



MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
49th session  
Agenda item 22

MEPC 49/22  
8 August 2003  
Original: ENGLISH

**REPORT OF THE MARINE ENVIRONMENT PROTECTION COMMITTEE  
ON ITS FORTY-NINTH SESSION**

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## 1 INTRODUCTION

1.1 The forty-ninth session of the Marine Environment Protection Committee was held at IMO Headquarters from 14 to 18 July 2003 under the chairmanship of Mr. A. Chrysostomou (Cyprus).

1.2 The session was attended by delegations from:

ALGERIA	JAPAN
ANTIGUA AND BARBUDA	KUWAIT
ARGENTINA	LATVIA
AUSTRALIA	LEBANON
BAHAMAS	LIBERIA
BANGLADESH	LITHUANIA
BARBADOS	LUXEMBURG
BELGIUM	MALAYSIA
BELIZE	MALTA
BOLIVIA	MARSHALL ISLANDS
BRAZIL	MEXICO
CANADA	MONACO
CHILE	NAMIBIA
CHINA	NETHERLANDS
COLOMBIA	NEW ZEALAND
CÔTE D'IVOIRE	NIGERIA
CROATIA	NORWAY
CUBA	OMAN
CYPRUS	PANAMA
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	PARAGUAY
DENMARK	PERU
ECUADOR	PHILIPPINES
EGYPT	POLAND
ESTONIA	PORTUGAL
FINLAND	QATAR
FRANCE	REPUBLIC OF KOREA
GABON	ROMANIA
GERMANY	RUSSIAN FEDERATION
GHANA	SAINT VINCENT AND THE GRENADINES
GREECE	SAUDI ARABIA
GUATEMALA	SINGAPORE
HONDURAS	SLOVENIA
ICELAND	SOUTH AFRICA
INDIA	SPAIN
INDONESIA	SUDAN
IRAN (ISLAMIC REPUBLIC OF)	SWEDEN
IRELAND	SWITZERLAND
ITALY	SYRIAN ARAB REPUBLIC
JAMAICA	THAILAND

TRINIDAD AND TOBAGO  
TUNISIA  
TURKEY  
UKRAINE

UNITED KINGDOM  
UNITED STATES  
URUGUAY  
VENEZUELA

by representatives from the following Associate Members of IMO:

HONG KONG, CHINA  
FAROE ISLANDS

by representatives from the following United Nations and Specialized Agencies:

UNITED NATIONS (UN)  
UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)  
INTERNATIONAL LABOUR ORGANIZATION (ILO)  
UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE  
(UNFCCC)

by observers from the following intergovernmental organizations:

EUROPEAN COMMISSION (EC)  
ARAB FEDERATION OF SHIPPING (AFS)  
REGIONAL ORGANIZATION FOR THE PROTECTION OF THE MARINE  
ENVIRONMENT (ROPME)  
PORT MANAGEMENT ASSOCIATION OF EASTERN AND SOUTHERN AFRICA  
(PMAESA)  
SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME (SPREP)

and by observers from the following non-governmental organizations:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)  
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)  
INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)  
INTERNATIONAL NAVIGATION ASSOCIATION (PIANC)  
BIMCO  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
EUROPEAN CHEMICAL INDUSTRY COUNCIL (CEFIC)  
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)  
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)  
FRIENDS OF THE EARTH INTERNATIONAL (FOEI)  
INTERNATIONAL ASSOCIATION OF THE INSTITUTES OF NAVIGATION (IAIN)  
INTERNATIONAL ASSOCIATION OF PRODUCERS OF INSURANCE AND  
REINSURANCE (BIPAR)  
INTERNATIONAL COUNCIL OF MARINE INDUSTRY ASSOCIATIONS (ICOMIA)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL ASSOCIATION OF OIL AND GAS PRODUCERS (OGP)  
ASSOCIATION OF EUROPEAN SHIPBUILDERS AND SHIPREPAIRERS (AWES)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)  
INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION LIMITED  
(ITOPF)

INTERNATIONAL UNION FOR CONSERVATION OF NATURE AND NATURAL RESOURCES (IUCN)  
SOCIETY OF INTERNATIONAL GAS TANKER AND TERMINAL OPERATORS LTD (SIGTTO)  
INTERNATIONAL LIFEBOAT FEDERATION (ILF)  
INTERNATIONAL ROAD TRANSPORT UNION (IRU)  
INTERNATIONAL BAR ASSOCIATION (IBA)  
GREENPEACE INTERNATIONAL  
INTERNATIONAL COUNCIL OF CRUISE LINES (ICCL)  
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS (INTERCARGO)  
WORLD WIDE FUND FOR NATURE (WWF)  
ASSOCIATION OF EUROPEAN MANUFACTURERS OF INTERNAL COMBUSTION ENGINES (EUROMOT)  
INTERNATIONAL PETROLEUM INDUSTRY ENVIRONMENTAL CONSERVATION ASSOCIATION (IPIECA)  
THE INSTITUTE OF MARINE ENGINEERING, SCIENCE AND TECHNOLOGY (IMarEST)  
INTERNATIONAL SHIP MANAGERS' ASSOCIATION (ISMA)  
INTERNATIONAL PARCEL TANKERS ASSOCIATION (IPTA)  
INTERNATIONAL SAILING FEDERATION (ISAF)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL HARBOUR MASTERS' ASSOCIATION (IHMA)  
INTERNATIONAL BULK TERMINALS ASSOCIATION (IBTA)  
INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)  
ROYAL INSTITUTION OF NAVAL ARCHITECTS (RINA)  
INTERNATIONAL MARINE TRANSIT ASSOCIATION/INTERFERRY (IMTA-Interferry)

1.3 The Chairman of the Technical Co-operation Committee (TCC), Captain M.U. Ahmed (Bangladesh); the Chairman of the Sub-Committee on Bulk Liquids and Gases (BLG), Mr. Z. Alam (Singapore); the Chairman of the Sub-Committee on Fire Protection (FP), Mr. K. Yoshida (Japan); the Chairman of the Sub-Committee on Flag State Implementation (FSI), Mr. K.T. Lim (Republic of Korea) and the Chairman of the Sub-Committee on Ship Design and Equipment (DE), Mr. I.M. Ponomarev (Russian Federation) were also present.

#### **The Secretary-General's opening remarks**

1.4 The Secretary-General briefly reviewed how IMO and the MEPC had dealt with the numerous environmental issues since its inception and stated that, during the past decade, the MEPC had been especially productive and had raised international standards to prevent marine pollution from ships and these efforts had been well recognized within the United Nations system and by the Industry as a whole.

1.5 The Secretary-General referred to several large-scale environmental programmes handled successfully by the Organization over the last decade thanks to the support of the Global Environment Facility, the World Bank and the UNDP. Those programmes included the Regional Project in Environmental Management for the Seas of East Asia, known as PEMSEA; the Global Project for Ballast Water Management, known as GloBallast; and the Marine Electronic Highway Project for the Malacca and Singapore Straits.

1.6 The Secretary-General also mentioned the contributions made by Vessel Traffic Systems to the protection of the marine environment, including the system established by the Turkish Government to cover the Strait of Istanbul, the Strait of Çanakkale and the Marmara Sea.

1.7 Referring to the agenda of MEPC 49, the Secretary-General noted that, under agenda item 16, the Committee would consider a joint submission by Member States of the European Union and the European Commission proposing amendments to the MARPOL Convention, which contained a number of new measures to further protect the marine environment, including acceleration of the phasing-out of single-hull tankers.

1.8 The Secretary-General recalled that, following the sinking of the tanker **Prestige** off the west coast of Spain in November 2002 and soon after the magnitude of its impact on the marine environment was enunciated by the coastal States, he embarked on a number of activities to ensure that IMO could respond promptly to any action that might be needed. Amongst other matters, he visited the then President of the European Union Transport Ministers' Council and the European Commission Transport Commissioner and simultaneously kept an open line of communication with the flag and coastal States involved, as well as with the classification society concerned. His efforts were also directed towards convincing all parties that any regulatory changes which might be considered for introduction should be brought to IMO where they would be examined promptly and action on them would be taken expeditiously within the procedures stipulated in the MARPOL Convention.

1.9 The Secretary-General expressed his hope that the Committee would take fully into account the outcome of the Impact Study carried out by the Expert Group he had reactivated and that the Committee's decisions would be realistic, pragmatic and well-balanced, so that they would not cause or lead to any negative repercussions which might:

- damage the concept of universality in the regulation of shipping;
- discriminate against other regions of the world;
- have negative repercussions on the supply of oil;
- undermine the authority of IMO;
- confuse the industry as to which regulations prevail; and
- permit other regions to create their own regimes if in disagreement with IMO.

1.10 The Secretary-General then referred to the work to finalize the draft Convention for Ballast Water Management. While noting this was a complex and challenging task, he felt encouraged by the achievements of the Intersessional Working Group, which had significantly reduced the number of options for the proposed measures and hoped that the Committee would be able to prepare a clean single text of the Convention for circulation to Member Governments for consideration by the Diplomatic Conference in early 2004.

1.11 With regard to ship recycling, the Secretary-General highlighted IMO's role in reducing the safety and environmental risks in this regard and hoped that this session of the Committee would finalize the draft IMO Guidelines on Ship Recycling for adoption by the Assembly. He noted IMO's limitations in dealing with the problem and the importance of co-operation with ILO and the Secretariat of the Basel Convention.



1.12 In respect of prevention of air pollution from ships, the Secretary-General recalled that, under the Kyoto Protocol of the United Nations Framework Convention on Climate Change, IMO was especially requested to deal with greenhouse gas emissions from ships. He stressed IMO's responsibility to address this global environmental problem and the need for a draft Assembly resolution in this regard.

1.13 The Secretary-General noted the other important items on the Committee's agenda, including:

- Particularly Sensitive Sea Areas;
- approval of Guidelines under the AFS Convention;
- Terms of Reference for the agreed OPRC/HNS Technical Group;
- approval of the revised text of MARPOL Annex I;
- consideration of the proposed new categorization systems under the revised text of MARPOL Annex II; and
- consideration of the report of the Joint MSC/MEPC/TCC Working Group on the IMO Model Audit Scheme.

1.14 Finally, the Secretary-General wished the Committee a successful session under the new Chairman, Mr. Andreas Chrysostomou.

### **Credentials**

1.15 The Committee noted the report of the Secretary-General that credentials of the delegations were in due and proper order.

### **Adoption of the agenda**

1.16 The agenda for the session, as adopted by the Committee, together with the list of documents considered under each item, is shown at annex 1.

## **2 HARMFUL AQUATIC ORGANISMS IN BALLAST WATER**

### **Introduction**

2.1 The Committee recalled that the issue of harmful aquatic organisms in ballast water was first raised at IMO in 1988 and has been a key issue on its agenda since MEPC 35 in 1994. Guidelines for preventing the introduction of harmful aquatic organisms in ballast water and sediment discharges were developed in the 1990s, the most recent being those contained in resolution A.868(20) adopted in 1997. In 2002, WSSD agreed that measures to address invasive alien species in ballast water should be accelerated and IMO was urged to finalize the draft ballast water convention (paragraph 34(b) of the WSSD Plan of Implementation). In November 2001, at the recommendation of the Committee, the Council approved, in principle, the convening of a Diplomatic Conference in 2003, subject to the Committee's confirmation in 2002 of satisfactory progress in the development of the draft Convention. At MEPC 48 in October 2002, the progress was reviewed again and the Committee concluded that many

substantive issues had yet to be resolved. It, therefore, recommended to the Council to postpone the Diplomatic Conference on Ballast Water Management to early 2004 and to approve the holding of a second Intersessional Meeting of the Ballast Water Working Group in spring 2003, at no cost to the Organization. In November 2002, the Council approved these arrangements (C 89/D, paragraph 6.2).

2.2 The Committee noted that the organization of a Conference in February 2004, including the six-month period for circulation of the basic conference documents, meant that the Committee had only this session to agree on ballast water management standards and finalize the text of the draft Convention. An article-by-article review should therefore be conducted this week. The Committee could then advise the 22nd extraordinary session of the Council, in November 2003, to hold the Diplomatic Conference in February 2004, as planned.

2.3 MEPC 47 agreed that Ballast Water Exchange should be regarded as one of the tools to control harmful aquatic organisms in ballast water, which can and should be applied if certain conditions are met (MEPC 47/20, paragraph 2.12.3). The key issue then remained for the development of effective ballast water treatment methods and thereby establishing standards in this regard.

### **Report of the Intersessional Meeting of the Ballast Water Working Group**

2.4 The Committee noted that the Intersessional Meeting of the Ballast Water Working Group was held from 3 to 7 March 2003 and was instructed to:

- .1 further refine the text of the draft Convention concerning the specific issues, which MEPC 48 had identified;
- .2 further develop the guidelines in support of the draft Convention; and
- .3 submit a written report to this session (MEPC 49/2/3, paragraph 1.6).

2.5 The report of the Working Group showed the progress achieved on the draft Convention (MEPC 49/2/3). Where no agreement could be reached, options had been formulated for consideration by this session. This resulted in no less than 45 submissions for this agenda item.

2.6 The Chairman invited the Committee to give general comments on the report of the Working Group, while recalling the agreement at MEPC 47 that it was essential that the draft Convention should address all the relevant issues so that it would be accepted by Member States, enter into force, and contribute to the control of harmful aquatic organisms in ballast water (MEPC 47/20, paragraph 2.12).

2.7 The delegation of Venezuela introduced document MEPC 49/2/1 by Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Honduras, Peru, Uruguay and Venezuela, in which a specific logical structure for the draft Convention was proposed. Although this document had been available during the Intersessional Meeting of the Ballast Water Working Group, its report showed that no consensus had yet been achieved on a logical structure. As set out in the annex to document MEPC 49/2/1, the objective of the Convention, all definitions and the basic principles should be contained in the articles of the Convention, whereas all technical and administrative provisions should be in the annex thereto. Once this structure had been agreed, most of the currently available texts could be adapted in the new setting.

2.8 Many delegations complimented the Working Group on the substantial progress made at the Intersessional Meeting and noted that it had managed to solve several outstanding issues. These delegations supported the thrust of the draft Convention as currently formulated. Nonetheless, several key issues still needed to be resolved at this session.

2.9 The Committee also noted the following views expressed during the general discussion on the report of the Working Group:

- .1 the Convention should contain practical conclusions. Early implementation of the Convention required simple, effective, practicable and achievable standards;
- .2 the Convention should cater for Ballast Water Exchange, as this was currently the only available technique;
- .3 the lack of scientific precision and support made it difficult to set specific standards at this point in time;
- .4 short voyages were not yet properly addressed in the current text;
- .5 the States surrounding the Persian Gulf urgently needed the completion of the Convention, as there is grave concern about recent incidences of fish mortalities in this area;
- .6 the World Summit on Sustainable Development urged IMO to finalize the Ballast Water Convention and if IMO could not develop the Convention, other organizations would act to deal with the problems of invasive species;
- .7 the concept of “special areas” should be incorporated in the Convention;
- .8 many issues still to be resolved, are of a political and not a technical nature and should therefore be resolved in plenary rather than in the Working Group. As the Ballast Water Working Group was conducted in English only and some delegations were small in size, the opportunity should be retained to discuss certain issues in plenary;
- .9 some States were already preparing for national legislation on ballast water management to implement the Convention as soon as possible;
- .10 perfect solutions might be the enemy of good solutions;
- .11 it would be important to minimize multiple options in the text at this session; and
- .12 the text of regulation C-1 and C-2 as contained in document MEPC 48/21, annex 2 (option 1) should be re-introduced for consideration.

2.10 The Committee agreed to take the report of the Working Group (MEPC 49/2/3) as the basis for further discussion and the article-by-article review, whilst noting that a number of the issues identified in the report still had to be resolved by the Committee.

## **Article-by-article review of the draft Convention**

2.11 The Committee noted all submissions to this session commenting on the draft Convention and carried out an article-by-article review. In so doing, specific comments were made as reflected in paragraphs 2.12 to 2.52 below.

### **Preamble**

2.12 The delegations of Argentina and Venezuela proposed that the expression “marine environment” in the first paragraph of the preamble should be changed into “aquatic environment” thereby giving it a broader meaning.

2.13 The Committee agreed to instruct the Working Group to review this proposal in more detail.

2.14 On the proposal by Italy, the Committee agreed to add the following phrase to the second paragraph of the preamble: *“as well as decision VI/23 of the 2002 Conference of the Parties (COP 6) to the CBD on alien species that threaten ecosystems, habitats and species, including guiding principles on invasive species,”*.

### **Article 1 Definitions**

2.15 The delegation of Japan proposed to delete the reference to “fixed platforms” in the definition of “ships” (article 1.9), as these structures did not conduct ballast water management, once fixed on their location.

2.16 The Committee instructed the Working Group to review this proposal and its repercussions for other provisions, e.g., regulation F-1.

### **Article 2.3 Right of port States to require more stringent measures**

2.17 The Committee considered the right in article 2.3 of port States to require more stringent measures concerning Ballast Water Management consistent with international law, and in particular, whether or not this right should be subject to approval from IMO. This article was currently kept in brackets.

2.18 The delegation of Brazil accepted both sentences of this article (MEPC 49/2/17). The delegation of the United States only accepted the first sentence (MEPC 49/2/18), whereas the delegation of Japan could only accept the second sentence, as the first sentence was not consistent with article 211.6 of the United Nations Convention on the Law of the Sea (MEPC 49/2/26). This last view was supported by ICS (MEPC 49/2/22).

2.19 Several delegations supported the position of Japan, while some delegations supported the position by the United States. The delegation of ICS suggested replacing in the second sentence “seek approval from the organization” by “notification to the Organization”.

2.20 The Committee agreed to retain the first sentence of article 2.3 for further review and to instruct the Working Group to further develop an alternative text for the second sentence along the lines suggested by ICS.

## **New Article 2.7**

2.21 On the proposal by the United States (MEPC 49/2/18), the Committee agreed to include an additional article 2.7, which would replace the current text of regulation E-3.2:

*“Parties should ensure that Ballast Water Management practices used to comply with this Convention do not cause greater harm than they prevent.”*

## **Article 3 Application**

2.22 The delegation of Germany expressed the view that the provisions in article 3.2(b), (c), and (d) were too general, too vague, whereas the representative of the United Nations regarded these as too permissive. The delegation of Japan expressed the view that it was unclear to which vessels these provisions would apply and suggested to consider this text in relation to article 2.6.

2.23 The Committee instructed the Working Group to review the articles 3.2(b), (c), and (d) in more detail.

## **Article 4 Control of the transfer of harmful aquatic organisms and pathogens through ships’ ballast water and sediments**

2.24 The delegation of South Africa expressed the view that article 4 adequately addressed the control on board ships but that the control arrangements for coastal States should be included as a basis for the regulations in section C, possibly as a separate paragraph.

2.25 The Committee instructed the Working Group to develop language in this regard.

## **Article 4(bis) “Acceptable ballast water”**

2.26 The delegation of Brazil expressed the view that the concept of “Acceptable Ballast Water” was a key concept for conducting ballast water management and should be incorporated in the Convention, while technological developments were still unclear. The text of article 4(bis) had been amended at the Intersessional Meeting of the Ballast Water Working Group, as shown in MEPC 49/2/3, in an attempt to accommodate diverging positions and with a view to reaching consensus. The concept should be accompanied by “application criteria for the acceptance of ballast water”, including risk assessment, as proposed in article 4X, whereas the proposed article 4Y concerning “global and regional criteria and standards” would provide the basis for establishing basic standards under Tier One and more strict standards in designated areas under Tier Two. Subsequently, these criteria and standards should be further elaborated in a new section D of the regulations giving “Global Requirements for Ballast Water” (MEPC 49/2/17).

2.27 The Committee noted the conclusion of the Intersessional Meeting of the Ballast Water Working Group not to include the proposals for articles 4X and 4Y, and, subsequently, that the delegation of Brazil entered a reservation on this conclusion.

2.28 Many delegations indicated not to support the inclusion of the concept of “Acceptable Ballast Water”:

- .1 the current structure of the draft Convention was logical;
- .2 the proposed concept implied a reversal of the burden of proof to port States and did not take account of the “Guidelines on application of the precautionary

approach in the context of specific IMO activities”, which had been accepted in resolution MEPC.67(37);

- .3 the concept was impracticable, e.g., it required sampling of every ship in the port of discharge because in the absence of performance standards, the contents of ballast water would be unknown; and
- .4 ballast water that met the standards agreed under the Convention should be regarded as acceptable ballast water.

2.29 Consequently, the Committee agreed not to include the articles 4(*bis*), 4X and 4Y as proposed by Brazil.

#### **Article 7 Survey and certification**

2.30 The Committee agreed to limit the survey and certification requirements by a coastal State and a flag administration in case of additional measures being taken under section C of the Regulations by removing the brackets around article 7.2, subject to editorial improvement by the Working Group.

#### **Article 9 Inspection of ships**

2.31 With regard to inspection of ships, the Committee considered the extent to which sampling of ballast water might be part of routine and/or detailed inspections in ports when determining whether or not a ship was in compliance with the Convention.

2.32 The Committee instructed the Working Group to review the current texts held in brackets, as well as the proposal by Japan to include a separate paragraph concerning sampling for the purpose of scientific and technical research and monitoring in accordance with article 6 (MEPC 49/2/29).

#### **Article 11 Notification of control actions**

2.33 With regard to notification of control actions, the delegation of Marshall Islands expressed the view that the master of a ship should on all occasions be notified, if inspections had indicated a violation of the Convention. In the event of any action being taken, firstly the administration of the ship should be informed in writing, and secondly the diplomatic representative of the flag State in order to prevent that the information might not get through to the administration in time.

2.34 The Committee agreed to adapt article 11, paragraph 2, in light of this proposal and to instruct the Working Group to review paragraph 1 in more detail.

#### **Article 13 Regional co-operation**

2.35 The delegation of Italy proposed to include the following phrase in article 13 concerning regional co-operation: “with special regards to those Parties bordering enclosed and semi-enclosed seas” (MEPC 49/2/10).

2.36 The observer from FOEI expressed the view that an emphasis on enclosed and semi-enclosed seas might deviate from the obligation to co-operation for the purpose of protecting the high seas.

2.37 The Committee instructed the Working Group to find the required balance on this issue.

#### **Article 19 Amendments**

2.38 The Committee noted that the Working Group had developed a text for article 19 (Amendments) based on proposals by Brazil and Japan and on article 16 of the AFS Convention and put it in brackets for consideration by the Committee. Brazil proposed in MEPC 49/2/17 further refinements to this text, which were linked to its proposal for an additional article 4Z concerning amendments to the Annex of the Convention.

2.39 The Committee instructed the Working Group to review article 19 in conjunction with the proposed article 4Z.

#### **Regulation A-1 Definitions**

2.40 In light of its earlier decision not to include article 4(*bis*), the Committee noted that a definition of “Acceptable Ballast Water”, as proposed by Brazil, would no longer be relevant.

2.41 The Committee instructed the Working Group to review the bracketed texts in regulation A-1 and the proposals by the United States for deletion of regulation A-1.1 and A-1.2 in relation to its proposal for regulation B-3 concerning ballast water management for ships in accordance with their ballast water capacities (MEPC 49/2/5).

#### **Regulation A-2 General applicability**

2.42 At a proposal by the United States, the Committee instructed the Working Group to edit regulation A-2, as necessary.

#### **Regulation A-3 Exceptions**

2.43 The observer from ICS proposed to include a new first paragraph under regulation A-3 excluding the uptake and discharge of ballast water on the high seas, i.e., outside territorial waters or EEZs from control, on the understanding that the main concern of the Convention was the uptake and discharge of ballast water in coastal waters (MEPC 49/2/22). The delegations of Japan and Singapore supported these proposals, whereas the delegation of the United States rejected these proposals.

2.44 On a proposal by Liberia, the Committee agreed to instruct the Working Group to clarify the text of regulation A-3.4.

#### **Regulation A-4 Conditions to permit the discharge of unmanaged Ballast Water**

2.45 The Committee noted that the Working Group had developed regulation A-4, as reported in MEPC 49/2/3, paragraphs 2.39 and 2.40, but that no agreement could yet be reached as to whether the discharge of unmanaged ballast water should be subject to specific limitations. It was also noted that regulation A-4 was closely connected with any decision concerning article 4(*bis*) on Acceptable Ballast Water.

2.46 The delegation of the United States in MEPC 49/2/18 proposed to delete regulation A-4 altogether, as this provision was against the objective of the Convention, while the delegations of

Brazil and Norway proposed to keep regulation A-4, albeit with amendments (MEPC 49/2/17 and MEPC 49/2/20).

2.47 The Committee agreed to retain this regulation, to review the linkage with section D of the regulations at a later stage, and to instruct the Working Group to review the text in light of the concerns expressed by the United States.

#### **Regulation A-5      Equivalent compliance**

2.48 The Committee noted that the Working Group had developed regulation A-5 on equivalent compliance for pleasure yachts, but that no full agreement could yet be reached.

2.49 The observer from ISAF provided further clarifications and proposed deletion of the phrase “not engaged in trade”, as well as Guidelines concerning Ballast Water Management aimed at recreational vessels (MEPC 49/2/7). The observer noted further that this regulation might also need to include lifeboats and/or search and rescue vessels, as these vessels sometimes depended on ballast water.

2.50 The Committee instructed the Working Group to consider a definition of “yachts” and which other categories of vessels should be included in this regulation (e.g., lifeboats and/or search and rescue vessels).

#### **Regulation B-1      Ballast Water Management Plan**

2.51 The Committee considered editorial improvements proposed by ICS on regulation B-1, and instructed the Working Group to consider these proposals, as well as the issue of possible safety problems associated with Ballast Water Exchange, as raised by the observer from IACS (MEPC 48/21, paragraph 2.23 and 2.24.)

2.52 Due to lack of time at this stage of the proceedings, the Committee instructed the Working Group to review, as necessary, all proposals made for the remainder of the regulations in the Annex to the draft Convention, as well as the Appendices.

#### **Report of the Ballast Water Working Group**

2.53 In presenting the report of the Ballast Water Working Group (MEPC 49/WP.16 and MEPC 49/WP.16/Add.1), the Chairman of the Working Group, Mr. Mike Hunter (United Kingdom), drew the attention of the Committee to the substantial progress achieved at this session and to the points reflected in paragraphs 2.54 to 2.57 below.

#### ***Provisions reviewed by plenary and referred to the Working Group***

2.54 The Working Group:

- .1 deleted the word “fixed” in conjunction with platforms (article 1.9);
- .2 retained “marine” environment in the Preamble;
- .3 developed additional text for article 4 on a proposal by South Africa;
- .4 confirmed the text of article 7.2;



- .5 reviewed and simplified article 9 by omitting references to sampling in article 9.2;
- .6 retained the text “when practicable” in article 11;
- .7 reviewed and confirmed the text of article 19;
- .8 removed definitions from regulation A-1 and made conforming changes;
- .9 made editorial improvements to regulation A-2;
- .10 clarified regulation A-3;
- .11 revised text for “pleasure and search and rescue craft” in regulation A-5;
- .12 developed new text for article 3.2(b), (c) and (d), without brackets and clarified the intent;
- .13 included new text on “enclosed seas” in article 13 at the proposal by Italy;
- .14 revised “voyage exceptions” in regulation A-4 to address the concerns of the United States;
- .15 deleted some text from regulation B-1 to ensure clarity and prepared a recommendation concerning safety aspects related to Ballast Water Exchange as per document MEPC 49/2/11 by IACS; and
- .16 developed new text in article 2.3 with retention of the brackets.

***Provisions reviewed by plenary, not referred to the Working Group, but which were amended***

2.55 The Working Group:

- .1 relocated regulation E-3.2 as a new article 2.7 as proposed by the United States;
- .2 prepared a new article 2.9 as proposed by WWF and IUCN concerning co-operation to protect beyond areas of national jurisdiction; and
- .3 added some definitions to regulation A-1 relating to changes made elsewhere.

***Provisions not reviewed by plenary***

2.56 The Working Group:

- .1 made editorial changes to regulation B-2 (Ballast Water Record Book), which was already completed;
- .2 made conforming changes to regulation B-4 (Sediment Management for Ships), which was already completed;
- .3 made editorial changes to regulation B-5 (Duties of Officers and Crew), which was already completed;

- .4 moved regulation C-2.3 (Warnings Concerning Ballast Water up-take, etc.) to article 2.8;
- .5 confirmed regulation C-3 (Communication of Information), which was already completed;
- .6 deleted section D, as it was emptied in the process and no longer required;
- .7 made minor editorial changes in regulation F-1.1, to an otherwise completed section F (Survey and Certificate Requirements for Ballast Water Management);
- .8 made minor editorial changes to the Appendices I (Certificate) and II (Record Book); and
- .9 deleted Appendix III (Information for Additional Measures), as all information was now contained in regulation C-1.

2.57 The Working Group continued work on the following substantive issues:

- .1 Regulation C-1 (Additional measures)  
Some changes were made. Regulation C-1.3.3 through to C-1.7 were retained in brackets. This regulation concerns adding conditions to a port State to apply Port Entry Requirements. The United States opposed the texts in brackets.
- .2 Regulation B-3.4.2 and B-3.4.3  
On a proposal by Italy, the Working Group accepted these regulations concerning “Concerted Areas”.
- .3 Regulation B-3.1 and B-3.2  
The Working Group developed new text based on a proposal by the United States to phase-in the standards according to ballast water capacity. The issues to be resolved concerned new and existing ships meeting these standards on a fixed date or relative to the date of entry into force - and the issue of limited or unlimited grandfathering.
- .4 Regulation E-1 (Ballast Water Exchange Standard)  
Regulations E-1.2 and E-1.3 were replaced by E-3.1.
- .5 Regulation E-2 (Ballast Water Performance Standard)  
The Working Group developed a new standard incorporating 2 to 3 options.\* The most stringent standard was based on document MEPC 49/2/21 by ICES. Indicator microbes, as a human health standard, were added.
- .6 Regulation E-3 (Additional Requirements for regulation E-1)  
The Working Group developed a new text for regulation E-3.2 including a proposal reflecting concerns by the Netherlands and others regarding chemical treatment. This was retained in brackets as well as regulation E-3.3 regarding safety issues.

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\* The delegation of Brazil offered to co-ordinate an informal correspondence group in the intersessional period for further work on the less stringent standard. Argentina, Japan, Republic of Korea and Singapore indicated to take part. Contact should be made with Mr. J. Robson Calixto (Brazil) at: [robson-jose.calixto@mma.gov.br](mailto:robson-jose.calixto@mma.gov.br).

- .7 Regulation E-4 (Existing Equipment)  
The current text was kept in brackets and the Working Group made no changes. Completion depends on how grandfathering will be resolved.
- .8 Regulation E-5 (Review of Standards by the Organization)  
The Working Group added text for clarification.

### **Development of guidelines in support of the draft Convention**

#### ***Guidelines for the design, construction and operation of ships that use Ballast Water Exchange***

2.58 The Working Group considered for these guidelines, which should be directed to shipping companies and mariners, submissions by United Kingdom (MEPC 49/2/8), Japan (MEPC 49/2/28), ICS (MEPC 49/2/23) and an input by ISAF (MEPC 49/2/7) from the perspective of pleasure yachts. Further comments were provided by IACS in MEPC 49/2/11.

2.59 The Working Group noted that all three Ballast Water Exchange methods should be addressed in these guidelines and that much of the contents would depend on the final text of the Convention.

2.60 The Working Group agreed that further work on these guidelines should be carried out in the intersessional period under the lead of the United Kingdom (contact Mr. Graham Greensmith at: [graham.greensmith@lr.org](mailto:graham.greensmith@lr.org)).

#### ***Guidelines for certification of ballast water treatment systems (Type Testing)***

2.61 The Working Group considered detailed texts and comments for developing these guidelines as submitted by the Netherlands (MEPC 49/2/15), Norway (MEPC 49/2/24) and Japan (MEPC 49/2/27).

2.62 The Working Group considered making a distinction between elements to the regulations and to the guidelines and ways of arriving at a single document for further development. It was agreed that a general approach should be followed. Once treatment equipment would have been identified the guidelines could be made more specific.

2.63 The Working Group agreed that further work on these guidelines should be carried out in the intersessional period under the lead of the Netherlands (contact Mr. Frans Tjallingii at: [f.j.tjallingii@dnz.rws.minvenw.nl](mailto:f.j.tjallingii@dnz.rws.minvenw.nl)).

#### ***Guidelines supporting coastal States when considering additional measures under B-3.2 and section C of the regulations***

2.64 The Working Group considered elements for developing these guidelines as submitted by the GloBallast Programme, in particular, how to conduct port surveys (MEPC 49/INF.36), and by Australia in an informal document.

2.65 It was suggested to include materials from the GloBallast Programme and TRAIN-SEA-COAST programmes and the CRIMP protocols developed in Australia. It was further suggested to develop these guidelines in relation to the risk assessment guidelines for discharge of unmanaged ballast water under regulation A-4, as proposed by Norway (MEPC 49/2/20).

2.66 The Working Group agreed that further work on these guidelines should be carried out in the intersessional period under the lead of Australia (contact Mr. Michael Wilson at: [michael.wilson@affa.gov.au](mailto:michael.wilson@affa.gov.au)).

#### ***Guidelines on ballast water sampling/inspections on board ships by port State Administrations***

2.67 The Working Group considered proposals for these guidelines as submitted by the GloBallast Programme (MEPC 49/INF.35 and MEPC 49/WP.2), and comments by India (MEPC 49/2/12).

2.68 The Working Group agreed that the guidelines should identify all purposes of sampling, but that the primary focus should be verification of compliance with the Convention explaining tests that are simple to operate by port State control officers.

2.69 The Working Group agreed that further work on these guidelines should be carried out in the intersessional period under the lead of Germany (contact Mr. Stephan Gollasch at: [sgollasch@aol.com](mailto:sgollasch@aol.com)).

#### ***Guidelines for ballast water management for pleasure yachts***

2.70 The Working Group considered proposals for these guidelines as submitted by ISAF (MEPC 49/2/7) and comments by Israel (MEPC 49/2/30) based on the proposed regulation A-5. Initial ideas for further development were discussed, but as the outcome of regulation A-5 was not yet clear, firm arrangements were not yet developed. However, delegations were invited to provide comments in the intersessional period to ISAF (contact Mr. Michael Devonshire at: [isaf@mike-devonshire.co.uk](mailto:isaf@mike-devonshire.co.uk)).

#### **Identification of issues for Conference resolutions**

2.71 The Working Group acknowledged the importance of early identification of issues, which might be submitted to the Diplomatic Conference in the format of a draft resolution and identified the following issues:

- .1 the use of decision-making tools for the review of the standards by the Organization prior to entry into force of the Convention;
- .2 promotion of technical co-operation (MEPC 49/2/32);
- .3 future work of the Organization concerning the development of guidelines in support of the Convention; and
- .4 an update of resolution A.868(20).

2.72 The Working Group recommended the Committee to accept its report and to complete the article-by-article review on the basis of that report.

#### **Comments on the report of the Working Group**

2.73 The delegation of Brazil appreciated the work carried out on the draft Convention at this session. However, substantial work was still needed to complete it. The concern was expressed that there was limited reliable information available about the efficiency of ballast water management. Brazil had made a contribution by conducting experiments under realistic

conditions to show the efficiency of ballast water exchange as demonstrated this week. Further work on the Appendices and guidelines would be necessary intersessionally on these important tools for compliance with the Convention. The delegation regretted that the World Health Organization had not yet provided an input in the discussion on standards for pathogens and encouraged the Secretariat to continue seeking their advice on this issue.

2.74 The delegations of Chile and Ecuador shared the views of Brazil.

2.75 With regard to regulation E-5 (Review of Standards by the Organization) and a possible phase out of ballast water exchange, the observer from ICS proposed, as a reversal, to accept ballast water exchange until it would have been proven redundant. Only then should the Convention be revised.

### **Article-by-article review of the draft Convention (continued)**

2.76 The Committee continued with the article-by-article review of the draft Convention based on document MEPC 49/2/3 and the report of the Working Group (MEPC 49/WP.16 and MEPC 49/WP.16/Add.1).

### **Article 2.3 Rights of port States to require more stringent measures**

2.77 The Committee noted that article 211.6 of the United Nations Convention on the Law of the Sea (pollution from vessels) referred to consultations, through the competent international organization, when coastal States were considering more stringent measures, whereas under article 196.1 of the same Convention (Use of technologies or introduction of alien or new species), States themselves could “take all measures necessary to prevent, reduce and control the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.” It was also noted that under article 25.2 of the same Convention, States have the authority to impose requirements as a condition of port State entry.

2.78 The delegation of China proposed the deletion of the alternative text developed by the Working Group contained in the last sentence of article 2.3, as this would contradict the authority States have under article 25.2 of UNCLOS, as mentioned above.

2.79 This proposal was not supported and the Committee agreed to retain article 2.3 in brackets as shown in the annex to this report.

### **Regulation C-1 Additional Measures**

2.80 The Committee noted that regulation C-1.7 was an empty placeholder for the “concept of liability burden”, as proposed by Cyprus at MEPC 48. The Chairman of MEPC undertook to prepare a submission on this issue for future consideration.

### **Regulation B-3 Ballast Water Management for ships**

2.81 At the proposal by the delegation of the Netherlands, supported by others, the Committee agreed to put the newly developed regulation B-3.4.3, together with the associated definition of “Concerted areas” under regulation A-1 in brackets for future consideration.

**Regulation E-2      Ballast Water Performance Standard**

2.82 The Committee agreed to delete the brackets around regulation E-2.1, so that only the brackets around the figures in the standard remained.

**Action by the Committee**

2.83 After completion of the article-by-article review, the Committee agreed to accept the draft International Convention for the Control and Management of Ships' Ballast Water and Sediments for circulation to the Diplomatic Conference. The revised and renumbered text of the draft Convention is set out in annex 2 to this report.

2.84 The Secretary advised the Committee that the Diplomatic Conference on Ballast Water Management would be held at IMO Headquarters, London, from 9 to 13 February 2004.

2.85 The Committee instructed the Secretariat to start with the necessary arrangements for the Diplomatic Conference and to distribute the basic documents for the Conference before the end of July 2003, including:

- .1 an invitation for the Diplomatic Conference;
- .2 a consolidated text of the draft Convention; and
- .3 draft Rules of Procedure for the Diplomatic Conference.

2.86 The Committee endorsed the Working Group's intersessional arrangements for further work on the guidelines in support of the draft Convention (see paragraphs 2.58 to 2.70 above), as well as the issues, identified by the Working Group for submission to the Diplomatic Conference in the format of a draft resolution (see paragraph 2.71 above).

2.87 The Committee noted the concerns raised by IACS on safety aspects in relation to ballast water exchange operations, e.g., maintaining bridge visibility standards, propeller immersion and minimum draft forward (MEPC 49/2/11) and endorsed the recommendation of the Working Group that the Committee and the Maritime Safety Committee be invited to confirm the acceptability of transitory non-compliance of safety regulations when conducting ballast water exchange in the belief that any deviations from the relevant legal instruments should be addressed directly within those instruments.

2.88 The Committee took note of document MEPC 49/2/6 by the Secretariat and acknowledged the substantial contribution by the GloBallast Programme in addressing ballast water related problems in a global context and in assisting developing countries with the preparation for the implementation of the Convention once adopted.

2.89 The Committee endorsed the recommendation of the Working Group that IMO should approach UNDP, GEF and other potential donors and partners to explore the possibility of continuation and expansion of the activities initiated during the pilot phase of the GloBallast Programme.

## **Appreciation**

2.90 The delegation of the Netherlands drew the attention of the Committee to the sudden death on Tuesday, 4 March 2003, of Mr. Tomas Moll (Netherlands), while attending the Intersessional Meeting of the Ballast Water Working Group. Mr. Moll, who represented the Royal Association of Netherlands' Shipowners (KNVR) in the Dutch delegation, was a familiar figure in that Working Group and in MEPC. On behalf of Mr. Moll's family, the delegation expressed the sincere appreciation to the members of the Committee for the cards and condolences they had sent to the family.

## **3 RECYCLING OF SHIPS**

3.1 The Committee recalled that at MEPC 47 it was generally agreed that IMO has an important role to play in ship recycling, including preparation of a ship before recycling commences, and a co-ordinating role towards the ILO and the Basel Convention in recycling matters. The Committee also recalled that MEPC 47 had agreed that IMO, for the time being, should develop recommendatory Guidelines to be adopted by an Assembly resolution.

3.2 The Committee further recalled that MEPC 48, having considered the report of the Correspondence Group (MEPC 48/3) and the report of the Working Group (MEPC 48/WP.12, MEPC 48/WP.12/Add.1), agreed to re-establish the intersessional Correspondence Group on Ship Recycling to continue its work on the draft IMO Guidelines on ship recycling, with particular emphasis on outstanding items that need further development or consideration, and requested the BLG, DE and FSI Sub-Committees to provide input to the relevant chapters of the draft IMO Guidelines.

3.3 The Committee also noted that it would be necessary for this session to finalize the draft Guidelines and the associated Assembly resolution in order to be submitted to the twenty-third session of the Assembly for adoption and to that end, as already agreed at MEPC 48, agreed to re-establish the Working Group.

## **Report of the Correspondence Group**

3.4 In introducing the report of the Correspondence Group (MEPC 49/3/1), the co-ordinator of the Group, Captain Moin Ahmed (Bangladesh), stated that annex 2 of the report presents a further draft of the proposed IMO Guidelines on the Recycling of Ships which endeavours to take into account all the comments received during the intersessional period. He also mentioned that although considerable progress had been made there were still issues, outlined in annex 1 of the report, which were difficult to be resolved by correspondence and warranted further discussion by the Committee, while other issues listed in appendix 1 of annex 1 of the report relate mainly to drafting points and therefore can be resolved at this session.

3.5 The co-ordinator of the Correspondence Group also stated that the informal Drafting Group on the editorial improvement of the draft Guidelines, which the Committee had agreed to establish at this session prior to the plenary discussion, made significant progress on a number of issues.

3.6 The Committee agreed to consider the issues raised in annex 1 of the report on which advice was sought by the Committee once all the other related documents commenting on the report of the Correspondence Group had been introduced.

3.7 In this regard, the Committee considered submissions by India (MEPC 49/3/3), Japan (MEPC 49/3/5) and Greenpeace International (MEPC 49/3/2 and MEPC 49/3/4) providing comments to the report of the Correspondence Group.

3.8 In introducing its document (MEPC 49/3/3), the delegation of India offered a number of comments and suggestions on the further development of the draft IMO Guidelines and in particular with regard to phase-out programmes for hazardous materials; criteria for ships "Ready for the final voyage to recycling"; port State control routines for ships destined for recycling; and insurance extension to cover maritime lien claims for a reasonable period from the date of delivery of ship for recycling. India stressed also the need for the Guidelines to be specific in restricting sale of the ship by registered shipowners to registered ship recycling yards only and proposed that the shipowner's responsibilities should be addressed on mandatory terms. India stressed further that the "Beaching Method" is a practical and cost effective solution to ship recycling and should be also accepted, subject to adherence to all requirements for the safety, health and environmental protection.

3.9 Japan (MEPC 49/3/5) supported the adoption of the IMO Guidelines on Ship Recycling, noting the interim nature of the Guidelines and was of the opinion that the policy objectives of IMO with regard to recycling should be to secure smooth recycling and to reduce the environmental and occupational safety risk involved. Japan proposed that the Guidelines should be streamlined to focus on practical and effective measures while those items relating to enforcement and implementation by the flag and port States (mainly the "certificate of deletion" and the concepts of prior notice and consent mechanism) should be set aside for the time being. Japan further proposed that the Committee should, after the adoption of the Guidelines, evaluate the practice of ship recycling and in case this evaluation suggests that the implementation of the Guidelines on a voluntary basis does not function satisfactorily, then to consider the enforcement and implementation mechanism for ship recycling.

3.10 In introducing documents MEPC 49/3/2 and MEPC 49/3/4, the observer from Greenpeace International expressed the view that the requirements of the Basel Convention, and the principles and guidelines subsequently developed pursuant to its requirements, are not fully reflected in the draft IMO Guidelines on Ship Recycling and presented summaries of cases involving scrapping of ships in support of Greenpeace's view that there is an urgent need for mandatory requirements for ship recycling.

### **Consideration of the main outstanding issues in the draft IMO Guidelines**

3.11 The co-ordinator of the Correspondence Group introduced the principal areas of concern in the draft IMO Guidelines, as outlined in annex 1 of the report, which were difficult to be resolved by correspondence and presented orally the outcome of the discussion held in the informal Drafting Group, referred to in paragraph 3.5. The Committee considered the main outstanding issues in the draft Guidelines and took action as follows.

#### **Key principles**

3.12 The Committee reviewed the section "Key principles" in the Preamble of the Guidelines, which briefly outlines the objectives of the Guidelines, and agreed that this section of the Preamble covers adequately the main principles contained in the actual text of the draft Guidelines.



## **Green Passport**

3.13 The Committee considered whether the Green Passport should contain an inventory of potentially hazardous materials or of all materials used in the construction of a ship and agreed that this document should list only the potentially hazardous material utilized in the construction of the ship, its equipment and systems.

## **Recycling facilities**

3.14 The Committee noted that in accordance with the draft Guidelines, shipowners should, in selecting a recycling facility, consider the working practices and facilities in question, and agreed that there is a need for an assessment by the competent authorities in recycling States of the capabilities of the recycling facilities operating under their jurisdiction, making the results of those assessments available to the shipping industry.

## **Ship recycling reporting system**

3.15 The Committee noted that paragraphs 5.2, 6.1, 6.1.2 and 6.9.3 of the draft Guidelines outline a possible procedure, paralleling the provisions of the Basel Convention in respect of the movement of information on the transboundary movement of hazardous wastes, whereby a “Notice and Consent” system is established dealing with the movement of ships destined for recycling.

3.16 The Committee also noted that Japan in its document MEPC 49/3/5 proposed that the concepts of prior notice and consent mechanism should be set aside for the time being and that the relevant parts from the Guidelines should be deleted.

3.17 The delegation of Bahamas supported by the majority of those who spoke agreed with the proposal of Japan and stated that there might be a difference in the way the IMO and the Basel Convention considers ships towards the end of their operating life since IMO would not tend to define the ship delivered for recycling as a waste but as resource containing some contaminants.

3.18 Germany, supported by some delegations, stated that the issue of a “Ship recycling reporting system” should be the subject of future consideration by the Organization and suggested that it would be beneficial to discuss further the issue of information exchange with regard to ship recycling. It was also pointed out that areas exist where the existing legal systems under the IMO and the Basel Convention with regard to ships need further consideration both in the IMO and under the Basel Convention (for example that the Basel Convention may not be applicable when a ship becomes a waste in the high sea, the overlapping of applicable legislation in case a ship becomes a waste in the area of a State). Germany expressed the view that the consideration of these issues should not delay the adoption of the IMO Guidelines.

3.19 As a result, the Committee, having decided to set aside the issue of “Ship recycling reporting system” for the time being and revisit it in the future, agreed that the relevant parts from the draft Guidelines should be deleted while the issue of information exchange with regard to ship recycling should be further considered taking into account the recommendations of FSI 11 for the need to avoid the issue of “phantom ships”.

### **The merits of towing**

3.20 The Committee noted the concerns expressed with regard to the risks associated with the towing of a vessel to the recycling yard and agreed that this operation should be considered on a case-by-case basis and that the relevant part of the draft Guidelines should be reviewed accordingly.

### **Terminology**

3.21 The Committee recalled that, at MEPC 47, it was agreed that IMO, for the time being, should develop recommendatory Guidelines to be adopted by an Assembly resolution (MEPC 47/20, paragraph 3.12), while at MEPC 48 it was confirmed the view that the voluntary guideline approach should be followed before considering mandatory requirements (MEPC 48/21, paragraph 3.14).

3.22 Having noted these points, the Committee agreed that the terminology to be used throughout the text should be adjusted in line with the recommendatory nature of the Guidelines.

### **Last owner of the ship**

3.23 The Committee noted that the role and responsibilities of the last owner of the ship has also been an issue on which the Group could not reach agreement and that it had been proposed by one delegation that the draft Guidelines should be specific in restricting sale of the ship by registered shipowners to registered ship recycling yards only.

3.24 The Committee further noted that in accordance with the definition given in the draft Guidelines for the “Shipowners”, this term also includes those who have ownership of the ship for a limited period pending its sale to a recycling yard and agreed that the last owner of the ship must assume the responsibility, whether he is a cash buyer or a temporary owner and notwithstanding the short time of such ownership.

3.25 The Committee, having noted the concerns of India with regard to the definition of the “shipowner” in cases when the ship is not registered, agreed that the definition for the “owner” provided by article I(3) of the CLC Convention should be considered for the purpose of the draft Guidelines on Ship Recycling.

### **Possible future work**

#### **Criteria for establishing a “Ready for Recycling” condition**

3.26 The Committee noted that the draft Guidelines calls on flag States to establish criteria by which a ship might be declared “Ready for Recycling” and that these basic criteria would be the completion of the work to prepare a ship for recycling, set out in the relevant section of these Guidelines, and agreed that it should be further considered whether, at a later stage, these criteria need to be further developed in a harmonized manner in order to ensure their uniform and consistent application.

3.27 India suggested that it should be further considered whether there is a need for the development of criteria not only for ‘Ready for Recycling’, but also for “Ready for the Final Voyage to Recycling”.

## **The Appendices**

3.28 The Committee considered that the Appendices of the draft IMO Guidelines need further attention and development and agreed that the outcome of DE and BLG Sub-Committees, tasked by MEPC 48 to review current Appendices 2 and 3, should be taken into consideration during the finalization of the Appendices.

## **Environmental Groups**

3.29 Cyprus, noting that in accordance with paragraph 6.5 of the draft Guidelines, “Environmental Groups” are encouraged to continue monitor the issues related to ship recycling, pointed out that the role of monitoring the application of IMO Guidelines is the responsibility of the Governments and proposed the deletion of this paragraph. The Committee recognizing that not only the environmental groups but also other interested Stakeholders should be encouraged to contribute addressing issues associated with ship recycling agreed that the relevant paragraph should be amended accordingly.

## **TBT paints**

3.30 The Committee noted the concerns raised by India that although in accordance with the draft Guidelines efforts should be made for the minimization of hazardous materials onboard the ship during the operating life of a ship and during routine or major maintenance, the AFS Convention has accepted the over-coating of the existing TBT paint with sealer coat as a conditional alternative to requiring the complete removal of it by blasting.

## **Other relevant documents**

3.31 The Committee recalled that in order for the Guidelines to be finalized at this session, MEPC 48 tasked the DE, FSI and BLG Sub-Committees to consider relevant issues. The reports of the three Sub-Committees are reflected in documents MEPC 49/10/2, MEPC 49/10/2/Corr.1, MEPC 49/10/3, and MEPC 49/10/4.

3.32 The Committee noted that DE 46 (MEPC 49/10/3) reviewed the Appendices 6 and 7 to the Report of the Correspondence Group (MEPC 48/3) and proposed that, as HALON indicated in section A of the appendix is not the only fire-extinguishing medium, this entry can be expanded to also include perfluorocarbons (PFCs).

3.33 The Committee also noted that BLG 8 (MEPC 49/10/2, MEPC 49/10/2/Corr.1) considered the substances listed in appendices 6 and 7 of the Report of the Correspondence Group on Ship Recycling (MEPC 48/3) and, having agreed that the references to the EU Council regulations and the Basel Convention were unnecessary, invited the Committee to delete the reference to the EU Council regulations from the list of potentially hazardous materials which may be on board vessels delivered to recycling yards, and the whole of appendix 7.

3.34 The Committee further noted that FSI 11 (MEPC 49/10/4) recommended the following for the consideration of MEPC 49:

- .1 the desirability of creating a system for declaration and verification of recycling of ships with the aim of avoiding the issue of “phantom ships”; and

- .2 amendments to section 5.1 of the Guidelines which relate to the role of Administration of the flag State (currently section 6.1) and to section 5.2 which relates to the role of the port State (currently section 6.2) in respect of ship recycling.

3.35 The Committee agreed to take into account the above-mentioned recommendations of the Sub-Committee for the finalization of the draft Guidelines.

### **Inter-agency co-operation**

3.36 The Committee considered documents MEPC 49/3, MEPC 49/INF.4 and MEPC 49/INF.8 regarding the latest developments in the International Labour Organization (ILO) and the Conference of Parties to the Basel Convention with regard to ship recycling.

3.37 The Committee noted that:

- .1 the Sixth Meeting of the Conference of Parties to the Basel Convention (COP6), which was held in Geneva from 9 to 13 December 2002, adopted the "Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships", which have been prepared with the intention of providing guidance to countries which have or wish to establish facilities for ship dismantling; and that
- .2 ILO has also prepared draft Guidelines on Safety and Health in Shipbreaking, scheduled to be approved in the near future, which provide guidance to ensure safe work in ship-breaking within the overall framework of the ILO's work agenda;

and agreed that these Guidelines should be taken into account in the finalization of the draft IMO Guidelines on ship recycling.

### **Statement by the Basel Convention Secretariat**

3.38 The representative of the Secretariat of the Basel Convention expressed the view that in the last few years progress has been achieved in bringing coherence between different regimes dealing with the protection of the marine environment, maritime safety and the environmentally sound management and control of the transboundary movements of hazardous and other wastes and that with the adoption of the Basel Convention guidelines by the Conference of Parties in December 2002, a new level playing field has been agreed upon for aiming at the environmentally sound management of ships destined for dismantling. It was also stated that environmental issues related to end-of-life equipment are emerging issues in the multilateral context and that in the case of ships reaching the end of their operating life a new form of partnership is required among all concerned stakeholders and that the enhanced co-operation with IMO and ILO, which the Parties to the Basel Convention are committed to pursue, is a good example and evidence of this evolution.

### **Statement by ILO**

3.39 The representative of the International Labour Organization (ILO) indicated that it was now foreseen to have their "Draft Guidelines on Occupational Safety and Health in Shipbreaking" adopted by a Meeting of Experts in Bangkok, which would be held from 7 to 14 October 2003. It was also stated that ILO was already co-operating closely with the

Secretariat of IMO and the Secretariat of the Basel Convention and that the invitation of the Conference of Parties to the Basel Convention to establish a joint working party between the three agencies and to work towards the establishment of an inter-agency technical assistance programme had been welcomed by ILO.

### **Inter-agency technical assistance project and joint working group**

3.40 The Committee agreed that the IMO Secretariat should continue a close liaison role and dialogue with ILO and the Basel Convention Secretariats. With regard to the request of COP6 to the Secretariat of the Basel Convention to explore the development of an inter-agency technical assistance project on ship dismantling together with IMO and ILO and to consider the establishment of a joint working group with IMO and ILO as a means of achieving a common understanding of the problem and character of the required solutions, the Committee was, in principle, supportive of these proposals and requested the Secretariat to liaise with ILO and the Secretariat of the Basel Convention in order to prepare the following for consideration by MEPC 51:

- .1 draft project objectives for the inter-agency technical assistance project; and
- .2 draft terms of reference for the joint working group.

### **Instructions to the Drafting Group**

3.41 The Committee, having resolved the main outstanding issues in the draft Guidelines, agreed to establish the Drafting Group on Ship Recycling with the following terms of reference:

- .1 finalize the draft IMO Guidelines for ship recycling, based on annex 2 of the Report of the Correspondence Group (MEPC 49/3/1), taking into account the results of the discussion held in plenary, inputs by the DE, BLG and FSI Sub-Committees and submissions under this item;
- .2 finalize the draft Assembly resolution on the adoption of the IMO Guidelines;
- .3 develop a list of future work items on ship recycling; and
- .4 present its report to the Committee on Thursday.

### **Outcome of the Drafting Group**

3.42 The Drafting Group on Ship Recycling met from 16 to 17 July 2003 under the chairmanship of Captain Moin U. Ahmed (Bangladesh). Having received the report of the Drafting Group (MEPC 49/WP.15), the Committee noted the progress of work of the Drafting Group and took actions as reflected below.

3.43 The Committee noted that the Drafting Group developed a revised text of the draft IMO Guidelines on Ship Recycling based on the Report of the Correspondence Group, taking into account the decisions and comments made in plenary. The new text of the draft Guidelines is set out at annex 1 to document MEPC 49/WP.15.

3.44 The Committee noted the modifications, clarifications and editorial adjustments made to the draft Guidelines and its appendices, which are summarized in the following paragraphs.

## Definitions

3.45 The Committee noted that:

- .1 the definition of the flag State Administration has been amended in order to be in compliance with the definition provided by article 2(5) of MARPOL 73/78;
- .2 new definitions for “new” and “existing” ships have been developed in accordance with the format used in Annex I of MARPOL 73/78;
- .3 the following new definition has been developed for a recycling facility: “*a site, yard or facility used for the recycling of ships which is authorized or permitted for this purpose by the competent authority of the State where the site, yard or facility is located*”;
- .4 the definition of the “shipowner” has been amended using as a basis the definition for the “owner” provided by article I(3) of the CLC Convention;
- .5 the definitions of “disposal”, “removal”, “wastes”, “hazardous wastes” and “brokers” have been deleted.

## Terminology

3.46 The Committee also noted that the Group refined the terminology used throughout the text in compliance with the recommendatory nature of the Guidelines.

## Green Passport

3.47 With regard to the issue of the Green Passport, the Committee noted that the Group modified the relevant sections of the draft Guidelines in order that this document should list relevant ship details and the potentially hazardous material utilised in the construction of the ship, its equipment and systems, and that a model format for this inventory of potentially hazardous materials (Appendix 3 of the draft Guidelines) has been developed. The Committee also noted that it was agreed that for new ships the part of the inventory regarding materials in the ship’s structure and equipment should be produced by the shipbuilder at the construction stage and passed to the shipowner to maintain with relevant information, while for existing ships, this part should be completed by the shipowner, as far as is practicable and reasonable. The Group also agreed that the parts of the inventory regarding operationally generated wastes and stores should be completed by the shipowner prior to the final voyage to the recycling facility.

## Information on ship recycling

3.48 The Committee noted that the Group, taking into account the decisions of plenary and the recommendations of FSI 11 on the need to avoid the issue of “phantom ships”, and having deleted the parts of the draft Guidelines relevant to the “ship recycling reporting system”, included appropriate text in the Guidelines in order that:

- .1 once the shipowner has selected a recycling facility the Administration and the competent authority of the recycling State should be informed; and
- .2 the Administration should be informed by the shipowner when the ship has been delivered to a recycling facility for the ship to be de-registered.

### **Ship recycling plan**

3.49 The Committee noted that the Group, having discussed the basic contents and the application of the “ship recycling plan”, agreed that a format of such a Plan should be developed in the future in order to ensure uniform and effective implementation.

### **The merits of towing**

3.50 The Committee noted that the Group, having taken into consideration the practical circumstances and the potential hazards associated with the practice of towing a vessel to the recycling facility, agreed that such an operation should be considered on a case-by-case basis and decided to delete the relevant part from the Guidelines.

### **Preparations to protect occupational health and safety**

3.51 The Committee noted that circular MSC/Circ.1084 "Principles for hot work on board all types of ships" and Assembly resolution A.864(20) "Recommendations for entering enclosed spaces aboard ships" have been attached as appendices to the draft Guidelines.

### **Role of brokers and intermediate buyers**

3.52 The Committee noted that as a result of decisions made with regard to responsibilities of the last owner of the ship, the text of the draft Guidelines relevant to brokers and intermediate buyers has been deleted.

### **Role of environmental groups**

3.53 The Committee noted that the section of the draft Guidelines related to the “Role of Environmental Groups” has been amended in order to address all the other interested Stakeholders and to encourage them to contribute to addressing issues associated with ship recycling.

### **Appendices**

3.54 The Committee noted that the Group finalized the Appendices of the draft Guidelines and proposed to review and further develop Appendices 1 to 3 after having gained experience in their application.

### **Action taken by the Committee**

3.55 The Committee approved the report of the Group in general and, in particular:

- .1 approved the draft IMO Guidelines on Ship Recycling and the associated Assembly resolution, as set out at annex 3, in order to be submitted to the twenty-third session of the Assembly for adoption;
- .2 considered and approved the list of future work items on ship recycling, as developed by the Group, which is set out at annex 4;

- .3 noted the recommendations by the Group that adequate reception facilities for ship-generated waste are required at the recycling facilities and that ILO and the Secretariat of the Basel Convention provide in their websites any available information on technical Guidelines, Recommendations and Codes of Practice, which may be relevant to ship recycling activities.

3.56 The observer of Greenpeace International stated that the IMO Guidelines on Ship Recycling mark a step forward. However, it was stressed that the Guidelines needed further work in order to make them comprehensive and fully consistent with international law and regulations concerning hazardous wastes, in particular under the Basel Convention. Greenpeace International urged IMO to pursue progress on these outstanding issues as a matter of urgency.

3.57 The observer of ICS stated that some parts of the IMO Guidelines needed further consideration and invited Members of the Committee to submit comments on the draft Guidelines to the twenty-third session of the Assembly.

## **4 PREVENTION OF AIR POLLUTION FROM SHIPS**

### **Entry into force of MARPOL Annex VI**

4.1 The Committee noted that, as of 20 June 2003, Annex VI of MARPOL 73/78 has been ratified by 11 States representing well over 50% of the gross tonnage of the world's merchant shipping and that ratifications by only four more States would be required to satisfy the conditions for entry into force.

4.2 The Committee welcomed the statements made by Cyprus, Italy, Japan, the Netherlands and Spain that their national procedures for the ratification of the Protocol of 1997 to MARPOL 73/78 have reached the final stage and that they would be able to deposit their instrument of ratification for Annex VI before the end of the year. This would mean that the Annex might satisfy the entry into force conditions before the end of year 2003, and would enter into force 12 months later.

### **Co-operation between the Secretariats of IMO and UNFCCC**

4.3 The Committee recalled its instruction at its last session to the Secretariat to initiate an informal meeting between the Secretariats of IMO and UNFCCC, with participation of member experts of the Working Group on Air Pollution in order to facilitate a closer co-operation between the two Secretariats.

4.4 The Committee noted the outcome of the Informal Meeting (MEPC 49/4/2) which was held in IMO on 6 March 2003. After initial consideration to the report, the Committee instructed the Working Group on Air Pollution to consider the report in detail, taking into consideration comments and views expressed by delegates.

4.5 The Committee expressed its appreciation of the work of the Informal Meeting and in particular the active role of the Secretariats of UNFCCC and IPCC.

### **Greenhouse gas emissions from ships, draft Assembly resolution and report of the intersessional correspondence group**

4.6 The Committee recalled its decision at the last session, that before any action could be taken on the further development of the draft Assembly resolution on IMO policies and practices



related to reduction of greenhouse gas emissions from ships, the policy issue on greenhouse gas emission in the context of Article 2.2 of the Kyoto Protocol to the UNFCCC, raised by China and supported by several States, should be solved.

4.7 The Committee recalled also that, at its last session, it noted the view of the Air Pollution Working Group that, as far as international shipping is concerned, all ships should operate under the same regime and that the concept of “No more favourable treatment of ships”, embodied in MARPOL 73/78 and other IMO Conventions should be applied in this case.

4.8 The Committee noted the information by the Secretariat on the outcome of the eighteenth session of Subsidiary Body for Scientific and Technological Advice (SBSTA) held from 4 to 13 June in Bonn, Germany. The issue on emissions resulting from fuel used in international aviation and maritime transport was considered by SBSTA. The Committee noted, in particular, that:

- .1 SBSTA welcomed the information provided by IMO on methodological work relating to emission from international maritime transport and the ongoing work in this regard undertaken by IMO;
- .2 SBSTA expressed its appreciation to IMO for its cooperation with the Secretariat of UNFCCC and, in particular, for organizing the Informal Meeting on methodological matters.
- .3 SBSTA took note of the information on the outcome of the Informal Meeting held on 6 March 2003 in IMO; and
- .4 SBSTA invited IMO, in consultation with the Secretariat of UNFCCC to organize an expert meeting, before the twentieth session of SBSTA (June 2004). The objective of the meeting should be to address options to improve the methodology for estimating and reporting emissions from international maritime transportation as an input to the work under way by the Intergovernmental Panel on Climate Change (IPCC) on the revision of the Guidelines for preparing national greenhouse gas inventories under the relevant provisions of the UN Framework Convention on Climate Change and its Kyoto Protocol.

4.9 The Committee considered the views provided by United Kingdom in its submission MEPC 49/4/4 and by Norway in its submission MEPC 49/4/6 on various aspects related to the application of the draft Assembly resolution and agreed that the draft Assembly resolution on IMO Policies and Practices related to reduction of greenhouse gas emissions from ships should be based on a common policy applicable to all ships, rather than based on the provisions of Kyoto Protocol which states that the reduction of greenhouse gas emissions is under the responsibility of the Annex I countries of the Protocol.

4.10 The Committee instructed the Working Group on Air Pollution to review the draft Assembly resolution, with a view to approval by the Committee at its present session taking into consideration comments by delegates.

## **Report by the intersessional Correspondence Group on Greenhouse Gas Emissions from Ships**

4.11 The Committee recalled that MEPC 48 agreed to establish an intersessional correspondence group under the leadership of Norway and approved the Terms of Reference for the Group as set out in annex 13 of document MEPC 48/21.

4.12 The Committee noted the information provided by Mr. Sveinung Oftedal (Norway), the co-ordinator of the correspondence group and approved in general the report of the correspondence group on Greenhouse Gas Emissions from Ships (MEPC 49/4).

4.13 The Committee considered the report of the correspondence group and noted the following comments by delegates, and instructed the Working Group on Air Pollution to review the report, taking into considerations comments made by delegates:

- .1 the basic methodology for calculating and reporting GHG emissions from ships, as outlined in the Intergovernmental Panel for Climate Change (IPCC) guidelines and good practice guidance appears to be well established and the best available approach for the time being. It is necessary for all countries to report according to the guidelines in order to establish consistent and transparent total figures to monitor the GHG emission trend. The IPCC Inventory Task Force is about to begin a revision of the IPCC guidelines, and the process will provide an opportunity to further improve the methodologies and data quality and availability for preparing estimates. Based on the comments received it is considered important that national government representatives are involved in this process to ensure that the methodology is improved also in the area related to emission from ships;
- .2 with regard to quantification and indexing of CO<sub>2</sub> emissions, there should be a clear link between an index and an overall target to reduce total emissions in the functional requirements;
- .3 the three options (A to C) as identified by the correspondence group should be considered further;
- .4 Member States are encouraged, with a view to strengthen and improve the methodology outside the framework of IMO, to participate in the IPCC initiated work to revise the IPCC guidelines; and
- .5 proposals on possible mechanisms for reduction the emissions of refrigerant gases should be further considered by the Committee.

4.14 The Committee considered the proposals on options of CO<sub>2</sub> indexing presented by Germany in its submissions MEPC 49/4/3 and MEPC 49/INF.19 and noted that Germany proposed that a future index system should be based on design criteria and a corrective value based on operational results, or in other words, an indexing system based on emission per tonne and mile.

4.15 The Committee considered the proposal by Norway (MEPC 49/4/5) on an indexing system based on a combination of an operational factor and benchmarking against a design factor that would promote both energy efficient design and operation. Norway suggested that such an

indexing system would answer both the demand for establishing emission data and a ship type independent index for use in a simplified indexing system.

4.16 The Committee instructed the Working Group on Air Pollution to consider the two proposals in detail, taking into considerations comments made by delegates and with a view to develop a more detailed work plan for the development of an indexing approach that should include activity on choice of methodology for indexing and further assessment of suitable mechanisms for an indexing approach in which the methodology for calculations of design and operational factors should be established in Guidelines or a Code that should be representative for different ship types.

#### **Worldwide average of sulphur content of residual fuel oil supplied for use on board ships**

4.17 The Committee recalled that MEPC 43 adopted resolution MEPC 82(43), Guidelines for monitoring the worldwide average sulphur content of residual fuel oils supplied for use on-board ships and established a monitoring project under the leadership of the Netherlands. Based on the monitoring results, MEPC 48 established the rolling average of sulphur content of residual fuel oils as 2.7% and the reference value referred to in paragraph 5 of the Guidelines as 2.7% based on monitoring for the years 1999 through 2001.

4.18 The Committee at its last session noted that funding for the present monitoring project would run out by the end of 2003 and agreed to consider necessary funding for the continuation of the monitoring project at this session.

4.19 The Committee considered the submission by the Netherlands (MEPC 49/4/1) and noted that almost 70% of all samples taken had sulphur content between 2 and 3.5% m/m. Almost 50% of all samples taken had sulphur content between 2 and 3% m/m. Only 1% of the samples have sulphur content higher than 4% m/m. On the basis of the samples taken, the new three-year rolling average covering the years 2000 to 2002 can be established as 2.67% m/m.

4.20 The Committee noted further that the Netherlands suggested two options for funding a continuation of the monitoring project as follows:

- .1 costs to be borne by the Organization; or
- .2 costs to be borne by volunteer Member States.

4.21 The Committee, noting that the Netherlands would be prepared to continue the monitoring activities subject to the availability of funds, agreed to invite Member States and the Secretariat to explore further possibilities of a voluntary scheme for funding for the continuation of the project at MEPC 51 in March 2004, before approaching the Council seeking the funds from the budget of the Organization.

#### **On-board NO<sub>x</sub> measurement and monitoring**

4.22 The Committee, recalling that MEPC 41 instructed the DE Sub-Committee to develop Guidelines for on-board NO<sub>x</sub> measurement and monitoring, considered the draft Guidelines and an associated draft MEPC resolution, as prepared by DE 46 (annex 2 of document DE 46/32).

4.23 The Committee, in considering the submission by the Republic of Korea (MEPC 49/10/8) on proposal for changes of arrangements and procedures to the draft Guidelines for on-board NOx verification procedures, agreed to note the proposals and not to make any changes to the draft Guidelines at this stage.

4.24 The Committee adopted the Guidelines for on-board NOx verification procedure – Direct measurement and monitoring method by resolution MEPC.103(49), as set out in annex 5.

4.25 The Committee noted the information provided by Japan (MEPC 49/INF.10) on a study on continuous NOx monitoring under the condition of commercial voyages that uses various kinds of residual fuels.

### **Introduction of the HSSC into MARPOL Annex VI**

4.26 The Committee, recalling that MEPC 41 instructed the FSI Sub-Committee to consider the issue of introducing the Harmonized System of Survey and Certification (HSSC) into Annex VI of MARPOL 73/78, considered the draft amendments to Annex VI, as prepared by FSI 11, and as set out in paragraphs 16.7 to 16.9 and annex 8 of document FSI 11/23.

4.27 The Committee, noting that Annex VI of MARPOL could enter into force before the end of 2004 taking into account the information provided at this session on the progress for ratifications, approved the draft amendments to MARPOL Annex VI on the introduction of HSSC into the Annex, which are set out in annex 6. The draft amendments should be circulated when the entry-into-force conditions of Annex VI have been met for adoption at the earliest opportunity when the Annex is in force.

### **Guidelines for the sampling of fuel oil for determination of compliance with Annex VI of MARPOL 73/78**

4.28 The Committee noted the information provided by Singapore (MEPC 49/INF.18) on the development of the “Singapore Standard Code of Practice for Bunkering (SS CP 60) by Bunker barges/Tankers”, which is expected to provide the shipping and bunkering communities in Singapore with confidence in the attainment of quality in bunkers.

### **Establishing the Working Group on Air Pollution**

4.29 The Committee re-established the Working Group on Air Pollution under the chairmanship of Mr. Bin Okamura (Japan), and agreed to the following Terms of Reference for its work:

- .1 to review the draft Assembly resolution taking into account submissions by Members and comments made at Plenary, with a view to prepare a final draft text for the approval by the Committee at this session for submission to the Assembly;
- .2 to consider the report of the intersessional correspondence group, taking into consideration submissions by Member States, the outcome of the discussion at Plenary and the report of the outcome of the informal mailing between the Secretariats of IMO and UNFCCC (MEPC 49/4/2);
- .3 to consider future work of the Committee; and

- .4 to report to the Committee its findings on Thursday, 17 July 2003, in the afternoon.

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

4.30 Having received the report of the Working Group (MEPC 49/WP.13), the Committee took the following actions.

4.31 The Committee approved the draft Assembly resolution on IMO Policies and Practices related to reduction of Greenhouse Gas Emissions from Ships attached as annex 7, and instructed the Secretariat to submit it to Assembly 23 with a view to adoption.

4.32 The Committee noted the following statement by China:

- .1 The Chinese delegation reiterated its position that the UNFCCC and its Kyoto Protocol are the fundamental international instruments on the global limitation or reduction of emissions of greenhouse gases. These instruments have established the principle that the developed and the developing countries have common but differentiated responsibilities, and require the developed countries to take the lead in shouldering the responsibility of emission reduction. Therefore, the Chinese delegation is of the opinion that IMO's consideration on reduction of greenhouse gases emissions from ships should adhere to the framework and the fundamental principles established in UNFCCC and the Kyoto Protocol.
- .2 The draft Assembly resolution on IMO's Policies and Practices related to reduction of Greenhouse Gas Emissions from ships is contradictory to the fundamental principle of UNFCCC and its Kyoto Protocol, therefore, the Chinese delegation cannot agree to MEPC 49's approval of this draft resolution to be submitted to the twenty-third Assembly and should be further reviewed.
- .3 China further suggests that IMO should invite Conference of Parties (COP) to UNFCCC to give its opinion on this issue.

4.33 The Committee approved the report of the intersessional correspondence group on GHG emissions from ships under the leadership of Norway.

4.34 The Committee noted that the outcome of the informal meeting between the Secretariats of IMO and UNFCCC provided important input to the IMO work on reduction or limitation of GHG emissions from ships.

4.35 The Committee, noting the invitation by SBSTA 18 for IMO to organize in consultation with the Secretariat of UNFCCC, an expert meeting or workshop before SBSTA 20, instructed the Secretariat to initiate an informal meeting of experts, preferable during January 2004.

4.36 The Committee urged Members to accept the invitation from IPCC and to participate in the revision of the "Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories" and noted that a Scoping Meeting, to be held in Geneva on 16 September 2003, would initiate the work.

4.37 The Committee noted the Working Group's preliminary discussions on the establishment of a GHG emission baseline, methodology to describe the GHG- efficiency of a ship, guidelines on GHG emission indexing scheme and the evaluation of technical, operational and market-based solutions, as identified in the operative paragraph 1 of the draft Assembly resolution.

4.38 The Committee, in order to progress the development of an IMO GHG emission indexing scheme, agreed to establish an intersessional correspondence group under the leadership of Norway and approved Terms of Reference as set out in annex 8.

4.39 The Committee approved the revised Work Plan on progressing the greenhouse gas emissions issue (MEPC 49/WP.13, annex 2).

4.40 In order to progress the development of an IMO GHG emission-indexing scheme, the Committee agreed to reconvene the Working Group on Air Pollution during MEPC 50.

## **5 CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS**

5.1 The Committee recalled that MEPC 48 considered and approved the proposed amendments to regulation 10 of MARPOL Annex I (MEPC 48/21, paragraph 7.9.4 and annex 6) with regard to making the Oman area of the Arabian Sea as a Special Area under MARPOL Annex I.

5.2 The Committee noted that, as requested by MEPC 48, the proposed amendments were circulated by the Secretary-General of the Organization, in accordance with article 16(2)(a) of MARPOL 73/78, under cover of circular letter No.2434 of 25 November 2002, and that document MEPC 49/5 contains the proposed amendments and a draft MEPC resolution on the adoption of the proposed amendments.

5.3 The Committee noted further that the Sultanate of Oman, by an urgent fax dated 16 June 2003, informed the Secretariat that the coordinates given in the text of the proposed amendments were best estimates based on the C-Map and Printed Chart (1:1,500,000) and that some coordinates on the North and South borders of the proposed Special Area require further confirmation and that the Sultanate of Oman is taking urgent action to confirm these coordinates (MEPC 49/5/1). The Sultanate of Oman would submit to the Committee at the earliest date the confirmed co-ordinates.

5.4 As a result, the Sultanate of Oman requested the Committee to consider postponing the intended adoption of the proposed amendments to MARPOL Annex I to the next regular session of the Committee.

5.5 After a brief discussion, the Committee decided as follows:

- .1 the intended adoption of the proposed amendments to MARPOL Annex I would be postponed to MEPC 51 (29 March to 2 April 2004);
- .2 the proposed amendments to MARPOL Annex I, as approved by MEPC 48 and circulated by the Secretary-General under cover of circular letter No.2434 of 25 November 2003, would remain valid, except confirmation of the coordinates for the proposed Special Area; and

- .3 the delegation of Oman was requested to submit a document to MEPC 51 to confirm the co-ordinates of the proposed Special Area.

## **6 HARMFUL ANTI-FOULING SYSTEMS FOR SHIPS**

6.1 The Committee noted that article 11(1)(b) and (2), regulation 1(4)(a) of Annex 4 of the AFS Convention refers to the following guidelines to be developed by the Organization:

- .1 Guidelines for brief sampling of ships anti-fouling systems;
- .2 Guidelines for inspection of ships anti-fouling systems; and
- .3 Guidelines for survey and certification of anti-fouling systems on ships.

6.2 The Committee recalled that at its last session, it adopted Guidelines for survey and certification of anti-fouling systems on ships under the cover of resolution MEPC.102(48).

6.3 The Committee also recalled that MEPC 47 requested the FSI Sub-Committee to prepare draft Guidelines for Brief Sampling of Anti-fouling Systems on Ships and draft Guidelines for inspection of ships anti-fouling systems.

### **Draft Guidelines for Brief Sampling of Anti-fouling Systems on Ships**

6.4 The Committee noted that the draft Guidelines for brief sampling of ships anti-fouling systems prepared by FSI 11 (FSI 11/23, annex 5) consist of the following:

- .1 a main body covering all aspects common to sampling procedures related to the regulation of anti-fouling systems controlled by the Convention; and
- .2 an appendix to the main body describing the unique procedures associated with the sampling and analysis of organotin compounds controlled by the Convention.

6.5 The Committee also noted that FSI 11 developed the appendix mentioned in paragraph 6.4.2 above with the following intent:

- .1 that other methodologies, apart from those already in the Guidelines, would be included in the appendix as and when these are available; and
- .2 should another anti-fouling system be controlled by the Convention at some future date, a new appendix to these guidelines would be attached to cover sampling and analysis procedures for the anti-fouling system in question.

6.6 The Committee noted that FSI 11, in discussing the implications of adding other methodologies to the main body of the guidelines, agreed with the majority views, and recommended the following to MEPC 49:

- .1 the Guidelines covering all aspects common to sampling procedures related to the regulation of anti-fouling systems controlled by the Convention should be adopted by means of a MEPC resolution; and
- .2 the examples of sampling methodologies should not be included in the Guidelines and should be disseminated by means of an AFS circular.

6.7 The Committee, in considering the outcome and recommendations of FSI 11 (FSI 11/23 and MEPC 49/6) and taking into account the comments on the draft sampling guidelines contained in MEPC 49/6/3 (Denmark), MEPC 49/6/1 and MEPC 49/INF.21 (Japan), made the following comments:

- .1 it would be very useful for the end-user to have both the main body covering all aspects common to sampling procedures as well as the examples of sampling methodologies under one document;
- .2 there would be no procedural advantage in issuing the examples under an AFS circular;
- .3 taking into account the above-mentioned reasons, the majority of delegations expressed a preference to issue both the main body covering all aspects common to sampling procedures as well as the examples of sampling methodologies under the cover of an MEPC resolution.

6.8 Having heard the comments, the Committee agreed to establish a drafting group to finalize the text of the Draft Guidelines for Brief Sampling of Anti-Fouling Systems on Ships with terms of reference as shown in paragraph 6.13.

#### **Draft Guidelines for Inspection of Anti-Fouling Systems on Ships**

6.9 The Committee noted that the FSI 11 also prepared the draft Guidelines for Inspection of Anti-fouling Systems on Ships, found at annex 6 to document FSI 11/23.

6.10 The Committee, in considering the draft Guidelines prepared under the cover of a draft MEPC resolution by FSI 11, noted the following:

- .1 the Sub-Committee's recommendation for the Guidelines to form a new appendix to the existing guidance for port State control (resolution A.787(19), as amended by resolution A.882(21) on Procedures for port State control), once the AFS Convention has entered into force. The Sub-Committee was of the opinion that it would be misleading at this stage to include the Guidelines for inspection as an appendix to A.882(21), as all the conventions referred to in the port State control resolution were already in force;
- .2 FSI 11 prepared the draft amendments to resolution A.787(19), as amended by resolution A.882(21) with the understanding that the MEPC would approve these at a future session, when the AFS Convention has entered into force, for submission to the Assembly for adoption. These draft amendments are contained in annex 7 to document FSI 11/23.

6.11 The Committee, in considering the outcome and recommendations of FSI 11 (FSI 11/23 and MEPC 49/6), agreed to:

- .1 adopt the inspection guidelines by an MEPC resolution, with the understanding that, once the AFS Convention has entered into force, the Guidelines could form a new appendix to resolution A.787(19) as amended by resolution A.882(21) on Procedures for port State control, pending decision by the MEPC;



- .2 put in abeyance the review and approval of the draft amendments to resolution A.787(19), as amended by resolution A.882(21), contained in annex 7 of FSI 11/23 until the AFS Convention has entered into force; and
- .3 instruct the informal drafting group to finalize the text of the draft Guidelines for Inspection of Anti-fouling Systems on Ships with terms of reference as shown in paragraph 6.13.

### **OECD project on development of an environmental emission scenario document on anti-fouling systems**

6.12 The Committee noted the information provided by the OECD (MEPC 49/6/2) on the work they are doing as regards the production of an Environmental Emission Scenario Document on anti-fouling systems, which they anticipate will be completed in autumn 2004, and invited the OECD to submit the final Environmental Emission Scenario Document on anti-fouling systems to a future MEPC.

### **Terms of Reference of the Informal Drafting Group**

6.13 The Drafting Group was instructed to:

- .1 prepare revised texts of the draft Guidelines for Brief Sampling of Anti-fouling Systems on Ships and the draft Guidelines for Inspection of Anti-Fouling Systems on Ships, taking into account the comments by delegations and the decisions of the Committee;
- .2 submit a report to plenary attaching the revised texts of the draft Guidelines for Brief Sampling of Anti-fouling Systems on Ships and the draft Guidelines for Inspection of Anti-Fouling Systems on Ships to plenary for adoption with MEPC resolutions.

### **Report of the Drafting Group**

6.14 The Committee, having considered the report of the informal drafting group (MEPC 49/WP.12), noted the outcome of the informal drafting group and adopted the Guidelines for Brief Sampling of Anti-fouling Systems on Ships and the Guidelines for Inspection of Anti-Fouling Systems on Ships by resolutions MEPC.104(49) and MEPC.105(49) respectively, as attached at annexes 9 and 10.

### **Status of ratification to the AFS Convention**

6.15 The Committee noted the following information provided to it:

- .1 Japan ratified the AFS Convention on 8 July 2003;
- .2 Norway was expected to ratify the AFS Convention in the coming weeks; and
- .3 Greece and Spain were both in the process of ratifying the AFS Convention and expected the Convention to be ratified in towards the end of 2003.

6.16 Denmark, supported by Japan and ICS, urged all Member States to ratify the Convention.

## **7 IMPLEMENTATION OF THE OPRC CONVENTION AND THE OPRC-HNS PROTOCOL AND RELEVANT OPRC CONFERENCE RESOLUTIONS**

7.1 The Committee recalled that, at MEPC 48, it approved the final revised Manual on Oil Pollution: Section IV on Combating Oil Spills, authorized the publication of the final revised Manual on Oil Pollution: Section IV and requested the Secretariat to proceed with its printing.

### **Combating Manuals/Guidelines**

7.2 The Committee recalled that, at MEPC 48, it requested the Secretariat to submit a revised draft Guidelines for bioremediation for approval by the Committee at this session.

7.3 The Committee noted that documents MEPC 49/7/3 and MEPC 49/7/3/Corr.1, Revised Draft Guidance Document for Decision Making and Implementation of Bioremediation in Marine Oil Spills, which was finalized by France, contain the technical amendments and editorial changes made by the OPRC Working Group at the Intersessional Meeting held prior to MEPC 48.

7.4 Having considered the comments made by several delegations, the Committee, while recognizing the excellent work achieved in preparing the document, instructed the OPRC/OPRC-HNS Technical Group to carry out a further and final technical and editorial review of the Draft Guidance Document at its next meeting for submission to the Committee for approval at its forthcoming regular session.

### **Draft Terms of Reference for the OPRC/OPRC-HNS Technical Group**

7.5 The Committee recalled that, at MEPC 48, it agreed to establish an OPRC and OPRC-HNS Technical Group, which would meet in the week prior to the MEPC. The Group would be a subsidiary body of the Committee, reporting back to the Committee at its subsequent session.

7.6 The Committee also recalled that, at its last session, it approved the work programme for the early entry into force and implementation of the OPRC-HNS Protocol.

7.7 The Committee noted that document MEPC 49/7/2, Draft Terms of Reference for the OPRC/OPRC-HNS Technical Group, was prepared by Australia, Canada, New Zealand and the International Tanker Owners Pollution Federation Limited (ITOPF) at the request of the Committee at its forty-eighth session. It contains the draft Terms of Reference, the Work Plan and Timetable for the OPRC/OPRC-HNS Technical Group.

7.8 After discussion, the Committee approved the Terms of Reference, the Work Plan and Timetable for the OPRC/OPRC-HNS Technical Group as annexed to MEPC 49/7/2, taking into account the comments made by the Committee. The Terms of Reference, as approved by the Committee, are set out at annex 11.

7.9 The Committee was informed that document MEPC 49/7 submitted by the Russian Federation suggested the inclusion in the programme of work of the OPRC/OPRC-HNS Technical Group of the development of an IMO Manual on Oil Spill Risks Evaluation and Assessment of Response Preparedness.

7.10 The proposal from the Russian Federation was found to be timely and was met with overwhelming support from the Committee.

7.11 Having considered relevant issues, the Committee instructed the OPRC/OPRC-HNS Technical Group to carry out an in-depth analysis of the proposal. To that effect, the Technical Group will establish a Correspondence Group, the Terms of Reference for which will be prepared by the Secretariat for approval by the Committee at its forthcoming regular session. New Zealand offered to collect any contribution from Member States during the intersessional period and to act as the focal point\* for such a correspondence group when established.

**Progress report of the Correspondence Group on the revision of the Manual on Chemical Pollution – Section 2: Search and Recovery of Packaged Goods Lost at Sea**

7.12 The Committee recalled that, at MEPC 48, it noted the recommendations of the Intersessional Meeting of the MEPC-OPRC Working Group to revise the Manual on Chemical Pollution – Section 2: Search and recovery of packaged goods lost at sea; and approved the Terms of Reference of a correspondence group, which would carry out such revision.

7.13 The Committee noted that document MEPC 49/7/1, contained a progress report of the Correspondence Group on the revision of the Manual on Chemical Pollution – Section 2: Search and Recovery of Packaged Goods Lost at Sea.

7.14 The United Kingdom, as the lead country of the Correspondence Group, informed the Committee that very good progress has been made on the revision of the Manual and that the work should be completed within 6 to 8 weeks.

7.15 The Committee noted that the final report of the Correspondence Group would be submitted to the Committee for consideration at its forthcoming regular session.

**Marine incidents involving “Hazardous and Noxious Substances (HNS)”**

7.16 The Institute of Marine Engineering, Science and Technology (IMarEST) informed the Committee that the idea behind their paper was to draw attention to the need for urgent ratification and effective implementation of the OPRC-HNS Protocol.

7.17 The Committee noted the information on Marine Incidents involving “Hazardous and Noxious Substances (HNS)” submitted by IMarEst (MEPC 49/INF.15).

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\* Mr. David Crawford  
Divisional Manager Analysis & Strategy  
Maritime Safety Authority of New Zealand  
P.O. Box 27006  
Wellington  
New Zealand  
Phone: + 64 4 494 1250  
Fax: + 64 4 494 1263  
e-mail: [david.crawford@msa.govt.nz](mailto:david.crawford@msa.govt.nz)

## **Report of the IMO/UNEP Forum on Regional Arrangements for Co-operation in Combating Marine Pollution Incidents**

7.18 The Committee recalled that, at MEPC 48, it took note of the IMO/UNEP Forum's conclusions and recommendations and requested the Secretariat to initiate appropriate action to give effect to the recommendations. It also encouraged the holding of such a forum whenever possible to promote regional co-operation on preparedness and response in particular, and the protection of the marine environment, in general.

7.19 The Committee noted that IMO and UNEP were currently considering the possibility of holding another session of the IMO/UNEP Forum in conjunction with MEPC 51 next year.

### **Implementation of the OPRC 90 Convention in India**

7.20 The Committee was informed of the steps being taken by the Government of India to further develop their national response capabilities.

7.21 The Committee further noted the information on activities carried out by India for the implementation of the OPRC Convention (MEPC 49/INF.22).

## **8 IDENTIFICATION AND PROTECTION OF SPECIAL AREAS AND PARTICULARLY SENSITIVE SEA AREAS**

### **Draft Guidance document on Associated Protective Measures for PSSAs**

8.1 The Committee recalled that, at MEPC 48, it approved the "Guidance document for submission of PSSA proposals to IMO", which has been issued as MEPC/Circ.398.

8.2 In this connection, the Committee noted that WWF submitted a "Draft guidance document on associated protective measures for PSSAs" (MEPC 49/8/2) for consideration by this session.

8.3 The Committee, in recognizing that it would be useful to gain more experience on the recently adopted Guidelines under resolution A.927(22) before issuing such a draft guidance on APMs, agreed to put the document in abeyance until the revision of Guidelines under resolution A.927(22) is called for.

### **Paracas National Reserve**

8.4 The Committee recalled that MEPC 48 approved, in principle, the designation of Paracas National Reserve of Peru as a PSSA, pending consideration of the proposal for an Area to be Avoided (ATBA) by the NAV Sub-Committee.

8.5 The Committee noted that NAV 49 considered the ATBA in the Paracas National Reserve and agreed to its establishment. The outcome of NAV 49 on the matter is contained in MEPC 49/WP.5.

8.6 The Committee also noted that the ATBA will be implemented at 0000 hours UTC time six months after the adoption by the Maritime Safety Committee.

8.7 The Committee agreed to designate the Paracas National Reserve as a PSSA under the cover of resolution MEPC.106(49), as attached at annex 12.

### **Proposal for extending the existing Great Barrier Reef PSSA**

8.8 The Committee considered the proposal submitted by Australia and Papua New Guinea on the extension of the existing Great Barrier Reef PSSA to include the Torres Strait Region (MEPC 49/8), Australia made the following points:

- .1 The complex and fragile ecosystems of the Torres Strait region are characterized by fast moving, shallow waters with 150 islands, islets, coral reefs and cays that support a complexity of marine life. Eighteen island communities are home to approximately 10,000 indigenous Australian inhabitants and perhaps another 20,000 Papua New Guinea nationals. All these people depend on the Straits unique marine environment for subsistence fishing and gathering.
- .2 The following two associated protective measures are proposed to prevent damage from international shipping activities:
  - .2.1 implementation of a recommended two way shipping route through Torres Strait. This measure was proposed to take into account the increasing size and draught of vessels using the Strait. As part of this initiative, four new aids to navigation are currently being installed by the Australian Maritime Safety Authority; and
  - .2.2 extension of the present compulsory pilotage into Torres Strait. This measure would have the same application as the existing IMO-recommended pilotage regime implemented under IMO Assembly resolution A.710(17) adopted in November 1991. This resolution applies to vessels of 70 metres in length and over and all loaded oil tankers, chemical tankers or liquefied gas carriers, irrespective of size.
- .3 Compliance with the existing recommended pilotage regime has declined and resolution A.710(17) no longer provides an acceptable level of protection for Torres Strait.

8.9 The Committee noted that NAV 49, in examining the proposal to amend the existing charting measures in the Great North East Channel in the Torres Strait (NAV 49/3/3), agreed with the proposed amendments given at an annex to NAV 49/19, which the Maritime Safety Committee is invited to adopt.

8.10 The Committee also noted that the amendment to the existing charting measures in the Great North East Channel would be implemented at 0000 hours UTC time six months after the adoption by the Maritime Safety Committee.

8.11 The Committee, in considering the joint proposal by Australia and Papua New Guinea established an Informal Technical Group to investigate if the proposed PSSA meets the criteria in resolution A.927(22).

### **Proposal for a new Western European PSSA**

8.12 The delegate from the United Kingdom, in introducing their joint document proposing a new Western European PSSA (MEPC 49/8/1, MEPC 49/8/1/Add.1, MEPC 49/8/1/Corr.1 and MEPC 49/8/4), highlighted the following points:

- .1 the area comprises of complex, diverse, productive and interdependent ecosystems and all along the coastline are locations identified for protection for ecological or geographical reasons;
- .2 the proposed PSSA area is vulnerable and includes the location of the most significant concentration of major oil spills in the world;
- .3 the area is important from a socio-economic point of view;
- .4 the proposed PSSA area includes some of the most significant shipping routes in the world;
- .5 the following associated protective measures are proposed:
  - .5.1 prohibiting the carriage of heavy grades of oil through the PSSA in vessels of more than 600 dwt, except in double-hull tankers, which will be obliged to comply with a reporting obligation with a 48-hour notice period; heavy grades of oil are defined as follows:
    - heavy crude oil, meaning crude oils having a density at 15°C higher than 900 kg/m<sup>3</sup> (which means an API grade lower than 25.7);
    - heavy fuel oils, meaning fuel oils having a density at 15°C higher than 900 kg/m<sup>3</sup> or a kinematic viscosity at 50°C higher than 180 mm<sup>2</sup>/s; and
    - bitumen and tar and their emulsions.

The above-mentioned prohibition is sought for starting in July 2004;
  - .5.2 for all single hull tankers between 600 and 5000 dwt, it is proposed that the provision shall apply as from 2008; and
- .6 the proposals contained in MEPC 49/8/1 and in MEPC 49/16/1 are distinct proposals. The PSSA proposal is intended for early implementation for a specific geographical area and is intended to address problems already experienced within that area. The proposal in MEPC 49/16/1 are for global solutions on an extended timescale.

8.13 WWF, in introducing their document MEPC 49/8/4 which comments on the above-mentioned joint proposal, made the following points:

- .1 they support the proposal for designating the Western European Waters as a PSSA and believe that additional adjacent areas of sea, namely the Irish Sea, East coast of Scotland and England to East Anglia, also meet the PSSA criteria and should be included within the PSSA proposal; and
- .2 in addition to the prohibition of the use of single-hull tankers for the transport of heavy fuel in the PSSA, a number of additional associated protective measures are appropriate.

8.14 The Committee, having considered the documents regarding the proposal to designate the Western European Waters as a PSSA, raised the following points:

- .1 a number of delegations expressed concerns regarding the large size of the proposed area and the precedence that this may set for other similarly large areas seeking PSSA identification. In response to this concern the proposing States stated precedence had already been set with the Great Barrier Reef PSSA being a similar in size to the proposed area;
- .2 a large number of delegations stated that the proposal sets a precedence which could be dangerous for the innocent passage and freedom of navigation and in this context it was pointed out that the prohibition of passage of single hulls through international straits is against international law;
- .3 a number of delegations expressed concern over the adverse effects that the proposed APM would have on the safety of navigation as single hulled tankers would be forced to navigate further out in more hazardous waters. In this context the Norwegian delegate pointed out that the APM would have the effect of bringing single hull tankers transporting heavy grade oils from Baltic region closer to the Norwegian coasts. In view of the concerns expressed the Committee agreed that the consequences of this proposal to other States should be carefully considered;
- .4 concern was expressed as to whether there is a legal basis for the proposed APMs. Some delegations recommended sending the proposal to the Legal Committee for their consideration. In this context the Committee, whilst recognizing that the legal basis for the proposed APMs needs to be investigated further, requested the Russian Federation together with any interested delegations to come up with questions that could be put forward to the Legal Committee should the MEPC decide to send it to the Legal Committee;
- .5 some delegations pointed out that it is not clear from the proposal how the measures would be implemented. In answer to this, the proposing States mentioned that information had been made available;
- .6 concern was expressed over the effect of the proposed APM on port of refuge. In this context, the proposing States confirmed that the proposed APM would not prevent ships coming to a port of refuge;
- .7 the Chairman pointed out that the definition of double hull needs to be considered; and
- .8 some delegations mentioned that consideration of proposal should be deferred until the Committee has considered document MEPC 49/16/1.

8.15 Having heard the comments, the Committee established an Informal Technical Group to investigate if the proposed PSSA meets the criteria in resolution A.927(22).

### **Instructions to the Informal Technical Group**

8.16 The Informal Technical Group was instructed to:

- .1 investigate if the proposed extension of the existing Great Barrier Reef PSSA to include the Torres Strait Region meets the criteria in resolution A.927(22), using the review form for PSSAs developed during MEPC 48;
- .2 investigate if the proposed Western European Waters PSSA meets the criteria in resolution A.927(22), using the above-mentioned review form for PSSAs; and
- .3 provide a written report to plenary on their conclusions on Thursday, 17 July 2003.

### **Vulnerability of the Baltic Sea**

8.17 The Committee noted the information on the vulnerability of the Baltic Sea contained in document MEPC 49/8/3.

8.18 In this context, the Committee noted that the HELCOM Ministerial Meeting, which met in June 2003, in its declaration, stated that EU Member States and the Accession countries will, based on the experience from existing PSSAs, carefully consider the possible designation of areas in the Baltic Sea as PSSAs. The Committee also noted that Finland and Sweden have invited interested HELCOM contracting parties to a meeting to be held in September this year, to start the elaboration of a joint application for the designation of areas of the Baltic Sea as PSSAs, to be submitted to MEPC 51 or MEPC 52.

### **Report of the Informal Technical Group**

8.19 The Chairman of the Informal Technical Group, Mr. Jim Osborne (Canada), in introducing the Report of the Group (MEPC 49/WP10) informed that the Group agreed that the proposal for the extension of the Great Barrier Reef PSSA to include the Torres Strait met a number of the criteria set out in resolution A.927(22) and hence the Group unanimously agreed to recommend that the Committee approve, in principle, the designation of this area as a PSSA and refer the mandatory pilotage APM to NAV 50 for its consideration.

8.20 The Chairman of the Group also informed that the Group agreed that the Western European Water PSSA proposal met a number of the ecological, social, cultural and economic, and scientific and educational criteria as set out in resolution A.927(22) and that the area is vulnerable to damage from international shipping. The Group noted that the proposed 48-hour mandatory reporting system is an existing IMO measure. However, the Group could not reach a conclusion on whether the proposed APMs addressed the vulnerability of the area, as the applicability of the single hull ban APM was questioned.

8.21 The Committee noted that the Group, in undertaking the review of the proposed Western European Waters PSSA, commented as follows:

- .1 the Group recognized that both Norway and Denmark as coastal states, and that the Russian Federation, as the major transporter of oil in that area, may be affected by the proposal. The Group noted the concerns expressed by Norway that the area was too large, particularly east of the Shetland Isles, and that it would push single-hull tankers carrying heavy fuel towards Norway increasing the risk for the



Norwegian coast. The proposers suggested a reduction in the size of the area east of the Shetland Isles to bring that easterly line to 0° longitude. Another comment with respect to size was associated with the number of sensitive areas within the proposed area and that consideration should have been given to proposing a number of smaller PSSAs rather than a very large one;

- .2 the Group recognized that the area is unique in terms of its deep cold-water corals. The Group, however, noted that the proposed PSSA and APMs do not protect this unique feature in its entirety as the corals extend beyond the proposed PSSA;
- .3 the Group agreed that, although the representativeness criteria, the spawning and breeding criteria, the naturalness criteria were not met for the entire proposed PSSA, these criteria were met for certain parts of the proposed PSSA;
- .4 it was recognized that the proposed PSSA encompasses a number of overlapping biological units as well as a significant number of separate biogeographical areas;
- .5 having been provided with additional information, the Group agreed that the proposed PSSA is important in terms of research and has an adequate baseline of biological information which can be used to measure change;
- .6 questions were posed on the extent of the number of single hull tankers carrying heavy fuel oil and whether there was still a significant risk from other vessels carrying bunkers as fuel. It was clarified that the protective measure proposed for the ban on single hull tankers, is for the ban for the carriage of heavy oil in bulk by single hull tankers and that this proposed APM does not apply to vessels in ballast;
- .7 some participants were of the opinion that no amendments to IMO instruments were required to implement the ban on the carriage of heavy fuel oil in single hull tankers through the proposed PSSA. Those who held this view did not rely on MARPOL 73/78, SOLAS or UNCLOS article 211(6), and relied on Assembly resolution A.927(22) instead. A number of participants stated that they did not consider that resolution A.927 provided a legal basis to implement the proposed measure; and
- .8 it was agreed that the issue of safety and efficiency had been addressed. However, it was considered that the issue of increased costs associated with the carriage of heavy oils around the proposed PSSA had not been adequately addressed. In addition, there was an issue of increasing the risk to ships having to transit outside the proposed PSSA and that spills in the area immediately adjacent might still impact the proposed PSSA. It was noted that vessels transiting outside the area might be at the limit of the rescue capability. The proposing countries did not agree with that concern and felt they could still provide an appropriate SAR response.

8.22 The Chairman of the Group emphasized that the review of such a complex and large area would require a more holistic technical review and that the existing PSSA review form was not appropriate for reviewing such an area. He concluded by suggesting that the review form would need to be further improved, that more time should be given for future evaluations of complex proposals and that, taking into account that over 50 participants attended the Group at this

session, that the Committee may wish to establish a smaller technical group at a future session for efficiency reasons.

8.23 Having heard the comments made by the Chairman of the Committee, the French delegation stated:

- .1 “On behalf of the six States proposing the PSSA, France is convinced that following the work of the Informal Technical Group there are very good reasons to agree to the designation in principle of this PSSA at this session of MEPC, and to send the associated reporting measure to the NAV Sub-Committee.
- .2 Regarding the associated protective measure on the transport of heavy oils, the six States have heard the observations and objections that have been made, and are ready to consider them on their just merits. We have also attended the Working Group on regulations 13G and 13H, the results of which we consider provide a good basis for future discussion and agreement. We strongly hope that these discussions will be finalized this December in the adoption of an international regulation concerning the carriage of heavy oils.
- .3 On the basis of this, we are ready to withdraw this measure and to come back to this Committee with an holistic approach regarding associated protective measures for this PSSA.”

8.24 Having considered the report of the Informal Technical Group, the Committee raised the following points on the Western European Waters PSSA proposal:

- .1 having been informed of the withdrawal of the APM concerning the ban on single-hull tankers, 30 delegations who spoke supported the designation, in principle, of the Western European Waters as a PSSA and supported to refer the 48-hour reporting APM for consideration by NAV 50. The delegate from Cyprus agreed to the designation in principle, provided that the proposing countries would guarantee adequate SAR and that the area would be reduced to bring the easterly line off the Shetland Isles to 0° longitude;
- .2 15 delegations who spoke did not support the designation of the area as a PSSA, or held different views on how to take the issue forward;
- .3 in expressing his lack of support for the proposal, the delegate from the Russian Federation raised the question as to whether there was a legal basis for designating such a wide geographically sea region as PSSA. In this context, he expressed that the issue of size was a very important element which is not adequately reflected in the Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas, and should be addressed therein. He stated that the United Nations Convention on Biodiversity is an important international instrument which provides States with a legal framework for designating networks of specially protected areas in areas of high concentrations of vulnerable biological resources. In this context he informed that article 8 of the afore-mentioned Convention explicitly provides for designation of individual protected areas and not for a wide sea regions. Should such a large PSSA be established, this would lead to discussion on special limitations or even prohibitive acts including shipping operations which in their turn may result in revision of the UNCLOS;

- .4 a number of delegations supported the concerns expressed by the Russian Federation regarding the legal issues raised and the large size of the area. With respect to the latter, a few delegations recognized that proposing a number of smaller PSSAs within the area might have been more appropriate;
- .5 the observer of ICS reminded the Committee that the adoption of a PSSA places certain obligations, at least of a moral nature, on the coastal States concerned. For example, following designation of the PSSA, certain types of activities may appear inappropriate in an area where the ecosystem has been assessed to be particularly sensitive;
- .6 the United Kingdom informed that this exercise had raised the issue that a range of protective measures were needed in order to best protect a range of areas, and that this matter should be investigated further;
- .7 the Committee, in noting that as the Great Barrier Reef PSSA was of a similar size as the area under question, also noted that the Great Barrier Reef differs in that it is a single biological functional ecosystem; and
- .8 the delegation of the United Kingdom stated that it intended to submit further IMO protective measures for the area to NAV 50 for consideration.

8.25 Having noted the above comments, the Committee agreed as follows:

- .1 approve, in principle, the extension of the existing Great Barrier Reef PSSA to include the Torres Strait Region and to request NAV 50 to consider the extension of the compulsory pilotage measures. In approving, in principle, this area as a PSSA, the Committee noted that, consistent with article 236 of UNCLOS, the APM would not apply to sovereign immune vessels;
- .2 in view of the majority support, the Committee approved, in principle, the designation of the Western European Waters as a PSSA, with the provision that the area is reduced to bring the easterly line off the Shetlands Isles to 0° longitude; and
- .3 referred the 48-hour mandatory reporting measure to NAV 50 for consideration.

8.26 Regarding the legal issue raised by the Russian Federation (paragraph 8.23.3), the Chairman informed the Committee that the Legal Committee would meet twice before the Western European Waters PSSA would be considered by the Committee for potential final designation at the regular session of MEPC in October 2004. The Russian Federation and any other interested delegations could, therefore, seek the Legal Committee's opinion by submitting documents. Through this arrangement, the Committee would be informed of the outcome of those discussions when deciding on the PSSA designation of this area in 2004.

8.27 The Committee, in noting the comments made by the Chairman of the Group, as reflected in paragraph 8.22, agreed to look into the possible improvement of the PSSA review process in order to ensure that the arrangements for the review of PSSA proposals could be handled better. In view of this, the Committee requested interested delegations to submit proposals to that effect.

## **Appreciation**

8.28 The Committee, noting that this is the last session that Mr. Jim Osborne (Canada) will attend prior to his retirement, expressed appreciation to him for chairing the Informal Technical Group on PSSAs and for his contribution to the work of the Committee over many years.

## **9 INADEQUACY OF RECEPTION FACILITIES**

9.1 The Committee recalled that at MEPC 48, it was noted that very few returns had been submitted to IMO on alleged inadequacy of reception facilities. In reviewing this issue, the Chairman of MEPC 48 had stressed that the overall purpose of making reports about waste reception facilities should be to encourage improvement in the availability of the facilities to shipping and use by ships so as to minimize/prevent illegal discharge/dumping of waste materials as defined by MARPOL 73/78.

9.2 As a result, the Committee instructed the FSI Sub-Committee to consider relevant issues, including the reporting procedure, in order to improve the situation.

9.3 It was also noted that, having considered these requests, FSI 11 instructed the Secretariat to prepare an appropriate submission to FSI 12 on waste reception facilities reporting requirements including availability, use and purpose of reporting as provided in Annexes I, II and V to MARPOL 73/78 and the Guidelines for ensuring the adequacy of port waste reception facilities.

9.4 The Committee, therefore, agreed to await the outcome of FSI 12 on this issue prior to giving it any further consideration.

9.5 In this regard, the Committee noted that the Secretariat had recently received reports from Finland and Norway on inadequacy of reception facilities, a summary of which would be prepared by the Secretariat for consideration by the next session of the FSI Sub-Committee.

## **10 REPORTS OF SUB-COMMITTEES**

### **10.1 Outcome of DE 46**

10.1.1 It was noted that the forty-sixth session of the Sub-Committee on Ship Design and Equipment had been held from 10 to 19 March 2003 and that six issues had been identified as requiring consideration by the Committee. The discussion and decisions made by the Committee regarding these issues are reported below.

#### **Reduction of NO<sub>x</sub> emissions**

10.1.2 The Committee noted that it had been requested to adopt the draft MEPC resolution on Guidelines for on-board NO<sub>x</sub> verification procedure – Direct measurement and monitoring method. However, it was recalled that this issue, along with a related submission from the Republic of Korea (MEPC 49/10/8) had already been discussed under agenda item 4.

10.1.3 In this context, the delegation of Spain indicated that there was no guidance for removing the nitrogen content of residual fuels (ISO 8217). As a result, any actions focused on reducing NO<sub>x</sub> emissions should be addressed using other alternatives.

## **Guidelines for pollution control equipment**

10.1.4 The Committee noted that it had been requested to:

- .1 adopt the draft MEPC resolution on Revised Guidelines and specifications for pollution control equipment for machinery space bilges of ships; and
- .2 adopt the draft MEPC resolution on the Revised guidelines and specifications for oil discharge monitoring and control systems for oil tankers.

10.1.5 In considering this request, it was noted that DE 46 had developed the draft Revised Guidelines and specifications for pollution prevention equipment for machinery space bilges of ships to replace resolution MEPC.60(33), taking into account the instruction given by MEPC 48 to include ISO Standard 9377-2 (use of GLC to replace IR Spectrophotometry).

10.1.6 It was also noted that DE 46 had developed the draft Revised Guidelines and specifications for oil discharge monitoring and control systems for oil tankers to replace resolution A.586(14) which included a number of improvements.

10.1.7 In this context, in introducing its document, MEPC 49/10/9, the United States made the point that, whilst supporting the revisions, it proposed that existing equipment be phased out of service if it does not meet the new requirements as set forth in the revised resolutions allowing a phase out period of five years. In order to accommodate the new resolutions, the United States proposed amendments to regulations 15(3), 16(4) and 16(5) of Annex I to MARPOL 73/78 to reflect this.

10.1.8 Whilst there was some sympathy for the concept proposed by the United States, the Committee considered that it would be more appropriate to adopt the resolutions now and give further consideration to the proposal at a future session, so that a cost/benefit analysis could be taken into account.

10.1.9 In this context, it was noted that, in the operative paragraph 2(a) of the draft resolution (DE 46/32/Add.1, annex 3), there were square brackets round the date 1 January 2005 which the Committee agreed should be removed.

10.1.10 As a result, the Committee adopted the Revised Guidelines and specifications for pollution control equipment for machinery spaces bilges of ships by resolution MEPC.107(49) and adopted the Revised Guidelines and specifications for oil discharge monitoring and control systems for oil tankers by resolution MEPC.108(49), which are set out in annexes 13 and 14 respectively.

## **Other issues**

10.1.11 The Committee agreed that, pending the outcome of the 2004 Ballast Water Conference, the item on "Safety aspects of ballast water management" should be kept in the DE Sub-Committee's work programme and included in the agenda of a future session following relevant instructions of the Committee.

10.1.12 The Committee noted the Sub-Committee's discussions on the protection of pump rooms and access to shore-based computer programmes for salvage operations and on the protection of fuel tanks.

10.1.13 In considering the outcome of the Sub-Committee's discussion with regard to the draft IMO Guidelines on ship recycling, the Committee noted that DE 46 had proposed that, with regard to the list of potentially hazardous materials which may be found on board vessels delivered to recycling yards, the reference to halon should be amended to include perfluorocarbons (PFCs).

10.1.14 It was also noted that this issue had already been considered under agenda item 3 (ship recycling).

## **10.2 Outcome of FSI 11**

10.2.1 The Committee noted that the eleventh meeting of the Sub-Committee on Flag State Implementation had been held from 7 to 11 April 2003 and fifteen issues had been identified as requiring consideration by this Committee. The discussion and decisions made by the Committee regarding these issues are reported below.

10.2.2 It was recalled that the Committee had instructed the Secretariat to put information on casualties on the IMO website once its content had been agreed by FSI. In order to assist the Organization in receiving the required information on casualties, the Committee endorsed the request of FSI to remind Member States of the casualty related data required to be reported to the Organization.

10.2.3 Having noted that that FSI 11 had been informed of a number of accidents involving thermal oil systems, the Committee endorsed the Sub-Committee's invitation to Member States to submit reports involving thermal oil systems accidents.

10.2.4 The Committee endorsed, in principle, with regard to the development of the draft Code for the implementation of [mandatory] IMO instruments:

- .1 that the stakeholders are to be covered by the Code;
- .2 the time frame for the Sub-Committee's work on the Code; and
- .3 the need for the MSC/MEPC/TCC Working Group on the IMO Model Audit Scheme and the Sub-Committee is to remain apprised of developments on both issues.

10.2.5 In considering this issue, it was noted that this draft Code was not anticipated to be completed until FSI 13 and would cover the three stakeholders, i.e. flag States, port States and coastal States rather than being limited to flag States. It was also noted that MSC 77 had also endorsed, in principle, the recommendations of FSI 11 related to these issues.

10.2.6 It was noted that FSI had originally intended to finalize a draft Assembly resolution on the transfer of ships between flag States for consideration by MSC 77 and MEPC 49. However, the Sub-Committee had decided to give further consideration to the incorporation of other relevant provisions prior to submitting the resolution to the Committees for approval. The Committee concurred with the Sub-Committee's approach to this issue, recognizing that MSC 77 had not considered this point as it had only dealt with urgent matters arising from FSI 11.

10.2.7 It was noted that FSI 11 had agreed that it would be advantageous to divide the introduction and three annexes of the amended resolution A.746(18) into separate guidelines for SOLAS, LL and MARPOL. Furthermore, FSI 11 had agreed that it should co-ordinate the

review of these annexes and so recommended to the Committees that, whenever a statutory instrument is developed that entails consequential amendments to the associated survey guidelines, amendments to the guidelines should be developed before the entry into force of the amendments to the statutory instrument.

10.2.8 The Committee agreed in principle with this proposed methodology for future review of the Survey guidelines under the HSSC. However, concern was expressed that a continuous item on “Review of the Survey Guidelines under HSSC” should be included in its work programme, and agreed to consider this further under agenda item 19.

10.2.9 The Committee concurred with the decision of MSC 77 that the draft revised Survey Guidelines under the HSSC for submission to the twenty-third session of the Assembly for adoption. However, it was recognized that annex 3 to these Guidelines did not reflect the recent amendments to MARPOL 73/78, particularly in relation to regulation I/13G. Noting that the draft revised Survey Guidelines covered amendments to MARPOL 73/78 only until 2000, the Committee requested FSI to update the Guidelines at the earliest opportunity.

10.2.10 The Committee noted that FSI 11 was intending to continue working on the self-assessment of flag State performance on the basis of information provided by the Secretariat and information provided by Member States on their initial SAFs and updates to allow proposals for amending the forms and to show how the Organization could benefit from the information in the SAFs under the agenda item “Comprehensive analysis of difficulties encountered in the implementation of IMO instruments”.

10.2.11 The Committee concurred with this approach of the Sub-Committee concerning its future work on the self-assessment of flag State performance.

10.2.12 The Committee noted that it had been requested to approve the proposed revised work programme of the Sub-Committee and provisional agenda for FSI 12 but agreed to consider this issue under agenda item 19.

10.2.13 The Committee endorsed the instructions of FSI 11 to the Secretariat to update the list of mandatory reports under MARPOL 73/78 to show which Parties had submitted their reports and which had failed to do so. In addition, the Committee endorsed the instructions to the Secretariat to submit reports on waste reception facilities reporting requirements including availability, use and purpose of reporting as provided in Annexes I, II and V to MARPOL 73/78 and the Guidelines of ensuring adequacy of port waste reception facilities.

10.2.14 The Committee noted that it had been requested to consider the Sub-Committee’s recommendations regarding the draft Guidelines for brief sampling of anti-fouling systems on ships and the draft AFS circular annexing the examples of sampling methodologies and take action as appropriate. This issue was considered under agenda item 6.

10.2.15 The Committee also agreed to consider the request to adopt the draft MEPC resolution on Guidelines for inspections of ships anti-fouling systems under agenda item 6.

10.2.16 The Committee also noted the draft amendments to resolution A.787(19), as amended by resolution A.882(21), with the understanding that it would approve them at a future session when the 2001 AFS Convention has entered into force, for submission to the Assembly for adoption. This issue was considered further under agenda item 6.

10.2.17 Furthermore, the Committee agreed to consider the Sub-Committee's recommendations on ships recycling-related matters under agenda item 6.

10.2.18 The Committee noted that the draft amendments to MARPOL Annex VI on the introduction of the HSSC had been considered under agenda item 4.

10.2.19 Having noted that it was requested to consider the Sub-Committee's recommendations concerning the possible amendments to regulation 3(3) of Annex IV of MARPOL 73/78 and take action as appropriate, the Committee agreed to consider this issue under agenda item 16 whilst noting that FSI 11 was referring to regulation 3(3) of the existing Annex IV.

10.2.20 Notwithstanding the specific actions requested of it by FSI 11, the Committee approved its report in general.

### **10.3 Outcome of BLG 8**

#### **10.3.1 Introduction**

10.3.1.1 It was noted that the eighth session of the Sub-Committee on Bulk Liquids and Gases had been held from 24 to 28 March 2003 and that 19 action points had been identified for consideration by the Committee. The discussion and conclusions reached on each of these items are summarized in the following paragraphs.

#### **10.3.2 MEPC resolution on Tripartite agreements**

10.3.2.1 The Committee recalled that it had instructed BLG to develop a draft resolution to overcome the problem of arranging tripartite agreements with countries, which do not report their contact details to IMO for inclusion in MEPC.2 circulars.

10.3.2.2 Having considered the text developed by BLG 8, the Committee adopted the MEPC resolution on Tripartite agreements by resolution MEPC.109(49) as shown in annex 15.

#### **10.3.3 Guidelines associated with Annex I to MARPOL 73/78**

10.3.3.1 The Committee adopted the Revised Interim Guidelines for the approval of the alternative methods of design of oil tankers under regulation 13F(5) of Annex I of MARPOL 73/78, by resolution MEPC.110(49), as set out in annex 16, recognizing that these Guidelines were to be used in conjunction with the current Annex I of MARPOL 73/78. However, the United States reserved its position with regard to this issue.

10.3.3.2 In addition, the Committee endorsed the recommendation, from BLG 8, to instruct the Secretariat to prepare a draft MEPC resolution on Guidelines for the approval of the alternative methods of design of oil tankers under regulation 37 of the revised Annex I of MARPOL 73/78 for adoption together with the revised Annex I, recognizing that these guidelines would eventually replace the ones approved for the current Annex I.

10.3.3.3 The Committee approved, in principle, the draft MEPC resolution on Explanatory Notes on matters related to the accidental oil outflow performance for MARPOL regulation I/21 (BLG 8/18, annex 4) with a view to adoption together with the revised MARPOL Annex I at a future session, recognizing that the cross-references would need to be checked by the Secretariat.



10.3.3.4 The Committee approved, in principle, the draft revised MARPOL Annex I (BLG 8/18, annex 5) and agreed to its circulation to IMO Members and Contracting Governments to the 1973 MARPOL Convention in accordance with article 16 of the Convention after final approval by MEPC 51, taking into account the developments expected at MEPC 50 on the proposed amendments to Annex I relating to the phase-out of single-hull oil tankers.

10.3.3.5 However, in supporting the approval of the revised Annex I to MARPOL 73/78, Norway indicated that the revised requirements for accidental oil outflow performance (regulation I/21) were neither intended to strengthen the requirements nor lead to the phase-out of existing and environmentally friendly ship designs. However, the result has been a strengthening of the requirements for accidental oil outflow performance, which will have consequences for ship designs such as OBO carriers.

10.3.3.6 It was noted that the BLG Sub-Committee developed a compromise solution for OBO carriers (adjusted  $O_m$  factor) which Norway accepted although it had proposed further technical adjustments.

10.3.3.7 Norway indicated that, most likely, the traditional OBO design would be phased out because of the new requirements in regulation 21, though new OBO designs might be constructed. However, if the consequence is a phase-out of the OBO design as such, Norway indicated that it would deeply regret this and would have to address this issue to the Committee in an appropriate way.

#### **10.3.4 Animal/Vegetable/Fish oils**

10.3.4.1 The Committee noted the discussion on matters related to the trade of vegetable oils and the pollution categorization systems.

#### **10.3.5 Database of products subject to the IBC Code**

10.3.5.1 The Committee agreed in principle, subject to MSC's concurrent decision, that data associated with the lists of substances subject to MARPOL Annex II could be provided, in a format suitable for uploading into databases. In doing so, it was recognized that this request had been made to facilitate interested parties ability to upload relevant chemical data into their databases to reflect changes to the carriage requirements of such products. However, recognizing that this might have cost implications, instructed the Secretariat to provide details of this aspect to future sessions of both MSC and MEPC.

#### **10.3.6 Dates on the Harmonized System of Survey and Certification**

10.3.6.1 Recognizing the previous decision that certificates issued under the HSSC should be endorsed with the words "Completion date of survey on which the certificate is based: dd/mm/yy", the Committee agreed that wherever a date is requested in a form or a certificate, the format "dd/mm/yyyy" should be used, noting that this specifies four digits for the year. In reaching this decision the Committee recognized that this would avoid any potential confusion.

#### **10.3.7 Pollution Categorization System**

10.3.7.1 The Committee noted that it had been requested to consider the finalized texts for the 3-category and the 5-category versions of the draft revised MARPOL Annex II and take action as appropriate. However, it was agreed to defer discussion on this issue to later in the agenda.

### **10.3.8 Amendments to the IBC Code**

10.3.8.1 Recognizing that the issue was primarily for MSC, the Committee noted the outcome of matters related to the draft amendments to the IBC and IGC Codes on electrical installations.

### **10.3.9 Unified Interpretations related to Annex I of MARPOL 73/78**

10.3.9.1 The Committee approved the draft amendments to the Unified Interpretations to Annex I of MARPOL 73/78 relevant to FPSOs and FSUs (BLG 8/18, annex 12). In taking this action, the Committee recognized that these Unified Interpretations applied to the existing regulation 21 of Annex I to MARPOL 73/78 and the same text would apply to regulation 37 of the revised version. The Committee noted that the Unified Interpretations relevant to FPSOs and FSUs had already been included in the revised text of the Unified Interpretations of the revised MARPOL Annex I (BLG 8/18, annex 5).

### **10.3.10 FPSOs and FSUs**

10.3.10.1 The Committee approved the draft MEPC circular on Guidelines for the application of MARPOL Annex I requirements to FPSOs and FSUs (BLG 8/18, paragraph 8.12 and annex 13) and instructed the Secretariat to issue it as MEPC/Circ.406 having, first, agreed on the following editorial amendments:

In box I(8) on page 4 of annex 13 to BLG 8/18, the following words were deleted:

- .1 “Not generally applicable” (line 1);
- .2 “not” (penultimate word in line 2);
- .3 “Similarly” (line 3).

10.3.10.2 However, the United States indicated that it reserved its position regarding the application of double-hull recommendations in the Guidelines to FPSOs and FSUs.

10.3.10.3 In this connection, the Committee noted the submission from ISO (MEPC 49/10/6) which addressed the ISO standards for floating structures and stationkeeping and described three ISO standards relating to offshore structures.

10.3.10.4 Recognizing that similar guidelines would be needed for the revised Annex I to MARPOL 73/78, the Committee instructed the Secretariat to prepare a draft MEPC resolution on Guidelines for the application of the revised MARPOL Annex I requirements to FPSOs and FSUs, with a view to adoption together with the revised MARPOL Annex I.

### **10.3.11 Safety Data Sheets**

10.3.11.1 The Committee noted that MSC 77 had adopted resolution MSC.150(77) on Recommendation for material safety data sheets for MARPOL Annex I cargoes and marine fuel.

### **10.3.12 Oil tagging system**

10.3.12.1 The Committee noted that it had been requested to consider the Sub-Committee’s course of action on matters related to oil tagging systems and take action as appropriate.

10.3.12.2 The Committee noted that no document had been submitted to BLG 8 on this issue and that the United Kingdom had indicated that research on this matter would not be forthcoming in the foreseeable future. As a result, the Committee agreed with the proposals from BLG to keep the issue in its work programme but to deal with related information documents under “Any other business”.

### **10.3.13 Ship Recycling**

10.3.13.1 The Committee recalled that this issue had been discussed under agenda item 3 (Ship Recycling).

### **10.3.14 Work Programme and Provisional Agenda**

10.3.14.1 Having noted that it was requested to approve, subject to MSC's concurrent decision, the proposed revised work programme of the Sub-Committee and provisional agenda for BLG 9, the Committee agreed to consider this issue under agenda item 19.

### **10.3.15 Intersessional meeting of the ESPH Working Group**

10.3.15.1 Recognizing the large amount of work still to be done by the ESPH Working Group, the Committee approved the holding of an intersessional meeting of the ESPH Working Group in 2004 and noted that MSC 77 had done the same.

### **10.3.16 Approval of the report in general**

10.3.16.1 Having considered all the important issues arising from the report of BLG 8, the Committee approved the report of the Sub-Committee in general.

## **10.4 Matters related to the revision of Annex II to MARPOL 73/78**

10.4.1 The Committee noted that it was being invited to consider the finalized texts for the 3-category and the 5-category versions of the draft revised MARPOL Annex II and take action as appropriate.

10.4.2 It was also noted that there were six submissions (MEPC 49/10, MEPC 49/10/Corr.1, MEPC 49/10/1, MEPC 49/10/5, MEPC 49/10/7 and MEPC 19/10/10) addressing this issue. However, these submissions were neither introduced nor discussed for the reasons identified hereunder.

10.4.3 Having noted the submissions addressing this issue, the Committee was informed that the Chairman had recognized the divergence of opinion regarding the choice of Pollution Categorization System to be incorporated into the revised Annex II to MARPOL 73/78 and so had invited a small group of experts to investigate ways of reaching a compromise solution and formulate a compromise to be circulated as a proposal by the Chairman. The Chairman's proposal was presented to the Committee as document MEPC 49/WP.9.

10.4.4 The Committee noted that the Chairman had identified a number of key issues associated with the Categorization Systems, which should serve as a basis for finding a compromise to the issue.

## Compromise proposal

10.4.5 A 4-Category System could be used providing that products assigned to the fourth Category are shown to be harmless by all of the properties evaluated by GESAMP/EHS.

10.4.5.1 In this context, there was a difference of opinion between the experts regarding column A1 (bioaccumulation) of the GESAMP Hazard Profile (GHP). Some experts considered that an EHS rating of <3 should be regarded as non-bioaccumulating whilst others preferred to use a rating of 0 only.

10.4.5.2 The Chairman instructed the Secretariat to check those products currently evaluated by EHS and the Secretariat found out that there was no difference in the list of products with a 0 or <3 rating in column A1, which would be assigned to the fourth Category. These are shown below:

PSN	A1	A2	B1	B2	C1	C2	C3	D1	D2	D3	E1	E2	E3
Apple juice	0	R	0	0	0	0	0	0	0		NI	D	0
Clay slurry	0	Inorg	0	0	0	0	0	0	0		0	S	0
Coal slurry	0	Inorg	0	0	0	0	0	0	0		0	S	0
Dextrose solution	0	R	0	NI	0	0	0	0	(0)		0	D	0
Glucose solution	0	R	0	NI	0	0	0	0	(0)		0	D	0
Kaolin slurry	0	Inorg	0	NI	0	0	0	0	0		0	S	0
Molasses	0	R	0	NI	0	0	0	0	0		0	D	0
Water	0	Inorg	0	0	0	0	0	0	0		0	D	0

10.4.5.3 There was an opinion that this could be a definitive list of substances which are proven not to exhibit any harmful effects on the marine environment and should not be added to once the revised Annex II to MARPOL 73/78 had been agreed.

10.4.5.4 There was another opinion that molasses should be transferred to Category Z as experience had shown that it tended to produce a sticky slick, even though it was evaluated as a *Dissolver*.

10.4.6 There is no need to include the currently defined Special Areas in the revised text of Annex II to MARPOL 73/78 with the exception of the Antarctic Area.

10.4.7 *Floaters* and *Persistent Floaters* should be assigned to Category Y.

10.4.7.1 The Chairman took note that Vegetable Oil interests had expressed concern that allocating such products to Category Y might cause economic problems (increase in freight rates) and a lack of available chemical tankers on certain routes.

10.4.7.2 However, as the Chairman had no specific details provided to him to question the statistics previously considered by the Committee, he suggested to continue to allocate floaters to Category Y, in accordance with the Precautionary Approach, whilst recognizing that, should detailed justifications be submitted to IMO, consideration might be given to finding ways to overcome such difficulties.

10.4.8 Keep the 12-mile discharge limit for Category Z products and modify the waiver for domestic trade to include trade between countries where transport between them stayed within the 12-mile limit of either country providing that no third party was affected.

10.4.9 The pre-wash requirement and subsequent need for reception facilities, for some products (primarily vegetable oils) allocated to Category Y might be overcome by either:

- .1 allowing the unloading temperature to be increased so that the viscosity fell below the definition of High Viscosity; or
- .2 raising the definition of High Viscosity such that the big movers would not meet the criteria providing that this could be justified on scientific grounds.

10.4.10 The 75 litres stripping limit for Category Z products should remain for new ships.

10.4.10.1 Whilst recognizing that Category Y and Z were not differentiated by this criterion, it was agreed that there was sufficient differentiation due to:

- .1 the requirement for all Category Y products to be transported on IMO Ship Types; and
- .2 the requirement for High Viscosity and Solidifying Substances in Category Y products to require a mandatory pre-wash.

10.4.11 The Chairman considered that, if these compromises could be accepted, a revised text, based on the current 3-Category version of Annex II should be rewritten to include them, since this was regarded as the simplest version to adapt.

10.4.12 Consideration should be given to referring to the fourth Category as “Other Substances (OS)” or some such similar name.

## **Discussion**

10.4.13 In addressing some of the opinions expressed by the informal group of experts related to the specific points of the compromise proposal, the Committee agreed that:

- .1 the products assigned to the fourth Category (referred to by the expert group as “OS”) should not be defined as a definitive list, limited to those products currently identified as meeting the criteria, but should be open to any other products which are also found to meet the criteria;
- .2 as concerns were still being expressed regarding the potential impact this compromise might have on sections of industry, any detailed justifications associated with difficulties which might be encountered as a result of the compromise package would be given due consideration with a view to trying to find a solution.

10.4.14 During the discussions, the Republic of Korea expressed the wish to have a period of grace for some ships involved in the trade of certain cargoes.

10.4.15 In response, the Chairman replied that such a proposal would not be accepted by the majority and could threaten the viability of the compromise. The Chairman pointed out that regulations 2(7)(a) and 2(7)(b) provide for an exemption which parties could use for their own ships and, in the Chairman’s opinion, with which the Committee agreed, this option should suffice for those parties wishing to have a period of grace for existing ships.

10.4.16 Having considered all of the points of the compromise proposal in detail, the Committee approved the revised text of Annex II for the 4-Category system prepared on the basis of the proposed 3-Category version including the compromise proposal described above, which is set out at annex 17. However, the United States and the Republic of Korea reserved their position on this issue at this time.

10.4.17 Taking into account the present work to revise MARPOL Annex I Regulation 13G, the Committee envisaged that the revised MARPOL Annex I would need to be modified at MEPC 51 to incorporate the outcome of the December extra session. The revised Annex I would be circulated after MEPC 51 under the amendment procedure with a view to its adoption by MEPC 52 in late 2004 so that the new Annex I would come into force in 2006.

10.4.18 The revised Annex II was approved for circulation with a view to adoption in 2004 and, recognizing that the revised Annex I and Annex II relate to each other, the Committee agreed that the date of entry into force of Annex II should be arranged to be the same as the date of entry into force of Annex I.

## **11 WORK OF OTHER BODIES**

### **11.1 Outcome of C 89**

11.1.1 The Committee noted that the eighty-ninth session of the Council (C 89) had been held from 25 to 29 November. Those issues arising from this session and of relevance to the Committee are reported hereunder.

11.1.2 The Committee noted that Council had noted those issues arising from MEPC 48, which had been brought to its attention and, in particular:

- .1 approved the convening of the Diplomatic Conference on Ballast Water Management in early 2004 instead of October 2003; and
- .2 approved the holding of an intersessional meeting of the ESPH Working Group of the BLG Sub-Committee in 2003. This meeting has been scheduled to take place from 1 to 5 September 2003.

11.1.3 With regard to the IMO Model Audit Scheme, it was noted that the Council had requested MSC 76 to consider establishing a joint MSC/MEPC/TCC Working Group in order to consider the matter further in accordance with the terms of reference as identified in C 89/WP.1/Rev.1.

11.1.4 The Committee noted that this issue was the subject of three notes by the Secretariat (MEPC 49/11/7 and MEPC 49/11/7/Add.1) and that:

- .1 MEPC 49/11/7 contained a copy of the report of the Joint MSC/MEPC/TCC Working Group on the IMO Model Audit Scheme, which was originally submitted to MSC 77 as MSC 77/WP.14 together with the action points requested of MSC and MEPC;
- .2 MEPC 49/11/7/Add.1 provided information on the outcome of MSC 77 on this specific issue; and
- .3 MEPC 49/11/9 (Outcome of C 90) also provided information related to this issue.

11.1.5 The Committee noted that the Council, at its ninetieth session, had approved the report of the Joint Working Group, taking into account the outcome of MSC 77 and TC 53, recognizing that MEPC 49 would be considering the report further.

11.1.6 Whilst recognizing the progress that had already been made, the Committee considered each of the action points in paragraph 4 of MEPC 49/11/7 and took action as described hereunder.

11.1.7 Having considered the outcome of the group's consideration of the various aspects of the scheme (paragraphs 14.1 and 14.2 of the annex to MSC 77/WP.14), the Committee:

- .1 noted that the Joint MSC/MEPC/TCC Working Group on the IMO Model Audit Scheme was tentatively scheduled to meet during MEPC 51 from 29 March to 2 April 2004, but considering that MEPC 51 will have three other working groups, recommended that an alternative date should be found for the next meeting of the joint group;
- .2 approved the group's recommendation on the inclusion of only a generic reference to UNCLOS under the scope of the scheme and noted that MSC had done likewise;
- .3 endorsed MARPOL 73/78 as the IMO instrument containing environmentally-critical area to be included in the scope of the scheme;
- .4 approved the work plan for the establishment of the scheme and, in particular, the establishment of an *ad hoc* correspondence group and the convening of the Joint MSC/MEPC/TCC Working Group before June 2004 and June 2005 respectively;
- .5 approved the proposed draft Assembly resolution, as amended by the MSC, Council and TCC, on the Voluntary IMO Model Audit Scheme, noting that MSC 77 had done likewise. In this context, the Committee took specific note of paragraph 6.10 of MSC 77/WP.14, which indicated that the obligations and responsibilities should be auditable in accordance with the draft Code for the implementation of [mandatory] IMO instruments to be developed by the Organization; and
- .6 approved the report of the Joint Working Group (MSC 77/WP.14) in general.

11.1.8 With regard to the World Summit on Sustainable Development (WSSD), it was noted that Council had instructed all Committees and their subsidiary bodies to take into account the Summit's Plan of Implementation when preparing their long term work programmes for consideration by Assembly. The Committee, recognizing that it was already doing this, agreed to pay particular attention to this point when discussing the Work Programmes, under agenda item 19.

11.1.9 It was recalled that, at MEPC 48, it had been agreed to recommend that provisional consultative status be given to IMTA-Interferry. However, it was noted that the Council had deferred making a decision on this recommendation until MSC had had time to consider the application and so Council considered this issue at its ninetieth session in June 2003 when it agreed to give provisional consultative status to IMTA-Interferry.

## 11.2 Outcome of MSC 76

11.2.1 The Committee noted that the seventy-sixth session of the Maritime Safety Committee (MSC 76) had been held from 2 to 13 December 2002. Those issues identified in MEPC 49/11/2 which were of interest to this Committee were noted and, in particular, the Committee concurred with the decision of MSC 76 in approving the draft MSC/MEPC circular on Recommendation for the use of a standard format for cargo information required by chapter 16 of the IBC Code (BLG 7/15, annex 8) and instructed the Secretariat to issue the Recommendation as MSC/Circ.1100-MEPC/Circ.407. In this connection, the Committee noted that the Globally Harmonized System of Classification and Labelling of Chemicals (GHS), which includes chapter 1.5 on Safety Data Sheets (SDS) was available as a United Nations Publication:

Sales No: E.03.II.E.25  
ISBN: 92-1-116840-6.

11.2.2 The Committee also endorsed the IACS unified interpretation, MPC 9, in relation to regulation 13F(3) of Annex I to MARPOL 73/78.

## 11.3 Outcome of MSC 77

11.3.1 The Committee noted that the seventy-seventh session of the Maritime Safety Committee (MSC 77) had been held from 28 May to 6 June 2003. Having noted those issues of interest to the Committee and the decisions of MSC 77, the Committee:

- .1 approved the draft MSC/MEPC/FAL circular on the availability of tug assistance as shown in annex 1 to MSC 77/2;
- .2 approved the draft Assembly resolution on Revised Survey Guidelines under the Harmonized System of Survey and Certification, set out in annex 19 to MSC 77/26, and instructed the Secretariat to make, in consultation with interested delegations, necessary editorial modifications to the draft Revised Survey Guidelines, for submission to the twenty-third session of the Assembly for adoption;
- .3 approved the draft Assembly resolution on Human Element vision, principles and goals for the Organization;
- .4 approved the draft revised Guidelines on the organization and method of work of the MSC and MEPC and their subsidiary bodies, annexed to document MSC 77/22, amended as indicated in paragraph 22.2 of MSC 77/26, and instructed the Secretariat to issue the Guidelines under cover of an MSC/MEPC circular superseding MSC/Circ.931-MEPC/Circ.366 (see paragraph 18.9);
- .5 noted that MSC 77 had agreed, in principle, to combine the holding of BLG 9 with DSC 9 in order to establish the ESPH Working Group in 2004. Noting that alternative proposals were made, it was agreed to discuss this issue further under agenda item 19; and
- .6 noted that MSC 77 had requested the Chairmen of the MSC, MEPC and FAL, in consultation with the Secretariat, to prepare proposals on the work of the SPI Working Group and advise the MSC, MEPC and FAL accordingly.



#### **11.4 Outcome of FAL 30 and the SPI Working Group**

11.4.1 It was noted that the Facilitation Committee had held its thirtieth session from 27 to 31 January 2003, the SPI Working Group had met at the same time and three action items had been identified for consideration by the Committee. After consideration, the Committee:

- .1 recalled that, at MEPC 48, it had concurred with MSC 75, that FAL need not pursue its work on the harmonization of ships' certificates for the time being and so FAL agreed not to pursue the issue and noted that the FAL Committee's had followed this recommendation;
- .2 noted that the FAL Committee had recognized that there was a need to update the list of certificates and documents required to be on board ships and so the Secretariat was instructed to prepare the revised list for consideration by MSC, MEPC and FAL at a future session; and
- .3 recalled that it had already approved the draft MSC/MEPC/FAL circular on Availability of tug assistance when considering the outcome of MSC 77.

#### **11.5 Outcome of C 90**

11.5.1 The Committee noted that the ninetieth session of Council (C 90) had been held from 16 to 20 June 2003 and particularly noted the discussions at Council related to the IMO Model Audit Scheme as well as other issues of interest to this Committee. The Committee:

- .1 recalled that it had agreed to discuss this issue under agenda item 19;
- .2 agreed to consider the applications for consultative status under agenda item 21;
- .3 noted that the Council had approved the holding of a two-day extra session of the MEPC to be held during the twenty-third session of the Assembly, which was discussed further under agenda item 16 in order to decide on the need to hold such an extra session; and
- .4 considered the guidelines on the access of news media to IMO meetings and whilst agreeing, in principle, that the media should only be allowed into plenary sessions, agreed to consider the whole issue further at the next regular session of MEPC.

#### **11.6 Outcome of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals**

11.6.1 The Committee noted that the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals had held its fourth meeting from 9 to 11 December 2002 and that its report had been issued as ST/SG/AC.10/C.4/8.

11.6.2 The Committee agreed that the Secretariat should inform the UN GHS Sub-Committee of those product properties which are not part of the GHS system but are used by IMO (autoignition temperature, flammability limits and physical properties) in defining Pollution Categories and Carriage Requirements.

11.6.3 Whilst agreeing to consider sending their appropriate experts to participate in the forthcoming specialized GHS meetings, Members agreed that the Secretariat should also attend appropriate GHS meetings.

## **11.7 Possible future work for the GESAMP/EHS Working Group**

11.7.1 The Committee recalled that, at MEPC 48, the Secretary to the GESAMP/EHS Working Group had reported back on some specific questions which this Committee had put to the GESAMP/EHS Working Group together with some suggestions for potential future work this Group considered it would be able to carry out if the Committee so wished.

11.7.2 However, it was also recalled that the Committee had indicated that it would like to see the options put to it as a list so that consideration could be given to each one. Having considered the individual options, the Committee:

- .1 agreed that the hazard evaluations, developed by the Group, should be reported directly to IMO bodies at the same time as GESAMP;
- .2 considered whether EHS should evaluate all of the appropriate properties of products subject to the IBC Code in order to allow ESPH to translate these into Carriage Requirements and requested ESPH to consider this approach and report back on its deliberations to a future session;
- .3 agreed, in principle, that only the Secretariat should attend GHS meetings when relevant topics of interest are to be addressed and that where possible, should request guidance from the Committee on specific issues;
- .4 instructed ESPH to give consideration to whether EHS should consider occupational health issues, related to chemical hazards as part of the evaluation of chemicals and report back on its deliberations to a future session;
- .5 agreed to wait for the outcome of the Ballast Water Working Group before and if chemicals were to be allowed for the treatment of ballast water, a decision could be made on whether EHS should be requested to evaluate them;
- .6 agreed to instruct DSC to consider whether it might be appropriate for EHS to act as an independent advisory body, should disagreements, between interested parties, arise over the *Self Classification* of packaged goods.

## **11.8 Outcome of GESAMP/EHS 39**

11.8.1 The Committee noted that the thirty-ninth session of the GESAMP/EHS Working Group had been held from 28 April to 2 May 2003 and that the Group had completed the vast majority of the evaluation of chemicals which it was asked to do but that it still needed to consolidate this work before the results can be made publicly available.

11.8.2 It was also noted that, at the request of BLG 8, the Group had made provisional assessments for the acute aquatic toxicity ratings (Column B1) of the GESAMP Hazard Profile which were missing for vegetable oils. This had been done in order to allow this Committee to see how these products would be assigned to Pollution Categories and Ship Types under the 3-, 4- and 5-Category systems.

### 11.8.3 Having noted these points, the Committee:

- .1 requested industry to provide the missing data to GESAMP/EHS for those products identified in MEPC 49/INF.23, so that the remaining Pollution Categories and Ship Types can be assigned. In addition, it was agreed that, if the required data were not forthcoming those products would NOT appear in the IBC Code;
- .2 whilst recognizing that this was primarily a safety issue for MSC, the Committee requested industry to provide the additional missing data for those products identified in MEPC 49/INF.24, so that the carriage requirements resulting from the human health properties of the products could be verified or amended as deemed appropriate;
- .3 recognized that the Pollution Categories resulting from the revised GESAMP/Hazard Profiles would need to be taken into account when deciding which system should be incorporated into the revised Annex II to MARPOL 73/78;
- .4 recognized that GESAMP/EHS required further meetings to consolidate the evaluation of products but once this task was completed it was agreed that further consideration should be given to the future role of this Group; and
- .5 with regard to the evaluation of vegetable oils, the Committee noted that the provisional rating of either (2) in column B1 or Fp in column E2 of the GESAMP Hazard Profiles would require such products to be transported in chemical tankers.

## 11.9 Outcome of the thirty-third session of GESAMP

11.9.1 The Committee noted that the thirty-third session of GESAMP had been held from 5 to 9 May 2003 and that its report described the strategic plan for the future of GESAMP and its contribution to the Global Reporting and Assessment of the State of the Marine Environment (GMA) and, in particular, drew the Committee's attention to costs associated with the EHS Working Group.

11.9.2 Having considered the report, the Committee agreed that, prior to making any decision related to the future funding of the work of the GESAMP/EHS Working Group, it would be necessary to decide on its future role so that a cost/benefit analysis could be determined. However, one delegation indicated that it could not support any system involving fees for an evaluation as this might deter industry from submitting data.

11.9.3 In this context, the Secretariat was instructed to submit a document to a future session of the Committee explaining the implications of the costs associated with the potential work associated with the evaluation of chemicals.

## 12 STATUS OF CONVENTIONS

12.1 The Committee noted the information on the status of IMO conventions and other instruments relating to marine environment protection, especially the current status of MARPOL 73/78 and its various amendments provided in document MEPC 49/12 as follows:

- .1 the status, as at 1 June 2003, of the IMO conventions and other instruments relating to marine environment protection (annex 1);
- .2 the status of MARPOL as at 1 June 2003 (annex 2); and
- .3 the status of the amendments to MARPOL 73/78 as at 1 June 2003 (annex 3).

12.2 The Committee also noted the following information provided by the Secretariat since MEPC 49/12 was issued on 4 June 2003:

- .1 Poland deposited its instrument of ratification for OPRC-HNS Protocol;
- .2 Japan deposited its instrument of ratification for AFS Convention;
- .3 Germany deposited its instrument of ratification for MARPOL 73/78 Annex VI. Therefore, a total of 11 States has ratified this Annex, and only four more States are needed to ratify the Annex to bring it into force;
- .4 India deposited its instrument of ratification for MARPOL 73/78 Annexes III, IV and V;
- .5 Cape Verde deposited its instrument of ratification for MARPOL 73/78 Annexes I, II, III, IV and V. Therefore, the total number of Parties to MARPOL 73/78 now stands at 126.

12.3 The Committee noted further the statements by a number of delegations that their Governments were expected to ratify the OPRC-HNS Protocol, MARPOL 73/78 Annexes IV and VI in the near future.

### **13 PROMOTION OF IMPLEMENTATION AND ENFORCEMENT OF MARPOL 73/78 AND RELATED INSTRUMENTS**

#### **Communication of CAS information to EQUASIS**

13.1 The Committee recalled that, at MEPC 48, it agreed to provide information regarding the particulars of the Statement of Compliance (SOC), issued in accordance with the provisions of the Condition Assessment Scheme (CAS), to the EQUASIS Secretariat for further dissemination through the EQUASIS System.

13.2 In this context the Committee noted that IMO's Legal Office, taking into account the restrictive wording of paragraph 14.2 of CAS, which stipulates that the CAS electronic database shall be accessible only to Parties to MARPOL 73/78, could not support the transfer of CAS data to EQUASIS.

13.3 The Committee also noted the information provided in document MEPC 49/13/4 submitted by France, Singapore, Spain and the United Kingdom regarding the decision of the EQUASIS Supervisory Committee to reiterate its request for a full supply of CAS information for further dissemination to the public in order to achieve full transparency.

13.4 In introducing document 49/13/4 the United Kingdom stated that the four co-sponsoring countries noted the advice of IMO's Legal Office regarding the contradiction between the decision of MEPC 48 and paragraph 14.2 of the CAS. However, with a view to promoting quality shipping, the United Kingdom urged the Committee to agree with the transmission of CAS information to EQUASIS. This proposal was supported by a number of delegations.

13.5 One delegation, however, cautioned on the legal aspects of such a decision and requested clarification on whether, under the anticipated CAS extension, all the information derived from the surveys made during the life of the ship should be made available to EQUASIS.

13.6 After an exchange of views, the Committee re-affirmed its decision at MEPC 48 to make available the CAS information under the current MARPOL Annex I to EQUASIS and agreed that there was no need to amend paragraph 14.12 of CAS at present. However, the Committee noted that this decision might need to be reviewed in light of the proposed amendments to regulation 13G of MARPOL Annex I in the wake of **Prestige**.

### **Cost savings stemming from non-compliance with international regulations in the maritime sector**

13.7 The Committee noted the information provided by OECD in documents MEPC 49/13/1 and MEPC 49/INF.7 regarding the unfair competitive advantage that unscrupulous shipowners/operators could gain over their law-abiding competitors through non-compliance with environmental regulations developed by IMO. The Committee also noted the recommendation to avoid the use of heavy fuel oils (HFO) and to move towards cleaner sources of energy. The Committee thanked OECD for the information.

### **Standards on the discharge of sewage**

13.8 The Committee recalled that, in accordance with operative paragraphs 2 and 3 of resolution MEPC.88(44), the Parties to Annex IV of MARPOL 73/78 should implement the revised Annex IV immediately after the entry into force of the existing Annex IV as only the provisions of the revised Annex IV are to be observed in the future and recognized that the earliest opportunity for adoption of the revised Annex IV is at MEPC 51, which was scheduled to meet from 29 March to 2 April 2004.

13.9 The Committee agreed with the proposal by Singapore (MEPC 49/13/2) regarding the urgent need to develop standards for the establishment of the rates of discharge for sewage that has been stored in holding tanks on board ships as required by paragraph 1.1 of regulation 11 of the revised Annex IV of MARPOL 73/78 and invited delegations to submit proposals to MEPC 51 for consideration.

13.10 The Committee also agreed with the proposal by Australia to review the Recommendation on international affluent standards and guidelines for performance tests for sewage treatment plants adopted by resolution MEPC.2(VI) in 1976 and invited delegations to submit documents on the matter to MEPC 51.

### **Waste reception facilities in the South Pacific countries**

13.11 The Committee noted the information provided by SPREP in document MEPC 49/13/3 on the main findings of a review of ships' waste reception facilities in the South Pacific region. It further noted that none of the five selected countries fully meets its obligations to provide adequate ships' waste reception facilities and only three ports of the region currently have

adequate reception facilities. The Committee was informed that the obligation to provide adequate reception facilities is a major impediment to adoption of MARPOL and the reason why many Pacific island countries have not become Parties to the Convention.

13.12 The Committee recalled that the requirements for reception facilities are mandatory under MARPOL 73/78 and noted that the Convention does not specifically refer to the situation where “regional agreements” may be concluded among the countries of a particular region.

13.13 The Committee considered the utility of “regional agreements” bearing in mind that in certain areas management of ships’ waste generated from international shipping is virtually non-achievable, and following interventions by a number of delegations, agreed that “regional arrangements”, such as the one proposed by SPREP for the South Pacific region, is an acceptable way to satisfy the MARPOL 73/78 obligations to provide adequate reception facilities for ships.

13.14 Based on the unique circumstances described in document MEPC 49/13/3 and the support from a number of delegations, the Committee generally agreed that this approach would have the potential to resolve obstacles for many countries to ratify the MARPOL Convention. Therefore the Committee agreed to give favourable consideration to the proposed regional arrangements for providing reception facilities but, taking into account the provisions of the MARPOL Convention on providing reception facilities as a condition for ratification of the Convention, agreed to further consider:

- .1 whether an MEPC resolution to recognize the regional arrangement for reception facilities would be desirable; and
- .2 whether any general guidelines should be established for future similar cases, taking into account the provisions of MARPOL relating to avoiding the undue delay.

13.15 Australia offered to develop, together with SPREP and other interested delegations, the draft text of such an MEPC resolution for consideration by the Committee at its next regular session.

### **Meaning of “damage” in MARPOL 73/78**

13.16 The Committee noted the information provided by Australia in document MEPC 49/INF.5 on the interpretation given to the word “damage” by the High Court of Australia, which found that “damage” means a sudden change in the condition of the ship or its equipment that was the instantaneous consequence of some event, whether the event was external or internal to the ship or its equipment.

### **Consequential editing of the Form of the Oil Record Book Part I (MARPOL 73/78, Consolidated Edition 2002)**

13.17 The Committee noted the information in MEPC 49/WP.3 that, in accordance with the amendments to regulations 9(7) and 16(6) of MARPOL Annex I, which were adopted by resolution MEPC.51(32) and entered into force on 6 July 1993, the use of 100 ppm oily-water separating equipment on board ships is no longer permitted since 6 July 1998. As a consequence, three references to 100 ppm equipment were deleted from the Form of the Oil Record Book Part I in the Consolidated Edition 2002 of MARPOL 73/78, and the relevant items were renumbered accordingly.

13.18 The Committee further noted that this consequential editing in the 2002 Consolidated Edition of MARPOL 73/78 has created some unforeseen problems during port State control, as some Administrations and port State control Authorities are using the Form of the Oil Record Book Part I contained in the 2002 Consolidated Edition, while others are still using the Form contained in the 1997 Consolidated Edition taking into account that the consequential editorial changes have not been specifically approved by the Committee.

13.19 The Committee agreed that the Form of Oil Record Book Part I as contained in both the 1997 and 2002 Consolidated Editions of MARPOL 73/78 should be accepted for port State control purposes and requested the Secretariat to issue an MEPC circular in this respect.

## **14 FOLLOW-UP TO UNCED AND WSSD**

### **Outcome of World Summit on Sustainable Development (WSSD)**

14.1 The Committee recalled that at its last session it was agreed to include the item "Follow-up to UNCED and WSSD" among the substantive items for MEPC 49, MEPC 50 and MEPC 51.

14.2 The Committee noted the information provided in document MEPC 49/14 regarding IMO's participation, both in the work of the Summit and in the side events organized on that occasion, and the paragraphs relevant to the work of the Organization in the Plan of Implementation adopted by the WSSD.

14.3 The Committee also noted the important role played by IMO in the global endeavour towards sustainable development and invited Member States to be guided by the provisions of the Plan of Implementation in their future activities.

### **Draft Assembly resolution**

14.4 In considering document MEPC 49/14/1 the Committee noted that the Plan of Implementation adopted by the Summit reaffirmed the commitment to the Rio principles and the need for the full implementation of Agenda 21.

14.5 The Committee also noted that among numerous paragraphs of the Plan of Implementation relevant to the work of IMO, Paragraph 34 directly addresses the objectives of the Organization.

14.6 Following discussions, the Committee approved the draft Assembly resolution on follow-up to UNCED and WSSD, which is set out at annex 18, and requested the Secretariat to submit it to the twenty-third session of Assembly for adoption.

## **15 TECHNICAL CO-OPERATION PROGRAMME**

15.1 The Committee recalled that, at MEPC 48, it approved the updated thematic priorities and the Committee's contribution to the Integrated Technical Co-operation Programme (ITCP) for 2004-2005 prepared by the Secretariat. These formed the basis for the preparation of the marine environment-related components of the overall ITCP for 2004-2005. The Committee further recalled that the main changes in the new priorities, in comparison with the ones for 2002-2003, relate mainly to matters pertaining to air pollution from ships, ship recycling, the International Convention on the Control of Harmful Anti-fouling Systems, the guidelines on the identification and protection of Special Areas and Particularly Sensitive Sea Areas (PSSAs) and ballast water



control and management measures. The Technical Co-operation Division of the Organization prepared the ITCP for 2004-2005, based on contributions from technical committees, including MEPC. The ITCP for 2004-2005 was approved by TC 53.

15.2 The Committee noted that document MEPC 49/INF.14 by the Secretariat relates mainly to the ITCP for 2000-2001 and 2002-2003 and gives a status report on the activities of the programme on a region-by-region basis, during the period from January 2001 to December 2002. The principal achievements include the training of officials in seminars/workshops/training courses on marine environment protection, including OPRC and MARPOL, promotion and enhancement of regional co-operation through developing regional actions such as the strategic action plans for the implementation of MARPOL and OPRC, regional contingency plans for combating oil pollution, environmental management guidelines for port operations.

15.3 The Committee also noted that MEPC 49/INF.11 by ROPME/MEMAC contains a summary of the main activities carried out by the Regional Organization for Protection of the Marine Environment/Marine Emergency Mutual Aid Centre (ROPME/MEMAC) on protection of the marine environment in the ROPME Sea Area (RSA) since MEPC 48. These pertain to the ratification and implementation of MARPOL 73/78 and the provision of reception facilities and of the OPRC 90 Convention and related matters. The report covered also matters pertaining to the global ballast water management programme and to the survey of war-related wrecks and provides information on the roles, responsibilities and membership of ROPME/MEMAC.

15.4 The Committee further noted that MEPC 49/INF.12 by the Secretariat provides information on activities carried out under the aegis of the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) during the period from August 2000 to April 2003. These include activities related to the Centre's major role in collecting and disseminating information, the development of national and sub-regional systems for preparedness and response and coordination of assistance to member countries in cases of emergency. Information is also provided on the Centre's co-operation with other organizations and also on the adoption and ratification of a new Prevention and Emergency Protocol to the Barcelona Convention.

15.5 In addition, document MEPC 49/INF.13 by the Secretariat provides information on activities carried out under the aegis of the GEF/UNDP/IMO Regional Programme on Building Partnerships in Environmental Management for the Seas of East Asia (PEMSEA) during the period from January 2001 to December 2002. The report focuses on the development objectives of the Programme for 1999-2005 and also gives indication of the PEMSEA participating countries.

15.6 In commenting on the documents, the delegation of Ecuador expressed its appreciation for IMO's assistance provided earlier this year for the organizing of a national seminar on maritime safety and marine environment related matters. That delegation also expressed its readiness to host the second follow-up seminar sometime in October 2003 with assistance from the Organization.

15.7 The Committee noted the information provided.

## **16 INTERPRETATIONS AND AMENDMENTS OF MARPOL 73/78 AND RELATED INSTRUMENTS**

### **PROPOSED AMENDMENTS TO MARPOL ANNEX I**

#### **Background**

16.1 The Committee recalled that the Bahamian oil tanker **Prestige** sank off Cape Finisterre, Spain, on 19 November 2002. The sinking of the vessel caused a serious pollution to the Spanish, French and Portuguese shores. It is worth mentioning that the accident did not cause any fatalities or injuries.

16.2 The **Prestige** was a single-hull oil tanker of 81,589 DWT delivered on 1 March 1976. At the time of sinking it was operating on the CBT mode. According to the schedule set up in regulation 13G(4) of the current Annex I, the ship would have been phased out on 1 March 2005.

16.3 Up to date no firm conclusion has yet been reached as to the causes of the accident since the investigation is still under progress.

#### **Outcome of the Expert Group on the proposed amendments**

16.4 The Committee noted that, following the incident, the 15 European Union Member States and the European Commission submitted a proposal to amend MARPOL Annex I, as amended, which is contained in document MEPC 49/16/1.

16.5 The Committee further noted that, in order that it could consider the proposed amendments and take action, as appropriate, against a full background of relevant information, the Secretary-General had taken the initiative of re-activating the Informal Group of Experts on Impact Assessment of the Proposals that was commissioned in the wake of the **Erika** incident in 2000. The outcome of the Expert Group was contained in documents MEPC 49/INF.34 and Add.1, while document MEPC 49/16/2 by the Secretary-General provided information on the re-establishment of the Expert Group.

16.6 The Committee agreed to take into account the outcome of the Expert Group in its consideration of the proposed amendments.

#### **Extra session of the MEPC and circulation of the proposed amendments**

16.7 The Committee recalled that the Council, at its ninetieth session, had agreed to hold an extra session of the MEPC during the Assembly in December, subject to the decision of the Committee on the need to hold such a session.

16.8 The Committee noted that the proposed amendments had been circulated by the Secretary-General by circular letter No.2458 of 10 April 2003, fulfilling the mandatory six-month interval for circulation of amendments in accordance with article 16 of the MARPOL Convention. The amendments, if adopted by the extra session of the Committee in December 2003, would then enter into force in April 2005, which is the earliest possible date in accordance with relevant provisions of article 16 of the MARPOL Convention.

## **Documents on the investigation into the loss of the Prestige**

16.9 The Committee noted that two documents had been submitted on the investigation into the loss of the **Prestige** (MEPC 49/16/4 by the Bahamas and MEPC 49/16/8 by the Association of European Shipbuilders and Shiprepairers – AWES). The documents commented on, *inter alia*, the structural condition, ship repairing practices, quality of coatings, scantlings and some other issues that were more related to the remit of the MSC.

16.10 The Committee agreed to take both documents into account in its deliberations of the proposed amendments to MARPOL Annex I, and to request the MSC to consider them in its work from the safety point of view.

## **Introduction of the proposed amendments**

16.11 In introducing document MEPC 49/16/1, the delegation of Italy, on behalf of the other 14 Member States of the European Union, expressed its appreciation to IMO for having offered the opportunity of an urgent action to deal with issues related to enhancing the protection of the marine environment by means of amendments to the MARPOL Convention. The delegation of Italy stressed that IMO is the appropriate forum to consider and adopt safety and pollution prevention standards affecting international shipping.

16.12 The delegation of Italy, having welcomed the comments provided by other delegations on the proposal, stated that the European Union was determined to present a global strategy aimed at developing new measures for a better protection of the marine environment and promoting quality shipping. The three main elements of the European Union proposal were then highlighted as follows:

- .1 accelerated phasing-in of double-hull or equivalent design requirements for tankers;
- .2 broadening the application of CAS; and
- .3 banning the transport of Heavy Grades of Oil (HGO) by single-hull oil tankers.

16.13 The delegation of Italy stressed that the European Union proposal was in line with the requirements of the United States' Oil Pollution Act 1990, therefore if the proposal was deemed appropriate and, if adopted by the Committee, a uniform international scheme would be applicable worldwide.

16.14 As regards the proposed ban for the carriage of HGO by single-hull tankers, the delegation of Italy mentioned the perceived anomaly that the worst oil products are carried by the worst ships. The rationale behind the European Union's proposal is that the most polluting substances should be carried by the safest ships available. The delegation of Italy proposed the establishment of a Working Group to consider the proposed amendments.

16.15 The observer of the European Commission expressed its appreciation to the Secretary-General of the Organization for his consistent approach regarding the consideration of the proposal and welcomed IMO's commitment, while stressing that the European Union recognizes the need of applying global standards to international shipping.

16.16 The representative of the European Commission urged the Committee to take pro-active action for an advanced phasing-out of single-hull tankers and underlined that IMO had already taken action back in 1992 when it decided to phase-in double-hull tankers as from 1996. In the view of the representative of the European Commission, a positive response by IMO would send a strong signal to the world.

16.17 In introducing document MEPC 49/16/10, the delegation of Japan stated that Japan, while supporting in principle the acceleration of the phase-out of old single-hull oil tankers, has comments on the proposal by the EU countries on the following points:

- .1 phase-out of aged tankers, e.g. those of 20 years of age and above, should be given high priority and relatively young oil tankers, e.g. below 20 years of age, should be allowed to continue operation until 2015; and
- .2 proper transition period for the prohibition of the carriage of heavy grade oil by single-hull oil tankers, particularly small tankers less than 5,000 tons deadweight, should be given, e.g., until 2015.

### **General discussion in plenary**

16.18 In the general discussion of the proposal by the European Union, the Committee noted that the Report of the Expert Group (MEPC 49/INF.34), and the Report of the Heavy Oil Sub-Group of the Expert Group (MEPC 49/INF.34/Add. 1) had been presented at lunchtime thus there being no need for their formal introduction in plenary.

16.19 The Committee agreed to focus the discussion of the European Union proposals at this stage on the following points:

- .1 general comments on the proposed amendments contained in document MEPC 49/16/1;
- .2 discussion on the following specific items:
  - .1 advancing the phasing out dates for Category 1, Category 2 and Category 3 tankers;
  - .2 prohibition of the carriage of Heavy Grades of Oil; and
- .3 whether a Working Group should be established.

16.20 A total of 31 delegations took the floor in the discussion that followed. The delegations of India, Japan, Brazil, BIMCO and INTERTANKO introduced their documents providing comments to the proposals by the European Union.

16.21 The following is a summary of the discussions:

- .1 many delegations thanked the Secretary-General for his initiative, including the holding of an extra session of the MEPC in December, if the Committee should so decide, and in re-activating the Informal Group of Experts;

- .2 several delegations welcomed the action by the European Union for having brought forward its proposal to IMO, and expressed their support, in principle, for the European Union's proposal;
- .3 the majority of delegations expressed the view that the acceleration of the phasing-out of Category 1 tankers from 2007 to 2005, would pose no major problems to the industry in general, including the shipbuilding and ship recycling sectors;
- .4 the majority of delegations expressed concern at the exceedingly high peak that accelerated phase-out for Category 2 and Category 3 tankers would create in 2010 if the proposal was accepted. Some delegations stated that retirement for ships of as young as 14 years old was unacceptable;
- .5 the extension of CAS to double-hull tankers and to all tankers of 15 years or more, was seen as a positive development by many delegations, though some slightly different approaches to its implementation were also put forward by some delegations;
- .6 some delegations expressed support for the proposal by Japan to flatten the high peak created in 2010 by the proposal, by making phasing-out mandatory for single-hullers at 20 years of age or 2015, whichever is earlier; thus recognizing the fact that **Nakhokda**, **Erika**, and **Prestige**, all were ships of 25 years of age, or more;
- .7 several delegations highlighted the fact that the majority of recent incidents had involved structural failure in way of ballast tanks adjacent to heated cargo tanks and that this was the real issue that should be addressed by IMO;
- .8 the ban on the carriage of HGO on single-hull tankers was supported, in principle, by many delegations. However, different views were expressed as to the extent and scope of its application, as well as to the need to exempt small tankers of 600 to 5,000 DWT from implementation of this measure until 2008, or 2015;
- .9 several delegations expressed concern on the possible impact of the proposals upon specific regions, including the effect that early phase-out would produce on the tanker fleets of specific countries;
- .10 a few delegations also expressed concern over the HGO definition. These delegations held the view that density and kinematic viscosity parameters should be adjusted to allow for the heavy crude oils produced by several Latin American countries. The careful examination of a more adjusted combination in terms of density and kinematic viscosity for the definition of HGO, would help solve some of the difficulties envisaged by the Expert Group Impact Study;
- .11 a number of delegations did not agree with the proposal to amend regulation 13G of MARPOL Annex I only two years after its adoption, and less than one year since its entry into force. In the view of these delegations, the oil transport industry needs a fair and level playground with a stable regulatory environment that is not changed every two years;

- .12 the overwhelming majority of the delegations who took the floor, agreed to the establishment of a Working Group to consider this complex issue, including the points raised in plenary;
- .13 the Committee noted that, notwithstanding the fact that MSC had agreed to consider a deeper involvement of IMO in the setting up of survey standards for ships from new, this did not preclude the consideration of the possible extension of CAS to double-hull tankers, or to tankers of 15 years and above. Standards for survey for all ships was a long-term task for the Organization and, once the new survey regime had been decided, there would be time to adapt the CAS, or to discontinue its implementation in favour of the application of a more comprehensive regime.

16.22 In support of document MEPC 49/16/1, the Spanish delegation reminded the Committee that, if the proposed amendments to regulation 13G of MARPOL Annex I in document MEPC 45/7/5 on the enhancement of tanker safety submitted by Spain in 2000 had been accepted, the accident of the tanker **Prestige** would have never occurred. Spain stated that, from that time, three tankers of similar characteristics (**Castor**, **Kristal** and **Prestige**) have suffered accidents in Spanish waters causing loss of human lives and serious pollution. This fact, added to other considerations, justifies the adoption of the new proposed amendments as submitted in document MEPC 49/16/1.

#### **ESTABLISHMENT OF THE WORKING GROUP**

16.23 After the general discussion, the Committee agreed to establish a Working Group with the following terms of reference:

Taking into account all relevant submissions and discussion at plenary,

- .1 to discuss further the proposed earlier phasing-out of Category 1, Category 2 and Category 3 tankers with a view to preparing a text of MARPOL amendments;
- .2 to discuss further whether the Heavy Oil Carriage Ban for single-hull tankers could be accepted as global measures under MARPOL Annex I;
- .3 to discuss the issue of application of the Condition Assessment Scheme; and
- .4 to report back to the plenary on Thursday, 17 July.

16.24 The Committee agreed to discuss whether to hold an extra session of the Committee in December, once the report of the Working Group had been received.

#### **OUTCOME OF THE WORKING GROUP**

16.25 Following introduction of the report of the Working Group (MEPC 49/WP.8), the Committee noted the main points of its deliberations as follows:

##### **Category 1 tankers**

The group recognized that the early phase-out of Category 1 tankers under the proposed amendments would not create major problems for the shipping industry and

recommended the Committee to agree on an accelerated phase-out schedule by advancing the deadline from 2007 to 2005.

### **Category 2 and Category 3 tankers**

The group was unable to reach agreement on an accelerated phase-out schedule for these tankers. The findings of the Expert Group Impact Study (MEPC 49/INF.34 and Add.1) with regard to the exceedingly high peak of around 67 million DWT (700 tankers) phased-out tonnage in 2010 created by the proposed amendments by the European Union Member States, was frequently cited as unacceptable by industry observers and several delegations in the course of discussions by the group.

The EU proposal co-sponsors indicated that they may be prepared to consider extending the operational life of relatively new built tankers, at the discretion of the Administration, to a maximum of 25 years after date of delivery, or 2015, whichever is the earlier date, provided compliance with CAS and the right to deny port entry; however, compromise was not possible.

The delegation of Japan, supported by several delegations, finally decided to go ahead with its alternative proposal to amend MARPOL regulations 13F and 13G incorporating *inter alia* phase-out provisions for “Heavy grade oil tankers”, thus there being no need for a new additional regulation.

### **Heavy Grades of Oil (HGO)**

The group agreed that it was necessary to provide a definition of HGO in such a way so as to include only those heavy grades of oil which do not disperse after a spill or which do not react to currently available dispersants. The group agreed that further work should be carried out on this matter regarding the possible combined use of parameters “density” and “kinematic viscosity” in the definitions of heavy crude and fuel oils.

The group could not agree on the proposed ban date in 2008 in the EU proposal for small tankers carrying HGO. The strict double-hull requirements in the proposal for small tankers of 600 to 5,000 DWT, also proved to be an obstacle to consensus. The group dealt with the possible extension to domestic trade of the exemption granted, under the EU proposal, to tankers exclusively engaged in ports, however it decided that it was more a matter of policy that should be decided by the Committee in December 2003.

### **Application of the Condition Assessment Scheme (CAS)**

The group agreed on the application of CAS requirements from 2005 to Category 2 and Category 3 tankers of 15 years of age and above. The group recognized that extended application beyond current requirements entailed amendments to CAS as a consequence to the proposed amendment of MARPOL regulation 13G, and invited the Committee to circulate proposed amendments to CAS for consideration and adoption at the extra session of the MEPC.

The group discussed further enhancement of CAS to include in its scope double-hull tankers and a stricter survey regime for those areas more prone to corrosion in tankers, such as ballast tanks adjacent to heated cargo tanks. The group recognized that this development entailed further intensive work and noted with appreciation the offer by the delegation of the United Kingdom to host a meeting with industry and interested Administrations to progress the complex issues related to this measure.

### **Other issues**

The group suggested that the Committee should consider requesting the Secretary-General to reactivate the Expert Group with a mandate to review and update the Impact Study in the light of the proposals to amend MARPOL Annex I.

The group recognized that consequential amendments to the IOPP Certificate would be needed, however, due to lack of time was unable to consider this matter at this session.

### **Extra session of the MEPC**

The group recommended that the Committee should hold an extra session, as approved by the Council, in conjunction with the twenty-third Assembly with a view to consideration and adoption of proposed amendments to MARPOL Annex I.

## **COMMENTS ON THE OUTCOME OF THE WORKING GROUP**

16.26 Several delegations commented on the outcome of the Working Group. The following is a summary of the discussions.

16.27 Japan reiterated that the proposed ban for the carriage of HGO in the EU proposal was, in reality, a phase-out provision and, therefore, a combination of amendments to both regulations 13F and 13G seemed to be the most adequate way of implementing the proposal in the current structure of MARPOL Annex I. The proposal set out at annex 1 to the report of the Working Group was the basic document for consideration at the possible extra session of the MEPC in December, however, Japan stressed that its own proposal in annex 2 of that document should also be included for information by the extra session.

16.28 The Italian delegation, on behalf of the 15 Member States of the European Union, stated that annex 1 of the report of the Working Group had been developed from the proposal contained in document MEPC 49/16/1, which had been agreed by the majority of delegations that participated in the group. The text in annex 1 is a good basis for further discussion by the extra session in December on the two outstanding issues, namely, phase-out for Category 2 and Category 3 tankers, and carriage of HGO in single-hull tankers. The consequential proposed amendments to the Condition Assessment Scheme in annex 3 should also be sent to the extra session for further discussion.

16.29 In the debate that followed, the following main points were made:

- .1 the industry representatives reaffirmed their commitment to quality shipping and their willingness to participate and contribute to the intended meeting on the enhancement of CAS;



- .2 several delegations expressed the view that the issue of the carriage of HGO by single-hull tankers in domestic trades could be dealt with in the way that regulation 2(7) of MARPOL Annex II allows Administrations to relax application of more stringent regulations in justified cases.

#### **ACTION TAKEN BY THE COMMITTEE**

16.30 The Committee reviewed the report of the Working Group (MEPC 49/WP.8) and, following debate, approved the report in general and took action as indicated hereunder.

16.31 The Committee agreed with the recommendation on the accelerated phase-out schedule for Category 1 tankers.

16.32 The Committee noted the progress made on the accelerated phase-out schedule for Category 2 and Category 3 tankers.

16.33 The Committee, recalling approval by the Council, at its ninetieth session (MEPC 49/11/9, paragraph 21), agreed to hold an extra session during the twenty-third Assembly in December (see paragraph 19.14).

16.34 The Committee concurred with the Working Group's view that the Condition Assessment Scheme (CAS) should be applied to single-hull tankers of 15 years, or older.

16.35 The Committee approved the proposed amendments to CAS (MEPC 49/WP.8, annex 3) and agreed to circulate the amendments, which are set out at annex 19, with a view to further consideration for adoption at the extra session.

16.36 The Committee noted the views of the group on the proposed enhancement of CAS. The Committee further noted that in order to meet future challenges such as its possible application to double-hull tankers or enhanced requirements for tankers carrying heated cargoes, intensive work is needed and, in this respect, noted with appreciation the offer by the delegation of the United Kingdom to host an informal meeting with industry and interested Administrations, prior to the extra meeting of the Committee in December. Interested delegations wishing to participate in the informal meeting are invited to contact the focal point of the United Kingdom.\*

16.37 The Committee noted the progress made on the consideration of draft regulation on the carriage of Heavy Grades of Oil in single-hull tankers, and noted the views expressed on the issue of tankers engaged in domestic trades.

16.38 The Committee agreed to request the Secretary-General to reactivate the Expert Group on Impact Assessment with a mandate to review and update the Impact Study in the light of the proposed revised regulation 13G and proposed new regulation 13H.

16.39 The Committee, noting the views of some participants in the group on the issue of HGO domestic trades in small tankers (paragraphs 32 and 36 of MEPC 49/WP.8), agreed that this was a matter of policy for the Committee to decide at a later stage.

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\* The contact for this meeting is: [peter.parr@dft.gsi.gov.uk](mailto:peter.parr@dft.gsi.gov.uk).  
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16.40 The Committee agreed that the proposed amendments to regulation 13G and new proposed regulation 13H of MARPOL Annex I (MEPC 49/WP.8, annex 1) should constitute the basic document for further discussion at the extra session of the Committee in December in view that these proposed amendments presented the views of the majority of the working group. The Committee instructed the Secretariat to process these proposed amendments, which are set out in annex 20, for further consideration with a view to adoption by MEPC 50. Member States and interested organizations are invited to submit comments on this basic document to MEPC 50.

16.41 The Committee noted the views of the group (MEPC 49/WP.8, paragraphs 52 to 54) and agreed that the supplement to the IOPP Certificate (Form B) should be amended at the time of adoption of the proposed amendments when it would be easier to identify which amendments would be needed.

16.42 The Committee noted the position of Saudi Arabia with regard to the proposed amendments (MEPC 49/WP.8, annex 4).

16.43 The delegation of Japan stated that Japan and all or some co-sponsors would submit the alternative proposal (MEPC 49/WP.8, annex 2) to MEPC 50.

#### **OTHER MATTERS UNDER ITEM 16**

##### **Water in cargo tanks – Improvement of Unified Interpretation 4.1.1**

16.44 The Committee noted the joint submission by INTERTANKO and OCIMF (MEPC 49/16) proposing to add two more cases to the list of exceptions to the prohibition to introduce water into the cargo tanks as set out in Unified Interpretation 4.1.1 of regulation 13(3) of MARPOL Annex I. The proposed additions being:

- .1 close-up inspection or/and steel thickness measurements using rafts where permitted by the rules; and
- .2 tank hydrostatic pressure tests.

16.45 The Committee recalled that, at MEPC 47, the same proposal was discussed by the Committee and, after some debate, it agreed to review the issue at a future meeting and invited interested delegations to submit relevant documents and studies for consideration and action as appropriate. The matter, however, was not raised again at MEPC 48.

16.46 During the discussion of the issue, an opinion was expressed that the two additional cases to be included in Unified Interpretation 4.1.1 in respect of regulation 13(3) of MARPOL Annex I were not exceptional cases required by operations of oil tankers which were the intention of the Unified Interpretation, but as a consequence of surveys required by resolution A.744(18). Therefore, the two additional cases should not be included in the Unified Interpretation.

16.47 After an exchange of views, the Committee approved the amendments to the Unified Interpretation as proposed by INTERTANKO and OCIMF in document MEPC 49/16. The text as approved by the Committee is set out in annex 21.

### **Recording disposals of cargo residues (Annex V)**

16.48 The Committee recalled that this issue had been discussed at MEPC 43 (28 June-2 July 1999) where a similar proposal by the Republic of Korea (MEPC 43/11/4) on the categorization of “operational wastes”, including “cargo residue”, was considered. On that occasion, the Committee agreed that, whilst supporting the proposal in principle, it was premature to issue a clarification by means of an MEPC circular, as then requested, as the Garbage Record Book had only been in use for one year and insufficient experience in its use had been gained so far.

16.49 The Committee also recalled that MEPC 43, nevertheless, agreed that several operational wastes, among them cargo residue, should be included in the six garbage categories shown in the Record of Garbage Discharges and referred to in paragraph 1.7.7 of the Guidelines for the implementation of Annex V of MARPOL 73/78, to the effect, as regards “cargo residue”, that “since garbage are classified according to their nature, Cargo residue can be classified as any of categories according to what cargo the ship was carrying” (MEPC 43/21, paragraph 11.16).

16.50 The Committee further recalled that, at MEPC 48, a similar proposal by Australia was submitted (MEPC 48/14/1) but was not discussed, since it was subsequently withdrawn.

16.51 In introducing its document MEPC 49/16/3, Australia pointed out at the problem caused by the non-inclusion of the term “cargo residues” in any of the six categories classifying garbage in the form of Garbage Record Book of Annex V in that, as there is no clear guidance on which category is intended to cover cargo residues, in their experience details of cargo residues are not being entered in Garbage Record Books. Australia emphasized that recording these discharges would also alleviate difficulties currently being encountered when investigating reports of oil spill sightings that subsequently are discovered to be legal cargo residue discharges.

16.52 After discussion, the Committee approved the proposed amendments to the Appendix to MARPOL Annex V as proposed by Australia in paragraphs 6, 7 and 8 of document MEPC 49/16/3, which are set out at annex 22. The Committee requested the Secretary-General to circulate the proposed amendments for adoption at MEPC 51 in accordance with article 16 of the MARPOL Convention.

### **Implementation of MARPOL Annex IV**

16.53 The Committee noted that MARPOL Annex IV will enter into force on 27 September 2003, however it took 29 years since its adoption and ratification or acceptance by 88 countries, to achieve this.

16.54 The Committee recalled that it was only after MEPC 44 had approved modifications to the existing text of Annex IV by relaxing some of its original requirements, that the conditions for the entry into force had been met. These modifications are contained in the revised text of Annex IV approved by MEPC 44 which also adopted resolution MEPC.88(44) resolving that Parties to MARPOL should implement the revised Annex IV immediately after entry into force of the existing Annex IV with a view to avoiding the creation of a dual treaty regime between both the existing and the revised Annex IV texts.

16.55 The Committee further recalled that, following some doubts expressed by one delegation at MEPC 48 on the legality of implementing the revised Annex IV immediately after the entry into force of the existing Annex IV, it agreed to discuss this issue further at the current session and requested the views of other Governments and the Legal Office of the IMO Secretariat.

16.56 The Committee noted that document MEPC 49/16/5 by the Secretariat provided the views of the Legal Office of the Organization which, in synthesis, is that since on 27 September 2003 the **existing** Annex IV comprising a set of international requirements covering the same subject matter of the **revised** Annex IV will be in force, the issue of applying the revised Annex IV is not simply a matter of provisional application of new requirements on the basis of consensus among the Parties. There is a complication to the extent there is potential for conflict, or at least inconsistency, between both sets of requirements, in which case the provisions of the existing Annex IV would prevail as a matter of international law.

16.57 In this connection, the Committee considered document MEPC 49/WP.6, which provided a draft MEPC circular aiming to clarify possible confusion with regard to implementation of Annex IV. After discussion, the Committee approved the draft MEPC circular and requested the Secretariat to issue the circular as MEPC/Circ.408 as soon as possible.

### **Harmonized System of Survey and Certification (HSSC) in MARPOL Annex IV**

16.58 The Committee noted that FSI 11 had considered the issue of introduction of the HSSC with regard to MARPOL Annex IV and had invited the Committee to consider this issue and take action as appropriate (FSI 11/23, paragraph 16.9 and MEPC 49/10/4, paragraph 3.7).

16.59 In this connection, the Committee noted that FSI 11 was referring to the existing regulation 3(3) of MARPOL Annex IV when it considered the HSSC issue and, therefore, there was no need to take any action.

16.60 The Committee also noted that, although the text of the revised MARPOL Annex IV (MEPC 44/20, annex 10) did not specifically mention the HSSC, the redrafted regulations 4, 5, 6, 7 and 8 generally followed the same wording of the relevant provisions as in MARPOL Annexes I and II.

16.61 The Committee noted further that there were no provisions for annual and intermediate surveys in the revised Annex IV. In this connection, the Committee recalled that MEPC 44, in considering the revised Annex IV prepared by the intersessional correspondence group, agreed with the proposal of one delegation and deleted annual and intermediate survey from the text.

16.62 The delegation of the Netherlands raised the question of whether the draft text of the revised Annex IV was HSSC compliant and suggested that the text should be reviewed before adoption. In this regard, the Committee noted that the text of the revised Annex IV would be circulated after MEPC 49 for adoption by the regular session of the MEPC in spring 2004, and invited the delegation of the Netherlands to submit a proposal to that session of the Committee for consideration, so that the concern of the Netherlands could be dealt with.

### **Protection of fuel tanks**

16.63 The Committee recalled that, following an instruction by MEPC 46 (MEPC 46/23, paragraph 20.18) and a proposal by the Netherlands, DE 46 had included the item "Protection of fuel tanks" in its provisional agenda for DE 47 with a target completion date of 2005.

16.64 In introducing its document MEPC 49/16/6, Norway emphasized that the Committee should establish the guiding principles for an amendment of MARPOL Annex I with regard to protection of fuel tanks. In Norway's opinion, the proposed measures should:

- .1 not be less stringent than those set up for cargo oil;
- .2 relate to double hull protection;
- .3 require the level of protection outlined in regulation 13F(7) of MARPOL Annex I (for ships with fuel oil capacity between 300 and 5,000 m<sup>3</sup>) or in regulation 13F(3)(a), (b) and (c) (for ships with fuel oil capacity of 5,000 m<sup>3</sup> and above); and
- .4 apply to new ships only.

16.65 The Committee noted that Norway proposed a completion date of 2004 instead of 2005 as proposed by DE 46 for this item.

16.66 In the ensuing discussion, some delegations held the view that all the elements and related issues proposed by Norway should be considered, while other delegations preferred to give priority to some of them.

16.67 The Committee decided to refer document MEPC 49/16/6 to DE 47 for consideration and invited other delegations to also submit documents on the issue to DE 47. With regard to the completion date for the item, the Committee agreed to consider it under agenda item 19 when the environmental items of the DE Sub-Committee's work programme would be discussed.

## **17 FUTURE ROLE OF FORMAL SAFETY ASSESSMENT AND HUMAN ELEMENT**

17.1 The Committee recalled that MEPC 48, due to lack of time, agreed that the discussion under this item would be deferred to the present session.

17.2 The Committee recalled that the Joint MSC/MEPC Working Group on the human element met during MSC 75 in May 2002. MSC 75 considered the report of the Joint Working Group as set out in attachment to document MEPC 48/16 and took action with regard to the Human Element as set out in paragraphs 15.6 to 15.16 of document MSC 75/24 and with regard to Formal Safety Assessment as set out in document MEPC 48/16/1.

17.3 The Committee, noting that several of the actions requested have been overtaken by event, considered the report of the Joint Working Group as attached to document MEPC 48/16 and:

- .1 agreed with the MSC to instruct all Sub-Committees to continue to take into consideration appropriate human element related matters in the course of their work;
- .2 noted the preliminary draft revised Assembly resolution A.792(19) for consideration and finalisation at MSC 77;
- .3 agreed with the MSC to instruct the Sub-Committees to report their experience in the application of the guidance given MSC/Circ.1022-MEPC/Circ.391;
- .4 noted the preliminary list of tools developed and activities carried out by the Organization directly addressing the human element;

- .5 endorsed the decision by MSC 75 to reconvene the working group at MSC 77; and
- .6 approved the report in general.

17.4 The Committee noted that the joint Working Group did not meet during MSC 76. However, the Role of the Human Element was on the agenda of MSC 76. The outcome of the MSC 76 consideration is reported in document MSC 76/23, Chapter 15. No action in this regard is requested of the Committee.

17.5 The Committee noted that MSC 77 considered the role of the Human Element and Formal Safety Assessment, which were reported under agenda item 17, paragraphs 17.1 to 17.8 of document MSC 77/26. Formal Safety Assessment was considered by MSC 77 under agenda item 18 (paragraphs 18.1 to 18.11 of document MSC 77/26 refer).

17.6 The Committee, noting the concurrent decision by MSC 77, approved the revised text of resolution A.850(20) relating to human element vision, principles and goals for the Organization as set out in annex 20 of MSC 77/26.

17.7 The Committee considered the submission by United Kingdom (MEPC 49/17) by which it is proposed to use the principles of the IMO's Formal Safety Assessment (FSA) methodology in connection with reviewing and taking necessary action on casualty information.

17.8 In this regard, the Committee noted that MSC 77 decided to establish a correspondence group under the co-ordination of Japan\* and agreed with the term of reference for the group (MSC 77/26, paragraph 18.8).

17.9 After an exchange of views, the Committee decided to add the following item to the terms of reference for the correspondence group:

- “.4 to consider the need to develop a risk index relevant to the protection of the marine environment”.

17.10 The Committee invited delegates to the Committee to actively participate in the work of the correspondence group.

## **18 APPLICATION OF THE COMMITTEE'S GUIDELINES**

### **Outcome of the Chairmen's Meeting on Review of the Sub-Committee Structure**

18.1 The Committee recalled that MSC 76 considered the application of the Committee's Guidelines and noted that the various proposals on new concepts to improve the performance of

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\* Co-ordinator:

Mr. Koichi Yoshida  
Vice-Principal Research Co-ordinator  
National Maritime Research Institute  
6-38-1 Shinkawa  
Mitaka 181-0004  
Japan  
Tel: +81 422 41 3615  
Fax: +81 422 41 3247  
e-mail: [koichiy@nmri.go.jp](mailto:koichiy@nmri.go.jp)

the sub-committees were brought to the meeting of the Chairmen of the MSC, MEPC, TCC and the FAL Committee along with the Chairmen of the technical sub-committees, which was held on 15 June 2002.

18.2 The Committee also recalled that it had deferred consideration of the outcome of the Chairmen's Meeting (MEPC 48/18/2) to this session, having no time to consider it at MEPC 48.

18.3 In addition to amendments to the Committees' Guidelines, the Committee noted the decisions of MSC 76 as reflected in MEPC 49/18 covering the following points:

- .1 recommendations to amend Committees' Guidelines;
- .2 long-term work plan of the Organization and determination of whether there is a need to restructure the sub-committees;
- .3 ability to implement new requirements and recommendations;
- .4 responsibilities and roles of the sub-committee Chairmen and Vice-Chairmen;
- .5 attendance of journalists at meetings of IMO's technical bodies; and
- .6 other matters discussed by the Chairmen's Meeting.

18.4 The Committee generally concurred with the decisions of MSC 76 and agreed, in particular:

- .1 to amend the Committees' Guidelines to reflect the recommendations of the Chairmen's Meeting;
- .2 to approve the revised text of the Committee's Guidelines as set out in MEPC 49/18/1;
- .3 to instruct the sub-committees to consider the terms of reference and prepare updated terms of reference for consideration by MSC 78 and MEPC 51;
- .4 that any modifications to the long-term work plan deemed necessary to achieve the objectives of the Organization, as set out in resolution A.900(21), would be conditional on any change in the structure of the sub-committees, which, in turn, should only be considered when the outcome of the *Ad Hoc* Council Working Group on the Organization's Strategic Plan becomes available and the strategy and policy of the Organization are agreed;
- .5 that there was no need, at present, to change the structure of the sub-committees;
- .6 that Guidelines on the roles and responsibilities of sub-committee Chairmen and Vice-Chairmen should be prepared for consideration at the next Chairmen's Meeting and that the Secretariat shall be requested to attempt drafting such Guidelines, with a view to submission to the next Chairmen's Meeting;
- .7 that, in the case of requests from journalists to be present at particular sessions of a committee/sub-committee, these should be assessed on a case-by-case basis and that the body concerned should decide at the beginning of the session whether,

and under which conditions, this should be allowed, taking into account that, under the Committees' Rules of Procedure, meetings are normally held in private unless otherwise determined. In this context, the Committee agreed to provide comments to the draft guidelines MEPC 49/11/9, annex) to the Council as discussed under agenda item 11 and reflected in paragraph 11.5.1.4; and

- .8 endorsed the opinion of the Chairmen's Meeting that, by strictly observing the Guidelines, even as they stand at present, the work of the Organization's technical bodies will gain not only in quality of output but also in efficiency and effectiveness.

### **Rearranged text of the Guidelines on the organization and method of work of the MSC and MEPC and their subsidiary bodies**

18.5 The Committee noted that MSC 77 reviewed the draft rearranged and modified text of the Guidelines, which was prepared to reflect various amendments already considered by previous sessions of the Committees as well as recommendations from the Chairmen's Meeting.

18.6 The Committee noted that the amendments to paragraph 2.27 of the rearranged Guidelines by the delegation of Japan, to which MSC 77 agreed, were to remove the square bracket and add the following sentence (MSC 77/26, paragraph 22.2):

“However, in exceptional circumstances where the draft amendments under consideration include significant discrepancies or omissions, or where serious difficulties in their application can be foreseen, the Committees may accept to discuss oral proposals aiming at resolving any problems identified.”

18.7 The Committee noted the comments of the delegation of Japan to consider other discussion points cited in MEPC 49/18 to be included in future revisions of the Guidelines.

18.8 In this regard, the Committee recalled that the Guidelines are kept under continuous review by both the MSC and MEPC.

18.9 Having considered the outcome of MSC 77 on the rearranged Guidelines in MEPC 49/18/1, the Committee concurred with the outcome of MSC 77 and instructed the Secretariat to issue the revised Guidelines as MSC/Circ.1099-MEPC/Circ.405, superseding MSC/Circ.931-MEPC/Circ.366.

## **19 WORK PROGRAMME OF THE COMMITTEE AND SUBSIDIARY BODIES**

### **Work programmes and provisional agendas of the BLG and FSI Sub-Committees**

19.1 Having noted the information provided in MEPC 49/19 on the work programmes and provisional agendas of the BLG and FSI Sub-Committees, and after considering the recommendation of MSC 77 to combine BLG 9 with DSC 8 in 2004 in light of the outcome of discussion under agenda item 11 (MEPC 49/11/6, paragraph 14.2), the Committee:

- .1 decided not to convene BLG 9 in 2004;
- .2 approved the proposed work programmes and provisional agendas of the BLG and FSI Sub-Committees, which are set out in annex 23; and



- .3 in approving the work programme of the BLG Sub-Committee, the Committee recommended to postpone the target completion date for H.4 and H.5 to 2005, subject to approval by the MSC, taking into account that BLG 9 will not meet in 2004.

### **Work programmes of the DSC, NAV, DE, SLF and STW Sub-Committees, which relate to environmental issues**

19.2 The Committee, noting the information provided in MEPC 49/19/1 and the decision of MSC 77, which revised and approved the work programmes of the DSC, NAV, DE, SLF and STW Sub-Committees (MSC 77/26, annex 22), approved the environmental related items in the work programmes of the DSC, NAV, DE, SLF and STW Sub-Committees, which are set out at annex 24.

### **Restructuring of the sub-committees**

19.3 The Committee noted that MSC 76, having considered the Chairmen's Meeting recommendations, instructed the sub-committees to consider the matter under the agenda item on "Work programme" and to prepare updated terms of reference for consideration by MSC 78 and MEPC 51 (MEPC 49/18, paragraph 5).

19.4 The Committee also noted that MSC 76, having considered the long-term work plan of the Organization, saw no immediate need to change the structure of the sub-committees at present (MEPC 49/18, paragraph 6).

19.5 The Committee concurred with MSC 76 on the outcome of the Chairmen's Meeting and requested the sub-committees to prepare updated terms of reference for consideration by MEPC 51 and MSC 78.

### **The Committee's current work programme and long-term plan (up to 2010)**

19.6 The Committee recalled that its current work programme and the proposed long-term work plan (up to 2010) were considered at MEPC 48 (MEPC 48/18/3) to be included in the long-term work plan of the Organization (MEPC 48/21, paragraph 18.15).

19.7 The Committee was informed that the ninetieth session of the Council took note of the Committee's long-term plan (C 90/21, annex).

19.8 The Committee instructed the Secretariat to submit its long-term work plan up to 2010 (MEPC 48/18/3), as noted by the Council, to the twenty-third session of the Assembly.

### **Progress report on the Committee's work since the last Assembly**

19.9 The Committee considered and approved the progress report on the Committee's long-term work plan (up to 2008) as contained in resolution A.907(22) (MEPC 49/WP.1) and requested the Secretariat to update the progress report concerning the work of MEPC 49 before submission to the twenty-third session of the Assembly.

### **Substantive items to be included in the Committee's agenda for its forthcoming three regular sessions**

19.10 The Committee considered and approved the substantive items to be included in the agendas for MEPC 51, MEPC 52 and MEPC 53 (MEPC 49/WP.4) as amended, which are set out at annex 25.

### **Working/Drafting groups at MEPC 51**

19.11 The Committee agreed, in principle, to establish the following working/drafting groups at MEPC 51:

- .1 working group on ballast water management;
- .2 working group on ship recycling;
- .3 working group on air pollution related issues; and
- .4 drafting group on amendments to MARPOL 73/78.

### **Correspondence groups**

19.12 The Committee agreed to establish an intersessional correspondence group on the development of an IMO GHG emission indexing scheme.

### **Intersessional meeting**

19.13 The Committee agreed to hold an additional meeting of the intersessional ESPH Working Group, subject to concurrent decision of the MSC and approval by the Council.

### **Dates for the extra session (MEPC 50)**

19.14 The Committee decided to hold the extra session as MEPC 50 on 1 and 4 December 2003 to consider and adopt amendments to MARPOL Annex I proposed in the wake of **Prestige**.

### **Dates for MEPC 51 and MEPC 52**

19.15 The Committee noted that MEPC 51 would be held from 29 March to 2 April 2004 and that MEPC 52 is tentatively scheduled in October 2004.

## **20 ELECTION OF THE CHAIRMAN AND VICE-CHAIRMAN FOR 2004**

20.1 In accordance with rule 17 of the Rules of Procedure, the Committee unanimously re-elected Mr. Andreas Chrysostomou (Cyprus) as Chairman and Mr. Gabriel Fernández (Panama) as Vice Chairman for 2004.

## **21 ANY OTHER BUSINESS**

21.1 The Committee recalled that, because of lack of time, MEPC 48 postponed consideration of a number of documents to this session and decided to deal with those documents first.

### **Recommendations of the IMO/UNEP Workshop on Marine Pollution Prevention and Environmental Management in Ports in the Wider Caribbean Region**

21.2 The Committee noted the recommendations developed at the IMO/UNEP Workshop presented in the annex to document MEPC 48/20, which emphasized the importance of dealing with the provision of reception facilities and sewage from cruise ships.

### **Reporting procedures being developed concerning dumping in alleged contravention of the London Convention 1972**

21.3 The Committee noted that document MEPC 48/20/2 had been superseded by a new document (MEPC 49/21).

### **Marine Electronic Highway Project**

21.4 The Committee noted the information on the initiation of the GEF/World Bank/IMO Project on the Development of a Regional Marine Electronic Highway (MEH) in the East Asian Seas (MEPC 48/INF.17).

### **Reporting procedure of observed dumping incidents which may be in violation of international ocean dumping treaties (London Convention 1972 and the 1996 Protocol thereto)**

21.5 The Committee noted the information provided by the Secretariat in document MEPC 49/21 that, in 2002, the 24th Consultative Meeting of Contracting Parties to the London Convention 1972 developed reporting procedures of observed dumping incidents that may be in violation of international ocean dumping treaties, i.e., the London Convention 1972 and the 1996 Protocol thereto. A draft of the reporting procedure was submitted to MEPC 48 as MEPC 48/20/2 but the Committee had no time at that session to provide comments.

21.6 The Committee also noted that when the Consultative Meeting developed these procedures, it also agreed that overlap should be avoided with other marine reporting systems, i.e., reporting of possible discharges under Protocol I of MARPOL 73/78 and OPRC 90, as reflected in IMO resolution A.851(20).

21.7 The Committee also noted that when the 24th Consultative Meeting approved the reporting procedures, it noted that some practical issues of implementation of the procedure had not yet been fully addressed and it agreed to invite the Committee to provide comments. After discussion, the Committee agreed that the reporting procedure in MEPC 49/21 can be distributed by the Secretariat for use later in 2003.

### **Activities of the Principality of Monaco relating to the Barcelona Convention and its Protocols**

21.8 The Committee noted the information in document MEPC 49/21/1 on the activities of the Principality of Monaco relating to the Barcelona Conventions, Protocols and Agreements for the protection of the marine environment of the Mediterranean.

### **Sustainable Development Strategy for the Seas of East Asia**

21.9 The Committee noted the information in document MEPC 49/INF.2 on the Sustainable Development Strategy for the Seas of East Asia (SDS-SEA) prepared by the GEF/UNDP/IMO Regional Programme, which provided a shared vision of the countries and other stakeholders for the East Asian Seas region and the intended actions to be considered by a Ministerial Forum in December 2003.

### **Combined patrol in Antarctica**

21.10 The Committee noted the information provided by Argentina and Chile in document MEPC 49/INF.3 on their activities to enhance the maritime safety and the protection of the environment in Antarctica.

### **Marine Environment Awareness Course**

21.11 The Committee noted the information submitted by Friends of the Earth International (FOEI) (MEPC 48/INF.9 and MEPC 49/INF.25) on the Marine Environment Awareness Course at the Royal Netherlands Institute for Sea Research.

### **Applications for consultative status**

21.12 The Committee noted that the ninetieth session of the Council decided to allow the application of the International Maritime Health Association (IMHA) to proceed for further screening by the Committee and the MSC providing that IMHA forward an updated list of its membership not later than 14 July 2003.

21.13 The Committee, having received from IMHA an updated list of its membership, decided to establish an informal group on consultative status under the chairmanship of Mr. G. Fernández (Panama) to consider the application in accordance with the Rules Governing Relationships with Non-Governmental International Organizations and report back to plenary.

21.14 Having considered an oral report by the Chairman of the informal drafting group on consultative status, the Committee agreed that consultative status could be granted to IMHA on a provisional basis for four years.

### **Marine Environment Awareness in Youth**

21.15 The Committee noted that the ex-Chairman of the Committee, Mr. Michael Julian, continued the cause of Marine Environment Awareness in Youth initiated by the Committee and agreed to continue to support such a worthy cause.

### **Appreciation**

21.16 The Committee, noting that this is the last regular session for the Secretary-General to attend, expressed deep appreciation for his consistent strong support for the work of the Committee since he became Secretary-General of the Organization, especially for his wise guidance to the 1997 Diplomatic Conference which adopted MARPOL Annex VI, to the 2001 Diplomatic Conference which adopted the AFS Convention, to MEPC 46 which adopted

the amendments to MARPOL Annex I in the wake of **Erika**, and to this session of the Committee which agreed on a basic text of amendments to MARPOL Annex I in the wake of **Prestige**, demonstrating the ability of the Organization to promptly address the need of Member States and the international community to protect the marine environment.

21.17 The Committee, noting that this is also the last session for Ms Saara Lintu, Technical Programme Officer of the Marine Environment Division of the Organization, to attend, expressed appreciation for her commendable contribution to the work of the Committee, especially for her work relating to the AFS Convention and PSSA matters.

(The annexes will be issued as addenda to this document.)

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