



MARITIME SAFETY COMMITTEE
70th session
Agenda item 23

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**REPORT OF THE MARITIME SAFETY COMMITTEE
ON ITS SEVENTIETH SESSION**

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1 INTRODUCTION

1.1 The seventieth session of the Maritime Safety Committee was held from 7 to 11 December 1998 under the chairmanship of Dr. G. Pattofatto (Italy). The Vice-Chairman, Captain B. Watt (South Africa), was also present.

1.2 The session was attended by delegations from the following Member Governments:

ANGOLA	JAMAICA
ANTIGUA AND BARBUDA	JAPAN
ARGENTINA	LATVIA
AUSTRALIA	LIBERIA
AUSTRIA	LIBYAN ARAB JAMAHIRIYA
BAHAMAS	LITHUANIA
BANGLADESH	LUXEMBOURG
BARBADOS	MALAYSIA
BELGIUM	MALTA
BELIZE	MARSHALL ISLANDS
BOLIVIA	MEXICO
BRAZIL	NAMIBIA
BULGARIA	NETHERLANDS
CAMEROON	NEW ZEALAND
CANADA	NIGERIA
CHILE	NORWAY
CHINA	PANAMA
COLOMBIA	PERU
CONGO	PHILIPPINES
CÔTE D'IVOIRE	POLAND
CROATIA	PORTUGAL
CUBA	REPUBLIC OF KOREA
CYPRUS	ROMANIA
CZECH REPUBLIC	RUSSIAN FEDERATION
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	SAUDI ARABIA
DENMARK	SINGAPORE
ECUADOR	SLOVENIA
EGYPT	SOUTH AFRICA
ESTONIA	SPAIN
FINLAND	SRI LANKA
FRANCE	SWEDEN
GEORGIA	THAILAND
GERMANY	TRINIDAD AND TOBAGO
GREECE	TUNISIA
HONDURAS	TURKEY
HUNGARY	UKRAINE
ICELAND	UNITED ARAB EMIRATES
INDIA	UNITED KINGDOM
INDONESIA	UNITED STATES
IRAN (ISLAMIC REPUBLIC OF)	URUGUAY
IRELAND	VANUATU
ISRAEL	VENEZUELA
ITALY	YEMEN

and the following Associate Members of IMO:

HONG KONG, CHINA

MACAU

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

UNITED NATIONS

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

INTERNATIONAL TELECOMMUNICATION UNION (ITU)

WORLD METEOROLOGICAL ORGANIZATION (WMO)

by observers from the following intergovernmental organizations:

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)

EUROPEAN COMMISSION (EC)

LEAGUE OF ARAB STATES

ARAB FEDERATION OF SHIPPING (AFS)

INTERNATIONAL MOBILE SATELLITE ORGANIZATION (INMARSAT)

COSPAS-SARSAT

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)

INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)

INTERNATIONAL SHIPPING FEDERATION (ISF)

INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)

INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)

INTERNATIONAL CHAMBER OF COMMERCE (ICC)

INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)

INTERNATIONAL ASSOCIATION OF LIGHTHOUSE AUTHORITIES (IALA)

INTERNATIONAL RADIO-MARITIME COMMITTEE (CIRM)

PERMANENT INTERNATIONAL ASSOCIATION OF NAVIGATION CONGRESSES
(PIANC)

INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)

THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)

INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)

INTERNATIONAL CARGO HANDLING CO-ORDINATION ASSOCIATION (ICHCA)

OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)

INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)

INTERNATIONAL ASSOCIATION OF INSTITUTES OF NAVIGATION (IAIN)

INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)

INTERNATIONAL LIFE-SAVING APPLIANCES MANUFACTURERS' ASSOCIATION
(ILAMA)

OIL INDUSTRY INTERNATIONAL EXPLORATION AND PRODUCTION FORUM
(E & P FORUM)

ASSOCIATION OF EUROPEAN SHIPBUILDERS AND SHIPREPAIRERS (AWES)

INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS
(INTERTANKO)

SOCIETY OF INTERNATIONAL GAS TANKERS AND TERMINAL OPERATORS (SIGTTO)

INTERNATIONAL LIFEBOAT FEDERATION (ILF)

INTERNATIONAL ROAD TRANSPORT UNION (IRU)

INTERNATIONAL COUNCIL OF CRUISE LINES (ICCL)
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS (INTERCARGO)
THE INSTITUTE OF MARINE ENGINEERS (IME)
INTERNATIONAL SHIP MANAGERS' ASSOCIATION (ISMA)
INTERNATIONAL PARCEL TANKERS ASSOCIATION (IPTA)
INTERNATIONAL SAILING FEDERATION (ISAF)

1.4 The session was also attended by Mr. M.H. Julian (Australia), Chairman of the Marine Environment Protection Committee (MEPC), H.E. Ambassador O.E. Bósquez Poveda (Panama), Chairman of the Technical Co-operation Committee and Mr. L.D. Barchue, Sr. (Liberia), Chairman of the Facilitation Committee (FAL). The Chairmen of all sub-committees, except for the Chairmen of the COMSAR and DSC Sub-Committees, were also present.

1.5 In welcoming participants, the Secretary-General first referred to the state of safety of the shipping industry nowadays, which, in his assessment, had improved further since he first addressed the issue in 1993. His new assessment was based on recently issued statistics and, in particular:

- firstly the announced reduction by 50% of the workload of the Salvage Association since 1990 and the recognition that one of the factors leading to this was the improvement in ship safety;
- secondly, the casualty statistics issued by the Institute of London Underwriters for the 1998 IUMI Conference in Lisbon, which, covering the ten-year period between 1987 and 1997, had shown a considerable decrease in ship total losses both by number and tonnage; and
- thirdly, the information published last October that at least 80% of tanker tonnage was being operated within the framework of high safety standards.

To better understand the importance of these improvements in safety, he suggested that the above statistics should be seen against the average age of today's merchant fleet, which, due to the prevailing market conditions, was increasing all the time.

The Secretary-General added that, although the aforementioned figures and Lloyd's List's recent statement that sub-standard shipping had shrunk to a tiny portion of what it represented ten years ago pointed in the direction of satisfactory results of IMO's efforts to enhance safety and environmental protection, his clear message was that under no circumstances could the Organization, its Member Governments and the shipping industry afford to become complacent in their endeavours to improve the situation further.

Expressing admiration for the achievements of the shipbuilding and ancillary industries in delivering gigantic cruise ships embodying features of state-of-the-art technology, he also expressed the hope that the operational safety aspects in emergencies of these mammoth ships carrying thousands of passengers and crew members had been properly studied and satisfactorily resolved.

Having suggested that shifting emphasis onto people, ensuring the effective implementation of the STCW Convention and the ISM Code, enhancing the safety of bulk carriers, avoiding unnecessary over-regulation and, instead, strengthening the Organization's technical co-operation programmes and delivery should be the main targets on which Governments and industry should focus their attention in the years to come, the Secretary-General expressed the hope that the Committee would endorse his policy statement.

Referring to the Committee's new efforts to further enhance the safety of bulk carriers, the Secretary-General said he was confident that the Committee would undertake this new exercise with the efficiency that has always been IMO's hallmark.

Turning to the implementation of the STCW Convention, he informed the Committee that by the 1 August 1998 deadline, 82 of the 133 STCW Parties had communicated information on compliance with the requirements of the revised Convention. Since that date, another 12 Parties had done so. Soon after the initial submission date, the Secretariat set out to establish the panels of competent persons provided by the Convention. Since each panel ordinarily should not exceed 5 persons, the 82 panels established involved all competent persons available, most of them participating in more than one panel. The Secretary-General was confident that the Committee would duly appreciate the tremendous effort necessary to organize, monitor and process the work of so many experts. He thanked all the competent persons for their work and particularly those who had agreed to chair panels and act as the focal points for the collation and dissemination of information.

Referring to the implementation of the ISM Code, which came into force with respect to certain types of ships on 1 July 1998, he said that, from information collected by IMO and that published in the specialized press, the overwhelming majority of ships liable to the first implementation date seemed to be ISM-certificated. This, he observed, was a very satisfactory situation and resulted from the strenuous efforts of all involved to promote the Code by all possible means, including refusing even to consider relaxing the implementation date.

However, the successful introduction of the ISM Code did not mean the end of the road as far as IMO's efforts to achieve better results through safety management were concerned. The second deadline of 1 July 2002, when all "other cargo ships and mobile offshore drilling units of 500 gross tonnage and upwards" would become liable to the Code was not too far away and, as the number of the ships concerned, including general cargo and container ships, totalling some 13,000 craft, was higher than that of the first round, the Secretary-General urged the Committee, shipping companies, classification societies and all other interested industry parties to take action now to ensure that all ships and drilling units concerned, as well as the companies owning them, were ISM-certificated by the 1 July 2002 deadline date.

He considered that the policy issues, which the FSI Sub-Committee had referred to the Committee and the MEPC concerning aspects of the draft Flag State Performance Self-Assessment Form were very important and, having himself followed the issue both at the FSI Sub-Committee and the MEPC closely, he believed that, building on these, the Committee would be able to make further progress on the issue to which he intended to revert in some detail under agenda item 9.

Turning to port State control matters, he was very pleased to inform the Committee of the signing of the Indian Ocean Memorandum of Understanding on Port State Control in Pretoria in June 1998.

The successful conclusion of last September's Fremantle Conference on Maritime Search and Rescue and the GMDSS for Indian Ocean countries marked the end of successive efforts undertaken over a 14-year period to complete the provisional global SAR plan. The Secretary-General reiterated his appreciation to the Government of Australia for hosting the Conference and those Governments and international organizations which had supported it financially. He also wished to pay tribute to all Governments and international organizations which had hosted and financed the previous Conferences in Caracas, Tokyo, Lagos, Lisbon, Cape Town, Istanbul, Seoul and Valencia.

And while IMO had done everything necessary to complete the administrative arrangements to ensure that no sea space had been left uncovered by Governments accepting responsibility for the co-ordination of SAR operations, it was now up to them to ensure that an adequate SAR infrastructure, including radiocommunication facilities, was in place along their coastline to guarantee efficient and effective SAR services. Once the conclusions and recommendations of the Fremantle Conference were analysed and evaluated, he would make his proposals to the Committee outlining what work remained to be done.

The Secretary-General then informed the Committee that the agreed anti-piracy project had started being implemented in earnest with two expert missions having already taken place to countries in the South China Sea and the Malacca Strait and countries in the South American region. In addition, a technical seminar and workshop had taken place in Brasilia last October and a similar seminar and workshop was scheduled to take place in Singapore from 3 to 5 February 1999. He expressed appreciation to those Governments and international organizations which had provided financial and expert support for the execution of the first part of the project as well as to the Governments of Brazil, Indonesia, Malaysia and the Philippines for their co-operation. He sincerely hoped that the activities undertaken and those to follow would bear fruit and the number of reported piracy and armed robbery incidents would drop considerably in the near future.

Referring to the preparation by a correspondence group, under the co-ordination of the United States, of draft guidelines, in pursuance of the requests of resolution A.867(20) on Combating unsafe practices associated with the trafficking or transport of migrants by sea, he expressed the hope that the Committee would make sound decisions when dealing with that problem which was causing grave concern to Governments and to the general public.

Turning to technical co-operation matters, the Secretary-General emphasized that, with the shift in emphasis from the development of new regulations to the implementation of existing ones, technical assistance provided by IMO was definitely the primary method for it to assist countries in implementing and enforcing the agreed standards.

Referring to the review of the Guidelines on the organization and method of work, he reminded the Committee of his concluding remarks at MSC 69, when he had urged the Committees not to lose sight of their main purpose which was to enhance safety and environmental protection. The Guidelines should be used for increasing the efficiency of the Committees in their efforts to achieve their objectives.

The Secretary-General then mentioned a campaign he launched last September to establish a Seafarers Memorial Trust Fund for the purpose of:

- recognizing the contribution made by seafarers to international trade and, above all, paying tribute to those seafarers from all over the world who have lost their lives in the service of maritime transport; and
- promoting the significance and importance of maritime training as an indispensable factor in any effort to ensure safer shipping leading to fewer sacrifices of precious human lives.

He then explained that the Trust Fund would be used to:

- erect an international memorial to seafarers at IMO Headquarters;
- establish a chair on maritime safety and marine pollution prevention at the World Maritime University;

- provide fellowships to students at certain maritime training institutes around the world; and
- support any other activity relating to the training of seafarers which the Trustees might decide.

He had written to eminent members of the shipping industry, inviting them to become Trustees; and industry organizations, shipping companies, shipowners, ship operators and others which had been associated with the work of IMO over the years, appealing to them to contribute generously to the Trust Fund so that its objectives might be implemented as soon as possible.

To date, approximately 1 million US dollars had been contributed or pledged and there were encouraging signs that more funds would be received soon. He trusted the Committee would give the campaign its full support.

The Secretary-General concluded his speech by stating that he was confident that the determination of all concerned to succeed, coupled with a diligent and realistic approach to the issues confronting the Committee, would help it to successfully tackle the challenges IMO and the maritime community were facing.

1.6 In responding to the Secretary-General's remarks, in particular his statement on the state of safety of the shipping industry, the Chairman expressed satisfaction with the Committee's accomplishments over the years and agreed that there was no room for any complacency. More had to be done to further improve maritime safety and environmental protection, as was clearly demonstrated by the many significant issues on the agenda of the Committee's current session. However, he was confident that, in the usual spirit of co-operation, the Committee would address them in a successful manner.

1.7 The Committee adopted the agenda (MSC 70/1) and a provisional timetable for guidance during the session (MSC 70/1/1, annex, as amended). The agenda for the seventieth session, with a list of documents considered under each agenda item, is set out in annex 1; and the Committee's decisions on the establishment of working and drafting groups are reflected under sections of this report covering corresponding agenda items.

1.8 On the question whether the third working group should be allocated to consider STCW or Ships' Routeing matters, the Committee, having been informed of the Chairman's consultations with the Chairmen of the STW and NAV Sub-Committees (the former seeing no scope for an STCW working group whilst the latter had recommended that, for the reasons suggested by his Sub-Committee (NAV 44/14, paragraphs 3.15 and 3.16), and the considerable number of documents on other ships' routing matters submitted to the current session of the Committee, his view was that there was scope for a Ships' Routeing Working Group being established), agreed to establish such a working group and to consider STCW matters in plenary.

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

2 DECISIONS OF OTHER IMO BODIES

OUTCOME OF THE EIGHTIETH SESSION OF THE COUNCIL

2.1 The Committee noted the information provided in document MSC 70/2.

OUTCOME OF THE FORTY-FIFTH AND FORTY-SIXTH SESSIONS OF THE TECHNICAL CO-OPERATION COMMITTEE

2.2 The Committee noted the information provided in documents MSC 70/2/1 and MSC 70/2/1/Add.1, as well as additional information provided orally by the Secretariat, concerning:

- the adoption by TC 46 of a streamlined integrated technical co-operation programme incorporating thematic as well as regional priorities articulated through regional organizations and the results of national needs assessment missions;
- a programme (Partnerships for progress) designed to promote better linkage with bilateral technical assistance programmes including Memoranda of Understanding or similar arrangements. Agreements with regional organizations (e.g. SPREP, ROCRAM, ROCRAMCA) to mobilize their capacity to implement technical co-operation activities at the regional level were also pursued;
- establishment of IMO's regional presence in Eastern and Southern Africa and West and Central Africa to better co-ordinate the implementation of technical co-operation activities at the regional and country level; and
- the TC Committee's intention to consider, at its forty-seventh session, the use of the Flag State Performance Self-Assessment Form with respect to technical co-operation aspects.

2.3 The Committee decided to further consider technical co-operation matters under agenda item 12 (Technical assistance subprogramme in maritime safety).

OUTCOME OF THE TWENTY-SIXTH SESSION OF THE FACILITATION COMMITTEE AND THE CONCURRENT SESSION OF THE WORKING GROUP ON SHIP/PORT INTERFACE

2.4 The Committee, in considering document MSC 70/2/2, agreed that document MSC 70/INF.4 on tug assistance in port areas, submitted by ICFTU under agenda item 22 (Any other business), be considered under this agenda item together with the outcome of the SPI Working Group on the issue of tug assistance (see paragraph 2.14 below).

2.5 The Committee noted the information provided in document MSC 70/2/2 and took action on the issues referred to in paragraph 20 of that document, as indicated in paragraphs 2.6 to 2.15 below.

Improving ship/shore communications

2.6 The Committee, as requested by the FAL Committee, agreed to give high priority to the ship/shore communications aspect and instructed the DSC Sub-Committee, in co-operation with other sub-committees, as appropriate, to do the same, including the development of checklists and manuals, where appropriate.

Implementation of IMO instruments

2.7 The Committee noted the FAL Committee's action on implementation of IMO instruments, in particular the possible development of an international convention on, or the extension of present conventions to cover, port safety aspects.

2.8 In this respect, the delegation of the United States, supported by the delegations of the Bahamas and Greece, stressed that port safety regulations was a matter which should be addressed by sovereign States concerned and therefore work thereon should not be undertaken by the SPI Working Group.

2.9 The Chairman of the FAL Committee having clarified that the matter had been considered in the context of a complete revision of the FAL Convention, the Committee invited the FAL Committee to keep it informed of the results of the initial evaluation of the work to be undertaken, as far as port safety matters were concerned, before any instructions were given to the SPI Working Group to pursue the matter further.

2.10 The Committee concurred with the FAL Committee's invitation to consider the implementation aspects of instruments at the ship/port interface from its perspective as a matter of high priority, when considering ship/port interface instruments in future.

Training requirements for cargo-related matters

2.11 The Committee endorsed FAL.6/Circ.7 (MSC 70/2/2, annex 1) on Training requirements relating to the transport of packaged dangerous goods.

Work programme of the SPI Working Group

2.12 The Committee approved, as far as safety-related items are concerned, the SPI Working Group's work programme (MSC 70/2/2, annex 2), with the clarification that item 8 thereof would be supervised by the MSC, MEPC and the FAL Committee.

Model courses on the safe and secure packing of cargo transport units

2.13 The Committee endorsed the SPI Working Group's action on the model course on the Safe and Secure Packing of Cargo Transport Units.

Availability of tug assistance

2.14 The Committee endorsed the SPI Working Group's action on the issue of tug assistance and noted the information provided by ICFTU in document MSC 70/INF.4 on an ITF survey on tug assistance in port areas, which would also be submitted to FAL 27 for further consideration by the SPI Working Group.

Model course for use by bulk terminal operators

2.15 The Committee endorsed the SPI Working Group's action on the contemplated model course for use by terminal operators.

OUTCOME OF THE SEVENTY-EIGHTH SESSION OF THE LEGAL COMMITTEE

2.16 The Committee noted the information provided in document MSC 70/2/3.

OUTCOME OF THE FORTY-SECOND SESSION OF THE MARINE ENVIRONMENT PROTECTION COMMITTEE

2.17 The Committee noted the information provided in document MSC 70/2/4, in particular MEPC's instructions to:

- .1 the DSC Sub-Committee to consider and prepare appropriate amendments to MARPOL Annex III with a view to making the IMDG Code or parts thereof mandatory under MARPOL;
- .2 the DE, SLF and STW Sub-Committees to consider the safety and training aspects involved in ballast water management; and
- .3 the NAV Sub-Committee to consider areas to be avoided, taking into account the status of the Archipelago of Sabana-Camagüey as a PSSA and other relevant information,

and agreed to consider the remaining parts of the document, as well as other matters emanating from the forty-second session of the MEPC, under appropriate agenda items as reported in various sections of this report.

3 CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS**GENERAL**

3.1 Parties to the 1978 STCW Convention were invited to participate in the consideration and adoption of proposed amendments to Part A of the STCW Code. Parties constituting more than one third of the total of Parties to the Convention were present during the consideration and adoption of the said amendments by the expanded Maritime Safety Committee, in accordance with the provisions of article XII(1)(a)(iii) and (iv) of that Convention.

3.2 The Committee, recalling that the STCW Code forms an integral part of the STCW Convention and that Part A thereof is a mandatory instrument, also recalled that the proposed amendments to the STCW Code Tables A-II/1 and A-II/2 were developed by STW 29 and approved by MSC 69.

3.3 In accordance with article XII(1)(a)(i) of the STCW Convention, the aforementioned proposed amendments to the STCW Code were circulated by the Secretary-General to all IMO Member Governments, Parties to the STCW Convention and the Director-General of ILO by circular letter No.2047 dated 21 April 1998.

PROPOSED AMENDMENTS TO PART A OF THE STCW CODE**Table A-II/1 (Cargo handling and stowage at the operational level)****Table A-II/2 (Cargo handling and stowage at the management level)**

3.4 The Committee, noting that no comments had been submitted on the proposed amendments, confirmed their contents subject to editorial improvements.

Date of entry into force of the proposed amendments to the STCW Code

3.5 The Committee, recalling that at its fifty-ninth session, it agreed on a four-year interval between bringing successive amendments to Conventions and mandatory Codes into force and taking into account the fact that the first set of amendments to the STCW Convention and STCW Code in respect of training of seafarers on passenger ships was due to enter into force on 1 January 1999, agreed to 1 January 2003 as the entry into force date of the aforementioned STCW Code amendments, as proposed.

Adoption of amendments to Part A of the STCW Code

3.6 The expanded Committee, including delegations of 81 STCW Parties, considered the final text of the proposed amendments to Tables A-II/1 and A-II/2 of the STCW Code, as presented in document MSC 70/WP.2 and adopted them unanimously by resolution MSC.78(70) as set out in annex 2.

3.7 In adopting resolution MSC.78(70), the expanded Committee determined, in accordance with article XII(1)(a)(vii)(2) of the STCW Convention, that the amendments referred to above should be deemed to have been accepted on 1 July 2002 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article XII(1)(a)(vii) of the Convention) and should enter into force on 1 January 2003, in accordance with the provisions of article XII thereof.

Effect of amendments

3.8 The delegation of Japan sought clarification on the effect of amendments to the training and certification requirements of the STCW Convention and Code on seafarers trained prior to their entry into force. The Committee, recalling that STCW regulation I/11 requires certain seafarers, at intervals not exceeding five years, to establish continued professional competence in accordance with section A-I/11 of the STCW Code, agreed that further clarification might be necessary and referred the issue to STW 30 for consideration.

4 BULK CARRIER SAFETY

4.1 The Committee recalled that, at MSC 69, it noted information (MSC 69/2/1) on the outcome of the 1997 SOLAS Conference on Bulk carrier safety. In dealing with the specific requests of the Conference, as well as with comments and proposals submitted on its outcome and on other aspects of bulk carrier safety, MSC 69 decided to include an item on "Bulk carrier safety" in its current agenda, and also to establish a working group to consider any relevant submissions with a view to advising the Committee on how to proceed further on the issue. Determination of priorities and specific issues, which should be referred to sub-committees for detailed consideration, should also be decided at the current session.

Regarding the follow-up action to the 1997 SOLAS Conference, MSC 69 decided that the aforementioned working group should consider all relevant documents submitted to MSC 69, i.e. MSC 69/2/1 (Secretariat), MSC 69/2/1/Add.1 (United Kingdom), MSC 69/2/1/Add.2 (Japan), MSC 69/2/1/Add.3 (Republic of Korea), MSC 69/2/1/Add.4 (BIMCO), MSC 69/20/10/Add.1 (IACS) and MSC 69/20/14 (Netherlands).

With respect to other aspects of bulk carrier safety, MSC 69, having considered document MSC 69/2/1/Add.5 (United Kingdom) containing a summary on the loss, in September 1980, of the double hull bulk carrier **Derbyshire** and including an outline of the wreckage survey assessors' conclusions and recommendations, agreed that:

- .1 priority matters, i.e. protection of the ship's fore end from green water and reserve buoyancy and strength of hatch covers, be dealt with by the Committee itself (rather than by sub-committees) under a separate agenda item at this session, where a working group would be established to that effect, as already mentioned; and
- .2 the other issues identified in the United Kingdom's submission should also be referred to the working group to determine priority and further course of action.

4.2 The Committee recalled also that, at MSC 69, the United Kingdom undertook to submit to this session:

- a document containing proposals for technical recommendations concerning the priority issues previously mentioned; and
- a document proposing, on the basis of the recommendations contained in the assessors' report, possible new items for inclusion in the work programmes of the appropriate sub-committees with pertinent explanations.

4.3 The Committee recalled further that, at MSC 69, it invited IACS to provide this session with any relevant technical study on the subject they might be able to conclude to assist the Committee in its deliberations, and welcomed IACS's positive response to this.

4.4 The Committee observed that there were three clearly distinct aspects to the matter in hand:

- .1 the action to be taken by the Committee on the issues listed in the 1997 SOLAS Conference resolution 8, all of which fell under the SOLAS Convention;
- .2 matters arising from the assessors' report into the loss of the **Derbyshire**, which mainly related to the Load Line Convention (e.g. hatch cover strength, freeboard, bow height, etc.); and
- .3 proposal for the Formal Safety Assessment (FSA) of bulk carriers.

4.5 Subsequently, the Committee agreed that the documents submitted under this agenda item should be dealt with in three separate groups, i.e.:

- .1 **SOLAS Conference-related:** MSC 70/4/3 and MSC 70/INF.17 (IACS), MSC 70/4/4 (ICS), MSC 70/4/2 (ICFTU) and MSC 70/INF.3 (INTERTANKO);
- .2 **Derbyshire report-related:** MSC 70/4, MSC 70/4/7 and MSC 70/INF.8 (United Kingdom), MSC 70/4/1 (IACS), MSC 70/4/5 (ICS) and MSC 70/4/6 (Greece); and
- .3 **FSA-related:** MSC 70/4/Add.1 and MSC 70/INF.14 (United Kingdom), MSC 70/4/1 (IACS) (partly) and MSC 70/4/5 (ICS) (partly).

4.6 While agreeing that the documents referred to in paragraphs 4.5.1 and 4.5.2 above should be introduced in the working group, the Committee considered briefly the FSA-related documents and, having noted that the delegations which participated in the debate were in favour of an FSA study of bulk carriers, referred the documents to the working group, instructing it on how to proceed with their consideration (see paragraph 4.7.4 below).

Establishment of a Working Group on Bulk Carrier Safety

4.7 In order to take full advantage of the time available, the Committee re-established the Working Group on Bulk Carrier Safety, with the following terms of reference:

With respect to the specific requests of the 1997 SOLAS Conference:

- .1 to consider all documents submitted on the subject to MSC 69 (MSC 69/2/1, MSC 69/2/1/Add.1, MSC 69/2/1/Add.2, MSC 69/2/1/Add.3, MSC 69/2/1/Add.4, MSC 69/20/10/Add.1 and MSC 69/20/14), as well as those submitted to the current session (MSC 70/4/2 (partially), MSC 70/4/3, MSC 70/4/4 and MSC 70/INF.17) with a view to advising the Committee on how to proceed further with the proposals therein, including the determination of priorities and the specific issues which should be referred to sub-committees for detailed consideration;

With respect to matters arising from the report on the survey of the Derbyshire:

- .2 to consider the documents submitted on the subject to MSC 69 and this session (MSC 69/2/1/Add.5, MSC 70/4, MSC 70/4/1, MSC 70/4/2 (partially), MSC 70/4/5, MSC 70/4/6, MSC 70/4/7 and MSC 70/INF.8) and propose possible new items for inclusion in the work programmes of appropriate sub-committees with pertinent explanations;
- .3 regarding the proposals mentioned in subparagraph .2 above, to recommend the preferred alternative(s) laid down in article 29 of the 1966 LL Convention to give effect to any amendments to the Convention deemed necessary; and

With respect to the proposal for an FSA of bulk carriers:

- .4 to consider documents MSC 70/4/Add.1 and MSC 70/INF.14 with a view to:
 - .4.1 generally considering whether the United Kingdom's proposal for a collaborative study should be endorsed; and, if so agreed,
 - .4.2 considering the scope, timetable, method of working and reporting, etc., including consideration of document MSC 70/INF.14, setting out the results of the United Kingdom's preliminary work as a basis for the proposed study.

4.8 In the event the proposed measures would necessitate amendments to the Load Line Convention, the Secretariat informed the Committee that to date the 1988 LL Protocol, by means of which the tacit amendment procedure would be introduced, had been accepted by 30 States representing approximately 45% of the world merchant fleet tonnage. There is therefore a need for additional acceptances by States representing at least 5% of the world tonnage before the Protocol enters into force 12 months later. To this effect, the Secretary-General once again communicated, during the intersessional period, with Governments of States owning large merchant fleets urging them to consider accepting the Protocol as early as possible.

4.9 In this respect, the delegation of the Bahamas informed the Committee that their Government had recently accepted the 1988 LL Protocol and that they would inform the Organization of their accession to the Protocol as soon as possible. On the same subject, the delegation of Panama, stressing the serious consideration Panama was giving to its accession to the 1988 SOLAS and 1988 LL Protocols, later in the meeting advised the Committee that Panama would accede to the two Protocols at the earliest opportunity

prior to the twenty-first session of the Assembly. The Committee expressed appreciation to the two delegations the accession of the countries of which to the two Protocols would be instrumental in bringing them into force.

Outcome of the working group

4.10 Having received the report of the working group (MSC 70/WP.11), the Committee approved it, in general, and took action as reflected in the ensuing paragraphs.

SPECIFIC REQUESTS OF THE 1997 SOLAS CONFERENCE

Definition of the term "bulk carrier" as given in SOLAS regulation IX/1.6 (Conference resolution 6)

4.11 The Committee, while recognizing that the existing wording of SOLAS regulation IX/1.6 was not an entirely clear definition of a "bulk carrier", felt that the interpretation provided in Conference resolution 6 offered an acceptable solution to the problem and that the said definition should be incorporated into SOLAS chapter IX (see also paragraph 4.18 below).

Identification of the type of ship for PSC purposes (Conference resolution 6)

4.12 The Committee agreed that the most direct way of solving the problem of identifying certain bulk carriers for PSC purposes would be to add the ship type "bulk carrier" to the appropriate list in the Cargo Ship Safety Construction Certificate, the Cargo Ship Safety Equipment Certificate and the Cargo Ship Safety Certificate. The Committee, however, recognizing that it might be difficult to amend the text of these Certificates, as they fell under SOLAS chapter I, until the 1988 SOLAS Protocol entered into force, when the tacit amendment procedure could be used, agreed that an interim solution such as to rely on the Safety Management Certificate under the ISM Code, where "bulk carrier" is one of the ship types that is required to be inserted (although this option will not be fully effective until after 1 July 2002), or on the information which has to be provided in the booklet required in SOLAS regulation XII/8, could be used. In any case, the principle of keeping the number of certificates to a minimum should be upheld (see also paragraph 4.18 below).

4.13 The delegation of Japan noted with regret that the working group had rejected the issue of the document of compliance with regulations of SOLAS chapter XII, and considered that the absence of information on the due date of application of different regulations might cause undue delay of bulk carriers when subject to port State control inspections.

Definition of bulk carrier of single side skin construction (Conference resolution 8)

4.14 The Committee, in considering the definition of "bulk carrier of single side skin construction", did not agree with the proposal of the working group as contained in its report (MSC 70/WP.11, paragraph 7 and annex) and later modified to indicate that, for bulk carriers constructed before 1 July 1999, a minimum separation between watertight boundaries of 760 mm should apply, whereas for those constructed on or after that date, the minimum separation should be 1,000 mm. Following some discussion, the Committee decided to reconsider this matter at its next session.

Bulk carriers with an insufficient number of holds/transverse watertight bulkheads to satisfy regulation XII/4.2 (Conference resolution 8)

4.15 The Committee, concerned at the possibility of misinterpreting SOLAS regulation XII/9 and opening a loophole contrary to the spirit of the provisions therein, agreed to the interpretation of SOLAS regulation XII/10.2 recommended by the working group (see also paragraph 4.18 below).

4.16 In the context of SOLAS regulation XII/9, the Committee noted IACS Unified Requirement (UR) S24 "Detection of water ingress into cargo holds of existing bulk carriers", which could assist in warning the crew of situations where one or more holds were in the process of flooding, in bulk carriers to which regulation XII/9 is applicable. Some delegations, though, felt that this would be insufficient when the warning may not be given in time to avert a catastrophic failure and also the device would not give an indication of flooding water flow rate. It was agreed that the outcome of proposed FSA studies (see paragraph 4.32 below) would, perhaps, offer an indication on the need or otherwise to take further action on this matter.

Solid bulk cargo density declaration

4.17 In considering the comments set out in document MSC 69/2/1/Add.2 (Japan), paragraph 11, the Committee was informed by the Secretariat that this matter was currently being considered by the DSC Sub-Committee and that DSC 4 was expected to conclude its deliberations thereon and report to MSC 71 for appropriate action. With regard to paragraphs 12 and 13 of the said document, the Committee agreed with the interpretation of SOLAS regulation XII/10.2 proposed therein (see also paragraph 4.18 below).

Interpretation of SOLAS chapter XII

4.18 In order to facilitate the uniform and consistent application of SOLAS chapter XII, the Committee adopted resolution MSC.79(70) on Interpretation of the provisions of SOLAS chapter XII on Additional safety measures for bulk carriers, annexing the agreed interim solution and interpretations referred to in paragraphs 4.12, 4.15 and 4.17 above, as set out in annex 3.

Bulk carriers of less than 150 m in length (Conference resolution 8)

4.19 The majority of the Committee agreed that the issue of the length of bulk carriers to which chapter XII applies should be deferred until the results from the proposed FSA study on bulk carrier safety are obtained.

New bulk carriers of double side skin construction (Conference resolution 8)

4.20 When discussing this subject, in particular the comments and proposals submitted by IACS (MSC 70/4/3), some delegations were of the opinion that, even with a minimum separation of 760 mm between inner and outer hulls, this type of construction offered increased protection against water ingress in cargo holds as a result of low energy collisions and corrosion and would provide greater resistance to damage in loading/unloading operations; therefore, these ships should not be subject to the same requirements as those of single side skin construction. Other delegations felt that more solid encouragement was needed for owners to build double side skin bulk carriers under the provisions of current SOLAS chapter XII. As in previously debated issues, the Committee agreed that the results of the proposed FSA study on bulk carrier safety should identify the need or otherwise to apply chapter XII to single and double side skin bulk carriers.

Single side skin bulk carriers carrying solid bulk cargoes having a density of less than 1,780 kg/m³ (Conference resolution 8)

4.21 The Committee expressed preference for retaining the current application limit of 1,780 kg/m³. However, the Committee agreed that there was still a considerable degree of concern, as voiced by a number of delegations, that ships carrying solid bulk cargoes of a lesser density were also at risk. Again, there was consensus in that the results of the projected FSA study on bulk carrier safety should help in identifying whether there is a need to review the density application limit.

Ships other than bulk carriers with single side skin construction intended to carry bulk cargoes (Conference resolution 8)

4.22 There was general agreement in that these types of ships need not be covered by the provisions of SOLAS chapter XII as there were no indications from casualty statistics pointing to a problem in this area and, in any case, these ships were structurally different from the bulk carrier designs addressed by chapter XII.

Protection of the ship's fore end from green water, including reserve buoyancy and strength of hatch covers and coamings

4.23 Having considered the documents submitted on these subjects, including the key findings of a test programme and a systematic study conducted respectively by the United Kingdom and Greece, and aware that such research was still in progress, the Committee referred the issues under discussion to the SLF Sub-Committee for further consideration in the context of the revision of technical regulations of the 1966 LL Convention, as follows:

- .1 strength of hatch covers and coamings;
- .2 freeboard and bow height;
- .3 reserve buoyancy at fore end, including forecastles; and
- .4 structural means to reduce loads on hatch covers and forward structure.

4.24 On the matters that fell under the 1966 LL Convention, the Committee was confident, heartened by previous declarations of some Members in plenary (see paragraphs 4.8 and 4.9 above), that by the time the SLF Sub-Committee would conclude its work and submit draft amendments to that Convention, the 1988 LL Protocol would probably be in force, enabling the tacit amendment procedure to be used.

Loss of steering ability

4.25 The Committee considered suggestions that both, steering gear and main machinery, should be provided with an adequate degree of redundancy. Other delegations, though, felt that this was an issue which encompassed all ships, not only bulk carriers and, in any event, available casualty statistics did not show evidence of a problem in this regard. Following some debate, the Committee agreed to invite interested delegations to submit proposals on this issue according to the Guidelines on the organization and method of work.

Fore deck and fore end space access

4.26 The Committee debated the practicalities of sending a crew member to the fore end of the ship in bad weather, even through a passage under deck, for the purpose of checking of safety equipment or activating bilge pumps, and generally agreed that this was a complicated issue which would require careful consideration by the appropriate sub-committee, perhaps after FSA studies had shown whether there is a need to provide such access. Some delegations were of the view that the provision of appropriate alarms should obviate the need for human presence in the spaces in question. The Committee further instructed the SLF Sub-Committee to consider the protection of the crew when access to the fore deck is necessary for the operation of the ship in the context of the revision of technical regulations of the 1966 LL Convention (see also paragraph 4.23 above).

Tank sounding systems, bilge alarms, emergency pumping, fore deck hatches and lighting

4.27 In discussing the above issues, the IACS' observer reminded the Committee of its intention to submit to MSC 71 the results of a hazard identification study, as indicated in document MSC 70/4/1

(Recommendation 9.9 - "More detailed provisions"), which was meant to address these and other considerations on the watertight integrity of the fore end of bulk carriers. The Committee subsequently agreed that the best course of action would be to wait for the said results and then decide as deemed appropriate.

OTHER MATTERS

Life-saving appliances for bulk carriers

4.28 The Committee considered proposals (MSC 70/4/2, paragraphs 16 to 18), that new bulk carriers should be required to carry a safe haven which would float free if the ship were to sink, and that existing bulk carriers should be required to be retrofitted with free-fall lifeboats. Some delegations being opposed to the application of the latter, the Committee invited interested delegations to submit relevant proposals in accordance with the Guidelines on the organization and method of work, taking also into account, as appropriate, the Interim Guidelines for systematic application of the grandfather clauses (MSC/Circ.765). In this context, the Committee agreed that the issue of life-saving appliances for bulk carriers should also be included in the FSA study to be undertaken (see paragraph 4.32 below).

Survey and certification

4.29 The Committee concurred with the working group's view that bulk carriers of 10 years of age or more should not be subject to more frequent surveys than those stipulated by the Enhanced Survey Programme (ESP).

Operational measures

4.30 The Committee noted (MSC 70/4/2, paragraphs 21 and 22) that lack of training in handling large ships, especially in bad weather, could be a contributing factor to maritime casualties, and that the information required by the ISM Code to be provided as part of the familiarization training for the crew should be made available also by means of video tapes and suitable manuals. Having been advised by the Secretariat on the related proposed amendments to the STCW Code, by IACS on their booklet entitled "Bulk carriers: handle with care", and by some delegations regarding the Code of safe practice for solid bulk cargoes, the Committee invited interested delegations to submit relevant proposals according to the Guidelines on the organization and method of work.

Inclusion of heavy break bulk cargoes in SOLAS chapter XII

4.31 The Committee, having considered a submission by BIMCO (MSC 69/2/1/Add.4) proposing that heavy bulk break cargoes having a stowage factor of 0.56 m³/tonne or less be included in SOLAS chapter XII provisions and noting that the working group had agreed in principle with the substance of the proposal, was advised by the delegation of Denmark that it would submit a formal amendment proposal on those lines to MSC 71 for consideration.

PROPOSAL FOR AN FSA OF BULK CARRIERS

4.32 In discussing the proposal by the United Kingdom (MSC 70/4/Add.1 and MSC 70/INF.14) to conduct, through a collaborative effort outside IMO, an FSA study on bulk carrier safety, a number of delegations expressed some concern about the broadness of scope of the study; the way in which the study would be conducted; the envisaged time frame; and the identification of priority safety issues prior to conducting the relevant stages of the assessment. Having debated all these issues in depth, the Committee endorsed, in general, the United Kingdom's proposal for a collaborative study and, in particular, that:

- .1 a study be undertaken in accordance with the Interim Guidelines for the application of Formal Safety Assessment (MSC/Circ.828) on the basis of the annexes to document MSC 70/4/Add.1, which set out a proposed definition of the subject area to be considered and its boundaries, in accordance with section 3.2 of the Guidelines;
- .2 the study be undertaken jointly and collaboratively by a number of IMO Members and organizations in consultative status with IMO having a particular interest in this type of ship;
- .3 the conduct of the study be broadly in accordance with the draft Guidelines for the practical application of FSA, contained in annex 3 to the report of the joint session of the Joint MSC/MEPC Working Groups on the Human Element and on Formal Safety Assessment (MSC 70/13);
- .4 without pre-empting or impairing the holistic nature of the FSA process, the study be conducted so that priority issues, such as those identified in resolution 8 of the 1997 SOLAS Conference and the **Derbyshire** Assessors' report, will be considered on an urgent basis; and
- .5 the envisaged framework for the study will encompass initial discussion between study participants to refine the scope and strategy of the study and regular reports to the Committee, which may include recommendations on specific outcomes, as noted in .4 above, within a total time frame of the order of two years.

4.33 The Committee agreed that the Working Group on Bulk Carrier Safety should be reconvened at MSC 71, *inter alia*, to review the progress made by the SLF Sub-Committee (see paragraphs 4.23 and 4.26 above), the information to be submitted by IACS (see paragraph 4.27 above) and the progress made on the FSA study on bulk carrier safety.

5 IMPLEMENTATION OF THE STCW CONVENTION

GENERAL

5.1 The Committee recalled its main decisions on STCW matters made at MSC 69 (MSC 69/22, section 7), namely the approval, in general, of the report of the twenty-ninth session of the STW Sub-Committee; the clarification of certain provisions of the STCW Convention and STCW Code including issues raised by the Bahamas; the question of the application of the STCW Convention to mobile offshore units (MOUs); and matters pertaining to the method of work of the competent persons.

Preparation and submission of reports pursuant to STCW regulation I/7

5.2 The Committee recalled also that, at its sixty-ninth session (MSC 69/22, paragraph 7.10), it decided that the Secretary-General's report to the Committee should only be submitted after all the information communicated by Parties received by 1 August 1998 had been evaluated. In that context, MSC 69 instructed the Secretariat to provide this session with information on progress being made in the communication of information and preparation of the Secretary-General's report(s) pursuant to STCW regulation I/7, paragraph 2.

5.3 The Committee, having received the requested information, as provided by the Secretariat in document MSC 70/5, noted that, by 1 August 1998, 82 STCW Parties, out of 132 then, 133 now, had communicated information to the Secretary-General. The Committee noted further that, after 1 August 1998, another 12 STCW Parties had communicated information, which the Secretariat would

forward to competent persons as soon as such persons became available. The Committee also noted that, in accordance with the procedures in MSC/Circ.796/Rev.1, all STCW Parties which had communicated information before and after 1 August 1998, had been listed in the annex to document MSC 70/WP.1. The Committee welcomed an oral update on the status of progress being made in the work of the panels of competent persons and noted that, so far, 2 panels had already completed their work and made their reports to the Secretary-General; 21 Parties had been requested to provide clarifications and 59 panels were still engaged in their initial evaluation of information communicated.

5.4 The Committee was also advised that, at the beginning of November 1998, the Secretariat had undertaken a survey of those panel chairmen who had not, until then, made their reports or requested clarifications, a total of 59 in all. The fundamental aim was to check that those chairmen were actually undertaking the necessary work and for them to identify any problem areas, particularly in respect of contributions (or lack of) from their panel members. The survey indicated that, of the 59 chairmen contacted, 14 had not responded at all by the end of that month and this gave rise to concern that little or no progress was being made with the evaluation of information communicated by at least 5 of the affected Parties. Of those chairmen that had responded, a further 14 had identified problems with contacting and gaining any response from other panel members. Accordingly, the Secretariat had identified the poor performers and a follow-up effort by telephone, fax and e-mail, where possible, had promptly been undertaken. A further effort was to be made during the session to make direct contact with either the individuals concerned, if present, or their nominating country representatives, in order to remind them of their obligations.

5.5 The Committee considered documents MSC 70/5 (Secretariat), MSC 70/5/2 (Secretariat), MSC 70/5/3 (Denmark), MSC 70/5/5 (BIMCO), MSC 70/5/6 (ISF) and MSC 70/WP.1 relating to the work of the competent persons and the subsequent timing of the Secretary-General's report to the Committee.

5.6 In considering the timing of the Secretary-General's report to the Committee (MSC 70/5/2), the Committee considered a proposal by Denmark (MSC 70/5/3, paragraph 3.3) to limit the number of clarifications that could be sought by competent persons' panels and the setting of a 3-month deadline for the submission of clarifications by Parties. Thus, the process would be speeded up and consequently the timing of the Secretary-General's report to the Committee.

5.7 ISF (MSC 70/5/6) stressed the importance of allowing the competent persons to undertake their work properly and effectively without undue time constraints. ISF also drew the Committee's attention to the need to avoid duplication in the provision of technical assistance related to the implementation of the revised STCW Convention and also suggested that the Technical Co-operation Committee might use the results of evaluations by panels of competent persons in order to determine needs for technical assistance.

5.8 The Committee considered that, as informed under paragraph 5.3 above, 23 panels had already completed their initial scrutiny of information communicated and the clarification process had already begun, it would not be appropriate now to limit the number of opportunities for clarifications before these panels had finally reported to the Secretary-General. Accordingly, it would also not be appropriate to place limits on the remaining STCW Parties who had met the 1 August 1998 deadline. The Committee urged STCW Parties to make every effort to provide timely responses to requests for clarifications and agreed to reconsider the issue when more experience had been gained. Accordingly, the Committee decided not to revise MSC/Circ.796/Rev.1 at this stage; instead, it instructed the Secretariat to report to MSC 71 on progress made with the work of the panels of competent persons.

5.9 The Committee agreed with the proposals of Denmark (MSC 70/5/3, paragraph 3.5) that any contact a panel of competent persons might wish to make to the Party under evaluation should be directed

to that Party through the Secretariat. The Committee also agreed that the guidelines for completing the Comparison Table in MSC/Circ.796/Rev.1 applied to the panel's report to the Secretary-General (MSC 70/5/3, paragraph 5.3) and that, if the agreed opinion or majority view of the competent persons was that the information provided did not confirm that full and complete effect was given to the provisions of the Convention, a report should not be sent to the Party until the Party concerned had been given the opportunity - either in written form or by a meeting - to respond to the report of the panel of competent persons (MSC 70/5/3, paragraph 5.4).

5.10 Denmark also identified (MSC 70/5/3, paragraphs 4.1, 4.2 and 4.5) the apparent conflict between the requirements for communication of full details of the contents and duration of study courses, national examination and other requirements for each certificate issued stipulated by STCW article IV(1)(b) and the concise summary of courses, training programmes, examinations and assessments for each certificate required by STCW Code, section A-I/7, paragraph 2.4. The Committee recalled that the task of the competent persons, as set out in section A-I/7, paragraph 8.1, was to make a comparison of the facts reported in the information communicated to the Secretary-General with all relevant requirements of the Convention. The Committee was of the opinion that a well-written summary should be sufficient and decisions on the completeness of information should be left to the judgement of the competent persons. The Committee, seeing the need for competent persons to receive uniform guidance on how to perform their duties, based on experience thus far gained, urged Parties to make their competent persons available to attend the relevant informal meeting scheduled to take place during STW 30 (25 to 29 January 1999).

5.11 The Committee did not support a proposal by Denmark (MSC 70/5/3) and BIMCO (MSC 70/5/5) that Parties be informed of the composition of the panels concerned and also receive a copy of their Chairman's report to the Secretary-General, as it recalled that the role of the competent persons was to assist the Secretary-General in the preparation of his report(s) to the Committee and their views should be confidential. Some delegations expressed support for the view that a Party should receive a copy of the final report of the Panel when it concludes its work in order to gain benefit from the work of the competent persons. The Committee, however, could not agree to this considering that such an arrangement might conflict with the provisions of the STCW Code and the procedures agreed in MSC/Circ.796/Rev.1. Furthermore, Parties will be made aware of the views of the panels concerned through the process of the Secretary-General's report(s) to the Committee, as such report(s) include a summary of the conclusions reached in the form of the comparison table (MSC/Circ.796/Rev.1, annex, paragraph 15).

List of competent persons maintained by the Secretary-General pursuant to STCW Code section A-I/7

5.12 The Committee recalled that at its sixty-ninth session (MSC 69/22, paragraph 7.41), it approved additional competent persons and an updated list of competent persons was circulated as MSC/Circ.797/Rev.1.

5.13 The Committee was informed that, due to the non-availability of some of the competent persons listed in MSC/Circ.797/Rev.1 for service on panels to evaluate the information communicated by Parties by 1 August 1998 and the need to proceed without delay, the Secretary-General, having consulted the Chairman and the STW Sub-Committee Chairman, agreed to the inclusion of competent persons nominated by Parties after MSC 69 on panels of competent persons set up after 1 August 1998. The Committee endorsed the Secretary-General's action in this regard.

5.14 The Committee considered the lists of competent persons nominated by STCW Parties contained in documents MSC 70/5/1, MSC 70/5/1/Add.1 and MSC 70/5/1/Add.2 and approved the lists of competent persons nominated, in accordance with paragraph 5 of STCW Code section A-I/7, and instructed the Secretariat to revise MSC/Circ.797/Rev.1, accordingly and disseminate it as

MSC/Circ.797/Rev.2.

5.15 The Committee, being informed that so far 168 competent persons had been nominated (of which 131 had been previously approved by the Committee and that, of those nominated, 115 were English speaking, 32 were French speaking and 21 were Spanish speaking), agreed that nomination of additional competent persons (particularly French and Spanish-speaking) would cover a real need and urged STCW Parties to do so.

ILO/WHO Guidelines for conducting pre-sea and periodic seafarers' medical fitness examinations

5.16 The Committee recalled that, as requested by STW 29, it had included in the STW Sub-Committee's work programme a high priority item on "Medical standards for seafarers", with a target completion date of 2000 (MSC 69/22, paragraph 20.72).

5.17 The Committee noted the information provided by ILO (MSC 70/5/4) on the ILO/WHO Guidelines for conducting Pre-Sea and Periodic Medical Fitness Examination for Seafarers, and referred document MSC 70/5/4 to STW 30 for consideration under the Sub-Committee's agenda item on "Medical standards for seafarers".

Forged STCW certificates of competency

5.18 The Committee, being informed of fraudulent STCW certificates of competency or authentic certificates issued on the basis of forged foreign certificates, which had been found during port State control inspections; and, noting that a significant number of certificates of competency might have been issued to seafarers without sufficient examination, expressed great concern at the potential hazards to the safety of life at sea and the protection of the marine environment that this unlawful practice might have if not eliminated at an early stage.

5.19 To that end, the Committee approved, in principle, an MSC circular on Fraudulent certificates of competency, based on MSC 70/WP.6 and authorized STW 30 to finalize it, as it might deem necessary. The Secretariat was instructed to issue the MSC circular as soon as possible thereafter.

Hellenic Marine Environment Protection Association (HELMEPA)

5.20 The delegation of Greece, referring to the role played by HELMEPA during the 16 years of its existence as a non-profit making organization, emphasized its contribution, through manuals, seminars and training programmes, to the education and training of merchant navy officers, in particular their being kept informed of recent developments pertaining to safety at sea and protection of the marine environment, thus enhancing their standards of performance.

The Greek delegation stressed HELMEPA's positive role in today's shipping which is undergoing fundamental changes as a result of the introduction of new international maritime legislation and the implementation of new instruments, such as the ISM Code, the new requirements of the STCW Convention and the enhancement of the role of port States.

Greece has recognized HELMEPA's efforts and contribution with regard to the motivation of people working at sea and would wish its example to be followed by others as well.

6 MATTERS RELATED TO THE ISM CODE

General

6.1 The Committee recalled that, at its sixty-ninth session, it referred proposed amendments to SOLAS chapter IX and the ISM Code to the Joint MSC/MEPC Working Group on the Human Element for consideration but did not agree with the group's recommendation at MSC 68 that the draft text of amendments to chapter IX and the ISM Code should be considered and approved for adoption at this session (MSC 69/22, paragraph 13.4); instead it decided that any draft amendments to SOLAS chapter IX or the ISM Code should be developed, approved and adopted in time for them to enter into force on 1 July 2002, i.e. concurrently with the second implementation deadline of the ISM Code.

6.2 The Committee also recalled that MSC 69 decided that ISM matters be included in the agendas for its seventieth and seventy-first sessions (MSC 69/22, paragraph 20.80).

Outcome of the joint session of the Joint MSC/MEPC Working Groups on the Human Element and on Formal Safety Assessment

6.3 The Committee noted the report of the joint session of the Joint MSC/MEPC Working Groups on the Human Element (HE) and on Formal Safety Assessment (FSA) (MSC 70/6 and MSC 70/13, paragraphs 4 to 8) on ISM Code-related matters and endorsed their recommendation to invite Member Governments, when forming their delegations to MSC 71, to take into account the need for participation of experts in ISM Code certification.

Amendments to SOLAS chapter IX and the ISM Code

6.4 The Committee considered submissions by Denmark (MSC 70/6/1) and Germany (MSC 70/6/2) containing proposed amendments to chapter IX of SOLAS and the ISM Code. The Committee recalled that most of the proposals made by Denmark had either already been agreed by the Committee and had been circulated as MSC/Circ.693 or had been taken from the text of resolution A.788(19) - Guidelines on implementation of the ISM Code by Administrations. Accordingly, the Committee agreed, in principle, the amendments to the Code proposed by Denmark and the consequent amendment to SOLAS chapter IX.

6.5 The Committee agreed that the one new proposal, on verifications required by the Code to be carried out in accordance with guidelines developed by the Organization, in the Danish submission and the revised structure for the ISM Code suggested by Germany and any points of detail or drafting should be addressed by the Joint MSC/MEPC Working Group on HE and FSA scheduled to meet at MSC 71. At that session, the joint working group should be instructed to prepare necessary amendments for approval by the Committee.

6.6 The delegations of Cyprus and Vanuatu reserved their position with respect to the revision of section 13 (Certification, verification and control) of the ISM Code.

Documents of compliance (DOCs) for companies operating multi-flagged fleets

6.7 The United Kingdom (MSC 70/6/3) drew attention to differences of opinion regarding the issue of DOCs for companies operating multi-flagged fleets and proposed amendments to SOLAS chapter IX, resolutions A.741(18) and A.788(19) and amplification of the guidelines in MSC/Circ.762.

6.8 The Committee recalled that a similar proposal submitted to MSC 69 had been withdrawn and, after some discussion, agreed not to consider the proposal further.

Misinterpretations of the ISM Code

6.9 In considering a submission by BIMCO (MSC 70/6/4) on the correct interpretation of paragraph 13.3 of the ISM Code, a number of delegations expressed the view that photocopies were not acceptable to meet the Code requirement for a copy of the company's DOC to be on board a ship. Some delegations proposed that copies should be authenticated or certified, but other delegations drew attention to the practical implications of authenticating DOCs, particularly after annual verifications.

6.10 The Committee agreed that, in order to avoid problems during port State control inspections due to possible misinterpretation of the Code requirement for the on-board copy of the DOC, it was important that the matter be clarified and decided to refer the issue to the Joint MSC/MEPC Working Group on the Human Element and Formal Safety Assessment to consider it at MSC 71. The Committee agreed that, for the time being, it was important for port State control officers to liaise with the issuing authority and the flag State concerned, whenever this issue arose.

Implementation of the ISM Code by 1 July 2002

6.11 The Committee recalled the Secretary-General's opening remarks on the implementation of the ISM Code and endorsed his call for early action to ensure that shipping companies and ships and other craft liable to the second implementation date of 1 July 2002 are ISM-certificated as appropriate.

6.12 To ensure timely and effective implementation of the Code by shipping companies and ships and other craft liable to the 1 July 2002 deadline, the Committee approved MSC/Circ.881 on Implementation of the ISM Code by 1 July 2002, and instructed the Secretariat to issue it as soon as possible.

6.13 The Committee also instructed the Secretariat to bring MSC/Circ.881 to the attention of MEPC 43 with the suggestion that, if the MEPC so agrees, a relevant draft Assembly resolution be prepared at MEPC 43 for adoption by the twenty-first session of the Assembly.

7 RADIOCOMMUNICATIONS AND SEARCH AND RESCUE

REPORT OF THE THIRD SESSION OF THE SUB-COMMITTEE

7.1 The Committee, recalling that, at its sixty-ninth session (MSC 69/22, section 10), it had considered urgent matters emanating from the third session of the Sub-Committee on Radiocommunications and Search and Rescue (COMSAR), approved, in general, the report of that session of the Sub-Committee (COMSAR 3/14 and Add.1) and took action on all remaining matters (MSC 70/7) as indicated hereunder.

Criteria for the provision of mobile satellite communications for the GMDSS

7.2 The Committee considered the proposed draft Assembly resolution on Criteria for the provision of mobile satellite communications for the Global Maritime Distress and Safety System (GMDSS) and, agreeing that it needed further elaboration, referred it back to the Sub-Committee authorizing COMSAR 4, after finalization, to submit it directly to the twenty-first session of the Assembly for adoption.

Registration databases for the GMDSS

7.3 The Committee approved a draft Assembly resolution on Establishment, updating and retrieval of the information contained in the registration databases for the Global Maritime Distress and Safety System (GMDSS), given in annex 4, for submission to the twenty-first session of the Assembly for adoption.

Performance standards for radiocommunication equipment

7.4 The Committee adopted resolution MSC.80(70) on Adoption of new performance standards for radiocommunication equipment, given in annex 5.

Guidelines on annual testing of 406 MHz satellite EPIRBs

7.5 The Committee approved MSC/Circ.882 on Guidelines on annual testing of 406 MHz satellite EPIRBs and, noting that the Sub-Committee was of the opinion that similar guidelines should also be prepared for L-band satellite EPIRBs at its next session, instructed COMSAR 4 to consider this matter under its agenda item on "Emergency radiocommunications: false alerts and interference".

Matters relating to COSPAS-SARSAT

7.6 The Committee asked the Secretary-General to inform the Secretary-General of ICAO of IMO's decision that satellite processing of 121.5 MHz should be phased-out and that a plan for such phasing-out should be developed by COSPAS-SARSAT.

7.7 The Committee endorsed the Sub-Committee's action in instructing the Secretariat to:

- .1 inform the COSPAS-SARSAT Council of the decision referred to in paragraph 7.6 above; and
- .2 convey to COSPAS-SARSAT the need for improvement of the 406 MHz distress alerting system, in particular the registration and coding of 406 MHz EPIRBs.

7.8 The Committee noted that the twenty-first session of the COSPAS-SARSAT Council (26 to 29 October 1998) had considered the outcome of COMSAR 3 and that COMSAR 4 would be informed of its decisions on the issues referred to in paragraph 7.7 above.

Inmarsat ship earth station barring procedures

7.9 The Committee approved MSC/Circ.883 on Maritime safety and Inmarsat ship earth station barring procedures.

Upper limit for radiated emissions in EMC standards

7.10 The Committee endorsed the Sub-Committee's action in instructing the Secretariat to invite IEC to consider extending, to at least 2 GHz, the upper limit for radiated emissions in relevant electromagnetic compatibility (EMC) standards.

SAR training facilities

7.11 The Committee agreed that future circulars on training facilities should include information on the availability of SAR training facilities both for aeronautical and maritime purposes and invited Member Governments to provide such information to the Secretariat.

Alerting of search and rescue authorities

7.12 The Committee recalled that, under agenda item 11 (Safety of navigation), it had approved MSC/Circ.892 on Alerting of search and rescue authorities.

INDIAN OCEAN CONFERENCE ON MARITIME SAR AND THE GMDSS

7.13 The Committee noted information (MSC 70/7/1) on the outcome of the Indian Ocean Conference on Maritime search and rescue (SAR) and the GMDSS, which took place in Fremantle, Australia, from 21 to 25 September 1998 and expressed deep satisfaction with the successful completion of the global SAR Plan, considering this to be a significant development in IMO's and the world maritime community's efforts to enhance safety at sea; and a most appropriate and fitting achievement significantly attained during the Year of the Ocean.

7.14 The Committee expressed deep appreciation to the Governments and international organizations which had financially supported and/or hosted the Conferences, seminars and workshops leading to the completion of the global SAR Plan.

7.15 The Committee extended its sincere thanks to lecturers, officers and IMO staff members who had served these meetings and congratulated IMO and the Secretary-General for his tireless efforts to bring the Plan to completion.

7.16 The Committee, recognizing, however, that there was more work to be done to ensure the efficient and effective conduct of SAR operations in any part of the world, invited Member Governments to notify the Secretary-General when agreements have been concluded among themselves so that the Provisional Global SAR Plan becomes final; and, more importantly, to put in place an efficient and adequate SAR infrastructure and implement the provisions of the Plan, when called to conduct SAR operations, in the most efficient and effective manner. In this context, the Committee expressed eagerness to receive the results of the analysis and evaluation of the conclusions and recommendations of the Fremantle Conference.

7.17 The Committee, endorsing a proposal by the delegation of Canada, agreed that it would be desirable that a publication be prepared containing all reports on SAR and GMDSS Conferences convened by the Organization leading to the completion of the global SAR Plan, as referred to in annex 2 to document MSC 70/7/1. It also agreed that, from a practical point of view, it was necessary to keep SAR.2 and SAR.3 circulars containing information on Area search and rescue plans and Information on national SAR facilities, respectively, as well as GMDSS/Circ.7 on the Master Plan of shore-based facilities for the GMDSS, continuously updated. The Committee invited Member Governments to keep providing appropriate updated information to the Secretariat for the above purpose.

BLACK SEA SAR/GMDSS DIPLOMATIC CONFERENCE

7.18 The Committee was advised that, on the initiative of the Government of Turkey, a Black Sea Diplomatic Conference on Maritime Search and Rescue (SAR) and the GMDSS was held in Ankara on 27 November 1998 with a view to signing an Agreement on co-operation regarding maritime SAR services in the Black Sea. The conference was attended by representatives of the Governments of Bulgaria, Georgia, Romania, the Russian Federation, Turkey and Ukraine. Turkey, as the depositary of the Agreement, undertook to inform the Organization accordingly. COMSAR 4 will be duly appraised.

Implementation of the GMDSS

7.19 Referring to issues pertaining to the smooth and full implementation of the GMDSS, as raised at COMSAR 3, the delegation of Japan expressed the following views:

- .1 each Government should make strenuous efforts, including the preparation of equipment and facilities, training of seafarers, etc., to ensure the full implementation of the GMDSS;

- .2 Governments should be requested to take appropriate measures to prevent false distress alerts in accordance with resolution A.814(19) and MSC/Circ.861;
- .3 considering the importance of the draft COMSAR circular on Procedures for responding to DSC alerts, the Committee should instruct the Secretariat to circulate that circular as soon as possible after the receipt from ITU of the response to the liaison statement sent by COMSAR 3, hopefully before 1 February 1999;
- .4 Governments being unable to fully implement the GMDSS by 1 February 1999 should report to IMO of their situation concerning implementation of the GMDSS, including information, for example, on number of ships under their flag, which do not comply with the system's requirements; and
- .5 noting that some Governments might allow comprehensive exemptions from the GMDSS requirements until 2001 for ships flying their flag, Japan considered that such exemptions would be a hindrance to the full global implementation of the GMDSS and, therefore, would reserve its right to exercise port State control on such foreign ships visiting Japanese ports after 1 February 1999.

7.20 The ICFTU observer, agreeing with the concerns expressed by the delegation of Japan, was of the view that Member Governments should be invited to report any difficulties encountered in the implementation of the GMDSS to COMSAR 4.

MEDICAL ASSISTANCE AT SEA

7.21 The Committee noted proposals by Germany, France and Sweden (MSC 70/7/2) concerning medical assistance at sea and a recommendation on the carriage of a sealed medical first aid kit for utilization by medical doctors only on certain ro-ro passenger ships and instructed COMSAR 4 to consider document MSC 70/7/2 under its agenda item on "Matters concerning search and rescue", including those related to the 1979 SAR Conference and the introduction of the GMDSS.

7.22 The Committee was informed that ILO had adopted several conventions and recommendations on health care at sea; the most recent one being the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164). Article 5 of that Convention requires that every ship should carry a medicine chest and that the content of this, as well as the medical equipment to be carried on board, should be prescribed by the competent authority, taking into account such factors as the type of ship, the number of persons on board and the nature, destination and duration of voyages. In doing this, the most recent edition of the International Medical Guide for Ships and the List of Essential Drugs published by WHO should be taken into account. Article 6 requires the ship to carry a ship's medical guide, developed by the national authorities, in order to enable persons, other than a doctor, to care for the sick or injured. Article 7 concerns medical advice by radio or satellite communications. Article 9 provides that ships, which do not carry a doctor on board, should train a person to be in charge of medical care on board. Article 11 requires separate hospital accommodation to be provided on ships with more than 15 seafarers on board, engaged on voyages of more than three days duration. Since medical assistance at sea is normally dealt with by ILO and WHO, ILO would also like to be consulted if further work is carried out on these issues by IMO.

ITU World Radiocommunication Conference (WRC) matters

7.23 The Committee was informed that, in pursuance of its instructions (MSC 69/22, paragraph 10.11), the approved IMO statement commenting on the outcome of WRC-97 had been conveyed to the Secretary-General of ITU with a request that it be brought to the attention of the 1998 Plenipotentiary Conference for consideration.

7.24 The Committee, having endorsed comments that the traditional good relationship between ITU and IMO should be maintained in the future for the benefit of maritime communications, pointed out that this largely depended on the appropriate national Authorities representing maritime matters at ITU meetings.

7.25 The Committee, having recalled that MSC 69 had endorsed the Sub-Committee's action in establishing a correspondence group to consider in detail the outcome of WRC-97 for consideration at COMSAR 4 (MSC 69/22, paragraph 10.12), instructed the Secretariat to request that group to add to its scope the maritime matters under consideration by the ITU-R Working Party 8D dealing with frequency-sharing aspects. At the request of the delegation of France, it was confirmed that MSC 69 had authorized COMSAR 4 to prepare an IMO position on maritime-mobile service matters included in the agenda for the WRC-99 and submit it directly to the Conference for consideration.

Inmarsat restructuring

7.26 The Committee recalled that MSC 69 had noted the action of COMSAR 3 in developing, as it had been authorized by the Assembly at its twentieth session, the IMO position on Inmarsat's restructuring proposals, based on the relevant IMO position agreed by MSC 66, and notifying it directly to the twelfth session of the Inmarsat Assembly in April 1998. It also recalled that MSC 69 had requested the Secretariat to report further developments on the matter to this session.

7.27 As reported by the Secretariat (MSC 70/22/3), the thirteenth (Extraordinary) session of the Inmarsat Assembly, which was held at Rhodes, Greece, from 23 to 25 September 1998, had resolved all outstanding matters relating to the restructuring of Inmarsat and decided to implement the proposed amendments to the Inmarsat Convention and the Inmarsat Operating Agreement with effect from 1 April 1999 or on such a later date as the Inmarsat Council might decide to enhance the sound economic and financial basis provided for in the Convention, pending and subject to the entry into force of the amendments in accordance with Article 34(2) of the Convention and Article XVIII(2) of the Operating Agreement of Inmarsat. The Committee noted that the new structure, as agreed by the Inmarsat Assembly in April 1998, comprises two entities: a public limited company which will seek an initial public offering (IPO) within approximately two years of formation; and an intergovernmental body to ensure that Inmarsat meets its public service obligations, including obligations relating to the Global Maritime Distress and Safety System (GMDSS).

7.28 The Inmarsat observer reported that the seventy-fifth session of the Inmarsat Council (9 to 13 November 1998) considered, *inter alia*, the means which have been put in place to ensure the continued provision of GMDSS satellite services, in the light of decisions taken to establish the new operating company under a holding company. The Council had decided that both companies would sign the Public Services Agreement and that the holding company would guarantee the observation of the public service obligations by the operating company.

The Inmarsat Council had also considered means of ensuring the continued provision of Inmarsat's GMDSS services in the extremely unlikely event that no Coast Earth Station (CES) operator was able or

willing to provide GMDSS services in an ocean region. The Council decided that, under these circumstances, the Company would conduct negotiations with one or more CES operators, as well as Inmarsat Parties, to determine how the GMDSS services would be provided.

Finally, the Inmarsat Council had considered the situation that might arise if either the holding company or the operating company wished to relocate somewhere outside London or the United Kingdom. The Council decided that Inmarsat would give 6 months notice of such intent to IMO, which would provide the Organization with an opportunity to express its view as to whether such a move would materially affect the provision of GMDSS services.

The Inmarsat observer expressed the view that, in general, the aforementioned decisions would serve to strengthen the protections afforded to the GMDSS as a result of the privatization of Inmarsat.

7.29 The Chairman, having wished Inmarsat success in its life's new phase, reminded the Committee of IMO's interest in Inmarsat, an organization established by IMO; emphasized IMO's continuous interest in Inmarsat's delivery of the important responsibilities concerning maritime safety, in general and the GMDSS, in particular, which IMO had entrusted it with; and stressed that fulfilment of Inmarsat's obligations under SOLAS, in that organization's new form, would be closely monitored by the Committee and the maritime community at large.

8 SHIP DESIGN AND EQUIPMENT

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

8.1 The Committee, recalling that at its sixty-ninth session it had considered urgent matters emanating from the forty-first session of the Sub-Committee on Ship Design and Equipment (DE), approved, in general, the report of that session of the Sub-Committee (DE 41/17 and Add.1) and took action on all remaining matters (MSC 70/8) as indicated hereunder.

Corrosion prevention in existing ship ballast tanks

8.2 The Committee noted the Sub-Committee's view that IMO need not develop guidelines on corrosion prevention in existing ship ballast tanks, as the industry has already developed such guidelines.

FSA studies on high-speed craft

8.3 The Committee concurred with the Sub-Committee's view that the results of the United Kingdom and Swedish FSA studies on high-speed craft should not be used in the current revision of the HSC Code.

Safe ocean towing

8.4 The Committee considered paragraph 8.2 of the draft Guidelines for safe ocean towing prepared by the Sub-Committee (DE 41/17/Add.1, annex 2), requiring that coastal States' authorities be informed in advance of towage, and after the departure be kept informed of the progress and, having agreed to delete that paragraph from the Guidelines, approved MSC/Circ.884 on Guidelines for safe ocean towing.

Passenger submersible craft

8.5 The Committee noted the progress made in the development of draft Guidelines for the design, construction and operation of passenger submersible craft and invited IACS to develop Unified Interpretations for viewports of such craft.

On-board use and application of computers

8.6 The Committee agreed with the Sub-Committee's proposed course of action that the draft Guidelines for the on-board use and application of computers be submitted to the Committee for approval through the NAV Sub-Committee (see also paragraph 11.79).

Polar Code

8.7 The Committee noted the progress made in the development of the draft Code for polar navigation and the reviewed outline schedule for further development of the Code, and invited the MEPC to continue considering the environmental issues identified by the Sub-Committee and provide advice thereon, as appropriate.

8.8 In this respect, the delegation of the United States, having expressed concern with regard to certain provisions of the draft Code which are in conflict with other treaties and those relating to prior notification, liability, etc., advised the Committee of its intention to submit a relevant document addressing their concern to DE 43, when the Sub-Committee continues consideration of the draft Polar Code.

Life-saving appliances and arrangements

8.9 The Committee, having considered a proposal by the United States (MSC 70/8/1) and further modifications proposed by the delegation of Greece to editorially correct the revised Recommendation on testing of life-saving appliances, prepared by DE 41 (DE 41/17/Add.1, annex 5), approved them and, having agreed to the application date of 1 July 1999, proposed by DE 41, adopted resolution MSC.81(70) on Revised Recommendation on testing of life-saving appliances, as set out in annex 6.

8.10 The Committee approved MSC/Circ.885 on Testing and approval of position-indicating lights for life-saving appliances under the LSA Code.

8.11 The Committee adopted resolution MSC.82(70) on Amendments to resolution A.760(18) on Symbols related to life-saving appliances and arrangements, as set out in annex 7.

Container securing operations

8.12 The Committee approved MSC/Circ.886 on Safety of personnel during container securing operations.

Helicopter landing areas

8.13 The Committee noted the discussion at DE 41 on the provision of helicopter landing areas on non ro-ro passenger ships and, recalling that this matter had been the subject of FSA studies and was being considered by the Joint MSC/MEPC Working Group on FSA, decided to deal with it under agenda item 14 (Formal safety assessment) (see section 14).

Interpretation of the term "other strategic points"

8.14 The Committee approved MSC/Circ.887 on Interpretation of the term "other strategic points" in SOLAS regulation III/50 and LSA Code section VII/7.2.

ACCIDENTS AT CORRUGATED BULKHEADS

8.15 The Committee recalled that DE 41 (DE 41/17, paragraph 6.2), while agreeing in principle with the proposals introduced by the United Kingdom on the prevention of falls by personnel working in the vicinity of corrugated bulkheads, was not in a position to take a decision in the absence of a written submission and invited the delegation of the United Kingdom to submit a document to this effect directly to MSC 70.

8.16 Having considered document MSC 70/8/2 (United Kingdom), proposing a draft MSC circular concerning measures to prevent persons falling into openings formed by corrugations, the Committee, having agreed to modifications to the draft MSC circular proposed by IACS, approved MSC/Circ.888 on Measures to prevent persons falling into openings formed by corrugated bulkheads in general cargo ships, and decided that the circular should supplement MSC/Circ.695 on Ship/port interface - Falls at corrugated bulkheads in general cargo ships.

9 FLAG STATE IMPLEMENTATION

Report of the sixth session of the Sub-Committee

9.1 The Committee approved, in general, the report of the sixth session of the Sub-Committee on Flag State Implementation (FSI) (FSI 6/12 and MSC 70/9) and, taking into account relevant decisions and comments made by MEPC 42 (MSC 70/9/5), took action as indicated hereunder.

Flag State Performance Self-Assessment Form (SAF)

9.2 The Committee, having been invited by FSI 6 to approve the proposed draft Flag State Performance Self-Assessment Form (SAF), noted the outcome of the consideration of the matter by MEPC 42 (MSC 70/9/5) and, in particular, that MEPC 42:

- .1 approved the SAF, subject to changes to cover environmental matters;
- .2 instructed the Secretariat to inform MSC 70 of the outcome of its discussion on the subject and that a generally positive approach to the matter had prevailed during its consideration;
- .3 endorsed the Secretary-General's views on the question of the use of the results of the self-assessment exercise, as expressed at FSI 6 (FSI 6/12, paragraph 3.32);
- .4 proposed that the SAF should be for internal use by Member Governments to make their own assessment of their performance as flag States. A Member State may wish to consider submitting the form to the Secretary-General if it wishes to seek assistance through the Organization's ITCP for the purpose of fulfilling its responsibilities as a flag State. Any SAF thus submitted will be used only for the purpose of evaluating and determining the required assistance. However, this should not be considered as a prerequisite for obtaining technical assistance;
- .5 invited MSC 70 to consider instructing FSI 7 to prepare a draft Assembly resolution highlighting the importance of assessment of flag State performance, and to develop options to assist progressing the matter further, for consideration by MSC 71 and MEPC 43 before submission to the twenty-first session of the Assembly for adoption;

- .6 depending upon MSC's decisions, Member Governments were invited to submit comments and proposals in this regard to FSI 7; and
- .7 invited MSC 70 to agree to the dissemination of the SAF as a joint MSC/MEPC circular.

9.3 In his intervention, the Secretary-General recalled that MSC 61 in 1992 agreed that the benefits to be obtained from IMO safety and pollution prevention instruments depended primarily on the effective and consistent application and enforcement of their requirements by States party to them and that there was an increasing awareness that some difficulties were being experienced in complying fully with the provisions of those instruments. The FSI Sub-Committee was therefore established in 1992 with the primary objective of identifying measures necessary to ensure proper global implementation of the IMO instruments and compliance with their requirements, with special attention being paid to the difficulties faced by developing countries.

It, therefore, came as no surprise that, among the primary objectives of the new Sub-Committee, priority was given to:

- identifying the range of flag State obligations emanating from IMO treaty instruments;
- assessing the current level of implementation of IMO instruments by flag States;
- identifying those areas where flag States have difficulty in fully implementing IMO instruments;
- identifying the reasons for any difficulties identified ;
- making proposals to assist Parties in implementing and complying with IMO treaty instruments with the understanding that these proposals would be implemented by States or by the Organization; and
- monitoring the performance of actions taken.

The Secretary-General, having specified the most important accomplishments of the FSI Sub-Committee in the field of flag State implementation, observed that, although those activities, together with others regarding port State control and casualty investigation and statistics, could be taken as measures of the Sub-Committee's performance, twice in the past he had raised the question as to whether the Sub-Committee was on the right track; and considered it appropriate to express his views as to where the Sub-Committee's attention might need to be focused during the coming years. He had done so, because, from comments which had been made to him, he had not been entirely convinced that the Sub-Committee had reached its full potential. Although this should not, in any way, be taken as criticism of the work already accomplished by the Sub-Committee, he, however, believed that still more could be done, particularly with regard to flag State obligations, responsibilities and response. The current discussion on the Flag State Performance Self-Assessment Form (SAF) had clearly shown that the Sub-Committee had arrived not at an impasse but at an important crossroad.

During his intervention on the subject at FSI 6, the Secretary-General had stated that a self-assessment scheme would provide a constructive, positive process and would be a step in the right direction. Because it would be undertaken on a uniform basis through the use of the questionnaire prepared, it would openly display the factors analysed. With regard to the purpose of the self-assessment exercise it would, in the first place, serve in assisting flag States to obtain a clear picture of how well they were functioning - based

on agreed criteria. Secondly, the flag State would be able to determine its deficiencies and take positive steps to obtain assistance to overcome them. Thirdly, because flag States were, as a matter of fact, at the present time being assessed externally, judgements were being made and ships were being targeted and detained, the information obtained could be used as a basis for bilateral discussions, between flag and port States concerned, so that problems could be resolved in a co-operative way. As to further steps, he had suggested that these could be addressed by the Sub-Committee when the benefit of information gleaned from the self-assessment process was known.

The Secretary-General remarked that it was clearly enshrined in all IMO instruments that the primary responsibility for their implementation and assurance of compliance laid with the flag State and that a self-assessment of how those responsibilities are being discharged would undoubtedly be of benefit. In order to bring together the somewhat diverging points of view expressed by delegations at FSI 6 and MEPC 42 and in submissions by groups of States to the current session, a well balanced compromise was called for, which he was sure the Committee would be able to strike so that the Self-Assessment Form could be approved and put into practice as soon as possible.

The Secretary-General suggested that the information provided in the Self-Assessment Form could be used in conjunction with other data for a country to determine deficiencies in meeting its obligations and could be used to support a request to IMO for assistance; and the Secretary-General concluded his intervention by stressing that the submission of the form should not be considered as a prerequisite for requesting or receiving assistance from IMO.

9.4 Most of the delegations which spoke endorsed the Secretary-General's views and proposals and agreed with him that the Committee should endeavour to strike a well balanced compromise between the diverging views expressed at FSI 6 and MEPC 42 and in submissions by groups of States to the current session.

9.5 In considering the requests of FSI 6 with regard to the Self-Assessment Form, namely to:

- .1 approve the SAF;
- .2 note the progress made so far in the consideration of the matter; and
- .3 direct the Sub-Committee on further actions, as appropriate,

the Committee agreed that the matter, being at the core of the work of the FSI Sub-Committee, merited detailed consideration and thorough discussion in plenary, taking into account the discussion held at MEPC 42 and the remarks made by the Secretary-General.

9.6 The United Kingdom, Canada, Australia, New Zealand and Norway (MSC 70/9/1) expressed concern that the Sub-Committee could not make further progress on the issue of assessing the current level of implementation of IMO instruments by flag States, as defined in its terms of reference, without clear direction from both the MSC and the MEPC. The submitting Governments, therefore, proposed that the FSI Sub-Committee be instructed to prepare draft SOLAS amendments:

- .1 to require Contracting Governments to submit to the Organization such additional information as may be requested, within time periods prescribed and in the format which may be specified (this should include but not be limited to, the Self-Assessment Form) on steps taken to give the Convention full and complete effect; and

- .2 to enable the Organization to appraise the information and to make recommendations as to how such appraisal of information should be undertaken.

9.7 Commenting on the report of FSI 6 and the proposals contained in document MSC 70/9/1, France, Italy, the Netherlands, Spain and the European Commission (MSC 70/9/3) supported the preparation of draft SOLAS amendments to provide a legal basis for a mandatory self-assessment and appraisal of the results of such an assessment exercise by the Organization. They drew a parallel between that proposal and the safety oversight programme for the aviation sector currently operated by ICAO. The programme, which is due to become mandatory as from 1 January 1999, comprises regular mandatory, systematic and harmonized safety audits for all ICAO Member States.

9.8 The French delegation, in presenting document MSC 70/9/3, also proposed, as a compromise suggestion, that the Committee, further to approving the Self-Assessment Form, as drafted by FSI 6 and improved by MEPC 42, should instruct FSI 7 to prepare a draft Assembly resolution for approval by MSC 71 and MEPC 43 and submission to the twenty-first session of the Assembly for adoption. In that draft resolution, Member Governments might be urged to use the Self-Assessment Form for the purpose of identifying their weaknesses, if any, in discharging their responsibilities as flag States under the various IMO conventions, and might also use the form for the purpose of seeking technical assistance through IMO. However, submission of the Self-Assessment Form should not be considered as a prerequisite for seeking or obtaining technical assistance. In the same draft Assembly resolution, Member Governments might be invited to communicate, on a voluntary basis, to IMO a copy of their Self-Assessment Form to enable the FSI Sub-Committee to establish a database which would assist it to accomplish its main task.

9.9 Antigua and Barbuda, the Bahamas, Barbados, Belize, Guyana and Jamaica (MSC 70/9/4) opposed to the idea of SOLAS amendments to compel States to provide information for appraisal by the Organization, being of the opinion that this would constitute an infringement of the sovereign rights of a State. They proposed to terminate the present exercise and instruct the FSI Sub-Committee to start afresh, this time with the purpose of the exercise carefully defined by the Committee and the MEPC. The FSI Sub-Committee should then be instructed to draw up criteria, which would guide a State in judging whether or not it had successfully implemented the conventions concerned. However, the delegation of the Bahamas, introducing document MSC 70/9/4, stated that it could go along with the compromise proposal made by the delegation of France.

9.10 The Committee embarked on a thorough discussion of the issue, during which 36 delegations took the floor. During the discussion, various points were made, including:

- the necessity to issue the SAF as an MSC/MEPC circular on conclusion of this session;
- the need for the FSI Sub-Committee to draw up clear criteria against which the success of the performance of a flag State might be assessed;
- the voluntary application of the SAF by flag States;
- the establishment of a database by the FSI Sub-Committee in order to benefit from the information gained from SAFs voluntarily submitted to the Organization by Member Governments; and
- the necessity to assess not only flag State but also port State responsibilities.

9.11 The delegation of Cyprus, commenting on the Self-Assessment Form, drew the Committee's attention to the fact that the Self-Assessment Form did not cover all the points which are referenced in resolution A.847(20). They also referred to question 13 on delegation of authority to recognized organizations, in particular to resolution A.739(18), and drew the attention of the Committee to the fact that this resolution was only mandatory under SOLAS 74 and not under MARPOL 73/78 or the Load Line Convention.

9.12 Summing up, the Chairman stated that from the lengthy discussion the Committee had on the issue, it emerged that there was considerable support for the positive reaction of the numerous delegations who participated in the debate at MEPC 42 as to the purpose and use of the Flag State Performance Self-Assessment Form.

There was also considerable support for the compromise proposal made by the French delegation that, further to approving the Self-Assessment Form, as drafted by FSI 6 and improved by MEPC 42, the Committee should associate itself with the proposal of MEPC 42 and instruct FSI 7 to prepare a draft Assembly resolution for submission to the twenty-first session of the Assembly through MSC 71 and MEPC 43.

In that draft resolution, Member Governments might be urged to use the Self-Assessment Form for the purpose of identifying their weaknesses, if any, in discharging their responsibilities as flag States under the various IMO conventions and might use the form for the purpose of seeking technical assistance through IMO. However, submission of the Self-Assessment Form should not be considered as a prerequisite for seeking or obtaining technical assistance.

In the same draft Assembly resolution, Member Governments might be invited to communicate, on a voluntary basis, to IMO a copy of their Self-Assessment Form to enable the FSI Sub-Committee to establish a database which would assist the Sub-Committee to accomplish its main task.

The need for the FSI Sub-Committee to draw up clear criteria against which the success of the performance of a flag State might be assessed was also suggested and accepted.

Based on the above summation, the Chairman suggested that, at this session, the Committee issue the amended Self-Assessment Form as given in MSC 70/WP.5, clearly indicating in the cover note that it should be used by Member Governments to make their own assessment of their performance as flag States and to obtain a clear picture as to how well their maritime administrations were functioning. Also, for them to communicate, on a voluntary basis, a copy of the Self-Assessment Form, along with other pertinent information, to the Secretary-General when seeking technical assistance through IMO for the purpose of enabling them to fulfil their responsibilities as flag States.

At the same time, the Committee should instruct the FSI Sub-Committee, at its next session, to draft an Assembly resolution, to which the approved Self-Assessment Form would be attached, which Assembly resolution should be prepared along the lines of the compromise French proposal, which had been supported by many delegations.

The FSI Sub-Committee should finally be instructed to start drawing up clear criteria against which the success of the performance of flag States might be assessed.

9.13 Some delegations reiterated that, as clearly expressed in the title of the form itself, the assessment of the performance of a flag State was a self-assessment by the State concerned.

9.14 The Committee endorsed in all respects the Chairman's summation and proposals and took decisions as suggested in the above paragraph 9.12, including approval of MSC/Circ.889/MEPC/Circ.353 on Self-assessment of flag State performance, as amended (MSC 70/WP.5, with the cover note given in annex 2 to MSC 70/WP.15), for immediate dissemination, and instructing FSI 7 as outlined above.

9.15 To progress the matter further at FSI 7, the Committee invited Member Governments to submit comments and proposals and, realizing the close proximity to FSI 7, it concurred with MEPC's decision to relax to 29 January 1999 the first deadline (of 25 December 1998) for the submission of relevant basic documents to that session of the Sub-Committee.

Casualty analysis

9.16 The Committee endorsed the Sub-Committee's instructions to the Secretariat to bring the contents of the annex to the report of the correspondence group on casualty analysis (FSI 6/6/3) to the attention of the STW, FP and BLG Sub-Committees for consideration, and to forward, after FSI 7, draft presentations of statistical data on certain types of casualties and any other information which may be submitted regarding distortion of statistics to relevant sub-committees for advice.

9.17 The Committee also agreed to include in the work programmes of the BLG, DSC, NAV, COMSAR, DE and STW Sub-Committees a continuous agenda item on casualty analysis (the work programmes of the FP and SLF Sub-Committees already include such an item), with the FSI Sub-Committee acting as the co-ordinator.

9.18 The ICFTU observer, supported by the delegation of Vanuatu, concurred with the Secretary-General's comments made at World Maritime Day 1998, regarding the need to examine closely the categories of marine accidents contained in databases. This examination should aim at ascertaining the underlying causes for accidents attributed to "adverse weather" or "disappeared". In this context, the Chairman suggested that it might be appropriate to make suitable submissions to the FSI Sub-Committee, which the ICFTU observer agreed to.

Port State control

9.19 In considering the proposed draft MSC/MEPC circular on Interim Guidelines for port State control related to the ISM Code, the Committee noted that FSI 6 had not come to a conclusion with regard to detainable/non-detainable deficiencies (FSI 6/12, annex 7, paragraph 4) and had asked the Committees to decide on the matter. MEPC 42 had approved the circular with square brackets around the disputable text, pending a decision of the Committee at this session.

9.20 Liberia and IACS (MSC 70/9/2) proposed the addition of a new paragraph *2bis* to the draft circular, requiring PSCOs to accept "short-term" SMCs and DOCs, valid for five months, to cover the interim period between completion of the audit and issuance of the five-year full term certificate by the Administration or recognized organization.

9.21 After considerable discussion, the Committee decided to amend the text in paragraph 4 of the draft Guidelines to read as follows:

"4 A more detailed inspection of the Safety Management System (SMS) should be carried out if clear grounds are established. Clear grounds may include absent or inaccurate ISM Code certification or detainable or many non-detainable deficiencies in other areas."

Subsequently, the Committee approved MSC/Circ.890/MEPC/Circ.354 on Interim Guidelines for port State control related to the ISM Code. With regard to the problems raised in the Liberia/IACS submission, the Committee decided to refer those to the working group to be established at MSC 71. The Committee agreed that, in cases of doubt, it was important for port State control officers to liaise with the issuing authority and the flag State concerned.

9.22 The delegation of Malta reiterated its view that the compromise text suggested did not fully improve on the original wording and was therefore not acceptable. They further stated that they would have preferred a vote on this issue but once this was not taken, they declared their reservation on the text adopted.

9.23 The Committee endorsed the Sub-Committee's view that port States should be urged to ensure that their PSCOs do not require compliance with the ISM Code from ships which are not subject to the provisions of SOLAS regulation IX/2.

Survey and certification

9.24 The Committee endorsed the Sub-Committee's view that the high-speed craft, for which the ISM Code should be applied on or after 1 July 1998, are high-speed craft to which the HSC Code applies.

9.25 The Committee adopted resolution MSC.83(70) on Amendments to the Survey Guidelines under the harmonized system of survey and certification (resolution A.746(18)), concerning testing and servicing of 406 MHz EPIRBs and survey of emergency towing arrangements, set out in annex 8.

9.26 The Committee also adopted resolution MSC.84(70) on Amendments to the Guidelines on surveys required by the 1978 SOLAS Protocol, the International Bulk Chemical Code and the International Gas Carrier Code (resolution A.560(14)), concerning the survey of emergency towing arrangements, set out in annex 9.

9.27 The Committee endorsed the Sub-Committee's view with regard to the issuance and period of validity of the Exemption Certificate and approved the Sub-Committee's recommendation that a relevant corrigendum to SLS.14/Circ.115 should be issued (FSI 6/12, paragraphs 4.25 to 4.27).

9.28 The delegation of Japan, supported by the delegation of Vanuatu, recalling the decisions of the Council at its seventy-sixth session (C 76/D, paragraph 5.2 (iii)) that the Committee should carefully consider, when adopting amendments to mandatory instruments, their entry into force dates to ensure timely application, expressed concern about the action taken by the Sub-Committee to allow the postponement of the application of revised SOLAS regulation II-2/53 on the issue of Exemption Certificates, and urged the Committee and sub-committees to refrain from taking similar action in the future.

9.29 The Committee agreed with the Sub-Committee's decision to refer the proposed amendments to resolution A.744(18) with regard to the longitudinal strength of hull structures of oil tankers (FSI 6/7/3) to the forty-third session of the DE Sub-Committee for a detailed technical evaluation, considering that the provisional agenda for DE 42 had been approved and, therefore, documents on the subject, if submitted, could not be considered by DE 42.

Ships navigating without proper charts

9.30 The Committee endorsed the Sub-Committee's decision to refer the problem of ships navigating without proper charts to the NAV Sub-Committee for consideration (FSI 6/12, paragraph 6.15).

10 BULK LIQUIDS AND GASES

REPORT OF THE THIRD SESSION OF THE SUB-COMMITTEE

10.1 The Committee approved, in general, the report of the third session of the Sub-Committee on Bulk Liquids and Gases (BLG) (BLG 3/18 and MSC 70/10) and, taking into account relevant decisions and comments made by MEPC 42 (MSC 70/10/4), took action as indicated hereunder.

Occupational exposures to toxic chemicals carried by sea

10.2 The Committee, noting that, as invited by BLG 3, Australia had re-submitted its proposal on occupational exposures to toxic chemicals carried by sea (MSC 70/13/1) under agenda item 13 (Role of the human element), agreed to consider the Australian proposal under that agenda item (see paragraphs 13.7 to 13.10).

Amendments to SOLAS to make the GC Code mandatory

10.3 Having noted the outcome of discussion by BLG 3 on a proposal to make the GC Code mandatory, in the course of which the majority of delegates who spoke were in favour of making the GC Code mandatory under the SOLAS Convention, against the opposition expressed by the Japanese delegation, the Committee considered document MSC 70/10/3 (United Kingdom and SIGTTO), which had been submitted in response to a relevant invitation of BLG 3, arguing in favour of making the GC Code mandatory, including proposed amendments to SOLAS and addressing the impact of such amendments.

10.4 Following general discussion, the Committee referred document MSC 70/10/3 to BLG 4 for detailed consideration, instructing the Sub-Committee to provide MSC 71 with recommendations on how to proceed with the matter. Subsequently, the Committee decided to extend the target completion date of the item to 1999. The delegation of Japan, supported by some delegations, expressed opposition to the proposal to make the GC Code mandatory.

10.5 In the course of the discussion, the Chairman of the Sub-Committee, pointing out that gas carriers subject to resolution A.329(IX) should, as specified by that resolution, comply with the GC Code (resolution A.328(IX)) in so far as is reasonable and practicable, and their Certificate of Fitness be endorsed to indicate specifically the aspects of the gas carrier concerned, which do not comply with the GC Code, referred to paragraph 4 of the proposed amendments set out in the annex to document MSC 70/10/3 which included a provision on the aforementioned endorsement. He then observed that it would not be practicable to require such an endorsement also for gas carriers certified under the Gas Carrier Code for Existing Ships (EGC Code), as the EGC Code, being a self-contained document, requires a separate Certificate of Fitness, and, therefore, to require the indication in the Certificate of all the aspects which do not comply with the requirements of another self-contained document, i.e. the GC Code, would create a tremendous bureaucratic burden. The Committee noted the above observation and agreed that BLG 4 should also address this issue when considering document MSC 70/10/3.

Amendments to chapters 8 and 16 of the IBC Code

10.6 With regard to the proposed draft amendments to chapters 8 and 16 of the IBC Code relating to cargo-tank venting systems prepared by BLG 3 (see paragraph 10.7 below), the Committee considered the addition of provisions allowing Administrations to relax the application of the amendments to small ships of less than 500 gross tonnage, as proposed by Japan (MSC 70/10/2) and, having noted the MEPC's concurrent decision on the matter, approved the proposed modifications.

10.7 The Committee, having considered the proposed draft amendments to chapters 8 and 16 to the IBC Code, prepared by BLG 3 and having noted the MEPC's concurrent decision, approved the proposed amendments to the IBC Code, as modified by the Japanese proposal and further modified as proposed by the delegation of Japan in plenary, set out in annex 10 and further agreed, as also decided by MEPC 42, that the date of their entry into force should be 1 July 2002. The Secretary-General was requested to circulate the approved draft amendments in time for their entry into force on 1 July 2002, possibly by submission to MSC 73 in December 2000 for adoption. The Secretariat was instructed to inform the MEPC accordingly.

10.8 Pursuant to the request of the Sub-Committee, the Committee, noting the MEPC's concurrent decision, agreed with the Sub-Committee's view that the relevant provisions of chapter 8 of the IBC Code, rather than the requirements of SOLAS regulation II-2/59, should apply to combined chemical/oil tankers (see also paragraph 10.10 below).

Amendments to chapter II of the BCH Code

10.9 The Committee, having noted the MEPC's concurrent decision on the matter, approved the proposed amendments to chapter II of the BCH Code relating to controlled cargo-tank venting systems, as prepared by BLG 3 and modified by a Japanese proposal (MSC 70/10/2) and further modified as proposed by the delegation of Japan in plenary, set out in annex 11 and agreed that the proposed amendments should be adopted with the effective date to be the date of entry into force of the similar amendments to the IBC Code referred to in paragraph 10.7 above, i.e. 1 July 2002 and instructed the Secretariat to submit to MSC 73 the approved draft amendments for adoption. The Secretariat was also instructed to inform the MEPC accordingly.

Application of the proposed amendments to the IBC and BCH Codes to combined chemical/oil tankers

10.10 Having considered the comments of the Chairman of the Sub-Committee (contained in document MEPC 42/2/2, as referred to in document MSC 70/10/1) proposing that, for the sake of consistency between the IBC and BCH Codes, the same application/retrofitting scheme for combined chemical/oil tankers referred to in paragraph 10.8 above should apply, the Committee concurred with the decision of MEPC 42 (MSC 70/10/4) to instruct BLG 4 to consider the points raised by its Chairman and prepare, for consideration and approval by MSC 71 and MEPC 43, an interpretation of the proposed amendments to the IBC and BCH Codes covering the points of application and retrofitting scheme in respect of combined chemical/oil tankers.

Intersessional meeting of the ESPH Working Group

10.11 The Committee concurred with the decision of MEPC 42 that an intersessional meeting of the Working Group on Evaluation of Safety and Pollution Hazards of Chemicals (ESPH) be held in the last quarter of 1999.

11 SAFETY OF NAVIGATION

REPORT OF THE FORTY-FOURTH SESSION OF THE SUB-COMMITTEE

11.1 The Committee approved, in general, the report of the forty-fourth session of the Sub-Committee on Safety of Navigation (NAV) (NAV 44/14 and MSC 70/11) and took action as indicated hereunder.

Preparation of a new report covering all aspects of safety and environmental protection, including the review of the IMO Rules and Recommendations on Navigation through the Strait of Istanbul, Strait of Çanakkale and the Marmara Sea

11.2 The Committee recalled that MSC 69, having noted a statement by the Turkish delegation that the Turkish national regulations were being revised and a VTS was to be established and that Turkey was prepared to co-operate in working out a new report on safety of navigation in the Straits and the Marmara Sea, decided to take no action on the relevant parts of the NAV 43 report during that session. Instead, MSC 69 decided that work to prepare a new report, covering all aspects of safety and environmental protection, including the review of the IMO Rules and Recommendations on Navigation through the Strait of Istanbul, Strait of Çanakkale and the Marmara Sea, should start at NAV 44 with the co-operation of Turkey.

11.3 The Committee, noting that the Sub-Committee, at its forty-fourth session, had commenced work on the preparation of the report referred to in the previous paragraph, also noted that, due to its heavy workload, the Sub-Committee was unable to complete the new report but had prepared parts of a preliminary draft for further consideration.

11.4 The Committee had for its consideration documents submitted by:

- .1 Turkey, i.e.:
 - MSC 70/INF.19 on current and planned precautionary measures in the Turkish Straits concerning protection of the environment and safety of navigation;
 - MSC 70/INF.20 on compliance with COLREGs in traffic separation schemes;
 - MSC 70/INF.21 on development of Vessel Traffic Services (VTS) for the Strait of Istanbul and the Strait of Çanakkale; and
 - MSC 70/INF.22 on Turkey's accession to the CLC and Fund Conventions;
- .2 the Russian Federation (MSC 70/11/11) on preparation of the new report (referred to in paragraph 11.2 above);
- .3 Greece (MSC 70/11/12) on the review of the Rules and Recommendations on navigation through the Strait of Bosphorus, the Strait of Dardanelles and the Marmara Sea; and
- .4 Bulgaria (MSC 70/11/13) on the Rules and Recommendations on navigation through the Straits of Istanbul, Çanakkale and the Marmara Sea; as well as

- .5 documents submitted by Turkey (MSC 70/11/15, MSC 70/11/16 and MSC 70/11/17) commenting on the documents submitted by the Russian Federation, Bulgaria and Greece respectively.

Convening of a Working Group on Ships' Routeing

11.5 The Committee recalled its decision under section 1 to establish a working group on ships' routeing in order to make further progress on the issue of preparation of the report referred to in paragraph 11.2 above, taking also into account the concurrent advice of the Sub-Committee's Chairman also pointing to the considerable number of submissions, to the current session, on other ships' routeing matters (see also paragraph 1.8).

11.6 The Committee instructed the working group, taking account of any decisions of, and comments and proposals made in, plenary as well as the comments and proposals made in the submissions by Bulgaria, Greece, the Russian Federation and Turkey, referred to in paragraph 11.4 above, to:

- .1 proceed with the implementation of the decision of MSC 69, namely the preparation of a new report, covering all aspects of safety and environmental protection, including the review of the IMO Rules and Recommendations on Navigation through the Strait of Istanbul, Strait of Çanakkale and the Marmara Sea taking into account the outcome of NAV 44 on the issue;
- .2 consider all other documents submitted regarding routeing of ships, ship reporting and related matters for the Alphard Banks, Straits of Malacca and Singapore and the Marjan/Zuluf traffic separation scheme; and finalize all relevant routeing measures and recommendations for consideration and approval by plenary; and
- .3 take into account the role of the human element in all aspects of the items to be considered.

11.7 The delegation of Turkey reiterated its standing objection to any action and decisions which might be taken on the existing routeing system and associated rules and recommendations on navigation through the Turkish Straits without its consent and emphasized that, by participating in these discussions, Turkey would not legally waive such objections or would not in any manner whatsoever, implicitly agree to any action taken without Turkey's express consent. The statement made by the delegation of Turkey is reproduced in annex 22.

11.8 Having received the report of the working group (MSC 70/WP.9 and Add.1), the Committee took action as indicated hereunder.

Preparation of a new report covering all aspects of safety and environmental protection including the review of the IMO Rules and Recommendations on Navigation through the Strait of Istanbul, Strait of Çanakkale and the Marmara Sea

11.9 The Committee noted the lengthy discussion at the working group following the introduction of the documents mentioned above, which was unable at that stage to reach agreement on the matter concerning the TSSs in the Straits and the application of the Collision Regulations, in particular rules 9 and 10 thereof. The delegation of Turkey expressed the opinion that only a preliminary discussion had taken place on the documents and felt that further exchange of views was needed to address all the safety issues.

11.10 The delegation of Turkey saw no need for any amendments to the traffic separation schemes and the associated rules and recommendations on navigation through the Strait of Istanbul, the Strait of Çanakkale and the Marmara Sea, as reflected in their following statement.

11.11 The delegation of Turkey stated that the TSSs and associated Rules and Recommendations as adopted by IMO (resolution A.827(19)) have been applied successfully in the Turkish Straits since 1994. Since their implementation the number of accidents has decreased significantly. This shows the effectiveness of the system. The existing TSS takes into account the inability of a limited number of large vessels to fully comply with the TSS. In such cases traffic is temporarily suspended to allow for the safe passage, thereby reducing the risks of collision. Proposals to establish "precautionary areas" and implement Rule 9 in certain areas will cause more harm than good to safety of navigation as this leaves far too much discretion to the captain. Such a system lacks special rules except to navigate with particular caution. Whereas, in dangerous areas, as is found in the Turkish Straits, the applicable rule should be clear and definite, such as is the case with the current routing system in force. Turkey was of the opinion that proposals which are purely designed to speed up maritime traffic in the Turkish Straits do not serve maritime safety and protection of the environment, and it remained fully committed to ensuring the safety of navigation in the Turkish Straits by the implementation of COLREG 10.

11.12 Other delegations were of the opinion that amendments should be made to the delineation of the TSSs in the Straits and to the associated rules and recommendations on navigation through the Strait of Istanbul and the Marmara Sea, as they were of the opinion that at present not all ships passing through the TSSs in the Straits are able to fully comply with Rule 10 of the Collision Regulations. Furthermore they were of the opinion that frequent suspensions of the TSSs in the Strait are not acceptable.

11.13 The delegation of the Russian Federation drew the Committee's attention to the fact that, according to Turkish data (NAV 43/INF.5, annex E), more than four and a half years of operation of the traffic separation schemes in the Straits had clearly shown that a considerable number of ships were unable, due to their size, to stay in the appropriate lane of the TSS in the narrow and winding parts of the Straits under rule 10 of the COLREGs. In 1997, according to the same source (NAV 44/14, annex 7) that was the case for 1885 vessels (out of 50942 which passed through Bosphorus, which comes up to 3.7%) as compared to 372 vessels in 1996 (NAV 43/INF.6). In all such cases, the Turkish maritime authorities had temporarily suspended the TSSs and regulated one-way traffic, and the number of such suspensions as shown by these figures, tends to increase. It is clear that when the status of the TSSs is often changed, it leads to difficulties to shipmasters so far as the application of the COLREGs was concerned. In 1993-94 at the time of consideration and approval by the MSC of the TSSs proposed by Turkey, only the occasional suspension of two-way traffic and introduction of one-way traffic was foreseen, and then only for a limited period. In the view of the Russian Federation, frequent suspensions of the TSSs, as is now the case, is unacceptable for the safe and normal operation of TSSs. At present, TSSs operate also in other parts of the world oceans but such suspensions take place only in the Straits. Accordingly, the Russian Federation invited the Committee to consider the following alternative routing measures:

- .1 cancellation of the existing TSSs in the Straits and coming back to rule 9 of the COLREGs; or
- .2 making changes to the IMO-adopted TSSs (such as establishment of precautionary areas in parts of the TSSs in the Straits).

11.14 The delegation of Greece stated that, according to paragraphs 3.15 and 3.16 of the report of NAV 44 (NAV 44/14), it had submitted document MSC 70/11/12 in order to contribute on a purely technical basis to the safety of navigation problems that arise during the passage of ships through the Strait of Bosphorus, the Strait of Dardanelles and the Marmara Sea. Greece, in its document, had analysed the

current situation by referring to the hazards to navigation, the need for modern vessel traffic services and radar and radio facilities, the risks arising from pilots boarding at places situated within the boundaries of the TSSs and the fact that there exist TSSs, which should be reviewed and amended because the width of the channels is narrow and large ships experience great difficulties when trying to keep in the appropriate lane while it is impossible to do so due to the narrow bends. Solutions mentioned during the session for applying rule 9 in conjunction with a modern VTMIS system instead of rule 10 of the COLREGs totally or partially were immediately rejected by the coastal State, thus leaving the problem as it stands.

The delegation of Greece was also of the opinion that the coastal State concerned should refrain from taking unilateral measures and should submit relevant formal proposals for consideration by IMO, which is the only competent international organization for developing guidelines, criteria and regulations on this matter.

11.15 The delegation of Cyprus reiterated its position that Turkey, as the coastal State, was under an obligation to bring forward proposals, which can then be taken under consideration by the IMO as required by regulation 8 of the SOLAS Convention. At the same time, Turkey should take all necessary steps to ensure that these proposals fully comply with the principles enshrined in the 1936 Montreux Convention and the 1982 United Nations Convention on the Law of the Sea and should be in full conformity with all established principles and instruments of international law.

11.16 The Committee noted the information provided by Turkey (MSC 70/INF.22) concerning Turkey's intention to accede to the CLC and Fund Conventions as amended by the 1992 Protocols and appreciated this intention.

11.17 During discussions in relation to document MSC 70/INF.22, a number of delegations, including those of Cyprus, Greece, Norway, the Russian Federation and the United States, expressed concern about the coastal State's views regarding enforcement of the CLC Convention in the Straits, noting that the Convention provides (article VII, paragraph 11) that contracting Parties shall ensure that insurance or other security is in force in respect of ships entering or leaving their ports, or arriving at or leaving an offshore terminal in its territorial sea.

11.18 The delegation of Turkey, because of the legal issues involved, expressed its willingness to respond at a future session and stated that the process for accession had been initiated in view of the damages to safety and environment by possible oil pollution by ships sailing in the Straits.

11.19 The Committee further noted that the working group used the draft prepared at NAV 44 as the basis for further progress in completing a new report on the aforementioned topic.

11.20 The Committee also noted that the working group had further developed the preliminary draft of parts of a new report covering all aspects of safety and environmental protection, including the review of the IMO Rules and Recommendations on Navigation through the Strait of Istanbul, Strait of Çanakkale and the Marmara Sea. A preliminary draft for the sections on VTS and on Pilotage had been included. The amended draft thereof is given in annex 12.

11.21 With respect to the development of a VTS in the Straits, the Committee noted that the tender for the establishment of a VTS for the Strait of Istanbul and the Strait of Çanakkale had been opened. Twelve companies had expressed interest in the tender, two of which had been found eligible. The Turkish authorities decided to reopen the tender in the near future to allow for a larger participation.

11.22 The IMPA observer, recognizing that the statistics on maritime casualties in the Straits of Istanbul, Çanakkale and the Marmara Sea had shown a clear and indisputable margin of safety to those ships

availing themselves of the services of a suitably qualified pilot and recalling that annex 2 to resolution A.827(19) strongly recommends the use of such pilots, requested all parties involved to consider reinforcing this recommendation anticipating a clear advantage to maritime safety and environmental protection as a result. IMPA also suggested that a further cost benefit would be delivered to all users of these waterways with an improved efficiency and traffic flow by the use of this internationally accepted and time honoured aid to safe shipping.

11.23 The Committee considered the information provided by Turkey on environmental factors mentioned in paragraphs 5, 6 and 7 of MSC 70/INF.19, which Turkey proposed to be included in the first section of the preliminary draft for a new report.

11.24 Although the Committee did not object, in principle, to including environmental factors in the draft for a new report, it was of the opinion that it would be more appropriate to consider this matter at a later stage when the draft of the new report would be more advanced.

11.25 The Committee noted that the working group, mindful of the need to further progress work on this issue, was of the opinion that it should meet again during MSC 71 for an appropriate duration, whilst the delegation of Turkey indicated a preference for a further meeting at NAV 45 on the grounds that a meeting at a later date would provide an opportunity for the preparation of additional contributions to the work of the group and would allow for adequate time to appreciate the implementation of the steps taken by Turkey to enhance safety.

11.26 The Committee also noted that the working group had, with the exception of Turkey, accordingly decided to request the Committee to favourably consider its request to hold a meeting at MSC 71. Recognizing the importance of the issue, the Committee agreed with this recommendation and invited Member Governments to submit comments and proposals to enable further progress on the issue in time for its next session.

Routeing of ships and related matters

Traffic separation schemes (TSSs)

Proposed amendment to the Marjan/Zuluf TSS

11.27 The Committee considered a submission by Saudi Arabia (MSC 70/11/4) proposing a permanent amendment to the Marjan/Zuluf Traffic Separation Scheme and, in accordance with the provisions of resolution A.858(20), adopted the amended traffic separation scheme (TSS) and associated routeing measures, as set out in annex 13, for dissemination by COLREG.2/Circ.45, as follows:

- .1 "Marjan/Zuluf" (amended scheme).

Routeing measures other than TSSs

Dover Strait TSSs - Area to be avoided

11.28 The Committee, in accordance with the provisions of resolution A.858(20), adopted the proposed "Area to be avoided " around the F3 station, which lies on the separation line between the traffic lanes of the traffic separation schemes in the Dover Strait, as proposed by the Sub-Committee, as set out in annex 14, for dissemination by SN/Circ.203.

Alphard Banks - Area to be avoided

11.29 The Committee considered a submission by South Africa (MSC 70/11/1) proposing deletion of the "Area to be avoided" on British Admiralty chart 2083 around the Alphard Banks. South Africa's argument was that the traffic separation scheme "Off the Alphard Banks" serves the purpose originally intended by the aforementioned area to be avoided.

11.30 The Committee noted that the "Area to be avoided" appears on British Admiralty chart 2083 as a six mile radius centred on the Alphard Banks and was originally established because of insufficient aids to navigation and the proximity of the Alphard Banks to traffic routes.

11.31 The Committee further noted that the "Area to be avoided" intruded by approximately two nautical miles into the northern traffic lane of the traffic separation scheme "Off the Alphard Banks", which was adopted by MSC 69 and this may introduce an element of uncertainty for mariners using the lane.

11.32 The Committee, in accordance with the provisions of resolution A.858(20) approved the proposal of South Africa to abolish the "Area to be avoided" on British Admiralty Chart 2083 around the Alphard Banks, as given in annex 14, for dissemination by SN/Circ.203.

Implementation of the adopted routeing measures

11.33 The amendment to the traffic separation scheme referred to in paragraph 11.27 and annex 13 and the routeing measures other than traffic separation schemes referred to in paragraphs 11.28 and 11.32, and annex 14 will be implemented at 0000 hours UTC on 1 July 1999.

Amendments to the General Provisions on Ships' Routeing

11.34 The Committee, in accordance with resolution A.572(14), as amended, adopted, subject to confirmation by the Assembly, the proposed amendments to section 6 "Design Criteria" of the General Provisions on Ships' Routeing given in annex 15, for dissemination by SN/Circ.204.

11.35 Turkey (MSC 70/INF.20) reiterated its objection to the proposed amendments being of the opinion that the relevant proposal of ICS (NAV 44/3/4) was solely designed to change the IMO-adopted TSSs in the Strait of Istanbul, Strait of Çanakkale and the Marmara Sea, which had been successfully implemented. Turkey further stated that the action mentioned in paragraph 3.19 of document NAV 44/14 was not applicable in all cases and was not compatible with subparagraph (b)(ii) of Rule 10 of the Collision Regulations. In this context, the delegation of Turkey added that it had been alleged that the resulting occasional delays by the application of rule 10 in the Straits outweighed the significant improvement in safety due to the implementation of the schemes. The proposed amendments seemed to be of general application, however, as there are no other traffic separation schemes in existence other than the ones in the Turkish Straits not able to contain vessels of all sizes. Consequently, it was clear that the proposed amendments were aimed at the Turkish Straits. Turkey, being of the opinion that applicable rules must be clear and definite, leaving no hesitancy or discretion to the master, remained fully committed to ensuring the safety of navigation in the Straits by applying rule 10 of the Collision Regulations.

Mandatory ship reporting systems

Mandatory ship reporting system "Off the northeastern and the southeastern coasts of the United States"

11.36 The Committee considered the Sub-Committee's proposal to adopt a mandatory ship reporting system "Off the northeastern and the southeastern coasts of the United States" based on a submission (NAV 44/3/1 and NAV 44/INF.4) by the United States aiming at protecting the endangered northern right whales against ship strikes.

11.37 The proposal was supported by most of the delegations who spoke. Some delegations, whilst not objecting to the proposal, raised some questions, in response to which the United States' delegation stated that:

- .1 it was not the purpose of the mandatory ship reporting system to impose liability against a ship's master in the event of an accidental whale strike. Rather, the purposes of the system are to provide mariners with information that will minimize the possibility of whale strikes and to collect information on aggregate ship traffic that will allow assessment of the effectiveness of measures taken. Other United States' domestic laws, such as the Endangered Species Act, provide protection for right whales;
- .2 the objective of the reporting system was also not to punish mariners who do not report into the system. Its objective is to educate and make mariners aware of information regarding ship strikes of right whales when entering the two areas of the reporting system. The reporting system thus increases protection of the marine environment because it assists in right whale conservation and improves safety of navigation by assisting vessels to avoid damage that may occur from hitting a whale; and
- .3 the United States would review the reporting system no later than 3 to 5 years after the implementation date; and the results of its effectiveness review will be presented to the Sub-Committee.

11.38 In providing further information in support of their proposal, the United States' delegation, referring to the population of the Western North Atlantic Right Whales, added that:

- .1 the species is listed internationally as endangered on Annex 1 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and in the International Union for the Conservation of Nature Red Book;
- .2 a group of international scientific experts, convened by the International Whaling Commission to evaluate the status of right whales internationally, has recognized the urgent need for protective measures to prevent the demise of this population;
- .3 the population size as assessed by the group of international scientific experts is estimated to have fallen to approximately 300 whales, a level that poses the threat of extinction;
- .4 the normal shipping lanes off the east coast of the United States pass through two areas identified by the group of international scientific experts as habitat critical for the survival of the population;

- .5 the best available scientific information indicates that collisions with ships are currently the greatest known non-natural cause of mortality in the population; and
- .6 a ship reporting system designed to provide mariners entering the critical habitat areas with timely notice and other relevant information including recent sightings would reduce the potential for collisions and thereby directly contribute to the survival and recovery of the species.

11.39 With regard to the concern of proliferation of mandatory ship reporting systems to protect single species, which was raised by a number of delegations, the United States' delegation recommended that, as endorsed by NAV 44, the Committee should agree that ship reporting systems for the specific purpose of protecting populations of single marine species from direct physical impacts of ships, such as collisions, may be warranted if there is clear scientific evidence that:

- .1 the population of a marine species is immediately endangered with extinction;
- .2 major shipping routes pass through an area or areas of habitat critical for the population; and
- .3 the greatest known threat to the survival and recovery of the population is posed by direct physical impacts of ships, such as collisions.

11.40 The Committee agreed that the criteria recommended by the United States in paragraph 11.39 above would be applied in reviewing future mandatory ship reporting system proposals to protect single marine species.

11.41 In light of the exceptional circumstances described above, the Committee agreed that a ship reporting system, limited to the areas defined in the proposal on the basis of the documented peer-reviewed scientific research on the distribution and abundance of the population on right whales, was justified and, in accordance with the provisions of resolution A.858(20), the Committee, by resolution MSC.85(70), adopted the proposed mandatory ship reporting system "Off the northeastern and the southeastern coasts of the United States", as set out in annex 16, for dissemination by SN/Circ.205.

11.42 The aforementioned mandatory ship reporting system will be implemented at 0000 hours UTC on 1 July 1999.

Mandatory ship reporting system "In the Strait of Dover/Pas-de-Calais"

11.43 The Committee, noting that minor amendments to further improve the communication capability and streamline the monitoring system of the proposed mandatory ship reporting system in the Dover Strait/Pas-de-Calais, proposed by the United Kingdom (MSC 70/11/9), did not change the concept and procedures of the original proposal endorsed by NAV 44, but would necessitate a small change to the radio frequency for making reports to Dover Coastguard, agreed to those minor amendments and, by resolution MSC.85(70) and in accordance with the provisions of resolution A.858(20), adopted the proposed mandatory ship reporting system, as amended, as set out in annex 16, for dissemination by SN/Circ.205.

11.44 The aforementioned mandatory ship reporting system will be implemented at 0000 hours UTC on 1 July 1999.

Mandatory ship reporting system "In the Straits of Malacca and Singapore"

11.45 The Committee, having recalled that, at its sixty-ninth session, it adopted a mandatory ship reporting system "In the Straits of Malacca and Singapore", for entry into force at 0000 hours UTC on 1 December 1998, considered a submission by Indonesia, Malaysia and Singapore (MSC 70/11/3) proposing amendments to the format of STRAITREP message required to be sent by ships to the coastal States concerned by including Y2K-compliant information in the designator "Q" relating to defects/damage/deficiencies/other limitations.

11.46 On the advice of the Ships' Routeing Working Group, the Committee noted that there is no provision in the Guidelines and Criteria for Ship Reporting Systems (resolution MSC.43(64)) for incorporating temporary reporting matters. Therefore, it was of the opinion that it would not be appropriate to amend the mandatory reporting system "In the Straits of Malacca and Singapore" for inclusion of temporary reporting requirements.

11.47 The Committee was also of the opinion that it is important to address the matter on reporting of the Y2K problem and hence, the Committee recommended, that local notices to mariners be promulgated to request ships to report the status of their Y2K readiness making reference to the relevant MSC circulars.

11.48 The Committee approved MSC/Circ.894 on Addressing the year 2000 problem: Co-operation within mandatory ship reporting systems.

Guidance for ships transiting through archipelagic waters

11.49 The Committee approved SN/Circ.206 on Guidance for ships transiting through archipelagic waters.

Amendments to the Collision Regulations

11.50 The Committee authorized the Sub-Committee to consider the issue of conflicting actions in collision avoidance, in the context of its consideration of amendments to the Collision Regulations, in accordance with the proposed terms of reference (NAV 44/14, annex 12).

North Atlantic Ice Patrol

11.51 The Committee considered the Sub-Committee's recommendation that the North Atlantic Ice Patrol should be continued (under the management of the United States) and that the Committee should establish the terms, conditions and the legal framework under which the service should be operated and financed, including consideration of the proposed draft revised SOLAS regulation V/6 - Ice patrol service, management and cost recovery (NAV 44/14, paragraphs 5.14 to 5.19 and annex 13).

11.52 The United States and Norway (MSC 70/11/6) proposed a revised SOLAS regulation V/6 and addition of a separate part to chapter V to replace the existing regulations V/5 and V/6 in order to modernize the financial arrangements for provision of the ice patrol services for consideration by the Committee and adoption at the earliest possible date.

11.53 Germany (MSC 70/11/14), in order to contribute to a timely solution by making use of existing SOLAS provisions in the framework of regulations 5 and 6 of chapter V, proposed changes to the text submitted by the United States and Norway (MSC 70/11/6), questioning especially the introduction of a mandatory financial contribution system as a treaty obligation by means of the tacit acceptance procedure of the SOLAS Convention.

11.54 During considerable discussion, the following main points were made by the participating delegations:

- .1 there was a need for the North Atlantic Ice Patrol to be continued;
- .2 there was, at the same time, a need for new financial arrangements to be made and for such arrangements to address the users of the service in an equitable and consistent manner;
- .3 the question of not charging ships not using the service and ships sailing outside the regions of icebergs guarded by the ice patrol, should be addressed ;
- .4 individual ships should contribute to services received (the "user pays" principle);
- .5 that the issue should not be linked to port State control;
- .6 concerns were expressed about the inclusion of financial arrangements in SOLAS and about including too many details in the Convention; and
- .7 that the issue should be settled by consensus.

11.55 The Chairman, in summing up the discussion, concluded that there was general agreement on the following:

- .1 the North Atlantic Ice Patrol should be continued under the management of the United States, but the system was in need of modernization;
- .2 the proposals contained in document MSC 70/11/6 (United States) and certain points made in document MSC 70/11/11 (Germany) were largely supported;
- .3 the "user pays" principle with regard to the North Atlantic Ice Patrol was generally supported on the basis that individual ships should be allowed to pay for services received;
- .4 the exemption of ships on routes which pass south of the extreme limits of ice of all types, as shown on the chart annexed to the 1956 Agreement regarding financial support of the North Atlantic Ice Patrol, should be retained;
- .5 the establishment of a link between the issue under review and port States control was not generally supported; and
- .6 if necessary, guidelines should be developed containing details which may not be considered appropriate to be included in the Convention.

11.56 Following this, the Committee established a drafting group to develop a new draft text, taking into account the comments and proposals made and the agreed points included in the Chairman's summation.

11.57 Having received the report of the drafting group (MSC 70/WP.16), the Committee took action as indicated hereunder.

11.58 Taking into account the concerns raised by Germany in its paper (MSC 70/11/14) that the reception of the information provided by the Ice Patrol by ships transiting the region of icebergs during the ice season is essential to the safety of navigation of those ships, the Committee agreed to include a new sentence to that effect in paragraph 1 of draft regulation V/6, and a new preambular paragraph in the draft MSC resolution.

11.59 The Committee agreed to modify paragraph 6 of regulation V/6 to increase the period of notice to be provided by the United States and/or Canadian Governments from 12 to 18 months.

11.60 The Committee recognized that paragraph 3 of Article II of the Protocol of 1978 relating to SOLAS 1974 requires Parties to the Protocol to apply the requirements of the Convention, including its annexed regulations, as may be necessary to ensure that no more favourable treatment is given to ships of non-parties to the Convention. Paragraph 3 of the Regulations was therefore revised to omit the reference to actions the United States and Canada can take with regard to ships of non-parties to the Convention, as that sentence is unnecessary.

11.61 The Committee also agreed that, in view of the historical basis of the regulation V/6, its provision should not be used as a precedent for charging ships navigating in international waters for services provided by coastal States.

11.62 The Committee agreed that the Regulations for the management, operation and financing of the North Atlantic Ice Patrol should not form part of SOLAS chapter V but be adopted as a separate mandatory instrument.

11.63 With reference to paragraph 2 of the draft Regulations for the management, operation and financing of the North Atlantic Ice Patrol, the delegation of Malta requested that an undertaking be included in the paragraph to provide flag States with the list of ships that have used the Ice Patrol Service over a billing period so that Contracting Governments, which reimburse the Governments of Canada and the United States, would be able to obtain a refund from such ships.

11.64 The delegation of Greece suggested deleting paragraph 1.3.3 of the draft Regulations and replacing it with a reference to paragraph 1.4.

11.65 The Committee approved, in principle, the draft amendments to SOLAS regulations V/5 and V/6 and proposed Regulations for the management, operation and financing of the North Atlantic Ice Patrol, set out in annex 19 and requested the Secretary-General to circulate the draft amendments and also instructed the Secretariat to prepare a separate draft MSC resolution to adopt the draft Regulations for the management, operation and financing of the North Atlantic Ice Patrol. Having decided to consider the above draft instruments, with a view to adoption, at MSC 72, the Committee invited Member Governments to submit comments and proposals thereto.

Guidelines on voyage planning

11.66 The Committee authorized NAV 45 to submit the finalized draft text of the Assembly resolution and Guidelines on voyage planning, directly to the twenty-first session of the Assembly for adoption.

Differences between RCDS and ECDIS

11.67 The Committee approved SN/Circ.207 on Differences between Raster Chart Display Systems (RCDS) and Electronic Chart Display and Information Systems (ECDIS).

New and amended performance standards for navigational equipment

11.68 Germany (MSC 70/11/2), arguing that different performance standards for transmitting magnetic compasses and electromagnetic compasses were necessary, recommended that their proposal should be referred to NAV 45 instructing the Sub-Committee to prepare two different performance standards and that, subsequently, the work programme of the Sub-Committee should be amended accordingly. However, the Committee did not accept this proposal.

11.69 The Committee considered proposals by Italy (MSC 70/11/10) and the Russian Federation (MSC 70/11/8) expressing concern that the proposed performance standards for ECDIS with RCDS had not been properly considered and should, therefore, be referred back to the Sub-Committee for further careful consideration and subsequent development, as appropriate.

11.70 The delegation of the Russian Federation, supported by the delegation of Italy, was not in favour of adoption of the amendments to resolution A.817(19) proposed by NAV 44 for the following reasons:

- .1 the proposed new text of the performance standards for ECDIS contained an unresolvable conflict among paragraphs of the revised resolution;
- .2 due to the noted conflicts among paragraphs of the revised performance standards, the necessary technical/testing standards and type approval of an ECDIS with RCDS mode would be impossible. This would create obvious problems for both industry and users;
- .3 there was still lack of the raster product specifications requested by NAV 42 and NAV 43. The main component of an electronic chart system, i.e. the chart database has not been described as it must have been and even a short draft recommendation of IHO for this misses the definition of unique requirements for the raster nautical chart database;
- .4 the current paragraph 1.2 of the RCDS mode section in the proposed performance standards permits a wide range of interpretation. It is quite possible that the lack of precision in this paragraph would cause conflicts between shipowners and port State control inspectors because of different interpretations; and
- .5 inclusion of the RCDS mode of operation into the performance standards for ECDIS would decrease the safety of navigation. As noted in the SN circular on Differences between RCDS and ECDIS, RCDS has significant limitations as an aid to navigation. Combination of the two very different systems, from the safety of navigation point of view, in one equipment increases the importance of the human factor and its influence on the safety of navigation, which would be definitely negative in this case.

11.71 Introducing document MSC 70/11/10, which clarified and expanded upon the reservation expressed at NAV 44 (NAV 44/14, paragraph 7.22), the delegation of Italy stressed the need for clear and neat rules in order to prevent the adoption of measures which would lead to difficulties in their interpretation and implementation and drew the Committee's attention to other flaws, dangerous to the safety of navigation, in the draft amendments, e.g. the addition of a new paragraph 1.9 and paragraph 10.5.14 of appendix 7. Italy was supported by some delegations.

11.72 The delegation of the United Kingdom stated that the concerns expressed by the Russian Federation and Italy were not new. They were given full and careful consideration at NAV 44 after which

the Sub-Committee recommended, by a substantial majority, that the amendments to the ECDIS performance standards to permit an RCDS mode of operation be adopted. The interim, and optional, RCDS solution is being used at sea and has been shown by extensive experience to make a positive contribution to safety of navigation. Not to adopt the recommendation would send a message to the maritime community that the Committee was out of touch with what was really happening at sea. The United Kingdom therefore supported most strongly the adoption of the RCDS mode of operation and was supported by a substantial majority of delegations.

11.73 The delegation of Greece reiterated the suggestion they had at NAV 44, namely that the question of equivalency of RCDS should be clarified, preferably in the text of SOLAS chapter V, in an unambiguous way, because of the liability issues involved.

11.74 The IHO observer was of the opinion that the issue had been carefully considered at several meetings of the IMO/IHO Harmonization Group on ECDIS (HGE) and the NAV Sub-Committee, during which Italy and the Russian Federation had every opportunity to present their views and where all concerns expressed were found to be unfounded. He informed the Committee that IHO had issued Special Publications S-52 on Specification for chart content and display aspects of ECDIS and S-57, version 3, on IHO Transfer standard for digital hydrographic data.

11.75 Following further discussion, the Committee adopted, in accordance with the provisions of resolution A.825(19) - Procedure for adoption and amendment to performance standards for radio and navigational equipment, resolution MSC.86(70), as set out in annex 17, containing recommendations on new performance standards, as follows:

- .1 Sound Reception Systems;
- .2 Integrated Navigation Systems (INS); and
- .3 Marine Transmitting Magnetic Heading Devices (TMHDs).

11.76 The Committee also adopted amendments to the performance standards for Electronic Chart Display and Information Systems, adopted by resolution A.817(19), as amended by resolution MSC.64(67), which are also annexed to the aforementioned MSC resolution.

ITU matters

11.77 The Committee endorsed the Sub-Committee's action in submitting a liaison statement (conveying IMO's position concerning the technical compatibility of radionavigation systems and radio location systems operating in the band 2.9 - 3.3 GHz) to the ITU-R Working Party 8B (NAV 44/14, annex 18).

11.78 The Committee endorsed the Sub-Committee's action in instructing the Secretariat to convey part 8 of its report and relevant information to the CEPT Secretariat (NAV 44/14, paragraph 8.5).

Guidelines for the on-board use and application of computers

11.79 The Committee approved MSC/Circ.891 on Guidelines for the on-board use and application of computers. In this respect, the Committee recalled its decision at MSC 69 (paragraph 8.8 of MSC 69/22) that the Guidelines for shipboard loading and stability computer programmes (MSC/Circ.854) should be annexed to the new guidelines given in MSC/Circ.891 and instructed the Secretariat accordingly.

Alerting of search and rescue authorities

11.80 The Committee, noting that NAV 44 did not change the text proposed by COMSAR 3, approved MSC/Circ.892 on Alerting of search and rescue authorities.

Pilot transfer arrangements

11.81 The Committee approved the draft Assembly resolution on Pilot transfer arrangements, amended editorially as proposed by Germany, as set out in annex 18, for submission to the twenty-first session of the Assembly for adoption.

UN General Assembly resolution on Oceans and the law of the sea

11.82 The Committee endorsed the action of the Sub-Committee in submitting, on behalf of the Organization and in conjunction with IHO, a draft resolution on Hydrographic services to the General Assembly of the United Nations (NAV 44/14, annex 24).

11.83 The Committee was informed by the Secretariat that the UN General Assembly, responding to the above joint submission, included, in resolution A/RES/53/32 entitled "Oceans and the law of the sea", adopted on 24 November 1998, an invitation to States "to co-operate in carrying out hydrographic surveys and nautical services for the purpose of ensuring safe navigation as well as to ensure the greatest uniformity in charts and nautical publications and to co-ordinate their activities so that hydrographic and nautical information is made available on a world-wide scale".

OTHER MATTERS

Revision of SOLAS chapter V

11.84 Japan (MSC 70/11/7) expressed concern about the carriage requirements of shipborne navigational equipment, as proposed in regulation 20 of the draft revised text of SOLAS chapter V, being of the opinion that:

- .1 the safety of navigation could be improved by the introduction of more advanced technology; however, the expansion of carriage requirements and provision of new equipment and systems should be carefully considered from a cost-effective viewpoint;
- .2 the additional equipment proposed would cost domestic Japanese ships between 150 and 300 gross tonnage about US\$12,000; ships between 300 and 500 gross tonnage about US\$50,000; and ships of 50,000 gross tonnage and upwards about US\$150,000 (the installation cost for each equipment not included in these figures); and
- .3 more equipment would be required to be carried on board ships in spite of the restricted number of crew members.

Japan was also concerned with operational aspects, i.e. how would crew be able to deal with the increased amounts of information and equipment. Hence, Japan was of the opinion that draft SOLAS regulation V/20 was excessive, particularly for small ships engaged in domestic voyages.

11.85 Following some discussion, the Committee decided to refer the Japanese proposal (MSC 70/11/7) to NAV 45 instructing the Sub-Committee to consider the proposal in the context of its work on the revision of SOLAS chapter V.

11.86 Having noted the concerns expressed by Japan on the proposed additional equipment carriage requirements in regulation 20 of the draft revised SOLAS chapter V, which were shared by a number of delegations, the Committee also instructed NAV 45 to provide the Committee with a justification for such new requirements.

Navigational warnings in the event of a missile launch

11.87 The Committee considered document MSC 70/11/5 (Japan) referring to the launching, over the territory of Japan on 31 August 1998, of an object propelled by rocket by the Democratic People's Republic of Korea without any prior notice or warning. In that document, Japan proposed that contents of resolution A.706(17) - World-Wide Navigational Warning Service, should be circulated to all Member Governments to remind them of their relevant obligations. In addition, the proposed amendments to chapter V of the 1974 SOLAS Convention currently being revised, particularly draft regulation 4 (on Navigational warnings) thereof, should be further considered for the purpose of making it mandatory to issue, in events like the one reported, navigational warnings, including notification to neighbouring States and other States concerned. In relation to this, Japan suggested that it might be desirable to incorporate the relevant provisions of the World-Wide Navigational Warning Service in the proposed amendments in order to enhance the safety of navigation. In introducing document MSC 70/11/5, the delegation of Japan also proposed that the Committee should approve, at this session, an MSC circular inviting Governments to strictly comply with the recommendations of resolution A.706(17).

11.88 The delegation of the Democratic People's Republic of Korea stated that, while they were in full agreement with resolution A.706(17), they could not recognize paragraph 1 of document MSC 70/11/5, annex in as much as the alleged missile firing was in fact a satellite launching.

11.89 The delegation of the Republic of Korea expressed support for the proposal submitted by Japan. However, it stated that the use of the term "Sea of Japan" in paragraph 1 of document MSC 70/11/5 was not acceptable, as the name of the sea area in question was in dispute. The Korean delegation proposed that "East Sea" and "Sea of Japan" should be used simultaneously pending a mutually acceptable solution through consultation among the Parties concerned in accordance with resolution III/20 adopted at the 1997 UN Conference on the Standardization of Geographical names and the International Hydrographic Organization (IHO) resolution A.4.2.6 in 1974. The Korean delegation also cited historical evidence showing that the body of water in question had been variously identified as the "East Sea", "Sea of Japan", "Oriental Sea" or "Sea of Korea". The Korean Government has proposed that the sea in question be named "East Sea", which implies a sea which lies to the east of the Eurasian Continent. The delegation of the Republic of Korea concluded its intervention by reiterating its proposal that the "East Sea" and "Sea of Japan" be used simultaneously until a mutually agreeable solution was found.

11.90 As there was considerable support for the Japanese proposal, the Committee requested the delegation of Japan to submit a draft MSC circular on Navigational warnings concerning operations endangering the safety of navigation, which was eventually issued as document MSC 70/WP.7.

11.91 When considering document MSC 70/WP.7, the delegation of Japan, commenting on a new intervention by the Republic of Korea, stated that it would not be appropriate to make the name of the sea area concerned an issue in IMO; however, it was of the opinion that "Sea of Japan" was the most common and widely spread name used and therefore the text contained in MSC 70/WP.7 should be retained without change. In this context, it asked the Secretariat to provide clarification on the United Nations policy on this matter.

11.92 The delegation of the Democratic People's Republic of Korea was of the opinion that the name used for the sea area in question should be "Sea of East Korea".

11.93 The Secretariat read out advice received from the Legal Office as follows: "The Legal Counsel of the United Nations and the Chief of the Cartographic Section have advised IMO that the United Nations will continue to use the name "Sea of Japan" as the most common and widespread denomination for the body of water which lies between the Korean peninsula and the Japanese archipelago, until a negotiated solution is found. As a specialized agency of the United Nations, IMO must, therefore, follow the policy formulated by the United Nations Legal Counsel and the Chief of the Cartographic Section and use the term "Sea of Japan"."

11.94 The delegation of Canada, supported by some other delegations, proposed that no reference be made to the time and location of the incident in the draft MSC circular. The delegation of the Republic of Korea, while expressing support for the proposal of the Canadian delegation, recalled its position on the naming of the body of water in question as expressed in paragraph 11.89 above.

11.95 The delegation of Japan proposed the following new text to form paragraph 1 of the draft MSC circular given in the annex to document MSC 70/WP.7:

"1 The Maritime Safety Committee, at its seventieth session (7 to 11 December 1998), received a report on an incident which occurred on 31 August 1998 involving the launching of an object propelled by rockets which fell into the waters in the vicinity of Japan being major trade routes and important fishing grounds."

11.96 As several delegations expressed support for the amendment proposed by the delegation of Japan, including the delegation of the Republic of Korea, the Committee approved MSC/Circ.893 on Navigational warnings concerning operations endangering the safety of navigation. In this context, the delegation of the Republic of Korea added that its support for the amendment would not affect or prejudice the Korean Government's position on the naming of the sea area in question, as stated in paragraph 11.89 above.

11.97 The delegation of Japan stated that, while Japan preferred the retention of the text on the first paragraph as presented in document MSC 70/WP.7, it could accept the revised draft MSC circular on the understanding that "Sea of Japan" is the only term used for the denomination of this sea area within the United Nations and its specialized agencies, including IMO.

11.98 With regard to mandatory issue of navigational warnings, the Committee instructed NAV 45 to consider document MSC 70/11/5 and the amendments proposed therein in the context of its work on revision of SOLAS chapter V.

Baltic Ferry Guidance and Information System for Ro-Ro Passenger Ferries

11.99 The Committee noted with interest information provided by Germany and Sweden (MSC 70/INF.16) on the results of the project "Baltic Ferry Guidance and Information System (BAFEGIS)" concerning trials of the system on ro-ro passenger ferries operating in the Baltic Sea on the route between Warnemünde (Germany) and Trelleborg (Sweden), using AIS in conjunction with ECDIS.

12 TECHNICAL ASSISTANCE SUBPROGRAMME IN MARITIME SAFETY

Technical co-operation work plan for maritime safety

12.1 The Committee recalled that it had approved, at previous sessions, a Technical Co-operation Sub-Programme for Maritime Safety for the period 1996 to 2000 and an associated work plan and had instructed the Secretariat to continue its identification of technical co-operation project proposals for incorporation in the Organization's Integrated Technical Co-operation Programme (ITCP).

12.2 The Committee also recalled that, at its sixty-ninth session, it noted (MSC 69/22, paragraph 12.3) information provided by the Secretariat on safety-related projects and the status of operation of the Technical Co-operation Fund (TC Fund), and was informed that a considerable proportion of the new funds for the current biennium, totalling approximately £2.8 million, would be expended on regional and global projects related to maritime safety.

12.3 The Committee also recalled that, at its sixty-ninth session, it recommended four safety-related priorities (MSC 69/22, paragraph 12.13) for inclusion in the Technical Co-operation sub-programme for the period 2000 to 2001, namely:

- .1 fostering the effective implementation of Conventions with particular emphasis on the revised STCW Convention and ISM Code;
- .2 strengthening maritime Administrations in respect of examination and certification responsibilities relating to the revised STCW Convention and the ISM Code;
- .3 establishing and /or further strengthening maritime Administrations to enable them to meet their responsibilities as flag and port States; and
- .4 supporting maritime training institutions and fellowship programmes.

12.4 The Committee further recalled the Secretary-General's opening remarks concerning the shifting in emphasis from the development of new regulations to implementation of existing ones; and that, in this respect, technical assistance provided by IMO and bilateral sources emerges as the primary means by which the Organization and Member States can assist countries in implementing and enforcing the agreed standards.

12.5 The Committee noted document MSC 70/12 (Secretariat) reflecting the status of both ongoing maritime safety and training-related technical co-operation projects, listed in document MSC 69/INF.11 (Secretariat) as well as new projects; it further noted that detailed information on each of the projects listed in that document was contained in a relevant database maintained by the Secretariat and that additional information could be supplied on request.

Technical co-operation strategy

12.6 The Committee noted information provided by the Secretariat on the technical co-operation strategy of the Organization and the clearly defined mission statement "to assist developing countries by contributing to the enhancement of their capacity to comply with international rules and standards relating to maritime safety and the prevention and control of marine pollution ...".

12.7 The Committee also noted that the Integrated Technical Co-operation Programme (ITCP) for 2000-2001 envisaged a regional programme and global activities budgeted at approximately US\$16.7 million. Of the major programmes included, maritime safety related activities including cross sectoral and institutional development issues were budgeted at nearly US\$12 million which were indicative of the importance attached to maritime safety in the ITCP. It was noted that these budgets were targets and that the extent to which the ITCP can be fully implemented would depend on the aggregate funds available from the TC Fund, bilateral donors and organizations.

Assistance to Honduras

12.8 The delegation of Honduras informed the Committee that its Government was drawing up a plan to submit to maritime authorities seeking assistance in the restoration of its maritime infrastructure which had suffered as a result of the adverse impact of Hurricane Mitch.

12.9 The Secretariat informed the Committee that the Organization was developing an *ad hoc* project of assistance to Central America on the restoration of maritime and port services. The Committee noted that, in connection with possible dangers to navigation in the Central American sub-region which might arise as a result of the loss of navigational aids during the hurricane and other disruptions to safe navigation, at the request of the Secretariat the Government of the United States, as NAVAREA co-ordinator, had issued relevant notices to mariners.

IMO model course programme

12.10 The Committee noted document MSC 70/12/1 (Secretariat), providing an update on IMO model course production and revision and instructed the Secretariat to follow-up the project and report developments to MSC 71.

13 ROLE OF THE HUMAN ELEMENT

General

13.1 The Committee recalled that at MSC 69 it had received an interim report on the outcome of the joint session of the Joint MSC/MEPC Working Groups on the Human Element (HE) and on Formal Safety Assessment (FSA) as supplemented by an oral status report by the Chairman of the groups and took action on a number of issues, as recorded in paragraphs 13.19 to 13.21 and 14.12 to 14.19 of document MSC 69/22, noting that the groups' report would be submitted to MSC 70 and MEPC 42.

13.2 The Committee recalled, in particular, that MSC 69, although realizing that ideally separate groups would be preferable, decided to combine the two Joint MSC/MEPC Working Groups on the Human Element and on Formal Safety Assessment and to convene the combined group at MSC 71 subject to further consideration at this session. MSC 69 agreed to keep the items on the Role of the Human Element and on Formal Safety Assessment as separate agenda items and to establish priorities for both items when assigning terms of reference to the new group.

13.3 In this context, the Committee noted that MEPC 42 (MSC 70/2/4, paragraph 5) took note of the outcome of the discussion and decisions of MSC 69 and, in particular, approved the MSC/MEPC circular on Interim Guidelines for the application of the human element analysing process (HEAP) into the IMO rule-making process; concurred with the decision of MSC 69 to combine the two Joint MSC/MEPC Working Groups into one Joint MSC/MEPC Working Group on the Human Element and Formal Safety Assessment; and agreed to keep the present items concerning the Role of the human element and Formal Safety Assessment as separate items on its agenda and to establish priorities for both agenda items.

Outcome of the joint session of the Joint MSC/MEPC Working Groups on HE and on FSA at MSC 69

13.4 The Committee considered, from the human element viewpoint, the report of the joint session of the HE and FSA Working Groups at MSC 69 (MSC 70/13) and approved, in general, the joint groups' report with regard to human element matters and, having noted that MEPC 42 had endorsed the actions proposed by the groups, took action as follows:

- .1 noted the preliminary considerations on fatigue; and
- .2 agreed to establish an intersessional Correspondence Group on Fatigue, co-ordinated by the United States*, with the following terms of reference:
 - .1 to review the definitions of the term "fatigue" used within the Organization with the aim of obtaining a consistent, practical and meaningful definition;
 - .2 to develop advice and recommendations with the aim of attaining consistent compliance with the "rest" requirements of the revised STCW Convention;
 - .3 to consider annex 1 to document MSC 70/13 and review how the concepts contained therein apply to the issue of "fatigue" and its effect on maritime safety;
 - .4 to develop strategies in order to continue to develop a safety culture by addressing the issue of "fatigue;" and
 - .5 to report to the seventy-first session of the Committee.

13.5 In this context, the Committee noted a study (MSC 70/INF.2), commissioned by Australia, undertaken to examine the existence and extent of fatigue, stress and health-related safety problems; and referred it to the aforementioned Correspondence Group on Fatigue for consideration and appropriate action.

Outcome of the Joint IMO/ILO Working Group and the 273rd session of the ILO Governing Body

13.6 The Committee noted information provided by the Secretariat on behalf of ILO concerning the preparation by the Joint IMO/ILO Working Group of standardized guidelines and a format for the records

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of seafarers' hours of work or hours of rest in accordance with the provisions of the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No.180), and the revised STCW Convention. The 273rd session of the ILO Governing Body in November 1998 took note of the report of the Joint IMO/ILO Working Group on the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No.180), including its attached guidelines and model formats; and authorized the ILO Director-General to consult with the Secretary-General of IMO regarding the joint publication of the guidelines for the development of tables of seafarers' shipboard working arrangements and the formats of records of seafarers' hours of work or hours of rest, the model format for a table of shipboard working arrangements and the model format of records of hours of work or hours of rest of seafarers.

Occupational exposures to toxic chemicals carried by sea

13.7 The Committee recalled that, under agenda item 10, it had agreed to consider the matter of occupational exposures to toxic chemicals carried by sea, as addressed by BLG 3, under this agenda item.

13.8 The Committee noted that, in the course of discussion of an Australian submission to BLG 3 (document BLG 3/17), resubmitted to this session of the Committee as document MSC 70/13/1, BLG 3, having noted that the subject of occupational health was not wholly within its competence, as some special expertise and knowledge regarding the health and medical issues was required to address the matter properly and that the issue of occupational health fell also within the purview of other international organizations, such as ILO and WHO, had agreed to invite the Committee, when considering the Australian proposal, to decide which sub-committees should be tasked with the consideration of the issue and, if so decided, whether and what arrangements should be made to invite the aforementioned international organizations to participate in the work (i.e. possibly by means of establishing an *ad hoc* IMO/ILO/WHO working group). In this context, reference was made to a study (MSC 60/INF.2) on the morbidity of seamen on Norwegian chemical tankers (MSC 60/21, paragraphs 20.34 and 20.35).

13.9 The Committee discussed, in general, document MSC 70/13/1 in which Australia, having expressed concern about the lack of availability of effective usable information on occupational health of seafarers and the magnitude of the problem of occupational exposures of seafarers to toxic chemicals and noxious substances, had noted that the issue of occupational exposures to toxic chemicals carried by sea was not restricted to chemical tankers only as oil tankers, gas carriers, containerships and general cargo ships presented similar hazards as well; suggested that a uniform standard set of occupational health data for seafarers be developed to cover the substances to which ship personnel were likely to become exposed on board ships; proposed specifications for a material data sheet format for seafarers; suggested that requirements for the provision and use of the information should be incorporated into the SOLAS Convention; proposed that an item on development of measures to assist in the reduction of occupational exposures to chemicals be added to the work programme of the relevant sub-committee and to its agenda and requested that a decision be taken on whether and which arrangements should be made to invite other international organizations to participate in the work.

13.10 Following consideration of document MSC 70/13/1, the Committee noted the problem of occupational exposures of seafarers to toxic chemicals and noxious substances raised by Australia in the context of the role of the human element and, having noted the Australian delegation's intention to submit to MSC 71 a document clarifying points mentioned in the course of the discussion of the document and also defining the scope of the project referred to in that document, decided that the matter be considered in detail at MSC 71 by the Joint MSC/MEPC Working Group on HE and FSA and, therefore, invited Member Governments to submit comments and proposals thereon.

14 FORMAL SAFETY ASSESSMENT

General

14.1 The Committee recalled that MSC 69 had received an interim report on the outcome of the joint session of the Joint MSC/MEPC Working Groups on the Human Element (HE) and on Formal Safety Assessment (FSA) (which had met during that session), supplemented by an oral status report by the groups' Chairman; had taken decisions regarding the establishment of the Correspondence Group on Trial Application of Formal Safety Assessment and combining the aforementioned two joint working groups into one Joint MSC/MEPC Working Group on HE and FSA, as recorded in paragraphs 14.13 to 14.19 of document MSC 69/22; and had noted that the groups' report would be submitted to MSC 70 and MEPC 42.

Outcome of the joint session of the Joint MSC/MEPC Working Groups on the Human Element and on Formal Safety Assessment at MSC 69

14.2 The Committee considered, from the FSA viewpoint, the report of the joint session of the HE and FSA Working Groups at MSC 69 (MSC 70/13) and, having approved, in general, the report of the two joint working groups on their joint session and having noted relevant decisions by MEPC 42 (MSC 70/2/4, paragraph 4), took the following action:

- .1 agreed to add the aspects stated in paragraph 22 of document MSC 70/13 (i.e. aspects relating to risk acceptance criteria, regulatory impact diagrams and apparent inconsistencies in the FSA methodology, which should be considered with a view to improving the FSA Interim Guidelines) to the terms of reference of the Correspondence Group on Trial Application of FSA, referred to in paragraph 14.3.2 below, in order that the group report the result of the discussions to MSC 71; and
- .2 noted the preliminary draft Guidelines for practical application of FSA to the IMO rule-making process, set out in annex 3 to document MSC 70/13 and referred the preliminary draft Guidelines to the Correspondence Group on Trial Application of FSA, referred to in paragraph 14.3.2 below, for consideration and reporting to MSC 71,

and instructed the Joint MSC/MEPC Working Group on FSA to prepare revised terms of reference for the aforementioned correspondence group (see also paragraphs 14.6.4 and 14.24 below).

Outcome of the Correspondence Group on Trial Application of Formal Safety Assessment

14.3 The Committee recalled that MSC 69 had established a Correspondence Group on Trial Application of FSA:

- .1 under the co-ordination of the United Kingdom, to review the FSA studies on helicopter landing areas (HLAs) on board non ro-ro passenger ships and submit a report to this session; and
- .2 under the co-ordination of Italy, to review the FSA studies carried out on high-speed catamaran ferries as an example of an FSA trial application and submit a report to MSC 71,

and, having considered the report (MSC 70/14) of the group referred to in subparagraph .1, took note of

the conclusions of the group and of the action requested of the Committee and, having recalled its decision at MSC 69 to establish at this session a Joint MSC/MEPC Working Group on Formal Safety Assessment, instructed the working group to deal accordingly and advise the Committee as appropriate (see also paragraphs 14.6 to 14.27 below).

Research projects relating to Formal Safety Assessment

14.4 The Committee had for its consideration documents submitted by:

- .1 Japan (MSC 70/14/1 and MSC 70/INF.7) reporting on the results of a research they had undertaken, which had illustrated the effectiveness of scientific analysis in the risk quantification; and
- .2 Sweden (MSC 70/INF.15) providing information on the results of a Joint Nordic project on safety assessment of high-speed craft operations.

14.5 Having noted the information provided in the aforementioned documents, the Committee agreed to refer documents MSC 70/14/1 and MSC 70/INF.7 to the Joint Working Group on FSA; and document MSC 70/INF.15 to the Correspondence Group on Trial Application of FSA, referred to in paragraph 14.3.2 above (see also paragraphs 14.6.4 and 14.24 below).

Reconvening of the Joint MSC/MEPC Working Group on Trial Application of Formal Safety Assessment

14.6 As previously decided, the Committee established the Joint Working Group on Trial Application of FSA and instructed it, taking into account comments and proposals made in plenary:

- .1 to consider document MSC 70/14, in particular matters referred to in paragraphs 44 to 46 thereof, i.e.:
 - .1 the variability of the factors which significantly influence risks and costs, with a view to forming an opinion on the appropriateness of the assumptions made (paragraph 44);
 - .2 the added risk arising from helicopter operations (paragraph 45); and
 - .3 the equitableness of risk benefit and costs in the studies and the appropriateness of the cost benefit criterion adopted by the Norway/ICCL study (paragraph 46),

and advise the Committee on the advisability, or otherwise, of implementing the new SOLAS requirements on helicopter landing areas on non ro-ro passenger ships; and whether the draft MSC circular on Recommendation on helicopter landing areas on passenger ships, prepared by DE 40 (annex 7 to DE 40/12/Add.1) and submitted to MSC 68 for approval, should, in the light of the above advice, be amended prior to its approval by the Committee at this session (in which case the working group should propose appropriate amendments thereto);

- .2 to consider documents MSC 70/14/1 and MSC 70/INF.7 (Japan) to ascertain whether there is a need to improve/expand the Interim Guidelines on application of FSA;

- .3 to provide specialist advice on FSA issues to the Working Group on Bulk Carrier Safety, when that group would consider documents MSC 70/4/Add.1 and MSC 70/INF.14 (United Kingdom) regarding FSA study of bulk carriers; and
- .4 to prepare revised terms of reference for the Correspondence Group on Trial Application of FSA, referred to in paragraphs 14.16 and 14.17 of document MSC 69/22, in accordance with the decisions made in plenary.

Report of the joint working group

14.7 Having received the report of the group (MSC 70/WP.12), the Committee approved it, in general, and took decisions as outlined in the following paragraphs.

Helicopter landing areas

14.8 The Committee noted that the group shared among its participants various areas of competence, as recommended by MSC 69 (MSC 69/22, paragraph 14.18), namely experts on ship design and construction (7), ship (6) and helicopter operations (6), search and rescue (7), human element (10) and FSA (20).

14.9 The Committee further noted that the group discussed, in detail, the report of the intersessional Correspondence Group on Trial Application of FSA to helicopter landing areas (MSC 70/14) and related submissions, including:

- .1 an FSA study by Norway/ICCL (MSC 69/14/6, COMSAR 3/9/13 and DE 41/INF.2). To support the discussion of the group, Norway/ICCL circulated additional information concerning a revised analysis of risks, an estimate of implied cost averting fatality (ICAF) and factors involving helicopter shipboard operations, compiled in the light of the comments in the correspondence group's report; and
- .2 an FSA study by Italy (MSC 69/14/7 and MSC 69/INF.31), which provided additional information concerning a sensitivity analysis of factors influencing risks and cost estimates for the HLA installation on new non ro-ro passenger ships, submitted by Italy in the light of the comments in the correspondence group's report.

14.10 The Committee endorsed the opinion of the correspondence group that the studies, although they do not constitute a comprehensive FSA application, follow the Interim Guidelines on application of FSA contained in MSC/Circ.829 to the extent appropriate, and therefore reliance can be placed upon the approach adopted in the studies.

14.11 The Committee noted the deliberations by the group (MSC 70/WP.12) with regard to:

- .1 validity of scenarios;
- .2 factors influencing risk;
- .3 additional risk factors from helicopter operations; and
- .4 risk benefit and costs of HLAs.

14.12 With respect to the validity of scenarios and factors influencing risk, the Committee agreed to the following conclusions of the group:

- .1 regarding the assumptions made about the probability of the HLA being impaired by smoke and/or heel in the context of the likely severity of an accident, that the reanalysis submitted by Norway/ICCL provided sufficiently conservative estimates in favour of the HLA solution;
- .2 regarding the operational assumption made by the Norway/ICCL study team regarding SAR helicopters and the likelihood that helicopter pilots would use an HLA if provided, that the assumption used by Norway/ICCL (i.e. that a pilot would use an HLA where available) was conservative and thus in favour of the HLA solution;
- .3 with respect to assumptions in the Norway/ICCL geometric model that only one helicopter is used and that it would play no part in the rescue if a ship arrives first, that this assumption had no impact on the analysis and subsequent conclusion;
- .4 on the time needed to transfer persons to/from the helicopter under different conditions, the results of the reanalysis performed by Italy were noted, which showed little change in the expected number of persons rescued; and
- .5 with regard to the concern expressed by the correspondence group that certain costs may have been underestimated (e.g. fire-fighting equipment, inspection and maintenance and lost revenue), that, while some costs may have been underestimated, these were conservative and thus in favour of the HLA.

14.13 The Committee concurred with the group's determination that the added risk associated with HLAs was not fully evaluated in either study, and that this omission should be remedied. The Committee noted that the group was unable to quantify this level of additional risk, but did conclude that the additional risk could be significant and that the implicit assumption of no additional risk from helicopter landing used in Norway/ICCL's quantification of the cost-benefit ratio was conservative, and thus in favour of the HLA solution.

14.14 The Committee noted that the cost-effectiveness of a helicopter landing area, in terms of the cost of implementation divided by the expected number of additional lives saved (i.e. ICAF, the implied cost of averting a fatality) is US\$37 million and that, acknowledging the uncertainties in the evaluation of both risk benefit and cost, the group agreed that the ICAF may range from about US\$12 to 73,000 million.

Conclusions regarding justification of HLAs

14.15 In the light of the above considerations, the Committee noted the group's conclusion that the requirement for helicopter landing areas on non ro-ro passenger ships cannot be justified in terms of the cost-effectiveness of the measure in reducing risk. In reaching this conclusion the group had in mind that previous assumptions in the evaluation of both risk benefit and implementation costs were generally favourable to the HLA solution. Additionally, even at the most optimistic end of the range, the ICAF value exceeds the suggested criteria value.

14.16 The Swedish delegation stated that the SOLAS regulation on HLA was an integral part of the safety package adopted by the SOLAS Conference in 1995. What had happened now is that this rule had been singled out and made the object of FSA studies. This may lead to an undermining of the trust in IMO

and its ability to make decisions which Member States can stand by. It was a matter of great principal concern for them that - even before the rule had become applicable - it was questioned. The FSA process should be applied proactively, not reactively. With regard to some practical observations, the delegation of Sweden stated that, if the HLA regulation was not left alone, a potentially very valuable instrument, to be used by SAR services, was taken away. This would be done without a discussion of pick-up areas. The conclusions of the FSA study and the opinion on the usefulness of HLAs expressed in the study were obviously to a great extent founded on the views of helicopter organizations which as a matter of policy do not land on ships. The very good experience of landing with helicopters on ships of the Swedish SAR services and other services had not been noted and made part of the FSA study. The difficulty and cost of installing HLAs on passenger ships should not be exaggerated. When designing a new ship, one would know that an HLA was to be installed and one could accommodate for that. The matter was not about installing HLAs on existing ships. They further stated that whether it was a ro-ro passenger ship or a passenger ship the existence of HLAs would significantly contribute to the saving of lives and to increased efficiency in SAR operations directed towards saving of people in distress. The financial and cost aspects of HLAs which really formed the foundation of the report of the working group would, if the report was accepted, mean or entail a change in IMO's rule-making process. That would naturally be of significance. The delegation of Sweden was of the opinion that the FSA studies on HLA which had been presented were incomplete and cannot form the basis of such a shift in policy. For these reasons the delegation of Sweden very strongly urged that no change in the SOLAS regulation on HLA should be made. The delegations of Germany, Denmark, Finland and Ireland and the observer from ICFTU associated themselves with the Swedish statement.

14.17 The delegation of France expressed its reservation on the issue stressing that the cost-effectiveness should not be the only element for decision.

14.18 The delegation of Japan recalled its opinion expressed at the 1995 SOLAS Conference on ro-ro ferry safety that the application of the requirements for helicopter landing areas to non ro-ro passenger ships should be carefully considered and expressed the view that a rapid revision of regulations, which had entered into force very recently and were yet to be applied, would result in a loss of credibility of the Organization. It was of the opinion that this kind of rapid revisions should not happen anymore, and that any proposal for amending conventions and other instruments of the Organization should be considered carefully taking effectiveness, applicability and cost-benefit comparisons into consideration. The Japanese delegation was also of the opinion that the Guidelines for application of FSA were still an interim measure and might or should be further improved. Therefore, any conclusion of the FSA study based on the Interim Guidelines should not be directly used as a basis for amendments to conventions and other instruments of the Organization.

14.19 The majority of the delegations who spoke were, however, of the view that the thorough study carried out firstly by the Correspondence Group on Application of FSA and by the working group at this session vindicates the usefulness of the FSA concept in the rule-making process of the Organization.

14.20 The Committee, in endorsing the conclusion of the group, agreed that the amendments to SOLAS regulation III/28.2, adopted by resolution MSC.47(66), should be repealed and that amendments to this effect should be submitted to MSC 71.

14.21 In this respect, the Committee further noted that the new amendments restricting the application of this regulation, after due circulation by the Secretary-General for adoption at MSC 72 in the Spring of 2000, would not enter into force, even under the accelerated amendment procedure, until sometime in October 2001 and that consequently an anomalous situation would result during the period between 1 July 1999, (when existing regulation III/28.2, requiring HLAs on all passenger ships, enters into force)

and the date when the proposed amendment requiring HLAs only on ro-ro passenger ships would be expected to enter into force in view of the above. Member Governments were invited to submit comments and proposals to MSC 71 on how the matter should be further pursued.

MSC circular on Recommendation on helicopter landing areas on passenger ships

14.22 The Committee approved MSC/Circ.895 on Recommendation on helicopter landing areas on ro-ro passenger ships, as prepared by DE 40 (annex 7 to DE 40/12/Add.1), referred to in the footnote to SOLAS regulation III/28.2, and further modified by the group to make it applicable exclusively to ro-ro passenger ships.

14.23 The Committee further agreed that the COMSAR Sub-Committee should amend the IAMSAR Manual in the light of this circular to include HLAs, and instructed it accordingly.

Terms of reference for the Correspondence Group on Trial Application of FSA to high-speed craft

14.24 The Committee agreed on revised terms of reference for the correspondence group as follows:

With the objectives of reviewing the FSA study carried out on high-speed catamaran ferries by the United Kingdom (MSC 69/14/4), MSC 69/INF.14, DE 41/5/6, DE 41/INF.7 and also on high-speed craft by Sweden (MSC 70/INF.15) as examples of FSA trial applications; improving the FSA Interim Guidelines and providing Guidelines for practical application of FSA, the correspondence group should:

- .1 evaluate the trial applications in order to consider further and improve the Interim Guidelines on FSA and in particular:
 - .1 provide a better understanding of the regulatory impact diagram and its use within the FSA process; and
 - .2 consider the extent of the use of expert views/judgements in the FSA application;
- .2 consider the risk control options presented in the studies and to recommend what action, if any, should be taken in the light of considerations of the review;
- .3 consider aspects referred to in paragraph 22 of document MSC 69/22, i.e. aspects relating to risk acceptance criteria, regulatory impact diagrams and apparent inconsistencies in the FSA methodology, also with a view to improving the FSA Interim Guidelines;
- .4 review and propose improvements to the preliminary draft Guidelines for practical application of FSA to the IMO rule-making process (annex 3 to document MSC 70/13); and
- .5 report to the seventy-first session of the Committee.

Interim Guidelines on application of FSA

14.25 The Committee noted documents MSC 70/14/1 and MSC 70/INF.7 by Japan and agreed that these documents should be used for future work on the improvement of the FSA Interim Guidelines.

Formal Safety Assessment of bulk carriers

14.26 The Committee noted that members of the FSA working group had attended the meeting of the Working Group on Bulk Carrier Safety in order to give their advice with regard to Formal Safety Assessment of bulk carriers.

Further work on FSA

14.27 The Committee decided to follow the recommendation of the group to continue the work on Formal Safety Assessment.

15 PIRACY AND ARMED ROBBERY AGAINST SHIPS

Statistical information

15.1 The Committee noted (MSC 70/15) that, in accordance with the Committee's instructions, the Secretariat had, since MSC 69, issued monthly reports on incidents of piracy and armed robbery against ships submitted by Governments and international organizations (latest MSC/Circ.880 of 30 November 1998) as well as quarterly analyses of those incidents (latest MSC/Circ.876 of 30 September 1998).

15.2 The Committee also noted that the total number of incidents reported to the Organization since 1984 had amounted to 1,329 by the end of November 1998 and was particularly concerned to note that, during the intersessional period, nine crew members had reportedly been killed and six crew members had been wounded. On two occasions, pirates had used false distress signals to deceive their victims. The areas most affected by pirates and armed robbers continued to be the same, i.e. the South China Sea, Strait of Malacca, Indian Ocean, East and West Africa and South America. From the statistics kept by the Organization it also appeared that, over the period under review, the number of incidents, reported to have occurred in 1997 and 1998, up to and as reported at the end of August of each of these two years, had increased from 62 to 103 worldwide, from 22 to 42 in the South China Sea and the Malacca Strait and from 9 to 20 in the Indian Ocean.

15.3 Once again, the Committee expressed grave concern at the continuing incidents reported and the escalation in the violence applied and urged Member Governments to take all necessary measures to prevent and suppress piracy and armed robbery against ships, acknowledging that the success of any efforts made in this respect were dependent largely on actions taken by port and coastal States.

15.4 In this respect, the Committee was informed by the Secretariat that the United Nations General Assembly, through resolution A/RES/53/32, entitled "Oceans and the law of the sea", adopted on 24 November 1998, expressed concern at the increasing threat to shipping from piracy and armed robbery at sea and appreciation and support for the ongoing work of IMO in this area; and:

- .1 urged all States, in particular coastal States in affected regions, to take all necessary and appropriate measures to prevent and combat incidents of piracy and armed robbery at sea and to investigate or co-operate in the investigation of such incidents wherever they occur and bring the alleged perpetrators to justice, in accordance with international law; and
- .2 called upon States to co-operate fully with the International Maritime Organization to combat piracy and armed robbery against ships, including by submitting reports on incidents to that Organization.

15.5 The ICC observer informed the Committee that the Piracy Reporting Centre of the ICC International Maritime Bureau (IMB), had, in the first nine months of 1998, recorded ten cases where vessels have been hijacked by pirates. These incidents involved heavily armed pirates and extreme violence had been used against the crew. The purpose of these attacks had been to steal millions of dollars worth of cargo and often the ship itself. The crews of three vessels, which had been hijacked in 1998, were missing and there was a possibility that they might have been killed. The ICC expressed the view that only Governments could deal effectively with this crime, including the apprehension and prosecution of the pirates, and that if this was not done the incidents of hijacking of vessels would only increase. The ICC observer applauded the efforts of IMO in increasing awareness of the problem and informed the Committee of ICC's intention to submit a paper to MSC 71 on this matter.

15.6 The Committee expressed appreciation to the Government of India for providing information (MSC 70/15/Add.1) on the action it had taken with regard to incidents reported to have occurred in its territorial waters and urged other Governments which receive similar reports to provide the Organization with the information requested.

Implementation of the anti-piracy project

15.7 The Committee recalled that, at its sixty-ninth session (MSC 69/22, paragraphs 16.4 and 16.5), it received a report on the arrangements made by the Secretariat, in consultation with the Embassies and High Commissions in London of countries in whose waters acts of piracy and armed robbery had most frequently been reported, for the sending of missions of experts to such countries in an effort to increase awareness of the problem, establish the necessary political will for action and discuss the implementation of the IMO guidelines for preventing and suppressing these unlawful acts (MSC/Circs.622 and 623). The missions were to be followed by regional seminars and workshops intended to assist Government officials in the countries concerned to enhance their capability for preventing and suppressing piracy and armed robbery against ships in their waters.

15.8 The Committee noted (MSC 70/15/1 and Add.1) the successful outcome of the missions of experts to the Far East and to Brazil and the successful conclusion of the seminar and workshop in Brasilia. The Committee also noted that:

- a regional seminar and workshop for the South East Asia region had been scheduled to take place in Singapore from 3 to 5 February 1999;
- a third mission of experts, to be followed by a regional seminar and workshop, was being planned for the West African region for the second half of 1999; and
- subject to the availability of funds, a similar mission and a regional seminar and workshop for the Indian Ocean region was also envisaged to take place at an appropriate time in 1999.

15.9 The Committee, taking note of the preliminary report of the Brasilia seminar and workshop, which revealed a new, drug-related, dimension of the problem, expressed concern at that regional development and urged all Governments concerned to exert concerted efforts, including the use of their drug enforcement and anti-smuggling resources, to deal with the problem.

15.10 The Committee instructed the Secretariat to bring the outcome of the Brasilia seminar and workshop, particularly the drug-related aspect of piracy and armed robbery revealed to be happening in

the region, to the attention of the FAL Committee recommending inclusion of the matter in the programme of the FAL seminars being planned to take place in Latin America.

15.11 The Committee further instructed the Secretariat to submit the report and complete text of the resolutions of the Brasilia seminar and workshop and those of the Singapore seminar and workshop, if available, to MSC 71 and agreed to discuss those reports in detail at that session.

15.12 The Committee expressed appreciation to the Governments and international organizations, which had either financially supported or made experts and lecturers available to implement the missions and regional seminar requested above; and to the Secretary-General for his efforts and initiatives in this field.

15.13 The Committee also expressed appreciation to the Governments of Indonesia, Malaysia and the Philippines for receiving the mission of experts to their countries and to the Government of Brazil for receiving the mission and for hosting the Brasilia seminar and workshop.

15.14 The Committee noted the information provided by BIMCO in document MSC 70/INF.12 on the initiatives being taken by a number of ports and Governments aimed at improving port security.

15.15 The delegation of France informed the Committee that naval forces in French Guyana could be made available to combat piracy and armed robbery against ships.

15.16 The delegation of Indonesia expressed appreciation of the IMO mission of experts, which, during its meeting with all national entities involved, had been able to obtain first hand information on measures taken. A major problem was that not all ships immediately reported incidents to the coastal State and the Committee was requested to consider urging shipmasters to report promptly.

15.17 The delegation of Malaysia informed the Committee of its operational co-operation with Indonesia and Singapore in the Malacca Strait, which it believed had led to a decrease in incidents, and expressed appreciation of the planned regional seminar in Singapore. In relation to the annex of document MSC 70/15, it suggested that separate columns should be used for "Malacca Strait" and "South China Sea" in future documentation.

15.18 The delegation of Yemen informed the Committee of a changing pattern of piracy incidents in 1997 and 1998 in the Gulf of Aden, where a decrease in such acts was due to pirates turning to trafficking in illegal migrants. In the opinion of Yemen, the two activities were closely connected and carried out by the same persons. Yemen had extended all efforts to control these activities and called upon all Member Governments to do likewise.

Proposal to establish a permanent working group

15.19 The Committee, having considered a proposal by BIMCO (MSC 70/15/2) to establish a permanent working group to monitor security issues involving seaports, including armed robberies against ships, drug smuggling and stowaway activities and to identify and promote port security programmes aimed at preventing such activities, recalled that, at its sixty-ninth session, it had noted a recommendation made by the 4th International Conference on Safety in the Port Environment (Bremen, 14 to 16 April 1997), also calling for the establishment of a permanent IMO/BIMCO Working Group to constantly observe piracy and violent attack/incidents against ships and seafarers.

15.20 The Committee also recalled that, in considering the aforementioned recommendation at its sixty-ninth session, it had observed that IMO was already carrying out the recommended activities through the collection from, and dissemination to, its Member Governments and international organizations of

reports on piracy and armed robbery against ships and the planned missions of experts to selected countries to be followed by regional seminars and workshops on the implementation of MSC/Circs.622 and 623 and, therefore, had decided that no additional action was necessary to implement the Bremen Conference recommendation. This decision was reiterated.

15.21 The BIMCO observer informed the Committee that, following informal discussions with a number of delegations, the proposal for a permanent IMO working group was withdrawn. BIMCO would seek to form an informal industry group outside IMO and he invited interested parties to advise the contact point* accordingly.

16 IMPLEMENTATION OF INSTRUMENTS AND RELATED MATTERS

Deferral of consideration of documents

16.1 Owing to lack of time the Committee decided to defer to MSC 71 consideration of documents submitted under this agenda item, except the following.

EU Council Directive on Harmonized safety regime for fishing vessels

16.2 The Committee noted the information provided in document MSC 70/INF.24 by Austria on behalf of the European Union attaching the text of an EU Council Directive on Harmonized safety regime of fishing vessels of 24 metres in length and over, which is entirely based on the 1993 Torremolinos Protocol and will apply in the European Community as from 1 January 1999. The Committee agreed to refer document MSC 70/INF.24 to SLF 42 for consideration when revising the Fishing Vessel Safety Code and Voluntary Guidelines.

16.3 In the context of the aforementioned information, it was observed that, in view of the fact that, following implementation of the EU Council Directive as from 1 January 1999, fishing vessels flying the flag of States Members of the European Union will be requested to comply with the provisions of the 1993 Torremolinos Protocol, it would be expected that appropriate action would be taken by these States to deposit with the Secretary-General of IMO the requisite instruments of ratification of, or accession to, the Protocol, as appropriate, in accordance with article 9 thereof.

17 UNSAFE PRACTICES ASSOCIATED WITH THE TRAFFICKING OR TRANSPORT OF ILLEGAL MIGRANTS BY SEA

17.1 The Committee recalled that, at its sixty-ninth session (MSC 69/22, paragraphs 21.8 to 21.15), subsequent to the adoption by the twentieth Assembly of resolution A.867(20) on Combating unsafe practices associated with the trafficking or transport of migrants by sea, it considered and, in

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principle, agreed to the development of relevant guidelines, based on a proposal by Italy, to enable it to fulfill the task given to it by the Assembly and, at the same time, respond to a relevant proposal made by FAL 25.

17.2 MSC 69 instructed an informal group to initially consider the way forward on the basis of a revised text of the Italian proposal (MSC 69/WP.1), aiming at developing relevant guidelines and, having considered the report of the informal group (MSC 69/WP.13 and Add.1) and noting the urgency and importance of the matter, *inter alia*, agreed to:

- .1 establish an *ad hoc* correspondence group to work intersessionally under the co-ordination of the United States to further develop the provisional elements on combatting unsafe practices associated with the trafficking or transport of illegal migrants by sea, initiated at that session, and to report to MSC 70;
- .2 invite Member Governments to submit any comments on the provisional elements (MSC 69/WP.13/Add.1) to the correspondence group;
- .3 instruct the Secretariat to attend the August/September 1998 UN Working Group meeting in Buenos Aires and to report the outcome of that session to MSC 70;
- .4 continue the work of the correspondence group at MSC 70; and
- .5 invite Member Governments to make experts available to discuss the matter at MSC 70.

17.3 The Committee noted that FAL 26 (MSC 70/2/2, paragraph 6) declared its support of the action taken by the Committee and its preparedness to co-operate in the development of a comprehensive convention against transnational organized crime, which should also contain provisions against illegal trafficking of migrants by sea.

17.4 Noting further (MSC 70/17/1) that the Informal Preparatory Meeting of the Open-ended Intergovernmental Ad Hoc Committee on the Elaboration of a Comprehensive International Convention against Transnational Organized Crime, which took place in Buenos Aires from 31 August to 4 September 1998, agreed to take IMO's ongoing work into account when developing an international legal instrument against illegal trafficking and transport of migrants and that the respective Secretariats should co-operate closely on this matter, the Committee considered the report of the correspondence group as set out in document MSC 70/17/Rev.1.

17.5 The Committee having considered several interventions suggesting:

- .1 that whatever action IMO takes in this respect should comply with the provisions of the UN Convention on the Law of the Sea (e.g. freedom of navigation) and other international instruments;
- .2 that duplication of work should be avoided and account of the work of the relevant UN Working Group should be taken;
- .3 for the time being, only non-binding provisions should be developed, for constitutional reasons, until the relevant convention, currently under development by the UN Commission on Crime Prevention and Criminal Justice, enters into force; and

- .4 that the seriousness and urgency of the matter necessitated careful consideration,

agreed, in principle, to the proposed two-track approach (paragraph 4 of document MSC 70/17/Rev.1) to:

- .1 provide appropriate elements to the UN Working Group tasked with developing an international instrument regarding trafficking of migrants (including by sea), on which substantive work would begin in Vienna in January 1999, under the auspices of the UN Commission on Crime Prevention and Criminal Justice; and
- .2 issue a circular advising Member Governments what interim measures could be taken, before the UN Working Group completes its work on a new instrument, to combat unsafe practices associated with the trafficking or transport of illegal migrants by sea.

17.6 As decided at MSC 69, the Committee established a drafting group to:

- .1 finalize the aforementioned draft MSC circular in full compliance with international law, as a recommendatory instrument, for approval at this session; and
- .2 develop appropriate elements as the IMO contribution to the UN Working Group, taking into account the seriousness and urgency of the matter.

17.7 Having received the report of the drafting group (MSC 70/WP.13 and Add.1), the Committee approved MSC/Circ.896 on Interim Measures for combating unsafe practices associated with the trafficking or transport of migrants by sea, as amended, and agreed to instruct the Secretariat to bring it to the UN Working Group's attention as IMO's contribution to its work.

17.8 The delegation of Mexico did not participate in the adoption of the circular on provisional measures contained in document MSC 70/WP.13/Add.1 because it considered that, given the importance and significance of the issue, such action should have been left to MSC 71 in May 1999. It would have been useful for governments to have had more time to conduct internal consultations with their national authorities, with a view to devising an effective way of using IMO measures in accordance with international law. The delegation of Mexico reserved its Government's position on the matter and stated that, as far as Mexico was concerned, the circular contained in document MSC 70/WP.13/Add.1 would not pre-empt the discussions of the United Nations working group which was due to initiate consideration of the subject in Vienna, Austria in January 1999.

17.9 The delegation of the Russian Federation, whilst not objecting to the approval of MSC/Circ.896, stressed that they could not share the Committee's view on the urgency of the matter, but were prepared to follow the majority.

17.10 The Committee further instructed the Secretariat to inform the FAL Committee accordingly and to keep both Committees informed of any developments in the UN Working Group.

18 RELATIONS WITH OTHER ORGANIZATIONS

18.1 The Committee, recalling that MSC 69 recommended to Council to grant consultative status to the International Sailing Federation (ISAF) but not to the European Portable Tank Association (EPTA), noted the concurrent decisions of C 80.

18.2 In considering new applications for consultative status referred to it by the Council (MSC 70/18) in respect of the:

- .1 International Marine Contractors' Association (IMCA);
- .2 Federation of European Tank Storage Associations (FETSA);
- .3 International Ocean Institute (IOI); and
- .4 World Nuclear Transport Institute (WNTI),

the Committee noted relevant decisions taken by LEG 78 and MEPC 42, as set out in documents MSC 70/18/1 and MSC 70/18/2 respectively.

18.3 The Committee established a group to consider the applications referred to in paragraph 18.2 above and advise the Committee as appropriate. Having received the group's report (MSC 70/WP.10), the Committee, concurring with the relevant decisions of LEG 78 and MEPC 42, recommended to the Council that consultative status should:

- .1 not be granted to FETSA, since it was viewed as not being truly international and could have access to IMO through other organizations; and
- .2 be granted to IMCA and, provisionally, to WNTI and be restored with IOI, since these organizations were found to meet the requisite criteria and, in particular, because they were assessed to be able to contribute directly to IMO's work and did not seem to have access to IMO through other organizations.

19 APPLICATION OF THE COMMITTEE'S GUIDELINES

Owing to lack of time, the Committee deferred to MSC 71 consideration of this item.

20 WORK PROGRAMME

WORK PROGRAMMES OF THE SUB-COMMITTEES AND PROVISIONAL AGENDAS FOR THEIR FORTHCOMING SESSIONS

Deferral of consideration of documents

20.1 Owing to lack of time, the Committee decided to defer to MSC 71 consideration of documents MSC 70/20/2 (Germany), MSC 70/20/3 (Ireland), MSC 70/20/4 (Finland, Denmark, Norway and Sweden), MSC 70/20/5 and MSC 70/20/6 (Japan), MSC 70/20/7 and MSC 70/20/9 (United Kingdom), MSC 70/20/8 (India), MSC 70/20/10 (United Kingdom and IACS), MSC 70/20/11 (IALA), MSC 70/20/12 (Spain), MSC 70/20/13 (ICFTU), MSC 70/INF.26 (Netherlands) and MSC 70/WP.4 (Chairman)

20.2 The delegation of Japan stressed the importance of the issue, especially referring to its proposal regarding desalinators. It also requested the Committee that, when discussing the issue at its next session, the preliminary assessment of new work programme items, as contained in the Note by the Chairman (MSC 70/WP.4), should be considered.

General

20.3 Taking into account the recommendations made by the Sub-Committees, as reflected in their reports (MSC 70/20) and decisions taken during the session, the Committee reviewed the work programmes of the Sub-Committees and the provisional agendas for their forthcoming sessions and took action as indicated hereunder.

Casualty analysis

20.4 As decided under section 9, the Committee included in the work programmes of the BLG, DSC, COMSAR, NAV, DE and STW Sub-Committees (in addition to having previously included the same item in the work programmes of the FP and SLF Sub-Committees) a continuous item on "Casualty analysis", co-ordinated by the FSI Sub-Committee.

SUB-COMMITTEE ON BULK LIQUIDS AND GASES (BLG)

Work programme of the Sub-Committee and provisional agenda for BLG 4

20.5 The Sub-Committee's work programme, as approved by the Committee, is set out in annex 20. The Secretariat was instructed to inform the MEPC accordingly.

20.6 The Committee approved the provisional agenda for BLG 4, as set out in annex 21 and instructed the Secretariat to inform the MEPC accordingly.

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

Outcome of MEPC 42

20.7 The Committee noted that MEPC 42 instructed the DSC Sub-Committee to consider and prepare appropriate amendments to MARPOL Annex III with a view to making the IMDG Code or parts thereof mandatory under the MARPOL Convention and agreed to amend the Sub-Committee's work programme item to read "Amendments to SOLAS chapters VI and VII and MARPOL Annex III to make the IMDG Code mandatory".

Work programme of the Sub-Committee and provisional agenda for DSC 4

20.8 The Sub-Committee's work programme, as approved by the Committee, is set out in annex 20.

20.9 The Committee approved the provisional agenda for DSC 4, as set out in annex 21.

SUB-COMMITTEE ON FIRE PROTECTION (FP)

Work programme of the Sub-Committee and provisional agenda for FP 43

20.10 The Sub-Committee's work programme, as approved by the Committee, is set out in annex 20.

20.11 The Sub-Committee approved the provisional agenda for FP 43, as set out in annex 21.

SUB-COMMITTEE ON FLAG STATE IMPLEMENTATION (FSI)

Work programme items proposed by FSI 6

20.12 In response to proposals by FSI 6, the Committee decided to include the following new items in the Sub-Committee's work programme:

- .1 analysis and evaluation of reports, as a continuous item;
- .2 review of Guidelines on investigation of human factors in marine casualties and incidents, with a target completion date of 1999;
- .3 PSC on seafarers' working hours, with a target completion date of 1999; and
- .4 implications arising when a vessel loses the right to fly the flag of a State, with a target completion date of 1999.

With regard to the Sub-Committee's proposal to include a new item on "Fatigue factor in manning and safety", the Committee, having recalled its decision under section 13 (paragraph 13.4), to establish a Correspondence Group on Fatigue" to deal with relevant issues, decided not to include the item in the Sub-Committee's work programme.

Work programme of the Sub-Committee and provisional agenda for FSI 7

20.13 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 20. The Secretariat was instructed to inform the MEPC accordingly.

20.14 The Committee approved the provisional agenda for FSI 7, as set out in annex 21 and instructed the Secretariat to inform the MEPC accordingly.

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

Work programme of the Sub-Committee and provisional agenda for COMSAR 4

20.15 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 20.

20.16 The Committee approved the provisional agenda for COMSAR 4, as set out in annex 21.

SUB-COMMITTEE ON SAFETY OF NAVIGATION (NAV)

Work programme items proposed by NAV 44

20.17 In response to proposals by NAV 44, the Committee decided to include the following new items in the Sub-Committee's work programme:

- .1 review of performance standards for shipborne satellite radionavigational receivers, with a target completion date of 2000;
- .2 integrated bridge system (IBS) operational aspects, with 2 sessions needed to complete the item;

- .3 user requirements for heading systems, with 1 session needed to complete the item; and
- .4 comprehensive review of chapter 13 of the HSC Code, with 2 sessions needed to complete the item.

20.18 The Committee further decided:

- .1 when deleting, from the Sub-Committee's work programme, the item on "Development of measures complementary to the INF Code", that the issue of voyage planning should be considered by NAV 45 under its agenda item on "Routeing of ships, ship reporting and related matters";
- .2 when deleting, from the Sub-Committee's work programme, the item on "Operational aspects of wing-in-ground (WIG) craft", that the issue should be considered under its agenda item on "Amendments to the COLREGs"; and
- .3 that consideration of item L.3 - Development of a Code on polar navigation, should start at NAV 46.

Work programme of the Sub-Committee and provisional agenda for NAV 45

20.19 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 20.

20.20 The Committee endorsed the Sub-Committee's proposal to include in the provisional agenda for NAV 45 an item on "Review of performance standards for shipborne satellite radionavigational receivers".

20.21 The Committee approved the provisional agenda for NAV 45, as set out in annex 21.

SUB-COMMITTEE ON SHIP DESIGN AND EQUIPMENT (DE)

Outcome of MEPC 42

20.22 The Committee concurred with the decision of MEPC 42 (MSC 70/2/4), when considering the issue of pollution prevention equipment under MARPOL, to include, in the Sub-Committee's work programme, a high priority item on "Revision of resolutions MEPC.60(33) and A.586(14)", with a target completion date of 2002 and to also instruct the Sub-Committee to commence work at DE 42 under its agenda item on "Any other business".

Other issues

20.23 As decided under section 9, the Committee included, in the Sub-Committee's work programme, a high priority item on "Amendments to resolution A.744(18)", with 2 sessions needed to complete it.

Work programme of the Sub-Committee and provisional agenda for DE 42

20.24 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 20.

20.25 The Committee recalled that it had concurred with the decision of MEPC 42 to include in the provisional agenda for DE 42 an item on "Revision of resolutions MEPC.60(33) and A.586(14)".

20.26 The Committee approved the provisional agenda for DE 42, as set out in annex 21.

SUB-COMMITTEE ON STABILITY AND LOAD LINES AND ON FISHING VESSELS SAFETY (SLF)

Work programme of the Sub-Committee and provisional agenda for SLF 42

20.27 The Sub-Committee's work programme, as approved by the Committee, is set out in annex 20.

20.28 The Committee approved the provisional agenda for SLF 42, as set out in annex 21.

SUB-COMMITTEE ON STANDARDS OF TRAINING AND WATCHKEEPING (STW)

Outcome of MEPC 42

20.29 The Committee, noting that MEPC 42 instructed the STW Sub-Committee to consider training aspects relating to ballast water management, agreed to include in the Sub-Committee's work programme a new item on "Training aspects involved in ballast water management", with a target completion date of 1999.

Work programme of the Sub-Committee and provisional agenda for STW 30

20.30 The Sub-Committee's work programme, as approved by the Committee, is set out in annex 20.

20.31 The Committee approved the provisional agenda for STW 30, as set out in annex 21.

INTERSESSIONAL MEETINGS AND ARRANGEMENTS FOR THE NEXT TWO SESSIONS

Intersessional meetings

20.32 Bearing in mind the view of the Council that the number of intersessional working groups should be restricted to the minimum necessary; paragraph 36 of the Guidelines on the organization and method of work; and its decision at MSC 66 that all sub-committees should scrutinize the need for intersessional meetings and, only when they consider it essential that such meetings should be held, to submit to the Committee, in good time, a fully justified request for consideration, the Committee approved an intersessional meeting of the Working Group on Evaluation of Safety and Pollution Hazards of Chemicals (ESPH), to meet in the last quarter of 1999.

Substantive items for inclusion in the agendas for MSC 71 and MSC 72

20.33 The Committee agreed on the substantive items to be included in the agendas for its seventy-first and seventy-second sessions (MSC 70/WP.8, as modified to delete an item on "Matters related to the INF Code").

Establishment of working groups during MSC 71

20.34 Recalling the provisions of the Guidelines on the organization and method of work, concerning the number of groups which may be established at a session, the Committee, taking into account decisions made under various agenda items, agreed, in principle, that working groups on the following topics should be established at the Committee's seventy-first session:

- .1 human element/FSA;

- .2 bulk carrier safety; and
- .3 ships' routing.

Dates of the next sessions

20.35 The Committee noted that its seventy-first session would be held, as originally scheduled, from 19 to 28 May 1999; and further noted that its seventy-second session would be held at an appropriate time in May-June 2000.

ACTIVITIES, PRIORITIES AND PLAN OF MEETING WEEKS NEEDED IN THE 2000-2001 BIENNIUM

20.36 The Committee recalled that the Guidelines on the organization and method of work require that, at the end of every second year, the Committee Chairmen should submit to their respective Committees a joint plan covering their activities, priorities and meeting requirements of their subsidiary bodies for the subsequent two years.

20.37 In this context, the Committee considered a joint Note by its Chairman and the Chairman of the MEPC (MSC 70/20/1), submitted in pursuance of the above requirement and after the two Chairmen had consulted the Chairmen of the sub-committees.

20.38 When considering the plan of meeting weeks proposed by the two Chairmen, the delegation of Finland drew the Committee's attention to the current policy of the Organization of shifting emphasis from the regulatory to the implementation process and proposed that consequently when the Committee allocates meeting weeks to the various sub-committees this new policy should be taken into account as appropriate. These views were shared by other delegations.

20.39 The Chairman, recognizing that, while all sub-committees deal, at various degrees, with implementation matters, added that the tasks entrusted to the sub-committees also required their involvement in the regulatory process, and that their factual workload could not be ignored. The proposed plan of meeting weeks had taken these facts into account. To conform with the new policy, he invited the delegations to focus on implementation aspects when submitting proposals. The views of various delegations on the need to prioritize the overall work programme of the Organization in a balanced way was recognised and, in order that they assist the Committee, he asked the co-operation of Members when considering the work programmes of the Committee's subsidiary bodies.

20.40 Having noted that the plan for meeting weeks for the two Committees and the sub-committees, including those of any Conference scheduled to be convened in the biennium 2000-2001, would have to be approved by the Council based on the Secretary-General's relevant proposal, the Committee took the following action:

- .1 noted the information regarding the Committees' and sub-committees' activities and priorities;
- .2 approved the proposed plan of meeting weeks of the MSC and the MEPC and their subsidiary bodies for the biennium 2000-2001, having noted that MEPC 42 had approved the proposed plan of meeting weeks, for inclusion in the Secretary-General's relevant budget proposals.

In this context, the Committee, noting that the FAL Committee had requested one meeting week during the biennium 2000-2001 for incorporation in the Secretary-General's budget proposals, on the understanding that its future meetings would be scheduled in a manner which would not adversely affect the efficiency and continuity of its work; and, considering that, for budgetary purposes, there was a need to make economies, agreed that the total of the 25.5 meeting weeks proposed by the two Chairmen might be reduced by one on an understanding similar to that on which the FAL Committee had based its own decision and in line with the Committee's past practice, i.e. that one sub-committee would meet once during the next biennium and thereafter as early as possible during the biennium after the next, and authorized the Secretary-General to take this into account in his budget proposals for the biennium 2000-2001; and

- .3 noted the requests of MEPC 42 regarding meeting weeks it might need for the convening of Conferences on marine pollution matters.

20.41 In the context of document MSC 70/20/1, the Committee endorsed the Secretary-General's policy statement at C 80 (as amplified in the said document) that shifting emphasis onto people, ensuring the effective implementation of the STCW Convention and the ISM Code, enhancing the safety of bulk carriers, developing a safety culture and environmental conscience in all maritime activities, avoiding unnecessary over-regulation and, instead, strengthening the Organization's technical co-operation programmes and delivery should be areas where Governments and industry should focus their attention in the years to come.

21 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 1999

The Committee unanimously re-elected Dr. G. Pattofatto (Italy), as Chairman and Captain B. Watt (South Africa), as Vice-Chairman, for 1999.

22 ANY OTHER BUSINESS

Deferral of consideration of the documents

22.1 Owing to lack of time, the Committee decided to defer to MSC 71 the consideration of documents submitted under this agenda item.

Electronic transmission of IMO meeting documents

22.2 The Secretary-General informed the Committee of circular letter No.2088 of 29 October 1998 in which reference was made to the decision taken by the Council at its seventy-eighth session to upgrade the Bulletin Board System (BBS) for the electronic distribution of IMO documents with the financial support of Australia, Canada, Sweden, the United Kingdom and the United States, under the leadership of Mr. I. Williams of Australia. A new Internet-based BBS had been developed and was fully operational from 9 November 1998. It contains all documents for meetings to be held in 1999 as well as all other documents issued after 2 November 1998.

Expressions of appreciation

22.3 The Committee expressed appreciation to the following Committee and Sub-Committee Vice-Chairmen and delegates who had recently relinquished their duties, retired or were transferred to other duties, for their invaluable contribution to its work and wished them a long and happy retirement or, as the case may be, every success in their new duties:

- Captain S. Wall (Chile), Vice-Chairman of the MEPC and ex-Vice-Chairman of the FP Sub-Committee, on returning to Chile to the Chilean Maritime Administration;
- Mr. Chris Hinz, Director General, Shipping (Germany), on retirement;
- Captain G. Papachristodoulou (Greece), on returning to Greece;
- Commander C. Vlachos (Greece), ex-Vice-Chairman of the BLG Sub-Committee, on changing jobs;
- Vice-Admiral F.A- D'Alessio (Peru), on returning to Peru;
- Mr. V.S. Kotliar (Russian Federation), on retirement;
- Commander C. Roach (Trinidad and Tobago), ex-Vice-Chairman of the FSI Sub-Committee, on taking on the position of Caribbean Maritime Adviser for CARICOM;
- Commander A. Fuller (Inmarsat), after many years of association with IMO during which he served as Chairman of the COMSAR Working Group on MSI Promulgation, on changing jobs; and
- Mr. J. Bell (Permanent Secretary of IACS), on retirement.

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