



MARITIME SAFETY COMMITTEE  
88th session  
Agenda item 26

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

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## 1 INTRODUCTION – ADOPTION OF THE AGENDA

1.1 The eighty-eighth session of the Maritime Safety Committee was held from 24 November to 3 December 2010 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	JAMAICA
ANTIGUA AND BARBUDA	JAPAN
ARGENTINA	JORDAN
AUSTRALIA	KAZAKHSTAN
AZERBAIJAN	KENYA
BAHAMAS	KIRIBATI
BAHRAIN	LATVIA
BANGLADESH	LIBERIA
BELGIUM	LIBYAN ARAB JAMAHIRIYA
BELIZE	LITHUANIA
BOLIVIA (PLURINATIONAL STATE OF)	LUXEMBOURG
BRAZIL	MALAYSIA
BULGARIA	MALTA
CAMBODIA	MARSHALL ISLANDS
CAMEROON	MEXICO
CANADA	MOROCCO
CHILE	NETHERLANDS
CHINA	NEW ZEALAND
COLOMBIA	NIGERIA
COOK ISLANDS	NORWAY
CÔTE D'IVOIRE	PANAMA
CUBA	PAPUA NEW GUINEA
CYPRUS	PERU
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	PHILIPPINES
DENMARK	POLAND
DOMINICA	PORTUGAL
ECUADOR	QATAR
EGYPT	REPUBLIC OF KOREA
ESTONIA	ROMANIA
ETHIOPIA	RUSSIAN FEDERATION
FINLAND	SAINT KITTS AND NEVIS
FRANCE	SAINT LUCIA
GEORGIA	SAINT VINCENT AND THE GRENADINES
GERMANY	SAN MARINO
GHANA	SAUDI ARABIA
GREECE	SIERRA LEONE
HONDURAS	SINGAPORE
HUNGARY	SOUTH AFRICA
INDIA	SPAIN
INDONESIA	SUDAN
IRAN (ISLAMIC REPUBLIC OF)	SWEDEN
IRELAND	SWITZERLAND
ISRAEL	SYRIAN ARAB REPUBLIC
ITALY	THAILAND
	TRINIDAD AND TOBAGO

TUNISIA	UNITED STATES
TURKEY	URUGUAY
TUVALU	VANUATU
UKRAINE	VENEZUELA (BOLIVARIAN REPUBLIC OF)
UNITED ARAB EMIRATES	YEMEN
UNITED KINGDOM	
UNITED REPUBLIC OF TANZANIA	

and the following Associate Members of IMO:

HONG KONG, CHINA	FAROES (THE)
MACAO, CHINA	

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

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

observers from the following intergovernmental organizations:

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)  
EUROPEAN COMMISSION (EC)  
LEAGUE OF ARAB STATES  
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)  
REGIONAL CO-OPERATION AGREEMENT ON COMBATING PIRACY  
AND ARMED ROBBERY AGAINST SHIPS IN ASIA (ReCAAP-ISC)  
MARINE ACCIDENT INVESTIGATORS' INTERNATIONAL FORUM (MAIIF)

and 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)  
COMITÉ INTERNATIONAL RADIO-MARITIME (CIRM)  
BIMCO  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)  
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)  
INTERNATIONAL COUNCIL OF MARINE INDUSTRY ASSOCIATIONS (ICOMIA)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL LIFE-SAVING APPLIANCE MANUFACTURERS'  
ASSOCIATION (ILAMA)  
COMMUNITY OF EUROPEAN SHIPYARDS' ASSOCIATIONS (CESA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER  
OWNERS (INTERTANKO)  
INTERNATIONAL GROUP OF P&I ASSOCIATIONS (P&I CLUBS)

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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)  
INSTITUTE OF MARINE ENGINEERING, SCIENCE AND TECHNOLOGY (IMarEST)  
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 BUNKER INDUSTRY ASSOCIATION (IBIA)  
INTERNATIONAL ASSOCIATION OF MARITIME UNIVERSITIES (IAMU)  
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)  
INTERNATIONAL PAINT AND PRINTING INK COUNCIL (IPPIC)  
WORLD SHIPPING COUNCIL (WSC)  
NACE INTERNATIONAL  
INTERNATIONAL ASSOCIATION OF AIRPORT AND SEAPORT POLICE (IAASP)  
THE NAUTICAL INSTITUTE (NI)  
SUPERYACHT BUILDERS ASSOCIATION (SYBAss)

1.4 The session was also attended by Mr. J.G. Lantz (United States), Chairman of the Council), Mr. L. Chai (Republic of Korea), Chairman of the Legal Committee, and Mr. G. Olimbo (Italy), Chairman of the Technical Co-operation Committee. The Chairmen of all sub-committees, except for the Chairmen of the BLG and SLF Sub-Committees, were also present.

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

1.5 The Secretary-General welcomed the participants and delivered his opening address, the full text of which is reproduced in document MSC 88/INF.20.

#### **Chairman's remarks**

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

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

1.7 The Committee adopted the agenda (MSC 88/1) and agreed to be guided during the session by the annotated agenda (MSC 88/1/1) and the provisional timetable set out in the annex to document MSC 88/1/2. The agenda, as adopted, with a list of documents considered under each agenda item, is set out in document MSC 88/INF.22.

1.8 The Committee agreed to the arrangements for working and drafting groups as proposed by the Secretariat in document MSC 88/1/2 and further reflected under the respective sections of this report.

## **Credentials**

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

## **2 DECISIONS OF OTHER IMO BODIES, INCLUDING THE OUTCOME OF THE 2010 STCW CONFERENCE**

### **Outcome of the sixtieth session of the Technical Co-operation Committee**

2.1 The Committee agreed to discuss the outcome of the sixtieth session of the Technical Co-operation Committee (MSC 88/2) under agenda item 14 (Technical assistance sub-programme in maritime safety and security).

### **Outcome of the one hundred and fourth and one hundred and fifth regular sessions of the Council**

2.2 The Committee noted the decisions of the one hundred and fourth and one hundred and fifth regular sessions of the Council (MSC 88/2/1 and Add.1) and took action under the relevant agenda items.

### **Outcome of the thirty-sixth session of the Facilitation Committee**

2.3 The Committee noted the outcome of the thirty-sixth session of the Facilitation Committee (MSC 88/2/2) and took action under the relevant agenda items.

### **Outcome of the sixty-first session of the Marine Environment Protection Committee**

2.4 The Committee noted the decisions of the sixty-first session of the Marine Environment Protection Committee (MSC 88/2/3) and took action under the relevant agenda items.

### **Outcome of the 2010 STCW Conference**

2.5 The Committee agreed to discuss the outcome of the 2010 STCW Conference (MSC 88/2/4) under agenda item 13 (Training and watchkeeping).

## **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 the proposed amendments to:

- .1 chapters II-1, II-2, III and V of, and the appendix to the annex to, the 1974 SOLAS Convention, as amended, in accordance with the provisions of article VIII of the Convention;
- .2 the International Code for Fire Safety Systems (FSS Code), in accordance with the provisions of article VIII and regulation II-1/3.22 of the 1974 SOLAS Convention; and
- .3 the International Life-Saving Appliance LSA Code (LSA Code), in accordance with the provisions of article VIII and regulation III/3.10 of the 1974 SOLAS 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 and to the codes mandatory under the 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 letters No.2978 of 17 July 2009 and No.3064 of 21 May 2010.

3.4 Parties to the 1988 SOLAS Protocol were invited to participate in the consideration and adoption of proposed amendments to the appendix to the Annex to the Protocol. Parties constituting more than one third of the total of Parties to the Protocol were present during the consideration and adoption of the said amendments by the expanded Maritime Safety Committee, in accordance with the provisions of articles VIII(b)(iii) and VIII(b)(iv) of the 1974 SOLAS Convention and article VI of the 1988 SOLAS Protocol.

3.5 The proposed amendments to the 1988 SOLAS Protocol were circulated in accordance with SOLAS article VIII(b)(i) and article VI(c) of the 1988 SOLAS Protocol to all IMO Members and Parties to the 1988 SOLAS Protocol by Circular letter No.3066 of 21 May 2010.

3.6 Contracting Parties to the International Convention for Safe Containers, 1972 (1972 CSC) were invited to participate in the consideration and adoption of proposed amendments to the Annexes to the Convention. Contracting Parties constituting more than one third of the total of Contracting Parties to the 1972 CSC were present during the consideration and adoption of the said amendments by the expanded Maritime Safety Committee, in accordance with the provisions of paragraphs 1 and 2 of article X of the 1972 CSC. The proposed amendments to the 1972 CSC were circulated to all IMO Members and Contracting Parties to the Convention by Circular letter No.3067 of 21 May 2010.

3.7 The Committee was also invited to consider and adopt the proposed International Code for Application of Fire Test Procedures, 2010 (2010 FTP Code), with a view to making it mandatory under the 1974 SOLAS Convention.

3.8 The Committee was further invited to consider and approve the proposed MSC circular on Guidelines for evaluation and replacement of lifeboat release and retrieval systems, prepared by the Intersessional Working Group on Lifeboat Release Hooks, and to deal with other actions requested by the aforementioned group (MSC 88/3/4), in conjunction with the adoption of the amendments to SOLAS regulation III/1 and the LSA Code.

## **CONSIDERATION OF AMENDMENTS TO, AND PROPOSED NEW, MANDATORY INSTRUMENTS**

### **PROPOSED AMENDMENTS TO THE 1974 SOLAS CONVENTION**

3.9 The Committee recalled that the proposed amendments to the 1974 SOLAS Convention (MSC 88/3, annex 1) had been developed by FP 53, DE 52 and NAV 55, and were approved by MSC 86 and MSC 87.

3.10 The Committee also recalled that MSC 87 had considered the scope of application of SOLAS regulation II-1/41.6 and had approved the draft amendments to the regulation for adoption at this session.

***PROPOSED AMENDMENTS TO SOLAS CHAPTER II-1*****Regulation 41 – Main source of electrical power and lighting systems**

3.11 The Committee noted that no comments had been submitted on the draft amendments to regulation II-1/41.6 and confirmed their contents, subject to editorial improvements, if any.

***PROPOSED AMENDMENTS TO SOLAS CHAPTER II-2*****Regulation 1 – Application****Regulation 3 – Definitions****Regulation 7 – Detection and alarm**

3.12 The Committee, having noted that there were square brackets in several paragraphs related to the application dates in regulation II-2/1, agreed to replace them with the date of entry into force, and instructed the drafting group accordingly.

3.13 The Committee noted that no comments had been submitted on the draft amendments to regulations II-2/1, II-2/3 and II-2/7 and confirmed their contents, subject to editorial improvements, if any.

***PROPOSED AMENDMENTS TO SOLAS CHAPTER III*****Regulation 1 – Application**

3.14 The Committee recalled that MSC 87 had agreed to postpone, to this session, consideration of the proposed new paragraph 5 of regulation III/1, which was developed by DE 52 and approved by MSC 86, in order to consider the proposed new paragraph 5 in conjunction with the approval of the draft Guidelines for evaluation and replacement of lifeboat on-load release mechanisms, to be prepared by the Intersessional Working Group on Lifeboat Release Hooks (IWG), together with the associated draft amendments to the LSA Code.

3.15 The Committee agreed to consider the draft amendments in conjunction with the report of the IWG (MSC 88/3/4), in particular the proposed modification to the proposed new paragraph 5 of regulation III/1 (MSC 88/3/4, annex 2) (see paragraphs 3.34 to 3.42).

***PROPOSED AMENDMENTS TO SOLAS CHAPTER V*****Regulation 18 – Approval, surveys and performance standards of navigation systems and equipment and voyage data recorder**

3.16 The Committee noted that no comments had been submitted on the draft amendments to regulation V/18, and confirmed their contents, subject to editorial improvements, if any.

**Regulation 23 – Pilot transfer arrangements**

3.17 The Committee, having noted that there were square brackets around the words "date of entry into force" in the draft regulation V/23 and that no comments had been submitted on the draft regulation, agreed to replace them with the date of entry in force and confirmed their contents, subject to editorial improvements, if any, and instructed the drafting group to act accordingly. The Committee also agreed that the installation date of pilot transfer equipment and arrangements, as stipulated in paragraph 1.2 of the regulation, should be further clarified and instructed the group to prepare a draft unified interpretation for SOLAS regulation V/23 to clarify the installation date.

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**PROPOSED AMENDMENTS TO THE APPENDIX TO THE ANNEX TO THE 1974 SOLAS CONVENTION****Form of Safety Certificate for Passenger Ships  
Form of Safety Construction Certificate for Cargo Ships  
Form of Safety Equipment Certificate for Cargo Ships**

3.18 The Committee recalled that the proposed amendments to the appendix (forms of certificates) to the Annex to the 1974 SOLAS Convention had been prepared by the Secretariat, as requested by the Committee, and approved by MSC 87.

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

**DATE OF ENTRY INTO FORCE OF THE PROPOSED AMENDMENTS**

3.20 The Committee agreed that the SOLAS amendments proposed for adoption at the current session should be deemed to have been accepted on 1 January 2012 and should enter into force on 1 July 2012, and instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption.

**PROPOSED AMENDMENTS TO THE APPENDIX TO THE ANNEX TO THE 1988 SOLAS PROTOCOL****Form of Safety Certificate for Passenger Ships  
Form of Safety Construction Certificate for Cargo Ships  
Form of Safety Equipment Certificate for Cargo Ships  
Form of Safety Certificate for Cargo Ships**

3.21 The Committee recalled that the proposed amendments to the appendix (forms of certificates) to the Annex to the 1988 SOLAS Protocol (MSC 88/3/1, annex) had been prepared by the Secretariat, as requested by the Committee, and approved by MSC 87.

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

**Date of entry into force of the proposed amendments**

3.23 The Committee agreed that the amendments to the appendix to the Annex to the 1988 SOLAS Protocol, proposed for adoption at the current session, should be deemed to have been accepted on 1 January 2012 and should enter into force on 1 July 2012, and instructed the drafting group to prepare the final text of the requisite draft MSC resolution for adoption.

**PROPOSED AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR SAFE CONTAINERS, 1972**

3.24 The Committee recalled that the proposed amendments to Annexes to the 1972 CSC (MSC 88/3/2, annex) had been agreed by DSC 14 and approved by MSC 87.

- Annex I – Regulations for the testing, inspection, approval and maintenance of containers**
- Annex II – Structural safety requirements and tests**
- Annex III – Control and verification**

3.25 Having noted that no comments had been submitted on the draft amendments, the Committee confirmed their contents, in principle, subject to editorial improvements, if any,

pending the outcome of the discussion of document MSC 88/20 (Secretariat), concerning the consultation on the holding of a Conference of Contracting Parties to the 1972 CSC (see paragraphs 20.12 to 20.20).

### **Date of entry into force of the proposed amendments**

3.26 The Committee agreed that the amendments to the Annexes to the 1972 CSC, proposed for adoption at the current session, should enter into force on 1 January 2012 unless, prior to 1 July 2011, five or more of the Contracting Parties notify the Secretary-General of their objection to the amendments, and instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption.

### **PROPOSED AMENDMENTS TO MANDATORY CODES**

#### ***PROPOSED AMENDMENTS TO THE FSS CODE***

3.27 The Committee recalled that the proposed amendments to the FSS Code (MSC 88/3, annex 2) had been developed by FP 53 and approved by MSC 87, and, having noted that no comments had been submitted on the draft amendments, confirmed their contents, subject to editorial improvements, if any.

### **Date of entry into force of the proposed amendments**

3.28 The Committee agreed that the amendments to the FSS Code, proposed for adoption at the current session, should be deemed to have been accepted on 1 January 2012 and should enter into force on 1 July 2012, and instructed the drafting group to prepare the text of the draft requisite MSC resolution for adoption.

#### ***PROPOSED AMENDMENTS TO THE LSA CODE***

3.29 The Committee recalled that MSC 87 had agreed to postpone consideration of the proposed amendments to the LSA Code, developed by DE 52 and approved by MSC 86, to this session, in order to consider the amendments in conjunction with the draft Guidelines for evaluation and replacement of lifeboat on-load release mechanisms, to be prepared by the Intersessional Working Group on Lifeboat Release Hooks, together with the associated draft amendments to SOLAS regulation III/1.

3.30 The Committee agreed to consider the proposed amendments to the LSA Code (MSC 88/3, annex 3) in conjunction with the report of the IWG (MSC 88/3/4) (see paragraphs 3.34 to 3.42).

### **PROPOSED NEW MANDATORY INSTRUMENT**

#### ***INTERNATIONAL CODE FOR APPLICATION OF FIRE TEST PROCEDURES, 2010 (2010 FTP CODE)***

3.31 The Committee recalled that the draft International Code for the Application of Fire Test Procedures, 2010 (2010 FTP Code) (MSC 88/3/3, annex), was developed by FP 54 and approved by MSC 87, with a view to making the Code mandatory under the 1974 SOLAS Convention.

3.32 Noting that no comments had been submitted on the proposed 2010 FTP Code, the Committee confirmed its contents, subject to editorial improvements, if any.

### **Date of entry into force**

3.33 The Committee agreed that the 2010 FTP Code, proposed for adoption at the current session, should become effective on 1 July 2012, noting that the effective date should be the same as the date of entry into force of the associated amendments to SOLAS chapter II-2, i.e. 1 July 2012, and instructed the drafting group to prepare the final text of the requisite draft MSC resolution for adoption.

### **OUTCOME OF THE INTERSESSIONAL WORKING GROUP ON LIFEBOAT RELEASE HOOKS**

#### **GUIDELINES FOR EVALUATION AND REPLACEMENT OF LIFEBOAT RELEASE AND RETRIEVAL SYSTEMS**

3.34 The Committee recalled that MSC 87 had agreed to postpone consideration, to this session, of the draft Guidelines for evaluation and replacement of lifeboat on-load release mechanisms, referred to in the proposed new paragraph 5 of SOLAS regulation III/1, in conjunction with the draft amendments to SOLAS regulation III/1 and the related amendments to the LSA Code, and had agreed to an intersessional meeting of a Working Group on Lifeboat Release Hooks to finalize the draft Guidelines (see also paragraph 3.8).

3.35 The Committee, having approved the report of the IWG (MSC 88/3/4) in general, considered the draft Guidelines for evaluation and replacement of lifeboat release and retrieval systems and the associated draft MSC circular, prepared by the IWG (MSC 88/3/4, annex 1), and noted that there were divergent views on whether the Guidelines, together with the associated draft amendments to SOLAS and the LSA Code, should be approved and/or adopted, as appropriate, at this session.

3.36 The Committee noted that the many delegations which supported the outcome of the IWG had advocated the approval of the Guidelines and the adoption of the associated SOLAS and LSA Code amendments at this session, whereby the related amendments to the Revised recommendation on testing of LSA would be finalized at DE 55 for adoption at MSC 89, so that the package of measures regarding the assessment and replacement of lifeboat release and retrieval systems would be complete. In their view, the problem of non-compliant systems needed an urgent and timely solution and the Guidelines prepared by the IWG would serve this purpose.

3.37 Many other delegations, while acknowledging that the Guidelines prepared by the IWG presented an improvement, found them to be insufficiently robust and not fit for purpose. They were of the view that relevant industry proposals, e.g., those concerning a design review and stability tests, had not been considered in any detail, and that the IWG had instead concentrated on the mechanical wear rate of hooks, which they did not consider to be the primary cause of failure. These delegations stated that it would be premature to approve the Guidelines and adopt the associated SOLAS and LSA Code amendments at this session. In this regard, the delegation of India expressed its views on the proposed amendments to SOLAS chapter III and the draft Guidelines in a statement which is set out in annex 24.

3.38 The observer from the Nautical Institute considered that the assumption that the anticipated wear rate of critical parts, over the service life of release mechanism, was the determining factor was not suitable or acceptable and considered that the Guidelines should continue to include recommendations for hook stability tests, taking into account specific factors in addition to the wear rate of such mechanisms, and continued to urge the use of fall preventer devices (FPDs) with the relevant procedures and training, pointing out that the

consequences of not getting things right would be future accidents with serious injuries or worse to seafarers.

3.39 Those delegations that spoke in favour of postponing adoption of the above amendments expressed the view that, as an interim measure, more stringent provisions for the use of fall preventer devices (FPDs) should be developed to address the problem of deficient release and retrieval systems. The Committee consequently agreed that this matter should be further considered by DE 55.

3.40 The Committee also noted views that a date should be set by which the assessment of release and retrieval systems was to be completed so as to ensure the globally consistent and timely replacement of non-compliant systems, as stated in the draft amendments to SOLAS regulation III/1.5, i.e. "not later than the first scheduled dry-docking after [date]". Consequently, the Committee agreed that a target date for the completion of lifeboat release and retrieval system assessments should be included in the Guidelines.

3.41 Having considered the above issues, the Committee, acknowledging the general concern with regard to the re-evaluation of lifeboat release and retrieval systems and the need to proceed with the matter as a whole package (i.e. new SOLAS regulation III/1.5, amendments to the LSA Code, draft Guidelines and amendments to the Revised recommendation on testing of life-saving appliances), decided to defer the adoption of the proposed new SOLAS regulation III/1.5 and the amendments to the LSA Code as well as the approval of the draft Guidelines to MSC 89, where a final decision in the matter would be taken. Notwithstanding the above decision, the Committee agreed that the implementation date of the new SOLAS requirements should be 1 July 2014, and, subsequently, instructed DE 55 to urgently resolve the following matters with the highest priority:

- .1 finalization of the draft Guidelines for evaluation and replacement of lifeboat release and retrieval systems;
- .2 finalization of the associated draft amendments to SOLAS regulation III/1;
- .3 finalization of the associated draft amendments to chapter IV of the LSA Code;
- .4 preparation of associated draft amendments to the Revised recommendation on testing of life-saving appliances with a view towards finalization;
- .5 preparation of a procedure for reporting the results of each type of existing lifeboat release and retrieval system evaluation to the Organization; and
- .6 further consideration of matters related to the use of FPDs,

and report to MSC 89.

3.42 To facilitate the above tasks, the Committee also agreed to convene an *Ad hoc* Working Group on Lifeboat Release Hooks, with terms of reference as outlined in paragraph 3.41, to meet prior to DE 55, from 16 to 18 March 2011 (see paragraph 23.58), whereby the group should continue its work through DE 55 as a DE Sub-Committee working group. The Committee further agreed to extend the deadline for the submission of bulky documents related to the above-mentioned matters to DE 55 to 14 January 2011.

3.43 The delegation of Germany stated that the fact that accidents with lifeboats continued to happen was of great concern to them and that Germany had so far actively supported every effort made to resolve the issue, including supporting the holding of the Intersessional Working Group, which had resulted in further improvement of the evaluation guidelines. They also stated that, in view of the implication of further delaying positive action to avoid further accidents, the decision to refer the package of measures, including SOLAS amendments, LSA Code amendments and the Guidelines themselves, to the DE Sub-Committee could not be supported by Germany.

#### **ESTABLISHMENT OF A DRAFTING GROUP**

3.44 Following discussion, the Committee established an *ad hoc* Drafting Group on Amendments to Mandatory Instruments under the chairmanship of Mr. Yoshida (Japan), and instructed it to prepare:

- .1 the final text of the draft amendments to the 1974 SOLAS Convention and the associated draft MSC resolution;
- .2 a draft unified interpretation of SOLAS regulation V/23 to clarify the installation date;
- .3 the final text of the draft amendments to the 1988 SOLAS Protocol and the associated draft MSC resolution;
- .4 the final text of the draft amendments to the 1972 CSC and the associated draft MSC resolution;
- .5 the final text of the draft amendments to the FSS Code and the associated draft MSC resolution; and
- .6 the final text of the draft 2010 FTP Code and the associated draft MSC resolution,

for consideration by the Committee with a view to adoption and approval, as appropriate.

#### **REPORT OF THE DRAFTING GROUP**

3.45 Having considered the report of the drafting group (MSC 88/WP.3), the Committee took action as indicated hereunder.

#### **ADOPTION OF A NEW MANDATORY INSTRUMENT**

##### ***ADOPTION OF THE INTERNATIONAL CODE FOR APPLICATION OF FIRE TEST PROCEDURES, 2010 (2010 FTP CODE)***

3.46 The Committee considered the final text prepared by the drafting group (MSC 88/WP.3, annex 6) and adopted the International Code for Application of Fire Test Procedures, 2010 (2010 FTP Code), by resolution MSC.307(88), as set out in annex 1.

#### **ADOPTION OF AMENDMENTS TO THE 1974 SOLAS CONVENTION**

3.47 The expanded Committee, including the delegations of 98 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 88/WP.3, annex 1), and adopted the amendments unanimously by resolution MSC.308(88), as set out in annex 2.

3.48 In adopting resolution MSC.308(88), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted amendments to chapters II-1, II-2, III and V of, and the appendix to the annex to, the SOLAS Convention should be deemed to have been accepted on 1 January 2012 (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 July 2012, in accordance with the provisions of article VIII thereof.

#### **ADOPTION OF AMENDMENTS TO THE 1988 SOLAS PROTOCOL**

3.49 The expanded Committee, including delegations of 73 Parties to the 1988 SOLAS Protocol, considered the final text of the proposed amendments to the appendix to the Annex to the Protocol prepared by the drafting group (MSC 88/WP.3, annex 4) and adopted the amendments unanimously by resolution MSC.309(88), as set out in annex 3.

3.50 In adopting resolution MSC.309(88), 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 January 2012 (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 July 2012, in accordance with the provisions of SOLAS article VIII and article VI of the 1988 SOLAS Protocol.

#### **ADOPTION OF AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR SAFE CONTAINERS, 1972**

3.51 The Committee, including delegations of 58 Contracting Parties to the 1972 CSC, considered the final text of the proposed amendments to the International Convention for Safe Containers, 1972, prepared by the drafting group (MSC 88/WP.3, annex 5), and, having considered the relevant decisions taken under agenda item 20 (see paragraphs 3.25 and 20.20), adopted the amendments unanimously by resolution MSC.310(88), as set out in annex 4.

3.52 In adopting resolution MSC.310(88), the Committee determined, in accordance with paragraph 2 of article X of the 1972 CSC, that the adopted amendments to Annexes I, II and III to the Convention should enter into force on 1 January 2012 unless, prior to 1 July 2011, five or more of the Contracting Parties notify the Secretary-General of their objection to the amendments, in accordance with paragraph 3 of article X thereof.

3.53 In this regard, the Committee endorsed the group's recommendation that the DSC Sub-Committee should consider the matter of harmonization of usage of words in the 1972 International Convention for Safe Containers (see MSC 88/WP.3, paragraph 10).

#### **ADOPTION OF AMENDMENTS TO MANDATORY CODES**

##### ***ADOPTION OF AMENDMENTS TO THE FSS CODE***

3.54 The expanded Committee, including delegations of 98 Contracting Governments to the 1974 SOLAS Convention, considered the final text of the proposed amendments to the International Code for Fire Safety Systems, prepared by the drafting group (MSC 88/WP.3, annex 3), and adopted the amendments unanimously by resolution MSC.311(88), as set out in annex 5.

3.55 In adopting resolution MSC.311(88), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted



amendments to the FSS Code should be deemed to have been accepted on 1 January 2012 (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 July 2012, in accordance with the provisions of article VIII thereof.

#### **APPROVAL OF NON-MANDATORY INSTRUMENTS**

3.56 The Committee considered the draft unified interpretation of SOLAS regulation V/23, concerning the installation date for pilot transfer equipment and arrangements, and the associated draft MSC circular (see paragraph 3.17), prepared by the drafting group (MSC 88/WP.3, annex 2), and approved MSC.1/Circ.1375 on Unified interpretation of SOLAS regulation V/23.

3.57 In approving the Unified interpretation of SOLAS regulation V/23, the Committee, whilst noting the view of the observer from IACS that paragraph 1.2 of the Unified interpretation was different from the relevant interpretation for the installation of sewage treatment systems under MARPOL Annex IV, acknowledged the explanation by the Chairman of the group that there were mainly three cases of installation of pilot transfer systems on board ships, i.e. firstly, installation on new ships; secondly, new installation on existing ships and its future replacement; and, thirdly, installation as replacement of pilot transfer equipment installed before 1 July 2012, whereby the third case was taken care of by paragraph 1.4 of regulation V/23.

#### **INSTRUCTIONS TO THE SECRETARIAT**

3.58 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, Parties to the 1988 SOLAS Protocol, and Contracting Parties to the International Convention for Safe Containers, 1972.

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

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

4.1 In considering the changes to the maritime security module of GISIS proposed by the Secretariat (MSC 88/4), the Committee recalled that MSC 87 (MSC 87/26, paragraphs 4.2 to 4.10) had discussed issues related to SOLAS regulation XI-2/13 (Communication of information). MSC 87 had noted that SOLAS regulation XI-2/13.4 required that "Contracting Governments shall, at five year intervals after 1 July 2004, communicate to the Organization a revised and updated list of all approved port facility security plans for the port facilities located in their territory, together with the location or locations covered by each approved port facility security plan and the corresponding date of approval (and the date of approval of any amendments thereto), which will supersede and replace all information communicated to the Organization, pursuant to SOLAS regulation XI-2/13.3, during the preceding five years."

4.2 In this context, the Committee noted that whereas there was a requirement for plans to be reviewed regularly, there was no requirement for plans to be reapproved following review. The current module design did not allow a Contracting Government to update GISIS to reflect that a plan had been reviewed but had not been amended or reapproved. Similarly, there was no facility for a Contracting Government wishing to report on issuance of Statements of Compliance to do so.

4.3 The Committee recalled that MSC 87 (MSC 87/26, paragraph 4.8) had noted the offer by the Secretariat to assist any SOLAS Contracting Governments experiencing difficulties in inputting information pursuant to SOLAS regulation XI-2/13 or having any other technical difficulties with the GISIS maritime security module.

4.4 The Committee supported the proposal by the Secretariat to improve the maritime security module of GISIS by adding the following two fields in the section relating to port facilities:

- .1 date of most recent review or approval of the Port Facility Security Plan; and
- .2 date of most recent Statement of Compliance issued, if applicable.

4.5 The Committee concluded by inviting Contracting Governments to review, as soon as possible, the information that they had provided to the maritime security module of GISIS to ensure that it was complete and accurate, and to ensure that the information would be updated as and when changes occurred.

### **Outcome of FAL 36**

#### ***Electronic clearance of ships***

4.6 In considering the outcome of FAL 36 with respect to measures to enhance maritime security (MSC 88/4/4), the Committee recalled that the FAL Committee had developed a standard minimum data set that ships could expect to be required to transmit prior to entry into port, pursuant to paragraph 2.1 of SOLAS regulation XI-2/9 (Control and compliance), which had been endorsed by the Committee first through the issuance of MSC/Circ.1130, which was superseded by MSC.1/Circ.1305 to include the IMO Company identification number.

4.7 The Committee also recalled that it had requested the FAL Committee to develop an EDI message scheme for this standard data set, for joint approval by MSC and the FAL Committee and that MSC 86 had also requested the FAL Committee to develop a draft paper form that might be used for the transmission of the security-related information.

4.8 The Committee noted that FAL 36 had, in the context of reviewing the IMO Compendium on facilitation and electronic business, developed an electronic data interchange (EDI) message which, if approved by the Committee and the FAL Committee, could then be included in the Compendium. FAL 36 had also developed the draft paper form on security-related information, as requested.

4.9 The Committee noted that the draft EDI message and draft paper form (MSC 88/4/4, annexes 1 and 2, respectively) had been based on MSC/Circ.1130, which had been superseded by MSC.1/Circ.1305, and, thus, needed to be reviewed for consistency with the latter. The Committee instructed the Working Group on Maritime Security including Piracy and Armed Robbery against Ships (MSPWG) (see paragraph 4.34) to consider the issue further and recommend the approach to be taken.

#### ***Formalities connected with the arrival, stay and departure of persons: Application and revision of the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases (resolution A.1027(26))***

4.10 The Committee recalled that resolution A.1027(26) had authorized the Committee and the FAL Committee to develop and adopt jointly any necessary amendments to the

Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, required as a result of the introduction of the new section 4 (Stowaways) in the Annex to the FAL Convention, which entered into force on 1 May 2003.

4.11 Noting that FAL 36 had developed and approved, with a view to subsequent adoption, a draft FAL resolution on "Revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases" (MSC 88/4/4, annex 3), the Committee agreed, in principle, to adopt the Revised Guidelines by means of an MSC resolution, noting that they would be resubmitted to FAL 37 for adoption by that Committee as well and referred the draft Revised Guidelines to the MSPWG (see paragraph 4.34) for review from the MSC's viewpoint.

### ***Shore leave and access to ships***

4.12 The Committee recalled that, in response to concerns raised at MSC 87 that seafarers, seafarers' welfare and other organizations continued to face difficulties in connection with shore leave and gaining access to ships as a result of the manner in which the provisions of SOLAS chapter XI-2 and the ISPS Code were being interpreted and implemented in some Member States, the Committee had approved MSC.1/Circ.1342 on Reminder in connection with shore leave and access to ships, and had requested the Secretariat to bring the issue to the attention of the FAL Committee for consideration at FAL 37.

4.13 The Committee noted that FAL 36 had approved FAL.3/Circ.201 on Facilitation aspects of denial of shore leave and access to ships and the implementation of the ISPS Code. The Committee noted that FAL.3/Circ.201 aims at removing unnecessary restrictions imposed by divergences in the implementation of the ISPS Code; was written in recognition of the importance of the human element and without prejudice to the immigration procedures of Member States; and encourages the reporting of unfair and selective practices towards providing shore leave and access to the shore-based facilities in foreign ports.

4.14 The Committee was informed by the Director of the Legal Affairs and External Relations Division that LEG 97 had considered document LEG 97/6/2 (Islamic Republic of Iran) which provided observations on the unfair treatment of seafarers because of nationality or religion and citing a number of cases concerning denial of shore leave and denial of medical care for ill or injured Iranian seafarers, or seafarers on Iranian ships in foreign ports just because of their nationality or nationality of their workplace. While the legitimate security concerns of coastal States were recognized, most delegations that spoke at LEG 97 shared the concerns raised in the document regarding discriminatory treatment of seafarers in the context of shore leave, and recognized shore leave as a right for seafarers. LEG 97 agreed that humanitarian considerations should prevail in cases where seafarers in port on foreign ships are ill or injured and require access to shore-side medical facilities. This information was provided to the MSC at the request of the Legal Committee; and the Secretaries of LEG, FAL and MSC had been requested by LEG to discuss the question of which Committee was the most appropriate forum for considering the issue and developing measures to address it. The Committee noted the information provided.

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

### ***Maritime supply chain resilience best practices***

4.15 In considering proposals by Canada (MSC 88/4/2) with respect to the development of guidance or best practices for maritime supply chain resilience in cooperation with the FAL Committee and the World Customs Organization, the Committee recalled that FAL 34 and MSC 83 had approved MSC-FAL.1/Circ.1 on Securing and facilitating global trade,

which, *inter alia*, stated that "the WCO has primacy over supply chain security, with IMO's role being limited to those aspects related to ships and port facilities".

4.16 The Committee noted that proposals in respect of supply chain resilience were not included in the High-level Action Plan of the Organization, would constitute a new or unplanned output and would need to be resubmitted with a full justification in accordance with the Committees' Guidelines.

4.17 The Committee further noted that WCO had reported to FAL 36 on its ongoing work on trade recovery initiatives, including the development of guidelines, and that work was in hand regarding the global supply chain. The Committee also noted (MSC 88/INF.7) the work of ISO in developing standards in relation to the supply chain and, in particular, ISO 28002 on Resilience in the supply chain.

4.18 In the light of the above, the Committee decided not to proceed with the matter at this time.

### ***Special purpose ships***

4.19 The Committee recalled that MSC 81 had agreed that special purpose ships of 500 gross tonnage and upwards engaged on international voyages and the port facilities that serve them were required to comply with the provisions of SOLAS chapter XI-2 and part A of the ISPS Code, and had approved MSC.1/Circ.1189 on Interim scheme for compliance of special purpose ships with the special measures to enhance maritime security. The Committee noted that this scheme had ceased to apply on 1 July 2008.

4.20 The Committee recalled further that the Code of Safety for Special Purpose Ships, 2008 (2008 SPS Code) was recommendatory and stated that "all special purpose ships should comply with the requirements of chapter XI-2 of SOLAS", whereby a special purpose ship is a ship of not less than 500 gross tonnage which by reason of its function carries on board more than 12 special personnel.

4.21 In considering proposals by Canada (MSC 88/4/2) with respect to incorporating the provisions of the 2008 SPS Code concerning the security of special purpose ships in SOLAS chapter XI-2 and the ISPS Code, the Committee considered that the issue was more one of ensuring compliance with the 2008 SPS Code than of amending SOLAS and the ISPS Code. The Committee acknowledged that MSC.1/Circ.1189 may need to be updated but did not agree that a compelling need had been established to amend SOLAS and the ISPS Code, and concluded by inviting Canada to consider making a formal, fully justified proposal in accordance with the Committees' Guidelines in due course.

### ***Guidance for compliance and enforcement programme for port facility security assessments***

4.22 In considering the proposals of Canada (MSC 88/4/2) on the development of guidance on port facility security inspections in order to ensure the quality of implementation of SOLAS chapter XI-2 and the ISPS Code, the Committee recalled that at both MSC 85 and MSC 86 (MSC 85/26, paragraph 4.37.1, and MSC 86/26, paragraph 4.16, respectively), SOLAS Contracting Governments and international organizations had been urged to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of the guidance in MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194, for consideration of action to be taken. The Committee noted that no proposals on this issue had been submitted to either MSC 87 or MSC 88.

4.23 The Committee concluded that in the absence of any feedback on the use of the existing self-assessment guidance, there was no merit in establishing a correspondence group as had been proposed. However, the Committee agreed that the draft IMO Maritime Security Manual currently under development could contain guidance on port facility security assessments.

4.24 The Committee concluded by once again urging SOLAS Contracting Governments and international organizations to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of the guidance in MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194, for consideration of action to be taken.

### ***Unflagged vessels***

4.25 In considering a request by Canada (MSC 88/4/2) for the Committee to remind Contracting Governments to international conventions that they are bound to determine the flag State of ships transiting their waters and to require all authorities to verify compliance with international convention certificates and take appropriate action, the Committee noted the provisions of the United Nations Convention on the Law of the Sea (UNCLOS), specifically Articles 92, 94 and 110 thereof, and other relevant legal instruments and encouraged Member States to comply with international conventions but considered that this was already addressed adequately in UNCLOS and was beyond the purview of the Committee.

### ***Development of a Port and Ship Security Manual***

4.26 The Committee noted that the Secretariat was in the process of developing the Port and Ship Security Manual, a companion manual to the ISPS Code that was intended to assist SOLAS Contracting Governments in the implementation and verification of compliance with and enforcement of the provisions of SOLAS chapter XI-2 and the ISPS Code. The manual was also intended to serve as a single-source aid and reference for those engaged in delivering capacity-building activities in the field of maritime security. The draft manual was in an advanced stage of development, the Secretariat having recently convened an informal technical peer review group to further progress the document.

4.27 The Committee noted that the Secretary-General had advised MSC 82 of his intention for the Secretariat to develop such a manual and generally welcomed the development; however, some delegations expressed concern that they had not been invited to participate earlier. The Committee endorsed the recommendation of the Secretariat that a correspondence group be formed, under the co-chairmanship of Canada and the United States, to make further improvements to the draft manual between MSC 88 and MSC 89, at which session the draft manual could be approved.

4.28 Consequently, the Committee instructed the MSPWG (see paragraph 4.34) to develop draft terms of reference for the correspondence group, which should also establish and fix the purpose, scope and principles of the manual.

### ***Best practices for clearance programmes of international and domestic transportation***

4.29 The Committee noted (MSC 88/4/1) the principal findings and best practices of the G8 Roma/Lyon Transportation Security Sub-Group (TSSG) for the enhancement of transportation security. Many of these findings related to providing guiding principles to enhance the efficiency and effectiveness of security clearance and credential programmes while providing adequate protection for privacy and the rights of individuals.

4.30 The Committee noted that many G8 States issue security certificates for the transportation of dangerous goods and land cross-border facilitation programmes, with comparable background checks that are sometimes used as an alternative clearance mechanism. The TSSG had noted that common national and/or international frameworks for clearances should provide baseline standards for background checks that can achieve interoperability between modes of transportation and States and recommended standards for background checks related to transportation workers. It was suggested that background checks be proportionate to the level of responsibility of transportation workers, but should lead to a common identity card system where common and comparable programmes existed. A transportation security clearance programme should also address the renewal of clearance, the different modes of access in combination with identification of employees as well as protection of individual rights.

4.31 The Committee noted the information provided and invited the delegation of Canada to keep the Committee informed of any further developments within the TSSG.

### **ISO 28000 series standards update**

4.32 The Committee recalled that ISO had regularly provided updates on ISO initiatives related to enhancing port security and overall security in the supply chain and noted (MSC 88/INF.7) that ISO had currently eight different standards on security (ISO 28000, 28001, 28002, 28003, 28004, 28005, 28006 and 28058).

4.33 The observer from ISO recalled that the discussion at MSC 88 had determined that the ISO 28000 series for supply chain security and ISO 20858 for implementing the ISPS Code were essential. ISO 28000 served as the umbrella management systems standard by successfully planning for and recovering from any disruptive event; established a framework that could be used to cover all aspects of security relating to terrorism, piracy, cargo theft, fraud and many other security disruptions; was the only published and certifiable standard that took a holistic, risk-based approach in managing risks associated with any disruptive event; and had been implemented in many sectors of the supply chain. He pointed out that additional information was provided in ISO Newsletter no.25; that ISO continued to work closely with WCO; that ISO 28002 on resilience had been published and a guide to facilitate implementation in the ISO 28000 certification process was under development; and that ISO had briefed FAL 36 on ISO 28005-1 and 28005-2 (electronic port clearance) and invited FAL Contracting Governments to participate in this work with ISO/TC8. In ISO's security work, they had undertaken two initiatives regarding piracy – new ship design feature against piracy, and modifications/retrofit devices for existing commercial ships.

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

4.34 Following consideration, the Committee established the MSPWG and, with respect to maritime security (see also paragraph 18.50), instructed the group, taking into account the relevant decisions taken and comments made in plenary, to:

- .1 review the Security-related information declaration (MSC 88/4/4, annex 2) for the purpose of ensuring consistency with 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, and advise the Committee on how to proceed;

- .2 review the draft Revised Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, prepared by FAL 36 (MSC 88/4/4, annex 3) and prepare a draft MSC resolution for their adoption; and
- .3 develop draft terms of reference for a correspondence group on the review of the Maritime Security Manual developed by the Secretariat.

### **Report of the Working Group**

4.35 Having considered and approved, in general, the report of the MSPWG (MSC 88/WP.6), the Committee, in considering the part of the report dealing with the agenda item, took action as indicated in the ensuing paragraphs.

### ***Submission of security-related information prior to the entry of a ship into port***

4.36 The Committee endorsed, as a work in progress, a draft MSC circular 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 (MSC 88/WP.6, annex 2) and recommended that the circular be approved after the FAL Committee has finalized the EDI message for the transmission of security-related information (MSC 88/4/4, annex 1) and on the understanding that at the time of its approval appropriate cross reference to the EDI message would need to be included.

4.37 The Committee agreed that there were several apparent inconsistencies between the numbering and the terminology used in the information elements of the draft EDI message and the corresponding requirements within MSC.1/Circ.1305 and instructed the Secretariat to review the left column of annex 1 to document MSC 88/4/4 and to bring the apparent inconsistencies to the attention of the FAL Committee for its consideration, requesting it to adhere strictly to the numbering and the terminology provided in MSC.1/Circ.1305.

### ***Revision of guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases***

4.38 The Committee adopted, by resolution MSC.312(88), Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases, set out in annex 6. The Committee noted that FAL 37 is expected to adopt a corresponding resolution.

4.39 Noting that the FAL Convention was currently under review, the Committee agreed to bring to the attention of the FAL Committee aspects identified by the MSPWG that should be taken into account during the revision. These included:

- .1 augmenting information associated with the impact of stowaways on issues related to safety, and specifically the available capacity of life-saving appliances provided on board and the total number of persons permitted;
- .2 systematically reviewing the use of the words "return" and "remove";
- .3 considering the issue of deviation from the planned voyage of a ship; and
- .4 systematically reviewing the use of the terms "attempted stowaway" and "stowaway".

### ***Establishment of a Correspondence Group***

4.40 The Committee established a Correspondence Group on the Review of the IMO Maritime Security Manual, under the coordination of Canada and the United States\*, with the following terms of reference:

- .1 review the draft IMO Maritime Security Manual to ensure that all relevant IMO maritime security-related material is reflected within the document;
- .2 review and edit the text for accuracy and consistency;
- .3 add explanatory text where required;
- .4 add details of practices that will help security practitioners to meet security objectives;
- .5 make recommendations on the development of any supplementary materials (e.g., manuals, DVDs, training aids) that might be needed in future;
- .6 make recommendations with respect to expansion or revocation of existing IMO material; and
- .7 submit a report for consideration to MSC 89.

4.41 The Committee instructed the Secretariat to provide to the coordinators of the correspondence group, for circulation to the group members, a set of guiding principles stating clearly that the purpose of the manual is to consolidate existing IMO maritime security-related material into an easily read companion guide to SOLAS chapter XI-2 and the ISPS Code, intended both to assist SOLAS Contracting Governments in the implementation, verification of compliance with, and enforcement of the provisions of SOLAS chapter XI-2 and the ISPS Code, and to serve as an aid and reference for those engaged in delivering capacity-building activities in the field of maritime security.

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

### **General**

5.1 The Committee recalled that MSC 87 had adopted and approved, as appropriate, a package of measures concerning goal-based ship construction standards (GBS) for bulk carriers and oil tankers, consisting of:

- .1 International goal-based ship construction standards for bulk carriers and oil tankers;
- .2 associated amendments to SOLAS chapter II-1 to make the above standards mandatory;

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- .3 Guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers;
  - .4 Guidelines for information to be included in a Ship Construction File; and
  - .5 timetable and schedule of activities for the implementation of the GBS verification scheme.

5.2 The Committee also recalled that MSC 87, with regard to the future work on GBS, had agreed to monitor the progress made with the implementation of the GBS SOLAS amendments and Standards, and in particular the verification scheme; to further develop/finalize the Generic guidelines for developing goal-based standards; to further consider the issues under long-term considerations agreed at MSC 84; and invited Member Governments and international organizations to submit relevant comments and proposals to this session.

### **Future work on GBS**

5.3 The Committee noted document MSC 88/5 (Secretariat), recalling the outcome of MSC 87 regarding goal-based new ship construction standards and the considerations of the Committee with respect to future work on the agenda item.

5.4 The Committee had for its consideration the following documents:

- .1 MSC 88/5/1 (Germany), discussing in detail the previous work of the Committee on GBS and suggesting to continue with the development of safety-level based standards, on the basis of the work plan agreed at MSC 81 (MSC 81/WP.7). For the short term, they are proposing to finalize the draft Generic guidelines for developing goal-based standards (MSC 87/5), to clarify how the acceptable safety level should be specified, and to specify the model to determine the safety level of standards; and
- .2 MSC 88/5/2 (Republic of Korea), focusing on ships' structural safety and considering the validation of the results of the safety-level approach by comparing with the prescriptive approach as a priority matter. For this task they identified the following prerequisites: selection of an appropriate analysis method, subject members to be reviewed and structural behaviour, philosophy for establishing target safety level, and guidelines incorporating these items. A study on the development of ship structural rules for hull scantlings where structural reliability analysis has been applied with the safety-level approach was attached in the annex.

5.5 In considering the above proposals, the Committee agreed that work on GBS should continue and supported both proposals in general, in particular the way forward suggested by Germany (MSC 88/5/1, paragraph 22), i.e. finalization of the draft Generic guidelines for developing goal-based standards and specification of the acceptable safety level and of the model to determine it. At the same time, the Committee acknowledged that this would be a longer term project during which a number of unresolved issues needed to be considered, such as the role of FSA in the context of GBS, the availability of relevant data and statistics and the expansion of the scope beyond structural requirements.

5.6 Consequently, the Committee invited Member Governments and international organizations to submit detailed proposals along the lines set out in paragraph 5.5 to MSC 89, and agreed to establish a GBS Working Group at that session to finalize the draft

Generic guidelines for developing goal-based standards and to consider any proposals submitted.

5.7 In this connection, the Committee requested the Secretariat to submit, to MSC 89, a background document listing any relevant documents submitted to previous sessions which the Committee had postponed until after the finalization of the GBS for bulk carriers and oil tankers, and include a brief summary of such documents.

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

5.8 The Committee noted information provided by the Secretariat (MSC 88/5/3) on its activities regarding the implementation of the GBS verification scheme, carried out in accordance with the timetable and schedule of activities agreed at MSC 87, and of relevant replies received from Member Governments, in particular that, as of 26 November 2010, nine nominations for GBS auditors had been submitted by seven Member Governments.

## **6 LRIT-RELATED MATTERS**

### **DEVELOPMENTS IN RELATION TO THE COMPLETION OF THE ESTABLISHMENT AND TESTING OF LRIT DATA CENTRES (DCs) AND THE OPERATION OF THE LRIT SYSTEM SINCE MSC 87**

6.1 The Secretariat provided a summary of information (MSC 88/6 and MSC 88/INF.5) communicated to the Organization in relation to the establishment of DCs and their position with respect to developmental and integration testing, or the production environment of the LRIT system; authorized testing Application Service Providers (ASPs); issues concerning the renewal of Public Key Infrastructure (PKI) certificates; the operation of the LRIT Data Distribution Plan (DDP) server, including the establishment of a disaster recovery site for the DDP; and the establishment of a distribution facility for the provision of flag State LRIT information to security forces operating in waters of the Gulf of Aden and the western Indian Ocean to aid their work in the repression of piracy and armed robbery against ships (the distribution facility).

### **Information communicated to the Organization and establishment of DCs**

6.2 The Committee noted that, as of 19 November 2010:

- .1 ninety-eight out of 159 SOLAS Contracting Governments had communicated to the Organization the information specified in SOLAS regulation V/19-1.8.2 and paragraphs 5.2, 8.1 or 8.2, 8.3.2, 11.2 and 16.1.1 of the Revised performance standards and functional requirements for the long-range identification and tracking of ships (resolution MSC.263(84)) (the Revised performance standards), 10 SOLAS Contracting Governments had communicated part of this information and 51 SOLAS Contracting Governments had not communicated any information to the Organization; and
- .2 fifty-nine DCs were operating in the production environment of the LRIT system providing services to 87 SOLAS Contracting Governments, seven non-metropolitan territories and two special administrative regions; 11 DCs were undergoing testing and four DCs had not yet requested to start testing.

6.3 The Committee requested the Secretariat to continue updating the information contained in document MSC 88/INF.5 and make it available to all SOLAS Contracting Governments and the LRIT Coordinator.

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### **Authorized testing Application Service Providers (ASPs)**

6.4 With regard to the list of authorized testing ASPs, the Committee requested the Secretariat to issue, pursuant to the provisions of paragraph 6.3 of MSC.1/Circ.1307, MSC.1/Circ.1377 on List of Application Service Providers authorized to conduct conformance tests and issue LRIT conformance test reports on behalf of the Administrations, for information of SOLAS Contracting Governments, in particular port State control officers, as well as international organizations. The Committee also requested the Secretariat to update the list as and when changes occur by issuing a revised version of the above-mentioned MSC circular.

### **Renewal of PKI certificates**

6.5 The Committee noted that the change of PKI certificates for all components of the LRIT system had successfully been completed on 16 November 2010, as a result of well coordinated work between all DCs, the International Data Exchange (IDE) and the IMO Secretariat. All LRIT system components had submitted individual requests for the issuance of PKI certificates and more than 150 PKI certificates had been issued by the Organization, as a PKI Certificate Authority.

### **Issues regarding the operation of the DDP server, including the establishment of a disaster recovery site for the DDP**

6.6 With regard to the DDP and DDP server, the Committee noted the periods of unavailability of the DDP server, the actions taken by the Secretariat regarding the issue reported by IMSO, as the LRIT Coordinator, that had affected some of the full DDP versions and the arrangements relating to the provision of a disaster recovery site for the DDP server.

6.7 The Committee thanked IMSO for the technical assistance and collaboration provided to the Secretariat when testing the corrections implemented in the DDP.

6.8 The Secretariat, in response to a request made by the delegation of Cyprus regarding the costs associated with the establishment of a disaster recovery site for the DDP, advised that:

- .1 the disaster recovery site for the DDP server and backup for GISIS was initiated based on the decisions and instructions of MSC 87, as part of the Interim continuity of service plan for the LRIT system (MSC.1/Circ.1344 refers);
- .2 the Organization, after considering the available options, had decided to use the services of the United Nations International Computing Centre (UNICC) in Geneva, Switzerland, for the provision of a disaster recovery site for the DDP and backup for GISIS, and, in this respect, a contract for two years was awarded;
- .3 the cost for setting up and hosting the disaster recovery site for the DDP server and backup for GISIS, including other related networking services, was estimated at US\$ 90,000 per annum. As the UNICC operates on a cost-recovery basis, their charges covered only the costs of providing the required services, without making any profit. This cost was fully covered within the existing approved biennial budget and staff complement for the Information Technology and Information System (IT&IS), as part of the development and ongoing maintenance of the GISIS system, in general; and

- .4 the monitoring of the functioning of the DDP disaster recovery system was performed, for the time being, by existing staff, who were "on-call" 24 hours a day, remotely during non-office hours, at no additional cost to the Organization.

6.9 The Committee noted the information provided by the Secretariat and agreed that the provision of a disaster recovery site for the DDP server should not represent, in future, additional costs for DCs or for the IDE.

#### **Establishment of a distribution facility for the provision of LRIT information to security forces operating in waters of the Gulf of Aden and the western Indian Ocean**

6.10 With regard to the distribution facility, the Committee noted that it had been established by the Secretariat at IMO Headquarters in London, at no additional cost for the Organization beyond the use of existing resources, and was hosted in the IT&IS infrastructure of the Organization.

6.11 The Committee also noted that the Secretary-General had been approached by some SOLAS Contracting Governments requesting the provision of access to the distribution facility to the North Atlantic Treaty Organization (NATO) and the European Union Naval Force (EU NAVFOR) which would be associated with the facility after agreeing, implementing and testing a secure way for connecting the facility and receiving flag State LRIT information. Accordingly, the Committee noted that a circular letter would be issued in this respect, inviting all SOLAS Contracting Governments to provide flag State LRIT information to the above-mentioned security forces.

#### **OUTCOME OF THE NINTH SESSION OF THE *Ad Hoc* LRIT GROUP**

6.12 Having considered the report of the *Ad Hoc* LRIT Group on its ninth session (MSC 88/6/1), the Committee approved it, in general, and took action as outlined in the ensuing paragraphs.

#### **Issues related to LRIT shipborne equipment not operating within the LRIT system in accordance with the provisions of SOLAS regulation V/19-1 and the Revised performance standards (resolution MSC.263(84))**

6.13 The Committee noted the discussions of the group in relation to issues related to LRIT shipborne equipment not operating within the LRIT system in accordance with the provisions of SOLAS regulation V/19-1 and the Revised performance standards, in particular, the efforts made by DCs and ASPs whilst trying to resolve any particular issue, as well as the statistical information provided by the Marshall Islands (MSC 88/6/4) regarding the operational compliance of shipborne equipment. In this regard, the Committee:

- .1 encouraged SOLAS Contracting Governments that had established DCs to continue reporting on any issues relating to LRIT shipborne equipment not operating within the LRIT system in accordance with the provisions of SOLAS regulation V/19-1 and the Revised performance standards and advise on the progress made regarding the rectification of the various malfunctions;
- .2 strongly urged Administrations to put in place appropriate arrangements so that the various equipment malfunctions were dealt with in a prompt and effective manner, including, if necessary, the replacement or the installation of dedicated equipment for transmitting LRIT information, if the efforts to rectify the various malfunctions were not resolved within a reasonable period; and

- .3 instructed the Working Group on LRIT-related Matters to consider, taking into account the comments made in plenary by several delegations, the issues related to LRIT shipborne equipment not operating within the LRIT system in accordance with the provisions of SOLAS regulation V/19-1 and the Revised performance standards and to recommend the approach to be taken.

### **Issues relating to the technical specifications for the LRIT system, including the XML schemata**

#### ***Amendments to MSC.1/Circ.1259/Rev.3***

6.14 The Committee approved the amendments to MSC.1/Circ.1259/Rev.3 on Long-range identification and tracking system – Technical documentation (Part I) (MSC 88/6/1, annex 2) and requested the Secretariat to issue MSC.1/Circ.1259/Rev.4, as appropriate.

### **Issues relating to the protocols and arrangements for the prototype, developmental, integration and modification testing phases of the LRIT system**

#### ***Modification testing phase of the LRIT system***

6.15 The Committee, whilst noting the test procedures and cases required to be conducted during the modification testing phase of the LRIT system, agreed that the participation of the LRIT Coordinator in the modification testing phase of the LRIT system would not be required at this stage. However, the Committee agreed that the complete testing documentation (i.e. Report of test results and related Summary report) should be forwarded by the Secretariat to the LRIT Coordinator, for information, in order to be taken into account during further audits of DCs and of the IDE.

#### ***Implementation and testing of amendments to the technical specifications for the LRIT system***

6.16 The Committee noted the discussion of the group regarding the implementation and testing of both the amendments approved by MSC 86 and those accepted by the group and agreed that these should be implemented and tested during January and February 2011. The Committee further instructed the Working Group on LRIT-related Matters to consider how these amendments should be implemented, tested and documented.

#### ***Amendments to MSC.1/Circ.1294/Rev.1***

6.17 The Committee approved the amendments to MSC.1/Circ.1294/Rev.1 on Long-range identification and tracking system – Technical documentation (Part II), prepared by the group (MSC 88/6/1, annex 3), as further modified by the Committee, and requested the Secretariat to issue MSC.1/Circ.1294/Rev.2, as appropriate.

#### ***Test case and procedures regarding the change of ASPs recognized by SOLAS Contracting Governments***

6.18 The Committee noted the test case and procedures regarding the change of ASPs recognized by SOLAS Contracting Governments, prepared by the group, and requested the Secretariat to update the Guidance notes for LRIT Data Centres accordingly.

6.19 The delegation of Cyprus suggested considering the provision of additional advice to Administrations in order to ensure the proper functioning of recognized ASPs.

**Matters related to the establishment and operation of the International LRIT Data Exchange**

6.20 The Committee noted the progress made on the establishment of the IDE by the European Maritime Safety Agency (EMSA) and, in particular, that:

- .1 the IDE would be tested in the testing environment during March 2011 and, during this period, DCs undergoing testing in the testing environment, if any, might not be able to connect to the IDE;
- .2 the switch over of the IDE in the testing environment from the United States to EMSA was planned to take place in March 2011;
- .3 at MSC 89 in May 2011, the Committee would consider, based on the results of developmental testing, the operation of the IDE by EMSA in the production environment of the LRIT system; and
- .4 based on the results of the testing performed in the testing environment and subject to the Committee's consideration, EMSA would then continue the preparation for the switch over in the production environment planned for the end of 2011.

6.21 The Committee agreed that the participation of the LRIT Coordinator in the transfer process of the IDE would not be necessary.

**Amendments to the Principles and guidelines relating to the review and audit of the performance of LRIT Data Centres and of the International Data Exchange**

6.22 The Committee approved the amendments to the Principles and guidelines relating to the review and audit of the performance of LRIT Data Centres and of the International Data Exchange (MSC 88/6/1, annex 5).

**Continuity of service plan for the LRIT system**

6.23 The Committee approved MSC.1/Circ.1376 on Continuity of service plan for the LRIT system.

**USE OF, AND DEMAND FOR, LRIT INFORMATION**

6.24 The Committee considered information provided by China (MSC 88/6/2), the Marshall Islands (MSC 88/6/3) and IMSO (MSC 88/6/5, paragraphs 18 and 19) relating to the use of, and demand for, LRIT information.

6.25 A majority of delegations supported the proposal by the Marshall Islands regarding the establishment of a "US\$0.25 1:2:6 cost model" (i.e. single LRIT Position report: US\$0.25, polled LRIT Position report: US\$0.50, and changes of the rate of transmission: US\$3.00 (US\$1.50 x 2)).

6.26 The delegation of Panama expressed concerns with regard to the financial sustainability of the LRIT system and suggested that prices for LRIT information should be established on a case-by-case basis, taking into account the volume of LRIT information requested/to be requested during a specific period.

6.27 The delegation of the Russian Federation suggested the establishment of a single accounting system in order to simplify the establishment of contracts between DCs and billing issues.

6.28 The Committee noted the comments provided and instructed the Working Group on LRIT-related matters to consider the issue further, bearing in mind the comments made in plenary, and recommend an approach to be taken.

#### **PERFORMANCE REVIEW AND AUDIT OF DCs AND OF THE IDE**

6.29 The Committee noted information provided by IMSO (MSC 88/6/5 and MSC 88/INF.14) on the audits conducted, as well as the summary audit reports of the DCs and the IDE audited by IMSO during the period from 10 April to 21 September 2010. IMSO had submitted, to the Secretary-General, the detailed audit reports; and to the Committee, through the Secretary-General, the summary audit reports of the IDE and the following DCs: Antigua and Barbuda NDC, Australia NDC, Barbados NDC, Belize NDC, Cayman Islands (United Kingdom) NDC, Chile NDC, India NDC, Isle of Man (United Kingdom) NDC, Jamaica NDC, Japan NDC, Liberia NDC, Republic of Korea NDC, Saint Vincent and the Grenadines NDC, Singapore NDC, United States NDC, Vanuatu NDC and European Union CDC.

6.30 For the present set of audits, it had not requested audit evidence from search and rescue (SAR) services because the system was not yet mature enough in terms of participation of the SAR services. IMSO intended to focus more closely on the use of LRIT information by SAR services in audits undertaken during 2011.

6.31 The last audits conducted by IMSO had revealed that DCs had mostly managed to stabilize their systems and were operating in compliance with the requirements of the LRIT system. The audit results continued to identify minor non-conformities and irregularities, and the LRIT Coordinator continued working with the DCs concerned by assisting them to resolve such issues. No major non-conformities or other occurrences had been identified during the period from 10 April to 21 September 2010.

6.32 The Committee recalled that, at MSC 87, it had invited IMSO to investigate the delays in the transmission of LRIT information from ships to ASPs. IMSO advised that, having investigated the issue, it had identified that the delivery of LRIT reports to DCs was being delayed, beyond the 15 minutes after transmission allowed by the Revised performance standards, for two principal reasons, as follows:

- .1 some older Inmarsat C shipborne terminals did not always initiate the transmission of an LRIT data report immediately after the report had been assembled within the terminal; and
- .2 some Inmarsat C Land Earth Stations (LESSs) were not forwarding all LRIT reports that they had received to the appropriate ASP within the timescales required. This was, apparently, a function of the way some LESSs managed the reports at a technical level and was a separate issue from the delays to some LRIT reports that arose from the use of Internet for message delivery.

6.33 Neither of these technical problems could easily be resolved. IMSO had asked Inmarsat to explore the possibility of modifying the relevant software in the Inmarsat C LESSs, but it was anticipated that the costs of achieving this would mean that it was unlikely to be done in the short term, if at all.

6.34 Similarly, modification of some older Inmarsat C terminals referred to above would not happen in practice. These terminals were not designed to operate in the manner required by the Revised performance standards and some of the models concerned were not supported by manufacturers anymore. Where problems persisted, owners/operators of ships concerned should be encouraged to fit new compliant equipment, able to meet the LRIT reporting requirements.

6.35 IMSO had encountered in many audits the problem that some DCs' systems were failing to keep up with the version changes in the DDP. Most of the DCs were not aware of the existence of this problem until their audit findings revealed it. Some DCs had fixed this problem and others had made arrangements to implement corrective actions on agreed target dates in the near future.

6.36 The Committee noted the information provided and thanked IMSO for submitting the audit reports and its findings and recommendations, as well as the SOLAS Contracting Government that had established the IDE and those SOLAS Contracting Governments that had established the DCs that were audited during the above-mentioned period for sharing this information with the Committee.

## **STATEMENTS**

6.37 The delegation of Turkey, at the end of the consideration of issues regarding the completion of the establishment and testing of DCs and the operation of the LRIT system since MSC 87, made a statement to inform the Committee that fundamental problems continued to exist for Turkey to properly track certain maritime traffic in the Aegean Sea over the LRIT system and repeated the call it had made at MSC 87 with regard to finding a practical solution which could overcome these problems in conformity with the Chairman's conclusion at MSC 86. The full text of the statement is set out in annex 25.

6.38 The delegation of Greece, in response to the statement made by the delegation of Turkey, advised that Greece had uploaded the geographical areas of its territorial waters in the DDP, in accordance with the requirements of SOLAS regulation V/19-1 and the Revised performance standards.

6.39 The delegation of Chile advised that the Chile National LRIT Data Centre (NDC) had concluded an agreement with Colombia for the provision of LRIT services and the existing agreement with Mexico had already been renewed.

6.40 The delegation of the Russian Federation provided information on the use of the LRIT system for search and rescue operations, the number of Russian ships transmitting LRIT information, the efficiency of some LRIT shipborne terminals, the outcomes of the performance review and audit of the Russian Federation NDC and the main problems they had faced when establishing contracts for the provision of, and request for, LRIT information.

## **Statements made during the consideration of the report**

6.41 During the consideration of the report of the Committee, the delegations of Greece and Turkey made further statements, the full texts of which are set out in annex 26.

## **ESTABLISHMENT OF THE WORKING GROUP ON LRIT-RELATED MATTERS**

6.42 Having considered the various issues regarding LRIT-related matters, the Committee established the Working Group on LRIT-related Matters and instructed it, taking into account the relevant decisions taken and proposals and comments made in plenary, to:



- .1 consider how both the amendments approved by MSC 86 and those agreed by the *Ad Hoc* LRIT Group, at its ninth session, should be implemented, tested and documented;
- .2 consider the issues related to LRIT shipborne equipment not operating within the LRIT system in accordance with the provisions of SOLAS regulation V/19-1 and the Revised performance standards and recommend an approach to be taken; and
- .3 discuss the issues related to the use of, and demand for, LRIT information and recommend an approach to be taken.

#### **REPORT OF THE WORKING GROUP**

6.43 Having considered the report of the working group (MSC 88/WP.4), the Committee approved it in general and took action as outlined in the ensuing paragraphs.

#### **Matters relating to the first modification testing phase of the LRIT system**

6.44 The Committee approved Guidance notes for the first modification testing phase of the LRIT system, as prepared by the group (MSC 88/WP.4, annex 1), and requested the Secretariat to circulate this guidance to all DCs and the IDE using the contact details information provided in the DDP.

6.45 The Committee thanked the SOLAS Contracting Governments that had established the Bahamas NDC, the China NDC and the European Union CDC for volunteering their DCs during the first modification testing phase of the LRIT system.

6.46 The Committee urged DCs to take the necessary provisions in order to complete the modification testing phase before 1 March 2011.

6.47 The Committee instructed the Secretariat to:

- .1 report to MSC 89 on the results of, and any issues regarding, the first modification testing phase of the LRIT system;
- .2 issue on 1 March 2011, and subject to the satisfactory completion of the modification testing phase, an MSC circular on Guidance to search and rescue services in relation to requesting and receiving LRIT information, including the amendments approved by MSC 86 (MSC 86/6/1, annex 6, part III) and revoking MSC.1/Circ.1308; and
- .3 prepare, for those DCs required to undergo developmental and integration testing for first time, bespoke versions of the Report of test results and the related Summary report, including the additional test procedures and cases required to be conducted during the first modification testing phase of the LRIT system.

#### **Issues related to LRIT shipborne equipment not operating within the LRIT system in accordance with the provisions of SOLAS regulation V/19-1 and the Revised performance standards (resolution MSC.263(84))**

6.48 The Committee noted the discussions of the group regarding the renewal and revocation of Conformance test reports and issues affecting the proper functioning of LRIT shipborne equipment.

6.49 The Committee encouraged SOLAS Contracting Governments to report to MSC 89 on any issues affecting the normal functioning of LRIT shipborne equipment, including criteria for the rectification of the various malfunctions and agreed that, at MSC 89, the preparation of guidance or recommendations for Administrations to deal with the different malfunctions of LRIT shipborne equipment and determining criteria for the replacement of existing terminals could be considered.

6.50 The Committee noted the comments provided with regard to the type approval of LRIT shipborne equipment and:

- .1 invited IEC to look into the issue and take action, as appropriate, bearing in mind that the LRIT system did not necessarily require the use of new dedicated shipborne equipment; and
- .2 instructed the COMSAR Sub-Committee to review and revise resolution A.570(14) in light of these new developments.

#### **Use of, and demand for, LRIT information**

6.51 The Committee noted the discussions regarding the cost of LRIT information and the establishment of contracts for the provision of, and request for, LRIT information and:

- .1 concurred with the establishment of the "US\$0.25 1:2:6 cost model", as from 3 December 2010;
- .2 strongly urged SOLAS Contracting Governments to accelerate the establishment of the necessary financial arrangements of their DCs with other DCs and to negotiate in an open, fair, and transparent manner with other DCs requesting LRIT information, with a view of agreeing to the terms of the contract, as a matter of urgency;
- .3 recognizing that national legal implications were preventing some SOLAS Contracting Governments from requesting and paying for the LRIT information they were entitled to receive, recommended that not having contracts in place should not block the operation of the LRIT system, provided that the party interested in receiving LRIT information had started the negotiation process; and
- .4 concurred that the prices published in the IDE should not exceed the cost model indicated in subparagraph .1 above.

6.52 The Committee urged Administrations to update the prices they had published in the IDE, taking into account the "US\$0.25 1:2:6" cost model, by either instructing their DCs to send an Update pricing file message to the IDE or authorizing the IDE operator to update the pricing information on their behalf and publishing a new version of the IDE pricing list.

6.53 The Committee concurred with the view of the group that one potential way forward would be for those SOLAS Contracting Governments wishing to activate their coastal State standing orders and start receiving LRIT information to:

- .1 send their contract/purchase order to all DCs and SOLAS Contracting Governments within the system using the contact details of the official points of contact provided in the DDP and after a reasonable period of time,

activate its coastal State standing order(s) and/or request LRIT information in their capacity as a port State; and

- .2 continue to follow up with those DCs or SOLAS Contracting Governments that were not in a position to sign the contract/purchase order with the goal of establishing contracts with every other DCs or SOLAS Contracting Governments within the system.

6.54 The Committee noted the information provided regarding the use of the LRIT system and encouraged SOLAS Contracting Governments to activate their coastal State standing orders, promote the use of LRIT information, at national levels, and continue sharing their experiences, in this regard, during further sessions of the Committee.

6.55 The delegation of Panama, recalling the presentation they had made on the use of the LRIT information during the current session of the Committee, offered their assistance and sharing their experience with other SOLAS Contracting Governments wishing to promote the use of LRIT information, at national levels, for the purposes agreed by the Organization.

6.56 The delegation of the Bahamas, taking into account the information provided by some SOLAS Contracting Governments relating to the low use of the LRIT system, reiterated their concerns with regard to the long term operational and financial viability of the LRIT system.

6.57 The Committee encouraged SOLAS Contracting Governments to submit proposals to MSC 89 concerning the long term operational and financial viability of the LRIT system, in particular, how the further work of LRIT-related issues should be handled in future, either by the Committee itself, or the NAV or COMSAR Sub-Committees, or by any other possible arrangements. The Committee also requested the Secretariat to consider the matter further and provide its views to MSC 89.

### **Functioning of recognized ASPs**

6.58 The Committee concurred with the recommendation of the group that Administrations should be responsible for supervising the normal functioning of recognized ASPs taking into account the provisions of the Revised performance standards, in particular, paragraphs 5.3 and 5.4.

### **Information required to be communicated to the Organization**

6.59 After considering the report of the group, the Committee, taking into account the fact that 61 of 159 SOLAS Contracting Governments had not communicated any information or only part of the information specified in SOLAS regulation V/19-1.8.2 and paragraphs 5.2, 8.1 or 8.2, 8.3.2, 11.2 and 16.1.1 of the Revised performance standards, invited the Secretary-General to write to and seek clarifications from all these SOLAS Contracting Governments, reminding them of their obligation to communicate the above information and inviting them to do so, at their earliest convenience. The Committee also invited the Secretary-General to inform MSC 89 of responses received.

6.60 The Committee urged, once again, SOLAS Contracting Governments to communicate to the Organization information as required by SOLAS regulation V/19-1.8.2 and paragraphs 5.2, 8.1 or 8.2, 8.3.2, 11.2 and 16.1.1 of the Revised performance standards.

## **7 SHIP DESIGN AND EQUIPMENT**

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

#### **General**

7.1 The Committee approved, in general, the report of the fifty-third session of the Sub-Committee on Ship Design and Equipment (DE) (DE 53/26 and MSC 88/7) and took action as indicated hereunder, recalling that MSC 87 had already taken action on urgent matters emanating from DE 53.

#### **Offshore construction vessels**

7.2 The Committee noted the Sub-Committee's decision that there was no need to develop a new Code covering offshore construction vessels and that, instead, relevant guidelines and interpretations would be further discussed at DE 55.

#### **Unified interpretation of the Performance Standard for protective coatings for dedicated seawater ballast tanks in all types of ships and double-side skin spaces of bulk carriers**

7.3 The Committee approved MSC.1/Circ.1378 on Unified Interpretation of the Performance Standard for protective coatings for dedicated seawater ballast tanks in all types of ships and double-side skin spaces of bulk carriers (resolution MSC.215(82)), concerning the term "assistant coating inspector".

#### **Unified interpretation of SOLAS regulation II-1/3-5**

7.4 The Committee approved MSC.1/Circ.1379 on Unified interpretation of SOLAS regulation II-1/3-5, concerning new installation of materials containing asbestos, together with the inclusion of a relevant footnote in the publication of the next SOLAS consolidated edition.

### **URGENT MATTERS EMANATING FROM THE FIFTY-FOURTH SESSION OF THE SUB-COMMITTEE**

#### **General**

7.5 The Committee considered urgent matters referred to it (MSC 88/7/3), emanating from the fifty-fourth session of the Sub-Committee (DE 54/23 and DE 54/23/Add.1) and took action as indicated hereunder.

#### **Guidance for watertight doors on passenger ships which may be opened during navigation**

7.6 The Committee considered the draft MSC circular on Guidance for watertight doors on passenger ships which may be opened during navigation (MSC 88/7/3, annex 1). Some delegations fully supported the Guidance, which would ensure a more uniform approach by Administrations when allowing that watertight doors may stay open, stating that they would like to see it applied as early as possible. Other delegations expressed reservations, in particular with regard to the fact that a floatability assessment was not required for conditions of diminished risk and that an acceptable level of risk had not been determined.

7.7 In this context, the delegation of the United Kingdom, supported by the delegation of Norway, stated that, in recognition of the diminished risk of navigating in areas of reduced hazard from collision or grounding, a concession might be given to full compliance with the

damage stability regulations in the form of the "floatability assessment", as defined in the Guidance, in order to permit category A watertight doors to remain open, provided the condition under which this facility was granted was well defined and might be consistently applied by all Administrations. They pointed out that under the conditions of diminished risk, the Guidance required no demonstration of any ability to float, and that indeed the ship might have no reserve stability yet might be granted permission to have category A watertight doors remain open on the basis of a risk assessment, when submissions to Administrations of risk assessments were likely to vary in detail, assumptions and source of data. In their view, the Guidance was intended to provide, primarily, for a consistent method of evaluation; but since it had not been defined what constituted an acceptable level of risk it was likely that there would be no consistency in the application of this concession and, furthermore, since the Guidance allowed for category A watertight doors to also remain open when navigating in hazardous conditions when satisfying only the "floatability assessment", this would allow for such doors to remain open during any and all conditions at all times throughout the life of the ship. The delegations felt that this represented a permanent degradation of the subdivision of the ship and a permanent non-compliance with the damage stability regulations and could not be considered satisfactory. They proposed that no watertight doors of any category should be allowed to remain open when the ship was operating in hazardous conditions; under such conditions doors should be allowed to be opened to allow passage and closed immediately afterwards; and that, in conditions of reduced hazard, category A watertight doors may be allowed to remain open following satisfaction of the "floatability assessment".

7.8 The observer from IFSMA stated that the shipmasters entirely supported the position of the United Kingdom on the issue, since convenience of operation should not override safety considerations and ships should not be operated at the margins of safety, but with a degree of safety. They shared the concerns regarding the risk assessment expressed by other delegations.

7.9 The observer from IACS raised concerns regarding the lack of clarity as to how the risk assessment would be conducted and what would be a globally and consistently applied understanding of what constituted an "acceptable" level of risk.

7.10 Following debate, the Committee agreed that:

- .1 the Guidance should not apply to special purpose ships;
- .2 Member Governments should be invited to apply the Guidance from 1 January 2011; and
- .3 the illustration of application of the floatability assessment under hazardous conditions in the guidance set out in document DE 54/WP.1, annex 2, should be attached as appendix 4 to the draft Guidance.

7.11 Consequently, the Committee approved MSC.1/Circ.1381 on Guidance for watertight doors on passenger ships which may be opened during navigation.

7.12 The delegations of Norway and the United Kingdom reserved their position with regard to the Guidance.

### **Problems with the testing requirements for lifejackets**

7.13 The Committee noted that the Sub-Committee had identified problems with the testing requirements for lifejackets as contained in the Revised recommendation on testing of life-saving appliances, in particular concerning the recent introduction of a reference test

device (RTD), and had requested the inclusion of a new unplanned output on "Revision of testing requirements for lifejacket RTDs" in the biennial agenda and in the provisional agenda for DE 55 (MSC 88/7/3, annex 2). The matter was considered under agenda item 23 (Work programme) (see paragraph 23.32).

#### **PERFORMANCE STANDARD FOR PROTECTIVE COATINGS FOR CARGO OIL TANKS OF CRUDE OIL TANKERS (RESOLUTION MSC.288(87))**

7.14 The Committee recalled that MSC 87, when adopting the Performance Standard for protective coatings for cargo oil tanks of crude oil tankers (resolution MSC.288(87)), considered footnote 5.2 to table 1.2.2 of the Performance Standard, referencing the NACE Standard practice methods of validating equivalence to ISO 8502-9 on measurement of the level of soluble salts. Taking into account the information submitted by NACE International in document MSC 87/7/6 regarding the status of the revision of the Standard, MSC 87 agreed at the time to delete the footnote and invited NACE International to submit information on the formal approval of the revised Standard to this session for consideration, following which the Secretariat would be requested to insert a relevant footnote referring to the revised Standard in the Performance Standard.

7.15 The Committee considered documents MSC 88/7/1 and MSC 88/INF.3 (NACE International), containing the text of the revised standard NACE SP0508-2010 concerning measurement of levels of soluble salts (MSC 88/INF.3) for consideration and suggesting that the relevant footnote should now be included in the Performance standard adopted by resolution MSC.288(87).

7.16 Following consideration, the Committee agreed to amend footnote 4 to table 1 of the Performance Standard accordingly and, having noted that the same footnote was included in the Performance Standard for protective coatings for dedicated seawater ballast tanks in all types of ships and double-side skin spaces of bulk carriers (resolution MSC.215(82)), agreed to the same change in footnote 8 to table 1 of that Performance Standard.

7.17 In agreeing to the above modifications, the Committee was mindful of its decision at MSC 59, reiterated at MSC 61, concerning the status of footnotes, i.e. that they do not form part of the text of mandatory instruments and that the Secretariat should omit such footnotes from the authentic texts and certified copies thereof circulated to Member Governments, but that they should be included in all other documents and sales publications.

7.18 Consequently, having considered a relevant draft MSC circular prepared by the Secretariat (MSC 88/WP.9/Rev.1), the Committee agreed to MSC.1/Circ.1381 on Modifications to footnotes in the coating performance standards adopted by resolutions MSC.215(82) and MSC.288(87).

7.19 The delegation of China, while recognizing the value of the NACE standard, did not support its incorporation into IMO resolutions as an international standard. They pointed out that, when IMO quotes other organizations' standards, like ISO and IEC, such standard should be one of the said standards produced and a wide range of countries should participate in the drafting which should be open and transparent with due consideration to views of different countries, so that they could fully represent all countries involved and be conducive to the implementation of IMO requirements. They saw two problems with the lack of presence of many countries in the drafting process of the NACE standard; firstly, this standard could not fully represent the opinions from all countries and, secondly, it was impossible for those countries which did not participate in the process to fully understand the elements and details considered in the process of drafting and, therefore, they could not independently and effectively implement them, which would further hinder the

implementation of IMO requirements. Since ISO had produced technical standards on this subject, it was capable of amending them, whereby, in the process, Member States and NACE International alike had the opportunity to participate in the drafting of the amendments. The delegation suggested that ISO should be invited to amend their standard 8502-9 and that IMO should only quote ISO standards in IMO instruments.

#### **TESTING OF FREE-FALL LIFEBOATS**

7.20 The Committee considered document MSC 88/7/2 (IACS), bringing to its attention an inconsistency between SOLAS regulations III/19.3.3.4 and III/20.11.2 concerning the testing of free-fall lifeboat release systems and suggesting that a clarification of the matter is necessary. The Committee noted that the document had also been submitted to DE 54 (DE 54/22/1).

7.21 The Committee noted that DE 54, when considering document DE 54/22/1, had acknowledged that recognized organizations needed clarity on how relevant SOLAS regulations should be implemented and had agreed with the view of the Chairman of the DE Sub-Committee that this matter could only be resolved by means of SOLAS amendments, which would require a new output to be included in the High-level Action Plan.

7.22 The Committee noted views of delegations that a simulated launch, where the release mechanism is tested and the boat subsequently lowered by falls to the water and then boarded and manoeuvred, was sufficient and that there was no merit in a full-scale test. Furthermore, a full launch with any crew on board would be in conflict with some Members' national regulations, aiming at a safe working environment and protecting seafarers against unnecessary risk.

7.23 Following consideration, the Committee, having noted that all delegations that spoke supported IACS' view that a clarification of the issue was necessary, instructed DE 55 to consider the matter under its agenda item "Making the provisions of MSC.1/Circ.1206/Rev.1 mandatory" with a view to developing relevant amendments to SOLAS chapter III. In addition, DE 55 was instructed to consider perceived problems with the 110% load test of free-fall life boats.

## **8 RADIOCOMMUNICATIONS AND SEARCH AND RESCUE**

### **REPORT OF THE FOURTEENTH SESSION OF THE SUB-COMMITTEE**

#### **General**

8.1 The Committee approved, in general, the report of the fourteenth session of the Sub-Committee on Radiocommunications and Search and Rescue (COMSAR) (COMSAR 14/17 and MSC 88/8) and took action as indicated hereunder, recalling that MSC 87 had already taken action on urgent matters emanating from COMSAR 14.

#### **Questionnaire on the availability of shore-based facilities in the GMDSS**

8.2 The Committee approved MSC.1/Circ.1382 on Questionnaire on the availability of shore-based facilities in the GMDSS, superseding MSC/Circ.684.

#### **Liaison statements to ITU**

8.3 The Committee endorsed the Sub-Committee's action in conveying to ITU liaison statements on:

- .1 Recommendation ITU-R M.493-13 on Digital Selective Calling System for use in the Maritime Mobile Service and MMSI Numbering Systems for Hand Held VHF DSC Radios;
- .2 the implementation of Resolution 355; and
- .3 specifications of Man Overboard Devices.

#### **Questionnaire on the availability of SAR Services**

8.4 The Committee endorsed the Sub-Committee's action in requesting the Secretariat to circulate COMSAR.1/Circ.52 on Questionnaire on the availability of SAR services.

#### **Amendments to the 1994 HSC Code**

8.5 The Committee noted that the amendments to the International Code of Safety for High-Speed Craft, 1994, prepared by COMSAR 14, were aimed at correcting an inconsistency between amendments to the 1994 HSC Code concerning radiocommunication facilities, as adopted by MSC 82 and MSC 84.

8.6 The Committee further noted that the original chapter 14 (Radiocommunications) of the 1994 HSC Code was amended by MSC 82 (resolution MSC.221(82)), replacing the whole chapter with a single paragraph stating that craft should be provided with radiocommunications facilities as specified in chapter 14 of the 2000 HSC Code. Later, MSC 84 adopted further amendments to the 1994 HSC Code, including amendments to chapter 14, prepared by COMSAR 11 (resolution MSC.259(84)); however, COMSAR 11 had failed to take into account the amendments adopted at MSC 82 and prepared their proposed amendments on the basis of the original text of the 1994 HSC Code, which was no longer in force, thereby effectively amending a paragraph that did not exist.

8.7 The Committee noted also the advice provided by IMO's Legal Affairs and External Relations Division that, since this was an obvious error and the amendment in question contained only one line, a Note Verbale of Rectification could be issued by the Secretary-General. Accordingly, the Committee decided not to approve the amendments to chapter 14 of the 1994 HSC Code prepared by COMSAR 14 and, instead, requested the Secretary-General to issue a Note Verbale of Rectification, revoking the amendment to chapter 14 of the 1994 HSC Code adopted by resolution MSC.259(84).

#### **Unified interpretation of the 1994 HSC Code**

8.8 The Committee approved MSC.1/Circ.1383 on Unified interpretation of the International Code of Safety for High-Speed Craft, 1994, providing more specific guidance concerning the application of chapter 14 regarding the carriage requirements for distress panels and distress alert panels.

#### **Amendments to the 2000 HSC Code**

8.9 The Committee approved draft amendments to the International Code of Safety for High-Speed Craft, 2000, concerning the testing of satellite EPIRBs on passenger craft, as set out in annex 7, and requested the Secretary-General to circulate the draft amendments in accordance with SOLAS article VIII for consideration at MSC 90 with a view to adoption.



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**APPLICATION FOR THE RECOGNITION OF THE THURAYA SATELLITE SYSTEM FOR GMDSS UNDER THE CRITERIA OF RESOLUTION A.1001(25)**

8.10 The Committee considered documents MSC 88/8/1 and MSC 88/INF.4 (United Arab Emirates), containing information related to the recognition of new satellite providers within the GMDSS under the criteria of resolution A.1001(25). The Committee noted that, in the view of the United Arab Emirates, under the current IMO regulations, regional satellite systems might find it difficult to become recognized as GMDSS providers, in accordance with the criteria of resolution A.1001(25) and be licensed as such by Administrations. The Committee further noted that the United Arab Emirates had proposed that the Thuraya Satellite System should be considered within the discussions on the GMDSS taking place in the COMSAR Sub-Committee under its agenda item "Scoping exercise to establish the need for a review of the elements and procedures of the GMDSS".

8.11 A number of delegations spoke on the issue, welcoming, in general, the proposal submitted by the United Arab Emirates and supporting immediate inclusion of the matter within the discussions on a possible review of the GMDSS.

8.12 The Committee noted, in particular, the views of some delegations that there was a need to take into account innovations and future developments when discussing a possible review of the GMDSS, to carry out cost/benefit analyses and that in terms of capacity building, the cost should be borne by those who were recognized as satellite systems into the GMDSS.

8.13 All delegations who spoke on the issue were also of the view that there would be a need to further study the implementation of the concept of regional satellite systems in the GMDSS and that key issues should be taken into account, such as carriage requirements for ships; shore based facilities, including databases; availability and mitigation of interference.

8.14 The Committee also noted a view that certain issues needed to be investigated and that IMSO might be requested to submit a report with regard to the conformity of the Thuraya Satellite System.

8.15 The observer from IMSO informed the Committee that they had on previous occasions provided assistance to the United Arab Emirates and Thuraya and intended to continue doing so. They also stated their commitment to provide assistance to the Committee and the COMSAR Sub-Committee, as required.

8.16 The Committee instructed COMSAR 15 to consider the matter under its agenda item "Scoping exercise to establish the need for a review of the elements and procedures of the GMDSS" and invited IMSO to actively participate in the process. The delegation of the United Arab Emirates was invited to submit appropriate information to COMSAR 15, include technical experts of Thuraya in their delegation and participate in the discussion at that session.

**SUPPLEMENTARY ADVICE ON THE DRAFT IMO POSITION ON WRC-12 AGENDA ITEMS CONCERNING MATTERS RELATING TO MARITIME SERVICES**

8.17 The Committee considered document MSC 88/8/2 (Secretariat), containing the Supplementary advice on the draft IMO position on WRC-12 Agenda items, prepared by the Joint IMO/ITU Experts Group at its meeting from 14 to 16 September 2010, as instructed by MSC 87 and set out in the annex to document MSC 88/8/2.

8.18 The Committee noted that information on the debate considering the relevant agenda items for WRC-12 would be made available in document COMSAR 15/4, together with the full text of the draft IMO position, as updated by the Supplementary advice.

8.19 The Committee noted that some delegations, while supporting the draft position on WRC-12 Agenda item 1.10, paragraph 6, that "IMO supports the identification of a simplex channel, outside the GMDSS channels, for man over board (MOB) equipment" in principle, were of the opinion that more discussion on this matter was needed at COMSAR 15, before this statement could be submitted to ITU. Accordingly, the Committee decided to delete paragraph 6 of the draft IMO position relating to Agenda item 1.10.

8.20 The Committee approved the Supplementary advice, as amended, and instructed the Secretariat to submit the full draft IMO position, as endorsed by MSC 87 and updated by the Supplementary advice, to ITU's CPM, which was scheduled to take place from 14 to 25 February 2011.

#### **USE OF INMARSAT FLEETBROADBAND FB500 COMMUNICATIONS EQUIPMENT WITHIN GMDSS**

8.21 The Committee noted information provided by IMSO (MSC 88/8/3) relating to the intention by Inmarsat Ltd. to seek future recognition and approval for the new generation Inmarsat FleetBroadband FB500 terminal to be used in GMDSS ship installations.

### **9 FIRE PROTECTION**

#### **REPORT OF THE FIFTY-FOURTH SESSION OF THE SUB-COMMITTEE**

##### **General**

9.1 The Committee, having recalled that MSC 87 had already taken action on urgent matters emanating from the fifty-fourth session of the Sub-Committee on Fire Protection (FP) (FP 54/25 and Add.1 and MSC 87/15/1), approved, in general, the report of FP 54 and took action on the remaining matters (MSC 88/9) as indicated hereunder.

##### **Amendments to chapters 5 to 8 of the FSS Code**

9.2 The Committee approved the draft amendments to chapters 5 to 8 of the FSS Code, set out in annex 8, 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 90.

9.3 In the context of this issue, the Committee considered document MSC 88/9/1 (Japan), containing the results of a study on matters related to the requirements for foam-generating capacity of fixed high-expansion foam fire-extinguishing systems, which are related to the draft amendments to chapter 6 of the FSS Code, and decided to refer the above document to FP 55 for further consideration, under the existing agenda item "Performance testing and approval standards for fire safety systems", so that any resulting modifications to chapter 6 could be considered by MSC 90 prior to the adoption of the aforementioned amendments to chapter 6 to the FSS Code.

##### **Amendments to SOLAS chapter II-2**

9.4 The Committee approved the draft amendments to SOLAS regulation II-2/20, regarding fixed gas and water-spraying fire-extinguishing systems for vehicle, ro-ro, container and general cargo spaces, as set out in annex 9.

9.5 With regard to:

- .1 the draft amendments to SOLAS regulation II-2/9, concerning fire integrity of bulkheads and decks separating adjacent spaces of ro-ro spaces for passenger ships carrying not more than 36 passengers and cargo ships, which should apply to new ships only; and
- .2 the draft amendments to SOLAS regulation II-2/10.5.6.3.1, concerning fixed local application fire-extinguishing systems,

the Committee, having considered document MSC 88/9/2 (IACS), concerning the scope of application of the draft amendments to SOLAS regulations II-2/9 and II-2/10.5.6.3.1, and following discussion, instructed the drafting group established under agenda item 3 (Consideration and adoption of amendments to mandatory instruments) to make the necessary modifications to the above draft amendments, as appropriate, to clarify that they would be applicable to new ships only.

9.6 In this connection, the Committee noted the view of the delegation of Argentina that the amendments to SOLAS regulation II-2/10.5.6.3.1 did not present a change in the scope of the areas to be protected by a fixed local application fire-extinguishing systems on ships constructed before, on or after 1 July 2012, nor did they affect the unified interpretation of this regulation contained in MSC/Circ.1120.

9.7 Having considered the part of the report of the drafting group related to this matter (MSC 88/WP.3, paragraphs 17 to 19 and annex 7) and the additional associated amendments to SOLAS regulation II-2/1 (see paragraphs 9.8 and 9.9) proposed by the group, the Committee approved the draft amendments to SOLAS regulations II-2/1, 9 and 10, as set out in annex 9, and requested the Secretary-General to circulate them, together with the amendments to SOLAS regulation II-2/20 approved earlier (see paragraph 9.2), in accordance with SOLAS article VIII, for consideration, with a view to adoption, at MSC 90.

9.8 When approving the draft amendments to SOLAS regulations II-2, the Committee noted the explanation by the Chairman of the drafting group that, since SOLAS regulation II-2/1.1.1 stipulates "Unless expressly provided otherwise, this chapter shall apply to ships constructed on or after [entry into force date]", it was clear that any regulations in SOLAS chapter II-2, entering into force after the above "[entry into force date]", would apply only to ships constructed on or after that date, if there was no specific provision for application to existing ships constructed before that date. For those existing ships, a previous version of SOLAS chapter II-2 should be applied in accordance with regulation II-2/1.2.1; however, by amending SOLAS regulations II-2/1.1.1 and 1.2.1 as approved (see paragraph 9.7), any future amendments shall apply only to new ships.

9.9 With regard to the group's recommendation to amend or delete regulations II-2/1.2.2 and 1.2.3, the Committee, noting the explanation by the Chairman of the group that the existing regulation 1.2.2, which came into effect by resolution MSC.99(73), was no longer necessary if regulation 1.2.1 was amended to include resolution MSC.99(73), and that this similarly applied to regulation 1.2.3, in terms of resolution MSC.269(85), and also noting concerns on those amendments expressed by the delegation of Argentina and their intention to submit a relevant document to FP 55, agreed that FP 55 should further scrutinize the draft amendments to SOLAS regulation II-2/1 and advise the Committee, bearing in mind that the adoption of the amendments is envisaged for MSC 90.

**Guidelines for testing and approval of fixed high-expansion foam systems**

9.10 The Committee approved MSC.1/Circ.1384 on Guidelines for testing and approval of fixed high-expansion foam systems, which is related to the draft new chapter 6 of the FSS Code (see also paragraphs 9.2 and 9.3).

**Scientific methods on scaling of test volume for fire test on water-mist fire-extinguishing systems**

9.11 The Committee approved MSC.1/Circ.1386 on Scientific methods on scaling of test volume for fire test on water-mist fire-extinguishing systems.

**Amendments to the Revised Guidelines for the approval of equivalent water-based fire-extinguishing systems for machinery spaces and cargo pump-rooms (MSC/Circ.1165)**

9.12 The Committee approved MSC.1/Circ.1386 on Amendments to the Revised Guidelines for the approval of equivalent water-based fire-extinguishing systems for machinery spaces and cargo pump-rooms (MSC/Circ.1165).

**Revised Guidelines for the approval of fixed water-based local application fire-fighting systems for use in category A machinery spaces (MSC/Circ.913)**

9.13 The Committee approved MSC.1/Circ.1387 on Revised Guidelines for the approval of fixed water-based local application fire-fighting systems for use in category A machinery spaces (MSC/Circ.913).

**Amendments to the Guidelines for the application of plastic pipes on ships (resolution A.753(18))**

9.14 The Committee adopted resolution MSC.313(88) on Amendments to the Guidelines for the application of plastic pipes on ships (resolution A.753(18)), as set out in annex 10.

**Interim Explanatory Notes for the assessment of passenger ship systems' capabilities after a fire or flooding casualty (MSC.1/Circ.1369)**

9.15 The Committee, having recalled its approval, at MSC 87, of the Interim Explanatory Notes for the assessment of passenger ship systems' capabilities after a fire or flooding casualty (MSC.1/Circ.1369), instructed the COMSAR, NAV and SLF Sub-Committees to consider the draft interpretations, set out in annex 4 to document FP 54/WP.3, that fall under their respective purview, and provide the outcome of their considerations to the FP Sub-Committee for coordination purposes.

**Unified interpretation of chapter 12 of the FSS Code**

9.16 Having considered document MSC 88/9/3 (Japan), proposing to amend paragraph 2 of the draft MSC circular on Unified interpretation of chapter 12 of the FSS Code by replacing the words "on or after [*date of approval of the circular*]" by the words "on or after 1 January 2012", the Committee agreed to the above proposal and approved MSC.1/Circ.1388 on Unified interpretation of chapter 12 of the FSS Code.

## **Recommendations for entering enclosed spaces aboard ships**

9.17 The Committee noted the Sub-Committee's consideration of matters related to the Recommendations for entering enclosed spaces aboard ships and decided to consider its request to extend the target completion year for this planned output under agenda item 23 (Work programme) (see also paragraphs 12.12 and 23.14).

## **10 FLAG STATE IMPLEMENTATION**

### **REPORT OF THE EIGHTEENTH SESSION OF THE SUB-COMMITTEE**

10.1 The Committee approved, in general, the report of the eighteenth session of the Sub-Committee on Flag State Implementation (FSI) (FSI 18/20 and MSC 88/10) and, taking into account relevant decisions and comments made by MEPC 61 (MSC 88/2/3), took action as indicated hereunder.

### **Study on the combination of casualty and port State control data**

10.2 The Committee noted that, since the World Maritime University (WMU) had reported a lack of significant progress in the collection of data sets for analysis, the Sub-Committee had agreed to discontinue the work on a study on the combination of casualty and port State control data and had requested the Secretariat to continue liaising with WMU in order to monitor potential progress that could be made in the future conduct of the study.

### **Safety of non-convention ships**

10.3 With regard to the development of a single generic and common modular set of harmonized regulations and model national legislation for ships not covered by the 1974 SOLAS Convention, as amended (GlobalReg), and a model course for the training of surveyors, which are available in English on the IMODOCS webpage ("Meeting documents/ others"), the Committee noted that the Sub-Committee had requested the Secretariat to process and utilize the material developed in the context of technical co-operation activities, as appropriate, thereby completing the delivery of planned output 5.2.1.22 on "Non-mandatory instruments: regulations for non-convention ships (MSC)".

### **Model course on marine accident and incident investigation**

10.4 The Committee requested the Secretariat to review and update IMO Model Course 3.11 "Marine Accident and Incident Investigation" at the earliest convenience in co-operation with the Marine Accident Investigators' International Forum (MAIIF).

### **Port State control officer exchange programme**

10.5 With regard to port State control officer exchange programmes, such as the one introduced by the Islamic Republic of Iran and the Russian Federation in the Caspian Sea region, the Committee noted that the Sub-Committee, while inviting the delegation of the Islamic Republic of Iran to consider submitting a relevant proposal to the Technical Co-operation Committee (TCC), using the information contained in document FSI 18/INF.19 (Islamic Republic of Iran), had also been of the view that the document should be brought to the attention of the TCC and instructed the Secretariat to act accordingly.

## **IMO Workshop for PSC MoU/Agreement Secretaries and Database Managers**

10.6 With regard to the holding of the Fifth IMO Workshop for PSC MoU/Agreement Secretaries and Directors of Information Centres, tentatively scheduled to take place from 14 to 16 June 2011, the Committee noted the Sub-Committee's recommendation that the name of the workshop should be changed to "IMO Workshop for PSC MoU/Agreement Secretaries and Database Managers" in the context of the Integrated Technical Co-operation Programme.

### **IACS unified interpretations**

10.7 Having noted the Sub-Committee's view that document FSI 18/13, containing the IACS unified interpretations relating to the implementation of resolution A.997(25), as amended, with regard to initial statutory surveys, is a very valuable document intended for IACS' own use, at both stages of drawings review and initial on site survey, the Committee invited Member Governments to note the document while encouraging IACS to keep it up to date.

### **Analysis of consolidated audit summary reports**

10.8 The Committee, having concurred with MEPC 61 in noting the views of the Sub-Committee on how it should carry out the analysis of consolidated audit summary reports (CASR) and for advising the Council accordingly, endorsed the decisions of FSI 18 proposing the pursuance of the current analysis for future CASRs, as well as that of the root causes of the findings, after a more substantial number of audits have been carried out, in order to make recommendations on all relevant matters and, in particular, for capacity-building or technical assistance.

### **Code for the implementation of mandatory IMO instruments**

10.9 Having recalled that MEPC 60 and MSC 87 had instructed FSI 18 to consider how to make the Code for the implementation of mandatory IMO instruments and auditing mandatory, within the ten mandatory instruments currently covered by the Code and the Audit Scheme, and any possible revision of the Code, as a result, the Committee concurred with the view of the Sub-Committee and, thereby, with MEPC 61, that the tacit acceptance procedure was the preferred way forward to amend instruments to make the Code mandatory.

10.10 The delegation of China emphasized that the decision to use the tacit acceptance procedure to amend the ten mandatory instruments to make the Code for the implementation of mandatory IMO instruments and auditing mandatory was taken in order to comply with the time frame and schedule of activities for the consideration and introduction of an institutionalized IMO Member State Audit Scheme, as set out in the annex to resolution A.1018(26), in spite of the fact that the magnitude of the changes introduced in the above-mentioned instruments would have rather required using the explicit amendment procedure.

10.11 Further to concurring with the decision of MEPC 61 to instruct the Sub-Committee to proceed with the development of texts of amendments on the basis that they will be brought into force under the tacit acceptance procedure, the Committee agreed that the explicit amendment procedure would be used in the case of the adoption of amendments to instruments for which the tacit acceptance procedure cannot be envisaged.

10.12 In this context, the Committee instructed the Sub-Committee to develop relevant amendments to the 1969 Tonnage Convention, taking into account that any such amendment has to follow the explicit amendment procedure.

10.13 With regard to the 1978 SOLAS Protocol, the Committee concurred with the view of the Sub-Committee that no tangible benefit would be derived from amending it.

10.14 Having considered whether the 1966 Load Lines Convention, in addition to the 1988 Load Lines Protocol, should also be amended, the Committee instructed the Sub-Committee to develop relevant amendments to the 1966 Load Lines Convention, for adoption under the explicit amendment procedure, and to the 1988 Load Lines Protocol, for adoption under the tacit amendment procedure.

10.15 With regard to the STCW Convention, in view of the fact that the Convention has just been fully revised by the Manila Conference and taking into account the existing verification regime currently contained in that Convention, the Committee instructed STW 42 to consider how the Convention could be amended during this round of developments to make the Code for implementation mandatory, using the tacit acceptance procedure, together with any related amendment to appendix 1 of resolution A.974(24) on Framework and Procedures for the Voluntary IMO Member State Audit Scheme, and to advise FSI 19, as appropriate, subject to MSC 89's concurrence.

10.16 The Committee, following an intervention by the delegation of China, instructed the Sub-Committee to reflect the original object of the institutionalization of the IMO Member State Audit Scheme with regard to the enhancement of compliance with international requirements and capacity-building, when developing the amendments to mandatory instruments.

10.17 The Committee concurred with MEPC 61 and, thereby, also concurred with the view of the Sub-Committee, on the areas of the Code for implementation which would need to be amended at this stage; and with its recommendation that any proposals to reduce or expand the scope of the Code for the implementation of mandatory IMO instruments should be first submitted by Member Governments to the Committees for consideration.

10.18 The Committee noted the view of the Sub-Committee on the time frame and schedule of its activities to institutionalize the IMO Member State Audit Scheme, in particular the envisaged sequence of the work of the Sub-Committee to meet the 2015 deadline for making the audit scheme mandatory (FSI 18/20, paragraph 14.29).

### **Code for Recognized Organizations**

10.19 The Committee noted the progress made by the Sub-Committee in the development of a Code for Recognized Organizations (FSI 18/20, paragraphs 15.24 to 15.32), noting that MEPC 61 had taken the same action.

### **USE OF ASBESTOS ON BOARD SHIPS**

10.20 The Committee considered the issue of the continued use of asbestos on board ships in spite of the fact that, as from 1 January 2011, for all ships, the new installation of materials that contain asbestos shall be prohibited (SOLAS regulation II-1/3-5, as amended), as reported by the Netherlands (MSC 88/10/1).

10.21 The proposal of the Netherlands to develop a draft MSC circular to disseminate information on the prohibition of the use of asbestos on board ships was widely supported, with the aim of raising the awareness of all parties concerned, i.e. Member Governments, in their capacity as flag, port or coastal States, maritime Administrations, recognized organizations, port authorities, shipbuilders and ship repairers, and equipment suppliers.

10.22 Consequently, the Committee instructed the drafting group established under agenda item 3 (see paragraph 3.44) to finalize the draft text of the above-mentioned circular for approval at this session, and, having considered and amended the relevant part of the report of the drafting group (MSC 88/WP.3, annex 8), approved MSC.1/Circ.1374 on Information on prohibiting the use of asbestos on board ships.

10.23 In approving the circular, the Chairman of the drafting group, in his function as the Chairman of ISO/TC8/SC2, informed the Committee that ISO 30007 "Ship and marine technology – Measures to prevent asbestos emission and exposure during ship recycling" had been published on 1 December 2010, and that, whilst the major target of this ISO standard was its use during the recycling of ships, it was also applicable to the asbestos removal process of existing ships at dry-dock.

10.24 In support of the Committee's decision to achieve the widest possible outreach for the information on prohibiting the use of asbestos on board ships, the Secretary-General indicated that he would personally write to shipbuilders and equipment suppliers to emphasize the importance of the information disseminated by means of the above-mentioned circular.

#### **PARIS MoU NEW INSPECTION REGIME**

10.25 The delegation of Ireland, while conveying information on the entry into force of the Paris MoU's new inspection regime (NIR) on 1 January 2011, indicated that ships regarded as low risk ships in the Paris MoU region would benefit from longer intervals between inspections, once every 24 to 36 months, in principle, compared to the present system. To be considered eligible as a low risk ship, a ship would need to fly a flag appearing in the white list of the Paris MoU and the flag State would also need to have completed the Voluntary IMO Member State Audit. In this context, the delegation stressed that flag States were invited to send to the Paris MoU Secretariat written confirmation that a final audit report, including, where relevant, a corrective action plan, had been drawn up in accordance with resolution A.974(24) on Framework and Procedures for the Voluntary IMO Member State Audit Scheme, and to include the executive summary of the final audit report.

10.26 The Committee was informed that the Paris MoU had submitted a document presenting some of the low risk ship criteria of the NIR to FSI 19. Noting that the outcome of FSI 19 on this matter would be reported to MSC 89, the Committee also noted views and concerns expressed by some delegations, referring, *inter alia*, to the limited period of time left to Member States before the entry into force of the above-mentioned incentive scheme; and the fact that the audited Member States, while retaining the property right of their audit reports, had the liberty to decide whether or not to make them publicly available.

10.27 On the same issue, the delegation of the Bahamas expressed further concern that the requirement for flag States to send a copy of the executive summary of the final audit report to the Paris MoU went beyond the requirement set out in article 2 of EU Regulation 801/2010 and paragraph 11 of the Paris MoU with the effective date of 1 January 2011.

## **11 SAFETY OF NAVIGATION**

### **REPORT OF THE FIFTY-SIXTH SESSION OF THE SUB-COMMITTEE**

#### **General**

11.1 The Committee approved, in general, the report of the fifty-sixth session of the Sub-Committee on Safety of Navigation (NAV) (NAV 56/20 and MSC 88/11) and took action as indicated in the ensuing paragraphs.



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### **Adoption of new traffic separation schemes (TSSs)**

11.2 In accordance with resolution A.858(20), the Committee adopted the proposed new traffic separation schemes, including associated routeing measures, as follows:

- .1 "Off the western coast of Norway"; and
- .2 "Off the southern coast of Norway",

set out in annex 11, for dissemination by means of COLREG.2/Circ.62.

### **Amendments to existing traffic separation schemes (TSSs)**

11.3 In accordance with resolution A.858(20), the Committee adopted the proposed amendments to the existing traffic separation schemes, including associated routeing measures, as follows:

- .1 "Off Feistein" (cancellation);
- .2 "In the Strait of Dover and adjacent waters"; and
- .3 "Off the south-west coast of Iceland",

set out in annex 11, for dissemination by means of COLREG.2/Circ.62.

### **Routeing measures other than TSSs**

11.4 In accordance with resolution A.858(20), the Committee adopted the following new routeing measures other than traffic separation schemes, including amendments to existing routeing measures other than traffic separation schemes:

- .1 new Area To Be Avoided in the Atlantic Ocean, "Off the coast of Ghana";
- .2 new deep-water route including an associated precautionary area "In the approaches to the new port of King Abdullah port (KAP Port) in the Northern Red Sea";
- .3 amendments to the existing Area To Be Avoided, "Off the south-west coast of Iceland";
- .4 amendments to the existing deep-water route forming part of the "In the Strait of Dover and adjacent waters" traffic separation scheme; and
- .5 new interim recommendatory measure in the Singapore Strait,

set out in annex 12, for dissemination by means of SN.1/Circ.293.

### **Implementation of the adopted routeing measures**

11.5 The Committee decided that the adopted new traffic separation schemes and amendments to the existing traffic separation schemes referred to in paragraphs 11.2 and 11.3, respectively (see annex 11), and the routeing measures other than traffic separation schemes referred to in subparagraphs 11.4.1, 11.4.2, 11.4.3 and 11.4.4 (see annex 12), should be implemented six months after their adoption, i.e. on 1 June 2011 at 0000 hours UTC. The Committee further noted that Singapore had requested that the

effective date of new traffic separation schemes and routing measures other than traffic separation schemes in subparagraph 11.4.5 would be 1 July 2011 at 0000 hours UTC.

### **Mandatory ship reporting systems**

11.6 In accordance with resolution A.858(20), the Committee adopted, by resolution MSC.314(88), the proposed new mandatory ship reporting system "In the Sound between Denmark and Sweden" (SOUNDREP), set out in annex 13, and by resolutions MSC.315(88) and MSC.316(88), respectively, the proposed amendments to the existing mandatory ship reporting systems "In the Torres Strait region and the Inner Route of the Great Barrier Reef" (REEFREP) and "Off the south and south-west coast of Iceland" (TRANSREP), set out in annexes 14 and 15, respectively for dissemination by means of SN.1/Circ.294. The Committee also decided that the new mandatory ship reporting system "In the Sound between Denmark and Sweden" (SOUNDREP) should be implemented on 1 September 2011 and amendments to the existing mandatory ship reporting systems "In the Torres Strait region and the Inner Route of the Great Barrier Reef" (REEFREP) on 1 July 2011 and "Off the south and south-west coast of Iceland" (TRANSREP) on 1 June 2011 at 0000 hours UTC.

11.7 The Committee noted information provided by Denmark and Sweden (MSC 88/INF.9), clarifying that the SOUND VTS centre would be operated jointly by the two independent authorities, the Danish Maritime Safety Administration (Farvandsvæsenet) and the Swedish Maritime Administration (Sjöfartsverket).

### **Guidelines for safety zones and safety of navigation around offshore installations and structures**

11.8 The Committee approved SN.1/Circ.295 on Guidelines for safety zones and safety of navigation around offshore installations and structures.

11.9 The delegation of Cyprus noted that the original decision of the Committee and the work programme and agenda item referred to the development of Guidelines for consideration of requests for safety zones larger than 500 metres around artificial islands, installations and structures in the EEZ, and what was before the Committee were Guidelines for safety zones and safety of navigation around offshore installations and structures. The delegation also noted that the explanation provided in paragraph 4.18 of the report of NAV 56 (NAV 56/20) for deleting, from the draft which had been discussed by the Sub-Committee, the reference to UNCLOS and replacing it by a reference to international law (omitting the word customary) was unsatisfactory. The delegation further noted that designation of a safety zone, if it was to be lawful and compel States and ships to recognize it, had to be made in accordance with the provisions of either the 1958 Convention on the Continental Shelf or the United Nations Convention on the Law of the Sea by a State which was party to the aforesaid treaties.

### **Maintenance of Electronic Chart Display and Information Systems (ECDIS) software**

11.10 The Committee approved SN.1/Circ.266/Rev.1 on Maintenance of Electronic Chart Display and Information Systems (ECDIS) software. The Committee also endorsed the action taken by the Sub-Committee in authorizing the Secretariat to issue a future revision of SN.1/Circ.266 upon receipt of updated information from IHO.

### **Guidance on procedures for updating shipborne navigation and communication equipment**

11.11 The Committee approved MSC.1/Circ.1389 on Guidance on procedures for updating shipborne navigation and communication equipment.

## **ITU matters**

11.12 The Committee endorsed the action taken by the Sub-Committee in sending liaison statements to ITU-R WP 5B, concerning the future revision of Recommendation M.1371-4 and the use of AIS application-specific messages.

### **Development of an e-navigation strategy implementation plan**

11.13 The Committee noted the progress made in the development of an e-navigation strategy implementation plan and the re-establishment of a correspondence group to progress the work intersessionally.

11.14 The Committee endorsed the action taken by the Sub-Committee to invite the Joint IMO/ITU Expert Group on Maritime Radiocommunication Matters, at its meeting from 14 to 16 September 2010, to consider further use of the 500 kHz band to support e-navigation; and noted that the group had decided to follow the text in the draft CPM report in supporting an exclusive primary allocation to the maritime mobile service in the band 495-505 kHz in all three regions and a co-primary allocation in the band 510-525 kHz in Region 2. The group had a detailed debate on the need for making a statement that the existing maritime mobile primary allocation in the band 415 kHz-526.5 kHz should be maintained. This was to fulfil the possible requirement in future for the promulgation of additional security-related information, the implementation of e-navigation and the implementation of the revised elements and procedures of the GMDSS.

11.15 The Committee instructed the Secretariat to convey this outcome to the Chairman of the e-navigation correspondence group re-established by NAV 56 (see paragraph 11.13).

11.16 The Committee also endorsed the decision of the Sub-Committee to extend the deadline for the submission of the e-navigation correspondence group's report to NAV 57 to 1 April 2011.

### **Draft amendments to resolution A.953(23) on the World-wide radio navigation system**

11.17 The Committee approved a draft Assembly resolution on the World-wide radio navigation system, amending and revoking resolution A.953(23), as set out in annex 16, for submission to A 27 with a view to adoption.

### **Draft Assembly resolution on Principles of minimum safe manning, and draft amendments to SOLAS regulation V/14**

11.18 The Committee noted that the Sub-Committee had endorsed the draft Assembly resolution on Principles of minimum safe manning and the associated amendments to SOLAS regulation V/14, as agreed at STW 41 (STW 41/16, annexes 5 and 6).

11.19 In this context, the Committee considered document MSC 88/11/4 (ITF and IFSMA), requesting it to instruct the STW and NAV Sub-Committees to continue a review of SOLAS regulation V/14 with a view to amending it in order to require a formal process for the determination of safe manning levels which is truly mandatory and effective.

11.20 A number of delegations spoke on the issue. Some were of the view that a further review of SOLAS regulation V/14 and the draft Assembly resolution was necessary to ensure a formal process for the determination of safe manning levels which were truly mandatory and effective. The majority of delegations who took the floor were of the view that a review was not necessary, as both the STW and NAV Sub-Committees had debated the issues extensively.

11.21 Consequently, the Committee approved:

- .1 the draft Assembly resolution on Principles of minimum safe manning, as set out in annex 17, for submission to A 27 with a view to adoption; and
- .2 the associated draft amendments to SOLAS regulation V/14, set out in annex 18,

and requested the Secretary-General to circulate the draft amendments in accordance with SOLAS article VIII, for consideration with a view to adoption at MSC 90.

### **Shift of the winter seasonal zone off the southern tip of Africa**

11.22 The Committee endorsed the decision of the Sub-Committee to shift the winter seasonal zone off the southern tip of Africa further southward by 50 miles, as proposed by South Africa, including the action taken by the Secretariat in conveying this outcome to the SLF Sub-Committee for consideration and appropriate action.

### **Guidance on degree of risk evaluation**

11.23 The Committee approved SN.1/Circ.296 on Guidance on degree of risk evaluation.

### **Request for clarification in relation to carriage of speed log systems for ships of 50,000 gross tonnage and upwards**

11.24 The Committee noted that IACS had provided to NAV 56 (NAV 56/19/2) three alternative clarifications to the need for providing the two functions required by the two SOLAS regulations, namely regulation V/19.2.3.4 (measuring and indicating speed through the water) and regulation V/19.2.9.2 (measuring and indicating speed over the ground), by either independent devices or combined into a single device which might be less fault tolerant. However, as reported by NAV 56, the opinion in the Sub-Committee was divided as to which of the three alternatives was the preferred option. Delegations who spoke on the issue had either a preference for alternative one or alternative three with no clear majority for either of the alternatives proposed by IACS.

11.25 In this context, the Committee considered document MSC 88/11/1 (IACS), based on the outcome of NAV 56, presenting alternatives 1 and 3 from document NAV 56/19/2 and seeking the Committee's advice for clarification in relation to carriage requirements for speed log devices for ships of 50,000 gross tonnage and upwards and also as to which alternative, as follows, was appropriate:

- .1 both regulations are fulfilled by one device capable of measuring and indicating both speed through water and speed over the ground in forward and athwartships direction. Any single failure in such device may render both functions inoperable; and
- .2 both regulations are fulfilled by two separate devices, i.e. one speed and distance measuring and indicating device capable of measuring speed through water and one separate speed and distance measuring and indicating device capable of measuring speed over the ground in forward and athwartships direction.

11.26 A number of delegations spoke on the issue. There was a clear majority in support of option 2 outlined in paragraph 4.2 of document MSC 88/11/1 (see paragraph 11.25.2),

i.e. both SOLAS regulations V/19.2.3.4 and V/19.2.9.2 fulfilled by two separate speed and distance measuring devices.

11.27 The Committee decided that this matter was best dealt with by the NAV Sub-Committee and, accordingly, forwarded document MSC 88/11/1 to the NAV 57 Technical Working Group for consideration, bearing in mind that the resulting decision might require amending the Performance standard for speed and distance measuring equipment (resolution MSC.96(72)).

#### **NORTHERN CANADA VESSEL TRAFFIC SERVICES ZONE REGULATIONS**

11.28 The Committee noted that, on 1 July 2010, the Northern Canada Vessel Traffic Services Zone Regulations had entered into effect. The regulations required certain ships to register with and report to the Canadian Coast Guard when entering into and while transiting through the area, and failure to comply with the regulations could result in criminal enforcement action and the imposition of a severe fine. At NAV 56, the United States and BIMCO had expressed concerns that the provisions on mandatory ship reporting and regulation of transiting vessels raised some critical issues with respect to consistency with international law.

11.29 The Committee also noted that, at NAV 56, the delegation of the United States had brought to the attention of the Sub-Committee the issue of coming into force of the Zone regulations. The delegation of Canada had explained its rationale for establishing the mandatory ship reporting system and also stated that Canada intended, in the near future, to submit to the Organization details of the reporting system for recognition and dissemination. On its part, the BIMCO observer had outlined its members' concerns from a global industry perspective. NAV 56 had noted the information provided by the United States, Canada and BIMCO.

11.30 The Committee further noted that, on 30 September 2010, the Secretariat had received details of the mandatory Canadian Ship Reporting System in Canada's Northern waters (NORDREG) for recognition under SOLAS regulation V/11.4 and issued the corresponding SN.1/Circ.291.

11.31 The Committee considered document MSC 88/11/2 (United States and INTERTANKO), expressing maritime safety concerns over the recently established Northern Canada Vessel Traffic Services Zone.

11.32 The delegation of the United States, in introducing the document, commended Canada on its desire to improve marine safety and environmental protection in the Arctic waters off its coast; however, the delegation had a number of serious marine safety concerns related to the recent enactment of Canada's NORDREG mandatory ship reporting and VTS system requirements, which had been done without referring the regulations to this Organization for adoption. Such unilateral action was not consistent with the normal practice of IMO, and was contrary to both the letter and spirit of SOLAS. The NORDREG, as the United States understood it, conditioned entry into Canada's claimed territorial sea and EEZ on mandatory ship reporting of certain information from covered vessels – essentially all non-sovereign immune ships. It was not clear from the NORDREG or the other information provided by Canada that it complied with the communications capability guidelines or the operator training and proficiency skill sets set forth in the Organization's or IALA's guidelines for the development and implementation of a control VTS. That participation was mandatory for ships seeking to enter and transit claimed Canada's EEZ was also problematic under SOLAS regulation V/12. IMO was the only international body competent to develop guidelines and criteria for regulations of ship reporting systems on an international level, and

SOLAS did not permit unilateral adoption of this kind of mandatory ship reporting system. SOLAS regulation V/11.2 required that Contracting Governments shall refer proposals for the adoption of ship reporting systems to the Organization. Additionally, SOLAS also provided that a Contracting Government's VTS might only be made mandatory in that State's territorial sea. SOLAS regulations V/11 and V/12 were very clear in that respect. The United States submission had requested a declaration from the Committee that the NORDREG was not consistent with the requirements of SOLAS chapter V for a mandatory ship reporting system, and for vessel traffic services. In conclusion, the United States reiterated its desire to work co-operatively with Canada and others in the Organization on the adoption, by the Organization, of a mandatory ship reporting system and VTS system, to be proposed by Canada, that was consistent with SOLAS and the other guidelines of the Organization. In the meantime, the Committee might wish to urge IMO Member States to encourage ships entitled to fly their flag to provide the requested information voluntarily to Canada.

11.33 The Committee considered document MSC 88/11/3 (Canada) submitting its comments with respect to document MSC 88/11/2 concerning Canada's Northern Canada Vessel Traffic Services Zone Regulations (NORDREG).

11.34 The delegation of Canada stated that it had submitted the particulars of the NORDREG regime to IMO for recognition and dissemination (SN.1/Circ.291) and that NORDREG was consistent with international law including UNCLOS and SOLAS, and conformed to all relevant IMO resolutions. Enacted 30 years ago as a voluntary SRS, Canada had instituted NORDREG as a mandatory system taking into account new and ongoing navigation hazards, with the purpose to prevent pollution in the ice-covered NORDREG Zone and to promote safe and efficient navigation. Clearance was an integral requirement to ensure that vessels navigating these hazardous waters did so safely without unduly endangering the fragile marine environment. Article 234 of UNCLOS provided for the right of coastal States to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the Exclusive Economic Zone, permitting these States to enact these laws and regulations without seeking prior IMO approval – even where IMO had related regulations. NORDREG was also consistent with SOLAS, since regulation 11.4 of SOLAS chapter V clearly contemplated that submission of ship reporting systems for adoption was not required in all cases and, furthermore, regulation V/11.9 specified that "nothing in this regulation or its associated guidelines and criteria shall prejudice the rights and duties of Governments under international law." Regarding VTS, the limit of regulation V/12 to territorial seas was qualified by regulation V/12.5 which provided that "nothing in this regulation or the guidelines adopted by the Organization shall prejudice the rights and duties of Governments under international law". The delegation stated that Canada's rights and duties under Article 234 of UNCLOS took precedence over regulations V/11 and V/12, as clearly established in both regulations and that NORDREG followed the relevant IMO guidelines and criteria for VTS (resolution A.857(20)) and conformed with IALA recommendations and guidelines. NORDREG VTS personnel were trained and certified in accordance with IALA Recommendation V103 "*Standards for Training and Certification of VTS personnel*". The delegation requested the Committee to support Canada's NORDREG initiative. The full text of the statement of the delegation of Canada is set out in annex 27.

11.35 The delegation of Germany stated that it shared the views and concerns expressed by the United States and INTERTANKO regarding the recently-established northern Canada Vessel Traffic Services Zone Regulations (NORDREG). However, Germany also supported Canada's intention to provide for the safety of navigation and protection of the marine environment in the Arctic area and was of the view that it was of great importance to submit any appropriate proposals for new routing measures to the Organization before implementing them. Germany emphasized that the Organization was the only competent

organization for the adoption of ships routing measures, as explicitly addressed in the SOLAS Convention, such as mandatory ship reporting systems and vessel traffic services. It was the view of the German delegation that the establishment of mandatory ship reporting systems and the introduction of vessel traffic services should follow the well functioning and worldwide accepted procedures of the SOLAS Convention, relevant resolutions and associated circulars, not only for legal and practical reasons, but also in the interest of the shipping industry to obtain a clear understanding of the new proposed systems, by making use of the expertise of the Ships' Routing Working Group of the NAV Sub-Committee. Therefore, Germany invited Canada to submit appropriate proposals to the Organization for consideration and adoption.

11.36 The delegation of Singapore, in supporting Canada's intention to uphold the safety of navigation and to protect the marine environment in the Arctic region, also recognized the need and importance for any proposed measure to be consistent with international law, including UNCLOS, and to follow the regulations and guidelines adopted by IMO. The delegation was of the view that, as a best practice, Member Governments should follow IMO's guidelines on the preparation and submission of proposals on ship reporting systems for adoption, and encouraged Canada to do the same. The delegation further stated that it was important to ensure that any measures taken did not compromise the freedom of navigation and that it was not clear how the NORDREG's proposed requirement for clearance would adequately give "due regard to navigation", as provided for in UNCLOS. The full text of the statement of the delegation of Singapore is set out in annex 28.

11.37 The Committee had an extensive debate and a number of delegations spoke on this issue. Some delegations were of the view that for the adoption of a mandatory ship reporting system and establishment of Vessel Traffic Services (VTS), the widely accepted SOLAS procedures including the associated guidelines should be followed. Other delegations were of the view that the issue was much wider and was not within the remit of the NAV Sub-Committee, the Committee or even the Organization itself.

11.38 The delegation of the United States stated that they had listened carefully to the interventions made and it was their opinion that the majority of those who spoke had favoured the position expressed in document MSC 88/11/2, namely that the Canadian NORDREG system had not been established in accordance with applicable IMO requirements for the establishment of mandatory ship reporting systems and vessel traffic services. With respect to the recognition and dissemination of Canada's NORDREG system through the circulation of SN.1/Circ.291, the United States understood that recognition, as provided in SOLAS regulation V/11.4, was not an assessment by the Organization of the legitimacy of the system or the validity of its legal basis. This was even more the case as the Committee had decided that the matter was not under the purview of the NAV Sub-Committee or the Committee.

11.39 The Chairman, in his summing up, stated that:

- .1 two relevant documents had been submitted containing the essence of the issues;
- .2 the documents had highlighted the "ongoing" bilateral discussions;
- .3 essentially, this was a legal issue and whilst appreciating suggestions to refer the matter to the NAV Sub-Committee, this was not under the purview of the NAV Sub-Committee or the Committee;
- .4 there were existing guidelines regarding adoption of a mandatory ship reporting system and establishment of Vessel Traffic Services (VTS) and States were encouraged to follow those guidelines; and

- .5 a majority of delegations had expressed appreciation for Canada's efforts while a number expressed the view that Canada should have submitted its proposal to the Organization.

#### **NAVIGATIONAL WARNINGS CONCERNING OPERATIONS ENDANGERING THE SAFETY OF NAVIGATION**

11.40 The delegation of Argentina made a statement in relation to navigational warnings concerning operations endangering the safety of navigation. The full text of the statement is set out in annex 29.

11.41 The delegation of the United Kingdom made a statement in response to, and commenting on, the statement made by the delegation of Argentina. The full text of the statement is set out in annex 30.

11.42 The delegations of Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Panama, Peru, Uruguay and Venezuela (Bolivarian Republic of) supported the statement of the delegation of Argentina, in particular concerning the need for compliance with the requirements of resolution A.706(17), as amended, and MSC/Circ.893 and MSC.1/Circ.1225.

11.43 The Committee, having noted the statements made by Argentina and the United Kingdom and the comments by other delegations, urged Member States to continue to comply with the requirements of resolution A.706(17), as amended, on the World-Wide Navigational Warning Service and the associated recommendations of MSC/Circ.893 and MSC.1/Circ.1225 on Navigational warnings concerning operations endangering the safety of navigation.

### **12 DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS**

#### **URGENT MATTERS EMANATING FROM THE FIFTEENTH SESSION OF THE SUB-COMMITTEE**

##### **General**

12.1 The Committee considered urgent matters referred to it (MSC 88/12) emanating from the fifteenth session of the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) (DSC 15/18) and took action as indicated hereunder.

##### **Extension of the next meeting of the E&T Group**

12.2 The Committee, having considered the request to extend, by three days, the fifteenth meeting of the E&T Group, in order to finalize the work related to chapter 7 of the IMDG Code so that it can be included in the draft text of amendment 36-12, in time for consideration by DSC 16, agreed to the requested extension (see also paragraph 23.58.1).

##### **Carriage of iron ore fines**

12.3 The Committee endorsed the action taken by the Sub-Committee in issuing DSC.1/Circ.63 on Carriage of iron ore fines that may liquefy.

12.4 In this context, the Committee noted the information provided by the observer from INTERCARGO regarding the recent foundering of two bulk carriers, causing a collective loss of 33 lives within the space of 12 days, and their concern with respect to the hazards and risks associated with cargoes which may liquefy. In particular, he pointed out that some charterers and masters had been put under extreme pressure to accept a shipper's declarations and testing reports without having been allowed to verify the documentation and testing processes by independent third party surveyors.



12.5 In responding to the concerns expressed by INTERCARGO, the delegation of India informed the Committee of its actions taken to prevent such accidents, as reported in document MSC 87/INF.13 (India), and expressed their commitment to continued co-operation with all stakeholders to ensure safe cargo operations for ships calling at Indian ports. In this respect, they invited delegations to provide information on any specific violation by shippers, port Authorities and/or other stakeholders so that further action could be initiated by the Indian Administration.

12.6 Having supported the position of INTERCARGO regarding cargoes which may liquefy, the delegation of the Marshall Islands expressed its concern regarding the independent verification of documentation and suggested that the carriers of such cargoes should make necessary arrangements so that the master of a ship, prior to loading the cargo, could receive such independent verification of test results, regarding the potential hazards and risks associated with the carriage of the cargo, in order to be able to apply appropriate measures.

12.7 The Committee invited Member Governments and international organizations to submit relevant information to the DSC Sub-Committee for consideration and action, as appropriate, under its planned output on "Casualty and incident reports and analysis".

### **Amendments to the IMSBC Code**

12.8 The Committee noted that the draft amendments 01-11 to the IMSBC Code had been completed and that the Secretary-General had circulated them in accordance with SOLAS article VIII (Circular letter No.3112), for consideration, with a view to adoption, at MSC 89.

### **Revision of the Code of safe practice for ships carrying timber deck cargoes**

12.9 The Committee, having noted that the SLF Sub-Committee had been invited to consider the need for revising the requirements of timber load lines in the 1966 Load Lines Convention and the 1988 Load Lines Protocol and the problems associated with excessive stability of timber deck carriers when developing the new generation intact stability criteria, following the completion of the work on the revision of the Code of safe practice for ships carrying timber deck cargoes (DSC 15/18, annex 4), instructed SLF 53 to consider the above issues and advise MSC 89 on whether any consequential actions are needed.

### **Revised Guidelines for packing cargo transport units (CTUs)**

12.10 The Committee endorsed the Sub-Committee's decision that future revisions of the IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs) should be under the coordination of this Organization and that the Secretariats of IMO, ILO and UNECE should be invited to work together on these matters and advise DSC 16 accordingly.

12.11 In this context, the Committee noted that, since DSC 15, the Secretariat had been working in close co-operation with the Secretariats of ILO and UNECE and, in particular that:

- .1 the IMO and ILO Secretariats had agreed to follow-up actions, in the context of the outcome of DSC 15, in order to finalize the revision work on IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs) at the earliest possible opportunity; and
- .2 on 4 and 5 October 2010, a representative from the IMO Secretariat participated in the UNECE Working Party on Intermodal Transport and Logistics (WP.24) and, in this regard, Working Party 24 had agreed to a holistic approach for the revision and update of the aforementioned

guidelines, which will be undertaken in close co-operation with concerned industry groups, taking into account the requirements of all modes of transport, port handling and transshipment operations that are part of modern door-to-door transport systems.

### **Revision of the Recommendations for entering enclosed spaces aboard ships**

12.12 The Committee noted that the Sub-Committee had completed its work on the draft Revised Recommendations for entering enclosed spaces aboard ships, for approval by MSC 89, and had forwarded the draft revised recommendations to STW 42, BLG 15 and FP 55 for comment, as instructed by MSC 87. In this context, the Committee also noted the Sub-Committee's view that matters related to the entry into cargo tanks on tankers using nitrogen gas as the inerting medium should be contained in separate guidance and, taking into account that such guidance falls under the purview of the BLG Sub-Committee, BLG 15 had been invited, using document FP 54/17/1 as the base document, to consider the above view and advise MSC 89 accordingly (DSC 15/18, paragraphs 10.7 and 10.8).

### **DENIALS OF SHIPMENT OF IMDG CODE CLASS 7 RADIOACTIVE MATERIALS**

12.13 The Committee noted the information contained in document MSC 88/INF.16 (Secretariat) on the actions taken by IAEA in regard to the denials of shipment of IMDG Code Class 7 radioactive materials.

## **13 TRAINING AND WATCHKEEPING**

### **REPORT OF THE FORTY-FIRST SESSION OF THE SUB-COMMITTEE**

13.1 The Committee, recalling that MSC 87 had already approved the report in general and considered the actions requested by the Sub-Committee, except those under STW 41 agenda item 8 (Review of the principles for establishing the safe manning level of ships including mandatory requirements for determining safe manning) (STW 41/1), pending consideration by NAV 56, took action as indicated in the ensuing paragraph.

### **Review of the principles for establishing the safe manning level of ships including mandatory requirements for determining safe manning**

13.2 The Committee recalled that this issue had been dealt with under agenda item 11 (Safety of navigation) (see paragraphs 11.18 to 11.21).

### **REPORT ON THE 2010 CONFERENCE OF PARTIES TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978**

13.3 The Committee noted (MSC 88/2/4) that the 2010 Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, had been held in Manila, the Philippines, from 21 to 25 June 2010 and had elected Mr. N.F. Ferrer of the Philippines as the President of the Conference, Adm. Peter Brady of Jamaica as Chairman of the Committee of the Whole, Ms. M. Medina of the United States as the Chairman of the Drafting Committee and Mr. L. Chichinadze of Georgia as the Chairman of the Credentials Committee.

13.4 The Committee also noted that the Conference had unanimously adopted the Manila Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and the Seafarers' Training, Certification and Watchkeeping (STCW) Code.

13.5 The Committee further noted that the Conference had also adopted the following associated resolutions:

- .1 Resolution 3: on Expression of appreciation to the host Government;
- .2 Resolution 4: on Transitional provisions and early implementation;
- .3 Resolution 5: on Verification of certificates of competency and endorsements;
- .4 Resolution 6: on Standards of training and certification and ships' manning levels;
- .5 Resolution 7: on Promotion of technical knowledge, skills and professionalism of seafarers;
- .6 Resolution 8: on Development of guidelines to implement international standards of medical fitness for seafarers;
- .7 Resolution 9: on Revision of existing model courses published by the International Maritime Organization and development of new model courses;
- .8 Resolution 10: on Promotion of technical co-operation;
- .9 Resolution 11: on Measures to ensure the competency of masters and officers of ships operating in polar waters;
- .10 Resolution 12: on Attracting new entrants to, and retaining seafarers in, the maritime profession;
- .11 Resolution 13: on Accommodation for trainees;
- .12 Resolution 14: on Promotion of the participation of women in the maritime industry;
- .13 Resolution 15: on Future amendments and review of the STCW Convention and Code;
- .14 Resolution 16: on the Contribution of the International Labour Organization;
- .15 Resolution 17: on the Role of the World Maritime University, the IMO International Maritime Law Institute and the International Maritime Safety, Security and Environment Academy (IMSSEA) in promoting enhanced maritime standards;
- .16 Resolution 18: on the Year of the Seafarer; and
- .17 Resolution 19: on the Day of the Seafarer.

13.6 The Committee also noted that, in accordance with article XII(1)(a)(vii) of the Convention, the amendments adopted by the Conference shall be deemed to have been accepted on 1 July 2011, unless, prior to that date, more than one-third of Parties to the

Convention or Parties, the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant shipping of ships of 100 gross register tons or more have notified the Secretary-General that they object to the amendments. Furthermore, in accordance with article XII(1)(a)(ix) of the Convention, the said amendments shall enter into force on 1 January 2012 upon being deemed to have been accepted on 1 July 2011.

13.7 The Committee agreed that consequential actions arising from the decisions of the Conference, as set out in document MSC 88/23, would be considered under agenda item 23.

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

### **Secretary-General's report to the Committee**

13.8 In introducing his report (MSC 88/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.

13.9 The Committee was subsequently invited to consider the report attached to document MSC 88/WP.2 for the purpose of confirming that the information provided by the Government concerned demonstrated that full and complete effect was given to the provisions of the STCW Convention.

13.10 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.

13.11 The Committee confirmed that the procedures for the assessment of the information provided had been correctly followed in respect of the STCW Party included in the Secretary-General's report and instructed the Secretariat to update MSC.1/Circ.1163/Rev.5 accordingly and issue it as MSC.1/Circ.1163/Rev.6.

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

13.12 In introducing his report (MSC 88/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.1/Circ.797. Each report, as required by MSC.1/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.

13.13 The Committee was subsequently invited to consider the reports attached to document MSC 88/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.

13.14 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.

13.15 The Committee confirmed that the procedures for the assessment of information provided had been correctly followed in respect of 10 STCW Parties and requested the Secretariat to update MSC/Circ.1164/Rev.7 accordingly and issue it as MSC.1/Circ.1164/Rev.8.

**APPROVAL OF COMPETENT PERSONS**

13.16 The Committee approved additional competent persons nominated by the Government of Pakistan (MSC 88/13/1) and requested the Secretariat to update MSC/Circ.797/Rev.19 accordingly and issue the updated circular as MSC.1/Circ.797/Rev.20.

**14 TECHNICAL ASSISTANCE SUB-PROGRAMME IN MARITIME SAFETY AND SECURITY****DEVELOPMENTS CONCERNING TECHNICAL CO-OPERATION ACTIVITIES****General**

14.1 The Committee noted information on the outcome of TC 60 (MSC 88/2) and on progress on the safety-, security- and facilitation-related activities under the Integrated Technical Co-operation Programme (ITCP) for the 2010-2011 biennium (MSC 88/14).

### **Biennial report on ITCP for 2008-2009**

14.2 The Committee noted that TC 60 considered the biennial report on the ITCP for 2008-2009 (TC 60/3 and TC 60/3/Add.1) which summarized the programme activities and outputs for the biennium. The results included 86 advisory missions, with the majority being maritime safety assignments and 161 training events, including courses, seminars and workshops held at the national, regional and global level, covering a wide range of topics. The latter figure reflected the importance given to training and capacity building within the ITCP, through which some 4,642 participants had been trained worldwide in 2008-2009. In addition, 1,184 maritime officials had attended events aimed at developing and harmonizing regional strategies on maritime technical issues.

### **Progress report on TC activities**

14.3 The Committee noted information provided by the Secretariat (MSC 88/14) on technical co-operation activities covering maritime safety and facilitation of maritime traffic activities implemented between January and September 2010, as well as those planned for the rest of 2010 and 2011 under the ITCP for 2010-2011.

### **Establishment of maritime search and rescue centres in the African region**

14.4 The Committee noted that, during the period under review, the Secretariat had continued to co-ordinate and manage the programme through the ITCP; in particular, emphasis had been given to the establishment of maritime rescue centres in the African region to implement the provisions of the 2000 Florence Conference resolutions on SAR and GMDSS. The Committee also noted that two RMRCCs in East and South Africa as well as six sub-centres covering Comoros, Madagascar, Mozambique, Namibia, Seychelles and United Republic of Tanzania had been completed and were operational; that in West and Central Africa, two MRCCs in Nigeria and Liberia and three MRSCs in Côte d'Ivoire, Ghana and Togo were completed and operational; and that four MRSCs in Benin, Gambia, Mauritania and Sierra Leone were in the process of being equipped.

14.5 The delegation of Morocco informed the Committee that progress was being made in the establishment of the Maritime Rescue Co-ordinating Centre (MRCC) in Rabat, as agreed at the 2000 Florence Conference, and expressed appreciation to the IMO Secretariat for the support and assistance provided in this respect.

14.6 A number of delegations, acknowledging the importance of the ITCP in the global implementation of IMO instruments, expressed appreciation to the Secretary-General, the Secretariat and, in particular, the Directors of the Maritime Safety and Technical Co-operation Divisions for their initiatives and support towards the provision of technical assistance to developing countries in various areas related to maritime safety and security, with special emphasis on the establishment of search and rescue facilities along the African coast.

14.7 The Committee expressed appreciation to the Government of Germany for providing funds for the establishment of the MRSCs in Ghana and Sierra Leone and urged Governments and industry to contribute to the Organization's technical co-operation programme, with special donations to the SAR Fund to enable this project to be completed in time.

### **THEMATIC PRIORITIES FOR 2012-2013 ITCP**

14.8 The Committee recalled that, at MSC 85, it had agreed on the safety- and security-related thematic priorities which were subsequently incorporated into the ITCP for 2010-2011. It further noted that TC 61 expected to approve the ITCP for 2012-2013

which will be developed based on assessed needs of beneficiaries, the approved High-level Action Plan of the Organization, interests of developing countries and the thematic priorities approved by the technical Committees.

14.9 In considering document MSC 88/14/Add.1 (Secretariat) on thematic priorities for the ITCP for 2012-2013, the Committee recalled that the Assembly, at its twenty-sixth session, had adopted resolution A.1018(26) on Further development of the Voluntary IMO Member State Audit Scheme and requested the Secretary-General to take any action required to assist in the attainment of the objectives and, in particular, action within the framework of the Organization's ITCP to enable Members that may need such assistance to respond to their duties under the scheme and to build capacity to address related needs.

14.10 The Committee also recalled that, at MSC 84, it had approved resolution MSC.262(84) on Amendments to the IMDG Code, which entered into force on 1 January 2010, requiring mandatory training for shore-based personnel engaged in the transport of dangerous goods. Recalling further that, at MSC 85, it had also adopted resolution MSC.268(85) on Adoption of the International Maritime Solid Bulk Cargoes (IMSBC) Code, which will take effect on 1 January 2011 under the provisions of the SOLAS Convention, the Committee agreed to incorporate a thematic priority on support to maritime administrations to strengthen capacity building to meet the requirements of the IMDG and IMSBC Codes.

14.11 The Committee noted that the recent STCW Conference, held in Manila from 21 to 25 June 2010, had adopted amendments to the 1978 STCW Convention and STCW Code (see paragraph 13.4). It further noted that the Manila Conference, recognizing, through resolution 7 (Promotion of technical co-operation), that in some cases there may be limited facilities for providing specialized training programmes and obtaining the required experience, particularly in developing countries, had invited the Organization to intensify its endeavours to provide States with the assistance they may require and to make adequate provision for that purpose within its technical assistance programme. In this context, the Committee agreed to amend paragraph 1 of the current thematic priorities to reflect the outcome of the Manila Conference.

14.12 Subsequently, the Committee approved the thematic priorities for the ITCP covering the 2012-2013 biennium, as set out in annex 19.

## **IMO MODEL COURSE PROGRAMME**

14.13 The Committee noted the updated information on the IMO model course programme provided in document MSC 88/14/1 (Secretariat), in particular that 35 model courses had been translated into French and 38 into Spanish and that, of these translated model courses, 32 French versions and 35 Spanish versions have been published. The Committee requested the Secretariat to continue its follow-up and report developments on the project to MSC 89.

## **15 CAPACITY-BUILDING FOR THE IMPLEMENTATION OF NEW MEASURES**

15.1 The Committee recalled that MSC 87 had requested the Vice-Chairman of the Committee, in consultation with the Chairman and assisted by the Secretariat, to undertake a preliminary assessment of capacity-building implications, utilizing the checklist for the assessment of the need for capacity-building contained in appendix 2 of annex 2 to the draft revised Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies (Committees' Guidelines) (MSC 87/23, as amended), for the outputs approved at the session related to mandatory instruments, for consideration at this session.

15.2 The Committee considered document MSC 88/15, submitted by its Vice-Chairman, in pursuance of the request of MSC 87, which provides a list of background documents considered in the assessment and the preliminary assessment of capacity-building implications for the unplanned outputs approved by MSC 87.

15.3 Following discussion, the Committee agreed that there was no need to establish the *Ad hoc* Capacity-Building Needs Analysis Group (ACAG) at this session and requested the Vice-Chairman to follow the progress of the unplanned outputs assessed and submit another assessment after approval, should any of those unplanned outputs result in the development of mandatory instruments.

15.4 The Committee also considered document MSC 88/15/1 (South Africa), which indicated that the preliminary assessment (MSC 88/15) should have also included an assessment of the new mandatory instruments approved and/or adopted at MSC 87, as contained in paragraphs 3.47 to 3.58 of document MSC 87/26. South Africa was of the opinion that this was a result of a lack of clarification of certain provisions of the Procedure for the assessment of capacity-building requirements (annex 2 of the draft revised Committees' Guidelines, see also annex 1 to document MSC 88/22), and suggested that:

- .1 the use and meaning of the term "... on approval" (paragraph 3.2.1 of the Procedures) be the same as "... on approval and/or at adoption";
- .2 the meaning of the word "output" (see paragraph 15.1 above) be understood to include a reference to any mandatory instrument and/or amendments approved and/or adopted by a particular session of a Committee or sub-committee; and
- .3 if the above proposals are acceptable, the Committee should request the Vice-Chairman to conduct an assessment of all mandatory outputs approved and/or adopted at MSC 87, as well as all those to be approved and/or adopted by MSC 88 for consideration at MSC 89.

15.5 The delegation of the Netherlands, supported by some delegations, expressed the view that the recently introduced Procedures for the assessment of capacity-building requirements when developing new, or amending existing, mandatory instruments, annexed to the Committees' Guidelines, were a very sound and valuable instrument and that a "cradle to grave" approach, as mentioned in resolution A.998(25), stood for a process to determine needs for capacity-building and technical assistance that would start as soon as the Committee accepted an unplanned output and would end the moment that new measures were implemented. Such a parallel process – initiated at the moment of acceptance of an unplanned output – would enhance the timely and correct implementation of new measures. The delegation was of the view that the same process, or part of that process, should not apply retrospectively for measures that were initiated before the introduction of these new Procedures, and that other effective systems, such as the ITCP assisting least developed countries and small island developing States with their specific needs related to the implementation of new instruments, were already in place. The delegation further stated that although they could understand the issue raised by South Africa, as the present text of the procedure left some room for differing interpretations, the proper interpretation might be found in the flowchart of the process appended to the Procedures.

15.6 Following discussion, the Committee agreed to maintain the Procedures for the assessment of capacity-building requirements, annexed to the Committees' Guidelines, as they are, and, in line with South Africa's proposal, as a phasing-in mechanism, requested the Vice-Chairman, in consultation with the Chairman and assisted by the Secretariat, to submit to MSC 89 a preliminary assessment and, if relevant, a draft post-assessment of mandatory



instruments approved at MSC 87 and at this session, together with a preliminary assessment of the unplanned outputs related to mandatory instruments approved at this session.

## 16 ROLE OF THE HUMAN ELEMENT

### Revised Committees' Guidelines

16.1 INTERTANKO/ITF (MSC 88/16), having reviewed the draft revised Committees' Guidelines (MSC 87/23), proposed text on the human element principles to be included in the aforementioned draft revised Guidelines.

16.2 After a brief discussion, the Committee agreed to instruct the Joint MSC/MEPC Working Group on the Human Element to develop an appropriate amendment to the draft revised Committee's Guidelines and advise the Committee accordingly.

### Guide to human behaviour in the shipping industry – development of a "Just Culture"

16.3 The United Kingdom (MSC 88/16/1) provided information and conclusions on the significant safety and business advantages of developing and embedding a truly effective "Just Culture" across the maritime industry, from a major human element research programme commissioned by the United Kingdom and published in "The Human Element – A guide to human behaviour in the shipping industry", and recommended that the Organization should take appropriate action to develop guidelines for a "Just Culture" and promote its adoption by the shipping industry.

16.4 In the ensuing debate, the following views were, *inter alia*, expressed:

- .1 the conclusions of the study should be considered further by the working group with a view to exploring how the concept of "Just Culture" could be further developed;
- .2 the creation of more regulations was not always the answer to a "Just Culture" and caution was necessary when moving away from root cause analysis;
- .3 there were already good examples developed by the industry to incorporate an effective "Just Culture" and further guidelines were not necessary, however, the working group could discuss ways and means of adopting a "Just Culture" by Member States;
- .4 some aspects of legal accountability, as stated in paragraph 23 of document MSC 88/16/1, did not take into account the efforts in good faith of many countries to exercise sovereignty over violations of their national laws and to do so in full compliance with all of the recognized rights of individuals, and with due process;
- .5 the Organization had already developed Guidelines on near-miss reporting in 2008 (MSC-MEPC.7/Circ.7) which included a reference to a "Just Culture"; and
- .6 the 2006 Maritime Labour Convention and other ILO instruments covered health and safety issues and ILO was in the process of developing guidelines on maritime occupational health and safety. The Secretariats of IMO and ILO should closely co-operate in the development of these proposed guidelines which could eventually lead to a "Just Culture".

16.5 After some discussion, the Committee instructed the Joint MSC/MEPC Working Group on the Human Element to consider document MSC 88/16/1 in detail and advise the Committee how the matter should be taken forward.

### **Guidelines for Medical Examination of Seafarers and Ships' Medicine Chests**

16.6 The Committee noted (MSC 88/16/2) that the first session of the Joint IMO/ILO *Ad Hoc* Working Group on Guidelines for medical examination of seafarers and content of ships' medicine chests had been held in Geneva from 4 to 7 October 2010. The group had considered the proposed revised Guidelines for conducting pre-sea and periodic medical examination of seafarers developed by ILO and agreed that work should continue further, intersessionally, through a consultation process with participating Member Governments, and the Seafarers' and Shipowners' representatives, and that the outcome should be submitted to the next session of the Group for consideration with a view to finalization. Accordingly, the group had invited the Committee, subject to concurrence of the ILO Governing Body, to approve the reconvening of the Group to be held probably during the last quarter of 2011. In this context, the group had noted with concern that WHO, which had the required medical expertise, would not participate in the development and adoption of these guidelines, except when requested to collaborate in an advisory capacity. Furthermore, the group had also noted with concern that WHO had issued an addendum to the International Medical Guide for Ships (IMGS) without prior consultation with IMO and ILO, bearing in mind that the IMGS had been revised and published following cooperation between ILO, IMO and WHO.

16.7 The Chairman of the aforementioned IMO/ILO *Ad Hoc* Working Group further reported on the outcome of the first meeting of the group and elaborated on the concerns raised therein, and that the Secretariat, in co-operation with ILO, should contact WHO for their co-operation on all health-related matters pertaining to seafarers, as the expertise of all three agencies was necessary to ensure the safety, health and well-being of seafarers.

16.8 The ILO observer updated the Committee on the outcome of their discussions with WHO regarding the publication of the addendum to the IMGS. In this context, WHO had agreed to consider a revision of the addendum, if it was presented in the format prescribed by WHO.

16.9 After a brief discussion, the Committee agreed to:

- .1 the re-convening of the IMO/ILO *Ad Hoc* Working Group on Guidelines for medical examination of seafarers and contents of ships' medicine chests, in the last quarter of 2011, subject to the concurrence of the ILO Governing Body; and
- .2 request the Secretariat, in cooperation with ILO, to contact WHO to seek their co-operation on all health-related matters pertaining to seafarers, as the expertise of all three agencies was necessary to ensure the safety, health and well-being of seafarers (see also paragraph 23.42).

### **Launch of the Seafarers' Rights International Centre**

16.10 The Committee noted (MSC 88/INF.11) with appreciation the launch of the Seafarers' Rights International Centre, an independent forum dedicated to advancing seafarers' interests, and the expected scope of the Centre's work.

## **Other issues**

16.11 The delegation of the Netherlands expressed the opinion that the Joint MSC/MEPC Working Group on the Human Element had over the past twenty years accomplished a significant amount of work in addressing the human element. These achievements had gradually put more and more focus on establishing a safety culture in the shipping industry. In that context, they observed that management of all facets of safety was integral to ensuring safety rather than by implementation of instruments only, and that education and training were indispensable elements to achieve greater awareness in developing such a safety culture. They further emphasized that the workload of both Committees continued to be very heavy and scheduling a regular meeting of the Joint Working Group would become even more difficult in view of the Council's ongoing quest for potential economies and efficiency gains that may be derived from the IMO meetings' programme. Since the Organization's strategy to address the human element had been approved by both Committees, the onus now would be on various sub-committees to take that strategy into account in their work. In their view, the general subject of the human element could well be included within the responsibility of the STW Sub-Committee wherein human element experts could attend on a regular basis and advise the Committees accordingly. To this end, they informed the Committee of their intention to submit proposals on this issue to the forthcoming meetings of the MSC and the MEPC in 2011 and invited comments and contributions from fellow Member States.

## **Establishment of a working group**

16.12 The Committee established the Joint MSC/MEPC Working Group on the Human Element and instructed it, taking into account the comments and decisions made in plenary, to:

- .1 consider document MSC 88/16 and develop appropriate amendments to the draft revised Committees' Guidelines to incorporate the human element principles and advise the Committee accordingly; and
- .2 consider document MSC 88/16/1, the results and conclusions of the United Kingdom's research related to their "Just Culture" and the recommendations contained therein and advise the Committee on how the matter should be taken forward.

## **Report of the Working Group**

16.13 Having considered the report of the Joint MSC/MEPC Working Group (MSC 88/WP.5), the Committee approved the report in general and took action as summarized in the ensuing paragraphs.

### ***Revised Committees' Guidelines***

16.14 The Committee approved the amendments to the draft revised Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies, prepared by the group (MSC 88/WP.5, annex), aiming at incorporating human element principles, subject to concurrent decision by MEPC 62 (see paragraph 22.9).

### ***Guide to human behaviour in the shipping industry – development of a "Just Culture"***

16.15 The Committee noted the group's discussion relating to "Just Culture" and invited Member Governments and international organizations to submit, to MSC 89, proposals relating to:

- .1 identification of existing IMO instruments where a "Just Culture" concept could be applied; and
- .2 actions that may be required to incorporate a "Just Culture", as appropriate.

## **17 FORMAL SAFETY ASSESSMENT**

### **General**

17.1 The Committee recalled (MSC 88/17) that MSC 87, having re-established the FSA Experts Group to review FSA studies on cruise ships, Ropax ships, LNG carriers, container ships and dangerous goods transport with open-top container ships, carried out by SAFEDOR and submitted by Denmark, and having considered its report (MSC 87/WP.7), had taken action as follows:

- .1 noted the group's agreement that the FSA study on dangerous goods transported in the holds of open-top container ships was in line with the FSA Guidelines;
- .2 decided that the final recommendations in the FSA study, if necessary, should be further investigated and proposed by Member Governments or international organizations to the Committee or relevant sub-committees;
- .3 as a general recommendation from the review of the FSA studies carried out by SAFEDOR, encouraged Member Governments and non-governmental organizations to conduct specific FSA studies with a view to improving regulations relating to maritime safety and protection of the marine environment;
- .4 established a Correspondence Group on Formal Safety Assessment (FSA) and instructed it to prepare draft revised FSA Guidelines and Guidance on the use of HEAP and FSA, for submission to MSC 89; and
- .5 finalized the review of all the FSA studies submitted to the Committee.

### **Arrangements for the FSA Experts Group**

17.2 The Committee, taking into account document MSC 88/17/1 (Secretariat) regarding future arrangements for the FSA Experts Group, agreed, in principle, that the FSA Experts Group be established prior to MSC 89 (tentatively scheduled to take place on 9 and 10 May 2011) to review the FSA Study on General Cargo Ship Safety carried out by IACS (see also paragraphs 19.15 and 23.58).

17.3 With regard to amendments to the FSA Guidelines and the Guidance on the use of HEAP and FSA, the Committee, noting the role of the FSA Experts Group, i.e. to review FSA studies submitted to the Organization, based on relevant guidelines, and that membership of the group was limited to nominated experts only, agreed that the above amendments should be further considered in a working group open to all Member Governments and international organizations. In this regard, the Committee agreed to establish a joint GBS/FSA working group at MSC 89 (see also paragraphs 5.6 and 23.60).

### **Outcome of MEPC 61**

17.4 With regard to the development of environmental risk evaluation criteria, in particular the cost to avert one tonne of oil spilled (CATS criterion), the Committee noted document

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MSC 88/17/2 (Secretariat), in particular that MEPC 61, having considered relevant documents submitted to the session and recognizing the urgent need for the work on environmental risk evaluation criteria to be completed, for inclusion in the FSA Guidelines, had agreed to establish a working group at MEPC 62, with a view to concluding the work on the environmental risk evaluation criteria at that session.

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

18.1 The Committee recalled that, at both MSC 86 and MSC 87, many delegations had eloquently and comprehensively condemned piracy and armed robbery in waters off the coast of Somalia and elsewhere. The Committee unanimously agreed to reiterate its condemnation of all such acts, particularly off the coast of Somalia where piracy and armed robbery continued to be a menace to shipping.

### **Statistical information and reports of initiatives to suppress piracy and armed robbery**

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

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

18.4 The Committee noted the information contained in document MSC 88/18 (Secretariat), in particular that the number of acts of piracy and armed robbery against ships reported to the Organization and which occurred between 1 January 2010 and 30 September 2010 was 325 against 301 over the same period in 2009, representing an increase of 7.4% from the figure for 1 January 2009 to 30 September 2009.

18.5 The Committee also noted that during the period under review (i.e. 1 January 2010 to 30 September 2010), it emerged that the areas most affected (i.e. five incidents reported or more) were East Africa, the South China Sea, the Indian Ocean, West Africa, the Arabian Sea, South America (Pacific), South America (Atlantic), and the Caribbean. Detailed statistical information was provided in document MSC 88/18. The Committee noted further that the majority of actual attacks reported worldwide during 2010 had occurred in international waters, largely as a result of pirate activity in the waters off the coast of Somalia and that the numbers of attacks reported that had occurred in port facilities while the ships were at anchor or berthed, had shown a steady downward trend since the introduction of the ISPS Code in 2004.

18.6 The Committee expressed its concern that, in 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, two crew members were killed and 49 were reportedly injured/assaulted. About 717 crew members were reportedly taken hostage/kidnapped. Two vessels and their crew are reportedly still unaccounted for.

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

18.8 The Committee noted that despite numerous requests at previous sessions of the Committee, the Secretariat still received very few, if any, reports from Member Governments

on action taken with regard to incidents reported to have occurred in their territorial waters. Therefore, the Committee reiterated the urgent need for all Governments to provide the Organization with the information requested.

18.9 The Committee noted the intention of the Secretariat to open a "piracy and armed robbery against ships" module on GISIS in order to improve the timeliness of reporting of incidents and to enable users to generate their own search criteria and produce customizable reports. This would give registered public users read-only access to a database of information that was currently promulgated to the public via the MSC.4 series circulars. Data would continue to be input only by the Secretariat; however, this new capability will allow users to create and display their own reports in either an Excel or .pdf format. The Secretariat would also provide corresponding downloadable instructions.

18.10 The Committee endorsed the proposal to open a "piracy and armed robbery against ships" module on GISIS and concluded by encouraging those interested in statistics on piracy and armed robbery against ships to utilize the newly available module in GISIS.

18.11 The Committee recalled that ReCAAP-ISC was an ongoing contributor to IMO piracy reports, and regularly provided updates on the achievements of the ReCAAP-ISC. In considering an update of the situation of piracy and armed robbery against ships in Asia, (MSC 88/18/6 (ReCAAP-ISC)), the Committee noted that during the period 1 January to 30 September 2010, a total of 118 reports of piracy and armed robbery against ships incidents had been received. This was the highest number of incidents reported for the first nine months compared to the same period in the past four years, with the increase being most apparent in the South China Sea. ReCAAP-ISC advised ship masters and crews to exercise enhanced watch-keeping and adopt best management practices in anti-piracy measures in the area.

18.12 The Committee noted the need for timeliness in reporting by the ship master and owner to the relevant agencies and authorities, which had been proved to contribute towards the recovery of vessels and the safe return of the crew. The Committee noted that ReCAAP-ISC had also reiterated the importance of immediate and multi-channel reporting to coastal/port States and ReCAAP Focal Points, the benefit of which was illustrated in three separate incidents described to the Committee: the hijacking of tug boat **Asta** on 13 May 2010, of tug boat **PU 2007** on 19 April 2010, and of tug boat **Atlantic 3** on 27 April 2010.

18.13 The Committee further noted that Denmark had become the 17th Contracting Party of the ReCAAP Agreement on 20 November 2010; and that ReCAAP-ISC also signed two Memoranda of Understanding on Cooperative Agreement recently, one with the Asian Shipowner's Forum on 27 August 2010, and another with BIMCO on 29 April 2010.

## **Piracy and armed robbery against ships in waters off the coast of Somalia**

### ***World Maritime Day***

18.14 The Committee noted that representatives of shipping industry and seafarers' organizations had presented an "End Piracy Now" petition to the Secretary-General at the World Maritime Day ceremony at IMO Headquarters on 23 September 2010. The petition, which was sponsored by BIMCO, ICS, IFSMA, IMEC, IPTA, Intercargo, InterManager, P&I Clubs, INTERTANKO, ISF, ITF, IUML and SIGTTO, had been signed by 930,406 people from 185 countries. The petition called on Governments to do everything possible to protect the thousands of seafarers and the hundreds of ships at risk of attack by pirates by:

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- .1 dedicating significant resources and concerted efforts to find real solutions to the growing piracy problem;
  - .2 taking immediate steps to secure the release and safe return of kidnapped seafarers to their families; and
  - .3 working within the international community to secure a stable and peaceful future for Somalia and its people.

18.15 In welcoming the petition, the Secretary-General reiterated that the Organization shared the deep concerns of seafarers, industry and the broader community with regard to piracy and the strong collective wish to see it eradicated. He further affirmed that the petition would significantly support the objectives identified by IMO with regard to the World Maritime Day theme for 2011, which, in accordance with the decision of C 104, will be "Piracy: orchestrating the response."

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

18.16 The Committee noted that LEG 97 had met from 15 to 19 November 2010, and had addressed a number of piracy-related issues under its agenda item 9 on review of national legislation which are of relevance to the Committee. The Committee also noted that the report of LEG 97 would be issued under the symbol LEG 97/15. LEG 97 had agreed that there was a need for all States to have a comprehensive legal regime to prosecute pirates, consistent with international law, including UNCLOS and SUA, where applicable, and that national-based solutions in the region, coupled with capacity building in the countries involved, were a more certain way forward.

18.17 The Committee also noted that the United Nations Secretary-General's report pursuant to Security Council resolution 1918(2010) (S/2010/394 dated 26 July 2010) outlined seven options for the prosecution of pirates. These ranged from option 1: the enhancement of United Nations assistance to build capacity of regional States to prosecute and imprison persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, through to option 7: the establishment of an international tribunal by Security Council resolution under Chapter VII of the Charter of the United Nations. In this regard, the majority of delegations supported option 1, but with some support for other options based on regional solutions.

18.18 The Committee further noted that in order to assist States to develop their legal regimes, LEG 97 had requested the Secretariat to send copies of national legislation received from Member States to UN/DOALOS for inclusion in the UN database. LEG 97 noted that 41 Member States and one other jurisdiction had submitted to the Organization details of national legislation on piracy as requested by Circular letter No.2933, dated 23 December 2008. LEG 97 requested the Secretariat to re-issue the circular letter requesting Member States, which had not already done so, to provide information about their piracy laws.

#### ***Outcome of meetings of the Contact Group on Piracy off the Coast of Somalia and related documents***

18.19 The Committee noted that since MSC 87 the Contact Group on Piracy off the Coast of Somalia (CGPCS) and its four working groups had met formally and informally on a number of occasions. In considering the results of these meetings, the Committee noted (MSC 88/INF.19 (Secretariat)), *inter alia*, the communiqué of the 7<sup>th</sup> Plenary session of the Contact Group on Piracy off the Coast of Somalia which was held in New York

on 10 November 2010 and chaired by the Republic of Korea; and the Chairman's conclusions from the meeting of Working Group 1 held at IMO Headquarters on 21 October 2010 and chaired by the United Kingdom.

18.20 The Committee noted that the CGPCS had, *inter alia*, underscored the importance of the prosecution of pirates; welcomed the report of the Secretary-General of the United Nations referred to in paragraph 18.17 above; stressed that the industry must exert efforts to be better protected against pirates through compliance with the industry-agreed Best Management Practices (BMP); and had agreed to hold three meetings per year.

18.21 The Committee also noted the information provided in documents MSC 88/18/4 and MSC 88/INF.10 (Denmark), regarding the activities of Working Group 2 of the CGPCS, which had been convened by Denmark with the support of UNODC and which addressed legal issues related to piracy. The group had developed a "legal toolbox" of relevant resources and precedents that States and organizations may use to strengthen their capacity to combat piracy and armed robbery at sea. The legal toolbox contained, *inter alia*, three documents concerning evidence collection: (1) the U.S. Counter-Piracy Evidence Collection Guidance, (2) the Kenya Transfer Guidance for Piracy Suspects; and (3) the Seychelles Transfer Guide.

18.22 The Committee further noted the information provided in document MSC 88/18/2 (United States) that the participants of Working Group 3 of the CGPCS had continued to develop advice and guidance to ensure that any attacked or hijacked ship and its shipboard personnel continued to be fit to trade and work on board, in accordance with operative paragraph 5(i) of resolution A.1026(26). Working Group 3 industry representatives had produced guidance to Company Security Officers (CSOs) on preparation of a Company and crew for the contingency of a hijack by pirates, also intended to address the actions of the Company in fulfilling their responsibilities to the crew, and highlights the need to prepare crisis management plans specifically to handle hijacking and its effects on the crew.

18.23 The Committee noted that the guidance to CSOs was intended to be a living document and should be subject to periodic review; and agreed that it was very useful and should be circulated in its current form as non-mandatory guidance. Consequently, the guidance was referred to the MSPWG for preparation of a covering draft MSC circular.

### ***Post Piracy Care for Seafarers***

18.24 In addition to the work conducted under the auspices of Working Group 3, the Committee noted the information contained in document MSC 88/18/1 (IMCA) that, since MSC 87, the Seamen's Church Institute (SCI) had updated its Guidelines on Piracy's Impact on Seafarers – Post Piracy Care for Seafarers Guidelines (previously submitted as documents MSC 87/19/5 and MSC 87/INF.14). The updated Guidelines on Post-Piracy Care for Seafarers were based on a study currently underway at the SCI that was designed to develop more specific recommendations for assessment and intervention and SCI invited comments from interested parties in its ongoing efforts to develop specific guidelines to address the mental health impact of piracy on seafarers.

18.25 In welcoming the valuable work being done by the SCI, the Committee noted that the study upon which it was based was ongoing and that it would therefore be premature to adopt guidance at this stage. The Committee further noted that some Members observed that issues such as medical care and seafarers' rights being addressed by Working Group 3 were under the purview of ILO and might be more effective if developed jointly and linked to existing conventions. The Committee concluded by noting the information provided and inviting ICMA to make further submissions in due course for further consideration by the Committee.



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***Actions taken in waters off the coast of Somalia to suppress piracy and armed robbery against ships***

18.26 In considering a verbal report on recent developments in the implementation of the Djibouti Code of Conduct, the Committee noted that the Code had recently been signed by Oman, bringing the total number of signatories to 16. The Committee subsequently learned that on 26 November 2010 at IMO Headquarters, H.E. the Ambassador of Eritrea had signed the Code on behalf of Eritrea, thus bringing the total number of signatory States to 17.

18.27 The Committee agreed that full and effective implementation of the Djibouti Code of Conduct was a key objective for IMO and noted that the Project Implementation Unit (established for that purpose and financed by the Djibouti Code Trust Fund) had been making significant progress on:

- .1 the procurement of equipment for the three regional counter-piracy information sharing centres to be established in Dar es Salaam, Mombasa, and Sana'a, with an expected completion date of December 2010;
- .2 the construction of a regional training facility in Djibouti, for which architectural plans have been finalized and the preparation for construction work has commenced; and
- .3 the delivery of training at a regional workshop on legislation and maritime law enforcement, which was conducted in Djibouti from 11 to 13 October 2010.

18.28 Further training activities were planned for maritime law enforcement, situational awareness and communications for experts in the signatory States to the Djibouti Code of Conduct. Furthermore, equipment-specific training for personnel operating the information sharing centres, and technical assistance programmes to upgrade national anti-piracy legislation to assist signatory States to meet their obligations under the Djibouti Code of Conduct, were planned for late 2010 and early 2011. These activities would be carried out in co-operation with the European Commission, ReCAAP-ISC, the United Nations Political Office for Somalia (UNPOS), the United Nations Office on Drugs and Crime (UNODC) and the International Criminal Police Organization (Interpol).

**Piracy-related issues for further consideration by the Committee*****Endorsement of guidance to shipowners***

18.29 The Committee recalled that MSC 87 (MSC 87/26, paragraph 19.56) had agreed on the need to update and promulgate the guidance developed by the industry such as the BMP in a timely manner, without necessarily waiting for the next session of the Committee. MSC 87 had therefore authorized the Chairman and the Secretariat to distribute the BMP3 guidance as a new MSC circular, and to revoke the existing circular (MSC.1/Circ.1335) without having to wait for the Committee's prior approval. As a result, on 4 August 2010 the Best Management Practices to Deter Piracy off the Coast of Somalia and in the Arabian Sea Area had been circulated by means of MSC.1/Circ.1337.

18.30 The Committee expressed its appreciation for the continuing commitment of industry associations in updating and promulgating the BMP on a regular and timely basis to reflect experiences gained with piracy tactics and developing tactical guidance to international shipping.

***Ship security alerts***

18.31 The Committee noted the concerns raised by the Marshall Islands (MSC 88/4/3) on the recommendation within BMP3 to route Ship Security Alert System (SSAS) alerts to UKMTO Dubai in addition to the CSO and the flag State being mandated as an SSAS recipient as per SOLAS regulation XI-2/6. The Committee noted that the routing of SSAS alerts to UKMTO Dubai could only be undertaken with the approval of the flag State. The Committee also noted that there were a number of other negative operational impacts related to the approach recommended within the BMP3, for example, that all SSAS alerts would be transmitted to UKMTO Dubai regardless of the area of operation, meaning that UKMTO Dubai may receive global alerts rather than those restricted to their area of operation; and that UKMTO Dubai would also be burdened with receiving false or test alerts. Such routing may also raise expectations that UKMTO Dubai would respond to all SSAS alerts regardless of location and function.

18.32 The Committee noted further that there were commercial services available that had been designed to provide the same functionality required by BMP3, with advanced functionality to eliminate those impacts.

18.33 The Committee referred document MSC 88/4/3 to the MSPWG for more detailed consideration and recommendation on the appropriate course of action.

***Prosecution of suspected pirates***

18.34 The Committee considered document MSC 88/18/5 (INTERCARGO, INTERTANKO, ITF and SIGTTO), concerning the call by a number of industry organizations, made in the light of a number of incidents in which suspected pirates apprehended in the act of attacking merchant ships and with witnesses available had not been prosecuted, for Governments to take more robust action to enhance national laws to secure prosecution of suspected pirates; and to share information with national and international law enforcers.

18.35 In this regard, the Committee recalled that resolution A.1026(26) on Piracy and armed robbery against ships in waters off the coast of Somalia, adopted on 2 December 2009, strongly urged Governments that had not already done so to promptly take all necessary legislative, judicial and law-enforcement action so as to be able, subject to national law, to receive, prosecute or extradite any pirates or suspected pirates and armed robbers captured by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service.

18.36 The Committee recalled further that resolution A.1025(26) on Code of practice for the investigation of crimes of piracy and armed robbery against ships, adopted on 2 December 2009, encouraged States to take the necessary national legislative, judicial and law enforcement actions so as to be able to receive, prosecute or extradite any pirates or suspected pirates and armed robbers arrested by warships or military aircraft or other ships or aircraft clearly marked and identifiable as being on government service, and advises that States should take into consideration appropriate penalties when drafting legislation on piracy.

18.37 The Committee recalled also that MSC.1/Circ.1333 (June 2009) recommended that States take such measures as may be necessary to establish their jurisdiction over the offences of piracy and armed robbery at sea, including adjustment of their legislation, if necessary, to enable those States to apprehend and prosecute persons committing such offences.

18.38 Having also noted the information in document MSC 88/INF.21 (Secretariat) that the United Nations Security Council had, on 23 November 2010, adopted resolution 1950(2010) which, *inter alia*, in its operative paragraph 13, "Calls upon all States to criminalize piracy under their domestic law and to favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international law including international human rights law", the Committee decided that there was no need to issue a further circular on this issue.

18.39 The Committee noted information by ICC (MSC 88/INF.13) that the work undertaken by the ICC-IMB to produce guidance for ships' masters on the handling of evidence after a piracy attack had been completed, which complemented the work contained in the "toolbox" described in paragraph 18.21 above and is targeted predominantly at investigative officers.

18.40 Following discussion on the proposed guidance which some delegations welcomed as an excellent supplement to resolution A.1025(26) and which other delegations considered to be overly complex, the Committee requested ICC to resubmit the proposals to MSC 89 as a document rather than as an information document, and invited Member States and other interested parties to review the proposals and guidance contained therein with the aim of providing comments to MSC 89.

***Piracy in ship security plans and guidance relating to implementation of SOLAS chapter XI-2 and the ISPS Code***

18.41 In considering a proposal (MSC 88/18/3 (Malaysia, Philippines, Turkey and Ukraine)) to adopt an MSC resolution on "Reflecting in the ship security plans special measures to prevent and suppress piracy and armed robbery against ships" and to introduce corresponding amendments to MSC/Circ.1111 on Guidance relating to the implementation of SOLAS chapter XI-2 and the ISPS Code, the Committee noted that the intention behind these proposals was to bring counter-piracy plans and measures within the control and compliance regime as mandated by SOLAS regulation XI-2/9. In this regard, the Committee recalled that MSC 78 had adopted resolution MSC.159(78) on Interim Guidance on control and compliance measures to enhance maritime security and had promulgated the resolution as annex 2 to MSC/Circ.1111.

18.42 The Committee agreed that there was a clear need for ships operating in pirate-infested waters to take measures to protect themselves from the threat of piracy and armed robbery against ships, which included, in waters off the coast of Somalia, the full application of the IMO guidance and BMP3, and co-operation with naval forces operating in the area. There was also considerable support for the intent behind the proposals which was to protect the interests of seafarers. The ensuing discussions were broadly focused on whether these measures should fall within the remit of the ISPS Code and be included in ship security plans.

18.43 The Committee noted that a number of States had introduced requirements to reflect the risks of piracy, armed robbery and corresponding preventive measures in ship security plans, developed under the ISPS Code. Some Contracting Governments had decided to allow Companies to link counter-piracy measures to either the ISPS Code or the ISM Code. A number of major flag States had signed the New York declaration through which, *inter alia*, they recognized that "self protection measures taken by vessels to avoid, deter or delay piracy attacks are an essential part of compliance with the ISPS Code" and agreed to ensure that "vessels on their registry have adopted and documented appropriate self protection measures in their ship security plans as part of ISPS Code compliance".

18.44 A number of delegations took the view that although a number of elements of the ISPS Code lent themselves to countering the threat from pirates, the ISPS Code had been designed to tackle terrorism, not piracy. This had been reflected in the foreword to the ISPS Code which cited resolution A.924(22) on Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships. Implementation of ISPS Code measures were based on security levels set by Contracting Governments, based on the assessed terrorist threat, which allowed for a commonly-understood system to facilitate the interface between ships and ports throughout the world. Piracy was a criminal activity, not an issue of national security, and therefore intelligence agencies' abilities to provide accurate Security Level information could be diluted.

18.45 A number of delegations expressed concern that the requirement for Companies to undertake reviews of their ship security assessments based upon the likelihood of a ship entering a piracy-infested area, would put an unwelcome resource and administrative burden on shipping companies and Contracting Governments called upon to re-approve ship security plans, based upon these new assessments. Delegations also noted that piracy-infested areas were regional rather than global and thus it might be inappropriate for counter-piracy measures to be included in ship security plans which were for global application.

18.46 A number of delegations supported the view that compliance with the ISPS Code was important and noted that Contracting Governments had developed regulatory regimes to reflect this, including systems for plan-approval based upon physical verifications and inspections of ships and port facilities during day-to-day operation, and legislation to ultimately prosecute those found to be in non-compliance. However, as it would be difficult to verify the implementation of counter-piracy measures on ships transiting the Gulf of Aden, it would be difficult to justify bringing in mandatory measures.

18.47 A number of delegations were of the view that given the range of approaches to this issue already taken by Contracting Governments, it was a bit late to be discussing mandating inclusion of counter-piracy measures. In the past, the issues had been kept separate and guidance developed by the Organization had reflected this. There were doubts as to whether anything would actually be gained by mandating counter-piracy measures in ship security plans.

18.48 The Committee discussed the additional complication posed by the carriage of firearms on board ships and, in particular, that a small minority of shipping companies might choose to employ private security companies who use firearms, despite the Organization's strong discouragement of the use of firearms for the protection of the vessel from piracy attack. The Committee recalled that it had decided that the carriage of firearms was a matter for flag States to decide.

18.49 The Committee took note of the above points and referred the matter to the MSPWG for further consideration and advice on how to proceed.

### **Instructions to the Working Group on Maritime Security including Piracy and Armed Robbery against Ships (MSPWG)**

18.50 The Committee instructed the MSPWG established under agenda item 4 (see paragraph 4.34), with respect to piracy and armed robbery against ships, taking into account the relevant decisions taken and comments made in plenary, to:

- .1 consider document MSC 88/4/3 on operational issues related to the current recommendations related to ship security alerts (SSAS) in version 3 of the Best Management Practices (BMP3) in the context of requirements of

SOLAS chapter XI-2 and the ISPS Code, the performance standards for ship security alert systems and the guidance provided in circulars MSC.1/Circ.1072, MSC.1/Circ.1109/Rev.1 and MSC.1/Circ.1155, advise the Committee on how to proceed and, if necessary, develop a draft MSC circular providing clarification on the issue;

- .2 prepare a draft covering MSC circular on Guidance for Company Security Officers to prepare company and crew for the contingency of hijack by pirates in waters off the coast of Somalia to which the guidance for Company Security Officers given in the annex to document MSC 88/18/2 will be attached; and
- .3 using document MSC 88/18/3 as a basis for discussion, consider the relationship between ship security plans under the ISPS Code and measures to avoid, deter or prevent acts of piracy and armed robbery against ships, and advise the Committee on how to proceed.

### **Report of the MSPWG**

18.51 Having considered the part of the report of the MSPWG (MSC 88/WP.6) dealing with the agenda item, the Committee took action as indicated in the ensuing paragraphs.

#### ***Ship security alerts***

18.52 The Committee noted the discussions of the group on operational issues related to the current recommendations regarding SSAS alerts in BMP3 with respect to the routing of alerts to UKMTO and its operational impact. Having noted that representatives of the industry group which developed BMP3 had acknowledged the need to avoid any inconsistencies with SOLAS regulation XI-2/6; had agreed to make the appropriate corrections in the next version of the BMP; and had agreed to clarify the situation via the MSCHOA website, the Committee agreed there was no need to issue an MSC circular to provide clarification, as such an action might inadvertently lead to confusion.

#### ***Guidance for Company Security Officers – Preparation of a company and crew for the contingency of hijack by pirates in the Western Indian Ocean and the Gulf of Aden***

18.53 The Committee approved MSC.1/Circ.1390 on Guidance for Company Security Officers – Preparation of a company and crew for the contingency of hijack by pirates in the Western Indian Ocean and the Gulf of Aden, with minor amendments to include IPTA as a supporting international industry representative and to include a reference to resolution A.1026(26).

18.54 The Committee recalled that MSC 87 had agreed on the need to update and promulgate the guidance developed by the industry such as the BMP in a timely manner, without necessarily waiting for the next session of the Committee. In accordance with this decision, and taking into account that the industry group intends to keep, as it does with the BMPs, the Guidance to CSOs under review and to update it as and when it finds necessary, the Committee authorized the Secretariat to circulate future revisions of the guidance submitted to the Secretary-General by the industry group and to revoke any previous related MSC circulars, on the understanding that the Secretariat would be reporting on the actions it would be taking to the first session of the Committee thereafter.

***Reflecting in the ship security plans special measures to avoid, deter or prevent piracy and armed robbery against ships***

18.55 The Committee noted the discussions in the group on the inclusion in ship security plans of specific measures to avoid, deter or prevent piracy and armed robbery against ships. Having noted the view of the majority of members of the group that spoke, the Committee agreed that there was no need to develop any guidance or recommendations to address the issue.

18.56 The Committee noted the suggestion by the delegation of Ukraine that flag States could share their experiences and deal with comments related to the administrative burden of the re-approval of the ship security plans, taking into account that Companies know when their vessels are to operate in pirate-infested areas and national legislation of SOLAS Contracting Governments should contain provisions to assess the situation without delay and to provide for introducing necessary changes into ship security plans.

18.57 The Committee agreed that the focus should be on the implementation of the existing guidelines and, to that end, strongly urged Member Governments, the shipping industry, the seafaring community and all other mariners to implement adequate, comprehensive and robust measures in accordance with the recommendations and guidance issued by the Organization and the industry group and to aid the distribution and implementation of the BMPs.

***Statements***

18.58 The delegation of France stated, *inter alia*, that France had, on 25 November 2010, adopted legislation enabling prosecution of piracy, as defined in UNCLOS, and would notify the Organization formally in due course.

18.59 The delegation of India expressed concern with respect to incidents where seafarers had been hijacked and neither the Company nor the flag State kept the State(s) of nationality of the crew, i.e. substantially interested States informed of developments. They stated that India, being a seafarer-supplying nation, had serious concerns regarding Indian seafarers sailing on foreign flagged ships which were subjected to pirate attacks, and that India had been contacting owners of pirated vessels to find out about the welfare of the seafarers; however, in some cases they did not get a response from the owners. India suggested that all concerned flag Administrations should contact such defaulting ship owners and inform other substantially interested States, especially the State to which the seafarers belong, so that the families of the seafarers could be kept informed.

18.60 The delegation of Egypt stated that it had reservations on the definition of "high-risk area" given in paragraph 2(3) of the BMP3, which defined a high-risk area as the area bounded by Suez to the North, 10 degrees south and 78 degrees east. They were of the view that this extended area had not witnessed any piracy attacks and that the main theatre for these attacks continued to be in the far south area of the Red Sea. Egypt called for an amendment to the definition of high-risk area, to be limited to areas that have witnessed attacks by pirates.

18.61 The observer from BIMCO, supported by the delegations of the Marshall Islands, South Africa, the United States and the observers from ICS, ITF, IFSMA, INTERTANKO, CLIA, IPTA, WSC and NI made a statement concerning the need for States to sufficiently criminalize piracy, the full text of which is set out in annex 31.

18.62 The delegation of Kenya made a statement in support of the statement from BIMCO, the full text of which is set out in annex 32.

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## 19 GENERAL CARGO SHIP SAFETY

19.1 The Committee recalled (MSC 88/19) that MSC 87, noting the information provided by IACS on the progress made with regard to the FSA Study on General Cargo Ship Safety, had reiterated that the above study should be reviewed by the FSA Experts Group after the full study has been finalized.

19.2 The Committee also recalled that MSC 87 had invited Member Governments and international organizations to make their casualty data, including casualty data on non-IACS classed ships, available to assist the Committee and IACS with their FSA study and had further invited them to submit information and relevant proposals on the matter to MSC 88.

19.3 The Committee had for its consideration the following documents:

- .1 MSC 88/19/1 (Islamic Republic of Iran), providing a summary of a risk analysis (Step 2 of FSA) conducted by the Iranian maritime administration regarding general cargo ships between 500 and 1500 gross tonnage, the majority of which are non-IACS classed ships;
- .2 MSC 88/19/2 (IACS), providing a summary of results of the FSA study that has been conducted by IACS, containing risk control options (RCOs) found to be cost-effective, i.e. (technical) anchoring watch alarm integrated in ECDIS, (operational/training) port State control inspector training for general cargo ships, and (technical) combine watch alarm with autopilot;
- .3 MSC 88/INF.6 (IACS), providing steps 3 and 4 (risk control options and cost benefit assessment) of the IACS FSA study; and
- .4 MSC 88/INF.8 (IACS), providing the final report of the IACS FSA study on general cargo ships.

19.4 Following a general discussion on the above submissions, the Committee agreed that the relevant documents (i.e. MSC 88/19/2, MSC 88/INF.6, MSC 88/INF.8, MSC 87/20/1, MSC 87/INF.3, MSC 87/INF.4, MSC 86/INF.4 and MSC 85/19/1) be reviewed by the FSA Experts Group at MSC 89 (see paragraph 17.2) with a view to providing advice to the Committee accordingly.

19.5 In this context, the Committee also agreed to the following terms of reference for the FSA Experts Group, whereby the group should take into account the comments made and decisions taken at this session:

- .1 review the FSA studies provided in documents MSC 88/19/2, MSC 88/INF.6, MSC 88/INF.8, MSC 87/20/1, MSC 87/INF.3, MSC 87/INF.4, MSC 86/INF.4 and MSC 85/19/1 and, in particular, 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 their 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 uncertainties 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;
  - .7 check whether the expertise of participants in the FSA study was sufficient for the range of subjects under consideration; and
  - .8 report on the above issues, including discussion of any strengths and weaknesses, and the lessons learned regarding the FSA Guidelines, as well as the Guidance on the use of HEAP and FSA; and
- .2 consider the proposed final recommendations in the FSA study and advise the Committee as appropriate.

19.6 With regard to documents MSC 88/INF.6 and MSC 88/INF.8, the delegation of Germany pointed out that the IACS FSA Study on general cargo ships provided a comparison between the Lloyds Register Fairplay's (LRF) database and GISIS public access database, which showed that approximately 31% of accidents were listed in both sources, while the remaining accidents were listed in the LRF database only, taking into account that nearly two-thirds (63%) of the GISIS reports contained no description of the accident. In this respect, the delegation of Germany noted that GISIS provides additional information, especially detailed accident investigation reports that often contain descriptions of the sequence of events as well as the root causes of the accident, while such comprehensive information is not part of the LRF casualty database. In their view, GISIS should play a larger role in the work of the Organization by providing accident information for FSA studies and such information should be made accessible to the FSA Expert Group for the review process. Therefore, since GISIS has the potential to become a reliable basis for safety assessments in the shipping industry, the delegation of Germany highlighted the importance of increasing the Organization's efforts to encourage the reporting of accidents for inclusion into the GISIS database.

19.7 Having recognized the importance of a better utilization of the GISIS database for analysing accidents, the Committee reiterated its invitation to Member Governments to provide details of their investigation reports to the Organization, and instructed the FSI Sub-Committee to consider how the collection of accident investigation data by the Organization could be improved.

## **20 IMPLEMENTATION OF INSTRUMENTS AND RELATED MATTERS**

### **Status of conventions**

20.1 The Committee noted the information on the conventions, 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 September 2010 (MSC 88/20/1 and MSC 88/INF.12) and was advised by the Secretariat of updated information on instruments of ratification, acceptance, approval of, or accession to, safety- and security-related IMO conventions and protocols.



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## **Amendments to the 1988 SOLAS Protocol**

20.2 The Committee considered document MSC 88/20/2 (IACS) referring to the amendments to the appendix to the 1974 SOLAS Convention in relation to the Cargo Ship Safety Construction Certificate and the Passenger Ship Safety Certificate with regard to the expression "Date of build" (resolution MSC.216(82)) which, as a consequence, might have also been relevant for amending the 1988 SOLAS Protocol.

20.3 In this context, the Committee was informed by the Secretariat that an internal study had been carried out on the harmonization of the amendments to the 1974 SOLAS Convention with the 1988 SOLAS Protocol, entailing the development of a set of amendments to the appendices to the 1974 SOLAS Convention and its 1988 Protocol which would have been strictly consequential to the amendments already adopted.

20.4 The Committee requested the Secretariat to carry out a thorough and comprehensive review of the consistency among the forms of certificates and records contained in the appendices to the 1974 SOLAS Convention and its 1988 Protocol and to report to MSC 89. The document to be prepared by the Secretariat should contain a set of draft amendments to the above-mentioned instruments, which would have been strictly consequential to the amendments already adopted, and a possible procedure to avoid future anomalies.

20.5 On the issue of amendments to the forms of the Cargo Ship Safety Construction Certificate, the Passenger Ship Safety Certificate and the Cargo Ship Safety Certificate issued under the 1974 SOLAS Convention as modified by the Protocol of 1988 relating thereto which would have been consequential to the amendments to the appendix to the 1974 SOLAS Convention, as adopted by resolution MSC.216(82) with regard to the expression of "Date of build", the Committee agreed with the suggestion made by IACS and invited Member States to bring the matter to the attention of all parties concerned, in particular, port State control authorities.

### **List of certificates and documents required to be carried on board ships**

20.6 The Committee recalled that FAL 19 had originally developed a list of certificates and documents required to be carried on board ships and that the presently available revised list, as approved by FAL 31, MEPC 52 and MSC 79, had been circulated by means of FAL.2/Circ.87-MEPC/Circ.426-MSC/Circ.1151.

20.7 Having concurred with the decisions of FAL 36 (MSC 88/2/2), the Committee approved the proposed amendments to the draft revised list of certificates and documents required to be carried on board ships, as set out in annex 1 to the above-mentioned document, subject to further consideration by MEPC 62.

20.8 The Committee further concurred with FAL 36 and agreed, subject to concurrent decision by MEPC 62, with the suggestion that future revisions of the list should be initiated by the MSC on a regular basis.

### **Online access to certificates and documents required to be carried on board ships**

20.9 The Committee recalled that MSC 81, when considering the issue of online access to certificates and documents required to be carried on board ships, had been conscious of the potential of online access to certificates and documents and had duly noted the technical feasibility of a system. The Committee had recommended that a step-by-step approach should be applied and that emphasis should be given to the facilitation aspects of such a

system. Concerning the potential use of such a system in PSC activities, MSC 81 had noted the view that electronic access to certificates would not be considered as an alternative to the physical inspection of the certificates and could, possibly, serve in the context of the prioritization of port State control inspections.

20.10 The Committee was advised that FAL 36 had developed a questionnaire on Online access to Certificates and Documents, as set out in annex 2 to document MSC 88/2/2, and had forwarded it to the Committee and MEPC 62 for further consideration and to seek their opinion and comments on making available electronic copies of documents and certificates on board ships for facilitation purposes.

20.11 The Committee requested the Secretariat to circulate the above-mentioned questionnaire, as developed by FAL 36, in the form of a FAL circular, subject to concurrence by the Chairmen of the MEPC and the FAL Committee, so that FAL 37 could receive sufficient feedback for its further consideration of this matter.

### **Facilitating the entry into force of the 1993 Amendments to the International Convention for Safe Containers (CSC), 1972**

20.12 The Committee recalled that the Assembly, at its eighteenth session (1993), adopted, by resolution A.737(18), amendments to the 1972 CSC, amending several of the definitions in the Articles of the Convention and the associated texts in Annexes I and II thereof.

20.13 In this regard, the Committee noted that there are currently 78 Contracting States to the Convention and that only nine of those have deposited acceptances for the 1993 Amendments, whereas 52 acceptances are needed for the aforementioned amendments to enter into force. In this context, the Committee further recalled that the Assembly, at its twenty-sixth session, noting the slow pace of acceptances necessary for the entry into force of the 1993 Amendments to the 1972 CSC, requested the Secretariat to propose to the Council measures that may be taken to facilitate the entry into force of the 1993 Amendments.

20.14 The Committee recalled also that MSC 87, having considered the options prepared by the Secretariat (MSC 87/21/1), had requested the Secretariat to contact Contracting Parties to the CSC to seek their views on holding a Conference and, in particular, their willingness to apply the tacit acceptance procedure for amendments to the Convention, and to report the outcome of the consultation to MSC 88.

20.15 Having considered document MSC 88/20 (Secretariat), the Committee noted that, in pursuance of the request of MSC 87, the Secretariat, by means of Circular letter No.3075, had invited States Party to the CSC to provide their views, by means of completing the questionnaire, as set out in the annex to the aforementioned circular letter, on whether they were in favour or not of holding a Conference of Parties to bring the 1993 Amendments into force employing a tacit acceptance procedure.

20.16 In this context, the Committee noted that, on the basis of replies received to the aforementioned questionnaire, 11 States Party to the Convention were in favour of holding a Conference of Parties while four States were not in favour.

20.17 Furthermore, the Committee noted that, in accordance with the provisions of paragraph 3 of Article IX, the Convention may be amended by a Conference upon the request of a Contracting Party, if concurred by at least one third of the Contracting Parties, that such a Conference would be convened by the Secretary-General and that the States referred to in Article VII of the Convention would be invited to participate in the Conference. In this regard,

the Committee, taking into account that the CSC currently has 78 Contracting Parties, noted that at least 27 Parties would have to concur to hold such a Conference.

20.18 In considering the past practices of the Organization, the Committee noted that a number of such Conferences had been held under the SOLAS, STCW and MARPOL Conventions and it had been customary that, when the responsible Committee agrees to hold a Conference, such an agreement is interpreted as meeting the requirements for concurrence by at least one third of the Parties for holding the Conference. However, in all such cases (the latest one being the 2010 Manila Conference), the decision of the Committee was, without exception, by consensus and without any objections.

20.19 The Committee noted further that, from a legal point of view, it does not have a formal role in the process of holding a Conference under paragraph 3 of Article IX of the CSC.

20.20 Having discussed how best to proceed in light of the information provided, the Committee noted that, if a State Party to the CSC would submit a formal request for a Conference with the concurrence from at least 26 other Parties to the Secretary-General then, under the provisions of Article IX of the CSC, a Conference of the Contracting Parties would be held. While noting this provision of the Convention, the Committee agreed to instruct DSC 16 to consider the option to prepare a new set of amendments to the Annex to the CSC on the basis of the 1993 Amendments, in such a way that amendments to Article II of the Convention are not necessary and that the new amendments to the Annex may come into force under the existing tacit acceptance procedures for amendments to the annexes of the CSC.

## **21 RELATIONS WITH OTHER ORGANIZATIONS**

21.1 The Committee noted that C 104 and C 105 had decided:

- .1 to grant consultative status on a provisional basis to the Pacific Environment, Clean Shipping Coalition (CSC), the Bureau International des Containers et du Transport Intermodal (BIC) and Superyacht Builders Association (SYBAss) for no more than two years, at the end of which time their status should be reviewed; and
- .2 not to grant consultative status to the Association for Emissions Control by Catalyst (AECC), the European Maritime Independent Suppliers Association (EMISA) and the European Tugowners Association (ETA).

21.2 The Committee also noted the change of names for:

- .1 the International Association of Producers of Insurance and Reinsurance (BIPAR) to European Federation of Insurance Intermediaries, retaining the acronym BIPAR;
- .2 the Association of European Manufacturers of Internal Combustion Engines (EUROMOT) to The European Association of Internal Combustion Engine Manufacturers, retaining the acronym EUROMOT;
- .3 the International Navigation Association (PIANC) to PIANC, the World Association for Waterborne Transport Infrastructure, retaining the acronym PIANC; and
- .4 the Vessel Operators Hazardous Materials Association, Inc. (VOHMA) to the International Vessel Operators Dangerous Goods Association, Inc. (IVODGA).

21.3 The Committee also noted that C 105, with regard to relations with non-governmental organizations, had noted further the information provided concerning the procedures by which consultative status to non-governmental organizations is granted; and had decided to examine, at C 106, the Guidelines on the Grant of Consultative Status, in order to determine whether any amendments should be made to them.

## **22 APPLICATION OF THE COMMITTEES' GUIDELINES**

### **Revision of the Committees' Guidelines**

22.1 The Committee recalled that MSC 87 had agreed that an appropriate amendment to the Committees' Guidelines (MSC-MEPC.1/Circ.2) to include the human element principles would need to be developed at the next session of the Joint MSC/MEPC Working Group on the Human Element (see paragraph 16.12), and had invited Member Governments to use the draft revised Guidelines when submitting proposals for new outputs, pending approval of the Guidelines by MEPC 61 and MSC 88.

22.2 The Committee considered document MSC 88/22 (Secretariat), containing the draft revised Committees' Guidelines approved, in principle, at MSC 87, with a view to further consideration at MEPC 61 and final approval at this session, and additional draft amendments prepared by the Secretariat as requested by the Committee, which took into account the relevant outcome of MSC 87 and C 104 and any necessary editorial changes.

22.3 The Committee also considered document MSC 88/22/3 (Secretariat), indicating that the draft revised Guidelines (MEPC 61/WP.6) had been submitted to, and approved by, MEPC 61, subject to concurrent decision by MSC 88. With regard to the issue of the human element in the rule-making process, MEPC 61, having noted the outcome of MSC 87, and having considered proposed amendments submitted by INTERTANKO and ITF (MEPC 61/21/2, as contained in document MSC 88/16), had agreed with the proposal, in principle, subject to further adjustment of the proposed text and final decision by MSC 88.

22.4 On the issue of enhancing the clarity of the scope of application of the adopted amendments to mandatory instruments, which was raised in documents MSC 88/22/1 (Italy) and MSC 88/22/2 (United Kingdom), the Committee considered the two proposals containing draft sets of amendments to the Committees' Guidelines for guidance when submitting proposals for new or amendments to mandatory instruments.

22.5 Having noted the views expressed by the delegation of the Netherlands regarding the potential difficulties in reading existing paragraph 4.7 of the Guidelines (MSC 88/22, annex), containing nine subparagraphs, in conjunction with the new paragraph 4.27*bis*, as proposed in document MSC 88/22/2, containing 10 subparagraphs, the Committee, in principle, agreed to the text of the proposed new paragraph 4.27*bis* and that the content of these two paragraphs could be annexed to the Guidelines.

22.6 Furthermore, following an intervention by the delegation of Italy highlighting the complementary nature of the two sets of draft amendments contained in documents MSC 88/22/1 and MSC 88/22/2, the Committee requested the Secretariat to develop a consolidated text amalgamating both sets, for consideration by MSC 89.

22.7 The Committee further requested the Secretariat, when drafting the above-mentioned consolidated text, to take into account the difficulties that proponents of new, or amendments to, mandatory instruments may encounter in order to comply with the recommendations contained in subparagraphs .1, .4 and .8 of the proposed new paragraph 4.27*bis* (MSC 88/22/2) at the initial stage of the submission of proposed amendments.

22.8 In this context, the observer from IACS stressed the importance for the revised Guidelines to address all the issues listed in the proposed new paragraph 4.27*bis* (MSC 88/22/2), which could be organized in two parts, corresponding to the stage of the initial submission of new or amendments to mandatory instruments and the stage of their consideration by the Committee for adoption.

22.9 Following consideration of the relevant part of the report of the Joint MSC/MEPC Working Group on the Human Element (MSC 88/WP.5, section 5 and annex), the Committee approved, in principle, with a view to final approval at MSC 89 and subject to concurrent decision by MEPC 62, the draft revised Committees' Guidelines, as contained in document MSC 88/22 (Secretariat), as well as the amendments to incorporate the human element principles.

22.10 Further to its decision regarding amendments to the Committees' Guidelines for guidance when submitting proposals for new or amendments to mandatory instruments (see paragraph 22.6 above), the Committee requested the Secretariat to prepare a draft MSC-MEPC.1 circular containing a consolidated version of the draft revised Guidelines for consideration by MSC 89, for approval.

### **Release of the Committees' Guidelines on the IMO website**

22.11 Having recalled that MSC 87 had decided to further consider at this session whether to make the Committees' Guidelines available as a publication that could be downloaded from the IMO website, the Committee deferred consideration of this matter to MSC 89, in the context of its approval of the revised Committees' Guidelines.

## **23 WORK PROGRAMME**

### **BIENNIAL AGENDAS OF THE SUB-COMMITTEES AND PROVISIONAL AGENDAS FOR THEIR FORTHCOMING SESSIONS, INCLUDING CONSIDERATION OF NEW OUTPUTS PROPOSED BY MEMBER GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS AND SUB-COMMITTEES CONCERNED AND THE 2010 CONFERENCE OF PARTIES TO THE 1978 STCW CONVENTION**

23.1 Taking into account the recommendations made by the Sub-Committees which had met since MSC 87 (MSC 88/23/1, MSC 88/23/1/Add.1 and MSC 88/23/1/Add.2); the Guidelines on the application of the Strategic Plan and the High-level Action Plan (resolution A.1013(26)); various proposals for new outputs submitted to the session by the Member Governments and international organizations and the sub-committees concerned; a preliminary assessment of such proposals (MSC 88/WP.1), undertaken by the Chairman with the assistance of the Secretariat, in accordance with the relevant provisions of the Committees' Guidelines (MSC-MEPC.1/Circ.2); and decisions taken during the session, the Committee reviewed the biennial agendas 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 outputs, it had agreed at MSC 78 that the objective when discussing these proposals was to decide, based upon justification provided by Member Governments in accordance with the Committees' Guidelines, whether an output should or should not be included in the sub-committee's biennial agenda. A decision to include an output in a sub-committee's biennial agenda does not mean that the Committee agreed with the technical aspects of the proposal, and 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 61 had approved the biennial agendas of the BLG and FSI Sub-Committees as well as the provisional agendas for their forthcoming sessions, and the environment-related outputs on the biennial agendas of the DE, DSC and NAV Sub-Committees, as reported in document MSC 88/2/3.

#### ***SUB-COMMITTEE ON BULK LIQUIDS AND GASES (BLG)***

##### **Outcome of MEPC 61**

23.4 The Committee recalled that MEPC 61 had instructed the Sub-Committee to further consider a number of documents related to the prevention of air pollution from ships and the reduction of GHG emissions from ships.

##### **Biennial agenda of the Sub-Committee and provisional agenda for BLG 15**

23.5 The Committee, having recalled its decisions at MSC 87 to expand the scope of the item on "Development of provisions for gas-fuelled ships" and to change the title of that item to "Code of safety for ships using gas or other low-flash point fuels with properties similar to liquefied natural gas", approved the Sub-Committee's biennial agenda, as set out in annex 20.

23.6 The Committee approved the provisional agenda for BLG 15, as set out in annex 21, and requested the Secretariat to inform the MEPC accordingly.

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

##### **Overweight containers**

23.7 The Committee, having noted a joint ICS/WSC statement, set out in annex 33, regarding the recommendations from the joint government-industry research project "Lashing at Sea" that there is an urgent need for a new output to consider how to ensure that the correct weight of containers is declared to the carrier and communicated to the master before vessel loading, which was supported by the delegations of France and the Netherlands, invited Member Governments and international organizations to submit a proposal for a new output in accordance with the Committees' Guidelines.

##### **Biennial agenda of the Sub-Committee and provisional agenda for DSC 16**

23.8 The Committee approved the Sub-Committee's biennial agenda, as set out in annex 20.

23.9 The Committee approved the provisional agenda for DSC 16, as set out in annex 21.

#### ***SUB-COMMITTEE ON FIRE PROTECTION (FP)***

##### **Consideration of amendments to SOLAS chapter II-2 on requirements for location of EEBD**

23.10 The Committee considered document MSC 88/23/5 (United Kingdom), proposing amendments to SOLAS chapter II-2 to require at least two emergency escape breathing devices (EEBDs) be stored in each fire locker, to assist in the rescue of personnel from a hazardous environment, and agreed to include, in the post-biennial agenda of the Committee, an output on "Consideration of amendments to SOLAS chapter II-2 on location of EEBDs", with a target completion year of 2013, assigning the FP Sub-Committee as the coordinating organ, and instructing FP 55 to include the item in the provisional agenda for FP 56.

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**Amendments to SOLAS regulation II-2/20 and associated guidance on air quality management for ventilation**

23.11 The Committee considered document MSC 88/23/7 (Netherlands), proposing to develop amendments to SOLAS regulation II-2/20 and associated guidance in order to require air quality management for ventilation of closed vehicle spaces, closed ro-ro spaces and special category spaces, and agreed to include, in the post-biennial agenda of the Committee, an output on "Development of amendments to SOLAS regulation II-2/20 and associated guidance on air quality management for ventilation of closed vehicle spaces, closed ro-ro spaces and special category spaces", with a target completion year of 2013, assigning the FP Sub-Committee as the coordinating organ, and instructing FP 55 to include the item in the provisional agenda for FP 56.

**Amendments to SOLAS chapter II-2, the FTP Code and MSC/Circ.1120 to clarify the requirements for plastic pipes on ships**

23.12 The Committee considered documents MSC 88/23/8 and MSC 88/INF.2 (Canada and the United Kingdom), proposing to develop amendments to SOLAS chapter II-2, the FTP Code and MSC/Circ.1120, as appropriate, to clarify the application of smoke, toxicity and flame spread criteria for plastic pipes on ships, and agreed to include, in the post-biennial agenda of the Committee, an output on "Development of amendments to SOLAS chapter II-2, the FTP Code and MSC/Circ.1120 to clarify the requirements for plastic pipes on ships", with a target completion year of 2013, assigning the FP Sub-Committee as the coordinating organ, and instructing FP 55 to include the item in the provisional agenda for FP 56.

**Guidelines for wing-in-ground craft**

23.13 The Committee recalled that, following consideration of document MSC 88/23/11 (Republic of Korea), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of guidelines for wing-in-ground craft", with two sessions needed to complete the work, assigning the DE Sub-Committee as the coordinating organ, in co-operation with the FP, COMSAR, NAV, SLF and STW Sub-Committees as necessary and if requested by the DE Sub-Committee (see also paragraph 23.30).

**Biennial agenda of the Sub-Committee and provisional agenda for FP 55**

23.14 The Committee confirmed the Sub-Committee's biennial agenda, as set out in annex 20.

23.15 The Committee confirmed the provisional agenda for FP 55, as set out in annex 21.

***SUB-COMMITTEE ON FLAG STATE IMPLEMENTATION (FSI)*****Outcome of MEPC 61**

23.16 The Committee recalled that MEPC 61 had instructed the Sub-Committee to further consider document MEPC 61/INF.19 (Australia), regarding verification of ballast water management systems by port State control officers.

**Biennial agenda of the Sub-Committee and provisional agenda for FSI 19**

23.17 The Committee approved the Sub-Committee's revised biennial agenda, as set out in annex 20.

23.18 The Committee approved the provisional agenda for FSI 19, as set out in annex 21, and requested the Secretariat to inform the MEPC accordingly.

**Urgent matters to be considered by MSC 89**

23.19 Noting that, due to the close proximity between FSI 19 and MSC 89, only urgent matters emanating from FSI 19 could be considered at MSC 89, in accordance with the Committees' Guidelines, the Committee agreed to the following urgent matters for consideration by MSC 89:

- .1 Harmonization of port State control activities;
- .2 Review of the Survey Guidelines under the HSSC;
- .3 Review of the Code for the Implementation of Mandatory IMO Instruments;
- .4 Development of a Code for Recognized Organizations; and
- .5 Measures to protect the safety of persons rescued at sea.

***SUB-COMMITTEE ON RADIOCOMMUNICATIONS AND SEARCH AND RESCUE (COMSAR)*****IMO/WMO World-Wide Met-Ocean Information and Warning Service**

23.20 The Committee considered document MSC 88/23/9 (WMO), proposing to develop an Assembly resolution outlining the World-Wide Met-Ocean Information and Warning Service to meet the requirements of SOLAS regulation V/5.4 and to ensure consistency with other components of maritime safety information, and agreed to include, in the biennial agenda of the COMSAR Sub-Committee and the provisional agenda for COMSAR 15, an unplanned output on "Development of Assembly resolution on World-Wide Met-Ocean Information and Warning Service", with a target completion year of 2011.

**Guidelines for wing-in-ground craft**

23.21 The Committee recalled that, following consideration of document MSC 88/23/11 (Republic of Korea), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of guidelines for wing-in-ground craft", with two sessions needed to complete the work, assigning the DE Sub-Committee as the coordinating organ, in co-operation with the FP, COMSAR, NAV, SLF and STW Sub-Committees as necessary and if requested by the DE Sub-Committee (see also paragraph 23.30).

**Biennial agenda of the Sub-Committee and provisional agenda for COMSAR 15**

23.22 The Committee approved the Sub-Committee's revised biennial agenda, as set out in annex 20.

23.23 The Committee approved the revised provisional agenda for COMSAR 15, as set out in annex 21.

***SUB-COMMITTEE ON SAFETY OF NAVIGATION (NAV)*****Performance standards for inclinometers**

23.24 The Committee considered document MSC 88/23/6 (Germany), proposing to develop performance standards for inclinometers to provide heel angle and roll period data to the crew and to a VDR for recording, and agreed to include, in the biennial agenda of the NAV Sub-Committee and the provisional agenda for NAV 57, an unplanned output on "Development of performance standards for inclinometers", with a target completion year of 2012.



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### **Policy and new symbols for AIS aids to navigation**

23.25 The Committee considered document MSC 88/23/10 (Japan and United States), proposing to expand scope of the planned output on "New symbols for AIS aids to navigation" to also include the development of policy, guidance and performance standards for AIS aids to navigation and rename the output accordingly, taking into account information provided in document MSC 88/23/12 (Chile), and agreed to expand the output to include performance standards, guidance and policy on their use and, in view of the expansion, renamed the output "Development of policy and new symbols for AIS aids to navigation".

### **Guidelines for wing-in-ground craft**

23.26 The Committee recalled that, following consideration of document MSC 88/23/11 (Republic of Korea), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of guidelines for wing-in-ground craft", with a target completion year of 2013, assigning the DE Sub-Committee as the coordinating organ, in co-operation with the FP, COMSAR, NAV, SLF and STW Sub-Committees as necessary and if requested by the DE Sub-Committee (see also paragraph 23.30).

### **Implementation plan for an e-navigation strategy**

23.27 The Committee instructed NAV 57 to consider the outcome of COMSAR 15 on matters related to the implementation plan for an e-navigation strategy under its agenda item on "Any other business".

### **Biennial agenda of the Sub-Committee and provisional agenda for NAV 57**

23.28 The Committee approved the Sub-Committee's revised biennial agenda, as set out in annex 20.

23.29 The Committee approved the provisional agenda for NAV 57, as set out in annex 21.

### ***SUB-COMMITTEE ON SHIP DESIGN AND EQUIPMENT (DE)***

### **Guidelines for wing-in-ground craft**

23.30 The Committee considered document MSC 88/23/11 (Republic of Korea), proposing to replace the Interim Guidelines for Wing-In-Ground (WIG) Craft (MSC.1/Circ.1054) with updated final guidelines to promote the safe navigation of WIG craft worldwide through the application of agreed international standards, and agreed to include, in the post-biennial agenda of the Committee, an output on "Development of guidelines for wing-in-ground craft", with two sessions needed to complete the work, assigning the DE Sub-Committee as the coordinating organ, in co-operation with the FP, COMSAR, NAV, SLF and STW Sub-Committees as necessary and if requested by the DE Sub-Committee.

### **Amendments to Part B of the 2008 IS Code on towing and anchor operations**

23.31 The Committee recalled that, following consideration of document MSC 88/23/2 (Norway), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of amendments to Part B of the 2008 IS Code on towing and anchor operations", with a target completion year of 2013, assigning the SLF Sub-Committee as the coordinating organ, in co-operation with the DE Sub-Committee as necessary and if requested by the SLF Sub-Committee (see also paragraph 23.36).

**Revision of testing requirements for lifejacket RTDs**

23.32 The Committee considered a proposal by DE 54 (MSC 88/7/3, annex 2), suggesting to review the amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)) concerning the introduction of a reference test device (RTD) for lifejackets, as adopted by resolution MSC.200(80), and agreed to include, in the biennial agenda of the DE Sub-Committee and the provisional agenda for DE 55, an unplanned output on "Revision of testing requirements for lifejacket RTDs", with a target completion year of 2012.

**Biennial agenda of the Sub-Committee and the provisional agenda for DE 55**

23.33 The Committee approved the Sub-Committee's revised biennial agenda, as set out in annex 20.

23.34 The Committee approved the provisional agenda for DE 55, as set out in annex 21.

**Urgent matters to be considered by MSC 89**

23.35 Noting that, due to the close proximity between DE 55 and MSC 89, only urgent matters emanating from DE 55 could be considered at its eighty-ninth session, in accordance with the Committees' Guidelines, the Committee agreed to the following urgent matters for consideration by MSC 89:

- .1 Making the provisions of MSC.1/Circ.1206/Rev.1 mandatory, including matters related to lifeboat release hooks (see also paragraphs 3.34 to 3.42);
- .2 Performance standards for recovery systems for all types of ships;
- .3 Supporting guidelines for cargo oil tank coating and corrosion protection; and
- .4 Amendments to resolution A.744(18).

***SUB-COMMITTEE ON STABILITY AND LOAD LINES AND ON FISHING VESSELS SAFETY (SLF)*****Amendments to Part B of the 2008 IS Code on towing and anchor operations**

23.36 The Committee considered document MSC 88/23/2 (Norway), proposing to develop unified stability criteria and operational guidance for vessels engaged in towing and anchor handling operations, for inclusion in Part B of the 2008 IS Code, and agreed to include, in the post-biennial agenda of the Committee, an output on "Development of amendments to Part B of the 2008 IS Code on towing and anchor operations", with a target completion year of 2014, assigning the SLF Sub-Committee as the coordinating organ, in co-operation with the DE Sub-Committee as necessary and if requested by the SLF Sub-Committee, and instructing SLF 53 to include the item in the provisional agenda for SLF 54.

**Guidelines for wing-in-ground craft**

23.37 The Committee recalled that, following consideration of document MSC 88/23/11 (Republic of Korea), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of guidelines for wing-in-ground craft", with two sessions needed to complete the work, assigning the DE Sub-Committee as the coordinating organ, in co-operation with the FP, COMSAR, NAV, SLF and STW Sub-Committees as necessary and if requested by the DE Sub-Committee (see also paragraph 23.30).

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**Biennial agenda of the Sub-Committee and the provisional agenda for SLF 53**

23.38 The Committee confirmed the Sub-Committee's biennial agenda, as set out in annex 20.

23.39 The Committee confirmed the provisional agenda for SLF 53, as set out in annex 21.

***SUB-COMMITTEE ON STANDARDS OF TRAINING AND WATCHKEEPING (STW)*****Outcome of the 2010 Manila Conference of Parties to the 1978 STCW Convention**

23.40 The Committee considered document MSC 88/23, providing information on the actions the Committee is requested to take in the context of the resolutions adopted by the 2010 Manila Conference of Parties to the 1978 STCW Convention and noted that:

- .1 in the context of resolution 8 (Development of guidelines to implement international standards of medical fitness for seafarers), the Committee was requested to develop guidelines to implement medical standards set out in the STCW Convention and Code and the Maritime Labour Convention, 2006 (MLC 2006), in co-operation with the International Labour Organization and the World Health Organization; and
- .2 in the context of resolution 9 (Revision of existing model courses published by the International Maritime Organization and development of new model courses), the Committee was requested to revise and update existing model courses and develop new model courses, which provide guidance on the implementation of the STCW Convention and Code.

23.41 In light of the foregoing, the Committee considered whether the actions listed in paragraph 5 of document MSC 88/23 should be addressed by the STW Sub-Committee, in particular in terms of preparation of guidance relating to senior electro-technical officer; preparation of guidelines for the implementation of the medical standards of the Manila Amendments; and preparation of model courses for the implementation of the Manila Amendments.

23.42 Taking into account the close proximity to STW 42, the Committee agreed to include, in the post-biennial agenda of the Committee, a new output on "Preparation of guidelines for the implementation of the medical standards of the Manila Amendments", with a target completion year of 2013, assigning the STW Sub-Committee as the coordinating organ and instructing STW 42 to include the item in the provisional agenda for STW 43, with a view to finalizing and forwarding to the Committee for adoption, the Guidelines for medical examination of seafarers being developed by the Joint IMO/ILO *Ad Hoc* Working Group on the Human Element (see paragraphs 16.6 to 16.9). In regard to the preparation of model courses for the implementation of the Manila Amendments, the STW Sub-Committee was instructed to consider this matter under its existing output on "Validation of model training courses".

23.43 With regard to the preparation of guidance relating to senior electro-technical officer (see paragraph 23.41), the Committee invited Member Governments and international organizations to submit a proposal for a relevant new output in accordance with the Committees' Guidelines.

**Guidelines for wing-in-ground craft**

23.44 The Committee recalled that, following consideration of document MSC 88/23/11 (Republic of Korea), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of guidelines for wing-in-ground craft", with two sessions needed to complete the work, assigning the DE Sub-Committee as the coordinating organ, in co-operation with the FP, COMSAR, NAV, SLF and STW Sub-Committees as necessary and if requested by the DE Sub-Committee (see also paragraph 23.30).

**Biennial agenda of the Sub-Committee and the provisional agenda for STW 42**

23.45 The Committee confirmed the Sub-Committee's biennial agenda, as set out in annex 20.

23.46 The Committee confirmed the provisional agenda for STW 42, as set out in annex 21.

**ENDORSEMENT OF UNPLANNED OUTPUTS**

23.47 In accordance with the relevant provisions of the Guidelines on the application of the Strategic Plan and the High-level Action Plan (resolution A.1013(26)), the Committee, having agreed to the Sub-Committees' biennial agendas and the provisional agendas for their forthcoming sessions (MSC 88/WP.11), as set out in annexes 20 and 21, respectively, invited the Council to endorse, for inclusion in the current High-level Action Plan, the following unplanned outputs agreed at the session:

- .1 development of Assembly resolution on World-Wide Met-Ocean Information and Warning Service (paragraph 23.20);
- .2 development of performance standards for inclinometers (paragraph 23.24); and
- .3 revision of testing requirements for lifejacket RTDs (paragraph 23.32).

**ACTIVITIES, PRIORITIES AND PLAN OF MEETING WEEKS OF THE COMMITTEES AND THEIR SUBSIDIARY BODIES FOR THE 2012-2013 BIENNIUM**

23.48 The Committee recalled that MSC 87 had endorsed the recommendation of the 2010 Chairmen's Meeting that the Committee Chairmen should submit their respective joint plan covering the activities, priorities and meetings of the Committees and their subsidiary bodies for the coming biennium at the end of the first year of the biennium, for consideration by the Committees with a view to inclusion in the Secretary-General's relevant budget proposals.

23.49 The Committee noted that C 104 had requested it to look into the possibility of reducing the number of days of its sessions, which could be achieved through improved planning, prioritization, workload management and implementation of the guidelines annexed to resolution A.1013(26), and report to the Council on the outcome.

23.50 The Committee was informed that, in pursuance of the above decisions, the MSC and MEPC Chairmen prepared document MSC 88/23/3, after having consulted the Chairmen of the sub-committees and the Secretariat, and was advised that the plan of meeting weeks for the two Committees and the sub-committees, including those of any safety and/or environment-related Conferences scheduled to be convened in the biennium 2012-2013, would have to be approved by the Council at C 106 in June 2011, based on the relevant budgetary proposals of the Secretary-General.

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23.51 In pursuance of the above decisions, the Committee considered document MSC 88/23/3 (MSC and MEPC Chairmen), and noted, in particular, that:

- .1 when preparing document MSC 88/23/3, the Chairmen sought the advice of the Chairmen of all the sub-committees on the number of sessions they would need for the 2012-2013 biennium, based on the sub-committees' present biennial agendas;
- .2 in conducting the exercise, the general policies outlined in resolution A.900(21) on Objectives of the Organization in the 2000s, as well as the financial implications of the proposals for the Organization's budget, were borne in mind; and
- .3 the proposed plan for meeting weeks anticipated to be needed in the 2012-2013 biennium, as set out in paragraph 9, is 4.5 weeks for three sessions of the MSC, 3 weeks for three sessions of the MEPC and 2 weeks for each sub-committee (with a grand total of 25.5 weeks).

23.52 The Committee approved the proposed plan of 25.5 meeting weeks of the MSC and the MEPC and their subsidiary bodies for the 2012-2013 biennium, as a basis for the preparation of the Secretary-General's relevant budget proposals.

23.53 In considering the request of C 104 (paragraph 23.49), the Committee agreed that, for budgeting purposes, the number of Committee meeting days for the coming biennium be eight days for each session. Notwithstanding this decision, the Committee decided to further consider the matter at MSC 89 when it would be in a better position to assess the workload for MSC 90 and MSC 91.

#### **STATUS OF PLANNED OUTPUTS FOR THE 2010-2011 BIENNIUM**

23.54 The Committee recalled that, at MSC 87, it had noted the progress made on the planned outputs in the High-level Action Plan and that the updated status report would be issued as part of the Committee's report (MSC 87/26/Add.3, annex 40). In this context, the Committee considered document MSC 88/23/4 (Secretariat) and, having noted that the status report is currently published as both a session document and as an annex to the Committee's final report, endorsed the recommendation of the Secretariat that, in the spirit of the efficiency sought by the Council, the status report only be produced as an annex to the Committee's report to avoid any unnecessary duplication of work.

23.55 Subsequently, the Committee invited the Council to note the Report on the status of planned outputs for the 2010-2011 biennium, as set out in annex 22, which includes the unplanned outputs approved at this session, pending their endorsement by the Council (see also paragraph 23.47).

#### **POST-BIENNIAL AGENDA OF THE COMMITTEE**

23.56 In the context of the Guidelines on the application of the Strategic Plan and the High-level Action Plan (resolution A.1013(26)), the Committee noted that it had been requested to establish and maintain a post-biennial agenda, using the format set out in the aforementioned Guidelines and that the Secretariat had prepared the Committee's post-biennial agenda based on the proposals made by the sub-committees at their last sessions, taking into account any new outputs agreed at this session (MSC 88/WP.11, annex 3).

23.57 The Committee, having noted that the updated post-biennial agenda would also be annexed to its report, in accordance with the aforementioned Guidelines, invited the Council to note the updated post-biennial agenda of the Maritime Safety Committee, as set out in annex 23.

#### **INTERSESSIONAL MEETINGS**

23.58 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 Committees' Guidelines, 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/confirmed, as appropriate, the following intersessional meetings:

- .1 the fifteenth meeting of the E&T Group, to meet from 6 to 15 April 2011;
- .2 the sixteenth meeting of the E&T Group, to meet directly after DSC 16, from 26 to 30 September 2011;
- .3 a meeting of the ESPH Working Group, to be held in 2011;
- .4 the DE Working Group on Lifeboat Release Hooks, to meet directly before DE 55, from 16 to 18 March 2011; and
- .5 the Expert Group on Formal Safety Assessment, to meet directly before MSC 89, on 9 and 10 May 2011,

and invited the Council to endorse the above decisions.

#### **SUBSTANTIVE ITEMS FOR INCLUSION IN THE COMMITTEE'S AGENDAS FOR THE NEXT TWO SESSIONS AND PROPOSED ARRANGEMENTS FOR MSC 89**

##### **Substantive items for inclusion in the agendas for MSC 89 and MSC 90**

23.59 The Committee agreed on the substantive items to be included in the agendas of its eighty-ninth and ninetieth sessions, as set out in document MSC 88/WP.7.

##### **Establishment of working and drafting groups during MSC 89**

23.60 Recalling the provisions of the Committees' Guidelines concerning the number of groups which may be established at a session, the Committee, taking into account decisions made under various agenda items, agreed that working groups on the following subjects should be established at the Committee's eighty-ninth session:

- .1 Maritime security and piracy; and
- .2 Goal-based standards and Formal Safety Assessment,

and also agreed to establish a drafting group on consideration and adoption of the amendments to mandatory instruments.

23.61 The Committee agreed that the Capacity-Building Needs Analysis Group (AGAG) may also need to be established.

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## **Duration and dates of the next two sessions**

23.62 The Committee noted that its eighty-ninth session has been tentatively scheduled to take place from 11 to 20 May 2011, and that its ninetieth session has been tentatively scheduled for May 2012.

## **24 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2011**

24.1 The Committee unanimously re-elected Mr. Neil Ferrer (Philippines) as Chairman, and Mr. Christian Breinholt (Denmark) as Vice-Chairman, for 2011.

## **25 ANY OTHER BUSINESS**

### **Global Integrated Shipping Information System (GISIS)**

25.1 The Committee recalled that the development of the Global Integrated Shipping Information System (GISIS) had been commenced by the Secretariat in July 2005 and that it allows public access to sets of data collected by the Secretariat, as well as the direct recording of data by Member States.

25.2 The Committee noted the information contained in document MSC 88/25 (Secretariat) that GISIS presently consists of 24 modules which had been developed or are in the process of 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, to generate reports and provide information about shipping to the public.

### **IMO/IACS co-operation on the IACS Quality System Certification Scheme (QSCS)**

25.3 The Committee recalled that MSC 87, noting the report of the Secretariat regarding the IMO/IACS co-operation on the IACS QSCS (MSC 87/25/1) and the information provided by IACS on the latest developments (MSC 87/25/2), in particular on the significant changes to the structure and manner of operation of the current IACS QSCS, had requested the Secretariat to continue reporting to the Committee with updated information.

25.4 The Committee also recalled that MSC 87, having considered the need for continued involvement of the IMO consultant/observer in the new IACS QSCS and the related funding arrangement, requested IACS to continue to provide financial contributions to the cost of the IMO observer during the current biennium and agreed that the need for the continued participation in the IACS QSCS either by the IMO observer or by the Secretariat with the full co-operation of IACS after the current biennium should be reviewed.

25.5 In further considering document MSC 88/25/1, the Committee noted information on the participation of the IMO representative in the work of the IACS QSCS Advisory Committee and the detailed updated information provided (MSC 88/25/1, annex).

25.6 The observer from IACS thanked the IMO observer/consultant for his work and for his report on IACS QSCS, in particular the comments and views expressed (MSC 88/25/1, annex, paragraphs 13 and 14). He informed the Committee that IACS members were aware of the views and concerns raised by the IMO observer and that the next IACS Council would discuss these matters.

25.7 The Committee requested the Secretariat to continue the arrangement for participation in the Scheme during the current biennium (2010-2011), with financial contributions provided by IACS, and report to MSC 90 with updated information on the IACS QSCS.

25.8 The Committee agreed to consider the need for continued participation in the IACS QSCS either by the IMO observer or by the Secretariat with the full co-operation of IACS at MSC 90.

#### **Information on development of the guidance for coastal States on how to respond to a maritime emergency involving radioactive materials**

25.9 The Committee recalled that MSC 87 had considered document MSC 87/24/12 (Secretariat), regarding an invitation to the IMO Secretariat to collaborate with the IAEA in the preparation of guidance for coastal States on how to respond to a maritime emergency involving radioactive materials, had agreed that the Secretariat should participate in the next IAEA meeting on this matter and had requested the Secretariat to prepare a document, for consideration at this session, on the latest developments and provide recommendations on how best to proceed.

25.10 In this context, the Committee, having considered document MSC 88/25/3 (Secretariat), noted that, in pursuance of the request of MSC 87, a member of the IMO Secretariat had participated in the IAEA meeting on the development of guidance for coastal States on how to respond to a maritime emergency involving radioactive materials, which was held from 27 September to 1 October 2010 at IAEA Headquarters in Vienna. The Committee noted that the report of the meeting was set out in the annex to document MSC 88/25/3, which included draft Guidance for coastal States on how to respond to a maritime incident or emergency involving the transport of radioactive materials, currently under development.

25.11 In this regard, the Committee noted that the draft Guidance only addressed incidents occurring on ships carrying class 7 dangerous goods (radioactive materials) in accordance with the IMDG Code and the Supplements related thereto. Therefore, it was not applicable to incidents involving propulsion reactors on nuclear powered ships and, in addition, issues related to security and the role of a coastal State as a stakeholder in the transport of radioactive materials were also not covered by the Guidance.

25.12 The Committee also noted that MEPC 61 had considered this matter, as reported in document MSC 88/2/3, and had concurred, in principle, with MSC 87's decision that the Secretariat should participate in this exercise and requested the Secretariat to ensure that both the safety and preparedness and response aspects, as they pertain to the protection of the marine environment, were addressed in carrying out this work.

25.13 Having recalled its decision, at MSC 87, to decide how best to proceed in the matter at this session, and taking into account the latest developments, the Committee agreed that the Secretariat should continue to participate in the work on this matter and keep the Committee informed accordingly, and invited MEPC 62 to note the above outcome.

#### **Conclusions and recommendations of the XVIIth IALA Conference**

25.14 The Committee noted with appreciation the information provided by IALA (MSC 88/25/4) on the eighteen conclusions and eighteen recommendations of the XVIIth IALA Conference "Aids to Navigation – A global approach, all waters, all risks, all solutions", held from 22 to 27 March 2010 at the Cape Town International Convention Centre, South Africa, co-hosted by Transnet, the South African National Ports Authority. The Conference was attended by 409 delegates, representing 59 countries and the exhibition during the Conference displayed the latest developments in aids to navigation technology and services.



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## **Amendment to the IALA Maritime Buoyage System Agreement, 1982**

25.15 The Committee considered document MSC 88/25/5 (IALA), recalling that MSC 44 had adopted a buoyage system attached to the resolution adopted by the IALA Buoyage Conference, Tokyo, 1980 and approved SN/Circ.105 (of 15 June 1981) in this respect. Subsequently, MSC 48 was informed that an IALA Maritime Buoyage System Agreement had meanwhile been concluded (on 15 April 1982) and that 56 Aids to Navigation and Lighthouse Authorities had become Parties to the Agreement, which was brought to the attention of all Member Governments by SN/Circ.120 (of 8 May 1984).

25.16 IALA further advised that at its XVIIth Conference, and its concomitant General Assembly, held in Cape Town from 22 to 27 March 2010, it had adopted a Revised Maritime Buoyage System, as an amendment to the annex of the above Agreement. In accordance with Article VI of the IALA Maritime Buoyage System Agreement, a certified true copy of the revised annex to the Agreement was transmitted to the Secretary-General of IMO with a request for action, as appropriate, and circulation to all Member Governments.

25.17 The Committee considered the proposed draft SN circular informing Member Governments of the adoption of the new revised maritime buoyage system and encouraging the Aids to Navigation and Lighthouse Authorities or the national Authorities concerned, to sign the Agreement if they were not already Parties.

25.18 The Committee, recognizing the full support of Member Governments, adopted the new revised IALA Maritime Buoyage System and consequently approved SN.1/Circ.297 on the revised IALA Maritime Buoyage System and requested the Secretariat to circulate it as soon as possible.

### **Operating anomalies identified within ECDIS**

25.19 The Committee considered document MSC 88/25/6 (Japan, Norway, United Kingdom, ICS and IFSMA) highlighting issues that had been identified within ECDIS, which were affecting the operational performance of some ECDIS systems. Over the course of the last 9 months, two NAVAREA warnings had been issued to alert mariners to anomalies in the operation of some ECDIS systems, which related to display and alarm behaviour, in particular, in system configurations. The anomalies were discovered by "chance" inspection of ENCs within a small number of ECDIS systems and it was considered possible that other anomalies remained to be discovered. The existence of such anomalies was not surprising, given that ECDIS was the first complex, safety related, computer based navigational system. In other transport domains, it had been recognized that the testing of complex systems and equipment, by itself, could not be comprehensive enough to ensure that software errors which could affect the operational integrity were eliminated. It was likely that similar issues would arise with new complex systems in future. It was therefore suggested that Administrations or another designated body or bodies should seek to collect, investigate and disseminate information about ECDIS anomalies and:

- .1 encourage seafarers to provide reports on such anomalies, with sufficient detail on the ECDIS equipment and ENC, to allow analysis;
- .2 treat the identity of the reporter as confidential;
- .3 agree to share information with other IMO Members on request; and
- .4 issue alerts to mariners where such anomalies might affect safety of navigation.

25.20 The IHO observer, in supporting the document, stated that this was an important matter concerning the safety of navigation and, in particular, the fact that some ECDIS equipment in service at sea might not be performing optimally. The IHO had been concerned for some time that there was no specific obligation on ship operators to keep up to date the software for sophisticated computer-based systems, such as ECDIS. SN.1/Circ.266/Rev.1 was of relevance, referring to the "Maintenance of ECDIS software" which had been approved earlier during the current session when considering the NAV 56 report. When IMO had recognized Archipelagic Sea Lanes, Particularly Sensitive Sea Areas and the Emergency Wreck Marking Buoy, IHO had quickly introduced new symbology and ENC encoding rules to enable these features to be displayed in ECDIS. However, while Hydrographic Offices around the world were now encoding these features in their ENCs, ECDIS, the software of which had not been updated, would not display these features optimally, and in some cases not at all, because there was no obligation on ship operators to maintain the software by installing the necessary updated symbols presentation library. Similarly, now that it had become apparent that some ECDIS manufacturers had omitted to implement the requirement to raise an alarm or indication when a vessel approached a land area shown on a small scale chart, there appeared to be no obligatory mechanism to ensure that any offending ECDIS software was brought up to date through a software upgrade or patch. The IHO observer further stated that IHO stood ready to do all it could to alleviate any problems with ECDIS as soon as they were discovered, and especially those related to the production of ENCs by its Member State hydrographic offices. Whenever there had been data encoding issues, it had reacted quickly and effectively. The IHO was therefore calling a meeting of interested parties in early 2011 to raise awareness of the problems recognized to exist in some ECDIS software and their causes to try to identify some short-term remedies. Expected participants would include representatives from ECDIS manufacturers, type testing authorities, Administrations, IHO and IMO. However, this meeting was unlikely to identify a long-term solution. IHO considered it to be unrealistic to expect that sophisticated software-based equipment, such as ECDIS, could be installed in ships without any upgrade during its lifetime.

25.21 A number of delegations, including an observer, also spoke on the issue and were of the view that this was an important and urgent matter and it was imperative that these problems should be brought to the attention of all concerned as early as possible.

25.22 The Committee endorsed the proposal by Japan, Norway, the United Kingdom, ICS and IFSMA and, having considered document MSC 88/WP.10, approved MSC.1/Circ.1391 on Operating anomalies identified within ECDIS.

### **Outcome of the First International Meeting of Coast Guard Organizations**

25.23 The Committee noted information provided by Argentina (MSC 88/INF.17) on the outcome of the "First International Meeting of Coast Guard Organizations" held on 29 June 2010 in Buenos Aires, Argentina within the framework of the celebrations of Prefectura Naval Argentina Bicentennial.

### **Expression of appreciation**

25.24 The Committee expressed appreciation to the following delegates and members of the Secretariat, 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:

- Mr. John Bainbridge (ITF) (on retirement);
- Mr. Richard Day (Canada) (on retirement);
- Mr. Eduardo Hernández Martín (Secretariat) (on retirement);
- Mr. Javier Llorens (Secretariat) (on retirement);
- Mr. Miguel Palomares (Secretariat) (on retirement);
- Dr. Peter Swift (INTERTANKO) (on retirement);
- Mr. Malamine Thiam (Secretariat) (on retirement); and
- Mr. Santiago Villalba (Argentina) (on transfer).

### **Expressions of condolence**

25.25 The Committee noted, with great sadness, the passing away of Mr. Per Eriksson of Sweden, who served the Committee for many years, first as Vice-Chairman and then as Chairman and of Captain Gregorio Oca, long-standing chairman of the Associated Marine Officers' and Seamen's Union of the Philippines.

25.26 The Committee was also deeply saddened to hear of the passing away of other delegates and former IMO Secretariat staff, including Ms. Lindy Johnson of the United States, a great supporter of IMO's environmental objectives; Mr. John Wren of the United Kingdom, who led his country's delegation to the Legal Committee for many years; Miss Claire Le Gendre of France, who equally formed part of her country's delegation to the Legal Committee for many years; and Mr. Tom Busha, who retired from the Secretariat in 1986 as the Senior Deputy Director in charge of the Legal Office.

25.27 The Committee appreciated their contribution to the work of the Organization and requested the delegations of France, the Philippines, Sweden, the United States and the United Kingdom to convey the Committee's sincere sympathy to their families, friends and colleagues.

(The annexes will be issued as addenda to this document)

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