



MARITIME SAFETY COMMITTEE
86th session
Agenda item 26

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REPORT OF THE MARITIME SAFETY COMMITTEE ON ITS EIGHTY-SIXTH SESSION

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1 INTRODUCTION – ADOPTION OF THE AGENDA

1.1 The eighty-sixth session of the Maritime Safety Committee was held from 27 May to 5 June 2009 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	ICELAND
ANGOLA	INDIA
ANTIGUA AND BARBUDA	INDONESIA
ARGENTINA	IRAN (ISLAMIC REPUBLIC OF)
AUSTRALIA	IRELAND
AUSTRIA	ISRAEL
AZERBAIJAN	ITALY
BAHAMAS	JAMAICA
BAHRAIN	JAPAN
BANGLADESH	JORDAN
BARBADOS	KENYA
BELGIUM	KUWAIT
BELIZE	LATVIA
BOLIVIA	LIBERIA
BRAZIL	LIBYAN ARAB JAMAHIRIYA
BULGARIA	LITHUANIA
CAMBODIA	LUXEMBOURG
CAMEROON	MALAYSIA
CANADA	MALTA
CHILE	MARSHALL ISLANDS
CHINA	MEXICO
COLOMBIA	MOROCCO
COOK ISLANDS	MOZAMBIQUE
COSTA RICA	NETHERLANDS
CÔTE D'IVOIRE	NEW ZEALAND
CROATIA	NIGERIA
CUBA	NORWAY
CYPRUS	PANAMA
CZECH REPUBLIC	PAPUA NEW GUINEA
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	PERU
DENMARK	PHILIPPINES
DOMINICA	POLAND
DOMINICAN REPUBLIC	PORTUGAL
ECUADOR	QATAR
EGYPT	REPUBLIC OF KOREA
ESTONIA	ROMANIA
ETHIOPIA	RUSSIAN FEDERATION
FINLAND	SAINT KITTS AND NEVIS
FRANCE	SAINT VINCENT AND THE GRENADINES
GERMANY	SAUDI ARABIA
GHANA	SERBIA
GREECE	SINGAPORE
HONDURAS	SOUTH AFRICA

SPAIN
SWEDEN
SWITZERLAND
SYRIAN ARAB REPUBLIC
THAILAND
TRINIDAD AND TOBAGO
TUNISIA
TURKEY
TUVALU
UKRAINE

UNITED KINGDOM
UNITED REPUBLIC OF
TANZANIA
UNITED STATES
URUGUAY
VANUATU
VENEZUELA (BOLIVARIAN
REPUBLIC OF)
YEMEN

and the following Associate Members of IMO:

HONG KONG, CHINA FAROE ISLANDS (DENMARK)

1.3 The session was also attended by representatives from the following United Nations specialized agencies:

WORLD METEOROLOGICAL ORGANIZATION (WMO)
INTERNATIONAL LABOUR ORGANIZATION (ILO)

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

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)
EUROPEAN COMMISSION (EC)
MARITIME ORGANIZATION FOR WEST AND CENTRAL AFRICA (MOWCA)
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)
MEDITERRANEAN MEMORANDUM OF UNDERSTANDING ON PORT STATE
CONTROL (MED MoU)
WEST AND CENTRAL AFRICA MEMORANDUM OF UNDERSTANDING ON
PORT STATE CONTROL (ABUJA MoU)
AFRICAN UNION (AU)
REGIONAL CO-OPERATION AGREEMENT ON COMBATING PIRACY AND
ARMED ROBBERY AGAINST SHIPS IN ASIA (ReCAAP – ISC)

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)
INTERNATIONAL SHIPPING FEDERATION (ISF)
INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)
INTERNATIONAL CHAMBER OF COMMERCE (ICC)
INTERNATIONAL ASSOCIATION OF MARINE AIDS TO NAVIGATION AND
LIGHTHOUSE AUTHORITIES (IALA)
INTERNATIONAL RADIO-MARITIME COMMITTEE (CIRM)
INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)
BIMCO
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)

FRIENDS OF THE EARTH INTERNATIONAL (FOEI)
INTERNATIONNAL ASSOCIATION OF DRILLING CONTRACTORS (IADC)
INTERNATIONAL ASSOCIATION OF INSTITUTES OF NAVIGATION (IAIN)
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)
INTERNATIONAL LIFESAVING APPLIANCES MANUFACTURERS'
ASSOCIATION (ILAMA)
COMMUNITY OF EUROPEAN SHIPYARDS' ASSOCIATIONS (CESA)
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS
(INTERTANKO)
INTERNATIONNAL 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)
THE INSTITUTE OF MARINE ENGINEERING, SCIENCE AND TECHNOLOGY (IMarEST)
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 BULK TERMINALS ASSOCIATION (IBTA)
THE ROYAL INSTITUTION OF NAVAL ARCHITECTS (RINA)
INTERFERRY
INTERNATIONAL ASSOCIATION OF MARITIME UNIVERSITIES (IAMU)
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)
INTERNATIONAL PAINT AND PRINTING INK COUNCIL (IPPIC)

1.5 The session was also attended by Mr. A.I. Chrysostomou (Cyprus), Chairman of the Marine Environment Protection Committee (MEPC). 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 86/INF.18.

Chairman's remark

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

Adoption of the agenda and related matters

1.8 The Committee adopted the agenda (MSC 86/1) and agreed to be guided during the session by the provisional timetable referred to in the annex to document MSC 86/1/2. The agenda, as adopted, with a list of documents considered under each agenda item, is set out in document MSC 86/INF.20.

1.9 The Committee agreed to the arrangement for the working, drafting and experts groups, as proposed by the Secretariat in document MSC 86/1/2 and further reflected under respective sections of this report.

Statements by delegations and observers

1.10 The delegation of India, while referring to the issue of criminalization of seafarers in the context of the **Hebei Spirit** case, welcomed the decision by the Supreme Court of the Republic of Korea which had overturned the jail sentence of the ship's Captain and Chief Officer, who have been detained for about 535 days, and concluding that the facts of the case did not justify imprisonment. Nonetheless, the Supreme Court upheld the verdict of the Court of Appeal which had found the two officers guilty of negligence, notwithstanding their efforts to internally transfer oil from the damaged to the undamaged tanks and to list the ship by ballasting to reduce the outflow of oil from the damaged tanks. The verdict of the Court was based upon the findings of the Korean Maritime Safety Tribunal (KMST), the reports of which had been published during the criminal proceedings, had apportioned blame, contrary to the Interim Guidelines to assist flag States and other substantially interested States to establish and maintain an effective framework for consultation and cooperation in marine casualty investigations (MSC/Circ.1058-MEPC/Circ.400) and the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) and had disregarded established tanker safety practices, procedures and training. The full text of the statement by the delegation of India is set out in annex 28.

1.11 In response to the statement by the delegation of India, the delegation of the Republic of Korea, thanking the delegation of India and the Secretary-General for his efforts in resolving this issue, stressed the need for respect of judicial decisions of States and urged the delegation of India and others to respect the decision by the Supreme Court. The delegation, however, indicated that the final decision of the Daejeon District Court will be on the 11 June 2009 which might allow the two officers to return to India.

1.12 The delegation of Hong Kong, China supported the intervention made by the delegation of India and, in this context, also informed the Committee that the preliminary investigation of the accident by the Hong Kong Marine Department showed that the two officers had tried their best to minimize the pollution and prevent other even more serious consequence after the ship had been hit by the gigantic floating crane barge under tow, and, therefore, called for the release of the two officers of the **Hebei Spirit**.

1.13 The delegations of China and Italy and observers from ICS, ITF and IFSMA supported India and welcomed the above developments and called for expeditious action to resolve the issue.

Credentials

1.14 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 thirty-fifth session of the Facilitation Committee

2.1 The Committee noted (MSC 86/2) the outcome of the thirty-fifth session of Facilitation Committee relating to, *inter alia*:

- .1 adoption of amendments to the Annex of the FAL Convention;
- .2 the comprehensive review of the FAL Convention in view of recent developments including, for example, the amendments to 1974 SOLAS Convention, in relation to the ISPS Code and the problems of disembarkation of persons rescued at sea, illegal migrants, etc.;
- .3 the development of an explanatory manual to the Convention and that FAL 35 established a correspondence group to continue work intersessionally with a view to finalization at FAL 36;
- .4 the progress on matters relevant to the transmission by electronic means, of information relating to the clearance of ships and the revision of the IMO Compendium on facilitation and electronic business;
- .5 the development of guidelines for setting up the Single Window system in maritime transport and that FAL 35 had established a correspondence group to progress the issue intersessionally;
- .6 the approval of the draft Assembly resolution on Revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.871(20)) with a view to consideration and adoption by A 26;
- .7 the continuation of the trial of the IMO Stowaway Focal Point;
- .8 the issuance of a FAL.3 circular on Principles relating to administrative procedures for disembarking persons rescued at sea and the invitation to the MSC and its sub-committees to take the aforesaid circular into consideration in their ongoing work on the issue;
- .9 the agreement that the list of certificates and documents required to be carried on board ships needed reviewing so as to reflect any additional or new requirements and instructions to the Secretariat to prepare a revised list for consideration with a view to approval at FAL 36;
- .10 advice to the MSC, the MEPC and the Legal Committee that, in terms of technology, the establishment of an online system was possible and to consider the issue in terms of the certificates and documents listed in the annex to document FAL 34/9. Accordingly, FAL 35 re-established a correspondence group to progress this matter intersessionally; and
- .11 the request to the Secretary-General to continue trial of the mechanism within the IMO Secretariat for the resolution of difficulties in the carriage of IMDG Code class 7 radioactive materials, and requested the Secretariat to report the results of the experience gained to FAL 36,

and took appropriate actions under the relevant agenda items.

Outcome of the ninety-fifth session of the Legal Committee

2.2 The Committee noted (MSC 86/2/1) the outcome of the ninety-fifth session of the Legal Committee that LEG 95 had, *inter alia*:

- .1 approved the basic text of a draft protocol to the HNS Convention, for the purpose of its submission for consideration by a diplomatic conference;
- .2 noted that the full report of the ninth session of the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, including the group's proposals for the text of draft amendments to the Maritime Labour Convention, 2006 (MLC) would be submitted to LEG 96;
- .3 considered the report of the informal correspondence group established and agreed that the issue of a single model insurance certificate needed more study and, agreed to establish a formal correspondence group to progress the work intersessionally;
- .4 noting the updated study by BIMCO relating to cases involving the practice of using criminal sanctions against seafarers, agreed that the Guidelines on fair treatment of seafarers, adopted by the Legal Committee, and the Code of International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident adopted by the Maritime Safety Committee, should be strictly applied by States;
- .5 considered the draft text of an instrument on Places of Refuge developed by CMI and decided not to develop a binding instrument on places of refuge at this stage; and
- .6 noted that the Secretariat intended to review existing national legislation to prevent and punish the crimes of piracy and armed robbery at sea as part of IMO's anti-piracy strategy, in response to UN Security Council resolution 1851 (2008), which noted with concern the lack of capacity, domestic legislation, and clarity about how to deal with pirates following their capture. In this context, LEG 95 had urged Member Governments to submit information and the texts of their national legislation on piracy, in response to IMO circular letter No.2933,

and took appropriate action under the relevant agenda items.

3 CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS

GENERAL

3.1 Contracting Governments to the 1974 SOLAS Convention were invited to participate in the consideration and adoption of proposed amendments to chapters II-1, V and VI of the 1974 SOLAS Convention, as amended, in accordance with the provisions of article VIII of the Convention.

3.2 Contracting Governments constituting more than one third of the total of Contracting Governments to the 1974 SOLAS Convention were present during the consideration and adoption of the said amendments by the expanded Maritime Safety Committee, in accordance with articles VIII(b)(iii) and VIII(b)(iv) of the Convention.

3.3 The proposed amendments to the 1974 SOLAS Convention were circulated, in accordance with SOLAS article VIII(b)(i), to all IMO Members and Contracting Governments to the 1974 SOLAS Convention by circular letter No.2916.

3.4 The Committee was also invited to consider, and approve, as appropriate, the non-mandatory instrument, namely the draft MSC circular on Guidance on the provision for material data sheets when carrying oil or oil fuel in accordance with SOLAS regulation VI/5-1 in conjunction with the adoption of the amendments to SOLAS regulation VI/5-1 (MSC 85/26, paragraph 3.49).

3.5 The Committee was further invited to consider document MSC 86/20/1 by IACS, concerning the application dates for amendments to SOLAS chapter III and the FSS and LSA Codes, and document MSC 86/WP.3 by the Secretariat, in order to clarify the issues related to the scope of application of amendments to the SOLAS Convention and the codes made mandatory under the Convention.

CONSIDERATION OF AMENDMENTS TO MANDATORY INSTRUMENTS

PROPOSED AMENDMENTS TO THE 1974 SOLAS CONVENTION

PROPOSED AMENDMENTS TO SOLAS CHAPTER II-1

Regulation II-1/3-5 – New installation of materials containing asbestos

Regulation II-1/35-1 – Bilge pumping arrangements

3.6 The Committee recalled that the proposed amendments to SOLAS regulation II-1/3-5 were developed by DE 51 and approved by MSC 85, and the proposed amendments to SOLAS regulation II-1/35-1 were developed by the drafting group at, and approved by, MSC 83 (MSC 86/3, annex).

3.7 The Committee, having noted that the text of the proposed amendments to regulation II-1/3-5 could be improved to provide better clarity on the contents of amendments, instructed the drafting group to modify the draft amendments accordingly.

PROPOSED AMENDMENTS TO SOLAS CHAPTER V

Regulation 19 – Carriage requirements for shipborne navigational systems and equipment

3.8 The Committee recalled that the proposed amendments to SOLAS regulation V/19 were developed by NAV 54 and approved by MSC 85.

3.9 In considering the proposed amendments related to the mandatory carriage requirements for ECDIS, the Committee noted views expressed by the delegation of China that for the present it could not support the mandatory carriage requirements for ECDIS, as the existing ENC database was not very comprehensive that would cause the safety concerns in some sea areas and the special working conditions of ships could result in the ECDIS screen being blank at times and the system being slow in processing data. In the delegation's opinion, due to the shipping downturn, the whole industry had been affected and it was necessary to cut down costs, and for many existing ships it would be quite expensive to retrofit new equipment. In this context, the delegation of China was of the view that there was a need for a feasibility study regarding installation of ECDIS equipment on existing ships.

3.10 The Committee also noted the views of the delegation of the Russian Federation that their delegation had had, at previous sessions of the Committee, similar views to China. However, the majority of the delegations had decided to approve the mandatory carriage requirements at MSC 85. The delegation also pointed out that the cost of the ECDIS equipment was expensive.

3.11 The Committee further noted that the delegation of Cuba supported the views of the delegations of China and the Russian Federation. However, the majority of the delegations were of the view that the above issues had already been thoroughly discussed and, therefore, the mandatory carriage requirements for ECDIS should be adopted at this session.

3.12 In light of the above, and having considered the proposed amendments, the Committee, having noted that no comments had been submitted thereon, agreed to the dates of application of the proposed amendments and referred them to the drafting group for appropriate action.

PROPOSED AMENDMENTS TO SOLAS CHAPTER VI

Regulation VI/1 – Application

Regulation VI/5-1 – Material safety data sheets

3.13 The Committee recalled that the proposed amendments to SOLAS regulations VI/1 and VI/5-1 were prepared by the Secretariat, as requested by MSC 84, and approved by MSC 85.

3.14 Noting that no comments had been submitted on the proposed amendments, the Committee confirmed its contents, subject to editorial improvements, if any.

DATE OF ENTRY INTO FORCE OF THE PROPOSED AMENDMENTS

3.15 The Committee agreed that the SOLAS amendments, proposed for adoption at the current session, should be deemed to have been accepted on 1 July 2010 and should enter into force on 1 January 2011. Consequently, the Committee instructed the drafting group to prepare the text of the draft requisite MSC resolution for adoption.

CONSIDERATION OF AMENDMENT-RELATED INSTRUMENT

GUIDANCE ON THE PROVISION FOR MATERIAL SAFETY DATA SHEETS (MSDS) WHEN CARRYING OIL OR OIL FUEL, IN ACCORDANCE WITH SOLAS REGULATION VI/5-1

3.16 The Committee recalled that the draft MSC circular on Guidance on the provision for material safety data sheets (MSDS) when carrying oil or oil fuel, in accordance with SOLAS regulation VI/5-1 (MSC 85/26, paragraph 3.49) was prepared by the Drafting Group on Amendments to Mandatory Instruments at MSC 85 and agreed, in principle, by the Committee for formal approval at this session, in conjunction with the adoption of the amendments to SOLAS regulation VI/5-1.

3.17 Noting that no comments had been submitted on the draft Guidance and associated draft MSC circular, the Committee confirmed its contents, subject to editorial improvements, if any.

CONSIDERATION OF THE SCOPE OF APPLICATION OF AMENDMENTS TO MANDATORY INSTRUMENT

SOLAS CHAPTER III AND THE FSS AND LSA CODES

3.18 In considering document MSC 86/20/1 (IACS), concerning the application dates for amendments to SOLAS chapter III and the FSS and LSA Codes, and document MSC 86/WP.3 prepared by the Secretariat in order to clarify the issues related to the scope of application of amendments to the SOLAS Convention and the codes made mandatory under the Convention, the Committee agreed that the guidelines contained in document MSC 86/WP.3 were a complex

matter and that the appropriate course of action would be to consider the issue under a new work programme item in the DE Sub-Committee, to be considered under agenda item 23 (Work programme) (see also paragraph 23.31). In considering the urgency of the matter, as the date of entry into force of some amendments referred to in document MSC 86/20/1 is 1 January 2010, the Committee agreed to refer documents MSC 86/20/1 and MSC 86/WP.3 to the drafting group and instructed the group to advise the Committee, accordingly, on matters related to amendments to SOLAS regulation III/7, adopted by resolution MSC.201(81), regarding infant life jackets and amendments to the FSS Code, adopted by resolution MSC.217(82).

ESTABLISHMENT OF A DRAFTING GROUP

3.19 Following discussion in plenary, the Committee established an *ad hoc* drafting group to:

- .1 prepare the final text of the draft amendments to the 1974 SOLAS Convention, with the associated draft MSC resolution; and the amendment-related non-mandatory instrument, with the associated draft MSC circular;
- .2 advise the Committee on matters related to the scope of application of amendments to SOLAS chapter III, adopted by resolution MSC.201(81), regarding infant life jackets, and amendments to the FSS Code, adopted by resolution MSC.217(82), taking into account documents MSC 86/20/1 (IACS) and MSC 86/WP.3 (Secretariat);
- .3 prepare the final text of draft MSC circular on Guidelines for maintenance and inspections of fixed carbon dioxide fire-extinguishing systems (FP 53/23, annex 12), according to decision under agenda item 10 (Fire protection); and
- .4 prepare amendments to the draft MSC.1/Circ.1206/Rev.1 (DE 52/21, annex 8), taking into account document MSC 86/12/5.

REPORT OF THE DRAFTING GROUP

3.20 Having received the report of the drafting group (MSC 86/WP.4), the Committee took action as indicated hereunder.

ADOPTION OF AMENDMENTS TO THE 1974 SOLAS CONVENTION

3.21 The expanded Committee, including the delegations of 102 Contracting Governments to the 1974 SOLAS Convention, considered the final text of the proposed amendments to the 1974 SOLAS Convention, prepared by the drafting group (MSC 86/WP.4, annex 1), and adopted the amendments unanimously by resolution MSC.282(86), as set out in annex 1.

3.22 In adopting resolution MSC.282(86), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted amendments to SOLAS chapters II-1, V and VI and to the appendix to the Annex to the Convention should be deemed to have been accepted on 1 July 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VIII(b)(vi)(2) of the Convention) and should enter into force on 1 January 2011, in accordance with the provisions of article VIII thereof.

3.23 In the context of the above decision, the Committee, noting the opinion of the delegation of the United Kingdom that it was necessary to add a definition of new installation of materials to SOLAS regulation II-1/3-5, in order to clarify the amendments, as set out in paragraph 6

of document MSC 86/WP.4, agreed that the matter should be further considered by the DE Sub-Committee under the agenda item on “Any other business”.

ADOPTION OF THE PROPOSED AMENDMENTS TO THE 1988 SOLAS PROTOCOL

3.24 The expanded Committee, including delegations of 67 Parties to the 1988 SOLAS Protocol, considered the consequential amendments to the appendix to the Annex to the Protocol, prepared by the drafting group (MSC 86/WP.4, annex 2), and adopted the amendments unanimously by resolution MSC.283(86), as set out in annex 2.

3.25 In adopting resolution MSC.283(86), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention and article VI of the 1988 SOLAS Protocol, that the adopted amendments to the Protocol should be deemed to have been accepted on 1 July 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VIII(b)(vi)(2) of the 1974 SOLAS Convention and article VI of the 1988 SOLAS Protocol) and should enter into force on 1 January 2011, in accordance with the provisions of SOLAS article VIII and article VI of the 1988 SOLAS Protocol.

APPROVAL OF AMENDMENT-RELATED INSTRUMENT

Guidance on the provision for material safety data sheets (MSDS) when carrying oil or oil fuel, in accordance with SOLAS regulation VI/5-1

3.26 The Committee considered the outcome of the drafting group regarding the aforementioned Guidance (MSC 86/WP.4, annex 3) and approved MSC.1/Circ.1303 on Guidance on the provision for material safety data sheets (MSDS) when carrying oil or oil fuel, in accordance with SOLAS regulation VI/5-1.

SCOPE OF APPLICATION OF AMENDMENTS

Scope of application of amendments to SOLAS regulation III/7, as amended by resolution MSC.201(81)

3.27 The Committee considered the outcome of the drafting group regarding the scope of application of amendments to SOLAS regulation III/7, adopted by resolution MSC.201(81), related to infant life jackets (MSC 86/WP.4, annex 4) and approved MSC.1/Circ.1304 on Guidance for application of SOLAS regulation III/7, as amended by resolution MSC.201(81).

INSTRUCTIONS TO THE SECRETARIAT

3.28 In adopting the aforementioned amendments, the Committee authorized the Secretariat, when preparing the authentic texts of the amendments as appropriate, to effect any editorial corrections that may be identified, and to bring to the attention of the Committee any errors or omissions which require action by the Contracting Governments to the 1974 SOLAS Convention and Parties to the 1988 SOLAS Protocol.

4 MEASURES TO ENHANCE MARITIME SECURITY

Outcome of FAL 35 and STW 40

4.1 The Secretariat (MSC 86/4) provided information on the maritime security-related outcomes of FAL 35 and STW 40.

4.2 The Committee:

- .1 noted the work done during, and the plans of, FAL 35 in relation to the development of an EDI message for the transmission of security-related information;
- .2 agreed that the data set of the security-related information in the annex to the appendix to MSC/Circ.1130 should be amended so as to include the IMO Company identification number and having considered the alternative options prepared by the Secretariat (MSC 86/WP.14) approved MSC.1/Circ.1305 on Revised guidance to masters, companies and duly authorized officers on the requirements relating to the submission of security-related information prior to the entry of a ship into port;
- .3 agreed with the development of a draft paper form for the transmission of the security-related information proposed by the Coordinator of the Correspondence Group on Electronic means for the clearance of ships established by FAL 35, provided the aforesaid correspondence group considers that such a paper form is necessary for the completion of the development of an electronic message for the transmission of the security-related information and explains the reasons to this end. In this respect, the Committee also agreed to review, at its next session, the related proposals of the aforesaid correspondence group and to decide where such a form should be included and how it would be reviewed and amended jointly with the FAL Committee. The Committee requested the Secretariat to inform the aforesaid correspondence group accordingly; to advise that the related part of its report should be available prior to the next session of the Committee; and that the fields for various entries in such a paper form needed to have sufficient length to enable its completion in an easy and clear manner. In addition, the Committee requested the Secretariat to inform FAL 36 accordingly; and
- .4 noted the discussion and decision of STW 40 in relation to the training and familiarization requirements relating to shipboard personnel with and without specific security-related duties.

Implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code

4.3 The Islamic Republic of Iran (MSC 86/4/1) provided information on the measures and action taken at the national level to initially implement, verify compliance and enforce the provisions of SOLAS chapter XI-2 and the ISPS Code and subsequently to ensure and verify continuous compliance with the requirements. The Islamic Republic of Iran also advised that no security incidents or breaches of security had occurred in its ports or territorial waters; the measures implemented had not adversely affected the smooth operation of its ports; and that it was ready to share the knowledge and experience gained with other Member States in countering and combating terrorism against ships and in enhancing the security in port facilities.

4.4 Singapore (MSC 86/4/4, paragraphs 1 to 7) provided information on the measures and action taken at the national level to initially implement, verify compliance and enforce the provisions of SOLAS chapter XI-2 and the ISPS Code for port facilities and subsequently to ensure and verify continuous compliance with the requirements. In addition, the delegation of Singapore, when introducing the aforesaid document advised that Singapore placed great importance on full and effective implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code and, thus, it had actively participated in related multilateral and bilateral capacity building programmes to share expertise and contribute to technical assistance. That included contributing lecturers to the APEC ISPS Code Assistance Programme and contributing to

maritime security-related courses in Cambodia, Myanmar, the Philippines and Thailand under Japan's Maritime Transport Security Programme for ASEAN countries. The delegation also pointed out that Singapore was the first port in the world to participate in the United States Coast Guard's International Port Security Programme, which sought to share best practices. The delegation also indicated that Singapore was looking forward to further sharing of experience and exchange of ideas amongst SOLAS Contracting Governments as the Organization continued its efforts in the area of the enhancement of maritime security.

4.5 A number of SOLAS Contracting Governments welcomed the information provided by the Islamic Republic of Iran and Singapore and some of them provided highlights of actions they had taken at the national level in relation to the implementation of the provisions of SOLAS chapter XI-2 and of the ISPS Code.

4.6 The Committee thanked the Islamic Republic of Iran, Singapore and the SOLAS Contracting Governments which provided orally information on the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code and urged SOLAS Contracting Governments to continue to share such information with others through the Committee.

Port facility security audits

4.7 The Committee recalled that MSC 84 had considered the proposals of Canada (MSC 84/4/3) on the development of guidance on port facility security audits to supplement the guidance provided in MSC.1/Circ.1194 on Effective implementation of SOLAS chapter XI-2 and the ISPS Code and MSC.1/Circ.1192 on Guidance on voluntary self-assessment by SOLAS Contracting Governments and by port facilities; and invited SOLAS Contracting Governments and international organizations to submit proposals on the development of guidance on port facility security audits for further consideration at MSC 85.

4.8 The Committee also recalled that MSC 85, in the absence of submissions on the issue in response to the invitation of MSC 84, instructed the Maritime Security Working Group (MSWG) to advise whether the development of the guidance on port facility security audits would be conducive in improving the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code and if so, suggest how the matter should be progressed.

4.9 The Committee recalled further that MSC 85 noting the advice of the MSWG:

- .1 agreed that there was a need for SOLAS Contracting Governments to conduct, on a voluntary basis, assessments of the implementation of SOLAS chapter XI-2 and the ISPS Code in their own port facilities;
- .2 agreed that the guidance provided in MSC.1/Circ.1192 and MSC.1/Circ.1194 were tools to assist in ensuring the continuing effectiveness of their port facility security plans and the implementation of the relevant security measures by SOLAS Contracting Governments and by port facilities and there was similar guidance for Administrations and for ship security in MSC.1/Circ.1193;
- .3 noting that MSC.1/Circ.1192 and MSC.1/Circ.1194 had requested SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of the guidance provided for consideration of action to be taken, and that no one had provided information on the experience gained from the use of the guidance

provided in the aforesaid circulars, did not consider that it would be appropriate to develop further guidance on port facility security audits;

- .4 invited SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of MSC.1/Circ.1192 and MSC.1/Circ.1194, for further consideration and action to be taken, as appropriate;
- .5 urged SOLAS Contracting Governments to undertake the necessary assessments with a view to verifying and ensuring that the requirements of SOLAS chapter XI-2 and of the ISPS Code were complied with and to that end to make use of the guidance provided in MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194; and
- .6 urged SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194, for further consideration of action to be taken.

4.10 The Islamic Republic of Iran (MSC 86/4/2) provided information on the results of the experience gained from the use of MSC.1/Circ.1192 and MSC.1/Circ.1194 and reported that it has used these to develop tailor-made assessment tools which meet its national requirements. In addition, it reports on a number of issues which relate to the implementation of the provisions of SOLAS chapter XI-2 and of the ISPS Code which suggest that some of the SOLAS Contracting Governments are not meeting all their obligations or are following restrictive practices in relation to seafarers.

4.11 Singapore (MSC 86/4/4, paragraphs 8 and 9) provided information on the results of the experience gained from the use of MSC.1/Circ.1192 and MSC.1/Circ.1194; and reported that it had found the checklist provided comprehensive, while being simple and user-friendly, and a useful tool for the security audit teams. Singapore indicated that MSC.1/Circ.1192 had proven to be useful for both port facilities and SOLAS Contracting Governments in the conduct of audits for port facilities and pointed out that, where required, SOLAS Contracting Governments had the latitude to make adjustments to the self-assessment tool to better serve local conditions.

4.12 The observers from ITF and ICS pointed out that seafarers, as a result of the manner in which the provisions of SOLAS chapter XI-2 and the ISPS Code had been and were being implemented by certain SOLAS Contracting Governments, continued to face serious difficulties in relation to shore leave and access to ships and, in spite the related decisions and efforts of the Committee in that respect, the situation continued to undermine the work of the Organization and, if it continued it would prove detrimental to the go to sea campaign. The observer from ITF, supported by the observer from ILO, urged SOLAS Contracting Governments and Member States to consider becoming parties to the ILO Convention No. 185 on Seafarers' Identity Documents Convention (Revised), 2003 which was adopted in response to the work of the Organization to enhance maritime security and at the request of the 2002 SOLAS Conference.

4.13 A SOLAS Contracting Government and an observer suggested that some of the practical difficulties in relation to the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code could be alleviated by making use and by providing training to seafarers on the use of the information provided on the Maritime Security Module of the Global Integrated Shipping Information System website.

4.14 A number of SOLAS Contracting Governments suggested and the Committee agreed that there was no need to develop, at this stage, guidance on port facility security audits to supplement the guidance provided in MSC.1/Circ.1192 and MSC.1/Circ.1194.

4.15 The Committee urged SOLAS Contracting Governments to undertake the necessary assessments with a view to verifying and ensuring that the requirements of SOLAS chapter XI-2 and of the ISPS Code were complied with and to that end to make use of the guidance provided in MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194.

4.16 The Committee also urged SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194, for further consideration of action to be taken.

Handling of failures identified during ISPS Code verification

4.17 The Committee recalled that MSC 85 had considered proposals in document MSC 85/4/3 (IACS) on the handling of defects identified during ISPS verifications and conflicts between safety and security; and instructed the MSWG to advise whether the text of the Guidance relating to the implementation of SOLAS chapter XI-2 and the ISPS Code (MSC/Circ.1097) needed to be amended and, if so, to prepare appropriate amendments for consideration by the Committee.

4.18 The Committee further recalled that MSC 85 had considered the report of the MSWG, and:

- .1 noted that although a ship may rectify a deficiency in order to meet the standard for issuance of an International Ship Security Certificate at the time of the assessment, the underlying cause of the deficiency might not be rectified and might be symptomatic of a systemic error. Such systemic errors might also be present in other ships operated by the company;
- .2 supported the identification and rectification of root causes of failures, and the application of total quality management approaches to ship security;
- .3 noted that strict interpretation of the ISPS Code might be achieved while leaving unresolved problems; and
- .4 noted that some hold the view that the ambiguity over the treatment of systemic errors was as a result of the wording in the ISPS Code and were suggesting that the issue be reviewed as part of a wider review of the ISPS Code.

4.19 The Committee recalled further that MSC 85 had invited SOLAS Contracting Governments, intergovernmental organizations and non-governmental organizations in consultative status to submit proposals on the handling of failures identified during ISPS Code verification.

4.20 The Islamic Republic of Iran (MSC 86/4/3) provided information on failures identified during ISPS Code verification and proposed, in some instances, a possible approach in addressing the related matter.

4.21 The observer from ITF pointed out that the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code had increased considerably the work load of seafarers and, although the Organization had amended its guidance on the principles of safe manning so as to

include in the considerations which needed to be taken into account for the security of the ship, ships continued to be manned as prior to the entry into force of the provisions of SOLAS chapter XI-2 and the ISPS Code and the available evidence was suggesting that nothing was done to take into account the security-related workload of seafarers.

4.22 The observers from CLIA, IMCA and ICS, recalling that the ISPS Code provided that the master had the overriding authority and responsibility to make decisions with respect to the safety and security of the ship and to request the assistance of the company or of any Contracting Government as might be necessary, indicated that they did not agree with the suggestion of the Islamic Republic of Iran in connection with the security level of ships. The observer from IMCA also pointed out that a greater degree of consistency in the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code was warranted.

4.23 A number of SOLAS Contracting Governments stated that they did not agree with the proposals of the Islamic Republic of Iran that some forms of non-compliance might be allowed on ships.

4.24 The Committee urged SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status to bring to the attention of the Committee:

- .1 the results of the experience gained when handling defects identified during verifications of compliance with the provisions of SOLAS chapter XI-2 and the ISPS Code and when resolving conflicts between safety and security, for further consideration of action to be taken; and
- .2 issues which needed to be resolved in relation to the implementation of the provisions of SOLAS chapter XI-2 and of the ISPS Code, taking into account, when doing so, the guidance which had been issued since MSC 77, for further consideration of action to be taken.

Issue of Continuous Synopsis Record

4.25 Belgium *et al.* (MSC 86/4/5) identified a number of problems and difficulties encountered with the issue of Continuous Synopsis Records (CSR) and proposed a possible approach in addressing the related matter.

4.26 A number of SOLAS Contracting Governments concurred with the problems and difficulties identified by Belgium *et al.*, in relation with the issue of CSR and suggested that the Committee should issue an MSC.1 circular stressing the need to observe the related provisions of resolution A.959(23) as amended by resolution MSC.198(80).

4.27 The Committee, taking into account the working arrangements for the session, agreed that it was not practically possible to develop such a circular during the session.

4.28 The Committee urged all SOLAS Contracting Governments to strictly adhere to the provisions of SOLAS regulation XI-1/5 and of the Guidelines for the Maintenance of the Continuous Synopsis Record adopted by resolution A.959(23) as amended by resolution MSC.198(80).

4.29 The Committee invited SOLAS Contracting Governments to bring for consideration at its next session all cases where they considered that the provisions of SOLAS regulation XI-1/5 and resolutions A.959(23) and MSC.198(80) had not been observed with a view to deciding what actions needed to be taken.

4.30 The Committee also agreed to consider, at its next session, the consolidation of the Guidelines for the Maintenance of the Continuous Synopsis Record in a single MSC resolution and the incorporation therein of any additional guidance to address the difficulties which SOLAS Contracting Governments might continue to encounter.

Communication of information to the Organization

4.31 The Secretariat (MSC 86/4/6) pointed out a number of issues relating to the implementation of the provisions of SOLAS regulation XI-2/13 and invited the Committee to decide whether the information specified in SOLAS regulation XI-2/13.4 could be communicated by electronic means.

4.32 A number of SOLAS Contracting Governments, during consideration of other matters under this agenda item, pointed out that in a considerable number of cases the information provided in the Maritime Security Module did not address all the provisions of SOLAS regulation XI-2/13 or was incomplete or outdated.

4.33 The Committee urged SOLAS Contracting Governments to meet their obligations under the provisions of SOLAS regulation XI-2/13 and to communicate the relevant information to the Organization and to update these as and when changes occur.

4.34 The Committee agreed that SOLAS Contracting Governments could meet their obligations pursuant to the provisions of SOLAS regulation XI-2/13.4 by either:

- .1 providing in writing to the Organization the information specified in SOLAS regulation XI-2/13.4; or
- .2 updating or amending accordingly the entries which they had already made in the Maritime Security Module in relation to approved port facility security plans of the port facilities located within their territory or making, if necessary, new entries in that respect.

4.35 In that respect, the Committee noted that, in case SOLAS Contracting Governments opted to provide the information in writing, the Secretariat would endeavour to update the Maritime Security Module within the constraints of the available resources and on a first come first served basis.

4.36 The Committee requested the Secretariat to prepare, for consideration at its next session, a list showing which SOLAS Contracting Governments had met their obligations under the provisions of SOLAS regulation XI-2/13, in general and SOLAS regulation XI-2/13.4, in particular.

ISO Maritime and supply chain security standards

4.37 ISO (MSC 86/INF.6) provided updated information on the ISO initiatives in an effort to contribute to the work undertaken with a view to enhancing port security and overall security in the supply chain.

4.38 The Committee thanked ISO for its ongoing work and for the information provided and invited ISO to continue to update the Committee on the activities it was undertaking in that area.

5 GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS

General

5.1 The Committee recalled that MSC 85 had agreed to postpone to this session the approval of the draft SOLAS amendments to make the GBS mandatory and the associated draft International goal-based ship construction standards for bulk carriers and oil tankers, on the understanding that the text of the draft amendments and the draft Standards had been agreed by the Committee and was the basis for any further work at MSC 86.

5.2 The Committee also recalled that MSC 85, recalling that MSC 84 had agreed that this session should deal with the finalization of the generic guidelines for developing goal-based standards, the development of a plan to validate the results from the safety level concept and the consideration of the long-term implementation of GBS, had re-scheduled the activities planned for this session so that the Guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers (Verification Guidelines), the provisions for the Ship Construction File and the outcome of the discussion on resources for the verification process could be considered and finalized by the GBS Working Group which MSC 85 agreed to establish at this session, with a view to approval by the Committee together with the aforementioned SOLAS amendments and associated Standards.

5.3 The Committee further recalled that MSC 84 had re-established the GBS Correspondence Group and instructed it to finalize the generic guidelines for developing goal-based standards, based on the prioritized work plan agreed at that session (MSC 84/24, paragraph 5.18) and to report to this session.

5.4 The Committee considered document MSC 86/5 (Secretariat) which had been prepared to facilitate the discussions of the Committee and contains in the annexes the updated texts of the following draft instruments related to the GBS for bulk carriers and oil tankers:

- .1 SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory and the associated MSC resolution (annex 1);
- .2 International goal-based ship construction standards for bulk carriers and oil tankers and the associated MSC resolution (annex 2);
- .3 Guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers and the associated MSC resolution (annex 3); and
- .4 Guidelines for the information to be included in a Ship Construction File and the associated MSC circular (annex 4),

together with documents submitted to the session commenting on the aforementioned instruments. The outcome of the Committee's considerations thereon is outlined in paragraphs 5.6 to 5.32.

5.5 The Committee noted that, when preparing the updated draft texts of the instruments referred to in paragraph 5.4, the Secretariat took into account the outcome of MSC 85 and, following advice from IMO's Legal Office, had modified the draft texts to refer to "verification of conformity" instead of "verification of compliance" and added a definition of the term "verification"; had included a brief description of the five tiers of GBS in the draft Standards; and had introduced editorial changes in order to maintain consistency and align the draft texts with the usual IMO language used for amendments and guidelines.

SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory

5.6 The Committee considered the draft SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory (MSC 86/5, annex 1), together with the following documents:

- .1 MSC 86/5/9 (United Kingdom), expressing concerns about the negative effects that SOLAS regulation II-1/3-10 as currently drafted may have on the implementation of classification rule amendments and a subsequent negative impact on the safety of ships and pointing out that a ship that has been designed and built to a non-verified rule amendment which at the time is going through the verification process, will not be permitted to carry a valid Cargo Ship Safety Construction Certificate, regardless of the fact that this amendment may, ultimately, prove to be in full compliance with GBS. The current draft verification guidelines foresee a review of accumulated rule amendments every five years, which would make it impractical to amend rules within these review periods and, subsequently, rule development would be slower and the safety level would stagnate. Therefore, they invited the Committee to revisit the draft SOLAS amendments to allow implementation of rule amendments without confirmation by the Committee; and
- .2 MSC 86/5/10 (Norway), referring to the Code for Recognized Organizations currently under development in the FSI Sub-Committee, and stating that, while the Code relates to recognized organizations and the implementation of IMO instruments, GBS verification relates to verification of the rule development process of classification societies, and the Code should therefore not contain requirements on rule development, as the GBS verification should focus on just that. As a consequence, they proposed amendments to the draft new SOLAS regulation II-1/3-10.3 to refer to “classification societies” instead of “recognized organizations” and to delete references to “national standards of the Administration” as the State has the authority to establish regulations to follow-up international regulations; to regulation II-1/3-10.2.2 to refer to the new Ship Recycling Convention; and, as regulation II-1/3-10.4 does not define the role of classification societies with regard to the Ship Construction File, to move the regulation to a more appropriate place.

5.7 Following discussion, the Committee instructed the GBS Working Group to consider the above proposals further and to modify the draft SOLAS amendments, the draft Standards and the draft Verification Guidelines, as appropriate.

International goal-based ship construction standards for bulk carriers and oil tankers

5.8 The Committee considered the draft International goal-based ship construction standards for bulk carriers and oil tankers (MSC 86/5, annex 2), together with document MSC 86/5/6 (Spain), proposing to include an additional sentence in the definition for “net scantlings” agreed at MSC 85 (footnote to functional requirement II.3.4 – Safety margins) which would link the corrosion addition to the ship’s in-service monitoring and survey requirements.

5.9 Following discussion, the Committee instructed the GBS Working Group to consider the above proposal further and to modify the definition for “net scantlings” in the draft Standards accordingly, recalling that the group was also instructed to effect appropriate modifications to the draft Standards consequential to the modifications to draft SOLAS regulation II-1/3-10 as proposed by Norway (see paragraph 5.7).

Guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers

5.10 The Committee considered the draft Guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers (MSC 86/5, annex 3) and took specific action as outlined in paragraphs 5.11 to 5.22.

Verification and documentation requirements for ship recycling

5.11 The Committee, recalling that MSC 85 had agreed that it was premature to include verification requirements for recycling in the Verification Guidelines in advance of the finalization of the Ship Recycling Convention and had left the relevant text in square brackets (section 15 of Part B of the Verification Guidelines), noted information regarding the outcome of the International Conference on the Safe and Environmentally Sound Recycling of Ships, which took place in Hong Kong, China, from 11 to 15 May 2009, in particular that the Conference had adopted the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, which will enter into force 24 months after the conditions for its entry into force are met, and instructed the GBS Working Group to take the information into account when finalizing the Verification Guidelines.

5.12 In this connection, the Committee recalled its earlier discussion on the proposal in document MSC 86/5/10 by Norway to effect necessary adjustments to draft SOLAS regulation II-1/3-10 to take into account the Ship Recycling Convention, and the consequential instruction to the GBS Working Group to effect modifications to the Verification Guidelines, as appropriate (see paragraph 5.7).

Scope of verification

5.13 The Committee recalled that MSC 85 had noted concerns that the proposed verification scheme was too expensive and cumbersome and might inhibit future rule development and that, therefore, the scheme should describe what should be documented and evaluated by rule developers to comply with GBS, for assessment by the envisaged Group of Experts; and, noting that no specific proposals on the issue had been submitted to MSC 85, had invited proposals regarding the development of an alternative verification process, based on the principle of self-assessment to be performed by the rule developer as part of the rule development process.

5.14 In this connection, the Committee considered the following documents:

- .1 MSC 86/5/4 (Canada, Norway, Sweden), proposing that a self-assessment and documented rule development process should be used instead of the verification process envisaged so far, in order to ensure transparent technological and state-of-the-art development of classification rules, efficient use of resources and that the rule developer remains solely responsible for the content and effect of their rules; and to relieve IMO of the responsibility for the review process. The document considers costs and resources, maintenance procedures and legal aspects, suggests the establishment of IMO audit teams which would review the rules submitted for verification at the premises of the rule developer, and provides relevant draft verification guidelines, incorporating the verification procedure based on self-assessment;
- .2 MSC 86/5/5 and MSC 86/INF.3 (IACS), supporting the proposal presented in document MSC 86/5/4, providing modifications to the revised Verification Guidelines set out in the document and offering additional information on the

extensive international review which rules continuously undergo through the Technical Committee review process of classification societies. IACS also pointed out that there is already a mandatory system in place (resolution A.739(18)), that obligates the flag State to monitor and verify class-related matters, and specifically rule development, of the recognized organizations it authorizes to act on its behalf. Details of the classification society rule development process are provided in document MSC 86/INF.3;

- .3 MSC 86/5/8 (Spain, INTERTANKO), disagreeing with the concept of a verification based on self-assessment and proposing to maintain the verification process as envisaged, i.e. a Group of Experts verifying the submitted information through their own independent review, checking the methodology, assumptions made and key parameters, as the only proven way to guarantee a reliable, effective and efficient verification process;
- .4 MSC 86/5/11 (Argentina, Spain), commenting on the proposals made in document MSC 86/5/4 with regard to legal, technical and resource issues and pointing out that, in their view, there are currently five options for the conduct of verification under discussion, i.e. self-assessment by the rule developer, self-assessment and audit by the Administration, self-assessment and audit by experts selected by IMO, full verification by a Group of Experts selected by IMO and verification confined to the fundamentals of the rules by the Group of Experts. The submitters conclude that the only acceptable option is full verification by the Group of Experts, including examination and verification of the key parameters and assumptions used in the formulation and development of the rules, rather than a simple verification of the rule development process;
- .5 MSC 86/5/12 (Republic of Korea), agreeing in principle with the proposal for an alternative approach to verification based on self-assessment as presented in document MSC 86/5/4 since it would reduce time, costs and the number of experts needed, as long as it can be assured that the self-assessment is equally effective as a thorough verification by the Group of Experts; however, not agreeing with the use of the term “audit”, considering that a strengthening of the self-assessment aspect, but at the same time maintaining the verification by the Group of Experts, would be a reasonable approach, and suggesting that guidelines on how to carry out a self-assessment should be developed; and
- .6 MSC 86/5/14 (RINA), expressing the view that the verification of compliance should be a self-assessment process which should be monitored/audited by IMO/Administration appointed Group of Experts on hull structures and the structural design of ships and offering to provide such experts for consideration.

5.15 Noting that the GBS Correspondence Group had also discussed the verification process, the Committee considered the relevant part of the report of the group (MSC 86/5/2, paragraphs 5 to 17), discussing the verification issue as part of the generic guidelines for the development of GBS; noting that the objective of the verification process is to ascertain that rules are based on sound scientific and technical principles using proven technology and are capable of covering at least the currently known modes and cases of failure effectively; and finding that there were two main views, similar to the submissions made to this session on the issue, i.e. “thorough check” as opposed to “verification based on self-assessment”, with both sides arguing their case. The group also considered a compromise proposal for a “smart verification”, a hybrid which would concentrate on certain aspects only but should be detailed enough in order to give confidence that the functional requirements are met.

5.16 The Committee recognized that a decision on the scope of the verification to be carried out by the envisaged Group of Experts, i.e. full verification of all rules submitted or verification based on a self-assessment carried out by the rule submitter, needed to be made at this session, so that the Verification Guidelines could be adopted together with the associated draft SOLAS amendments and the Standards. In this connection, the Committee also recalled its earlier discussion on document MSC 86/5/9 by the United Kingdom, concerning possible negative impacts of the verification process as drafted on the implementation of rule amendments (see paragraph 5.6.1).

5.17 In the ensuing extensive discussion, diverging views were expressed regarding the scope of verification, with some delegations advocating a full and thorough check by an independent IMO Group of Experts of all parameters and assumptions on which the relevant rules had been based, while others found that the checking of a thorough self-assessment carried out by the rule developer, i.e. the submitter of a verification request, by such a Group of Experts could be sufficient. It was generally acknowledged that the final responsibility for ships lies ultimately with the flag State and that the purpose of the introduction of GBS was to reassure flag States with regard to the quality of the construction of ships under their flag overseen by recognized organizations.

5.18 The delegations which spoke in favour of a full verification of rules pointed out that self-assessment would mean that classification societies would, in effect, set construction standards and then verify that they were adequate which those delegations found not acceptable and not in accordance with the original objective of the GBS, i.e. to give flag States more oversight with regard to the rules to which ships are constructed. They stated that the process as envisaged by the Pilot Panel should be applied and that any Group of Experts should not be restricted in any way in the conduct of the verification exercise in order to keep it completely transparent.

5.19 The delegations which were in favour of verification of the self-assessment of the rule developer pointed out that a balanced approach and sensible compromise was needed which would utilize the vast technical experience of classification societies to further the verification process and keep it simple, effective and efficient. This would not prevent any Group of Experts to conduct a full verification on certain aspects, if found necessary.

5.20 Some delegations also pointed out that, with the provision of Guidelines for the authorization of organizations acting on behalf of the Administration (resolution A.739(18)), an established mechanism was available to afford flag States a means of overseeing the work of classification societies. However, some other delegations were of the view that these Guidelines were not sufficient for the verification of the GBS.

5.21 Concerns were expressed regarding the cost and resource implications of a full verification as well as practical problems related to its conduct, such as making sure that all existing rule sets were verified before the GBS would enter into force. However, other delegations were of the view that safety at sea should be the foremost concern and that cost, resource and time aspects should take a secondary place.

5.22 The Chairman, in summarizing the discussion, stated that the objective was to arrive at a process that would combine full verification and verification based on self-assessment, since there had been no majority for either of the approaches. Consequently, the GBS Working Group was instructed to finalize the Verification Guidelines based on self-assessment by the submitter, to be audited by experts appointed by IMO.

Resource implications of the verification process

5.23 Recognizing that the scope of verification is directly related to the resource implications of the verification process, the Committee proceeded with the consideration of these implications, in order to ensure an efficient implementation of the GBS.

5.24 In this connection, the Committee considered the second part of the report of the GBS Working Group at MSC 85 (MSC 86/5/1), reporting on the discussions of the group with regard to the resource implications, where the group reported that, while agreeing that more information was necessary to accurately address the costs associated with the verification, it had not reached any conclusions, but, considering the funding options presented in document MSC 85/WP.3, i.e. experts' costs to be covered by Member States nominating the experts or by the submitter of a verification request or by IMO, proposed a fourth option, namely the establishment of a fund to cover all costs to which Administrations would contribute according to their registered tonnage.

5.25 Consequently, the Committee agreed to base the discussion on how the costs for the verification, in particular the costs incurred by the members of the Groups of Experts, should be met for the following four options:

- .1 experts' expenditure, including fees, is covered by the Member State/ international organization nominating the expert; or
- .2 experts' expenditure, including fees, is covered by the submitter of a request for verification; or
- .3 experts' expenditure for travel and DSA is covered by IMO, fees are covered by the nominating entity, as appropriate; or
- .4 costs are covered by a fund to be established to which Administrations would contribute according to their registered tonnage.

5.26 In the discussion, a number of delegations stated that the submitter of a request for verification of ship construction rules should pay the costs for such verification. Other delegations were of the view that the matter could only be meaningfully discussed after the GBS Working Group had finalized its work on the Verification Guidelines.

5.27 The observer from IACS highlighted that the rule development as an activity undertaken by classification societies required significant investment and commitment in research and development and was not, in itself, intended to generate a profit. He also pointed out that rule development was already required by the Organization in accordance with SOLAS regulation II-1/3-1 and was therefore undertaken at the request and to the benefit of all stakeholders, including Administrations. He advised the Committee that the responsibility for the rules, after having been verified by the Organization, in the context of a contractual arrangement between the classification societies and the Organization, should be carefully considered.

5.28 Following discussion, the Committee agreed that the expenditure required for the verification exercise should be covered by the entity requesting verification, but that the concerns expressed by IACS, in particular regarding any eventual liability issues, should also be taken into account. Consequently, the Committee instructed the GBS Working Group to consider the resource implications further, for advice to the Committee.

5.29 The delegations of Germany and the Netherlands reserved their positions with regard to the funding of the GBS verification process.

Finalization of the Verification Guidelines

5.30 Following discussion, the Committee instructed the GBS Working Group to finalize the Verification Guidelines, taking into account the decisions made in plenary (see paragraphs 5.24 to 5.29).

Guidelines for the information to be included in a Ship Construction File

5.31 The Committee considered the Guidelines for the information to be included in a Ship Construction File (SCF) (MSC 86/5, annex 3), together with the following documents:

- .1 MSC 86/5/7 (Australia), pointing out that the SCF will provide an essential link between rules that have been verified as GBS compliant and the construction of individual ships and that, in their view, the necessity of the explicit information within the SCF needs to be examined with respect to the requirements of prospective users of the information. In order to provide the function of the SCF as intended and to meet the needs of users without imposing unnecessary burdens on industry, Australia proposed to add a new paragraph concerning minimum contents of the SCF; and
- .2 MSC 86/INF.10 (CESA, ICS, BIMCO, INTERCARGO, OCIMF, INTERTANKO, IACS), informing the Committee that the submitters are working together to develop a joint model for Guidelines on the SCF, detailing the information to be contained therein, which they intend to submit to MSC 87 for consideration.

5.32 Following discussion, the Committee instructed the GBS Working Group to finalize the Guidelines for the information to be included in a Ship Construction File, taking into account the proposals made in document MSC 86/5/7.

Possible need for amendments to other IMO instruments

5.33 The Committee recalled that the GBS Working Group at MSC 85 had not been able to consider the possible need for amendments to other IMO instruments following the finalization of the GBS for bulk carriers and oil tankers and instructed the GBS Working Group to consider the matter, taking into account document MSC 84/5/1 by the Secretariat, and advise the Committee, as appropriate.

Generic GBS Guidelines

5.34 The Committee recalled that MSC 84 had established a GBS Correspondence Group and instructed it to finalize the generic guidelines for developing goal-based standards, based on the prioritized work plan agreed at that session (MSC 84/24, paragraph 5.18) and to report to this session.

5.35 The Committee considered the report of the correspondence group (MSC 86/5/2 and Corr.1), containing amendments to the draft generic GBS guidelines as developed by the GBS Working Group at MSC 84 (MSC 84/WP.4, annex) and, in particular, a new section on monitoring the effectiveness of GBS, and noted, *inter alia*, that, in considering the practical conduct of such monitoring, the group, while envisaging that IMO would take over the responsibility for such

monitoring, had recognized that the current resources of the Organization would not allow it to perform this task in the scale foreseen by the group.

5.36 The Committee recalled that the part of the report dealing with the further development of the “verification of compliance” and the group’s assessment that a further elaboration of the scope of this verification is needed had already been dealt with earlier (see paragraph 5.15).

5.37 Following discussion of the action requested (see also paragraph 5.36), the Committee:

- .1 noted the progress made with respect to the development of the Generic guidelines for developing [IMO] goal-based standards;
- .2 noted the discussion on the development of a process for monitoring the effectiveness of GBS and agreed to include a new section on monitoring in the guidelines in square brackets for further discussion and not to take any further action at this point in time; and
- .3 with regard to the request of the group to forward the report for in-depth review and discussion to the GBS Working Group, recognizing that the main task of the group at this session is the finalization of the GBS for bulk carriers and oil tankers, agreed to discuss the matter later, in the context of the discussion on the further work on GBS (see paragraphs 5.40 and 5.41).

Guidelines for risk-based ship design approval

5.38 The Committee had for its consideration the following documents:

- .1 MSC 86/5/3 (Denmark), presenting, for the information of the Committee, guidelines for the approval process of risk-based designed ships, developed, used and tested under the research project SAFEDOR and intended for the use of both authorities and clients/design teams when considering a risk-based design and provide guidance on various aspects requiring consideration when entering the approval process for alternative designs and arrangements; and
- .2 MSC 86/5/13 (Greece), wherein Greece, noting that the approval guidelines set out in document MSC 86/5/3 may allow approval of risk-based alternatives for any prescriptive regulation and that they are to be used so that alternatives to rule arrangements can be approved, stated that, while the guidelines may be helpful when used as a basis for novel designs not presently addressed in various regulations, they should, for the time being, only be considered as a tool for developments ahead.

5.39 The Committee, having noted that the Guidelines proposed by Denmark could provide a helpful tool when dealing with the approval of alternative designs and arrangements, agreed that they should be further considered at a future session, possibly under the item on “Formal safety assessment”, since they were mainly dealing with risk-based ship design approval.

Further work on GBS

5.40 The Committee recalled its decision at MSC 85 that this session should be used to finalize all the instruments associated with the GBS for bulk carriers and oil tankers and noted the need to consider the further work under the agenda item, following the expected finalization of the GBS

for bulk carriers and oil tankers; in this connection, also recalling the longer-term considerations of the GBS work plan agreed at MSC 84 (MSC 84/24, paragraph 5.20.5).

5.41 The Committee agreed to have a principal debate at the next session on how to proceed with the work on the item and invited Member Governments and international organizations to submit relevant proposals to MSC 87. In order to facilitate the submission of such proposals, the Secretariat was requested to prepare a document containing a consolidated version of the Generic Guidelines for developing [IMO] goal-based standards for the next session.

Establishment of the GBS Working Group

5.42 The Committee established the GBS Working Group under the chairmanship of Capt. P. Little (United States) and instructed the group, taking into account comments, proposals and decisions made in plenary, to:

- .1 finalize the draft SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory and the associated draft MSC resolution, on the basis of document MSC 86/5 (annex 1);
- .2 finalize the draft International goal-based new ship construction standards for bulk carriers and oil tankers and the associated draft MSC resolution, on the basis of document MSC 86/5 (annex 2);
- .3 finalize the draft Guidelines for the verification of conformity with goal-based new ship construction standards for bulk carriers and oil tankers and the associated draft MSC resolution, on the basis of document MSC 86/5 (annex 3) and consider the resource implications of the verification process for advice to the Committee;
- .4 finalize the draft MSC circular on Guidelines for the information to be included in a Ship Construction File, on the basis of document MSC 86/5 (annex 4); and
- .5 if time permits, consider the possible need for amendments to other IMO instruments following the eventual adoption of the GBS for bulk carriers and oil tankers and advise the Committee accordingly.

Report of the GBS Working Group

5.43 Having received the report of the GBS Working Group (MSC 86/WP.5), the Committee approved the report in general and took action as described in the following paragraphs.

SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory

5.44 The Committee approved the draft MSC resolution on Adoption of amendments to the SOLAS Convention, as set out in annex 3, which will make the GBS for bulk carriers and oil tankers mandatory, and requested the Secretary-General to circulate the draft amendments, in accordance with SOLAS article VIII, for consideration at MSC 87 with a view to adoption.

5.45 In this connection, the Committee noted that the group had considered the potential impact of rule changes, as noted by the United Kingdom (MSC 86/5/9), and proposed text changes by Norway (MSC 86/5/10) regarding the use of the term “recognized organization” and relationship to the Ship Recycling Convention, and had concluded as follows:

- .1 while agreeing that the verification process should not negatively impact the rule development process, the group had decided to amend the Standards and the Verification Guidelines to ensure that this principle was properly incorporated;
- .2 the group did not agree with the proposal to use the term “classification society” instead of “recognized organization” in the draft amendments, noting that “recognized organization” is the term used and defined in the SOLAS Convention and in resolution A.739(18) concerning the authorization of organizations acting on behalf of the Administration and should therefore also be used in amendments to the Convention; and
- .3 the group did not agree with the proposal to revise the draft SOLAS amendments to state that the term “environmentally friendly” could include either environmentally acceptable or recyclable materials and had, instead, addressed this matter in the Verification Guidelines.

5.46 The delegation of the United Kingdom stated that, in their view, paragraphs 2.1 and 2.3 of the proposed new SOLAS regulation II-1/3-10 did not appear to be drafted in text suitable for a regulation. Additionally, they saw a conflict between paragraph 2.4 of the regulation and the Tier II functional requirement 11.2 concerning the environmental conditions. While the former specified “defined by the intended operating area for the ship throughout its life”, the functional requirement specified “North Atlantic environmental conditions”, and the delegation believed this to be an incompatibility which needed to be addressed.

International goal-based ship construction standards for bulk carriers and oil tankers

5.47 The Committee approved the draft MSC resolution on Adoption of the International goal-based ship construction standards for bulk carriers and oil tankers, as set out in annex 4, for consideration at MSC 87 with a view to adoption, noting that the Standards would become mandatory upon entry into force of the SOLAS amendments referred to in paragraph 5.44 above.

5.48 In this connection, the Committee noted that the group had considered the need to ensure that the verification process did not negatively impact rule development and the proposal by Spain (MSC 86/5/6) to revise the definition of net scantlings and:

- .1 after an extensive discussion on roles and responsibilities under a self-assessment plus audit scheme, with particular emphasis on the potential impact of rule changes made following initial verification on ships that have already been constructed, had noted that the flag State is ultimately responsible for the issuance of the Safety Construction Certificate and had agreed that the recognized organization remains responsible for maintaining its rules in conformity with the Standards and that, after initial verification, any rule change applied, in accordance with the self-assessment, is assumed to be in conformity with the Standards unless determined otherwise by an audit. The group had also agreed that any non-conformity resulting from a rule change audit should not affect ships already contracted for, unless otherwise decided by the Maritime Safety Committee, and added a new paragraph 6.3 to the Standards to clearly reflect this understanding; and
- .2 with regard to the proposal by Spain (MSC 86/5/6) to revise the footnoted definition of net scantlings, the majority of the group had not supported the proposal.

Guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers

5.49 The Committee approved, in principle, the draft MSC resolution on Adoption of the Guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers, as set out in annex 5, for consideration at MSC 87 with a view to adoption, in conjunction with the adoption of the instruments referred to in paragraphs 5.44 and 5.47 above, following consideration of further improvements to the verification process.

5.50 The Committee noted that, in revising the Verification Guidelines, the group had followed the direction of the Committee, namely that the verification process should be based on self-assessment by the rule developer and audit by the Organization and had had an extensive discussion on how best to incorporate both concepts within the verification framework, thereby agreeing on two fundamental principles: firstly, the rule developer is responsible for ensuring that the rules conform to the Standards and, secondly, the audit by the Organization is based on sampling with no restriction on the elements that could be checked during the audit.

5.51 Regarding the time required to conduct an audit, the Committee noted that the group had an extensive discussion, noting that it was important to have an estimate of how long an audit might take (e.g. calendar time) when planning the initial verification, especially considering the potential number of rules and need to establish multiple audit teams. The group had noted that there was no basis for estimating time, as the estimate reported by the Pilot Panel (MSC 85/5/1) of 3 months was based on verification and not audit, however, had agreed that the figure of 3 months elapsed calendar time could be used, for planning purposes only.

5.52 The Committee noted that the group had also considered whether each audit team member should be given an expected resource budget for the actual amount of work time required to complete the audit, with some delegations noting that without a limit, the audit could extend indefinitely and become similar to a full verification. Other delegations had noted that there was no basis for establishing such a limit, and an arbitrary number could inhibit the ability of the team to conduct a proper audit. The majority of the group had agreed to an estimated resource budget of 15 days per auditor for a single rule set, and the group had noted that this budget presumed a well-documented and complete submission, and might need to be revised, based on the quality of the submission and experience gained implementing the audits.

5.53 In respect of the group's discussion of alternate approaches to auditing rule changes, namely whether to audit these annually or once every five years, the Committee noted that, after an extensive debate, a majority of group had agreed that the Organization should aim to audit 10% of the rule changes submitted under the Verification Guidelines on an annual basis. Although it was not possible to substantiate the basis for the figure of 10%, the group had noted that this was only a target and that the Organization would retain the flexibility to vary the actual audit percentage over time, based on the number of rule changes received, experience gained and other relevant factors. Additionally, the group had noted that the 10% figure applies to all rule changes received in a particular year and did not require the auditors to select 10% from each submitter, and that, accordingly, the audit team was expected to use their professional judgment in selecting the more critical rule changes from a safety and environmental protection point of view.

5.54 The Committee also noted that, considering the reduced level of effort for the audit, the majority of the group had agreed that the audit teams should be composed of three or five members, and that a simple majority was required to recommend a finding of non-conformity for a functional requirement.

5.55 The Committee further noted that the group had agreed that it was important to periodically review and update the Verification Guidelines based on experience gained, and had added the appropriate text to the associated draft MSC resolution.

5.56 Concerning factors that may need to be considered during the initial implementation of the Verification Guidelines, the Committee noted that the group had proposed that submitters intending to make a submittal should inform the Secretary-General of their intention as early as possible, to facilitate his future planning. Additionally, the group was of the view that it might be necessary to request Administrations to provide preliminary estimates of the number of auditors they expect to nominate. Some delegations participating in the group had noted that consideration may need to be given to announcing the results of all verification audits at the same time during the implementation phase so as not to give a competitive advantage to a particular submitter, and, in this regard, the group had noted that additional guidance or instructions may be required for the various stakeholders to carry out their tasks in the verification process and, accordingly, recommended that, upon adoption of the SOLAS amendments, the Committee should consider the need for any additional guidance required.

5.57 With regard to functional requirement 10 (Design transparency), the Committee noted that the group had left the relevant information and documentation requirements in Part B of the guidelines (10.2.1) in square brackets, pending the finalization of the Guidelines for the information to be included in a Ship Construction File (SCF) at the next session (see paragraph 5.63).

5.58 Regarding the information and documentation requirements and evaluation criteria for recycling, the Committee noted that the group had an extensive discussion, whereby some delegations had noted that the requirements could be interpreted as requiring the rule developer to assess whether materials were environmentally friendly, which was a statutory issue, not a structural rule development consideration, and other delegations noting that the recently adopted Ship Recycling Convention did not help in this regard, especially since it was not yet in force and may not have the same signatories as the SOLAS Convention. Some delegations in the group had noted that this was not a concern, as the submitter could simply reference relevant IMO instruments to satisfy the requirements. A majority of the group had agreed to the revised requirements in the Verification Guidelines that are limited to the identification of the materials used in the construction of the ship, with a view towards future harmonization with the requirements of the Ship Recycling Convention, and the group had recommended that this issue be reconsidered when the Ship Recycling Convention enters into force, including the potential need to revise the portions of the SOLAS amendments and the Standards pertaining to recycling.

5.59 The delegation of Germany reserved its position with regard to the inclusion of requirements covered by IMO regulations, thus undermining the authority of flag States concerning the interpretation of such IMO regulations.

Resource implications of the verification process

5.60 Regarding the resources required to conduct a verification based on self-assessment and audit, bearing in mind its earlier decision (see paragraph 5.28) that the submitter of a verification request would be responsible for the costs of the verification, the Committee noted the following:

- .1 the submitter should pay the Organization's standard fee for experts (e.g., currently US\$400 per expert per day) as well as any travel expenses and DSA needed to carry out the audit. For maintenance of verification, the submitter should be responsible for the audit team's expenses (e.g., fees, travel, DSA) which would be in proportion to the volume of rule changes selected for audit (see paragraph 5.28); and

- .2 with regard to the financial aspects, there should be no direct relationship between the submitter and auditors. The Organization should contract for the selected experts and seek reimbursement from the submitter following the Organization's established practices.

5.61 The Committee also noted the view of the group that implementation of the Verification Guidelines would require additional staff for the Secretariat, including a permanent secretary and staff to carry out the contracting functions and that some delegations had suggested that the additional staff could be included as part of the costs to be borne by the submitter.

5.62 As an illustrative example, the Committee noted that an initial verification of one rule set would cost approximately US\$50,000, presuming a team of five auditors, a well-documented submission that can be audited within 15 days, a standard daily fee of US\$400 and travel/DSA expenses of US\$4000 for each auditor. The maintenance of verification process would also cost approximately US\$50,000 annually, presuming a total of 20 rule sets with each making changes to approximately 5% of their rules annually and is equivalent to conducting a single initial verification.

Guidelines for the information to be included in a Ship Construction File

5.63 The Committee, noting that the group had briefly considered the draft MSC circular on Guidelines for the information to be included in a Ship Construction File (SCF), taking into account documents MSC 86/5/7 and MSC 86/INF.10 and that an industry group was working on amendments to the draft Guidelines concerning the inclusion of intellectual property protection precautions and amendments to the list of information to be included in the SCF, agreed that the draft Guidelines should be finalized at MSC 87, when the outcome of the considerations of the industry group would be available, also taking into account the proposals made by Australia in document MSC 86/5/7, whereby the draft Guidelines, set out in annex 4 to document MSC 86/5, should constitute the basic framework to be used for any further development of the text.

Possible need for amendments to other IMO instruments following the finalization of the GBS for bulk carriers and oil tankers

5.64 Noting that the group had discussed briefly whether there would be a need for amendments to other IMO instruments following the eventual adoption of the GBS for bulk carriers and oil tankers, taking into account the information provided by the Secretariat in document MSC 84/5/1, the Committee agreed that there was no need to amend other IMO instruments or insert cross-references following the adoption of the GBS.

Further work at MSC 87

5.65 The Committee agreed to re-establish the GBS Working Group at MSC 87 to finalize the draft MSC circular on Guidelines for the information to be included in a Ship Construction File and to prepare any consequential changes to the Verification Guidelines, as appropriate, and any further amendments, as necessary.

6 LRIT-RELATED MATTERS

DISCUSSION ON WEDNESDAY, 27 MAY 2009 (A.M.)

6.1 The Committee decided, when considering, under agenda item 1 (Adoption of agenda), the working arrangements for the session, to release, after the completion of the consideration of agenda item 2 (Decisions of other IMO bodies) and without considering the various submissions under this agenda item in plenary, the Working Group on LRIT-related matters (the group) to:

- .1 consider the actions requested in paragraphs 11.1.1 to 11.1.4, 11.1.6, 11.1.10 and 11.1.11 of document MSC 86/6/1 (Report of the seventh session of the *Ad Hoc* LRIT Group) and to recommend the approach to be taken;
- .2 consider all matters relating to the review and audit of the performance of the International LRIT Data Exchange (IDE) and of the LRIT Data Centres (DCs); to prepare related instructions and guidance to the LRIT Coordinator; and to recommend the approach to be taken (MSC 86/6/1, paragraphs 11.1.7, 11.1.8 and 11.1.9; MSC 86/6/2 and Corr.1 (IMSO), MSC 86/6/4 (Canada); and MSC 86/6/6 (IMSO));
- .3 consider the methods for providing relevant data to the LRIT Coordinator in relation to the review and audit of the performance of the IDE and of DCs and to recommend the approach to be taken (MSC 86/6/7 (IMSO) and MSC 86/6/8 (Secretariat));
- .4 prepare, in case it is found necessary, draft guidance to Contracting Governments claiming archipelagic State status in relation to the definition of the geographical areas for which they need to be included relevant details in the LRIT Data Distribution Plan (MSC 86/6/3 (Saint Vincent and the Grenadines) and MSC 86/6/5 (United States));
- .5 consider the question of the establishment of the IDE on a permanent basis and to recommend the approach to be taken;
- .6 review the developments in relation to the establishment of the LRIT system with a view to identifying what issues need to be addressed and what measures could be put in place for the purpose of accelerating the pace of establishment of DCs, and to recommend the approach to be taken (MSC.1/Circ.1299; MSC 86/6, section 6; MSC 86/6/2 and Corr.1 (IMSO); and MSC 86/INF.15 (Secretariat));
- .7 consider any other issues which has a bearing or affects the operation of the LRIT system and to recommend the approach to be taken (MSC 86/INF.7 (IMSO)); and
- .8 submit a report to plenary by Thursday, 4 June 2009,

on condition that the group was to provide an oral progress report by Friday, 29 May 2009, identifying any issues of principle which might need to be considered and resolved by the plenary.

6.2 The delegation of Greece, at the end of consideration of agenda item 2 and prior to the group leaving the plenary, made a statement in relation to the geographical coordinate points of the geographical areas which Turkey had included in the testing environment of the LRIT Data Distribution Plan (DDP) pursuant to the provisions of regulation¹ V/19-1.8.2 and paragraphs 11.2.2.1 and 11.2.2.2 of the Revised performance standards². Greece advised that their comments had already been forwarded to the Organization and that these were distributed to all Member States by means of circular letter No.2961. The text of the statement made by Greece is set out in part 1 of annex 29.

¹ *Regulation* means, in this section, a regulation of the annex to the International Convention for the Safety of Life at Sea, 1974, as amended.

² *Revised performance standards* means the Revised performance standards and functional requirements for the Long-range identification and tracking of ships adopted by resolution MSC.263(84).

6.3 The delegation of Turkey made a statement in response to, and commenting on, the statement made by Greece. The text of the statement made by Turkey is set out in part 1 of annex 30.

6.4 The delegation of Cyprus thanked the delegation of Turkey for its statement and made comments on the statement made by the delegation of Greece. The text of the statement made by Cyprus is set out in part 1 of annex 31.

6.5 The delegation of China made a number of comments in relation to the submissions of Saint Vincent and the Grenadines (MSC 86/6/3) and the United States (MSC 86/6/5) with respect to the geographical areas to be included in the DDP by Contracting Governments³ claiming archipelagic State status and in connection with the related item of the terms of reference of the group. The delegation recalled the efforts of, and the approach taken by, the Committee in developing the requirements relation to the long-range identification and tracking of ships and suggested that, although it understood that the efforts of Saint Vincent and the Grenadines was to avoid any effects on the implementation of the LRIT system, the Committee should continue to refrain from engaging, in line with the practice thus far, in discussions of sensitive and complex issues.

6.6 The delegation of Saint Vincent and the Grenadines advised that they were seeking a simple and practical solution for the benefit of the efficient functioning of the LRIT system and suggested that the matter could be considered within the group.

6.7 The Chairman suggested that the group should be allowed, in line with the earlier decision, to commence its work on issues of a technical nature, on the understanding that matters for which issues were raised in plenary were to be considered when the group would be providing a progress report on Friday, 29 May 2009 and the related decisions would be made in plenary on the actions to be taken.

6.8 The delegation of Cyprus asked the Chairman to advise its ruling in connection with the request of the delegation of Greece for issuing circular letter No.2961 as a document for consideration by the Committee.

6.9 In response, the Chairman advised that circular letter No.2961 had already been issued and made available to all Member States and as a result there was no need to issue any additional documents unless there was a compelling reason to issue another separate document.

6.10 The delegation of Turkey thanked the Chairman for his recommendations and stated that: “we should not open the Pandora’s Box here. We cannot settle down long historic disputes in one plenary session of IMO, it is not also the proper venue, and the best thing could be to convene at the working group level and if there are any issues to be raised at any forum here, we are ready to face it, [and] we have answers to all points raised”.

6.11 The delegation of Greece stated that “certainly we are not talking about a long story here, this is a totally new issue, we are talking about the LRIT system, this is brand new to the maritime industry and we have to be very careful on issues involving not only political but also technical issues and we are able to discuss this and prove it during the deliberations of the working group”.

³ *Contracting Government* means, in this section, a Contracting Government to the International Convention for the Safety of Life at Sea, 1974, as amended.

6.12 The delegation of Cyprus advised that it was satisfied with the resolution of this issue provided that the discussion was reflected in the report.

6.13 The Chairman advised that the group could start its deliberations under the able chairmanship of Dr. Sam Ryan (Canada).

DISCUSSION HELD ON MONDAY, 1 JUNE 2009 (P.M.)

6.14 The group was called to plenary on the afternoon of Monday, 1 June 2009, with a view to providing a progress report. However, due to time constraints, the Chairman decided that plenary would only consider the matter raised by the delegation of Greece and all other issues will be dealt later on during the session.

6.15 In response to the request of the Chairman, the chairman of the group advised that, on the understanding that the matter was to be discussed in plenary, it had allowed the delegations of Greece, Turkey and Cyprus and any delegation wishing to comment on the matter or to provide information and their views on the issue to the group so as to enable those concerned to prepare themselves for the discussions in plenary.

6.16 The delegation of Greece made a statement on the matter. The text of the statement made by Greece is set out in part 2 of annex 29.

6.17 The delegation of Turkey made a statement in response to, and commented on, the statement made by the delegation of Greece. The text of the statement made by Turkey is set out in part 2 of annex 30.

6.18 The delegation of Cyprus made comments on the issue. The text of the statement made by Cyprus is set out in part 2 of annex 31.

DISCUSSION HELD ON TUESDAY, 2 JUNE 2009 (A.M.)

6.19 The delegation of Sweden, after briefly recalling the discussion during MSC 84 and decision by MSC 84 on the need for guidance for the definition of geographical areas for LRIT purposes, stated that:

- .1 the Committee should assert that, if needed, every Contracting Government is able to show that data and information provided in relation to the geographical areas in its DDP are in compliance with international law as stated in regulation V/19-1 and in section 11.2 of the Revised performance standards; and
- .2 the terminology used in the various LRIT instruments, and in particular that used to define LRIT geographical areas, should be applied and interpreted in a manner consistent with international law; widely accepted terminology or principles of international laws should not be given a new meaning for the purpose of LRIT.

6.20 The delegation of Bulgaria advised that it supported the views expressed by the delegations of Greece and Cyprus and that it was of the opinion that the problem was not a political one but a technical one. The delegation of Bulgaria, in order to meet its obligation under the international law, thought that this was the place where the question should be settled and that the Committee had to take a decision.

6.21 The delegation of Turkey commented on the previous statements. The text of the statement made by Turkey is set out in part 3 of annex 30.

6.22 The delegation of Greece commented on a number of issues raised during the deliberations thus far. The text of the statement made by Greece is set out in part 3 of annex 29.

6.23 The delegation of Cyprus made further comments on the issue. The text of the statement made by Cyprus is set out in part 3 of annex 31.

6.24 The delegation of the United Kingdom stated that it was emphatically supporting the statement which was made by the distinguished delegation of Sweden.

6.25 The Chairman, taking into account the work, and the discussions and decisions, of the Committee during the last few years in relation to the long-range identification and tracking of ships and the LRIT system and, in particular the decisions of MSC 84, advised that:

- .1 Contracting Governments which are State Parties to either the United Nations Convention on the Law of the Sea or the Convention on the Territorial Sea and the Contiguous Zone are expected to define the geographical areas for the internal waters and the territorial seas for which they wish to see included in the LRIT Data Distribution Plan in accordance with the provisions of the international treaty they are party to;
- .2 Contracting Governments which are neither State Parties to the United Nations Convention on the Law of the Sea nor to the Convention on the Territorial Sea and the Contiguous Zone are expected to define the geographical areas for the internal waters and the territorial seas for which they wish to see included in the LRIT Data Distribution Plan in accordance with the provisions of international customary law as agreed during MSC 84;
- .3 Contracting Governments, if they so wish, have the option to advise the Organization and all other Contracting Governments that they do not wish to provide geographical coordinates for either internal waters and/or territorial seas and as a result they allow the other Contracting Governments to receive LRIT information transmitted by all ships when within their internal waters and from ships entitled to fly their flag when located within their territorial waters; and
- .4 regulation V/19-1.13 already provides that Contracting Governments may report to the Organization any case where they consider that provisions of this regulation or of any other related requirements established by the Organization have not been or are not being observed or adhered to.

6.26 The delegation of the Netherlands stated that it was happy with the summation of the Chairman and it was fully supporting his ruling.

6.27 The Chairman advised that the group could resume its deliberations.

DISCUSSION HELD ON TUESDAY, 2 JUNE 2009 (P.M.)

6.28 The group was called to plenary on the afternoon of Tuesday, 2 June 2009, with a view to providing a progress report on its deliberations.

6.29 In response to the request of the Chairman, the chairman of the group advised that the group had made good progress on all issues before it and even found an acceptable solution to the issue raised by Saint Vincent and the Grenadines. The Chairman of the group indicated that, although the group had briefly considered the submission by IMSO (MSC 86/6/2 and Corr.1 (English only)), this was done on the understanding that the matters addressed in the aforesaid document should be considered by the Committee.

6.30 IMSO (MSC 86/6/2 and Corr.1 (English only)) provided information on outcomes of the consideration of a number of LRIT-related issues during the twenty-third session (27 to 29 January 2009) of the IMSO Advisory Committee. In particular, it discussed, from the point of view of IMSO, the financial and operational implications of the pending completion of the LRIT system; provided information on the scale of charges and terms of business which have been established for the period between 31 January and 31 December 2009; and explained the rationale for the decisions taken as this was the only viable option for IMSO to fund its responsibilities and duties as LRIT Coordinator.

6.31 The Committee, recalling that paragraph 14.7 of the Revised performance standards provides that the LRIT Coordinator should establish and communicate to the Committee the charges it would be levying in order to recover the expenditure it incurs for providing the services specified in paragraphs 14.2 to 14.5 of the Revised performance standards, noted the related information in aforementioned documents MSC 86/6/2 and Corr.1 (English only).

6.32 The delegation of Peru stated that it was convinced of the importance of the LRIT system and it shared totally the decision of the Committee to appoint IMSO as the LRIT Coordinator. A project of this complexity, like other similar projects, requires alternative contingency plans that allowed it, in spite of exceptional circumstances, to become operational on the date and the conditions proposed. In this context, it was important to remember the decisions taken by the twentieth Assembly of IMSO, as presented and examined during MSC 85 and when SOLAS Contracting Governments expressed concerns with respect to the formula for allocating the costs for auditing the performance and fee structures of LRIT Data Centres. In January 2009, the IMSO Advisory Committee had met with a presentation of new apportionment formulas developed by the delegation of Argentina and co-sponsored by the delegations of Brazil, Chile and Peru on its agenda. However, because the members of that Committee had to dedicate the greater part of their time to address an exceptional issue, the IMSO Advisory Committee decided not to consider this matter at that stage. In addition, after reviewing the latest status on the implementation of the LRIT system, the IMSO Advisory Committee considered a substantive increase in the cost for the interim authorizations for LRIT Data Centres in order to cover the previously approved LRIT budget. Several members of the IMSO Advisory Committee expressed their disappointment and found this proposal unjust – while respecting partly the decision of the twentieth session of the IMSO Assembly, as far as the approval of the IMSO LRIT budget for 2009 was concerned – because at the same time the IMSO Assembly changed the cost of the interim authorizations for LRIT Data Centres. Many delegations, including Peru, acted in this situation, that had to be solved by consensus and with the cooperation of all the members of the IMSO Advisory Committee, otherwise IMSO would not have been able to perform its duty as coordinator of the LRIT system. The Peruvian delegation hoped that a similar situation would not be repeated and that it did not constitute a precedent, because otherwise it would not be able to approve and/or to accept amounts that have not been authorized previously by the Assembly. Finally, the Peruvian delegation was pleased to learn, from the statements of the Director General of IMSO, that this organization shared the view that well founded and justified opposition in the positive sense, was contributing to IMSO becoming an organization with clear and foreseeable rules and able to anticipate and to adapt quickly, efficiently and with fairness to exceptional circumstances which surely would arise in future.

This should hopefully result in enabling IMSO to continue offering its services in a coordinated, effective and operationally efficient form.

6.33 The delegations of Argentina, Bolivia, Brazil, Chile, China, Colombia, Egypt, the Islamic Republic of Iran, Jamaica, Papua New Guinea, the Philippines, Qatar, Saint Vincent and the Grenadines, Uruguay and the Bolivarian Republic of Venezuela and the observer from the Faroe Islands supported and shared the concerns of Peru.

6.34 The delegation of Vanuatu reiterated its previous statement (paragraph 6.79 of the MSC 85 report (MSC 85/26)), wherein Vanuatu had indicated that the apportionment formula proposed and adopted by the IMSO Assembly in October 2008 was not fair and reasonable given that a National DC with a few hundreds LRIT vessels such as Vanuatu would pay :

- .1 the same fee as another DC having 3,000 LRIT vessels, or
- .2 slightly less than an RDC grouping tens of countries with 10,000 LRIT vessels.

It was obvious for Vanuatu that the apportionment formula benefited large Administrations and those that opted for a Regional or a Cooperative DC. On the other hand, smaller Administrations that opted for an NDC were greatly penalized. Paragraph 6 of document MSC 86/6/2 (IMSO) indicated that the IMSO Assembly had approved the formula allocating the costs of LRIT based on the assumption that, by the end of 2008, all DCs would be in place and that audits would take place near the end of 2009; and for all DCs, which meant that the LRIT Audit fee would have been paid by the end of 2009. The delegation of Vanuatu wondered how the IMSO could have obtained the £365,000 budget required for 2009 with a £2,500 fee earlier agreed for the issuance of a Letter of Authorization. It seemed that at the time the apportionment formula and the budget were adopted, it was already not workable. Not only the apportionment formula adopted by the IMSO Assembly had not met the recommendations made by MSC 84 (paragraph 5 of the IMSO document (MSC 86/6/2)), i.e. to bring down the charges levied by the LRIT Coordinator “to affordable levels and apportioned in a fair and reasonable manner amongst those who had to bear the burden” but the Advisory Committee of the IMSO had decided to increase by 340% the fee for the integration of a DC into the LRIT Production Environment. According to Vanuatu the decision went far beyond the decisions of the IMSO Assembly. Again if the apportionment formula had been fair and equitable based on number of ships for instance, the 340% increase could have been far less important. Administrations have also to pay an annual Fee for Audit and Review to be set for 2010 in the region of approximately £10,000 according to the IMSO, which represented 20% of Vanuatu’s annual LRIT Cost. The delegation of Vanuatu was also concerned that IMSO had suggested (paragraph 16 of the IMSO document (MSC 86/6/2)) that the said fee could be increased, if there would be a further relaxation in the implementation schedule for LRIT that allowed for the integration of DCs into the production LRIT system. Looking at the time needed for the interested parties to manage the entry of DCs into the developmental testing and the production environment, Vanuatu doubted that all Administrations would be ready by the end of June. Therefore, Vanuatu asked whether this would mean that the audit fee would be increased by 20, 40 or 100% for next year. The delegation of Vanuatu concluded by requesting that the Committee should reiterate its recommendation to IMSO to bring down the charges levied to “affordable levels and apportioned in a fair and reasonable manner amongst those who had to bear the burden”.

6.35 The delegations of Belize, Indonesia, Papua New Guinea, Thailand and Tuvalu supported and shared the views and concerns of the delegation of Vanuatu.

6.36 The delegation of China stated that it supported the appointment of IMSO as the LRIT Coordinator. The Chinese delegation was of the view that LRIT Data Centres were not able to start the integration testing phase in the production environment of the LRIT system without paying for the interim authorization of the LRIT Coordinator and requested the Committee to consider this issue seriously, in order to ensure timely implementation of the LRIT system. In this regard, the Chinese delegation requested the Committee to instruct the LRIT Working group accordingly.

6.37 The delegation of the Bahamas supported the views expressed by China in relation to the appointment of the LRIT Coordinator by the Committee. The delegation recalled that it had also voiced concern on the long-term financial viability of the LRIT system at MSC 83, MSC 84 and MSC 85. The Bahamas was also of the opinion that no additional costs for an early implementation of the LRIT Data Centres should be considered and there should be an equitable distribution of the financial costs by all Contracting Governments in their capacity as flag, port and coastal States.

6.38 The delegation of Panama was of the view that there should be a clear explanation by IMSO to all the concerns that had been voiced by various Contracting Governments. Panama was of the opinion that the formula for the apportionment of costs for the audit of the LRIT Data Centres should be reviewed in the future when more information was available, and recommended that the size of the LRIT Data Centre should not be the main criteria for the determination of the aforementioned costs.

6.39 The Chairman, in summing up the debate, stated that the group should look at the issue of the timely implementation of the LRIT system. Many delegations had expressed serious concerns and reservations about the costs being charged by IMSO. He recalled the decision of MSC 84 (MSC 84/24, paragraph 6.134), wherein the Committee without interfering in the internal affairs of IMSO, urged those Contracting Governments which were also IMSO Parties to explore, during the deliberations of the IMSO Advisory Committee and the forthcoming session of the IMSO Assembly, how the charges to be levied by the LRIT Coordinator for conducting performance review and audit of the LRIT system could be brought down to affordable levels and apportioned in a fair and reasonable manner amongst those who have to bear the burden. In addition, it was clear that the Contracting Governments had serious concerns about the matter and IMSO should seriously reconsider these concerns.

6.40 The Director-General of IMSO stressed that the concerns outlined by the Contracting Governments could only be considered at the next IMSO Assembly session in July 2010 and any review could only be approved at that time.

6.41 The delegation of Vanuatu supported by the delegation of the United Kingdom brought to the attention of the Committee that according to the present situation, many LRIT Data Centres would still be awaiting or undergoing testing on 30 June 2009 and consequently ships entitled to fly the flag of the Contracting Government establishing or using the services of these LRIT Data Centres would be liable to be detained by port State control authorities for no fault of theirs.

6.42 The delegations of the Bahamas, the Cook Islands, the Islamic Republic of Iran, Malta, Saint Vincent and the Grenadines, Tuvalu and the Bolivarian Republic of Venezuela supported the issues raised and suggested that consideration be given to developing a draft MSC circular to provide the necessary guidance for the Contracting Governments. The Committee instructed the group to consider the matter.

DISCUSSION HELD ON FRIDAY, 5 JUNE 2009

GENERAL

6.43 Upon receipt of the report of the group (MSC 86/WP.6⁴ and Add.1), the Committee approved it in general and took action as outlined in the following paragraphs.

IMPLEMENTATION OF THE LRIT SYSTEM

6.44 The Committee noted the information provided by the Secretariat in documents MSC 86/6, MSC 86/INF.15, MSC 86/INF.16 and MSC 86/INF.17 and:

- .1 urged Contracting Governments to forthwith provide to the Organization all information they were obliged to communicate pursuant to the provisions of regulation V/19-1, the Revised performance standards or other related decisions of the Committee and to promptly update these as and when changes occur;
- .2 authorized the Secretariat to append to the Technical specification for communications within the LRIT system, information in relation to the operation of DCs which were established by non-metropolitan territories to which the application of the Convention⁵ had been extended or would be extended; and
- .3 requested the Secretariat to make available in a manner accessible to all Contracting Governments and to the LRIT Coordinator a summary of the information communicated to the Organization and details on the establishment and testing of DCs.

6.45 The Committee also noted that the delegation of the United States had informed the group, in its capacity as developer and operator of the IDE, of a polygon technical validation tool that had been created within the IDE Administrative Web Interface. The delegation of the United States advised that the tool only checked polygons from a technical perspective, taking into account the related provisions of the Technical specification of the LRIT Data Distribution Plan, including for example whether the polygons were “closed” or were “simple” polygons. The tool did not check a polygon’s geographic scope in relation to a Contracting Government’s political boundaries. Users might upload their polygon GML files format into the tool. The tool would check the file and return a summary report to the user with various statistics associated with the polygon file and would indicate if the polygons contained in the file were in fact technically valid polygons. If any of the polygons included in the uploaded polygon file were not in conformance with technical specifications, the summary included what errors were found and to which polygons they pertained to. Error details displayed provided the user with useful information that would enable them to further analyse and make corrections to their polygon file. The validation tool also included a thorough Frequently Asked Questions section that explained details about the various checks conducted and an explanation of errors that might be encountered.

The delegation of the United States advised that the National points of contact for LRIT-related matters would be issued user name(s) and password(s) for the IDE Administrative Web Interface on request. These users would be designated as administrator users and might then create subsequent user accounts. The IDE Administrative Interface website was: https://ide01.imo-ide.org:8443/ide_admin/faces/welcome.jsp. The user name and password requests for access to

⁴ MSC 86/WP.6/Corr.1 has been issued as a corrigendum to this document after the end of the session.

⁵ *Convention* means the International Convention for the Safety of Life at Sea, 1974, as amended.

the site could be sent to the United States LRIT Project Officer, Gerrod Glauner (E-mail: Gerrod.c.glauner@uscg.mil).

OUTCOME OF THE SEVENTH SESSION OF THE Ad Hoc LRIT GROUP

Revision of the guidance on the survey and certification of compliance of ships with the requirement to transmit LRIT information

6.46 The Committee, taking into account the work done by the *Ad Hoc* LRIT Group and the recommendations of the group, approved MSC.1/Circ.1307 on Guidance on the survey and certification of compliance of ships with the requirement to transmit LRIT information.

6.47 The observer from ICS, whilst appreciating the work done by the Committee and the group, noted that the transitional arrangements for the completion of the establishment of the LRIT system agreed by MSC 85 would expire at the end of June and the LRIT system's measures would be fully applied from 1 July 2009. The observer noted that ICS had expressed concern at previous meetings regarding the number of Contracting Governments that have yet to commence testing arrangements of their DCs. That situation still prevailed and in an unspecified number of cases such testing would not be completed before full implementation of the system on 1 July 2009. Furthermore, in some cases financial or other arrangements had not been agreed between parties. The observer from ICS indicated that, as a consequence of these failures the risk remained that ships, despite having made every effort to comply with their obligations under the LRIT system, might still be penalized and possibly even be detained for deficiencies and non-compliance issues over which they had no control. They urged Administrations to fully apply the recommendations of the aforesaid MSC.1 circular and suggested that when implementing shipboard LRIT inspection regimes, a pragmatic approach should be followed and the measures taken by ships in seeking to comply with these requirements should be adequately and fully recognized.

Amendments to the Technical specifications for the LRIT system

6.48 The Committee, taking into account the work done by the *Ad Hoc* LRIT Group and the recommendations of the group, approved amendments to the Technical specifications for communications within the LRIT system and the Technical specifications for the LRIT Data Distribution Plan adopted by the *Ad Hoc* LRIT Group and the actions taken by that group as if they had been taken by the Committee.

Consequential amendments to MSC.1/Circ.1297

6.49 The Committee, taking into account the work done by the *Ad Hoc* LRIT Group and the recommendations of the group, approved MSC.1/Circ.1308 on Guidance to search and rescue services in relation to requesting and receiving LRIT information.

Amendments to the XML schemas

6.50 The Committee, taking into account the work done by the *Ad Hoc* LRIT Group and the recommendations of the group, approved the proposed amendments to the XML schemas and concurred that these should be implemented, before the end of 2009, but after the completion of the integration testing of all DCs which were undergoing or would need to undergo developmental testing, in accordance with the arrangements to be communicated in that respect by the Secretariat following consultations with the IDE.

Provision of LRIT information to Search and rescue (SAR) services in cases other than those specified in regulation V/19-1.12

6.51 The Committee agreed that SAR services should be able to request and receive LRIT information in cases other than those specified in regulation V/19-1.12; approved, in that respect, the amendments set out in annex 6 to document MSC 86/6/1; and agreed that, at MSC 87, it would decide the date as from which the related amendments should be implemented.

Explanatory notes and guidance for the conduct of testing of DCs

6.52 The Committee, taking into account the work done by the *Ad Hoc* LRIT Group and the recommendations of the group, concurred with the Explanatory notes and guidance for the conduct of testing of LRIT Data Centres (the Explanatory notes) and authorized the Secretariat to incorporate these in an appropriate manner in the Protocols and arrangements for the prototype, development, integration and modification testing phases of the LRIT system (the Protocols).

6.53 The Committee, taking into account the recommendations of the *Ad Hoc* LRIT Group and the group, agreed that arrangements should be put in place for the interim authorization of DCs which were required in accordance with the provision of the Explanatory notes to conduct additional tests after they had been integrated into the production environment of the LRIT system.

Development of guidelines for recognized Application Service Provider (ASPs)

6.54 The Committee, taking into account the recommendations of the *Ad Hoc* LRIT Group and the group, decided that the development of guidelines to aid Contracting Governments when considering or screening applications for recognition of ASPs and/or authorization as testing ASPs should not be pursued further.

Continuity of service plan for the LRIT system

6.55 The Committee noted that the preparation of a continuity of service plan for the LRIT system had not progressed and agreed, taking into account the recommendations of the *Ad Hoc* LRIT Group and the group, that the development of such a plan should be completed by MSC 87.

6.56 The Committee, taking into account the recommendations of the group, authorized the continuation of the arrangements which MSC 85 had put in place (MSC 85/26, paragraph 6.100) until the development and adoption of a continuity of service plan for the LRIT system, namely that, in case the system faced an emergency situation or a malicious attack, those which faced or encountered such situations first, in consultation with the chairman of the *Ad Hoc* LRIT Group; the United States acting on behalf of the IDE; and the Secretariat acting on behalf of the Organization for matters relating to the DDP and the PKI should determine the actions to be taken so as to best protect the system; contain the propagation of the problem(s) to other components of the system; ensure continuity of service; and restore normal operations.

Approval of the report of the seventh session of the Ad Hoc LRIT Group

6.57 The Committee, taking into account the recommendations of the group, approved, in general, the report of the seventh session of the *Ad Hoc* LRIT Group, subject to the comments provided elsewhere in this report.

PERFORMANCE REVIEW AND AUDIT OF THE LRIT SYSTEM**Policy and technical matters**

6.58 The Committee, taking into account the recommendations of the group, approved the Principles and guidelines relating to the review and audit of the performance of LRIT Data Centres and the International LRIT Data Exchange, as set out in annex 6.

Methods for providing related data to the LRIT Coordinator

6.59 The Committee, when considering the methods (MSC 86/6/7 (IMSO) and MSC 86/6/8 (Secretariat)) for providing data to the LRIT Coordinator in relation to the review and audit of the performance of DCs and of the IDE, taking into account the recommendations of the group:

- .1 decided that the LRIT Coordinator should determine, taking into account the operational characteristics and capabilities of all DCs and of the IDE, the most convenient, expedient and secure method to be followed by DCs and the IDE when sending to the LRIT Coordinator the data, which it was requesting in relation to the review and audit of their performance;
- .2 decided that the LRIT Coordinator should provide, in this respect, relevant information to all DCs and to the IDE and should inform the Committee accordingly at its next session;
- .3 decided that the LRIT Coordinator should be issued, by the Organization, with PKI certificate(s) for the production environment of the LRIT system to enable the transmission of the data which DCs and the IDE are required to provide for the review and audit of their performance and for accessing the DDP on the understanding that such PKI certificate(s) would not enable the LRIT Coordinator to have any other form of access to the LRIT system like DCs, the IDE or the DDP server; and
- .4 authorized the Secretariat, subject to informing the Committee accordingly at its next session, to finalize, in consultation with the LRIT Coordinator, the related arrangements and to prepare and make available to all DCs, the IDE and the LRIT Coordinator related guidance notes (in a similar manner as was done in connection with the PKI certificates which are being issued at present).

GUIDANCE TO CONTRACTING GOVERNMENTS CLAIMING ARCHIPELAGIC STATES STATUS

6.60 The Committee, taking into account the proposals of Saint Vincent and the Grenadines (MSC 86/6/3), the United States (MSC 86/6/5) and the recommendations of the group, adopted the following amendment⁶ to section 5 on Constraints on polygons of geographical areas of part I to the Technical specifications for the LRIT Data Distribution Plan:

“5.5 Contracting Governments claiming archipelagic State status should define polygons in a manner that conforms with the purpose and the objectives of regulation V/19-1, so as to allow Contracting Governments, in a port or coastal State capacity and in accordance with the provisions of regulation V/19-1, to request and be able to receive LRIT information transmitted by ships when located within waters which they might be claiming in an archipelagic State capacity.”

⁶ The following new text to be inserted after the end of paragraph 5.4.4.

6.61 The Committee requested the Secretariat to incorporate the aforesaid amendment in MSC.1/Circ.1259/Rev.1 on Interim revised technical specifications for the LRIT system, and to issue a revised version of the aforesaid circular.

FINANCIAL ARRANGEMENTS BETWEEN DCs

6.62 The Committee noted the discussion of the group in relation to the financial arrangements which needed to be put in place between DCs and the potential consequences of not having such arrangements in place.

6.63 The delegation of China noted that during this session it had not been possible to progress matters relating to the financial agreements and arrangements which might need to be put in place between DCs. The delegation, referring also to the earlier comments by ICS, pointed out that this could influence and have an impact on the implementation of the LRIT system and noted that ships should not be penalized by the port State control as a result of such a development.

ARRANGEMENTS FOR THE OPERATION OF THE IDE AFTER 31 DECEMBER 2011

6.64 The Committee recalled that MSC 85 had adopted resolution MSC.276(85) on the Operation of the International LRIT Data Exchange, providing for the operation of the IDE by the United States on an interim basis and until 31 December 2011.

6.65 The Committee also recalled that MSC 85, bearing in mind that the offer by the United States was only an interim arrangement and a permanent solution had to be found for the IDE as soon as possible, had agreed that:

- .1 at its eighty-sixth session, it would discuss the establishment and operation of the IDE on a permanent basis with a view to instructing the LRIT Coordinator in relation to the invitation of proposals for the establishment and operation of the IDE on a permanent basis; and
- .2 at its eighty-seventh session, it would consider the proposals submitted to the LRIT Coordinator together with a report of the LRIT Coordinator on the evaluation of the management, operational, technical and financial aspects of the proposals received and decide accordingly.

6.66 The Committee, taking into account the recommendations of the group:

- .1 pursuant to the provisions of paragraph 14.2 of the Revised performance standards, requested the LRIT Coordinator to issue, as soon as possible and taking into account paragraphs 6.67 to 6.70, requested for the submission of proposals for the establishment and operation of the IDE, as from a date to be decided by the Committee provided such a date is not earlier than 1 September 2010 and not later than 31 December 2010;
- .2 pursuant to the provisions of paragraph 14.3 of the Revised performance standards, requested the LRIT Coordinator to evaluate the management, operational, technical and financial aspects of the proposals received, taking into account the provisions of regulation V/19-1, the Revised performance standards, the technical specifications for the LRIT system and any other related decisions of the Committee and submit its recommendations not later than 13 weeks before the opening of MSC 87 for consideration by the Committee;

- .3 requested the LRIT Coordinator to present the results of the evaluation in the form of a “compliance matrix” which essentially would be a table of the established requirements, including their respective references, versus the proposal’s compliance with those requirements, including any additional or supplementary information; and
- .4 advised the LRIT Coordinator to request the submission of additional or supplementary information, clarifications or supporting documentation it found necessary during the evaluation process, to attach such documents and all related correspondence to the “compliance matrix” and to include appropriate references in the “compliance matrix” to enable easy consideration of the issue.

6.67 The Committee decided, in line with the approach taken when MSC 83 considered proposals for the establishment and operation of the IDE and of the International LRIT Data Centre, that:

- .1 such proposals should be submitted, in the English language, by Contracting Governments for themselves or on behalf of interested parties for consideration by MSC 87 and should reach the Secretariat, with a copy to the LRIT Coordinator, not later than 20 weeks before the opening of MSC 87;
- .2 the Secretariat should prepare all such proposals as documents for consideration by MSC 87 and should circulate these as soon as possible and not later than 13 weeks before the opening of MSC 87; and
- .3 the Secretariat should forward all proposals it received to the LRIT Coordinator, irrespective of whether these had been copied to the LRIT Coordinator, as soon as these were received and without awaiting their finalization as documents for consideration by MSC 87.

6.68 The Committee requested the LRIT Coordinator to address the following issues in the requests for submission of proposals:

- .1 operational and technical matters relating to the movement of DCs from the IDE operated by the United States to the new IDE;
- .2 issues relating to the protocols and arrangements for the tests to be conducted for the acceptance of the new IDE and its commissioning;
- .3 issues relating to the protocols and arrangements for the tests which DCs and the DDP server would be required to conduct for their integration with the new IDE; and
- .4 any other arrangements which needed to be put in place to ensure the continuous functioning of the LRIT system during the transfer process.

6.69 The Committee noted that the delegation of the United States had advised the group that, subject to the provisions of the licences of the software which was used by the IDE, the United States were prepared to consider transferring, subject to the related arrangements being agreed, part(s) of the software of the existing IDE to the eventual operator.

6.70 The Committee thanked the United States for their offer and requested it to advise MSC 87 and the LRIT Coordinator, as soon as practically possible and taking into account the deadlines specified above, details of what it was prepared to transfer and how the transfer would be done.

6.71 The Committee, pursuant to the provisions of paragraph 14.3 of the Revised performance standards, requested the LRIT Coordinator to specify in the request for the submission of proposals:

- .1 following consultations with the United States, the part(s) of the software of the IDE which could be made available for use by the eventual operator; and
- .2 that the Organization would continue to issue and renew the PKI certificates for all DCs, the IDE and the DDP server and for use by the LRIT Coordinator.

OTHER ISSUES

Matters relating to DCs which would not complete integration into the LRIT system prior to or on 30 June 2009

6.72 The Committee noted that a number of DCs would be undergoing testing on or after 30 June 2009; and considered whether the duration of the transitional arrangements which were put in place by MSC 85 should be extended and a draft MSC.1 circular on Information communicated to the Organization in relation to the establishment of LRIT Data Centres and their position in relation to developmental testing or the production LRIT system prepared by the group.

6.73 The delegation of the United Kingdom suggested that paragraph 1 of the draft MSC.1 circular should be amended by adding the following text at the end of the existing text: “While full implementation of LRIT will start from the 30 June 2009, Contracting Governments are urged to take a pragmatic and positive approach should any misunderstandings arise with other Contracting Governments in the initial period”.

6.74 Subsequently, the Committee approved MSC.1/Circ.1309 on Information communicated to the Organization in relation to the establishment of LRIT Data Centres and their position in relation to developmental testing or the production LRIT system.

6.75 The Committee also decided that, as from 1 July 2009, MSC.1/Circ.1299 on Transitional arrangements and measures for accelerating the completion of the establishment of the LRIT system should be deemed revoked.

Intersessional arrangements

6.76 The Committee requested the Secretary-General to convene, following consultations with the Chairman of the Committee and the Chairman of the *Ad Hoc* LRIT Group, further meeting(s) of the *Ad Hoc* LRIT Group when such meeting(s) were warranted as a result of emerging situations or developments which adversely affected the implementation of the provisions of regulation V/19-1 or the functioning of the LRIT system or needed to resolve matters which could not be deferred for consideration by MSC 87.

6.77 The Committee approved the revised terms of reference for the *Ad Hoc* LRIT Group, as set out in annex 4 to document MSC 86/WP.6.

6.78 The Committee, taking into account the arrangements which MSC 85 had put in place for the period between MSC 85 and MSC 86, authorized, for the period between MSC 86 and MSC 87, the Secretariat, in consultation with the Chairman of the *Ad Hoc* LRIT Group and/or the United States as provider of the IDE and subject to the approval of the Secretary-General,

to initiate or take any action(s) which might be warranted with a view to advancing the completion of the establishment of the LRIT system or resolving any problems or difficulties which might transpire in connection with the implementation of the provisions of regulation V/19-1 or the functioning of the LRIT system. In such cases, the Secretariat should report to the Committee, at its next session, accordingly.

MATTERS DISCUSSED AT THE END OF THE CONSIDERATION OF THE REPORT OF THE GROUP

6.79 The delegation of China reminded the Committee that the IMSO Advisory Committee, at its January 2009 session, had raised the charge for interim authorization significantly from GBP 2,500.00 to GBP 8,500.00. China noted that the increase would definitely lead to a serious situation for many Contracting Governments, particularly developing ones, as some would not be in a position to pay the charges for obtaining the letter of interim authorization from the LRIT Coordinator. This would, in turn, mean that they would be unable to obtain, from the Organization, a PKI certificate for use by their DC(s) in the production environment of the LRIT system and, as a consequence, they would not be able to integrate their DC into the LRIT system and hence would not be in a position to meet their obligation with respect to the long-range identification and tracking of ships before the end of June 2009. China pointed out that such a development would have a serious adverse impact on the timely establishment of the LRIT system. China, therefore, suggested that the Committee should authorize the Secretariat to try to resolve, for the period between MSC 86 and MSC 87, any problem or difficulties in relation to the establishment of the LRIT system and to consult, immediately after the closure of the current session, with IMSO and find a solution for the serious problem which Contracting Governments faced before the end of June, and thereby enabling DCs to be integrated into the LRIT system before the end of June.

6.80 The delegation of India, Jamaica, Saint Vincent and the Grenadines, South Africa and Thailand shared and supported the views expressed by China.

6.81 The Secretary of the Committee stated that:

- .1 although the Secretariat could pass the concerns raised by China to IMSO, the matter should not simply be left for discussion and decision between IMSO and the Secretariat and, in view of the far reaching implications of any decisions regarding the charging policy for the developmental phase, the Committee itself must be responsible for taking any decision regarding sound establishment of LRIT, including the charging policy of IMSO in particular that covering the initial period of the establishment of the LRIT system;
- .2 in the previous discussions during this session on this issue, the Committee did not take any specific decisions and if, at this late stage, the Committee would wish to request the Secretariat to take any specific action, the Committee should re-open the discussions on the charges for the interim authorization and take proper decision rather than simply leaving the matter to be resolved by consultations between IMSO and the Secretariat.

6.82 Following an exchange of views between the Chairman, the Secretary of the Committee and the Director General of IMSO, the Chairman requested the Secretariat to consult with IMSO in relation to the concerns expressed by a number of delegations on the charges to be levied for the interim authorization, taking into account the suggestions of China and the view expressed during the consideration of the issue and to report accordingly to the next session of the Committee.

6.83 The delegation of South Africa, supported by the observer from the Africa Union, drew the Committee's attention to the progress made towards the implementation of the LRIT system and the lack of preparedness by developing countries and, in particular, those in the African continent. South Africa requested the Secretariat to make extra efforts to encourage greater cooperation between African countries in preparing themselves to comply with the LRIT system. The delegation of South Africa suggested that compliance could be achieved through cooperation between countries concerned and reiterated that, as they had indicated during previous sessions, they were ready to partner with, and assist some of, the countries that were still facing difficulties in the complying with their obligations in relation to the LRIT system.

6.84 The Secretariat provided an overview of the arrangements which they had put in place, in response to the decisions of MSC 85, with a view to assisting Contracting Governments in meeting their obligations under the provisions of regulation V/19-1 and indicated that consideration would be given to conducting further capacity-building activities after the bulk of the testing of DCs had been dealt with.

6.85 During the consideration of the Committee's draft report relating to this agenda item (MSC 86/WP.12/Add.3), the delegation of Sweden suggested initially an amendment and later on, following further consideration of the issue, a deletion of part of the summary of their intervention (see paragraph 6.19). The comments of the delegation of Turkey in this respect are set out in part 4 of annex 30.

7 DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS

REPORT OF THE THIRTEENTH SESSION OF THE SUB-COMMITTEE

General

7.1 The Committee approved, in general, the report of the thirteenth session of the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) (DSC 13/20 and MSC 86/7) and took action as indicated hereunder, recalling that MSC 85 had already taken action on urgent matters emanating from DSC 13.

Procedure for the adoption of future amendments to the IMSBC Code

7.2 As agreed by the Sub-Committee, the Committee approved the procedure for the adoption of future amendments to the International Maritime Solid Bulk Cargoes (IMSBC) Code as follows:

- .1 amendments to the IMSBC Code be adopted at two-year intervals so that they may enter into force on the 1 January of odd years, e.g., 1 January 2013, 1 January 2015, and so on;
- .2 the Sub-Committee, at a session which takes place in an even year, prepares and agrees to proposed amendments developed on the basis of proposals from Member Governments and international organizations;
- .3 the proposed amendments to the IMSBC Code, so agreed by the Sub-Committee, are circulated by the Secretary-General to all IMO Members and Contracting Governments to SOLAS in accordance with SOLAS article VIII(b)(i) for consideration and adoption by the expanded Committee at its first session thereafter;

- .4 proposed amendments, as may be adopted by the expanded Committee in accordance with SOLAS article VIII(vi)(2)(bb), will enter into force 18 months later, i.e. on the 1 January of odd years;
- .5 one year prior to the date of entry into force of new amendments, Governments are invited to apply them on a voluntary basis. During that period, the carriage of solid bulk cargoes in compliance with either the IMSBC Code in force or the Code incorporating the new amendments should be acceptable; and
- .6 the MSC resolution on adoption of new amendments to the IMSBC Code should include, in an operative paragraph, a clause on the above-mentioned treatment of the amended Code.

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 (MSC/Circ.1146)

7.3 Having recalled that MSC 64 had agreed that there was a need to provide Administrations with guidelines regarding the provisions of SOLAS regulation II-2/10 concerning exemptions from the requirements for fire-extinguishing systems and had subsequently approved MSC/Circ.671 providing the lists of solid bulk cargoes for which a fixed gas fire-extinguishing system may be exempted or for which a fixed gas fire-extinguishing systems is ineffective, which was later superseded by MSC/Circ.1146, the Committee, noting the envisaged mandatory status of the IMSBC Code, agreed that the lists could benefit from improvements and instructed the Sub-Committee to review and, where necessary, amend MSC/Circ.1146 accordingly.

Information on local regulations

7.4 The Committee endorsed the decision of the Sub-Committee that an appropriate way to disseminate information on local regulations is to maintain this information in GISIS and to issue an MSC circular informing entities of the availability of such information in GISIS. Having endorsed the aforementioned decision, the Committee instructed the Sub-Committee to prepare the corresponding draft MSC circular for approval and requested the Secretariat to develop an appropriate GISIS module for dissemination of the information.

Amendments to the CSS Code

7.5 In respect of the amendments to the CSS Code, the Committee noted that the Sub-Committee, following consideration of issues regarding dimensions for lashing position design, including the need for an appropriate formal safety assessment, application of some parts of the Guidelines to the new and existing ships, the need for a definition of “new ship”, etc., had agreed to consider the aforementioned and associated issues, at DSC 14, under the agenda item on “Amendments to the CSS Code and associated recommendations”.

Review of the recommendations on the safe use of pesticides

7.6 Having noted the observation of the Sub-Committee that the Recommendations on the safe use of pesticides in ships applicable to fumigation of cargo transport units (MSC.1/Circ.1265) would require updating in light of amendments to the IMDG Code and that, in the context of this item, the issue of the control of rodent pests on board all kinds of ships remained outstanding, the Committee agreed to the Sub-Committee’s proposal to extend the target completion date of the item to complete the work on both issues.

Amendments to the Guidance on serious structural deficiencies in containers

7.7 The Committee, having noted the outcome of the Sub-Committee's consideration of the relevant proposals regarding corner fittings, approved CSC.1/Circ.137 on Amendments to the Guidance on serious structural deficiencies in containers.

GISIS module on non-mandatory instruments and recommendations

7.8 The Committee noted that, with regard to the Committee's instruction to identify those non-mandatory instruments for which information for their implementation should be collected, the Sub-Committee supported the development of a GISIS module on non-mandatory instruments and recommendations to be kept updated by the Secretariat.

8 RADIOCOMMUNICATIONS AND SEARCH AND RESCUE

REPORT OF THE THIRTEENTH SESSION OF THE SUB-COMMITTEE

General

8.1 The Committee approved, in general, the report of the thirteenth session of the Sub-Committee on Radiocommunications and Search and Rescue (COMSAR) (COMSAR 13/14 and MSC 86/8) and took action as indicated hereunder.

Radiocommunication matters

Review of the Joint IMO/IHO/WMO Manual on Maritime Safety Information (MSI)

8.2 The Committee approved MSC.1/Circ.1310 on the Revised Joint IMO/IHO/WMO Manual on Maritime Safety Information (MSI).

NAVAREA Coordinators

8.3 The Committee endorsed the Sub-Committee's action in requesting the Secretariat to issue COMSAR.1/Circ.44 on List of NAVAREA Coordinators.

Guidance on distress alerts

8.4 The Committee endorsed the Sub-Committee's action in requesting the Secretariat to issue COMSAR.1/Circ.45 on Guidance on distress alerts.

ITU matters

“DSC Class H” of DSC portable radio

8.5 The Committee endorsed the Sub-Committee's action in conveying the liaison statement to ITU and CIRM on Proposed new “DSC Class H” of DSC portable radio intended primarily for distress alerts and communication.

Automatic Identification System (AIS) Search and Rescue Transmitter (AIS-SART)

8.6 The Committee endorsed the Sub-Committee's action in conveying the liaison statement to ITU, IALA, IEC and CIRM on Automatic Identification System (AIS) Search and Rescue Transmitter (AIS-SART).

World Radiocommunication Conference 2011 (WRC-11) matters

8.7 The Committee endorsed the Sub-Committee's action in conveying the liaison statement to ITU on the Regulatory status of AIS frequencies for the ITU World Radiocommunication Conference 2011 (WRC-11).

8.8 The Committee instructed NAV 55 to consider issues related to the status of the current AIS frequencies and advise COMSAR 14 accordingly.

8.9 The Committee further instructed DSC 14 to consider the issue of tracking and identification of cargo containers and advise COMSAR 14 accordingly.

8.10 The Committee also instructed NAV 55 to consider future spectrum requirement with respect to e-navigation and advise COMSAR 14 accordingly.

8.11 The Committee authorized the Secretariat to forward the draft IMO position, directly after COMSAR 14 and prior to approval by MSC 87, to ITU-R Working Party 5B in order to inform ITU in time on the status of the IMO position regarding WRC-11.

8.12 The Committee noted the issues of relevance to the maritime services on the agenda of WRC-11 and the detailed preliminary draft IMO position relating to WRC-11, Agenda items 1.2, 1.3, 1.5, 1.7, 1.9, 1.10, 1.15, 1.17, 1.18, 1.19, 1.22, 1.23, 2, 4 and 8.2.

8.13 The Committee endorsed the Sub-Committee's action in conveying the liaison statement to ITU on the Implementation of Resolution 355 (WRC-07) concerning the Maritime Manual.

Joint IMO/ITU Experts Group on maritime radiocommunication matters

8.14 The Committee endorsed the decision of the Sub-Committee on the re-establishment of the Joint IMO/ITU Experts Group, including its terms of reference, and the convening of the next meeting at IMO Headquarters from 23 to 25 June 2009.

Satellite services***List of Rescue Coordination Centres associated with Inmarsat Land Earth Stations***

8.15 The Committee endorsed the Sub-Committee's action in requesting the Secretariat to issue COMSAR.1/Circ.47 on List of rescue coordination centres (RCCs) associated with Inmarsat land earth stations (LESSs).

8.16 Noting that the information contained in COMSAR.1/Circ.47 was a routine update of information provided by Inmarsat, the Committee authorized the Secretariat to revise and issue the COMSAR circular on the List of rescue coordination centres (RCCs) associated with Inmarsat land earth stations (LESSs) on an annual basis, without bringing it first to the attention of the Sub-Committee for approval.

SAR matters***List of IMO documents and publications which should be held by a MRCC***

8.17 The Committee endorsed the Sub-Committee's action in requesting the Secretariat to issue SAR.7/Circ.9 on List of IMO documents and publications which should be held by a Maritime Rescue Coordination Centre (MRCC).

The possibility for SAR services to request and receive LRIT information on specific ships

8.18 The Committee noted that COMSAR 13 had decided to invite MSC 86 to instruct the *Ad Hoc* LRIT Working Group to prepare a proposal for appropriate changes to the technical specifications for the LRIT system, if necessary, in order to open the possibility for SAR services to be able to request and receive LRIT information not only for the search and rescue of persons in distress at sea, as currently provided in regulation V/19-1.12, but also on specific ships for example in case of uncertainty and alert phases, as defined in the 1979 SAR Convention.

8.19 The Committee further noted that the seventh meeting of the *Ad Hoc* LRIT Working Group had already discussed the matter (MSC 86/6/1, section 3.4.2 and annex 6) and had agreed to advise MSC 86, in relation to the issue raised by COMSAR 13.

8.20 The Committee approved draft amendments to the Technical specifications for communications within the LRIT system and to the Protocols, as well as the required consequential amendments to MSC.1/Circ.1297 prepared by the *Ad Hoc* LRIT Working Group (MSC 86/6/1, annex 6) and agreed that SAR services should be able to request and receive LRIT information in case other than those specified in regulation V/19-1.12 and further agreed to decide, at its next session, the date as from which the above-mentioned amendments should be implemented (MSC 86/WP.6, paragraph 4.7).

Sixteenth session of the ICAO/IMO Joint Working Group

8.21 The Committee approved the terms of reference and provisional agenda for, and the convening of, the sixteenth session of the ICAO/IMO Joint Working Group on Harmonization of Aeronautical and Maritime SAR. The Committee noted that the sixteenth session was tentatively scheduled to be held in Wales, United Kingdom from 28 September to 2 October 2009.

AIS safety-related messaging

8.22 The Committee endorsed the Sub-Committee's action in requesting the Secretariat to issue COMSAR.1/Circ.46 on AIS safety-related messaging.

AIS-EPIRB

8.23 The Committee noted the information provided with regard to the issue of AIS-EPIRB in relation to the proposal for a new work programme item in document MSC 86/23/1 (United States), which was further considered under agenda item 23 (paragraph 23.19).

Adoption of amendments to the IAMSAR Manual

8.24 The Committee noted that the ICAO/IMO Joint Working Group on Harmonization of Aeronautical and Maritime SAR, at its fifteenth session held in Canberra (Australia), from 29 September to 3 October 2008, had prepared draft amendments to the IAMSAR Manual which were subsequently endorsed by COMSAR 13.

8.25 In accordance with the procedures prescribed in the annex to resolution A.894(21) and, being advised of ICAO's concurrence to the inclusion of the proposed amendments into the IAMSAR Manual, the Committee approved them for dissemination by means of MSC.1/Circ.1311, and decided that the amendments should become applicable on 1 June 2010.

Measures to protect the safety of persons rescued at sea

8.26 The Committee noted that COMSAR 13, having considered the outcome of FAL 35 on the issue of measures to protect the safety of persons rescued at sea, had agreed that it was premature to refer the issue to the SAR Working Group due to the lack of substantive submissions and had further agreed to:

- .1 take note of the outcome of FAL 35;
- .2 report the outcome of discussions to FSI 17 and MSC 86 for consideration; and
- .3 invite interested parties to submit proposals for consideration by FSI 17, MSC 86 and COMSAR 14, as appropriate, in order to further facilitate the debate on this issue.

9 TRAINING AND WATCHKEEPING

Report of the fortieth session of the Sub-Committee

9.1 The Committee approved, in general, the report of the fortieth session of the Sub-Committee on Standards of Training and Watchkeeping (STW) (STW 40/14 and MSC 86/9) and took action as indicated hereunder.

Training for seafarer safety representatives

9.2 The Committee noted the Sub-Committee's ongoing discussions regarding training for seafarer safety representative (SSR) and that STW 40 had agreed to await the outcome of the Joint MSC/MEPC Working Group on Human Element, scheduled to be convened at MEPC 59, relating to inclusion of provisions for SSR in the ISM Code, and that MEPC 59 would refer the outcome of that group on this matter and its own decision thereon directly to STW 41 to enable consideration of relevant training requirements for SSR, if required.

Comprehensive review of the STCW Convention and the STCW Code

9.3 The Committee instructed NAV 55 to:

- .1 review SOLAS regulation V/19.2.2.2 relating to the carriage of a daylight signalling lamp, annex IV of COLREGs and appendix 1 of the International Code of Signals prescribing the distress signal SOS to be sent by a signalling lamp, with a view to deleting the training requirements relating to visual signalling by Morse Code in the STCW Convention; and
- .2 taking into account the user needs and current work on e-navigation, provide advice on the correct generic term to replace the terms "Decca" and "Loran",

and provide its advice to STW 41 and the intersessional meeting of the Group on the Comprehensive review of the STCW Convention and Code.

9.4 The Committee approved the convening of an *ad hoc* intersessional meeting of the aforementioned working group to progress work on the Comprehensive review of the STCW Convention and Code in accordance with the terms of reference, as set out in annex 4 to document STW 40/14.

9.5 With reference to the timing of convening the above intersessional meeting, the delegation of Germany, supported by others, expressed the opinion that the proposed intersessional meeting should be convened in September 2009 to allow some time between the intersessional meeting and STW 41. In their opinion this arrangement would facilitate preparation by the Secretariat of the consolidated documents reflecting the current status of the proposed amendments to the STCW Convention and Code as well as enable delegations to have consultations with various experts within their Administrations before considering and agreeing the best possible final text at STW 41.

9.6 After a brief discussion, the Committee approved the convening of the intersessional meeting from 7 to 11 September 2009.

9.7 The Committee approved, in principle, the preliminary draft revised text of the STCW Convention and Code, as set out in annexes 1 to 3 to document STW 40/14 developed by the Sub-Committee, and authorized STW 41 to finalize the draft revised text of amendments with a view to their circulation by the Secretary-General for consideration by the diplomatic conference.

9.8 The Committee, having noted the consultations of the Secretary-General with the Director-General of ILO and latter's concurrence thereof, requested the Secretary-General to take appropriate action to convene the diplomatic conference in the Philippines in June 2010 to adopt the amendments to the STCW Convention and Code, pending decisions by the Council and Assembly on the budget for the biennium 2010-2011.

9.9 The Committee also requested the Secretary-General to circulate the text of the proposed amendments, finalized by STW 41, to the conference for consideration with a view to adoption and to issue, at the appropriate time, a note verbale inviting representation at the conference and all other relevant documentation.

Review of the principles for establishing safe manning levels of ships

9.10 The Committee instructed NAV 55 to review, on a preliminary basis, the draft Assembly resolution on Principles of Safe Manning as set out in annex 5 to document STW 40/14. In this context, the Committee agreed to include the item on "Review of the principles for establishing the safe manning levels of ships including mandatory requirements for determining safe manning" in the work programme of the NAV Sub-Committee and in the provisional agenda for NAV 56 (see paragraph 23.24).

PREPARATION OF REPORTS PURSUANT TO STCW REGULATION I/7, PARAGRAPH 2

Secretary-General's report to the Committee

9.11 In introducing his report (MSC 86/WP.2), the Secretary-General advised the Committee that in preparing the report required by STCW regulation I/7, paragraph 2, he had solicited and taken into account the views of the competent persons selected from the list established pursuant to paragraph 5 of the regulation and circulated as MSC.1/Circ.797. The report, as required by MSC.1/Circ.796/Rev.1, was comprised of:

- .1 the Secretary-General's report to the Committee;
- .2 a description of the procedures followed;

- .3 a summary of the conclusions reached in the form of a comparison table; and
- .4 an indication of the areas which were not applicable to the Government concerned.

9.12 The Committee was subsequently invited to consider the report attached to document MSC 86/WP.2 for the purpose of confirming that the information provided by those Governments concerned demonstrated that full and complete effect was given to the provisions of the STCW Convention.

9.13 As was the case with the Secretary-General's reports to its previous sessions, the Committee agreed to consider the report in order to:

- .1 identify, from the Secretary-General's report, the scope of information evaluated by the panels;
- .2 review the procedures report to identify any entries requiring clarification;
- .3 review the information presented in comparison table format to ensure that it was consistent with the Secretary-General's report; and
- .4 confirm that each report reflected that the procedures for the assessment of the information provided by the Governments concerned had been correctly followed.

9.14 The Committee confirmed that the procedures for the assessment of the information provided had been correctly followed in respect of the STCW Parties included in the Secretary-General's report and instructed the Secretariat to update MSC.1/Circ.1163/Rev.3 accordingly and issue it as MSC.1/Circ.1163/Rev.4.

SECRETARY-GENERAL'S REPORT PURSUANT TO STCW REGULATION I/8

9.15 In introducing his report (MSC 86/WP.2/Add.1), the Secretary-General advised the Committee that, in preparing the reports required by STCW regulation I/8, paragraph 2, he had solicited and taken into account the views of the competent persons selected from the list established pursuant to paragraph 5 of the regulation and circulated as MSC/Circ.797. Each report, as required by MSC/Circ.997, was comprised of:

- .1 the Secretary-General's report to the Committee;
- .2 a description of the procedures followed; and
- .3 a summary of the conclusions reached in the form of a comparison table.

9.16 The Committee was subsequently invited to consider the reports attached to document MSC 86/WP.2/Add.1 for the purpose of confirming that the information provided by the STCW Parties pursuant to STCW regulation I/8 confirmed that full and complete effect was given to the provisions of the STCW Convention.

9.17 As was the case with the Secretary-General's reports to previous sessions of the Committee, the Committee agreed to consider each Party report individually in order to:

- .1 identify, from the Secretary-General's report, the scope of information evaluated by the panels;
- .2 review the procedures report to identify any entries requiring clarification;
- .3 review the information presented in comparison table format; and
- .4 confirm that each report reflected that the procedures for the assessment of the information provided by the Parties concerned had been correctly followed.

9.18 The Committee confirmed that the procedures for the assessment of information provided had been correctly followed in respect of eight STCW Parties and instructed the Secretariat to update MSC/Circ.1164/Rev.5 accordingly and issue it as MSC.1/Circ.1164/Rev.6.

APPROVAL OF COMPETENT PERSONS

9.19 The Committee approved additional competent persons nominated by Governments (MSC 86/9/1 and Add.1) and instructed the Secretariat to update MSC/Circ.797/Rev.17 accordingly and issue the updated circular as MSC.1/Circ.797/Rev.18.

GO TO SEA! – LAUNCH OF A CAMPAIGN TO ATTRACT ENTRANTS TO THE SHIPPING INDUSTRY

9.20 The Secretariat (MSC 86/9/2) provided the Committee with information relating to the launch of a campaign to attract new entrants to the shipping industry and retain existing seafarers in the maritime profession and appreciated the efforts of the Secretary-General and the round table of shipping along with ITF to address the present shortage of seafarers.

9.21 The observer from ITF provided information on the activities of a focus group of young seafarers' jointly sponsored by INTERTANKO and ITF. The group had free and frank discussions with the Secretary-General as well as various stakeholders on current issues relating to a career at sea.

9.22 The observer from ICS, also speaking on behalf of ISF, welcomed the launch of the IMO "Go to Sea!" campaign by the Secretary-General, with the aim of focusing attention, amongst Governments and industry, on the importance of ensuring an adequate supply of high calibre seafarers. To this end, he informed the Committee that the round table of international shipping associations namely ICS, ISF, INTERTANKO, INTERCARGO and BIMCO was developing a strategy to support this initiative which would cover:

- .1 recruitment;
- .2 education and training;
- .3 shipboard accommodation and facilities;
- .4 restrictions on crew movements; and
- .5 fair treatment of seafarers after a maritime accident,

and that details of this strategy would be submitted to the next session of the Committee. Furthermore, in support of this campaign, ISF had produced an international film to explain careers in shipping to young people, emphasizing a career at sea as a stepping stone to an

exciting life-long working career which was being distributed internationally, free of charge, to complement the promotion efforts of national shipowner associations in various countries. He also informed that copies of this film in DVD format and in all official languages of the Organizations was available for all delegates from the Documents section of the Organization.

9.23 The delegation of India, appreciated the efforts of the Secretary-General and provided information on the initiatives they had taken to encourage seafaring as a profession. These included but were not limited to:

- .1 linking the training of all categories of officers to a degree course, so that the seafarers could make a smooth transition from a career at sea to a shore-based one;
- .2 availing benefits of the tonnage tax scheme only when the shipowners provide shipboard training slots in the ratio of 1.5 trainees for every 10 seafarers employed under the safe manning document;
- .3 providing bridging courses to convert ratings to officers as presently there was an excess capacity of ratings; and
- .4 the Indian Maritime University providing specially designed courses to assist seafarers to take up shore-based employment.

Furthermore, in their opinion, while it was possible to increase the output of the training institutions, the shortage of adequate training berths on board was a severe constraint.

9.24 The observer from ILO agreed that the campaign, which had been jointly launched by IMO, ILO and the industry partners, was an excellent and well-timed initiative. He then suggested that in order to attract new entrants as well to retain existing seafarers, it was necessary to provide good working conditions. In this context, he was of the opinion that the ratification and implementation of the Maritime Labour Convention (MLC), 2006 would not only improve the legal protection of seafarers, but also convey an important message to potential and existing seafarers that everyone connected with the maritime industry was serious about ensuring that they were provided with favourable working conditions. To this end, he appreciated the efforts of the Secretary-General in appealing to Member Governments for early ratification of MLC, 2006.

9.25 The delegations of Malta and Italy appreciated the efforts of India towards linking the training of all categories of officers to a degree course. In their opinion, this would go a long way towards encouraging young persons to take up a career at sea. However, in their opinion further steps should be undertaken to equate the certificates of competency of existing master mariners and chief engineers to a degree programme which could be helpful for them to take up employment ashore.

9.26 The delegations of Nigeria and Japan informed the Committee on steps taken by their Governments to encourage young school leavers to take up a career at sea with a view to ensuring a stable and steady supply of seafarers. In this context, they mentioned that they would submit details on the activities undertaken in support of the goals of this campaign to the next session of the Committee.

9.27 The delegation of Kenya urged shipowners to provide shipboard training slots for prospective seafarers from developing countries who have undergone pre-sea training but lack opportunities to complete their mandatory shipboard training.

9.28 After some discussion, the Committee noted with appreciation the information provided by the Secretariat (MSC 86/9/2) relating to the launch of a campaign to attract new entrants to the shipping industry and retain existing seafarers in the maritime profession and appreciated the efforts of the Secretary-General and the round table of shipping along with ITF to address the present shortage of seafarers. In this context, the Committee urged Member States and international organizations to provide information about any activities they had undertaken or might propose to undertake in support of the goals of the campaign with a view to transferring elements of best practice, positive examples and useful experience gained in one part of the world to benefit the activities of others elsewhere.

10 FIRE PROTECTION

REPORT OF THE FIFTY-THIRD SESSION OF THE SUB-COMMITTEE

General

10.1 The Committee approved, in general, the report of the fifty-third session of the Sub-Committee on Fire Protection (FP) (FP 53/23 and Add.1 and MSC 86/10) and took action as indicated hereunder.

Performance and testing criteria, and surveys of foam concentrates for fixed fire-extinguishing systems

10.2 The Committee approved MSC.1/Circ.1312 on Revised Guidelines for the performance and testing criteria, and surveys of foam concentrates for fixed fire-extinguishing systems.

FSS Code-related matters

Amendments to the FSS Code

10.3 The Committee approved:

- .1 the draft amendments to chapter 1 of the FSS Code, in order to make it clear that amendments to the Code, which relates to the structure of a ship, adopted after 1 July 2002 should, unless expressed otherwise, apply only to ships constructed on or after the date on which the amendments enter into force;
- .2 the draft amendments to chapter 10 of the FSS Code, regarding sample extraction smoke detection systems; and
- .3 the draft new chapter 16 of the FSS Code on matters related to fixed hydrocarbon gas detection systems,

set out in annex 7, and requested the Secretary-General to circulate the proposed amendments, in accordance with SOLAS article VIII, for consideration, with a view to adoption, at MSC 87.

Application of the revised chapter 5 of the FSS Code

10.4 In considering the draft Guidance for application of the revised chapter 5 of the FSS Code, as amended by resolution MSC.206(81), the Committee instructed the Drafting Group on Amendments to Mandatory Instruments, established under agenda item 3, to also consider matters related to the scope of application of the amendments to the FSS Code, adopted by resolution MSC.217(82) (see also paragraphs 3.18 and 3.19.2).

10.5 Having considered the part of the report of the drafting group (MSC 86/WP.4) relating to this item, and having noted that the group had recognized the need for, and had prepared, minor modifications to the draft Guidance, which would clarify the scope of application of amendments to the FSS Code, adopted by resolutions MSC.206(81) and MSC.217(82), the Committee approved MSC.1/Circ.1313 on Guidance for application of chapters 4 to 7 and 9 of the FSS Code, as amended by resolutions MSC.206(81) and MSC.217(82).

Emergency fire pump capacity

10.6 The Committee approved MSC.1/Circ.1314 on Application of SOLAS regulation II-2/10 and chapter 12 of the FSS Code related to emergency fire pump capacity, in order to clarify the application of the requirements in SOLAS chapter II-2, with respect to determining the capacity of the emergency fire pump when it is arranged to provide additional services beyond the basic service as required by the FSS Code.

Amendments to the Revised Guidelines for approval of sprinkler systems equivalent to that referred to in SOLAS regulation II-2/12

10.7 The Committee adopted resolution MSC.284(86) on Amendments to the Revised Guidelines for approval of sprinkler systems equivalent to that referred to in SOLAS regulation II-2/12 (resolution A.800(19)), set out in annex 8, to clarify the application of the amendments to the Revised Guidelines adopted by resolution MSC.265(84).

Fixed dry chemical powder fire-extinguishing systems for the protection of ships carrying liquefied gases in bulk

10.8 The Committee approved MSC.1/Circ.1315 on Guidelines for the approval of fixed dry chemical powder fire-extinguishing systems for the protection of ships carrying liquefied gases in bulk.

NOAEL and LOAEL values for halocarbon fire-extinguishing agents

10.9 The Committee, after having agreed to a minor modification, approved MSC.1/Circ.1316 on Guidelines on determining the no observed adverse effect level (NOAEL) and lowest observed adverse effect level (LOAEL) values for halocarbon fire-extinguishing agents, referred to in MSC.1/Circ.1267 on Amendments to the Revised Guidelines for approval of equivalent fixed gas fire-extinguishing systems, as referred to in SOLAS 74, for machinery spaces and cargo pump-rooms (MSC/Circ.848).

Explosion of an engine mock-up during test

10.10 The Committee endorsed the Sub-Committee's action in approving and issuing FP.1/Circ.38 on Explosion of an engine mock-up during test, following a reported explosion of an engine mock-up during test of water-based fire-extinguishing system according to the Revised Guidelines for the approval of equivalent water-based fire-extinguishing systems for machinery spaces and cargo pump-rooms (MSC/Circ.1165).

Approval of equivalent fixed gas fire-extinguishing systems for machinery spaces and cargo pump-rooms

10.11 The Committee approved MSC.1/Circ.1317 on Application for existing approvals according to the Revised Guidelines for the approval of equivalent fixed gas fire-extinguishing systems, as referred to in SOLAS 74, for machinery spaces and cargo pump-rooms (MSC/Circ.848).

Maintenance and inspections of fixed carbon dioxide fire-extinguishing systems

10.12 In considering a proposal by the delegation of Sweden to make modifications to the draft Guidelines for maintenance and inspections of fixed carbon dioxide fire-extinguishing systems (FP 53/23, annex 12), the Committee agreed to minor modifications to paragraph 6.1 of the draft Guidelines prepared by the Drafting Group on Amendments to Mandatory Instruments (MSC 86/WP.4, annex 6). With regard to periodical test interval referred to in paragraph 6.1.2 of the draft Guidelines, the Committee decided that the matter should be further considered by the Sub-Committee and invited Sweden to submit comments to FP 54. Notwithstanding the above, taking into account the views expressed that the draft Guidelines could be approved at this session without any prejudice as the aforementioned periodic test interval that had been considered and agreed by FP 53, the Committee approved MSC.1/Circ.1318 on Guidelines for maintenance and inspections of fixed carbon dioxide fire-extinguishing systems.

Evaluation of fire performance and approval of large fire doors

10.13 The Committee approved MSC.1/Circ.1319 on Recommendation for the evaluation of fire performance and approval of large fire doors.

International Code for the Application of Fire Test Procedures, 2010 (2010 FTP Code)

10.14 In considering the draft International Code for the Application of Fire Test Procedures, 2010 (2010 FTP Code), the Committee noted the view that there was not enough time available for the Member Governments and international organizations to review the draft Code in depth, in order to verify the accuracy of technical matters within the text. In this context, the Committee also noted comments from the Chairman of the Sub-Committee that FP 54 is scheduled to take place in April 2010, one month before MSC 87, and that FP 54 had agreed to establish a drafting group to review the draft Code for editorial changes as necessary, and that, in his opinion, to review, prepare and submit the complete document, including technical aspects, to MSC 87, would be a difficult task to accomplish.

10.15 In light of the above, the Committee agreed to invite Member Governments and international organizations to submit comments on the draft 2010 FTP Code to FP 54 and that MSC 87 would consider the draft Code, as prepared by FP 53 (FP 53/23/Add.1, annex 14) and the modifications to the draft Code prepared by FP 54, with a view to approval and subsequent adoption at MSC 88.

Amendments to SOLAS chapter II-2

10.16 The Committee approved the draft amendments to SOLAS chapter II-2, set out in annex 9, which would make the aforementioned 2010 FTP Code mandatory, and requested the Secretary-General to circulate the proposed amendments, in accordance with SOLAS article VIII, for consideration, with a view to adoption, at MSC 88, in conjunction with the adoption of the draft Code.

Measures to prevent explosions on oil and chemical tankers transporting low-flashpoint cargoes

10.17 Having recalled that it had instructed the FP, BLG and DE Sub-Committees to consider matters related to measures to prevent explosions on new oil and chemical tankers transporting low-flash point cargoes, the Committee noted that the Sub-Committee:

- .1 agreed that new oil tankers of below 20,000 tonnes deadweight should be fitted with inert gas systems, and that the need for application of a lower limit should be further considered based on the current proposals of [8,000] [6,000] [4,000] tonnes deadweight, recognizing that such requirements could be introduced by suitably modifying the provisions of SOLAS regulation II-2/4.5.5;
- .2 agreed that requirements should be developed for the installation of inert gas systems on new chemical tankers, and that, since chemical tankers presented much more complex problems than oil tankers, separate requirements may need to be developed to cover them, which would necessarily also include modifications to SOLAS regulation II-2/4.5.5.2;
- .3 concluded that further intensive debate on the issue for two more sessions of the Sub-Committee is necessary and, consequently, invited the MSC to extend the target completion date of the work programme item to 2011; and
- .4 invited Members and international organizations to submit proposals for concrete amendments to relevant IMO instruments and any other information regarding the matter to FP 54.

10.18 In light of the above, the Committee noted the information provided by the delegation of the Cook Islands that the Marine Accident Investigators International Forum (MAIIF), which has an ongoing work item on deaths in enclosed spaces, would report to the FSI Sub-Committee and that, in their view, the outcome of that work should also be considered by the FP Sub-Committee, as it is relevant to the Sub-Committee's work on this item (see also paragraph 13.22).

Drainage of fire-fighting water from closed vehicle and ro-ro spaces and special category spaces of passenger and cargo ships

10.19 In considering, in the context of this item, document MSC 86/10/1 (Panama), containing information on matters relating to the effectiveness of drainage systems in closed vehicle and ro-ro spaces and special category spaces, the Committee agreed to modifications to the formulas contained in paragraphs 3.1.4.1 and 3.1.4.2 of the draft Guidelines.

10.20 Consequently, the Committee approved MSC.1/Circ.1320 on Guidelines for the drainage of fire-fighting water from closed vehicle and ro-ro spaces and special category spaces of passenger and cargo ships, to assist Administrations in the implementation of the amendments to SOLAS regulation II-2/20, adopted by resolution MSC.256(84).

Measures to prevent fires in engine-rooms and cargo pump-rooms

10.21 The Committee approved MSC.1/Circ.1321 on Guidelines for measures to prevent fires in engine-rooms and cargo pump-rooms.

Safety for gas-fuelled engine installations in ships

10.22 The Committee noted that the Sub-Committee had finalized chapters II and III of the draft Interim Guidelines on safety for gas-fuelled engine installations in ships relating to fire protection, for referral to the BLG Sub-Committee for coordination purposes.

Unified interpretations of SOLAS chapter II-2

10.23 The Committee approved MSC.1/Circ.1322 on Unified interpretations of SOLAS chapter II-2.

Amendments to SOLAS regulation II-2/4.5.7

10.24 The Committee approved the draft amendments to SOLAS regulation II-2/4.5.7, set out in annex 9, regarding gas measurement and detection, and requested the Secretary-General to circulate the proposed amendments, in accordance with SOLAS article VIII, for consideration, with a view to adoption, at MSC 87.

Codes, recommendations, guidelines and other non-mandatory instruments

10.25 The Committee noted the outcome of the Sub-Committee's consideration of matters related to codes, recommendations, guidelines and other non-mandatory instruments.

Amendments to the MODU Code

10.26 The Committee noted that the Sub-Committee had finalized draft amendments to the MODU Code on matters related to fire protection, for referral to the DE Sub-Committee for coordination purposes.

Safety recommendations for decked fishing vessels

10.27 The Committee noted that the Sub-Committee had agreed to the provisions of the draft Safety recommendations for decked fishing vessels of less than 12 metres in length and undecked fishing vessels, relating to general provisions and fire safety, for referral to the SLF Sub-Committee for coordination purposes.

Fire casualty on board the ro-ro cargo ship "Und Adriyatik"

10.28 The delegation of Turkey expressed its appreciation to the due consideration given to the preliminary findings of a marine accident investigation regarding the recent (February 2008) fire on board the Turkish flagged ro-ro cargo ship **Und Adriyatik** by the FSI and FP Sub-Committees and the course of action decided upon by FSI 16. The delegation further informed the Committee that the investigation had been finalized and the full report was available, in published form and by means of GISIS, so that the final findings could be duly taken into account by all the relevant IMO bodies.

11 BULK LIQUIDS AND GASES

REPORT OF THE THIRTEENTH SESSION OF THE BLG SUB-COMMITTEE

General

11.1 The Committee approved, in general, the report of the thirteenth session of the Sub-Committee on Bulk Liquids and Gases (BLG) (BLG 13/18 and MSC 86/11) and took action as indicated in the ensuing paragraphs.

Prohibition of blending operations on board at sea

11.2 The Committee, having considered the outcome of the Sub-Committee regarding the issues surrounding blending on board at sea, agreed that such practice should be prohibited and that mandatory provisions should be developed. In the meantime, having considered the Sub-Committee's recommendation that the MSC and the MEPC should consider issuing a MSC-MEPC circular concerning prohibition on blending operations on board at sea, the Committee considered the proposal of the informal group (MSC 86/WP.15) and, having agreed to place in square brackets the words "during the sea voyage" and add the words "[at sea]", approved, subject to MEPC's concurrent decision, a draft MSC-MEPC circular concerning prohibition of blending operations on board at sea, set out in annex 10.

Interim Guidelines on safety for natural gas-fuelled engine installations in ships

11.3 Having noted that the Sub-Committee had completed the development of the Interim Guidelines on safety for natural gas-fuelled engine installations in ships and had commenced work on the development of the International Code of Safety for Gas-fuelled Ships (IGF Code), the Committee adopted resolution MSC.285(86) on Interim Guidelines on safety for natural gas-fuelled engine installations in ships, set out in annex 11.

Footnote to SOLAS regulation II-1/26

11.4 The Committee noted that the Sub-Committee, following the completion of the Interim Guidelines referred to in paragraph 11.3, had agreed to the footnote to SOLAS regulation II-1/26 and had requested the Secretariat to insert the footnote in the subsequent consolidated edition of the SOLAS publication.

Unified interpretations of the IBC Code

11.5 The Committee, having noted that the Sub-Committee had agreed, for the Committee's approval, to the draft unified interpretations of paragraphs 11.1.1.3 and 11.1.1.4 of the IBC Code in order to provide parity for the application of SOLAS regulations II-2/10.2, 10.4 and 10.5 to cargo ships between 500 and 2,000 gross tonnage and to chemical carriers between 500 and 2,000 gross tonnage, approved MSC.1/Circ.1323 on Unified interpretations of the IBC Code.

Recommendations for material safety data sheets (MSDSs) for MARPOL Annex I oil cargo and marine oil fuel

11.6 The Committee considered draft MSC resolution on Recommendations for material safety data sheets (MSDS) for MARPOL Annex I oil cargo and oil fuel, set out in annex 12 to document BLG 13/18, and document MSC 86/WP.16 (Secretariat) and, having agreed, with regard to the draft resolution, to:

- .1 replace, in operative paragraph 2, the words "[date of adoption]" by "1 July 2009";
- .2 add a new operative paragraph 3 to read:

"3. FURTHER URGES Governments to direct their port State control officers to accept MSDS meeting the Recommendations adopted by this resolution as from 1 July 2009 in lieu of the Recommendations adopted by resolution MSC.150(77); and"; and

.3 replace the existing operative paragraph 3 by the following:

“4. REVOKES resolution MSC.150(77) as from 1 July 2009.”,

adopted resolution MSC.286(86) on Recommendations for material safety data sheets (MSDS) for MARPOL Annex I oil cargo and oil fuel, set out in annex 12.

Intersessional meeting of the ESPH Working Group

11.7 Subject to the concurrent decision of MEPC 59, the Committee approved the holding of an intersessional meeting of the ESPH Working Group in 2010.

Amendments to the Revised Standards for the design, testing and locating of devices to prevent the passage of flame into cargo tanks in tankers (MSC/Circ.677)

11.8 The Committee approved MSC.1/Circ.1324 on Amendments to the Revised Standards for the design, testing and locating of devices to prevent the passage of flame into cargo tanks in tankers (MSC/Circ.677).

Missing information on apparatus groups in column i” of chapter 17 of the IBC Code

11.9 The Committee approved MSC.1/Circ.1325 on Missing information on apparatus groups in column i” of chapter 17 of the IBC Code.

12 SHIP DESIGN AND EQUIPMENT

URGENT MATTERS EMANATING FROM THE FIFTY-SECOND SESSION OF THE SUB-COMMITTEE

General

12.1 The Committee considered urgent matters referred to it (MSC 86/12) emanating from the fifty-second session of the Sub-Committee (DE 52/21 and DE 52/21/Add.1) and took action as described in the following paragraphs. The Committee noted that, in addition to the urgent matters agreed by MSC 85 for consideration at this session, the Sub-Committee had invited it to also consider, as urgent matters, amendments to resolution A.744(18), matters related to compatibility of life-saving appliances, test standards for extended service intervals of inflatable liferafts and the Guidelines for ships operating in polar waters.

Amendments to the ESP Guidelines (resolution A.744(18))

12.2 The Committee noted the developments regarding amendments to the ESP Guidelines (resolution A.744(18)), in particular the Sub-Committee’s decision to maintain the structure of the Guidelines as closely as possible aligned with the IACS UR Z10 series in order to keep them simple and user friendly; and the request to extend the target completion date for the item, which was considered under agenda item 23 (Work programme).

Code on Alerts and Indicators, 2009

12.3 The Committee approved, subject to MEPC’s concurrent decision, the draft Assembly resolution on Adoption of the Code on Alerts and Indicators, 2009, set out in annex 13, for submission to the twenty-sixth session of the Assembly for adoption.

Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009

12.4 The Committee considered the draft Assembly resolution on Adoption of the Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009, prepared by the Sub-Committee, together with document MSC 86/12/3 (IADC), commenting on the draft Code, and, following discussion:

- .1 did not agree to the proposed modifications to sections 3.7.9 and 3.7.15 of the draft Code; having noted that the issue is adequately covered by the relevant requirements of the 2008 IS Code;
- .2 agreed to the addition, in section 14 of the draft Code, of a new paragraph concerning material safety data sheets; and
- .3 regarding the proposed updating of the reference to, and reflection of the provisions of, the 2009 MODU Code in the 2008 IS Code, referred the matter to SLF 52 for consideration and advice to the Committee as appropriate.

12.5 Subsequently, the Committee approved the draft Assembly resolution on Adoption of the Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009, as set out in annex 14, for submission to the twenty-sixth session of the Assembly for adoption.

12.6 In this context, the Committee noted the justification prepared by the Sub-Committee for a new work programme item on “Revision of the provisions for helicopter facilities in SOLAS and the MODU Code” and agreed to consider it under agenda item 23 (Work programme) (see paragraph 23.39).

Measures to prevent accidents with lifeboats***Guidance on lifeboat launching during abandon ship drills***

12.7 The Committee approved MSC.1/Circ.1326 on Clarification of SOLAS regulation III/19, providing guidance on lifeboat launching during abandon ship drills.

New requirements for on-load release mechanisms and the assumed weight of persons, to be applied to liferafts

12.8 The Committee approved draft amendments to:

- .1 the LSA Code, concerning new requirements for on-load release mechanisms and the assumed weight of persons, to be applied to liferafts, set out in annex 15; and
- .2 SOLAS chapter III, concerning replacement of existing on-load release mechanisms, set out in annex 16,

and requested the Secretary-General to circulate the draft amendments, in accordance with SOLAS article VIII, for consideration at MSC 87 with a view to adoption.

12.9 The Committee approved draft amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)), set out in annex 17, concerning the increase in the assumed weight of persons to be applied to life-saving appliances, with a view to adoption at MSC 87 together with the associated amendments to the LSA Code, referred to in paragraph 12.8.1.

Fitting and use of fall preventer devices

12.10 The Committee approved MSC.1/Circ.1327 on Guidelines for the fitting and use of fall preventer devices (FPDs).

Revision of MSC.1/Circ.1206 and its status

12.11 The Committee considered document MSC 86/12/5 (Cook Islands, Dominica, Marshall Islands, CLIA, ICS, INTERCARGO, INTERTANKO, OCIMF), identifying an inconsistency between the wording in the draft amended paragraph 1.1 and the existing paragraph 2.3 of the appendix to annex 1 of MSC.1/Circ.1206 and, to correct this, proposing the deletion of paragraph 2.3 since it repeats the intent of draft amended paragraph 1.1.

12.12 Following discussion, the Committee referred the matter to the Drafting Group on Amendments to Mandatory Instruments and, having considered the recommendation of the group (MSC 86/WP.4), agreed to the proposed deletion of paragraph 2.3 of the appendix to annex 1 of the draft revised circular and approved MSC.1/Circ.1206/Rev.1 on Measures to prevent accidents with lifeboats, noting that it would replace MSC.1/Circ.1206 and could be further amended, depending on the outcome of DE 53 (see also paragraph 12.16).

12.13 In the course of the discussion on the status of the circular, the Committee considered the following documents:

- .1 MSC 86/12/1 (Norway), expressing the view that the progress in the establishment of worldwide servicing coverage by manufacturers (DE 52/6), the development of MSC.1/Circ.1277 (Interim Recommendation on conditions for authorization of service providers for lifeboats, launching appliances and on-load release gear) and the latest amendments to MSC.1/Circ.1206 have solved the main problems raised in connection with the question of making MSC.1/Circ.1206 mandatory and, therefore, proposing that the Sub-Committee be instructed to develop the necessary SOLAS amendments to make the provisions of MSC.1/Circ.1206/Rev.1 and, possibly, some of the provisions of MSC.1/Circ.1277 mandatory; and
- .2 MSC 86/12/2 (ICS), expressing the view that the case for mandating MSC.1/Circ.1206 has yet to be fully made and that the preconditions agreed by the Committee for further consideration of such mandating have not been achieved, i.e. the establishment of adequate global coverage of suitable service providers as well as information concerning the availability of training for certification of service personnel are not well enough advanced and therefore, proposing that the long-term recommendatory status of MSC.1/Circ.1206/Rev.1 should be confirmed.

12.14 The Committee recalled that MSC 82 (MSC 82/24, paragraph 10.6), having recognized the existing difficulties in the implementation of the provisions contained in MSC.1/Circ.1206 (mainly related to the training and certification of servicing personnel by the manufacturer, and the suitability of the geographical coverage of manufacturers' representation), and while expressing support for the principle of making all or part of the provisions mandatory when these difficulties have been overcome, had agreed to keep the circular non-mandatory at that stage, but referred the issue to the DE Sub-Committee for detailed consideration and advice, in order that the final decision of the Committee on the matter could become effective by 2010, at the latest.

12.15 The ensuing discussion showed that views on the matter were divided in the Committee. Several delegations stated that, while supporting the circular in principle, they could not support the proposal to make it mandatory at this point in time since the conditions for such mandatory application, mainly concerning global service coverage of lifeboat manufacturers and training and certification of service personnel and independent service providers by manufacturers, had not been fulfilled. Other delegations supported mandatory application of the circular, stating that, in this way, manufacturers would have an incentive to improve the aforementioned global coverage and training and certification of service personnel.

12.16 Following discussion and noting that the item on “Measures to prevent accidents with lifeboats” would remain on the agenda of DE 53, the Committee instructed the DE Sub-Committee to develop a schedule and outline of measures to make all or parts of the circular mandatory, taking into account documents MSC 86/12/1 and MSC 86/12/2, and also invited submissions to DE 53 addressing the issues which were hindering a mandatory application of the provisions of the circular. In this context, noting a proposal by the delegation of China to amend paragraph 9 of annex 1 of the circular, the Committee invited the delegation to submit a relevant proposal to DE 53.

12.17 The delegation of Cuba could not agree with the proposal to make the circular mandatory and considered that DE 53 should examine the cost-benefit of implementing the measures by developing countries before presenting a firm proposal to the next session of the Committee.

Guidelines for the approval of inflatable liferafts subject to extended service intervals not exceeding 30 months

12.18 The Committee approved MSC.1/Circ.1328 on Guidelines for the approval of inflatable liferafts subject to extended service intervals not exceeding 30 months.

12.19 The observer from ILAMA, referring to the provisions of the aforementioned Guidelines that “dated items” must have sufficient life remaining for the full period of liferaft service, reiterated ILAMA’s proposal at DE 52 that recommendation on conditions for the approval of servicing stations for inflatable liferafts (resolution A.761(18)) be amended accordingly. In his view, the Recommendation is flawed, if not illegal, for all “dated items” contained within the watertight seal of current annually serviced liferafts, and knowingly condones service stations to re-use “dated items” for a further period of 12 months, which would render these items to be at least six months out of date at the next service. He also pointed out that shipowners could apply for a delay to the next service of their liferafts for a period of five months due to operational commitments and that, since this extension was granted in the majority of instances, it was therefore conceivable that a “dated item” could be 11 months out of date at the next service. He stated that the “dated item” manufacturers of ILAMA were appalled at the current disregard of their declared and approved dates of expiry and proposed that paragraph 5.11 of the Recommendation should be deleted or amended as soon as practicable. He stressed that, in these days of litigation, ILAMA manufacturers were very aware that survivors in liferafts at sea might perish due to the malfunction or non-operation of out of date safety equipment such as pyrotechnics and position indicating lights, particularly at night, and maintained that responsibility did not lie with the manufacturers of these dated products, as they had made very clear the period of validity of their products which was based upon years of experience and testing to the very strict IMO standards imposed. Consequently, the observer requested that the above problem be reviewed by the Committee, which might wish to consider how this anomaly could be resolved.

12.20 The Committee, noting that several delegations shared the concerns expressed, invited ILAMA to submit a proposal for a relevant new work programme item, sponsored by a Member Government, in accordance with the Guidelines on the organization and method of work.

Guidelines for ships operating in polar waters

12.21 In considering the draft Guidelines for ships operating in polar waters, the Committee discussed document MSC 86/WP.13 (Secretariat), providing new improved maps for the maximum extent of Arctic and Antarctic Waters application (figures 1 and 2 of the section “Guide” of the Guidelines), prepared with the vital assistance of Transport Canada, and also suggesting consequential changes to paragraph G-3.3 concerning the geographical definition of “Arctic waters”, and agreed to the replacement of the maps and the proposed changes to paragraph G-3.3 in the draft Guidelines.

12.22 Subsequently, the Committee approved, subject to MEPC’s concurrent decision, the draft Assembly resolution on Adoption of the Guidelines for ships operating in polar waters, set out in annex 18, for submission to the twenty-sixth session of the Assembly for adoption.

12.23 In the context of this item, the Committee noted the justification prepared by the Sub-Committee for a new work programme item on “Development of a Code for ships operating in polar waters”, bearing in mind that the Sub-Committee may need to consult with the MEPC on environmental issues, and also document MSC 86/12/4 (United Kingdom), supporting the inclusion of the aforementioned new item in the work programme of the Sub-Committee, and agreed to consider the matter under agenda item 23 (Work programme), when discussing a relevant proposal by Denmark, Norway and the United States (MSC 86/23/9) (see paragraphs 23.32 to 23.34).

Guidelines for uniform operating limitations of high-speed craft

12.24 The Committee approved MSC.1/Circ.1329 on Guidelines for uniform operating limitations of high-speed craft.

Guidelines for maintenance and repair of protective coatings

12.25 The Committee approved MSC.1/Circ.1330 on Guidelines for maintenance and repair of protective coatings.

New SOLAS regulation on Corrosion protection of cargo oil tanks of crude oil tankers

12.26 The Committee approved the draft new SOLAS regulation on Corrosion protection of cargo oil tanks of crude oil tankers, as set out in annex 19, and requested the Secretary-General to circulate the draft new SOLAS regulation, in accordance with SOLAS article VIII, for consideration at MSC 87, with a view to adoption together with the associated Performance standards referred to in paragraph 12.27.

12.27 In this regard, the Committee noted that the Sub-Committee had agreed to finalize the draft Performance standard for protective coatings for cargo oil tanks of crude oil tankers and the draft Performance standard for alternative means of corrosion protection for cargo oil tanks of crude oil tankers at DE 53, so that they could be adopted at MSC 87 together with the draft new SOLAS regulation on Corrosion protection of cargo oil tanks of crude oil tankers (see paragraph 12.26) making them mandatory.

Safety recommendations for decked fishing vessels

12.28 The Committee noted that the Sub-Committee had finalized modifications to the draft Safety recommendations for decked fishing vessels of less than 12 metres in length and undecked fishing vessels, for referral to SLF 52 for action as appropriate.

Guidelines for construction, installation, maintenance and inspection/survey of accommodation ladders and gangways

12.29 The Committee, when discussing the draft Guidelines for construction, installation, maintenance and inspection/survey of accommodation ladders and gangways, noted concerns expressed by the observer from IACS that the second sentence of paragraph 3.3 of the draft Guidelines, which states that the paragraph does not intend to prescribe additional lifebuoys other than those required under SOLAS chapter III, might be in conflict with relevant provisions of SOLAS regulation III/7.1.3 since it could be interpreted to require an additional lifebuoy equipped with a self-igniting light and a buoyant lifeline. In the context of this item, he further pointed out that the requirement in paragraph 3.1 of the draft Guidelines that means of embarkation and disembarkation should be sited clear of the working area and should not be placed where cargo or other suspended loads may pass overhead, might contravene pilot transfer arrangements for the use of accommodation ladders in conjunction with pilot ladders, currently under consideration in the NAV Sub-Committee.

12.30 Following discussion, the Committee agreed to delete the second sentence of paragraph 3.3 of the draft Guidelines; and that the NAV Sub-Committee should take paragraph 3.1 of the Guidelines into consideration in the context of its work on pilot transfer arrangements (see paragraph 12.32).

12.31 Subsequently, the Committee approved MSC.1/Circ.1331 on Guidelines for construction, installation, maintenance and inspection/survey of accommodation ladders and gangways.

Improved safety of pilot transfer arrangements

12.32 The Committee noted that the Sub-Committee had prepared comments and proposals concerning improved safety of pilot transfer arrangements, for referral to the NAV Sub-Committee's Correspondence Group on Pilot Transfer Arrangements for consideration and to NAV 55 for action as appropriate and had requested the Secretariat to act accordingly.

Casualty of "MSC Napoli"

12.33 The Committee noted the Sub-Committee's outcome on the casualty of **MSC Napoli**, in particular that the Sub-Committee had agreed to take no further action on the matter at this stage.

13 FLAG STATE IMPLEMENTATION

URGENT MATTERS EMANATING FROM THE SEVENTEENTH SESSION OF THE SUB-COMMITTEE

General

13.1 The Committee considered urgent matters referred to it (MSC 86/13) by the seventeenth session of the Sub-Committee (FSI 17/20) and took action as indicated hereunder.

EU regulation on common rules and standards for ship inspection and survey organizations

13.2 The Committee noted that, in the context of the item on Development of the Code for Recognized Organizations (ROs), the Sub-Committee had discussed the issue of the follow-up to MSC 85's request to the Secretary-General to forward, to appropriate authorities of the European Union (EU), the concern expressed by several IMO Members on the implications of Article 10 of the proposed European Parliament and Council Regulation on common rules and standards for

ship inspection and survey organizations. In this respect, the Committee noted the related information provided by the Secretariat on the response received from the Vice-President and Transport Commissioner of the European Commission (EC) (MSC 86/INF.9), in reply to the Secretary-General's letters to the Presidency of the EU and the EC Vice-President and Transport Commissioner on 3 December 2008, and also to the Communications Minister of Sweden (the holder of the maritime transport portfolio).

13.3 Furthermore, the Committee noted that the Secretary-General had also received a letter from the Minister of Communications of Sweden confirming some element of reply contained in the letter from the Commission, in particular, that an EU RO will accept a certificate delivered by another EU RO as proof that the item concerned complies with the first RO's rules. The letter also contained the additional information that the article in question is applicable only to organizations that have applied for and received recognition in accordance with the EU regulation and underlined that nothing prevents a third State from refusing to authorize organizations which implement mutual recognition.

13.4 In the same context, the delegation of Sweden stated that they were themselves deeply concerned by the concerns that have been raised by some Member States at previous sessions of the Committee regarding the recently adopted Regulation No 391/2009 of the European Parliament and of the Council on common rules and standards for ship inspection and survey organizations, which was published on 28 May 2009 and will enter into force on 17 June 2009. The full text of the statement by the delegation of Sweden is set out in annex 32.

13.5 The delegation of the United States informed the Committee that they had also communicated separately with the EU on this issue and had just recently received a reply which they found dissatisfactory and unresponsive to the concerns raised by many countries at MSC 85, since the EU would have acknowledged that the above-mentioned Article 10, regarding a mutual recognition system, would apply to all classification work by all EU ROs, regardless of the flag of the ship. The delegation made, in response to the statement by the delegation of Sweden, a further statement, as set out in annex 33.

13.6 Many delegations shared the renewed concerns expressed by the delegation of the United States and the understanding that the EU regulation should only be made applicable to ships flying the flag of EU countries. These delegations made further references to the provisions contained in the United Nations Convention on the Law of the Sea (UNCLOS), 1982, in particular, article 94 on flag State's obligations; the potential intrusion in the sovereign rights of non-EU countries and infringement in the historical relationship between flag Administrations and ROs; the creation of an oligopoly of EU ROs and the alternative opportunity which could have been used, instead, by EU countries, to reach their objectives through the development of the Code for Recognized Organizations.

13.7 The Committee, having noted the information provided by the Secretariat in the aforementioned document MSC 86/INF.9 and supplemented by the various interventions and statements expressing further views and concerns, invited interested Member States to submit information on developments relevant to this issue, if deemed necessary, to the next session of the Committee.

Investigation report on the fire on the fishing factory vessel "Hercules"

13.8 The Committee, having noted that Denmark and the Faroe Islands had submitted, under agenda item 23 (Work programme), proposals for two new high-priority work programme items on "General requirements on electrical installations" and "Means for recharging air bottles for air

breathing apparatuses” for the DE and FP Sub-Committees (see paragraphs 23.38 and 23.11), respectively, agreed to refer the investigation report on the fire on the fishing factory vessel **Hercules** to the FP, DE and STW Sub-Committees for consideration.

Port State control-related matters

13.9 Having recalled that the harmonization of port State control (PSC) activities, including the development of a draft Assembly resolution on Procedures for PSC, revoking resolution A.787(19), as amended by resolution A.882(21), was among the urgent matters emanating from FSI 17 for consideration at the present session, the Committee endorsed the Sub-Committee’s decision to continue developing the consolidated Procedures for port State control intersessionally.

13.10 With regard to the circulation of relevant information to PSC regimes, the Committee recommended that MSC-MEPC.4/Circ.3 on Blanking of bilge discharge piping system in port be distributed within port State control regimes as soon as possible, if not done so already.

Survey Guidelines under the HSSC

13.11 The Committee considered the proposed amendment to paragraph 5.10 of the Survey Guidelines under the Harmonized System of Survey and Certification (HSSC), 2007, with regard to the examination of the outside of the ship’s bottom on passenger ships other than ro-ro passenger ships and recalled the decision by MSC 84 that, only if DE 52 could complete its work on the development of guidelines on this issue, FSI 17 would, then, be requested to develop related amendments to the Survey Guidelines for approval by MSC 86 and MEPC 59, before consideration by A 26 for adoption. In this context, the Committee noted the views expressed in support of the need that the DE Sub-Committee should first complete the technical review of this issue and agreed not to amend paragraph 5.10 of the Survey Guidelines, while recognizing that, if approved by the Committee, the technical guidelines to be developed by the DE Sub-Committee, possibly at its next session, would, thereby, become available for implementation.

13.12 With a view to reducing the volume of paper, the Committee adopted the regime that, every uneven session of the Assembly, whole of the revised Survey Guidelines under the HSSC incorporating all amendments are adopted in a consolidated version but, every even session of the Assembly, only amendments to the Survey Guidelines are adopted with the proviso that a consolidated working version of the Survey Guidelines is prepared by the Secretariat and posted on IMODOCS.

13.13 Subject to MEPC’s concurrent decision, the Committee approved the draft amendments to the Survey Guidelines under the HSSC, 2007 (resolution A.997(25)), and the associated draft Assembly resolution, set out in annex 20, for submission to the twenty-sixth session of the Assembly for adoption.

Timing of replacement of existing certificates

13.14 The Committee approved, subject to MEPC’s concurrent decision, the draft MSC-MEPC.5 circular on General guidance on the timing of replacement of existing certificates by the certificates issued after the entry into force of amendments to certificates in IMO instruments, set out in annex 4 to document FSI 17/20.

Code for the Implementation of Mandatory IMO Instruments

13.15 Having recalled MSC 80’s decision to develop, at an appropriate time, suitable provisions for the eventual inclusion of other safety- and security-related issues in the Audit Scheme and the

Code for the Implementation of Mandatory IMO Instruments, taking into account the experience gained from the implementation of the Audit Scheme and the Code, the Committee, in the light of the relevant Sub-Committee's decision, agreed not to include in the Code the proposed amendments incorporating ISPS Code-related provisions and decided that any proposals, by Member States, to expand the scope of the Code should be, first, submitted to the Committees for consideration.

13.16 With a view to reducing the volume of paper, the Committee adopted the regime that, every uneven session of the Assembly, whole of the revised Code for the Implementation of Mandatory IMO Instruments incorporating all amendments is adopted in a consolidated version but, every even session of the Assembly, only amendments to the Code are adopted with the proviso that a consolidated working version of the Code is prepared by the Secretariat and posted on IMODOCS.

13.17 Subject to MEPC's concurrent decision, the Committee approved the draft amendments to the Code for the Implementation of Mandatory IMO Instruments, 2007 and the associated draft Assembly resolution, set out in annex 21, for submission to the twenty-sixth session of the Assembly for adoption and invited the Council to note the above developments.

Code for recognized organizations

13.18 With regard to the development of a Code for Recognized Organizations, the Committee endorsed the Sub-Committee's decision to request the Secretariat to prepare, as soon as possible, a consolidated document containing all existing requirements and recommendations of IMO instruments regarding recognized organizations. In this context, the Committee invited Member Governments and international organizations to consider the aforementioned document in order to carry out a gap analysis to identify areas that are not, or not adequately, covered by the existing requirements and recommendations, and to submit the results of their considerations to FSI 18.

Measures to protect the safety of persons rescued at sea

13.19 The Committee noted that the Sub-Committee could only consider measures to protect the safety of persons rescued at sea under the sole angle of implementation and, as recommended by the Sub-Committee, agreed to refer the proposals contained in documents FSI 17/15/1 and FSI 17/15/2 to COMSAR 14 for detailed consideration in the context of its ongoing work on this matter.

13.20 The delegation of Malta referred to paragraph 15.7 of document FSI 17/20 (report of FSI 17), which stated that they would provide the Committee with their own data and statistics on cases related to persons rescued at sea, whereas, at that time, making a further submission to MSC 86 was not possible in view of existing procedures. In this context, the delegation of Malta indicated that they would duly submit such data to COMSAR 14, FSI 18 and the Committee, which, in particular, would contain the information that, in 2008 alone, the Maltese Authorities coordinated some 600 rescue operations and nearly 3,000 persons were disembarked in Malta, most of these persons being still in the country.

Safety during demonstrations, protests or confrontations on the high seas

13.21 The Committee noted that, as requested by NAV 54, the Sub-Committee had considered and had agreed to the draft MSC resolution on Assuring safety during demonstrations, protests or confrontations on the high seas, as set out in the annex to document FSI 17/16, for referral to NAV 55 for coordination purposes.

Explosions on small chemical tankers

13.22 Following a proposal by the delegation of the Cook Islands, the Committee agreed to invite the MAIIF to provide the Organization with the outcome of its work on deaths in enclosed spaces, as the findings thereof may be relevant to the consideration of the issue of explosions on small chemical tankers, as appropriate (see also paragraph 10.18).

14 TECHNICAL ASSISTANCE SUB-PROGRAMME IN MARITIME SAFETY AND SECURITY

DEVELOPMENTS CONCERNING TECHNICAL CO-OPERATION ACTIVITIES

General

14.1 The Committee noted the information provided in document MSC 86/14 on the safety-, security- and facilitation-related activities implemented in the last quarter (October to December) of 2008 and those implemented between January and February 2009 with other planned activities for the rest of the year under the Integrated Technical Co-operation Programme (ITCP) for the biennium 2008-2009 and was advised by the Secretariat of additional information on technical co-operation activities.

Search and rescue

14.2 The Committee noted the progress made on the implementation of the resolutions of the Florence Conference on Maritime Search and Rescue and the GMDSS. Out of the five proposed sub-regional Maritime Rescue Co-ordination Centres (MRCCs) for the African countries bordering the Atlantic and Indian Oceans, four groups, namely Kenya, Liberia, Nigeria and South Africa and the countries within these SAR regions, have signed the relevant multilateral agreements regarding maritime search and rescue services between neighbouring States. The remaining Morocco group is in the process of finalizing their agreement and it is hoped that it will be signed before the end of 2009.

14.3 The Committee also noted that, so far, the East Africa group (including Mombasa, Seychelles, Somalia and Tanzania) is fully equipped and the MRCC and MRSCs are operational with the exception of Somalia. Within the South Africa group (Angola, Comoros, Madagascar, Mozambique, Namibia and South Africa), all MRCC and MRSCs with the exception of that of Angola, will be equipped and fully operational by the end of 2009. Of the two West African centres, only the two regional MRCCs in Liberia and Nigeria have been equipped and are operational. It is expected that sufficient funds may be secured within the next biennium's ITCP to be able to equip the remaining MRSCs.

14.4 A number of delegates expressed their appreciation and congratulations to the Maritime Safety Division and the Technical Co-operation Division for the efforts that have been put into the implementation of safety- and security-related activities in their countries and for producing an elaborate report.

14.5 The Committee urged Member Governments and industry to contribute to the technical co-operation programme, with special donations to the SAR Fund to enable the project to be completed successfully and requested the Secretariat to continue providing the Committee with updated information on the programme.

NON-CONVENTION VESSEL STANDARD (NCVC)

14.6 The Committee noted the information provided by the delegation of Indonesia on the development of the Indonesian Non-convention Vessel Standard (NCVC). The Committee also noted that the primary goal of the project was to produce a non-convention vessel safety standard in order to improve maritime transport safety in Indonesia. The project is being implemented by the Directorate General of Sea Transportation, Ministry of Transportation of Republic of Indonesia in partnership with the Australian Maritime Safety Authority (AMSA).

IMO MODEL COURSE PROGRAMME

14.7 The Committee noted the information in document MSC 86/14/1 (Secretariat) that 34 model courses had been translated into French and 38 model courses into Spanish. Of these translated model courses, 31 have been published in French and 33 in Spanish. Responding to the delegation of Sweden's request for the information regarding the revision of model courses on security issues, the Secretariat clarified that they had been revised and would be available shortly after validation.

14.8 The Committee requested the Secretariat to continue its follow-up and provide an updated report to MSC 87.

15 CAPACITY-BUILDING FOR THE IMPLEMENTATION OF NEW MEASURES

15.1 The Committee recalled that MSC 85 had noted the progress of the correspondence group and had agreed that the group should continue to work with the terms of reference agreed at MSC 84 (MSC 84/24, paragraph 14.7), taking into account the decision of the Committee in light of the interpretation, by the Council, on resolution A.998(25), and report to MSC 86. MSC 85 also had agreed, in principle (MSC 85/26, paragraph 15.8), to establish an *ad hoc* working group on capacity-building and technical co-operation for the implementation of new instruments, in the context of the number of groups to be established at this session, when the matter was discussed under this agenda item. However, as proposed in document MSC 86/1/2, the Committee agreed that a drafting group should be established to deal with the item.

15.2 The Committee, in considering the report of the correspondence group (MSC 86/15/1), noted that the group had discussed the following four distinct tasks:

- .1 procedures of the Committee for assessment of capacity-building implications;
- .2 mechanism to identify new instruments requiring the provision of technical assistance prior to implementation;
- .3 criteria for assessing implications for capacity-building when considering proposals for the development of new, or amending existing, instruments; and
- .4 mechanism to identify issues requiring special focus when developing technical co-operation and assistance activities relating to the implementation of new measures.

15.3 The Committee noted further the following:

- .1 on the procedures for the assessment of capacity-building implications, the consensus of the correspondence group was that an *ad hoc* arrangement was ideal and that *ad hoc* group should be chaired by the Vice-Chairman of the Committee;

- .2 a view was expressed that Member States that had capacity-building needs be encouraged to submit their concerns as a commentary document; and
- .3 on the mechanism to identify new instruments requiring the provision of technical assistance prior to their implementation, the correspondence group considered whether assistance was needed by both industry and States prior to or during implementation and identified this as a key question involved.

15.4 The Committee noted also that as a result of work carried out, the correspondence group had prepared:

- .1 procedures for evaluating implications of capacity-building requirements for new instruments or amending existing instruments (annex 1 to MSC 86/15/1);
- .2 a mechanism (checklist) for the identification of capacity-building implications; (annex 2 to MSC 86/15/1); and
- .3 a checklist of issues requiring special focus when developing capacity-building related to the implementation of new measures (annex 3 to MSC 86/15/1).

15.5 Following consideration of document MSC 86/15/2, the Committee noted that, while supporting the overall aim of the work of the group, Denmark, the Netherlands and Sweden were of the opinion that:

- .1 the process of assessing aspects of capacity-building and technical assistance should not hamper the ability of the Organization to swiftly react on perceived risks with respect to maritime safety and preventing pollution from ships;
- .2 it should be kept in mind that the *ad hoc* group suggested by the correspondence group should only make a preliminary assessment and resources should be utilized in the best possible way; and
- .3 in order to have sufficient information for the assessment of the capacity-building needs by the *ad hoc* group, Member States with capacity needs should be invited to submit such information and this could be done by interested Member States submitting documents commenting on proposals for new work programme items.

15.6 In the course of consideration of the correspondence group report, together with comments provided in document MSC 85/15/2, the delegation of the Cook Islands, supported by other delegations, expressed concern at the proposals in document MSC 86/15/2 whereby the proponents of new work programme items would be exonerated from the need to consider the impact of any new work programme item on the capacity-building needs of least developed countries (LDCs) and small island developing states (SIDS).

15.7 Furthermore, in taking into account the current manner in which new work programme items were established, the delegation of the Cook Islands and a number of other delegations felt it inappropriate and unreasonable to place the initial burden on LDCs and SIDS to submit documents commenting on the impact that any such proposals for new work programme items may have on their capacity-building requirements.

15.8 The delegation of Cyprus, supported by a number of other delegations, informed the Committee that, having examined the report of the group, they were of the opinion that the misunderstandings indicated by the co-sponsors of the document could be resolved by observing the following points:

- .1 the assessment of capacity-building should not be a prerequisite for approving a proposal for new work programme items proposing new instruments or amendments to existing ones;
- .2 the assessment should begin immediately as soon as the item has been approved and should run in parallel with the work on the specific item;
- .3 the assessment should be finalized earlier than the finalization of the work on the specific work programme item or at the latest the same time as the finalization of the work on the item;
- .4 the procedure should be flexible enough to accommodate work programme items that are precautionary or proactive in nature. In this case, the assessment might only be possible to commence after the item has been approved. This is because that specific work required cannot be identified at the same time as the approval but at a later stage. The assessment should commence as soon as the work required is defined and should be finalized earlier than or at the latest at the same time as the work on the item or items in this case are finalized;
- .5 the procedure decided is only valid and disseminated to other bodies for their consideration and decision accordingly; and
- .6 the procedure should be undertaken when a proposal arrives for the development of a new instrument or a major amendment to a new instrument of a major nature or when the explicit amendment procedure is required. A major amendment should be taken as meaning the replacement of a whole chapter or annex or the abolition of an existing practice. Routine amendments to keep instruments abreast of technological advancements should not be assessed for their implication of capacity-building.

Amendments to the Committee's Guidelines

15.9 Having recalled that MSC 84 (MSC 84/24, paragraph 14.7) had agreed, in principle, to the draft amendments to the Committee's Guidelines regarding capacity-building, as set out in annex 2 to document MSC 84/14 and that MSC 85, following the decision of the Council, at its one hundred and first session, (MSC 85/26, paragraph 15.5), had agreed to revise the draft amendments to the Committee's Guidelines (MSC 84/14, annex) to reflect the Council's decision on the interpretation of operative paragraph 2 of resolution A.998(25), the Committee, following discussion, agreed that the drafting group should finalize the draft amendments for the Committee's approval.

Establishment of a drafting group

15.10 The Committee established the drafting group and instructed it, taking into account comments and decisions taken in plenary, to:

- .1 finalize the draft procedures for evaluating implications of capacity-building requirements for new and when developing new or amending existing instruments including the checklists, annexed to document MSC 86/15/1; and
- .2 finalize the draft amendments to the Committee's Guidelines on the basis of document MSC 84/14, annex.

Report of the drafting group

15.11 Having considered the report of the drafting group (MSC 86/WP.8) and proposals by the Secretariat (MSC 86/WP.8/Add.1), the Committee approved the Procedures for the assessment of implications of capacity-building requirements when developing new or amending existing mandatory instruments, subject to MEPC 59 concurrent decision, and also approved amendments to the Guidelines on the organization and method of work, set out in annex 22, incorporating new paragraph 2.11-1 and aforementioned Procedures.

16 ROLE OF THE HUMAN ELEMENT

16.1 The Committee, noting that the next session of the Joint MSC/MEPC Working Group on Human Element would be held during MEPC 59 to consider, *inter alia*, the draft amendments to the Revised Guidelines on Implementation of the ISM Code, invited Member Governments and international organizations to submit comments and proposals to MEPC 59, so that the Revised Guidelines may be finalized with a view to submitting them to A 26 for adoption.

16.2 The Committee recalled that MEPC 58 had approved the report of the joint MSC/MEPC working group, which met during MSC 84, in general and, in particular, approved:

- .1 MSC-MEPC.7/Circ.7 on Guidance on near-miss reporting; and
- .2 the updated Action Plan on the Organization's strategy to address the human element.

Joint IMO/ILO Working Group on areas of common interest

16.3 The Committee further recalled that, at its eighty-fifth session, it had considered a request from ILO (MSC 85/16) proposing that the Secretariats of IMO and ILO should hold inter-secretariat consultations on possible common areas relating to the human element which could be discussed by the two Organizations and on a possible mechanism for such discussions, and had agreed that it would be advisable for both Secretariats to meet and identify the common areas/issues of concern with a view to seeking the Committees' advice on the way forward, bearing in mind their earlier decision, at MEPC 56 and MSC 83, not to establish a joint ILO/IMO working group with wide and open-ended terms of reference.

16.4 In this context, the Committee noted (MSC 86/16) that, based on the above decision of the Committees, representatives of the ILO and IMO Secretariats had met at IMO Headquarters on 21 and 22 January 2009, identified areas of common interest to both Organizations, and prepared a proposal to address them, for consideration by the two Committees and the ILO Governing Body, as set out in the annex to document MSC 86/16.

16.5 The observer from ILO, commenting on document MSC 86/16, advised that the Maritime Session of the International Labour Conference in 2006, adopted a resolution proposed by the social partners and supported by Governments, to establish a Joint IMO/ILO Working Group on

the Human Element, with a view to creating a means for both Organizations to work together in a holistic manner, to the extent possible, in order to enhance maritime safety, security, protection of the marine environment, and labour and social conditions in the maritime industry. He reminded the Committee that ILO had been active in its efforts to address conditions of work at sea for over 90 years and had adopted the Maritime Labour Convention (MLC) in 2006 and the Guidelines for flag and port State control for MLC, 2006.

He stated that the establishment of the proposed joint working group would be an efficient mechanism for dealing with many matters of common interest. It would help to avoid duplication of, and conflict in, the work of both Organizations, and would ensure that the work would be mutually supportive. Such a working group could deal with more than one issue at a time, if needed, and could be convened relatively quickly, as necessary, and would lead to more efficient, more responsive and more effective work by the two Organizations on issues of common interest.

16.6 The observer from ITF welcomed the proposed establishment of the joint IMO/ILO Working Group to address issues of common interest which should include those related to occupational health and safety addressing, e.g., noise and vibration reduction and the ship safety representative included in Conventions adopted by both Organizations.

16.7 The delegation of Germany, supported by other delegations, agreed that there was a need for a joint IMO/ILO Working Group to consider issues of common interest. However, in their opinion, this should not be a standing working group with wide and open-ended terms of reference, but should be established on an *ad hoc* basis with specific terms of reference on a case by case basis. The aim of the proposed joint working group should be to avoid duplication of work and to improve the efficiency and effectiveness of the work of both Organizations. In this context, they identified issues related to medical examination, the medical chest and occupational health as being linked with the requirements of the STCW Convention and the Maritime Labour Convention, 2006.

16.8 After some discussions, the Committee agreed that:

- .1 whilst there was general support for the establishment of the Joint IMO/ILO working group to discuss issues of common interest for both Organizations, it should not be a standing group, but should be established on an *ad hoc* basis with specific terms of reference; and
- .2 the Joint MSC/MEPC Working Group on Human Element scheduled to meet during MEPC 59, should consider this proposal and advise the Committees on the composition of members of the proposed joint ILO/IMO working group, priorities to be assigned to the issues identified, terms of reference and the frequency of meetings.

16.9 Furthermore, the Committee recognized that matters relating to:

- .1 the follow-up action related to abandonment, injury and death of seafarers; and
- .2 the implementation of the guidelines concerning fair treatment of seafarers,

were within the purview of the Legal Committee and, consequently, referred them to LEG 96 for further consideration.

16.10 Finally, the Chairman clarified that, notwithstanding the composition of the proposed joint working group, representatives from all Governments and international organizations could attend its meetings as observers and that its report would be submitted to the relevant Committees for consideration and appropriate action.

Guidelines for Safe Navigation

16.11 The delegation of Japan provided information on the booklet “Guidance for Safe Navigation”, providing examples of accidents and explaining the contributing factors, cause and preventive measures. Copies of this booklet were made available for all delegates at the current session. They also requested delegates to provide feedback through the homepage provided in the booklet so that it could be revised to reflect the opinions as reported.

17 FORMAL SAFETY ASSESSMENT

General

17.1 The Committee recalled that MSC 85 had agreed, in principle, to hold an FSA Experts Group at this session and invited Member Governments and non-governmental organizations to nominate experts who have suitable qualifications, in accordance with the Guidance on the use of HEAP and FSA (MSC-MEPC.2/Circ.6).

Terms of reference of the FSA Experts Group and FSA studies to be reviewed

FSA studies to be reviewed

17.2 The Committee had for its consideration document MSC 86/17 (Secretariat), providing the draft terms of reference, a list of documents on FSA studies to be reviewed including documents MEPC 58/17/2 and MEPC 58/INF.2, and information on the number of meetings needed to complete the review; and document MSC 86/17/2 (Greece), providing various comments on the submitted FSA studies as well as on the above-mentioned MEPC documents.

17.3 After a general discussion, the Committee, having agreed to refer the FSA studies on LNG carrier (MSC 83/21/1 and MSC 83/INF.3), containerhips (MSC 83/21/2 and MSC 83/INF.8), cruise ships (MSC 85/17/1 and MSC 85/INF.2) and RoPax (MSC 85/17/2 and MSC 85/INF.3) to the FSA Experts Group, decided to defer consideration of the aforementioned MEPC documents to a future session, pending the relevant decision by the MEPC on the documents.

Terms of reference of the FSA Experts Group

17.4 The Committee approved the proposed terms of reference of the group as outlined in paragraph 17.10 and, having realized that FSA studies to be reviewed also proposed final recommendations for decision-making by the Committee, decided that the group should consider those recommendations in each FSA study and advise the Committee as appropriate.

Composition of the FSA Experts Group

17.5 The Committee recalled that MSC 85 had agreed that, notwithstanding paragraph 35.3 of the Guidance on the use of HEAP and FSA, experts who were involved in the specific FSA study to be reviewed are also eligible for nomination for the FSA Experts Group, taking into account that those experts would provide useful information on such FSA studies.

17.6 Having considered document MSC 86/17/3 (Secretariat), containing the list of experts nominated by Member Governments and non-governmental organizations, and document MSC 86/17/1 (Greece), proposing to clarify the role of certain experts nominated for the FSA Experts Group, which was supported by many delegations, the Committee agreed to the list of the FSA Experts Group on the condition that those experts who were involved in specific FSA studies should only provide information on those studies.

Selection of Chairman of the FSA Experts Group

17.7 In accordance with the provisions of the Guidance on the use of HEAP and FSA (MSC-MEPC.2/Circ.6), the Committee appointed Mr. K. Yoshida (Japan) as Chairman of the FSA Experts Group.

Number of meetings

17.8 With regard to the number of meetings needed to complete the review (MSC 86/17, paragraph 10), the Committee, noting comments that the Experts Group should be an *ad hoc* group and that the reviews of the FSA studies should be conducted thoroughly and efficiently, instructed the group to consider the matter and advise the Committee accordingly.

Database-related issue

17.9 The Committee generally agreed with the observation by Greece (MSC 86/17/1) on database issues that there is a lack of information on root causes of casualties for general cargo ships and, having noted the view expressed by some delegations that data used in FSA studies should be transparent, instructed the group to consider the database-related issue and advise the Committee accordingly.

Establishment of the FSA Experts Group

17.10 Subsequently, the Committee established the FSA Experts Group and instructed it, taking into account the comments made and decisions taken in plenary, to:

- .1 review FSA studies submitted by documents MSC 83/21/1, MSC 83/21/2, MSC 83/INF.3, MSC 83/INF.8, MSC 85/17/1, MSC 85/17/2, MSC 85/INF.2 and MSC 85/INF.3, and, in particular, on each FSA study, to:
 - .1 consider whether the methodology was applied in accordance with the FSA Guidelines and the Guidance on the use of HEAP and FSA;
 - .2 check the reasonableness of the assumptions and whether the scenarios adequately addressed the issues involved;
 - .3 check the validity of the input data and its transparency (e.g., historical data, comprehensiveness, availability of data, etc.);
 - .4 check whether risk control options and their interdependence were properly evaluated and supported by the assessment;
 - .5 check whether uncertainty and sensitivity issues have been properly addressed in the FSA study;

- .6 check whether the scope of the assessment was met in the FSA study; and
 - .7 check whether expertise of participants in the FSA study was sufficient for the range of subjects under consideration,
- and provide a report on the above issues, which should include a discussion on any strengths and weaknesses, the lessons learned regarding the FSA Guidelines and the Guidance on the use of HEAP and FSA, and their application and the evidence used to support the conclusions;
- .2 consider the proposed final recommendations in each FSA study and advise the Committee for consideration and decision; and
 - .3 consider the number of sessions needed to complete the review, in particular whether there is a need for an intersessional meeting of the group, and advise the Committee as appropriate.

Report of the FSA Experts Group

17.11 Having received the report of the FSA Experts Group (MSC 86/WP.9), the Committee approved the report in general and took action as indicated hereunder.

Common findings on FSA studies carried out by SAFEDOR

17.12 The Committee noted that the group, after its first review on FSA studies carried out by SAFEDOR, had identified the common aspects, main points of which are outlined in paragraphs 17.13 to 17.19 below, and also noted that the preliminary discussions on FSAs on cruise ships, RoPax ships, LNG carriers and containerships were attached at annexes 1 to 4, respectively, to document MSC 86/WP.9.

High-level FSA studies

17.13 The Committee, having recognized that the FSA studies carried out by SAFEDOR were high-level FSA studies, which aimed at estimating current risk levels of some ship types and suggesting potential risk control options (RCOs) for further enhancement of safety and/or environment protection, noted that the SAFEDOR FSAs did not request IMO to take any immediate actions on the proposed RCOs.

Expertise of participants in the FSA studies

17.14 The Committee noted that the group, having noted that the list of the project team was not included and a human element expert could not be identified in some FSAs, was of the view that a brief background of each expert engaged in the FSA study; the structure, selection and composition of the project team; and the method of decision making should be included in the FSA report.

Validity of the input data and its transparency

17.15 The Committee noted that the current commercially available casualty data (e.g., LRF and LMIU) lacked detailed descriptions of accidents and causes, and also noted that IMO GISIS may include more precise information but that it is not an exhaustive casualty database. The Committee recognized the importance of such information on root-causes and details of accidents and stressed the need for causes of accidents to be provided.

17.16 Concerning the need for transparency of data used in FSAs, the Committee noted that the group, while noting the benefit of disclosing casualty data used for the FSA, had realized the difficulty of disclosure of commercial casualty data due to intellectual property rights and the agreement contract with data providers. Subsequently, the Committee noted that the group had agreed that reports of FSAs should indicate clearly applied selection criteria and the method of analysis of casualty data and identification of hazards (HAZID) and that this information should be examined during the review of the FSA, and had also agreed to consider further the issue of casualty databases.

Gap between step 1 (HAZID) and remaining part of the assessment (steps 2 to 4)

17.17 With respect to the gap between the identified hazards (step 1) and the remaining part of the risk assessment (steps 2 to 4), the Committee noted that, while the representative from SAFEDOR explained that they had focused on major risks and RCOs which would directly relate to loss of life and that identified hazards were sometimes found to be omitted, the group had thought it appropriate that steps 2 to 4 should take into account all the major identified hazards unless the selection criteria are explained and justified.

Risk control options

17.18 The Committee noted that some FSA models focused on mitigation RCOs rather than preventive RCOs of accident types, and that the criteria for the selection of RCOs for cost benefit analysis were not clearly reported in some FSA reports.

Sensitivity and uncertainty

17.19 The Committee noted that the requirement for an analysis on sensitivity was not clearly indicated in the current FSA Guidelines, while the Guidance on the use of HEAP and FSA specified that uncertainty and sensitivity should be reviewed, and that it would be necessary to consider the inclusion of the provisions of sensitivity analysis in the FSA Guidelines in future.

Recommendations on the FSA studies carried out by SAFEDOR

17.20 The Committee, while noting that the SAFEDOR project had been completed and the project team had been disbanded, agreed that the results of the review by the FSA Experts Group on these FSAs carried out by SAFEDOR might include suggestions and/or recommendations for re-calculation, re-analysis or further work on the FSAs, if appropriate.

Lesson learnt on the FSA Guidelines and the Guidance on the use of HEAP and FSA

17.21 The Committee noted that the group had found that there were some discrepancies between the FSA Guidelines and the Guidance on use of HEAP and FSA, which should be solved in future.

Composition of the FSA Experts Group

17.22 With regard to the previous agreement that experts who were involved in specific FSA studies should only provide information on those studies (see paragraph 17.6), the Committee endorsed the group's consideration that all the nominated experts listed in document MSC 86/17/3 should remain in the FSA Experts Group for further review. In this regard, the Committee, having noted that each expert should work as an individual and independent expert, agreed that, in future, the names of experts should be listed in the report of the FSA Experts Group.

Number of sessions and intersessional arrangement

17.23 Having noted that more time was needed to examine the FSA studies in order to complete the review by the group, the Committee approved the intersessional arrangements through correspondence among the nominated experts, coordinated by Japan*, and an intersessional meeting of the FSA Experts Group (tentatively scheduled from 2 to 6 November 2009 at IMO Headquarters), with the following terms of reference:

- .1 to finalize the review of FSA studies submitted by documents MSC 83/21/1, MSC 83/21/2, MSC 83/INF.3, MSC 83/INF.8, MSC 85/17/1, MSC 85/17/2, MSC 85/INF.2 and MSC 85/INF.3, and, in particular, on each FSA study, to:
 - .1 consider whether the methodology was applied in accordance with the FSA Guidelines and the Guidance on the use of HEAP and FSA;
 - .2 check the reasonableness of the assumptions and whether the scenarios adequately addressed the issues involved;
 - .3 check the validity of the input data and its transparency (e.g., historical data, comprehensiveness, availability of data, etc.);
 - .4 check whether risk control options and their interdependence were properly evaluated and supported by the assessment;
 - .5 check whether uncertainty and sensitivity issues have been properly addressed in the FSA study;
 - .6 check whether the scope of the assessment was met in the FSA study and propose any recommendations for re-analysis or re-calculation; and
 - .7 check whether expertise of participants in the FSA study was sufficient for the range of subjects under consideration,and provide a report on the above issues, which should include a discussion on any strengths and weaknesses, the lessons learned regarding the FSA Guidelines and the Guidance on the use of HEAP and FSA, and their application and the evidence used to support the conclusions;
- .2 to consider the proposed final recommendations in each FSA study and advise the Committee for consideration and decision; and
- .3 to submit a report to MSC 87.

*

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17.24 Subsequently, taking into account the above intersessional arrangement, the Committee agreed that the review on the aforementioned FSA studies would be completed at the next session.

17.25 The Committee endorsed the group's view that the FSA study contained in documents MEPC 58/17/2 and MEPC 58/INF.2 could be reviewed during the intersessional period, subject to the decision by the MEPC, and that the group could start reviewing the final FSA studies by SAFEDOR, which concern dangerous goods on board open-top containerships and will be submitted to MSC 87, at the intersessional meeting, if time permits.

Appreciation to FSA studies carried out by SAFEDOR

17.26 The Committee expressed its appreciation to Denmark and the SAFEDOR project for their submissions of the FSA studies to the Organization and for providing useful presentations and information, which facilitated the group's review, and also expressed its hope for further cooperation from members of SAFEDOR, with a view to finalizing review by the FSA Experts Group.

18 PIRACY AND ARMED ROBBERY AGAINST SHIPS

INITIAL DISCUSSIONS

18.1 Prior to the deliberations on piracy and armed robbery against ships, the Committee received a briefing from some of those involved in operations to deter and repress acts of piracy and armed robbery against ships off the coast of Somalia as well as from those affected by the situation. Presentations were given, at a special session arranged on 27 May 2009, by Commander Gerry Northwood, Operations Officer for the European Union Naval Force; Captain Pottengal Mukundan of ICC-IMB; Mr. Peter Hinchliffe of ICS; and Mr. John Bainbridge of ITF. The Committee expressed its appreciation for the presentations.

18.2 In its initial discussions on piracy and armed robbery against ships, the Committee considered general statements by Angola, Argentina, Bulgaria, China, Denmark, France, Greece, India, Indonesia, the Islamic Republic of Iran, Italy, Japan, Kenya, Liberia, Malta, the Marshall Islands, Nigeria, Panama, the Philippines, the Republic of Korea, the Russian Federation, Saudi Arabia, Singapore, South Africa, Sweden, Turkey, the United Republic of Tanzania, the United States, Yemen, and the observers from BIMCO, IFSMA, INTERTANKO, MOWCA and ReCAAP-ISC, a synopsis of which is detailed in the ensuing paragraphs.

18.3 The issue of the carriage of firearms was discussed with a number of States offering their views. There was unanimous agreement that seafarers should not be armed. Most delegations that spoke concurred with the position agreed at MSC 85, i.e. that the Committee should continue to strongly discourage the carrying and use of firearms for personal protection or protection of a ship; and that the use of armed professional security teams on board merchant ships was a matter for flag States to determine in consultation with shipowners and companies, not the Organization. The Committee noted the suggestion that, since armed security teams were, in reality, being deployed and would continue to be so in future, there could be value in the Organization developing guidance on standards for private onboard armed security personnel.

18.4 One delegation, in expressing concern that the lack of controls and safeguards on the retransmission and promulgation of AIS data on the Internet may be assisting pirates in their activities and posing a threat to ships, proposed the establishment of a technical working group to consider the legal aspects of the issue. Another delegation expressed concern that terrorists may learn from and adopt the tactics used by pirates for their own purposes.

18.5 A number of delegations outlined the actions taken by their Governments to deploy ships and patrol aircraft to the Western Indian Ocean region to assist in the protection of merchant shipping. In this context, the Committee welcomed the significant strategic cooperation between States and noted the importance of the weekly meetings of the shared awareness and deconfliction (SHADE) mechanism in coordinating the activities of participating navies.

18.6 Delegations welcomed the development and adoption of the Djibouti Code of Conduct, which had been modelled on ReCAAP. In this regard, the Committee noted with gratitude that the Government of Japan had submitted a proposal to the Parliament for a budget of US\$15 million to be provided to the region, through IMO, for regional capacity-building and, in particular, for the implementation of the Djibouti Code of Conduct. Furthermore, at a later stage during the session, the delegation of Japan announced that the Parliament of Japan had completed the process of establishing a supplementary budget for fiscal year 2009, which included the above budget of US\$15 million for the implementation of the Djibouti Code of Conduct and the Committee expressed its appreciation to the Government of Japan for this generous contribution. The Committee further noted that the development of the regional maritime information centre in Sana'a was progressing and was scheduled to be completed in September 2009.

18.7 Delegations stressed the importance of full implementation, by shipowners and operators, of IMO and national guidance, and industry best management practices on the suppression of piracy. Some delegations stressed the need for anti-piracy measures to be incorporated into ship security plans and/or ship ISM procedures.

18.8 In considering the activities of the Contact Group on Piracy off the Coast of Somalia (the Contact Group), the Committee noted that the Contact Group had scheduled a meeting in New York on Friday, 29 May 2009. Some delegations expressed concern at the non-inclusive nature of the Contact Group, the apparent lack of coordination between the Contact Group and the Committee, and the potential for duplication of effort. In this regard, some delegations sought assurance that IMO and, in particular, the Committee, was the main body to set standards and measures for the shipping industry. Notwithstanding these concerns, a number of major flag States stated their intention to affirm their commitment to work with the Contact Group at its meeting in New York.

18.9 Delegations highlighted the international legal frameworks with respect to the repression of piracy and armed robbery against ships, both through the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA 1988), and, in particular, the need for national legislation to give effect to these Conventions. The efforts of Kenya and other States to amend their national legislation to enable the prosecution of pirates were appreciated. One delegation proposed the establishment of an international criminal court to address those accused of piracy.

18.10 Delegations expressed the view that piracy and armed robbery against ships in waters off the coast of Somalia were a symptom of the lack of effective Government and the rule of law ashore. In considering ways to support the Somali people, it was suggested that the elimination of illegal fishing and prevention of illegal dumping of toxic waste were important.

18.11 Concern was expressed that the activities of pirates were both a threat to trade with and in the region and were also having a detrimental effect on search and rescue operations therein. A holistic approach to countering piracy was required, with support to States shouldering the financial burden of prosecuting offenders and with a focus on discouraging piracy throughout the region, not just off Somalia.

18.12 All delegations who spoke, expressed appreciation to all those parties taking action to redress piracy and armed robbery against ships off the coast of Somalia and in the Gulf of Aden, as well as to the Secretariat for its initiatives and coordination of activities on the issue.

18.13 The Secretary-General, in conveying his thanks for the kind words about the Secretariat's actions, expressed regret that, despite all of the good work of the Organization on a multitude of topics, the first thing that he was regularly asked about was piracy. He paid tribute to the work of the Committee in a wide range of areas before addressing specific points as detailed in the ensuing paragraphs.

He noted that more than 90% of humanitarian aid for Somalia is carried by sea but that, for a variety of reasons, there was some reluctance among shipowners to make large, modern ships available for transporting aid. In discussions with the Executive Director of the World Food Programme (WFP), it had become clear that WFP had a limited budget for logistics and that, as a result of cost increase due to pirate activity, the size and quality of affordable shipping available to it was decreasing. The use of small, slow ships by WFP placed an additional burden on navies providing escorts – by tying up greater numbers of warships for longer periods of time – than if larger, faster and, therefore, less vulnerable ships were used for WFP transports.

The Secretary-General advised the Committee of the concerns of the Government of Seychelles that its tourism and fishing industries were suffering as a result of piracy. There was also a fear that pirates had established bases in remote and uninhabited islands in the Western Indian Ocean, thus extending their reach beyond the area close to Somalia.

He considered that it was vital that a strong message was sent to seafarers that their interests were of paramount importance. As he had outlined to the United Nations Security Council in November 2008, the priorities for IMO were, firstly, the safety of seafarers, fishermen and other mariners; secondly, the uninterrupted delivery of humanitarian aid to the long-suffering people of Somalia; and, thirdly, the preservation of the integrity of the Gulf of Aden as a vital shipping lane.

The Secretary-General further noted that, although the relative drop in the number of piracy incidents, during December 2008 and January 2009, could partly be attributed to the weather, the deployment of naval ships and the use of preventative, evasive and defensive measures by merchant ships had also been a factor.

Commenting on the issue of the carriage of firearms, the Secretary-General recalled that the Committee had made up its mind not to recommend this, back in 1993, and that it had not changed since. Indeed, MSC 62, having considered the report of a Working Group on the Malacca Strait, had endorsed the following recommendation with respect to firearms:

“The carrying and use of firearms for personal protection or protection of a ship is strongly discouraged.

Carriage of arms on board ship may encourage attackers to carry firearms, thereby escalating an already dangerous situation, and any firearms on board may themselves become an attractive target for an attacker. The use of firearms requires special training and aptitudes and the risk of accidents with firearms carried on board ship is great. In some jurisdictions, killing a national may have unforeseen consequences even for a person who believes he has acted in self defence.”

The Secretary-General concluded his intervention by recalling his statement to the first session of Working Group 1 of the Contact Group, at which he had underlined how impressive it was to see so many entities (international governmental and non-governmental organizations, alliances of Governments, political and defence organizations and individual Governments: the United Nations, IMO, the World Food Programme, the UN Office on Drugs and Crime, the European Union, NATO, the African Union, the League of Arab States, shipping industry organizations representing both shipowners and seafarers, oil companies, the International Maritime Bureau, etc.) showing a strong and genuine interest in halting the unacceptable incidence of piracy off the coast of Somalia. The fact that navies from countries as far apart as China in the East and the United States in the West, the Russian Federation in the North and India in the South (to mention but a few) had – probably for the first time in history, given their countries’ background – converged in the Western Indian Ocean area, joining forces in an unparalleled demonstration of solidarity to rid the world of criminal elements taking advantage of the political instability of the country from the coast of which they launch their operations, had spoken volumes of the degree of rejection, by the international community, of the scourge being faced off the Horn of Africa and of its determination to eradicate it once and for all.

STATISTICAL INFORMATION AND REPORTS OF INITIATIVES TO SUPPRESS PIRACY AND ARMED ROBBERY

18.14 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.

18.15 The Committee noted that the number of acts of piracy and armed robbery against ships reported to the Organization and which occurred in 2008 was 306 against 282 during the previous year, representing an increase of 8.5% from the figure for 2007. In the first four months of 2009, 157 incidents were reported to the Organization. The total number of incidents of piracy and armed robbery against ships, reported to have occurred or to have been attempted from 1984 to the end of April 2009, was 4,978.

18.16 The Committee observed that during the period under review (i.e. 1 January 2008 to 31 December 2008), it emerged that the areas most affected (i.e. five incidents reported or more) in 2008 were East Africa and the Far East, in particular the South China Sea, West Africa, South America and the Caribbean and the Indian Ocean and that detailed statistical information is provided in MSC 86/18. The Committee noted that although the majority of actual attacks reported worldwide during 2008 had occurred in territorial waters while the ships were at anchor or berthed, if one considered the first four months of 2009, it became clear that the balance had shifted and the majority of attacks and attempted attacks were occurring in international waters, that are outside of coastal States’ jurisdiction.

18.17 The Committee expressed concern that many of the reports received, the crews had been violently attacked by groups of five to ten people carrying knives or guns. From the same information, it emerged that, during the period under review, six (6) crew members were killed and forty-two (42) crew members were reportedly injured/assaulted. About seven hundred and seventy-four (774) crew members were reportedly taken hostage/kidnapped and about thirty-eight (38) crew members were still unaccounted for. One (1) vessel was reportedly still unaccounted for, and fifty-one ships (51) were reportedly hijacked, largely off the coast of Somalia, an increase on last year.

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

18.19 The Committee also urged Member States to provide to the Organization information on action taken with regard to incidents reported to have occurred in their territorial waters.

PIRACY AND ARMED ROBBERY AGAINST SHIPS IN WATERS OFF THE COAST OF SOMALIA

18.20 The Committee condemned the dramatic increased of piracy incidents in waters off the coast of Somalia.

18.21 Recalling the intervention by the Secretary-General, the Committee noted that the United Nations Security Council had adopted two resolutions on piracy off the coast of Somalia: United Nations Security Council resolution 1846 (2008) adopted on 2 December 2008 which, *inter alia*, extended the validity of resolution 1816 (2008) by 12 months; and resolution 1851 (2008) adopted on 16 December 2008.

18.22 The Committee noted also that pursuant to resolution 1851 (2008), the Contact Group on piracy off the coast of Somalia (the Contact Group) had been established and had held its inaugural meeting on 14 January 2009 to facilitate discussion and coordination of actions among States and organizations to suppress piracy off the coast of Somalia. It was intended that the Contact Group would report its progress to the Security Council. The participants in the Contact Group, *inter alia*, had established four working groups in which members of the Contact Group could participate, to address the following focus areas:

- .1 Working Group 1 to address activities related to military and operational coordination and information sharing and the establishment of the regional coordination centre, convened by the United Kingdom with the support of IMO;
- .2 Working Group 2 to address judicial aspects of piracy, convened by Denmark with the support of UNODC;
- .3 Working Group 3 to address the strengthening of shipping self-awareness and other capabilities, convened by the United States with the support of IMO; and
- .4 Working Group 4 to address the issue of improving diplomatic and public information on all aspects of piracy, convened by Egypt.

18.23 The Committee noted that the Secretariat had participated in all of the meetings of the Contact Group and its working groups.

18.24 The Committee received a briefing from the Secretariat on the proceedings of the meeting of the Contact Group in New York (paragraph 18.8 above), a synopsis of which was issued as document MSC 86/INF.19. The Committee further noted that the Bahamas, Liberia, Marshall Islands and Panama signed the “New York Declaration” which, *inter alia*, committed them to promulgating the internationally recognized best management practices to reduce the risk of piracy.

18.25 The Committee noted, with appreciation, the announcements by Australia, Belgium, Islamic Republic of Iran, Norway, Republic of Korea and Sweden that their Governments had decided to send warships to assist in counter-piracy efforts in waters off the coast of Somalia. The Committee reiterated its thanks to those States which had already operated ships and aircraft in the region.

COMPREHENSIVE REVIEW OF GUIDANCE FOR PREVENTING AND SUPPRESSING PIRACY AND ARMED ROBBERY AGAINST SHIPS

18.26 The Committee recalled that MSC 84 had decided to review the guidance provided by the Organization for preventing and suppressing piracy and armed robbery against ships and in particular of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22) and had established a correspondence group, and under the coordination of Denmark, with terms of reference as detailed in paragraph 17.24 of document MSC 84/24 (report of MSC 84), to progress the work.

18.27 The Committee also recalled that MSC 85 had received an interim report on the work of the correspondence group on the review and updating of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22), had noted the progress made and had modified the terms of reference.

18.28 In considering the final report of the correspondence group, (document MSC 86/18/1), the Committee deliberated upon a number of key issues, as set out in the ensuing paragraphs.

Carriage of firearms

18.29 The Committee recalled that MSC 85 had agreed (MSC 85/26, paragraph 18.10) that there was a need for a full re-examination of the issue of the carriage of firearms or armed personnel on board merchant vessels.

18.30 In considering the historical basis for the Organization's current position on the carriage of firearms and armed personnel on board ships, the Committee recalled that it had agreed to discourage strongly the carrying and use of firearms for personal protection or the protection of a ship and warned that there could be a possible escalation of violence resulting from the carriage of armed personnel on board merchant ships, however, the Committee had recognized that the use of armed professional security teams on board merchant ships was a matter for flag States to determine in consultation with shipowners and companies, not the Organization.

18.31 During its deliberations, during this session, the Committee reiterated this position and directed the Working Group on Piracy and armed robbery against ships (the piracy working group) to reflect this in the amendment of the Organization's guidance on the suppression of piracy. The Committee noted the suggestion of the United States that there might be merit in developing recommended standards for armed professional security teams.

Advice specific to waters off the coast of Somalia

18.32 The Committee recalled that on the authority of the Chairman of the Committee, the Secretary-General had issued MSC.1/Circ.1302 on Piracy and armed robbery against ships in the waters off the coast of Somalia. MSC.1/Circ.1302 advises Governments, ship operators and all interested parties to apply fully the advice provided by IMO through MSC/Circs.622 and 623; to follow industry advice on transiting the Indian Ocean over 600 miles from the coast of Somalia; and to register and report to the naval authorities in the area via the Maritime Security Centre Horn of Africa (MSCHOA) and the United Kingdom Maritime Trade Operation (UKMTO) Dubai. The Committee noted that the guidance given in document MSC.1/Circ.1302 was consistent with the industry-developed "Best management practice".

18.33 The Committee noted the development, through an industry-led initiative, of the Best management practices to deter piracy in the Gulf of Aden and off the coast of Somalia, as submitted to Working Group 3 of the Contact Group on piracy off the coast of Somalia and agreed that it should form the basis of a Somalia-specific annex to revised document MSC/Circ.623/Rev.3.

18.34 In considering the best management practices and the proposals of France and Spain, and ITF and to amend the document, the Committee agreed that the best management practice should be issued under cover of an MSC circular, instructed the piracy working group to consider if any amendments to the best management practices were necessary, and to consider and make recommendations on the proposals of France, Spain and ITF.

Advice in cases where seafarers, fishermen and other mariners are kidnapped or held hostage for ransom

18.35 The Committee, recalling that the terms of reference for the correspondence group had called for development of guidance to seafarers, fishermen and other mariners when attacked, noted document MSC 86/18/4 (Secretariat) on the current United Nations guidance on “surviving as a hostage” and agreed that it should be taken into account in the review and updating of MSC/Circ.623/Rev.3.

18.36 The Committee noted the position of ISF *et al.* (document MSC 86/18/9), which commended those shipowners and operators who had put in place practical measures to give support to and ensure the well-being of seafarers and their families both during and after any period of captivity. All shipowners were encouraged to take similar steps when faced with such circumstances.

18.37 The Committee noted that, at its meeting in Hong Kong, China on 29 October 2008, ICMA had adopted a resolution which, *inter alia*, urged the development of guidelines for shipowners on caring for seafarer and fisher victims of piracy and armed robbery at sea, and called upon interested organizations to work together to establish a resource centre for shipowners, seafarers, and fishermen on the availability of specialized counselling, medical care and other appropriate services for victims of piracy and armed robbery at sea.

Amendments to MSC/Circ.622

18.38 In the context of the proposal to include the text of the ReCAAP agreement in the revision to MSC/Circ.622, the Committee agreed that ReCAAP is one example of a region-specific agreement (the Djibouti Code of Conduct being another), and it might not be an effective use of resources to include a full version in the text of an MSC circular. The Committee referred the matter to the piracy working group for its recommendation on whether it would be more appropriate to include a reference to the ReCAAP website, from which the text of the agreement could be downloaded.

THE DJIBOUTI MEETING

18.39 The Committee noted that, pursuant to operative paragraph 7 of resolution A.1002(25) on Piracy and armed robbery against ships in waters off the coast of Somalia, the Sub-regional meeting on maritime security, piracy and armed robbery against ships for Western Indian Ocean, Gulf of Aden and Red Sea States was held in Djibouti, from 26 to 29 January 2009 (the Djibouti meeting).

18.40 The Committee noted also that the Djibouti meeting had, *inter alia*, adopted a Code of Conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden (the Djibouti Code of Conduct), the details of which had been reported to the Council in document C 102/14. The Code addressed the investigation, arrest and prosecution of suspected pirates and seizure of their equipment; the conduct of shared operations; the sharing of information, through national focal points using the Maritime Rescue Coordination

Centres in Mombasa and Dar es Salaam, and the regional maritime information centre, which was being established in Sana'a, Yemen. The signatories also undertook to review their national piracy legislation. The Committee received a separate briefing on the Djibouti Code of Conduct by the Secretariat.

IMO/MOWCA INTEGRATED COAST GUARD PROJECT

18.41 The Committee recalled that MSC 85 had received update on progress made since the regional IMO/MOWCA forum on the establishment of an integrated coast guard function network for West and Central African Countries, held in Dakar, Senegal, from 23 to 25 October 2006. This had included noting that, at the 13th General Assembly of Ministers of MOWCA, held in Dakar, Senegal, on 30 July 2008, twenty Member States of MOWCA had adopted a Memorandum of Understanding on the establishment of a Sub-regional Coastguard Network for the West and Central African sub-region, and that 11 of the 20 coastal Member States of MOWCA, representing 55% of the membership, had immediately signed the MoU.

18.42 The Committee noted that the Secretariat had continued to promote the IMO/MOWCA integrated coast guard function network project in various fora, both civil and military, with a view to securing further support for the project. The progress made in the establishment of search and rescue centres in West and Central Africa, pursuant to the 2000 Florence Conference, would also have a beneficial effect in this regard. It was still the Secretariat's intention to convene a donor meeting and a regional meeting to promote this important initiative, however, unfortunately, such arrangements had necessarily been delayed due to the plethora of meetings concerning piracy off Somalia.

ESTABLISHMENT OF THE WORKING GROUP ON PIRACY AND ARMED ROBBERY AGAINST SHIPS

18.43 The Committee established the Working Group on Piracy and armed robbery against ships and instructed the group, taking into account the related discussions of the various issues in plenary:

- .1 to prepare a stand-alone draft MSC circular on Piracy and armed robbery in waters off the coast of Somalia, attaching as its annex the "Best management practices" contained in the annex to document MSC 86/18/2, ensuring that the existing global and new regional guidance are harmonized with the revised MSC/Circ.623 to avoid any apparent contradictions;
- .2 to avoid making any changes of substance to the text of the "Best management practices" other than to harmonize it with the existing global guidance. Note that the reference to UKMTO Dubai as a single point of contact should be maintained;
- .3 taking into account the proposals of France and Spain (document MSC 86/18/5), to advise the Committee on how to progress the development of specific guidance, similar in nature to the "Best management practices", for use by the fishing industry and/or by other maritime sectors not covered by existing IMO guidelines;
- .4 to include in the revised MSC/Circ.623, an annex for the benefit of seafarers, fishermen and other mariners who have been kidnapped or held hostages for ransom based upon the current United Nations guidance on "surviving as a hostage" contained in the annex to document MSC 86/18/4 and taking into account the proposals contained in documents MSC 86/18/6, MSC 86/18/8 and MSC 86/18/9;

- .5 in considering revisions to MSC/Circ.622/Rev.1 and MSC/Circ.623/Rev.3 with respect to the carriage of firearms or armed personnel on board merchant ships, to continue to apply the decisions of MSC 85 to continue to strongly discourage the carrying and use of firearms for personal protection or protection of a ship; and that the use of armed professional security teams on board merchant ships was a matter for flag States to determine in consultation with shipowners and companies, not the Organization. The working group was further directed to avoid reopening the discussion during its deliberations;
- .6 in considering the revision of resolution A.922(22), not to include the ICC text (annex D to document MSC 86/18/1) in the revised text;
- .7 in considering the revision of resolution A.922(22), not to include any reference to an IMO panel of experts (document MSC 86/18/1, paragraphs 3.2a to 3.2c) at this stage;
- .8 in considering revision to MSC/Circ.622/Rev.1, to decide whether the full text of the ReCAAP should be included in the revised text or whether it should be referenced with the provision of details of the ReCAAP website; and
- .9 to submit a report to plenary by Thursday, 4 June 2009.

REPORT OF THE WORKING GROUP ON PIRACY AND ARMED ROBBERY AGAINST SHIPS

18.44 Having received and approved in general the report of the Working Group on piracy and armed robbery against ships (the group) (documents MSC 86/WP.7 and MSC 86/WP.7/Add.1), the Committee noted the actions taken on the various documents and proposals submitted and the outcome of the group's considerations; and took action as indicated in the ensuing paragraphs.

Ships' Automatic Identification Systems (AIS)

18.45 The Committee noted that the delegation of Saudi Arabia had expressed concern that the lack of controls and safeguards on the retransmission and promulgation of AIS data on the Internet may be assisting pirates in their activities and posing a threat to ships in the waters off the coast of Somalia; and proposed to establish a technical working group to consider the legal aspects of the issue.

18.46 The Committee recalled that this issue had been discussed at MSC 79 in the context of freely available AIS generated ship data on the worldwide web and the attendant security risks. MSC 79 had concluded that, in view of the fact that the AIS was a public broadcasting system, developed primarily as a collision avoidance aid to navigation, it would be practically impossible for either the Organization or its Member States to regulate or control the activities of those who made AIS information available on the worldwide web.

18.47 The Committee recalled that MSC 79 had:

- .1 agreed that the publication on the worldwide web or elsewhere of AIS data transmitted by ships could be detrimental to the safety and security of ships and port facilities and was undermining the efforts of the Organization and its Member States to enhance the safety of navigation and security in the international maritime transport sector;

- .2 urged masters of ships, notwithstanding the provisions of the Guidelines for the on-board operational use of automatic identification systems (AIS), adopted by the Organization by resolution A.917(22), as amended by resolution A.956(23), not to switch off the ship's AIS on account of the publication on the worldwide web or elsewhere of the AIS data transmitted by their ships;
- .3 urged Member Governments, subject to the provisions of their national laws, to discourage those who made available AIS data to others for publication on the worldwide web, or elsewhere, from doing so;
- .4 condemned the regrettable publication on the worldwide web or elsewhere of AIS data transmitted by ships;
- .5 condemned those who irresponsibly published AIS data transmitted by ships on the worldwide web or elsewhere, particularly if these offered other services to the shipping and port industries; and
- .6 requested the Secretary-General to bring to the attention of those who published or who may publish AIS data transmitted by ships on the worldwide web or elsewhere, the conclusions of the Committee.

18.48 The Committee noted further that in the context of piracy and armed robbery in waters off the coast of Somalia, there had been no clear evidence of pirates having used AIS to target ships in that no arrested pirate vessels had been found to be equipped with AIS receivers. The current guidance offered by navies via the Maritime Security Centre – Horn of Africa (MSCHOA) was that ships operating in the Gulf of Aden should leave AIS switched on, however, as a precautionary measure, ships operating in the Western Indian Ocean should switch AIS off. Further amplifying guidance was given in the “Best management practices” (annex 1 to the draft MSC.1/Circular on Piracy and armed robbery against ships in waters off the coast of Somalia), including the need to confirm the latest naval recommended practices from MSCHOA.

Best management practice (BMP)

18.49 The Committee noted the group's deliberations on the Best management practice, including the agreement to leave the text of the Best management practice unchanged. In this regard, the Committee noted, in particular:

- .1 the discussions on the use of fire hoses against armed pirates and the potential risk to seafarers;
- .2 the caveat in the Best management practice that the safety of the crew and passengers was paramount;
- .3 the debate on the need to strengthening ships' bridges against gunfire, including the potential safety concerns with armouring bridges and the concerns with the escalation of violence; and
- .4 the recommendation that the Committee may wish to consider suggestions on further measures to protect crewmembers during any subsequent revisions to guidance issued by the Organization.

18.50 The Committee agreed that the investigation of offences of piracy and armed robbery against ships was a matter for States and that the existing IMO guidelines, for example, resolution A.922(22) on Code of practice for investigation of crimes of piracy and armed robbery against ships, and its proposed replacement, were sufficient. The Committee agreed also that the guidance given in the Best management practice should be read in conjunction with MSC.1/Circ.1333, MSC.1/Circ.1334 and resolution A.922(22).

Piracy and the ISPS and ISM Codes

18.51 The Committee noted the group's discussion on whether there was a need for anti-piracy measures to be incorporated into ship security plans and/or ship ISM procedures. The Committee noted also that in signing the "New York Declaration", the Bahamas, Liberia, the Marshall Islands and Panama had declared, *inter alia*, that "self protection measures taken by vessels to avoid, deter or delay piracy attacks were an essential part of compliance with the ISPS Code".

Fishing vessels

18.52 The Committee noted the group's discussions on specific guidance to fishing vessels and agreed that:

- .1 specific guidance to vessels engaged in fishing in waters off the coast of Somalia was warranted;
- .2 fishing vessels when not engaged in fishing would benefit from the guidance contained in the Best management practice;
- .3 the additional guidance for vessels engaged in fishing should be read in conjunction with the Best management practice; and
- .4 a statement to the effect that non-Somali fishing vessels should avoid operating or transiting within 200 nautical miles of the coast of Somalia, irrespective of whether or not they had been issued with licences to do so, should be included in the guidance.

18.53 The Committee approved MSC.1/Circ.1332 on Piracy and armed robbery against ships in waters off the coast of Somalia.

Guidance for recreational vessels

18.54 The Committee noted that ISAF had developed Guidance for yachts considering a passage through the Gulf of Aden and waters off the coast of Somalia (Section 1 of the guidance states that "Yachts are strongly recommended to avoid the area), and that this guidance could be downloaded from the ISAF website (<http://www.sailing.org/28110.php>) and was also expected to be displayed on the MSCHOA website (<http://www.mschoa.org>) in the near future.

The carriage and use of firearms and security personnel

18.55 The Committee noted that during the discussions on the carriage and use of firearms and security personnel in the context of the revision of MSC/Circ.622/Rev.1 and MSC/Circ.623/Rev.3, the group had accepted fully the principle agreed at MSC 85 that the carriage and use of firearms for personal protection or protection of a ship should be strongly discouraged; and that the use of

armed professional security teams on board merchant ships was a matter for flag States to determine in consultation with shipowners and companies, not the Organization. The ensuing paragraphs are a summary of the salient issues raised and actions taken.

18.56 The Committee noted that the suppression of piracy was for some a constabulary operation, thus for those States the lead agency was the police rather than the military and that the group had therefore agreed that reference should be made to “military teams or law enforcement officers duly authorized by Government” rather than the term “military teams on board vessels under the command of naval officers” offered by the correspondence group.

18.57 With regard to the terminology used to describe other armed personnel, the Committee noted that the group had agreed to use the term “privately contracted armed security personnel”. As the meaning of this term was clear in plain language, there was no need to provide a definition. It was noted that, while considering the use of the term “professional” in this context, the group had agreed that, as there were no recognized standards for such personnel, the use of the term “professional” would not be appropriate.

18.58 The Committee noted that the group had added text to reflect that it should also be borne in mind that carrying firearms may pose an even greater danger if the ship is carrying flammable cargo or similar types of dangerous goods.

18.59 The Committee further noted that, in the context of lengthy discussions on the legal responsibilities of flag States and coastal States or port States and, in particular, coastal State and port State jurisdiction with respect to the carriage of weapons on board ships of another State entering their territorial sea and/or ports, the group had noted that a ship carrying firearms entering the territorial sea of a State could be deemed to have imported them, irrespective of the master’s intention to do so. In developing the text in relation to firearms and armed personnel in the context of coastal State and port State jurisdiction, the group had agreed that:

- .1 the carriage of privately contracted armed security personnel as well as the use of military or other law enforcement officers duly authorized by the Government of the flag State to carry firearms for the security of the merchant ship or fishing vessel should be subject to flag State legislation and policies and was a matter for the flag State to authorize in consultation with shipowners, companies and ship operators;
- .2 ships entering the territorial sea and/or ports were subject to the coastal State’s or port State’s legislation;
- .3 importation of firearms was subject to coastal and/or port State regulation;
- .4 the use of the terms “merchant ship” and “fishing vessel” was to distinguish them from warships and vessels in Government service.

18.60 Some delegations proposed that Administrations should advise ships entitled to fly their flag of the national regulations of coastal States and port States. However, this suggestion was not supported by the majority of the delegations.

18.61 Representatives of the insurance sector highlighted the importance of consultation between administrations, companies and insurers on liability and other aspects of the carriage of armed security personnel. It was suggested that ships should ensure that their procedures were insurable and thus take precautions as if they were uninsured or self-insured.

18.62 The IFSMA observer stated that IFSMA was greatly concerned of the effect of the possibility for shipowners to obtain insurance for the ship and cargo in case of hijacking of ships. This would give the owner a security for his ship and cargo but would not in any way make the transit for seafarers safer. On the contrary, they feared that this could encourage certain owners to take the risk of routing their ships through piracy areas such as the Gulf of Aden and the Somali coast. IFSMA strongly urged IMO to call upon the shipowners and insurance organizations to abolish such insurance policies, in order to avoid risking the life of seafarers unnecessarily.

18.63 Having noted the concerns of seafarer and shipowner organizations and some delegations with respect to the carriage of firearms and the use of military teams, which included:

- .1 the right of the master and seafarers to refuse to serve on a ship where the carriage of armed personnel was required by the Company or the flag State;
- .2 the need for delineation of the responsibilities of the master and the leader of any armed personnel and, in particular, a clear statement of who is in overall command for any circumstance;
- .3 that there had been an insufficient consideration of matters of liability, safety, due diligence and legal frameworks;
- .4 given the tendency towards criminalization of seafarers, the risk that masters and seafarers were subject to criminal charges arising from the actions of armed personnel; and
- .5 the lack of reference to the master in the text under discussion,

the Committee endorsed the view of the group that these were matters for the flag State to decide.

18.64 The ITF observer stated that they were opposed to the carriage of arms on board ships and that ITF's participation in the group should not be interpreted as endorsing the carriage of arms. ITF was of the view that if flag States, after proper consultation with shipowners and companies, determined that arms should be carried on board, then there had to be appropriate operational policies and legal frameworks among flag, coastal, and port States to resolve legal and liability issues. Additionally, ITF was of the view that the guidance should be clear in that armed military or law enforcement teams were acting on behalf of the flag State.

18.65 The BIMCO observer stated that there were no global standards and to the best of BIMCO's knowledge no State or flag State had legislation or policies on the employment of privately contracted armed security personnel. The Committee was about to issue guidance in the full knowledge of this. BIMCO therefore suggested that given the urgency of addressing this issue, if there was to be any IMO guidance at all, then IMO should direct a Correspondence Group immediately to address the subject of due diligence and the *modus operandi* of such guards (including their rules of engagement, taking into account the requirements of SOLAS). This was essential in order that shipowners, companies and operators have guidance when dealing with flag States. The consequence of not addressing the subject under the banner of IMO would mean numerous flag States developing legislation and policies on the subject which would naturally differ and presented owners and companies with a multitude of different approaches to the subject. BIMCO found this to be totally contrary to the ethos of IMO and the industry view that maritime legislation and policies should be global and common in nature.

General review of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3, and resolution A.922(22)

18.66 The Committee noted that in conducting the general review of the changes to MSC/Circ.622/Rev.1 and MSC/Circ.623/Rev.3, as proposed by the correspondence group in document MSC 86/18/1, the group had:

- .1 accepted the revision to the definition of “Armed robbery against ships” developed during the Djibouti Meeting;
- .2 replaced the proposed provisions on firearms with new text as referred to above;
- .3 in referencing the definition of “Company”, cited SOLAS regulations IX/1 and XI-2/1 *vice* the ISM Code;
- .4 aligned the suggested actions to repress piracy with the provisions of United Nations Security Council resolution 1851 (2008);
- .5 included a reference to the welfare of crew being taken into account as a factor in encouraging masters to report incidents of piracy and armed robbery;
- .6 made references in the text and footnotes to ReCAAP including details of the relevant website address. In this regard, the Committee noted that further references to ReCAAP and other regional agreements, for example, the Djibouti Code of Conduct, would be inserted before the guidance was finalized editorially; and
- .7 included a reference in the introduction to the revised MSC/Circ.623 to the effect that planning should give consideration to the crew’s welfare during and after a period of captivity by pirates or armed robbers. In this regard, the group had also agreed to keep provisions on the delivery of “psychological first aid” to crew members by the master, but adding text on the need for further counseling by professionals at the earliest opportunity.

18.67 The Committee supported the inclusion of the United Nations Department of Safety and Security guidelines on “Surviving as a hostage”, suitably modified to be applicable to the maritime context, in the revision of MSC/Circ.623/Rev.3.

18.68 The Committee noted that, in drafting the Assembly resolution to replace resolution A.922(22) and proposing amendments to the Code of practice annexed thereto, the group had:

- .1 noting that the 2005 Protocols to the SUA Treaties were not yet in force, agreed to delete references to them from the draft Assembly resolution and Code of practice;
- .2 raised the profile of UNCLOS within the preamble to the draft Assembly resolution;
- .3 deleted the proposal of ICC-IMB for a new part B to the Code of practice and references to the panel of experts, as instructed by the Committee; and
- .4 deleted references to “interventions” from the text of the Code of practice.

18.69 The Committee noted the intervention of the delegation of Denmark with respect to revisiting the issue of forming an IMO panel of experts.

18.70 Noting the concern expressed by the delegation of India with regard to paragraph 18.55 above reading “security teams on board merchant ships was a matter of flag States to determine in consultation with shipowners and companies, not the Organization”, the Committee recalled that this text reflected a restatement of the policy agreed at MSC 85 (MSC 85/26, paragraph 18.42.2), as contained in the group’s terms of reference (paragraph 18.43 above). The Committee noted that India, as stated, had substantial vulnerable assets in its EEZ, which could potentially be under threat from armed personnel on board a ship authorized by flag States, passing through its EEZ, with ulterior motives, other than piracy, e.g., causing damage to economic assets. While India appreciated the good intentions of the group, aimed at providing added security to merchant ships and seafarers, India’s concern was that the current wording should not become an excuse for providing an enabling environment to terrorists or terrorist groups. India suggested that in addition to flag States, shipowners and company, the coastal State and the port State should also be consulted, and the DCs of the LRIT system should be informed of details of ships carrying arms or armed guards when passing through a coastal State’s EEZ and the LRIT polygon.

18.71 The delegation of Egypt proposed that the principles outlined in paragraph 18.59 above should be revisited so as to ensure that the full implications of the provisions of UNCLOS and the issue of weapons on board had been taken into account with respect to coastal and port State jurisdiction.

18.72 The delegation of the Islamic Republic of Iran noted the concerns of other delegations on the carriage of armed security personnel. However, in their opinion, the guidance developed by the group, after a full debate, was consistent with UNCLOS and customary international law. Furthermore, nothing in the guidance encouraged the use of armed personnel on board ships.

18.73 The delegations of India, Indonesia and Thailand proposed to have further discussions in future on the issue of firearms on board. These should include an assessment of the experience gained through the carriage of firearms on board.

18.74 Welcoming the approval of MSC.1/Circ.1332 and, in particular, the annex on fishing vessels, the delegation of France agreed that the carriage of weapons on board was a delicate issue. The revision to MSC/Circ.623 had highlighted the risk of escalation of violence, the lack of a legal framework for use of firearms, the vulnerability of seafarers, and the need for the seafarer interests to be protected.

18.75 The African Union observer stated that the African Union Commission, while supporting the adoption of the revised MSC/Circ.622 and MSC/Circ.623, they were deeply concerned and preoccupied with the provisions on the carriage and use of firearms and security personnel on board merchant ships because of their dramatic impact on arms proliferation, safety of navigation and pollution risk in Africa and, in particular, at the Horn of Africa. The observer suggested that the group and legal experts on public international law should be tasked to consider this matter further. He also proposed that there was a need to start taking appropriate, concrete steps to address the drastic rise of piracy in other regions of Africa, such as the Gulf of Guinea, before the phenomenon escalated further all around Africa.

18.76 The ITF observer stated that ITF had appreciated the opportunity to present, at the start of the current session, concerns regarding the urgent need for guidance for the protection of seafarers in the waters off Somalia. ITF had also brought to the Committee’s attention the need for naval forces to receive better intelligence from the industry; and the value of including the

ships anti-piracy plan as an addition to the requirements of the mandatory ISPS Code. ITF noted however, that the terms of reference for the group did, in his opinion, not include any requirement to consider a Somalia-specific guidance or address these other issues¹. Despite the undertakings in plenary, indicated in paragraph 18.34 above, the ITF issues had not been substantially addressed by the group outside the revision of MSC/Circ.623, and no urgency had been given to this important matter. Currently naval forces were looking to the industry for better intelligence on piracy attacks, but whilst the Code of investigation (resolution A.922(22)) had been in place since 2001, there had been no reports submitted to IMO, and consequently the Organization was unable to assist the naval forces. The ITF proposal to include provisions on piracy in the ISPS Code had not been addressed and the problem of enforcing reasonable anti-piracy measures on all ships remained. Seafarers were very grateful to those States that had provided naval forces to protect them in this area, but were not confident that all flag States were addressing seafarers' welfare with urgency. ITF saw little value in the revisions of MSC/Circ.622 and MSC/Circ.623 if they were not being implemented in the coming months and IMO member States failed to ensure that ships flying their flags were aware of best practices in the protection and welfare of seafarers. ITF, further recognizing that the industry had submitted the Best management practice to address with urgency, deterring piracy attacks in this area, believed that with 1,400 seafarers taken hostage and three times that number attacked over the past 18 months, the protection of seafarers was no less important. The ITF observer concluded by recalling that, at MSC 85, ITF had stated that in 2001, seafarers and industry had responded with urgency to the need to protect those ashore with the urgent implementation of the ISPS Code and chapter XI-2 of SOLAS. It was therefore not unreasonable for ITF to expect that IMO member States would react with similar urgency to the crisis off Somalia and put in place mandatory provisions to protect seafarers from attacks by pirates off the coast of Somalia and in the Gulf of Aden.

18.77 The BIMCO observer, having reiterated the salient points of his statement made to the group (paragraph 18.65 above), advised the Committee that although BIMCO continued to be of the view that armed guards on board ships should only be deployed in exceptional cases, and only military teams or law enforcement officers duly authorized by Government should be used under the direction of and in agreement with, the flag State and the shipowner, there was a need for clear and internationally acceptable policies and procedures to be developed under the auspices of IMO. BIMCO was already preparing suitable recommendations to its members, which would be made available to IMO, flag States and other interested parties in an effort to facilitate the development of practical and suitable guidelines for shipowners. The IFSMA observer supported the positions of ITF and BIMCO.

18.78 The delegation of South Africa, stating that the United Nations Security Council resolutions on piracy off Somalia contained text to the effect that those resolutions did not set a precedent for other regions, expressed concern that the text in paragraph 21.3.2 of draft revised MSC/Circ.622, referring to developing bilateral or regional arrangements to allow ships of one State party to the agreement to enter the territorial sea of another State by consent, may be in contravention to this. The Committee noted that paragraph 21.3.2 was existing text and had been in effect for ten years.

18.71 Subsequently, the Committee approved:

- .1 MSC.1/Circ.1333 on Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships; and

¹ However, see document MSC 86/WP.12/Add.1, paragraphs 18.43.1 and 18.43.4.

- .2 MSC.1/Circ.1334 on Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships.

18.80 The Committee approved the draft Assembly resolution on the Code of practice for investigation of crimes of piracy and armed robbery against ships, as set out in annex 23, for submission to the twenty-sixth session of Assembly for adoption, which would revoke resolution A.922(22).

The proposals of ICMA

18.81 The Committee noted the group's discussions with respect to the ICMA resolution, adopted at the meeting in Hong Kong, China on 29 October 2008, and agreed to seek more detailed proposals from ICMA. The delegation of Ukraine advised the Committee that they had received a letter from the m.v. **Faina** crew, who had been kept hostage for five months. The crew had requested IMO to initiate a debate on ways of ensuring that crew members taken hostage could receive medical assistance; doctors to be given access to hijacked ships; and families of the imprisoned seafarers to receive objective information about their state of health.

18.82 The delegation of Ukraine also noted that ICMA had, *inter alia*, urged IMO and ILO to “develop guidelines for shipowners on caring for seafarer and fisher victims of piracy and armed robbery at sea”; and called upon all States and interested organizations, including IMO, ILO and maritime industry organizations, to work together to establish a resource centre for shipowners, seafarers, and fishers on the availability of specialized counselling, medical care and other appropriate services for victims of piracy and armed robbery at sea, as outlined in operative paragraphs 3 and 4 to the ICMA resolution.

18.83 The Committee supported the proposals of the delegation of Ukraine and endorsed, in general, operative paragraphs 3 and 4 of the ICMA resolution and invited Member States and interested organizations to submit specific proposals to the next session of the IMO Assembly or the Committee.

19 GENERAL CARGO SHIP SAFETY

19.1 The Committee recalled (MSC 86/19) that MSC 84, having discussed the best way to proceed on the matter in light of the information received to date, had agreed, in principle, that:

- .1 there was an urgent need to consider the safety of general cargo ships, taking into account the current safety level of these types of ships and the documents submitted to date on the matter;
- .2 more detailed casualty information on the cause of accidents involving general cargo ships was needed to progress the matter, including the outcome of any related studies;
- .3 the definitions of the terms “bulk carrier” and “general cargo ship” are interrelated and, therefore, any outcome of discussion on the definition of “bulk carrier” under the provisions of the SOLAS Convention should be taken into account in the discussion of the definition of “general cargo ship”; and
- .4 any FSA studies submitted on the matter should first be reviewed by the FSA Group of Experts before establishing a working group on general cargo ship safety.

19.2 The Committee also recalled that, following consideration of the documents submitted to MSC 85, in particular:

- .1 MSC 85/19/1 (Germany, Norway and IACS), reporting on the initial steps being taken for an FSA study on general cargo ships relating to analysis of casualty data and that prior to analysing and recommending specific risk control options, the available data should be analysed in more detail, preferably following a coordinated approach; and
- .2 MSC 85/19/2 (Republic of Korea), recommending that an FSA study be carried out to identify accident frequency, risk levels, the causes, etc., and to recommend the risk control options, taking into account the suggestions provided in paragraph 18 of its document,

it had decided to invite Member Governments and international organizations to submit further information and relevant proposals on the matter to MSC 86.

19.3 In this context, the Committee further recalled that, at MSC 83, it had agreed that a working group should be established at a future session to:

- .1 examine all the related information submitted at this session, results of analysis and FSA studies;
- .2 develop the definition of a general cargo ship;
- .3 identify the type of ships covered by category of general cargo ships which should be dealt with under the item;
- .4 develop the strategy for how best to proceed on the issue; and
- .5 develop appropriate measures to enhance the safety of general cargo ships.

19.4 The Committee had for its consideration the following documents:

- .1 MSC 86/19/1 (Germany), providing comments on the initial steps of the IACS-led formal safety assessment study on general cargo ships relating to analysis of casualty data; and
- .2 MSC 86/INF.4 (IACS), containing the final report of Step 1 (Evaluation of historical data) from an FSA study that has been conducted by IACS regarding the safety of general cargo ships.

19.5 Following a general discussion on the above submissions, the Committee agreed that the IACS FSA study should be reviewed by the FSA Experts Group after the full study has been finalized. It is anticipated that an update on the study will be provided to MSC 87. In this regard, several delegations emphasized that the aforementioned study should investigate the root causes of casualties on general cargo ships.

19.6 The Committee, following an intervention by the observer from IACS on the need for greater access to casualty databases, encouraged Member Governments and international organizations to make their casualty databases available to assist IACS with the FSA and invited them to submit further information and relevant proposals on the matter to MSC 87.

20 IMPLEMENTATION OF INSTRUMENTS AND RELATED MATTERS

Status of conventions

20.1 The Committee noted the information on the conventions and protocols and amendments thereto in respect of which IMO performs depositary functions and which are related to the work of the Committee, as at 30 April 2009 (MSC 86/20 and MSC 86/INF.11) and was advised orally by the Secretariat of additional information on instruments of ratification, acceptance, approval of, or accession to, safety-related IMO conventions and protocols deposited with the Secretary-General received on or after the date the above documents were prepared, i.e. the accession by Costa Rica to the International Convention on Tonnage Measurement of Ships, 1969.

Codes, recommendations, guidelines and other non-mandatory instruments

20.2 The Committee recalled that MSC 83 had referred the detailed consideration of the list of codes, recommendations, guidelines and other safety- and security-related non-mandatory instruments, which had been adopted by resolutions or approved in the form of circulars, annexed to document MSC 82/INF.12 (Secretariat), to the relevant sub-committees for the identification of those instruments which might be relevant in the context of the collection of information on the implementation of non-mandatory instruments.

20.3 The Committee, having noted the information contained in annex 4 to document MSC 86/INF.11 (Secretariat) on the outcome of the consideration of the list prepared by the Secretariat (MSC 82/INF.12) by all sub-committees, except the BLG Sub-Committee, requested the Secretariat to prepare a proposal on the way forward in order to achieve the following objectives, taking into account procedural aspects and associated resource implications, for consideration at the next session:

- .1 revise the list of codes, recommendations, guidelines and other safety- and security-related non-mandatory instruments, taking into account the outcome of the consideration of relevant extracts by all the sub-committees; and
- .2 keep the list updated, while making the list available at an appropriate time to IMO Members by means of a circular issued on an annual basis.

Effective dates for amendments to SOLAS chapter III and the FSS and LSA Codes

20.4 The Committee recalled that document MSC 86/20/1 (IACS) had been dealt with under agenda item 3 (Consideration and adoption of amendments to mandatory instruments) (see paragraphs 3.18 and 3.27).

21 RELATIONS WITH OTHER ORGANIZATIONS

21.1 The Committee noted that no documents had been submitted under this agenda item for the Committee's consideration.

22 APPLICATION OF THE COMMITTEE'S GUIDELINES

GENERAL

22.1 The Committee recalled that draft amendments to the Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies, regarding capacity-building have been dealt with under agenda item 15 (Capacity-building for the implementation of new measures).

22.2 The Committee, in considering document MSC 86/22 (Secretariat), recalled that:

- .1 with reference to operative paragraph 5 of resolution A.990(25) on High-level Action Plan of the Organization and priorities for the 2008-2009 biennium, MSC 84 had noted that the Committees had been requested to review and revise their Guidelines on the organization and method of work in light of the Guidelines on the application of the Strategic Plan and the High-level Action Plan to be developed by the Council;
- .2 MSC 84 had agreed that, in the context of management of the work programme under the Strategic Plan and planned outputs, proper guidelines should be developed and the Committee's Guidelines should be reviewed accordingly, and that the 2009 Chairmen's meeting would discuss the issue in depth;
- .3 MSC 85 had noted the outcome of the Council Working Group on the Organization's Strategic Plan (CWGSP);
- .4 MSC 85, having agreed that sub-committees should focus their deliberations on the technical or operational aspects of the work assigned, had decided that the Chairmen's meeting should consider amending the Committee's Guidelines accordingly; and

it was informed that the 2009 Chairmen's meeting had been scheduled to take place on 30 May 2009 to consider the aforementioned issues.

OUTCOME OF THE COUNCIL WORKING GROUP ON THE ORGANIZATION'S STRATEGIC PLAN

22.3 The Committee recalled that MSC 85 (MSC 85/26, paragraph 22.7) had urged Member Governments and the Chairmen of the MSC, the MEPC and sub-committees to participate actively in the deliberations of the Council Working and Correspondence Groups on the Organization's Strategic Plan; and had agreed that the Chairmen's meeting should consider the outcome of CWGSP 9 and report to MSC 86.

22.4 The Committee noted that CWGSP 9 had developed the draft Guidelines on the application of the Strategic Plan and the High-level Action Plan, as contained in annex 1 to document C 102/3(a), and the Chairmen's meeting would, in pursuance of the aforementioned decision of the Committee, review the draft Guidelines with a view to advising the Committee accordingly on any matters that may need to be brought to its attention.

REPORT OF THE CHAIRMEN'S MEETING

22.5 The Committee was advised that the Chairmen's meeting had been held on 30 May 2009 and that its report had been issued under the symbol MSC 86/WP.11. The Committee considered the part of the report related to the item and took action as indicated in the following paragraphs.

Guidelines on the application of the Strategic Plan and the High-level Action Plan

22.6 The Committee, having noted that the draft Guidelines on the application of the Strategic Plan and the High-level Action Plan and the outcome of CWGSP 9 would be considered by C 102 with a view to approval and subsequent adoption of the aforementioned Guidelines by A 26, agreed to forward the following views to C 102 for consideration and action as appropriate:

- .1 with regard to the endorsement of the unplanned outputs by the Council, the responsibility of the Committees of taking actions under various Conventions should be addressed;
- .2 the unique working methods of the Legal Committee and the Technical Co-operation Committee should be taken into consideration, bearing in mind the principled nature of their work;
- .3 the issue of the resource and financial implications of both planned and unplanned outputs for both the Organization and Member Governments should be considered within the mechanism;
- .4 the Committees and the sub-committees should apply the Guidelines as far as reasonably practicable after adoption by A 26, taking into account that full implementation thereof would not be possible unless the Committees have aligned their own Guidelines with the new Guidelines;
- .5 the current practice for approving new work programme items under the current Committees' Guidelines should continue until the Committees are ready to implement the new Guidelines;
- .6 views of the Chairmen of the MSC, the MEPC and the sub-committees should be taken into account in the development of the migration plan by CWGSP detailing the practical steps required to support the effective transition from current arrangements to full implementation of the Guidelines throughout the Organization; and
- .7 the new responsibilities envisaged for the Chairmen of the Committees and sub-committees should be described in the Council's migration plan.

Amendments to the Committees' Guidelines

22.7 The Committee recalled that MSC 85 had agreed that the sub-committees should focus their deliberations on the technical or operational aspects of the work assigned. Furthermore, the Committee agreed that the Chairmen's meeting should consider amending the Guidelines on the organization and method of work (MSC-MEPC.1/Circ.2) to address the issue to avoid repetition of similar cases in future and to encourage submitters of proposals for new work programme items to submit relevant information and data to support their proposals at the sub-committee level (MSC 85/26, paragraph 23.40).

22.8 The Committee discussed the draft amendments, set out in annex 3 to document MSC 86/WP.11, and remained evenly divided between the option to keep the text of the two new paragraphs 2.12.1 and 2.12.2, as proposed, and the option to introduce a certain degree of flexibility allowing, in certain cases, discussion on the need for the work programme item, and a more stringent guidance on the provision of information by proponent(s) to facilitate the technical work of the subsidiary body.

22.9 The following guiding principles were highlighted in the course of the discussion to serve as the basis for further consideration of the matter:

- .1 the consideration of the need and compelling need for new work programme items remains entirely with the Committees and should not be re-opened by sub-committees, as such;

- .2 the Committees filter the proposals and decide on the inclusion of new items in the work programme and agenda of the sub-committees, without pre-deciding on the outcome of the technical or operational consideration, which may bring the sub-committees to recommend that the work cannot be completed;
- .3 sub-committees should carry out the work on substance and should not deviate from the instructions received from Committees; and
- .4 as much information as possible should be gathered by the proponent(s) when putting forward proposals for new work programme items but it should not be assumed that sufficient information is always available at the time of the proposals.

22.10 Following the above discussion, the Committee agreed to revisit the matter at its next session and invited interested Member Governments to consider how the text of the draft amendments could be improved to address the above views. In this context, the Committee requested the Secretariat to inform MEPC 59 accordingly.

23 WORK PROGRAMME

NEW WORK PROGRAMME ITEMS PROPOSED BY MEMBER GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS AND SUB-COMMITTEES CONCERNED

GENERAL

23.1 Taking into account the recommendations made by the Sub-Committees which had met since MSC 85 (MSC 86/23 and MSC 86/23/Add.1); various proposals for new work programme items submitted to the session by the Member Governments and international organizations; a preliminary assessment of such proposals, undertaken by the Chairman with the assistance of the Secretariat, in accordance with the relevant provisions of the Guidelines on the organization and method of work (MSC 86/WP.1); and decisions taken during the session, the Committee reviewed the work programmes of the Sub-Committees and the provisional agendas for their forthcoming sessions and took action as indicated hereunder.

23.2 The Committee recalled that, with regard to the Committee's method of work relating to the consideration of proposals for new work programme items, it had agreed at MSC 78 that the objective of the Committee when discussing these proposals was to decide, based upon justification provided by Member Governments in accordance with the Guidelines on the organization and method of work, whether the new item should or should not be included in the sub-committee's work programme. A decision to include a new item in a sub-committee's work programme does not mean that the Committee agreed with the technical aspects of the proposal. If it is decided to include the item in a sub-committee's work programme, detailed consideration of the technical aspects of the proposal and the development of appropriate requirements and recommendations should be left to the sub-committee concerned.

23.3 The Committee noted that MEPC 59 would consider the work programmes of the BLG and FSI Sub-Committees as well as the provisional agendas for BLG 14 and FSI 18, and the environment-related items on the work programmes of other sub-committees.

SUB-COMMITTEE ON BULK LIQUIDS AND GASES (BLG)

Work programme of the Sub-Committee and provisional agenda for BLG 14

23.4 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.5 The Committee approved the provisional agenda for BLG 14, as set out in annex 25 and requested the Secretariat to inform the MEPC accordingly.

SUB-COMMITTEE ON DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS (DSC)

Detection of radioactive sources and radioactive contaminated objects

23.6 The Committee considered document MSC 86/23/8 (Islamic Republic of Iran), proposing to develop provisions for the installation of equipment for detection of radioactive sources and radioactive contaminated objects in ports, and agreed to include, in the DSC Sub-Committee's work programme and the provisional agenda for DSC 14, a high-priority item on "Installation of equipment for detection of radioactive sources or radioactive contaminated objects in ports", with a target completion date of 2011.

Work programme of the Sub-Committee and provisional agenda for DSC 14

23.7 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.8 The Committee approved the provisional agenda for DSC 14, as set out in annex 25.

SUB-COMMITTEE ON FIRE PROTECTION (FP)

Visible element for general emergency alarm systems

23.9 The Committee recalled that, following consideration of documents MSC 86/23/10 and MSC 86/INF.2 (United States and CLIA) in the context of the DE Sub-Committee's work programme, it had agreed to include in the work programme of the FP Sub-Committee and the provisional agenda for FP 54, a high-priority item on "Guidelines for visible element to general emergency alarm systems on passenger ships", with a target completion date of 2012, assigning the DE Sub-Committee as a coordinator (see also paragraph 23.35).

Revision of the provisions for helicopter facilities in SOLAS and the MODU Code

23.10 The Committee recalled that, following consideration of document MSC 86/23/17 (Secretariat) in the context of the DE Sub-Committee's work programme, it had agreed that the Sub-Committee should cooperate on the above issue, as necessary and when requested by the DE Sub-Committee (see also paragraph 23.39).

Recharging breathing air cylinders

23.11 Following consideration of document MSC 86/23/15 (Denmark and Faroe Islands), proposing to develop amendments to SOLAS regulation II-2/10.10.2 concerning requirements for fire-fighters' breathing apparatuses, the Committee agreed to include, in the work programme of the FP Sub-Committee and the provisional agenda for FP 54, a high-priority item on "Means for recharging air bottles for air breathing apparatus", with a target completion date of 2011.

Work programme of the Sub-Committee and provisional agenda for FP 54

23.12 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.13 The Committee approved the provisional agenda for FP 54, as set out in annex 25.

Urgent matters to be considered by MSC 87

23.14 Noting that, due to the close proximity between FP 54 and MSC 87 and in accordance with the provisions of paragraph 4.9 of the Guidelines on the organization and method of work, it should consider, at its eighty-seventh session, only urgent matters emanating from FP 54, the Committee agreed that the following should be urgent matters for consideration by MSC 87:

- .1 measures to prevent explosions on oil and chemical tankers transporting low-flashpoint cargoes;
- .2 clarification of SOLAS chapter II-2 requirements regarding interrelation between central control station and safety centre;
- .3 Explanatory notes for the application of the safe return to port requirements;
- .4 fixed hydrocarbon gas detection systems on double-hull oil tankers; and
- .5 comprehensive review of the FTP Code.

SUB-COMMITTEE ON FLAG STATE IMPLEMENTATION (FSI)**Ships' lifting appliances and loose gear**

23.15 Following consideration of document MSC 86/23/6 (New Zealand), proposing to clarify the requirements of the ISM Code in relation to the maintenance of ships' lifting appliances and the development of appropriate mandatory requirements for the maintenance, testing and inspection of shipboard lifting appliances and loose gear, the Committee decided not to include the proposed item in the work programme of the FSI Sub-Committee since the above issue is adequately addressed in the ILO Convention and by industry standards.

23.16 In noting the above decision, the observer from ISO advised the Committee that they would investigate whether ISO had any voluntary standards for the above equipment. In this context, the ISO observer advised the Committee of the recent restructuring of ISO/TC 8 and that further information on this matter could be found in document MEPC 59/INF.16 (ISO).

Work programme of the Sub-Committee and provisional agenda for FSI 18

23.17 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24. The Secretariat was requested to inform the MEPC accordingly.

23.18 The Committee approved the provisional agenda for FSI 18, as set out in annex 25 and requested the Secretariat to inform the MEPC accordingly.

SUB-COMMITTEE ON RADIOCOMMUNICATIONS AND SEARCH AND RESCUE (COMSAR)

Emergency position indicating radiobeacons (EPIRB)

23.19 The Committee considered document MSC 86/23/1 (United States), proposing that an automatic identification system (AIS) transmitter be permitted as an option to the 121.5 MHz homing beacon now required on 406 MHz emergency position indicating radiobeacons (EPIRB), and agreed to include, in the work programme of the COMSAR Sub-Committee and the provisional agenda for COMSAR 14, a high-priority item on “Revision of Performance standards for float-free satellite EPIRBs (resolution A.810(19))”, with a target completion date of 2011.

Scoping exercise to establish the need for a review of the elements and procedures of the GMDSS

23.20 Following consideration of document MSC 86/23/11 (Chile, France, Norway, the United Kingdom and the United States), proposing to undertake a scoping exercise on how any review of the elements and procedures of the GMDSS may be implemented and further advise on the shape, size and structure of this review, the Committee, having noted COMSAR 13’s recommendation (COMSAR 13/14, paragraph 7.26), agreed to include, in the work programme of the COMSAR Sub-Committee a subitem on “Scoping exercise to establish the need for a review of the elements and procedures of the GMDSS” under the work programme item on “Global Maritime Distress and Safety Systems (GMDSS)”, with two sessions needed to complete the subitem. In this context, the Committee requested the Secretariat to liaise with ITU with a view to utilizing the resources of the Joint IMO/ITU Experts Group in the cause of this exercise.

Work programme of the Sub-Committee and provisional agenda for COMSAR 14

23.21 The Sub-Committee’s work programme, as revised and approved by the Committee, is set out in annex 24.

23.22 The Committee approved the provisional agenda for COMSAR 14, as set out in annex 25.

Urgent matters to be considered by MSC 87

23.23 Noting that, due to the close proximity between COMSAR 14 and MSC 87 and in accordance with the provisions of paragraph 4.9 of the Guidelines on the organization and method of work, it should consider, at its eighty-seventh session, only urgent matters emanating from COMSAR 14, the Committee agreed that the following should be urgent matters for consideration by MSC 87:

- .1 operational and technical coordination provisions of maritime safety information (MSI) services, including review of the related documents;
- .2 ITU World Radiocommunication Conference matters;
- .3 harmonization of aeronautical and maritime search and rescue procedures, including SAR training matters;
- .4 revision of the IAMSAR Manual;
- .5 measures to protect the safety of persons rescued at sea; and
- .6 development of an e-navigation strategy implementation plan.

SUB-COMMITTEE ON SAFETY OF NAVIGATION (NAV)**Review of the principles for establishing safe manning levels of ships**

23.24 The Committee recalled that, following consideration of document MSC 86/9 under the agreed item 9 (Training and watchkeeping) on matters related to safe manning, it had agreed to include, in the work programme of the NAV Sub-Committee, a high-priority item on “Review of the principles for establishing the safe manning levels of ships including mandatory requirements for determining safe manning”, with a target completion date of 2010, in cooperation with the STW Sub-Committee (coordinator) (see also paragraph 9.10).

Amendments to the 1966 LL Convention and the 1988 LL Protocol

23.25 The Committee recalled that, following consideration of document MSC 86/23/3 (South Africa) in the context of the SLF Sub-Committee’s work programme, it had agreed to include in the work programme of the NAV Sub-Committee, a high-priority item on “Amendments to the 1966 LL Convention and the 1988 LL Protocol”, with a target completion date of 2011, assigning the SLF Sub-Committee as coordinator, and instructed NAV 55 to include the item in the provisional agenda for NAV 56 (see also paragraph 23.44).

Coordinated approach for the implementation of the e-navigation strategy

23.26 The Committee, having considered document MSC 86/23/4 (Secretariat), proposing a joint plan of work for the COMSAR, NAV and STW Sub-Committees for the period 2009-2012 for the implementation of the e-navigation strategy, agreed to remove the square brackets around IHO participation in the column “External outputs” of the annex to the above document, and approved the joint plan for NAV 55 to set in motion the coordinated and planned development of an e-navigation strategy implementation plan, in cooperation with the COMSAR and STW Sub-Committees. In addition, the Committee noted with appreciation the information provided by the IHO and IALA observers regarding their ongoing work to support the implementation of the e-navigation strategy and that IALA would be submitting reports to the respective sessions of COMSAR and NAV Sub-Committees on the matter.

New symbols for AIS aids to navigation

23.27 Following consideration of document MSC 86/23/7 (Japan), proposing to develop new symbols for AIS aids to navigation and taking into account the comments provided in document MSC 86/23/18 (CIRM), the Committee agreed to include, in the work programme of the NAV Sub-Committee, a high-priority item on “New symbols for AIS aids to navigation”, with a target completion date of 2013, and to instruct NAV 55 to include the item in the provisional agenda for NAV 56.

World-wide Radionavigation System

23.28 The Committee considered document MSC 86/23/12 (Netherlands, Sweden, United Kingdom and United States), proposing to develop amendments to the World-wide Radionavigation system (WWRS) (resolution A.953(23)) to take account of developments in radionavigation services, and agreed to include, in the work programme of the NAV Sub-Committee, a high-priority item on “Amendments to the World-wide radionavigation system”, with a target completion date of 2011, and to instruct NAV 55 to include the item in the provisional agenda for NAV 56.

Work programme of the Sub-Committee and provisional agenda for NAV 55

23.29 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.30 The Committee confirmed the provisional agenda for NAV 55, as set out in annex 25.

SUB-COMMITTEE ON SHIP DESIGN AND EQUIPMENT (DE)

Application of amendments to SOLAS chapter III and the LSA Code

23.31 The Committee recalled the outcome of consideration, under agenda item 3 (Consideration and adoption of amendments to mandatory instruments), of document MSC 86/20/1 (IACS), concerning the application dates for amendments to SOLAS chapter III and the FSS and LSA Codes, and document MSC 86/WP.3 (Secretariat), clarifying issues related to the scope of application of amendments to the SOLAS Convention and the LSA and FSS Codes, and agreed to include, in the DE Sub-Committee's work programme and the provisional agenda for DE 53, a high-priority item on "Application of amendments to SOLAS chapter III and the LSA Code", with a target completion date of 2010 (see also paragraph 3.18).

Development of a code for ships operating in polar waters

23.32 Following consideration of documents:

- .1 MSC 86/23/2 (Argentina and Chile), proposing that additional safety measures should be developed for ships operating in polar waters to enhance the capabilities of the officers in charge of a navigational watch on vessels, and the outcome of the STW 40 on the matter;
- .2 MSC 86/23/9 (Denmark, Norway and United States), proposing that the DE Sub-Committee, and any other appropriate sub-committees, develop mandatory requirements for ships operating in polar regions, which was supported by document MSC 86/23/19 (FOEI, Greenpeace, IFAW and WWF); and
- .3 MSC 86/23/17 (Secretariat), containing in annex 2, a justification prepared by DE 52 for the inclusion, in the DE Sub-Committee's work programme, of a new item on "Development of a Code for ships operating in polar waters", which was supported by document MSC 86/12/4 (United Kingdom),

the Committee agreed to include in the work programme of the DE Sub-Committee and provisional agenda of DE 53, a high-priority item on "Development of a mandatory Code for ships operating in polar waters", with a target completion dated of 2012.

23.33 In the context of the above consideration, the Committee noted that a number of delegations had expressed the view that measures to be applied in Antarctic waters need not necessarily be required in Arctic waters and vice-versa, and that this aspect should be taken into account during the development of the Code.

23.34 The delegation of the Bahamas stated their opinion that it would be premature to take the decision as to whether the Code would have mandatory or voluntary status prior to its development.

Visible element for general emergency alarm systems

23.35 The Committee considered documents MSC 86/23/10 and MSC 86/INF.2 (United States and CLIA), proposing to develop non-mandatory guidelines regarding a visible element to the general emergency alarm on passenger ships to accommodate passengers who are deaf or hard of hearing, and agreed to include, in the work programmes of the FP and DE Sub-Committees and provisional agendas for FP 54 and DE 53, a high-priority item on “Guidelines for a visible element to general emergency alarm systems on passenger ships”, with a target completion date of 2012, assigning the DE Sub-Committee as a coordinator (see also paragraph 23.9).

Testing of watertight compartments

23.36 Following consideration of document MSC 86/23/13 (Cook Islands, Marshall Islands and IACS), proposing to develop of amendments to SOLAS and the associated Guidelines to ensure the adequacy of testing arrangements for watertight bulkheads to maintain the intended level of safety, the Committee agreed to include, in the work programme of the DE Sub-Committee, a high-priority item on “Testing of watertight compartments”, with two sessions needed to complete the item.

23.37 In noting the above decision, the EC observer advised the Committee that inconsistencies had been identified between SOLAS equipment standards and industry practices in a number of European Maritime Safety Agency (EMSA) inspections of EU Recognized Organizations conducted on behalf of the EC. In this regard, the EC observer drew the Committee’s attention to the references in document MSC 86/23/13 to industry standards and requested that the co-sponsors submit more detail to the Committee. In particular, details of the quality control standards referred to, how their application should be assessed to assure the quality of structural fabrication and how the intended structural strength is achieved.

General requirements on electrical installations

23.38 The Committee considered document MSC 86/23/14 (Denmark and Faroe Islands), proposing to develop amendments to SOLAS regulation II-1/40.2 concerning general requirements on electrical installations, and agreed to include, in the work programme of the DE Sub-Committee, a high-priority item on “General requirements on electrical installations”, with two sessions needed to complete the item.

Revision of the provisions for helicopter facilities in SOLAS and the MODU Code

23.39 In endorsing the proposal by DE 52 and following consideration of document MSC 86/23/17 (Secretariat), providing, in annex 1, a justification for a new work programme item to align the requirements of SOLAS and the MODU Code with the most recent requirements of the ICAO Convention, the Committee agreed to include, in the work programme of the DE Sub-Committee, a low-priority item on “Revision of the provisions for helicopter facilities in SOLAS and the MODU Code”, with two sessions needed to complete the item, in cooperation with the FP Sub-Committee, as necessary and when requested by the DE Sub-Committee (see also paragraph 23.10).

Work programme of the Sub-Committee and the provisional agenda for DE 53

23.40 The Sub-Committee’s work programme, as revised and approved by the Committee, is set out in annex 24.

23.41 The Committee approved the provisional agenda for DE 53, as set out in annex 25.

Urgent matters to be considered by MSC 87

23.42 Noting that, due to the close proximity between DE 53 and MSC 87 and in accordance with the provisions of paragraph 4.9 of the Guidelines on the organization and method of work, it should consider, at its eighty-seventh session, only urgent matters emanating from DE 53, the Committee agreed that the following should be urgent matters for consideration by MSC 87:

- .1 measures to prevent accidents with lifeboats;
- .2 performance standards for recovery systems;
- .3 cargo oil tank coating and corrosion protection; and
- .4 alternative arrangements for the bottom inspection requirements for passenger ships other than ro-ro passenger ships.

Statement by IMCA

23.43 The IMCA observer informed the Committee that IMCA had established a Working Group on the Classification of offshore industry vessels and the SPS Code and invited Member Governments and international organizations to participate.*

SUB-COMMITTEE ON STABILITY AND LOAD LINES AND FISHING VESSELS SAFETY (SLF)

Amendments to the 1966 LL Convention and the 1988 LL Protocol

23.44 The Committee considered document MSC 86/23/3 (South Africa), proposing to amend the requirements of the 1966 Load Lines Convention and the 1988 LL Protocol to shift the Winter Seasonal Zone off the southern tip of Africa further southward by 50 miles thus allowing tankers to round the Cape of Good Hope on their summer marks all year round, and agreed to include, in the work programmes of the NAV and SLF Sub-Committees and the provisional agenda for SLF 52, a high-priority item on “Amendments to the 1966 LL Convention and the 1988 LL Protocol related to seasonal zone”, with a target completion date of 2011, assigning the SLF Sub-Committee as coordinator (see also paragraph 23.25).

23.45 In noting the above decision, the delegation of the Cook Islands, supported by a number of other delegations, expressed deep concern for extending the summer Load Line 50 miles southward off Cape Agulhas. In their view, to reduce freeboard of laden ships, especially tankers in such dangerous waters, will be detrimental to maritime safety and the protection of the marine environment.

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Work programme of the Sub-Committee and the provisional agenda for SLF 52

23.46 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.47 The Committee approved the provisional agenda for SLF 52, as set out in annex 25.

SUB-COMMITTEE ON STANDARDS OF TRAINING AND WATCHKEEPING (STW)**Work programme of the Sub-Committee and the provisional agenda for STW 41**

23.48 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.49 The Committee approved the provisional agenda for STW 41, as set out in annex 25.

STATUS OF PLANNED OUTPUTS FOR THE 2008-2009 BIENNIUM AND PROPOSALS FOR THE HIGH-LEVEL ACTION PLAN OF THE ORGANIZATION AND PRIORITIES FOR THE 2010-2011 BIENNIUM

23.50 The Committee recalled that, in the context of the requests of the Assembly made in resolution A.989(25) on Strategic Plan for the Organization (for the six-year period 2008 to 2013) and resolution A.990(25) on High-level Action Plan of the Organization and priorities for the 2008–2009 biennium, MSC 84 had instructed the Secretariat to submit the information concerning review of progress made in implementing the High-level Action Plan and priorities for the 2008–2009 biennium and prepare proposals for the High-level Action Plan for the 2010-2011 biennium, as may be updated following the outcome of MSC 86, for submission to C 102.

23.51 Having considered document MSC 86/23/5 (Secretariat) on the status of the Committees' planned outputs for the 2008-2009 biennium, in the context of the outputs listed in resolution A.990(25), and recommendations made by the Chairmen's meeting (MSC 86/WP.11), the Committee endorsed the status of the MSC planned outputs for the current biennium, set out in annex 26 which included updates by the Chairman and the Secretariat as authorized by the Committee, taking into account the outcome of MSC 86, for submission to C 102.

23.52 The Committee, having considered document MSC 86/23/16 (Secretariat), proposing modifications to the planned output of the Committees for the 2010-2011 biennium, which took into account the progress made by the Sub-Committees during the current biennium, and the recommendations made by the Chairmen's meeting (MSC 86/WP.11), endorsed the proposals for High-level Action Plan of the Organization and priorities for the 2010-2011 biennium, set out in annex 27 which included updates by the Chairman and the Secretariat as authorized by the Committee, taking into account the outcome of MSC 86, for submission to C 102, and requested the Secretariat to submit any changes to the annexed proposals emanating from NAV 55 and DSC 14 to CWGSP 10 or C/ES.25, as appropriate.

INTERSESSIONAL MEETINGS

23.53 Bearing in mind the view of the Council that the number of intersessional working groups should be restricted to the minimum necessary; paragraph 3.40 of the Guidelines on the organization and method of work, as well as the Committee's decision at MSC 66, that all sub-committees should scrutinize the need for intersessional meetings and, only when they

consider it essential that such meetings should be held, to submit to the Committee, in good time, a fully justified request for consideration, the Committee, taking into account decisions made under various agenda items, approved the following intersessional meetings:

- .1 the Joint IMO/ITU Experts Group, to meet from 23 to 25 June 2009;
- .2 the Joint ICAO/IMO Working Group, to meet from 28 September to 2 October 2009;
- .3 the Working Group on the Comprehensive Review of the STCW Convention and the STCW Code, to meet from 7 to 11 September 2009;
- .4 the ESPH Working Group, to meet in October 2009;
- .5 the FSA Experts Group, to meet from 2 to 6 November 2009; and
- .6 the *Ad Hoc* LRIT Group, to meet when warranted.

SUBSTANTIVE ITEMS FOR INCLUSION IN THE COMMITTEE'S AGENDAS FOR THE NEXT TWO SESSIONS AND PROPOSED ARRANGEMENTS FOR MSC 87

Substantive items for inclusion in the agendas for MSC 87 and MSC 88

23.54 The Committee agreed on the substantive items to be included in the agendas of its eighty-seventh and eighty-eighth sessions, as set out in document MSC 86/WP.10, as amended.

Establishment of working groups during MSC 87

23.55 Recalling the provisions of the Guidelines on the organization and method of work concerning the number of groups which may be established at any given session, the Committee, taking into account decisions made under various agenda items, agreed that working groups on the following items should be established at the Committee's eighty-seventh session:

- .1 goal-based new ship construction standards;
- .2 LRIT; and
- .3 [maritime security] [human element],

and, while deciding to hold the Experts Group on Formal Safety Assessment during MSC 87, agreed to establish drafting groups on the consideration and adoption of the amendments to mandatory instruments. The Committee noted that the Secretariat, in consultation with the Chairman, would prepare and circulate an updated list of the working or drafting groups which would be established during MSC 87, no later than one week after the last deadline for the submission of documents for MSC 87.

Duration and dates of the next two sessions

23.56 The Committee noted that its eighty-seventh session had been scheduled to take place from 12 to 21 May 2010; and its eighty-eighth session from 1 to 10 December 2010.

24 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2010

24.1 The Committee unanimously re-elected Mr. Neil Ferrer (Philippines) as Chairman, and Mr. Christian Breinholt (Denmark) as Vice-Chairman, for 2010.

25 ANY OTHER BUSINESS

Global Integrated Shipping Information System (GISIS)

25.1 The Committee recalled that the Global Integrated Shipping Information System (GISIS) had started to be developed by the Secretariat in July 2005 and allows public access to sets of data collected by the Secretariat as well as the direct recording of data by Member States.

25.2 In this context, the Committee noted the information contained in document MSC 86/25 (Secretariat) that GISIS presently consists of 15 modules, with a further six modules under development, for the collection, processing and sharing of shipping-related data in order to assist Member States and the Secretariat in carrying out their respective and complementary duties, generate reports and provide information about shipping to the public.

25.3 The Committee noted that, within the framework of existing access rights to public data contained in the GISIS maritime security and maritime casualties and incidents modules, the Secretariat was developing the facilities to create hyperlinks between external servers and GISIS, and, for external users, to download extracts of the data sets contained therein, respectively.

Satellite detection of ships' automatic identification systems

25.4 The Committee recalled the discussion at MSC 85 on the satellite detection of AIS and the concerns raised at COMSAR 12 and NAV 54 on the lack of guidance on that issue. The Committee also recalled that MSC 85 had decided, after considerable discussion, to postpone discussion of the issue to this session and had invited interested delegations to submit relevant proposals to MSC 86 for consideration under the agenda item on "Any other business".

25.5 The Committee noted that COMSAR 13 had discussed the issue of satellite detection of AIS (COMSAR 13/14, paragraphs 4.12 to 4.15); that the majority of delegations were of the view that there was a need for a policy decision from the Committee first; and that, as a result, it had postponed any further consideration of the issue pending the outcome of MSC 86.

25.6 In their document MSC 86/25/1, France explained the technical need for additional frequencies for AIS and the optimization of the transmission protocol, in order to enable the reception of all AIS installations in a certain area, and the advantages of satellite detection of AIS and the availability and confidentiality of the information collected, highlighting also the differences between space-based AIS and LRIT. The delegation also advised that satellite detection of AIS was part of maritime agenda item 1.10 for ITU's World Radiocommunication Conference 2011 (WRC-11), the purpose of which was to study the spectrum requirement and to leave the decision to WRC-11 for a possible additional allocation to the maritime mobile-satellite service. The delegation invited the Committee to support satellite detection of AIS messages for maritime monitoring and management, including the ongoing studies in the framework of ITU. In that regard, the delegation further explained that the spectrum research for that agenda item must not be understood as a commitment for the Organization to implement that new technology, which was not intended to replace LRIT, but rather to complement it. After WRC-11 had taken a decision regarding the additional use of frequencies for that purpose, the Organization would be able to decide about the usage and the possible carriage requirement for such a system.

25.7 In the general discussion on the document submitted by France (MSC 86/25/1), the Committee noted various views expressed by delegations, including those reflected as follows:

- .1 there was no justification for the necessity to support studies in the framework of ITU, nor compelling need for the implementation of another system comparable and in potential competition to LRIT, in particular while the Committee was still discussing the implementation of the LRIT system;
- .2 it would be wise to follow the advice of France and to leave the door open for future use of this system. The detection of AIS messages by satellites was already a fact of life and, therefore, studies in the framework of ITU, in general, with the aim of obtaining more insight information should be supported without committing IMO at this stage;
- .3 regarding concerns on the distribution of data, the question was raised of who would be entitled to collect, distribute, receive and retransmit the data. It was further questioned who would have to pay for the information, and concerns were raised that it would be used for commercial purposes;
- .4 the information collected by terrestrial AIS installations was already available on line and it was anticipated that the same would happen with AIS information collected by satellite. It was further noted that the easily accessible information on the position of ships worldwide could be detrimental to the security of these ships, for instance in the light of piracy;
- .5 the potential financial impact on the LRIT system should be borne in mind when there would be an increase in the availability of AIS data. This may reduce the use of LRIT information, with an increase in price for the remaining information as a consequence;
- .6 not only one country, or a small group of countries, should benefit from the development and implementation of this system, but the system should benefit all;
- .7 while recognizing the potential advantages and benefits of satellite detection of AIS, the possible interference to VHF Channel 16 is a matter of concern, when the additional frequencies for this purpose would be allocated by WRC-11 close to this important channel for voice distress and safety radiocommunications. In this regard, concerns were also raised with regard to the modifications needed to the onboard equipment, once IMO went ahead and required carriage of equipment capable of transmitting on these newly allocated frequencies for this purpose;
- .8 the system could provide advantages and benefits in terms of improved efficiency of shipping and that it could attribute to the development of e-navigation. It was further noted that, since the issue of consideration of allocation of additional spectrum for maritime safety and security was on the agenda of WRC-11, it would be a unique opportunity to obtain additional frequency allocations for the benefit of the maritime community.

25.8 The Chairman, in summing up the debate, stated that there had been a very good and useful debate. In concluding, he outlined the following points:

- .1 concerns had been raised, which should be conveyed to relevant bodies in ITU, to be taken into account in their further studies, namely:
 - .1.1 the relation with the implementation of the LRIT system;
 - .1.2 integrity and confidentiality issues;
 - .1.3 security issues;
 - .1.4 collection and dissemination of data;
 - .1.5 technical issues, such as the risk of interference to critical existing maritime radiocommunication services and the need for changes to the current AIS Class A equipment; and
 - .1.6 global policy issues, including the view that all countries should benefit from the development and implementation of this system;
- .2 there was general support for the continuation of studies under the framework of ITU; and
- .3 IMO should not make any commitment at this stage, awaiting the outcome of studies.

25.9 The Committee further recognized that:

- .1 being part of a WRC agenda item, the studies on satellite detection of AIS were covered under the work programme of the COMSAR Sub-Committee;
- .2 e-navigation was already an item on the work programme of the NAV and COMSAR Sub-Committees;
- .3 the NAV Sub-Committee was the competent body for AIS, and ITU matters were already in its work programme; and
- .4 therefore, no new work programme item was necessary to study the satellite detection of AIS as it was already covered by the respective work programme items of the NAV and COMSAR Sub-Committees.

Clarification of the 2008 SPS Code

25.10 The Committee considered document MSC 86/25/2 (Norway), proposing to clarify the provisions of paragraphs 5.1 (Periodically unattended machinery spaces) and 8.3 (Life-saving appliances) of the 2008 SPS Code, and, having noted the views of several delegations regarding the need to clarify other areas of the Code, including how the Code addresses the new return to port requirements in SOLAS chapters II-1 and II-2, instructed DE 53 to develop a draft MSC resolution on amendments to the 2008 SPS Code, under its agenda item on “Any other business”, with a view to adoption at MSC 87. To facilitate the discussion on the matter at DE 53, the Committee urged Member Governments and international organizations to submit concrete proposals in writing so that the matter could be dealt with in a timely manner.

Amendments to the Rules of procedure of the Maritime Safety Committee

25.11 Having recalled that the Assembly, at its twenty-fifth session, had approved the Agreement of Co-operation between the African Union (AU), as the successor organization to the Organization of African Unity (OAU), the Committee, having considered document MSC 86/25/3 (Secretariat), adopted amendments to Rule 4 of the Committee's Rules of procedure, as follows:

“Observers

Rule 4

In paragraph 1 of the Rule, the words “Organization of African Unity” are replaced by the words “African Union”,

and invited the Council to note the adoption of the above amendments.

Bulk carrier casualty report

25.12 The Committee noted the information contained in document MSC 86/INF.8 (INTERCARGO) showing that during 2008, while the dry bulk fleet has been expanding from 6,342 vessels by the end of 2007 to 6,565 ships by the end of 2008, four bulk carriers were lost. A total of 15 lives were lost on two small vessels operating on intra-Asian trades, compared to 32 lives lost on two similar vessels in 2007, but, the loss of such vessels, building on initial indications in last year's report, may denote a possible trend. The average age of bulk carriers lost in 2008 was 29.1 years against a worldwide trading average age of 14.33 years. The ten-year rolling average shows considerable improvement between the 1990-1999 figures and the most recent 1999-2008 figures, the number of ship losses is now less than half that in the earlier period and lives lost have been reduced by two-thirds.

IMO/IACS cooperation on the IACS Quality System Certification Scheme (QSCS)

25.13 In considering document MSC 86/INF.14 (Secretariat) regarding IMO/IACS cooperation on the IACS QSCS, the Committee noted the information on the participation of the IMO representative in the work of the IACS QSCS Advisory Committee; the update on developments of the QSCS in the light of the information provided to MSC 85 regarding possible significant changes to the structure and manner of operation of the current IACS QSCS; and the appointment of a new IMO consultant/observer by the Secretary-General, and requested the Secretariat to continue participation in the IACS QSCS on the same basis, as in the past, that is with no financial implication for the Organization and to report to MSC 87.

Ships anchoring in the Malacca and Singapore Straits

25.14 The delegation of Singapore, supported by the delegations of Indonesia and Malaysia brought to the Committee's attention their concerns regarding the problem of ships anchoring within the Traffic Separation Scheme (TSS) and Precautionary Areas in the Straits of Malacca and Singapore (the Straits) as well as between the landward limits of the TSS and approaches to the ports. These ships posed a risk to the safety of navigation by obstructing port approaches and traffic flow, resulting in collision incidents as well as submarine cable damage caused by such indiscriminate anchoring of ships at non-designated anchorages along the Straits. Cooperation of the Member States was therefore sought to inform masters of ships entitled to fly their flag, to duly observe the COLREGs and not to anchor in the TSS of the Straits or between the landward

limits of the TSS and approaches to the ports, but only in the designated anchorages. If, however, in exceptional or emergency circumstances anchoring could not be avoided, ship masters should be advised to carefully ascertain the location of submarine cables from nautical charts and publications to avoid anchoring over these cables. The three littoral States of the Straits were now developing appropriate measures to enhance the awareness of Straits users concerning this situation.

Expression of appreciation

25.15 The Committee expressed appreciation to the following delegates who had recently relinquished their duties, retired or were transferred to other duties or were about to, for their invaluable contribution to its work and wished them a long and happy retirement or, as the case might be, every success in their new duties:

- Rear-Admiral André-Yves Legroux (France) (on retirement);
- Mr. Ko Koiso (Japan) (on return home);
- Mr. Efthimios Liberopoulos (Greece) (on return home);
- Mr. Z. Alam (Singapore) (standing down as Chairman of the BLG Sub-Committee);
- Mr. Rob Gehling (Australia) (standing down as Chairman of the SLF Sub-Committee);
- Mr. Steve Godsiff, (United Kingdom) (on retirement);
- Mr. Ashley J. Roach (United States) (on retirement);
- Mr. Mike Sitts (OCIMF) (on return home); and
- Mr. Richard Leslie, Permanent Secretary of IACS (on retirement).

Expression of condolences

25.16 The Committee noted with sadness the death of Mr. Tony Mangion, former Director of Ports, Permanent Secretary at the Ministry of Transport and Registrar of Shipping of Malta who was associated with IMO for the past thirty years. The Committee appreciated his contribution to the work of the Organization and requested the delegation of Malta to convey its sincere sympathy to his family, friends and colleagues.

(The annexes will be issued as addenda to this document.)
