



MARINE ENVIRONMENT PROTECTION
COMMITTEE
51st session
Agenda item 22

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**REPORT OF THE MARINE ENVIRONMENT PROTECTION COMMITTEE
ON ITS FIFTY-FIRST SESSION**

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1 INTRODUCTION

1.1 The fifty-first session of the Marine Environment Protection Committee was held at IMO Headquarters from 29 March to 2 April 2004 under the chairmanship of Mr. A. Chrysostomou (Cyprus).

1.2 The session was attended by delegations from:

ALGERIA	LATVIA
ANTIGUA AND BARBUDA	LEBANON
ARGENTINA	LIBERIA
AUSTRALIA	LITHUANIA
BAHAMAS	LUXEMBURG
BANGLADESH	MALAYSIA
BARBADOS	MALTA
BELGIUM	MARSHALL ISLANDS
BELIZE	MEXICO
BOLIVIA	MONACO
BOSNIA AND HERZEGOVINA	MOROCCO
BRAZIL	NETHERLANDS
BULGARIA	NEW ZEALAND
CANADA	NIGERIA
CHILE	NORWAY
CHINA	OMAN
COLOMBIA	PAKISTAN
CROATIA	PANAMA
CUBA	PERU
CYPRUS	PHILIPPINES
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	POLAND
DENMARK	PORTUGAL
ECUADOR	QATAR
EGYPT	REPUBLIC OF KOREA
ESTONIA	ROMANIA
FINLAND	RUSSIAN FEDERATION
FRANCE	SAINT VINCENT AND THE GRENADINES
GABON	SAUDI ARABIA
GERMANY	SIERRA LEONE
GHANA	SINGAPORE
GREECE	SLOVENIA
GUATEMALA	SOUTH AFRICA
HONDURAS	SPAIN
ICELAND	SWEDEN
INDIA	THAILAND
INDONESIA	TRINIDAD AND TOBAGO
IRAN (ISLAMIC REPUBLIC OF)	TURKEY
IRELAND	UKRAINE
ITALY	UNITED KINGDOM
JAMAICA	UNITED REPUBLIC OF TANZANIA
JAPAN	

UNITED STATES
URUGUAY

VANUATU
VENEZUELA

by observers from the following Members of IMO:

CAMEROON
MAURITIUS
NAMIBIA

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 ENVIRONMENT PROGRAMME (UNEP)
UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE
(UNFCCC)

by observers from the following intergovernmental organizations:

EUROPEAN COMMISSION (EC)
MARITIME ORGANISATION FOR WEST AND CENTRAL AFRICA (MOWCA)
THE BALTIC MARINE ENVIRONMENT PROTECTION COMMISSION (HELSINKI
COMMISSION)
REGIONAL ORGANIZATION FOR THE PROTECTION OF THE MARINE
ENVIRONMENT (ROPME)
PORT MANAGEMENT ASSOCIATION OF EASTERN AND SOUTHERN AFRICA
(PMAESA)

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)
INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)
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 COUNCIL OF MARINE INDUSTRY ASSOCIATIONS (ICOMIA)
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)
ASSOCIATION OF EUROPEAN SHIPBUILDERS AND SHIPREPAIRERS (AWES)
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS
(INTERTANKO)

INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION LIMITED
(ITOPF)
WORLD CONSERVATION UNION (IUCN)
SOCIETY OF INTERNATIONAL GAS TANKER AND TERMINAL OPERATORS
LTD (SIGTTO)
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)
THE INTERNATIONAL MARINE CONTRACTORS ASSOCIATION (IMCA)
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)
INTERNATIONAL BULK TERMINALS ASSOCIATION (IBTA)
INTERNATIONAL MARINE TRANSIT ASSOCIATION/INTERFERRY (IMTA)

1.3 The Chairman of the Maritime Safety Committee (MSC), Mr. T. Allan (United Kingdom); 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 Ship Design and Equipment (DE), Mr. I.M. Ponomarev (Russian Federation); the Chairman of the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC), Ms. O.P. Lefevre (France); and the Chairman of the Sub-Committee on Flag State Implementation (FSI), Mr. Ki-tack Lim (Republic of Korea) were also present.

The Secretary-General's opening remarks

1.4 The Secretary-General welcomed participants and reiterated his plea to the Council and Assembly last year, when he invited all with an interest in the affairs of IMO and the shipping industry to join forces so as to create a safer, more secure and environmentally friendly maritime world.

1.5 The Secretary-General recognized that the MEPC had provided a unique forum for the provision of solutions to any emerging marine environmental issues identified by Member Governments, the industry and civil society. The MEPC had been extremely successful in fulfilling its role as the global legislative body responsible for the development and adoption of international rules, regulations and standards aimed at protecting the marine environment worldwide.

1.6 The Secretary-General expressed his concern about the slow pace of ratification of pollution prevention-related instruments adopted by IMO in recent years. MARPOL Annex VI, which was adopted in September 1997, was still short by two ratifications to bring it into force. The OPRC-HNS Protocol of 2000 and the AFS Convention of 2001 also need more ratifications

to enter into force. In this respect, the Secretary-General expressed the view that as adoption of these new instruments was to fill a gap in the existing legislation, it did not make sense if the instruments were not ratified and implemented. He therefore urged Member Governments to take action to ratify and implement any new instruments IMO adopts as soon and as effectively as possible and expressed his intention to submit a proposal to the next session to provide for an accelerated procedure, similar to that adopted by SOLAS Contracting Governments, to shorten the time period between adoption and entry into force of amendments to MARPOL in exceptional circumstances.

1.7 The Secretary-General referred to the spread of terrorist atrocities worldwide and recalled that maritime transport had already been a victim with the **Achille Lauro** hijacking in 1985 and the tanker **Limburg** incident in 2002, and that the latter incident had demonstrated clearly the potential for damage to the marine environment if the maritime industry does not take the threat posed by international terrorism seriously and does not effectively implement the measures adopted by the Organization. The Secretary-General urged all parties concerned to intensify their efforts to meet the entry-into-force deadline for the new security regime specified in SOLAS chapter XI-2 and the International Ship and Port Facility Security Code.

1.8 The Secretary-General noted that the designation of Particularly Sensitive Sea areas was an important issue on the Committee's agenda as it had been invited to consider three new proposals in respect of the waters of the Canary Islands, the Baltic Sea and the Galapagos Archipelago. He drew attention to the fact that the United Nations General Assembly, in a resolution on Oceans and the Law of the Sea, had noted with interest the ongoing discussions in IMO while UNESCO's World Heritage Centre had expressed support for the designation of the Galapagos Marine Reserve as a PSSA.

1.9 The Secretary-General stated that the mechanism for identifying and designating clearly defined sea areas for recognized ecological, socio-economic or scientific reasons because they may be vulnerable to damage by international shipping activities was in place, but such a mechanism must, however, balance the need for protection with the legitimate needs of international shipping. He expressed his confidence that, in considering the new proposals, the Committee would give proper attention to all the criteria which would justify the designation of the areas concerned as PSSAs.

1.10 Turning to the item on ship recycling, the Secretary-General noted the growing concerns about the effect ship recycling had on the environment as well as its effect on the safety, health and welfare of those involved in the ship recycling industry. He noted, however, that ship recycling was the most environmentally friendly way of disposing of ships at the end of their economic lives. He urged Member Governments with ship recycling industries to take the IMO *ad hoc* Guidelines fully into account and stated that IMO would continue to co-operate with the International Labour Organization and the Basel Convention in order to achieve a common understanding of the problem and thus identify the required solutions.

1.11 With regard to the item on air pollution from ships, the Secretary-General recalled that the Assembly had adopted resolution A.963(23) on "IMO Policies and Practices Related to the Reduction of Greenhouse Gas Emissions from Ships which urged the MEPC to take action, amongst other things, on the establishment of a greenhouse gas emission baseline and the development of a methodology for an emission index for ships. The Secretary-General stressed the importance of IMO developing, on an international basis, the necessary mechanisms needed to reduce the emission of such gases from ships.

1.12 The Secretary-General recalled the successful adoption of the Ballast Water Management Convention in February this year and urged Member Governments to keep up the momentum engendered by the Diplomatic Conference and develop the guidelines and procedures necessary to ensure global and uniform application of its requirements as a matter of urgency in order to facilitate its entry into force.

1.13 The Secretary-General noted that the OPRC/OPRC-HNS Technical Group had met for the first time in the previous week. He welcomed the work of this Group in assisting countries, and particularly developing countries, to establish the national systems needed to be ready for, and to respond to, accidental pollution and looked forward to the Group's work on preparedness and response to chemical incidents which will better equip countries to deal with such incidents and also provide the impetus for them to become parties to the OPRC-HNS Protocol.

1.14 The Secretary-General closed his remarks by stating that, with the usual spirit of co-operation, he anticipated that the Committee would arrive at solutions that would serve well the cause of marine environmental protection and the interests of the world maritime world community at large.

Credentials

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

2 HARMFUL AQUATIC ORGANISMS IN BALLAST WATER

2.1 The Committee noted that the International Conference on Ballast Water Management for Ships (9 to 13 February 2004) adopted the "International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004" as well as three resolutions outlining the tasks ahead for MEPC and one resolution concerning the promotion of technical co-operation and assistance on capacity building for ballast water management issues.

2.2 The Committee noted further that the Ballast Water Management Convention will be open for signature from 1 June 2004 to 31 May 2005 and urged all national delegations that contributed to the successful completion of the Convention to sign the instrument as soon as possible to facilitate its early entry into force.

2.3 The delegation of Australia stated that the Decision VI/23 of the Convention on Biological Diversity adopted at the 6th Conference of Parties in April 2002 and referred to in the Preamble of the Ballast Water Convention was not considered validly adopted as Australia formally objected to its adoption at the April 2002 meeting. Australia objected on the basis that the Guiding Principles included in the Decision contained language that could be misused for trade protectionist purposes. Australia's position was that one formal objection to a proposed decision at a Conference of Parties was sufficient to prevent that proposal from being adopted by consensus. Australia advised the Committee of the likelihood that should it ratify or accede to the Ballast Water Management Convention an interpretative statement similar to the present one would be lodged.

2.4 The United States associated itself with the Statement made by Australia and brought to the attention of the Committee that the CBD Bureau attaches a footnote to all references to Decision VI/23 to reflect the reservations of some CBD representatives regarding the procedures leading to the adoption of that decision.

2.5 The Committee took note of the interpretative statement of Australia and the information provided by the United States regarding the footnote of Decision IV/23.

Development of an Action Plan in preparation for the implementation of the Convention

2.6 The Committee agreed to concentrate at this session on the development and approval of an Action Plan in preparation for implementation of the Ballast Water Convention on the basis of document MEPC 51/2 concerning the “Outcome of the International Conference on Ballast Water Management for Ships and Follow-up Action”.

2.7 The delegation of Brazil expressed the view that the list of guidelines contained in Resolution 1 did not include any reference to emergency situations and proposed to develop such guidelines.

2.8 The Committee agreed to instruct the Working Group to consider the development of such guidelines together with the guidelines for “Additional Measures” under Regulation C-1.

2.9 The Committee noted the following views on the outcome of the Diplomatic Conference and the suggested follow-up action:

- .1 all the guidelines mentioned in Resolution 1 adopted by the International Conference should be seen as high priority;
- .2 item 7 of the operative paragraph of Resolution 1 should be split into two separate guidelines, as the two topics referred to in that paragraph were different;
- .3 the desirability to have a consolidated publication of all guidelines should not delay the adoption of any individual guidelines.

2.10 The Committee agreed to re-convene the Ballast Water Working Group under the Chairmanship of Mr. Mike Hunter (United Kingdom) with the following terms of reference:

- .1 examine the inter-relation of the various guidelines with the Convention among themselves and advise the Committee on possible timings for their completion;
- .2 develop an Action Plan in preparation for the implementation of the Convention consisting of:
 - .1 a programme for the timely development of the Guidelines and procedures to support the Ballast Water Management Convention as listed in Conference resolution 1 and including any additional guidance required but not listed in the Resolution. Attention should be given to priorities, achievable deadlines, and identification of any input required from other IMO Committees and Sub-Committees; and
 - .2 a programme for the review required by Regulation D-5 which must be completed at MEPC 53, and recommendations for the conduct of the review including any necessary intersessional work, through a correspondence group, taking into account Conference resolutions 2 and 4;

- .3 further develop the guidelines described at paragraph 1.1 above, taking into account the information contained in Conference documents BWM/CONF/10, BWM/CONF/16 and BWM/CONF/INF.6, and using the contents of BWM/CONF/INF.4 and BWM/CONF/INF.5 as basic texts; and
- .4 submit a written report to the Committee on Thursday, 1 April 2004.

Report of the Ballast Water Working Group

2.11 Having considered the report of the Working Group (MEPC 51/WP.4), the Committee:

- .1 approved the programme for development of the guidelines for uniform implementation of the Ballast Water Convention and invited comments from relevant Sub-Committees as set out in annex 1;
- .2 endorsed the recommendations by the Working Group that the review process, as described in annex 2, be confirmed by MEPC 52;
- .3 noted the Group's views on the urgent need to finalize guidelines (G8) and (G9) to facilitate the review required under regulation D-5 to take place at MEPC 53;
- .4 noted the recommendation by the Group that further work should be carried out intersessionally and urged Member States and Observers to provide their contributions to the co-ordinators according to the following working arrangements:
 - .1 The Netherlands for guidelines (G8) and (G9)
(contact Mr. Frans Tjallingii at: f.j.tjallingii@dnz.rws.minvenw.nl);
 - .2 United Kingdom for guidelines (G4), (G6), (G11), (G1), (G12) and (G5)
(contact Capt. Graham Greensmith at: graham.greensmith@lr.org);
 - .3 Norway for guidelines (G7), (G10) and (G13)
(contact Mr. Sveinung Oftedal at: sveinung.oftedal@sjofartsdir.dep.no);
 - .4 Germany for guidelines (G2)
(contact Mr. Stephan Gollasch at: sgollasch@aol.com);
 - .5 International Sailing Federation for guidelines (G3)
(contact Mr. Michael Devonshire at: isaf@mike-devonshire.co.uk).
- .5 invited Member States and Observers to provide, in particular, design and equipment expertise during the intersessional work and MEPC 52 to facilitate the development and adoption of the guidelines (G8);
- .6 instructed the FSI Sub-Committee to develop survey guidelines in accordance with regulation E-1 of the Convention, and to include a high-priority item in its work programme to be completed in two sessions;

- .7 agreed to invite the Technical Co-operation Committee to consider the socio-economic effect(s) specifically in relation to the developmental needs of developing countries, particularly small island developing States and advise the MEPC accordingly;
- .8 approved an intersessional meeting of the Ballast Water Working Group at no cost to the Organization during the week before MEPC 52; and
- .9 agreed to reconvene the Ballast Water Working Group during MEPC 52 to finalize guidelines (G8) and (G9), confirm the review process described in annex 2 of the report and to progress the other guidelines to the extent possible in the time available.

2.12 The delegation of Saudi Arabia invited the Committee to note the development, by one of its shipping companies, of a method for built-in ballast water exchange and their intention to submit a detailed paper in this respect to the DE Sub-Committee.

3 RECYCLING OF SHIPS

3.1 The Committee recalled that MEPC 49 finalized the IMO Guidelines on Ship Recycling, which were subsequently adopted at the twenty-third session of the Assembly by resolution A.962(23).

3.2 The Committee further recalled that MEPC 49, having considered and approved a list of future work items on ship recycling (MEPC 49/22/Add.1, annex 4) agreed, in principle, to establish at this session a working group to continue its work on ship recycling.

3.3 The Committee also recalled that MEPC 50, having realized that the amendments to MARPOL Annex I in the wake of **Prestige** would increase the number of the vessels to be recycled within a specific period of time, which implies an increased need for ship recycling facilities and capabilities, adopted resolution MEPC.113(50) recommending that initiatives should be taken to maintain adequate ship recycling facilities at world-wide level and to promote research and development programmes to improve environment and safety level in ship recycling operation.

Outcome of the twenty-third session of the Assembly

3.4 The Committee noted the outcome of the twenty-third session of the Assembly concerning the IMO Guidelines on Ship Recycling, as reported in paragraphs 6 to 9 of document MEPC 51/11/4, and agreed to take it into consideration during its deliberations on this issue.

Future work on ship recycling

3.5 The Committee noted document MEPC 51/3/1 by the Secretariat listing the future work items on ship recycling, as approved by MEPC 49, and considered submissions on this issue by Canada (MEPC 51/3/2), Japan (MEPC 51/3/4), France (MEPC 51/3/5) and Greenpeace International (MEPC 51/3/6 and MEPC 51/INF.11).

3.6 The Committee considered document MEPC 51/3/2, submitted by Canada, providing further technical details and advice to assist in developing a Ship Recycling Plan in accordance with section 8.3.2.6 of the IMO Guidelines on Ship Recycling and agreed to refer it to the

working group for further consideration and adjustment in order that the technical considerations for the preparation of a ship for recycling, contained in this document, be in full compliance with the provisions of the Guidelines.

3.7 Japan, in its document MEPC 51/3/4, provided comments and proposals on the method to be applied for the consideration of the mechanisms or measures to promote the implementation of the IMO Guidelines on Ship Recycling. In Japan's view, the implementation of the Guidelines could be promoted by different mechanisms depending on the characteristics of each action item provided for in the Guidelines, taking into account the practicability of each proposed mechanism as well as a cost-benefit analysis in comparison with possible alternatives. Examples of possible measures for promoting the implementation of some of the key action items are set out in annex 1 to document MEPC 51/3/4. Japan stressed also that in case a mandatory scheme were regarded as necessary then its application would necessitate a careful consideration of a number of issues and parameters such as those listed in annex 2 to this document.

3.8 The majority of the delegations who spoke supported the proposal by Japan and considered it as a well-balanced approach offering a useful methodology for the Committee to efficiently progress the issue of ship recycling, especially on the consideration of possible mechanisms to promote the implementation of the Guidelines.

3.9 A substantial number of delegations, whilst not objecting to the basic principle behind the Japanese proposal, referred to the recent decision by the Assembly at its twenty-third session adopting the IMO Guidelines on Ship Recycling as a non-mandatory instrument and were of the opinion that any consideration on making the Guidelines mandatory is rather premature at this stage. They suggested that, until sufficient experience had been gained from their implementation, the Committee should refrain from considering the possibility of developing the Guidelines into a mandatory regime.

3.10 The Committee, after considerable discussion, agreed to instruct the working group to use the methodology and information provided in document MEPC 51/3/4 as the basis for further consideration in the group with the aim of identifying appropriate mechanisms for promoting the implementation of each of the key action items of the Guidelines. The Committee instructed the working group to refrain, at this stage, from considering proposals on making the Guidelines or some parts of them mandatory. However, in case a mandatory scheme were regarded as the only suitable option for the implementation of a specific action item of the Guidelines then this should be brought to the attention of the Committee for its consideration.

3.11 France (MEPC 51/3/5) proposed the compulsory preparation of ships destined for recycling, including the removal of hazardous waste, the introduction of a mandatory requirement for the flag State to issue a "certificate of preparation for recycling" for every ship which is nearby the recycling facility waiting to be scrapped. Making the "Green passport" compulsory for all ships was also proposed so that this document could be checked during port State control. As a precondition for requiring a "certificate of preparation for recycling", France suggested the introduction by the recycling State of a licensing system authorizing the operation of only those recycling facilities having the capability to recycle a ship in an environmentally sound way. France considered also that international co-operation and assistance is necessary to improve infrastructure and working practices in the recycling facilities and proposed that the establishment of an international co-operation fund, financed by the fines imposed in cases of non-compliance with the requirements for ship preparation, should be examined.

3.12 In introducing document MEPC 51/3/6, the observer from Greenpeace International expressed the view that neither the IMO Guidelines on Ship Recycling nor the Industry Code of Practice on Ship recycling are adequate to protect workers or the environment at recycling facilities since neither text contained effective mechanisms to monitor or ensure compliance and, in addition, both documents lacked real State involvement and basic elements such as the obligation for shipowners to report on the “export” of the vessel and the presence of hazardous materials. Document MEPC 51/INF.11, submitted by Greenpeace, provided an analysis in support of its views that the IMO Guidelines were in conflict with the requirements of the Basel Convention and the principles and guidelines subsequently developed pursuant to its requirements. Greenpeace, based on the results of its research in two shipbreaking countries which showed a lack of compliance with the already agreed voluntary measures within the shipping industry since 2001, invited the Committee to carry out the necessary preparation work and assessments to turn the Guidelines into a mandatory regime and proposed the introduction of an effective reporting system for ships destined for recycling requiring State involvement and the submission of specific documentation.

3.13 The Committee, having noted the proposals contained in documents MEPC 51/3/5 and MEPC 51/3/6, agreed to refer these documents to the working group to be considered during the group’s deliberations on the identification of the mechanisms to promote the implementation of the Guidelines and on the development of detailed criteria for ships to be declared “Ready for Recycling”, on the understanding that elements of these proposals related to the mandatory application of the Guidelines and on legal issues should be set aside for the time being, and that the discussion should focus on technical matters associated with the practical application of the Guidelines.

Inter-agency co-operation

3.14 The Committee recalled that MEPC 49 agreed that the IMO Secretariat should continue a close liaison role and dialogue with ILO and the Basel Convention Secretariats on the issue of ship recycling.

3.15 The Committee further recalled that with regard to the request of the sixth meeting of the Conference of Parties to the Basel Convention to the Secretariat of the Basel Convention (SBC) 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, MEPC 49 was, in principle, supportive of these proposals and requested the Secretariat to liaise with ILO and the SBC in order to prepare draft project objectives for the inter-agency technical assistance project and draft terms of reference for the joint working group for consideration at this session.

3.16 The Secretariat introduced document MEPC 51/3 presenting the report of the joint meeting between the Secretariats of the IMO, ILO and the Basel Convention which was held at the ILO Headquarters in Geneva from 13 to 14 January 2004, in order to advance the inter-agency co-operation on the issue of ship recycling and, in particular, to consider the proposal for a Joint ILO/IMO/Basel Convention Working Group on Ship Recycling and the issue of inter-agency technical assistance.

3.17 The representative of the Secretariat of the Basel Convention expressed the view that in the last few years the relevant bodies of IMO, ILO and the Basel Convention have worked hard to deliver high quality input into the preparation of technical guidelines that provide the most

comprehensive worldwide set of preventive and protective measures for the recycling of ships. The co-operation between IMO, ILO and the Basel Convention has been instrumental and essential to build the required coherence at the international level in order to improve the protection of human health and the environment at ship recycling facilities and to mobilise the resources to achieve these goals. It was also stated that ship recycling will remain a priority on the international agenda and, therefore, this fruitful co-operation should continue in order to meet the challenges ahead for the benefit of people and the environment.

3.18 The Committee, having considered the report of the joint meeting between the Secretariats of the IMO, ILO and the Basel Convention (document MEPC 51/3), agreed to the establishment of a Joint ILO/IMO/Basel Convention Working Group which should act as a platform for consultation, co-ordination and co-operation in relation to the work programme and activities of ILO, IMO and the Conference of Parties to the Basel Convention with regard to issues related to ship recycling. The Joint Working Group should pursue a co-ordinated approach to the relevant aspects of ship recycling with the aim of avoiding duplication of work and overlapping of responsibilities and competencies between the three Organizations.

3.19 It was also agreed that the Joint ILO/IMO/Basel Convention Working Group should not be construed as taking precedence or superseding the Committee's working group on ship recycling, which should continue to work on matters referred to it by the Committee on the issue of ship recycling.

3.20 With regard to the terms of reference and the working arrangements for the Joint ILO/IMO/Basel Convention Working Group, the Committee instructed the working group to consider the relevant proposals, as contained in paragraphs 9 to 12 of the annex to document MEPC 51/3 and put forward to the Committee any necessary fine-tuning.

Decision OEWG II/4

3.21 The Committee noted Decision II/4 on the "*Legal aspects of the full and partial dismantling of ships*", adopted by the Open-ended Working Group (OEWG) of the Basel Convention at its second session.

ILO Guidelines on Safety and Health in Shipbreaking

3.22 The Committee noted also the outcome of the ILO Interregional Tripartite Meeting of Experts on Safety and Health in Shipbreaking for Selected Asian Countries and Turkey, held in Bangkok (7–14 October 2003), as presented in document MEPC 51/INF.4 and, in particular, the adoption of the draft text on *Safety and health in shipbreaking: Guidelines for Asian countries and Turkey*.

Instructions to the Working Group

3.23 Following the above discussion, the Committee agreed to establish the working group on ship recycling with the following terms of reference:

- .1 to consider the terms of reference and the working arrangements for the joint ILO/IMO/Basel Convention Working Group as proposed in paragraphs 9 to 12 of the annex to document MEPC 51/3 and refine them, if necessary;

- .2 to use as the basis for the consideration of mechanisms to promote the implementation of the Guidelines on Ship Recycling the methodology set out in document MEPC 51/3/4. The group should refrain from considering proposals on making the Guidelines or some parts of them mandatory, however in case a mandatory scheme were regarded as the only suitable option for the implementation of a specific action item of the Guidelines then this should be brought to the attention of the Committee for its consideration;
- .3 to consider document MEPC 51/3/2, submitted by Canada, for the development of further technical considerations to assist in developing a Ship Recycling Plan and to make any necessary adjustments to it taking into account the need for compliance with the provisions of the Guidelines;
- .4 to continue the work on ship recycling based on the list of future work items approved by MEPC 49 (MEPC 49/22/Add.1, annex 4), taking into account the results of the discussion held in plenary and submissions under this item; and
- .5 submit a written report to the Committee on Thursday, 1 April 2004.

Outcome of the Working Group

3.24 The Working Group on Ship Recycling met on 30 and 31 March 2004 under the chairmanship of Captain Moin Ahmed (Bangladesh). Having received the report of the Group (MEPC 51/WP.5), the Committee took the following actions.

Joint ILO/IMO/Basel Convention Working Group

3.25 The Committee noted that the Group considered the terms of reference of the Joint ILO/IMO/Basel Convention Working Group (hereafter referred to as the Joint WG), as proposed in paragraph 9 of the annex to document MEPC 51/3, and made some minor editorial amendments. The text as amended by the Group is set out at annex.

3.26 The Committee noted also that a number of delegations in the Group, taking into account that the Joint WG should pursue a co-ordinated approach to the relevant aspects of ship recycling with the aim of avoiding duplication of work and overlapping of responsibilities and competencies between ILO, IMO and the Conference of Parties to the Basel Convention, expressed the view that there is a need for further review and clarification of the various responsibilities and competencies of the three Organizations with regard to ship recycling.

3.27 With regard to the working arrangements for the Joint WG, proposed in paragraphs 10 and 11 of the annex to document MEPC 51/3, the Committee noted that the Group agreed that participation in the Joint WG should ensure representation of all geographical regions of the world with an interest in the subject matter as well as representation of all countries with various positions and concerns on the issue of ship recycling such as those with shipping, shipbuilding and ship recycling interests.

3.28 It was also noted that the Group, taking into account the need to ensure an efficient and cost-effective working arrangement, agreed to suggest that five countries should be appointed from each Organization to participate in the Joint WG with the understanding that representatives of other Member States, and intergovernmental or non-governmental organizations may attend the Joint WG and participate as observers.

3.29 The Committee noted also the Group's suggestion that the Joint WG's reports should be posted to the public web site of the three Organizations in order to be easily and timely accessible to all interested parties.

Mechanisms to promote the implementation of the IMO Guidelines on Ship Recycling

3.30 The Committee noted that the Group, using as a basis the methodology suggested in document MEPC 51/3/4 submitted by Japan, prepared, as a starting point, an initial list of key action items provided for in the Guidelines and developed a set of possible mechanisms for the promotion of their implementation, identifying also the responsible stakeholders.

3.31 The Committee noted also that the outcome of the Group's work on this issue, which is set out at annex 2 to document MEPC 51/WP.5, should be considered as a starting point for the future work that is needed in order to prepare a comprehensive analysis of all the possible and suitable mechanisms for the promotion of the implementation of all the key action items provided for in the Guidelines and the subsequent development of the identified mechanisms.

3.32 It was also noted that the Group, in order to facilitate the earliest possible implementation of the Guidelines, in particular the recommendations set out in paragraph 8.1.3, agreed to recommend to the Committee to invite recycling States to provide information about the point of contact for the competent authorities for issues related to ship recycling.

Ship Recycling Plan

3.33 With regard to the development of further technical considerations to assist in developing a ship recycling plan, the Committee noted that the Group, in considering document MEPC 51/3/2 submitted by Canada, agreed that although the technical considerations proposed in this document contained a lot of useful information and advice, further work was needed in order that these considerations be suitably adjusted to the particular characteristics of the ship recycling operations and to the relevant provisions of the Guidelines.

3.34 The Committee noted the view of the Group that the technical considerations to be developed in order to assist in the preparation of the ship recycling plan should reflect that this plan is to be developed by the recycling facility in consultation with the shipowner, and that they should contain an element of flexibility in order to accommodate the various scenarios and situations that may be applicable in the ship recycling process such as specific contract provisions, the location where the ship preparation will take place, the ship's final voyage and the capabilities of the recycling facility for the handling of hazardous materials.

3.35 The Committee noted also that the Group, having agreed to consider first the basic contents of a ship recycling plan and identify the necessary accompanying technical data and advice, developed, as a starting point, a draft skeleton for the ship recycling plan, outlining its basic contents, which is set out at annex 3 to document MEPC 51/WP.5. The Committee noted further that the contents of this draft skeleton are illustrative and that further work is needed for their finalization.

Appendices 1 to 3 of the Guidelines on Ship Recycling

3.36 With regard to Appendices 1 to 3 of the Guidelines, the Committee noted that the Group, having acknowledged that the review and further development of these Appendices should be mainly based on the experience gained in the implementation of the Guidelines, agreed to suggest to the Committee to invite the ship recycling and shipping industry and other stakeholders to submit to the Committee any information on the practical implementation of the provisions of the Guidelines with regard to the identification of potentially hazardous materials on board ships and the preparation of the relevant inventory.

3.37 The Committee noted also that the Group agreed that, based on any information provided, further work may be needed for the review and the consideration of the need for any further development of these Appendices.

Criteria for ships to be declared “Ready for Recycling”

3.38 Regarding the criteria for ships to be declared “ready for recycling”, the Committee noted that the Group had an in-depth discussion on this issue and that it was generally acknowledged that these criteria should be applied by the Administration and that, as provided for in paragraph 9.2.1 of the Guidelines, the basic criteria would be the work to prepare a ship for recycling in accordance with section 8 of the Guidelines.

3.39 The Committee further noted that a number of delegations in the Group suggested that it would be rather premature, at this stage, to develop a set of these criteria and that, as a result of the discussion, the Group agreed that further work is needed for the consideration of the approach for and the subsequent development of such criteria.

Ship reporting system for ships destined for recycling

3.40 The Committee noted that the Group briefly considered a proposal by India on the introduction of a specific ship reporting system for ships destined for recycling and that, taking into account the limited time available and the significant number of important and complex issues involved, the Group invited India to submit its proposal for an in-depth consideration to the correspondence group proposed in paragraph 8.1 of document MEPC 51/WP.5.

Technical co-operation

3.41 The Committee noted that the Group considered the proposed framework of inter-agency technical assistance on the issue of ship recycling, as contained in paragraphs 18 and 19 of the annex to document MEPC 51/3, and having expressed its support for the proposals, invited the Committee to endorse them.

Action taken by the Committee

3.42 The Committee approved the report of the Working Group (MEPC 51/WP.5) in general and, in particular:

- .1 approved the terms of reference for the Joint ILO/IMO/Basel Convention Working Group, set out at annex 3;

- .2 agreed to the working arrangements for the Joint ILO/IMO/Basel Convention Working Group, as proposed in paragraphs 10 and 11 of the annex to document MEPC 51/3, and as further clarified by the Group;
- .3 agreed that Bangladesh, Japan, Netherlands, Norway and the United States should represent the Organization in the Joint Working Group, with the understanding that representatives of other Member States, and intergovernmental or non-governmental organizations may attend the Joint Working Group and participate as observers;
- .4 instructed the Secretariat to communicate the outcome of the Committee's consideration on the issue of the Joint ILO/IMO/Basel Convention Working Group to the Secretariats of the Basel Convention and the ILO;
- .5 agreed to the proposed framework of inter-agency technical assistance on the issue of ship recycling, as contained in paragraphs 18 and 19 of the annex to document MEPC 51/3;
- .6 invited the recycling States to submit to the Organization, as a matter of urgency, information about the point of contact for the competent authorities for issues related to ship recycling for dissemination;
- .7 invited the ship recycling and shipping industry and other stakeholders to submit to the Committee any information on the practical implementation of the provisions of the Guidelines with regard to the identification of potentially hazardous materials on board ships and the preparation of the relevant inventory;
- .8 agreed to the establishment of a correspondence group* and its terms of reference, as set out in annex 4, to further progress the work in the intersessional period; and
- .9 agreed to re-establish the Working Group on Ship Recycling at the next session of the Committee.

3.43 The Committee, in response to the objection expressed by IACS on the inclusion at this stage of the Classification Societies as a “stakeholder” in the table of “*Possible mechanisms and measures to promote the implementation of the IMO Guidelines on Ship Recycling*” contained in annex 2 of document MEPC 51/WP.5, invited IACS to participate and submit its views to the intersessional correspondence group.

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4 PREVENTION OF AIR POLLUTION FROM SHIPS

Entry into force of Annex VI

4.1 The Committee noted that, as of 29 March 2004, Annex VI of MARPOL 73/78 has been ratified by 13 States representing more than 54% of the gross tonnage of the world's merchant shipping and that ratification by only three more States would be required to satisfy the conditions for entry into force.

4.2 The Committee welcomed the statements made by Barbados, Cyprus, Japan and Poland 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 2004. This would mean that the Annex might satisfy the entry into force conditions and would enter into force before the end of 2005.

Resolution A.963(23)

4.3 The Committee recalled that Assembly 23 by resolution A.963(23) adopted "IMO Policies and Practices related to the Reduction of Greenhouse Gas Emissions from Ships", which established an official IMO policy on greenhouse gas emissions from ships.

Co-operation between the Secretariats of IMO and UNFCCC

4.4 The Committee recalled that the UNFCCC Subsidiary Body for Scientific and Technical Advice (SBSTA), at its eighteenth session, invited MEPC 49 to instruct the Secretariat to initiate an informal meeting of experts or workshop between the two Secretariats, with the participation of member experts of the Working Group on Air Pollution, before SBSTA 20, to be held in June 2004 in Bonn, Germany.

4.5 The Committee recalled that MEPC 49 urged Members to accept the invitation from the Intergovernmental Panel on Climate Change (IPCC) to participate in the revision of the "Revised 1996 Guidelines for National Greenhouse Gas Inventories".

4.6 The Committee noted the information by the Secretariat on the outcome of SBSTA 19 (1 to 9 December 2003, Milan, Italy). SBSTA 19 encouraged the ongoing exchange of information between the Secretariats of IMO and UNFCCC and invited IMO to report on the results of this session to SBSTA 20, to be held from 16 to 25 June 2004 in Bonn, Germany. The Committee instructed the Secretariat to attend SBSTA 20 and to provide information as invited.

4.7 The Committee noted that the Intergovernmental Panel on Climate Change (IPCC) is in the process of selecting authors for the revision of the revised 1996 Guidelines for National Greenhouse Gas Inventories and that emissions from water-borne navigation is one of the important sources to be considered. It therefore needs experienced and knowledgeable authors for the work to be done.

4.8 The Committee instructed the Working Group on Air Pollution to consider the issues and to make recommendations for consideration by the Committee on IMO nomination of authors.

Report by the intersessional correspondence group on greenhouse gas emissions from ships

4.9 The Committee recalled that MEPC 49 agreed to establish an intersessional correspondence group under the leadership of Norway and approved the terms of reference as set out in annex 8 of document MEPC 49/22.

4.10 Mr. Kjell Olav Skjølsvik (Norway), as the Co-ordinator, introduced the report of the correspondence group on greenhouse gas emissions from ships (MEPC 51/4). The Committee was also informed on the submission by Norway (MEPC 51/4/2) and the information by Germany (MEPC 51/INF.2).

4.11 In considering the report of the correspondence group (MEPC 51/4) the delegation of China supported by Brazil, India, Indonesia, Pakistan, Singapore (with the exception of paragraph 4.11.4) and Saudi Arabia expressed the following views, which were noted by the Committee:

- .1 the implementation of resolution A.963(23) should follow the principles and spirit of the resolution and be faithful to UNFCCC;
- .2 the Annex 1 countries of UNFCCC should take the lead in reducing greenhouse gas emissions in accordance with the principles of common but differentiated responsibilities and the transfer of technological and financial assistance from the developed countries to the developing countries agreed to at the United Nations Conference on Environment and Development (UNCED) in Rio, 1992 and embodied in the Kyoto Protocol, 1997;
- .3 technical follow-up to resolution A.963(23) can take place only on the basis of the principles stated in paragraph 4.11.2 above; and
- .4 the Working Group on Air Pollution should not consider the report of the correspondence group until the above principles are duly taken into account.

4.12 On the other hand, the Committee noted that the majority of the delegations that spoke were of a different view as follows:

- .1 the outcome of the correspondence group was in compliance with the requirements of resolution A.963(23) on reduction or limitation of greenhouse gas emissions;
- .2 the work of the correspondence group in general was supported by the shipping industry;
- .3 the work on the development of an emission baseline and index figures were needed in order to develop an even more environmentally friendly mode of transport; and
- .4 the shipping industry is growing as a consequence of the growth in international trade, but is still considered as an environmentally friendly mode of transport.

4.13 Although the Committee recalled the decisions of Assembly 23 and the adopted resolution A.963(23), it still could not reach any agreement on the issue and therefore agreed to postpone further consideration for MEPC 52, including consideration of the correspondence group report, where this agenda item will be given ample time for consideration.

Progress report on follow-up activities

4.14 The Committee, noting the information provided by the Secretariat (MEPC 51/4/1) on the progress made by DE 47 on the Guidelines related to the implementation of the NO_x Technical Code, agreed to change the priority for development of the Guidelines from low to high in view of the expected entry into force of MARPOL Annex VI.

4.15 The Committee noted the clarification on entry into force and enforcement criteria of the SO_x Emission Control Area status for the Baltic Sea and the North Sea Areas, as set out in paragraph 6 of document MEPC 51/4/1.

Other matters, including funding for monitoring the worldwide average of sulphur content of residual fuel oil supplied for use on board ships

4.16 The Committee recalled that MEPC 49 noted that funding for the present monitoring project on the worldwide average of sulphur content of residual fuel oil would run out by the end of 2003 and that the Netherlands would be prepared to continue the monitoring activities for two more years subject to availability of funds.

4.17 The Committee further recalled that MEPC 49 invited Member States and the Secretariat to explore further possibilities of a voluntary scheme for funding of the continuation of the Project at this session, before approaching the Council, seeking the funds from the budget of the Organization.

4.18 The Committee considered the possibilities of a voluntary scheme for funding and welcomed the offer for contributions by the Netherlands and the United Kingdom. The Committee instructed the Working Group to consider the possibilities further, taking into consideration the comments made by delegations.

Establishing the Working Group on Air Pollution

4.19 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 examine Assembly resolution A.963(23) in order to identify any necessary follow-up activities;
- .2 consider GHG activities related to the co-operation between the Secretariats of IMO and UNFCCC;
- .3 consider and make recommendations for IMO's participation in the work of IPCC;

- .4 consider funding of the sulphur monitoring project in detail, based on the comments made by members at Plenary, with a view to a continuation of the project; and
- .5 submit a written report to the Committee on Thursday, 1 April 2004.

4.20 The delegations of China, India and Saudi Arabia expressed serious reservations on the establishment of the Working Group and did not agree with its terms of reference.

Report by the Working Group

4.21 Having received the report of the Working Group (MEPC 51/WP.6), the Committee could not reach an agreement.

4.22 The delegations of China, India and Saudi Arabia made the following statement:

- .1 China, India and Saudi Arabia regret that deliberations in the Working Group did not take into account the possibility of reaching common ground. The will of the majority was made to prevail over that of the minority. This was not consistent with the tradition of reaching decisions in the International Maritime Organization through consensus.
- .2 The report of the Working Group fails to adhere to the principle of common but differentiated responsibilities underlying the provisions of the United Nations Framework Convention on Climate Change, namely paragraphs 4.8 and 4.9, and fails to address the commitments of the developed countries to provide financial and technological assistance to the developing countries to meet their obligations under the UNFCCC.
- .3 Further, it was noted that the developing Member States of IMO were not equitably represented at the Working Group. China, India and Saudi Arabia are therefore of the view that the report does not reflect the concerns of the developing countries, and dissociate themselves from this report in its entirety.

4.23 As a consequence, the Chairman, in order to reach a compromise, produced an informal paper (MEPC 51/J/10) to reaffirm the decisions taken on Tuesday, 30 March 2004. After an extensive debate, the Chairman, taking into account the views expressed by the delegations, concluded the following.

4.24 With regard to document MEPC 51/WP.6, the Committee could not accord approval of the Working Group's report. Therefore it decided to remain only to the decisions taken in the Plenary on Tuesday, 30 March 2004, which are the following:

- .1 agreed to postpone the consideration of the report of the correspondence group on greenhouse gas emissions from ships (MEPC 51/4, MEPC 51/4/2, and MEPC 51/INF.10) until MEPC 52;
- .2 endorsed the meeting between the Secretariats of IMO and UNFCCC to be held on 21 April 2004;

- .3 welcomed the contributions to the sulphur-monitoring project from the Netherlands and the United Kingdom and possibly others; and
- .4 urged Members to provide additional funding for the continuation of the sulphur-monitoring project.

4.25 The delegations of Bangladesh, China, India, Pakistan and Saudi Arabia suggested a modification of paragraph 4.2 of MEPC 51/J/10, which originally read:

“requested the Secretariat to approach the Secretariat of UNFCCC with a view to investigate the application of the principles of common but differentiated responsibilities to other modes of transportation”,

to read as follows:

“requested the Secretariat to approach the Secretariat of UNFCCC on the application of the principles of common but differentiated responsibilities to international shipping.”

However, at the insistence of some delegations, the Chairman decided that paragraph 4.2 of MEPC 51/J/10 would be deleted.

4.26 The delegations of the five countries reaffirmed the principles of common but differentiated responsibilities and the transfer of technological and financial assistance from the developed to the developing countries underlie the provisions of the UNFCCC and that these principles are also reflected in Assembly resolution A.963(23).

4.27 Since these principles were not explicitly recognized in MEPC 51/J/10, which was circulated as the basis for further discussions, the delegations of Bangladesh, China, India, Pakistan and Saudi Arabia registered their reservations on paragraph 4.24 above.

5 CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS

Revised MARPOL Annex IV

5.1 The Committee recalled that MEPC 44 (6 to 8, 10 and 13 March 2000) considered and approved the revised Annex IV of MARPOL 73/78 with a view to facilitating the entry into force of the Annex and future adoption of the revised Annex when the original Annex had entered into force (MEPC 44/20, paragraph 12.40.1 and annex 10).

5.2 The Committee also recalled that MEPC 49 (14 to 18 July 2003), noting that the original Annex IV would enter into force on 27 September 2003, decided to adopt the revised Annex IV at MEPC 51 (MEPC 49/22, paragraph 16.62).

5.3 The Committee noted that the revised Annex IV had been 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. 2496 of 8 August 2003.

5.4 The Committee further noted that, in accordance with the provisions of regulation 11.1.1 of the revised Annex IV, the rate of sewage discharge into the sea shall be approved by the

Administration based on standards developed by the Organization and that a document submitted by Australia (MEPC 51/17/5) was intended to address this issue.

5.5 The Committee considered document MEPC 51/5 containing the draft revised Annex IV, its appendix (Form of the International Sewage Pollution Certificate) and the draft MEPC resolution on its adoption, and referred the document to the drafting group for finalization.

5.6 The delegation of the United States drew the attention of the Committee to a communication it sent to the Organization on 4 September 2003 concerning its implementation plan to prepare U.S. flagged vessels for the entry into force of MARPOL Annex IV. Although MARPOL Annex IV has not been ratified by the United States, ships flying its flag on international voyages and sailing in the waters of the countries which have ratified MARPOL Annex IV would need to demonstrate compliance with MARPOL Annex IV. This communication was circulated by the Organization on 22 September 2003 as MEPC/Circ.410.

Amendments to the Appendix to MARPOL Annex V

5.7 The Committee recalled that MEPC 49 (14 to 18 July 2003) considered and approved the proposed amendments to the Appendix to Annex V of MARPOL 73/78 (MEPC 49/22, paragraph 16.52 and annex 22) and decided to adopt the proposed amendments at MEPC 51.

5.8 The Committee noted that the proposed amendments had been 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. 2496 of 8 August 2003.

5.9 The Committee considered the text of the proposed amendments in document MEPC 51/5/1 and referred it to the drafting group for finalization.

Establishment of the Drafting Group

5.10 The Committee established the Drafting Group with the following terms of reference:

- .1 taking into account the submissions and comments made at plenary to review and finalize the text of the revised Annex IV, and amendments to the Appendix to Annex V of MARPOL 73/78, as well as associated MEPC resolutions, on the basis of documents MEPC 51/5 and MEPC 51/5/1; and
- .2 to submit a written report to the plenary by Thursday for consideration and adoption of the amendments to MARPOL 73/78 by the Committee.

Adoption of the amendments

5.11 Having considered the report of the drafting group (MEPC 51/WP.7), the Committee approved it in general and, with regard to the revised Annex IV:

- .1 noted that the group had amended regulation 7 on the Form of Certificate in order to include the agreement by MEPC 45 regarding the precedence granted to the language of the issuing country in case of dispute of discrepancy;

- .2 noted that the group had re-numbered sub-paragraphs 3.1 to 3.4 and 4.1 to 4.3 in regulation 4 and had given them single-figure paragraph numbers as it was felt that it contributed to greater clarity and logical order in the layout of the paragraph. Cross-references were checked and amended where necessary;
- .3 noted that the group had amended the expression 6 kg/cm² in regulation 10, in the table titled *Standard Dimensions of flanges for discharge connections*, to read 600 kPa to make it consistent with the SI system;
- .4 concurred with the group's view that the standards for the discharge of sewage mentioned in regulation 11.1.1 of the revised Annex IV should be developed as a matter of priority;
- .5 in order to comply with the requirements of Assembly resolution A.911(22) on Uniform Wording for referencing IMO instruments, agreed to amend regulation 9.1.1 to read:

*“a sewage treatment plant which shall be of a type approved by the Administration, **taking into account** the standards and test methods developed by the Organization.”;*

- 5.12 Having taken the above decisions, the Committee,
- .1 adopted the revised MARPOL Annex IV by resolution MEPC.115(51), as set out in annex 5;
 - .2 adopted amendments to the appendix to MARPOL Annex V by resolution MEPC.116(51), as set out in annex 6;
 - .3 agreed that both the revised MARPOL Annex IV, and the amendments to the appendix to Annex V, would be deemed to have been accepted on 1 February 2005 in accordance with article 16(2)(f)(iii) of the 1973 Convention, and would enter into force on 1 August 2005 upon their acceptance in accordance with article 16(2)(g)(ii) of the same instrument; and
 - .4 authorized the Secretariat to effect appropriate corrections in the text of the revised Annex IV, and that of the amendments to the appendix to Annex V, if any inadvertent errors are identified during the preparation of the authentic texts.

6 HARMFUL ANTI-FOULING SYSTEMS FOR SHIPS

6.1 The Committee recalled that the International Convention on the Control of Harmful Anti-fouling Systems for Ships 2001 (AFS Convention) was adopted by the International Conference on the Control of Harmful Anti-fouling Systems for Ships on 5 October 2001. As at 31 March 2004, eight Governments representing 9.36% of the world tonnage have ratified the Convention. For the Convention to enter into force, it is necessary that 25 States, the combined merchant fleets of which constitute not less than 25% of the world's merchant shipping, ratify the Convention (article 18 of the Convention).

6.2 The Committee noted that, as stipulated in Article 11(1)(b) and (2), and regulation 1(4)(a) of Annex 4 of the AFS Convention, three different sets of Guidelines had to be developed by the Organization. All the guidelines have been developed and adopted as follows:

- .1 the Guidelines for survey and certification of anti-fouling systems on ships were adopted by resolution MEPC.102(48);
- .2 the Guidelines for brief sampling of anti-fouling systems on ships were adopted by resolution MEPC.104(49); and
- .3 the Guidelines for inspection of anti-fouling systems on ships were adopted by resolution MEPC.105(49).

6.3 The Committee recalled that, in adopting the Guidelines for inspection of anti-fouling systems for ships, MEPC 49 took the view that, once the AFS Convention has entered into force, the Guidelines could form a new appendix to resolution A.787(19), as amended, on Procedures for Port State control, pending a decision by the Committee.

6.4 The Committee noted that no documents on this agenda item had been submitted to the current session and that, given the slow rhythm of ratifications, the AFS Convention is not likely to enter into force in the near future. In this respect, the Committee urged Member Governments to ratify the AFS Convention as soon as possible.

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

Report of the Technical Group

7.1 The Committee recalled that, at MEPC 49, it approved the Terms of Reference, the Work Plan and Timetable for the OPRC/OPRC-HNS Technical Group (MEPC 49/22, annex 11).

7.2 The Committee noted that the first meeting of the Technical Group was held last week from 23 to 26 March 2004 and its report is contained in document MEPC 51/WP.3.

7.3 Following the presentation of the report of the Technical Group by its Chairman, Mr. Terry Melhuish (Canada), the Committee,

- .1 adopted:
 - .1 the revised Guidance document on bioremediation as set out at annex 2 of the Technical Group report and instructed the Secretariat to issue the document as an IMO publication; and
 - .2 the revised Manual on Chemical Pollution – Section 2: Search and Recovery of Packaged Goods Lost at Sea as set out at annex 3 of the Technical Group report and instructed the Secretariat to issue the Manual as an IMO publication. The Committee further concurred with the Technical Group's recommendation to have nuclear cargoes woven into the text of Section 2;

- .2 approved:
 - .1 the amended Work Programme for the Technical Group as set out in annex 7; and the items for the forthcoming meeting of the Technical Group as set out at annex 9 of the Technical Group report;
 - .2 the establishment of an intersessional correspondence group of the Technical Group under the leadership of New Zealand, to develop a draft Manual on Oil Spill Risk Evaluation and Assessment of Response Preparedness and the Terms of Reference as set out in annex 4 of the Technical Group Report;
 - .3 the establishment of, and the Terms of Reference for, an intersessional correspondence group of the Technical Group under the leadership of the United Kingdom, to develop an IMO web-page on contact addresses on databases that may assist in providing information in cases of accidents involving HNS substances as set out at annex 7 of the Technical Group report; and
 - .4 the report in general;
- .3 urged Members to:
 - .1 submit to the Secretariat available relevant information on national guidelines and criteria for the accreditation or approval of training organizations and experts to facilitate the preparation by the Secretariat of draft guidelines for the consideration of the Group at its forthcoming meeting; and
 - .2 notify the Secretariat of the names and contact details of training organizations and experts, which have been nationally approved or accredited and any subsequent changes;
- .4 instructed the Secretariat to:
 - .1 investigate what training materials on response to incidents involving HNS substances there might be available from Member States and organizations. In this respect, the Committee concurred with the Group's view that training materials on response to incidents involving HNS materials to be developed should, as far as possible, be based on materials already developed by other Members or organizations; and
 - .2 continue promoting the inclusion of response to incidents involving HNS-substances in existing regional arrangements;
- .5 noted:
 - .1 that IAEA calls for IMO co-operation in the development of emergency response arrangements to marine accidents involving radioactive materials;

- .2 the view of the Group that an introductory course for senior managers and chief executives should be developed at a later stage if the need arises;
- .3 the progress and established deadlines for the finalization of the Introductory and Levels 1, 2 and 3 OPRC Model Training Courses. In this respect, the Committee concurred with the Group's view that for the time being only one Introductory OPRC Model Training Course, aiming at personnel without previous response experience, should be developed;
- .4 that the publication - Apell for Port Areas - may be used as a basic document for the development of contingency plans in port areas;
- .5 the progress by IPIECA and CEFIC on the development of a basic information document on hazard information, contingency planning and response options;
- .6 the offer by Italy to join the work on the development of the guidance document by IPIECA and CEFIC on contingency planning on marine chemical spills;
- .7 the Group's view with regard to follow-up activities to the IMO/UNEP Forum on regional arrangements for co-operation in combating marine pollution incidents; and
- .8 that the new Chairman and Vice-Chairman of the Technical Group are Mr. Ezio Amato (Italy) and Mr. Kevin Colcomb (United Kingdom), respectively.

7.4 With regard to section 7 of the report of the Technical Group and specifically regarding the fact that the OPRC/OPRC-HNS Technical Group meets intersessionally, the delegation of the Russian Federation pointed out the inconvenience it represented for them and probably for other delegations. The Chairman recalled that one of the main reasons to have the Technical Group meet back-to-back with the Committee was that only three working groups during any session were allowed by the Committees' Guidelines. He further recalled the lengthy discussions by the Committee on the issue, which resulted in the elevation of the Working Group to a Technical Group. In the absence of any other comments, the Committee decided to keep the current arrangements.

New Bonn Agreement Oil Appearance Code

7.5 The Committee noted that the document submitted by the OSPAR Commission (MEPC 51/INF.5) provided information on the adoption of the new Bonn Agreement Oil Appearance Code (BAOAC) and that its colour code classification of oil slicks makes it possible to estimate the amount of oil present in the slick with greater accuracy.

7.6 Taking account of the nature of the information provided by the OSPAR Commission, particularly with regard to the work of the Committee in the field of response to pollution by oil, the Committee instructed the OPRC/OPRC-HNS Technical Group to consider the document at its next session and report to MEPC 52.

Implementation of the OPRC 90 Convention in India

7.7 The Committee noted the information on activities by India for the implementation of the OPRC 90 Convention (MEPC 51/INF.3).

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

Introduction

8.1 The Committee recalled that, at MEPC 49, it approved, in principle, the extension of the existing Great Barrier Reef PSSA to include the Torres Strait Region and requested NAV 50 in July 2004 to consider the extension of the compulsory pilotage measures.

8.2 The Committee recalled further that MEPC 49 also approved, in principle, the designation of the Western European Waters as a PSSA, with the provision that the area was reduced to bring the easterly line off the Shetlands Isles to 0° longitude and referred the 48-hour mandatory reporting measure to NAV 50 for its consideration (MEPC 49/22, paragraph 8.25).

8.3 The Committee planned to consider these proposals further for designation at MEPC 52, once it had been informed of the outcome of NAV's consideration on the proposed Associated Protective Measures (APMs).

8.4 The Committee noted the outcome of the twenty-third session of the Assembly and the eighty-seventh session of the Legal Committee with regard to the proposed designation of the Western European Waters as a PSSA, and in particular that:

- .1 diverging views had been expressed in the Legal Committee (MEPC 51/11/1) as to the validity of the Western European Waters PSSA, some delegations agreeing that it exceeded the restrictive framework regulated by article 211(6) of UNCLOS, while others reaffirmed the validity of its designation. Diverging views had also been expressed with regard to the APM, while several delegations noted the need for further study of the legal implications of the designation of the Western European Waters PSSA area, in particular, in the light of the comments made by UN-DOALOS; and
- .2 at the Assembly, some delegations had expressed concerns on the outcome of the discussions at MEPC 49 with regard to this issue (MEPC 51/11/4) and comments were made regarding the need for a review of resolution A.927(22) on the Guidelines for the identification and designation of PSSAs and issues relating to the principles of innocent passage and freedom of navigation on the high seas under the provisions of UNCLOS.

Proposal for a revision of the Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas

8.5 The Committee considered the proposal by Liberia, Panama and the Russian Federation to review the Guidelines for the Identification and Designation of PSSAs, set out at Annex 2 of Assembly resolution A.927(22) (MEPC 51/8/3). In presenting these proposals the Russian Federation made the following points:

- .1 the PSSA concept is only relevant if applied in geographically limited sea areas with unique eco-systems and not the wide geographical regions envisaged in the proposed Western European Waters PSSA;
- .2 the existing PSSA Guidelines are worded in a very general way rather than the specific language and guidance needed to properly evaluate such a diverse area as the proposed Western European Waters PSSA; and
- .3 such an approach could lead to notable political and legal consequences and, therefore, was not acceptable for the purpose of an international instrument intended for global and universal application.

8.6 Therefore, the co-sponsoring countries proposed that the Committee should:

- .1 start without any delay with a review of the PSSA Guidelines under Annex 2 of Assembly resolution A.927(22) in order that:
 - .1 prior to any decision on designation of a new PSSA, a careful analysis of scope and adequacy of already existing measures be carried out. Such analysis must be accompanied by an IMO assessment of the implementation of all the existing measures by all parties concerned;
 - .2 the decision on designation be made only if the inadequacy of existing implemented measures had been proven;
 - .3 at the end of the process of identification and designation of the PSSA, a clear and complete picture of the area concerned could be drawn and, at the same time, an appropriate solution provided;
 - .4 when a PSSA was designated, all the associated protective measures were identified. Therefore, the two-step approach implying “PSSA designation in principle” as the first step, and the development of APMs as the second step, should no longer be permitted; and
- .2 stop the consideration of any current or new proposals submitted under the existing PSSA Guidelines until a revision of the Guidelines had been completed.

8.7 The observers from BIMCO, ICS, INTERCARGO, INTERTANKO, OCIMF and IPTA supported the proposals by Liberia, Panama and the Russian Federation with regard to the review of the PSSA Guidelines (MEPC 51/8/4) and added that:

- .1 the PSSA Guidelines should indicate that APMs were expected to address the environmental vulnerability in a proportionate manner and that in turn they should reflect the gravity implied by the request to establish a PSSA;
- .2 States applying for a PSSA designation should provide an analysis of the adequacy of the existing IMO measures and information on measures taken to limit pollution from land-based industry, agriculture, as well as pollution from all water-based industry; and

- .3 a proliferation of PSSA applications was apparent from the deliberation on the Western European Waters PSSA at MEPC 49 and from further submissions to this session. This was a concern to the shipping industry because it appeared to suggest that alternative measures for the regulation of shipping and for the protection of the marine environment were, in some way, deficient. However, this was not apparent from the APMs so far proposed. It was increasingly evident that, if allowed to proliferate unchecked, the PSSA designation would lose its special significance and thereby become devalued.

8.8 The Chairman invited the Committee to address the question whether or not it wished to carry out a review of the PSSA Guidelines as contained in Annex 2 to resolution A.927(22).

8.9 Those delegations that spoke in favour of a review of the PSSA Guidelines mentioned that:

- .1 there should be no doubt as to the value of PSSAs as a tool to provide extra protection where warranted, but PSSAs should only be considered if the existing measures under IMO instruments were proven to be insufficient;
- .2 decisions about APMs should be taken together with PSSA-designation, instead of the two-step approach under the current Guidelines;
- .3 the current Guidelines should be made more operational;
- .4 one delegation indicated that the current PSSA Guidelines should be strengthened and was prepared to submit a proposal to MEPC 52 addressing *inter alia* technical and procedural aspects of the Guidelines, as well as legal issues associated with PSSAs. Several delegations supported this view.
- .5 the PSSA concept was a dynamic one and a review should therefore be standard to its further development, so long as the balance was maintained between protection of the marine environment and the shipping interests, as well as a proportionality between the additional measures proposed and the identified risks to sensitive sea areas from maritime activities; and
- .6 resolution A.927(22), operational paragraph 3, requested both MEPC and MSC to keep the new Guidelines under review. Such a review could therefore be conducted at any time that the Committee deemed appropriate.

8.10 Those delegations that objected to a review of the PSSA Guidelines at this stage mentioned that:

- .1 although the intent of the proponents of a review was clear from their submissions, no specific case had been made for a detailed review of the PSSA Guidelines;
- .2 the current Guidelines had only been adopted in 2001, and were still up-to-date, well balanced and addressing all relevant aspects. A review so soon would undermine the credibility of IMO and give the wrong message to the public at large; and

- .3 instead of a full review of the Guidelines their current application should be discussed in light of the proposals received so far, in particular, the proposal to designate the Western European Waters as a PSSA. It should be avoided that PSSAs become an issue of contention.

8.11 In summing up, the Chairman indicated that a majority of delegations agreed, in principle, that the PSSA Guidelines should be reviewed. He specified that such a review would be considered, provided that there are specific proposals, as well as justification, submitted to a future session of the Committee. The resulting revised guidelines would then be presented as a draft resolution for consideration and adoption by the Assembly.

8.12 Subsequently, the Committee considered whether or not a moratorium should be declared on applications for PSSA designations and what form it would take, while the review of the Guidelines would be carried out.

8.13 The delegation of Panama stated that its proposal for a moratorium on PSSA applications was not designed to stop applications, such as the extension of the existing Great Barrier Reef PSSA to include the Torres Strait Region, approved in principle at MEPC 49, or the Galapagos Archipelago PSSA application before the Committee at this session, but directed against the designation of the Western European Waters PSSA as a fall back position in the discussion in 2003 to accelerate the phasing out of single hull tankers.

8.14 The delegation of Norway objected to the establishment of a moratorium by the Committee for the following reasons:

- .1 only the Assembly could declare a moratorium on a resolution adopted by it;
- .2 Article 211(6) of the UN Convention on the Law of the Sea granted Coastal States the right to propose special mandatory measures for the prevention of pollution from vessels for clearly-defined areas of their EEZ when international rules and standards were inadequate, and such proposals should be considered by the Organization within twelve months;
- .3 there was no precedence within IMO of a moratorium on any of its instruments when being revised or amended; and
- .4 a moratorium would discourage new proposals and all efforts by IMO and its Member States to promote the PSSA concept when the PSSA mechanism is considered as the proper response to an identified problem.

8.15 The Committee acknowledged that resolution A.927(22) was under the purview of the Assembly and agreed not to recommend establishing a moratorium for the duration of the review of the PSSA Guidelines. This would mean that work on the PSSAs, approved in principle but not yet designated, could continue, whilst both current and future applications to the Committee could be assessed in accordance with resolution A.927(22) until its review by the Assembly had been completed.

Proposal for the designation of the waters of the Canary Islands as a PSSA

8.16 The Committee considered the proposal submitted by Spain to designate the waters of the Canary Islands as a PSSA in accordance with Annex 2 of Assembly resolution A.927(22) (MEPC 51/8).

8.17 In its submission, Spain provided detailed descriptions of the special characteristics of the Canary Islands, some of which have been declared Biosphere Reserves because of their great scientific and environmental interest, and of their highly vulnerable ecosystem, which has been severely affected by international shipping.

8.18 Spain proposed the following APMs to prevent damage from international shipping activities:

- .1 establishment of five “Areas to be avoided” for in-transit shipping. These areas may be used only for small-scale inshore fishing, inter-island navigation, and for journeys from and to ports situated inside these areas, subject to authorization by the maritime authorities;
- .2 establishment of two “recommended routes” for ships in-transit through the PSSA, whose port of origin or destination was not in the Canary Islands; and
- .3 adoption of a “mandatory ship reporting system” for all vessels in transit through the PSSA, those leaving or heading for ports in the Canary Islands, and engaged in inter-island traffic of over 600 tons deadweight carrying heavy grade of oils. For all tankers between 600 and 5,000 tons deadweight this measure should apply from 2008.

Spain accepted that the proposed APMs should be considered in detail by the NAV Sub-Committee in accordance with Chapter 8 of the PSSA Guidelines.

8.19 The delegation of Brazil proposed that the definition of “heavy oils”, which Spain had used in its application (MEPC 51/8, paragraph 6.1.4), should be replaced by the new definition of “heavy grade oil” contained in the amendments to MARPOL 73/78, Annex I, Part D, Regulation 35, paragraph 2. In reply, the delegation of Spain agreed to insert this new definition and explained that the PSSA application had been submitted prior to MEPC 50 adopting these amendments.

8.20 The delegation of Brazil furthermore suggested that a detailed review of both the Spanish proposal and the Baltic Sea area proposal should include whether the provision of places of refuge for ships in need of assistance was being considered in view of the heavy maritime traffic in the proposed PSSA areas. In response, the Spanish delegation informed the Committee that Spain would introduce the concept of places of refuge in its regulations implementing resolution A.949(23)¹ but that implementation was intended for the national level and not solely for PSSAs.

8.21 The Committee, having considered the proposal by Spain, decided to establish an Informal Technical Group to investigate if the proposed PSSA meets the criteria in resolution A.927(22).

¹ Resolution A.949(23) concerning “Guidelines on places of refuge for ships in need of assistance” was adopted on 5 December 2003.

Proposal for the designation of the Baltic Sea area as a PSSA

8.22 The Committee considered the proposal submitted by Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden to designate the Baltic Sea area as a PSSA in accordance with Annex 2 of Assembly resolution A.927(22) (MEPC 51/8/1). The following points were made in the proposal:

- .1 the Baltic Sea area is a globally unique, sensitive, cold, northern, brackish-water eco-system, which is vulnerable to the impact of international shipping and other human activities;
- .2 an extensive regime of protective measures consisting of both international and national regulations was in place inside and adjacent to this semi-enclosed sea, including compulsory reporting and traffic surveillance, routing systems, compulsory pilotage and the designation of the area as a Special Area under Annexes I, II and V and as a SOx Emission Control Area under Annex VI of MARPOL 73/78;
- .3 no new APMs were proposed at this stage. However, the submitting countries might come back within the prescribed timeframe to propose new APMs concerning e.g., (1) compulsory reporting and traffic surveillance, (2) routing systems, (3) escort and escorting tugs, (4) pilotage and (5) areas to be avoided. The Committee was requested to review this application, to approve the designation of this PSSA in principle at this session and to take appropriate actions, such as informing the NAV Sub-Committee of this decision and subsequently approve the final PSSA designation.

8.23 The delegation of Sweden provided corrections to the traffic characteristics contained in paragraph 4.6 of the proposal.

8.24 The observer from WWF supported the proposal for PSSA status of the Baltic Sea area to enable a lasting, sustainable coexistence of shipping and the unique nature of the area. The observer regretted the non-inclusion of Russian territorial waters at present and encouraged the Baltic States to propose, within a two-year period after the designation of the PSSA, the adoption of new APMs for the Baltic Sea's territorial and international waters in order to effectively address the risks associated with international shipping (MEPC 51/8/5).

8.25 The observer from Greenpeace International expressed the view that the PSSA designation for the Baltic Sea area should be adopted without any delay and that additional APMs should be introduced related to ship construction, crew training, monitoring of vessels carrying hazardous cargoes and extension of liability of ship-owners and operators (MEPC 51/8/6). The observer expressed also his support for the other two proposed PSSA designations.

8.26 Several delegations expressed their support for the designation of the Baltic Sea area as a PSSA.

8.27 The delegation of the Russian Federation indicated its fear for a proliferation of PSSAs and could not support the PSSA designation for the Baltic Sea area for the following reasons:

- .1 it believed that application of the PSSA concept, and any associated protective measures, would only be justifiable for limited geographical areas;
- .2 the legal basis for PSSAs was questioned;
- .3 the Baltic Sea area was already designated as a Special Area under Annexes I, II and V and as a SOx Emission Control Area under Annex VI of MARPOL 73/78 providing added protection. As no new APMs had been proposed in the current application, there would be no added value of a PSSA designation;
- .4 HELCOM had already taken measures to give additional protection to the Baltic Sea area which the Russian Federation had endorsed. HELCOM had also analysed the merits of a PSSA for the Baltic Sea area and concluded that such a designation would not offer specific advantages;
- .5 90% of the contaminant load of the Baltic Sea area originated from land-based sources of marine pollution, which the PSSA concept did not cover; and
- .6 the attention should be focused on measures to protect the Baltic Sea under the 1992 Convention on Biological Diversity.

8.28 As requested, the statement by the delegation of the Russian Federation is attached at annex 8.

8.29 The delegations of Liberia and Panama expressed their support for the views of the Russian Federation.

8.30 The Committee, having considered the joint proposal by Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden, decided to refer the proposal to the Informal Technical Group to investigate if the proposed PSSA meets the criteria in resolution A.927(22).

Proposal for the designation of the Galapagos Archipelago as a PSSA

8.31 The Committee considered the proposal submitted by Ecuador to designate the waters of the Galapagos Archipelago as a PSSA in accordance with Annex 2 of Assembly resolution A.927(22) (MEPC 51/8/2 and MEPC 51/8/2/Corr.1)). The delegation of Ecuador made the following points:

- .1 the ecological importance of the Archipelago has been widely recognized by the international scientific community since the nineteenth century, when Charles Darwin based his theory on the evolution of species on the observations he made during his famous voyage there. In 1934, the Government of Ecuador pioneered protective legislation designed to enhance the natural assets of the Galapagos Islands and preserve the Archipelago forever. In 1979, UNESCO declared the Galapagos Islands a World Heritage Site, and in 2001 that classification was extended to include the Galapagos Marine Reserve. The submission contained detailed information about the special and unique characteristics of the Galapagos Islands, as well as the extensive regime of protective measures consisting of both international and national regulations in place.

- .2 The following APMs were proposed to prevent damage from international shipping activities:
 - .1 a ban on any discharge into the sea of oils or oily mixtures from tankers, including those from the cargo-pump rooms of oil tankers and engine-room bilges mixed with cargo residues, and of other noxious liquids, fuel, garbage, or harmful substances emanating from ships of any category or size;
 - .2 a ban on all discharge into the sea of the following types of waste from ships of any category or size: 1) plastics, synthetic fishing lines or nets, plastic garbage bags; 2) loose stowage materials, coverings and packaging material; 3) paper, rags, glasses, bottles, metal, ceramics and similar materials;
 - .3 ships must avoid discharging ballast water or performing filling and emptying of ballast tanks when sailing through Galapagos territorial waters, in accordance with the IMO guidelines for the control and management of ships' ballast water to minimize the transfer of harmful aquatic organisms and pathogens (resolution A.868(20));
 - .4 establishment of an "Area to be avoided" for all ships of more than 500 gross tonnage and carrying oil and hazardous cargoes. All Ecuadorian navy vessels should be granted exemption to enter and leave the PSSA and the area to be avoided. The proposed area to be avoided is a zone extending beyond the proposed PSSA as shown in the annex to MEPC 51/8/2/Corr.1; and
 - .5 the Ecuador Maritime Authority would deploy in two years' time, as an additional measure, an international routing chart for the Galapagos PSSA, in order to facilitate national and foreign maritime traffic and prevent any adverse impact on navigational security and efficiency.

Finally, the delegation informed the Committee that many delegations of Member States and NGOs had indicated their support for the Galapagos Archipelago becoming a PSSA.

8.32 Many delegations expressed their support for the designation of waters of the Galapagos Islands as a PSSA.

8.33 The Chairman informed the Committee that, on 12 March 2004, he had received a letter from Mr. Francesco Bandarin, Director, UNESCO World Heritage Centre, expressing the full support of his Organization for the proposed Galapagos Islands PSSA: "I see the designation of the Galapagos Marine Reserve as a PSSA, as an important step to further ensure the level of protection required to conserve the marine values, for which the site was inscribed as World Heritage". The Chairman responded that he would bring this letter to the attention of the Committee.

8.34 The Committee, having considered the proposal by Ecuador, decided to refer the proposal to the Informal Technical Group to investigate if the proposed PSSA meets the criteria in resolution A.927(22).

General observations on the three PSSA proposals

8.35 The delegation of the United States proposed that the detailed review of all three proposals in the Informal Technical Group in accordance with the PSSA Guidelines should focus on the following key questions:

- .1 what was the legal basis for the proposed APMs; and
- .2 how would the proposed APMs address the identified risks to the marine environment in the proposed PSSAs.

8.36 The delegation of Greece expressed the view that the right of innocent passage for ships under UNCLOS should not be affected by the proposed PSSAs.

8.37 The delegation of Mexico was of the view that for each proposal a balance should be found between the need for clean seas and the freedom of navigation. The effect of the proposed PSSAs on international shipping routes should also be addressed.

8.38 Several delegations expressed their support for the views by Greece, Mexico and the United States.

Instructions to the Informal Technical Group

8.39 The Informal Technical Group was instructed to:

- .1 review, taking into account the results of the discussion in plenary, in particular the comments made by Greece, Mexico and the United States, the proposals for the designation of the waters of the Canary Islands, the Baltic Sea area and the Galapagos Archipelago as Particularly Sensitive Sea Areas (MEPC 51/8, MEPC 51/8/1, MEPC 51/8/2 and MEPC 51/8/2/Corr.1), to determine whether they meet the provisions of the Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas (Annex 2 of resolution A.927(22)); and
- .2 provide a written report to plenary on their conclusions and recommendations on Thursday, 1 April 2004.

8.40 The Chairman also instructed the Informal Technical Group that any discussion on the “place of refuge for ships in need of assistance” should be recorded for the benefit of the Subcommittee for the Safety of Navigation.

8.41 The delegation of Panama requested that future consideration of proposals to designate PSSAs should be conducted in a formal working group of the Committee, in view of the importance of this issue.

Report of the Informal Technical Group

8.42 The Chairman of the Informal Technical Group, Mr. Paul Nelson (Australia), in introducing the report of the Group (MEPC 51/WP.9) informed that the Group agreed that:

- .1 the PSSA application for the waters of the Canary Islands and additional information submitted by Spain met the requirements of resolution A.927(22), and recommended approval in principle, noting that Spain stated that it would submit detailed proposals for the APMs to NAV in 2005;
- .2 the PSSA application for the Galapagos Archipelago and additional information submitted by Ecuador met the requirements of resolution A.927(22) and recommended approval in principle, noting that Ecuador stated that it would submit detailed proposals for the APM to NAV in 2005; and
- .3 the PSSA application for the Baltic Sea area and additional information submitted by Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden met the requirements of resolution A.927(22) and recommended approval in principle, noting that the countries concerned stated that they would submit detailed proposals for APM(s) to NAV in 2005.

8.43 The Chairman of the Group also informed that the States proposing a PSSA for the Baltic Sea area had not yet determined which APM(s) they would submit to the NAV Sub-Committee.

8.44 The Committee noted that the Group, in undertaking the review of the *proposed PSSA for the waters of the Canary Islands*, had commented as follows:

- .1 the Group found that the application, as well as further information provided, met several of the ecological criteria in the PSSA Guidelines as shown in annex 1 to the Group's report;
- .2 Spain clarified that the boundary of the proposed PSSA is 12 nautical miles and that this is consistent with Spanish territorial waters. This boundary was shown in a map distributed to the Group and described in MEPC 51/8/Corr.1, paragraph 2.8;
- .3 in relation to natural factors, Spain provided a short oceanographic description of the area and announced that the results of detailed studies on the oceanographic conditions in the area would be published in the coming months. Such information would be important to assess the risk of spills and the impact of measures to avoid such spills;
- .4 Spain provided additional data regarding port traffic and pollution incidents in the Canary Islands and indicated that the sources of many of these incidents were unknown. In relation to the identified vulnerability of the area from international shipping activities, the Group noted that the area was vulnerable to transport of oil and hazardous noxious substances and the volume of traffic in the area also increased the risk;
- .5 the Group noted that a legal basis is required for the APM to address the identified vulnerability. Spain indicated that it would be submitting proposals to NAV in 2005 for areas to be avoided, certain traffic routing measures, and a ship reporting system, consistent with SOLAS, chapter V, regulations 10 and 11;

- .6 with regard to the APMs, the Group noted that the measures described in the application would apply to ships of 600 tons deadweight and above carrying heavy oils² as cargo. The areas to be avoided would be established outside the normal traffic routes and, as such, would have no appreciable impact on these ships. Spain advised the Group that the area to be avoided was needed to ensure that ships did not enter the area and to provide time for responding to any safety or pollution incidents. It was noted that vessels entitled to sovereign immunity are addressed in the SOLAS Convention, chapter V, regulation 1.1; and
- .7 Spain confirmed its intention to enforce the proposed APMs in accordance with international law, as reflected in the UN Convention on the Law of the Sea.

8.45 The Committee noted that the Group, in undertaking the review of the *proposed PSSA for the Galapagos Archipelago*, had commented as follows:

- .1 the Group found that the application, as well as further information provided, met all of the ecological criteria in the PSSA Guidelines as shown in annex 2 to the Group's report;
- .2 in relation to the description of the area, the Group noted that Ecuador would round off the decimal points of the co-ordinates to make these more user friendly;
- .3 in relation to the hydrographical conditions, the Group noted the additional information that Ecuador provided;
- .4 Ecuador explained that the identified vulnerability of the area was from ships carrying oil or hazardous noxious substances as cargo and that the risk of even one spill was too great for this area;
- .5 the Group noted that a legal basis is required for the APM to address the identified vulnerability. In addressing the identified vulnerability, the Group noted Ecuador's intention to propose an area to be avoided as APM which is outside and contiguous to the proposed PSSA;
- .6 the Group noted Ecuador's intention to submit this APM to NAV in 2005, consistent with SOLAS, chapter V, regulation 10, and that it would apply to ships of 500 gross tonnage and above carrying oil and hazardous substances as cargoes. It was noted that vessels entitled to sovereign immunity are addressed in the SOLAS Convention, chapter V, regulation 1.1;
- .7 the Group raised two issues for Ecuador to consider when submitting its APM proposal. First, whether the area to be avoided should cover the entire area, including the PSSA, and second, whether the ships to which the area to be avoided applies should include those carrying large quantities of bunker oils; and
- .8 Ecuador confirmed its intention to enforce the proposed APMs in accordance with international law, as reflected in the UN Convention on the Law of the Sea.

² In this respect Spain would use the new definition of "heavy grade oil" contained in the amendments to MARPOL 73/78, Annex I, Part D, Regulation 35, paragraph 2.

8.46 The Committee noted that the Group, in undertaking the review of the *proposed PSSA for the Baltic Sea area*, had commented as follows:

- .1 the Group found that the application, as well as further information provided, met all but one of the ecological criteria in the PSSA Guidelines as shown in annex 3 to the Group's report;
- .2 in relation to the identified vulnerability of the area from international shipping activities, the Group noted that the area was vulnerable to transport of oil and hazardous noxious substances carried as cargo and bunker oils, as well as that the existing traffic volume and its projected increase creates a risk to the area;
- .3 the Group noted that a legal basis is required for any APM to address the identified vulnerability. In relation to the question of any IMO measures *already in place* to protect the area from the identified vulnerability, Sweden indicated that all existing measures together (e.g., 15 traffic separation schemes) served to protect the whole Baltic Sea area. The Group noted the specific information given on each of the existing IMO measures and agreed that such information should generally be provided in future applications. Sweden indicated that no *new* APMs had been included in the current application but that the Baltic States would submit such proposals to the NAV Sub-Committee in 2005 with the appropriate legal basis;
- .4 in relation to the description of the proposed PSSA, Sweden provided additional information with the assistance of the Secretariat. The Group noted that some of the co-ordinates of the proposed PSSA might need to be re-examined and the map included in document MEPC 51/8/1, annex 4, may need to be corrected;
- .5 in relation to vessel traffic characteristics, the Group noted the additional information provided. However, one delegation considered that there was still insufficient information on this criterion; and
- .6 no determination was given to the questions 5.3 to 5.6 of the review form since no new APM was proposed. The Group agreed that, in future applications, it should be specified how existing and proposed APMs would apply to ships, to link such measures with the identified vulnerability.

8.47 Having noted the above comments, the Committee:

- .1 noted, in general, the discussion and results of the Informal Technical Group and approved its report;
- .2 approved in principle the designation of the waters of the Canary Islands as a PSSA, and noted that Spain would submit detailed proposals for the APMs to the NAV Sub-Committee in 2005, which should provide recommendations to the Committee; and
- .3 approved in principle the designation of the Galapagos Archipelago as a PSSA, and noted that Ecuador would submit detailed proposals for the APM to the NAV Sub-Committee in 2005, which should provide recommendations to the Committee.

8.48 Having noted the report of the Informal Technical Group with regard to the proposed PSSA designation of the Baltic Sea area, the delegation of the Russian Federation queried how the report of the Group should be seen in the light of the PSSA Guidelines under resolution A.927(22), in particular, the duty under the Guidelines to consider all interests thoroughly (paragraph 1.4(b)), and to consult between States with a common interest in a particular area for formulation of a co-ordinated PSSA proposal (paragraph 3.1).

8.49 The delegation of the Russian Federation further advised the Committee not to approve in principle the designation of the Baltic Sea area as a PSSA as this would ignore the interests of the Russian Federation. It preferred PSSA designation for parts of the Baltic Sea but not for the Baltic Sea as a whole.

8.50 The delegation of Panama supported the views of the Russian Federation.

8.51 The delegation of Sweden informed the Committee that the Russian Federation had been consulted and invited to join in making the PSSA application, which had been noted in the report by the Group (MEPC 51/WP.9, annex 3, question 2.6), but that the Russian Federation had declined. The delegation reiterated that the Baltic States proposing the PSSA designation would provide the appropriate legal basis when submitting proposals for associated protective measures to the NAV Sub-Committee in 2005.

8.52 The Chairman stated that the Informal Technical Group had acted in accordance with the current PSSA Guidelines and advised the Committee to accept the Group's expertise in reviewing the applications.

8.53 Having noted the above comments, and the views of a majority of delegations, it was agreed to approve in principle the designation of the Baltic Sea area as a PSSA, and noted that the countries concerned would submit detailed proposals for APM(s) to the NAV Sub-Committee in 2005, which should provide recommendations to the Committee.

8.54 The delegation of the Russian Federation stated that this decision violated the PSSA Guidelines under resolution A.927(22) and was contrary to the spirit and practice of IMO. The delegation reserved its right not to implement this decision. As requested, the statement by the Russian delegation is attached at annex 8.

8.55 Finally, the Committee reiterated its decision that all future PSSA applications should include full and comprehensive information on the specific issues to comply with the PSSA Guidelines, including the legal basis for any APM and nautical charts on which the PSSA and any APMs are marked.

8.56 The delegation of Cuba expressed its appreciation that the Committee had approved in principle to designate the Galapagos Archipelago, the Canary Islands and the Baltic Sea as PSSAs.

9 INADEQUACY OF RECEPTION FACILITIES

9.1 The Committee recalled that, at MEPC 48, it noted that very few returns had been submitted to IMO on alleged inadequacy of reception facilities. It also noted that the overall purpose of making reports about waste reception facilities is to encourage improvement in the availability of the facilities to shipping and use by ships in order to minimize/prevent illegal

discharge/dumping of waste materials as defined by MARPOL 73/78. As a result, the Committee instructed the FSI Sub-Committee to consider relevant issues, including the reporting procedure, in order to improve the situation.

9.2 The Committee recalled also that FSI 11 requested the Secretariat to prepare a document on waste reception facilities reporting requirements including availability, use and purpose of reporting as provided in Annexes I, II and V of MARPOL 73/78 and the Guidelines for ensuring the adequacy of port waste reception facilities for consideration by FSI 12, which was done as document FSI 12/18.

Outcome of FSI 12 on reception facilities

9.3 The Committee noted the report on the outcome of FSI 12 (MEPC 51/WP.11) concerning the present reporting system for port reception facilities under the provisions of MARPOL 73/78 and the Guidelines for ensuring the adequacy of port waste reception facilities adopted by resolution MEPC.83(44). FSI 12 also reviewed the summary of the reports received by the Organization in 2002 and 2003 on alleged inadequacy of port reception facilities in accordance with MEPC/Circ.349 as contained in the document FSI 12/3/2 prepared by the Secretariat.

9.4 The Committee also noted that FSI 12 agreed that the report format contained in MEPC/Circ.349 should be updated in order to include sewage (MARPOL Annex IV) and ozone-depleting substances and exhaust gas cleaning system residues (MARPOL Annex VI) and requested the Secretariat to prepare an appropriate submission for consideration at FSI 13.

9.5 The Committee noted further the low level of implementation of the existing reporting requirements in accordance with MEPC/Circ.349, as summarized in document MEPC 51/WP.11, and that FSI 12, with a view to promoting the implementation of waste reception facilities reporting requirements, requested the Secretariat:

- .1 to prepare a draft MEPC circular, for consideration at FSI 13, listing the waste reception facilities reporting requirements based on the information contained in document FSI 12/18;
- .2 to launch a study with the aim of identifying causes, problem areas and difficulties which may be accountable for the low level of implementation of the waste reception facilities reporting requirements and proposing measures to be taken in order to alleviate this problem and the results of this study should be submitted to FSI 13;
- .3 to gather information with regard to linking the data on port reception facilities with the Global Integrated shipping Information System (GISIS), in order that information on the availability of waste reception facilities could be automatically updated by the reporting port States and made available to the IMO website as a close-to-real time data, and prepare an appropriate submission for consideration at FSI 13.

9.6 The delegation of Norway drew the attention of the Committee to document FSI 12/3/2 containing a summary of the reports received by the Organization in 2002 and 2003 on alleged inadequacy of port reception facilities, which also appeared in document FSI 12/WP.8, paragraph 3.10.

9.7 The delegation of Norway also indicated that only 19 reports had been received from four Member States over a two-year period concerning 19 ports, which did not fully match up with the information provided to IMO (FSI 12/3, annex 3). That delegation suggested that the Committee consider the issue of low reporting rate and requested flag States to urge their ships to report inadequacies and, in turn, report this to the Committee.

9.8 The delegation of Panama indicated that at FSI 12, one of the identified causes for the low reporting rate by ships was the perceived “fear of retaliation” for reporting alleged inadequacies of port reception facilities. The delegation of Liberia expressed the view that reporting the inadequacies of port reception should be made by the port State. The delegation of Australia pointed out that the number of deliberate discharges of waste should also be considered in such reporting.

9.9 The Chairman observed that the full report of FSI 12 will be available before MEPC 52 and that the issue raised by the delegation of Norway will be revisited at MEPC 52 for consideration by FSI 13.

9.10 The Committee agreed to revisit the issue of reporting on alleged inadequacy of reception facilities at MEPC 52 and endorsed the instructions of FSI 12 to the Secretariat on the matter.

9.11 The Committee noted the statement of the delegation of Nigeria regarding the completion of a technical assistance project on port reception facilities carried out under the auspices of the IMO’s ITCF.

HELCOM information system on waste reception facilities in Eastern Baltic Ports

9.12 The Committee noted the information provided by the Helsinki Commission (MEPC 51/INF.9) on the HELCOM information system on waste reception facilities in Eastern Baltic ports, which is a system that provides information on the possibilities to deliver ship-generated waste in approximately 100 ports in Denmark, Estonia, Latvia, Lithuania, Poland and the Russian Federation.

10 REPORTS OF SUB-COMMITTEES

Outcome of DSC 8

10.1 The Committee noted that the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) held its eighth session from 22 to 26 September 2003 and that its report had been circulated as DSC 8/15.

10.2 The Committee considered those issues referred to it by the Sub-Committee (MEPC 51/10) and took action as described hereunder.

10.3 The Committee agreed that the criteria adopted by the UN should also be adopted under MARPOL Annex III and reflected in the IMDG Code to define substances as hazardous to the aquatic (marine) environment.

10.4 In taking this decision, the Committee noted that the criteria, adopted by the UN TDG Sub-Committee, had been extracted from the GHS for defining products, which are Hazardous to the Aquatic Environment and deemed to be appropriate for the transport of packaged goods by all modes of transport.

10.5 The Committee agreed that chapter 2.9 of the proposed amendments to the IMDG Code, which were shown in square brackets in annex 6 to DSC 8/3/Add.1, should be deleted at this time, whilst recognizing that the amendments related to GMMOs and GMOs should be included in the text.

10.6 In this context, it was noted that chapter 2.9 of the proposed amendments to the IMDG Code included various aspects associated with the proposed new criteria for defining marine pollutants, which required consideration by the Committee before they could be included in the IMDG Code, and this was the reason for agreeing that the whole of chapter 2.9, other than the amendments related to GMOs and GMMOs, should be deleted at this time, pending the decisions being made in relation to marine pollutants.

10.7 The Committee agreed that, until the issues associated with making appropriate amendments to the IMDG Code were resolved, it would be inappropriate to make recommendations for the associated amendments to MARPOL Annex III. In this context it was noted that DSC was still working on aspects associated with environmentally substances including the problem of defining which products should be labelled during transport.

10.8 The Committee also agreed that there would be no need to identify Severe Marine Pollutants once the criteria adopted by UNCOE on the transport of dangerous goods in compliance with the Globally Harmonized System of Classification and Labelling of Chemicals has also been adopted in the relevant IMO instruments.

10.9 In this context it was noted that DSC had recognized that the application of the GHS criteria to the IMO definition of Marine Pollutants would result in there being no need to distinguish Severe Marine Pollutants from the general definition of Marine Pollutants.

10.10 It was agreed that the deletion of Severe Marine Pollutants would have an effect on the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969) and the related Protocol (1973) which, at that time, applied to Severe Marine Pollutants only but, in future would have to be amended to cover all Marine Pollutants. The Committee also noted that this issue would be brought to the attention of LEG 88.

10.11 It was recognized that the DSC Sub-Committee had noted the view of the Working Group on the Review of Annex III of MARPOL 73/78, established at its eighth session, that the identification of new substances as “Marine Pollutants”, under the system adopted by the UNCOE on the transport of dangerous goods and the globally harmonized system of classification and labelling of chemicals in the 13th edition of the UN Recommendations on the transport of dangerous goods should be done by Self-Classification in general which was in line with the original concept of the new GHS system.

10.12 Having noted the views of the Sub-Committee, the Committee agreed that, at that time, there was no role for GESAMP/EHS to act as an advisory body when disagreements arose under the Self-Classification system. In this context, it was also noted that there had been general agreement between DSC and BLG, in that there was no role for GESAMP/EHS other than the one it was performing at that time.

10.13 The Committee also agreed that the points to be made to the UNCOE on the transport of dangerous goods and the globally harmonized system of classification and labelling of chemicals regarding the harmonization with aspects related to the definition of environmentally hazardous substances should include the following:

- .1 IMO wishes to harmonize its criteria for defining Marine Pollutants with the UN TDG definition of environmentally hazardous substances;
- .2 IMO is concerned about the UN TDG regulations under which many products in classes 1 to 9 are also *deemed* to be environmentally hazardous. This would not allow IMO to distinguish products in classes 1 to 9 as being marine pollutants for stowage requirements and reporting to authorities in the event of loss overboard. However, it was noted that the UN TDG Sub-Committee had since agreed that ALL substances, hazardous to the aquatic environment should be identified with a GHS label, whether they fall into Classes 1 to 8 or just Class 9; and
- .3 IMO considers that it would be highly desirable for all modes of transport to bring the new criteria into force at the same time.

10.14 Having recognized the effects that the above changes would have on other IMO instruments, it was agreed that it would be more appropriate to consider such consequential amendments once the IMDG Code amendments had been finalized.

10.15 The Committee also agreed with the provisional timetable, as shown below, for amending the IMDG Code and MARPOL Annex III, whilst recognizing that this might need to be amended in light of the ongoing discussions on the issue.

**PROVISIONAL TIMETABLE FOR THE REVISION
OF ANNEX III TO MARPOL 73/78 AND THE IMDG CODE**

Action to be taken	Meeting	Date
Agree the revised text of the IMDG Code and Annex III of MARPOL 73/78	DSC 9	September 2004
Approve the revised text of the IMDG Code and Annex III of MARPOL 73/78	MEPC 52	October 2004
Circulation of amendments to the IMDG Code and Annex III of MARPOL 73/78 by the Secretary-General		November 2004
Adoption of the amendments to the IMDG Code and Annex III of MARPOL 73/78	MEPC 53	July 2005
Tacit acceptance of amendments to the IMDG Code and Annex III of MARPOL 73/78		April 2006
Entry into force of the amendments to the IMDG Code and Annex III of MARPOL 73/78		October 2006*

* In order to harmonize with other modes of transport, this date could be extended to January 2007.

Urgent matters emanating from DE 47

10.16 The Committee noted that the DE Sub-Committee held its forty-seventh session from 25 February to 5 March 2004 and that its report had been circulated as DE 47/25 whilst MEPC 51/10/1 reported on urgent matters emanating from that meeting as well as three other relevant issues.

10.17 The Committee recalled that MEPC 47 had instructed DE 45 to include a new item on the protection of pump rooms and access to shore-based computer programmes on its agenda with a target completion time of two sessions, after having considered a submission by the United Kingdom to MEPC 47 (MEPC 47/18/1) which proposed actions to reduce the risks of pollution during salvage operations associated with damaged tankers.

10.18 The Committee also recalled that MEPC 48 instructed DE to consider this item as high priority and included them on the agenda of DE 46. As a result, DE 47 had considered a proposal by INTERTANKO (DE 47/11) addressing the issues originally raised by the United Kingdom in MEPC 47/18/1 and produced the proposed new regulation 13I and relevant amendment to regulation 26 of MARPOL Annex I for consideration by this Committee.

10.19 After consideration, the Committee approved the proposed new regulation 13I and amendments to regulation 26 of MARPOL Annex I, as set out in annex 9, with a view to adoption at MEPC 52 together with the text of the revised MARPOL Annex I.

10.20 The Committee agreed that new regulation 13I shall apply to oil tankers of 5,000 tons deadweight and above constructed on or after 1 January 2007 and agreed to insert that date in the square brackets of proposed new regulation 13I(1) accordingly.

Other matters arising from DE 47

10.21 Having concluded on the above urgent issue emanating from DE 47, the Committee:

- .1 agreed with the DE Sub-Committee's recommendation to delete the item "Protection of pump-rooms and access to shore-based computer programs for salvage operations" from the DE Sub-Committee's work programme;
- .2 changed the priority of the work programme item on "Guidelines for onboard exhaust gas cleaning systems" from low to high, in view of the expected entry into force of MARPOL Annex VI in the near future; and
- .3 agreed with the recommendation of DE 47 to include the work programme item on "Safety aspects of ballast water management" in the agenda for DE 48.

Urgent matters emanating from FSI 12

10.22 The Committee noted that the twelfth session of the Sub-Committee on Flag State Implementation (FSI 12) was held from 15 to 19 March 2004 and that its report will be circulated as FSI 12/22 whilst MEPC 51/WP.11 reports on urgent matters emanating from that meeting.

10.23 The Committee noted also that matters relating to the outcome of FSI 12 on the review of reporting requirements for reception facilities would be considered under agenda item 9 (Inadequacy of Reception Facilities).

10.24 The Committee noted further that FSI 12 had expressed its support of the work of the FAO in relation to illegal, unregulated and unreported (IUU) fishing related matters and that it had instructed the Secretariat to provide the FAO with detailed information on TC activities related to the safety of fishing vessels and the training of fishermen.

10.25 In this context, the Committee endorsed the Sub-Committee's proposed recommendation to the FAO to stimulate further co-operation between the FAO, the IMO and Regional Fishery Management Organizations (RFMOs) by organizing a second Joint Working Group on IUU Fishing and related matters.

11 WORK OF OTHER BODIES

Outcome of LEG 87

11.1 The Committee noted that the eighty-seventh session of the Legal Committee had been held from 13 to 17 October 2003 and that its report had been issued as LEG 87/17 whilst those issues of relevance to MEPC were reported in MEPC 51/11/1.

11.2 The Committee noted that LEG 87 had considered a submission from three Member States and five NGOs on the legal implications of the proposal to designate the Western European Waters as a PSSA, where diverging views had been expressed.

11.3 The Committee recalled that the views of LEG 87 regarding the designation of the Western European Waters as a PSSA had been considered under agenda item 8.

Outcome of C/ES.22

11.4 The Committee noted that the twenty-second extraordinary session of the Council (C/ES.22) had been held on 21 November 2003 and that a summary of its decisions was issued as C/ES.22/D whilst those issues of relevance to MEPC had been highlighted in MEPC 51/11/2.

11.5 The Committee noted that the Council had considered the proposed IMO Model Audit Scheme, which it had decided should be re-named *the Voluntary IMO Member State Audit Scheme* and had approved it, as amended, for submission to the twenty-third session of the Assembly for adoption.

11.6 In this context, the Committee noted that the meeting of the Joint MSC/MEPC/TCC Working Group on this issue had been approved and that the Group had been instructed to take account of the Council's decisions in developing the Scheme.

11.7 With regard to the review of the sub-committee structure, the Committee noted that the Council, having noted the progress of the trial system, had agreed to extend the trial period to cover all sub-committee meetings up to the next sessions of MEPC and MSC. The Council had also invited MSC and MEPC to make appropriate recommendations to its ninety-third session, which would meet from 15 to 19 November 2004.

11.8 The Committee noted that the Council had approved the long-term work plan of the Organization for submission to the twenty-third session of the Assembly.

11.9 The Committee also noted that the Council, in considering the report of MEPC 49 concerning BLG 9 which would not be held in 2004, had approved an extension of DE 47 by three days as well as the holding of an additional meeting of the intersessional BLG Working Group on the Evaluation of Safety and Pollution Hazards of Chemicals (ESPH).

11.10 With regard to the relations with non-governmental organizations, the Committee noted that the Council had referred the application from the International Bunker Industry Association (IBIA) to MEPC for advice, which was considered under agenda item 21.

Outcome of TC 53

11.11 The Committee noted that the Technical Co-operation Committee had held its fifty-third session from 11 to 12 June 2003 and that its report had been issued as TC 53/19 whilst those issues of interest to MEPC had been reported in MEPC 51/11/3.

11.12 Having considered MEPC 51/11/3 in general, the Committee particularly noted:

- .1 the interim Report on the Integrated Technical Co-operation Programme for 2002-2003;
- .2 the outcome of the Workshop on Partnership Building;
- .3 the Integrated Technical Co-operation Programme for 2004-2005;
- .4 the biennial allocation to support the Integrated Technical Co-operation Programme for 2004-2005;
- .5 the methodology for the Impact Assessment Exercise for 2000-2003;
- .6 the regional co-ordination and regional delivery; and
- .7 the capacity building aspects of the Model Audit Scheme.

Outcome of A 23

11.13 The Committee noted that the Assembly held its twenty-third session from 24 November to 5 December 2003 and that the summary of decisions related to Committee 2 of the Assembly had been issued as A 23/SR.8 whilst those issues of relevance to MEPC were reported in MEPC 51/11/4.

11.14 The Committee noted that the Assembly had approved the reports of MEPC 47, MEPC 48 and MEPC 49, and had expressed its appreciation of the considerable progress which had been made during the previous biennium by the Committee. Noting that Annex VI to MARPOL 73/78 still had not entered into force, the Assembly urged States, which had not ratified the Annex, to do so as soon as possible.

11.15 The Committee also noted the outcome of the Assembly on the following issues:

- .1 in considering the report of MEPC 49, some delegations had expressed concern over the proposal to make Western European Waters as a PSSA and, as a result, it had been suggested that resolution A.927(22) on the Guidelines for the

identification of PSSAs, might need to be reviewed along with issues related to the principles of innocent passage and freedom of navigation on the high seas under the provisions of UNCLOS;

- .2 with regard to the entry into force of the revised MARPOL Annex II, the Assembly had noted that the entry into force date should be set on 1 January 2007;
- .3 with regard to ship recycling, the Assembly noted the view that the MEPC should consider the possibility of developing a mandatory regime and assess the pros and cons of such a mandatory regime; and
- .4 the Assembly adopted resolution A.963(23) on IMO Policies and Practices related to the reduction of greenhouse gas emissions from ships, prepared by MEPC 49, with the exception of the proposed operative paragraphs 2, 3(a), 3(b), 4 and 5, which had been the subject of dissent in relation to Article 2.2 of the Kyoto Protocol.

Resolutions adopted by the Assembly

11.16 The Committee noted that the following resolutions adopted by the Assembly are relevant to the work of the Committee:

- .1 resolution A.962(23) on IMO Guidelines on ship recycling;
- .2 resolution A.963(23) on IMO policies and practices related to the reduction of greenhouse emissions from ships;
- .3 resolution A.964(23) on Follow-up action to UNCED and WSSD;
- .4 resolution A.947(23) on Human element vision, principles and goals for the Organization;
- .5 resolution A.948(23) on Revised survey guidelines under the Harmonized System of Survey and Certification;
- .6 resolution A.949(23) on Guidelines on places of refuge for ships in need of assistance;
- .7 resolution A.950(23) on Maritime Assistance Services (MAS);
- .8 resolution A.943(23) on the Long-term work plan of the Organization for the period up to 2010; and
- .9 resolution A.946(23) on the Voluntary IMO Member State Audit Scheme.

Report of the ninth session of the Working Group on the Evaluation of Safety and Pollution Hazards of Chemicals (ESPH 9)

11.17 The Committee noted that the ninth intersessional meeting of the Working Group on the Evaluation of Safety and Pollution Hazards of Chemicals (ESPH 9) was held from 1 to 5 September 2003. Due to the relevance of some issues arising from this meeting which were

pertinent to the revision of MARPOL Annex II, the Committee noted that the report had been issued as MEPC 51/11 whereas normally it would have been submitted to BLG for consideration.

11.18 In introducing MEPC 51/11, the Chairman of the Group, Mrs. M. Tiemens-Idzinga (Netherlands), described the progress made by the Group by making specific reference to the following issues:

- .1 development of a draft MEPC resolution allowing derogations for the transport of vegetable oils in deep tanks;
- .2 consolidation and evaluation of special chemical groups (vegetable oils and polyols);
- .3 review of the text in the IBC Code as a result of changes to the classification system and criteria for assigning carriage requirements; and
- .4 the future role of the GESAMP/EHS Working Group.

11.19 Based on the report of the Group, the Committee took the following action.

11.20 The Committee approved, in principle, the MEPC resolution on the *Guidelines for the transport of vegetable oils in deeptanks or in independent tanks specially designed for the carriage of such vegetable oils onboard dry cargo ships* (MEPC 51/11, annex 4) with a view to adoption at MEPC 52, and decided to leave the square brackets in operative paragraph 2 for further consideration at MEPC 52.

Pollution criteria for assigning Ship Types

11.21 The Committee considered the criteria for assigning Ship Types based on pollution criteria and the consequential amendments to the IBC Code, as shown in Chapter 21 of the revised IBC Code during which the following points were discussed.

11.22 Prior to discussing this specific action point, the United States made reference to a letter, which had been circulated to certain Members by The Federation of Oils Seeds and Fats Association (FOSFA International). The Committee was informed that this letter had misrepresented the United States position.

11.23 With regard to the amendments to the IBC Code and the criteria for defining Ship Types, the United States informed the Committee that it did not wish to delay the adoption of the revised MARPOL Annex II or the revised IBC Code. However, the United States indicated that it still had concerns regarding the possible impact on the disruption of the vegetable oils trade which the proposed criteria for defining the new Pollution Categories and Ship Types might have.

11.24 In informing the Committee of its concerns, the United States made reference to the INTERTANKO submission (MEPC 51/11/6), which reported on a survey of predicted available cargo space and amount of cargo expected to be transported in 2007. It was pointed out that INTERTANKO had made some assumptions in this study whilst concluding that there would be a nominal surplus of available tonnage in 2007. The United States indicated that variations in the assumptions, made by INTERTANKO, could result in a different outcome which could show a deficit of available tonnage.

11.25 In order to alleviate such concerns, the United States proposed that the Secretary-General undertake a further study to evaluate the full impact of the changes to MARPOL Annex II and the IBC Code so that MEPC 52 would have this information when considering adoption of these two instruments.

11.26 In introducing MEPC 51/11/6, INTERTANKO informed the Committee that the Pollution Categories and Ship Types identified in its document had been sourced from MEPC 49/INF.24 and at that time the GESAMP/EHS Working Group had not finalized its evaluations of the vegetable oils, the results of which would dictate whether these products would be assigned to Ship Type 2 or 3.

11.27 The Committee noted that the statistics were based on information from the members of INTERTANKO, which represented seventy percent of the world fleet of both oil and chemical tankers, as well as from Drewry and Oil World.

11.28 INTERTANKO reiterated the point made by the United States that assumptions had been made, but confirmed its conclusions that there would be a nominal surplus of IMO Ship Types 2 and 3 tonnage in 2007. In making this point, the Committee was informed that INTERTANKO had not taken account of ships less than 10,000 dwt and so if these were to be taken into account the predicted surplus of available tonnage might increase.

11.29 Having considered the submission, made by INTERTANKO, and the proposal from the United States to conduct a further study, the majority of the Committee recognized that the INTERTANKO study confirmed the previous information provided by IPTA and CEFIC and so concluded that no further study was necessary.

11.30 In the course of the debate, the Committee recalled that over the previous few years, concerns had been expressed regarding the potential disruption to the vegetable oil trade, which the revised instruments might cause. However, it was noted that, despite repeated requests by the Organization, such concerns had not been substantiated by any submitted documentation.

11.31 The Netherlands pointed out that, assuming a specific shortage of tonnage to transport an identified vegetable oil can be demonstrated, then regulation 2(7) of the current text of MARPOL Annex II (regulation 4.1 of the revised text) provides a mechanism by which the Administration may modify or delay for a specific period the application of the revised requirements for the carriage of that cargo.

11.32 In this context, Panama proposed that the application of this regulation should not be used to permit phased out single hull MARPOL Annex I tankers to transport vegetable oils. It was pointed out that vegetable oils are known to have the same physical properties as mineral oil and are capable of causing similar harm to the environment.

11.33 Panama indicated that, if this were to be allowed, it would appear as if IMO were condoning such actions, which would be unacceptable. However, Panama indicated that it was uncomfortable with the nominal surplus of tonnage indicated by the INTERTANKO study. In order to provide a pragmatic means of ensuring that sufficient tonnage would be available in 2007, whilst ensuring that the environment is protected from accidental pollution by vegetable oils, Panama proposed that the invocation of regulation 2(7) should be restricted to the use of IBC Code Type 3 Chemical/NLS tankers arranged with double hull, complying with the dimensions of IBC Code Type 2 Chemical tankers, as an alternative for the transport of vegetable

oils under MARPOL Annex II. It was recognized that this option would only be used where it is demonstrated that there is a shortage of tonnage available to transport an identified vegetable oil.

11.34 The Committee recognized that, under regulation 13G of MARPOL Annex I, single hull tankers were being phased out and so it would be inappropriate to allow such ships to transport vegetable oils.

11.35 Having agreed that no further study was necessary and recognizing that the above proposals by the Netherlands and Panama might alleviate any potential problems, the Committee approved the criteria for assigning Ship Types based on pollution criteria as part of the revised IBC Code. However, Malaysia, the Philippines and the United States reserved their positions on this issue.

11.36 Having noted these proposals, the Chairman allowed time for informal discussions to take place between the delegations of Panama and those governments which had reserved their positions on this issue to see if the proposals could alleviate the situation sufficiently to allow the reservations to be withdrawn.

11.37 Following these informal discussions, Panama reported that a meeting had taken place between the Philippines and Malaysia, with assistance from IPTA and INTERTANKO and whilst it was not possible for the governments involved to give a definitive response, they indicated that the proposals might go some way to alleviate their concerns. However, they might be able to indicate as to whether their reservations could be withdrawn at MEPC 52.

11.38 However, the Committee agreed that, on the understanding that those single hull ships being phased out under MARPOL Annex I would not be allowed to transport vegetable oils once the revised MARPOL Annex II comes into force, then where it can be demonstrated that there is a shortage of space for the transport of identified vegetable oils, regulation 4.1 might be invoked to overcome this problem.

11.39 The Chairman encouraged those delegations which had made reservations to consider whether this would allow them to withdraw their reservations at MEPC 52.

11.40 In considering the proposed amendments to the IBC Code, the Committee noted the concerns expressed by IACS in MEPC 51/11/5 regarding the item to remove column *m* (materials of construction) from the revised IBC Code. IACS indicated that responsibility for ensuring that the cargo is compatible with the materials of construction was being put on the shippers and ship operators. IACS argued that IMO should continue to maintain a database of such information in order to avoid disputes between shipbuilders and ship owners. However, if this were not to happen, then IACS proposed six points, which should be incorporated into Chapter 6 of the IBC Code.

11.41 The Committee recognized that the problem of defining appropriate materials of construction had been discussed in detail by ESPH, and it was concluded that it is *very complex and extremely difficult to develop meaningful criteria*. In addition, the Committee was informed that ship owners tended to ignore *column m* of the IBC Code and preferred to do their own testing in order to ensure that no damage would be done to the ship as a result of transporting a particular cargo.

11.42 However, the Committee agreed that this was primarily a safety issue, which should be put to MSC for its consideration.

11.43 Whilst agreeing that obsolete MEPC circulars could be omitted from the next publication of the IBC Code, the Committee recognized that MSC should be invited to consider the request to delete any MSC circulars.

11.44 Notwithstanding these points, the Committee agreed that the existing column letters in Chapter 17 of the Code should be kept to avoid confusion, whilst recognizing that some columns might become redundant.

11.45 The Committee agreed that further amendments to the IBC Code should not delay the entry into force of the consequential amendments as a result of the revised MARPOL Annex II later than 1 January 2007.

11.46 The Committee agreed that Chapter 19 of the IBC Code could be deleted as incineration of liquid chemical wastes at sea was no longer permitted.

11.47 In order to facilitate the maintenance of the IBC Code and to provide a means of keeping relevant, associated documents in the same binder, the Committee agreed that the next edition of the IBC Code should be in A4 loose-leaf format.

11.48 Recognizing that it is not always obvious whether the assigned Ship Type is due to safety or pollution reasons in the current version of the IBC Code, the Committee agreed that, in the revised IBC Code, if the revised Ship Type, based on pollution criteria:

- .1 is higher than the existing one, then the revised Ship Type will be assigned; or
- .2 is lower than the existing one, then the existing Ship Type will be assigned unless it can be demonstrated that the existing Ship Type is not due to safety considerations.

11.49 The Committee recalled that, at MEPC 49, it had instructed the ESPH Working Group to give its opinion on some issues related to the possible future work of the GESAMP/EHS Working Group. Having considered the views of the Working Group, as reported in paragraph 11.2.5 of MEPC 51/11, the Committee concurred with them.

11.50 Recognizing that the ESPH Working Group still had a considerable amount of work to do in association with the entry into force of MARPOL Annex II, the Committee agreed that the Group should meet from 30 August to 3 September 2004. However, it was recognized that MEPC 51 might instruct it to undertake further work than anticipated so that a second intersessional meeting might be necessary. As a result, it was agreed to consider this issue further under agenda item 20 (see paragraph 20.14).

11.51 The Committee noted that, in paragraph 7.1.5 of MEPC 51/11, the ESPH Group had agreed to delete two n.o.s. entries and one specific entry associated with vegetable oils. The Chairman of the Group informed the Committee that these entries had been developed in the 1970's to assist the industry but that many inappropriate products had been shipped under these entries which, if properly declared, would have been Pollution Category B. So, the reason the Group agreed to delete these entries was to prevent the continuation of this situation and to ensure that the revised IBC Code would be robust.

11.52 However, the United States expressed the concern that the ESPH report did not request the Committee to take action on this issue. As a result, the Committee agreed to consider this issue at MEPC 52.

Establishment of a Drafting Group on the IBC Code

11.53 Having considered the ESPH report and the associated submissions related to the IBC Code, the Committee established a Drafting Group, under the chairmanship of Mrs. M. Tiemens-Idzinga, to make the final editorial amendments to the IBC Code so that it could be approved at MEPC 51 with a view to adoption at MEPC 52.

11.54 The Drafting Group was instructed to:

- .1 taking into account decisions made by the Committee, consider those issues affecting the revision of the IBC Code;
- .2 check the cross-references in the text for accuracy;
- .3 make any editorial amendments deemed appropriate; and
- .4 submit a written report to the Committee on Thursday, which should include the revised text of the IBC Code for approval.

Report of the Drafting Group on the revised IBC Code

11.55 The Chairman of the Drafting Group presented her report (MEPC 51/WP.13) and indicated that the Group had carried out its instructions and produced a clean text for consideration by the Committee. However, the Committee's attention was drawn to seven specific issues identified in paragraph 3.2 of MEPC 51/WP.13.

11.56 Based on the report of the Drafting Group, the Committee:

- .1 agreed that the various references to 'should' should be replaced by 'shall' as the IBC Code is mandatory under both SOLAS and MARPOL and instructed the Secretariat to check the last sentence of regulation 10.1 of Chapter VII of SOLAS to see if it is really necessary;
- .2 noted that chapter 11 of the revised Code includes safety issues, which are subject to Chapter II-2 of SOLAS and that these will be the subject of future amendments;
- .3 noted that the text of chapter 6 is expected to be the subject of consideration by MSC 78 and so was put in square brackets;
- .4 noted that the decisions of MSC, with regard to chapter 6, might have an impact on paragraphs 15.5.1.2 and 15.5.2.3, which identify specific requirements in this respect for the carriage of hydrogen peroxide, and instructed the Secretariat to make any necessary changes in response to the decisions of MSC in this respect;
- .5 agreed that Chapters 17 and 18 of the IBC Code were not included and instructed the Secretariat to include them before circulation of the final text;

- .6 noted that the Index to Chapters 17 and 18 of the Code had been moved to the position of Chapter 19 to replace the original Chapter 19 which the Committee had decided to delete;
- .7 noted that the paragraphs in Chapter 21 would need to be renumbered in line with the other chapters before circulation of the final text and instructed the Secretariat to undertake this work prior to circulation of the text;
- .8 approved the text of the revised IBC Code, as shown in annex 10, and requested the Secretary-General to circulate it with a view to adoption by MEPC 52. In addition, the Committee invited MSC 78 to consider the revised IBC Code with a view to its approval and eventual adoption in accordance with the provisions of the SOLAS Convention. MSC 78 was also invited to provide comments on the revised IBC Code to MEPC 52 so that the views of MSC 78 can be reflected by MEPC 52 when adopting the revised Code;
- .9 agreed that the text of the revised IBC Code to be adopted by the MEPC and MSC should be identical; and
- .10 instructed the Secretariat to:
 - .1 include the three entries for vegetable oils, identified in paragraph 7.1.3 of MEPC 51/11, in square brackets in chapters 17 or 18 of the IBC Code, as appropriate, for further consideration by MEPC 52;
 - .2 check whether paragraph 1.5.4.4 of the revised IBC Code is obsolete and, if so, delete it and renumber the subsequent paragraphs accordingly;
 - .3 amend the Model form of the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk in line with the HSSC Code; and
 - .4 prepare a revised draft version of the BCH Code, in line with the revised IBC Code for consideration by ESPH and BLG prior to submitting it to a future session of the MEPC for approval.

12 FOLLOW-UP TO THE REVISED MARPOL ANNEX I AND ANNEX II

12.1 The Committee recalled that, during MEPC 49, the sequence of events associated with the implementation of the revised MARPOL Annex I and Annex II had been discussed. As a result, it agreed to add this agenda item in order to consider any appropriate developments associated with these two Annexes.

Amendments to MARPOL Annex I adopted by MEPC 50

12.2 The Committee noted the following points as outlined in documents MEPC 51/12 and MEPC 51/12/Corr.1:

- .1 MEPC 49 approved, in principle, the draft revised text for MARPOL Annex I with a view to incorporating any amendments resulting from MEPC 50 prior to obtaining its final approval during MEPC 51 and its adoption during MEPC 52;

- .2 MEPC 50 adopted amendments to regulation 13G, a new regulation 13H and the consequential amendments to the Condition Assessment Scheme (CAS) and the IOPP Certificate Supplement (Form B) which are expected to enter into force on 5 April 2005;
- .3 in addition, MEPC 50 approved a new Unified Interpretation to regulation 13G(3)(b) concerning the definition of a Category 2 oil tanker;
- .4 in order to incorporate the amended regulation 13G and the new regulation 13H of the existing MARPOL Annex I into the revised Annex I, Members are requested to note that:
 - .1 regulation 20 of the revised Annex I is the amended regulation 13G of the existing Annex I;
 - .2 regulation 35, titled "Part D - Requirements for the carriage of certain oils" has been inserted in the revised Annex I to reflect the new regulation 13H of the existing Annex I;
 - .3 the new Unified Interpretation concerning the definition of Category 2 oil tankers is inserted as number 33 in the Unified Interpretations;
 - .4 amendments to the Unified Interpretation 4.1.1 are included as new sub-paragraphs 5 and 6 of Unified Interpretation 26.1 of the revised Annex I; and
 - .5 subsequent regulations of the revised Annex I and its Unified Interpretations need to be renumbered accordingly.

12.3 Having considered the above points, the Committee agreed to instruct the Secretariat to incorporate the amended regulation 13G, new regulation 13H, new regulation 13I and amended regulation 26 (see paragraph 10.19) and other consequential amendments into the revised MARPOL Annex I and requested the Secretary-General to circulate the revised Annex I so that it could be adopted by MEPC 52. The text of the revised MARPOL Annex I is contained in annex 11.

12.4 The Committee agreed to a suggestion by Japan that the new regulation 13H in the current Annex I should be renumbered as regulation 21 after regulation 20, which is the amended regulation 13G of the current Annex I.

12.5 The United States stated that, since it reserved its position on regulations 13F and 13G of the current Annex I, it would reserve its position on the equivalent regulations in the revised Annex I.

12.6 However, in order that the United States would be able to consider becoming a Party to the equivalent regulation in the revised Annex I of the new regulation 13H in the current Annex I, the Committee agreed to include a similar text in the operative paragraphs of the MEPC resolution on the adoption of the revised Annex I, which would allow separate consideration of each regulation by Parties pursuant to article 16(2)(f)(ii) of the MARPOL Convention.

Review of the Guidelines under MARPOL Annex I

12.7 The Committee noted that the Secretariat had identified those Guidelines, referred to in the 2002 consolidated edition of MARPOL Annex I, and had made proposals for the possible actions to be taken as a result of the revised MARPOL Annex I (MEPC 51/12/2).

12.8 The Committee also noted that, whilst MEPC 51/12/2 had identified the Guidelines associated with MARPOL Annex I, there was also a considerable number of associated MEPC resolutions and circulars containing cross references to the existing regulations of MARPOL Annex I, which due to the restructuring of the revised Annex I, would no longer be correct.

12.9 In order to ensure the smooth and unhindered implementation of all these resolutions, guidelines and circulars when the revised Annex I enters into force, and avoiding at the same time an unnecessary heavy work burden, the Committee agreed to take the following actions:

- .1 resolutions, guidelines and circulars associated with the Annex I would not be revised with the sole purpose of bringing the cross-references in line with the new regulation numbering system under the revised Annex I;
- .2 these resolutions, guidelines and circulars would be revised, only if they contained outdated provisions which need to be updated in line with the recent amendments to Annex I or which need adaptation to technical progress;
- .3 the Secretariat was instructed to prepare a draft MEPC circular for consideration at the next session, which would provide cross-reference lists between the “old” and the “new” regulations and *vice versa*;
- .4 the Secretariat was also instructed to check and correct the cross references of CAS; and
- .5 Member States were invited to submit proposals with regard to the action mentioned in .2 above. These submissions would be considered either by the Committee itself, under the agenda item “Follow up to the revised Annex I and Annex II”, or forwarded to the BLG Sub-Committee for consideration, as appropriate.

Comments on the new renumbered regulation 35 “Prevention of oil pollution from oil tankers carrying heavy grade oil as cargo”

12.10 IACS expressed concern in its submission (MEPC 51/12/3) about the incongruence of the regulations related to the double hull requirements for oil tankers of 600 to 5,000 tons deadweight carrying heavy grade oil. IACS argued that for a ship fitted with double bottom and double sides in accordance with regulation 35.4.2, regulation 19.6.2 should be interpreted to allow oils other than heavy-grade oils to be carried in side tanks if the ship is fitted with cargo tanks not exceeding 700m³ capacity.

12.11 After consideration, the Committee agreed with the following Unified Interpretation to regulation 19.6.2 of the revised MARPOL Annex I (see annex 12):

33 *Definition of double side wing tanks*

- Regulation 19.6.2 33.1 Wing tanks required for the protection of the entire cargo tank length by regulation 19.6.2, for the purpose of compliance with regulation 35.4.2, can be used as cargo tanks for the carriage of oil other than heavy grade oils when the ship is provided with cargo tanks so arranged that the capacity of each cargo tank does not exceed 700 m³.

Identification of the Guidelines, which might require updating as a result of the revised MARPOL Annex II

12.12 The Committee noted that the Secretariat had identified those Guidelines referred to in the 2002 consolidated edition of MARPOL Annex II, and had made proposals for the possible actions to be taken as a result of the revised MARPOL Annex II (MEPC 51/12/1).

12.13 In this context, the Committee noted that the proposed actions fell into the following three types:

- .1 incorporation of guidelines into MEPC/Circ.265 (Guidelines for the provisional assessment of liquids transported in bulk), which is currently being revised by the ESPH Working Group;
- .2 no action required for various reasons; and
- .3 amendments of cross-references to the revised MARPOL Annex II.

12.14 As a result, the Committee instructed the ESPH Working Group to undertake the actions proposed in the annex to MEPC 51/12/1 and report the results to BLG 9, the outcome of which should be submitted to MEPC 53 for consideration.

13 STATUS OF CONVENTIONS

13.1 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, amendments to MARPOL, 1990 OPRC Convention, 2000 OPRC/HNS Protocol and 2001 AFS Convention provided in document MEPC 51/13 as follows:

- .1 the status, as at 1 February 2004, of the IMO conventions and other instruments relating to marine environment protection (annex 1);
- .2 the status of MARPOL as at 1 February 2004 (annex 2);
- .3 the status of the amendments to MARPOL as at 1 February 2004 (annex 3);
- .4 the status of the 1990 OPRC Convention as at 1 February 2004 (annex 4);
- .5 the status of the 2000 OPRC-HNS Protocol as at 1 February 2004 (annex 5); and
- .6 the status of the 2001 AFS Convention as at 1 February 2004 (annex 6).

13.2 The Committee also noted the following information provided by the Secretariat since document MEPC 51/13 was issued on 6 February 2004:

- .1 Australia deposited its instrument of ratification for MARPOL Annex IV;
- .2 Malta deposited its instrument of ratification for MARPOL Annexes III and V;
- .3 Vanuatu deposited its instrument of ratification for MARPOL Annexes IV and VI. Therefore, a total of 13 States has ratified Annex VI, and only two more States are required to satisfy the conditions for entry into force;
- .4 with regard to the status of the 2000 OPRC/HNS Protocol, Vanuatu deposited its instrument of ratification on 15 March 2004; and
- .5 with regard to the status of the 2001 AFS Convention, Spain deposited its instrument of ratification on 16 February 2004.

13.3 The Committee noted further the statements by Cyprus that their Government was expected to ratify MARPOL Annex III in the near future and the statement by Barbados that their Government would deposit its instrument of ratification for MARPOL Annex VI very soon.

13.4 The delegation of Japan expressed its expectation for early ratification of the AFS Convention by IMO Member States, so that the Convention could enter into force as soon as possible.

14 PROMOTION OF IMPLEMENTATION AND ENFORCEMENT OF MARPOL 73/78 AND RELATED INSTRUMENTS

Recent developments in vessel pollution enforcement

14.1 The Committee noted the information provided by the United States (MEPC 51/14) that, for more than 10 years, a vigorous initiative to enforce MARPOL 73/78 and relevant domestic legislation, spearheaded by the United States Coast Guard, resulted in a series of successful federal criminal prosecutions brought about by the Department of Justice against shipping companies, shipowners and operators, including ships' officers, with heavy fines and, in some cases, resulted in prison sentences.

14.2 In this context, the United States wished to explore with the Committee:

- .1 how flag States, coastal States and port States could increase international awareness of the problem and achieve greater MARPOL compliance;
- .2 the benefits of international co-operation in the detection, investigation and prosecution of unlawful pollution from vessels; and
- .3 the need to develop guidelines on the above issues.

14.3 In considering the issues raised by the United States, the Committee noted that:

- .1 there was a clear consensus that deliberate and illegal discharge of oil, noxious liquid substances and garbage into the marine environment by ships posed a serious problem to be tackled;
- .2 the majority of the delegations that spoke supported the development of guidelines to achieve greater MARPOL compliance by flag States, coastal States and port States and to increase awareness of vessel source pollution as well as co-operation in the detection, investigation and prosecution of unlawful pollution from vessels, particularly in the sharing of information, experiences and lessons learned, but some delegations did not see the immediate need for such guidelines;
- .3 some delegations preferred a regional and subregional approach to co-operation in the detection and investigation process as being more effective and efficient rather than a global or international approach;
- .4 some delegations stressed the need to distinguish between accidental as opposed to deliberate or intentional discharges of oil and hazardous substances in relation to vessel pollution enforcement, including criminal sanctions;
- .5 other delegations sought clarification regarding prosecution and sanctions of unlawful pollution from vessels in the context of article 230 of UNCLOS regarding the rights of seafarers; and
- .6 one delegation referred to the mandatory reporting requirements and the provisions in the Formats for a mandatory reporting system under MARPOL 73/78 (MEPC/Circ.318) for a response from the flag State. The delegation also suggested that the Secretariat analyse the reports and that the names of non-responding States be published.

14.4 The delegation of Saudi Arabia stated that, while it recognized that the United States' position in document MEPC 51/14 regarding illegal discharges was not aimed at criminalizing accidental oil spills, it would like to remind the Committee that the line between intentional and accidental spills could often be blurred, thus leading to many cases of prosecution for accidental pollution being mistaken as intentional. It believed that oil pollution from an accident should not result in criminal prosecution, and that regulations promulgated as a result of either the **Erika** or the **Prestige** accidents would not stop the same accident from happening again on a single-hull or even double-hull tanker. The delegation stated further that what was needed was better enforcement of the rules and designation of pre-approved ports of refuge.

14.5 In light of the issues raised by the United States and the comments made by various delegations, the Chairman drew to the attention of the Committee that the IMO publication entitled "**MARPOL – How to do it**", which was considered and reviewed by MEPC 45, contains useful information, such as Section 4.7 on "Prosecuting offences" and Section 19 on "Pollution detection and response", which discuss administrative, civil and penal or criminal sanctions.

14.6 The Chairman also drew to the Committee's attention that resolution A.944(23), in paragraph 3.2.2 of its annex, emphasized the role of the human element and human rights of seafarers in secure shipping.

14.7 The delegation of the United States thanked the Committee for its thorough discussion of the issue, informed the Committee of its intention to submit a specific proposal to MEPC 52 and agreed to the suggestion of the Chairman to take into account the IMO publication entitled “MARPOL - How to do it” and comments made by other delegations.

15 FOLLOW-UP TO UNCED AND WSSD

15.1 The Committee recalled that the Plan of Implementation adopted by the World Summit on Sustainable Development reaffirmed the commitment to the Rio principles and the need for the full implementation of Agenda 21. Among numerous paragraphs of the Plan of Implementation relevant to the work of IMO, paragraph 34 directly addresses the objectives of the Organization.

15.2 The Committee noted that the draft Assembly resolution on follow-up to UNCED and WSSD, prepared by MEPC 49, was adopted by the twenty-third session of the Assembly as resolution A.964(23).

15.3 The Committee stressed the need to keep in mind the Plan of Implementation adopted by WSSD, which urged IMO to enhance maritime safety and the protection of the marine environment, and invited States to ratify and implement the conventions and protocols and other relevant instruments adopted by IMO.

15.4 The Committee noted with satisfaction that the International Convention for the Control and Management of Ships’ Ballast Water and Sediments had been adopted by the Diplomatic Conference in February this year, thus fulfilling the request of paragraph 33 (b) of the Plan of Implementation urging IMO to “finalize the Convention”.

16 TECHNICAL CO-OPERATION PROGRAMME

16.1 The Committee recalled that it was past practice to have technical co-operation on its agenda on alternate meetings. But, given the importance of the work for the Organization, it was agreed to report on TC activities to every session of the Committee.

16.2 The Committee noted an update on the TC programme on a region-by-region basis (MEPC 51/16), which reported on the technical co-operation activities related to the protection of the marine environment undertaken during the period January - December 2003.

16.3 The Committee also noted the report on the implementation of the Protocol to the Barcelona Convention concerning co-operation in combating pollution in the Mediterranean Sea by oil and other harmful substances in cases of emergency (MEPC 51/INF.7).

16.4 The Committee noted that the updated thematic priorities of the Committee’s contribution to the ITCP for 2004-2005, which was approved by MEPC 48, formed the basis for the preparation of the marine environment-related components of the overall ITCP for 2004-2005, which comprises 26 programmes with funding requirements of US\$ 14.1 million. It further noted that the overall ITCP for 2004-2005 was approved by TC 53, recommending to the Council a proposed biennial allocation from the TC Fund in the amount of 5 million pounds Sterling (or US\$7.85 million) to be used to finance the core activities of the ITCP for 2004-2005. The allocation was subsequently approved by the Council.

16.5 The Director of the Organization's Technical Co-operation Division (TCD) informed the Committee that a comprehensive report on TC activities for the biennium 2002-2003 (document TC 54/3) would be prepared for the consideration of the Technical Co-operation Committee at its forthcoming session in June 2004. He further mentioned that it was the first time that such a report had been prepared to cover one whole biennium.

16.6 The Committee noted that full information on the new ITCP for 2004-2005 could be found in documents TC 53/4 and TC 53/5. It was further noted that the initial biennial allocation was increased by the Assembly and that the amount covering marine environment related activities represented 21% of the total allocation, not including the major marine environment projects, i.e. GEF/UNDP/IMO Regional Programme on Building Partnerships in Environmental Management for the Seas of East Asia (PEMSEA), the project on the Removal of Barriers to the Effective Implementation of Ballast Water Control and Management Measures in developing countries (Globallast) and the project on the Marine Electronic Highway.

16.7 The Director further informed the Committee of the launch by the Secretariat of an inter-active web-based inventory on technical co-operation activities related to maritime safety and marine environment protection (MARTECAID) provided by Member States. This was initiated following the acknowledgement by TCC of the impact, which the global exchange of information on technical co-operation assistance could achieve, leading both to improved co-ordination at the field level and to more efficient use of development aid resources. He further mentioned that more information regarding MARTECAID could be found in Circular Letter No.2553 of 26 March 2003 announcing the launch of the website and invited Member States to use MARTECAID to input information on their activities, ongoing and planned, which directly or indirectly address the goals of the IMO regarding safer shipping and cleaner oceans, or to amend the data which is already listed.

16.8 In summing up, the Chairman urged the resource providers and recipients to join the Organization's commitment to its own ITCP by providing direct funding, cost-sharing contributions and/or in-kind contributions so that the full ITCP can be delivered successfully.

17 INTERPRETATIONS AND AMENDMENTS OF MARPOL 73-78 AND RELATED INSTRUMENTS

17.1 Under this agenda item, the Committee had before it ten submissions dealing with five different issues. The outcomes of the Committee's considerations are reported hereunder.

Proposed amendments to the Condition Assessment Scheme (CAS)

17.2 The Committee considered two proposals by Japan regarding future work on the CAS (MEPC 51/17 and MEPC 51/17/1) relating to inspection requirements for fillet welds between deck plating and longitudinals, and the issue of major repair work of hull girders, respectively.

17.3 The Committee noted Japan's opinion that this is an area that needs attention as the incidents of the **Nakhodka**, **Erika** and **Prestige** have revealed possible structural failures adjacent to parts where major repairs had been carried out previously, whilst fillet welds between deck plating and longitudinals constitute a well-known area of problems.

17.4 The Committee also noted that any amendments to CAS should follow the amendment procedure established in regulation 13G of MARPOL Annex I in relation to CAS.

17.5 The Committee recalled resolution MEPC.112(50) by which it adopted consequential amendments to CAS as a result of amendments to MARPOL Annex I. In operative paragraph 7 of the said resolution, the Committee urged the MSC to undertake a review of the Guidelines on the Enhanced Programme of Inspections adopted by resolution A.744(18), as amended, with the purpose of incorporating relevant elements and provisions of CAS so as to ensure that oil tankers required to comply with CAS will be subject to a single and harmonized survey and inspection regime.

17.6 In this respect, the Committee noted that the DE Sub-Committee was currently undertaking a revision of resolution A.744(18), as amended, and had included this item in its work programme and agenda for DE 48 in 2005.

17.7 Having considered the proposals by Japan and relevant issues, the Committee, recognizing the complexity of the issues which would require detailed consideration by a technical sub-committee, decided to refer the two documents (MEPC 51/17 and MEPC 51/17/1) to the DE Sub-Committee for consideration. The Committee further agreed that this should be a high priority item on the agenda of DE 48 to be considered under the item of "Revision of resolution A.744(18)", the outcome of which should be reported to MEPC 53.

Matters related to the revised Annex IV Standards on the discharge of sewage

17.8 The Committee recalled that MEPC 49 agreed with the proposal by Australia to review the Recommendation on International Effluent 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.

17.9 The Committee noted document MEPC 51/17/2 by Australia providing the results of a number of full tests in accordance with resolution MEPC.2(VI) on government ships at sea under normal operating conditions. The results proved that even minor deficiencies in shipboard installations and operating procedures can have a marked effect on the performance of IMO type approved sewage treatment plants. In the view of Australia, it was imperative that resolution MEPC.2(VI) be amended to avoid a proliferation of differing unilateral more stringent standards that may be imposed worldwide.

17.10 The Committee noted, in particular, that the following points in resolution MEPC.2(VI) were in need of improvement:

- .1 guidance on calculating geometric means with zero values should be provided;
- .2 the option of substituting the 5-day Biochemical Oxygen Demand (BOD₅), as an effluent parameter, with a similar one such as Chemical Oxygen Demand (COD) would make onboard testing possible by reducing time and costs involved;
- .3 a concrete duration of test period should be established; and
- .4 vague expressions open to interpretation regarding loading factors, such as "adequate number of samples" or "low as practicable" should be avoided.

17.11 The Committee noted further that significantly clearer requirements could be found in the United States Coast Guard type test for marine sanitation devices.

17.12 After consideration, the Committee decided to refer the matter to the BLG Sub-Committee for consideration as a high-priority item in its work programme with a target completion date of 2006, and invited Member Governments and interested organizations to submit proposals to BLG 9, which was tentatively scheduled to be held in early 2005.

Rate of discharge for sewage

17.13 The Committee recalled that MEPC 49 agreed with the proposal by Singapore (MEPC 49/13/2) regarding the urgent need to develop standards for the establishment of the rate of sewage discharge that has been stored in holding tanks on board ships as required by regulation 11.1.1 of the revised MARPOL Annex IV, and invited delegations to submit proposals to MEPC 51 for consideration.

17.14 In document MEPC 51/17/5, Australia drew the Committee's attention to the requirements in regulation 11.1.1 of the revised MARPOL Annex IV that the rate of discharge for untreated sewage that has been stored in holding tanks shall be "moderate" and shall be approved by the Administration based upon standards developed by the Organization. Australia further pointed out the likely amount of discharge from livestock carriers (which comes under the definition of "sewage" under MARPOL Annex IV) and concluded that, in comparison, sewage generated by humans was far lower in volume, whilst the composition of livestock effluent could be compared with that of residues of fertiliser cargoes, whose discharge is permitted under MARPOL Annex V.

17.15 The Committee considered the matter in connection with the revised MARPOL Annex IV with a view to deciding on the rate of sewage discharge for regulation 11.1.1 of the revised MARPOL Annex IV, similar to that in regulation 9(1)(a) of MARPOL Annex I. The Committee, however, recognizing that this issue needed careful consideration from the viewpoint of sewage generated by humans as well as effluent produced by livestock on board ships, decided to refer the matter to the BLG Sub-Committee for development of relevant standards under regulation 11.1.1 of the revised MARPOL Annex IV as a high-priority item in its work programme with a target completion date of 2006 and invited Member Governments and interested organizations to submit proposals to BLG 9.

Issuance of the Statement of Compliance under CAS

17.16 The Committee noted document MEPC 51/17/4 by the Marshall Islands which focused on the issues affecting flag Administration procedures when a change of flag occurs during the course of a CAS survey, or after the issue of a Statement of Compliance to an oil tanker.

17.17 The Marshall Islands indicated its concern with the level of documentation that the receiving flag Administration must require from the issuing flag Administration in cases where there is a change of flag during the CAS survey, or after the Statement of Compliance has been issued. In the view of the Marshall Islands, these issues needed to be discussed by the MEPC and MSC to further improve the provisions of CAS.

17.18 The Committee noted that the Marshall Islands did not provide a concrete wording for amending CAS paragraph 3.1, or for drafting a Unified Interpretation. The Committee, however, recognizing the need to clarify this matter and taking into account the Marshall Islands' recommendation, decided to refer the matter to the DE Sub-Committee for further discussion in

the context of the revision of resolution A.744(18), and invited Member Governments and interested organizations to submit proposals to DE 48.

Unified Interpretations to MARPOL Annex I

17.19 The Committee considered two proposals to develop Unified Interpretations to MARPOL Annex I which were related to the phasing out of single-hull tankers under the revised regulation 13G and new regulation 13H adopted by MEPC 50.

17.20 In document MEPC 51/17/3, the Marshall Islands pointed out the issue of application of phasing-out provisions in revised regulation 13G to single-hull tankers that have undergone a “major conversion”, as defined in regulation 1 of MARPOL Annex I, that has resulted in the replacement of the oil tanker’s forebody including the entire cargo carrying section.

17.21 The Committee noted that, in the view of the Marshall Islands, the major conversion completion date of an oil tanker to which the forebody, including the entire cargo carrying section, has been replaced, should be deemed to be the delivery date as specified in the revised regulation 13G, to the effect that the vessel would be treated as a “new ship” as defined in regulation 1 of MARPOL Annex I. Although the literal reading of the revised regulation 13G specifies the “date of delivery”, this should be interpreted to include the date of completion of a major conversion that entailed the substitution of the entire single-hull forebody by a new single-hull forebody.

17.22 The Committee recalled that this matter had been raised by the United States at MEPC 50 and that the Marshall Islands delegation undertook to submit a document to this session for consideration by the Committee (MEPC 50/3, paragraphs 6.1 and 6.2).

17.23 The Committee noted that the Marshall Islands proposed a Unified Interpretation as follows (MEPC 51/17/3, paragraph 8):

“For the purpose of implementation and application of regulation 13G and determining the phase out date of a single hull oil tanker as per the requirements of regulation 13G, where an oil tanker has undergone a major conversion as defined in MARPOL regulation 1 that has resulted in the replacement of the oil tanker’s forebody, including the entire cargo carrying section, then the major conversion completion date of the oil tanker shall be deemed to be the delivery date as specified in regulation 13G.”

17.24 In this connection, the Committee noted that the Marshall Islands referred to the major conversion of 13G tankers in general and did not make a distinction of Category 1 or Category 2 tankers under regulation 13G, which might cause misunderstanding.

17.25 After an exchange of views, the Committee requested the Marshall Islands to refine their proposal and to submit it to MEPC 52 for further consideration.

17.26 In document MEPC 51/17/7, INTERTANKO stated, *inter alia*, that the amendments to Form B of the Supplement to the IOPP Certificate agreed at MEPC 50 (annex 3 and annex 4 of resolution MEPC.111(50)) would indicate the due dates for the ship’s compliance with various paragraphs of revised regulation 13G and new regulation 13H. Although it is assumed that an oil tanker will lose its IOPP Certificate when the ship has reached its due date for phasing out, it is not clear how this will be done.

17.27 The Committee noted that a few members of IACS had confirmed that they had received no instructions or guidelines from the various flag States on how to practically handle this issue.

17.28 The Committee further noted two possible solutions proposed by INTERTANKO to solve this question:

- .1 on renewal of the IOPP Certificate, the classification society should align the end date in the IOPP Certificate to that of phase out (and not give a Certificate of five year duration); or
- .2 a single-hull oil tanker without a valid CAS Certificate would indicate that the tanker should not carry Annex I cargoes.

17.29 Divergent views were expressed about the proposed solution by INTERTANKO. However, in view of the urgency of the matter, the Chairman of the Committee requested interested delegations to consult each other with a view to preparing a text for decision by the Committee.

17.30 With reference to the document presented by INTERTANKO, and having considered the recommendation of a small informal group, the Committee concluded that:

- .1 it is possible for the flag State to limit the validity of the IOPP Certificate so that its expiry date can coincide with the cut-off day that is required by the Convention;
- .2 the flag State might not limit the validity of the IOPP Certificate so that its expiry date can coincide with the cut-off day that is required by the Convention, because after the cut-off day the Certificate is not valid as the requirements of the Convention have been met and any ship that has a cut-off day will not be allowed to sail even if its IOPP Certificate is valid; and
- .3 this is an issue to be left to the flag States to resolve in any way they deem fit and IMO is not required to decide on the matter.

17.31 During discussion of the matter, the Committee noted the following statement by Saudi Arabia:

“The current table of phase-outs is based on the anniversary date of a vessel’s delivery from the builders to its first owner. This table requires ships built between 1989 and 1996 to have the same phase-out year (2015). However, because the phase-out date is the anniversary date of the delivery, ships delivered early in the year will last longer than ships built later in the year regardless of their year of delivery. For instance, ships delivered in December 1990 will have 11 months more trading time than ships delivered in January 1996. This seems inherently unfair because it requires a ship that is five years newer to be scrapped eleven months earlier.

The MEPC should form a working group to consider the phase-out requirements for ships that comply with CAS requirements, as amended, which should be changed from the ship’s anniversary delivery date to December 31, 2015. With this change, the inherent unfairness we mentioned earlier will be removed.”

17.32 In this connection, the Committee recalled that, when MEPC 50 adopted the proposed amendments to regulation 13G by resolution MEPC.111(50), it was aware of the issues raised by Saudi Arabia.

CAS for Category 1 tankers

17.33 The Committee agreed that Category 1 tankers that were due to complete CAS prior to 5 April 2005 under the current regulation 13G of MARPOL Annex I need not complete CAS as such tankers would be phased out on 5 April 2005 upon entry into force of the revised regulation 13G adopted by resolution MEPC 111(50) on 5 April 2005. The Committee also agreed to issue a circular to this effect.

Interpretation of paragraph 5.3.2 of CAS

17.34 The Committee had before it three documents addressing this issue. One by IACS and two more by Japan and INTERTANKO providing comments on the initial proposal by IACS.

17.35 In document MEPC 51/17/6, IACS reported a perceived ambiguity in new paragraph 5.3.2 of CAS introduced by MEPC 50, in that its wording may be interpreted to impose the first CAS survey concurrent with:

- .1 the first scheduled intermediate or renewal survey after 5 April 2005; or
 - .2 the date when the ship reaches 15 years of age;
- whichever occurs later.

17.36 The Committee noted IACS's view that this had not been the intention of MEPC 50 when adopting this requirement, and that there were two possible solutions for the Committee to decide:

- Option A: the first CAS survey shall be carried out concurrent with the first intermediate or renewal survey,
 - after 5 April 2005; or
 - due prior to the date when ship reaches 15 years,whichever occurs later.
- Option B: the first CAS survey shall be carried out concurrent with the first intermediate or renewal survey,
 - after 5 April 2005, or
 - due after the date when ship reaches 15 years,whichever occurs later.

17.37 In document MEPC 51/17/8, Japan indicated its opposition to the inclusion of the words "prior to" as this would be a far-fetched interpretation of paragraph 5.3.2, and indicated its preference for option B in IACS' document, i.e.: the first intermediate or renewal survey due after the date when the ship reaches 15 years of age.

17.38 In introducing document MEPC 51/17/9, INTERTANKO pointed out that, in its opinion, the intention and meaning of paragraph 5.3.2 was that the first CAS survey shall be carried out concurrent with the first scheduled intermediate or renewal survey after 5 April 2005, or by the due date of the third renewal survey of the ship, whichever occurs later.

17.39 After careful consideration, the Committee agreed with the following Unified Interpretation of paragraph 5.3.2 of the CAS (see annex 12):

“The first CAS survey shall be carried out concurrent with the first intermediate or renewal survey:

- after 5 April 2005, or
- after the date when the ship reaches 15 years of age, whichever occurs later.”

18 FUTURE ROLE OF FORMAL SAFETY ASSESSMENT AND HUMAN ELEMENT ISSUES

18.1 The Committee recalled that MEPC 49 considered the report of the previous session of the Joint MSC/MEPC Working Group on the Human Element and took action as set out in section 17 of document MEPC 49/22, and noted the outcome of MSC 77 with regard to the Role of the Human Element and Formal Safety Assessment and that the Joint MSC/MEPC Working Group will meet again during MSC 78 (12 to 21 May 2004).

18.2 The Committee noted that Assembly, at its twenty-third session, adopted resolution A.947(23) on Human Element Vision, Principles and Goals for the Organization.

18.3 The Committee noted that document MEPC 51/18 provided a status report on the Joint MSC/MEPC Working Group on the Human Element and Formal Safety Assessment.

18.4 The Committee, recalling that the human element issue is a high priority item in the Organization’s agenda and long-term work plan that should be given full attention both from a maritime safety as well as a marine environment point of view, urged members to be represented also by experts on marine environment protection at the next meeting of the Joint MSC/MEPC Working Group.

18.5 The Committee was informed by the Chairman of the Correspondence Group on FSA (Japan) established by MSC 77 that the Correspondence Group had considered the item on the “need to develop a risk index relevant to the protection of the marine environment”, which was added by MEPC 49 (MEPC 49/22, paragraph 17.9).

18.6 The Committee was further informed that the Correspondence Group concluded in its report to MSC 78 (MSC 78/19) that such an index is necessary to pursue FSA for environmental protection and that further development of such an index should be undertaken.

18.7 The Committee agreed to consider the work of the Correspondence Group on FSA at MEPC 52 after MSC 78.

19 APPLICATION OF THE COMMITTEES’ GUIDELINES

19.1 The Committee recalled that, at MEPC 49, it had concurred with MSC 77 on the draft revised and rearranged Guidelines on the organization and method of work of the MSC and MEPC and its subsidiary bodies, and noted that the Secretariat had issued the revised Guidelines as MSC/Circ.1099-MEPC/Circ.405, which supersedes MSC/Circ.931-MEPC/Circ.366.

19.2 The Committee stressed the need and importance to observe the Guidelines in the conduct of its work.

20 WORK PROGRAMME OF THE COMMITTEE AND SUBSIDIARY BODIES

Work Programme and provisional agendas of relevant Sub-Committees

20.1 The Committee noted that the work programmes and provisional agendas of the BLG and FSI Sub-Committees and the work programmes of DSC, NAV, SLF and STW Sub-Committees, which contained items related to environment issues, were approved at MEPC 49 after MSC 77 and that the work programmes of agendas of these Sub-Committees would be further considered at MEPC 52 (October 2004) following MSC 78 (May 2004).

Revision of MEPC/Circ.235

20.2 The Committee noted the proposal by Japan (MEPC 51/20) on the revision of MEPC/Circ.235 (Guidelines for systems for handling oily waters in machinery spaces of ships) by incorporating the design concepts of the Integrated Bilge Water Treatment System (IBTS) and its inclusion as a new item in the work programme of the DE Sub-Committee and the provisional agenda for DE 48 in 2005.

20.3 The Committee also noted additional information provided by Japan on the design concept of the IBTS and its significant performance in oily bilge water reduction compared to non-IBTS machinery space (MEPC 51/INF.6).

20.4 In accordance with the provisions of paragraph 2.17 of the Guidelines on the organization and method of work of the MSC and MEPC and their subsidiary bodies (MSC/Circ.1099 – MEPC/Circ.405), the Chairman made a preliminary assessment on the proposed new work programme by Japan (MEPC 51/WP.1) and showed that the criteria for general acceptance provided in paragraph 2.9 of the Committees' Guidelines have been met.

20.5 Having considered the proposal by Japan, the Committee agreed to include a high-priority item on the revision of MEPC/Circ.235 in the work programme of the DE Sub-Committee and in the agenda of DE 48 with a target completion date of 2006.

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

20.6 The Chairman, in referring to document MEPC 51/11/4, informed the Committee that Assembly, by resolution A.943(23), approved the long-term work plan of the Organization for the period up to 2010 and requested the Council, MSC, LC, MEPC, TCC and FC to keep their respective lists of subjects under review in the light of developments in the work of the Organization.

20.7 The Chairman also informed the Committee that the Assembly noted with appreciation the information on the significant progress made by the MEPC in the long-term work plan of the Organization up to 2008 adopted by resolution A.907(22).

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

20.8 The Committee considered and approved the substantive items to be included in the agendas for MEPC 52, MEPC 53 and MEPC 54 (MEPC 51/WP.2) as amended, which are set out at annex 14.

Working/drafting groups at MEPC 52

20.9 The Committee agreed, in principle, to establish the following working/drafting groups at MEPC 52:

- .1 Working Group on Ballast Water Management;
- .2 Working Group on Ship Recycling;
- .3 Working Group on Air Pollution; and
- .4 Drafting Group on MARPOL Amendments.

Correspondence groups

20.10 The Committee agreed to establish an intersessional correspondence group on ship recycling.

20.11 The terms of reference of the correspondence group are set out at annex 4 (see paragraph 3.42.8).

Intersessional meetings

20.12 The Committee agreed to hold an intersessional meeting of the Ballast Water Working Group during the week before MEPC 52.

20.13 The Committee confirmed that the OPRC-OPRC/HNS Technical Group would meet during the week prior to MEPC 52 and report to the Committee on the outcome of its work.

20.14 With regard to the intersessional meetings of the ESPH Working Group, the Committee noted that, as there was no additional work for ESPH, it was agreed that ESPH needed only one intersessional meeting during 2004 (30 August to 3 September 2004). The Committee noted further that ESPH might need to hold one intersessional meeting in 2005 (see paragraph 11.50).

Dates for MEPC 52 and MEPC 53

20.15 The Committee noted that MEPC 52 would be held from 11 to 15 October 2004 and that MEPC 53 was tentatively scheduled from 18 to 22 July 2005.

21 ANY OTHER BUSINESS

Fast ferries as a qualitatively new key forcing factor of environmental processes

21.1 The Committee noted the information provided by Estonia in the document MEPC 51/21, which outlined some of the adverse environmental effects arising from the wake wash of fast ferries, particularly in areas with low natural hydrodynamic activity of so called low-energy coasts and suggesting it as a qualitative key forcing factor in certain environmental processes.

Application for consultative status

21.2 The Committee was informed that the twenty-second extraordinary session of the Council decided to refer the application of the International Bunker Industry Association (IBIA) to the Committee and the MSC for advice.

21.3 The Committee established 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.

21.4 Having considered the report of the informal group (MEPC 51/WP.8), the Committee agreed to recommend to the Council that consultative status could not be granted to IBIA at this time.

Requests from the news media to attend IMO meetings

21.5 The Committee noted that the annex to document MEPC 51/21/2 contained the draft Guidelines on the access of news media to the proceedings of institutionalized committees and of their subsidiary bodies submitted by Cyprus to the ninetieth session of the Council, which was considered by the Council and the Council agreed, in principle, to the desirability of the Organization to address the issue of the news media attendance at IMO meetings.

21.6 In the ensuing discussion, many delegations underscored the importance of transparency and openness of IMO meetings by allowing the attendance of news media. Unless there was a specific reason to the contrary, the proceedings of IMO Committees and their subsidiary bodies should be open to the news media and their reporting of such deliberations should be encouraged. One delegation stated that the guiding principle should be to let people know about the meetings of IMO.

21.7 The Secretary-General stated that he wished to comment on the issue after listening to the debate at the other Committees which the Council had invited to offer their comments before it decided on this delicate issue at its June session. He advised the Committee that his approach to the issue was rather liberal and derived from his acceptance of the role of the representatives of the specialized maritime press as one of partnership, that is, they were also servants of the same industry as ourselves in a common effort to enhance safety, security and environmental protection. It was therefore appropriate that they were treated as partners. If such an understanding could be reached between IMO and the maritime press representatives, a system could be established towards building the necessary climate of trust and co-operation, which would assist us all to move forward in the achievement of our objectives.

21.8 The Chairman drew to the attention of the Committee that, under the present Rules of Procedure, the meetings of the Committee shall be held in private unless the Committee decides otherwise.

21.9 The Committee agreed on the need for transparency and openness for IMO meetings. However, some guidelines were necessary to maintain the right balance between publicity for the work of the Organization whilst, at the same time, maintaining an efficient and effective conduct of IMO meetings. The Council should be advised accordingly.

Australian Marine Environment Protection Association (AUSMEPA)

21.10 The Committee noted the information provided by Australia in the document MEPC 51/INF.8 concerning the Australian Marine Environment Protection Association (AUSMEPA), which was a partnership of concerned government and maritime industry representatives in Australia to increase awareness for the protection of the marine environment.

The representative of HELMEPA provided information regarding HELMEPA activities. Answering a question from the representative of HELMEPA, the Chairman indicated that the subject of co-operation amongst Marine Environment Protection Associations (MEPAs) could be discussed at this stage under the agenda item "Any other business".

Urgent matters emanating from the second session of the Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Member State Audit Scheme (JWGMSA)

21.11 The Committee recalled that the Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Member State Audit Scheme (JWGMSA) was first convened in June 2003. The Council, at its ninetieth session, established the Council Correspondence Group on the Voluntary IMO Member State Audit Scheme to continue the work on the development of the Voluntary IMO Member State Audit Scheme, under the co-ordination of Denmark.

21.12 The Committee noted that the second session of the JWGMSA was held from 22 to 26 March 2004 under the Chairmanship of Mr. R. Kilvington (New Zealand) to consider the work of the Correspondence Group. Urgent matters for consideration by the Committee were contained in the document MEPC 51/WP.12.

21.13 The Committee noted that the Working Group considered the draft [Member State] Audit Standard and the outcome of FSI 12 on the draft Code for the implementation of [mandatory] IMO instruments (JWGMSA 2/WP.3 and FSI 12/WP.3).

21.14 The Committee noted further that the Working Group acknowledged the progress made on the draft Code, and agreed, in principle, that the draft Code should be the basis of the Audit Standard. Further work was, however, considered necessary to ensure that the draft Code would fully meet the requirements of an Audit Standard. To that extent, it should be further evaluated against the draft [Member State] Audit Standard set out in annex 1, Part III of document JWGMSA 2/1 (Report of the Council Correspondence Group on the Voluntary IMO Member State Audit Scheme). This should also extend to the consideration of an audit checklist (annex 4 of the JWGMSA 2/1).

21.15 The Committee also noted that the Working Group recommended that MEPC 51 and MSC 78 should give consideration to amending the terms of reference of the FSI Sub-Committee Correspondence Group for the further development of the draft Code for the implementation of [mandatory] IMO instruments, bearing in mind the role of the draft Code in respect of the audit scheme, and adjust the draft Code, as appropriate, taking into account the draft [Member State] Audit Standard set out in JWGMSA 2/1, Annex 1, Part III. TC 54 should be informed of this request.

21.16 The Committee endorsed the inclusion, in the Terms of Reference of the FSI Sub-Committee Correspondence Group on the further development of the draft Code for the implementation of [mandatory] IMO instruments, the need for the draft Code to be developed in such a manner that it would serve as the Audit Standard, taking into account the draft [Member State] Audit Standard set out in JWGMSA 2/1, Annex 1, Part III.

Expression of appreciation

21.17 The Committee expressed deep appreciation to Mr. A. Chrysostomou (Chairman of the Committee), to Mr. G. Fernández (Vice-Chairman of the Committee and Chairman of the Informal Group on Consultative Status), to Mr. M. Hunter (Chairman of the Working Group on Ballast Water), to Capt. M. Ahmed (Chairman of the Working Group on Ship Recycling), to Mr. B. Okamura (Chairman of the Working Group on Air Pollution), to Mr. Z. Alam (Chairman of the Drafting Group on Amendments to MARPOL Annexes IV and V), to Mr. P. Nelson (Chairman of the Informal Technical Group on PSSAs) and to Mrs. M. Tiemens-Idzinga (Chairman of the Drafting Group on the IBC Code) for their outstanding contribution to the success of MEPC 51.

21.18 The Committee, noting that this was the last session that Mr. J.V. Crayford, Senior Technical Officer of the Organization's Marine Environment Division, would attend, also expressed deep appreciation for his commendable contribution to the work of the Committee over many years, especially for his outstanding work relating to the revision of MARPOL Annex II and the IBC Code.

ANNEX 1

PROGRAMME FOR DEVELOPMENT OF THE GUIDELINES FOR UNIFORM IMPLEMENTATION OF THE BALLAST WATER CONVENTION				
SUBJECT	REF.	STATUS	TYPE OF ACTION	TIMELINE
Guidelines for approval of Ballast Water Management Systems (G8) (Including associated sampling and analysis. On board sampling and analysis to be consistent with G2)	Reg. D-3.1	Informal group co-ordinated by the Netherlands Draft text: BWM/CONF/INF.5	Intersessional work with the Netherlands as focal point to finalize text to be submitted to MEPC 53. BWWG to complete guidelines. Committee to approve guidelines in principle. Comments from DE 48 invited. Committee to adopt guidelines for approval of ballast water management systems following consideration of DE comments.	April-July 2004 October 2004 October 2004 February 2005 July 2005
Procedure for approval of active substances (G9)	Reg. D-3.2	Informal group co-ordinated by the Netherlands, Germany and Japan	Intersessional work with the Netherlands as focal point to finalize text to be submitted to MEPC 53. BWWG to complete guidelines. Committee to approve guidelines in principle. Committee to adopt guidelines for approval of active substances.	April-July 2004 October 2004 October 2004 July 2005
Guidelines for sampling of ballast water and analysis for Port State Control (G2)	Art. 9	Informal group co-ordinated by Germany No draft text available	Intersessional work with Germany as focal point to finalize text to be submitted to MEPC 53. BWWG to review the draft guidelines. BWWG to consider final draft guidelines. Committee to adopt guidelines for sampling of ballast water.	April 2004-April 2005 July 2005 March 2006 March 2006
Ballast Water Management Plan Guidelines (G4)	Reg. B-1	Informal group co-ordinated by UK Draft text: BWM/CONF/INF.4 Annex, Parts 1 & 2	Intersessional work with UK as focal point to finalize text to be submitted to MEPC 52. BWWG to review the draft guidelines. BWWG to consider final draft guidelines. Committee to adopt guidelines on ballast water management plan.	April-July 2004 October 2004 July 2005 July 2005

PROGRAMME FOR DEVELOPMENT OF THE GUIDELINES FOR UNIFORM IMPLEMENTATION OF THE BALLAST WATER CONVENTION				
SUBJECT	REF.	STATUS	TYPE OF ACTION	TIMELINE
Guidelines for Ballast Water Exchange (Operational) – (G6)	Reg. B-4	Informal group co-ordinated by UK. Draft text: BWM/CONF/INF.4, Annex Part 5	Intersessional work with UK as focal point to finalize text for submission to MEPC 52. BWWG to review draft guidelines. Committee to adopt guidelines for ballast water exchange (operational).	April 2004-April 2005 October 2004 July 2005
Guidelines for Ballast Water Exchange Design and Construction Standards (G11)	Reg. B-5.2	Informal group co-ordinated by UK Draft text: BWM/CONF/INF.4 Annex, Part 4	Intersessional work with UK as focal point to finalize text to be submitted to MEPC 52 BWWG to review draft guidelines. Input from DE 48 invited. BWWG to consider final draft guidelines Committee to adopt guidelines on ballast water exchange.	April-July 2004 October 2004 February 2005 July 2005 July 2005
Guidelines for sediments reception facilities (G1)	Art. 5	Informal group co-ordinated by UK to develop the guidelines considering general comments included in paragraph 3.5 of the report.	Intersessional work with UK as focal point to finalize text to be submitted to MEPC 52. BWWG to review draft guidelines. Input from FSI 13 invited. BWWG to consider final draft guidelines Committee to adopt guidelines for sediments reception facilities.	April-July 2004 October 2004 March 2005 July 2005 July 2005
Guidelines for sediment control on ships (G12)	Reg. B-5	Informal group co-ordinated by UK. Draft text: BWM/CONF/INF.4, Annex, Part 3	Intersessional work with UK as focal point to finalize text for submission to MEPC 52. BWWG to review draft guidelines. Input from DE 48 invited. BWWG to consider final draft guidelines. Committee to adopt guidelines for sediment control on ships.	April-July 2004 October 2004 February 2005 July 2005 July 2005

PROGRAMME FOR DEVELOPMENT OF THE GUIDELINES FOR UNIFORM IMPLEMENTATION OF THE BALLAST WATER CONVENTION				
SUBJECT	REF.	STATUS	TYPE OF ACTION	TIMELINE
Guidelines for risk assessment (G7)	Reg. A-4	Informal group co-ordinated by Norway. Draft text: BWM/CONF/16 Annex 2 Sections 1 & 2 plus Appendixes	Intersessional work with Norway as focal point to finalize text to be submitted to MEPC 53. BWWG to review draft guidelines. Committee to adopt guidelines for risk assessment.	April 2004-April 2005 October 2004 July 2005
Guidelines for additional measures including emergency situations (G13)	Reg. C-1, C-2	Informal group co-ordinated by Norway. Draft text: BWM/CONF/16, Annex 2 Section 3	Intersessional work with Norway as focal point to finalize text to be submitted to MEPC 53. BWWG to review draft guidelines. Input from FSI 14 invited. BWWG to consider final draft guidelines Committee to adopt guidelines for additional measures including emergency situations.	April 2004-April 2005 July 2005 February 2006 October 2006 October 2006
Procedure for approval of prototype ballast water treatment technologies (G10) (Building upon the guidelines for approval of Ballast Water Management Systems)	Reg. D-4	Informal group co-ordinated by Norway.	Intersessional work with Norway as focal point to finalize text to be submitted MEPC 53. Input from DE 48 invited. Committee to adopt guidelines for prototype ballast water treatment technologies.	April 2004-April 2005 February 2005 July 2005
Guidelines for ballast water management equivalent compliance (G3)	Reg. A-5	Informal group co-ordinated by ISAF. Draft text: MEPC51/IMRP No. 2	Intersessional work with ISAF as focal point to finalize text to be submitted to MEPC 52. BWWG to consider final draft guidelines Committee to adopt guidelines for ballast water management equivalent compliance.	April 2004-July 2004 October 2004 July 2005

PROGRAMME FOR DEVELOPMENT OF THE GUIDELINES FOR UNIFORM IMPLEMENTATION OF THE BALLAST WATER CONVENTION				
SUBJECT	REF.	STATUS	TYPE OF ACTION	TIMELINE
Guidelines for ballast water reception facilities (G5)	Reg. B-3	Informal group co-ordinated by UK Draft text: BWM/CONF/INF.4, Annex Part 6	Intersessional work with UK as focal point to finalize text to be submitted to MEPC 53. BWWG to review draft guidelines. Input from FSI 13 invited. BWWG to consider final draft guidelines Committee to adopt guidelines for ballast water reception facilities.	July 2004-July 2005 October 2004 March 2005 July 2005 July 2005
Review of ballast water management technologies set by Regulation D-5 of the Ballast Water Management Convention taking into account Conference resolutions 2 and 4	Reg. D-5 Conf.res.2 and 4	Recommendations for the conduct of the review developed with a view to being confirmed by MEPC 52	Members invited to submit comments on the recommendations developed by the Working Group at MEPC 51. Committee to confirm the recommendations. Members invited to submit relevant information according to the recommendations to facilitate the review as required in Reg. D-5 at MEPC 53. Establish a working group during MEPC 53 to conduct the review as required in Reg. D-5.	April-July 2004 October 2004 October 2004-April 2005 July 2005

ANNEX 2**RECOMMENDATIONS FOR THE CONDUCT OF THE REVIEW OF THE STATUS OF
THE BALLAST WATER MANAGEMENT TECHNOLOGIES
SET BY REGULATION D-5 OF THE BALLAST WATER CONVENTION
TAKING INTO ACCOUNT CONFERENCE RESOLUTIONS 2 AND 4****1 OBJECTIVES OF THE REVIEW**

- .1 To determine whether appropriate technologies are available to achieve the standard in regulation D-2;
- .2 to assess whether this technology meets required criteria related to safety, environmental acceptability, practicability, cost effectiveness and biological effectiveness;
- .3 to assess the socio-economic effects specifically in relation to the developmental needs of developing countries, particularly small island developing States; and
- .4 to verify that the tools used to evaluate technology continue to be appropriate.

2 REVIEW PROCESS

- .1 MEPC 52 to consider and confirm the procedures for the conduct of the review process.
- .2 At MEPC 52, Member States and Observers are invited to submit information to MEPC 53 related to the review. Relevant information could include:
 - the application of the guidelines (type approval/active substances), and/or
 - the application of the guidelines (prototype technologies);
 - information provided by the vendors through the Member State; and
 - other testing experience and research programmes.
- .3 Submissions to MEPC 53 should include an evaluation of any proposed technology against the review criteria listed below. The evaluation may be based upon appropriate decision making tools as may be identified in any submission.
- .4 MEPC 53 should form a Review Group (working group) to conduct the review. Members States and Observers should be requested to bring people with appropriate expertise to participate in the review process.
- .5 The Review Group should recommend appropriate action for consideration by the Committee.

3 REVIEW CRITERIA

3.1 Are appropriate technologies available?

3.1.1 Can technologies be implemented on board ships constructed in or after 2009?

- What technologies are available at present?
- What equipment is available at present?
- What are the technological trends?
- Are alternative technologies approved (regulation B.3.7)?
- How many prototype approval procedures have been approved (regulation D.4)?
- Have prototype systems been installed?
- Can it be reasonably anticipated that suitable equipment will be available in sufficient quantity to fulfil the 2009 and forward demand?
- Have technologies been tested on ships?

3.1.2 For which ship [types], ballast capacities and flow rates is suitable equipment available [or soon to be developed]?

3.1.3 Will sufficient manufacturing and ship yard capacity be available at the specified dates?

- for construction and installation on new ships; and
- for retrofitting to existing ships

3.1.4 Are the necessary secondary support systems and infrastructure considered adequate for each of the reviewed available technologies?

3.1.5 What is the projected new construction demand for 2009 and later years, by ballast capacity and flow rate?

3.2 Does this technology meet required criteria?

3.2.1 Safety considerations relating to ship, crew, port personnel and general public health:

- Are there any potential safety hazards of the technology?
- Can these be addressed satisfactorily by any mitigating measures?
- What are the possible unwanted human health effects of the technology?
- Have these effects been sufficiently studied and evaluated?

3.2.2 Environmental acceptability:

- What are the possible unwanted environmental effects of the technology?
- Have these effects been sufficiently studied and evaluated?

3.2.3 Practicability:

- Has the available technology been assessed as suitable for onboard application:
 - for new ships?
 - for existing ships?

- What are the practical operational implications and limitations of the technology?
- What evidence is there for the durability and practicability of this technology (experience gained)?
- What is the durability of the technology?

3.2.4 Cost effectiveness

- What is the operating cost as a function of the amount of ballast water treated in cubic metres?
- What is the total installation cost as a function of ship's ballast water capacity and/or flow rate:
 - for new ships?
 - for existing ships?

3.2.5 Biological effectiveness including:

- to what biological effectiveness and under what circumstances (e.g. uptake water quality) does the technology perform in relation to Regulation D-2?
- how has the equipment been evaluated?
 - on shore in laboratory, a manufacturer facility or a pilot plant;
 - on board a ship.

4 ADDITIONAL CRITERIA

4.1 Availability of evaluation tools

4.1.1 Are the necessary guidelines and procedures available?

- Have they been applied?
- What is the quality of the procedures?
- Is the analysis methodology to determine the effectiveness sufficiently developed?

4.2 What are the socio-economic effects specifically in relation to the developmental needs of developing countries, particularly small island developing States?

4.2.1 What are the potential adverse impacts on the infrastructure, resources and ecosystems of small island developing States if the dates are extended or the standards modified?

- What would be the impact on the major industries of small island developing States (e.g. the tourism industry) which depend on the preservation of coastal resources?
- What would be the implications for the environmental resources of small island developing States.

ANNEX 3

**TERMS OF REFERENCE FOR THE
JOINT ILO/IMO/BASEL CONVENTION WORKING GROUP**

The Joint ILO/IMO/Basel Convention Working Group should:

- .1 consider the respective work programmes of the pertinent bodies of ILO, IMO and the Conference of Parties to the Basel Convention on the issue of ship scrapping in order to avoid duplication of work and overlapping of roles, responsibilities and competencies between the three Organizations, and identify further needs;
- .2 facilitate the exchange of views between the three Organizations in order to ensure a co-ordinated approach to all the relevant aspects of ship scrapping;
- .3 undertake a comprehensive initial examination of the:
 - .1 *Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships*, adopted by the Sixth Meeting of the Conference of Parties to the Basel Convention;
 - .2 *IMO Guidelines on Ship Recycling*, adopted by resolution A.962(23); and
 - .3 *Safety and Health in Shipbreaking: Guidelines for Asian countries and Turkey*, developed by ILO,with a view to identifying any possible gap, overlap, or ambiguities;
- .4 consider mechanisms to jointly promote the implementation of the relevant Guidelines on Ship Scrapping;
- .5 monitor progress of any jointly organized technical co-operation activities; and
- .6 submit its reports, recommendations and any other relevant information on the above or other pertinent matters to bodies of IMO, ILO and the Basel Convention, as appropriate.

ANNEX 4**TERMS OF REFERENCE FOR THE CORRESPONDENCE GROUP
ON SHIP RECYCLING**

The Correspondence Group is instructed to:

- .1 prepare a comprehensive analysis of the possible and suitable mechanisms for the promotion of the implementation of all the key action items provided for in the Guidelines, using annex 2 of MEPC 51/WP.5 as a basis, and where suitable mechanisms are identified to begin to develop them;
- .2 develop further the basic contents of the ship recycling plan, using annex 3 of MEPC 51/WP.5 as a starting point, and identify the necessary accompanying technical data and advice to assist in the preparation of the plan;
- .3 review and consider the need for any further development of Appendices 1 to 3 of the Guidelines, based on any information provided with regard to the practical application of the Appendices for the identification of potentially hazardous materials on board ships and the preparation of the relevant inventory;
- .4 consider the approach for, and where appropriate to begin the development of, a set of criteria for ships to be declared “ready for recycling” in order to ensure their uniform and consistent application; and
- .5 submit a report to MEPC 52.

ANNEX 5

RESOLUTION MEPC.115(51)

Adopted on 1 April 2004

**AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING
TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, 1973****(Revised Annex IV of MARPOL 73/78)**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee (the Committee) conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confer upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

HAVING CONSIDERED the revised Annex IV of MARPOL 73/78,

1. ADOPTS, in accordance with article 16(2)(d) of the 1973 Convention, the revised Annex IV of MARPOL 73/78, the text of which is set out at annex to the present resolution;
2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the revised Annex IV shall be deemed to have been accepted on 1 February 2005, unless, prior to that date, not less than one third of the Parties to MARPOL 73/78 or by the Parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified to the Organization their objections to the amendments;
3. INVITES Parties to MARPOL 73/78 to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the said amendments shall enter into force on 1 August 2005 upon their acceptance in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in the annex;
5. REQUESTS FURTHER the Secretary-General to transmit copies of this resolution and its annex to Members of the Organization which are not Parties to MARPOL 73/78.

ANNEX

REVISED ANNEX IV OF MARPOL 73/78

REGULATIONS FOR THE PREVENTION OF POLLUTION BY
SEWAGE FROM SHIPS

Chapter 1 General

Regulation 1

Definitions

For the purposes of this Annex:

- 1 "New ship" means a ship:
 - .1 for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, on or after the date of entry into force of this Annex; or
 - .2 the delivery of which is three years or more after the date of entry into force of this Annex.
- 2 "Existing ship" means a ship which is not a new ship.
- 3 "Sewage" means:
 - .1 drainage and other wastes from any form of toilets and urinals;
 - .2 drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;
 - .3 drainage from spaces containing living animals; or
 - .4 other waste waters when mixed with the drainages defined above.
- 4 "Holding tank" means a tank used for the collection and storage of sewage.
- 5 "Nearest Land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in:

latitude 11°00' S, longitude 142°08' E
to a point in latitude 10°35' S, longitude 141°55' E
thence to a point latitude 10°00' S, longitude 142°00' E
thence to a point latitude 9°10' S, longitude 143°52' E

thence to a point latitude 9°00' S, longitude 144°30' E
thence to a point latitude 10°41' S, longitude 145°00' E
thence to a point latitude 13°00' S, longitude 145°00' E
thence to a point latitude 15°00' S, longitude 146°00' E
thence to a point latitude 17°30' S, longitude 147°00' E
thence to a point latitude 21°00' S, longitude 152°55' E
thence to a point latitude 24°30' S, longitude 154°00' E
thence to a point on the coast of Australia
in latitude 24°42' S, longitude 153°15' E

6 "International voyage" means a voyage from a country to which the present Convention applies to a port outside such country, or conversely.

7 "Person" means member of the crew and passengers.

8 "Anniversary date" means the day and the month of each year which will correspond to the date of expiry of the International Sewage Pollution Prevention Certificate.

Regulation 2

Application

1 The provisions of this Annex shall apply to the following ships engaged in international voyages:

- .1 new ships of 400 gross tonnage and above; and
- .2 new ships of less than 400 gross tonnage which are certified to carry more than 15 persons; and
- .3 existing ships of 400 gross tonnage and above, five years after the date of entry into force of this Annex; and
- .4 existing ships of less than 400 gross tonnage which are certified to carry more than 15 persons, five years after the date of entry into force of this Annex.

2 The Administration shall ensure that existing ships, according to subparagraphs 1.3 and 1.4 of this regulation, the keels of which are laid or which are of a similar stage of construction before 2 October 1983 shall be equipped, as far as practicable, to discharge sewage in accordance with the requirements of regulation 11 of the Annex.

Regulation 3

Exceptions

1 Regulation 11 of this Annex shall not apply to:

- .1 the discharge of sewage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

- .2 the discharge of sewage resulting from damage to a ship or its equipment if all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing or minimizing the discharge.

Chapter 2 Surveys and certification

Regulation 4

Surveys

1 Every ship which, in accordance with regulation 2, is required to comply with the provisions of this Annex shall be subject to the surveys specified below:

- .1 An initial survey before the ship is put in service or before the Certificate required under regulation 5 of this Annex is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Annex.
- .2 A renewal survey at intervals specified by the Administration, but not exceeding five years, except where regulation 8.2, 8.5, 8.6 or 8.7 of this Annex is applicable. The renewal survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with applicable requirements of this Annex.
- .3 An additional survey either general or partial, according to the circumstances, shall be made after a repair resulting from investigations prescribed in paragraph 4 of this regulation, or whenever any important repairs or renewals are made. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory and that the ship complies in all respects with the requirements of this Annex.

2 The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph 1 of this regulation in order to ensure that the applicable provisions of this Annex are complied with.

3 Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

4 An Administration nominating surveyors or recognizing organizations to conduct surveys as set forth in paragraph 3 of this regulation shall, as a minimum, empower any nominated surveyor or recognized organization to:

- .1 require repairs to a ship; and
- .2 carry out surveys if requested by the appropriate authorities of a Port State.

The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations, for circulation to Parties to the present Convention for the information of their officers.

5 When a nominated surveyor or recognized organization determines that the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such surveyor or organization shall immediately ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken the Certificate should be withdrawn and the Administration shall be notified immediately and if the ship is in a port of another Party, the appropriate authorities of the Port State shall also be notified immediately. When an officer of the Administration, a nominated surveyor or recognized organization has notified the appropriate authorities of the Port State, the Government of the Port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this regulation. When applicable, the Government of the Port State concerned shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available without presenting an unreasonable threat of harm to the marine environment.

6 In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.

7 The condition of the ship and its equipment shall be maintained to conform with the provisions of the present Convention to ensure that the ship in all respects will remain fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

8 After any survey of the ship under paragraph 1 of this regulation has been completed, no change shall be made in the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the sanction of the Administration, except the direct replacement of such equipment and fittings.

9 Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Annex the master or owner of the ship shall report at the earliest opportunity to the Administration, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph 1 of this regulation is necessary. If the ship is in a port of another Party, the master or owner shall also report immediately to the appropriate authorities of the Port State and the nominated surveyor or recognized organization shall ascertain that such report has been made.

Regulation 5

Issue or Endorsement of Certificate

1 An international Sewage Pollution Prevention Certificate shall be issued, after an initial or renewal survey in accordance with the provisions of regulation 4 of this Annex to any ship which is engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention. In the case of existing ships this requirement shall apply five years after the date of entry into force of this Annex.

2 Such Certificate shall be issued or endorsed either by the Administration or by any persons or organization* duly authorized by it. In every case the Administration assumes full responsibility for the Certificate.

Regulation 6

Issue or Endorsement of a Certificate by another Government

1 The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Sewage Pollution Prevention Certificate to the ship, and where appropriate, endorse or authorize the endorsement of that Certificate on the ship in accordance with this Annex.

2 A copy of the Certificate and a copy of the Survey report shall be transmitted as soon as possible to the Administration requesting the survey.

3 A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under regulation 5 of this Annex.

4 No International Sewage Pollution Prevention Certificate shall be issued to a ship which is entitled to fly the flag of a State, which is not a Party.

Regulation 7

Form of Certificate

The International Sewage Pollution Prevention Certificate shall be drawn up in the form corresponding to the model given in the Appendix to this Annex and shall be at least in English, French or Spanish. If an official language of the issuing country is also used, this shall prevail in case of a dispute or discrepancy.

* Refer to the Guidelines for the authorization of organizations acting on behalf of the Administrations, adopted by the Organization by resolution A.739(18), and the Specifications on the survey and certification functions of recognized organizations acting on behalf of the Administration, adopted by the Organization by resolution A.789(19).

Regulation 8

Duration and validity of Certificate

- 1 An International Sewage Pollution Prevention Certificate shall be issued for a period specified by the Administration which shall not exceed five years.
- 2
 - .1 Notwithstanding the requirements of paragraph 1 of this regulation, when the renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.
 - .2 When the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.
 - .3 When the renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.
- 3 If a Certificate is issued for a period of less than five years, the Administration may extend the validity of the Certificate beyond the expiry date to the maximum period specified in paragraph 1 of this regulation.
- 4 If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the person or organization authorized by the Administration may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.
- 5 If a ship at the time when a Certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so. No Certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new Certificate. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.
- 6 A Certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

7 In special circumstances, as determined by the Administration, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by paragraph 2.2, 5 or 6 of this regulation. In these special circumstances, the new Certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.

8 A Certificate issued under regulation 5 or 6 of this Annex shall cease to be valid in either of the following cases:

- .1 if the relevant surveys are not completed within the periods specified under regulation 4.1 of this Annex; or
- .2 upon transfer of the ship to the flag of another State. A new Certificate shall only be issued when the Government issuing the new Certificate is fully satisfied that the ship is in compliance with the requirements of regulations 4.7 and 4.8 of this Annex. In the case of a transfer between Parties, if requested within 3 months after the transfer has taken place, the Government of the Party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration copies of the Certificate carried by the ship before the transfer and, if available, copies of the relevant survey reports.

Chapter 3 Equipment and control of discharge

Regulation 9

Sewage Systems

1 Every ship which, in accordance with regulation 2, is required to comply with the provisions of this Annex shall be equipped with one of the following sewage systems:

- .1 a sewage treatment plant which shall be of a type approved by the Administration, taking into account the standards and test methods developed by the Organization*, or
- .2 a sewage comminuting and disinfecting system approved by the Administration. Such system shall be fitted with facilities to the satisfaction of the Administration, for the temporary storage of sewage when the ship is less than 3 nautical miles from the nearest land, or
- .3 a holding tank of the capacity to the satisfaction of the Administration for the retention of all sewage, having regard to the operation of the ship, the number of persons on board and other relevant factors. The holding tank shall be constructed to the satisfaction of the Administration and shall have a means to indicate visually the amount of its contents.

* Refer to the Recommendation on International effluent standards and guidelines for performance tests for sewage treatment plants adopted by the Organization by resolution MEPC.2(VI). For existing ships national specifications are acceptable.

Regulation 10

Standard Discharge Connections

1 To enable pipes of reception facilities to be connected with the ship's discharge pipeline, both lines shall be fitted with a standard discharge connection in accordance with the following table:

STANDARD DIMENSIONS OF FLANGES FOR DISCHARGE CONNECTIONS

Description	Dimension
Outside diameter	210 mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	170 mm
Slots in flange	4 holes 18 mm in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 18 mm
Flange thickness	16 mm
Bolts and nuts: quantity and diameter	4, each of 16 mm in diameter and of suitable length
The flange is designed to accept pipes up to a maximum internal diameter of 100 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a suitable gasket, shall be suitable for a service pressure of 600 kPa.	

For ships having a moulded depth of 5 metres and less, the inner diameter of the discharge connection may be 38 millimetres.

2 For ships in dedicated trades, i.e. passenger ferries, alternatively the ship's discharge pipeline may be fitted with a discharge connection which can be accepted by the Administration, such as quick connection couplings.

Regulation 11

Discharge of Sewage

1 Subject to the provisions of regulation 3 of this Annex, the discharge of sewage into the sea is prohibited, except when:

- .1 the ship is discharging comminuted and disinfected sewage using a system approved by the Administration in accordance with regulation 9.1.2 of this Annex at a distance of more than 3 nautical miles from the nearest land, or sewage which is not comminuted or disinfected at a distance of more than 12 nautical miles from the nearest land, provided that in any case, the sewage that has been stored in holding tanks shall not be discharged instantaneously but at a moderate rate when the ship is en route and proceeding at not less than 4 knots; the rate of discharge shall be approved by the Administration based upon standards developed by the Organization; or

- .2 the ship has in operation an approved sewage treatment plant which has been certified by the Administration to meet the operational requirements referred to in regulation 9.1.1 of this Annex, and
 - .1 the test results of the plant are laid down in the ship's International Sewage Pollution Prevention Certificate; and
 - .2 additionally, the effluent shall not produce visible floating solids nor cause discoloration of the surrounding water.

2 The provisions of paragraph 1 shall not apply to ships operating in the waters under the jurisdiction of a State and visiting ships from other States while they are in these waters and are discharging sewage in accordance with such less stringent requirements as may be imposed by such State.

3 When the sewage is mixed with wastes or waste water covered by other Annexes of MARPOL 73/78, the requirements of those Annexes shall be complied with in addition to the requirements of this Annex.

Chapter 4 Reception facilities

Regulation 12

Reception facilities

1 The Government of each Party to the Convention, which requires ships operating in waters under its jurisdiction and visiting ships while in its waters to comply with the requirements of regulation 11.1, undertakes to ensure the provision of facilities at ports and terminals of the reception of sewage, without causing delay to ships, adequate to meet the needs of the ships using them.

2 The Government of each Party shall notify the Organization for transmission to the Contracting Governments concerned of all cases where the facilities provided under this regulation are alleged to be inadequate.

Appendix

FORM OF CERTIFICATE

International Sewage Pollution Prevention Certificate

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as amended by resolution MEPC...(...), (hereinafter referred to as "the Convention") under the authority of the Government of:

.....
(full designation of the country)

by
(full designation of the competent person or organization authorized
under the provisions of the Convention)

Particulars of ship¹

Name of ship

Distinctive number or letters

Port of registry

Gross tonnage

Number of persons which the ship is certified to carry

IMO Number²

New/existing ship*

Date on which keel was laid or ship was at a similar stage of construction or, where applicable, date on which work for a conversion or an alteration or modification of a major character was commenced.....

¹ Alternatively, the particulars of the ship may be placed horizontally in boxes.

² Refer to the IMO Ship Identification Number Scheme adopted by the Organization by resolution A.600(15).

* Delete as appropriate

THIS IS TO CERTIFY

- 1 That the ship is equipped with a sewage treatment plant/comminuter/holding tank* and a discharge pipeline in compliance with regulations 9 and 10 of Annex IV of the Convention as follows:
- *1.1 Description of the sewage treatment plant:
Type of sewage treatment plant
Name of manufacturer
The sewage treatment plant is certified by the Administration to meet the effluent standards as provided for in resolution MEPC.2(VI)
 - *1.2 Description of comminuter:
Type of comminuter
Name of manufacturer
Standard of sewage after disinfection
 - *1.3 Description of holding tank:
Total capacity of the holding tankm³
Location
 - 1.4 A pipeline for the discharge of sewage to a reception facility, fitted with a standard shore connection
- 2 That the ship has been surveyed in accordance with regulation 4 of Annex IV of the Convention.
- 3 That the survey shows that the structure, equipment, systems, fittings, arrangements and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex IV of the Convention.

This Certificate is valid until³
subject to surveys in accordance with regulation 4 of Annex IV of the Convention.

Completion date of survey on which this Certificate is based:dd/mm/yyyy
Issued at.....
(Place of issue of Certificate)

.....
(Date of issue)

.....
(Signature of authorized
official issuing the Certificate)

(Seal or stamp of the authority, as appropriate)

³ Insert the date of expiry as specified by the Administration in accordance with regulation 8.1 of Annex IV of the Convention. The day and the month of this date correspond to the anniversary date as defined in regulation 1.8 of Annex IV of the Convention.

* Delete as appropriate

Endorsement to extend the Certificate if valid for less than 5 years where regulation 8.3. applies

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 8.3 of Annex IV of the Convention, be accepted as valid until

Signed:
(signature of authorized official)

Place:

Date:

(Seal or stamp of the authority, as appropriate)

Endorsement where the renewal survey has been completed and regulation 8.4 applies

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 8.4 of Annex IV of the Convention, be accepted as valid until

Signed:
(signature of authorized official)

Place:

Date:

(Seal or stamp of the authority, as appropriate)

Endorsement to extend the validity of the Certificate until reaching the port of survey or for a period of grace where regulation 8.5 or 8.6 applies

This certificate shall, in accordance with regulation 8.5 or 8.6* of Annex IV of the Convention, be accepted as valid until

Signed:
(signature of authorized official)

Place:

Date:

(Seal or stamp of the authority, as appropriate)

* Delete as appropriate

ANNEX 6

RESOLUTION MEPC.116(51)

Adopted on 1 April 2004

**AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING
TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, 1973****(Amendments to the Appendix to Annex V of MARPOL 73/78)**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee (the Committee) conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confer upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

HAVING CONSIDERED the proposed amendments to the Appendix to Annex V of MARPOL 73/78,

1. ADOPTS, in accordance with article 16(2)(d) of the 1973 Convention, the amendments to the Appendix to Annex V of MARPOL 73/78, the text of which is set out at annex to the present resolution;
2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 1 February 2005, unless, prior to that date, not less than one third of the Parties to MARPOL 73/78 or by the Parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have notified to the Organization their objections to the amendments;
3. INVITES Parties to MARPOL 73/78 to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the said amendments shall enter into force on 1 August 2005 upon their acceptance in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in the annex;
5. REQUESTS FURTHER the Secretary-General to transmit copies of this resolution and its annex to Members of the Organization which are not Parties to MARPOL 73/78.

ANNEX

**AMENDMENTS TO THE APPENDIX TO ANNEX V
OF MARPOL 73/78**

1 Garbage category “4” in Section 3 of the Form of Garbage Record Book is amended as follows:

“4 Cargo residues, paper products, rags, glass, metal, bottles, crockery, etc.”

2 Paragraph 4.1(a)(ii) of Section 4 in the Form of Garbage Record Book is amended as follows:

“(ii) Position of the ship (latitude and longitude). Note for cargo residue discharges, include discharge start and stop positions.”

3 The **NOTE** included in the Record of Garbage Discharges is amended by adding the following sentence:

“DISCHARGES OF CARGO RESIDUES REQUIRE START AND STOP POSITIONS TO BE RECORDED.”

ANNEX 7

Work Programmes for the OPRC Convention and the OPRC-HNS Protocol

Year - starting 2003	2004	2004	2005	2006	2006	2007
MEPC Session	MEPC 51	MEPC 52	MEPC 53	MEPC 54	MEPC 55	MEPC 56
TASKS						
OPRC-HNS Work Programme						
1 <u>Early implementation of article 10 of the OPRC HNS Protocol:</u>						
<i>STAGE 1 – INFORMATION SERVICES</i>						
<i>Development of an inventory</i>						
- proposal	X					
- preparation		X				
- finalization			X			
Placement on the IMO website						
<i>STAGE 2 – GUIDANCE ON, AND ASSISTANCE IN CAPACITY BUILDING</i>						
Revision of the Section 2 of the Chemical Pollution Manual – Search and Recovery of Packaged Goods Lost at Sea	X					
Development of manuals and guidance documents on chemical pollution						
- examine the need for preparation and finalization of:	X					
- manual section 3 - contingency plan		X	X	X		
- manual section 4 legal and administrative aspects			X	X	X	
- guidance documents on contingency planning in port areas		X	X	X		
Organization of seminars and workshops on national contingency planning						
<i>STAGE 3 – GUIDANCE ON AND ASSISTANCE IN TRAINING</i>						
Basic information documents to be developed and published jointly with the industry – examine the need	X					
- hazard identification and assessment		X	X			
- impact assessment					[X]	[X]
- evacuation schemes					[X]	[X]
- response options		X	X			
- contingency planning		X	X			

Year - starting 2003	2004	2004	2005	2006	2006	2007
MEPC Session	MEPC 51	MEPC 52	MEPC 53	MEPC 54	MEPC 55	MEPC 56
TASKS						
OPRC-HNS Work Programme						
Training course materials						
- identify the scope for different categories of training courses	X					
- identification of training requirements		X				
- identification of suitable existing training materials		X				
- [development of course materials]			X	X	X	
Organization of training course for responders						
<i>STAGE 4 – GUIDANCE ON, AND ASSISTANCE IN CO-OPERATIVE ARRANGEMENTS</i>						
- guidelines for facilitation of response – examine possible extension of existing guidelines	X	X	X			
- assistance in developing co-operative arrangements		X	X			
- promotion of regional co-operation						
- organization of an R&D Forum				[X]		
- encourage the development of standards of compatibility						
OPRC Work Programme						
2 <u>Reviewing/upgrading combating manuals/guidelines (oil pollution manual)</u> <i>Bioremediation: France</i>	X					
3 <u>Follow-up to R&D Forum</u> <i>Consideration of plan of action</i>	X					
4 <u>Training programme</u>						
a) Consider new basic course (“Foundation Level” training course material”)	X	X				
b) Review model course material on OPRC Levels 1, 2 and 3 as well a the train-the-trainers material	X	X				
c) Guidelines and criteria for accreditation or approval of training organizations and experts	X	X	X			
d) Consider the need for short introduction course for Senior Managers and Chief Executives				[X]	X	X]

Year - starting 2003	2004	2004	2005	2006	2006	2007
MEPC Session	MEPC 51	MEPC 52	MEPC 53	MEPC 54	MEPC 55	MEPC 56
TASKS						
OPRC-HNS Work Programme						
5	<u>Development of IMO Manual on Oil Spill Evaluation and Assessment</u>					
- identify the scope of Manual	X					
- develop Terms of Reference for correspondence group	X					
- consider and finalize		X	X	X		
6	<u>Technical Group as forum for exchange of information relating to OPRC and OPRC-HNS</u>					
- Promotion of Co-operation on OPRC between IMO and EU EMSA		X	X	X	X	X
7	<u>Follow-up to IMO/UNEP Forum on Regional Co-operation</u>					
- Development of IMO Web page on Regional OPRC activities		X	X	X		
- Consider development of Regional network and accredited training centre		X	X			
2nd	<u>IMO/UNEP Regional Forum</u>					
- Preparation		X				
- Implementation			X			

ANNEX 8**STATEMENTS BY THE RUSSIAN FEDERATION CONCERNING THE
DESIGNATION OF THE BALTIC SEA AS A PSSA**

Having listened to the proposal made by the Baltic States concerning the designation of the entire Baltic Sea as a PSSA, the Russian Federation wishes to state that it is unable to support the proposal, for the following reasons.

Firstly, we believe that the idea of designating a PSSA and adopting associated protective measures in accordance with Annex 2 of resolution A.927(22) is justified only in respect of special maritime areas which are restricted to their natural geographical limits.

The application that has been submitted departs radically from what was approved in the past, and calls for a new approach.

It should be recalled that the Baltic Sea has already been accorded “special area” status in the framework of Annexes I, II and V and has also been designated a SO_x emission control area in the context of MARPOL 73/78. The Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention) applies to this region. Also valid in this context is the Helsinki Commission special mechanism concerned with providing permanent monitoring of Baltic Sea environmental conditions and regulating the environmental measures in force. The Helsinki Commission approves and initiates ecologically and economically sound maritime safety measures, in whose design and implementation the Russian Federation plays an active role. Nothing has hindered the implementation of these measures, nor must anything be allowed to do so.

Our argument is supported by the fact that the authors of the application do not propose any additional protective measures, *i.e.* no further involvement of IMO procedures is required.

I should like to inform the Committee that in 2002 the Helsinki Commission Secretariat examined the benefits of possible designation of the entire Baltic Sea as a PSSA, and concluded there were insufficient grounds for doing so.

On the basis of the foregoing, the Russian Federation fails to understand what practical purpose is served by according PSSA status to the Baltic Sea.

We believe that the real threat lies in a sphere other than navigation.

The Baltic Sea, as a partially enclosed area, is under considerable threat from land-based activities. The pollution these contribute far exceeds that from shipping. Almost 90 per cent of the pollution of the Baltic marine and coastal environment, particularly by petroleum products, derives from land-based activities. These major sources of pollution in the Baltic are simply not mentioned in document MEPC 51/8/1.

In our opinion, what needs to be employed urgently in this case is not the PSSA mechanism, but the resources available under the United Nations Convention on Biological Diversity. We believe that an approach of this kind, aimed at establishing protective measures for the Baltic Sea region that would be all-embracing and multilateral, and not simply politically inspired, is completely reasonable.

In conclusion, I urge the Committee to approach its deliberations and decisions on this matter with great care.

If we now take the decision to oblige populist and other interests, we shall experience a boomerang effect in the future: the decision would come back to us, but this time in the guise of a requirement to revise international shipping arrangements all over the world.

Statement by the Russian Federation after the Committee approved in principle the designation of the Baltic Sea as a PSSA

The Russian Federation considers that the MEPC's decision to grant PSSA status to the entire Baltic Sea violates not only the provisions of paragraphs 1.4 and 3.1, Annex 2 of the Guidelines for the Designation of Particularly Sensitive Sea Areas (resolution A.927(22)), but also the basic principles of decision-making in the International Maritime Organization: openness, transparency and, above all, consensus.

Moreover, this decision contradicts the understanding reached previously by ministers from all the Baltic States, including Russia, in the framework of the Helsinki Convention, concerning the possibility of discussing the granting of PSSA status to separate areas of the Baltic region but not to the Baltic Sea as a whole, since that could have a negative impact on the balance of the region's existing international shipping systems.

The MEPC has just acknowledged that this decision affects the interests of the Russian Federation, but has refused to take those interests into account, in so doing simply ignoring our position.

The Russian Federation does not agree with this decision to grant PSSA status to the whole Baltic Sea, does not associate itself with this decision and, should the Organization approve any other recommendations, regulations or action for adoption on the basis of the Baltic Sea's designation as a PSSA, reserves its right not to give effect to any such decision.

ANNEX 9

**PROPOSED AMENDMENTS TO MARPOL ANNEX I
(New regulation 13I and amended regulation 26)**

- 1 The following new regulation 13I is added after the existing regulation 13H:

“Regulation 13I - Pump-room bottom protection

(1) This regulation applies to oil tankers of 5,000 tons deadweight and above constructed on or after 1 January 2007.

(2) The pump-room shall be provided with a double bottom such that at any cross-section the depth of each double bottom tank or space shall be such that the distance h between the bottom of the pump-room and the ship's base line measured at right angles to the ship's base line is not less than specified below:

$$h = B/15(\text{m}) \text{ or} \\ h = 2 \text{ m, whichever is the lesser.}$$

The minimum value of $h = 1 \text{ m}$.

(3) In case of pump rooms whose bottom plate is located above the base line by at least the minimum height required in paragraph (2) above (e.g. gondola stern designs), there will be no need for a double bottom construction in way of the pump-room.

(4) Ballast pumps shall be provided with suitable arrangements to ensure efficient suction from double bottom tanks.

(5) Notwithstanding the provisions of paragraphs (2) and (3) above, where the flooding of the pump-room would not render the ballast or cargo pumping system inoperative, a double bottom need not be fitted.”

- 2 The following new paragraph (4) is added at the end of the existing regulation 26:

Regulation 26 – Shipboard oil pollution emergency plan

(4) “All oil tankers of 5,000 tons deadweight or more shall have prompt access to computerised, shore-based damage stability and residual structural strength calculation programs.”

ANNEX 10

TEXT OF THE REVISED IBC CODE

(See MEPC 51/22/Add.1)

ANNEX 11

TEXT OF THE REVISED MARPOL ANNEX I

(See MEPC 51/22/Add.2)

ANNEX 12**UNIFIED INTERPRETATIONS TO MARPOL ANNEX I AND CAS****Unified Interpretation to regulation 19.6.2 of the revised MARPOL Annex I:**33 *Definition of double side wing tanks*

Regulation 19.6.2 33.1 Wing tanks required for the protection of the entire cargo tank length by regulation 19.6.2, for the purpose of compliance with regulation 35.4.2, can be used as cargo tanks for the carriage of oil other than heavy grade oils when the ship is provided with cargo tanks so arranged that the capacity of each cargo tank does not exceed 700 m³.

Unified Interpretation to paragraph 5.3.2 of the CAS:

“The first CAS survey shall be carried out concurrent with the first intermediate or renewal survey:

- after 5 April 2005, or
- after the date when the ship reaches 15 years of age, whichever occurs later.”

ANNEX 13**INSTRUCTIONS TO THE SUB-COMMITTEES****1 FSI Sub-Committee:**

- .1 to develop the survey guidelines in accordance with regulation E-1 of the Ballast Water Convention, and to include a high-priority item in its work programme to be completed in two sessions (MEPC 51/22, paragraph 2.11.6); and
- .2 to include, in the Terms of Reference of the FSI Correspondence Group on the further development of the draft Code for the implementation of [Mandatory] IMO instruments, the need for the draft Code to be developed in such a manner that it would serve as the Audit Standard (MEPC 51/22, paragraph 21.16).

2 NAV Sub-Committee:

- .1 to consider detailed proposals of the Associated Protective Measures (APMs) for the Canary Islands as a PSSA in 2005 and provide its recommendations to the MEPC (MEPC 51/22, paragraph 8.47.2);
- .2 to consider detailed proposals of the APMs for the Galapagos Archipelago as a PSSA in 2005 and provide its recommendations to the MEPC (MEPC 51/22, paragraph 8.47.3); and
- .3 to consider detailed proposals of the APMs for the Baltic Sea as a PSSA in 2005 and provide its recommendations to the MEPC (MEPC 51/22, paragraph 8.53).

3 DE Sub-Committee:

- .1 to delete the item on “Protection of pump-rooms and access to shore-based computer programmes” from its work programme (MEPC 51/22, paragraph 10.21.1);
- .2 to consider the “Guidelines for onboard exhaust gas cleaning systems” under MARPOL Annex VI as a high-priority item (MEPC 51/22, paragraph 10.21.2);
- .3 to include the item on “Safety aspects of ballast water management” in the agenda of DE 48 (MEPC 51/22, paragraph 10.21.3);
- .4 to consider the proposed amendments to CAS (MEPC 51/17 and MEPC 51/17/1) at DE 48 under the Item of “Revision of resolution A.744(18)” and report to MEPC 53 (MEPC 51/22, paragraph 17.7);
- .5 to consider the matter relating to the Statement of Compliance under CAS (MEPC 51/17/4) in the context of revision of resolution A.744(18) (MEPC 51/22, paragraph 17.18); and

- .6 to include a high-priority item on the revision of MEPC/Circ.235 (MEPC 51/20 and MEPC 51/INF.6) in its work programme and in the agenda of DE 48 with a target completion date of 2006 (MEPC 51/22, paragraph 20.5).

4 BLG Sub-Committee:

- .1 to review the Recommendations on International effluent standards and Guidelines for performance tests for sewage treatment plants (resolution MEPC.2(VI)) at BLG 9 as a high priority item in its work programme with a target completion date of 2006 (MEPC 51/22, paragraphs 17.8 and 17.12); and
- .2 to develop standards on the rate of sewage discharge under regulation 11.1.1 of the revised MARPOL Annex IV as a high-priority item in its work programme with a target completion date of 2006 (MEPC 51/22, paragraph 17.15).

ANNEX 14

**SUBSTANTIVE ITEMS TO BE INCLUDED IN THE AGENDAS
FOR MEPC 52, MEPC 53 AND MEPC 54**

No.	Item	MEPC 52 October 2004	MEPC 53 July 2005	MEPC 54 March 2006
1	Harmful aquatic organisms in ballast water (follow-up to the Convention and the Conference resolutions)	WG X	[WG] X	[WG] X
2	Prevention of air pollution from ships (follow-up to Annex VI and Conference resolutions)	WG X	[WG] X	[WG] X
3	Recycling of ships	WG X	[WG] X	[WG] X
4	Consideration and adoption of amendments to mandatory instruments	DG X	[X]	[X]
5	Implementation of the OPRC Convention and the OPRC-HNS Protocol and relevant Conference resolutions	X	X	X
6	Identification and protection of Special Areas and PSSAs	X	[X]	[X]
7	Inadequacy of reception facilities	X	[X]	[X]
8	Reports of sub-committees	X	X	X
9	Work of other bodies	X	X	X
10	Voluntary IMO Member State Audit Scheme	X	[X]	[X]
11	Status of Conventions	X	X	X

No.	Item	MEPC 52 October 2004	MEPC 53 July 2005	MEPC 54 March 2006
12	Follow-up to the revised MARPOL Annex I and Annex II	X	[X]	[X]
13	Harmful anti-fouling systems for ships (follow-up to the Convention and the Conference resolutions)	X	[X]	[X]
14	Interpretation and amendments of MARPOL 73/78 and related instruments	X	X	X
15	Follow-up to UNCED and WSSD	X	[X]	[X]
16	Promotion of implementation and enforcement of MARPOL 73/78 and related instruments	X	X	X
17	Future role of formal safety assessment and human element issues	X	[X]	
18	Application of the Committees' Guidelines		[X]	[X]
19	Work programme of the Committee and subsidiary bodies	X	X	X
20	Technical Co-operation Programme	X	X	X
21	Any other business	X	X	X