



MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
52nd session  
Agenda item 24

MEPC 52/24  
18 October 2004  
Original: ENGLISH

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

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## 1 INTRODUCTION

1.1 The fifty-second session of the Marine Environment Protection Committee was held at IMO Headquarters from 11 to 15 October 2004 under the chairmanship of Mr. A. Chrysostomou (Cyprus).

1.2 The session was attended by delegations from the following 89 Members of IMO:

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

UKRAINE  
UNITED KINGDOM  
UNITED REPUBLIC  
OF TANZANIA  
UNITED STATES

URUGUAY  
VANUATU  
VENEZUELA  
VIET NAM

by representatives from the following two Associate Members of IMO:

HONG KONG, CHINA  
FAROE ISLANDS

by representatives from the following United Nations and Specialized Agencies:

UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)

by observers from the following four intergovernmental organizations:

EUROPEAN COMMISSION (EC)  
REGIONAL ORGANIZATION FOR THE PROTECTION OF THE MARINE  
ENVIRONMENT (ROPME)  
PORT MANAGEMENT ASSOCIATION OF EASTERN AND SOUTHERN AFRICA  
(PMAESA)  
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)

and by observers from the following 30 non-governmental organizations:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)  
INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)  
INTERNATIONAL RADIO-MARITIME COMMITTEE (CIRM)  
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 FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
COMMUNITY OF EUROPEAN SHIPYARDS' ASSOCIATIONS (CESA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)  
INTERNATIONAL GROUP OF P AND I ASSOCIATIONS (P AND I CLUBS)  
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)  
THE INSTITUTE OF MARINE ENGINEERING, SCIENCE AND TECHNOLOGY  
(IMarEST)  
INTERNATIONAL PARCEL TANKERS ASSOCIATION (IPTA)  
INTERNATIONAL SAILING FEDERATION (ISAF)  
THE INTERNATIONAL MARINE CONTRACTORS ASSOCIATION (IMCA)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL 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); 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 to the fifty-second session of the Marine Environment Protection Committee.

1.5 The Secretary-General then expressed his deep sorrow for the passing of Mr. Emil Jansen of Norway, who rendered excellent services to the Organization, particularly during his chairmanship of the MEPC and MSC, for which he was awarded the IMO Prize. The Secretary-General requested the Norwegian delegation to convey the Organization's condolences and sympathy to Mr. Jansen's family, friends and colleagues.

1.6 The Secretary-General highlighted the importance of the oceans as among the most precious resources of this planet. If not properly maintained and preserved, the ecological capital of the oceans will erode and their valuable assets for future generations would be put at risk. Protection and conservation of the marine environment were, therefore, of the utmost importance for sustainable development. Although most of the pollution of the world's oceans came from land-based sources with shipping being responsible for a comparatively small percentage, the growing public intolerance to pollution from shipping incidents and the heightened concern at the impact of global shipping activities on the environment have given a new impetus to the endeavours of this Organization to play its role efficiently and effectively.

1.7 The Secretary-General referred to the entry into force of MARPOL Annex VI on 19 May 2005. In this connection, he expressed his concern about the slow pace of ratification of other IMO instruments dealing with pollution-related matters, and he urged prompt action from Member States to ratify or accede to the OPRC-HNS Protocol of 2000, the AFS Convention of 2001 and the Ballast Water Management Convention of 2004.

1.8 The Secretary-General stated that the slow pace of adoption and subsequent ratification of IMO instruments prompted critics to argue that the Organization was slow and, by implication, inefficient. In fact, the Organization took prompt and expeditious action after the **Estonia**, **Erika**

and **Prestige** incidents and in response to the atrocities of 11 September. And the organization could take more expeditious action, if a Conference of Parties to the Convention so decides, by making use of article 16 of the MARPOL Convention to accelerate the procedures for the acceptance and entry into force of amendments to the Convention, should there be a need for expeditious action to be taken under special circumstances.

1.9 With regard to the Ballast Water Management Convention which was adopted in February this year, the Secretary-General stated that efforts should be concentrated on the early entry into force of the new Convention. And to this end, the set of 13 guidelines for the uniform implementation of the Convention must be developed as soon as possible.

1.10 Turning to the item on ship recycling, the Secretary-General encouraged all stakeholders to do their utmost to minimize the related environmental, safety and occupational health risks. The IMO Guidelines were a positive step in the right direction and intensive work was currently underway to promote their implementation, assess their effectiveness, review them and, if necessary, determine any other required solutions, including the identification of those parts of the Guidelines which might be made mandatory. The Secretary-General also mentioned the need to continue co-operation with ILO and the appropriate bodies of the Basel Convention, including work through the Joint ILO/IMO/Basel Convention Working Group.

1.11 The Secretary-General stated that, because MARPOL Annex VI did not cover the regulation or limitation of greenhouse gas emissions from international marine bunker fuel oil, resolution A.963 urged the Committee to take action on, amongst other things, the establishment of a greenhouse gas emission baseline and the development of a methodology for an emission index for ships. He reiterated that it was important for the Organization to develop necessary mechanisms for the reduction of the emission of such gases from ships and, in this endeavour, the Committee had a key role to play. He trusted that the Committee, at this session, would be able to make good progress towards this end.

1.12 Referring to the adoption of amendments to MARPOL Annexes I and II and the consequential amendments to the IBC Code, the Secretary-General recalled that the development of the proposed revised texts was the result of nine years of hard work, in the course of which considerable efforts had been made by the GESAMP/EHS Working Group for the evaluation of products subject to the IBC Code and by the ESPH Working Group in preparing the revised MARPOL Annex II and the IBC Code. He noted the Committee's efforts to seek a balance between the need to protect the marine environment and the avoidance of any potential disruption to certain trades, such as vegetable oils.

1.13 With regard to the issues on PSSAs, the Secretary-General stated that, when the Committee considered applications for the designation of PSSAs, it was important to take into account the views of all interested parties, including coastal and flag States and the shipping and environmental communities. Therefore, in the proposed review of the PSSA Guidelines, the Committee should take into account the experience gained in respect of the designation of the existing PSSAs and any feedback from Governments in relation to the added value of associated protective measures.

1.14 Referring to the problem of inadequacy of port reception facilities, the Secretary-General emphasized the need for action by all parties concerned, and he strongly encouraged all Member States, particularly port State Parties to MARPOL 73/78, to fulfil their treaty obligations under the Convention by providing adequate reception facilities for ships calling at their ports.

1.15 With regard to the proposed measures to deal with the problem of deliberate and illegal discharges of oil, noxious liquid substances and garbage into the marine environment, including development of guidelines in this respect, the Secretary-General highlighted the importance to achieve greater MARPOL compliance; enhance detection and investigation of illegal discharges; and strengthen co-operation in all respects. In the meantime, he requested the Committee to bear in mind the relevant provisions of existing instruments and, more particularly, to clearly distinguish between accidental and deliberate or intentional discharges of pollutants.

1.16 The Secretary-General noted the value of the work of the GESAMP/EHS Working Group for its activities in the hazard evaluation of chemicals and in the regular assessment of the state of the oceans. Following a recent review by GESAMP's sponsoring UN agencies, including IMO, a proposal for its restructuring, including operational procedures, was now before the Committee for consideration. The proposal had budgetary implications and, if IMO was to continue to support GESAMP, a recommendation seeking the Council's approval would have to be formulated at this session.

1.17 The Secretary-General also noted the action requested of the Committee in respect of news media attendance at IMO meetings and the trial application of the proposed new reporting system for sub-committees.

1.18 The Secretary-General closed his opening 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 maritime world at large.

### **Credentials**

1.19 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 Ballast Water Management Convention had been open for signature by Member States from 1 June 2004 to 31 May 2005 and a number of countries had expressed their intention to ratify the Convention through letters to the Secretary General of the Organization.

2.2 The Committee urged all Governments that had contributed to the successful completion of the instrument to sign and ratify the Convention to facilitate its early entry into force.

2.3 The Committee agreed to concentrate in the coming years on creating the right conditions under which the Convention will be implemented and at this session on completing the Guidelines for Approval of Ballast Water Management Systems (G8) and the Procedure for Approval of Active Substances (G9) to facilitate the review required under regulation D-5 of the Convention during MEPC 53 in July 2005.

2.4 The Committee noted that 26 documents had been submitted under this agenda item: MEPC 52/2 and MEPC 52/2/12 (United Kingdom), MEPC 52/2/1 (Germany), MEPC 52/2/2 (ISAF), MEPC 52/2/3 (India), MEPC 52/2/4 (Norway), MEPC 52/2/5 and MEPC 52/INF.11 (the Netherlands), MEPC 52/2/6 (Germany, Japan and the Netherlands), MEPC 52/2/7, MEPC 52/2/8 and MEPC 52/2/9 (Japan), MEPC 52/2/10, MEPC 52/2/13, MEPC 52/2/14, MEPC 52/2/15,



MEPC 52/2/16, MEPC 52/INF.5 and MEPC 52/INF.14 (United States), MEPC 52/2/11 (IACS), MEPC 52/2/17 (Saudi Arabia), MEPC 52/INF.3 (Dominica), MEPC 52/INF.8 and MEPC 52/INF.9 (Secretariat), MEPC 52/INF.13 (Singapore) and MEPC 52/INF.16 (Brazil).

2.5 The Committee recalled that MSC 78, following a proposal by MEPC 49 to confirm the acceptability of transitory non-compliance with safety regulations when conducting ballast water exchange, instructed the NAV and SLF Sub-Committees to specify the permissible limits of transitory deviation for safety aspects. In this respect, the Committee noted that NAV 50 could only consider the matter on a preliminary basis and would consider the matter further at a future session.

2.6 The Committee further noted that SLF 47 considered the issue of transitory deviation during ballast water exchange under agenda item 'Any other business' and decided to include the subject in the agenda of its next meeting.

2.7 The Committee agreed to consider document MEPC 52/2/11 (IACS), which proposed amendments to MARPOL Annex I in connection with transitory deviations from MARPOL when conducting ballast water exchange under agenda item 6 (Interpretations and amendments of MARPOL 73/78 and related instruments) and to refer document MEPC 52/2/12, which proposed amendments to SOLAS V/22 in connection with transitory non-compliance with SOLAS when conducting ballast water exchange, to MSC for consideration.

2.8 The Committee noted that, following a request by the United Kingdom, legal advice on transitory non-compliance with SOLAS regulation V/22 during ballast water exchange had been provided by the Legal Office of the Organization in document MEPC 52/WP.3.

2.9 The Committee decided to refer document MEPC 52/WP.3 to MSC for consideration together with document MEPC 52/2/12. The matter was further considered under item 6.

2.10 Recalling that MSC 77 included the item "Development of requirements for training in ballast water management" in the agenda of STW Sub-Committee as a high priority, the Committee concurred with the decision of MSC 77 and encouraged delegations and observers to submit relevant proposals for consideration by the STW Sub-Committee.

2.11 The Committee noted that, as instructed by MEPC 51, the FSI Sub-Committee had included an item on "Development of survey guidelines required by regulation E-1 of the Ballast Water Management Convention" in the agenda of FSI 13 and encouraged delegations and observers to submit proposals for consideration by FSI 13.

2.12 The Committee noted the information provided by Singapore and Brazil in documents MEPC 52/INF.13 and MEPC 52/INF.16 regarding the Second International Ballast Water Management Conference and Technology Exhibition, 19 to 21 May 2004, held in Singapore and the implementation of GloBallast programme in Brazil. The Committee thanked Singapore and Brazil for this information.

2.13 The Committee also noted that 26 responses regarding the Ballast Water Management Country Profiles had been received from IMO Member States and urged all delegations to provide the necessary information, according to the questionnaire attached to MEPC/Circ.397, to facilitate the completion of the Ballast Water Management Country Profiles database currently under development by GloBallast.

2.14 The Committee noted that the Ballast Water Working Group met intersessionally from 4 to 8 October 2004 and made significant progress in solving a number of outstanding issues related in particular to Guidelines for approval of ballast water management systems (G8) and Procedure for approval of active substances (G9) as indicated in document MEPC 52/WP.2 and presented by the Chairman of the Working Group.

2.15 The Committee noted the intention of the United Kingdom to submit a paper on survey guidelines required by regulation E-1 of the Ballast Water Management Convention to FSI 13.

2.16 The Committee noted that a number of issues were still to be resolved or finalized and 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 to review the draft Guidelines for approval of ballast water management systems (G8) and provide text regarding shipboard testing to allow the Committee to make an opt-in/opt-out decision with the view to approve, in principle, the guidelines;
- .2 to finalize the draft Procedure for approval of ballast water management systems that make use of Active Substances (G9) with the view to its approval, in principle, by the Committee;
- .3 to finalize the 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 Management Convention taking into account Conference Resolutions 2 and 4 with the view of their confirmation by the Committee;
- .4 to further develop guidelines (G1), (G2), (G3), (G4), (G5), (G6), (G7), (G10), (G11), (G12) and (G13) taking into account the information contained in documents MEPC 52/2, MEPC 52/2/3, MEPC 52/2/17, MEPC 52/2/16, MEPC 52/INF.8, MEPC 52/2/15, MEPC 52/INF.14, MEPC 52/2/14 to the extent possible in the time available; and
- .5 to prepare a written report on the work carried out by the Working Group for consideration by the Committee on Thursday, 14 October 2004.

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

2.17 The Chairman of the Ballast Water Working Group presented the report on the work carried out by the Group during the intersessional meeting and at this session, as contained in MEPC 52/WP.7.

2.18 The Chairman of the Working Group indicated that, after the completion of its report, the Ballast Water Working Group continued its work informally and further developed the Guidelines for ballast water management and ballast water management plans (G4) and agreed to request the Secretariat to submit the text provided by the Working Group as a document for consideration by MEPC 53.

2.19 The Chairman of the Working Group also indicated that the Group met informally to consider document MEPC 52/2/11 and agreed to support, in principle, the amendment to regulation 30.6.1 of the revised MARPOL Annex I proposed in this document with the following amended wording:

- “.3 at sea by pumps if the ballast water exchange is performed under the provisions of regulation D-1.1 of the International Convention for the Control and Management of Ships’ Ballast Water and Sediments.”

The Group also agreed to include relevant guidance regarding overboard discharge valves in the Guidelines for ballast water exchange design and construction standards (G11).

2.20 The Netherlands’ delegation expressed the opinion that it is up to individual States to decide whether the application of a guideline or a procedure is compatible with the legislation as it is applicable in that particular State, including international and regional legislation.

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

2.21 Having considered the report of the Ballast Water Working Group (MEPC 52/WP.7), the Committee:

- .1 noted the progress made on the Guidelines for approval of ballast water management systems (G8), as contained in annex 1 of document MEPC 52/WP.7, but was not in a position to approve the Guidelines as further consideration was needed on the issue of biological efficacy of onboard testing. The Committee agreed to ask DE 48 to consider the draft Guidelines as a top priority and provide comments to MEPC 53. The Committee invited further comments on biological efficacy from Members with a view to adopt the Guidelines at MEPC 53 by an MEPC resolution. The Committee noted the general agreement on the rest of the provisions contained in the Guidelines and agreed that the text could be used by the manufacturers as guidance when further developing relevant technologies;
- .2 instructed the FSI Sub-Committee to develop the Guidelines on port State control under the BWM Convention focusing in particular on the sampling of the discharge from BWMS installed on board ships pursuant to Type Approval under the G8 Guidelines or Prototype Approval under the G10 Guidelines;
- .3 approved the Procedure for approval of active substances (G9), as contained in annex 2 of document MEPC 52/WP.7, with a view to further consideration for adoption at MEPC 53 by an MEPC resolution;
- .4 confirmed the Recommendations for the conduct of the review of the status of the ballast water management technologies, as required by regulation D-5 of the BWM Convention and invited Members to submit relevant information according to these recommendations to facilitate the review during MEPC 53;
- .5 agreed to establish a Review Group, in accordance with the provisions of regulation D-5 of the Ballast Water Management Convention, during MEPC 53 to conduct the review of the status of the ballast water management technologies, as required by regulation D-5 of the Convention;
- .6 agreed to add a separate item on the agenda of BLG 9 for development, as a matter of priority, of the remaining guidelines for uniform implementation of the BWM Convention and to request the BLG Sub-Committee to report to the

Committee to facilitate the adoption of these Guidelines in accordance with the time frame approved at MEPC 51 (MEPC 51/22, annex 1);

- .7 invited Member States and observers to contribute to the development of the remaining guidelines by providing information and comments to the co-ordinators of this work, as agreed by MEPC 51, for submission to BLG 9;
- .8 invited the Member States and observers to make submissions on guidelines for the declaration of designated areas allowed under Regulation B-4.2 of the BWM Convention to the next meeting of the Committee;
- .9 urged the DE, FSI and SLF Sub-Committees to provide their inputs as a matter of priority as per the programme approved by MEPC 51 (MEPC 51/22, annex 1) and invited the Maritime Safety Committee to confirm, at the earliest opportunity, the acceptability of transitory non-compliance with relevant safety regulations when conducting ballast water exchange;
- .10 approved the amendment to regulation 30.6.1 of the revised MARPOL Annex I by adding the following wording:

“.3 at sea by pumps if the ballast water exchange is performed under the provisions of regulation D-1.1 of the International Convention for the Control and Management of Ships’ Ballast Water and Sediments.”

and agreed to insert the text in the revised MARPOL Annex I and instructed the Working Group to include relevant guidance regarding overboard discharge valves in the Guidelines for ballast water exchange design and construction standards (G11);

- .11 approved an intersessional meeting of the Ballast Water Working Group at no cost to the Organization during the week before MEPC 53 to further progress the development of the remaining guidelines; and
- .12 agreed to convene a Review Group during MEPC 53 to continue the development of the remaining guidelines based on the report of BLG 9 and the outcome of the intersessional work.

### **3 RECYCLING OF SHIPS**

3.1 The Committee recalled that, at MEPC 51, it continued its work on ship recycling and established a working group, which considered a number of issues such as the inter-agency co-operation, the mechanisms to promote the implementation of the IMO Guidelines on Ship Recycling (hereafter referred to as the Guidelines), the development of a ship recycling plan, the review of Appendices 1 to 3 of the Guidelines and the criteria for ships to be declared “ready for recycling”.

3.2 The Committee further recalled that MEPC 51, having considered the report of the Working Group on Ship Recycling (MEPC 51/WP.5), agreed to establish a correspondence group to further progress the work in the intersessional period and to re-establish the Working

Group on Ship Recycling at this session.

3.3 The Committee also recalled that MEPC 51 approved the terms of reference (MEPC 51/22, annex 3) and the working arrangements for the 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 ship recycling issues.

### **Report of the Correspondence Group and related documents**

3.4 In introducing the report of the Correspondence Group (MEPC 52/3), the co-ordinator of the Group, Captain Moin Ahmed (Bangladesh), stated that the Group, in accordance with its terms of reference (MEPC 51/22, annex 4), continued the preparation of a set of possible and suitable mechanisms for the promotion of the implementation of each of the key action items provided for in the Guidelines, developed further the ship recycling plan, agreed that a single and definite list of potentially hazardous substances should be developed replacing the existing Appendices 1, 2 and 3 of the Guidelines and, lastly, prepared an initial draft set of the criteria for ships to be declared “ready for recycling”.

3.5 The Committee noted the report of the Correspondence Group and agreed to consider the actions requested of it once all the other documents, which were related to the work of the Correspondence Group, had been introduced.

3.6 In this regard, the Committee considered submissions by the Netherlands (MEPC 52/3/1), India (MEPC 52/3/4), Japan (MEPC 52/3/8), Greenpeace International (MEPC 52/3/2) and a joint submission by BIMCO, ICS, INTERCARGO, INTERTANKO and IPTA (MEPC 52/3/9).

3.7 The Netherlands (MEPC 52/3/1) proposed a phased approach to ship recycling in which the recycling process was separated into the phases of preparation, pre-cleaning, dismantling and deregistering. For each phase the introduction of a certification and a notification system was proposed with responsibilities specified for the last shipowner, the recycling yard and the competent authorities of the flag State and the recycling State.

3.8 India (MEPC 52/3/4) proposed an outline of a reporting system for ships destined for recycling involving the shipowner, the recycling yard and the competent authorities of the flag State, the recycling State and the port State(s) involved. India also advocated the necessity for the application of mandatory regulations in respect of ship recycling, especially for a reporting system when a ship is finally sent for recycling.

3.9 Japan, in its document MEPC 52/3/8, presented a summary of a research project to develop a system that could facilitate the preparation of the Green Passport and contribute to minimization of hazardous substances used in the construction of new ships through the development of hazardous material databases for ship equipment. The Committee noted the information provided and invited Japan to keep the Committee informed of the progress and the results of this project.

3.10 In introducing document MEPC 52/3/2, the observer from Greenpeace International argued for the immediate need of making certain aspects of the Guidelines mandatory, in particular the “green” or “environmental” design and construction, the Green Passport and the “gas-free ready-for-hot-work” certification. Greenpeace also provided comments with regard to the mechanisms for the promotion of the implementation of the Guidelines and proposed that

issues such as the elimination of toxic inputs in new ships and the prior-decontamination, to the extent feasible, before recycling should also be included in the proposed actions. It was also proposed that a reporting system, with compulsory notification by shipowners, State involvement and the introduction of specific documentation that would be required prior to the final voyage of the vessel, should be established in accordance with the principles of the Basel Convention. Greenpeace International further expressed the view that some elements of the Guidelines were in conflict with the requirements of the Basel Convention and proposed that the Committee should start, on a priority basis, the consideration of these potential legal inconsistencies with the aim of achieving, through the inter-agency co-operation, a coherent and decisive global approach to the ship recycling issue.

3.11 The observer from ICS, in introducing document MEPC 52/3/9 on behalf of the co-sponsors, offered a number of comments on the proposed outline of a reporting system for ships destined for recycling submitted by India (MEPC 52/3/4) and proposed for consideration an alternative outline for this reporting system highlighting the corresponding reporting obligations of the recycling facility. ICS further stated that although the shipping industry organizations could, in principle, support a number of the objectives of the proposal put forward by India, considerable work remained to be done to make these objectives achievable.

3.12 The Committee, having noted that the report of the Correspondence Group and the related documents had identified a number of important issues for which further consideration and advice was needed before referring them to the working group, took action as follows.

#### **Mechanisms for the promotion of the implementation of the Guidelines**

3.13 The Committee, having noted that the Correspondence Group had developed a set of possible and suitable mechanisms for the promotion of the implementation of each of the key action items provided for in the Guidelines, identifying responsible stakeholders, and highlighting priorities, instructed the Working Group to consider the outstanding issues and questions for each implementation mechanism, as indicated in the column "Further Consideration on Possible Mechanisms" of the table set out in annex 1 of document MEPC 52/3 and to continue to refine the contents of this table.

#### **Mandatory application of certain elements of the Guidelines**

3.14 The Committee recalled that at the twenty-third session of the Assembly a number of delegations expressed the view that the Committee, at some time in the future, should consider the possibility of developing a mandatory regime on ship recycling.

3.15 The Committee further recalled that MEPC 51 instructed the Working Group established at that session that in case a mandatory scheme was 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.

3.16 The Committee, having considered the need for developing mandatory measures for ship recycling, agreed that certain parts of the Guidelines might be given mandatory effect and instructed the Working Group to start identifying the elements of the Guidelines for which a mandatory scheme might be regarded as the most suitable option for their implementation. In this regard, the Committee agreed that the objective should not be to turn the Guidelines into a mandatory instrument but, at this stage, to identify which elements of the Guidelines could justify mandatory application with a view to developing mandatory measures.

3.17 The Committee, having taken into account the need for advance planning of the Organization's work plan and budgetary appropriations, instructed further the Working Group to give preliminary consideration on how the development of such a mandatory scheme could be achieved.

### **Notification system for ships destined for recycling**

3.18 The Committee noted that proposals for the development of a "reporting system" for ships destined for recycling had been submitted in documents MEPC 52/3/1 (Netherlands), MEPC 52/3/2 (Greenpeace International), MEPC 52/3/4 (India) and MEPC 52/3/9 (BIMCO, ICS, INTERCARGO, INTERTANKO and IPTA).

3.19 The Committee, having noted that these proposals contain a number of different and in some cases divergent positions, agreed to refer them to the Working Group for further consideration. The Committee instructed the Working Group to start the development of an outline for a reporting system for ships destined for recycling, with the aim of developing a workable and effective reporting system, which would cater for the particular characteristics of world maritime transport.

### **Ship recycling plan**

3.20 The Committee, having noted that the latest working draft of the ship recycling plan was attached at annex 2 of the report of the Correspondence Group (MEPC 52/3), instructed the Working Group to continue its development and, if possible, to finalize it at this session.

### **Appendices 1, 2 and 3 of the Guidelines**

3.21 The Committee in considering the outcome of the Correspondence Group on the review of Appendices 1, 2 and 3 of the Guidelines, agreed that a "single list" of potentially hazardous materials should be developed replacing the existing Appendices 1, 2 and 3. The "single list" would provide guidance on the identification of potentially hazardous materials on board ships and the preparation of the relevant inventories.

3.22 The Committee instructed the Working Group to consider the outstanding issues listed in annex 4 of the report of the Correspondence Group (MEPC 52/3) and, if time permitted, to start developing the "single list" of potentially hazardous materials.

3.23 Taking into account that the "single list" should replace the existing Appendices 1, 2 and 3 thus requiring an amendment to the Guidelines adopted by Assembly resolution A.962(23), the Committee agreed that any amendments to the Guidelines should be finalized and approved at MEPC 53 so as to be forwarded for adoption by the Assembly at the end of 2005.

### **Criteria for ships to be declared "ready for recycling"**

3.24 The Committee, having noted the initial draft set of the criteria for ships to be declared "ready for recycling", set out at annex 5 of the report of the Correspondence Group, instructed the Working Group, if time permitted, to further develop these criteria.

### **Proposals for further work on ship recycling**

3.25 In introducing document MEPC 52/3/3, the observer from Greenpeace International urged the Organization to start, as a matter of urgency, a review of the implementation of the Guidelines in the field by investigating whether, since their adoption, they had been applied in all cases where ships had been recycled. In addition, Greenpeace International proposed that the Committee should develop and explore actions and mechanisms that do not only promote implementation but also penalize parties that fail to comply with the Guidelines, leading to severe pollution and health damage of workers.

3.26 The Committee, having taken into account its earlier decisions on the issue of the mandatory application of some parts of the Guidelines, agreed that the proposed review of the implementation of the Guidelines was not deemed necessary at this stage.

3.27 The observer from ICS, in introducing document MEPC 52/3/9 on behalf of the Industry Working Party on Ship Recycling, expressed the Industry's concerns in respect of certain details of the Guidelines and recommended consideration of amendments to them in order that the Guidelines become more generally acceptable, practical, effective and be fully supported by the Industry.

3.28 The Committee, having noted the proposals contained in document MEPC 52/3/9, agreed to refer them to the Working Group for further consideration.

### **Ship Recycling Fund**

3.29 Bangladesh in its document (MEPC 52/3/6), taking into account that for some developing countries the implementation of the relevant guidelines on ship recycling would necessitate massive investment and that the transfer of technology or aid funding was necessary to improve the infrastructure and working practices in the recycling facilities, proposed the establishment of an International Ship Recycling Fund with the aim of facilitating the technical co-operation activities for capacity building and the necessary funding mechanisms.

3.30 The Committee, having considered the proposal by Bangladesh, agreed, in principle, to the need for the establishment of an International Ship Recycling Fund to promote the safe and environmentally sound management of ship recycling through the Organization's technical co-operation activities. However, it was agreed that the working arrangements and funding mechanism of such a Fund would require further consideration and clarification.

3.31 The Committee, having noted that the purpose of the Organization's Integrated Technical Co-operation Programme (ITCP) was to assist countries in building up their human and institutional capacities for uniform and effective compliance with the Organization's regulatory framework, agreed:

- .1 that ship recycling should be included in the future thematic priorities of the Organization's ITCP with the aim of assisting developing countries to improve environment and safety level in ship recycling operations;
- .2 to invite the Technical Co-operation Committee (TCC) to consider making adequate provisions, within the ITCP, to strengthen further the assistance provided to those developing countries which have difficulty in implementing the provisions of the IMO Guidelines on Ship Recycling;



- .3 to invite donors, international organizations and the shipping industry to contribute financial, human and/or in-kind resources to the ITCP for its ship recycling related activities; and
- .4 to invite the TCC to consider further the arrangements for the establishment of an International Ship Recycling Fund.

### **Inter-agency co-operation on ship recycling**

3.32 The Committee noted that document MEPC 52/3/7 submitted by the Secretariat of the Basel Convention summarized the developments that took place on the issue of ship dismantling at the third session of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (OEWG 3), held in Geneva from 26 to 30 April 2004. In particular, OEWG 3 agreed to the terms of reference and working arrangements of the Joint ILO/IMO/BC Working Group on Ship Scrapping, as amended and agreed by MEPC 51. The Committee also noted that the issue of ship dismantling was included in the agenda of the seventh meeting of the Conference of the Parties to the Basel Convention (COP 7) to be held from 25 to 29 October 2004.

3.33 The Secretariat informed the Committee about the latest developments with regard to inter-agency co-operation on ship recycling and, in particular, the arrangements for the first Joint ILO/IMO/BC Working Group on Ship Scrapping, scheduled to take place at IMO Headquarters from 15 to 17 February 2005.

3.34 India, taking into account that the Joint ILO/IMO/BC Working Group on Ship Scrapping 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 was a need for further review and clarification of the various responsibilities and competencies of the three Organizations and the appropriate terminology to be used with regard to ship recycling.

3.35 Japan, supported by the majority of delegations that spoke, commented on paragraph 6 of document MEPC 52/3/7 and expressed its concerns on the proposal under consideration at COP 7 under which the “flag State” is proposed to be regarded as the “State of export” for the purposes of the application of the Basel Convention. Japan, having stressed that the consideration of flag States responsibilities falls within the IMO competency, expressed the view that a firm decision should not be pursued at COP 7 without the prior consultation with the Organization through the Joint ILO/IMO/BC Working Group on Ship Scrapping.

3.36 Some delegations, in considering the views expressed by Japan, were of the view that the Committee in its deliberations on this issue should respect the competence of the Conference of Parties to the Basel Convention to consider and regulate issues related to the application of the Basel Convention.

3.37 The Committee, having decided that its views on this issue should be brought to the attention of COP 7, instructed the Working Group to draft appropriate text reflecting the Organization’s position. The Committee further instructed the Secretariat to present the outcome of its consideration to COP 7 and to the first session of the Joint ILO/IMO/BC Working Group on Ship Scrapping.

3.38 The Committee noted document MEPC 52/INF.12 which provided the response made by the Industry Working Party on Ship Recycling to a request for comments by the Secretariat to the Basel Convention on the application of the Basel Convention to ships destined for recycling. It was also noted that the paper attached to document MEPC 52/INF.12, outlining the Industry's views that the Basel Convention did not apply to a ship on its way, under its own power, to the recycling facility which had purchased the vessel, had been submitted for consideration at COP 7.

### **Instructions to the Working Group**

3.39 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 outstanding issues and questions for each implementation mechanism, as indicated in the column "Further Consideration on Possible Mechanisms" of the table set out in annex 1 to document MEPC 52/3 and to continue to refine the contents of this table, taking into account submissions under this item and the comments made at plenary;
- .2 to start identifying the elements of the IMO Guidelines for which a mandatory scheme may be regarded as the most suitable option for their implementation, and to give preliminary consideration on how the development of such a scheme could be achieved;
- .3 to start the development of an outline for a reporting system for ships destined for recycling;
- .4 to continue the development of the ship recycling plan and, if possible, to finalize it at this session;
- .5 to consider the outstanding issues listed in annex 4 of the report of the Correspondence Group (MEPC 52/3) and, if time permits, to start developing the "single list" of potentially hazardous materials;
- .6 to further develop the initial draft set of the criteria for ships to be declared "ready for recycling";
- .7 to consider and debate the amendments to the IMO Guidelines proposed in document MEPC 52/3/5;
- .8 to prepare, taking into account the comments made at plenary, a draft of the Committee's views on the proposal ("flag State" as the "State of export"), contained in paragraph 6 of document MEPC 52/3/7 which is to be considered at COP 7; and
- .9 to present its report to the Committee on Thursday, 14 October 2004.

## **Outcome of the Working Group**

3.40 The Working Group on Ship Recycling met from 11 to 13 October 2004 under the chairmanship of Captain Moin Ahmed (Bangladesh). The Committee, having considered the report of the Group (MEPC 52/WP.8), noted the significant progress made at this session, approved the report in general, and took action as indicated in the ensuing paragraphs.

### **Mandatory application of certain elements of the Guidelines**

3.41 The Committee noted the initial list of the elements of the Guidelines for which a mandatory scheme might be regarded as the most suitable option for their implementation, as developed by the Group (annex 1 of document MEPC 52/WP.8).

3.42 In this respect, the Committee noted that the outcome of this work should be considered as a starting point for the future work that was needed intersessionally in order to develop further this list and to consider issues associated with the possible mandatory application of the identified measures.

3.43 The Committee noted that the Group, in considering how the implementation of such a possible mandatory scheme could be achieved, discussed briefly whether existing IMO instruments were the appropriate legal framework for the ship recycling provisions or whether these should be developed as a new separate legal mechanism.

3.44 The Committee further noted that whilst it was suggested that existing IMO instruments, such as MARPOL 73/78, could provide an appropriate vehicle for the implementation of some of the identified measures, the Group agreed that a new IMO instrument could be developed with a view to providing legally binding and globally applicable ship recycling regulations and that further work was needed before a concrete proposal could be made on this issue.

3.45 The observer from ICS, speaking on behalf of the Industry Working Group on Ship Recycling, having expressed their support, in general, for the Group's outcome on this issue, drew the attention of the Committee to the considerable amount of preparatory work which remained to be done for the further consideration of the possible introduction of a mandatory scheme on ship recycling.

### **Reporting system for ships destined for recycling**

3.46 Regarding the reporting system for ships destined for recycling, the Committee noted that the Group agreed that this system should be developed in accordance with the following basic principles:

- .1 the system should be transparent, effective, ensure uniform application and respect commercially sensitive information;
- .2 the system should be developed in such a way as to facilitate the control and enforcement of any mandatory provisions on ship recycling that may be developed by IMO;
- .3 the system should be implemented by the shipowner, the recycling facility, the flag State and the recycling States with the latter two stakeholders having the primary role for ensuring its proper application;

- .4 the system should be a stand-alone reporting mechanism; and
- .5 although existing notification and reporting procedures under other existing legal instruments could be taken into account, the system should be a workable and effective one, with the minimum required administrative burden and catering for the particular characteristics of world maritime transport.

3.47 The Committee noted the draft outline of the reporting system for ships destined for recycling which the Group had developed, as a starting point, in order to identify in a schematic way what should be reported, to where and by whom (annex 2 of document MEPC 52/WP.8).

3.48 In this respect, it was noted that additional work was needed for the further development of this system with the aim of considering, amongst other issues, the appropriate time-frame for the reporting, a harmonized reporting format and the possible need for additional flow of information between the involved stakeholders.

3.49 The Committee further noted that the Group, having considered that “pre-cleaning” requirements might not be applicable to all the cases of ships destined for recycling, agreed that reporting procedures related to such a process could, at this stage, be excluded from the draft outline of the reporting system.

3.50 The Chairman of the Committee, having taken into account that the Guidelines did not provide a definition on the term “de-registration”, advised the Committee that this issue should be considered at a future session with the aim of clarifying any relevant reporting procedures.

3.51 The observer from ICS expressed, on behalf of the Industry Working Group on Ship Recycling, their concerns regarding any notification procedures that might be required after the finalization of the contract between the shipowner and the recycling facility, and prior to the delivery of the ship. ICS further stated that these notification procedures should in no way lead towards the introduction of a “permit to recycle” requirement.

### **Ship recycling plan**

3.52 The Committee approved the Guidelines for the development of the ship recycling plan as contained in annex 3 of document MEPC 52/WP.8, and instructed the Secretariat to circulate them by MEPC/Circ.419.

### **Appendices 1 to 3 of the Guidelines**

3.53 The Committee noted the clarifications and interpretations agreed by the Group (annex 4 of MEPC 52/WP.8) on the outstanding issues related to the review of Appendices 1, 2 and 3 of the Guidelines listed in annex 4 of document MEPC 52/3.

3.54 Regarding the “single list” of potentially hazardous materials, the Committee noted that the Group, having agreed that a standard format should be developed in order to provide for a uniform and consistent application, developed an initial layout of the list, as set out in annex 5 of document MEPC 52/WP.8, for further consideration in the intersessional period.

- 3.55 The Committee further noted that the Group agreed that:
- .1 the “single list” should be user friendly, workable and practicable, specific for shipboard applications, exclude any generic terms and provide information on all hazards associated with the entries in the list;
  - .2 Appendix 3 of the Guidelines should be the basis for the “single list”, supplemented as necessary by selective entries from Appendices 1 and 2 of the Guidelines, in order to be as comprehensive as possible; and
  - .3 once the “single list” has been developed it might be appropriate, prior to its finalization, to seek input and comments from the Joint ILO/IMO/BC Working Group on Ship Scrapping.

### **Mechanisms to promote the implementation of the Guidelines and Criteria for ships to be declared “Ready for Recycling”**

3.56 The Committee noted the Group’s deliberations regarding the further consideration of the possible mechanisms to promote the implementation of the Guidelines and of the criteria for ships to be declared “ready for recycling” (paragraphs 7.1 and 7.2 of MEPC 52/WP.8) and, in particular, the Group’s view that a preliminary plan should be developed identifying priorities, achievable deadlines, and input that might be required from other IMO Committees and Sub-Committees regarding the promotion of the implementation of the Guidelines.

### **Proposed amendments to the Guidelines**

3.57 The Committee noted the outcome of the Group’s consideration (paragraphs 8.1 to 8.6 of MEPC 52/WP.8) on the proposals to amend the Guidelines submitted by the Industry Working Party on Ship Recycling (MEPC 52/3/5).

3.58 The Committee further noted that the Group invited the Industry Working Party on Ship Recycling to prepare a revised text of the proposed amendments to the Guidelines for further consideration in the intersessional period.

### **Committee’s views on the proposal under consideration at COP 7 referred to in paragraph 6 of document MEPC 52/3/7**

3.59 The Committee endorsed the text developed by the Group (annex 6 of document MEPC 52/WP.8), reflecting its views on the proposal under consideration at COP 7 regarding the flag State’s responsibility for the purposes of the application of the Basel Convention. As decided by the Committee (above paragraph 3.37), this text should be communicated by the Secretariat to COP 7 and to the first session of the Joint ILO/IMO/BC Working Group.

### **Future working arrangements**

3.60 The Committee, taking into account the need to progress the work on ship recycling issues in an expeditious manner:

- .1 agreed to the establishment of a correspondence group\* and its terms of reference, as set out in annex 15, to further progress the work in the intersessional period;
- .2 approved a three-day intersessional meeting of the Working Group on Ship Recycling, at no cost to the Organization, during the week before MEPC 53 to consider the issues related to the terms of reference of the Correspondence Group; and
- .3 agreed to re-establish the Working Group on Ship Recycling at the next session of the Committee (see also paragraph 20.9).

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

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

4.1 The Committee recalled that on 18 May 2004, Samoa acceded to Annex VI of MARPOL 73/78. By this accession the Protocol of 1997 to MARPOL 73/78 met the entry into force criteria. Consequently, Annex VI of MARPOL 73/78 would enter into force on 19 May 2005.

### **Resolution A.963(23)**

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

4.3 The Committee recalled that MEPC 49, in order to facilitate implementation of the IMO policies and practices on reduction of greenhouse gas emissions from ships, agreed to establish an intersessional correspondence group under the leadership of Norway and approved the Terms of Reference for the work as set out in annex 8 to document MEPC 49/22. The report of the intersessional correspondence group was submitted to MEPC 51 as document MEPC 51/4.

### **Unified interpretations of Annex VI of MARPOL 73/78**

4.4 The Committee noted that IACS, in its submission MEPC 52/4/6, invited the Committee to consider clarifications to regulation 9 of Annex VI of MARPOL 73/78 with regard to transfer of documentation in connection with change of flag and to regulation 13 of Annex VI with regard to detailed understanding and meaning of the term “installed”.

4.5 The Committee noted that IACS, in its submission MEPC 52/4/7, invited the Committee to consider 70 unified interpretations to Annex VI and the NOx Technical Code.

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4.6 The Committee noted that the submission by INTERTANKO (MEPC 52/4/11) contained comments to the unified interpretations submitted by IACS and proposed some additional interpretations and amendments to Annex VI and the NOx Technical Code.

4.7 The Committee noted that the proposed unified interpretations were interpretations suggested by the industry and that flag States may adopt their own unified interpretations.

4.8 Having considered the three submissions, the Committee agreed to instruct DE 48 to consider, as a matter of urgency, the proposed unified interpretations and report its considerations to MEPC 53.

#### **Survey Guidelines for Annex VI of MARPOL**

4.9 The Committee recalled that MEPC 49 approved the draft amendments to Annex VI of MARPOL 73/78 on the introduction of the Harmonized System of Survey and Certification (HSSC) into Annex VI.

4.10 The Committee recalled that annex 3 to resolution A.948(23) on “Revised Guidelines under the Harmonized System of Survey and Certification” only addressed the survey guidelines for Annexes I and II of MARPOL 73/78 and did not include Survey Guidelines for Annex VI of MARPOL 73/78.

4.11 The Committee recalled that the Survey Guidelines were required for compliance with regulations 5 and 6 of Annex VI and Chapters 2 and 6 of the NOx Technical Code in order to ensure unified and consistent implementation.

4.12 The Committee, having considered a submission by the United Kingdom (MEPC 52/4/10), instructed FSI 13 to develop, as a matter of priority, the Survey Guidelines under HSSC for Annex VI of MARPOL 73/78 under its agenda item “Review of the Survey Guidelines under HSSC”, and to submit them to MEPC 53 for approval, before requesting the Assembly to amend resolution A.948(23) to include the Survey Guidelines for Annex VI of MARPOL 73/78.

4.13 As suggested by Japan, the Committee also instructed the FSI Sub-Committee to develop the Guidelines on port State control for Annex VI of MARPOL 73/78.

#### **Monitoring of the worldwide average of sulphur content of residual fuel oil supplied for use onboard ships including funding for the continuation of the sulphur-monitoring project**

4.14 The Committee recalled that funding for the present sulphur-monitoring project would run out at the end of 2003 and that MEPC 51 considered the possibilities for a voluntary scheme for funding. MEPC 51 welcomed the offer by the Netherlands, the United Kingdom and possibly others and urged other Members to provide additional funding for the continuation of the monitoring project.

4.15 The Committee instructed the Working Group to consider the funding possibilities further, taking into consideration the comments made by delegations.

4.16 The Committee agreed to bring the issue to the attention of the Council in order to consider a more permanent solution for funding and reporting of the sulphur-monitoring project.

4.17 The Committee recalled that MEPC 49, in accordance with the Guidelines for monitoring the worldwide average sulphur content of residual fuel oils supplied for use onboard ships, adopted by MEPC resolution 82(43), established the rolling average of sulphur content covering the years 2000 to 2002 as 2.7% m/m.

4.18 The Committee noted the submission by the Netherlands (MEPC 52/4/8) and agreed that on the basis of the samples taken during the years 2001 to 2003 with an average value of 2.7, 2.6 and 2.7%, respectively, a new three-years rolling average referred to in paragraph 4 of the Guidelines, can now be established as 2.67% and that the reference value referred to in paragraph 5 of the Guidelines can be established as 2.7%.

### **Circulation of proposed amendments to MARPOL Annex VI**

4.19 The Committee recalled that the following amendments to Annex VI of MARPOL 73/78 and the NO<sub>x</sub> Technical Code had been approved by the Committee:

- |    |         |                     |   |
|----|---------|---------------------|---|
| .1 | MEPC 44 | Document MEPC 44/20 | Annex 4 (fa factor)<br><br>Annex 5 (the North Sea as a SO <sub>x</sub> emission control area) |
| .2 | MEPC 45 | Document MEPC 45/20 | Annex 8 (the use of the Spanish language)   |
| .3 | MEPC 49 | Document MEPC 49/22 | Annex 8 (introduction of HSSC)  |

4.20 The Committee instructed the Working Group to make a final review of the proposed amendments with a view to circulation prior to adoption at MEPC 53 in July 2005.

### **Implementation of regulation 14 of Annex VI of MARPOL 73/78**

4.21 The Committee recalled that regulation 14 of Annex VI of MARPOL 73/78 on sulphur oxides (SO<sub>x</sub>) states that the sulphur content of any fuel used onboard ships shall not exceed 4.5% m/m. Inside SO<sub>x</sub> emission control areas the sulphur content shall not exceed 1.5% m/m. At present, only the Baltic Sea area was designated as a SO<sub>x</sub> emission control area. The North Sea area was approved as a SO<sub>x</sub> emission control area, but the Committee, before the entry into force, could not adopt the necessary amendments to regulation 14(3) of Annex VI of MARPOL 73/78.

4.22 The Islamic Republic of Iran in its submission MEPC 52/4/12 suggested, due to technical limitations in compliance with SO<sub>x</sub> emission control area requirements established by regulation 14(4) of Annex VI of MARPOL 73/78, with reference to article 1(a) of the IMO Convention and due to lack of accessibility to bunker fuel oils with 1.5% sulphur content, the establishment of a timetable for uniform global reduction of the sulphur content in bunker oils to a desired level, without maintaining existing or introducing any new specific SO<sub>x</sub> emission control areas.



4.23 The Committee considered the document from the Islamic Republic of Iran and decided to invite Parties to submit proposed amendments to Annex VI and the NO<sub>x</sub> Technical Code to MEPC 53 for consideration.

4.24 In this connection, the Committee also noted the submission by Friends of the Earth International (MEPC 52/4/4) which, with reference to the global average of sulphur content of less than 3% in bunker fuel oils, the increased emission of SO<sub>x</sub>, NO<sub>x</sub>, PM and PAH and the consequential risk to health and acidification of forests and lakes, suggested the lowering of the “Global Cap” of sulphur in fuel oils to 1.5% m/m and the adoption of more SO<sub>x</sub> emission control areas.

### **Co-operation between the Secretariats of IMO and UNFCCC including follow-up activities**

4.25 The Committee recalled that, as instructed by MEPC 42, there had been ongoing co-operation between the Secretariats of IMO and the United Nations Framework Convention on Climate Change (UNFCCC) and its Subsidiary Body for Scientific and Technical Advice (SBSTA) on the reduction of greenhouse gas emissions from ship’s use of bunker oils in recognition of the Kyoto Protocol requirements.

4.26 The Committee recalled that MEPC 49, at the invitation of SBSTA 18, instructed the Secretariat to initiate an informal meeting or workshop of experts between the two Secretariats with the participation of member experts of the Working Group on Air Pollution, before SBSTA 20 (June 2004). The Committee noted that this informal meeting was held on 21 April 2004 in IMO and the outcome of the Meeting was reported in document MEPC 52/4.

4.27 The Committee welcomed the on-going co-operation between the secretariats of IMO and UNFCCC and noted the outcome of SBSTA 20 (MEPC 52/4/3).

4.28 The Committee noted the importance of the work of the International Panel on Climate Change (IPCC) on the revision of the “Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories” and urged Members to take an active part in the revision of the Revised 1996 IPCC Guidelines.

### **Principles of greenhouse gas emissions from ships**

4.29 The Committee recalled that the Assembly, by resolution A.963(23), adopted “IMO Policies on Practices related to the Reduction of Greenhouse Gas Emissions from Ships” and that this resolution, together with Conference resolution 8 from the 1997 International Air Pollution Conference and the IMO Study on Greenhouse Gas Emissions from Ships, established the basis for the IMO work on reduction or limitation of greenhouse gas emissions from international shipping.

4.30 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 to document MEPC 49/22.

4.31 The Committee recalled that the report of the intersessional correspondence group (MEPC 51/4) was presented to MEPC 51 by Mr. Sveinung Oftedal (Norway), the Co-ordinator of the correspondence group.

4.32 The Committee recalled that several States expressed the view at MEPC 51 that the work of IMO in relation to the implementation of resolution A.963(23) should be led by Annex I countries of UNFCCC, and 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 as agreed to at the United Nations Conference on Environment and Development (UNCED) held in Rio, 1992 and embodied in the Kyoto Protocol, 1997.

4.33 The Committee recalled that the majority of delegates that spoke were of the view that the work of the correspondence group was done in compliance with the requirements of resolution A.963(23) and was in general supported by the shipping industry. In order to develop an even more environmentally friendly mode of transport, the development of an emission baseline and index figures were urgently needed. Finally, the growth in international shipping activities was a direct consequence of the growth in international trade.

4.34 The Committee recalled that MEPC 51 could not reach any agreement on the issue and therefore agreed to postpone further consideration on greenhouse gas emissions limitation or reduction to MEPC 52, including consideration of the correspondence group report and to allocate ample time for consideration on this issue.

4.35 After consideration, the Committee agreed to consider the greenhouse gas emission issues in two steps: Step 1 should include all technical matters related to GHG limitations or reductions, and Step 2 should cover the political related issues including equal application or common but differentiated responsibilities.

#### **Technical matters related to GHG emissions**

4.36 The Committee recalled that resolution A.963(23) urges the MEPC to develop a methodology to describe GHG efficiency of a ship and to develop guidelines by which this may be applied in practice.

4.37 The Committee recalled that documents submitted to MEPC 51 (MEPC 51/4, MEPC51/4/2, MEPC 51/INF.10) were introduced at MEPC 51. However, the report of the intersessional correspondence group was not considered from a technical point of view.

4.38 The Committee noted the submission by Norway, Germany and the United Kingdom (MEPC 52/4/2), containing the outline of draft Guidelines for ship CO<sub>2</sub> indexing, and agreed that this submission, together with the submission MEPC 52/4/9 by India and MEPC 52/4/5 by FOEI, would provide a good starting point for considerations related to the development of a CO<sub>2</sub> indexing scheme as a voluntary mechanism to be used during a trial period.

4.39 The Committee agreed that a CO<sub>2</sub> indexing scheme should be simple and easy to apply and should take into consideration matters related to construction and operation of the ship, and market-based incentives.

4.40 The Committee agreed that “weather routing” should not be considered further as a possible future mandatory measure for the reduction of GHG emissions.

4.41 The Committee agreed to instruct the Working Group on Air Pollution to examine on the technical points of view the draft Guidelines for ship CO<sub>2</sub> emission indexing and to make

suggestions on how to further develop the scheme, taking into considerations comments made by delegations at plenary.

### **Matters related to the implementation of the draft Guidelines for ship CO<sub>2</sub> indexing**

4.42 India, in its submission MEPC 52/4/9, reiterated its views that the text of the Kyoto Protocol with regard to the principle of common but differentiated responsibilities and the requirements of transfer of technology and financial assistance should be taken into consideration when developing the IMO policy on GHG reduction or limitation. It also considered that the issue on common but differentiated responsibilities should be brought to the attention of the Assembly for further consideration.

4.43 Norway, in presenting document MEPC 52/4/1, stressed that the submission should be seen as a further development and refining of Norway's submission MEPC 51/4/2 to MEPC 51. The submission pointed out that the tradition of IMO was to develop mechanisms, either voluntary or mandatory, which apply equally to each Member State. The IMO Convention article 1(b) on the purpose of the Organization, the removal of discriminatory action was addressed, and as such, the inclusion of the differentiated approach in any IMO GHG mechanism to be developed would be in conflict with the purpose of the Organization. Further, Norway referred to the well established principle of "no more favourable treatment" in IMO instruments. In conclusion, Norway highlighted that the principle of equal application to IMO Member States should also apply to the IMO work on GHG emissions from international shipping.

4.44 In this connection, China made the following observations: IMO was asked to deal with limitation and reduction of greenhouse gas emissions by the Kyoto Protocol, which only obliges Annex I countries of UNFCCC to do so. IMO Assembly resolution A.963(23) clearly acknowledged the relevant provisions of the Kyoto Protocol. During the deliberation on the matter, the recommendation of the MEPC that "the Assembly resolution on IMO Policies and Practices related to reduction of greenhouse gas emissions from ships should be based on a common policy applicable to all ships, rather than based on the provisions of the Kyoto Protocol which stated that the reduction of greenhouse gas emissions is under the responsibility of the Annex I countries of the Protocol" was rejected by the IMO Assembly. It proves that the above assertion was wrong. If the limitation or reduction of greenhouse gas emissions is equally applied to both developed and developing countries, the developing countries will be discriminated for the following reasons: first, 79% of greenhouse gases were emitted by the developed countries; second, the Kyoto Protocol only obliges Annex I countries to pursue reduction of greenhouse gas emissions through IMO; and thirdly, the developing countries are technologically lagging behind. China also pointed out that the reason why IMO did not apply the "common but differentiated responsibility" principle when dealing with matters concerning the Montreal Protocol and the Basel Convention is that these documents did not provide that the developed countries should pursue limitation or reduction of related materials through IMO. In conclusion, China stressed that the "common but differentiated responsibility" principle should be observed by IMO when addressing greenhouse gas emissions from ships.

4.45 The Committee considered the submissions by India and Norway in a lengthy debate. The Committee had diverging views and could not reach a conclusion or an agreement on the issue. Following this inconclusive debate, the Chairman said that the issue was under discussion in other fora as well, and it would be advisable to continue the common ground found on technical matters and defer the application issue to a later stage when an agreement had been reached elsewhere.

4.46 The Committee noted the submission MEPC 52/4/5 by Friends of the Earth International, in which they expressed a general concern for the consequences of an annual grow of 38 to 72% of GHG emission generated by shipping during the period up to 2020. The increase is considered as the consequence of increased international trade. FOEI suggested a number of short- and long-term measures that IMO should take.

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

4.47 The Committee recalled that MEPC 51 agreed to re-establish the Working Group on Air Pollution at this session and agreed to the following Terms of Reference for its work:

- .1 to make a final editorial review of the proposed amendments to Annex VI of MARPOL 73/78, which had already been approved by previous sessions of the Committee, for circulation immediately after MEPC 52, so that they could be adopted by MEPC 53 in July 2005;
- .2 to consider funding of the sulphur-monitoring project in detail, based on the comments made at Plenary, with a view to a continuation of the project;
- .3 to examine Assembly resolution A.963(23) in order to identify any necessary follow-up activities of a technical nature, taking into consideration the following submissions by Members to MEPC 51 (MEPC 51/4, MEPC 51/4/2, MEPC 51/INF.2) and to this session (MEPC 52/4/2, MEPC 52/4/5, MEPC 52/4/9, MEPC 52/4/12) and the comments made at Plenary. The Group should not discuss issues of a political nature; and
- .4 to provide a report to the Committee on Thursday, 14 October 2004.

### **Report of the Working Group on Air Pollution**

4.48 Having received the report of the Working Group (MEPC 52/WP.9) the Committee took the following actions.

4.49 The Committee noted the text of the proposed amendments to MARPOL Annex VI and the NO<sub>x</sub> Technical Code which were approved by the Committee at previous sessions and editorially reviewed by the Working Group, as set out in annex 1, and requested the Secretary-General to circulate them in accordance with Article 16 of the MARPOL Convention, with a view to their adoption at MEPC 53.

4.50 The Committee agreed to bring the issue of the sulphur-monitoring project to the attention of the Council with a view to its continuation and future funding via the regular budget of the Organization.

4.51 The Committee noted the progress by the Group on the draft Guidelines on the CO<sub>2</sub> indexing scheme following the review of resolution A.963(23).

4.52 The Committee invited those Members which were in a position to carry out trials, using the draft Guidelines on CO<sub>2</sub> indexing scheme, to do so and to report to MEPC 53.

4.53 The Committee noted the view that, in the future, the Guidelines for the five other GHGs covered by the Kyoto Protocol should be considered.

4.54 The Committee, by majority, approved in general the report of the intersessional correspondence group (MEPC 51/4).

4.55 The Committee noted that trials of the CO<sub>2</sub> Indexing Scheme would be undertaken and might be carried out intersessionally by Japan, Germany, Norway, Marshall Islands, the Netherlands, the United Kingdom and INTERTANKO, and reported to MEPC 53.

4.56 The Committee approved a one-day open Technical Workshop on GHG Indexing Scheme to be held in IMO on the Friday prior to MEPC 53 under the condition that it would be organized without additional cost to the Organization. In this respect, the Committee welcomed the offer by Japan and the United Kingdom to provide funding and in-kind support, respectively, for the Workshop.

4.57 In order to progress the development of the IMO CO<sub>2</sub> indexing scheme and to facilitate the implementation of Annex VI of MARPOL 73/78, the Committee agreed to reconvene the Air Pollution Working Group at MEPC 53 (see also paragraph 20.9).

4.58 The Committee approved the report of the Working Group in general.

4.59 The delegation of China, supported by Saudi Arabia, suggested that there should be two readings of the Working Group report before it is submitted to the Plenary for consideration.

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

### **Introduction**

5.1 The Committee recalled that MEPC 37 (11 to 15 September 1995) approved the Work Programme of the newly-established BLG Sub-Committee and agreed on the General Action Plan for the revision of Annexes I and II of MARPOL 73/78 and appropriate Terms of Reference. The Committee noted that since that date, nine years ago, the revision of both Annexes progressed until completion of the task at BLG 8 (24 to 28 March 2003) and subsequent submission to MEPC 49 for consideration and approval.

5.2 The Committee recalled further that, for MARPOL Annex II, the revision work actually started at MEPC 34 when it developed terms of reference for the revision of Annex II with a first target completion date of 1996. The target completion date was deferred to the year 2000 and finally set for 2003 with an expected entry into force date of 1 January 2007.

5.3 The Committee decided to discuss the revised MARPOL Annex I first, with two documents by the Secretariat (one of them a corrigendum) to which no comments had been made, focusing afterwards on the matters relating to MARPOL Annex II and the IBC Code.

### **Revised MARPOL Annex I**

5.4 The Committee recalled that MEPC 49 (14 to 18 July 2003) approved, in principle, the revised MARPOL Annex I and agreed to its circulation to IMO Members and Contracting Governments to the 1973 MARPOL Convention after final approval by MEPC 51, taking into

account the developments expected at MEPC 50 regarding revised regulation 13G and new regulation 13H.

5.5 The Committee recalled also that MEPC 51 (29 March to 2 April 2004) had considered and approved new regulation 13I (pump-room bottom protection) and amendments to regulation 26 (prompt access to computerized stability and residual strength calculation programmes) of the existing MARPOL Annex I with a view to adoption at MEPC 52 together with the revised Annex I (MEPC 51/22, paragraph 10.19 and annex 9). MEPC 51 also agreed to instruct the Secretariat to incorporate the amended regulation 13G, new regulation 13H (both adopted by MEPC 50 in December 2003), new regulation 13I, amended regulation 26 and other consequential amendments into the text of the revised Annex I and requested the Secretary-General to circulate it with a view to adoption by MEPC 52 (MEPC 51/22, paragraph 12.3 and annex 11).

5.6 The Committee noted that the text of the revised Annex I was 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.2537 of 8 April 2004.

5.7 The Committee had before it document MEPC 52/5 by the Secretariat containing the text of the revised Annex I, and its appendices and Unified Interpretations, plus the covering MEPC resolution on its adoption.

5.8 The Committee noted document MEPC 52/5/Corr.1 by the Secretariat incorporating an amendment to the draft MEPC resolution on the adoption of MARPOL Annex I to the effect that operative paragraph 1 would read as follows:

*“ADOPTS, in accordance with article 16(2)(b), (c) and (d) of the 1973 Convention, the revised Annex I of MARPOL 73/78, the text of which is set out at the annex to the present resolution, **each regulation being subject to separate consideration by the Parties pursuant to article 16(2)(f)(ii) of the 1973 Convention.**”*

5.9 The Committee recalled that, following the agreement at MEPC 51, the above paragraph had been modified so that it would enable the United States to consider becoming a Party to the revised Annex I with the exception of regulations 19, 20 and 21.

5.10 The Committee endorsed the modification in operative paragraph 1 of the draft MEPC resolution on adoption of the revised MARPOL Annex I.

5.11 The Committee confirmed that, following operative paragraph 3 of the draft MEPC resolution on the adoption of the revised Annex I, the date of entry into force would be 1 January 2007, as agreed by MEPC 49, in accordance with article 16(2)(g)(ii) of MARPOL 73/78.

5.12 Noting that MEPC 51 had agreed to establish a Drafting Group at the present session to finalize the texts of the proposed amendments to MARPOL 73/78 (MEPC 51/22, paragraph 20.9.4), the Committee agreed to set up a Sub-Group of the Drafting Group with the objective of finalizing the revised Annex I exclusively, leaving the matters related to Annex II and the IBC Code to the Drafting Group proper.

5.13 The Committee noted that there might be a need to amend the Condition Assessment Scheme (CAS) to correct the reference to regulation numbers in the current MARPOL Annex I

(e.g. regulation 13G) as a result of the renumbering of regulations in the revised MARPOL Annex I. The Committee further noted that India, in its document MEPC 52/13/4, requested the Committee to consider the issue with regard to the requirement of oil filtering equipment for machinery spaces for oil tankers less than 400 GT and Oil Record Book Part I for oil tankers of 150 GT and above but less than 400 GT in the revised MARPOL Annex I. After a brief consideration, the Committee decided to refer the two issues to the Sub-Group on Annex I for consideration.

### **Designation of the Oman area of the Arabian Sea as a Special Area**

5.14 The Committee noted that document MEPC 52/WP.14/Rev.1 provided the confirmed co-ordinates for the Oman area of the Arabian Sea as a Special Area under MARPOL Annex I.

5.15 In this connection, the Committee recalled that MEPC 49, noting that proposed amendments to MARPOL Annex I had been approved at MEPC 48 and circulated by the Secretary-General of the Organization, in accordance with article 16(2)(a) of MARPOL 73/78 under cover of circular letter No.2434 of 25 November 2002, had intended to adopt the proposed amendments to make the Oman area of the Arabian Sea as a Special Area under MARPOL Annex I.

5.16 The Committee recalled further that the Sultanate of Oman, by an urgent fax to MEPC 49, had informed the Committee that the co-ordinates given in the text of the proposed amendments required further confirmation and that the Sultanate of Oman would take urgent action to confirm those co-ordinates and to submit them to the Committee at the earliest date. As requested by the Sultanate of Oman, MEPC 49 decided that the intended adoption of the proposed amendments to MARPOL Annex I would be postponed to a future session of the Committee and that the proposed amendments to MARPOL Annex I, as approved by MEPC 48 and circulated by the Secretary-General, would remain valid, except for confirmation of the co-ordinates for the proposed Special Area.

5.17 The Committee agreed that the designation of the Oman area of the Arabian Sea as a Special Area under MARPOL Annex I was in order for adoption at the present session together with the revised Annex I. Consequently, the Committee instructed the Sub-Group on the revised Annex I to incorporate the proposed Special Area and its co-ordinates in regulation 1.11 of the revised Annex I.

### **Revised MARPOL Annex II**

5.18 The Committee recalled that MEPC 49 considered and approved the revised MARPOL Annex II. Furthermore it recalled that MEPC 50 noted that, since MARPOL Annex I and Annex II relate to each other, the revised Annex II should be circulated together with the revised Annex I after MEPC 51 with a view to simultaneous adoption at MEPC 52 in October 2004 and that MEPC 50 further concluded that the expected entry into force date of the revised Annex II should be set on 1 January 2007.

5.19 The Committee noted that the text of the revised Annex II was 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.2538 of 8 April 2004 and that the document MEPC 52/5/1 by the Secretariat contains the text of the revised Annex II and the MEPC resolution on its adoption.

5.20 The Committee noted further that following operative paragraph 3 of the draft MEPC resolution on the adoption of the revised Annex II, the date of entry into force would be 1 January 2007 in accordance with article 16(2)(g)(ii) of MARPOL 73/78.

5.21 The Committee considered document MEPC 52/5/1 containing the draft revised Annex II and the draft MEPC resolution on its adoption and referred it to the Drafting Group for finalization.

### **Revised IBC Code**

5.22 The Committee recalled that MEPC 51 considered and approved the revised IBC Code (MEPC 51/22, paragraph 11.56.8 and annex 10) and that the text of the revised IBC Code was 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.2539 of 8 April 2004 with a view to adoption at MEPC 52. It recalled further that MSC 78 (12 to 21 May 2004) considered the revised IBC Code from a safety point of view and approved further amendments to the IBC Code, which, *inter alia*, incorporated amendments to chapter 6 (Materials of construction) and to chapter 10 (Electrical installations). The IBC Code, as amended by MSC 78, was circulated by the Secretary-General of the Organization, in accordance with the provisions of the 1974 SOLAS Convention, under cover of Circular letter No.2556 of 28 May 2004 with a view to adoption at MSC 79.

5.23 The Committee noted that since it was highly desirable for the provisions of the IBC Code, which were mandatory under both MARPOL 73/78 and the 1974 SOLAS Convention as amended, to remain identical, the text of the revised IBC Code, as set out at annex to document MEPC 52/5/2 prepared by the Secretariat, was the text as amended by MSC 78.

5.24 The Committee also noted that in operative paragraph 3 of the draft MEPC resolution on the adoption of the revised IBC Code, the date of entry into force would be 1 January 2007, in accordance with article 16(2)(g)(ii) of MARPOL 73/78.

5.25 The Committee further noted that the text of the revised IBC Code included lists of products under chapters 17 and 18. However, when these lists were produced, they only included the revised Pollution Categories and Ship Types for each product as there was insufficient data and time to produce all of the other changes consequential to the revised Code. Following the outcome of ESPH 10 (30 August to 3 September 2004) additional changes had been made to chapters 17 and 18 of the IBC Code.

5.26 In this connection, the Committee noted that MEPC 52/WP.1(Secretariat) provided the following:

- .1 updated Chapter 17 of the revised IBC Code;
- .2 updated Chapter 18 of the revised IBC Code;
- .3 Index for the updated Chapters 17 and 18 of the revised IBC Code;
- .4 a list of products with the required safety data but omitted from either chapter 17 or 18 due to missing pollution data (columns A1, A2, B1, E2) of the revised GESAMP Hazard Profiles;



- .5 a list of products with the required pollution data but omitted from either chapter 17 or 18 due to missing safety data (columns C1, C2 or C3) of the revised GESAMP Hazard Profiles;
- .6 a list of products omitted from either chapter 17 or 18 due to missing pollution data and missing safety data; and
- .7 actions taken to update chapters 17 and 18 of the IBC Code.

5.27 Having considered the information provided, the Committee agreed to the updated chapters 17 and 18 as part of the revised Code to be adopted. The Committee also agreed to the Index to chapters 17 and 18 as an annex to the Code.

5.28 During the discussions, the Committee encouraged stakeholders to either provide the data for those products with missing data or inform IMO that such products are no longer being shipped in bulk.

5.29 The Committee recalled that, in considering matters related to the outdated fire safety references and provisions contained in the draft revised IBC Code, MSC 78 agreed to instruct the Secretariat to update the cross-references to SOLAS chapter II-2 and remove the provisions related to halon fire-extinguishing systems, taking into account that these changes were essentially editorial in nature. MSC 78 also instructed the Secretariat to submit the proposed amendments to MEPC 52 and MSC 79 for consideration with a view to their inclusion in the final text of the amendments to the IBC Code to be adopted at MEPC 52 under the MARPOL Convention and the MSC 79 under the SOLAS Convention.

5.30 The Committee considered the amendments set out in the annex to MEPC 52/5/3 with a view to their inclusion in the revised text of the IBC Code contained in document MEPC 52/5/2 for adoption in accordance with article 16(2)(b), (c) and (d) of MARPOL 73/78.

5.31 The Committee agreed that comments of a safety-related nature should be forwarded to MSC 79 and instructed the Secretariat accordingly. In this context, Japan mentioned that it also had some comments and proposed revisions to the fire protection references and provisions.

5.32 The Committee also considered the views provided by India in its submission MEPC 52/5/8 related to proposed amendments to the revised IBC Code, in particular those relating to the harmonization of phraseology with other IMO instruments.

5.33 The Committee considered document MEPC 52/5/2 containing the draft revised IBC Code and the draft MEPC resolution on its adoption and MEPC 52/WP.1 containing the updated chapters 17 and 18 and the Index to the Code and referred them to the Drafting Group for finalization. The Committee also instructed the Drafting Group to review the proposed amendments in MEPC 52/5/3, MEPC 52/5/8 and the proposals from Japan and to incorporate them, where appropriate, taking into consideration the comments by the delegates.

### **Derogations for the transport of vegetable oils in deep tanks**

5.34 The Committee recalled that MEPC 51 approved, in principle, the resolution on the Guidelines for the transport of vegetable oils in deep tanks or in independent tanks specially designed for the carriage of such vegetable oils in general 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 (MEPC 51/22, paragraph 11.20).

5.35 The Committee considered document MEPC 52/5/7 containing the draft resolution allowing the derogations for the transport of vegetable oils in deep tanks and referred it to the Drafting Group for finalization.

### **Carriage of vegetable oils**

5.36 In introducing document MEPC 52/5/5, Malaysia reiterated that while it was supportive of the MEPC's efforts to protect the marine environment, it cautioned that any implementation of stricter preventive regulatory measures should not cause undue disruption of trade. Malaysia then informed the Committee that based on actual palm oil shipment data and projections of the total vegetable oil export of 52.3 million tonnes in 2007, Malaysia was genuinely concerned on the potential shortages of Type 2 chemical tankers for the carriage of vegetable oils. Malaysia proposed that the implementation of the ship type requirements for the carriage of palm oil products in the revised IBC Code and MARPOL Annex II be deferred to 1 January 2010.

5.37 Malaysia also expressed its reservation on the reclassification of solidifying fats as persistent floaters for the previous classification of floaters by the GESAMP/EHS Working Group and pointed out that scientific data and information should be made available to all delegates in order to understand the reasons for this classification.

5.38 The Committee considered the proposal by the Netherlands, Panama and the United States regarding the carriage of vegetable oils in an environmentally protective manner (MEPC 52/5/6).

5.39 The Netherlands, on behalf of the co-sponsoring countries, recalled the reasons for the revisions of MARPOL Annex II which was first discussed during BCH 24 in September 1992. The Netherlands pointed out that studies undertaken during the process leading to the finalization of Annex II had shown the harmful effects on marine life in particular marine birds and coastal amenities from contact with vegetable oils and that representatives of the vegetable oil industry were engaged in the discussions from the start of the process.

5.40 The Netherlands recalled that MEPC 51 noted that single hull tankers for the carriage of mineral oil were soon to be phased out and that vegetable oils exhibit similar physical properties to mineral oil and are capable of causing as much harm to the marine environment. The Committee therefore had agreed that, on the understanding that phased out single hull tankers under Annex I would not be allowed to transport vegetable oils when the revised Annex II entered into force, regulation 4.1 might be invoked to ensure that there was adequate tonnage available.

5.41 After MEPC 51, the co-sponsoring countries evaluated the possibility for the practical implementation of regulation 4.1 on the basis of aim, use, need, process and the specific vegetable oil trade and concluded that the administrative procedures needed to employ regulation 4.1 would be out of balance with the intended objective.

5.42 In seeking to find a balance between the optimal protection of the marine environment, avoidance of potential disruption to the vegetable oil trade and reduction of administrative procedures, the co-sponsoring countries developed an alternative proposal based on the following basic fundamentals which were discussed at MEPC 51:

- .1 transport in double hull;
- .2 no exemption for operational discharges;
- .3 only for individually identified unmodified vegetable oils with an entry in the IBC Code, i.e. with a complete GESAMP Hazard Profile (GHP) with consequential deletion of the relevant n.o.s. entries in the IBC Code; and
- .4 identification of the exemption on the ship's certificate, i.e. the certificate of fitness because all vegetable oils which currently have an entry in the IBC Code are identified as Pollution Category Y and consequentially need to be transported on a tanker to which the IBC Code applies.

5.43 The alternative proposal was to include a new regulation 4.1.3 of the revised Annex II to MARPOL 73/78 (MEPC 52/5/1) with a consequential footnote in column e of Chapter 17 of the IBC Code to identify the vegetable oils concerned.

5.44 The delegation of the United States expressed the view that the proposal in MEPC 52/5/6 was a good compromise and informed the Committee that, should the proposal be accepted, it would no longer reserve its position on the matter.

5.45 The Committee, having considered all the above issues agreed that the proposal provided an acceptable solution and way forward for the carriage of vegetable oils in a sound environmental manner without disturbing the current trade.

#### **Implementation of the revised Annex II and the revised IBC Code**

5.46 Norway, in its submission (MEPC 52/5/4), addressed the issue of the practical problems that may arise in connection with the implementation of the requirements under the revised MARPOL Annex II and the revised IBC Code.

5.47 The Committee agreed to instruct BLG 9 to examine the practical problems raised by Norway and others that may be identified in connection with the practical implementation of the revised requirements. The Committee also agreed that in view of the deadline for the entry into force of the revised requirements, the BLG Sub-Committee should address these at its next session and report back to MEPC 53.

5.48 Norway drew to the attention of the Committee that the revised IBC Code included revised requirements for electrical equipment located within gas dangerous spaces and zones and that subject to the adoption by MSC it was expected that these new requirements would be applicable to chemical tankers whose keel would be laid on or after 1 January 2007.

5.49 Norway also drew to the attention of the Committee that the DE and BLG Sub-Committees had drafted similar parallel amendments for the electrical requirements of SOLAS for oil tankers and of the Gas Carrier Code for gas tankers and it would be unfortunate and confusing for industry if different entry into force dates should be given for the parallel revised electrical requirements of these three statutory instruments. This would be difficult in respect of SOLAS and the IBC Code as most chemical tankers were at the same time also certified under SOLAS as Oil Tankers.

5.50 The Committee concurred with the view expressed by Norway to request the Maritime Safety Committee that the utmost be done to ensure that 1 January 2007 was also made the effective date in respect of the SOLAS and Gas Carrier Code amendments. If the applicable amendments procedures did not allow this entry into force date, a recommendation by the Committee should be made to invite Administrations to implement the amendments as early as possible.

### **Establishment of the Drafting Group**

5.51 The Committee, having considered all the above issues, established a Drafting Group with the following terms of reference:

- .1 taking into account all the submissions and comments made at plenary, to review and finalize the texts of MARPOL Annex I (including consideration of MEPC 52/WP.14/Rev.1, MEPC 52/13/4 and possible amendments to CAS), Annex II and IBC Code, as well as the associated MEPC resolutions on their adoption; and
- .2 to submit a written report to the plenary by Thursday, 14 October, for consideration and adoption of the amendments to MARPOL 73/78 and the consequential amendments to the IBC Code by the Committee.

5.52 In view of the complexity of issues relating to the MARPOL Annex II and IBC Code, and taking into account that the consideration of the Annex I was a different matter and adequate time was needed for Annex II and the IBC Code, the Committee decided to establish a Sub-Group exclusively tasked with the consideration of the revised MARPOL Annex I which would report directly to the plenary.

### **Adoption of the revised MARPOL Annex I and related issues**

5.53 Having received the report of the Sub-Group (MEPC 52/WP.10), the Committee took decisions on the following issues prior to proceeding to the formal adoption of the revised Annex I:

- .1 with regard to the submission by India (MEPC 52/13/4), the Committee clarified that its instruction to the Sub-Group had been to match the mandatory requirements for oil tankers of 150 gross tonnage and above, but less than 400 gross tonnage, in the revised Annex I to those now mandatory under the existing Annex I. The Sub-Group, consequently, took the only action of reinstating the Oil Record Book Part I as a mandatory requirement for the above-mentioned tankers as the fitting of oil filtering equipment was considered as not mandatory for that category of tankers (MEPC 52/WP.10, paragraph 25). The Committee confirmed this decision in full. It was recognized, however, that Administrations may impose more stringent requirements on small oil tankers flying their flags as it is their prerogative to do so;
- .2 in respect of regulation 17.1 of the draft revised MARPOL Annex I, as amended by the Sub-Group, the Committee, noting that the second sentence in that regulation was redundant as it was already inserted in regulation 36.1 on Oil Record Book Part II, agreed to its deletion;

- .3 Following a proposal from the Islamic Republic of Iran, the Committee agreed that when providing co-ordinates for geographical points in the revised MARPOL Annex I, degrees of Longitude should be indicated with three digits. The Longitude points of the Special Area of the Oman area of the Arabian Sea would be done accordingly. The Committee instructed the Secretariat to amend Longitude positions to three-digit degrees wherever they were indicated in the draft revised Annex I and decided that the other Annexes of MARPOL 73/78 shall be amended in this respect when the occasion arises;
- .4 the Committee noted that the Table of Contents was not part of the revised Annex I and had been included in the annex to MEPC 52/WP.10 as a reference only. Therefore it was not part of the text to be adopted; and
- .5 the Committee noted that the Sub-Group had included the IMO Number as a new requirement in the Form of Oil Record Book Parts I and II. However, considering that this was not a requirement under the existing Annex I and that many Member States had in stock a considerable number of copies of the Oil Record Book without the IMO Number, the Committee agreed to delete this reference whilst recognizing that it would be useful to include it in a future amendment to the revised Annex I.

5.54 Having resolved the above issues, the Committee, by consensus:

- .1 adopted, by resolution MEPC.117(52), the revised MARPOL Annex I as set out at annex 2;
- .2 approved the Unified Interpretations, including the Unified Interpretation to regulation 21.6.1 agreed at this session of the Committee, to the revised MARPOL Annex I as set out at annex 3;
- .3 approved consequential amendments to the Condition Assessment Scheme, set out at annex 4, for circulation in accordance with article 16(2)(a) of the MARPOL Convention with a view to adoption by MEPC 53;
- .4 approved the Unified Interpretation to regulation 13G(4) of the existing MARPOL Annex I, set out at annex 5, and instructed the Secretariat to insert it in the Unified Interpretations to the revised MARPOL Annex I;
- .5 noted the views of the group in respect of document MEPC 52/13/4; and
- .6 authorized the Secretariat if, during the preparation of the authentic texts of the revised MARPOL Annex I, any inadvertent errors are identified in the texts, to effect appropriate corrections accordingly.

5.55 The delegation of the United States supported the adoption of the revised MARPOL Annex I; however, it reserved its position on regulations 19, 20 and 21 of the revised Annex.

## **Adoption of the revised MARPOL Annex II and the consequential amendments to the IBC Code**

5.56 Having considered the report of the Drafting Group (MEPC 52/WP.11), the Committee approved it in general and concurred with the Group's use of capitals for the phrases of Pollution Category, Ship Type and Noxious Liquid Substances in the texts of both instruments, as these were identified to be proper nouns and in some cases acronyms were derived from these nouns.

5.57 With regard to the text of revised MARPOL Annex II, the Committee:

- .1 noted the inclusion of the definition of "chemical" and "NLS" tanker in regulation 1 – Definitions by the Group as the definition of tanker was considered useful;
- .2 noted the re-numbering of the paragraphs in regulation 1 consequent to this addition;
- .3 concurred with the view of the Group that although differences existed between the first four paragraphs which appeared in the NLS certificate in MARPOL Annex II and the Certificate of Fitness in the IBC Code, it was not necessary to harmonize the two.

5.58 With regard to the text of consequential amendments to the IBC Code, the Committee:

- .1 agreed with the Group's proposal to add "2004" to the amendments to the IBC Code to facilitate the identification of these amendments in view of the other amendments that exist;
- .2 noted that the Group had included those proposals which it considered of editorial nature whilst others of a substantive nature, in particular those specifying transitional limits of ships and modifications to fire protection references and provisions, were not included;
- .3 agreed with the decision by the Group to retain paragraphs 15.5.2 and 15.15.3 dealing with "hydrogen peroxide solutions over 8% but not over 60% by mass" in view of the anticipated hazard profile that the GESAMP/EHS Working Group would provide in the near future and the subsequent re-entry of the product in chapter 17 of the Code;
- .4 noted that the lists contained in chapters 17, 18 and 19 of document MEPC 52/WP.1 contained information on substances which were up to date as far as the information allowed and agreed that in view of the transfer of information to the IBC Code, an additional editorial and data check would be appropriate and useful before final adoption by MSC 79 in December 2004; and
- .5 noted the update developed for the entry for liquid wastes.

5.59 Noting the need to harmonize the texts of MARPOL Annex I and Annex II in the use of SI units for viscosity, the Committee tasked the Secretariat to effect the appropriate changes to

ensure consistency in both texts. Similarly, the Committee also tasked the Secretariat to harmonize the texts of the IOPP and NLS Certificates as may be feasible.

5.60 The Committee noted that, since the IBC Code would be considered for adoption at MSC 79, it urged delegates who were present at the MEPC Drafting Group to participate in MSC 79.

5.61 The Committee concurred with the view put forward by the Chairman of the Drafting Group that circulating an MEPC/MSC circular, after a final check, containing the three lists of substances with missing data which appear in annexes 4, 5 and 6 of MEPC 52/WP.1, will give industry the opportunity to provide the missing data to the GESAMP/EHS Working Group and, if this was done before December 2005, the substances might be included in the MEPC.2/Circ. series before 1 January 2007.

5.62 The Philippines informed the Committee that, with the new addition of paragraph 4.1.3 in the revised MARPOL Annex II, it had decided to withdraw its reservation made at MEPC 51.

5.63 Having taken the above decisions, the Committee:

- .1 adopted, by resolution MEPC.118(52), the revised Annex II to MARPOL 73/78 as set out in annex 6;
- .2 adopted, by resolution MEPC.119(52), the amendments to the IBC Code, as set out in annex 7, including chapters 17, 18 and 19 subject to changes to be brought to the attention of MSC 79 before final adoption by that Committee;
- .3 adopted, by resolution MEPC.120(52), the Guidelines for the transport of vegetable oils in deeptanks or in independent tanks specially designed for the carriage of such vegetable oils in general dry cargo ships as set out in annex 8;
- .4 authorized the Secretariat if, during the preparations of the authentic texts of the amendments, any inadvertent errors are identified in the texts, to effect appropriate corrections accordingly and to harmonize the use of SI units for viscosity in both texts of MARPOL Annex I and Annex II as well as to harmonize the texts of the IOPP and NLS Certificates as may be feasible;
- .5 agreed on the use of capitals for Pollution Category, Ship Type and Noxious Liquid Substances in the texts of the revised MARPOL Annex II and the consequential amendments to the IBC Code and to bring this to the attention of MSC 79 for the purpose of harmonization;
- .6 agreed to forward those issues of a substantive nature related to the IBC Code raised by Japan and India to the BLG Sub-Committee for consideration; and
- .7 agreed, subject to concurrent decision by MSC 79, to issue, after a final check, an MEPC/MSC circular containing the three lists of substances with missing data which appear in annexes 4, 5, and 6 to MEPC 52/WP.1.

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

6.1 Under this agenda item the Committee had before it five documents and agreed to deal with them in the following order:

- .1 two documents proposing clarifications or interpretations related to MARPOL Annex I revised regulation 13G and new regulation 13H, both adopted by MEPC 50 in December 2003 (MEPC 52/6 by OCIMF and MEPC 52/6/4 by the Marshall Islands);
- .2 one document with a request for clarification of CAS application as related to MARPOL Annex I regulation 13H(6)(a) (MEPC 52/6/3 by INTERTANKO);
- .3 one document proposing an interpretation on the implementation of resolution MEPC.107(49) on Pollution Prevention Equipment (PPE) for Machinery Space Bilges of Ships (MEPC 52/6/2 by IACS); and
- .4 one document with a proposal to amend regulation 1.1 of the revised MARPOL Annex IV (MEPC 52/6/1 by Norway).

6.2 The Committee also agreed to consider under this agenda item a document proposing an amendment to the existing MARPOL Annex I regulation 18(6) that had been submitted under Agenda item 2 on Harmful Aquatic Organisms in Ballast Water (MEPC 52/2/11 by IACS).

### **Clarification of definition of fuel oil in MARPOL Annex I revised regulation 13G and new regulation 13H**

6.3 In introducing document MEPC 52/6, OCIMF invited the Committee to provide clarification regarding the definitions of “fuel oil” in both the revised MARPOL Annex I regulation 13G and new regulation 13H, in order to avoid the wrong types of heavy oil, such as lubricants, *cat feed or feedstock*, which are not included in the said fuel oil definitions, being carried in single-hull oil tankers beyond the deadline specified in regulation 13H.

6.4 The delegations participating in the debate supported in general the proposal by OCIMF and agreed that this was an important issue that merited clarification. A debate followed on whether to amend regulation 13H in order to include *cat feed, feedstocks* and other possible heavy grade oils within its scope, or develop a unified interpretation, or both. A discussion also took place on whether any proposed amendment should be referred to regulation 21 of the revised Annex I or to regulation 13H of the existing Annex I.

6.5 In this connection, the Committee considered document MEPC 52/WP.16 (Secretariat), which suggested that where proposed amendments to MARPOL Annex I and Annex II are submitted in the period from now on and before the expected entry into force of both Annexes on 1 January 2007, they should be considered as proposed amendments to the revised Annex I and Annex II, provided that, at the time of their adoption, the Committee ensures that their entry into force dates, in accordance with article 16 of the MARPOL Convention, occur after 1 January 2007. The Committee endorsed this view.

6.6 Following discussion the Committee agreed to send the issue to BLG 9 for consideration and report back to MEPC 53 in July 2005. The Committee agreed further that the proposed



amendments should be referred to regulation 21 of the revised Annex I. It was recognized that should the amendments be approved by MEPC 53 (July 2005) and adopted by MEPC 54 (March 2006), they could enter into force in July 2007.

### **Phasing out of single-hull tankers under the revised regulation 13G of MARPOL Annex I**

6.7 In its document MEPC 52/6/4, the Marshall Islands clarified a previous submission to MEPC 51 (MEPC 51/17/3) proposing that a single-hull oil tanker that had undergone a “major conversion” resulting in the replacement of the full vessel’s forebody, including the entire cargo tank section, be considered for the purpose of the revised regulation 13G, as an oil tanker delivered on the date when the major conversion was completed.

6.8 Following debate and having considered MEPC 52/WP.10, the Committee approved the Unified Interpretation to regulation 13G(4) of the existing MARPOL Annex I, which is set out at annex 5 (see also paragraph 5.54.4).

### **Clarification of CAS application as related to MARPOL Annex I regulation 13H(6)(a)**

6.9 In document MEPC 52/6/3, INTERTANKO expressed the view that, in accordance with the wording of MARPOL Annex I regulation 13H(6)(a), an Administration may be inclined to interpret its requirements as making CAS mandatory to oil tankers, irrespective of age, carrying crude oil of density at 15°C higher than 900 kg/m<sup>3</sup> but lower than 945 kg/m<sup>3</sup>, beyond the dates specified in regulation 13H(4)(a). In the view of INTERTANKO this interpretation would be inconsistent with paragraph 5.1.3 of CAS whereby CAS exclusively applies to oil tankers of 15 years of age and over.

6.10 The Committee debated the issue in depth and reached the conclusion that, in drafting regulation 13H, MEPC 50 had never had the intention of making CAS mandatory to oil tankers of less than 15 years operating under regulation 13H(6)(a). The Committee instructed the Sub-Group on the revised MARPOL Annex I to develop an appropriate Unified Interpretation.

6.11 The Committee, having considered the outcome of the Sub-Group on the issue (MEPC 52/WP.10), agreed with the following Unified Interpretation to regulation 21.6.1 of the revised MARPOL Annex I (which has been included in annex 3):

“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.”

### **Implementation of resolution MEPC.107(49) – Revised Guidelines and Specifications for Pollution Prevention Equipment for Machinery Space Bilges of Ships**

6.12 IACS, in its document MEPC 52/6/2, expressed concern on the following grounds:

- .1 a possible lack of consistency between paragraph 2(a) of resolution MEPC.107(49) inviting Governments to implement the Revised Guidelines as from 1 January 2005 “in so far as is reasonable and practicable”, and

paragraphs 1.3.1.1 and 1.3.1.2 of the Guidelines that seem to allow that possibility for “new” installations on board existing ships, only; and

- .2 the lack of equipment type-approved under the new Guidelines that could be made available for installation on board new ships from 1 January 2005 (implementation date for the Revised Guidelines).

6.13 IACS proposed to develop an MEPC Circular, or amend resolution MEPC.107(49), postponing the implementation of the requirements of the said resolution as follows:

- .1 under paragraph 1.3.1.1 of the Guidelines, installations fitted on or after 1 January 2005 to ships whose keels were laid **before** that date, NEED NOT meet the revised Guidelines; and
- .2 under paragraph 1.3.1.2 of the Guidelines, “new” installations should be interpreted as “**replacement**” installations and “fitted” should be interpreted as “**ordered**” on or after 1 January 2005, to ships whose keels were laid before 1 January 2005.

6.14 The majority of the delegations who took the floor were of the opinion that there would not be an appreciable shortage of equipment approved under the revised Guidelines on 1 January 2005. The Committee, however, agreed to the proposed interpretation in the document by IACS to the effect that paragraph 1.3.1.1 of the revised Guidelines is applicable to new building ships only if the keel is laid on or after 1 January 2005, and that paragraph 1.3.1.2 of the revised Guidelines is applicable to replacement equipment ordered on or after 1 January 2005 to ships the keel of which are laid before 1 January 2005.

6.15 The Committee instructed the Secretariat to issue MEPC/Circ.420 as soon as possible in this respect.

#### **Proposed amendments to the revised MARPOL Annex IV**

6.16 Norway, in its document MEPC 52/6/1, expressed the opinion that regulation 1.1 of the revised Annex IV must state the entry into force date of the Annex (27 September 2003) in order to avoid misunderstanding or possible confusion that could lead to ships that may be delivered between 27 September 2003 and 1 August 2005 (entry into force of the revised Annex IV) being considered as “existing ships”, instead of “new ships”, the latter being the correct view and interpretation.

6.17 In order to solve this perceived ambiguity, Norway proposed an amendment to regulation 1.1 of the revised Annex IV as follows:

“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 27 September 2003~~; or*
- .2 *the delivery of which is ~~three years or more after the date of entry into force of this Annex~~ on or after 27 September 2006.”*

6.18 In the debate that followed, the majority of delegations were opposed to approving amendments to regulation 1.1 of the revised MARPOL Annex IV. The Committee confirmed that 27 September 2003 was the one and only entry into force date of MARPOL Annex IV and that the revised Annex IV was an amendment to the existing Annex IV and, as such an amendment, its entry into force date was 1 August 2005. Some delegations, however, expressed some concerns as to the effects that the implementation of the revised Annex IV might cause to the shipping industry. In particular, the following points were made:

- .1 if the proposal for amendment was accepted, ships of countries which were planning to accept the revised Annex IV from now until 1 August 2005 would be adversely affected because of retrospective application;
- .2 careful consideration should be given to the possibility that the proposed amendment might affect other Annexes of MARPOL 73/78; and
- .3 several Administrations had already provided interpretations to the issue of “existing” and “new” ships for the revised Annex.

6.19 As a result of its discussions, the Committee decided not to amend regulation 1.1 of the revised MARPOL Annex IV.

#### **Transitory deviations from MARPOL when conducting ballast water exchange**

6.20 IACS, in introducing its document MEPC 52/2/11, expressed its opinion in favour of amending regulation 18(6) of the existing MARPOL Annex I (or regulation 30.6.1 of the revised Annex I) in order to allow oil tankers at sea to discharge ballast water **below** the waterline by means of **pumps**. This method was not currently allowed under the said regulation, as gravity was the only method for discharging ballast water at sea below the waterline.

6.21 After a short discussion the Committee, recognizing that it would be advisable to obtain the views on operational matters from the experts participating in the Ballast Water Working Group prior to considering the proposed amendment, agreed to send the issue to the Group for consideration and advice.

6.22 The Committee considered the outcome of the Ballast Water Working Group on the issue which is reported under agenda item 2 (see paragraph 2.21.10).

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

### **IMO/UNEP Manual on Natural Resource Damage Assessment and Restoration Following Major Oil Spills**

7.1 The Committee considered the document submitted by the Secretariat (MEPC 52/7) providing information on a proposal for the development of a joint IMO/UNEP Manual on Natural Resource Damage Assessment and Restoration Following Major Oil Spills and indicated its general support for the proposal and noted the concerns expressed by a number of delegations with respect to the short timeline proposed for the adoption of the manual.

7.2 Taking into account the concerns raised by New Zealand and the United States with regard to the short timeframe proposed for the development and finalization of the manual, the Chairman explained to the Committee that UNEP had originally foreseen developing the manual as a UNEP publication, and agreed to the proposal of the IMO Secretariat for its development as a joint publication with the proviso that the document be finalized and approved by MEPC 53 and published by the beginning of 2006.

7.3 Bearing in mind the timing of the next session of the OPRC/ORPC-HNS Technical Group for the week prior to MEPC 53 and the corresponding procedural difficulties that this entailed due to the MEPC document submission deadlines, and taking into account the information provided by the Chairman (paragraph 7.2), the Committee agreed exceptionally that the draft manual could be submitted to MEPC 53 as a working paper, with the additions and changes proposed by the third session of the Technical Group included in a consolidated annex, with a view to approval by the Committee at MEPC 53.

7.4 The Committee further noted that while it agreed to consider the draft manual with a view to approval at MEPC 53, it reserved the right to approach UNEP to request an extension for the work if it was felt that the quality was not of a high enough standard due to the short time allocated for its development.

7.5 The Committee thereby:

- .1 requested the OPRC/ORPC-HNS Technical Group to undertake the development of the proposed IMO/UNEP Manual (see also paragraph 7.10.14);
- .2 instructed the correspondence group tasked with developing the manual to take into account the comments made by India highlighting the need for the inclusion of information on bioremediation and phytoremediation in connection with restoration activities; and
- .3 invited India to provide its more detailed comments directly to New Zealand, as the co-ordinator of the correspondence group.

7.6 The Committee noted, in particular, the appreciation expressed by Pakistan to the international community for its assistance during the Tasman Spirit incident and its strong support for the development of the proposed manual on natural resource damage assessment and restoration following major oil spills, as well as the revised OPRC model courses and the capacity building tools currently being developed by the OPRC/ORPC-HNS Technical Group for HNS. Pakistan correspondingly urged the Committee, and the Technical Group, to ensure that any manuals developed were simple and practical so that they could be used by the widest possible audience.

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

7.7 The Committee noted the information on activities carried out by India for the implementation of the OPRC Convention (MEPC 52/7/1).

### **Adoption of NOWPAP regional contingency plan**

7.8 The Committee noted the information provided by the Republic of Korea on the adoption of the NOWPAP regional oil spill contingency plan by China, Japan, the Republic of Korea and

the Russian Federation. The Committee also noted the appreciation expressed by these delegations to the Secretariat for their support and assistance in developing the plan, and looked forward to the Secretariat's continued support in implementing the plan.

### **Report of the second session of the OPRC/OPRC-HNS Technical Group**

7.9 The Committee noted that the second session of the OPRC/OPRC-HNS Technical Group was held from 4 to 8 October 2004 and that the Group's report was issued as document MEPC 52/WP.4.

7.10 Following the presentation of the report of the Technical Group by its Chairman, Mr. Ezio Amato (Italy), the Committee (with references to paragraphs and annexes of document MEPC 52/WP.4):

- .1 took note of the progress made by the Group in developing an IMO Manual on Oil Spill Risk Evaluation and Assessment of Response Preparedness (paragraphs 2.2 to 2.6);
- .2 noted the progress made by the Group in the development of a guidance document on contingency planning, hazard evaluation, assessment and response to marine chemical spills (paragraphs 2.7 to 2.12);
- .3 took note of the current status of the Bonn Agreement Oil Appearance Code (BAOAC), based on a recent decision of the Meeting of the Contracting Parties to the Bonn Agreement to continue to collect data on the application of the coding for the next two years, and requested the Group to keep the matter in abeyance, pending receipt of the report of the results of the two-year trial from the Meeting of the Bonn Agreement Contracting Parties in 2006 (paragraphs 2.13 to 2.16);
- .4 considered the draft Guidelines on facilitation of response to pollution incidents, together with the draft Assembly resolution for their adoption, and approved them for submission to the twenty-fourth session of the Assembly, with any final editorial changes to be undertaken by the Secretariat, for adoption (paragraphs 3.1 to 3.3 and annex 1); the text of the draft Assembly resolution is set out in annex 9;
- .5 approved the Introductory, as well as Levels 1, 2 and 3 OPRC Model Training Courses; concurred with the view of the Group that a reference stating that the Exercise Clean Seas may be used as a training tool be introduced in the Courses; and instructed the Secretariat to act accordingly (paragraphs 4.3 to 4.10);
- .6 concurred with the course of action taken by the Group on the development of Guidelines for accreditation or approval of OPRC training organizations and experts (paragraphs 5.1 to 5.4);
- .7 noted the progress made and concurred with the course of action taken by the Group on the development of an IMO training programme for HNS incidents (paragraphs 6.2 to 6.6);
- .8 noted the progress made and concurred with the course of action taken by the Group on the development of a web page to be housed on the IMO website providing information and assistance for HNS incidents (paragraphs 7.4 to 7.8);

- .9 noted the action taken by the Group on the follow-up to the Third R&D Forum (paragraphs 8.3 and 8.4);
- .10 noted the progress made on the development of a web page on research and development for response to oil spills to be housed on the IMO website and concurred with the course of action taken by the Group (paragraphs 8.6 to 8.11);
- .11 noted the deliberations on the preliminary plans for the third IMO/UNEP Forum (paragraphs 9.2 to 9.6);
- .12 in noting the progress made on the implementation of the recommendations of the second IMO/UNEP Forum, noted the request from ROPME regarding the follow-up action needed in the ROPME Region concerning wreck removal (paragraphs 9.7 to 9.10);
- .13 approved the draft revised work programme of the Group and provisional agenda for TG 3 and confirmed that the next session of the Group will be convened from 11 to 15 July 2005 (paragraphs 10.1 to 10.3 and annex 2);
- .14 with reference to document MEPC 52/7, approved the addition of a new work programme item on development of a Manual on Natural Resource Damage Assessment and Restoration in Response to Large Oil Spills, and concurred with the course of action taken by the Group on this matter (paragraphs 11.1 to 11.7);
- .15 approved the organization and method of work agreed by the Group (paragraphs 11.8 to 11.13);
- .16 instructed the Secretariat to contact IAEA on the matter of developing emergency response arrangements to marine accidents involving radioactive materials, to follow the activities of IAEA and its committees on issues related to preparedness and response to nuclear and radioactive incidents and to report back to the OPRC/OPRC-HNS Technical Group on the matter at its third session (paragraph 11.15);
- .17 took note of the recommendation by ROPME on the need for the development of a standardized contingency plan for nuclear powered ships visiting ports (paragraph 11.18), and recognizing that expertise on preparedness and response to nuclear and radioactive releases is outside the remit and expertise of the IMO committees and their subsidiary bodies, and also noting the information provided by WNTI on the outcome of the recent meeting of the International Atomic Energy Agency's (IAEA) Transport Safety Standards Committee, invited those countries with an interest in this issue to participate in the work of IAEA, as the UN body responsible for developing regulations for the safe transport of radioactive materials; and
- .18 approved the report in general.

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

### **Designation of the Western European Waters as a PSSA**

8.1 The Committee recalled that, at MEPC 49, it 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 Shetland Isles to 0° longitude and referred the 48-hour mandatory reporting measure to NAV 50 for its consideration (MEPC 49/22, paragraph 8.25).

8.2 The Committee was informed that NAV 50 (July 2004) had considered a proposal by Belgium, France, Ireland, Portugal, Spain and the United Kingdom to establish a new mandatory ship reporting system for ships entering the Western European Waters PSSA in accordance with the provisions of SOLAS regulation V/11, as an associated protective measure (APM) for the PSSA submission for this region (MEPC 52/10/2).

8.3 The NAV Sub-Committee endorsed the establishment of a new mandatory Ship Reporting System in the Western European Waters PSSA, as set out in its report for adoption by MSC (NAV 50/19, annex 5).

8.4 The Committee endorsed the outcome of NAV 50 on this issue and designated, by resolution MEPC.121(52), the Western European Waters as a Particularly Sensitive Sea Area, as attached at annex 10. The Committee reconfirmed that the use of the mandatory ship reporting system for ships entering the PSSA would be free of charge.

### **Proposed extension of the existing Great Barrier Reef compulsory pilotage arrangements to the Torres Strait**

8.5 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 to consider the extension of the compulsory pilotage measure. In approving, in principle, this area as a PSSA, the Committee noted that, consistent with article 236 of UNCLOS, the APM would not apply to sovereign immune vessels (MEPC 49/22, paragraph 8.25).

8.6 The Committee was informed that NAV 50 (July 2004), after reviewing proposals by Australia and Papua New Guinea, agreed that the proposed compulsory pilotage in the Torres Strait was operationally feasible and largely proportionate to provide protection to the marine environment (MEPC 52/10/2).

8.7 In reaching this conclusion the NAV Sub-Committee recognized that the following issues had not been considered:

- .1 whether the proposed measure was the only measure which could improve the safety of navigation in the area;
- .2 what other feasible APMs could be implemented; and
- .3 the effect of implementing other feasible measures in general and in comparison with the effect of the implementation of the proposed measure.

This led to some delegations saying that a justification and demonstration of the compelling need of the proposed measure had not been submitted to the NAV Sub-Committee.

8.8 NAV 50 also noted the opinion of a number of delegations that there was no clear legal basis to adopt a compulsory pilotage regime in international straits and, consequently, the NAV Sub-Committee agreed to invite MEPC 52 to refer the legal issue of compulsory pilotage in straits used for international navigation to LEG 89 in October 2004, in order to enable MSC 79 in December 2004 to consider the proposal with the issue of the legal basis resolved.

8.9 Finally, NAV 50 requested MSC to consider whether there may be a need to develop guidelines and criteria for compulsory pilotage in straits used for international navigation notwithstanding the diverse view of delegations regarding a legal basis for such a regime. In this regard the NAV Sub-Committee agreed to request MSC to consider whether, for the purpose of enhancing safety of navigation in straits used for international navigation by means of compulsory pilotage, there may be a need for action (e.g., through establishing a new multilateral agreement or an amendment to any relevant instruments including guidelines and criteria) and decide as it deemed appropriate.

8.10 The Committee considered a further explanation on this issue by Australia and Papua New Guinea (MEPC 52/10/3). Although these delegations accepted the conclusions of NAV 50 with regard to the extension of the existing Great Barrier Reef compulsory pilotage arrangements to Torres Strait, they were nevertheless concerned that the Committee would review its decision at MEPC 49 of approval in principle. Resolution A.710(17) in 1991 had introduced a regime of *recommended* pilotage in the Torres Strait. However, compliance with this pilotage regime was declining and this resolution no longer provided an acceptable level of protection for Torres Strait. The proposed *compulsory* pilotage regime would have the same geographic application as that under resolution A.710(17). Independent risk assessments had confirmed that compulsory pilotage was currently assessed as the most appropriate APM for this PSSA. This proposal when implemented under the auspices of IMO would be consistent with UNCLOS, including, in particular, Parts III and XII. The right of transit passage under Part III of UNCLOS would not be impeded as a result of this proposal. The Australian Government would undertake to ensure that extra trained pilots would be available before compulsory pilotage was implemented so as to avoid a bottleneck.

8.11 Australia and Papua New Guinea proposed that, if the Committee endorsed the recommendation of NAV 50 to refer the legal issues to the Legal Committee, it should also refer document MEPC 52/10/3 to that Committee to assist in those deliberations. The delegations informed the Committee that they had already submitted a document on this issue to the Legal Committee under LEG 89/15.

8.12 Some delegations suggested that the Committee, being responsible for the designation of PSSAs, should be able to address all technical, legal, and administrative issues related to the proposed extension of the Great Barrier Reef compulsory pilotage arrangements to the Torres Strait and, therefore, they did not wish to refer the legal issues to the Legal Committee in this case.

8.13 However, the majority of the delegations that spoke preferred the procedural path that the NAV Sub-Committee had recommended. Consequently, the Committee endorsed the recommendation of NAV 50 to refer the legal issue of compulsory pilotage in straits used for international navigation to LEG 89, in order to enable MSC 79 to consider the full aspects of the



proposal including the legal issue. The Committee recommended that the Legal Committee should also review document MEPC 52/10/3 by Australia and Papua New Guinea in this regard.

**Proposals for the revision of the Guidelines for the Identification and Designation of PSSAs (Annex 2 of resolution A.927(22))**

8.14 The Committee recalled that after substantive debate at MEPC 51, a majority of delegations agreed, in principle, that the “Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas” under Annex 2 of resolution A.927(22) should be reviewed, provided that specific proposals, as well as a justification, would be submitted to a future session of MEPC. The resulting revised PSSA Guidelines would then be presented as a draft resolution for consideration and adoption by the Assembly (MEPC 51/22, paragraph 8.11).

8.15 The Committee also recalled that the proposals for a moratorium which would suspend consideration of any current or new proposals under the existing PSSA Guidelines, while the revision of the Guidelines was conducted, were not accepted. MEPC 51 acknowledged that resolution A.927(22) was under the purview of the Assembly and agreed not to recommend a moratorium. This meant that work on the PSSAs, approved in principle but not yet designated, could continue, whilst both current and future PSSA applications to the Committee could be assessed in accordance with resolution A.927(22) until a review of the Guidelines had been completed and further action was taken by the Assembly (MEPC 51/22, paragraph 8.15).

8.16 The Committee considered the proposed amendments to resolution A.927(22) to strengthen and clarify the PSSA Guidelines as submitted by the United States (MEPC 52/8). In presenting these proposals the delegation of the United States drew the Committee’s attention to four principal areas that these amendments addressed:

- .1 the need to clarify the criteria for designation;
- .2 the need for applicants to establish that the identified vulnerability of an area will be addressed by the APMs to prevent, reduce, or eliminate that vulnerability;
- .3 the necessity of establishing a legal basis for the APMs; and
- .4 various procedural issues, including elimination of the concept of “designation in principle” and elimination of the review form being used when considering proposals for designating PSSAs, as the current review form forced a yes/no approach that is not conducive to in-depth consideration.

The delegation proposed that the review should be completed for adoption by the twenty-fourth session of the Assembly.

8.17 The Committee also considered the proposed amendments to the PSSA Guidelines submitted by the Russian Federation (MEPC 52/8/1). In presenting these proposals the delegation of the Russian Federation mentioned that it aimed to address the shortcomings in the current PSSA-process and establish clearer criteria through specific amendments as shown in its submission. The proposals reflected Russia’s opposition to the designation of large geographical areas as PSSAs and the need for at least one APM in any application. If no APM was suggested the application should be declared null and void. Amendments to existing PSSAs must be submitted to MEPC with changes indicated. Russia wished to prioritize the criteria for PSSA designation by giving the ecological criteria the highest priority, as the ultimate goal of a PSSA

designation was protection of the marine environment. Any proposal to designate a PSSA in an entirely closed or semi-closed sea area should be made on the basis of consensus of the coastal States. Finally, any proposed APM should be linked to the size and location of the proposed PSSA.

8.18 The Committee also considered the proposed amendments to the PSSA Guidelines submitted by ICS and INTERTANKO (MEPC 52/8/2). The observers from ICS and INTERTANKO introduced their amendments to enhance the importance of the concept of “core area” and “buffer zones” in a PSSA. This should bring the aspect of identification more in line with the important aspect of designation of PSSAs. It called for a clear and precise illustration of the proposed PSSA and the area(s) needed to protect this area from the risks identified from shipping activities (MEPC 52/8/2).

8.19 In a separate submission commenting on the proposals by the United States in document MEPC 52/8, the observers from ICS and INTERTANKO aimed to rebalance the seriousness of the PSSA approval process by placing the onus on submitting State(s) rather than on the Informal Technical Group which, when reviewing applications in the past, had sometimes had to extract, with much difficulty, useful information from proponents. The United States had proposed to eliminate the current review form. On the other hand, ICS and INTERTANKO proposed a new review form, as shown in the annex to their paper, the main aim being to ensure that sufficient information was provided in the application. The proposed new review form also provided clear instructions to the Informal Technical Group on how it should arrive at its assessment (MEPC 52/8/3).

8.20 In introducing its document MEPC 52/8/4, the observer from WWF mentioned that it had substantive comments on some of the proposals made by the United States. In general, WWF was concerned that the precautionary and preventative basis that underpinned the present Guidelines would be lost as a result of some of the changes proposed by the United States. WWF disagreed with the United States on a large number of amendments relating to the criteria, as they required an unrealistic level of purity and uniqueness. Furthermore, it was concerned with the presupposition of the United States that the IMO did not have the legal competence under the general provisions of UNCLOS to adopt measures to protect the marine environment in cases where no specific instrument was provided for a proposed APM. The observer further expressed concern regarding the suggested amendments from the Russian Federation as they would restrict PSSAs to “Special Areas” only and following confirmation that all other protective measures had failed.

8.21 The observer from WWF also reminded the Committee of the decision of the 7<sup>th</sup> Conference of Parties to the Convention on Biological Diversity (VII/5) that called for the creation of representative networks of marine protected areas and urgent action to protect such areas from all threats, including shipping. It further called for a framework of sustainable management practices and action to protect biodiversity over the wider marine and coastal environment. Finally the observer suggested that the developing countries that needed assistance, when preparing a PSSA application, should be offered such assistance through the IMO Integrated Technical Co-operation Programme.

8.22 The Committee was generally supportive of the submissions on this item. At the same time, there was a general feeling that the PSSA-concept and function should not be altered by the review, or that the review should have an impact on the current PSSA applications. Also, a clarification on a number of issues within the PSSA Guidelines would be necessary.

8.23 The delegation of the United States proposed the following procedure for the conduct of the review:

- .1 the Informal Technical Group should be reconvened at this session to develop:
  - .1 terms of reference for an intersessional correspondence group;
  - .2 guiding principles for the review, using document MEPC 52/8 by the United States as the base document;
- .2 the correspondence group should conduct the review, prepare a draft Assembly resolution and report to MEPC 53; and
- .3 MEPC 53 should complete the review so that the amended guidelines could be adopted by the twenty-fourth session of the Assembly.

8.24 This proposal was broadly supported, although several delegations expressed the view that there was no urgency in finalizing the review by the end of 2005.

#### **Instructions to the Informal Technical Group on the PSSA Guidelines**

8.25 After consideration of the proposals and the comments thereto, the Committee agreed to convene an “Informal Technical Group on the PSSA Guidelines”, which was instructed to:

- .1 prepare the terms of reference and associated organizational arrangements for convening an intersessional Correspondence Group on the PSSA Guidelines, that will embark on the review of the Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas, as contained in annex 2 of Assembly resolution A.927(22); and
- .2 provide a written report to plenary on Thursday, 14 October 2004.

8.26 The Committee acknowledged that by focusing the action at this session on organizational issues and clarifying the issues for the review, rather than embarking on the review of the PSSA guidelines itself, more work would be left for MEPC 53.

#### **Report of the Informal Technical Group on the PSSA Guidelines**

8.27 The Chairman of the Group on the PSSA Guidelines, Ms. Lindy S. Johnson (United States), in introducing the report of the Group (MEPC 52/WP.12) informed the Committee that it had developed, as instructed and guided by the discussion on this issue in plenary, the following terms of reference for the intersessional Correspondence Group on the PSSA Guidelines:

- .1 to review, with the objective of clarifying, and, where appropriate, strengthening the Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas, as contained in annex 2 of Assembly Resolution A.927(22), using document MEPC 52/8 by the United States as the base document, taking into account documents MEPC 52/8/1, MEPC 52/8/2, MEPC 52/8/3, and MEPC 52/8/4, and the discussions and direction given in the report of the Committee;

- .2 to prepare a draft Assembly resolution and a draft text of the amended PSSA Guidelines; and
- .3 to submit a report to MEPC 53.

8.28 Some members of the Informal Group expressed the desire to have a face-to-face meeting in view of the limited time available for the review. However, other members voiced concerns regarding obtaining approval from the Council for such a meeting, as well as the inability to participate because of travel implications.

8.29 In recognizing that the terms of reference provide that MEPC 52/8 were to be used as the base document for the review and, as appropriate, for preparation of amendments to the PSSA Guidelines, the Informal Group recommended that the Committee invite Member Governments and observers to submit specific comments on the base document, taking into account documents MEPC 52/8/1, MEPC 52/8/2, MEPC 52/8/3, and MEPC 52/8/4, as well as the discussions and direction given in the report of the Committee. These comments should be provided to the Co-ordinator of the Correspondence Group by 15 November 2004. Participants in this process should, when submitting comments, clearly identify which Member Government or observer organization they represent. Comments should be submitted to Ms. Lindy S. Johnson<sup>1</sup> (United States).

8.30 The Informal Group further noted that the objective of this review was to clarify and, where appropriate, strengthen the PSSA Guidelines. To facilitate the work of the Correspondence Group, the Informal Group had a preliminary exchange of views on some of the questions raised in the submissions to MEPC 52 to develop a better understanding of these issues.

8.31 The points of discussion in the Informal Group were as follows:

- .1 Should a proposing Member Government have to show clearly in its application the characteristics of a proposed area, how such characteristics are vulnerable to damage from international shipping, and how APMs would address that vulnerability?
- .2 If there is not already an IMO measure within the proposed PSSA, should a Member Government be required to submit a proposal for an APM at the time of its application and, if so, should it be required to submit a draft of its APM proposal with its application? Should it be possible for the Committee to designate a PSSA in principle, either (1) by allowing a Member Government to submit an APM at a later time specified in the Guidelines or (2) when awaiting approval of an APM by a Sub-Committee, or Committee?

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- .3 Should the three options for establishing a legal basis for an APM as set forth in paragraph 7.4.2.1(a)<sup>2</sup> of the PSSA Guidelines be clarified?
- .4 Should a proposing Member Government be required to consider establishing core and buffer zones in its proposal?
- .5 Should PSSA designation be allowed if there are already IMO measures in place to protect an area and which address the specific environmental vulnerabilities of the area? And, if there are such measures, should a proposing Member Government have to show that these measures are insufficient before a PSSA proposal can be considered?
- .6 To what extent should an APM be linked to the size and location of the proposed PSSA?
- .7 Should a proposing Member Government submit a separate proposal for its APM to the appropriate Sub-Committee or Committee?
- .8 Should PSSA designation be allowed anywhere within a closed sea or semi-enclosed sea area without the consensus of all Member Governments that border that area?
- .9 Should a proposing Member Government be asked to bring a full-scale nautical chart to MEPC upon which its proposal is marked?
- .10 Should a proposing Member Government be asked to show that at least one criterion exists throughout the entire area, although not necessarily the same criterion throughout the entire area?
- .11 Should the existing descriptive language regarding the ecological, socio-economic, and scientific criteria be clarified? Should the scope of data required be more specified in the Guidelines?
- .12 Should the ecological, socio-economic, and scientific criteria be prioritized and, if so, how?
- .13 Should a PSSA application be referred to an independent scientific advisory body, such as GESAMP, to inform the Committee's decision regarding designation?
- .14 Should the Guidelines include an invitation to those Member Governments that have a PSSA designated to provide the Organization, at a later specified time, with relevant information pertaining to the PSSAs?

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- (i) any measure that is already available in an existing instrument; or
- (ii) any measure that does not yet exist but that should be available as a generally applicable measure and that falls within the competence of IMO; or
- (iii) any measure proposed for adoption in the territorial sea or pursuant to Article 211(6) of the United Nations Convention on the Law of the Sea.

- .15 Should there be a general reference to the United Nations Convention on the Law of the Sea included in the Guidelines?

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

8.32 The Committee approved, in general, the report of the Informal Group on the PSSA Guidelines (MEPC 52/WP.12) and, in particular:

- .1 established the intersessional Correspondence Group on the PSSA Guidelines and approved the terms of reference for the Group as set out in annex 15 (see also paragraph 8.27); and
- .2 invited Member Governments and observers to submit by 15 November 2004 specific comments on the base document MEPC 52/8, taking into account documents MEPC 52/8/1, MEPC 52/8/2, MEPC 52/8/3, and MEPC 52/8/4, as well as the discussions and direction given in the report of this session to the Co-ordinator of the Correspondence Group.

8.33 The Committee noted that a “Technical Group on the PSSA Guidelines” would be convened at MEPC 53 to further the review at that session (see also item 20 of this report).

8.34 The Committee expressed its appreciation to the members of the Informal Group for their efforts and spirit of co-operation and, especially, to Ms. Johnson for the skilled and tactful manner in which she had guided the Group to a successful completion of this stage in the review of the PSSA Guidelines.

## **9 INADEQUACY OF RECEPTION FACILITIES**

9.1 The Committee recalled that the Sub-Committee on Flag State Implementation, at its twelfth session (FSI 12), had considered an analysis of the present reporting system for port reception facilities and a summary of the reports on alleged inadequacy of port reception facilities received by the Organization in 2002 and 2003 in accordance with MEPC/Circ.349. The Sub-Committee agreed that the report format contained in MEPC/Circ.349 should be updated in order to include sewage (MARPOL Annex IV), 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.

9.2 The Committee also recalled that FSI 12 requested further the Secretariat to:

- .1 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;
- .2 prepare a draft MEPC circular, for consideration at FSI 13, listing the waste reception facilities reporting requirements; and
- .3 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.

9.3 The Committee further recalled that, at its last session, it noted the outcome of FSI 12 on this issue and agreed to endorse the instructions given by the FSI Sub-Committee to the Secretariat.

9.4 The Secretariat informed the Committee that, on 7 July 2004, it circulated by means of MEPC/Circ.417, a questionnaire on the low level of reporting on alleged inadequacy of port reception facilities with the aim of utilizing the received information as background material for the study mentioned in paragraph 9.2.1 above.

9.5 In document MEPC 52/9, BIMCO, ICS, INTERTANKO and INTERCARGO expressed their concerns that the operation of many port reception facilities was still not conducted in accordance with the provisions of MARPOL 73/78. They were of the view that this situation was not only due to the lack of facilities, but also to the fact that port States and ports were introducing administratively burdensome and costly port reception facility fee schemes. Having stressed the fact that the ability for ships to comply with MARPOL 73/78 depends basically upon the availability of adequate reception facilities, they:

- .1 urged all flag States to actively promote the reporting of alleged inadequacies in port reception facilities by ships, and to encourage shipmasters to use the current reporting form available in MEPC/Circ.349;
- .2 encouraged States to take swift action to respond to MEPC/Circ.417 in order to facilitate the Organization's work on port reception facilities; and
- .3 urged the port States to encourage their ports to make use of the available publications and guidelines, especially IMO resolution MEPC.83(44) "*Guidelines for Ensuring the Adequacy of Port Waste Reception Facilities*", in order to assess and assist ports in ensuring availability of adequate port waste reception facilities.

9.6 The Chairman stressed that the issue of the provision of adequate port reception facilities is of paramount importance for the successful implementation of the MARPOL Convention.

9.7 Having considered document MEPC 52/9 and the comments made in plenary, the Committee:

- .1 strongly encouraged Member States, particularly those Parties to the MARPOL Convention as port States, to fulfil their treaty obligations on providing adequate reception facilities;
- .2 agreed to await the outcome of FSI 13 on the issue of port reception facilities reporting requirements prior to giving it further consideration;
- .3 urged Member Governments and interested intergovernmental and non-governmental organizations to respond to MEPC/Circ.417 (the deadline is **31 October 2004**), so that the Secretariat can process and analyse the results of this enquiry for submission to FSI 13; and

- .4 in view of the urgent and important need for the Committee to tackle the long-standing problem of the inadequacy of port reception facilities, invited submissions to MEPC 53 with the aim of identifying problem areas and developing a future action plan.

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

10.1 The Committee noted that documents MEPC 52/10/2 (Outcome of NAV 50) and MEPC 52/10/3 (Australia and Papua New Guinea) were on the PSSA issue and had already been discussed under agenda item 8.

### **Outcome of FSI 12**

10.2 The Committee noted that the FSI Sub-Committee held its twelfth session from 15 to 19 March 2004 and that its report had been circulated as FSI 12/22.

10.3 The Committee, recalling that MEPC 51 had considered urgent matters emanating from FSI 12, approved, in general, the report of that session (FSI 12/22) and, having noted MSC's relevant decisions, as outlined in document MEPC 52/11, took action on all remaining items (MEPC 52/10), as indicated hereunder.

10.4 The Committee noted the outcome of the analysis of the mandatory reports submitted by Parties to MARPOL 73/78 for 2002, in accordance with MEPC/Circ.318, and endorsed the instructions of FSI 12 to the Secretariat to prepare a FSI circular urging Member States to fulfil their reporting requirements and to update the list on the status of mandatory reports under MARPOL 73/78 to show which Parties had submitted their reports for the last five years and which Parties had failed to do so.

10.5 In the context of the FSI Sub-Committee's consideration of the difficulties encountered by Member States in the conduct of casualty investigations and the ways in which this Organization could provide the necessary assistance, the Committee endorsed the decision of FSI 12 that the technical co-operation programmes should not necessarily focus on the conduct of the investigation itself but on the means to communicate with the Organization, in general, and, in particular, on reporting the requested findings.

10.6 As requested by the FSI Sub-Committee, the Committee, in order to assist the Organization in receiving the information needed on casualties, endorsed the Sub-Committee's reminder to Member States on the provision of casualty-related information, and invited Members to:

- .1 ensure that the information on reports of marine casualties and incidents are provided to the Secretariat in accordance with the reporting requirements and the revised format annexed to MSC/Circ.953-MEPC/Circ.372;
- .2 provide information on whether the human element was an underlying cause of a casualty or injury;



- .3 provide the Secretariat with information on the number of fishing vessels, fishermen, total losses and lives lost, so that updated information on the matter can be incorporated in the relevant circulars;
- .4 provide the Secretariat with preliminary information on casualties derived from RCCs, according to MSC/Circ.802-MEPC/Circ.332, to enable the Organization to release timely and accurate information on casualties;
- .5 indicate in the reports of investigations into casualties whether fraudulent certificates have been involved; and
- .6 submit reports involving thermal oil systems accidents.

10.7 The Committee agreed to the proposed amendments to MSC/Circ.953-MEPC/Circ.372 on Reports on marine casualties and incidents, set out in annex 1 to FSI 12/22, and endorsed the instruction of FSI 12 to the Secretariat to prepare a new MSC/MEPC circular, incorporating the proposed amendments and the DE Sub-Committee's comments on the proposed life-saving appliance casualty record, as appropriate, for submission to MSC 80 and MEPC 53 for approval.

10.8 The Committee noted the outcome of the consideration by FSI 12 of the report of the 2nd IMO Workshop for Port State Control MoU (Agreement) Secretaries and Directors of Information Centres regarding the potential needs for additional training to be organized for PSCOs. The Committee also noted that the 3rd Workshop on the same issue, which was held at IMO in June 2004, reaffirmed this perspective.

10.9 The Committee, having agreed that it would be appropriate to start the training of PSCOs for implementation of MARPOL Annexes IV and VI, the 2001 AFS Convention and the BWM Convention, agreed that this training should be included in the future thematic priorities of the Organization's Integrated Technical Co-operation Programme and invited TCC to consider making adequate provisions within the ITCP. The Committee also invited donors, international organizations and the shipping industry to contribute financial, human and/or in-kind resources to the ITCP for these activities.

10.10 The Committee, subject to the concurrence of MSC, approved the draft MSC/MEPC circular on Transfer of ships between States.

10.11 The Committee agreed to the draft amendments to the Guidelines for the authorization of organizations acting on behalf of the Administration (resolution A.739(18)), as set out in annex 5 to FSI 12/22.

10.12 The Committee concurred with the decision of MSC 78 to endorse the agreement of the FSI Sub-Committee to commence the revision of the Revised Guidelines on the Implementation of the ISM Code by Administrations (resolution A.913(22)) at FSI 13.

10.13 The Committee noted the course of action taken by the FSI Sub-Committee on the future development of a draft MSC/MEPC circular on carriage requirements of the publications on board ships.

10.14 The Committee agreed with the FSI Sub-Committee's recommendation that the one-week course on flag State implementation be included in the IMO Programme of Model Courses, thereby ensuring that it is regularly updated, translated into French and Spanish and made

available to all. In this connection, noting that translation of the course into Arabic would also benefit many countries, the Committee agreed that this issue could be raised in Council when addressing the matter of languages at C 93.

10.15 The Committee noted that, following the adoption of resolution A.948(23) on the Revised Survey Guidelines under the Harmonized System of Survey and Certification, FSI 12 agreed that timely preparation of relevant amendments to the Guidelines based on new requirements should become a priority under the FSI Sub-Committee's relevant work programme item.

10.16 In this context, the Committee endorsed the FSI Sub-Committee's instruction to the Secretariat to prepare, for every session, a list of requirements which were adopted during the intersessional period, in order to allow the identification of those which might necessitate the preparation of appropriate amendments to the Survey Guidelines under the HSSC.

10.17 The Committee, subject to the concurrence of MSC, approved the draft MSC/MEPC circular on Marking the ship's plans, manuals and other documents with the IMO ship identification number, having amended the application date from 1 January 2005 to 1 July 2005.

10.18 Regarding the issue of the IMO unique company and registered owner identification number scheme, the Committee noted that MSC 78:

- .1 adopted resolution MSC.160(78) on Adoption of the IMO unique company and registered owner identification number scheme; and
- .2 approved Circular letter No.2554 on Implementation of the IMO unique company and registered owner identification number scheme.

10.19 In agreeing in principle to the FSI Sub-Committee's draft objectives and terms of reference, the Committee noted that neither these nor the terms of reference for the other sub-committees contained environmental protection elements, and that all them should have the same format. The Committee agreed to request the Maritime Safety Committee to take these issues into account when reviewing the terms of reference of the sub-committees.

10.20 The FSI Sub-Committee's proposed revised work programme and the provisional agenda for FSI 13 were dealt with under agenda item 20.

### **Review of the Code for the investigation of marine casualties and incidents**

10.21 The Committee noted that document MEPC 52/10/1 contained a proposal by Australia, Canada and Vanuatu, submitted to MSC 79 (MSC 79/20/4) to amend the Code for the Investigation of Marine Casualties and Incidents adopted by resolution A.849(20), and a request was made to task the FSI Sub-Committee to conduct the review over its next two sessions (FSI 13 and FSI 14).

10.22 Following some debate as to the appropriateness of considering a document submitted to a forthcoming session of the MSC, the Committee recalled that, in adopting resolution A.849(20), the Assembly had recognized the recommendations made by both Committees and, therefore, the contents of document MSC 79/20/4 should have also been submitted to the MEPC for consideration. Members were requested to observe the Guidelines on the organization and method of work when submitting proposals which should be considered by both Committees.

10.23 Notwithstanding the above, and in order to expedite the revision of the Code, the Committee agreed that the proposals should be forwarded to the FSI Sub-Committee for consideration subject to the concurrent decision of MSC 79 and that, if MSC 79 decided to add a new item to the work programme of the Sub-Committee to enable it to carry out the revision work, the Committee would have no objection.

## **11 WORK OF OTHER BODIES**

11.1 Under this agenda item, the Committee had before it eight documents: MEPC 52/11, MEPC 52/11/1, MEPC 52/11/2, MEPC 52/11/3, MEPC 52/11/4, MEPC 52/11/5, MEPC 52/11/6 and MEPC 52/INF.2, all submitted by the Secretariat reporting on the outcomes of MSC, TCC, Council, FAL, LEG as well as GESAMP and GMA.

### **Towards a New GESAMP: Developments, strategy, financial implications and institutional arrangements**

11.2 In documents MEPC 52/11/1 and MEPC 52/INF.2 concerning the “New GESAMP, Science for Sustainable Oceans”, the Committee was invited to review the direction which the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) was planning to take and to reflect on IMO’s interests in GESAMP.

11.3 The Committee noted that GESAMP, as the joint advisory body for the UN system, had provided independent scientific advice on marine pollution and marine environmental protection issues since 1969. Since then it had produced 43 reports on technical topics related to marine pollution, protection and conservation and four global state of the marine environment reports, which give an authoritative reference when assessing the effectiveness of international agreements such as MARPOL 73/78. IMO had fulfilled, since the early 1970s, the Administrative Secretariat function for and on behalf of all Sponsors of GESAMP and was also a regular user of GESAMP’s advice. At the request of the Committee, the GESAMP/EHS Working Group had continually evaluated, since 1974, the hazards of noxious liquid substances and had thus been instrumental in assisting the Committee with its review of MARPOL Annexes II and III. In fact, the Committee not only requested GESAMP to prepare the three oil reports listed in paragraph 6 of document MEPC 52/11/1, but also the reference document for all the work done in the GESAMP/EHS Group, which was published in 2002 as the “Revised GESAMP Hazard Evaluation Procedure for Chemical Substances Carried by Ships” (GESAMP Reports & Studies No.64). In other words, IMO had benefited substantially from GESAMP.

11.4 The Committee noted also that the strategic vision for the New GESAMP (MEPC 52/INF.2) provided concrete mechanisms to ensure GESAMP's professionalism, including its effectiveness, efficiency, transparency, and accountability. A GESAMP Office would be established to provide centralized management and a focal point for its interaction with governments and other major groups. The IAEA had offered to host the GESAMP Office at its Marine Environment Laboratory facilities in Monaco, as well as covering the overhead costs. A “Pool of Experts” would be set up as the primary mechanism for participation in GESAMP. Participation of pool experts in GESAMP’s work would actively engage a large number of scientists from governments, NGOs and industry, enhancing GESAMP’s interactions with these groups. In keeping with its strategic vision and mission statement, GESAMP had offered to play a lead role in the organization of the scientific work of the so-called GMA-process.

11.5 The Committee was made aware that the Joint Secretariat of GESAMP had developed a draft Memorandum of Understanding to govern it (MEPC 52/11/1, annex 2) and noted that this new MoU could become a binding agreement to be approved, as necessary, by all sponsors.

11.6 The Committee noted further that GESAMP's core activities would be financed from a Trust Fund, with an initial yearly budget of \$600,000. The current contribution by IMO to GESAMP was indicated in paragraph 14 of the document under review. Compared with the contributions from most other sponsors, IMO was a major contributor to GESAMP. Nonetheless, combining all the contributions of the current sponsors amounted to \$200,000 annually, resulting in a substantive shortfall of \$400,000 each year. This meant that major new sponsors should be found within the UN system, through new partnerships or from other funding sources.

11.7 Following some debate on the above issues, the Committee reiterated its position that the work currently carried out by GESAMP was very important and useful to the work of IMO, in particular in its role as independent and impartial adviser when it evaluates the hazards of noxious liquid substances under MARPOL Annex II and the IBC Code. It, therefore, agreed that the arrangement should be guaranteed through the continuation of current funding.

11.8 Concerning the proposed New GESAMP, the Committee was not in a position to have a conclusive opinion on the new strategic vision and direction presented in documents MEPC 52/11/1 and MEPC 52/INF.2, since it needed more information and explanation on several issues, such as the need for more transparent budget appropriations with a clear itemized breakdown, as well as clear plans in the event that additional funding could not be secured. Therefore, at this stage, the Committee could not recommend to the Council to provide additional funding for the new GESAMP while these questions remained unanswered. The Secretariat was thus requested to collect the necessary information and advise MEPC 53 accordingly.

11.9 With regard to the draft Memorandum of Understanding for the New GESAMP shown in annex 2 to document MEPC 52/11/1, the Committee was of the view that it could be referred to the Council for further negotiation, but would not be recommended for signature until all the questions surrounding the New GESAMP had been answered. The Secretariat was requested to find out what the other sponsoring Organizations were doing in this respect and report the findings to the Council as soon as these were available.

#### **Status report on the development of "Global Marine Assessments" under the United Nations**

11.10 In reviewing the progress made towards establishing "Global Marine Assessments" under the United Nations (MEPC 52/11/2), the Committee noted that the WSSD in 2002 had agreed to "establish by 2004 a regular process, under the United Nations, for global reporting and assessment of the state of the marine environment, including socio-economic aspects, both current and foreseeable, building on existing regional mechanisms", in short the "GMA-process". The UN General Assembly later had endorsed this activity and requested the UN Secretary-General to prepare a report on modalities for the GMA.

11.11 After a group of experts had prepared an initial draft document in March 2004 on the scope of the GMA-process, a general framework and outline of the regular process, peer review, secretariat, capacity building and funding issues, the group's report and the comments received thereon had been subsequently discussed at the GMA International Workshop, held in June 2004 in New York. At that occasion, Governments had had the first opportunity to discuss the

practical implications of the GMA. There was wide support for the establishment of the GMA and general agreement on the principle of launching the start-up phase of the GMA-process, in particular a so-called "Assessment of Assessments". This would provide, *inter alia*, a critical appraisal of existing assessments from a variety of sources; would identify what had worked well; and would help States identify areas where quality data were available and those regions where data or institutional capacity for undertaking marine assessments needed to be improved.

11.12 However, the Committee noted that no agreement could be reached on the basic elements of this start-up phase, and that other important issues had not yet been discussed, such as (1) the costs of the start-up phase; (2) who would finance it; and (3) the timing of its implementation.

11.13 Following considerable discussion, the Committee noted the status report on the development of the GMA-process under the United Nations and, while welcoming the initiative in principle and being supportive of its aims and goals, considered that it was too early to give any firm views on the GMA-process itself, as so many issues on the scope of the process, the modalities, timing and funding arrangements were yet to be resolved.

11.14 Notwithstanding the above, the Committee noted that the GMA-process could play an important role in bringing marine science to bear effectively on policy makers, improve inter-agency co-operation within the UN System on marine issues and help capacity-building efforts in developing countries. It followed that IMO had an important role to play in the process of improving oceans management and, therefore, the Organization should take the opportunity to call for a dialogue on the GMA to be resumed at the UN General Assembly in 2004, with a view to developing, through appropriate and constructive negotiations, a common position setting out the modalities of establishing the GMA, including its scope and role *vis-à-vis* GESAMP.

11.15 The Committee was at the same time of the clear opinion that, in any event, any possible overlap or duplication of work between the GMA-process and GESAMP should be avoided and that GESAMP should be well positioned to co-operate with, and play an effective role in, the GMA-process.

### **Outcome of MSC 78**

11.16 The Committee noted that the seventy-eighth session of the Maritime Safety Committee was held from 12 to 21 May 2004 and its report on that session had been circulated as MSC 78/26. The issues of relevance to the Committee were summarized in document MEPC 52/11.

11.17 The Committee considered the issues of relevance to its work and, in particular, noted that MSC 78:

- .1 had adopted amendments to the IMDG Code by resolution MSC.157(78) (MSC 78/26, annex 7), which were expected to enter into force on 1 January 2006, in accordance with the provisions of SOLAS article VIII;
- .2 had agreed to establish a working group at MSC 79 to further develop goal-based new ship construction standards, and that in its work, the group was instructed to take into account environmental, human element and security issues; and
- .3 having agreed that the revised IBC Code should incorporate the latest versions relating to materials of construction, electric installations and fire protection, had

approved the revised IBC Code with a view to adoption at MSC 79, following adoption by MEPC 52, and also agreed that the amendments to the IBC Code should be adopted by the MSC and MEPC in identical terms (the IBC Code, as further amended by MSC 78, had already been included in document MEPC 52/5/2, which was considered under agenda item 5).

11.18 With regard to the work of the FSI Sub-Committee considered by MSC 78, and also acknowledging that many items had already been considered under agenda item 10, the Committee noted the action taken by MSC 78 in relation to the review of Survey Guidelines under the HSSC, Code for the Implementation of [mandatory] IMO instruments, carriage of publications on board ships and IUU fishing.

11.19 The Committee noted further that MSC 80, MEPC 53 and TCC 55 would be invited to consider the outcome of the Joint MSC/MEPC/TCC Working Group on Voluntary IMO Member State Audit Scheme (see also report under item 12).

11.20 The work on the human element, including arrangement of the meetings of the Joint MSC/MEPC Working Group on Human Element, is addressed under item 19 (Future role of Formal Safety Assessment and human element issues).

#### **Outcome of TCC 54**

11.21 The Committee noted that the Technical Co-operation Committee held its fifty-fourth session (TCC 54) from 15 to 17 June 2004 and its report on that session had been circulated under the symbol TC 54/15. Those issues of interest to the MEPC concerning marine environment protection have been taken into account under agenda item 18 (Technical Co-operation Programme).

#### **Outcome of C 92**

11.22 The Committee noted the outcome of the ninety-second session of the Council (21 to 25 June 2004) and that a summary of the decisions taken had been issued in document C 92/D. The outcome of C 92 on the issue of the Voluntary IMO Member State Audit Scheme is reported in document MEPC 52/12 and has been discussed under agenda item 12. The issue of news media attendance at IMO meetings is reported in document MEPC 52/23/2 and has been discussed under item 23. The other matters of interest to the Committee are summarized in document MEPC 52/11/4.

11.23 The delegation of the Russian Federation expressed the view that a comprehensive report should be made on the outcome of the Council. The delegation, having also appreciated the decision of the Council to continue the pilot scheme for the electronic access to certain IMO publications and extension of this scheme to all IMO official languages, drew the attention of the Committee to the absence on the IMO website of the ISM Code publication in the Russian language.

11.24 In particular, the Committee noted that the Council considered the report contained in documents C 92/7 and C 92/7/Add.1 (outcomes of MEPC 50 and MEPC 51, respectively), and decided to transmit these, with comments and recommendations to the Assembly. Additionally, the Council had also noted the Report on the 2004 International Conference on Ballast Water Management and authorized the Secretary-General to perform the functions requested of him by the Conference and under the Ballast Water Management Convention, and had recommended

that Member States give serious consideration to ratifying the Ballast Water Management Convention and, as a first step, to signing the Convention.

### **Outcome of FAL 31**

11.25 The Committee noted that the Facilitation Committee (FAL) held its thirty-first session from 19 to 23 July 2004 and its report on that session had been circulated under the symbol FAL 31/20. Matters of relevance to the work of the Committee are summarized in document MEPC 52/11/5. The Committee noted, in particular, that the list of certificates and documents required to be carried on board ships and the work of the SPI Working Group have been considered under item 23 (Any other business).

### **Outcome of LEG 88**

11.26 The Committee noted that the eighty-eighth session of the Legal Committee (LEG 88) was held from 19 to 23 April 2004 and its report on that session had been circulated under the symbol LEG 88/13. Matters of relevance to the work of the Committee are summarized in document MEPC 52/11/6.

11.27 The Committee noted that LEG 88 had been informed that the UN body which oversees the transport of dangerous goods in all modes had been developing new criteria which could mean that the term "Severe Marine Pollutants" would no longer be used. No final decision had been taken, but it seemed likely that, in due course, an amendment would be made to the list of substances associated with the 1973 Intervention Protocol. In view of the fact that the MEPC performs functions on behalf of the Organization in relation to the 1973 Intervention Protocol, the Committee requested to be informed of the outcomes of the responsible UN body in this respect, so that it can take follow-up action, as appropriate.

## **12 VOLUNTARY IMO MEMBER STATE AUDIT SCHEME**

12.1 The Committee recalled that MEPC 51 considered urgent matters emanating from the second session of the Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Member State Audit Scheme (22 to 26 March 2004), and reported the outcome of its considerations to the Council.

12.2 The Committee noted that Council, at its ninety-second session (21 to 25 June 2004), considered the outcome of the second session of the Joint Working Group, including the outcome of the MEPC and MSC on the matter.

12.3 The Committee noted the decisions of the Council, in particular, on the following issues:

- .1 the Council decided to re-establish the Correspondence Group on the Voluntary IMO Member State Audit Scheme, under the co-ordination of Denmark, and approved its revised terms of reference;
- .2 the Council invited Member States which had conducted pilot audits to provide their findings to the Co-ordinator of the Correspondence Group as soon as possible; and

- .3 the Council requested MEPC 53 to consider the report of the Joint Working Group on its next session, which is scheduled to be held from 14 to 18 March 2005, and to provide comments to the subsequent session of the Council.

12.4 The Committee encouraged Members to participate in the next meeting of the Joint Working Group so as to provide contributions from an environmental point of view.

12.5 The Committee stressed the importance and timely completion of the draft Code for the implementation of [mandatory] IMO instruments as the Code would serve as the Audit Standard.

## **13 FOLLOW-UP TO THE REVISED MARPOL ANNEX I AND ANNEX II**

### **Introduction**

13.1 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 was agreed to add this agenda item in order to consider any appropriate developments associated with these two Annexes.

13.2 The Committee recognized that, as regards the revised Annex II, MEPC 51 had 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 follow-up actions. As a result, the Committee instructed the ESPH Working Group to undertake the actions proposed in the annex to document MEPC 51/12/1 and report the results to BLG 9, the outcome of which should be submitted to MEPC 53 for consideration.

13.3 The Committee noted that the ESPH Working Group had met from 30 August to 3 September 2004 and had made considerable progress which would be reported to BLG 9, as instructed by the Committee, and that the follow-up to the revised MARPOL Annex II was therefore well underway.

13.4 The Committee agreed that, at the present session, there was no need to give further consideration to the follow up to the revised MARPOL Annex II, but to wait for the report of BLG 9.

13.5 The Committee noted that five documents had been submitted under this agenda item, all of them relating to the revised Annex I.

### **Cross-reference list between the “old” and “new” regulations of MARPOL Annex I**

13.6 The Committee recalled that MEPC 51, in order to ensure the smooth implementation of existing resolutions, guidelines and circulars associated with Annex I when the revised Annex I enters into force, and avoiding at the same time an unnecessary heavy work burden, agreed that those instruments associated with 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. They would be revised only if they contained outdated provisions which needed updating in line with the amendments to Annex I, or which needed adaptation as a result of progress in technology.



13.7 The Committee recalled further that, in this context, MEPC 51 further agreed to instruct the Secretariat to prepare a draft MEPC Circular for consideration by MEPC 52, which would provide cross-reference lists between the “old” and “new” regulations of MARPOL Annex I, and *vice versa*. Thus, a single MEPC Circular would provide the necessary tool to facilitate the use of associated guidelines, circulars, codes, etc, in connection with the new numbering system of the revised Annex I.

13.8 The Committee had before it document MEPC 52/13/Rev.1 (Secretariat) providing the draft MEPC Circular referred to above. The Committee agreed that the Circular would prove to be very useful for several years to come in a double sense. First, until Annex I end-users became accustomed to the new numbering system, and regulations 19 and 20, for example, were as well known as regulations 13F and 13G were presently. Secondly, as a valuable tool for Administrations and the shipping industry in general to handle the vast array of existing guidelines, circulars and codes associated with MARPOL Annex I.

13.9 The Committee approved the MEPC Circular on cross-reference lists between the “old” and “new” regulations of MARPOL Annex I and instructed the Secretariat to issue it as MEPC/Circ.421.

#### **Updating the Supplement to the IOPP Certificate under the existing MARPOL Annex I**

13.10 The Committee noted that document MEPC 52/13/1 (Secretariat) proposed to issue an MEPC Circular inviting Administrations to make interim corrections to the IOPP Supplement, when necessary, following the implementation on 1 January 2005 of resolutions MEPC.107(49) and MEPC.108(49) and the expected date of entry into force of the revised MARPOL Annex I on 1 January 2007.

13.11 The Committee recalled that MEPC 49 adopted, by resolution MEPC.107(49), the revised Guidelines and specifications for pollution prevention equipment for machinery space bilges of ships and, by resolution MEPC.108(49), the revised Guidelines and specifications for oil discharge monitoring and control systems for oil tankers. Both revised Guidelines are expected to take effect from 1 January 2005.

13.12 The Committee noted that, in the interval between 1 January 2005 and 1 January 2007 (date of the expected entry into force for the revised Annex I), approval could not be indicated under the current form of the IOPP Certificate Supplement for pollution prevention equipment that may need to be approved under resolution MEPC.107(49), or oil discharge monitoring and control equipment that may need to be approved under resolution MEPC.108(49).

13.13 The Committee noted also that the relevant sections of the IOPP Certificate Supplement that would need correction, following implementation of the said resolutions, were sections 2.4.1 and 2.4.3 of both Forms A and B of the IOPP Certificate Supplement as regards pollution prevention equipment for machinery space bilges of ships, and section 6.1.4 of Form B of the Supplement as regards oil discharge monitoring and control systems.

13.14 The Committee further noted that there was a precedent to address the issue in Unified Interpretation 2.4A under MARPOL Annex I, whereby the existing form of the IOPP Certificate Supplement Form B may remain valid until its replacement by the Form provided in the revised Annex I, and any necessary changes are indicated in the existing Supplement by means of suitable corrections, e.g. by typing the new entry.

13.15 The Committee requested the Secretariat to prepare and issue MEPC/Circ.422 based on document MEPC 52/13/1 as soon as possible.

### **Guidelines for the application of the revised MARPOL Annex I requirements to FPSOs and FSUs**

13.16 The Committee recalled that MEPC 49 approved the MEPC Circular on Guidelines for the application of MARPOL Annex I requirements to FPSOs and FSUs, and instructed the Secretariat to issue it as MEPC/Circ.406 and, recognizing that similar guidelines would be needed for the revised MARPOL Annex I, requested the Secretariat to prepare a draft MEPC resolution for the application of the revised MARPOL Annex I requirements to FPSOs and FSUs with a view to adoption together with the revised Annex I.

13.17 The Committee recalled also that new regulations 13H on the carriage of heavy grade oil and 13I on the protection of pump-rooms were incorporated as regulations 21 and 22 in the revised MARPOL Annex I but they were not included in MEPC/Circ.406 as those regulations were finalized after its issuance. The revised MARPOL Annex I regulation 23 on *Accidental oil outflow performance* was not included in MEPC/Circ.406 either, as it was intended to be adopted together with the revised MARPOL Annex I. The Committee recognized that there was no indication in the table of MEPC/Circ.406 as to the applicability of these three new regulations (21, 22 and 23 in the revised Annex I) to FPSOs and FSUs and that a decision should be taken on this matter.

13.18 The Committee noted that document MEPC 52/13/2 (Secretariat) provided a draft MEPC resolution adapting MEPC/Circ.406 to the new numbering system and new regulations of the revised Annex I.

13.19 Having considered the comments of Australia that more work needed to be done on the draft MEPC resolution, in particular, the annexed Explanatory notes section 4 on the tables of probability for side and bottom damage and section 5 on the probability of protecting a cargo oil tank, the Committee agreed to forward the matter to BLG 9 for consideration and requested BLG 9 to finalize the guidelines for adoption by an MEPC resolution at MEPC 53.

### **Explanatory notes on matters related to the accidental oil outflow performance under regulation 23 of the revised MARPOL Annex I**

13.20 The Committee had before it document MEPC 52/13/3 (Secretariat), which provided the text of an MEPC resolution on the Explanatory Notes on matters related to the accidental oil outflow performance under regulation 23 of the revised MARPOL Annex I.

13.21 The Committee recalled that MEPC 49 approved, in principle, the MEPC resolution on Explanatory notes on matters related to the accidental oil outflow performance under regulation 21 (now regulation 23) of the revised MARPOL Annex I, with a view to adoption together with the revised MARPOL Annex I, recognizing that the cross-references would need to be checked by the Secretariat.

13.22 The Committee noted that the Secretariat had checked the Explanatory notes and had amended cross-references where necessary. Minor editorial adjustments had also been made on the notes themselves and on the text of the accompanying draft MEPC resolution.

13.23 The Committee adopted, by resolution MEPC.122(52), Explanatory notes on matters related to the accidental oil outflow performance under regulation 23 of the revised MARPOL Annex I, which is set out at annex 11.

#### **Oil Filtering Equipment and Oil Record Book for oil tankers of less than 400 gross tonnage**

13.24 The Committee noted that India, in document MEPC 52/13/4, expressed concern over the applicability of regulations relating to oil filtering equipment to oil tankers of less than 400 GT, and Oil Record Book Part I for oil tankers of 150 gross tonnage and above, but less than 400 gross tonnage, during the transition period prior to entry into force of the revised MARPOL Annex I.

13.25 After consideration, the Committee requested the Drafting Group on MARPOL Amendments to adjust the text of the revised Annex I as appropriate. The outcome of the Drafting Group's consideration on the matter is reported under item 5.

### **14 STATUS OF CONVENTIONS**

14.1 The Committee noted the information on the status of IMO conventions and other instruments relating to marine environment protection (MEPC 52/14) as follows:

- .1 Annex 1 shows the status, as at 1 August 2004, of the IMO conventions and other instruments relating to marine environment protection;
- .2 Annex 2 shows the status, as at 1 August 2004, of MARPOL 73/78;
- .3 Annex 3 shows the status, as at 1 August 2004, of the amendments to MARPOL 73/78;
- .4 Annex 4 shows the status, as at 1 August 2004, of the 1990 OPRC Convention;
- .5 Annex 5 shows the status, as at 1 August 2004, of the 2000 OPRC-HNS Protocol; and
- .6 Annex 6 shows the status, as at 1 August 2004, of the 2001 AFS Convention.

14.2 The Committee also noted the following information provided by the Secretariat since document MEPC 52/14 was issued:

- .1 Congo deposited its instrument of ratification for MARPOL Annexes I, II, III, IV and V;
- .2 the United Kingdom deposited its instrument of ratification for MARPOL Annex VI;
- .3 Cyprus deposited its instrument of ratification for MARPOL Annex VI;
- .4 Congo deposited its instrument of ratification for the 1990 OPRC Convention;

- .5 St. Kitts and Nevis deposited its instrument of ratification for the 1990 OPRC Convention; and
- .6 Poland deposited its instrument of ratification for the 2001 AFS Convention.

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

15.1 The Committee noted the information provided by WWF, FOEI, IUCN and INTERTANKO (MEPC 52/15) on peer reviewed literature published between 2000 and 2004 on the presence and impact of organotins in the marine environment, and thanked WWF, FOEI, IUCN and INTERTANKO for providing the information.

15.2 The Committee also noted that, while improvements were apparent in some areas, organotin contamination remained widespread in areas where no appropriate legislation was in place. Environmental evidence stressed the need for continued vigilance and the urgent need for ratifications of the 2001 AFS Convention.

15.3 In this respect, the Committee recalled that the 2001 AFS Convention was adopted by the International Conference on the Control of Harmful Anti-fouling Systems for Ships on 5 October 2001 and, to date, nine States had ratified the Convention, representing about 9.5% of the world's merchant shipping. Members were therefore urged to ratify the Convention as soon as possible.

15.4 A number of delegations concurred with views expressed in document MEPC 52/15. Panama, while informing the Committee that it was on the road to ratify the Convention, indicated that many shipping companies had offered to voluntarily withdraw the use of tin-based anti-fouling systems. ICS affirmed this statement and assured the Committee that their members had been urged to comply with the requirements set out in the Convention. Greece stated it would complete national procedures to ratify the Convention by March 2005.

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

### **Detection, prosecution and deterrence of vessel source pollution**

16.1 The Committee recalled that, at MEPC 51, the United States submitted document MEPC 51/14 providing information on the United States' enforcement efforts and advances in the detection, prosecution and deterrence of vessel source pollution and related criminal conduct, and inviting the Committee to discuss methods to increase international awareness of the problem and consider mechanisms to achieve enhanced MARPOL compliance and enforcement co-operation.

16.2 The Committee further recalled that in considering the issues raised by the United States, MEPC 51 noted that there was a clear consensus that deliberate and illegal discharges of oil, noxious liquid substances and garbage into the marine environment posed a serious problem which must be tackled. The majority of the delegations that spoke supported the development of guidelines to achieve greater MARPOL compliance and to increase awareness of vessel source pollution as well as co-operation in the detection, investigation and prosecution of unlawful pollution from vessels.

16.3 The United States (MEPC 52/16/1) informed the Committee on the status of its efforts to develop the proposed guidelines to assist in the detection, prosecution and deterrence of vessel source pollution and related criminal conduct, to increase international awareness of the problem and to achieve greater MARPOL compliance and enforcement co-operation. In its submission, the United States provided an outline of the possible guidelines, which were under development for submission to and consideration by MEPC 53, focusing on measures that could be taken by various maritime parties and partners, including port and coastal States, flag States, owners and operators, recognized organizations and ISM auditors.

16.4 The United States was of the view that the development of the guidelines would enable the Committee to identify measures to achieve enhanced international co-operation in the detection and investigation of illegal discharges, to clarify responsibilities under the MARPOL 73/78 reporting system, to highlight the best industry practices, and to improve enforcement capacity. It further suggested that, if approved, such guidelines could supplement the IMO publication "MARPOL – How to do it" in a fashion similar to the IMO Guidelines for the Implementation of Annex V of MARPOL 73/78 and that the guidelines would reaffirm important guiding principles set forth in MARPOL and other international instruments, including recognizing the rights of seafarers.

16.5 In the ensuing discussion:

- .1 many delegations expressed their appreciation to the United States for its efforts as well as their support for the development of guidelines for enforcement of Annex I of MARPOL 73/78 and looked forward to a submission by the United States to MEPC 53;
- .2 several delegations expressed their concern regarding the protection of seafarers' rights against criminalization in the context of accidental pollution and that the proposed guidelines must take into account the provisions of MARPOL 73/78 and UNCLOS on the rights of the seafarers, in particular, harmonizing with the guidelines on seafarers being developed under the purview of the Legal Committee; and
- .3 the United States assured the Committee that the proposed guidelines were intended to address deliberate and illegal discharges in violation of the MARPOL Convention and the cumulative threat such discharges pose to the marine environment. In addition, the guidelines would reaffirm the guiding principles set forth in the MARPOL Convention and other international instruments regarding the rights of seafarers.

16.6 The Committee agreed that the text in the proposed guidelines relating to the ISM Code should be reviewed by the Maritime Safety Committee.

16.7 The Committee invited the United States to take into account the Committee's views and submit the draft proposed guidelines for consideration at MEPC 53.

#### **Activities carried out by ROPME/MEMAC on the protection of the marine environment**

16.8 The Committee noted that document MEPC 52/16 contained a summary of the main activities carried out by the Regional Organization for the Protection of the Marine

Environment/Marine Emergency Mutual Aid Centre (ROPME/MEMAC) on the protection of the marine environment in the ROPME Sea Area (RSA) since MEPC 49. These pertained to the ratification and implementation of MARPOL 73/78 and the provision of reception facilities and to the OPRC 90 Convention and related matters. The report also covered matters relating to the various training courses and workshops organized by MEMAC and to the survey of wrecks in the Northern ROPME Sea Area. The Committee thanked ROPME/MEMAC for providing the information.

### **Consolidated texts of CAS and the Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers**

16.9 The Committee noted the consolidated texts of the Condition Assessment Scheme (resolution MEPC.94(46), as amended) and the Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers (resolution A.744(18), as amended) provided, for information purposes, in document MEPC 52/INF.4 by the Republic of Korea. Having thanked the Republic of Korea for its efforts in preparing these consolidated texts, the Committee instructed the Secretariat to take this document into account when preparing a publication on the Condition Assessment Scheme. The consolidated text of resolution A.744(18), as amended, would be referred to the Maritime Safety Division of the Organization for any follow-up action.

### **Research Project for "Effective Crude Oil Washing"**

16.10 The Committee noted that INTERTANKO, in document MEPC 52/INF.15, informed the Committee of an Interim Research Project for "Effective Crude Oil Washing" (CRUCLEAN) commissioned for the purposes of investigating possible methods to increase the efficiency of crude oil washing and reducing its impact upon air emissions caused by the subsequent release of VOCs to the atmosphere. The Committee, having noted the information provided and, in particular, the project's interim conclusion that a modification of the current criteria and techniques used for crude oil washing was justified, invited INTERTANKO to submit to the Committee any concrete suggestions for possible changes for consideration at a future session.

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

17.1 The Committee noted information provided by the United States (MEPC 52/INF.7) on the successful Miami Partnership Conference, which was held in March 2004. The Conference, as part of the White Water to Blue Water Initiative (WW2BW), was designed to promote the practice of integrated water-shed and marine ecosystem-based management in the Wider Caribbean Region through the development and implementation of all types of partnerships across a range of thematic areas including environmentally sound marine transportation.

17.2 In this respect, the Committee noted that the Conference resulted in a host of new developments harnessing all sectors of the community and addressing topics such as ballast water management, anti-fouling systems, reception facilities for ship-generated wastes, spill response agreements, particularly sensitive sea areas, anchoring and ship's routing systems. Member Governments were urged to visit the WW2BW website which provides a host of information that would be useful in other regions ([www.ww2bw.org](http://www.ww2bw.org)).

17.3 In this context the Committee recalled that, although the Wider Caribbean Region was designated a Special Area under MARPOL Annex V in 1993, it remained ineffective and not

enforceable because insufficient countries bordering the Region had adequate waste reception facilities. In this respect, the Committee encouraged concrete actions so as to protect the marine environment in the region to the benefit of all coastal States.

## **18 TECHNICAL CO-OPERATION PROGRAMME**

18.1 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, MEPC 51 agreed to report on TC activities to every session of the Committee; the odd-numbered sessions providing exhaustive reports on the Organization's marine environment-related technical co-operation activities. Updates were to be provided, whenever necessary, at even-numbered sessions.

18.2 The Committee noted the report on the TC programme on a region-by-region basis (MEPC 52/18), which gave an account of the technical co-operation activities related to the protection of the marine environment undertaken during the period January 2002 - June 2004.

18.3 The Committee also took note of 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 52/18/1/Rev.1). In this respect, the Committee noted the change of name of the Emergency Protocol to the Barcelona Convention, which now reads: "Protocol to the Barcelona Convention concerning Co-operation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Prevention and Emergency Protocol)".

18.4 The Committee recalled that MEPC 48 approved the updated thematic priorities and the Committee's contribution to the ITCP for 2004-2005 prepared by the Secretariat. These formed the basis for the preparation of the marine environment-related components of the overall ITCP for 2004-2005. The new ITCP, which was approved by TCC 53, comprised 26 programmes with funding requirements of US\$ 14.1 million. Subsequent to a proposal by TCC 53, the Council approved a biennial allocation from the TC Fund totalling 5 million pounds Sterling (or US\$7.85 million) to be used to finance the core activities of the ITCP for 2004-2005.

18.5 The Committee recalled further that the future ITCP for 2006-2007 would be considered by TCC 55 in June 2005 and should include the MEPC's contribution to that programme. The Committee's contribution, as contained in the annex to document MEPC 52/18/2, was an updated version of the current ITCP for 2004-2005. This amended version took account of the on-going ITCP and of the actual activities, implemented and/or programmed, as contained in the relevant on-going projects and/or programmes.

18.6 In considering document MEPC 52/18/2, the Committee noted the important role played by workshops and training courses in catalyzing or strengthening the co-operation between national Authorities of the region and between Governments and industry in the field of preparedness and response. The importance of such co-operation in ensuring viable response systems was also emphasized. While recognizing the good results attained in MARPOL ratification and implementation, the need to pay particular attention to this aspect of the IMO technical co-operation programme was stressed.

18.7 Reference was also made to the successful completion by the OPRC/OPRC-HNS Technical Group of the work on the revision of the OPRC training courses and the development

of the new OPRC introductory course, all of which would no doubt add to the quality of the assistance being rendered by IMO to the countries that need it.

18.8 The Director of the Organization's Technical Co-operation Division (TCD) provided the Committee with information on the different components of the Integrated Technical Co-operation Programme (ITCP) through which the Organization's marine environment-related technical co-operation activities are funded. These include one major programme solely dedicated to marine environment protection, a global programme on cross-sectoral matters (technical advisory services; regional outreach; etc.) and most importantly the major GEF-funded programmes and projects. Information was also provided on the process for the development of the ITCP and of allocation of resources to its components.

18.9 While recognizing that the thematic priorities, as contained in document MEPC 52/18/2, were comprehensive, the Director, TCD, suggested that there was an increasing need for the Committee to identify its real priorities and to focus on specific themes for any given biennium. In reaction to one delegation's suggestion that attention needed to be paid to the training of trainers, he informed the Committee of the launching of such a project in the field of maritime security and it was also intended for replication to cover other areas such as preparedness and response.

18.10 In commenting on the documents under review, a number of delegations expressed their appreciation for the assistance provided by IMO within the framework of the ITCP. The Committee's attention was also drawn to the following:

- .1 the importance of workshops and courses in catalysing and/or strengthening the bond between experts of the same region likely to co-operate in addressing matters of common interest such as pollution response;
- .2 the need for future programmes to address matters pertaining to the OPRC-HNS Protocol, MARPOL Annex VI and the 2001 AFS Convention; and
- .3 the need to organize train-the-trainer courses with a view to gradually reducing developing countries' dependency on external expertise.

18.11 Finally, the Committee:

- .1 approved the Committee's contribution to the overall IMO ITCP for 2006-2007;
- .2 instructed the Secretariat to finalize the Committee's contribution for its incorporation by the Technical Co-operation Division into the overall ITCP for 2006-2007, including the issue of greenhouse gases emissions; and
- .3 took note of the information provided regarding the implementation of the technical co-operation activities for the period from January 2002 to June 2004, which related to the ITCP for 2002-2003 and 2004-2005, and the major programmes - the Marine Electronic Highway (MEH) Project, PEMSEA and the Globallast Programme.



## **19 FUTURE ROLE OF FORMAL SAFETY ASSESSMENT AND HUMAN ELEMENT ISSUES**

### **Report of the Joint MSC/MEPC Working Group on the Human Element**

19.1 The Committee recalled that MEPC 51 noted that the Joint MSC/MEPC Working Group on the Human Element would meet again during MSC 78 and agreed to consider the work of the correspondence group on FSA at this session after it had been considered by MSC 78.

19.2 The Committee noted that, due to lack of time, MSC 78 decided to defer consideration of the report of the correspondence group on FSA to MSC 79.

19.3 The Committee noted that MSC 78 considered the report of the Joint MSC/MEPC Working Group on the Human Element and took action as reflected in paragraphs 18.7 to 18.13 of document MSC 78/26.

19.4 The Committee, having considered the report of the Joint MSC/MEPC Working Group on the Human Element (MSC 78/WP.16) and the outcome of MSC 78 on the matter, took the following action:

- .1 noted the outcome of the Group's work in relation to the human element strategic plan (MSC 78/WP.16, paragraphs 4 to 12 and annex);
- .2 noted the view of MSC 78 (MSC 78/26, paragraph 18.13) with regard to the establishment of the Joint Working Group at MSC 79 and agreed that the Group should meet once a year, preferably at alternate sessions of the MSC and MEPC as appropriate, following consultations between the Chairmen of the two Committees; and
- .3 approved the report in general.

19.5 The Committee noted that MSC 78 instructed the Joint MSC/MEPC Working Group on Human Element to develop a strategic plan to address the human element for promoting safe behaviour in maritime safety, environmental protection and security culture which should make use of risk assessment methodology; include all the stakeholders in the chain of responsibility; address adequately the need for environmental management and consciousness; and endeavour to cater for all users' requirements (MEPC 52/11, paragraph 20).

### **Future meetings of the Joint MSC/MEPC Working Group on the Human Element**

19.6 The Committee considered the issue under item 20 (Work programme of the Committee and subsidiary bodies).

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

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

20.1 The Committee amended and approved the work programmes of the BLG and FSI Sub-Committees as well as provisional agendas for their forthcoming sessions, BLG 9 and FSI 13, respectively, on the basis of those approved by MSC 78 (MSC 78/26, annexes 36

and 37), which are set out at annex 12. The Committee decided that the new work items for the FSI and BLG Sub-Committees should be accommodated in their existing agendas as far as possible.

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

20.2 The Committee, noting the information provided in MEPC 52/20/1 and the decision of MSC 78, which revised and approved the work programmes of the DSC, NAV, DE, SLF and STW Sub-Committees (MSC 78, annex 36), amended and approved the environmental related items in the work programmes of the DSC, NAV, SLF and STW Sub-Committees, which are set out at annex 13. The Committee decided that the new work items for the Sub-Committees should be accommodated in their existing agendas as far as possible.

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

20.3 The Committee amended and approved the items to be included in the agendas for MEPC 53, MEPC 54 and MEPC 55 (MEPC 52/WP.5), which are set out at annex 14.

### **Dates for MEPC 53, MEPC 54 and MEPC 55**

20.4 The Committee noted that MEPC 53 would be held from 18 to 22 July 2005 and that MEPC 54 and MEPC 55 were tentatively scheduled in March 2006 and October 2006 respectively.

### **Activities, priorities and plan of meeting weeks of the Committee and their subsidiary bodies**

20.5 The Committee recalled that paragraph 2.5 of the Guidelines on the organization and method of work of the MSC and MEPC and its subsidiary bodies (MSC/Circ.1099/MEPC/Circ.405) required that, at the end of every second year, the Committee Chairmen should submit to their respective Committees a joint plan covering the activities, priorities and meeting requirements of their subsidiary bodies over the following two years.

20.6 The Committee noted that the proposed plan by the Chairmen (MEPC 52/WP.6) took into account the technical workload of the Organization, the priorities assigned by the Assembly to subjects for consideration by the MSC and MEPC and the advice provided by the Chairmen of the sub-committees.

20.7 The Committee also noted the planned meeting weeks of the Committees' and sub-committees for the biennium 2006 – 2007 as shown below.

Year	MSC	MEPC	BLG	DSC	FP	FSI	COMSAR	NAV	DE	SLF	STW	Total
2006	3	2	1	1	1	1	1	1	1	1	1	14
2007	1.5	1	1*	1	1	1	1	1	1	1	1	11.5
Grand total (weeks)												25.5

\* Depending on the amount of work assigned by the MSC and MEPC.

20.8 After consideration, the Committee approved, subject to concurrent decision of MSC 79, the plan of meeting weeks of the MSC and the MEPC and their subsidiary bodies for the biennium 2006 – 2007, for inclusion in the Secretary-General's relevant budget proposals. The Committee considered that the above meeting week requirements represented the minimum required to maintain the efficiency and effectiveness of the Organization's technical bodies.

### **Working/drafting groups at MEPC 53**

20.9 The Committee agreed, in principle, to establish the following working/drafting groups at MEPC 53:

- .1 Joint MSC/MEPC Working Group on the Human Element;
- .2 Working Group on Ship Recycling;
- .3 Working Group on Air Pollution; and
- .4 Drafting Group on amendments to MARPOL Annex VI and the Condition Assessment Scheme (CAS).

### **Correspondence groups**

20.10 The Committee agreed to establish two intersessional correspondence groups, one on ship recycling, and the other on the review of PSSA Guidelines.

20.11 The terms of reference of the correspondence group are set out at annex 15.

### **Intersessional meetings**

20.12 The Committee confirmed that the OPRC/HNS Technical Group would meet during the week prior to MEPC 53 and report to the Committee on the outcome of its work.

20.13 The Committee agreed to hold an intersessional meeting of the Ballast Water Working Group during the week before MEPC 53.

20.14 The Committee agreed to hold an intersessional meeting of the Working Group on Ship Recycling for three days in the week before MEPC 53.

20.15 The Committee agreed to hold an intersessional meeting of the ESPH Working Group in 2005.

### **Technical Group on PSSAs**

20.16 The Committee noted that there would be a need to establish a Technical Group on PSSAs during MEPC 53.

### **Ballast Water Review Group**

20.17 The Committee agreed to convene a Ballast Water Review Group at MEPC 53 to continue the development of the remaining guidelines under the BWM Convention based on the report of BLG 9 and the outcome of intersessional work.

## **Technical Workshop on the GHG Indexing Scheme**

20.18 The Committee agreed to hold a one-day open Technical Workshop on the GHG Indexing Scheme on Friday, 15 July 2004 prior to MEPC 53.

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

### **Report of the Chairmen's Meeting**

21.1 The Committee considered the report of the Chairmen's Meeting (MEPC 52/21), which was held on 15 May 2004 and discussed how to maximise the efficiency and effectiveness of the Committees and sub-committees.

### **New reporting procedure**

21.2 The Committee noted that the new reporting procedure for sub-committees was initiated in September 2003 when it was approved by C 90 for trial by SLF 46 and DSC 8 and, subsequently, the provisional trial was extended to cover meetings of all the remaining sub-committees.

21.3 The Committee also noted that, following extensive debate on the benefits of the new reporting procedure, the Chairmen's meeting agreed that clear expectations/priorities of the new reporting procedure should be identified, bearing in mind the need for flexibility and innovative thinking, while at the same time ensuring co-ordinated and harmonized procedures and working within the current logistic and financial resources, in particular, in the preparation of sub-committee report, containing summary of decisions, depending upon the workload and the type of agenda items under consideration.

21.4 The Committee noted further that, in accordance with the trial new reporting procedure, the reports of sub-committees would only contain a summary of decisions, annexes (if any) and the action requested of the reporting sub-committee's parent body. The ninety-second session of the Council authorized MSC 79 this December, taking into account the views of MEPC 52, to make appropriate decisions on the future of the new reporting procedure for implementation by the sub-committees during the first half of 2005 and to report to the ninety-fourth session of the Council in June 2005, seeking endorsement of its action.

21.5 In the ensuing discussion, there was general agreement in the Committee that the reports of sub-committees should, in addition to a summary of decisions, contain a good summary of the views expressed by delegations during discussion of an item, which may have influenced the decision, since this is very useful for reference when preparing proposals or documents for future meetings of the sub-committees and committees. As a result, the Committee recommended to halt the trial new reporting procedure and to return to the previous reporting procedure for the sub-committees.

### **List of actions requested of the Committees**

21.6 The Committee noted that the Chairmen's Meeting discussed how to prepare the list of actions requested of the Committee(s) in the report of the sub-committees. Noting that such lists, in the past, often included requests to the appropriate parent Committee simply to "note" certain

actions, the Chairmen's Meeting agreed that future lists should avoid such requests, if there were no immediate consequences or if the parent Committee was not invited to provide guidance or advice.

### **Role of Chairmen and Vice-Chairmen**

21.7 The Committee noted that after consideration of the draft Guidelines on the role and responsibilities of the sub-committee Chairmen and Vice-Chairmen prepared by the Secretariat, the Chairmen's Meeting agreed to request the Secretariat to modify the draft Guidelines to take into account the following points:

- .1 the role of the Vice-Chairmen should be enhanced;
- .2 the extent to which a Chairman may comment on issues which have not been considered by the Sub-Committee; and
- .3 the sub-committee Chairman should, when necessary and particularly when their sub-committee reports are being presented for consideration, attend the session of both the MSC and MEPC, as appropriate.

### **Issues remaining from the 2002 Chairmen's Meeting**

21.8 The Committee noted the views of the Chairmen's Meeting on issues remaining from the 2002 Chairmen's Meeting (MEPC 52//21, paragraphs 17 to 22), including the agreement that some flexibility should be introduced to allow working groups to start work on Monday mornings.

### **Terms of reference of the sub-committees**

21.9 The Committee noted that, as instructed, the NAV, SLF, FP, STW, COMSAR, DE and FSI Sub-Committees had prepared their draft terms of reference (MEPC 52/21/1, annex) for consideration by the Committees.

21.10 The Committee also noted that the Chairmen's Meeting, following discussion, agreed that the following points should be highlighted in the terms of reference of the sub-committees (MEPC 52/21, paragraph 5):

- .1 uniformity of format and generic work items should be introduced, possibly using as a basis the terms of reference of the DE Sub-Committee;
- .2 the mandate to the sub-committees should include explicit references to marine environment issues;
- .3 the terms of reference should be aligned to the Strategic Plan and Goals for the Organization once they are finalized; and
- .4 the responsibilities of each sub-committee should be clearly defined in the terms of reference to assist the Secretariat in ensuring that submissions relating to new work items are assigned to the appropriate sub-committee.

21.11 The Committee, noting that the draft terms of reference of the sub-committees were still to be updated, agreed to give further consideration of the matter at MEPC 53 after MSC 79.

## **22 ELECTION OF THE CHAIRMAN AND VICE-CHAIRMAN FOR 2005**

22.1 In accordance with rule 17 of the Rules of Procedure, the Committee unanimously re-elected Mr. Andreas Chrysostomou (Cyprus) as Chairman, and elected Mr. Ajoy Chatterjee (India) as Vice-Chairman, both for 2005.

## **23 ANY OTHER BUSINESS**

### **The work of the SPI Working Group**

23.1 The Committee noted that document MEPC 52/23 was a note by the Chairmen of the MSC, MEPC and the FAL Committees on the work and work method of the SPI Working Group. The document was also submitted to MSC 78 ( MSC 78/25/2), but owing to lack of time, MSC 78 decided to consider the matter at MSC 79 in December 2004.

23.2 The Committee noted further that FAL 31 considered the matter in July 2004 and took the following action (MEPC 52/11/5, paragraphs 6.3 and 7):

- .1 the SPI Working Group need not be convened as a joint Working Group of MSC, MEPC and FAL Committees and would henceforth be convened as a working group of the FAL Committee as and when the FAL Committee considered it necessary. In such a case, the FAL Committee would determine the terms of reference of the SPI Working Group, based on the nature of the times to be referred to the group for consideration at the particular time; and
- .2 as a result, the FAL Committee saw no reason in discussing the terms of reference of the SPI Working Group set out in annex to FAL 31/12/2.

23.3 Having considered the decisions of FAL 31 on the matter, the Committee endorsed the proposal of the United States to request the Chairmen of the MEPC, MSC and FAL Committees to get together during C 93 (15 to 19 November 2004) to discuss and outline the options for the SPI Working Group for consideration at MEPC 53, recognizing that FAL 31 had already made its decisions.

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

23.4 The Committee recalled that FAL 30 prepared a list of certificates and documents required to be carried on board ships and, after endorsed by the MSC and MEPC, had been disseminated as FAL/Circ.90-MEPC/Circ.368-MSC/Circ.946 of 3 July 2000.

23.5 The Committee also recalled that MEPC 49 and subsequently MSC 77 and FAL 30 decided to revise the aforementioned circular to include new certificates and documents, as appropriate.

23.6 The Committee noted that, pursuant to the instruction of the Committees, the Secretariat had prepared a revised list of certificates and documents required to be carried on board ships and the associated draft FAL/MEPC/MSD circular (MEPC 52/23/1, annex).

23.7 The Committee, noting that FAL 31 (July 2004) had reviewed the revised list and the associated draft FAL/MEPC/MSD circular (MEPC 52/11/5, paragraph 3), approved, subject to concurrent decision of MSC 79, the joint circular.

### **Requests from news media to attend IMO meetings**

23.8 The Committee noted that the Council, at its ninety-second session, having considered the issue and taking into account the outcome of MEPC 51, LEG 88, MSC 78 and TC 54 on the matter, as well as a submission by Denmark, New Zealand and Sweden:

- .1 approved the Guidelines for media access to meetings of Committees and their sub-subsidiary bodies;
- .2 instructed the IMO bodies concerned to follow the Guidelines, amending their Rules of Procedure as may be necessary; and
- .3 noted that, in addition, an accreditation system would be established to allow automatic access to IMO meetings to representatives of the specialist maritime media and requested the Secretary-General, when proceeding with the establishment of such a system, to take into account similar systems applying elsewhere, e.g. in the United Nations.

23.9 In considering the proposed amendment to Rule 9 of the Rules of Procedure contained in annex 2 of document MEPC 52/23/2 to make the meetings of the Committee and its subsidiary bodies open to the public, many delegations expressed their concern regarding the word “public”, which could be construed that anybody can observe IMO meetings.

23.10 The Marshall Islands proposed to retain the text of Rule 9 and to keep the meeting private but to add a sentence to deal with the attendance of the news media taking into account the Guidelines approved by the Council. The proposal of the Marshall Islands received support and the Chairman proposed to work with the Secretariat and prepare a draft sentence in the line of the proposal of the Marshall Islands.

23.11 In line with the proposal of the Marshall Islands, and pursuant to Rule 47 of the Rules of Procedure of the Committee, the Chairman, together with the Secretariat, prepared an amendment to Rule 9, by adding a paragraph to the existing Rule 9 as follows:

“Notwithstanding the aforesaid, and in accordance with the Guidelines of the Organization for media access to meetings of the Committees and their subsidiary bodies, media may attend meetings of the Committee and its subsidiary bodies unless the Committee decides otherwise. Meetings of working groups and drafting groups established by the Committee and its subsidiary bodies shall be held in private”.

23.12 The Committee, after consideration, adopted the amendment to Rule 9 of its Rules of Procedure, as set out in annex 16 and requested the Secretariat to bring this to the attention of the MSC and the Legal Committee for information and action as appropriate.

### **Ocean conservation and tourism alliance (OCTA)**

23.13 The Committee noted the information provided by the International Council of Cruise Lines (ICCL) in the document MEPC 52/23/3 regarding a joint initiative between members of the ICCL and the Conservation International (IC) to protect the world's oceans with the creation and funding of the Ocean Conservation and Tourism Alliance (OCTA), which would focus on the protection of biodiversity in top cruise destinations and promote industry practices that minimize the cruise industry's environmental impact as well as the establishment of a science panel in conservation, environmental technologies and cruise industry environmental practices. More information on the joint initiative could be found in the following web sites: [www.iccl.org](http://www.iccl.org); [www.conservation.org](http://www.conservation.org); and [www.celb.org/xp/CELB/programs/travel-leisure/cruises.xml](http://www.celb.org/xp/CELB/programs/travel-leisure/cruises.xml). The Committee thanked ICCL for providing such information.

### **ICS/OCIMF Ship-to-ship transfer guide (petroleum) Fourth Edition 2004**

23.14 The Committee noted the information provided by Denmark, Germany, OCIMF and ICS (MEPC 52/INF.10) on the newly revised ICS/OCIMF publication, entitled "Ship-to-Ship Transfer Guide (Petroleum) – 4<sup>th</sup> Edition 2004", and thanked the sponsors for providing such information.

### **Activities of HELMEPA**

23.15 In response to the Secretary-General's opening speech regarding the work initiated by HELMEPA where children from Greece cleaned a beach in Turkey and children from Turkey cleaned a beach in Greece, the delegate from Greece provided further information on the activities of the HELMEPA and other Marine Environment Protection Associations, underscoring initiatives on environmental awareness among the youth such as the holding of a drawing contest, dissemination of a poster, strengthening linkages among associations and exchange visits.

### **Expressions of appreciation**

23.16 The Committee expressed deep appreciation to Mr. A. Chrysostomou (Chairman of the Committee), 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 Mrs. M. Tiemens-Idzinga (Chairman of the Drafting Group on Amendments to MARPOL Annex II and the IBC Code), to Mr. Z. Alam (Chairman of the Drafting Group on Amendments to MARPOL Annex I) and to Ms. L.S. Johnson (Chairman of the Informal Group on the PSSA Guidelines) for their outstanding contribution to the success of MEPC 52.

23.17 The Committee, noting that this was the last session that Mr. A.P. Burgel (Head of the Netherlands Delegation to the Committee) would attend, also expressed deep appreciation for his outstanding contribution to the work of the Committee over many years, and wished him all the best in the future.

(The annexes will be issued as addenda to this document.)