the issuing of Circular letter No.3164; the continued implementation of the Djibouti Code of Conduct; participation in meetings of the Contact Group on Piracy off the coast of Somalia; and a range of meetings held at IMO, including one between representatives of naval forces and countries that participate in the anti-piracy campaign off the coast of Somalia by making available naval assets and military aircraft, representatives of the shipping industry and the Secretariat, held at IMO Headquarters on 28 February 2011.

18.13 The Committee considered the issue of coordination of efforts by naval forces and how this could be enhanced. Some delegations suggested that there would be merit in operating warships under a unified United Nations command structure. In this context, the Committee noted that one of the conclusions of the 28 February meeting had been that the existing Shared Awareness and Deconfliction (SHADE) mechanism worked by consensus, was effective, and should be supported. Other delegations questioned whether a

UN command would be any more effective in coordinating the efforts of ships operating counter-piracy controls with national convoys.

18.14 The Committee noted the view that the escorting of ships chartered by the World Food Programme (WFP) to deliver humanitarian aid to Somalia was resource intensive for naval forces, given the small size of the ships being chartered. The Secretary-General undertook to write to the Executive Director of the WFP to see if larger ships could be chartered.

### ***Outcome of the IMO Legal Committee***

18.15 The Committee noted that LEG 98 had met from 4 to 8 April 2011, and had addressed a number of piracy-related issues under its agenda item 8 on Piracy which were of relevance to the Committee. The Committee also noted that the report of LEG 98 would be issued in due course under the symbol LEG 98/14.

18.16 In this regard, the Committee noted that, in addition to receiving information on the work carried out by Working Group 2 of the Contact Group on Piracy off the Coast of Somalia, (CGPCS), LEG 98 had agreed that it was a priority for States to have suitable legislation in place for prosecution of pirates, based on UNCLOS and customary international law. To aid in the review of national legislation on piracy, the UN Division for Ocean Affairs and the Law of the Sea (UN-DOALOS) had prepared documents describing piracy-related elements based on UNCLOS; the IMO Legal Office had prepared a document describing elements of the SUA Convention which could complement the piracy provisions of UNCLOS; and the UN Office on Drugs and Crime (UNODC) had prepared a document with an overview of conventions within its competence which might relate to piracy and related crimes, such as hostage taking. The Committee noted that these documents are available on the IMO website and will also be issued, in due course, under cover of an IMO Circular letter. It was also noted, however, that the aforementioned documents do not purport to constitute definitive interpretations of the instruments referred to therein and do not, in any way, limit the possible interpretations by States Parties of the provisions of those instruments.

### ***Contact Group on Piracy off the coast of Somalia (CGPCS)***

18.17 The Committee noted that, since MSC 88, the CGPCS and its working groups had met on a number of occasions, in particular:

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- .1 Working Group 1 (civil/military co-operation and technical assistance) had met at IMO Headquarters on 17 February 2011;
  - .2 Working Group 2 (legal matters), had met in Copenhagen on 2 and 3 November 2010 and 3 and 4 March 2011;
  - .3 Working Group 3 (seafarer guidance) had met in Washington DC on 28 February 2011; and
  - .4 the Eighth Plenary session of the CGPCS was held in New York on 21 March 2011.

18.18 In considering the report of the Chairman of Working Group 3, as set out in document MSC 89/INF.16 (United States), the Committee noted the summary reports of the meetings of Working Groups 1 and 2; and further noted that Working Group 3 had agreed to conduct intersessional work to design a framework into which BMPs and other counter-piracy guidance could be incorporated that readily related to implementation of the ISPS Code. Working Group 3 had also agreed to work intersessionally to develop guidelines for the employment of armed security teams.

### ***The United Nations Security Council***

18.19 The Committee noted that since MSC 88, the United Nations Security Council had adopted three resolutions with respect to the situation in Somalia:

- .1 resolution 1964 (2010), adopted on 22 December 2010, which extends the mandate of the African Union military mission in Somalia (AMISOM);
- .2 resolution 1972 (2011), adopted on 17 March 2011, which, *inter alia*, reaffirms the arms embargo on Somalia and stresses the need for non-politicized humanitarian aid to Somalia; and
- .3 resolution 1976 (2011), adopted on 11 April 2011, addressing a number of issues related to the issue of piracy within the context of the need for good governance, the rule of law and sustainable economic development in Somalia; stressing the need for prosecution of pirates; calling for funding for

the Djibouti Code of Conduct and other counter-piracy trust funds; and recognizing the value of the Best Management Practices.

**Development of guidance to shipowners, masters and crews with respect to the investigation of piracy and armed robbery against ships**

18.20 The Committee recalled that at MSC 88, it noted that the International Chamber of Commerce (ICC) had undertaken work to produce guidance for ships' masters on the handling of evidence after a piracy attack had been completed, which was targeted predominantly at investigative officers. During the ensuing discussions on the proposed guidance, which some delegations welcomed as an excellent supplement to resolution A.1025(26) and which other delegations considered to be overly complex, MSC 88 had requested ICC to resubmit the proposal to MSC 89 as a document rather than as an information document, and invited Member States and other interested parties to review the proposals and guidance contained therein with the aim of providing comments to MSC 89.

18.21 In considering the resubmitted and updated proposals, as contained in document MSC 89/18/9 (ICC), for guidelines for the investigators of flag States and other authorities who are tasked with boarding vessels that have been released after prolonged captivity, in order to assist them in the collection of evidence, intended as a supplement to resolution A.1025(26), the Committee discussed whether the IMO was the correct forum to develop guidance for States on the investigation of piracy offences. In this regard, the Committee noted that the Assembly had adopted, in 2001, the predecessor to resolution A.1025(26) and that this new proposed guidance was intended as a supplement to resolution A.1025(26). The Committee further deliberated on whether any guidance on investigations should be for seafarers (as proposed by ICC at MSC 88, but which had not been supported) or for States (as proposed by ICC to MSC 89).

18.22 The Committee noted that CGPCS Working Group 2 was also developing guidance on the investigation of offences and that duplication of effort should be avoided. In this regard, the Committee noted the views of some delegations that, as this work was an extension of an Assembly resolution, any duplication was being done in the CGPCS.

18.23 Having noted the divergence of views, the Committee referred the proposals to the MSPWG for detailed review and advice on how best to proceed.



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**Development of guidance with respect to the use of armed security personnel on board ships**

18.24 The Committee recalled that the Organization's current guidance on the carriage of firearms on board merchant ships is detailed in paragraphs 4 to 8 of the Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships (MSC.1/Circ.1333); and in paragraphs 59 to 64 of the Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships (MSC.1/Circ.1334).

18.25 The Committee noted that the salient points of the guidance contained in MSC.1/Circ.1333 and the corresponding sections of MSC.1/Circ.1334 included the following:

- .1 "For legal and safety reasons, flag States should strongly discourage the carrying and use of firearms by seafarers for personal protection or for the protection of a ship" (MSC.1/Circ.1333, paragraph 5);
- .2 "The use of unarmed security personnel is a matter for individual shipowners, companies, and ship operators to decide" (MSC.1/Circ.1333, paragraph 6);
- .3 "The use of privately contracted armed security personnel on board ships may lead to an escalation of violence. The carriage of such personnel and their weapons is subject to flag State legislation and policies and is a matter for flag States to determine in consultation with shipowners, companies and ship operators, if and under which conditions this will be allowed. Flag States should take into account the possible escalation of violence which could result from carriage of armed personnel on board merchant ships, when deciding on its policy" (MSC.1/Circ.1333, paragraph 7); and
- .4 "The use of military, or law enforcement officers duly authorized by the Government of the flag State to carry firearms for the security of the ship is a matter for the flag State to authorize in consultation with shipowners, companies, and ship operators. Flag States should provide clarity of their policy on the use of such teams on board vessels entitled to fly their flag" (MSC.1/Circ.1333, paragraph 8).

18.26 The Committee considered six documents outlining a range of proposals in relation to the use of armed security personnel on board ships: documents MSC 89/18/1 (Cook Islands), MSC 89/18/5 (Philippines, Singapore, BIMCO and ICS), MSC 89/18/6 (Liberia), MSC 89/18/7 (Bahamas and Marshall Islands), MSC 89/18/10 (BIMCO) and MSC 89/18/11 (IPTA). The Committee further noted that the Secretariat had submitted (MSC 89/INF.21) copies of the International Code of Conduct for Private Security Service Providers (ICoC), which was completed in October 2010 and which built upon the 2008 "Montreux Document", a joint initiative by the Swiss Government and the International Committee of the Red Cross, as both documents had been cited in the above-mentioned six documents.

18.27 The Committee noted that the Cook Islands (MSC 89/18/1) proposed that the deployment of privately contracted armed security personnel on board merchant ships and fishing vessels was a matter for a flag State to determine in consultation with shipowners, operators and companies, and the development of guidelines to regulate such personnel should not be viewed as an endorsement by the Organization of the use of such personnel.

18.28 The Committee also noted that the Philippines, *et al.*, (MSC 89/18/5) proposed that the Committee should discuss the need for the development of guidance, for shipowners and ship operators, on the employment of private armed security service providers on board their ships, to deter and counter piracy in the Gulf of Aden, the Western Indian Ocean and the Arabian Sea. The co-sponsors supported the use of existing IMO guidance as a first resort but proposed the development of further guidelines where flag States permitted the carriage of armed guards. The emphasis was therefore on developing guidance for the industry, rather than for Governments.

18.29 Liberia (MSC 89/18/6) proposed that the Committee should establish guidelines, for shipowners and ship operators, on the use of armed security personnel on board ships, to deter and counter piracy in the High Risk Area. The Liberian Maritime Regulation provides that the ship's master has full responsibility for the safety of the members of the crew and passengers; and has overriding authority and discretion to take whatever action he or she deems necessary to exercise that responsibility, including permitting the use of armed security personnel or allowing armed personnel from an escorting military vessel to board the vessel when transiting the high risk waters of the Gulf of Aden or when operating off the Coast of Somalia and in the Indian Ocean.

18.30 The Bahamas and the Marshall Islands (MSC 89/18/7) sought a constructive discussion on whether or not to recognize the use of armed security services aboard vessels, and if so decided, in what acceptable manner; and proposed that the IMO Legal Affairs and External Relations Division (LED) provide advice on legal issues particularly those relating to liability with respect to the use of military Vessel Protection Detachments (VPDs).

18.31 In response to the request of the Bahamas and the Marshall Islands for the assistance of LED on the issue of legal arrangements for the carriage of VPDs, including terms of reciprocity on liability issues meant to protect the vessel operator, master and crew when VPDs are deployed aboard their vessel, the Director, LED gave a preliminary briefing on the issue, the text of which was circulated, with a copy of a general template of an EUNAVFOR VPD agreement, and at the request of the Committee, as contained in document MSC 89/INF.27 (Secretariat).

18.32 During the briefing, the Committee noted, *inter alia*, the following general points:

- .1 there are clearly many scenarios in which liability issues may potentially arise, for example, injury to or death of a crew member or passenger (where the ship is a cruise ship or a cargo ship carrying passengers) caught in the cross-fire during a piracy-related incident; injury to or death of a member of the VPD during such an incident; as well as damage to the ship itself or to cargo or property on board the ship, which might belong to a variety of owners;
- .2 the potential liability may be either or both criminal and civil in nature and, depending on the facts of any particular case, may involve not only a member of a VPD but, possibly, the ship's company or shipowner, vessel operator, master or crew member. The possibility of State responsibility also exists;
- .3 liability for injury, death or damage may arise as a result of unlawful, unjustified, excessive, reckless or negligent use of force. The extent of the liability will depend, in part, upon the national law of the jurisdiction in which the case is potentially subject to judicial procedures;
- .4 in this regard, a variety of jurisdictions may be involved: that of the flag State; the State in which the vessel owner does business or is

incorporated; the State of nationality of a member of a VPD; the State of nationality of the crew member, passenger victim or that of a family member in the event that a member of the crew or a passenger is killed;

- .5 issues of civil liability – i.e. claims for compensation might well be directed at the shipowner rather than at a member of a VPD or at a member of the crew, on the assumption that the shipowner has the deeper pocket and is more likely to be in a position to pay out a higher amount of compensation;
- .6 as far as criminal liability is concerned, the template for the Unilateral Declaration provides that the authorities of the Sending State "shall have the exclusive right to exercise criminal and disciplinary jurisdiction over the personnel of the VPD";
- .7 liability on the part of both the flag State as well as the Sending State may, however, be limited by a number of factors. One such factor is the doctrine of self-defence (and defence of others), which may be held to justify the use of force, in both criminal and civil proceedings, depending on the particular facts of the case and the jurisdiction in which an accusation is adjudicated.

18.33 The Committee forwarded document MSC 89/INF.27 to the MSPWG to facilitate its deliberations, as applicable.

18.34 BIMCO (MSC 89/18/10) invited the Committee to develop, as an MSC circular, a complete set of guidelines on the use of private armed security personnel that include due diligence, stating that this work should take into account the work of CGPCS Working Group 3. In this connection, BIMCO requested that some recently-developed Industry guidelines for the use of private maritime security contractors could be introduced during the session, as requested in paragraph 6 of document MSC 89/18/10 (BIMCO). The Committee accepted that the guidelines could be used to inform the deliberations of the MSPWG.

18.35 IPTA (MSC 89/18/11) advised the Committee that as the position of IPTA Members with respect to firearms on board had been reversed, IPTA agreed that the time had come for a frank and open discussion of the various issues involved, be they legal, practical or otherwise, within the IMO. While guidance and self regulation by the security industry may

be useful in the short term, the ultimate aim should be for IMO, as the competent authority, to develop an accreditation and oversight capacity for private armed security companies, possibly linked to the work being carried out in respect of land-based companies under the ICoC.

18.36 The Committee recalled that it had not endorsed the use of privately contracted armed security personnel on board ships but had agreed that this was a matter for individual shipowners, companies and ship operators to decide in consultation with and subject to the laws and policies of flag States. Nevertheless, given the recognition of the growing use of armed security personnel, the Committee considered the request to provide further direction on this important issue. The options presented in the above documents indicated several possible courses of action, in particular:

- .1 developing guidance for flag States;
- .2 developing guidance to shipowners, ship operators and shipmasters;
- .3 developing guidance for both flag States and for shipowners, ship operators and shipmasters; or
- .4 regulation of security companies themselves, either in the form of a self-regulating security industry association (i.e. ICoC), or with IMO serving as the regulatory body.

18.37 Following extensive discussions in plenary, the Committee reaffirmed its position that it did not endorse the use of armed personnel on board merchant ships and accepted that the carriage of armed personnel was an individual decision subject to the law of flag States. The Committee also accepted that there was a need to be realistic and to accept that some shipowners were using armed personnel on board and that there were consequential effects on the insurance industry and other incentives.

18.38 The Committee agreed that there was a need for the Organization to develop guidance on the issue; however, the Committee underscored the need for extreme caution in matters relating to liability; jurisdiction of flag, coastal and port States; sovereignty; ships in transit and rights of innocent passage; and a number of outstanding issues. In this regard, the Committee noted the statement by the delegation of Dominica, which is set out in annex ...

18.39 The Committee supported the need for guidelines for flag States and for shipowners at this session but agreed that the priority was to develop guidance for shipowners. The Committee referred all of the documents on this matter to the MSPWG to develop draft guidelines and to advise on how best to progress the issue.

18.40 The Committee recognized that the work produced by the Committee would be dynamic, and would require the possible development of regulations, clarification of the role of the United Nations, and coordination with other bodies and UN agencies. The Committee further recognized that the work of the Committee should also take into account the work of other entities, such as Working Group 3 of the CGPCS, and encouraged States and organizations in consultative status who were members of the CGPCS to inform the MSPWG of the work carried out so that they could take it into account in their deliberations.

#### **Implementation of counter-piracy measures, including the Best Management Practices (BMP)**

18.41 In considering the implementation of counter-piracy measures, including the BMP, the Committee noted that two documents had been submitted that propose the adoption of an MSC resolution in this regard, in particular, documents MSC 89/18/3 (Ukraine) and MSC 89/18/8 (Secretariat); and that document MSC 89/18/4 (Republic of Korea) proposed, *inter alia*, that a "Rule of good practice" be developed and implemented.

18.42 The Committee noted that the Republic of Korea (MSC 89/18/4) proposed that a mechanism to enhance the role of the Organization in combating piracy in waters off the coast of Somalia and in the Indian Ocean could be established by developing a "Rule of good practice"; a compilation of preventive, evasive and defensive measures, incorporating effective existing measures contained in guidance such as MSC.1/Circ.1333, MSC.1/Circ.1334 and BMP3, which can be implemented and made mandatory. In this context, the Republic of Korea made two specific proposals:

- .1 to establish a mechanism to ensure effective implementation of the existing measures developed by the Organization and maritime industry with a view to making the mechanism mandatory; and
- .2 to establish a mechanism to monitor vessels transiting through high risk areas on a real-time basis and to carry out the operation within the framework of the Organization.

18.43 The Committee was unable to support the proposals of the Republic of Korea at this time.

18.44 The Committee noted the proposal by Ukraine (MSC 89/18/3) that Member States, while implementing certain provisions of the ISPS Code, should take into account the measures to prevent and suppress piracy and armed robbery against ships contained in circulars MSC.1/Circ.1333 and MSC.1/Circ.1334. Ukraine further proposed that the Committee adopt an MSC resolution on "Facilitating the introduction of special measures to prevent and suppress piracy and armed robbery against ships while implementing the ISPS Code".

18.45 The Committee recalled that MSC 88 had agreed that there was a clear need for ships operating in pirate-infested waters to take measures to protect themselves from the threat of piracy and armed robbery against ships, which included, in waters off the coast of Somalia, the full application of the IMO guidance and BMP3, and cooperation with naval forces operating in the area. The ensuing discussions at MSC 88 had broadly focused on whether these measures should fall within the remit of the ISPS Code and be included in ship security plans. However, consensus had not been reached as some States already aligned the counter-piracy measures to the ISPS Code, while others aligned them to the ISM Code, mandated them in their own right, or left it to the master's discretion. MSC 88 had agreed that there was no need to develop any guidance or recommendations to address the issue.

18.46 The Secretariat (MSC 89/18/8) proposed the adoption of an MSC resolution to encourage full implementation of the best management practice guidance and for States to make compulsory the implementation of the best management practices guidance for vessels flying their flag when operating in the Gulf of Aden and the Indian Ocean.

18.47 The Committee, having recognized the importance of BMP and the need to comply with the provisions therein, expressed its general understanding of the need to keep the BMP alive, relevant, dynamic and updated. Therefore, there was no support for making the BMP mandatory through one instrument.

18.48 Having noted that operative paragraph 95 of UN General Assembly resolution 65/37 on Oceans and the Law of the Sea "invites the Assembly of the International Maritime Organization to consider adopting a resolution on commitments to best

management practices to avoid, deter or delay acts of piracy", the Committee supported the development of an MSC resolution, with a view to developing subsequently an Assembly resolution.

### **The role of IMO**

18.49 The Committee considered documents MSC 89/18/4 and MSC 89/18/4/Add.1 (Republic of Korea) proposing to establish a mechanism to monitor vessels transiting through high risk areas on a real-time basis to ensure effective implementation of the existing measures; and to carry out the operation within the framework of the Organization, in the light of preceding debate, decided not to progress the issue at this time.

### **Establishment of the Working Group**

18.50 Having considered the above issues, the Committee established the Working Group on Maritime Security, including piracy and armed robbery against ships, under the chairmanship of Mr. Arsenio Domínguez with the following terms of reference:

[more to come]

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