



MARITIME SAFETY COMMITTEE  
85th session  
Agenda item 26

MSC 85/26  
19 December 2008  
Original: ENGLISH

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

<b>Section</b>	<b>Page</b>
1 INTRODUCTION	5
2 DECISIONS OF OTHER IMO BODIES	10
3 CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS	16
4 MEASURES TO ENHANCE MARITIME SECURITY	26
5 GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS	33
6 LRIT-RELATED MATTERS	45
7 SHIP DESIGN AND EQUIPMENT (report of the fifty-first session of the Sub-Committee)	63
8 TRAINING AND WATCHKEEPING (report of the thirty-ninth session of the Sub-Committee)	66
9 RADIOCOMMUNICATIONS AND SEARCH AND RESCUE (report of the twelfth session of the Sub-Committee)	68
10 FLAG STATE IMPLEMENTATION (report of the sixteenth session of the Sub-Committee)	71
11 SAFETY OF NAVIGATION (report of the fifty-fourth session of the Sub-Committee)	76
12 STABILITY, LOAD LINES AND FISHING VESSEL SAFETY (report of the fifty-first session of the Sub-Committee)	82
13 DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS (urgent matters emanating from the thirteenth session of the Sub-Committee)	85

For reasons of economy, this document is printed in a limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

14	TECHNICAL ASSISTANCE SUB-PROGRAMME IN MARITIME SAFETY AND SECURITY	87
15	CAPACITY-BUILDING FOR THE IMPLEMENTATION OF NEW MEASURES	90
16	ROLE OF THE HUMAN ELEMENT	91
17	FORMAL SAFETY ASSESSMENT	92
18	PIRACY AND ARMED ROBBERY AGAINST SHIPS	94
19	GENERAL CARGO SHIP SAFETY	102
20	IMPLEMENTATION OF INSTRUMENTS AND RELATED MATTERS	103
21	RELATIONS WITH OTHER ORGANIZATIONS	104
22	APPLICATION OF THE COMMITTEE'S GUIDELINES	105
23	WORK PROGRAMME	106
24	ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2009	115
25	ANY OTHER BUSINESS	116

#### **LIST OF ANNEXES**

ANNEX 1	DRAFT AMENDMENTS TO SOLAS REGULATIONS VI/1 AND VI/5-1
ANNEX 2	RESOLUTION MSC.267(85) – ADOPTION OF THE INTERNATIONAL CODE ON INTACT STABILITY, 2008 (2008 IS CODE)
ANNEX 3	RESOLUTION MSC.268(85) – ADOPTION OF THE INTERNATIONAL MARITIME SOLID BULK CARGOES (IMSBC) CODE
ANNEX 4	RESOLUTION MSC.269(85) – ADOPTION OF AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED
ANNEX 5	RESOLUTION MSC.270(85) – ADOPTION OF AMENDMENTS TO THE PROTOCOL OF 1988 RELATING TO THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966, AS AMENDED

- ANNEX 6 RESOLUTION MSC.271(85) – ADOPTION OF AMENDMENTS TO THE INTERNATIONAL CODE OF SAFETY FOR HIGH-SPEED CRAFT, 2000 (2000 HSC CODE)
- ANNEX 7 RESOLUTION MSC.272(85) – ADOPTION OF AMENDMENTS TO THE INTERNATIONAL LIFE-SAVING APPLIANCE (LSA) CODE
- ANNEX 8 RESOLUTION MSC.273(85) – ADOPTION OF AMENDMENTS TO THE INTERNATIONAL MANAGEMENT CODE FOR THE SAFE OPERATION OF SHIPS AND FOR POLLUTION PREVENTION (INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE)
- ANNEX 9 RESOLUTION MSC.274(85) – ADOPTION OF AMENDMENTS TO THE REVISED RECOMMENDATION ON TESTING OF LIFE-SAVING APPLIANCES (RESOLUTION MSC.81(70))
- ANNEX 10 RESOLUTION MSC.275(85) – APPOINTMENT OF THE LRIT COORDINATOR
- ANNEX 11 RESOLUTION MSC.276(85) – OPERATION OF THE INTERNATIONAL LRIT DATA EXCHANGE ON AN INTERIM BASIS
- ANNEX 12 DRAFT AMENDMENTS TO SOLAS REGULATION II-1/3-5.2
- ANNEX 13 RESOLUTION MSC.277(85) – CLARIFICATION OF THE TERM “BULK CARRIER” AND GUIDANCE FOR APPLICATION OF REGULATIONS IN SOLAS TO SHIPS WHICH OCCASIONALLY CARRY DRY CARGOES IN BULK AND ARE NOT DETERMINED AS BULK CARRIERS IN ACCORDANCE WITH REGULATION XII/1.1 AND CHAPTER II-1
- ANNEX 14 NEW AND AMENDED TRAFFIC SEPARATION SCHEMES AND ASSOCIATED ROUTEING MEASURES
- ANNEX 15 ROUTEING MEASURES OTHER THAN TRAFFIC SEPARATION SCHEMES
- ANNEX 16 RESOLUTION MSC.278(85) – ADOPTION OF THE NEW MANDATORY SHIP REPORTING SYSTEM “OFF THE COAST OF PORTUGAL – COPREP”
- ANNEX 17 RESOLUTION MSC.279(85) – ADOPTION OF AMENDMENTS TO THE EXISTING SHIP REPORTING SYSTEM FOR THE “PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT”, PARTICULARLY SENSITIVE SEA AREA, “CORAL SHIPREP”
- ANNEX 18 RESOLUTION MSC.280(85) – ADOPTION OF AMENDMENTS TO THE GENERAL PROVISIONS ON SHIPS’ ROUTEING (RESOLUTION A.572(14), AS AMENDED)

ANNEX 19	DRAFT AMENDMENTS TO SOLAS REGULATION V/19
ANNEX 20	STRATEGY FOR THE DEVELOPMENT AND IMPLEMENTATION OF E-NAVIGATION
ANNEX 21	FRAMEWORK FOR THE IMPLEMENTATION PROCESS FOR THE E-NAVIGATION STRATEGY
ANNEX 22	RESOLUTION MSC.281(85) – EXPLANATORY NOTES TO THE SOLAS CHAPTER II-1 SUBDIVISION AND DAMAGE STABILITY REGULATIONS
ANNEX 23	THEMATIC PRIORITIES FOR THE ITCP COVERING THE 2010-2011 BIENNIUM
ANNEX 24	WORK PROGRAMMES OF THE SUB-COMMITTEES
ANNEX 25	PROVISIONAL AGENDAS FOR THE SUB-COMMITTEES
ANNEX 26	STATEMENT BY THE DELEGATION OF HONG KONG, CHINA
ANNEX 27	STATEMENTS BY THE DELEGATION OF TURKEY
ANNEX 28	STATEMENT BY THE DELEGATION OF GREECE

## 1 INTRODUCTION – ADOPTION OF THE AGENDA

1.1 The eighty-fifth session of the Maritime Safety Committee was held from 26 November to 5 December 2008 under the chairmanship of Mr. Neil Ferrer (Philippines). The Committee Vice-Chairman, Mr. Christian Breinholt (Denmark), was also present.

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

ALGERIA	INDIA
ANGOLA	INDONESIA
ANTIGUA AND BARBUDA	IRAN (ISLAMIC REPUBLIC OF)
ARGENTINA	IRELAND
AUSTRALIA	ISRAEL
AZERBAIJAN	ITALY
BAHAMAS	JAMAICA
BAHRAIN	JAPAN
BARBADOS	JORDAN
BELGIUM	KENYA
BELIZE	KUWAIT
BOLIVIA	LATVIA
BRAZIL	LIBERIA
BULGARIA	LITHUANIA
CANADA	LUXEMBOURG
CHILE	MALAYSIA
CHINA	MALTA
COLOMBIA	MARSHALL ISLANDS
CONGO	MAURITANIA
COOK ISLANDS	MEXICO
COSTA RICA	MONACO
CÔTE D'IVOIRE	MOROCCO
CROATIA	MYANMAR
CUBA	NETHERLANDS
CYPRUS	NEW ZEALAND
CZECH REPUBLIC	NIGERIA
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	NORWAY
DENMARK	PAKISTAN
DOMINICA	PANAMA
DOMINICAN REPUBLIC	PAPUA NEW GUINEA
ECUADOR	PERU
EGYPT	PHILIPPINES
ESTONIA	POLAND
ETHIOPIA	PORTUGAL
FINLAND	QATAR
FRANCE	REPUBLIC OF KOREA
GAMBIA	ROMANIA
GERMANY	RUSSIAN FEDERATION
GHANA	SAINT KITTS AND NEVIS
GREECE	SAINT VINCENT AND THE GRENADINES
HONDURAS	SAN MARINO
HUNGARY	SAUDI ARABIA
ICELAND	SINGAPORE

SOUTH AFRICA  
 SPAIN  
 SWEDEN  
 SWITZERLAND  
 SYRIAN ARAB REPUBLIC  
 THAILAND  
 TONGA  
 TRINIDAD AND TOBAGO  
 TUNISIA  
 TURKEY  
 TUVALU

UKRAINE  
 UNITED KINGDOM  
 UNITED REPUBLIC OF  
 TANZANIA  
 UNITED STATES  
 URUGUAY  
 VANUATU  
 VENEZUELA (BOLIVARIAN  
 REPUBLIC OF)  
 YEMEN

the following Associate Members of IMO:

HONG KONG, CHINA  
 MACAO, CHINA

FAROE ISLANDS

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

WORLD METEOROLOGICAL ORGANIZATION (WMO)

1.4 The session was also attended by observers from the following intergovernmental organizations:

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)  
 EUROPEAN COMMISSION (EC)  
 MARITIME ORGANIZATION FOR WEST AND CENTRAL AFRICA (MOWCA)  
 LEAGUE OF ARAB STATES  
 INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)  
 AFRICAN UNION (AU)  
 MEDITERRANEAN MEMORANDUM OF UNDERSTANDING ON  
 PORT STATE CONTROL (MED MoU)  
 WEST AND CENTRAL AFRICA MEMORANDUM OF UNDERSTANDING  
 ON PORT STATE CONTROL (ABUJA MoU)  
 REGIONAL CO-OPERATION AGREEMENT ON COMBATING PIRACY AND  
 ARMED ROBBERY AGAINST SHIPS IN ASIA (ReCAAP – ISC)

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
 INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)  
 INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)  
 INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)  
 INTERNATIONAL CHAMBER OF COMMERCE (ICC)  
 INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)  
 INTERNATIONAL ASSOCIATION OF MARINE AIDS TO NAVIGATION AND  
 LIGHTHOUSE AUTHORITIES (IALA)  
 INTERNATIONAL RADIO-MARITIME COMMITTEE (CIRM)  
 INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)  
 BIMCO  
 INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
 ICHCA INTERNATIONAL (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)  
COMMUNITY OF EUROPEAN SHIPYARDS' ASSOCIATIONS (CESA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)  
INTERNATIONNAL GROUP OF P&I ASSOCIATIONS (P&I CLUBS)  
CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA)  
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS  
(INTERCARGO)  
THE INSTITUTE OF MARINE ENGINEERING, SCIENCE AND TECHNOLOGY  
(IMarEST)  
INTERNATIONAL SHIP MANAGERS' ASSOCIATION (INTERMANAGER)  
INTERNATIONAL PARCEL TANKERS ASSOCIATION (IPTA)  
INTERNATIONAL SAILING FEDERATION (ISAF)  
THE INTERNATIONAL MARINE CONTRACTORS ASSOCIATION (IMCA)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL BULK TERMINALS ASSOCIATION (IBTA)  
THE ROYAL INSTITUTION OF NAVAL ARCHITECTS (RINA)  
INTERFERRY  
INTERNATIONAL BUNKER INDUSTRY ASSOCIATION (IBIA)  
INTERNATIONAL ASSOCIATION OF MARITIME UNIVERSITIES (IAMU)

1.5 The session was also attended by the Chairmen of all sub-committees.

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

1.6 The Secretary-General welcomed participants and delivered his opening address. In his statement, he provided an outline of his briefing at the 6020th session of the UN Security Council on 20 September 2008 on the issue of piracy and armed robbery against ships off Somalia and in the Gulf of Aden, in accordance with the mandate of the IMO Council at its 101st session; and addressed several of the major issues on the agenda of the Committee, including issues on piracy and armed robbery against ships, LRIT and GBS. He also referred to the recently launched "Go to Sea!" campaign to attract new entrants to the shipping industry with the specific aim of promoting seafaring as an attractive career option for the young, providing them with rewarding, stimulating and long-term prospects, not only at sea but also in the broader maritime industry. The full text of the Secretary-General's opening address is reproduced in document MSC 85/INF.8.

### **Chairman's remark**

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

### **Statements by delegations and observers**

1.8 In response to the opening remarks of the Secretary-General, several delegations made interventions in relation to piracy and armed robbery against ships in the waters off the coast of Somalia expressing appreciation to the Secretary-General for his tireless efforts and leadership and, in particular, his briefing on his participation in the 6020th meeting of the United Nations Security Council.

1.9 The delegation of the Philippines, represented by the Secretary of the Department of Labour and Employment, stated that the unprecedented increase of acts of armed piracy and robbery against ships perpetuated by lawless elements off the coast of Somalia and along the Gulf of Aden deserved the most urgent and immediate attention and joined other concerned countries and IMO to put an end to these barbaric acts. The delegation also requested that the Secretary-General's statement at the United Nations Security Council should be shared by the delegations attending this session and suggested to release it as an information paper.

1.10 The delegations of Liberia and Panama having supported the suggestion of the delegation of the Philippines, the Secretary-General's statement at the Security Council was released as document MSC 85/INF.9.

1.11 During these interventions, the Committee noted that the Council of the European Union had, on 15 September 2008, established an EU naval coordination cell and, on 10 November 2008 established a European Naval Force (EUNAVFOR) to help deter, prevent and interdict acts of piracy and armed robbery against ships off the Somali coast in support of United Nations Security Council resolutions 1814 (2008), 1816 (2008) and 1838 (2008). The EUNAVFOR mission "Operation Atalanta" will commence in December 2008 for a period of 12 months, and will operate in support of other naval assets in the area to provide, *inter alia*, protection to merchant ships including those chartered by the World Food Programme.

1.12 In addition, the ICS observer, speaking on behalf of a wide range of shipping industry organizations, suggested, *inter alia*, that the text of the much needed replacement for resolution 1816 (2008) should include:

- “1. a reaffirmation of the principles of UNCLOS part VII, which establishes the freedom of navigation on the high seas. It is this freedom that is threatened in an extraordinary way by the state of lawlessness in the Gulf of Aden and which threatens all innocent ships regardless of their flag;
2. the empowerment of military forces to use ‘all available means’ to repress piracy;
3. ensuring that warships are tasked with the freedom to board all shipping in order to verify engagement in acts of piracy and to seize and dispose of piracy equipment, weapons and any proceeds of piracy. Indeed governments are urged to order their warships to adopt this posture with immediate effect; and
4. urgently establishing a legal jurisdiction to prosecute those arrested on a charge of piracy.”

1.13 The delegations of Ethiopia, France, India, Iran, Pakistan, Saudi Arabia and Turkey and the IFSMA observer also expressed their deep concerns on the acts of piracy off the coast of Somalia and in the Gulf of Aden. The salient points of those interventions were reiterated during consideration of agenda item 18 (Piracy and armed robbery against ships) and are reported under that agenda item.

1.14 The delegation of India referred to the oil spill incident which occurred on 7 December 2007 off the coast of the Republic of Korea as a consequence of the collision between a crane barge under tow and the anchored m.v. **Hebei Spirit**, flying the flag of Hong Kong, China and carrying Indian seafarers. The delegation of India, referring to article 3 of the United Nations Universal Declaration of Human rights, 1948 on the right to life in liberty and security of person, expressed their great concern, which was echoed by the intervention of the delegation of Liberia and the



ITF observer, that the captain and chief officer of the **Hebei Spirit** continued to be held back in the Republic of Korea and not allowed to return back to their home country, India. The delegation stated that this situation remains the same, even after the decision by a Court of the Republic of Korea to acquit the Indian officers as being innocent of all charges violating the coastal State's Anti Pollution Laws, since an appeal, making use of the technical results of the investigation of the maritime accident as reviewed by the Korean Maritime Safety Tribunal (KMST) of the coastal State, had been lodged.

The delegation of India, then, addressed the issue of the conduct of the investigation into the casualty by the coastal State and reporting thereon. In this context, the delegation of India referred to MSC/Circ.1058-MEPC/Circ.400 on Interim Guidelines to assist flag States and other substantially interested States to establish and maintain an effective framework for consultation and co-operation in marine casualty investigations and the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) adopted by resolution MSC.255(84) in order to emphasize that the coastal State would not have co-operated with other substantially interested States, in particular, regarding the opportunity to make comment on the technical results of the investigation of the maritime accident to be reviewed by KMST.

1.15 In response to the intervention made by the delegation of India, the delegation of the Republic of Korea, stressing their Government's firm commitment to fair treatment of seafarers after the incident and the enhancement of their welfare as a whole, stated that the Government of the Republic of Korea had taken a careful look at this issue from the beginning with solemn responsibility that it has always held to that end. This is, especially, because the Republic of Korea is one of those countries which send many seafarers abroad to work on board ship. The delegation of the Republic of Korea was of the view that this is basically a legal matter which should be dealt with by the judicial body in the Republic of Korea with its independent authority according to the scheme of checks and balances and pursuant to relevant domestic laws and regulations. In this context, the delegation of the Republic of Korea, just for the purpose of reference, pointed out that respect for domestic judicial process is well articulated as one of the basic principles in the relevant IMO instruments. The delegation of the Republic of Korea understand that the decision of the Korean Maritime Safety Tribunal (KMST) is one thing and the verdict of court is another because the decision of the KMST is based on the results of investigation into maritime accident carried out purely with the technical point of view and that there is no link between KMST and judicial body at all in their proceedings and decisions. The delegation of the Republic of Korea informed the Committee that, according to recent information, the judicial process by the appellate court is expected to be held on 10 December 2008. Reiterating their Government's firm belief in and commitment to the spirit of fair treatment of seafarers especially in the event of a maritime accident, the delegation of the Republic of Korea earnestly hoped the two Indian seafarers return to their home country soon.

1.16 Having supported the intervention by the delegation of India, the delegation of Hong Kong, China, appealed to the Authorities of the Republic of Korea to adhere to the provisions contained in article 203(2) of the United Nations Convention on the Law of the Sea, (UNCLOS), 1982. Full text of the statement by the delegation of Hong Kong, China, is set out in annex 26.

1.17 Having supported the intervention by the delegation of India, as well as the intervention by the delegation of Hong Kong, China, the delegation of China stated that the latest developments of the **Hebei Spirit** case, regarding the unjustified long detention of the master and chief officer, were contravening to international law, in particular, UNCLOS and the above-mentioned IMO/ILO Guidelines. The delegation also stated that such attempts to

criminalize seafarers are thought to have magnifying negative impacts on the sustainable and sound development of international shipping given the worldwide shortage of seafarers and the challenge of attracting young people to the career of seafaring.

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

1.18 The Committee adopted the agenda (MSC 85/1) and a provisional timetable for guidance during the session (MSC 85/1/1, annex). The agenda, as adopted, with a list of documents considered under each agenda item, is set out in document MSC 85/INF.12.

1.19 The Committee's decisions on the establishment of the working and drafting groups are reflected under sections of this report covering corresponding agenda items.

### **Credentials**

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

## **2 DECISIONS OF OTHER IMO BODIES**

### **Outcome of the fifty-eighth session of the Technical Co-operation Committee**

2.1 The Committee noted (MSC 85/2) the outcome of the fifty-eighth session of the Technical Co-operation Committee. The actions taken by the Committee, with respect to the decisions and comments of TC 58 on items related to its work are reported under the relevant agenda items.

### **Outcome of the one hundredth and one hundred and first regular sessions of the Council**

2.2 The Committee noted (MSC 85/2/1 and Add.1) the outcome of the one hundredth and one hundred and first regular sessions of the Council as reported in paragraphs 2.3 to 2.11 and took appropriate actions on issues related to its work under the relevant agenda items.

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

2.3 The Committee noted that C 101 had noted the information provided in document C 101/10, as well as that provided orally by the Secretary-General, on the issue of piracy and armed robbery against ships in waters off the coast of Somalia and in the Gulf of Aden and, in particular:

- .1 noted the information provided on the actions taken at the United Nations to combat piracy and armed robbery against ships in waters off the coast of Somalia, especially the adoption of United Nations Security Council resolutions 1816 (2008) and 1838 (2008); endorsed the action taken by the Secretary-General to ensure that appropriate action is taken at every possible level to that end; and expressed appreciation to the Secretary-General and staff for their contributions in this connection;
- .2 noted the general outline of the brief, which the Secretary-General intended to present to the UN Security Council, at its session on 20 November 2008, inviting it:

- .1 to extend the validity of the mandate in paragraph 7 of resolution 1816 (2008);
  - .2 to call upon States interested in the safety of maritime activities, that have the capacity to do so, to take part actively in the fight against piracy and armed robbery against ships off the coast of Somalia and in the Gulf of Aden; and
  - .3 to strengthen and enhance the provisions of resolutions 1816 (2008) and 1838 (2008), particularly with respect to having clear rules of engagement that facilitate the disruption of pirate operations, and to urge States to establish an effective legal jurisdiction to bring alleged offenders to justice, with due regard to their obligations under international law,
- and authorized him to act accordingly;
- .3 invited Member Governments, individually and/or collectively, to take appropriate action in accordance with the United Nations Security Council resolutions, in particular, resolutions 1816 (2008) and 1838 (2008), to ensure that acts of piracy and armed robbery against ships off the coast of Somalia are eradicated and that the vital shipping lane through the Gulf of Aden is protected against unlawful acts, which may threaten the safety of navigation therethrough;
  - .4 thanked those Governments, and their navies, which had provided support to ships carrying humanitarian aid on behalf of the World Food Programme, by escorting them to Somali ports; and encouraged them – as well as other Governments and navies – to continue assisting with this humanitarian activity;
  - .5 thanked those Governments, and their navies, which had provided warships to patrol the waters off the coast of Somalia, in order to protect seafarers, fishermen and passengers on board ships sailing through these waters, as well as to ensure the uninterrupted flow of traffic through the Gulf of Aden; and encouraged them – as well as other Governments and navies – to assist in the attainment of these objectives to the benefit of all ships and all seafarers;
  - .6 endorsed the initiative of the Secretary-General and the heads of BIMCO, ICS/ISF, INTERCARGO, INTERTANKO and ITF in meeting to exchange views on action to prevent and suppress acts of piracy and armed robbery against ships off the coast of Somalia and in the Gulf of Aden;
  - .7 endorsed the action of the Secretariat to convene, in the context of resolution A.1002(25), a high-level meeting, in Djibouti, in January 2009, to conclude a regional agreement concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden;
  - .8 reiterated its recommendation to all Members and the shipping industry, to implement, as widely and effectively as possible, the relevant MSC Guidelines to prevent and suppress acts of piracy and armed robbery against ships; and
  - .9 requested CLIA to advise its members to refrain from scheduling their ships in piracy-infested areas.

***Consideration of the report of the Maritime Safety Committee***

2.4 The Committee noted that C 100 had noted the outcome of the eighty-fourth session of the Maritime Safety Committee and, in particular, had endorsed:

- .1 the holding, in 2010, of a conference to adopt proposed amendments to the STCW Convention and the STCW Code; and requested the Secretary-General, in his budget proposals for the 2010-2011 biennium, to include a necessary appropriation. In this context, the Council noted, with appreciation, the offer of the Philippines to host the conference at no additional cost to the Organization; and
- .2 the action taken by the Committee in approving the holding of intersessional meetings referred to in paragraph 86 of document C 100/9.

2.5 The Committee also noted that C 100 had also noted:

- .1 the adoption, by the Committee, of amendments to the 1974 SOLAS Convention, the 1988 SOLAS Protocol and to various codes and guidelines mandatory under the 1974 SOLAS Convention; as well as the adoption of the mandatory Casualty Investigation Code;
- .2 the action taken by the Committee on issues related to maritime security;
- .3 the progress made on the issue of goal-based new ship construction standards (GBS) and, in particular, with regard to the development of generic guidelines for the application of GBS;
- .4 the action taken by the Committee on issues related to LRIT matters;
- .5 the Committee's decisions on issues brought to it by NAV 53, DSC 12, FP 52, BLG 12, DE 51 and STW 39 and, in particular, the course of action taken with regard to placing the complete text of the IMDG Code on the Internet and allowing it to be freely downloadable;
- .6 the action taken by the Committee on issues relating to capacity-building for the implementation of new measures;
- .7 the action taken by the Committee on issues relating to the human element and formal safety assessment;
- .8 activities pertaining to the issue of piracy and armed robbery against ships;
- .9 the action taken by the Committee on issues relating to the technical assistance sub-programme in maritime safety and security;
- .10 the action taken on issues relating to the application of the Committee's Guidelines;
- .11 the Committee's agreement to convene, for budgetary reasons, SLF 52 at the beginning of 2010;

- .12 the Committee's decisions relating to the High-level Action Plan and the planned outputs for the 2008-2009 biennium and the subsequent action by the Secretariat; and
- .13 the 33 guidelines and other recommendations approved by the Committee for dissemination.

### ***Strategy and planning***

2.6 The Committee noted that C 101 had approved the report of the eighth session of the *Ad Hoc* Council Working Group on the Organization's Strategic Plan and, in particular, had noted:

- .1 the progress made in developing Guidelines on the application of the Strategic and High-level Action Plans and, in this context:
  - .1 endorsed the decision of the working group to re-establish the correspondence group;
  - .2 approved the holding of an additional session of the working group in 2009 to finalize the Guidelines, along with its scheduled session for that year;
  - .3 agreed that the finalized Guidelines should be adopted through an Assembly resolution; and
  - .4 urged Member States and the Chairmen of Committees and sub-committees to participate actively in the deliberations of both the re-established correspondence group and the working group's next sessions;
- .2 the working group's consideration of the JIU recommendations referred to it, in particular its confirmation of the three elements that should form the basis of the long-term strategy for the reduction of costs of international meetings, to be further developed by the Secretariat;
- .3 the working group's consideration of matters related to the performance indicators of the Strategic Plan and, in this context, urged Member States to meet their reporting requirements, particularly the mandatory ones, and to do so, where practicable, through the direct entry of data into the relevant GISIS modules; and
- .4 the working group's consideration of the status of planned outputs included in the current High-level Action Plan and, in this context:
  - .1 endorsed the "unplanned" outputs shown in annex 3 to document C 101/3; and
  - .2 requested the Committees, when developing their planned outputs for the 2010-2011 biennium, to be as precise as possible and, preferably, to do so in SMART terms.

### ***Organizational reforms***

2.7 The Committee noted that C 101 had endorsed the proposals in the annex to document C 101/4/1 on access to IMO documents via the IMO public website. In addition, the Council requested the Secretariat to undertake an evaluation of the extent of public demand for access to IMO documents with respect to possible limitations on Internet access and, taking into account comments made by the Council, to make proposals for further clarification of the provisions related to public access to IMO documents, for the Council to consider at C 104.

### ***Voluntary IMO Member State Audit Scheme***

2.8 The Committee noted that C 100 and C 101, as appropriate, had:

- .1 noted the outcome of the consideration by A 25 of the progress made in the implementation of the Scheme and its decision to refer the first consolidated audit summary report to the MSC and MEPC for detailed consideration and for the Council to be apprised of the outcome therefrom;
- .2 noted that, as requested by C 98, the auditor's manual had been circulated as document A 25/8/1;
- .3 encouraged Member States, which had not yet done so, to volunteer for audits and also encouraged Member States to continue nominating qualified auditors for inclusion in the roster of auditors; and for their nominated auditors to attend the regional auditors' training courses being organized by the Organization;
- .4 noted that four regional training courses for auditors had been held this year and that four courses were being organized for 2009;
- .5 noted the completion of 26 audits so far and that two more were planned for the rest of 2008;
- .6 noted the outcome of the first meeting of auditors, which had taken place in the Organization's Headquarters building on 29 and 30 May 2008; and
- .7 noted the issuance, by the Secretariat, of various audit reports, in particular, the second consolidated audit summary report set out in the annex to document C 101/6/2; and requested the MSC and the MEPC to consider the latter report and advise the Council, in due course, of the outcome of their consideration.

2.9 The Committee noted that C 101, having considered document C 101/6/1 and the Secretary-General's relevant comments, had requested the Secretary-General to prepare, for consideration at C 102 in June 2009, a holistic and detailed proposal on the way forward to further develop the Audit Scheme, taking account of the statements made, including collection and analysis of information from Member States and the Secretariat on perceived difficulties with the implementation of the Audit Scheme; a possible time-frame for any necessary preparatory work; and information on any associated implications for this to happen.

### ***Consideration of the report of the Marine Environment Protection Committee***

2.10 The Committee noted that C 101 had endorsed, subject to MSC 85's concurrent decision, the Committee's proposals on activities, priorities and plan of meeting weeks of the Committees

and their subsidiary bodies for the biennium 2010-2011, for inclusion in the Secretary-General's relevant budget proposals and the approval of intersessional meetings for working/technical groups in 2009.

### ***Straits of Malacca and Singapore***

2.11 The Committee noted that C 101, having noted the information on the implementation of the Co-operative Mechanism established by Indonesia, Malaysia and Singapore to enhance safety, security and environmental protection in the Straits of Malacca and Singapore; and inputs made by the delegations of the littoral States and other Members, had:

- .1 expressed appreciation to Malaysia for hosting meetings relating to, and the littoral States of Indonesia, Malaysia and Singapore for, the timely implementation of the various components of the Co-operative Mechanism on the Straits of Malacca and Singapore;
- .2 expressed appreciation to Member States and intergovernmental and non-governmental organizations, for contributions made and support pledged to the various projects under the Co-operative Mechanism and the Aids to Navigation Fund;
- .3 invited Member States and industry to contribute to the IMO Malacca and Singapore Straits Trust Fund; and
- .4 requested the Secretary-General to keep it informed of developments.

### **Outcome of the fifty-eighth session of the Marine Environment Protection Committee**

2.12 The Committee noted (MSC 85/2/2) the MEPC 58's outcome with regard to, *inter alia*:

- .1 harmful aquatic organisms in ballast water, in particular the adoption of a number of relevant guidelines;
- .2 approval of the final text of the draft International Convention for the Safe and Environmentally Sound Recycling of Ships, for adoption at the diplomatic conference;
- .3 prevention of air pollution from ships;
- .4 amendments to the revised MARPOL Annex VI and the NO<sub>x</sub> Code, and approval of various guidelines, unified interpretations and clarifications;
- .5 implementation of the OPRC Convention and related matters;
- .6 the outcomes of BLG 12, DE 51, FSI 16, SLF 51, MSC 84 and C 100;
- .7 the Anti-Fouling Convention;
- .8 role of the human element; and

- .9 approval of the work programmes of the BLG and FSI Sub-Committees and environment-related items in the work programmes of the DSC, NAV and DE Sub-Committees; approval of the plan of meeting weeks for the MSC and the MEPC and subsidiary bodies for the biennium 2010-2011; and the MEPC concurrence with MSC 84's action in respect of preparation and reporting of planned outputs and report of the 2008 Chairmen's meeting,

and took appropriate action under the relevant agenda items.

### **Outcome of the ninety-fourth session of the Legal Committee**

2.13 The Committee noted (MSC 85/2/3) the outcome of the ninety-fourth session of the Legal Committee relating to:

- .1 the progress report on the work the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, *inter alia*, urging the Group to complete its discussions at its next session; and
- .2 the establishment of an informal correspondence group in order to progress intersessionally on the legal, as well, as on the technical and practical aspects of the consolidated model certificate, including port State control and inspection.

2.14 The delegation of the United Kingdom expressed support for the work of the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers. In their opinion, the Joint IMO/ILO Working Group should continue its work and the present global economic slowdown should not be an excuse for some shipowners to abandon their ships and crew as a matter of economic choice.

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

### **GENERAL**

3.1 Contracting Governments to the 1974 SOLAS Convention were invited to participate in the consideration and adoption of the proposed amendments to:

- .1 chapters II-1, II-2, VI, VII, IX, XI-2 and XII of the 1974 SOLAS Convention, as amended, in accordance with the provisions of article VIII of the Convention;
- .2 the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (INF Code), in accordance with the provisions of article VIII and regulation VII/14.1 of the 1974 SOLAS Convention;
- .3 the International Code of Safety for High-Speed Craft, 2000 (2000 HSC Code), in accordance with the provisions of article VIII and regulation X/1.2 of the 1974 SOLAS Convention;
- .4 the International Life-Saving Appliance (LSA) Code, in accordance with the provisions of article VIII and regulation III/3.10 of the 1974 SOLAS Convention; and



- .5 the International Safety Management (ISM) Code, in accordance with the provisions of article VIII and regulation IX/1.1 of the 1974 SOLAS Convention.

3.2 Contracting Governments constituting more than one third of the total of Contracting Governments to the 1974 SOLAS Convention were present during the consideration and adoption of the said amendments by the expanded Maritime Safety Committee, in accordance with articles VIII(b)(iii) and VIII(b)(iv) of the Convention.

3.3 The proposed amendments to the 1974 SOLAS Convention and to the Codes mandatory under the Convention were circulated, in accordance with SOLAS article VIII(b)(i), to all IMO Members and Contracting Governments to the 1974 SOLAS Convention by circular letter No.2876 of 21 May 2008.

3.4 Parties to the 1988 Load Lines Protocol were invited to participate in the consideration and adoption of the proposed amendments to the 1988 Load Lines Protocol. Parties constituting more than one third of the total of Parties to the Protocol were present during the consideration and adoption of the said amendments by the expanded Maritime Safety Committee, in accordance with the provisions of paragraph 2(f)(ii)(bb) of article VI of the 1988 Load Lines Protocol.

3.5 The proposed amendments to the 1988 Load Lines Protocol were circulated, in accordance with article VI of the Protocol, to all IMO Members and Parties to the Protocol by circular letter No.2877 of 19 May 2008.

3.6 The Committee was also invited to consider and adopt the proposed International Code on Intact Stability, 2008 (2008 IS Code), with a view to making it mandatory under the SOLAS Convention and the 1988 Load Lines Protocol; and the proposed International Maritime Solid Bulk Cargoes (IMSBC) Code, with a view to making it mandatory under the SOLAS Convention.

3.7 The Committee was further invited to consider, and adopt and approve, as appropriate, the following non-mandatory instruments in conjunction with the adoption of the amendments to the relevant aforementioned mandatory instruments:

- .1 amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)); and
- .2 Explanatory Notes to the International Code on Intact Stability, 2008.

3.8 The Committee was also invited to consider the proposed amendments to the 1974 SOLAS Convention and the draft MSC circular on Guidance on the provision for Material Safety Data Sheet (MSDS) concerning SOLAS regulation VI/5-1; and to consider an anomaly in the text of the amended SOLAS regulations XII/12 and XII/13, as adopted by resolution MSC.216(82), and take action as appropriate.

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

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

3.9 The Committee recalled that the proposed amendments to the SOLAS Convention (MSC 85/3, annex 1) had been developed by SLF 50, DSC 12 and FP 52, and approved by MSC 83 and MSC 84.

**Regulation II-1/5-1 – Stability information to be supplied to the master**

3.10 The Committee, having recognized that draft amendments to regulation II-1/5 should apply to new ships only, agreed that the proposed draft amendments should be modified as appropriate. In this context, the Committee also agreed to modify the proposed draft amendments to 1988 LL Protocol regulation II/10, which are similar to the draft amendments to SOLAS regulation II-1/5-1.

3.11 Furthermore, the Committee, having realized that amendments to SOLAS regulation II-1/5 and 1988 LL Protocol regulation II/10 may be sufficient for making the 2008 IS Code mandatory, instructed the drafting group to consider modifications to the draft amendments, i.e. whether to modify the draft amendments to clarify that the amended regulations apply to new ships only or to delete the draft amendments to these regulations.

**Regulation II-2/9 – Containment of fire**

3.12 The Committee agreed that draft amendments to regulation II-2/9.7 should apply to new ships only and instructed the drafting group to modify the draft amendments accordingly.

**Regulation II-1/3-3 – Safe access to tanker bows****Regulation II-2/1 – Application****Regulation II-2/3 – Definitions****New regulation VI/1 – Definitions****Regulation VI/2 – Cargo information****New regulation VI/3 – Requirements for the carriage of solid bulk cargoes other than grain****Regulation VI/3 – Oxygen analysis and gas detection equipment****Regulation VII/7-1 – Application****New regulation VII/9 – Requirements for the carriage of dangerous goods in solid form in bulk****Regulation IX/1 – Definitions****Regulation XI-2/1 – Definitions****Regulation XII/8 – Information on compliance with requirements for bulk carriers****Regulation XII/10 – Solid bulk cargo density declaration**

3.13 The Committee considered document MSC 85/3/6 (Secretariat), proposing that, instead of inserting new regulation numbers in chapters VI and VII with renumbering subsequent regulations as seen in the originally proposed draft amendments (document MSC 85/3, annex 1), which resulted in draft amendments to relevant SOLAS chapters II-1, II-2, IX, XI-2 and XII and the INF Code, editorial modifications be made to the draft amendments, by inserting hyphenated regulation numbers in chapters VI and VII, thus avoiding amendments to regulations in the aforementioned chapters that refer to regulations in chapters VI and VII.

3.14 Subsequently, the Committee, having realized that the proposed modifications are editorial and in line with the IMO's practice for amending mandatory instruments, which have merit of avoiding unnecessary sequential amendments, agreed to the modifications and referred them to the drafting group for appropriate action.

**Regulation II-2/19 – Carriage of dangerous goods**

3.15 The Committee, having considered document MSC 85/3/11 (annex 1), reporting that DSC 13, as instructed by MSC 84, had prepared modifications to the draft amendments to SOLAS regulation II-2/19, agreed to the modifications and referred them to the drafting group for appropriate action.

## **Editorial matters**

3.16 Having noted that there remained references to the BC Code (instead of the IMSBC Code) in the current SOLAS regulations (e.g., regulations II-2/10.7.1.4, II-2/16.2.1 and VI/1.2), the Committee instructed the drafting group to modify the draft amendments accordingly.

3.17 Except for the above regulations, the Committee, noting that no further comments had been submitted on the draft amendments to the SOLAS Convention, confirmed its contents, subject to editorial improvements, if any.

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

3.18 The Committee agreed that the SOLAS amendments, proposed for adoption at the current session:

- .1 except for regulations related to the IMSBC Code, should be deemed to have been accepted on 1 January 2010 and should enter into force on 1 July 2010; and
- .2 with regard to regulations related to the IMSBC Code, should be deemed to have been accepted on 1 July 2010 and should enter into force on 1 January 2011.

3.19 Consequently, the Committee instructed the drafting group to prepare the final text of the draft requisite MSC resolution on adoption of amendments, containing annex 1 with SOLAS amendments, except for amendments to SOLAS related to the IMSBC Code; and annex 2 with SOLAS amendments related to the IMSBC Code.

## **PROPOSED AMENDMENTS TO MANDATORY CODES**

### ***PROPOSED AMENDMENTS TO THE INF CODE***

3.20 The Committee recalled that the proposed amendments to the INF Code (MSC 85/3, annex 2) had been developed by DSC 12 and approved by MSC 84.

3.21 Notwithstanding the above, recalling its earlier decision (see paragraphs 3.13 and 3.14) that the numbering of regulations in amendments to regulations in SOLAS chapters VI and VII should remain unchanged and noting that these regulations are referenced in the draft amendments to the INF Code, the Committee agreed that there is no need for amendments to the INF Code.

### ***PROPOSED AMENDMENTS TO THE 2000 HSC CODE***

3.22 The Committee recalled that the proposed amendments to the 2000 HSC Code (MSC 85/3, annex 3) had been developed by DSC 12 and approved by MSC 84.

3.23 Having considered document MSC 85/3/11 (annex 2), reporting proposals by DSC 13 to modify the draft amendments to the 2000 HSC Code, the Committee agreed to the modifications and referred them to the drafting group for appropriate action.

3.24 The Committee noted that draft amendments regarding paragraph 7.17.3.6.1 of the Code (MSC 85/3, annex 3) had already been adopted by resolution MSC.222(82) and decided not to adopt the draft amendments. However, the Committee agreed that the footnote relating to the draft amendments should be included in the publication of the 2000 HSC Code and instructed the Secretariat accordingly.

3.25 The Committee, having realized that there were no provisions regarding application to existing ships in the draft amendments to the 2000 HSC Code, while the similar draft amendments to SOLAS chapter II-2 included such requirements, instructed the drafting group to prepare an appropriate provision regarding application to existing ships.

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

3.26 The Committee agreed that the amendments to the 2000 HSC Code, proposed for adoption at the current session which are consequential amendments relating to the IMSBC Code, should be deemed to have been accepted on 1 July 2010 and should enter into force on 1 January 2011, which is the same time as the entry-into-force date of the IMSBC Code. Subsequently, the Committee instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption.

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

3.27 The Committee recalled that the proposed amendments to the LSA Code (MSC 85/3, annex 4) had been developed by DE 51 and approved by MSC 84 and, having noted that no comments had been submitted on the draft amendments to the LSA Code, confirmed its contents, subject to editorial improvements, if any.

3.28 In addressing the concerns raised by a delegation with regard to the application of the proposed amendments to the LSA Code, concerning the anthropometric criteria for lifeboats and rescue boats, the Committee, while agreeing that the amendments should only apply to equipment installed on new ships, with regard to the installation of such equipment complying with the aforementioned amendments, on existing ships, noted that the matter is adequately covered by the principle accommodated in SOLAS regulation III/1.4.2.

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

3.29 The Committee agreed that the amendments to the LSA Code, proposed for adoption at the current session, should be deemed to have been accepted on 1 January 2010 and should enter into force on 1 July 2010, and instructed the drafting group to prepare the text of the draft requisite MSC resolution for adoption.

#### ***PROPOSED AMENDMENTS TO THE ISM CODE***

3.30 The Committee recalled that the proposed amendments to the ISM Code (MSC 85/3, annex 5) had been developed by the joint MSC/MEPC Working Group on Human Element and approved by MSC 84.

3.31 Having considered document MSC 85/3/9 (Norway and IACS), proposing that the square brackets in the draft amendments to paragraph 12.1 of the Code (shore-based and shipboard internal audits) be removed and the text therein be retained, the Committee agreed to the proposal with addition of the three months' flexibility on the annual internal audits, and instructed the drafting group accordingly.

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

3.32 The Committee agreed that the amendments to the ISM Code, proposed for adoption at the current session, should be deemed to have been accepted on 1 January 2010 and should enter into force on 1 July 2010, and instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption.

## **PROPOSED AMENDMENTS TO THE 1988 LOAD LINES PROTOCOL**

3.33 The Committee recalled that the proposed amendments to the 1988 Load Lines Protocol (MSC 85/3/1, annex), regarding the mandatory requirements of the 2008 IS Code, had been developed by SLF 50 and approved by MSC 83.

### **Regulation II/10 – Information to be supplied to the master**

3.34 Having recalled its earlier decision with regard to the relevant amendments to SOLAS regulation II-1/5-1 (see paragraphs 3.10 and 3.11), the Committee instructed the drafting group to prepare the revised draft amendments to 1988 Load Lines Protocol regulation II/10, as appropriate.

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

3.35 The Committee agreed that the amendments to the 1988 Load Lines Protocol, proposed for adoption at the current session, should be deemed to have been accepted on 1 January 2010 and should enter into force on 1 July 2010, and instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption.

## **CONSIDERATION OF NEW MANDATORY CODES**

### ***INTERNATIONAL CODE ON INTACT STABILITY, 2008 (2008 IS CODE)***

3.36 The Committee recalled that the draft International Code on Intact Stability, 2008 (2008 IS Code) (MSC 85/3/2, annex) had been developed by SLF 50 and approved by MSC 83, with a view to making the introduction and part A of the Code mandatory under the 1974 SOLAS Convention and the 1988 Load Lines Protocol.

3.37 Noting that no comments had been submitted on the proposed 2008 IS Code, the Committee confirmed its contents, subject to editorial improvements, if any.

### **Effective date of the Code**

3.38 The Committee agreed that the 2008 IS Code, proposed for adoption at the current session, should become effective on 1 July 2010, noting that the effective date should be the same as the date of entry into force of amendments to SOLAS chapter II-1 and the 1988 Load Lines Protocol, i.e. 1 July 2010, and instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption.

### ***INTERNATIONAL MARITIME SOLID BULK CARGOES (IMSBC) CODE***

3.39 The Committee recalled that the draft International Maritime Solid Bulk Cargoes (IMSBC) Code (MSC 85/3/8, annex and MSC 84/24/Add.3, annex 12) had been developed by DSC 12 and approved by MSC 84, with a view to making the Code mandatory under SOLAS chapters VI and VII.

3.40 Having considered documents MSC 85/3/10, reporting the outcome of DSC 13 on proposed modifications to the draft IMSBC Code relating to the schedules for DRI (A) and DRI (B), the Committee agreed to the modifications and instructed the drafting group accordingly.

**Effective date of the Code**

3.41 The Committee agreed that the IMSBC Code, proposed for adoption at the current session, should become effective on 1 January 2011, noting that the effective date should be the same as the date of entry into force of amendments to SOLAS chapters VI and VII, i.e. 1 January 2011.

3.42 The Committee instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption, noting that the operative paragraph 4 of the draft resolution (MSC 85/3/8, annex) also states that Contracting Governments to the SOLAS Convention may apply the amendments in whole or in part on a voluntary basis as from 1 January 2009.

**CONSIDERATION OF AMENDMENT-RELATED NON-MANDATORY RECOMMENDATION AND EXPLANATORY NOTES*****AMENDMENTS TO REVISED RECOMMENDATION ON TESTING OF LIFE-SAVING APPLIANCES (RESOLUTION MSC.81(70))***

3.43 The Committee recalled that the draft amendments to the Revised recommendation (resolution MSC.81(70)) (MSC 85/3/3, annex) had been prepared by DE 51 and approved, in principle, by MSC 84, for formal adoption at this session, in conjunction with the adoption of the amendments to the LSA Code.

3.44 Noting that no comments had been submitted on the proposed amendments to the Revised recommendation, the Committee confirmed its contents, subject to editorial improvements, if any.

***EXPLANATORY NOTES TO THE INTERNATIONAL CODE ON INTACT STABILITY, 2008***

3.45 The Committee recalled that the draft Explanatory Notes (MSC 85/3/7, annex) had been prepared by SLF 50 and approved, in principle, by MSC 83, for formal approval at this session, together with the adoption of the 2008 IS Code.

3.46 Noting that no comments had been submitted on the draft Explanatory Notes, the Committee confirmed its contents, subject to editorial improvements, if any.

**CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE 1974 SOLAS CONVENTION AND THE DRAFT MSC CIRCULAR ON GUIDANCE ON THE PROVISION FOR MATERIAL SAFETY DATA SHEETS (MSDS) WHEN CARRYING OIL OR OIL FUEL, IN ACCORDANCE WITH SOLAS REGULATION VI/5-1**

3.47 The Committee recalled that, at MSC 84, in the course of the consideration of document MSC 84/3/5 (Secretariat), addressing the anomaly in the text of new SOLAS regulation VI/5-1 on Material safety data sheets (MSDS) and proposing a course of action to rectify the anomaly, the majority of the delegates who spoke had expressed the view that an MSDS should be required for ships carrying either MARPOL Annex I cargoes or bunkering fuel oils.

3.48 The Committee considered document MSC 85/3/4 prepared by the Secretariat, as instructed by MSC 84, containing a text of the draft amendments to SOLAS regulations VI/1 and VI/5-1 and a draft MSC circular on Guidance on the provision for material safety data sheets when carrying oil or oil fuel, with a view to their adoption and approval, respectively.

3.49 Following discussion, the Committee approved the proposed amendments to SOLAS regulations VI/1 and VI/5-1, set out in annex 1 and requested the Secretary-General to circulate them in accordance with SOLAS article VIII, for adoption at MSC 86, and agreed, in principle, to the aforementioned draft MSC circular, set out in annex 2 to document MSC 85/3/4, with insertion of the words “safety and” before the word “health” in paragraph 1 thereof, for formal approval at MSC 86 when adopting the draft amendments to SOLAS regulations VI/1 and VI/5-1.

**ANOMALY IN THE TEXT OF THE AMENDED SOLAS REGULATIONS XII/12 AND XII/13, AS ADOPTED BY RESOLUTION MSC.216(82)**

3.50 The Committee considered document MSC 85/3/5 (Secretariat), addressing anomaly in the text of the amended SOLAS regulations XII/12 and XII/13, as adopted by resolution MSC.216(82), namely that the amendments to SOLAS regulations XII/12 and XII/13, which entered into force on 1 July 2008, referred to regulations of the revised SOLAS chapter II-1 contained in annex 2 to resolution MSC.216(82) which is due to enter into force on 1 January 2009, i.e. are not yet in force.

3.51 Having agreed to a proposal in document MSC 85/3/5 to issue an MSC circular informing all parties concerned of the anomaly (i.e. that references in amendments in paragraphs 46 and 47 of Annex 1 to resolution MSC.216(82) are those to the revised SOLAS chapter II-1 and such references could only take effect upon the entry into force of the revised SOLAS chapter II-1 on 1 January 2009), and also of the anomaly, as pointed out by the delegation of France, contained in the amended SOLAS regulation II-2/3, the Committee instructed the drafting group to prepare the draft MSC circular, for the Committee’s consideration and approval.

**ESTABLISHMENT OF A DRAFTING GROUP**

3.52 Following discussion in plenary, the Committee established an *ad hoc* drafting group to prepare the final text of the draft amendments to the 1974 SOLAS Convention, the 2000 HSC Code, the LSA Code, the ISM Code and the 1988 Load Lines Protocol; the final texts of the draft 2008 IS Code and the IMSBC Code; the final texts of the amendment-related non-mandatory recommendation and explanatory notes, together with the associated draft MSC resolution and MSC circular, as appropriate; and a proposed MSC circular on Application of the amended SOLAS regulations XII/12 and XII/13, for consideration by the Committee with a view to adoption and approval, as appropriate.

***ADOPTION OF NEW MANDATORY INSTRUMENTS AND AMENDMENTS TO MANDATORY AND NON-MANDATORY INSTRUMENTS***

**REPORT OF THE DRAFTING GROUP**

3.53 Having received the report of the drafting group (MSC 85/WP.4), the Committee approved the report in general and took action as indicated hereunder.

**ADOPTION OF NEW MANDATORY INSTRUMENTS**

***ADOPTION OF THE INTERNATIONAL CODE ON INTACT STABILITY, 2008 (2008 IS CODE)***

3.54 The Committee considered the final text of the proposed 2008 IS Code prepared by the drafting group (MSC 85/WP.4, annex 1) and adopted the International Code on Intact Stability, 2008 (2008 IS Code), by resolution MSC.267(85), set out in annex 2.

***ADOPTION OF THE INTERNATIONAL MARITIME SOLID BULK CARGOES (IMSBC) CODE***

3.55 The Committee considered the final text of the proposed IMSBC Code prepared by the drafting group (MSC 85/WP.4, annex 2) and adopted the International Maritime Solid Bulk Cargoes (IMSBC) Code, by resolution MSC.268(85), set out in annex 3.

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

3.56 The expanded Committee, including the delegations of 103 Contracting Governments to the 1974 SOLAS Convention, considered the final text of the proposed amendments to the 1974 SOLAS Convention prepared by the drafting group (MSC 85/WP.4, annex 3) and adopted the amendments unanimously by resolution MSC.269(85), set out in annex 4.

3.57 In adopting resolution MSC.269(85), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that:

- .1 the adopted amendments to SOLAS chapters II-1 and II-2 of the Convention (MSC 85/WP.4, annex 1 to annex 3) should be deemed to have been accepted on 1 January 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VIII(b)(vi)(2) of the Convention) and should enter into force on 1 July 2010, in accordance with the provisions of article VIII thereof; and
- .2 the adopted amendments to SOLAS chapters II-2, VI and VII (MSC 85/WP.4, annex 2 to annex 3) should be deemed to have been accepted on 1 July 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VIII(b)(vi)(2) of the Convention) and should enter into force on 1 January 2011, in accordance with the provisions of article VIII thereof.

**ADOPTION OF AMENDMENTS TO THE 1988 LOAD LINES PROTOCOL**

3.58 The expanded Committee, including delegations of 65 Parties to the 1988 Load Lines Protocol, considered the final text of the proposed amendments to the 1988 Load Lines Protocol prepared by the drafting group (MSC 85/WP.4, annex 4) and adopted the amendments unanimously by resolution MSC.270(85), set out in annex 5.

3.59 In adopting resolution MSC.270(85), the expanded Committee determined, in accordance with article VI of the 1988 Load Lines Protocol, that the adopted amendments to the Protocol should be deemed to have been accepted on 1 January 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VI of the 1988 Load Lines Protocol) and should enter into force on 1 July 2010, in accordance with the provisions of article VI thereof.

**ADOPTION OF AMENDMENTS TO THE MANDATORY CODES*****ADOPTION OF AMENDMENTS TO THE 2000 HSC CODE***

3.60 The expanded Committee, including delegations of 103 Contracting Governments to the 1974 SOLAS Convention, considered the final text of the proposed amendments to the International Code of Safety for High-Speed Craft, 2000 (2000 HSC Code) prepared by the drafting group (MSC 85/WP.4, annex 5) and adopted the amendments unanimously by resolution MSC.271(85), set out in annex 6.



3.61 In adopting resolution MSC.271(85), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted amendments to the 2000 HSC Code should be deemed to have been accepted on 1 July 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VIII(b)(vi)(2) of the Convention) and should enter into force on 1 January 2011, in accordance with the provisions of SOLAS article VIII.

***ADOPTION OF AMENDMENTS TO THE LSA CODE***

3.62 The expanded Committee, including delegations of 103 Contracting Governments to the 1974 SOLAS Convention, considered the final text of the proposed amendments to the International Life-Saving Appliance (LSA) Code prepared by the drafting group (MSC 85/WP.4, annex 6) and adopted the amendments unanimously by resolution MSC.272(85), set out in annex 7.

3.63 In adopting resolution MSC.272(85), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted amendments to the LSA Code should be deemed to have been accepted on 1 January 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VIII(b)(vi)(2) of the Convention) and should enter into force on 1 July 2010, in accordance with the provisions of SOLAS article VIII.

***ADOPTION OF AMENDMENTS TO THE ISM CODE***

3.64 The expanded Committee, including delegations of 103 Contracting Governments to the 1974 SOLAS Convention, considered the final text of the proposed amendments to the International Safety Management (ISM) Code prepared by the drafting group (MSC 85/WP.4, annex 7) and adopted the amendments unanimously by resolution MSC.273(85), set out in annex 8.

3.65 In adopting resolution MSC.273(85), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted amendments to the ISM Code should be deemed to have been accepted on 1 January 2010 (unless, prior to that date, objections are communicated to the Secretary-General, as provided for in article VIII(b)(vi)(2) of the Convention) and should enter into force on 1 July 2010, in accordance with the provisions of SOLAS article VIII.

**ADOPTION AND APPROVAL OF NON-MANDATORY INSTRUMENTS**

***ADOPTION OF AMENDMENTS TO THE REVISED RECOMMENDATION ON TESTING OF LIFE-SAVING APPLIANCES (RESOLUTION MSC.81(70))***

3.66 The Committee considered the final text of the proposed amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)) prepared by the drafting group (MSC 85/WP.4, annex 8) and adopted the amendments by resolution MSC.274(85), set out in annex 9.

***APPROVAL OF EXPLANATORY NOTES TO THE INTERNATIONAL CODE ON INTACT STABILITY, 2008***

3.67 The Committee considered the final text of the proposed Explanatory Notes to the International Code on Intact Stability, 2008 prepared by the drafting group (MSC 85/WP.4, annex 9) and approved MSC.1/Circ.1281 on Explanatory Notes to the International Code on Intact Stability, 2008.

***APPROVAL OF MSC CIRCULAR ON APPLICATION OF THE AMENDED SOLAS REGULATIONS II-2/3, XII/12 AND XII/13***

3.68 The Committee considered the proposed MSC circular on Application of the amended SOLAS regulations II-2/3, XII/12 and XII/13 prepared by the drafting group (MSC 85/WP.4, annex 10) and approved MSC.1/Circ.1282 on Application of the amended SOLAS regulations II-2/3, XII/12 and XII/13.

**INSTRUCTIONS TO THE SECRETARIAT**

3.69 In adopting the aforementioned amendments, the Committee authorized the Secretariat, when preparing the authentic texts of the amendments as appropriate, to effect any editorial corrections that may be identified, and to bring to the attention of the Committee any errors or omissions which require action by the Contracting Governments to the 1974 SOLAS Convention and the Parties to the 1988 Load Lines Protocol.

**4 MEASURES TO ENHANCE MARITIME SECURITY**

**Fifth special meeting of the Counter-Terrorism Committee**

4.1 The Committee recalled that MSC 84, following consideration of the information provided by the Secretariat (MSC 84/4) on the Fifth special meeting of the Counter-Terrorism Committee with International, Regional and Sub-Regional Organizations; the Joint Statement and the associated Plan of action, had invited SOLAS Contracting Governments and IMO Member States to review the Plan of Action (a copy of which was provided in the annex to MSC 84/4) and to submit reports and observations on activities listed therein as being associated with the Organization, for consideration by the Committee.

4.2 The Committee noted that the effective implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code forms parts of the counter-terrorism efforts of the United Nations and, in particular, of the Security Council. As a result, the Committee agreed that it needed to have an understanding on what related actions were being taken by SOLAS Contracting Governments and IMO Member States and, thus, the provision of information in relation to the activities listed the Joint Statement and the associated Plan of action was necessary. In addition, such information was also required by the Organization in order to be able to report accordingly to the Counter-Terrorism Committee for its consideration when it reviews the progress made following the Fifth special meeting.

4.3 The Committee urged SOLAS Contracting Governments and IMO Member States to submit the relevant reports and observations on activities listed the Joint Statement and the associated Plan of action for consideration by the Committee at its next session.

**Port facility security audits**

4.4 The Committee recalled that MSC 84 had considered the proposals of Canada (MSC 84/4/3) on the development of guidance on port facility security audits to supplement the guidance provided in MSC.1/Circ.1194 on Effective implementation of SOLAS chapter XI-2 and the ISPS Code and MSC.1/Circ.1192 on Guidance on voluntary self-assessment by SOLAS Contracting Governments and by port facilities. The Committee recalled further that MSC 84 had decided to consider the development of guidance on port facility security audits further at this session and had invited SOLAS Contracting Governments and international organizations to submit, taking into account the suggestions set out in document MSC 84/4/3, proposals and comments on the issue.

4.5 Noting that no written submissions had been received on this issue, the Committee referred the question of whether the development of the guidance on port facility security audits would be conducive to improving the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code, to the Working Group on Maritime Security (MSWG).

#### **Development of model legislation on maritime security**

4.6 The Committee recalled that MSC 82 had agreed to recommend the inclusion, in the High-level Action Plan for the 2008-2009 biennium, of the development of model legislation on maritime security.

4.7 The Committee recalled also that MSC 84 had considered the proposals of Austria *et al.* (MSC 84/4/4) and agreed that such model legislation on maritime security would have to be flexible enough to take into account, for example, the diversity of legal systems and the national structures of SOLAS Contracting Governments and the legal status of the operators of port facilities (i.e. state-owned or private port facilities). The Committee recalled further that MSC 84 had invited SOLAS Contracting Governments and international organizations to submit, taking into account the suggestions set out in document MSC 84/4/4, proposals and comments for further consideration of the issue at this session.

4.8 The Committee noted the report of the Secretariat that needs assessments missions on maritime security carried out under the Integrated Technical Co-operation Programme and the participation of the Organization in the on-site visits conducted by the United Nations Security Council Counter-Terrorism Committee in relation to the implementation of the provisions of Security Council resolution 1373 (2001) had revealed in a significant number of cases that the required national legislation implementing the provisions of SOLAS chapter XI-2 and the ISPS Code was either absent or inadequate or was based or dependant on national laws which, in some cases, were enacted at the beginning of the 1900s. Thus, taking into account the provisions of SOLAS article I(b) and with a view to assisting SOLAS Contracting Governments to improve the situation, model legislation would be very useful.

4.9 The Committee recalled that SOLAS Contracting Governments had an obligation under SOLAS article III(c) to communicate to and deposit with the Secretary-General, *inter alia*, the text of laws, decrees, orders and regulations which had been promulgated on various matters within the scope of SOLAS and urged them to do so, in order to enable the development of the model legislation.

4.10 Noting that no written submissions had been received on this issue, the Committee instructed the MSWG to advise the Committee on whether the development of model legislation should be pursued and, if so, to suggest how the matter should be progressed.

#### **Proposed amendments to MSC/Circ.1097**

4.11 In considering the proposals of IACS (MSC 85/4/3) on the need to consider the text of MSC/Circ.1097 to facilitate improvement of the security system and prevent recurrence in addition to restoring compliance after a deficiency had been identified; and to provide appropriate practical guidance on how conflicts between safety and security could be addressed, the Committee recalled that MSC 84 had considered similar proposals by IACS (MSC 84/4/1) to amend MSC/Circ.1097 by adding two sub-sections, the first on the handling of failures identified during ISPS Code verification; and the second on conflicts between safety and security, but had decided not to pursue the matter, at that stage.

4.12 IACS advised the Committee that the proposals and proposed text offered in document MSC 84/4/1 had been withdrawn and had been superseded by document MSC 85/4/3. Noting that document MSC 85/4/3 again discussed how conflicts between safety and security could be addressed, the Committee also noted that this document proposed that the Company should investigate the identified failures with the objective of determining: the root cause(s); and whether there are wider security system failures. Based on this investigation, IACS believed that the Company, the Company security officer, the ship security officer and/or the master should, where appropriate, initiate corrective and preventive action, as appropriate, to prevent a recurrence of the failure(s). IACS suggested amending MSC/Circ.1097 to reflect this.

4.13 The delegation of France proposed a number of amendments to the IACS proposals based upon the previous document and agreed to submit text for more detailed consideration by the MSWG.

4.14 The Committee referred the matter to the MSWG for further consideration.

#### **ENHANCEMENT OF SECURITY OF SHIPS OTHER THAN THOSE ALREADY COVERED BY SOLAS CHAPTER XI-2 AND THE ISPS CODE**

4.15 The Committee recalled that MSC 83 had re-established the Correspondence Group on security arrangements for vessels which do not fall within the scope of SOLAS chapter XI-2 and the ISPS Code (non-SOLAS vessels) under the coordination of Japan, the United Kingdom and the United States, and instructed it to submit its report for consideration at this session of the Committee.

4.16 In considering the report of the correspondence group (MSC 85/4/1) and the proposed draft guidelines on security aspects of the operation of vessels which do not fall within the scope of SOLAS chapter XI-2 and the ISPS Code, the Committee:

- .1 noted that the delegations of Denmark, Germany, Malta, Norway and Sweden had expressed strong reservations on the inclusion of guidance in relation to pleasure craft and on harbours, ports and marinas;
- .2 noted that the delegation of India and other delegations had expressed their support for the development of the Guidelines on the security of non-SOLAS vessels including guidance in relation to pleasure craft and on harbours, ports and marinas;
- .3 referred the part of the report of the Correspondence Group on the avoidance of piracy to the correspondence group which had been instructed to deal with piracy and armed robbery issues for its consideration;
- .4 decided to seek the opinion of the MSWG on whether to include the risk assessment and management tool within the guidance; and
- .5 noting that, as pointed out by the delegations of Denmark, Germany, Malta, Norway and Sweden, the development of guidance to harbour, port and marina authorities was outside of the terms of reference of the correspondence group, decided to seek the opinion of the MSWG on whether it should be included in the draft guidelines on the security of non-SOLAS vessels.

4.17 The Committee thanked the members of the correspondence group for their work and referred the draft guidelines to the MSWG for detailed consideration and review.

**SPECTRUM REQUIREMENTS AND POTENTIAL FREQUENCY BANDS SUITABLE TO SUPPORT SHIP AND PORT SECURITY AND ENHANCED MARITIME SAFETY SYSTEMS**

4.18 In considering document MSC 85/4/2 (Secretariat), the Committee noted that COMSAR 12 had considered the issue of Spectrum requirements and potential frequency bands suitable to support ship and port security and enhanced maritime safety systems in relation to the preparation of IMO's position for the relevant agenda items for the International Telecommunication Union (ITU) World Radiocommunication Conference 2011 (WRC-11). WRC-11 had been tasked to consider amendments to the provisions of the Radio Regulations necessary to provide for the operation of ship and port security and maritime safety systems. ITU had invited IMO and all members of the radiocommunication sector to contribute to these studies. COMSAR 12 had decided that the issues should first be considered by the Joint IMO/ITU Experts Group on Maritime radiocommunication matters (the Joint IMO/ITU Experts Group) and that background information on relevant procedural and standardization aspects should also be sought from IHO and ISO. The responses from IHO and ISO would be forwarded to COMSAR 13 for detailed consideration.

4.19 The Committee noted also that the Joint IMO/ITU Experts Group (10 to 12 June 2008) had considered, *inter alia*, that for the distribution of the current messages, in principle, the existing equipment using the existing available spectrum would be sufficient. Therefore, a total picture of other safety and security messages was needed to determine the need for other systems including the possible need for additional spectrum resource requirements.

The Joint IMO/ITU Experts Group had been of the view that there seemed to be no need for additional frequency allocation requirements with regard to operation of safety systems for ships and ports. With regard to the security on board ships, in terms of monitoring cargo, the question was raised whether this was a relevant issue for IMO to bring to the attention of the WRC-11. What remained was the security of ports and cargo handling, and, in this regard, the question was asked whether specific equipment and frequencies in ports were needed, where various commercial technical services were readily available, supplemented by the possibility of using public broadcasting for the dissemination of information.

4.20 The Committee noted further that there was an important distinction between "safety" and "security" and that these had been defined by the Joint IMO/ITU Experts Group thus: "in the context of IMO the term safety had to be interpreted as safe movement and integrity of ships and security provided protection from threats". In this regard, the following four different issues needed to be considered:

- .1 operation of safety systems for ships;
- .2 operation of safety systems for ports;
- .3 security on board ships; and
- .4 security of ports and cargo handling.

4.21 The Committee also noted that COMSAR 12 (COMSAR 12/15, paragraph 15.1.6) had invited the Committee to endorse the action taken by the Sub-Committee with regard to the consideration of future spectrum requirements for broadcasts of port security status in relation to the ISPS Code, the implementation of the LRIT system and the use of AIS and to invite comments thereon by its Working Group on Maritime Security (MSWG).

4.22 The Committee noted the view of the delegation of France that the information available was not comprehensive enough. The matter needed to be first discussed at COMSAR 13 before it could be considered by the Committee.

4.23 The delegation of the United States informed the Committee that they were one of the sponsors, at WRC-07, for this particular agenda item to be considered by WRC-11. They explained that additional information on this issue had recently been provided to COMSAR 13 for consideration in document COMSAR 13/4/8. They were further of the view that the following issues were appropriate for consideration under this WRC agenda item:

- .1 matters related to AIS;
- .2 matters related to security communications and the broadcast of security information to and from ships;
- .3 spectrum requirements for identification and security of cargo containers entering and leaving international ports and ships; and
- .4 modernization of shipboard and port safety and security communication systems including e-navigation.

4.24 The Committee further noted the view of the delegation of China that at this stage there was no compelling need for the introduction of a new communication system, nor for additional frequencies for the existing maritime safety and security systems in use and that issues such as cost effectiveness, liability and confidentiality needed to be taken into account.

4.25 The Committee concluded by requesting interested delegations to submit proposals to COMSAR 13 on this issue and relaxed the deadline for submissions, on this matter only, to 19 December 2008.

#### **SATELLITE DETECTION OF SHIPS AUTOMATIC IDENTIFICATION SYSTEMS**

4.26 In considering document MSC 85/11/1 (Secretariat), the Committee noted that NAV 54 had considered the issue of satellite detection of AIS and agreed to bring the matter to the attention of the Committee with the aim of getting a clear policy direction on this matter.

4.27 The Committee noted also that several Member States were conducting research and development efforts to determine the feasibility of using AIS receiving capability on low earth orbit (LEO) satellites and high altitude, long endurance (HALE) airships or balloons. The reasons brought forward for satellite detection of AIS were, *inter alia*:

- .1 observation of maritime activity;
- .2 detection, monitoring and surveillance of global maritime shipping;
- .3 ship tracking and other navigational activities;
- .4 satellite based oil spill detection services;
- .5 fisheries monitoring; and
- .6 to provide vessel information critical to maritime safety and security.

4.28 The Committee noted further that ITU's World Radiocommunication Conference 2007 (WRC-07) had allowed the existing two VHF frequencies for AIS (AIS-1 and AIS-2) to be used for the satellite detection of AIS as well, by additionally allocating these frequencies in the Radio Regulations to the mobile-satellite service (Earth-to-space) on a secondary basis for the reception of AIS emissions from stations operating in the maritime-mobile service. ITU, in a liaison statement had invited IMO to:

- .1 request ITU to initiate steps to implement the "improved satellite detection" as prescribed in the preliminary draft new report; and
- .2 consider the need to specify modifications to the shipborne AIS Class A equipment, in order to effect the operation of this improved satellite detection.

This liaison statement was considered by the Joint IMO/ITU Experts Group and by NAV 54 (which had invited Member Governments to submit proposals on the issue to MSC 85). The Joint IMO/ITU Experts Group had agreed that, in principle, everyone who was able to receive these signals could use the information collected, also for commercial activities. In this regard, the Joint IMO/ITU Experts Group had recalled that MSC 79 had considered matters relating to freely available AIS generated ship data and the attendant security risks. MSC 79 had agreed at that time that the publication on the World Wide Web or elsewhere of AIS data transmitted by ships could be detrimental to the safety and security of ships and port facilities and was undermining the efforts of the Organization and its Member States to enhance the safety of navigation and security in the international maritime transport sector.

4.29 In considering whether to support the issue of satellite detection of AIS, the Committee noted that:

- .1 in principle, everyone who would be able to receive these signals could use the information collected, also for commercial activities;
- .2 there might be a need to subsequently specify modifications to the shipborne AIS Class A equipment; and
- .3 there was a need for separate frequencies for satellite detection of AIS, which should be selected within the available VHF frequency band for the maritime service and that the frequencies under consideration are the frequencies adjacent to the GMDSS distress Channel 16.

4.30 The delegation of Sweden was of the opinion that the issue required a policy decision by the Committee. It should be investigated whether the issue could be included in the e-navigation strategy. Secondly, there was a need to study the matter of the commercial use of the data received by satellites.

4.31 The delegation of the United States informed the Committee that the concept was still at the development stage and that they considered it as an option for the enhancement of maritime safety and security. AIS was not conceived for satellite detection and the technology was still in its infancy. The Committee also noted that the United States was fully committed to the LRIT system and considered the possible future AIS detection by satellite not as a replacement, but when determined to be feasible, as a supplement to LRIT.

4.32 The delegation of France was of the view that development of this issue should form part of the e-navigation strategy. Making reference to paragraph 17 of document MSC 85/11/1, the

delegation was of the opinion that the matter should be dealt by the Committee itself, and, secondly that it was premature at this stage to specify modifications to the shipborne AIS Class A equipment.

4.33 The Committee noted the concerns expressed by the delegation of China, supported by the delegation of Greece and the ICS observer, concerning the uncontrolled availability of AIS information received by satellite and the possible negative effect on maritime safety and security of ships at sea. The delegation of China was also of the opinion that there would be a need for a new work programme item when further consideration would be required.

4.34 The Committee decided to postpone discussion of the issue to its next session and invited interested delegations to submit relevant proposals to MSC 86 for consideration under the agenda item on “Any other business”.

#### **ESTABLISHMENT OF THE MSWG**

4.35 The Committee re-established the MSWG and instructed the group, taking into account the related discussions of the various issues in plenary, to:

- .1 consider and advise the Committee on whether the development of the guidance on port facility security audits proposed in document MSC 84/4/3 would be conducive to improving the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code and, if so, suggest how the matter should be progressed;
- .2 taking into account the suggestions set out in document MSC 84/4/4 (Austria *et al.*), consider and advise the Committee whether the development of model legislation on maritime security implementing the provisions of SOLAS chapter XI-2 and the ISPS Code should be pursued and, if so, suggest how the matter should be progressed;
- .3 consider and advise the Committee whether the text of the Guidance relating to the implementation of SOLAS chapter XI-2 and the ISPS Code (MSC/Circ.1097) needed to be amended to include guidance on the handling of failures identified during ISPS Code verification; and on addressing conflicts between safety and security; and, if so, draft appropriate text for consideration by the Committee;
- .4 prepare, taking into account the proposals contained in the annexes to document MSC 85/4/1, a draft MSC circular on Guidelines on security aspects of the operation of vessels which do not fall within the scope of SOLAS chapter XI-2 and the ISPS Code, for consideration by the Committee with a view to approval; and
- .5 consider and advise the Committee on the issue of the carriage of firearms on board merchant ships.

#### **REPORT OF THE MSWG**

4.36 Having received and approved, in general, the report of the MSWG (MSC 85/WP.6), the Committee noted the actions taken on the various documents and proposals submitted and the outcome of the MSWG’s considerations and took action as indicated in the ensuing paragraph.



4.37 The Committee:

- .1 requested SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of MSC.1/Circ.1192 and MSC.1/Circ.1194, for further consideration of action to be taken;
- .2 reminded SOLAS Contracting Governments of their undertaking and obligation under SOLAS article III(c) to communicate to, and deposit with, the Secretary-General, *inter alia*, the text of laws, decrees, orders and regulations which have been promulgated on various matters within the scope of SOLAS and urged them to so, in order to facilitate the development of model legislation on maritime security;
- .3 invited Member Governments, intergovernmental organizations and non-governmental organizations in consultative status to submit to MSC 86 proposals on the handling of failures identified during ISPS Code verification;
- .4 approved MSC.1/Circ.1283 on Guidelines on security aspects of the operation of vessels which do not fall within the scope of SOLAS chapter XI-2 and the ISPS Code; and
- .5 reiterated that the Guidelines in the aforementioned MSC circular are recommendatory; are not intended to form the basis for a mandatory instrument; and should not be in any way interpreted as the basis for regulation of non-SOLAS vessels and related facilities.

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

### **GENERAL**

5.1 The Committee recalled that MSC 84 had agreed to a work plan for the continued development of goal-based new ship construction standards (GBS), designating:

- .1 this session for the finalization and approval of Tiers I to III of the GBS for bulk carriers and oil tankers and the associated draft SOLAS amendments; and
- .2 MSC 86 for the finalization of the generic guidelines for developing goal-based standards, the development of a plan to validate the results from the safety level concept and consideration of the long-term implementation of GBS,

and to a plan for the longer term consideration as well.

5.2 The Committee also recalled that, with regard to the Tier III draft Guidelines for the verification of compliance with GBS, MSC 83 had agreed that a second trial application of the Guidelines (following the first trial application agreed at MSC 82) was necessary in order to finalize them and had approved a relevant project plan. While MSC 84 noted a progress report by the Pilot Panel carrying out the project (MSC 84/5/2), the final report of the Panel had been submitted to this session as document MSC 85/5/1.

5.3 The Committee noted that, with regard to the possible need for amendments to other IMO instruments following the eventual adoption of the GBS for bulk carriers and oil tankers, MSC 84 had agreed that the matter should be considered in detail at this session, when the GBS for bulk carriers and oil tankers was expected to be finalized.

5.4 The Committee also noted that MSC 84 had re-established the GBS Correspondence Group and instructed it to finalize the generic guidelines for developing goal-based standards, based on the prioritized work plan agreed at that session (MSC 84/24, paragraph 5.18) and to report to MSC 86.

### **REPORT OF THE PILOT PANEL ON THE TRIAL APPLICATION OF THE TIER III VERIFICATION PROCESS USING IACS COMMON STRUCTURAL RULES (CSR)**

#### **General**

5.5 The Committee considered the report of the Pilot Panel (MSC 85/5/1, submitted by Captain Patrick Little, the coordinator of the Pilot Panel), containing, in annex 1, the draft Guidelines for the verification of compliance with goal-based new ship construction standards for bulk carriers and oil tankers, containing part A (Verification process) and part B (Information/documentation requirements and evaluation criteria), hereinafter called “the Verification Guidelines”, which were finalized following a trial of the GBS verification process using the IACS CSR, and, in annex 3, proposed revisions to the Tier II functional requirements. The report also addressed, in accordance with the terms of reference of the Panel, resource implications and recommendations to enhance the efficiency of the verification process.

5.6 The Committee expressed its thanks to the coordinator and the other expert members of the Pilot Panel for the excellent work done over the last two years and the time and effort expended by all the Panel members, and special thanks to China which hosted the very well organized and productive final meeting of the Panel.

5.7 The Committee, agreeing that the submitted documents commenting on the report of the Pilot Panel (MSC 85/5/1) would be considered under the relevant paragraphs listed in the action requested of the Committee (paragraph 27 of the report), approved the report of the Pilot Panel (MSC 85/5/1) in general and proceeded to consider the action items of the report as described in the following paragraphs.

#### **Guidelines for the verification of compliance with GBS**

5.8 The Committee approved, in principle, the proposed Guidelines for the verification of compliance with GBS (paragraphs 5 to 12 of, and annex 1 to the report), subject to the discussions of the Committee as described in paragraphs 5.9 to 5.18.

5.9 In this context, the IACS observer expressed concern that the verification process, as proposed in annex 1 to document MSC 85/5/1, may slow the current rate of rule development and updating due to the time necessary to do a thorough review according to the currently proposed system. In their view, the proposed verification process should be reconsidered to take into account the principle of self-assessment to be performed as part of the rule development process, which would address the IACS concerns, and, in particular, would:

- .1 ensure technological and state-of-the-art development of classification rules for the benefit of safety at sea;

- .2 ensure an efficient use of resources, especially in view of the very significant burden the current proposal would place on IMO to resource the anticipated number of appropriate and technically competent experts;
- .3 relieve IMO of the responsibility of the review process; and
- .4 ensure that the classification societies remain solely responsible for the content of their rules.

The observer invited the Committee to consider this alternative method of delivering the Tier III verification process (see also paragraph 5.28).

### ***Voting method of the Group of Experts***

5.10 The Committee considered the voting method of the Group of Experts (GoE) (paragraph 12 of part A of the Guidelines), i.e. whether they should take decisions with a simple or two-thirds majority, taking into account the view of the Republic of Korea (MSC 85/5/8) that a two-thirds majority for decisions of the GoE would be appropriate. Noting that the views of Members in the matter varied, the Committee referred the issue to the GBS Working Group for consideration and advice to the Committee.

### ***Confidentiality agreement***

5.11 The Committee discussed the issue of a confidentiality agreement to be signed by the members of the GoE (paragraph 17 of part A of the Guidelines), taking into account the view of the Republic of Korea (MSC 85/5/8) that members of the GoE should be required to sign such an agreement and considered in this connection document MSC 85/5/2 (Secretariat), providing two samples of confidentiality statements used in the Organization's work, i.e. the Statement of Confidentiality signed by the auditors appointed under the Voluntary IMO Member State Audit Scheme and the relevant part of the Letter of Agreement relating to Ballast Water Management System approval under the Ballast Water Management Convention.

5.12 Following discussion, the Committee instructed the GBS Working Group to finalize the text of paragraph 17 of part A of the Verification Guidelines concerning the confidentiality agreement, taking into account the comments and proposals made in plenary, and requested the Secretariat to provide a suitable confidentiality agreement to be signed by the members of the GoE.

### ***Functional requirement on ship recycling***

5.13 The Committee agreed to the recommendation of the Pilot Panel regarding ship recycling in respect of functional requirement II.15 and the related information and documentation requirements in Tier III, i.e. that it was premature to include requirements for recycling in advance of the finalization of the Ship Recycling Convention. The Committee noted, in this regard, that MEPC 58 had approved the final text of the draft International Convention for the Safe and Environmentally Sound Recycling of Ships for adoption by a diplomatic conference scheduled to take place from 11 to 15 May 2009 in Hong Kong, China.

### ***Modifications to the Ship Construction File***

5.14 The Committee considered the recommendations of the Pilot Panel to include net hull girder section modulus in the Ship Construction File and to harmonize the contents of the Ship Construction File with section III.10 of the Verification Guidelines (MSC 85/5/1, paragraph 9),

taking into account document MSC 85/5/7 (Japan), proposing modifications to the Tier III verification criterion III.10 (Design transparency) in order to take better account of intellectual property rights.

5.15 Acknowledging the importance of achieving the right balance between transparency and protection of intellectual property rights, the Committee instructed the GBS Working Group to take the proposals into account when preparing the final drafts of the Ship Construction File and section III.10 of the Verification Guidelines.

### ***Development of Tier III.5 evaluation criteria for residual strength***

5.16 The Committee considered the approach utilized by the Pilot Panel to develop Tier III.5 evaluation criteria for residual strength (MSC 85/5/1, paragraph 18) to determine whether ship construction rules provide a reasonable level of residual strength after damage (e.g., collision, grounding, flooding), i.e. to leave the determination of adequate residual strength, including foreseeable scenarios and assessment criteria, to the recognized organization, noting the view of the Panel that current IMO instruments are insufficiently defined to be used in a residual strength calculation procedure.

5.17 In this regard, the Committee also considered document MSC 85/5/8, wherein the Republic of Korea, agreeing that current IMO instruments are insufficiently defined to be used in a residual strength calculation procedure, suggested that this matter should be further considered through the safety level approach; and also supported evaluation requirement III.4 (Fatigue life), in particular the consideration of surface treatment such as grinding and peening.

5.18 Consequently, the Committee noted the approach utilized by the Pilot Panel to develop Tier III.5 evaluation criteria for residual strength.

### **Proposed modifications to Tier II functional requirements**

#### ***Definition of “net scantling”***

5.19 The Committee considered the revised definition of “net scantling” proposed by the Pilot Panel (MSC 85/5/1, paragraphs 13 and 14 and annex 3), taking into account documents MSC 85/5/6 (Japan) and MSC 85/5/8 (Republic of Korea), proposing modifications to the definition agreed by the Panel, and noted that views were divided on whether the definition should be again amended or should be kept as agreed at MSC 84.

5.20 Subsequently, the Committee instructed the GBS Working Group to consider and modify, as appropriate, the definition of “net scantling”, taking into account documents MSC 85/5/1 (annex 3), MSC 85/5/6 and MSC 85/5/8 and comments, proposals and decisions made in plenary.

#### ***Acceptable probability of exceedance of the design load for ships***

5.21 The Committee noted the discussion of the Pilot Panel on the proposal for a new functional requirement to establish an acceptable probability of exceedance of the design load for ships (MSC 85/5/1, paragraphs 15 and 16), in particular that the Panel did not come to a definitive decision in the matter and that the majority of the Panel was of the view that no requirement in this regard needed to be established, but that the GoE should exercise appropriate judgement when assessing the overall formulation of the rules.

### ***Modifications to Tier II functional requirement on structural strength***

5.22 The Committee considered modifications to Tier II functional requirement II.3 (Structural strength), in particular requirement II.3.3 (Ultimate strength) proposed by the Pilot Panel (MSC 85/5/1, paragraph 17 and annex 3), taking into account document MSC 85/5/8 (Republic of Korea), proposing further modifications to the modifications agreed by the Panel for requirement II.3.3.

5.23 Noting general support for the modifications proposed by the Pilot Panel, the Committee instructed the GBS Working Group to consider and modify, as appropriate, functional requirement II.3.3 (Ultimate strength), taking into account documents MSC 85/5/1 (annex 3) and MSC 85/5/8 and comments, proposals and decisions made in plenary.

### **Efficiency of the verification process**

5.24 The Committee noted the Pilot Panel's discussion on the efficiency of the verification process (MSC 85/5/1, paragraphs 19 to 21), in particular the importance of striking the right balance between the level of detail of the verification by the GoE and the resources required to conduct the verification, also noting that the verification should not centre on the rule development process but on the key parameters and assumptions used in the development. The Committee further noted that the Panel felt that the term "audit" should not be used since it could be misunderstood and that a self-assessment should be part of the documentation package to improve efficiency of the verification.

### **Resources required to conduct a verification**

5.25 The Committee considered the outcome of the discussion of the Pilot Panel on the resources required to conduct a verification (MSC 85/5/1, paragraphs 22 to 26), in particular that the Panel assessed resources needed to conduct the verification, based on a number of assumptions, including the number of members of the GoE; that this matter needs extensive discussion since the verification process depends entirely on the set-up of the GoE; and that the issue of how to finance the group is of imperative importance. The Panel also pointed out that appropriate resources are needed for the IMO Secretariat to administer and support the work of the GoE and the related information and documentation and that this might need the approval of the IMO Council. The Panel was of the view that the verification process could not commence before the financing was absolutely clear.

5.26 In this regard, the Committee recalled that it had a preliminary discussion on the financing of the GoE at MSC 83 (MSC 83/5/4), where three options had been presented how the costs for fees, travel and DSA of the experts could be met, i.e. by the Member State/international organization nominating the expert, by the recognized organization requesting verification, or by IMO. MSC 83 agreed that the matter should be further considered once the draft SOLAS amendments had been finalized.

5.27 To facilitate the discussion on the matter, the Secretariat explained, in more detail, the three funding options as presented to MSC 83 (see paragraph 5.26) and provided some basic cost estimates for funding options for the Group of Experts, based on the arrangements for the group proposed in the report of the Pilot Panel (MSC 85/5/1), (i.e. five to eleven members of the Group of Experts; five to six weeks' full-time work necessary for verification per rule set submitted; and, at least, one meeting of the group in person, otherwise deliberations by exchange of correspondence), as follows:

- .1 experts' expenditure, including fees, is covered by the Member State/international organization nominating the expert;
- .2 experts' expenditure, including fees, is covered by the submitter of a verification request; and
- .3 experts' expenditure for travel costs and DSA is covered by IMO with experts working on a no-fee basis.

In pursuance of the request by the Committee, the aforementioned information provided by the Secretariat was disseminated by means of document MSC 85/WP.3.

5.28 Following the ensuing discussion, the Committee, having noted a proposal for a fourth funding option (i.e. experts' expenditure for travel costs and DSA are covered by the submitter of the request for a verification and experts working on a no-fee basis), agreed to instruct the GBS Working Group to discuss in detail the funding of the Group of Experts, bearing in mind that funding issues should not inhibit the submission of verification requests and taking into account the need for a lasting solution, also guaranteeing the independence of the experts. The group was also instructed to consider the issue of a self-assessment by the recognized organization as an alternative method of delivering the Tier III verification process (see also paragraph 5.9).

5.29 Subsequently, the Committee instructed the GBS Working Group to consider the two issues, namely the financing of the GoE and budgetary provisions for the IMO Secretariat to administer and support the work of the GoE, taking into account document MSC 85/WP.3 and comments, proposals and decisions made in plenary, and to prepare relevant proposals for the consideration of the Committee.

#### **DRAFT SOLAS AMENDMENTS AND NEW INSTRUMENTS CONCERNING GBS FOR BULK CARRIERS AND OIL TANKERS**

5.30 The Committee considered document MSC 85/5 (Secretariat), containing in the annexes the current draft texts of the SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory (annex 1), the International goal-based new ship construction standards for bulk carriers and oil tankers (annex 2), and the Guidelines for the information to be included in a Ship Construction File (annex 3), and agreed to go through the annexes one-by-one in detail, taking into account relevant documents submitted commenting thereon, in order to establish the view of the Committee on each of them and arrive at proper instructions for the GBS Working Group.

#### **Draft SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory**

5.31 The Committee considered annex 1 of document MSC 85/5, containing the draft SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory and an associated draft MSC resolution, together with documents MSC 85/5/4 (Japan), providing comments and proposals regarding application dates and scope and coverage of all structural requirements by recognized organizations and including in the annex subsequent modifications to the draft SOLAS amendments, and MSC 85/5/5 (CESA), proposing modifications to include provisions for the maintenance of the Ship Construction File.

5.32 Following discussion, the Committee, noting in particular the need for a phase-in period and, thus, a proper implementation schedule in order to allow sufficient preparation time before the entry into force of any SOLAS amendments, instructed the GBS Working Group to finalize the draft SOLAS amendments on the basis of document MSC 85/5 (annex 1), taking into account documents MSC 85/5/4 and MSC 85/5/5 and comments, proposals and decisions made in plenary.

### **Draft International goal-based new ship construction standards for bulk carriers and oil tankers**

5.33 The Committee considered annex 2 to document MSC 85/5, containing the draft International goal-based new ship construction standards for bulk carriers and oil tankers and an associated draft MSC resolution, recalling its earlier decisions in the matter when the comments of the Pilot Panel regarding the Tier II functional requirements were discussed (see paragraphs 5.19 to 5.22), and, after a brief discussion, instructed the GBS Working Group to finalize the draft International goal-based new ship construction standards for bulk carriers and oil tankers, on the basis of document MSC 85/5 (annex 2), taking into account comments, proposals and decisions made in plenary.

### **Draft Guidelines for the information to be included in the Ship Construction File**

5.34 The Committee considered annex 3 to document MSC 85/5, containing the draft Guidelines for the information to be included in the Ship Construction File and the covering draft MSC circular, recalling its earlier decisions in the matter when the comments of the Pilot Panel regarding the draft Guidelines were discussed (see paragraphs 5.14 and 5.15).

5.35 In this connection, the Committee also considered documents MSC 85/5/5 (CESA) and MSC 85/5/8 (Republic of Korea), expressing concerns that intellectual property rights had not been taken into account properly in the draft Guidelines and suggesting relevant modifications, also regarding the definition of “Calculating conditions and results”.

5.36 Following discussion, the Committee agreed, in particular, that:

- .1 the SCF should be kept on board ships; and
- .2 intellectual property rights (IPR) needed to be taken into account, however, it was important to strike the right balance between transparency and IPR.

5.37 Subsequently, the Committee instructed the GBS Working Group to finalize the draft Guidelines for the information to be included in a Ship Construction File, on the basis of document MSC 85/5 (annex 3), taking into account documents MSC 85/5/5 and MSC 85/5/8 and comments, proposals and decisions made in plenary.

### **POSSIBLE NEED FOR AMENDMENTS TO OTHER IMO INSTRUMENTS**

5.38 The Committee recalled that, with regard to the possible need for amendments to other IMO instruments following the eventual adoption of the GBS for bulk carriers and oil tankers, MSC 84 had considered document MSC 84/5/1 (Secretariat) and had agreed that the matter should be considered in detail at this session, when the GBS are expected to be finalized. In the absence of any comments, the Committee instructed the GBS Working Group to consider the matter further once the GBS for bulk carriers and oil tankers had been finalized and to advise the Committee accordingly.

### **DEFINITION OF SAFETY LEVEL APPROACH (SLA) AND CONCEPT OF ITS INTRODUCTION INTO GBS**

5.39 The Committee had for its consideration document MSC 85/5/3 (Japan), clarifying the definition of the safety level approach (SLA) and the concept of introducing SLA into GBS, and providing an outline of ongoing work on the issue in Japan, and, having recalled that it had agreed to consider SLA matters at MSC 86, noted the information provided by Japan.

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

5.40 The Committee established the GBS Working Group and instructed the group, taking into account comments, proposals and decisions made in plenary, to:

- .1 finalize the draft SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory, on the basis of document MSC 85/5 (annex 1), taking into account documents MSC 85/5/4 and MSC 85/5/5;
- .2 finalize the draft International goal-based new ship construction standards for bulk carriers and oil tankers, on the basis of document MSC 85/5 (annex 2), taking into account documents MSC 85/5/1 (annex 3), MSC 85/5/6 and MSC 85/5/8;
- .3 finalize the draft Guidelines for the information to be included in a Ship Construction File, on the basis of document MSC 85/5 (annex 3), taking into account documents MSC 85/5/5 and MSC 85/5/8 and the recommendations of the Pilot Panel (MSC 85/5/1, paragraph 9);
- .4 finalize the draft Guidelines for the verification of compliance with goal-based new ship construction standards for bulk carriers and oil tankers, on the basis of the report of the Pilot Panel (MSC 85/5/1, annex 1), taking into account document MSC 85/5/7, and prepare an associated draft MSC resolution;
- .5 consider the resource implications of the conduct of the verification process, in particular the funding of the Group of Experts, as well as the use of self-assessment as an alternative verification process, taking into account documents MSC 85/WP.3, MSC 85/5/1 and MSC 83/5/4, and prepare relevant proposals for consideration of the Committee; and
- .6 consider the possible need for amendments to other IMO instruments following the eventual adoption of the GBS for bulk carriers and oil tankers, taking into account document MSC 84/5/1, and advise the Committee accordingly.

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

5.41 Having received the report of the GBS Working Group (MSC 85/WP.5 and Add.1), the Committee approved the report in general and took action as outlined in the following paragraphs.

### **SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory**

5.42 The Committee noted that the group had considered the draft SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory, on the basis of document MSC 85/5 (annex 1), taking into account documents MSC 85/5/4 and MSC 85/5/5, in particular considering the proposal from Japan for modifications to the draft SOLAS amendments (MSC 85/5/4) and had agreed in general to several principles, as follows:

- .1 while GBS represented “rules for rules”, the regulations in SOLAS would apply to ships;
- .2 the implementation schedule for the amendments should provide sufficient time for preparation of submission packages, review of the rules by the Group of Experts, amendment of rules if such a need is identified during the verification process, and the subsequent modification of designs; and



- .3 the need for the Organization to review progress made with regard to the verification in 2012 and to take action as appropriate.

5.43 The Committee noted that a strong majority of the group had agreed to the implementation time frame as proposed by Japan (MSC 85/5/4, annex), noting that such a time frame was needed to accommodate uncertainties associated with the number of rules to be submitted, availability of experts, and length of time needed to conduct the verification, and that some delegations were of the view that a shorter time frame should be adopted to expedite implementation. The group had also noted that the agreed implementation time frame presumed approval of amendments at MSC 85 and may require revision if the amendments were approved at a later session.

5.44 The Committee noted that, regarding the applicability thresholds, the group had agreed that it was reasonable to limit the application of requirements at this time to keep the implementation process manageable and allow the Organization to gain experience with conducting the verification process; that an application which was too broad could potentially overwhelm available resources; and that the inclusion of a broader scope could be considered at a later date.

5.45 The Committee noted that the group had considered proposals from CESA regarding the draft SOLAS provisions for the Ship Construction File (SCF) (MSC 85/5/5), and had accepted the proposal pertaining to the maintenance of the SCF, but that the majority of the group had agreed that the Ship Construction File should be kept aboard the ship and had not accepted the proposal from CESA to keep it ashore only.

5.46 The Committee noted that the group had agreed to introduce issues pertaining to intellectual property rights; updates associated with change of registry; storage; and availability of the SCF to the Administration, recognized organization and company, in the Guidelines for the information to be included in the Ship Construction File, but not in the draft SOLAS amendments.

5.47 Following consideration of the outcome of the group in the matter, the Committee discussed extensively whether the draft SOLAS amendments to make the GBS for bulk carriers and oil tankers mandatory (MSC 85/WP.5, annex 1), and the draft International goal-based ship construction standards for bulk carriers and oil tankers (MSC 85/WP.5/Add.1, annex 2), should be approved at this session with a view to adoption at MSC 86 or whether the approval should be postponed to MSC 86.

5.48 Many delegations, while acknowledging that tremendous progress had been made during the session, expressed the view that there were currently still uncertainties with regard to the verification process, the financial resources needed and liability issues and that these fundamental items needed to be resolved before any SOLAS amendments could be approved. The draft SOLAS amendments together with the draft International goal-based ship construction standards for bulk carriers and oil tankers, the draft Guidelines for the verification of compliance with goal-based ship construction standards and the draft Guidelines for the information to be included in a Ship Construction File formed a package that should be considered holistically.

5.49 Many other delegations pointed out that significant progress had been made, that the draft amendments were ready for approval at this session and that they could see no reason to delay it, taking into account that the Verification Guidelines were almost completed and the financial aspects could be addressed later. An approval at this session would give Members a level of certainty and would provide a firm basis for the further work in the matter. Also, the provisions in the draft associated MSC resolution (MSC 85/WP.5, annex 1) to review the progress towards the implementation of the proposed SOLAS regulation II-1/3-10 in 2012 would take care of any problems encountered.

5.50 Following the discussion, the Committee agreed to postpone approval of the draft SOLAS amendments and the draft International goal-based ship construction standards for bulk carriers and oil tankers to MSC 86, in the understanding that the text of the draft amendments and the draft standards had been agreed by the Committee and are the basis for any further work at MSC 86.

### **International goal-based ship construction standards for bulk carriers and oil tankers**

5.51 The Committee noted that the group had considered the draft International goal-based ship construction standards for bulk carriers and oil tankers, on the basis of document MSC 85/5 (annex 2), taking into account documents MSC 85/5/1 (annex 3), MSC 85/5/6 and MSC 85/5/8, and recalled its earlier decision regarding postponement of its approval to MSC 86 (see paragraph 5.50).

5.52 The Committee noted that the group had considered the Pilot Panel's proposal (MSC 85/5/1) to modify the functional requirement for structural strength and agreed to changes as shown in annex 2 to document MSC 85/WP.5/Add.1.

5.53 The Committee also noted that the group had considered the proposals from the Pilot Panel (MSC 85/5/1), Japan (MSC 85/5/6) and the Republic of Korea (MSC 85/5/8), concerning the definition of "net scantlings" and that the majority of the group had agreed to the revised text shown in annex 2 to document MSC 85/WP.5/Add.1.

5.54 The Committee noted that the group had extensive discussion on whether the rules of a national Administration would be subject to verification under GBS, and that, while some delegations noted that such rules should be included since this could create a gap in the GBS coverage, other delegations noted that the verification of national rules should be left to the responsibility of individual Administrations and not be conducted by the Organization. The Committee further noted that the majority of the group had agreed that verification of national rules should only apply in cases as allowed under SOLAS regulation II-1/3-10 to eliminate the gap in coverage for the requirements.

### **Guidelines for the verification of compliance with goal-based ship construction standards for bulk carriers and oil tankers**

5.55 The Committee noted that, as instructed, the group had considered the Guidelines for the verification of compliance with goal-based ship construction standards for bulk carriers and oil tankers, set out in annex 1 to the report of the Pilot Panel (MSC 85/5/1), taking into account document MSC 85/5/7 (Japan and CESA).

5.56 The Committee also noted that the group had an extensive discussion on the coverage of functional requirements that may not be covered by the rules submitted by a recognized organization and that the majority of the group had agreed that the structural requirements covered by the standards were a fundamental building block of GBS and that the recognized organization was expected to submit a documentation package that addressed all functional requirements. However, the group agreed that there was no need to verify a functional requirement that was covered by IMO instruments.

5.57 The Committee further noted that the group had extensive discussions on Part A of the Guidelines (Verification process), but had been unable to finalize the text. However, the group had agreed that a working model of the verification process was needed to support further discussions on the viability, efficiency and resource needs of the verification process as outlined in document MSC 85/5/1. Accordingly, the group developed the draft text of Part A of the Guidelines (MSC 85/WP.5/Add.1, annex 3), and identified specific areas that require further development and refinement, as follows:

- .1 the relationship between information submitted with the submitter's documentation package and the recognized organization's quality management system;
- .2 interim approval of the rules as per paragraph 11 of Part A of the Guidelines. Some delegations noted that it would be unfair to delay final verification of rules until the next meeting of the Maritime Safety Committee (MSC). Other delegations noted it was inappropriate to presume the MSC confirmation and that interim approval could cause significant problems if rules applied on an interim basis are not subsequently approved. Regardless, the group noted that it was important that ample resources be provided to ensure a prompt response and left the relevant draft text in square brackets for further consideration;
- .3 the relationship between submission of the Group of Experts' report to the MSC and the Organization's document submission procedures;
- .4 the current draft text of the Guidelines should be developed further with regard to the description of periodic rule verification;
- .5 there are no provisions to allow a recognized organization to request a subsequent partial verification in the event the rules change after initial verification;
- .6 the draft text needs to be made consistent with the International goal-based ship construction standards for bulk carriers and oil tankers, namely that the process only applies to the rules of a national administration if they are submitted as equivalent to rules of recognized organization under the provisions of SOLAS regulation II-1/3-1; and
- .7 the issue of whether or not members of Groups of Experts might be allowed to consult outside the group.

5.58 Regarding appeals on decisions of the Group of Experts, the Committee noted that the group had agreed that the process should be limited to allowing reconsideration of the recommendation of the Group of Experts, based on the documentation provided by the submitter, and that appeals should not be used as a means to resubmit new information to an alternate smaller Group of Experts, i.e. the Appeal Board.

5.59 The Committee noted that the group had noted that, as proposed by the Pilot Panel, it was anticipated that each expert selected by the Secretary-General would address all functional requirements in the verification process.

5.60 The Committee also noted that the group had agreed that a three-year limit on membership of a Group of Experts was too restrictive with respect to resources and had agreed to remove the limitation; that the Group of Experts should consist of seven to nine members, depending on the complexity of the submission, and included a provision to allow the Secretary-General to establish smaller Groups of Experts to consider rule changes or serve as Appeal Boards; and that a two-thirds majority of the experts should be required to make a recommendation to the MSC to ensure it was widely supported.

5.61 The Committee further noted that a majority of the group had preferred that the confidentiality agreement to be signed by the members of the Group of Experts be similar in format and scope to that used for the GESAMP group as indicated in annex 2 to document MSC 85/5/2,

and had agreed that the submitter should clearly indicate any confidential and/or proprietary information submitted with the documentation package. However, some delegations noted that this should not be interpreted as restricting, in any way, the fulfilment of the duties of the experts.

5.62 The Committee noted that the group had considered the changes to Tier III.10, Design transparency, proposed by Japan and CESA (MSC 85/5/7); had an extensive discussion on the merits of the proposals; and had agreed to modify the relevant statement of intent to include the consideration of intellectual property rights as proposed. However, the group did not support the addition of specific information and documentation requirements and evaluation criteria pertaining to intellectual property rights.

5.63 The Committee also noted that the majority of the group had agreed that, since the purpose of GBS was to ensure that ships are safe and environmentally friendly, it was not reasonable to include evaluation criteria pertaining to intellectual property rights and that such consideration was outside the remit of the Organization.

5.64 The observer from CESA, supported by the delegations of France, Germany, Italy and the observer from the European Commission, recommended to balance design transparency and intellectual property protection and pointed out that protection measures were necessary for industrial innovation which is crucial for developing the state-of-the-art in ship safety and environment protection, and are, therefore, within the remit of the Organization.

5.65 The Committee noted that, while finalizing the text of Part B of the Verification Guidelines (MSC 85/WP.5/Add.1, annex 3), the group had agreed to leave the text of paragraphs 10.2.1.1 to 10.2.1.7 in square brackets, pending finalization of the Ship Construction File so as to avoid potential duplication of requirements.

### **Guidelines for the information to be included in a Ship Construction File**

5.66 The Committee noted that, as instructed, the group had considered the draft Guidelines for the information to be included in a Ship Construction File on the basis of document MSC 85/5 (annex 3), taking into account documents MSC 85/5/5 and MSC 85/5/8 and the recommendations of the Pilot Panel (MSC 85/5/1), and that the outcome of the group's discussion will be included in part 2 of the report of the group which will be submitted to MSC 86 by the Chairman of the group.

### **Resource implications of the conduct of the verification process**

5.67 The Committee noted that, as instructed, the group had started considering potential resource implications of the verification process while discussing the draft SOLAS amendments, the draft International goal-based ship construction standards for bulk carriers and oil tankers and the draft Guidelines for the verification of compliance of GBS, but had not reached any conclusions nor developed any recommendations due to time constraints, and that this matter would be addressed further in part 2 of the report of the group (see paragraph 5.66).

5.68 Concerning a proposal for a detailed self-assessment by recognized organizations, the Committee noted that the group had noted that no specific proposal had been submitted that would help members of the group to understand how an alternative verification scheme based primarily on self-assessment would be established or implemented, and that, as a result, the group had been unable to consider the alternative verification scheme suggested by Sweden further at this session.

## **Possible need for amendments to other IMO instruments**

5.69 The Committee noted that, due to time constraints, the group had not been able to consider the possible need for amendments to other IMO instruments following the finalization of the GBS for bulk carriers and oil tankers.

### **Timing of further work**

5.70 The Committee, recalling that MSC 84 had agreed that MSC 86 should deal with the finalization of the generic guidelines for developing goal-based standards, the development of a plan to validate the results from the safety level concept and the consideration of the long-term implementation of GBS, endorsed the recommendation of the group to re-schedule the activities planned for MSC 86 so that the Verification Guidelines, the provisions for the Ship Construction File and the outcome of the discussion on resources for the verification process could be considered and finalized by a working group at that session with a view to having been approved together with the SOLAS amendments.

5.71 The Committee invited Member Governments and international organizations to submit proposals to MSC 86 with a view towards finalizing the GBS for bulk carriers and oil tankers. In particular, submissions should address:

- .1 finalization of Part A of the Guidelines for the verification of compliance with goal-based ship construction standards for bulk carriers and oil tankers (MSC 85/WP.5, annex 3), taking into account the discussions of the working group as noted in paragraphs 15 to 25 of document MSC 85/WP.5;
- .2 finalization of the Guidelines for the information to be included in a Ship Construction File (MSC 85/WP.5/Add.1);
- .3 development of an alternative verification process based on self-assessment only, taking into account the comments in paragraph 37 of document MSC 85/WP.5; and
- .4 possible need for amendments to other IMO instruments, following the finalization of the GBS for bulk carriers and oil tankers, taking into account document MSC 84/5/1.

## **6 LRIT-RELATED MATTERS**

6.1 The Committee recognized that, for the LRIT system to become operational on 30 December 2008, it must take decisions with respect to all issues having a bearing on the establishment and operation of the International LRIT Data Exchange (IDE), the LRIT Data Distribution Plan (DDP) and, indeed, the complete LRIT system.

6.2 In addition, the Committee also recognized that, since the actual establishment and integration of the majority of LRIT Data Centres would start after MSC 85, the Committee would need to decide, *inter alia*, how matters relating to the compliance of ships; the technical specifications for the LRIT system; and the development and integration testing of LRIT Data Centres would be handled during the period between MSC 85 and MSC 86.

6.3 The Committee noted that all issues of principle would need to be tabled in plenary to enable it to instruct the Working Group on LRIT-related matters (the working group) accordingly.

6.4 The Committee recalled further that in view of the critical nature of the issues involved, and as had been identified by MSC 84 and recently by the *Ad Hoc* LRIT Group, matters in connection with the establishment of the LRIT system had fallen behind, in comparison to what was envisaged during MSC 81 and needed to be expedited on a priority basis.

6.5 The Committee considered documents MSC 85/6 (Secretariat), MSC 85/6/1 and Adds.1 to 4 (*Ad Hoc* LRIT Group), MSC 85/6/2 (IMSO) and MSC 85/INF.7 (IMSO).

6.6 The Committee considered document MSC 85/6 (Secretariat) giving details of the technical co-operation activities undertaken between March and September 2008 with a view to promoting the implementation of the LRIT system. The Committee noted with interest that the Secretariat had organized, under the Integrated Technical Co-operation Programme, a series of subregional seminars/meetings for heads of maritime administrations and senior officials having direct responsibility for developing and/or implementing policies and legislative and administrative arrangements for the implementation of the SOLAS provisions relating to LRIT and AIS, including the relevant performance standards and functional requirements.

## **OUTCOME OF INTERSESSIONAL MEETINGS OF THE MSC *Ad Hoc* LRIT Group**

### **Reports of the *Ad Hoc* LRIT Group**

6.7 The Committee recalled that MSC 84 had approved the convening of an intersessional *Ad Hoc* LRIT Group (the group) and instructed it, in essence, to consider all issues of a technical nature which had a bearing on the timely establishment of the LRIT system.

6.8 In considering the report of the group (MSC 85/6/1 and Adds.1 to 4), the Committee approved the report in general and agreed only to address a selected number of key issues where it was necessary to have a debate in plenary before referring matters to the working group for further consideration. In particular, the Committee took action as reported in the ensuing paragraphs.

### ***Amendments to the Technical specifications for the LRIT system***

6.9 The Committee recalled that MSC 84 had authorized the group to consider and adopt amendments to the technical specifications for the LRIT system. Annex 3 to document MSC 85/6/1; annexes 4 and 5 to document MSC 85/6/1/Add.1; and annexes 4 and 5 to document MSC 85/6/1/Add.4 set out the amendments to the technical specifications for the LRIT system which were adopted by the group.

6.10 The delegation of Cyprus with respect to paragraphs 7.26 to 7.28 of document MSC 85/6/1/Add.2 stated that a central system should be established for testing DDP polygons before distribution.

6.11 The Chairman of the *Ad Hoc* LRIT Group clarified that at the moment it was not possible to establish a separate central system and that the DDP server, which was maintained by the Secretariat, was not designed for such a task. The Chairman also recalled that the *Ad Hoc* LRIT Group had discussed this issue and had recommended that all polygons associated with the Contracting Government that had incorrect polygons should be rejected by the processing DC and suggested the addition of a text describing the actions to be taken by the processing DC to the Technical specifications for the LRIT Data Distribution Plan.

6.12 The delegation of Turkey stated that any type of central system which would function manually would be likely a matter of concern to them.

6.13 The Committee approved the amendments to:

- .1 the Technical specifications for the International LRIT Data Exchange;
- .2 the Technical specifications for communications within the LRIT system; and
- .3 the Technical specifications for the LRIT Data Distribution Plan.

6.14 The Committee noted that during the fifth session of the group, a working paper had been developed which consolidated all the technical specifications for the LRIT system and all the amendments thereto, as at 22 August 2008, in a single document. Work had already started this week on updating the document so as to incorporate the amendments to the technical specifications which were adopted by the group, at its sixth session, and which the Committee has now approved. The new document providing the technical specifications would become available after the end of the session, at which stage, it would also be determined whether the Secretariat should proceed to issue these as MSC.1/Circ.1259 or whether these should be kept as a working paper.

#### ***Matters related to the XML schemas***

6.15 The Committee recalled that MSC 84 had adopted a number of XML (*eXtensible Markup Language*) schemas either as part of the Technical specifications for communications within the LRIT system, or as part of the Technical specifications for the LRIT Data Distribution Plan.

6.16 The Committee noted that during the last three sessions of the group, the need to adopt consequential amendments to the XML schemas adopted by MSC 84, as results of amendments to the Technical specifications for communications within the LRIT system, had shown that keeping the various schemas in two separate technical specifications was helpful. As a result, the group, at its fifth session, on a trial basis, removed all the XML schemas from the two technical specifications and consolidated these in a single separate document. The trial had demonstrated the usefulness of this approach and the group agreed, subject to the concurrence of the Committee, that this should be continued henceforth. As minor amendments were made to the technical specifications, the corresponding changes were incorporated into the XML Schemas. In addition to these changes and with a view to improve the version control and maintainability of the system, the XML Schemas and this individual files were given release versions with a change-log in the read-me file, which was in conformance with standard industry practices.

6.17 The Committee concurred with the view of the group that the XML schemas should be included in separate document forming part of the Technical specifications for the LRIT system. The latest version of the XML schemas is set out in annex 5 to document MSC 85/6/1/Add.4.

#### ***Protocols and arrangements for the prototype, development, integration and modification testing phases of the LRIT system***

6.18 The Committee noted that the main focus of the three sessions of the group had been the development of protocols and arrangements for the testing of the various components of the LRIT system during the prototype, developmental and production phases. A prototype testing environment was established at the beginning of July. It consisted of the DCs being established by the Bahamas, Brazil, Canada, Liberia, the Marshall Islands, the Republic of Korea and the United States; the IDE; and the DDP server.

6.19 The Committee noted that the satisfactory completion of the prototype testing phase was critical for the successful implementation of the LRIT system, as it was necessary to provide, as soon as possible, *inter alia*:

- .1 certainty in relation to the adequacy and completeness of the Technical specifications for communications within the LRIT system; and
- .2 a testing environment where the rest of the DCs are to be tested before their integration into the production LRIT system.

6.20 The Committee also noted that the Protocols and arrangements for the prototype, developmental, integration and modification testing phases for the LRIT system had been developed to demonstrate the compliance of each component of the LRIT system with the relevant provisions of regulation V/19-1, of the Performance standards and of the Technical specifications for the LRIT system.

6.21 The Committee approved the Protocols and arrangements for the prototype, development, integration and modification testing phases of the LRIT system and the arrangements for the prototype and developmental testing phase, set out in annex 2 and annex 3 to document MSC 85/6/1/Add.3, respectively.

6.22 The Committee agreed, in relation to the dissemination of the aforesaid protocols, to instruct the Working Group on LRIT-related matters to consider the matter and to recommend the approach to be taken.

#### ***Consideration and adoption of amendments during the period between MSC 85 and MSC 86***

6.23 The Committee noted that the developmental testing phase was expected to commence shortly after the end of the current session. Given the nature of the work being undertaken, it was reasonable to expect that from time to time there might be a need to consider amendments to the technical specifications, the XML schemas and the test procedures and test cases.

6.24 The Committee noted also the Procedures for the consideration of proposals for the amendment of technical specifications for the LRIT system, the XML schemas and the test procedures and test cases developed by the group with a view to dealing with matters during the period between successive sessions of the group and agreed to instruct the Working Group on LRIT-related matters to consider how amendments to the aforesaid technical documentation should be considered and adopted during the period between MSC 85 and MSC 86 and recommend the approach to be taken.

#### ***Notification, reporting and recording of temporary suspensions of operations of, or reduction of the service***

6.25 The Committee noted that during the fifth session of the group, the United States had advised that, during the development of the IDE, it had identified a need for standard operating procedures for notification of the DCs and DDP server regarding unavailability of the IDE due to maintenance and outages and suggested that similar procedures were also needed in the event of the DDP server or a DC not being available or having no other option but to operate at a reduced level of service. The Committee agreed that such procedures were warranted when a component of the LRIT system had to temporarily suspend, for whatever reason, its operations or provide a reduced level of service.



6.26 The Committee approved the Procedures for the notification, reporting and recording of temporary suspensions of operations of, or reduction of the service provided by, components of the LRIT system, as set out in annex 7 to document MSC 85/6/1/Add.1, and agreed to instruct the Working Group on LRIT-related matters to consider the matter further and to recommend the approach to be taken.

***Matters related to the performance review and audit of the LRIT system***

6.27 The Committee noted that during the sixth session of the group, IMSO had identified the need to consider a number of technical issues relating to the performance review and audit of the LRIT system in order to enable the LRIT Coordinator to undertake the related tasks. In particular, IMSO had requested the group to:

- .1 consider the need to define the data file and exchange formats for data submitted to the LRIT Coordinator for performance review and audit purposes;
- .2 identify those technical specifications that already existed and were relevant in this regard; and
- .3 develop any further technical specifications it considered would be required for the proper specification and implementation of the LRIT Coordinator performance review and audit software.

6.28 The Committee considered the guidance requested by IMSO on technical issues relating to the performance review and audit of the LRIT system and agreed to instruct the Working Group on LRIT-related matters to consider the matter and to recommend the approach to be taken, in the context of any work which might need to be dealt with during the intersessional period.

***Matters referred to the Group for consideration by MSC 84***

6.29 The Committee recalled that MSC 84 had referred to the group a number of issues (set out in paragraphs 3.43 to 3.69 of document MSC 84/6/1/Add.2) relating to the implementation of the LRIT system that would benefit from the development of guidance.

6.30 The Committee, taking into account the absence of any written submissions, agreed to instruct the Working Group on LRIT-related matters to consider the matter and the approach to be taken.

***Matters relating to MSC.1/Circ.1257***

6.31 The Committee noted that during the sixth session of the group, the Bahamas, the Marshall Islands, the United States and IACS (through the Secretariat) brought to the attention of the group a number of issues relating to the guidance provided in MSC.1/Circ.1257. The indication in paragraph 5.3.1 of MSC.1/Circ.1257, namely that the conformance testing should be conducted “within a period of three months prior to the date on which a ship would need to demonstrate compliance with the requirements of regulation V/19-1”, has been interpreted in a manner which was not in line with the reasons the group initially recommended this time frame. It was also not consistent with the provisions of resolution MSC.211(82) regarding early implementation of the LRIT system.

6.32 The delegation of the Bahamas informed the Committee that it had identified some issues with regard to conformance test reports that might require additional clarification and suggested

that the LRIT Working Group should address these issues and prepare a unified position from both the flag and port State perspective.

6.33 The Committee noted the proposed draft amendments to MSC.1/Circ.1257, as set out in annex 7 to document MSC 85/6/1/Add.4, and agreed to instruct the Working Group on LRIT-related matters to consider the matter and to prepare a new MSC.1 circular incorporating the various amendments for approval.

***Matters relating to ships which were not otherwise required to comply with the requirements of chapter IV***

6.34 The Committee noted that during the sixth session of the group, the United States had brought to the attention of the group the question of establishing a date by which ships which were not otherwise required to comply with the requirements of chapter IV (and which, as a result, were not required to be issued with a Cargo Ship Radio Certificate) should be required to comply with the provisions of regulation V/19-1.

6.35 The Committee recalled that MSC 82, when adopting the 2006 SOLAS chapter V amendments (resolution MSC.202(81)), had decided that the gross tonnage to be used in determining whether a ship (including a high-speed craft) was required to comply with the provisions of regulation V/19-1, should be that determined in accordance with the provisions of the 1969 Tonnage Convention.

6.36 The Committee noted that, as a result of the provisions of operative paragraph 3 of resolution A.494(XII) on Revised interim scheme for tonnage measurement for certain ships, which allowed ships the keel of which was laid before 18 July 1994 to use the gross tonnage calculated in accordance with national tonnage rules, in determining whether they were required to comply with the provisions of chapter IV, a number of ships which were not otherwise required to comply with the provisions of chapter IV, were however required to transmit LRIT information.

6.37 The Committee noted also that in case such ships were to be required to comply with SOLAS regulation V/19-1, they would probably need to be fitted with dedicated shipborne equipment to transmit LRIT information. In addition, in view of their gross tonnage, it was doubtful whether they would hold Cargo Ship Safety Equipment Certificates which might be amended in order to document compliance with the requirement to transmit LRIT information.

6.38 The Committee agreed that Contracting Governments should investigate how many ships entitled to fly their flag were affected as well as the nature of the voyages on which such ships were engaged.

6.39 The Committee noted that, notwithstanding the investigations to be carried out by Contracting Governments, the best course of action was to set 31 December 2009 as the end date by which such ships would have to comply, thus allowing Administrations the flexibility for establishing earlier dates, if they so wished.

6.40 In addition, the Committee considered whether ships which were not required, as a result of the provisions of resolution A.494(XII), to comply with the requirements of chapter IV should be required to comply with the provisions of regulation V/19-1 and, if so, the arrangements to be followed, and agreed to instruct the Working Group on LRIT-related matters to consider the matter and to recommend the approach to be taken.

***Instructions to recognized organizations***

6.41 The Committee noted that during the sixth session of the group, IACS (through the Secretariat) had brought to the attention of the group the fact that its members, who were acting on behalf of the majority of Administrations as recognized organizations, had received guidance and instructions in relation to the implementation of the provisions of regulation V/19-1 only from a limited number of Administrations.

6.42 The observer from IACS brought to the attention of the Committee the importance of this issue for Contracting Governments, since the response rate had been very low regarding notification of recognized ASPs including any special instructions.

6.43 The Committee urged Contracting Governments to provide the recognized organizations they had authorized to act on their behalf with appropriate instructions and guidance in relation to the implementation of regulation V/19-1, as soon as possible.

***Date of compliance not subject to extension***

6.44 The Committee noted that during the sixth session of the group, IACS (through the Secretariat) had requested clarification as to what provisions within the agreed mandatory LRIT provisions could be used to facilitate extensions or exemptions being agreed and issue certificates, on the basis of any LRIT-related non-compliance.

6.45 The Committee recalled that one of the main reasons why it had approved MSC.1/Circ.1257 and agreed the conduct of the conformance testing of the shipborne equipment ahead of the date each ship was required to comply with the requirements of regulation V/19-1, was to enable Companies to ascertain whether the shipborne equipment of ships, especially of those constructed before 31 December 2008, were able to meet the aforesaid requirements and if need be to make timely arrangements for their repair or replacement or fitting of new equipment and, thus, avoid the need for considering or granting any extensions.

6.46 Some delegations spoke on the issue of granting extensions by Administrations and were of the opinion that some more time was necessary.

6.47 The Committee agreed that the date of compliance of ships with the requirements to transmit LRIT information was not a subject for extension, and regulation V/19-1 did not include any provisions which an Administration might invoke for granting such extensions.

***Transfer of flag of ships which are required to transmit LRIT information***

6.48 The Committee noted that during the sixth session of the group, IACS (through the Secretariat) had suggested that the practical implementation of the process to be followed in instances of transfer of flag of ships would require more detailed consideration in the future.

6.49 The Committee concurred with the view that the practical implementation of the requirements of regulation V/19-1 when a ship was transferred to the flag of another Contracting Government or from a State which was not a Contracting Government needed further detailed consideration and that this might be done at a later stage when Administrations would have gained experience in dealing with the various issues involved.

***Matters relating to MSC.1/Circ.1258***

6.50 The Committee agreed that, as a result of the amendments to certain elements of the Technical specifications for communications within the LRIT system and the XML schemas agreed by the group, there was a need to amend certain aspects of MSC.1/Circ.1258 accordingly.

6.51 The Committee agreed to instruct the Working Group on LRIT-related matters to consider the matter and to prepare a new MSC.1 circular incorporating the various amendments for approval.

***Matters relating to MSC.1/Circ.1256***

6.52 The Committee noted that as a result of the proposed amendments to MSC.1/Circ.1257 and 1258 there would be a need to revise and update MSC.1/Circ.1256 accordingly and agreed to instruct the Working Group on LRIT-related matters to consider the matter and to prepare a new draft MSC.1 circular incorporating the various amendments for approval.

***Plan for the continuity of service of the LRIT system***

6.53 The Committee recalled that MSC 84 had instructed the group to consider how the continuity of service of the LRIT system would be ensured, to develop and agree principles and elements which should be addressed in plans aiming at ensuring the continuity of service of the system and, if possible, to develop such plans for consideration by the Committee with a view to adoption.

6.54 The Committee noted that, whilst the development of a continuity of service plan for the LRIT system continued to be highly desirable, the group, as a result of its workload, had been unable to engage in any discussions on the issue and agreed that such a plan should be developed at a later stage when there was a reasonable understanding of the technical arrangements and solutions established by each DC and the developmental testing phase had been considerably advanced.

6.55 The Committee agreed to instruct the Working Group on LRIT-related matters to consider the matter and to recommend the approach to be taken, in the context of any work which might need to be dealt with during the intersessional period.

***ASPs-related matters***

6.56 The Committee recalled that MSC 84 had considered the need for the development of guidelines to aid Contracting Governments when considering and screening applications for recognition as an ASP and instructed the group to consider and recommend the approach to be taken, on the understanding that Contracting Governments should not delay the recognition of ASPs or the authorization of ASPs to conduct conformance testing on the grounds that the Committee had not yet either decided whether such guidance was necessary or agreed any guidance to this end.

6.57 The Committee noted that the group had received no proposals relating to the development of guidance to aid Contracting Governments when considering and screening applications for recognition as an ASP and agreed that the development of such guidance might be reconsidered at a later stage when Contracting Governments had a better understanding of the issues involved.

6.58 The delegation of Turkey stated that the development of such guidance might be reconsidered at a later stage when Contracting Governments had a better understanding of the issues involved. Turkey had some experience gained during the internal test of their national system and they wished to share some of their observations with the Working Group on LRIT-related matters, once established.

6.59 The delegation of South Africa supported by the delegation of Nigeria highlighted the critical importance of the provision of technical assistance to developing countries in assisting them to establish the LRIT system.

6.60 The Committee agreed to instruct the Working Group on LRIT-related matters to consider the matter and to recommend the approach to be taken, in the context of any work which might need to be dealt with during the intersessional period.

#### ***Establishment and Operation of the International LRIT Data Exchange***

6.61 The Committee recalled that MSC 83 had accepted the contingency offer of, and had agreed with the establishment and operation of the International LRIT Data Exchange on an interim basis by, the United States.

6.62 The Committee also recalled that MSC 84, when adopting the related decisions, within the framework of regulation V/19-1, had agreed, in operative paragraph 2 of resolution MSC.264(84), *inter alia*, that a permanent solution for the International LRIT Data Exchange should be found as soon as possible and had decided that the issue should be discussed during this session.

6.63 The Committee noted that no submissions had been received on this issue and agreed to instruct the Working Group on LRIT-related matters to consider the matter and to recommend to the Committee the approach to be taken.

#### **Status of the implementation of the LRIT system**

6.64 The Chairman of the *Ad Hoc* LRIT Group provided the following brief overview of the status of the implementation of the LRIT system:

- .1 the prototype of the IDE and DDP server had been established and their correct functioning had been verified, in accordance with the report on the prototype testing phase of the LRIT system;
- .2 the prototype Data Centres of the Bahamas, Brazil, Canada, Liberia, the Marshall Islands, the Republic of Korea and the United States had satisfactorily completed the prototype testing phase;
- .3 on the basis of the information communicated to the Organization so far, only 55 out of the 158 Contracting Governments and 3 of the non-metropolitan territories, to which the application of the 1974 SOLAS Convention had been extended, had provided information in relation to the DCs they contemplated to establish or use. In addition, in at least two cases, the Contracting Governments concerned had made it clear that their respective DCs would not be operational until around the middle of 2009;
- .4 a considerable number of Contracting Governments had not yet provided information to the Organization in relation to the establishment or selected DC;
- .5 taking into account the positive testing results so far during the prototype phase, it should be possible to set up and commission the testing environment after the end of the current session of the Committee, and to start the developmental testing of other DCs by mid-December 2008;

- .6 at this stage and on the basis of the available information, approximately six additional DCs could start developmental testing by mid-December and it was difficult to predict how long their developmental testing would take;
- .7 at present, the best estimate was that, by 31 December 2008, the production LRIT system might include between 6 and 8 National LRIT Data Centres;
- .8 during the next few weeks and months, it should be possible to accelerate the developmental testing of DCs which use, and are based on, technologies and software having already satisfactorily completed the prototype or developmental tests. However, based on the available information, it appeared that between 15 and 20 DCs using technologies and software which had not been previously tested would need to undergo developmental testing; and
- .9 the establishment of the entire LRIT system would continue after 31 December 2008 and it was possible that it could take several months during 2009 before it could be completed. In addition, those involved with the DCs to be tested during the next few weeks and months would require support, guidance or assistance. This meant that a number of Contracting Governments wishing to request and receive LRIT information from 1 January 2009 might not be able to do so.

6.65 The Chairman of the *Ad Hoc* LRIT Group suggested that the Committee should consider how matters should unfold during the next few months and what arrangements needed to be put in place with a view to accelerating the pace of implementation of the LRIT system which, as stated before, had fallen slightly behind and how port State control should deal with ships which were required to transmit LRIT information, but which could not do so, since the DC to which they should transmit the information, was not yet operational.

6.66 The delegation of the Bahamas stated that during MSC 83, it had recommended to reduce the transmission interval until the system became operational, in order to reduce the financial burden while conducting the necessary tests to ensure that the LRIT system was functioning properly.

6.67 The delegation of the United States stated that it had always supported and continued to strongly support the implementation of the LRIT system on schedule, as set out in SOLAS regulation V/19-1. The implementation schedule provided a phased-in effective date for each vessel, depending on its survey schedule. When the Organization developed this schedule for LRIT implementation, it was expected to provide the necessary flexibility for ships and their flag Administrations. The compliance dates were no secret and they expected that all parties concerned had to do what was needed to implement the LRIT system, as required. To that end, the United States had been working closely with the *Ad Hoc* LRIT group, the Secretariat, other flag Administrations and the LRIT Coordinator to finalize the technical specifications. The United States had completed testing for the United States National DC, and the interim IDE with the DDP and, with other DCs. Collectively, good progress had been made. Despite the United States' efforts and the efforts of many others, it was realized that the system would not achieve full operating capability by January 2009. Some DCs would not be ready for testing until later next year and agreements for reimbursement of costs between DCs remained to be completed. Recognizing this, the United States was prepared to work co-operatively to achieve the implementation of the LRIT system as rapidly as possible, perhaps on a phased-in basis that recognized the readiness and obligation for the start-up of each Contracting Government's DC. The United States also recognized that enforcement would need to consider this approach along with the maritime security needs of countries and with due consideration of the principles embodied in MSC.1/Circ.1256. The United States did not and would not support any policy that discouraged the sense of urgency for the timely implementation of the LRIT system.

6.68 The delegation of China voiced their concern at the slow progress including the delay in receiving reports of the meetings of the *Ad Hoc* LRIT Group. They stated that technical and billing issues still needed to be resolved. Bearing this in mind, the delegation of China was of the view that either the implementation date should be postponed or an appropriate MSC resolution should be developed to clarify clearly that ships would not be held liable for non-compliance.

6.69 The delegation of Panama informed the Committee on the status of development of the Panama National DC and provided additional information related to national training programmes and selection of an Application Service Provider. The delegation of Panama was of the view that a balance between all components was necessary for the appropriate implementation of the LRIT system.

6.70 The observer from ICS stated that some flag States had been diligent in complying with the requirements of the LRIT system. With regard to equipment conformance tests, identical equipment had worked on some ships but not on others. There was overall a 25% failure rate. Secondly, there was concern that the 27 EU Contracting Governments would not be ready until the middle of 2009. However, ICS was heartened by the letter from the United States that for the time being there would be only carriage requirement enforcement for ships until a reasonable level of operational capability had been achieved.

6.71 The delegation of Chile informed the Committee on the establishment of the Chilean Cooperative DC and highlighted the delays experienced with the acquisition of new LRIT equipment for ships that, in some cases, exceeded nearly sixty days.

6.72 The delegations of Bolivia, Chile, Egypt, Indonesia, Iran (Islamic Republic of), Liberia, Saudi Arabia, the Syrian Arab Republic, Thailand and Venezuela (Bolivarian Republic of) and others favoured a pragmatic implementation approach and schedule and supported the views of the delegations of China and Panama.

6.73 The Chairman, in summing up the debate, stated that there had been a good detailed discussion on the basis of the proposal by China. Other delegations had recognized that the system would not be fully operational and that there was a need for a pragmatic approach. Ships should not be penalized for non-compliance. There was a need to accelerate the LRIT system establishment/implementation. The Chairman instructed the Working Group on LRIT-related matters to provide recommendations expanding on the pragmatic approach to be taken.

#### **PERFORMANCE REVIEW AND AUDIT OF THE LRIT SYSTEM**

6.74 The Committee recalled that MSC 84 had invited proposals and suggestions on the issue of the performance review and audit of the LRIT system and noted that no such submissions had been received apart from those, reporting on the related outcome of the twentieth session of the IMSO Assembly.

6.75 The Committee considered documents MSC 85/6/2 and MSC 85/INF.7 (IMSO) providing information and comments on the outcome of the twentieth session of the IMSO Assembly and information on the Scale of Charges that would be levied by IMSO for performing functions of the LRIT Coordinator, respectively.

6.76 The IMSO observer informed the Committee (MSC 85/6/2 and MSC 85/INF.7) on the outcome of the twentieth session of the IMSO Assembly, which had been held in Malta from 29 September to 3 October 2008. In relation to the Global Maritime Distress and Safety System (GMDSS), the IMSO Assembly had approved the text of a Reference Public Services

Agreement to be signed by any new Providers of mobile satellite services that may in future be recognized by the Committee to participate in the GMDSS. The IMSO Assembly had also authorized the Director General of IMSO to negotiate and sign such Public Services Agreements on behalf of IMSO. In relation to LRIT, the IMSO Assembly had approved the IMSO LRIT Business Plan, IMSO's charges for LRIT for 2008 and 2009 and the formula for apportionment of LRIT audit and review fees to Data Centres. The IMSO Assembly had decided that the charges for IMSO's activities as LRIT Coordinator for 2008 and 2009 should be used on an interim basis until the next regular session of the IMSO Assembly (expected to be in the third or fourth quarter of 2010). The business plan, annual audit/review fee and daily per diem fee for LRIT services provided by IMSO as the LRIT Coordinator would be kept under review, by the IMSO Director General, in the light of experience.

In addition, the IMSO Assembly had approved:

- .1 a draft Model LRIT Services Agreement, which was intended to become the standard form of LRIT Services Agreement used between IMSO and commercial Data Centre operators or Application Service Providers; and
- .2 a Statement of IMSO Goals and Objectives which was intended to be included in any LRIT audit/review contract IMSO signs with any governmental agency that is based on that government's own standard procurement contract.

Noting that MSC 84 had requested "IMSO acting as LRIT Coordinator to authorize, on behalf of and subject to consideration and approval, acceptance or endorsement of the action by the Committee, the integration, on an interim basis, of the DCs which have undergone and satisfactorily completed developmental testing into the production LRIT system", the IMSO Assembly had approved the Director General's proposed Letter of Interim Authorization to Integrate a Data Centre into the Production LRIT System.

The IMSO Assembly had adopted arrangements for the development, endorsement and agreement of IMSO's budget which separate GMDSS and LRIT budgets, in a multi-GMDSS provider environment, and apportionment of the common costs of the Organization between the two business streams. These arrangements would be annexed to the Reference Public Services Agreement for GMDSS Providers and would form an integral part of any future Public Services Agreement executed by the Director General on behalf of IMSO. The apportionment of costs of GMDSS oversight among existing and any new providers would be discussed and progressed at the appropriate time by IMSO.

Finally, the IMSO Assembly had considered further amendments to the IMSO Convention intended to better prepare IMSO to undertake the oversight of GMDSS mobile satellite service providers in the multi-provider environment that had been established by IMO Assembly resolution A.1001(25) and perform the functions of LRIT Coordinator. The IMSO Assembly had adopted amendments to the IMSO Convention (2008 amendments), in accordance with Article 18 of the Convention and decided that the amendments should be applied provisionally from 6 October 2008, pending their formal entry into force in accordance with Article 18 of the IMSO Convention.

The IMSO Assembly had also noted that, with the adoption and provisional application of the amendments to the IMSO Convention, the United States had withdrawn the reservations made at the eighteenth and nineteenth (extraordinary) sessions of the IMSO Assembly with effect from 6 October 2008.



6.77 The delegation of the United States stated that it was very pleased with the outcome of the twentieth session of the Assembly of Parties of IMSO, and congratulated the IMSO Director General on a very successful Assembly. The adoption and provisional application of amendments to the IMSO Convention, as reported in document MSC 85/6/2, had established a sound legal and transparent foundation for IMSO to perform the role of LRIT Coordinator and to oversee new providers in the GMDSS, that in the future, might be approved by this Committee. The United States trusted that formal notification either had been, or shortly would be, delivered by the IMSO Director General to the Secretary-General of IMO as the depositary of the IMSO Convention, and the decisions taken to provisionally apply those amendments. With that decision the IMSO Assembly had cured and removed the reasons for the United States' objections to IMSO serving as the LRIT Coordinator, and thus, the reasons for their reservation to the decision of the Committee to appoint IMSO as the LRIT Coordinator at MSC 82. Accordingly, the United States was pleased to announce that it was withdrawing that reservation and looked forward to working co-operatively with IMSO as the LRIT Coordinator to implement LRIT on a timely basis.

6.78 The delegation of Argentina recalled that MSC 84, without interfering in the internal affairs of IMSO, had urged those Contracting Governments, which were also IMSO Parties to explore, during the deliberations of the IMSO Advisory Committee and the forthcoming session of the IMSO Assembly, how the charges to be levied by the LRIT Coordinator for conducting performance review and audit of the LRIT system could be brought down to affordable levels and apportioned in a fair and reasonable manner amongst those who had to bear the burden. Related to the fees for audit and review of DCs, during the last session of the IMSO Assembly, Argentina, Peru and Chile had expressed their disagreement with the interim solution proposed by IMSO. Argentina, in accordance with IMSO, was preparing a new proposal (based on a number of flags and ships for every data centre) for consideration during the next IMSO Advisory Committee.

6.79 In response to the intervention by the delegation of Argentina, IMSO informed the Committee that the scale of charges for LRIT-related work by IMSO would be used until the next session of the IMSO Assembly. IMSO highlighted the reduction in fees achieved by the IMSO Assembly in response to the request of MSC 84. In the meantime, the Director General of IMSO would keep the charges and the formula by which they are apportioned under review and will take advice from the IMSO Advisory Committee in this respect.

6.80 The delegation of Vanuatu considered that the formula for apportionment of LRIT audit and review fees to LRIT Data Centres was not fair and reasonable. A National DC with just a few hundred vessels would pay the same fee as another having 4,000 vessels. The delegation of Vanuatu supported the views of Argentina and welcomed the review and development of a more fair and reasonable formula.

6.81 The delegations of Bolivia, Brazil, Chile, Colombia, Ecuador, Faroe Islands, Mexico, Peru, Uruguay and Venezuela (Bolivarian Republic of) supported the views of the delegation of Argentina.

6.82 The Committee was of the opinion that this issue should be resolved by IMSO and not in this Committee.

6.83 The Committee recalled that MSC 82 had decided to appoint IMSO as the LRIT Coordinator and noted that, since then, SOLAS regulation V/19-1 had entered into force and, thus, the time had come for the Committee to take a formal decision in relation to the performance review and audit of the LRIT system within the framework of regulation V/19-1.14.

6.84 The Committee instructed the Working Group on LRIT-related matters to prepare a draft MSC resolution on the performance review and audit of the LRIT system by IMSO as the LRIT Coordinator.

### **Establishment of the Working Group on LRIT-related matters**

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

- .1 consider whether, and if so how, the Protocols and arrangements for the prototype, development, integration and modification testing phases of the LRIT system, as set out in annex 2 to document MSC 85/6/1/Add.3, and the arrangements for the prototype testing phase and for the commencement of the developmental testing phase, as set out in annex 3 to the same document, should be disseminated, and to recommend the approach to be taken;
- .2 consider how amendments to the Technical specifications for the LRIT system, the XML schemas and the test procedures and test cases should be considered and adopted during the period between MSC 85 and MSC 86 and, taking into account the Procedures for the consideration of proposals for the amendment of technical specifications for the LRIT system, the XML schemas and the test procedures and test cases, as set out in annex 6 to document MSC 85/6/1/Add.4, to recommend the approach to be taken;
- .3 consider whether, and if so how, the Procedures for the notification, reporting and recording of temporary suspensions of operations or reduction of the service provided by components of the LRIT system, as set out in annex 7 to document MSC 85/6/1/Add.1, should be disseminated and to recommend the approach to be taken;
- .4 consider when and how the guidance requested by IMSO on technical issues relating to the performance review and audit of the LRIT system (MSC 85/6/1/Add.2, paragraphs 7.48 to 7.51) should be developed and to recommend the approach to be taken, in the context of any work which may need to be dealt during the intersessional period;
- .5 consider the issues raised in paragraphs 3.43 to 3.69 of document MSC 84/6/1/Add.2 and to recommend the approach to be taken;
- .6 consider the proposed draft amendments to MSC.1/Circ.1257, as set out in annex 7 to document MSC 85/6/1/Add.4, and to prepare a new MSC.1 circular incorporating the various amendments, with a view to approval;
- .7 consider whether ships which are not required, as a result of the provision of resolution A.494(XII), to comply with the requirements of chapter IV, should be required to comply with the provisions of regulation V/19-1 and, if so, to recommend the approach to be taken;
- .8 consider the proposed draft amendments to MSC.1/Circ.1258, as set out in annex 8 to document MSC 85/6/1/Add.4, and to prepare a new MSC.1 circular incorporating the various amendments, with a view to approval;

- .9 consider whether, as a result of the proposed draft amendments to MSC.1/Circ.1257 and 1258, there is a need to revise and update MSC.1/Circ.1256 accordingly and, if so, to prepare a new MSC.1 circular incorporating the various amendments, with a view to approval;
- .10 consider when and how the plan for continuity of service for the LRIT system should be developed and to recommend the approach to be taken, in the context of any work which may need to be dealt during the intersessional period;
- .11 consider when and how guidance to aid Contracting Governments when considering and screening applications for recognition as an ASP should be developed and to recommend the approach to be taken, in the context of any work which may need to be dealt during the intersessional period;
- .12 develop a draft resolution on the appointment of IMSO as LRIT Coordinator within the framework of regulation V/19-1.14, with a view to adoption; and
- .13 review the developments in relation to the establishment of the LRIT system, with a view to identifying what issues need to be addressed and what measures could be put in place for the purpose of accelerating the pace of establishment of LRIT Data Centres, and to recommend the approach to be taken.

### **Report of the working group**

6.86 Upon receipt of the report of the working group (MSC 85/WP.7 and Add.1 and .2), the Committee approved it in general and took action as outlined in the following paragraphs.

### **LRIT system – Technical documentation**

6.87 The Committee approved Procedures for the consideration of proposals for the amendment of technical specifications for the LRIT system, the XML schemas and the test procedures and test cases, as specified in MSC.1/Circ.1294.

6.88 The Committee approved MSC.1/Circ.1294 on Long-range identification and tracking system – Technical documentation (Part II), consisting of Protocols and arrangements for the prototype, development, integration and modification testing phases of the LRIT system; Procedures for the notification, reporting and recording of temporary suspensions of operations or reduction of the service provided; and Procedures for the consideration of proposals for the amendment of technical specifications for the LRIT system, the XML schemas and the test procedures and test cases.

### **Guidance in relation to certain types of ships which are required to transmit LRIT information, on exemption and equivalents on certain operational matters**

6.89 The Committee approved MSC.1/Circ.1295 on Guidance in relation to certain types of ships which are required to transmit LRIT information, on exemptions and equivalents and on certain operational matters.

### **Guidance on the survey and certification of compliance of ships with the requirement to transmit LRIT information**

6.90 The Committee approved MSC.1/Circ.1296 on Guidance on the survey and certification of compliance of ships with the requirement to transmit LRIT information.

### **Guidance to search and rescue services in relation to requesting and receiving LRIT information**

6.91 The Committee approved MSC.1/Circ.1297 on Guidance to search and rescue services in relation to requesting and receiving LRIT information.

### **Guidance on the implementation of the LRIT system**

6.92 The Committee approved MSC.1/Circ.1298 on Guidance on the implementation of the LRIT system.

### **Transitional arrangements and measures for accelerating the completion of the establishment of the LRIT system**

6.93 The Committee approved MSC.1/Circ.1299 on Transitional arrangements and measures for accelerating the completion of the establishment of the LRIT system.

6.94 The delegation of China appreciated the efforts of the working group and expressed concern on the duration of the transitional arrangements which, in their view, should take into consideration several practicality issues. It was the common practice of the Organization to allow 18 months after adoption of new mandatory amendments to the Convention to prepare for implementation. The technical specifications, which were critical for the establishment of the LRIT system, were, at this stage, still in the process of modification. For countries with strict internal procurement procedures, it was very difficult to start construction without the completed technical documents. The complexity of such a system and the capabilities of developing countries should also be considered. Technical assistance and capacity building should be provided to developing countries in order to bring them into the system rather than exclude them due to their inability. The Chinese delegation emphasized that the LRIT system needed participation of all Contracting Governments to make it mature and perfect.

6.95 The observer from ICS expressed appreciation to the working group for the significant amount of work accomplished. ICS noted that the transitional arrangements were necessary and recognized that there remained significant unresolved issues before entry into force of the LRIT mandatory requirement for ships. ICS believed that aspects of the transitional arrangements only partly addressed the real concerns and that the assessment of a ship's compliance with arrangements over which it had no control could not be substantiated. Furthermore, ICS had earlier identified, that the issue regarding repeatability and confidence in LRIT equipment compliance testing remained unresolved and it could not be resolved until all Contracting Governments took up their LRIT responsibilities. For this reason, ICS urged those Administrations who had yet to complete the necessary work to do so without delay.

### **Performance review and audit of the LRIT system**

6.96 The Committee adopted resolution MSC.275(85) on Appointment of the LRIT Coordinator, set out in annex 10.

### **Operation of the International LRIT data Exchange on an interim basis**

6.97 The Committee adopted resolution MSC.276(85) on the Operation of the International LRIT Data Exchange, set out in annex 11.

## **Consideration and adoption of amendments to the LRIT technical documentation during the period between MSC 85 and MSC 86**

6.98 The Committee authorized the consideration and adoption of amendments to the LRIT technical documentation through correspondence, in accordance with the provisions of the Procedures referred to in paragraph 6.87 above, during the period between MSC 85 and MSC 86, on the understanding that the Committee would consider and, unless it is deemed to be unreasonable, would approve, accept and endorse, as the case may be, the actions taken.

### ***Ad Hoc LRIT Group***

6.99 The Committee authorized one meeting of the *Ad Hoc* LRIT Group during the period between MSC 85 and MSC 86 and approved the terms of reference for the *Ad Hoc* LRIT Group, as set out in annex 9 to document MSC 85/WP.7/Add.2.

### **Continuity of service**

6.100 The Committee agreed, that, until the development and adoption of a continuity of service plan for the LRIT system, in case the system faces an emergency situation or a malicious attack, those which face or encounter such situations first, in consultation with the chairman of the *Ad Hoc* LRIT Group; the United States acting on behalf of the IDE; and the Secretariat acting on behalf of the Organization for matters relating to the DDP and of the Public Keys Infrastructure (PKIs), should determine the actions to be taken so as to best protect the system; contain the propagation of the problem(s) to other components of the system; ensure continuity of service; and restore normal operations.

6.101 The Committee noted, with thanks, that the United States had made arrangements for an IDE operator to be available on a 24-hour basis for providing assistance and for dealing with emergency situations.

### **Other issues**

#### ***Matters relating to the geographical areas to be included in the LRIT Data Distribution Plan and to be used by the LRIT system***

6.102 The Committee urged Contracting Governments and DCs to verify whether they had their own GIS-related tools set for verifying geographical area polygons and to consider providing, in case they are able to do so, to the Organization for inclusion within the DDP server such GIS-related tools.

#### ***Geographical areas of Contracting Governments claiming archipelagic State status***

6.103 The Committee urged Contracting Governments to include in their delegation to future sessions of the *Ad Hoc* LRIT Group, persons with appropriate expertise; and to prepare and bring to the *Ad Hoc* LRIT Group relevant charts showing the landwards and seawards limits of their internal waters, their archipelagic baselines and the seawards outer limits of their territorial sea, with a view to enabling focused and constructive discussions of the technical and operational issues involved.

### ***Non-metropolitan territories and special administrative regions***

6.104 The Committee agreed to allow, on a provisional basis and notwithstanding the current provisions of the Revised performance standards, the establishment of DCs by non-metropolitan territories of Contracting Governments to which the application of the Convention has been extended and by special administrative regions of Contracting Governments to which the Convention applies, on the understanding that the Secretariat would investigate, in consultation with the Contracting Governments concerned, the issues involved with a view to reporting to MSC 86 relevant details for the purpose of enabling the Committee to determine the actions required, including adopting, if necessary, any related amendments to the Revised performance standards.

### ***Observations related with the future implementation of the LRIT system***

6.105 The delegation of Turkey requested the inclusion, in the Committee's report, of the statement it had made during the working group (MSC 85/WP.7/Add.2, annex 10) and the Chairman accepted the inclusion of the aforesaid statement, as if read in plenary. The statement of Turkey is set out in annex 27.

6.106 The delegation of Greece, following the comments it made during the working group, in response to the aforesaid statement by Turkey, made a statement, as set out in annex 28.

6.107 The delegation of Turkey made, in response to the statement by the delegation of Greece, a further statement, as set out in annex 27.

### ***Public Key Infrastructure (PKI) certificates***

6.108 The Committee noted that the Secretariat had completed the process for issuing, on behalf of the Organization, Public Key Infrastructure (PKI) certificates to the components of the LRIT system. The Committee also noted that the Secretariat would be establishing and advising the process and procedures to be followed for obtaining, installing and using PKI certificates and the terms and conditions which would govern their use. In addition, the Secretariat advised that it would be reporting to MSC 86 relevant details for the purpose of enabling the Committee to determine the actions required, including adopting, if necessary, any related amendments to the Revised performance standards.

### ***Prototype testing phase***

6.109 The Secretariat, pursuant to the decisions of MSC 84, advised that the DCs established by the Bahamas, Brazil, Canada, Liberia, the Marshall Islands, the Republic of Korea and the United States participated in the prototype-testing phase together with the IDE and the DDP server (collectively referred to a "prototype components of the LRIT system"). The Secretariat reported that all prototype components of the LRIT system had satisfactorily completed all test procedures and test cases, as specified in the Protocols and arrangements for the prototype, development, integration and modification testing phases of the LRIT system, and the related summary reports had been countersigned where required to confirm the external certification of the results of the various tests. The Committee, taking into account the information provided by the Secretariat, agreed that the prototype-testing phase had been satisfactorily completed and the prototype components of the LRIT system should proceed with the establishment of the testing and production environments of the LRIT system. To this end, the Secretariat advised, and the Committee noted, that the testing and production environments of the LRIT system would be using PKI certificates, issued by the Organization.

## **7 SHIP DESIGN AND EQUIPMENT**

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

#### **General**

7.1 The Committee approved, in general, the report of the fifty-first session of the Sub-Committee on Ship Design and Equipment (DE 51/28 and MSC 85/7) and took action as indicated hereunder, recalling that MSC 84 had already taken action on urgent matters emanating from DE 51.

#### **Provisions for gas-fuelled ships**

7.2 The Committee noted that DE 51 had no comments on the parts of the draft Interim Guidelines on safety for gas-fuelled engine installations in ships, referred to it by the BLG Sub-Committee for review, and invited any experts of the DE Sub-Committee interested in the matter to take an active part in the correspondence group established by BLG 12 to prepare the final draft Interim Guidelines.

#### **Formula for determination of the required subdivision index R in SOLAS chapter II-1**

7.3 The Committee noted that DE 51 had considered a proposal to revisit the formula for determination of the required subdivision index R in SOLAS chapter II-1 to take into account new concepts in inflatable survival craft and marine evacuation systems and, having noted that the issue had been extensively discussed in the Committee in the context of the revised chapter II-1 and resolved, had agreed not to revisit the formula.

#### **Blanking of bilge discharge piping systems in port**

7.4 The Committee, taking into account MEPC 58's concurrent decision, approved MSC-MEPC.4/Circ.3 on Blanking of bilge discharge piping systems in port.

#### **Interpretation of SOLAS regulations II-1/1.3 and II-1/3-6**

7.5 The Committee approved MSC.1/Circ.1284 on Interpretation of SOLAS regulations II-1/1.3 and II-1/3-6 concerning means of access requirements for single-hull tankers converting to double-hull arrangements.

#### **Prohibition of all new installations of asbestos on board ships**

7.6 The Committee approved draft amendments to SOLAS regulation II-1/3-5.2, set out in annex 12, which will prohibit all new installations of asbestos on board ships without exceptions, and requested the Secretary-General to circulate the draft amendments in accordance with SOLAS article VIII for consideration at MSC 86 with a view to adoption.

7.7 In this connection, the Committee noted the view of the Sub-Committee that the prohibition of all new installations of asbestos on board ships might affect other IMO instruments which contain related provisions, in particular the Ship Recycling Convention currently under development, recognizing that MEPC 58 had also noted this view of the Sub-Committee.

### **Interpretation of SOLAS regulation III/16.1**

7.8 The Committee approved MSC.1/Circ.1285 on Interpretation of SOLAS regulation III/16.1 concerning embarkation ladders at embarkation stations of ships fitted with non-davit launched liferafts.

### **Non-mandatory instruments for which information on their implementation should be collected**

7.9 Regarding the Committee's instruction to identify those non-mandatory instruments for which information on their implementation should be collected, the Committee noted that the Sub-Committee had supported, in general, the development of a GISIS module on non-mandatory requirements and recommendations to be kept updated by the Secretariat, and had invited individual Member Governments to use the GISIS reporting facilities to enter information on the implementation of those requirements and recommendations and to upload the corresponding national legislation, as deemed appropriate.

### **Unified interpretation of SOLAS regulation II-1/32.1**

7.10 The Committee approved MSC.1/Circ.1286 on Unified interpretation of SOLAS regulation II-1/32.1, providing guidance for a relaxation of the requirement for redundancy of safety valves for steam boilers and boiler feed systems.

### **MEASURES TO PREVENT ACCIDENTS WITH LIFEBOATS**

7.11 The Committee considered document MSC 85/7/2 (IACS), proposing to instruct the DE Sub-Committee to consider revisions to SOLAS chapter III to ensure that there are mandatory provisions to allow for life-saving equipment to be serviced and maintained in full compliance with SOLAS, following the approval, at MSC 84, of MSC.1/Circ.1277 on Interim Recommendation on conditions for authorization of service providers for lifeboats, launching appliances and on-load release gear.

7.12 In the ensuing discussion, it was noted that the proposed amendments to SOLAS regulation III/20.5 would create difficulties for shipowners in obtaining specialized tools, spare parts and accessories; that they may lead to a proliferation of "special tools" which the shipowner would be obliged to purchase and which would hinder standardization as a means to prevent accidents related to lifeboats; that ships might become non-compliant with SOLAS if tools are missing or broken, or spare parts have been used without being immediately replenished onboard. Views were expressed that the issue was adequately covered by existing SOLAS regulation III/20.5.

7.13 Other delegations remarked that the maintenance of on-load release gear was of utmost importance to prevent accidents with lifeboats and that the manufacturer needed to be involved in the issue of regulating the authorization of such maintenance.

7.14 Following the discussion, the Committee, noting that the issue falls under the DE 52 agenda item on "Measures to prevent accidents with lifeboats", referred the document, together with the comments made in plenary, to DE 52 for consideration and action as deemed appropriate.



## **DEFINITION OF THE TERM “BULK CARRIER”**

7.15 The Committee recalled that MSC 84, when considering urgent matters emanating from DE 51, had noted that the Sub-Committee was not able to come to an agreement regarding an interpretation of the definition of the term “bulk carrier”, and had established an Intersessional Working Group on Interpretation of the Definition of Bulk Carrier (see circular letter No.2886) to resolve the matter. Subsequently, the group met on 24 and 25 November 2008 and its report has been circulated as document MSC 85/7/3.

7.16 In this connection, the Committee noted that document MSC 85/7/1 (IACS), proposing a revised version of the draft resolution on the interpretation of the definition of bulk carrier provided in document MSC 84/11/2 (Norway), had also been dealt with by the intersessional working group.

7.17 The Committee considered the report of the intersessional working group (MSC 85/7/3) and, having approved the report in general, took action as outlined in the following paragraphs.

7.18 The Committee recalled that the origin of the matter had been the recommendation of FSI 13 that the definition of “bulk carrier” in chapter IX of SOLAS and in the revised SOLAS regulation III/31 should be checked and coordinated with the definition in SOLAS regulation XII/1 since the FSI Sub-Committee could not achieve a common view on resolving the reported problems faced by some PSC officers regarding the status of a ship which may not be identified as a bulk carrier on the relevant SOLAS certificates, but in fact carries dry cargoes in bulk.

7.19 The Committee considered the draft MSC resolution concerning the clarification of the term “bulk carrier” and guidance for application of the SOLAS regulations developed by the group, set out in the annex to document MSC 85/7/3, noting that:

- .1 the provisions of the resolution cover new ships only;
- .2 the application of the provisions of the resolution were divided according to operational measures (operative paragraph 1.1 of the resolution) and structural requirements (operative paragraph 1.2 of the resolution);
- .3 regarding the exclusion of specific types of cargoes carried on dedicated ship types, it was clarified that the risks associated with the transport, loading and unloading of such cargoes should be taken into account; and
- .4 ships occasionally carrying dry cargoes in bulk as described in operative paragraphs 1.6 (double-side skin construction) and 1.7 (smaller ships of single-side skin construction) of the resolution are recommended to comply with the SOLAS requirements applicable to bulk carriers to the extent indicated in those paragraphs.

7.20 In the course of discussion, the following comments were made:

- .1 it was unusual that the provisions of a non-mandatory resolution contained dates for their application;
- .2 the application dates referred to above should not relate to the keel laying but rather to the dates of contract and delivery; and

- .3 the provisions in the resolution introduced restrictions for new general cargo ships; went beyond the provisions of the SOLAS Convention; and were discriminating against single-hull ships.

7.21 Some delegations expressed their satisfaction with the resolution which had been developed in a spirit of compromise and was acceptable to a majority of the Committee, taking into account that there had been several unsuccessful previous attempts to come to a generally acceptable solution in the matter.

7.22 The Committee noted, in particular, that the provisions of the resolution were not amending the SOLAS Convention but presented guidance on how to apply relevant SOLAS requirements. It was also noted that the reference to the size of single-hull ships occasionally carrying dry cargoes in bulk, i.e. less than 100 m in length, was not understood to be a design limitation but was arrived at as a result of other SOLAS regulations for ships of this size.

7.23 Subsequently, the Committee adopted resolution MSC.277(85) on Clarification of the term “bulk carrier” and guidance for application of regulations in SOLAS to ships which occasionally carry dry cargoes in bulk and are not determined as bulk carriers in accordance with regulation XII/1.1 and chapter II-1, as set out in annex 13, and instructed the FSI Sub-Committee to include the above resolution in their guidance for PSC officers.

7.24 Responding to relevant suggestions by some delegations, the Committee, noting that mandatory application of the provisions of the resolution can only be established by means of an amendment to the SOLAS Convention, invited interested Member Governments to submit relevant proposals for a new work programme item, for consideration by the Committee.

## **8 TRAINING AND WATCHKEEPING**

### **REPORT OF THE THIRTY-NINTH SESSION OF THE SUB-COMMITTEE**

8.1 The Committee approved, in general, the report of the thirty-ninth session of the Sub-Committee on Standards of Training and Watchkeeping (STW) (STW 39/12 and MSC 85/8) and took action as indicated hereunder, recalling that MSC 84 had already taken action on urgent matters emanating from STW 39.

#### **PSC guidelines on inspection of seafarers' working hours**

8.2 The Committee recalled that FSI 14 had developed PSC guidelines on inspection of seafarers' working hours in the open form of a draft MSC circular or draft IMO/ILO Guidelines and that MSC 82, noting that the draft guidelines might need further review, in particular on STCW-related matters, had agreed to refer the matter to the Sub-Committee for consideration.

8.3 In this context, the Committee endorsed the views of the Sub-Committee that:

- .1 it was currently reviewing the requirements relating to proper maintenance of records of hours of rest with a view to harmonize them with the relevant provisions in the ILO Maritime Labour Convention (2006), as well as clarifying the minimum time that constituted a period of rest;
- .2 seafarers' hours of work were covered under ILO Convention No.180 (Seafarers' Hours of Work and the Manning of Ships Convention) and, as such, the appropriate PSC guidelines should be developed by ILO; and

- .3 it would not be appropriate for the guidelines on PSC guidelines on inspection of seafarers' working hours to be issued as an MSC circular.

### **Measures to improve training on board**

8.4 The Committee endorsed the Sub-Committee's decision to invite Member Governments and international organizations to submit comments and proposals to the next session on the best way forward to improve training on board with a view to provide proper advice to the Committee.

### **Applicability of IMO conventions to FPSOs and FSUs**

8.5 The Committee noted the advice provided by the Sub-Committee that the requirements of the STCW Convention apply to self-propelled and detachable FPSOs and FSUs when they are underway and agreed to take this into account when taking appropriate action relating to this item under agenda item 10 (Flag State implementation) (see paragraphs 10.23 to 10.27).

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

8.6 In introducing the Secretary-General's report (MSC 85/WP.2), the Director, Maritime Safety Division, advised the Committee that, in preparing the reports required by STCW regulation I/8, paragraph 2, the Secretary-General had solicited and taken into account the views of the competent persons selected from the list established pursuant to paragraph 5 of the regulation and circulated as MSC.1/Circ.797. Each report, as required by MSC.1/Circ.997, was comprised of:

- .1 the Secretary-General's report to the Committee;
- .2 a description of the procedures followed; and
- .3 a summary of the conclusions reached in the form of a comparison table.

8.7 The Committee was subsequently invited to consider the reports attached to document MSC 85/WP.2 for the purpose of confirming that the information provided by the STCW Parties pursuant to STCW regulation I/8 demonstrated that full and complete effect was given to the provisions of the STCW Convention.

8.8 As was the case with the Secretary-General's reports to its previous sessions, the Committee agreed to consider each Party report individually in order to:

- .1 identify, from the Secretary-General's report, the scope of information evaluated by the panels;
- .2 review the procedures report to identify any entries requiring clarification;
- .3 review the information presented in a comparison table format; and
- .4 confirm that each report reflected that the procedures for the assessment of the information provided by the Parties concerned had been correctly followed.

8.9 The Committee confirmed that the procedures for the assessment of information provided had been correctly followed in respect of four STCW Parties and requested the Secretariat to update MSC.1/Circ.1164/Rev.4 accordingly and issue it as MSC.1/Circ.1164/Rev.5.

## **APPROVAL OF COMPETENT PERSONS**

8.10 The Committee approved additional competent persons nominated by Governments (MSC 85/8/1 and Add.1) and requested the Secretariat to update MSC.1/Circ.797/Rev.16 accordingly and issue the updated circular as MSC.1/Circ.797/Rev.17.

## **9 RADIOCOMMUNICATIONS AND SEARCH AND RESCUE**

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

#### **General**

9.1 The Committee approved, in general, the report of the twelfth session of the Sub-Committee on Radiocommunications and Search and Rescue (COMSAR) (COMSAR 12/15 and MSC 85/9) and took action as indicated hereunder.

#### **Radiocommunication matters**

##### ***Review of resolutions A.705(17) and A.706(17)***

9.2 The Committee approved MSC.1/Circ.1287 on Amendments to resolution A.705(17) on the Promulgation of Maritime Safety Information and MSC.1/Circ.1288 on Amendments to resolution A.706(17), as amended, on the IMO/IHO World-Wide Navigational Warning Service.

##### ***NAVAREA Coordinators***

9.3 The Committee endorsed the action of the Secretariat in circulating COMSAR.1/Circ.43 on the list of NAVAREA Coordinators.

#### **ITU matters**

##### ***Development of Class D Digital Selective Calling***

9.4 The Committee endorsed the Sub-Committee's action in conveying the liaison statement to ITU on the development of Class D DSC and the consequential revision of Recommendation ITU-R M.493-12.

##### ***Joint IMO/ITU Experts Group on maritime radiocommunication matters***

9.5 The Committee endorsed the decision of the Sub-Committee on the re-establishment of the Joint IMO/ITU Experts Group on maritime radiocommunications matters, including its terms of reference. The Committee noted that the meeting had been held at IMO Headquarters from 10 to 12 June 2008 and that the outcome of the meeting would be reported to COMSAR 13.

##### ***World Radiocommunication Conference matters***

9.6 The Committee endorsed the action taken by the Sub-Committee with regard to the consideration of future spectrum requirements for broadcasts of port security status in relation to the ISPS Code; the implementation of the LRIT system; and the use of AIS with regard to the preparation of the IMO position on agenda item 1.10 of the ITU World Radiocommunication Conference 2011 (WRC-11). The Committee invited the Working Group on Maritime Security (MSWG) to provide comments on this issue (see paragraphs 4.18 to 4.25).

9.7 The Committee further endorsed the action of the Secretariat in conveying a liaison statement to IHO and ISO on ship and port security requirements with regard to the preparation of the IMO position on agenda item 1.10 of WRC-11. The Committee noted that responses from IHO and ISO had been received and would be discussed at COMSAR 13.

### **Satellite services**

#### ***List of coast earth station operation coordinators in the Inmarsat system***

9.8 The Committee endorsed the action of the Secretariat in issuing COMSAR.1/Circ.42 on the List of coast earth station operation coordinators in the Inmarsat system.

9.9 Noting that the information contained in COMSAR.1/Circ.42 was a routine update of information provided by IMSO, the Committee endorsed the authorization given to the Secretariat to revise and publish the COMSAR circular on the List of coast earth station (CES) operation coordinators in the Inmarsat system on an annual basis, without bringing it first to the attention of the Sub-Committee for approval.

### **SAR matters**

#### ***Availability and amendments of the IAMSAR Manual***

9.10 The Committee considered making the amendments to the IAMSAR Manual available free of charge on the Publications part of the IMO website. Since the matter is relevant to the issue of making the IMDG Code freely available on the website, the Committee agreed to consider it further under agenda item 13 (Dangerous goods, solid cargoes and containers) (see also paragraph 13.14).

9.11 The Committee agreed to establish a more structured amendment process for the IAMSAR Manual based on the general principles agreed to by COMSAR 12 (COMSAR 12/15, annex 6).

#### ***Review of the IAMSAR Manual***

9.12 The Committee endorsed the conduct of a fundamental review of the IAMSAR Manual, taking into account the justification, including a plan on how to conduct the review, provided by the ICAO/IMO Joint Working Group on Harmonization of Aeronautical and Maritime SAR (MSC 85/9/1).

9.13 In this context, the Committee also considered document MSC 85/9/1 (Secretariat) on the outcome of the ICAO/IMO Joint Working Group on SAR (JWG)'s deliberations and providing a detailed justification, including a plan on how to conduct the review of the IAMSAR Manual.

9.14 Accordingly, the Committee:

- .1 noted that there was a need for a major update and restructuring and that there was no need to start developing a complete new manual; and
- .2 endorsed the establishment of the Editorial Group, including its terms of reference, to correspond intersessionally between meetings of the ICAO/IMO Joint Working Group on SAR (JWG), comprising three aviation and three maritime SAR experts.

### ***WMU SAR information platform***

9.15 The Committee endorsed the request of the Sub-Committee for WMU to include on the WMU SAR information platform information of actual SAR operations in which SOLAS ships had been involved, as well as advisory information services on SAR best practice.

### ***Guidance to search and rescue services in relation to requesting and receiving LRIT information***

9.16 The Committee endorsed the action of the Secretariat in bringing the list of questions and general principles which might assist SAR authorities in establishing the proper operational procedures with their LRIT providers to the attention of the third session of the *Ad Hoc* LRIT Group for the preparation of an appropriate MSC circular. The Committee recalled that the *Ad Hoc* LRIT Group, at its third session, had prepared a draft MSC circular and that MSC 84 had already approved MSC.1/Circ.1258 on Guidance to search and rescue services in relation to requesting and receiving LRIT information.

### ***List of IMO documents and publications which should be held by a MRCC***

9.17 The Committee endorsed the action of the Secretariat in issuing SAR.7/Circ.8 on List of IMO documents and publications which should be held by an MRCC.

### ***Fifteenth session of the ICAO/IMO Joint Working Group***

9.18 The Committee noted that the fifteenth session of the ICAO/IMO JWG on Harmonization of Aeronautical and Maritime SAR had been held in Canberra, Australia, from 29 September to 3 October 2008 and its outcome would be reported to COMSAR 13. The Committee recalled that, at its eighty-third session, it had already approved the aforementioned intersessional meeting.

### **Developments in maritime radiocommunication systems and technology**

#### ***AIS safety-related broadcast messages used for distress purposes***

9.19 The Committee endorsed the action of the Secretariat in conveying a liaison statement to IALA, CIRM, IEC and ITU on AIS safety-related broadcast messages used for distress purposes.

### **Adoption of amendments to the IAMSAR Manual**

9.20 The Committee noted that the ICAO/IMO Joint Working Group on Harmonization of Aeronautical and Maritime SAR, at its fourteenth session held in St. Gilles, Réunion (France), from 10 to 14 September 2007, had prepared draft amendments to the IAMSAR Manual which were subsequently endorsed by COMSAR 12.

9.21 In accordance with the procedures prescribed in the annex to resolution A.894(21) and, being advised that ICAO had already approved the proposed draft amendments to the IAMSAR Manual, the Committee adopted them for dissemination by means of MSC.1/Circ.1289, and decided that the adopted amendments should become applicable on 1 June 2009.

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

9.22 The Committee noted that, with respect to the development of an e-navigation strategy, an overview of the existing user needs relating to SOLAS regulation IV/4, as well as SOLAS

regulations V/19, V/19-1 and XI-2/6 relating to AIS, LRIT and SSAS equipment was undertaken and tables of existing user needs including related equipment, performance standards and test standards were developed (see also paragraphs 11.18 to 11.24).

### **Basic safety guidance for oceanic voyages by non-regulated craft**

9.23 Noting that non-regulated recreational craft engaged in oceanic adventure voyages, without notifying the authorities of the coastal State whose SAR regions they planned to cross, prevented the responsible search and rescue organizations from acting with the timeliness and speed necessary to protect life at sea and preserve the marine environment, the Committee urged Member Governments to comply with the guidelines contained in MSC/Circ.1174 on Basic safety guidance for oceanic voyages by non-regulated craft.

### **AIS Search and Rescue Transmitter (AIS-SART)**

9.24 The Committee endorsed the action of the Secretariat in conveying a liaison statement to ITU, IEC, IALA and CIRM on AIS Search and Rescue Transmitter (AIS-SART).

## **10 FLAG STATE IMPLEMENTATION**

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

#### **General**

10.1 The Committee approved, in general, the report of the sixteenth session of the Sub-Committee on Flag State Implementation (FSI) (FSI 16/18 and Corr.1 and MSC 85/10 and Corr.1) and took action as indicated hereunder, noting that MEPC 58 had approved the report and had taken relevant decisions, as outlined in document MSC 85/2/2 (Secretariat).

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

10.2 The Committee, having noted MEPC 58's concurrent decision, endorsed the Sub-Committee's decision to request the Secretariat to collate the proposals by interested bodies for the completion of the study on the combination of casualty and port State control data, taking into consideration the agreed terms of reference and indicating the costs involved in the two phases of the study and the potential benefit for the Organization, and to identify the datasets that might be needed for combining casualty and PSC data.

#### **Non-mandatory instruments**

10.3 The Committee endorsed the Sub-Committee's decision to agree to the list of non-mandatory instruments under its purview, in its entirety, for reference purposes and to support, in general, the development of a GISIS module on non-mandatory requirements and recommendations to be kept updated by the Secretariat (see also paragraph 20.5).

10.4 The Committee also endorsed the Sub-Committee's decision to invite individual Member States to enter information into GISIS on the implementation of only those non-mandatory instruments adopted by means of Assembly or Committee resolutions and to upload the corresponding national legislation, as deemed appropriate (see also paragraph 20.5).

## Reports on marine casualties and incidents

10.5 Having noted MEPC 58's decision in the context of its approval of the draft MSC-MEPC.3 circular on Reports on marine casualties and incidents that the category options for chemicals in bulk in annex 2 to the draft MSC-MEPC.3 circular should be amended following the revision of MARPOL Annex II, the Committee approved MSC-MEPC.3/Circ.3 on Reports on marine casualties and incidents and requested the Secretariat to amend annex 2 according to MEPC 58's decision.

### “MSC NAPOLI”

10.6 Having considered the Sub-Committee's recommendations based on its review of the report of investigation of the casualty of the **MSC Napoli**, the Committee took the actions reflected in the following paragraphs.

10.7 The Committee agreed to refer the report of investigation of the casualty of the **MSC Napoli** to DE 52, under its agenda item on “Any other business” and the Joint MSC/MEPC Working Group on Human Element, for review and reporting on their recommendations for further action to MSC 86.

10.8 The Committee invited Administrations to bring the recommendation in the report of investigation to the ship's operator to review its safety management system and auditing procedures to the attention of their vessel owners and operators to ensure that:

- .1 guidance and instructions to masters regarding speed in heavy weather take into account the lessons learned from this accident;
- .2 the shore management consults with the relevant classification societies when there is any doubt regarding the criticality of machinery items on board its vessels, which are defective or unserviceable; and
- .3 masters are fully aware of the requirement to inform embarked pilots of all factors affecting manoeuvrability and stability.

10.9 The Committee also invited IACS to provide an update on its review of the relevant standards relating to the structural strength of containerships and, in particular, to the buckling checks which should be based on global hull stresses along the entire length of the hull, as appropriate.

10.10 Regarding the consideration of appropriate action to address the question of the safe operation of containerships after a code of good practice has been developed, the Committee was informed by ICS (MSC 85/10/3) on its publication, in conjunction with the World Shipping Council (WSC), of “Safe Transport of Containers by Sea, Guidelines on Industry Best Practice”, containing best practice guidance for the maritime container industry, with a view to minimizing the dangers to containerships, their crews and all personnel involved with the transportation of containers.

10.11 Having noted that FSI 16 had recognized that container weight was a contributory factor in the **MSC Napoli** accident but was just one of many container-related issues identified in recent containership accidents and had raised concerns on misdeclared IMDG cargo and false or incomplete declaration of contents which, in turn, led to inappropriate stowage, the Committee agreed to refer the above-mentioned concerns and the ICS/WSC Guidelines (MSC 85/10/3) to DSC 14 for detailed consideration under its continuous work programme item on “Casualty analysis”.



### **“PUNJAB SENATOR”**

10.12 The Committee agreed to refer the report of investigation on the fire/explosion in a container on board the containership **Punjab Senator** to DSC 14 for detailed consideration under its continuous work programme item on “Casualty analysis”.

### **“UND ADRIYATIK”**

10.13 The Committee endorsed the Sub-Committee’s decision to request the Secretariat to provide the summary of events and preliminary findings on the fire on board the ro-ro cargo ship **Und Adriyatik** to DE 52 and FP 53, under their respective agenda items on “Any other business” and “Analysis of fire casualty records”, for information on the following main issues which have been identified in this case:

- .1 cargo space volume fire risk (FP Sub-Committee);
- .2 fire hazards from live ro-ro cargoes (FP Sub-Committee);
- .3 structural fire protection (FP Sub-Committee);
- .4 escape routes (FP Sub-Committee);
- .5 air supply to engine-room (DE Sub-Committee);
- .6 smoke risk (FP Sub-Committee); and
- .7 fixed fire installations (FP Sub-Committee).

### **PSC data exchange protocols**

10.14 The Committee endorsed the Sub-Committee’s decision to request the Secretariat to proceed with the finalization of protocols with those PSC regimes which have agreed in principle with the provision of reports on all PSC inspections, i.e. the Abuja, Black Sea, Caribbean, Indian Ocean, Mediterranean and Tokyo MoUs, the Viña del Mar Agreement and the United States, having noted MEPC 58’s concurrent decision.

10.15 Having also noted the interventions by the delegations of Ireland, expressing the Paris MoU Chairman’s views, and the United Kingdom confirming that the Paris MoU has not yet agreed in principle to provide IMO with data on all PSC inspections carried out within this specific PSC regime, the Committee agreed that the forthcoming fourth IMO Workshop for PSC MoU/Agreement Secretaries and Directors of Information Centres will be a good opportunity for reviewing the Paris MoU’s concern, the outcome of which should be reported to FSI 17 and the Committee, as appropriate.

### **Blanking of bilge discharge piping system in port**

10.16 Recalling its approval of the MSC-MEPC circular on Blanking of bilge discharge piping system in port (see paragraph 7.4), the Committee concurred with MEPC 58 in noting that, as requested by DE 51, the Secretariat had brought to the attention of the various PSC regimes the issue of PSC officers requesting overboard discharge valves to be blanked off.

### **Annual testing of the automatic identification system**

10.17 The Committee, recalling MSC 83's referral to the Sub-Committee of the consideration of the issue of the incorporation of the annual testing of automatic identification system (AIS) within the HSSC Guidelines in the absence of corresponding SOLAS requirement, noted that FSI 16 could not support, at this stage, the proposal to amend SOLAS regulation V/18 to introduce provisions dealing with the annual testing of the AIS.

10.18 Having considered the inspection mechanism of AIS equipment, as developed by the Sub-Committee through the Guidelines on annual testing of AIS (MSC.1/Circ.1252) and the draft revised Survey Guidelines under the HSSC which contain the testing of AIS, in a manner consistent with the inspection of other electronic equipment carried on board ships, the Committee agreed that a complementary review of the issue of annual testing of AIS might be relevant in the specific context of incorrect AIS data transmissions and instructed NAV 55 to consider the matter under its agenda item on "Measures to minimize incorrect data transmissions by AIS equipment", taking into account the information contained in document MSC 83/15/3, for reporting to MSC 87.

### **Building contract date, keel laying date and delivery date**

10.19 Having noted MEPC 58's concurrent decision, the Committee approved MSC-MEPC.5/Circ.4 on Unified interpretation of the application of regulations governed by the building contract date, the keel laying date and the delivery date for the requirements of the SOLAS and MARPOL Conventions.

### **Meaning of "first survey"**

10.20 The Committee, having considered the outcome of FSI 16's consideration of the updated IACS Unified Interpretation SC 171 on Interpretation of the term "first survey" in order that the new circular need not be revised every time relevant requirements of SOLAS are amended, approved MSC.1/Circ.1290 on Unified interpretation of the term "first survey" referred to in SOLAS regulations, to supersede MSC/Circ.1141.

### **Code for the Implementation of Mandatory IMO Instruments**

10.21 The Committee concurred with the Sub-Committee's recommendation to add a seventh annex to the Code for the Implementation of Mandatory IMO Instruments showing the amendments to IMO instruments not yet accepted at the date of revision of the Code, but expected to be accepted and to enter into force within the following months.

10.22 Having noted MEPC 58's concurrent decision, the Committee requested C 102 to endorse the above-mentioned recommendation and instructed the Sub-Committee to develop the proposed new annex to the Code accordingly.

### **Applicability of IMO Conventions to FPSOs and FSUs**

10.23 Having recalled that MSC 83 had forwarded a proposal (MSC 83/27/8) to reconsider the decision of MSC 76 that it was not necessary to apply mandatory IMO instruments to address safety-related issues for floating production, storage and offloading facilities (FPSOs) and floating storage units (FSUs) to FSI 16 and STW 39 (see paragraph 8.5), for consideration and advice on the applicability of IMO conventions to FPSOs and FSUs, before deciding on the establishment of any new items in the work programmes of sub-committees, the Committee considered the outcome of the review of this issue by FSI 16, which had been noted by MEPC 58.

10.24 On the question of the applicability of the SOLAS and Load Lines Conventions, the Committee noted that the Sub-Committee had under its consideration the outcome of the technical review by IACS (FSI 16/14/1) of the requirements contained in the SOLAS and Load Lines Conventions which had confirmed that, as per SOLAS regulation I/3(a)(iii), the Convention does not apply to ships not propelled by mechanical means, such as non-disconnectable FPSOs and FSUs, but would, in principle, apply to disconnectable FPSOs and FSUs. In contrast, since the exception for non-propelled ships does not apply to the Load Lines Convention, the distinction between non-disconnectable and disconnectable FPSOs and FSUs would not, therefore, be relevant to this instrument.

10.25 In this context, the Committee also noted that the Sub-Committee had reached the conclusion that FPSOs and FSUs, in their normal mode of operation, do not fall under the application criteria of the safety provisions of the SOLAS Convention, and the operation of FPSOs and FSUs is, in the vast majority of cases, covered by an adequate safety regime established by national legislations based on provisions of the SOLAS Convention, including requirements contained in the ISM Code, the Load Lines Convention and the STCW Convention, implemented together with exemptions, and industry guidelines.

10.26 Having considered document MSC 85/10/1 (Panama, IACS, IADC, ITF, OCIMF and OGP), and the annexed clarification on the safety regime of FPSOs and FSUs, which referred to two industry guidelines, i.e. Competence Assurance Guidelines for FPSOs, developed by OCIMF and Guideline for Managing Marine Risks Associated with FPSOs, developed by OGP, the Committee agreed that there was no compelling need for new items in the work programmes of sub-committees to develop guidelines for the application of safety requirements to FPSOs and FSUs.

10.27 The Committee further agreed to instruct FSI 17 to prepare a draft MSC-MEPC circular on the establishment of an effective safety management system and integration of the marine staff, taking into account the information contained in the annex to document MSC 85/10/1. In this context, the Committee also agreed that the circular should contain appropriate references to the two industry guidelines presented in the above-mentioned document; the international recommendations for training personnel to carry out maritime safety and maintenance on board disconnectable FPSOs and FSUs (resolution A.891(21)); and the recommendation to apply SOLAS chapter IX and the ISM Code to self-propelled and readily disconnectable FPSOs and FSUs, whether or not they engage in international voyages. The circular should also address the need specific to FPSOs and FSUs-related issues to reach relevant parties outside the maritime fields.

#### **EXAMINATION OF THE OUTSIDE OF THE SHIP'S BOTTOM ON PASSENGER SHIPS**

10.28 The Committee recalled that MSC 84, while considering a proposal to develop guidelines to ensure that sound technical judgement is exercised by Administrations which allow their passenger ships (other than ro-ro passenger ships) to have an inspection of the outside of the ship's bottom carried out in water, rather than in dry dock, had agreed to include, in the work programme of the DE Sub-Committee, a high-priority item on "Alternative arrangements for bottom inspection requirements for passenger ships other than ro-ro passenger ships", with one session needed to complete the item. MSC 84 concomitantly instructed the FSI Sub-Committee to develop appropriate amendments to the Survey Guidelines under the HSSC (resolution A.997(25)) to explain the possibility of alternative arrangement where one bottom inspection in dry dock may be substituted by a bottom inspection with the ship in water.

10.29 Having considered the proposal contained in document MSC 85/10/2 (CLIA) to request the FSI Sub-Committee to start developing draft amendment to the Survey Guidelines under the Harmonized System of Survey and Certification (HSSC) prior to the development of guidelines

by the DE Sub-Committee, the Committee noted the decision by FSI 16 to await the outcome of the discussion on the technical aspects from the DE Sub-Committee.

10.30 While some delegations indicated that technical information might be submitted to DE 52 under its agenda item on “Any other business” in order to develop relevant guidelines for alternative arrangements for bottom inspection requirements for passenger ships other than ro-ro passenger ships, the Committee agreed that, only if the DE Sub-Committee could complete its work on this matter at its next session, FSI 17 would, then, be requested to develop related amendments to the Survey Guidelines for approval by MSC 86 and MEPC 59, before consideration by A 26 for adoption.

#### **CONSOLIDATED AUDIT SUMMARY REPORT**

10.31 Having recalled that MSC 84 and MEPC 57 had referred the first consolidated audit summary report to FSI 16 for consideration, the Committee concurred with MEPC 58 which had noted that FSI 16 had established a methodology for the review of the consolidated audit summary reports and had agreed to refer to a correspondence group the review of the first consolidated audit summary report and any subsequent consolidated report issued before FSI 17.

10.32 In this context, the Committee requested FSI 17 to consider the second consolidated audit summary report (C 101/6/2), as referred to the MSC and the MEPC by the Council, under its agenda item on “Review of the Code for the Implementation of Mandatory IMO Instruments” and report to MSC 86, as appropriate.

### **11 SAFETY OF NAVIGATION**

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

##### **General**

11.1 The Committee approved, in general, the report of the fifty-fourth session of the Sub-Committee on Safety of Navigation (NAV) (NAV 54/25 and MSC 85/11) and took action as indicated hereunder.

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

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

- .1 “In the approaches to the Port of Thessaloniki”;
- .2 “The Åland Sea”; and
- .3 “In Liverpool Bay”,

set out in annex 14, for dissemination by means of COLREG.2/Circ.60.

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

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

- .1 “In the approach to Boston, Massachusetts”;
- .2 “Off Land’s End, between Seven Stones and Longships”;
- .3 “In the approaches to the River Humber”;
- .4 “At Hatter Barn”;

set out in annex 14, for dissemination by means of COLREG.2/Circ.60.

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

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

- .1 new recommendatory seasonal Area To Be Avoided “In the Great South Channel”;
- .2 new Area To Be Avoided and two new mandatory No Anchoring Areas in the vicinity of the proposed “Excelerate Northeast Gateway Energy Bridge Deepwater Port”;
- .3 new deep-water routes inside the borders of the “North Åland Sea” and “South Åland” TSS;
- .4 new two-way route leading to the “Åland Sea”; and
- .5 new Area To Be Avoided (ATBA) “In Liverpool Bay”;

set out in annex 15, for dissemination by means of SN.1/Circ.272.

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

11.5 The Committee decided that the adopted new traffic separation schemes and amendments to the existing traffic separation schemes referred to in paragraphs 11.2.1 and 11.3.1, respectively (annex 14), and the routeing measures other than traffic separation schemes referred to in paragraph 11.4.1 (annex 15), should be implemented six months after their adoption, i.e. on 1 June 2009 at 0000 hours UTC. The delegations of Denmark and the United Kingdom informed the Committee that the adopted new traffic separation schemes and amendments to the existing traffic separation schemes referred to in paragraphs 11.2.3, 11.3.2, 11.3.3 and 11.3.4, respectively (annex 14), and the routeing measures other than traffic separation schemes referred to in paragraph 11.4.5 (annex 15), would be implemented at 0000 hours UTC on 1 July 2009. Sweden also informed that the adopted new traffic separation scheme referred to in paragraph 11.2.2, and the routeing measures other than traffic separation schemes referred to in paragraphs 11.4.3 and 11.4.4 would be implemented at 0000 hours UTC on 1 January 2010. With respect to the routeing measures other than traffic separation schemes detailed in paragraph 11.4.2, the Committee noted that the delegation of the United States had informed the Sub-Committee that the proposed “Excelerate Northeast Gateway Energy Bridge Deepwater Port” had still to be built and the implementation date of this routeing measure would be advised by the United States to the Organization.

## **Mandatory ship reporting systems**

### ***New ship reporting system for “Off the Coast of Portugal – COPREP”***

11.6 In accordance with resolution A.858(20), the Committee adopted, with minor editorial changes to the numbering of the primary and secondary VHF channels, by resolution MSC.278(85), the new ship reporting system “Off the Coast of Portugal – COPREP”, set out in annex 16, for dissemination by means of SN.1/Circ.273. The Committee also decided that the new ship reporting system should be implemented six months after its adoption, i.e. on 1 June 2009 at 0000 hours UTC.

### ***Amendments to the existing ship reporting system for “The Papahānaumokuākea Marine National Monument” Particularly Sensitive Sea Area (PSSA)***

11.7 In accordance with resolution A.858(20), the Committee adopted, by resolution MSC.279(85), the proposed amendments to the existing mandatory ship reporting systems “The Papahānaumokuākea Marine National Monument”, “CORAL SHIPREP”, set out in annex 17 for dissemination by means of SN.1/Circ.273. The Committee also decided that the amendments to the existing mandatory ship reporting system should be implemented six months after adoption, i.e. on 1 June 2009 at 0000 hours UTC.

## **Guidelines for the application of the modular concept to performance standards**

11.8 The Committee approved SN.1/Circ.274 on Guidelines for the application of the modular concept to performance standards.

## **Amendments to the General Provisions on Ships’ Routeing**

11.9 In accordance with resolution A.572(14), as amended, the Committee adopted resolution MSC.280(85) on Adoption of amendments to the General Provisions on Ships’ Routeing (Annexes 1 and 2 to resolution A.572(14), as amended), set out in annex 18 for dissemination as SN.1/Circ.275, subject to confirmation by the Assembly.

## **Proposed amendments to SOLAS regulation V/19 (BNWAS)**

11.10 The Committee approved the draft amendments to SOLAS regulation V/19 to reflect a new carriage requirement for a bridge navigational watch alarm system, as set out in annex 19, with a view to adoption at MSC 86. To this effect, the Committee invited the Secretary-General to circulate the aforementioned draft amendments in accordance with SOLAS article VIII.

## **Satellite detection of AIS**

11.11 The Committee considered this issue under agenda item 4 (Measures to enhance maritime security)(see paragraphs 4.26 to 4.34).

## **ITU matters**

### ***Satellite detection of AIS***

11.12 The Committee endorsed the action by the Sub-Committee in sending a liaison statement to ITU-R WP 5B, copied to IALA and CIRM, concerning the issue of satellite detection of AIS.

### **Guidelines for the installation of a shipborne automatic identification system (AIS)**

11.13 The Committee approved SN/Circ.227/Corr.1 on Guidelines for the installation of a shipborne automatic identification system (AIS) relating to the impact of resolution MEPC.118(52) upon existing AIS shipboard installations. The amendment contains the consequential change with regard to the entry into force of resolution MEPC.118(52), concerning the change in the categorization and listing of noxious liquid substances and other substances. The Committee noted that the number of categories to be reported was the same and, therefore, it was sufficient to revise the reference documentation SN/Circ.227, annex 2, to reflect the new classification letters corresponding to the same digits as currently in use by the AIS shipborne equipment. Practically this meant that the reference hazard or pollutant categories A, B, C and D had been changed to the hazard or pollutant categories X, Y, Z and OS, by using the same digits 1, 2, 3 and 4.

11.14 The Committee subsequently approved the draft liaison statement to ITU, IEC and IALA informing them of the change to hazard or pollutant categories and inviting them to note this in any future revision of their documentation and authorized the Secretariat to convey it to ITU, IEC and IALA.

11.15 The Committee endorsed the outcome of the Sub-Committee's deliberations with respect to the impact of resolution MEPC.118(52) upon existing AIS shipborne installations and noted that the MEPC had been informed accordingly.

### **Updating of the STCW model course on Automatic Identification Systems**

11.16 The Committee endorsed the need to update the STCW model course on Automatic Identification Systems (Model Course 1.34) and the action taken by the Sub-Committee in instructing the Secretariat to inform the STW Sub-Committee accordingly. The Committee further noted that document STW 40/3/1 had already been issued by the Secretariat in this regard.

### **Development of a Code of conduct during demonstrations/campaigns against ships on high seas**

11.17 The Committee noted that, with respect to the development of a Code of conduct during demonstrations/campaigns against ships on high seas, the Sub-Committee had instead developed and agreed to the provisional draft MSC resolution on Assuring safety during demonstrations, protests, or confrontations on the high seas as work in progress and invited the FSI Sub-Committee to consider the text for advice, with the aim of finalization of the text of the draft MSC resolution at NAV 55.

### **Strategy for the development and implementation of e-navigation**

11.18 The delegation of Sweden stated that they were content with the approval of a strategy for e-navigation which the Organization had talked about for years without really knowing what it exactly had been talking about. But now, with the excellent work done by the NAV Sub-Committee, things might be moving forward in an orderly fashion and an e-navigation strategy decided by the Committee would certainly be a major step forward. However, the proposed strategy was a bit overwhelming and even frightening since it was so all-encompassing. The strategy had identified, nearly, 20 shipborne users and 34 shore-based users. Since this was a strategy for IMO's work with e-navigation in the future, clear directions would be needed from the Committee to its subsidiary bodies as to what they were expected to do. Unless such directions were given, there was the risk of the sub-committees engaged in the future work running away on their own. The Swedish delegation reminded the Committee of the problems it had experienced

some years ago when it worked on the issue of passenger ships' safety; there was, therefore, a need to set strict priorities for the work ahead. One very strict prioritization would be to begin work with ships trading internationally and Vessel Traffic Services (VTSs) serving those ships. That might indeed be a too strict prioritization, but it would be of interest to listen to what the Chairman of the NAV Sub-Committee thought of the work ahead, after the approval of the strategy. The delegation of Sweden certainly supported the approval of the strategy but wished to insert this caveat in its approval.

11.19 The Chairman of the Sub-Committee informed the Committee that he fully understood the concerns raised by the delegation of Sweden. The proposed e-navigation strategy covered a wide area and included quite a number of issues to be solved in the further development and implementation of the strategy. It was for that reason that the Sub-Committee added focus to the further work by agreeing on a draft framework, including a time frame, for the further development and implementation of the e-navigation strategy; a framework and time frame, which the Committee has been invited to approve under paragraph 2.13 of document MSC 85/11. But for exactly that same reason the Sub-Committee went even further. Recognizing that the future development of an e-navigation strategy implementation plan would need a joint effort by the COMSAR, NAV and STW Sub-Committees, NAV 54 had agreed to his proposal that there was a need for a strictly planned and coordinated approach. A coordinated approach, the Committee had been invited to approve under paragraph 2.14 of document MSC 85/11.

11.20 The Chairman of the Sub-Committee further informed the Committee that, in co-operation with the Chairmen of the COMSAR and STW Sub-Committees, preliminary discussions had been initiated on developing the draft plan for the "coordinated approach to the implementation of IMO's e-navigation strategy". The three Chairmen including the NAV Sub-Committee Chairman-elect had agreed, in principle, to undertake a coordinated approach and, in co-operation with the Secretariat, started work on preparing a draft joint plan of work, which would clearly identify the timelines including the planned outputs for each relevant Sub-Committee. In the preparation of the joint plan of work, careful thought would have to be given in identifying the specific work and planned output for every single meeting of the NAV, COMSAR and STW Sub-Committees over a period of four years, i.e. from 2009 to 2012. The work of the NAV and COMSAR Sub-Committees might need to be supplemented by intersessional work by correspondence and if necessary by a working group to attain real benefit from the outcome of the corresponding sessions of the COMSAR, NAV and STW Sub-Committees. The joint plan of work would also identify the need and a general indication of the terms of reference of such groups. In order to anticipate and call for timely contributions both from Member Governments and relevant international organizations, the joint plan of work would also have to look ahead and try to conceptualize the expected outputs and inputs for all relevant meetings in the forthcoming years. The plan would also identify what specific tasks IMO, having the lead as to the governance of the e-navigation concept, might wish to delegate, as appropriate, to other competent outside organizations, e.g., IALA, IHO, IEC, ISO, CIRM and others. The preparation of the joint plan of work would obviously need some further research and work but it was expected that a specific proposal outlining the approach would be presented at MSC 86 for review and approval. This would enable NAV 55 in July 2009 to set in motion the coordinated and planned development of an e-navigation strategy implementation plan.

11.21 The observer from IALA informed the Committee that IALA was ready and willing to support and contribute to the development of e-navigation.

11.22 The Committee approved the Strategy for the development and implementation of e-navigation, as set out in annex 20. The Committee also noted that the Strategy for the development and implementation of e-navigation had been finalized in co-operation with the



COMSAR Sub-Committee over a period of two years (2006 to 2008) and was sufficiently developed and detailed for implementation. Relevant input had also been provided by the industry and other relevant organizations, e.g., IALA and IHO.

11.23 The Committee, subsequently, also approved the Framework for the implementation process for the e-navigation strategy, along with a time frame for implementation of the proposed e-navigation strategy, as set out in annex 21 and requested other international organizations to participate in the implementation of e-navigation.

11.24 The Committee endorsed the Sub-Committee's decision that the Chairmen along with the Secretaries of the COMSAR, NAV and STW Sub-Committees should jointly develop a coordinated approach to implement the proposed e-navigation strategy.

### **Proposed amendments to SOLAS regulation V/19 (ECDIS)**

11.25 The delegation of Norway, while supporting the mandatory carriage requirements for ECDIS, stated that it was not quite pleased with the way NAV 54 had arrived at that point. At the request of delegations, Norway had partly alone and partly together with the other Nordic countries submitted three formal safety assessments on carriage requirements for ECDIS, two of them including an analysis of the global coverage of electronic nautical charts. Norway was in favour of using formal safety assessments as an aid to decision-making, however such studies were time and money consuming and, in their view, when delegations were requested to carry out formal safety assessments, there should be a reciprocal commitment as well, namely to use the outcome of these studies as basis of discussion and decision-making. This had not been the case when the draft amendments to SOLAS on carriage requirements for ECDIS had been developed. Hence, in the view of the Norwegian delegation, the time had come to give formal safety assessments a more formal place in the Committees guidelines and it would revert to this issue at the next session.

11.26 The delegation of the Russian Federation recalled that they had made reservations at NAV 54 regarding the ECDIS carriage requirements for ships less than 10,000 gross tonnage. They had carried out a brief review of the existing situation and as of today according to them, the worldwide coverage of ENC was only 50%, not all ENCs were official and automatic chart correction processes had not been fully validated. In addition, in accordance with regulation V/19.2.1.4 relating to the carriage of ECDIS, the back-up arrangements to meet the functional requirements of regulation V/19.2.1.4 required the carriage of an appropriate folio of paper nautical charts. The delegation of the Russian Federation also had concerns regarding the prevailing cost of ENCs, which were in the region of USD 60,000 (initial costs) plus an additional annual cost of USD 16,000 per ship; this was much greater than the cost of paper charts. Hence, it was premature to approve amendments to regulation V/19 to reflect ECDIS carriage requirements at this stage.

11.27 The delegations of Cuba, Liberia, the Marshall Islands, Nigeria, Pakistan, Panama and Vanuatu associated themselves with the views expressed by the delegation of the Russian Federation.

11.28 The observer from IHO informed the Committee that, as reported to NAV 54, the status of the production of ENCs as of January 2008 was as follows:

- .1 small scale charts (90% coverage); and
- .2 medium scale charts (65% coverage).

There had been also a further 5% increase in ENC coverage during the past four months. It was expected that by 2010, there would be appropriate coverage of ENCs for 800 ports worldwide, as well as the routes connecting these ports.

11.29 The Chairman noted that the majority of the delegations were in favour of approving the draft amendments to SOLAS regulation V/19 to reflect a mandatory carriage requirement for ECDIS at the current session.

11.30 The Committee approved the draft amendments to SOLAS regulation V/19 to reflect a mandatory carriage requirement for ECDIS, as set out in annex 19, with a view to adoption at MSC 86. To this effect, the Committee invited the Secretary-General to circulate the aforementioned draft amendments in accordance with SOLAS article VIII.

### **Transitioning from paper chart to electronic chart display and information systems (ECDIS)**

11.31 The Committee approved SN.1/Circ.276 on Transitioning from paper chart to electronic chart display and information systems (ECDIS) navigation.

### **Amendment to SN/Circ.243 on Guidelines for the presentation of navigational-related symbols, terms and abbreviations**

11.32 The Committee approved SN/Circ.243/Add.1 on Guidelines for the presentation of navigational-related symbols, terms and abbreviations relating to a new symbol for the presentation of an AIS Search and Rescue Transmitter (AIS-SART).

## **12 STABILITY, LOAD LINES AND FISHING VESSEL SAFETY**

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

12.1 The Committee approved, in general, the report of the fifty-first session of the Sub-Committee on Stability and Load Lines and on Fishing Vessels Safety (SLF) (SLF 51/17 and MSC 85/12) and took action as indicated hereunder.

### **Development of explanatory notes for harmonized SOLAS chapter II-1**

12.2 The Committee adopted resolution MSC.281(85) on Explanatory Notes to the SOLAS chapter II-1 subdivision and damage stability regulations, set out in annex 22.

### **Amendments to the footnotes to the revised SOLAS regulations II-1**

12.3 The Committee approved amendments to the footnotes to the revised SOLAS regulations II-1/4.1 and II-1/13.7.6, proposed by SLF 51 (SLF 51/17, paragraph 3.23), and requested the Secretariat to amend the footnotes accordingly in the next consolidated edition of SOLAS publication.

### **Guidelines for flooding detection systems on passenger ships**

12.4 The Committee approved MSC.1/Circ.1291 on Guidelines for flooding detection systems on passenger ships.

## **Revision of SOLAS chapter II-1 subdivision and damage stability regulations**

12.5 With regard to the proposal to include, in the Sub-Committee's work programme, a new item on "Revision of SOLAS chapter II-1 subdivision and damage stability regulations" and the relevant justification for the proposal, the Committee agreed to deal with the matter under agenda item 23 (Work programme) (see paragraph 23.35).

## **Intact Stability Code-related matters**

12.6 The Committee approved MSC.1/Circ.1292 on Early application of the International Code on Intact Stability, 2008.

12.7 With regard to the Sub-Committee's proposal to change the present title of the item on "Revision of the Intact Stability Code" to "Development of new generation intact stability criteria", reflecting the Sub-Committee's current work on the subject, the Committee agreed to deal with the proposal under agenda item 23 (Work programme).

## **Safety of small fishing vessels**

### ***Impact of small pleasure and fishing craft on the marine environment***

12.8 With regard to the impact of small pleasure and fishing craft on the marine environment, which MSC 84 instructed the Sub-Committee to consider, the Committee, noting that the Sub-Committee had agreed that, in view of the minimal expertise in environmental matters in the Sub-Committee, relevant environmental issues should be addressed by the MEPC, in consultation with other UN agencies and non-governmental organizations, requested the Secretariat to inform MEPC 59 accordingly.

### ***Development of the Agreement on the implementation of the 1993 Torremolinos Protocol***

12.9 The Committee endorsed the Sub-Committee's course of action regarding the development of the Agreement on the implementation of the 1993 Torremolinos Protocol, noting, in particular, that the Sub-Committee had agreed that the Secretariat should initiate a consultation process with States, on the basis of the questionnaire developed by the Sub-Committee, and also had agreed to the Roadmap towards entry into force of the 1993 Torremolinos Protocol. Subsequently, the Committee requested the Secretariat to enter into consultation with States, having more than 500 fishing vessels of 24 metres in length and over.

## **Development of options to improve effect on ship design and safety of the 1969 TM Convention**

12.10 The Committee noted the outcome of the Sub-Committee's consideration on development of options to improve the effect, on ship design and safety, of the 1969 TM Convention, in particular with regard to the incorporation of the tacit acceptance procedure for amendments, in the Convention.

## **Guidelines for uniform operating limitations on high-speed craft**

12.11 The Committee noted the Sub-Committee's outcome on the Guidelines for uniform operating limitations on high-speed craft, in particular that it had invited Members and international organizations to contribute to the correspondence group established by DE 51, and also noted that the Sub-Committee had completed the work on the item.

## **Development of the Guidelines for drainage systems in closed vehicle and ro-ro spaces and special category spaces**

12.12 With regard to the development of the Guidelines for drainage systems in closed vehicle and ro-ro spaces and special category spaces, the Committee noted that the Sub-Committee had agreed to the specifications for the drainage capacity and the scupper grating construction, for referral to FP 53 for coordination purpose, and that the Sub-Committee had completed the work on the item.

## **Recommendations, guidelines and other non-mandatory instruments**

12.13 In respect of the Committee's instruction to identify those non-mandatory instruments for which information on their implementation should be collected, the Committee noted that the Sub-Committee had supported, in general, the development of a GISIS module on non-mandatory instruments and recommendations to be kept updated by the Secretariat.

## **Load Lines Convention- and Protocol-related matters**

### ***Safety gap between the 1966 LL Convention and the 1988 LL Protocol***

12.14 The Committee noted the Sub-Committee's opinion that, in respect of safety gap that arises for ships built under the provisions of the 1988 LL Protocol versus ships built to the 1966 LL Convention, it would be for Member States to take appropriate action to address the problem.

### ***Ambiguities in regulation 24(4) of the 1988 LL Protocol relating to minimum freeing port area calculations on vessels with open superstructures***

12.15 The Committee noted that the Sub-Committee, being informed of ambiguities in regulation 24(4) of the 1988 LL Protocol, relating to minimum freeing port area calculations on vessels with open superstructures, and of the MSC 84's request for advice, had noted the IACS's intention to submit relevant information to the Committee regarding the aforementioned ambiguities in relation to IACS Unified Interpretation LL 60.

12.16 In this context, the observer from IACS, having confirmed that they reviewed, with the assistance of the United Kingdom, the technical anomalies in regulation 24 of the 1988 LL Protocol, stated that the matter could not be addressed by the development of an interpretation and, as such, could only be resolved by amendments to regulation 24(4)(e) of the Protocol. Subsequently, IACS offered its assistance in the development of such amendments if, following the relevant proposal by a Member Government, the appropriate item is included in the Sub-Committee's work programme.

## **GUIDELINES FOR VERIFICATION OF DAMAGE STABILITY REQUIREMENTS FOR TANKERS**

12.17 In the context of the Sub-Committee's work on development of Guidelines for verification of damage stability requirements for tankers (SLF 51/17, section 13), the delegation of the Cook Islands expressed its concern that the compelling need for the guidelines had not been established, referring to the discussion at SLF 51 that the majority of the delegations considered that no justification or compelling need had been demonstrated and more information on the alleged non-compliance was needed to decide on the course of action on the matter.

12.18 With the explanation provided by the Chairman of the SLF Sub-Committee and the Secretariat, a number of delegations supported the course of action proposed by the Sub-Committee, however, a number of other delegations shared the concern of the Cook Islands. Following discussion, the Committee agreed to deal with the matter under agenda item 23 (Work programme) (see paragraphs 23.36 to 23.41).

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

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

#### **General**

13.1 The Committee considered urgent matters referred to it (documents MSC 85/13 and MSC 85/13/1) emanating from the thirteenth session of the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) (DSC 13/20) and took action as indicated hereunder.

#### **Modifications to the draft amendments to SOLAS chapter II-2 and the 2000 HSC Code**

13.2 The Committee recalled that it had dealt with the issue (see also document MSC 85/3/11) under agenda item 3 (Consideration and adoption of amendments to mandatory instruments).

#### **Amendments to MARPOL Annex III**

13.3 The Committee noted that, as proposed by the Sub-Committee, MEPC 59 is envisaged to consider the justification for a new work programme item on “Amendments to MARPOL Annex III”.

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

13.4 The Committee agreed to deal with the Sub-Committee’s proposal for a new work programme item on “Revision of the Recommendations for entering enclosed spaces aboard ships” under agenda item 23 (Work programme).

#### **Modifications to the draft IMSBC Code**

13.5 The Committee recalled that it had dealt with the issue (see also document MSC 85/3/10) under agenda item 3 (Consideration and adoption of amendments to mandatory instruments).

13.6 In the context of this item, the delegation of Venezuela (Bolivarian Republic of) supported the adoption of the new IMSBC Code, including the DRI (A), DRI (B) and DRI (C) schedules recently agreed at DSC 13 and expressed its appreciation on the excellent work done by the working group and the Sub-Committee in this respect. Also, the delegation drew the attention of the Committee to paragraphs 13, 14 and 15 of the report of the working group (document DSC 13/WP.1) which stated that the main difficulty identified in drafting the schedule for inerting DRI Fines, which normally have a moisture content of up to 12%, was that no information was available on the form on how this wet cargo would behave under inert conditions. In this sense, the working group agreed that:

- .1 Venezuela (Bolivarian Republic of) would further explore the effects of the carriage of certain high-moisture DRI (C) fines under inert conditions, and further agreed that a DSC circular providing guidance on specific considerations and requirements for safe mechanical ventilation would be helpful to parties concerned; and

- .2 Venezuela (Bolivarian Republic of) and Trinidad and Tobago will co-ordinate data, information and experiences through a voluntary correspondence group, in order to submit, to DSC 14, a document with a draft proposal for a DSC circular, based on document DSC 12/4/1 submitted by Venezuela (Bolivarian Republic of) and in accordance with section 1.5 of the IMSBC Code.

In conclusion, the delegation of Venezuela (Bolivarian Republic of) confirmed that it will continue the work as set out in the above-mentioned paragraphs of document DSC 13/WP.1, relating to the carriage of high-moisture content DRI (C) fines in order to submit proposals at DSC 14, considering that the new IMSBC Code to be adopted is a living document.

### **Meetings of the Editorial and Technical Group in 2009**

13.7 As proposed by DSC 13, the Committee approved the holding of two meetings of the Editorial and Technical (E and T) Group in 2009, the first meeting in June 2009 and the second meeting back-to-back with DSC 14.

### **Text of the IMDG Code freely downloadable from the Internet**

13.8 The Committee recalled that MSC 84 had agreed to instruct the Sub-Committee to consider merits of placing the complete text of the IMDG Code on the Internet and allowing it to be freely downloadable in the context of improving safety and prevention of pollution and to advise the Committee accordingly. Furthermore, the Committee invited the TCC to consider the connotations of the aforementioned on its activities and to advise the Council and Assembly accordingly.

13.9 The Committee noted the outcome of consideration by MSC 84, TC 58 and C 100 on making the text of the IMDG Code freely downloadable from the Internet. The Committee recalled that the responsibility of the Committee was to consider this issue from the safety point of view and agreed with the following merits of the proposal recommended by DSC 13:

- .1 this action would facilitate the application and the widest dissemination of the requirements of the IMDG Code and this was particularly important when considering occasional users of the Code who may not buy it in view of its apparent high cost, small business users and countries where the Code may not be readily available;
- .2 this action would reduce the likelihood of outdated versions of the Code being used, noting the financial burden to the user of updating the Code every two years;
- .3 users and Administrations would be assisted in implementing the new mandatory training requirements; and
- .4 this action would align the practice of IMO with that of some of the other modal regulators which, subsequent to the publication of their instruments, make their texts freely downloadable after the entry into force of those instruments.

13.10 In this context, the Committee also noted the views expressed at DSC 13 by some delegations that:

- .1 a long-term impact of this action could be to deplete the Printing Fund surplus which could have a consequential effect on the frequency of the DSC Sub-Committee's meeting schedule, and, as a consequence, on development of safety standards;

- .2 there was no glaring evidence that the non-availability of the IMDG Code's text on the Internet is directly contributing to non-compliance with the provisions of the Code or to accidents involving packaged dangerous goods; and
- .3 some Administrations have a legal obligation to make freely available the text of national regulations and that the Code may be available in the language of country.

13.11 With respect to the issue of copyright surrounding the IMDG Code, the Committee noted that:

- .1 the texts of the amendments to the IMDG Code are adopted by the Maritime Safety Committee under the cover of an MSC resolution and are annexed to the respective reports of the MSC and also, as requested by the resolution, certified copies of the authentic texts of the amendments to the Code are transmitted to all IMO Members and Contracting Governments to SOLAS by the IMO Legal and External Relations Division;
- .2 the texts of the amendments to the Code under the cover of the MSC resolutions and the authentic texts of the Code are freely available for use by Member Governments which should not be restricted in their publication of this information under their responsibility of promulgation of laws and regulations to give the requirement of the Code full and complete effect under the provisions of SOLAS article I(e); and
- .3 the published version of the IMDG Code is subject to copyright protecting the value of an IMO publication including form and layout of the Code.

13.12 Furthermore, the Committee noted that during DSC 13 there was an opinion to suggest an option to progress the matter by carrying out the trial placing of the Code on the Internet over a two-year period, monitor the statistics for downloads and sales of the published Code and, on completion of the trial, decide accordingly; however, the Committee could not agree to recommend this option to the Council.

13.13 The Committee invited the Council to consider the outcome on this matter and, in particular, to note the merits of making the IMDG Code freely downloadable from the Internet as reflected in paragraph 13.9 above.

13.14 Regarding the issue of making the publication of amendments to the IAMSAR Manual freely available on the Internet, as raised in the report of COMSAR 12 (section 6), the Committee agreed to maintain the current policy of the Organization regarding publications and did not agree to make the publication of amendments to the IAMSAR Manual freely available on the Internet, noting that, the amendments to the IAMSAR Manual and the IMDG Code would be circulated by MSC circulars and MSC resolutions, respectively, and their text would be available on IMO's documents site.

## **14 TECHNICAL ASSISTANCE SUB-PROGRAMME IN MARITIME SAFETY AND SECURITY**

### **DEVELOPMENTS CONCERNING TECHNICAL CO-OPERATION ACTIVITIES**

#### **General**

14.1 The Committee noted the information provided in document MSC 85/2 on the outcome of TC 58 and document MSC 85/14 on progress on the safety-, security- and facilitation-related activities executed in 2008 and those planned for 2009 under the Integrated Technical

Co-operation Programme (ITCP) for the 2008-2009 biennium. It further noted that during the period 2006-2007, 108 advisory missions were carried out, with a preponderance of maritime safety and security assignments. A total of 259 courses, seminars and workshops were delivered at the national, regional and global levels, resulting in the training of some 4,410 participants worldwide.

### **Linkage between the ITCP and the Millennium Development Goals (MDGs)**

14.2 The Committee noted that TC 58 considered the issue of the linkage between the ITCP and the MDGs, and noted the positive steps taken towards the promotion and implementation of resolution A.1006(25), which, *inter alia*, invited Member States to utilize the Maritime Capacity Checklist (MCC) and the Maritime Capacity Analysis (MCA) tools to analyse and assess the levels of maritime capacity progress over time, by including relevant activities in the ITCP.

14.3 The Committee also noted that TC 58, noting that the ITCP global programme to support Small Island Developing States (SIDS) and Least Developed Countries (LDCs) would address the issue of sustainable livelihoods and poverty alleviation through capacity-building activities in the shipping sector, requested Member States to give high priority to activities which not only promote the early ratification and effective implementation of IMO instruments, but also contribute to the attainment of the MDGs, taking into account the special needs of the LDCs and SIDS, and the particular needs of Africa.

### **Impact Assessment of Technical Co-operation activities during 2004-2007**

14.4 The Committee noted that TC 58 considered the report on the assessment of the impact of technical assistance received by developing countries during the period 2004-2007 and noted that major achievements included the facilitation of accession and ratification by Member States to IMO instruments and follow-up implementation, particularly in casualty investigation, flag State implementation and port State control; and an increase in the number of trained security officers and port facility security officers.

### **Voluntary IMO Member State Audit Scheme**

14.5 The Committee noted that, on the status of implementation of the global programme on the Voluntary IMO Member State Audit Scheme, TC 58 had noted that, between September 2006 and March 2008, a total of 20 audits had been completed out of a total of 38 Member States which had, so far, volunteered to be audited.

### **DOMESTIC FERRY SAFETY**

14.6 The Committee recalled that at its eighty-fourth session (MSC 84/24, paragraphs 18.4 and 18.5), it was informed of the progress made in the development and implementation of activities relating to the pilot project on the safety of domestic ferries in Bangladesh, including establishment of an electronic national database to monitor the safety standards of domestic fleets; preparation of training and awareness materials; and development of a user-friendly alert system on hazardous weather. MSC 84 requested the Secretariat to continue providing the Committee with updated information.

14.7 The Committee noted the information provided in document MSC 85/14/1 (Secretariat) that work had been progressed on the electronic national database which would assist the maritime administration to monitor the domestic fleet and prepare training materials in the national language (Bengali) to enhance education and training of ferry operators, crew and other stakeholders and that these activities were expected to be completed in 2009. The Committee



further noted that, with regard to the development of an alert system for hazardous weather, the United States National Oceanographic and Atmospheric Administration (NOAA) was planning to visit Bangladesh to work with the meteorological department to develop the system.

14.8 A number of delegates expressed their appreciation and congratulations to the Maritime Safety Division and the Technical Co-operation Division for the efforts that have been put into the implementation of safety and security related activities in their countries and for producing an elaborate report.

14.9 The Committee expressed its appreciation to all donors and urged Governments and industry to contribute to the IMO's technical co-operation programme, and requested the Secretariat to continue providing the Committee with updated information on the programme.

#### **THEMATIC PRIORITIES FOR THE 2010-2011 ITCP**

14.10 The Committee recalling that, at its eighty-second session, it had agreed on the safety and security-related thematic priorities which were subsequently included in the ITCP covering the 2008-2009 biennium, noted that the Technical Co-operation Committee, at its fifty-ninth session in 2009, was expected to approve the ITCP for 2010-2011, which would be developed based on the thematic priorities agreed by the technical Committees and the corresponding needs of developing countries.

14.11 In considering thematic priorities for the 2010-2011 biennium, the Committee noted that the Assembly, at its twenty-fifth session, adopted resolution A.1006(25) on The Linkage between the Integrated Technical Co-operation Programme (ITCP) and the Millennium Development Goals (MDGs), which requested the TCC to give high priority to those activities which not only promote the early ratification and effective implementation of IMO instruments but also contribute to the attainment of the MDGs, taking into account the special needs of the Least Developed Countries (LDCs) and Small Island Developing States (SIDS), and the particular maritime transport needs of Africa, and ensure that these needs were reflected in the ITCP.

14.12 The Committee also recalled that, in adopting the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) by resolution MSC.255(84), MSC 84 had acknowledged that the investigation and proper analysis of marine casualties and incidents could lead to greater awareness of casualty causation and result in remedial measures, including better training, for the purpose of enhancing safety of life at sea and protection of the marine environment which would take effect on the same date as the date of entry into force of the new SOLAS regulation XI-1/6 (resolution MSC.257(84)), i.e. on 1 January 2010.

14.13 The observer from IALA, supported by a number of delegations, noting that the implementation of LRIT comes into force on 1 January 2009 and the agreement to develop the e-navigation on the exchange of information between ship and shore, proposed an additional number "3bis – supporting maritime Administrations to strengthen their services dedicated to safety of navigation and monitoring of maritime traffic" be added to the list of thematic priorities.

14.14 The Committee, taking into consideration the aforementioned requests of the Assembly, the decision of MSC 84 on Casualty Investigation Code and the request by IALA, approved the thematic priorities for the ITCP covering the 2010-2011 biennium (MSC 85/14/Add.1, annex), as amended, and set out in annex 23.

## **IMO MODEL COURSE PROGRAMME**

14.15 The Committee noted the updated information on the IMO Model course project provided in document MSC 85/14/2 and requested the Secretariat to continue its follow-up and report developments on the project to MSC 86. The Committee also requested the Secretariat to include details of the latest revision of the model courses in the information provided to the Committee.

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

15.1 The Committee recalled that, at its eighty-fourth session, it had considered the draft amendments to the Guidelines on the organization and method of work of MSC and MEPC and their subsidiary bodies to reflect the recommendations of the Assembly in resolution A.998(25) (MSC 84/14, annex 2). During the discussion, while the majority of delegations supported the draft amendments, some delegations expressed concern that it would be difficult to provide an assessment of capacity-building required for an Administration when proposing a work programme for new instruments and that this should be done by the Committee itself when considering proposals for the inclusion of a new item in its work programme. Some delegations were also of the view that such an assessment should be carried out during the course of the development of new instruments and not before establishing a new work programme item.

15.2 The Committee recalled also that, following the discussions, the majority of MSC 84 had agreed, in principle, to the draft amendments to the Guidelines, subject to further consideration at MSC 85, and MSC 84 had established a correspondence group, under the coordination of South Africa, to review the draft amendments; develop criteria for the identification of capacity-building implications; and consider the minimum information required to be submitted by proponents of new work programme items (MSC 84/24, paragraph 14.7).

### **Outcome of the Council**

15.3 The Committee noted that the Council, at its one hundredth session, had noted the action taken by MSC 84 on issues relating to capacity-building for the implementation of new measures and, following an intervention by the delegation of Cyprus, had decided to consider the interpretation of operative paragraph 2 of resolution A.998(25) at its one hundred and first session.

15.4 The Committee noted that the Council, at its one hundred and first session (MSC 85/2/1/Add.1, paragraph 12), had considered document C 101/15(a) (Cyprus) and:

- .1 agreed to the interpretation of paragraph 2 of resolution A.998(25), as proposed by Cyprus, namely, that the assessment of implications for capacity-building and technical co-operation of the development of new instruments and/or amendments to existing ones should be undertaken by each Committee, but that such assessment should not be a requirement for the proponent of the proposal; and
- .2 requested all the Committees of the Organization to revise the Guidelines on the organization and method of their, and their subsidiary bodies', work to reflect the above decision.

15.5 The Committee agreed to revise the draft amendments to the Committee's Guidelines (MSC 84/14, annex 2) to reflect the Council decision on the interpretation of resolution A.998(25).

## **Report of the correspondence group**

15.6 The Committee considered the report of the correspondence group (MSC 85/15/1), which informed on the progress made on the work of the group, highlighting the complexity of the issues to be considered and requested the Committee to authorize the continuation of its work to report to MSC 86 and also to encourage greater participation in the work of the group. The correspondence group also invited the Committee to establish a working group at MSC 86 to finalize the work.

15.7 The Committee noted the progress of the correspondence group and agreed that the group should continue to work with the terms of reference agreed at MSC 84 (MSC 84/24, paragraph 14.7), taking into account the decision of the Committee at this session in the light of the interpretation by the Council on resolution A.998(25), and report to MSC 86.

15.8 Recognizing the need for greater participation in the correspondence group, the Committee urged Members of the Committee to actively participate in the work of the correspondence group and, as discussed at MSC 83 (MSC 83/28, paragraph 18.9), agreed, in principle, to establish an *ad hoc* working group on capacity-building and technical co-operation for the implementation of new instruments, subject to further consideration of the issue under agenda item 23 (Work programme) (see paragraph 23.55) in the context of the number of groups to be established at the next session.

## **16 ROLE OF THE HUMAN ELEMENT**

### **Joint MSC/MEPC Working Group on Human Element**

16.1 The Committee recalled that MEPC 58 had approved the report of the Joint MSC-MEPC Working Group on Human Element which had met during MSC 84, in general, and in particular, had approved:

- .1 MSC-MEPC.7/Circ.7 on Guidance on near-miss reporting; and
- .2 the updated action plan on the Organization's strategy to address the human element.

16.2 The Committee, noting that the next session of the Joint MSC/MEPC Working Group on Human Element will be held during MEPC 59 (July 2009) to consider, *inter alia*, the draft amendments to the Revised Guidelines on Implementation of the ISM Code, invited Member Governments and international organizations to submit comments and proposals to MEPC 59, so that the Revised Guidelines may be finalized with a view to submitting them to A 26 for adoption.

### **ILO proposal for inter-secretariat consultations on the possible common areas of the human element to be discussed by ILO and IMO**

16.3 The Committee considered the information provided by the Secretariat (MSC 85/16) wherein ILO had suggested that the Secretariats of IMO and ILO should hold inter-secretariat consultations on possible common areas of the human element which could be discussed by ILO and IMO and a possible mechanism for such discussions. In this context, the Committee recalled that both Committees had considered the request from ILO (MEPC 56/17/9) to establish a Joint IMO/ILO Working Group on the Human Element and had agreed that:

- .1 the Joint MSC/MEPC Working Group on Human Element should continue its work in accordance with the Organization's strategy to address the Human Element (MSC-MEPC.7/Circ.4);

- .2 there was no compelling need to establish a joint ILO/IMO working group at this stage to address issues relating to seafarers' training; hours of work and rest; manning levels; seafarers' fatigue; career and skill development, as these were already being addressed by the STW Sub-Committee on a regular basis; and
- .3 it was not appropriate to establish the proposed joint ILO/IMO working group with such wide and open-ended terms of reference and that, in future, when preparing or reviewing other technical texts or proposals on matters within the technical competence of both Organizations, if considered necessary, to establish an *ad hoc* Joint ILO/IMO working group on a case-by-case basis with specific terms of reference to properly address the human element on a tripartite basis.

16.4 In view of the request from ILO, the Committee considered that it would be advisable for both Secretariats to meet and identify the common areas/issues of concern with a view to seeking the Committees' advice on the way forward, bearing in mind their earlier decision not to establish a joint ILO/IMO working group with wide and open-ended terms of reference.

16.5 The Committee agreed that the IMO and ILO Secretariats should only identify the issues to be discussed, taking into account the ongoing work of Joint MSC/MEPC Working Group on Human Element. The outcome of the meeting of the Secretariats should then be presented to the Committees for consideration and necessary action.

## **17 FORMAL SAFETY ASSESSMENT**

### **General**

17.1 The Committee recalled that MSC 84, recognizing that there would be an outcome of MEPC 58 regarding environmental risk acceptance criteria and other submissions to this session, in particular related to the review of FSA studies, had agreed to retain the item in the provisional agenda for this session.

### **Outcome of MEPC 58**

17.2 The Committee noted that MEPC 58 had considered the report of the correspondence group (MSC 85/17/3) and, with regard to documents submitted by Denmark (MEPC 58/17/2 and MEPC 58/INF.2), providing information on the FSA study on crude oil tankers carried out within the research project SAFEDOR, had agreed to invite the Committee to consider these documents.

17.3 The Committee also noted that MEPC 58 had established an informal consultation group for detailed consideration of the item, the outcome of which is summarized in paragraph 3 of document MSC 85/17/3, and had agreed to re-establish a correspondence group with a view to finalizing the subject of environmental risk evaluation criteria.

### **FSA studies carried out by SAFEDOR**

17.4 The Committee, having considered FSA studies submitted by Denmark (MSC 85/17/1, MSC 85/17/2, MSC 85/INF.2 and MSC 85/INF.3), reporting on the FSA study on cruise ships and RoPax ships, which were carried out within the research project SAFEDOR, agreed that these documents, together with documents MEPC 58/17/2 and MEPC 58/INF.2 as invited by MEPC 58, should be referred to the FSA Experts Group for review, when established. In this context, the delegation of Italy, having expressed its concerns over the FSA study on cruise ships that the study was lacking some data, based on rough assumption and needed further review,

stated that the outcome of FSA studies should not lead to development of new measures which would replace the existing IMO instruments.

### **Review of FSA studies**

17.5 The Committee recalled that MSC 84 had agreed, in principle, to hold an FSA Experts Group for review of FSA studies at MSC 86 and, in the context of holding an FSA Experts Group, took note of the following points relating to establishing the group, specified in the Guidance on the use of HEAP and FSA (MSC-MEPC.2/Circ.6), paragraphs in brackets being those of the Guidance:

- .1 the terms of reference of the group for such a review should be established by the Committee (paragraph 28);
- .2 the Committee should determine the number of meetings necessary to meet the target completion date (paragraph 29);
- .3 participation in the group will be voluntary and is open to all Member Governments and non-governmental organizations (paragraph 32);
- .4 a Chairman and a Vice-Chairman of the group should be selected by the Committee (paragraph 33); and
- .5 Governments nominate experts who have suitable qualifications in the field of formal safety assessment (paragraphs 34 and 35).

17.6 With regard to paragraph 17.5.5, the Committee, while having noted that paragraph 35.1 of the Guidance on the use of HEAP and FSA does not refer to non-governmental organizations, confirmed that non-governmental organizations could also nominate experts who have suitable qualifications in the field of formal safety assessment. Furthermore, notwithstanding paragraph 35.3 of the said Guidance, the Committee agreed that experts who have been involved in the FSA study to be reviewed should also be eligible for nomination, on the condition that those experts would provide useful information on the FSA study to be reviewed.

17.7 Following the discussion, the Committee agreed, in principle, to hold an FSA Experts Group at MSC 86 and took the following course of action:

- .1 invited Member Governments and non-governmental organizations to nominate experts, who have suitable qualifications, in accordance with the Guidance on the use of HEAP and FSA (MSC-MEPC.2/Circ.6);
- .2 agreed to select Chairman and Vice-Chairman of the FSA Experts Group at MSC 86; and
- .3 agreed to approve the terms of reference for the FSA Experts Group and the number of meetings at MSC 86.

17.8 In this context, the Secretariat informed the Committee that it would issue a document well before MSC 86, containing the draft terms of reference, scope and the number of meetings of an FSA Experts Group, to facilitate establishing an FSA Experts Group at MSC 86, and invited Member Governments and non-governmental organizations to submit nominations for experts, if any, to the Secretariat by Friday, 22 May 2009 so that the list of experts would be made available in time for the session.

17.9 The Committee invited Member Governments and international organizations to submit, to MSC 86, comments on the FSA studies submitted for review and proposals regarding the terms of reference of the FSA Experts Group.

17.10 The Committee briefly discussed whether the group of experts, when established, should be treated as a working group or one of the other groups as defined in the Guidelines on the organization and method of work and agreed to decide on the matter under the agenda item 23 (Work programme).

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

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

18.1 The Committee unanimously condemned the recent terrorist attacks in Mumbai and expressed its condolences to the Government and people of India (see also paragraphs 25.18 and 25.19).

#### ***Outcome of C 100 and C 101 and outcome of the 6020<sup>th</sup> meeting of the UN Security Council***

18.2 The Committee noted the report (MSC 85/2/1/Add.1 (Secretariat)) and the information provided orally by the Secretariat, on the deliberations of C 100 and C 101 on the issue of piracy and armed robbery against ships in waters off the coast of Somalia and in the Gulf of Aden in the context of the protection of vital shipping lanes. This included welcoming the adoption by the UN Security Council of resolutions 1816 (2008) and 1838 (2008); and expressing appreciation to those States which had provided warships to protect ships chartered by the World Food Programme (WFP) and to patrol the waters off the coast of Somalia; and encouraging other States to take similar actions to protect ships and to patrol the waters off the coast of Somalia.

18.3 The Committee further noted the oral report of the Secretary-General on the latest developments at the UN Security Council, including details of his intervention at its 6020<sup>th</sup> meeting, the text of which was subsequently issued as document MSC 85/INF.9. The Secretary-General highlighted the need to protect seafarers, fishermen and passengers on ships sailing off the coast of Somalia and in the Gulf of Aden; to ensure the safe delivery of humanitarian aid to Somalia effected by ships chartered by the WFP; and to preserve the integrity of the shipping lane through the Gulf of Aden given its strategic importance and significance to shipping and trade east and west of the Suez Canal. The Secretary-General also highlighted the role of the Organization in doing everything possible to increase awareness of the problem and, in co-operation with the shipping industry, to advise ships to take practicable avoidance, evasion and defensive measures, while, through the technical co-operation programme, assisting countries in the region to build capacity to add their contribution to the overall efforts, including putting in place any necessary relevant legislation, including the forthcoming high-level meeting in Djibouti (see paragraphs 18.13 to 18.16) to conclude a Regional Agreement of Co-operation to combat piracy and armed robbery.

18.4 During its deliberations on the subject, the Committee received a briefing on the military perspective on the issue of piracy and armed robbery against ships in waters off the coast of Somalia from Commodore Tim Lowe Royal Navy, the Deputy Commander of the Combined Maritime Forces, the United States-led naval coalition based in Bahrain which included Combined Task Force 150 (CTF 150). CTF 150 currently operated warships throughout the 1.1 million square miles of the western Indian Ocean, Gulf of Aden and the Red Sea area. The Committee, *inter alia*, noted that from the military viewpoint there were three critical areas of influence:

- .1 in the political sphere to gain international support to identify States in the region which could accept and try pirates;

- .2 military aspects including the co-ordination of various naval forces to generate effective action to deter and disrupt pirate activity; and
- .3 engagement with the shipping industry in order to learn from each other in order to implement practical security measures including the full and robust implementation of IMO guidance.

18.5 A number of delegations expressed the view that naval forces should be coordinated through the United Nations or a competent international forum; and that assistance to merchant shipping should be given irrespective of the flag or the nationality of the crew.

18.6 The Committee recognized that the problem of piracy and armed robbery against ships in the waters off the coast of Somalia had its roots ashore and that the long-term solution was the re-establishment of stable government and the rule of law ashore. The Committee also recognized that action needed to be taken quickly before the problem spread to other areas. To this end, the Committee expressed its support for the various initiatives being undertaken including action by the United Nations Security Council; the initiatives taken by the Arab League in Cairo earlier in the month; the high-level meeting to be convened by the Special Representative to the Secretary General of the United Nations on Somalia in Nairobi on 10 and 11 December; the IMO-led meeting in Djibouti; and a meeting on assistance for capacity building suggested by the Republic of Korea as a follow-up to the Djibouti meeting. The Committee expressed its thanks to those Governments which had provided warships to protect WFP shipping and patrol the waters off the coast of Somalia and to their crews and those other Governments which are considering taking a similar course of action. The Committee also expressed its appreciation to the Secretary-General of IMO for his actions and leadership and wished to record its thanks to Commodore Lowe for his briefing.

18.7 In considering actions to be taken to suppress piracy, the Committee noted the proposals of Denmark on the need of technical co-operation activities to support Member Governments to establish a legal infrastructure for the arrest, detention and prosecution of pirates, including the need of a panel of experts to assist States to ensure that pirates are prosecuted. There was general support for these suggestions to be taken into account by the correspondence group. The Committee was also informed by the Secretariat of the recently established technical co-operation project on model legislation which will be implemented in co-operation with Kenya and the Committee invited proposals on model legislations to be submitted to MSC 86 for consideration.

18.8 In this context, the Committee noted the views expressed by ITF that the time needed to establish a comprehensive legal framework, including at a national level, should not delay the urgently needed provision of enhanced security level to seafarers, similar to the way seafarers have been able to contribute to security ashore under the ISPS Code.

18.9 A number of delegations reiterated the need for States to co-operate to establish legal jurisdiction in cases of piracy and to co-operate to ensure the capture, prosecution and punishment of pirates in accordance with international law and international humanitarian law; to promote regional co-operation to suppress piracy and armed robbery against ships; for seafarers to apply IMO guidance including passive and active shipboard measures to reduce their vulnerability; to reclassify piracy as maritime terrorism; and to promote the use of the provisions of the Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA 1988) to counter piracy and armed robbery against ships.

18.10 Some delegations raised the issue of whether merchant ships should consider carrying unarmed security consultants on board, seeking information from those Companies which had employed the services of security personnel. A number of delegations and organizations spoke

against the proposals to embark armed security teams on board. The Committee agreed that there was a need for a full re-examination of the issue of the carriage of firearms or armed personnel on board merchant vessels. To this end, the Committee requested the Secretariat to provide a document to MSC 86 outlining the historical basis for the Organization's current position on firearms. In order to make progress on this matter as soon as possible, the Committee instructed the MSWG to consider the issue based on the available information and views expressed in plenary and advise the Committee on the issue of the carriage of firearms on board merchant ships.

18.11 The observer from IPTA advised the Committee that there were limits to what could be done by owners and crews of chemical tankers to protect themselves and to avoid attack. By their very nature these vessels tended to be small, with a low freeboard and without the capacity to outrun the high-speed vessels often utilized by the pirates. Chemical tankers often carried extremely volatile cargoes and there was therefore no question of firearms being taken on board, either by vessel crews or by specialist security guards. Equally, if faced by pirates threatening to use firearms the master would, in most cases, have no option but to capitulate. The potential consequences of a fire fight in the vicinity of such products would be too terrible to contemplate.

18.12 The Committee agreed that any proposals on practical measures to enhance the safety and security of merchant ships against attack by pirates and armed robbers should be referred to the correspondence group, so that MSC 86 would be able to consider all these issues based on the report of the correspondence group.

### ***The Djibouti meeting***

18.13 The Committee recalled that the outcomes of the Subregional seminar on piracy and armed robbery against ships and maritime security, held in Sana'a, Yemen, from 9 to 13 April 2005 (the Sana'a Seminar) and the Follow-up subregional workshop on maritime security, piracy and armed robbery against ships, held in Muscat, Sultanate of Oman, from 14 to 18 January 2006 (the Oman Workshop) had been reported to MSC 80 and MSC 81 respectively; and that the outcome of the IMO Subregional meeting on piracy and armed robbery against ships in the Western Indian Ocean, held in Dar es Salaam, United Republic of Tanzania, from 14 to 18 April 2008 had been reported to MSC 84.

18.14 The Committee recalled also that the Sana'a Seminar (which was attended by senior officials in the maritime and port authorities of Djibouti, Egypt, Eritrea, Ethiopia, Jordan, Oman, Saudi Arabia, Somalia, Sudan and Yemen) had unanimously adopted, *inter alia*, a resolution on Prevention and suppression of piracy and armed robbery against ships and enhancement of maritime security. That resolution led to the development of a draft Memorandum of Understanding (MoU) for regional co-operation to enhance maritime security and combat piracy and armed robbery against ships in the Red Sea and Gulf of Aden area, which was further developed by the Oman Workshop. The draft MoU (which included the concept of a Regional Maritime Information Centre or System), hereinafter referred to as "the Sana'a/Muscat MoU", was endorsed, as a work in progress, by the representatives of Djibouti, Egypt, Eritrea, Jordan, Oman, Somalia and Yemen, present at the Oman Workshop.

18.15 The Committee recalled further that the overall aim of the Dar es Salaam meeting was to promote good maritime security on a regional basis, with a particular focus on the prevention, detection and suppression of piracy and armed robbery against ships in the Western Indian Ocean, Gulf of Aden and Red Sea. The meeting succeeded in developing a draft regional agreement concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean, the Gulf of Aden, and the Red Sea, hereinafter referred to as the "Dar es Salaam Draft".



18.16 The Committee noted that, pursuant to the Organization's initiative on the protection of vital shipping lanes and to the global enhancement of maritime security in general; IMO Assembly resolution A.1002(25) on Piracy and armed robbery against ships in waters off the coast of Somalia; and United Nations Security Council resolution 1816 (2008), a high level, subregional meeting for States from the Western Indian Ocean, the Gulf of Aden and Red Sea areas will take place in Djibouti from 26 to 29 January 2009, conducted under the auspices of IMO, with the intention of finalizing the Sana'a/Muscat MoU and the Dar es Salaam Draft and seeking implementation of their provisions. Individual invitations had been sent to Comoros, Djibouti, Egypt, Eritrea, Ethiopia, France, Jordan, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Oman, Saudi Arabia, Seychelles, Somalia, South Africa, Sudan, the United Arab Emirates, the United Republic of Tanzania and Yemen for participation in the subregional meeting and the Secretariat had also issued circular letter No.2921 on the subject.

18.17 The Committee noted also that the Assembly, through resolution A.1002(25), had also called upon all other Governments, in co-operation with the Organization and as requested by those Governments in the region, to assist these efforts. To this end, should the subregional meeting identify any issues for which Governments in the region needed assistance, the Organization would approach accordingly the Member States which had stated, during the last session of the Assembly, their willingness to provide such assistance.

### **Comprehensive review of guidance for preventing and suppressing piracy and armed robbery against ships**

18.18 The Committee recalled that the last session of the Assembly had instructed the Committee to undertake a comprehensive review of the guidance provided by the Organization for preventing and suppressing piracy and armed robbery against ships. This review should, *inter alia*:

- .1 take into account the current trends and practices of the perpetrators;
- .2 provide advice in cases where seafarers, fishermen and other mariners are kidnapped or held hostage for ransom; and
- .3 provide advice in cases where naval vessels and military aircraft seek to provide assistance or protection.

18.19 The Committee recalled further that MSC 84 had established a correspondence group on the review and updating of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22), coordinated by Denmark\*, with terms of reference as detailed in paragraph 17.24 of document MSC 84/24, and had instructed the group to provide an interim report during this session of the Committee and to complete its work and submit it for consideration by MSC 86.

---

\* **Coordinator:**  
Ms Birgit Sølling Olsen  
Director for Shipping Policy  
Danish Maritime Authority  
Vermundsgade 38C  
DK-2100 København Ø  
Denmark  
Tel: +45 39 17 45 08  
Fax: +45 39 17 44 13  
E-mail: [bsol@dma.dk](mailto:bsol@dma.dk)

18.20 The Committee noted the interim report by Denmark on the work of the correspondence group and thanked Denmark and those who were participating in the work of the correspondence group for the work done to date.

18.21 In considering the proposals of Bangladesh *et al.* (MSC 85/18/2) to insert an annex to MSC/Circ.622/Rev.1 and MSC/Circ.623/Rev.3 so as to reflect the existence and operation of the ReCAAP-Information Sharing Centre which provides a formal and permanent platform for government-to-government information exchange on piracy and armed robbery against ships in the Asian region, the Committee noted the arrangements which had been established, since the time the Committee approved the two MSC circulars, by a number of Member States from the Asian region with a view to dealing with piracy and armed robbery against ships. The Committee noted that the Netherlands had recently requested accession to the ReCAAP and it was expected that the process would be completed in the near future.

18.22 The Committee agreed that there was a need to update the statistics, flow diagrams and other relevant information provided in appendix 1 of the two circulars so as to reflect the actual arrangements in the Asian region. The correspondence group was instructed to consider the proposal and to include in the appendices of the two MSC circulars an additional appendix to reflect the arrangements which were in place in the Asian region. In this regard, the Committee noted that, as the Organization is promoting the establishment of regional arrangements for dealing with piracy and armed robbery against ships in other areas, a similar approach would need to be followed in respect of these areas.

18.23 The Committee noted that, in relation to the work of the correspondence group on developing advice in cases where seafarers, fishermen and other mariners are kidnapped or held hostage for ransom, the Secretariat was prepared to make available to the correspondence group the advice and material provided to the Staff of the United Nations system by the United Nations Department on Safety and Security on Surviving as a hostage and Coping with stress, which is also available in the public domain.

18.24 The Committee agreed to the revised terms of reference of the correspondence group, as follows:

- .1 when proposing amendments to MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22), the correspondence group should:
  - .1 take into account the current trends and practices of the perpetrators, and regional responses thereto;
  - .2 take into account the special measures to enhance maritime security contained in SOLAS chapter XI-2 and the ISPS Code, which have been adopted by the Organization since the adoption or revision of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22);
  - .3 consider the proposals of Denmark (MSC 84/17/4, annex), ITF (MSC 84/17/2) and ICC (MSC 84/17/3) specifically related to the revision of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22);
  - .4 consider the need for guidance to seafarers, fishermen and other mariners in case they are attacked, fired upon, kidnapped or held hostage by pirates and armed robbers; and

- .5 with reference to the proposals of Bangladesh *et al.* (MSC 85/18/2) include appropriate references to the ReCAAP Information Sharing Centre as an addendum to MSC/Circ.622/Rev.1 and MSC/Circ.623/Rev.3, to reflect the existing enhanced information sharing process for incidents of piracy and armed robbery against ships in Asia;
- .2 the correspondence group should submit its final report for consideration by MSC 86; and
- .3 the correspondence group should engage in discussion on any proposals on practical measures to enhance the safety and security of merchant ships against attack by pirates and armed robbers and issues that complement existing efforts but not elements which may undermine such efforts including issues concerned with sovereign rights, jurisdiction and responsibilities of States under international law.

18.25 The Committee agreed that, as MSC 86 was scheduled to take place at the end of May 2009 and hence another six months would pass before the Committee would be able to consider the proposal of the correspondence group in relation to the revision and updating of the guidance provided in MSC/Circ.622/Rev.1 and MSC/Circ.623/Rev.3; and in view of the escalating number of attacks against ships in certain areas, in particular in waters off the coast of Somalia and in the Gulf of Guinea, there was a need to accelerate the work of the correspondence group and to make available on a provisional basis the outcome of its work for the benefit of seafarers and of the shipping industry as soon as it was available.

18.26 The Committee concluded by urging those interested in issues relating to piracy and armed robbery against ships to actively participate in the work of the correspondence group.

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

18.27 The Committee recalled that, since MSC 77, the usual monthly and quarterly reports on piracy and armed robbery against ships had been circulated under the MSC.4/Circ. series.

18.28 The Committee recalled that, since June 2001 and in accordance with the instruction of MSC 74, the MSC.4 circulars reporting on acts of piracy and armed robbery differentiated (in separate annexes) acts of piracy and armed robbery actually “committed” from “attempted” ones.

18.29 In considering document MSC 85/18 (Secretariat), the Committee noted that the number of acts of piracy and armed robbery against ships reported to the Organization and which had occurred in the period from 1 January to 30 September 2008 was 214 against 213 for the period from 1 January to 30 September 2007. The total number of incidents of piracy and armed robbery against ships, reported to have occurred or to have been attempted from 1984 to the end of October 2008, was 4,757.

18.30 The Committee observed that although the overall number of reported acts of piracy and armed robbery against ships during the period under review has remained the same, the decrease in the number of incidents in most areas of the world has been negated by the sharp increase in both number and severity of attacks in waters off the coast of Somalia. As emphasized at previous sessions of the Committee, much more still needed to be done to reduce this menace of piracy and armed robbery against ships.

18.31 The Committee further observed that during the period under review (i.e. 1 January to 30 September 2008), it emerged that the areas most affected (i.e. five incidents reported or more) in 2008 were East Africa, the Far East, in particular the South China Sea, West Africa, the Indian Ocean, and South America; and that most of the attacks worldwide had occurred or had been attempted in territorial waters while the ships were at anchor or berthed.

18.32 The Committee expressed concern that in many of the reports received, the crews had been violently attacked by groups of five to ten people carrying knives or guns. From the same information, it emerged that, during the period under review, seven crew members were killed, 20 crew members were reportedly injured/assaulted, which was less than last year, however, over 430 crew members were reportedly taken hostage/kidnapped and 29 ships were hijacked, largely off the coast of Somalia.

18.33 The Committee concluded by urging, once again, all Governments and the industry to intensify and coordinate their efforts to eradicate these unlawful acts.

18.34 The Committee noted that despite numerous requests, at previous sessions of the Committee, the Secretariat still received very few, if any, reports from Member Governments on action they had taken with regard to incidents reported to have occurred in their territorial waters. The Committee reiterated the urgent need for all Governments to provide the Organization with the information requested.

18.35 The Committee invited the Secretariat to update and circulate, under cover of an MSC.4 circular, the information provided by the Secretary-General in annex 1 to document C/ES.23/17(a) in relation to piracy and armed robbery against ships in waters off the coast of Somalia so as to provide a consolidated record of the incidents which had been reported to the Organization since 1 January 2005; and to include in future issues of MSC.4 circulars additional and separate annexes listing incidents occurring in waters off the coast of Somalia.

### **IMO/MOWCA integrated coast guard project**

18.36 The Committee recalled that MSC 82 had received a report on the regional IMO/MOWCA forum on the establishment of an integrated coast guard function network for West and Central African Countries, held in Dakar, Senegal, from 23 to 25 October 2006.

18.37 The Committee recalled also that during MSC 83, the observer from MOWCA had advised that:

- .1 in February 2007 the African Union Conference of Maritime Transport Ministers had adopted the coastguard network as part of its strategic action plan to respond to maritime security threats in the African region;
- .2 the coastguard network featured in the medium to long-term strategic action plan of the New Partnership for African Development (NEPAD), under which an amount of US\$3.6 million had been budgeted for IMO, MOWCA and SADC maritime security projects; and
- .3 the General Assembly of the MOWCA Bureau of Ministers was scheduled for March 2008 and was expected to consider the adoption of a Memorandum of Understanding on the implementation of the coastguard network.

18.38 The Committee noted that at the 13th General Assembly of Ministers of MOWCA, held in Dakar, Senegal on 30 July 2008, twenty Member States of MOWCA had adopted a Memorandum of Understanding on the establishment of a Subregional Coastguard Network for the West and Central African sub-region (the MoU); and that soon after the MoU was adopted and opened for signature, 11 of the 20 coastal Member States of MOWCA, representing 55% of the membership, had immediately signed the MoU. Member States of MOWCA which signed the MoU are Cameroon, Cape Verde, the Republic of Congo, the Democratic Republic of the Congo, Côte d'Ivoire, Gabon, Guinea, Guinea-Bissau, Nigeria, Senegal and Togo. Other coastal Member States which supported the adoption of the MoU were expected to sign it in due course.

18.39 The Committee noted that the signing of the MoU had built on the significant progress made by IMO towards the development of subregional capacity for ensuring maritime safety and security through the establishment of co-operative mechanisms including Maritime Rescue Coordination Centres (MRCCs) and inter-agency agreements.

18.40 The observer from MOWCA advised the Committee that the programme and budgets for 2009 were currently being allocated for the integration of the project, and in particular, the equipping of the zonal co-ordination centres. The Committee noted that MOWCA now had an office at 37 Albert Embankment, London.

18.41 The Committee noted also that plans were currently being developed by the IMO Secretariat to hold further meetings during 2009 with a view to coordinating the activities of States parties to the MoU, donor States, international organizations and other stakeholders in order to develop and implement detailed action plans to progress the IMO/MOWCA integrated coast guard function network project.

### **Report of the MSWG**

18.42 Having received and approved, in general, the report of the MSWG (MSC 85/WP.6), the Committee noted the outcome of the MSWG's considerations on the issue of carriage of firearms on board merchant ships and:

- .1 instructed the Correspondence Group on review and updating of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22) to continue to strongly discourage the carrying and use of firearms for personal protection or protection of a ship;
- .2 noted the view of the MSWG that there could be possible escalation of violence resulting from the carriage of armed personnel on board merchant ships, but recognized that the use of armed professional security teams on board merchant ships was a matter for flag States to determine in consultation with shipowners and companies, not the Organization;
- .3 invited flag States, in consultation with owners of ships flying their flags, to consider whether and under what circumstances such ships may be allowed to carry armed professional security teams, and take action as appropriate; and
- .4 noted that port States and coastal States should also be consulted in cases where ships carrying armed professional security teams intended to enter their territorial waters.

18.43 The observer from the African Union stated that the African Union condemned piracy and armed robbery against ships in the waters off the coast of Somalia and advised the Committee that the Commission of the African Union was establishing a working group to

consider the phenomenon of piracy and was proposing the establishment of a co-operative mechanism. The African Union called on coastal States of the sub-region to become fully involved and play a role in the suppression of piracy and armed robbery which was severely affecting the delivery of humanitarian aid and international trade in the sub-region. Despite the presence of naval forces in the area, the phenomenon continued and was becoming more significant. In proposing a regional and international co-operative mechanism for suppressing piracy in both the short and long-term, the African Union recalled that they had signed a co-operative agreement with the Organization in April 2008 and looked forward to strengthening that co-operation.

## **19 GENERAL CARGO SHIP SAFETY**

19.1 The Committee recalled (MSC 85/19) that MSC 84, having discussed the best way to proceed on the matter in light of the information received to date, had agreed, in principle, that:

- .1 there was an urgent need to consider the safety of general cargo ships, taking into account the current safety level of these types of ships and the documents submitted to date on the matter;
- .2 more detailed casualty information on the cause of accidents involving general cargo ships was needed to progress the matter, including the outcome of any related studies;
- .3 the definition of the terms “bulk carrier” and “general cargo ship” are interrelated and, therefore, any outcome of discussion on the definition of “bulk carrier” under the provisions of the SOLAS Convention should be taken into account in the discussion of the definition of “general cargo ship”; and
- .4 any FSA studies submitted on the matter should first be reviewed by the FSA Group of Experts before establishing a working group on general cargo ship safety,

and invited Member Governments and international organizations to submit, to MSC 85, further information and relevant proposals on the matter.

19.2 In this context, the Committee also recalled that, at MSC 83, it had agreed that a working group should be established at a future session to:

- .1 examine all the related information submitted at this session, results of analysis and FSA studies;
- .2 develop the definition of a general cargo ship;
- .3 identify the type of ships covered by category of general cargo ships which should be dealt with under the item;
- .4 develop the strategy for how best to proceed on the issue; and
- .5 develop appropriate measures to enhance the safety of general cargo ships.

19.3 The Committee noted, for its consideration, the following documents:

- .1 MSC 85/19/1 (Germany, Norway and IACS), reporting on the initial steps being taken for an FSA study on general cargo ships relating to analysis of casualty data and that prior to analysing and recommending specific risk control options, the available data should be analysed in more detail, preferably following a coordinated approach; and
- .2 MSC 85/19/2 (Republic of Korea), recommending that an FSA study be carried out to identify accident frequency, risk levels, the causes, etc., and to recommend the risk control options, taking into account the suggestions provided in paragraph 18 of its document.

19.4 Following discussion on the way to proceed on the matter, the Committee decided to invite Member Governments and international organizations to submit further information and relevant proposals on the matter to MSC 86.

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

### **Status of Conventions**

20.1 The Committee noted the information on the conventions, protocols and amendments thereto in respect of which IMO performs depositary functions and which are related to the work of the Committee, as at 30 September 2008 (MSC 85/20 and MSC 85/INF.6) and was advised orally by the Secretariat of additional information on instruments of ratification, acceptance, approval of, or accession to, safety-related IMO conventions and protocols deposited with the Secretary-General received on or after the date the above documents were prepared, i.e. the accessions by Guinea-Bissau to the 1988 SUA Convention and the 1988 SUA Protocol, by Lebanon to the COLREGs 1972, by Poland to the 1988 Load Lines Protocol, and by Switzerland to the 2005 SUA Convention and the 2005 SUA Protocol. The Committee was further informed by the Secretariat that the ratification by the People's Republic of China of the 1988 SUA Convention and the 1988 SUA Protocol was extended to the Hong Kong Special Administrative Region of the People's Republic of China, with effect from 20 February 2006, the date on which the notification was received by the Organization, and corrective action will be duly taken for accurate display of this information in relevant MSC documents and website.

### **Codes, recommendations, guidelines and other non-mandatory instruments**

20.2 The Committee recalled that MSC 83 had considered the comprehensive list prepared by the Secretariat (MSC 82/18/1 and MSC 82/INF.12) of codes, recommendations, guidelines and other safety- and security-related non-mandatory instruments, which had been adopted by resolutions or approved in the form of circulars.

20.3 The Committee also recalled that MSC 83 had referred the detailed consideration of the list annexed to document MSC 82/INF.12 to the relevant sub-committees for the identification of those instruments which might be relevant in the context of the collection of information on the implementation of non-mandatory instruments.

20.4 Having noted that, to date, DE 51, STW 39, COMSAR 12, NAV 54, FSI 16, SLF 51 and DSC 13 had considered the relevant extracts of the list annexed to document MSC 82/INF.12, as prepared and updated by the Secretariat, and had approved in general the list of non-mandatory instruments, supporting the development of a GISIS module on requirements and recommendations,

the Committee confirmed its decision at MSC 84 to consider the matter further at MSC 86 when the outcome of the consideration of this issue by the FP and BLG Sub-Committees will be available.

20.5 In the meantime, the Committee requested the Secretariat to maintain the list of codes, recommendations, guidelines and other safety- and security-related non-mandatory instruments, taking into account the outcome of the consideration of relevant extracts by all the sub-committees, to keep the list updated and to make the list available to IMO Members by means of a circular issued on an annual basis.

### **Measurement of distances**

20.6 The Committee considered the submission by IACS (MSC 85/20/1) containing a Unified Interpretation (UI), to be applied by all IACS Members from 1 April 2009, to clarify the measurement of distances between the inner and outer skins for protecting the spaces inside the inner skins and with expanded application to ship (or subdivision or waterline) length. The UI would be used for the measurement of distances where the IMO instruments do not explicitly stipulate otherwise and unless flag Administrations authorizing IACS Members to undertake statutory surveys on their behalf decide otherwise. The Committee noted that the same submission will be considered by MEPC 59.

20.7 Having considered the draft MSC/MEPC circular on Unified Interpretation on measurement of distances which the Secretariat had been requested to prepare in consultation with IACS, the Committee approved, subject to MEPC's concurrent decision, the draft MSC-MEPC.5 circular on Unified Interpretation on measurement of distances, as set out in the annex to document MSC 85/WP.12. In this context, the Committee requested the Secretariat to inform MEPC 59 accordingly.

## **21 RELATIONS WITH OTHER ORGANIZATIONS**

### **RELATIONS WITH NON-GOVERNMENTAL ORGANIZATIONS**

21.1 The Committee noted that C 100 had decided to grant consultative status to the Global Maritime Education and Training Association (GlobalMET).

### **New applications for consultative status**

21.2 The Committee considered the applications from:

- .1 the Hot Briquetted Iron Association (HBIA);
- .2 MYBA;
- .3 the World Shipping Council (WSC);
- .4 NACE International; and
- .5 the International Association of Airport and Seaport Police (IAASP).

21.3 The Committee was satisfied with the information provided and decided to recommend to the Council that consultative status be granted to WSC, NACE International and IAASP, since these organizations were found to meet the requisite criteria and, in particular, because they were assessed to be able to contribute directly to the Committee's work and did not seem to have access to IMO through other organizations.



21.4 With regard to the application by MYBA, the Committee was of the view that it did not meet all the requisite criteria for the granting of consultative status and could have access to IMO through other organizations. Accordingly, the Committee agreed to recommend to the Council not to grant consultative status to MYBA.

21.5 With regard to the application by HBIA, the Committee recognized that HBIA was a single commodity-based organization and would, therefore, probably only be able to contribute to a limited degree to the work of the DSC Sub-Committee and, consequently, the Committee.

21.6 The delegation of France supported by the delegation of the Islamic Republic of Iran expressed concerns on granting consultative status to a single commodity-based organization. In this context, the Chairman of the DSC Sub-Committee advised the Committee that all the work related to the IMSBC Code, schedules on DRI (A), (B) and (C) had been completed and that the only work outstanding was related to the issue of a circular on problems associated with DRI (C). DSC 14, scheduled to be held in 2009, was expected to finalize this circular and, in the Chairman's opinion, the contribution of HBIA towards the work of the Organization would be negligible and would establish a precedent for other single commodity-based organization to be granted consultative status.

21.7 Following a brief discussion, the Committee agreed, in view of the opinions expressed and since HBIA was found to factually meet the requisite criteria for the grant of consultative status, to recommend to the Council that HBIA should be granted such status for an interim period only, to be reviewed in due course.

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

22.1 The Committee recalled that MEPC 57 and MSC 84 had approved the draft amendments to the Guidelines on the organization and method of work of the MSC and the MEPC and their subsidiary bodies, prepared by the Secretariat (MSC 84/21, annex), which reflected relevant decisions taken by MSC 83 and the revised standard format for IMO documents (circular letter No.2831), and requested the Secretariat to prepare and circulate the revised Committee's Guidelines. The revised Guidelines were subsequently circulated by means of MSC-MEPC.1/Circ.2, dated 27 May 2008.

22.2 The Committee recalled also that the 2008 Chairmen's meeting had considered the issues related to the Strategic Plan for the Organization and High-level Action Plan (MSC 84/22/20) and that, having considered the report of the Chairmen's meeting (MSC 84/WP.10), MSC 84 took decisions as reflected in document MSC 84/24, paragraphs 22.81 to 22.86. MSC 84 had also noted that the Chairmen's meeting had agreed to review the Committee's Guidelines at the next meeting in 2009 in the context of management of the work programme under the Strategic Plan and planned outputs (MSC 84/24, paragraph 22.82).

### **Outcome of MEPC 58**

22.3 The Committee noted (MSC 85/2/2, paragraph 22) that MEPC 58, having noted that MSC 84 had agreed with all the recommendations of the 2008 Chairmen's meeting, concurred with the decisions of MSC 84.

### **Guidelines on the application of the Strategic Plan and the High-Level Action Plan**

22.4 The Committee recalled that MSC 84 had noted that C/ES.24 had established a correspondence group to develop Guidelines on the application of the Strategic Plan and the High-level Action Plan, which would be reviewed by the *Ad Hoc* Council Working Group on the

Organization's Strategic Plan (CWGSP), for approval of the Guidelines at C 101 in November 2008. MSC 84 had also noted that, in operative paragraph 5 of resolution A.990(25) on High-level Action Plan of the Organization and priorities for the 2008-2009 biennium, the Committees had been requested to review and revise their Guidelines on the organization and method of work in light of the aforementioned guidelines to be developed by the Council.

22.5 The Committee noted that CWGSP 8 had considered the report of the aforementioned correspondence group (CWGSP 8/3) and the outcome of the group (MSC 85/22, paragraph 5 refers) was submitted to C 101 for consideration.

22.6 The Committee further noted that C 101 had noted the progress made in developing Guidelines on the application of the Strategic and High-level Action Plans (C 101/3, paragraphs 5 and 6 and annex 1) and:

- .1 endorsed the decision of the working group to re-establish the correspondence group;
- .2 approved the holding of an additional session of the working group in 2009 to finalize the Guidelines, along with its scheduled session for that year;
- .3 agreed that the finalized Guidelines should be adopted through an Assembly resolution; and
- .4 urged Member States and the Chairmen of Committees and sub-committees to participate actively in the deliberations of both the re-established correspondence group and the working group's next session.

22.7 The Committee urged Member States and the Chairmen of the MSC, the MEPC and sub-committees to participate actively in the deliberations of both the Council correspondence group and the Council working group's next session; and agreed that the next Chairmen's meeting should consider the outcome of the Council working group and report to MSC 86.

## **23 WORK PROGRAMME**

### **NEW WORK PROGRAMME ITEMS PROPOSED BY MEMBER GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS AND SUB-COMMITTEES CONCERNED**

#### ***GENERAL***

23.1 Taking into account the recommendations made by the sub-committees which had met since MSC 84 (MSC 85/23 and MSC 85/23/Add.1); various proposals for new work programme items submitted to the session by the Member Governments and international organizations and sub-committees concerned; a preliminary assessment of such proposals, undertaken by the Chairman with the assistance of the Secretariat, in accordance with the relevant provisions of the Guidelines on the organization and method of work (MSC 85/WP.1) 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.

23.2 The Committee recalled that, with regard to the Committee's method of work relating to the consideration of proposals for new work programme items, it had agreed at MSC 78 that the objective of the Committee when discussing these proposals was to decide, based upon justification provided by Member Governments in accordance with the Guidelines on the organization and method of work, whether the new item should or should not be included in the

sub-committee's work programme. A decision to include a new item in a sub-committee's work programme does not mean that the Committee agreed with the technical aspects of the proposal. If it is decided to include the item in a sub-committee's work programme, detailed consideration of the technical aspects of the proposal and the development of appropriate requirements and recommendations should be left to the sub-committee concerned.

23.3 The Committee noted that MEPC 58 had approved the work programmes of the BLG and FSI Sub-Committees as well as the provisional agendas for BLG 13 and FSI 17, and the environment-related items on the work programmes of other sub-committees.

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

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

23.4 The Committee recalled that, following consideration of a proposal by DSC 13 in the context of the DSC Sub-Committee's work programme, it had agreed to include, in the work programme of the BLG Sub-Committee, a high-priority item on "Revision of the Recommendations for entering enclosed spaces aboard ships", with a target completion date of 2010, having assigned the DSC Sub-Committee as a co-ordinator and instructed BLG 13 to give a preliminary consideration to the matter and to include the item in the provisional agenda for BLG 14 (see also paragraph 23.7).

##### **Work programme of the Sub-Committee and provisional agenda for BLG 13**

23.5 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24. The Secretariat was requested to inform the MEPC accordingly.

23.6 The Committee confirmed the provisional agenda for BLG 13, as set out in annex 25, and requested the Secretariat to inform the MEPC accordingly.

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

##### **New work programme item proposed by DSC 13**

23.7 The Committee considered a proposal by DSC 13, suggesting to review and revise, as necessary, the specific provisions of the Recommendations for entering enclosed spaces aboard ships (resolution A.864(20)) and, following a discussion on the need to expand the scope of the work to cover other ship types, agreed to include, in the work programmes of the BLG, DSC, FP and STW Sub-Committees and the provisional agenda for DSC 14, a high priority item on "Revision of the Recommendations for entering enclosed spaces aboard ships", with a target completion date of 2010, assigning the DSC Sub-Committee as a coordinator.

##### **Work programme of the Sub-Committee and provisional agenda for DSC 14**

23.8 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.9 The Committee approved the provisional agenda for DSC 14, as set out in annex 25.

***SUB-COMMITTEE ON FIRE PROTECTION (FP)*****Revision of the Recommendations for entering enclosed spaces aboard ships**

23.10 The Committee recalled that, following consideration of a proposal by DSC 13 in the context of the DSC Sub-Committee's work programme, it had agreed to include, in the work programme of the FP Sub-Committee, a high-priority item on "Revision of the Recommendations for entering enclosed spaces aboard ships", with a target completion date of 2010, having assigned the DSC Sub-Committee as a co-ordinator and instructed FP 53 to give a preliminary consideration to the matter and to include the item in the provisional agenda for FP 54 (see also paragraphs 23.7).

**Guidance on the method to determine NOAEL and LOAEL**

23.11 The Committee, having considered document MSC 85/23/2 (Sweden), proposing to develop appropriate guidance on the method to determine the No Observed Adverse Effect Level (NOAEL) and Lowest Observed Adverse Effect Level (LOAEL) values specified in MSC/Circ.848, agreed to expand the existing FP Sub-Committee's work programme item on "Performance testing and approval standards for fire safety systems" to develop the above guidance, and extended the target completion date of the expanded item to 2011.

**Fire integrity of bulkheads and decks of ro-ro spaces on passenger and cargo ships**

23.12 Following consideration of document MSC 85/23/3 (China), proposing to amend the SOLAS chapter II-2 requirements on fire integrity of boundary bulkheads and decks of ro-ro spaces for passenger ships carrying not more than 36 passengers and cargo ships, with a view to classifying both special spaces and ro-ro cargo spaces of ro-ro passenger ships as high-fire risk spaces, the Committee agreed to include, in the work programme of the FP Sub-Committee, a high-priority item on "Fire integrity of bulkheads and decks of ro-ro spaces on passenger and cargo ships", with two sessions needed to complete the item.

**Cargo spaces for hydrogen vehicles and natural gas vehicles**

23.13 The Committee considered document MSC 85/23/5 (Japan), proposing to develop appropriate safety requirements in SOLAS chapter II-2 for ships carrying hydrogen vehicles and compressed natural gas vehicles, and agreed to include, in the work programme of the FP Sub-Committee, a high-priority item on "Requirements for ships carrying hydrogen and compressed natural gas vehicles", with two sessions needed to complete the item. In this context, the Committee, having noted the views of several delegations that this work item should be expanded to cover other types of vehicles not currently addressed in the provisions of SOLAS chapter II-2, invited Member Governments and international organizations to submit relevant proposals to the Committee, in accordance with the Guidelines on the organization and method of work.

**Work programme of the Sub-Committee and provisional agenda for FP 53**

23.14 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.15 The Committee confirmed the provisional agenda for FP 53, as set out in annex 25.

## ***SUB-COMMITTEE ON FLAG STATE IMPLEMENTATION (FSI)***

### **Development of a Code for Recognized Organizations**

23.16 In the course of the Committee's discussion on the agenda item on "Development of a Code for Recognized Organizations", the delegation of Panama expressed its concern on the implications of article 10 of the Proposal for a European Parliament and Council Regulation on common rules and standards for ship inspection and survey organizations, of which they felt Committee should be made aware. In particular, they pointed out that the above legislation, as currently drafted, in their understanding, would apply not only when EU-recognized organizations are classing ships flagged in the EU countries, but also when classing ships flagged in non-EU countries. In which case, the delegation of Panama, supported by many other delegations, considered this regional legislation to be an infringement of those countries' sovereign rights and, notwithstanding the above-mentioned infringement, remained concerned that regional efforts would undermine, dictate and control the outcome of the work on the above Code. Additionally, some delegations expressed concerned that the above legislation, as drafted, could also have an adverse impact on maritime safety and marine environment protection.

23.17 In this regard, the delegation of France indicated that a first version of the draft legislation on classification societies had been adopted by the Council of Ministers in December 2007 and that the adoption of its final version was due to take place in December 2008. They advised the Committee that the objective of the draft legislation, which includes mitigating measures, is to enhance the level of safety and support the harmonization of standards at the highest level. They further pointed out that, at this stage, it was difficult to presume the outcome of the present affair, but informed the Committee that they will bring the above concerns to the attention of the Presidency of the European Union, the European Commission and the European Parliament.

23.18 A large number of delegations expressed the same concern as expressed by the delegation of Panama and, consequently, the Committee agreed to request the Secretary-General to forward the above concern to appropriate authorities of the European Union.

### **Work programme of the Sub-Committee and provisional agenda for FSI 17**

23.19 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24. The Secretariat was requested to inform the MEPC accordingly.

23.20 The Committee, having recalled its earlier decision (see paragraph 11.17) to invite, the FSI Sub-Committee to consider a draft MSC resolution developed by NAV 54 in lieu of the Code of conduct during demonstrations/campaigns against ships on high seas, approved the provisional agenda for FSI 17, as set out in annex 25 and requested the Secretariat to inform the MEPC accordingly.

### **Urgent matters to be considered by MSC 86**

23.21 Noting that, due to the close proximity between FSI 17 and MSC 86 and in accordance with the provisions of paragraph 4.9 of the Guidelines on the organization and method of work, it should consider, at its eighty-sixth session, only urgent matters emanating from FSI 17, the Committee agreed that the following should be urgent matters for consideration by MSC 86:

- .1 harmonization of port State control activities;
- .2 review of the Survey Guidelines under the HSSC; and
- .3 review of the Code for the Implementation of Mandatory IMO Instruments.

***SUB-COMMITTEE ON RADIOCOMMUNICATIONS AND SEARCH AND RESCUE (COMSAR)*****Development of an e-navigation strategy implementation plan**

23.22 The Committee, having recalled its consideration of the relevant outcome of NAV 54 (see paragraphs 11.18 to 11.24), agreed to include, in the work programme of the COMSAR Sub-Committee, a high-priority item on “Development of an e-navigation strategy implementation plan”, with four sessions needed to complete the item, assigning the NAV Sub-Committee as a co-ordinator (see also paragraphs 23.45).

**Work programme of the Sub-Committee and provisional agenda for COMSAR 13**

23.23 The Sub-Committee’s work programme, as revised and approved by the Committee, is set out in annex 24.

23.24 The Committee confirmed the provisional agenda for COMSAR 13, as set out in annex 25.

***SUB-COMMITTEE ON SAFETY OF NAVIGATION (NAV)*****Work programme of the Sub-Committee and provisional agenda for NAV 55**

23.25 The Sub-Committee’s work programme, as revised and approved by the Committee, is set out in annex 24.

23.26 The Committee approved the provisional agenda for NAV 55, as set out in annex 25.

***SUB-COMMITTEE ON SHIP DESIGN AND EQUIPMENT (DE)*****Development of a code for offshore construction support vessels**

23.27 The Committee considered document MSC 85/23/4 (Germany and IMCA), proposing to investigate the need for clarification of classification of vessels in the offshore industry with regard to guidance provided in relevant IMO codes and guidelines, with a view to, *inter alia*, exploring the possibility of developing a safety code for offshore construction support vessels, and agreed to include, in the work programme of the DE Sub-Committee, a high-priority item on “Classification of offshore industry vessels and consideration of the need for a code for offshore construction support vessels”, with two sessions needed to complete the item. In doing so, the Committee instructed the DE Sub-Committee to consider all other relevant codes with a view to avoiding duplication.

**Application of SOLAS, MARPOL and Load Line requirements to major conversion of oil tankers**

23.28 The Committee considered document MSC 85/23/7 (Republic of Korea and IACS), proposing to develop an interpretation on the extent of the application of the SOLAS, MARPOL and Load Line Conventions to major conversions of oil tankers, from a holistic point of view, and agreed to include, in the work programme of the DE Sub-Committee, a high-priority item on “Interpretation on application of SOLAS, MARPOL and Load Line requirements for major conversions of oil tankers”, with two sessions needed to complete the item.

### **Work programme of the Sub-Committee and the provisional agenda for DE 52**

23.29 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.30 The Committee confirmed the provisional agenda for DE 52, as set out in annex 25.

### **Urgent matters to be considered by MSC 86**

23.31 Noting that, due to the close proximity between DE 52 and MSC 86 and in accordance with the provisions of paragraph 4.9 of the Guidelines on the organization and method of work, it should consider, at its eighty-sixth session, only urgent matters emanating from DE 52, the Committee agreed that the following should be urgent matters for consideration by MSC 86:

- .1 measures to prevent accidents with lifeboats;
- .2 revision of the Code on Alarms and Indicators;
- .3 amendments to the MODU Code;
- .4 guidelines for uniform operating limitations of high-speed craft;
- .5 guidelines for maintenance and repair of protective coatings; and
- .6 cargo oil tank coating and corrosion protection.

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

#### **Subdivision standards for cargo ships**

23.32 The Committee considered document MSC 85/23/1 (United Kingdom), proposing to review the application of subdivision standards for cargo ships referred to in the footnote to SOLAS regulation II-1/4, deemed equivalent to part B-1 of SOLAS chapter II-1 to ensure consistency of approach in the application of subdivision standards for cargo ships, and agreed to include, in the work programme of the SLF Sub-Committee and the provisional agenda for SLF 52, a high-priority item on "Subdivision standards for cargo ships", with a target completion date of 2011.

#### **Accommodation for training berths on new ships**

23.33 Following consideration of document MSC 85/23/6 (India), proposing to develop requirements to ensure that new ships undertaking international voyages have adequate facilities for the carriage of trainees, including certified accommodation for them, which should also meet the requirements of the ILO Convention on Accommodation of Crew, the Committee, agreed to forward document MSC 85/23/6 to:

- .1 the SLF Sub-Committee, for consideration in the context of its work relating to the 1969 TM Convention; and
- .2 the STW Sub-Committee, for consideration in the context of its work on the comprehensive review of the STCW Convention and the STCW Code,

and instructed the above Sub-Committees to advise the Committee accordingly (see also paragraph 23.46).

23.34 In this context, the Committee noted the information provided by the observer from INTERTANKO that under its membership criteria there are best practices and that under these best practices INTERTANKO members agree that new-shipbuildings should include suitable certified cabin space for cadets.

### **New work programme item proposed by SLF 51**

23.35 Having endorsed the relevant proposal by SLF 51, the Committee agreed to include, in the SLF Sub-Committee's work programme, a high-priority item on "Revision of SOLAS chapter II-1 subdivision and damage stability regulations", with two sessions needed to complete the item.

### **Verification of damage stability requirements for tankers and bulk carriers**

23.36 The Committee recalled that, when considering the outcome of SLF 51 (see paragraphs 12.17 and 12.18), several delegations expressed concern regarding the outcome of the SLF Sub-Committee's consideration of the work programme item on "Guidelines for verification of damage stability requirements for tankers and bulk carriers" and agreed to discuss the matter under this agenda item when considering the proposed extension of the target completion date of the aforementioned item to 2010.

23.37 The delegation of the Cook Islands, supported by others, pointed out that the majority of the delegations who spoke at SLF 51 considered that no justification or compelling need had been demonstrated and that more information on the alleged non-compliance (e.g., type, size, age and the number of vessels involved) is needed from the sponsors of this work item in order to decide on the course of action on the matter.

23.38 The Chairman of the SLF Sub-Committee informed the Committee that four documents had been submitted and considered at SLF 51, but more time was necessary for the Sub-Committee to complete its technical evaluation, taking into account the target completion date of 2009. Consequently, Member Governments and international organizations were invited to submit the information referred to in the above paragraph. The Chairman of the SLF Sub-Committee also pointed out that the proposed extension of the target completion date was simply administrative since the SLF Sub-Committee will not meet in 2009.

23.39 Other delegations expressed the view that there is an urgent need to develop guidelines for the verification of damage stability requirements and that the SLF Sub-Committee should therefore be given the time allocated by the Committee to complete its technical evaluation of the matter.

23.40 In summarizing the debate, the Chairman highlighted that MSC 83 had already agreed on the need for this work item and stated that the SLF Sub-Committee should focus its efforts on the technical aspects, and advise the Committee, in due course, with the outcome of its technical consideration. In supporting the Chairman's views, the Committee agreed to extend the target completion date as requested by the Sub-Committee and agreed that sub-committees should focus their deliberations on the technical or operational aspects of the work assigned. Furthermore, the Committee agreed that the next Chairmen's meeting should consider amending the Guidelines on the organization and method of work to avoid repetition of similar cases in future and to encourage submitters of new work programme items to submit relevant information and data to support their proposals at the sub-committee level.



23.41 Following the Committee's decision, the delegation of the Cook Islands explained that it was not their intention, nor has it been, nor will it ever be their intention, to undermine or question the authority of the Committee over its subsidiary bodies. However, it was their intention to highlight the need for consistency in the manner in which work programme items are considered and to ensure that progression of such items are not, or should not be, dependent upon who, or which Member State or group of Member States, submits a proposal. Nor should consideration be reliant or unduly influenced by any criteria other than justification based on documented facts, not innuendo, and a clear demonstration of need.

#### **Work programme of the Sub-Committee and the provisional agenda for SLF 52**

23.42 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.43 The Committee approved the provisional agenda for SLF 52, as set out in annex 25.

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

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

23.44 The Committee recalled that, following consideration of a proposal by DSC 13 in the context of the DSC Sub-Committee's work programme, it had agreed to include, in the work programme of the STW Sub-Committee, a high-priority item on "Revision of the Recommendations for entering enclosed spaces aboard ships", with a target completion date of 2010, having assigned the DSC Sub-Committee as a co-ordinator, and instructed STW 40 to give a preliminary consideration to the matter and to include the item in the provisional agenda for STW 41 (see also paragraph 23.7).

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

23.45 The Committee, having recalled its consideration of the relevant outcome of NAV 54 (see paragraphs 11.18 to 11.24), agreed to include in the work programme of the STW Sub-Committee, a high-priority item on "Development of an e-navigation strategy implementation plan", with four sessions needed to complete the item, assigning the NAV Sub-Committee as a co-ordinator (see also paragraphs 23.22).

#### **Accommodation for training berths on new ships**

23.46 The Committee recalled that, following consideration of document MSC 85/23/6 (India) in the context of the SLF Sub-Committee's work programme, it had agreed that the Sub-Committee should consider the above document in the context of its work on the comprehensive review of the STCW Convention and the STCW Code and advise the Committee accordingly (see also paragraph 23.33).

#### **Work programme of the Sub-Committee and the provisional agenda for STW 40**

23.47 The Sub-Committee's work programme, as revised and approved by the Committee, is set out in annex 24.

23.48 The Committee approved the provisional agenda for STW 40, as set out in annex 25.

**PLANNED OUTPUTS OF THE SUB-COMMITTEES FOR THE 2008-2009 BIENNIUM**

23.49 Having considered the status of the Sub-Committees' outputs for the 2008-2009 biennium, in the context of the outputs listed in resolution A.990(25), the Committee endorsed the status of the subsidiary bodies' outputs for the current biennium, as set out in the annex to document MSC 85/23/9. In this regard, the Committee recalled that, as agreed at MSC 84, the Secretariat, in consultation with the Chairman, will prepare, after the meeting, an information paper (MSC 85/INF.11) on the status of planned outputs for the 2008-2009 biennium for all outputs under the purview of the Committee, which would also take into account the planned outputs contained in annex 3 to document C 101/3.

23.50 In this context, the Committee recalled that MSC 84 had requested the Secretariat, in consultation with the Chairman, to prepare proposals for the High-level Action Plan for the 2010-2011 biennium, for consideration by MSC 86 and submission to C 102, for inclusion in the Organization's High-level Action Plan and priorities for the 2010-2011 biennium. In this regard, the Committee noted that C 101 had requested the Committee, when developing their planned outputs for the 2010-2011 biennium, to be as precise as possible, and preferably to do so in SMART (specific, measurable, achievable, realistic and timed) terms.

**ACTIVITIES, PRIORITIES AND PLAN OF MEETING WEEKS NEEDED IN THE BIENNIUM 2010-2011**

23.51 The Committee, having 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 activities, priorities and meeting requirements of the two Committees and their subsidiary bodies over the subsequent two years, considered a joint Note by its Chairman and the Chairman of the MEPC (MSC 85/23/8), submitted in pursuance of the above requirement and after consultations with the Chairmen of the sub-committees.

23.52 Having noted that the plan for meeting weeks for the two Committees and sub-committees would have to be approved by the Council at its next session in June 2009, based on the relevant budget proposals of the Secretary-General, the Committee:

- .1 noted the information regarding the Committees' and sub-committees' planned activities and priorities during the biennium 2010-2011 and that MEPC 58 had approved the planned activities and priorities during the biennium 2010-2011;
- .2 approved, noting MEPC 58's concurrent decision, the proposed plan of meeting weeks of the MSC and the MEPC and their subsidiary bodies for the biennium 2010-2011, including two sessions for the DE Sub-Committee in 2010, for inclusion in the Secretary-General's relevant budget proposals (see also paragraph 2.4.1); and
- .3 agreed that if, for budgetary purposes, there is a need to make economies, the total of the 26.5 meeting weeks approved by the two Committees may be reduced by one, i.e. one sub-committee should meet once during the next biennium and thereafter as early as possible during the biennium after the next.

**INTERSESSIONAL MEETINGS**

23.53 Bearing in mind the view of the Council that the number of intersessional working groups should be restricted to the minimum necessary; paragraph 3.40 of the Guidelines on the organization and method of work, as well as the Committee's decision at MSC 66, that all

sub-committees should scrutinize the need for intersessional meetings and, only when they consider it essential that such meetings should be held, to submit to the Committee, in good time, a fully justified request for consideration, the Committee, taking into account decisions made under various agenda items, approved the following intersessional meetings:

- .1 the ESPH Working Group to meet in February 2009; and
- .2 the Editorial and Technical (E and T) Group, to meet, first in June 2009 and, then back-to-back with DSC 14.

**SUBSTANTIVE ITEMS FOR INCLUSION IN THE COMMITTEE'S AGENDAS FOR THE NEXT TWO SESSIONS AND PROPOSED ARRANGEMENTS FOR MSC 86**

**Substantive items for inclusion in the agendas for MSC 86 and MSC 87**

23.54 The Committee agreed on the substantive items to be included in the agendas of its eighty-sixth and eighty-seventh sessions, as set out in document MSC 85/WP.8.

**Establishment of working and drafting groups during MSC 86**

23.55 Recalling the provisions of the Guidelines on the organization and method of work, concerning the number of groups which may be established at any given session, the Committee, taking into account decisions made under various agenda items, agreed that the working groups on the following items should be established at the Committee's eighty-sixth session:

- .1 goal-based new ship construction standards;
- .2 LRIT; and
- .3 FSA Group of Experts,

and that two drafting groups should be established to deal with the following items:

- .4 consideration and adoption of the amendments to mandatory instruments/capacity-building; and
- .5 piracy,

and further agreed that the final arrangements for the working and drafting groups will be decided at MSC 86 taking into account, in particular, the proposals for nomination of experts for the FSA Group of Experts and documentation submitted on the capacity-building item.

**Duration and dates of the next two sessions**

23.56 The Committee noted that its eighty-sixth session had been scheduled to take place from 27 May to 5 June 2009; and its eighty-seventh session tentatively in May 2010.

**24 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2009**

24.1 The Committee unanimously re-elected Mr. Neil Ferrer (Philippines) as Chairman, and Mr. Christian Breinholt (Denmark) as Vice-Chairman, for 2009.

## 25 ANY OTHER BUSINESS

### Global Integrated Shipping Information System (GISIS)

25.1 The Committee noted the updated information provided by the Secretariat on the Global Integrated Shipping Information System (GISIS) (MSC 85/25), indicating that there are 14 modules (i.e. National contact points responsible for safety and pollution prevention, harmful waste, bulk chemicals (CP); Reported casualty incidents (MCI); Maritime security (ISPS); Recognized organizations (RO); Port reception facility (PRF); Condition assessment scheme (CAS); Pollution prevention equipment (PPE); Greenhouse gas emissions (GHG); Dangerous goods carriage difficulties (DGCD); Piracy and armed robbery incidents (PAR); Status of treaties (ST); Ship details (SHIP); Simulators database (SIM); and Bulk chemical database (BC)), with a further six under internal review for potential development (i.e. Port State Control (PSC); Reported Illegal Immigrant Incidents (RIII); Reported Stowaways Incidents (RSI); LRIT Data Distribution Plan (LRIT); Safety-, security-and pollution prevention-related Requirements and Radio (COMSAR).

25.2 The Committee also noted that a new integrated security mechanism, the “IMO Web Accounts” (circular letter No.2892) had been implemented for the management of authorized users and their access rights to IMO web-based services through a single interface, including access to the electronic system for the distribution and management of meeting documents (IMODOCS), in a more secure and simplified way.

25.3 Taking into account the comments expressed by several delegations which had intervened in support of the developments of the IMO web-based services, while pointing out the need to ensure the performances of these services for external users, the Committee requested the Secretariat to continue providing information on GISIS modules, as shown in the table in paragraph 6 of document MSC 85/25, with additional information on those modules which allow direct entry of data by Member States. The Secretariat was also requested to investigate the issue of the protection of intellectual property rights through the dissemination of documents by IMODOCS with regard to sensitive information on substances with safety hazards in relation to the IBC Code.

25.4 The Committee expressed its appreciation to those Members who act as data providers on a regular basis and those, such as PSC regimes, which are considering favourably establishing electronic transfer of data and the European Maritime Safety Agency (EMSA) for progressing the matter of connecting the European Marine Casualty Information Platform (EMCIP) and GISIS to avoid duplication of reporting.

### WMO Voluntary Observing Ships’ (VOS) scheme

25.5 The Committee recalled that the NAV Sub-Committee, at its fortieth session, had recommended the issuance of an MSC circular containing a short brochure relating to the WMO Voluntary Observing Ships (VOS) Scheme. This was seen as a way of encouraging the shipping industry to support WMO and National Meteorological Services (NMS) in the enhanced recruitment of merchant ships to the VOS. The Committee had consequently approved MSC/Circ.674 on the WMO Voluntary Observing Ships’ scheme. Subsequent results had shown some success in this endeavour.

25.6 The Committee recalled further that, at its seventy-fourth session, following a proposal by WMO (MSC 74/23/7) and in view of the report of *the Re-opened Formal Investigation into the Loss of the MV Derbyshire* which had underlined the potential value of VOS observations to maritime safety, it had approved a revised MSC/Circ.1017 on the WMO Voluntary Observing Ships’ scheme.

25.7 In this regard, the Committee considered a proposal by WMO (MSC 85/25/1) outlining their concern that there had been a further decline in the number of ships recruited into the VOS Scheme. In December 2004, there were approximately 6,500 ships listed with the WMO as observing ships from 53 participating countries. By mid-2005, this figure had fallen to fewer than 6,000 ships; however, the analysis of ships' weather reports shows that the number of VOS that were actively reporting was actually far less than indicated. During the first six months of 2005, there were approximately 3,025 ships worldwide reporting pressure data, and only 2,652 reporting sea surface temperature data. The weather data collected under the VOS Scheme was provided for Forecasting, Climatology and Research applications. Some VOS data had become available on public websites causing concern to ships' owners and masters because of the publication of ship identification and position data. WMO had therefore established a high-level dialogue, involving affected Members, IMO, ICS, shipping companies, relevant organizations and technical commissions, to propose a general and universally acceptable solution to the issue. This high-level dialogue had resulted in the recommendation that ship's identification and location should not appear on public websites, including those of NMS, in real-time when this was not authorized by the ship owners' and masters. As a temporary measure, the WMO Executive Council had therefore adopted Resolution 7 (EC-LVIII, 2006) and Resolution 7.7 (EC-LIX, 2007) authorizing its Members to implement open data distribution schemes where the ship's identification was masked.

25.8 The Committee recalled that the Organization and, in particular, the MEPC were giving high priority to the work relating to the issue of climate change. In this context, the Committee noted that ships' meteorological observations were not only recognized as being essential for the provision of safety-related services for ships at sea, but also for climatological purposes, since the VOS reports' contribution to global climate studies was unique, when considering the role of the oceans in the global climate system. In view of these facts and the safety issues involved, the Committee once again urged Member States and non-governmental organizations to urge shipowners, ship operators, shipmasters and other parties concerned to increase their participation in the VOS and provide their reports regularly.

25.9 Accordingly, the Committee endorsed WMO's proposal and, having considered document MSC 85/WP.11, approved MSC.1/Circ.1293 on Participation in the WMO Voluntary Observing Ships' (VOS) Scheme.

### **IMO/IACS co-operation on the IACS Quality System Certification Scheme (QSCS)**

25.10 The Committee recalled that, having decided, at MSC 61, that IMO should participate in the IACS Quality System Certification Scheme (QSCS), it had noted, at MSC 62, that the Secretary-General had appointed an IMO consultant/observer to participate in the Scheme on the basis of agreed terms of reference and to regularly report to the Committee on its effectiveness. In May 1997, the Committee had also agreed that IMO should participate in the IACS QSCS Advisory Committee consisting of organizations which have an interest in the services rendered by IACS member societies in order to contribute to the improvement of the Scheme.

25.11 The Committee recalled further that MSC 83 had noted the Secretariat's report on developments in the IMO/IACS co-operation relating to the Scheme (MSC 83/27/1), in particular the IMO consultant/observer's report on his continued participation in the implementation of the Scheme, and requested the Secretariat to report on any further developments to MSC 85.

25.12 The Committee noted the information provided by the Secretariat (MSC 85/25/2) on the development of the IACS Quality System Certification System (QSCS) as far as it concerns the participation agreements between IMO and IACS. The IMO consultant/observer had continued

participating in the implementation of the Scheme. Regular progress reports on activities undertaken by the consultant/observer within the Scheme had been submitted to the IMO Secretariat and IACS, and it had been reported that the Scheme was mature and being implemented in a thorough and consistent manner. It was further noted that since the last report to the Committee the Scheme had been further developed in a number of ways as reported in the annex to document MSC 85/25/2, in particular, paragraphs 3 to 13 therein.

25.13 The Committee noted further the information on the IACS QSCS Advisory Committee, consisting of representatives of organizations having an interest in the services rendered by IACS member societies and the observer from the IMO Secretariat. The main function of the Advisory Committee is to contribute to the effectiveness of the IACS QSCS by giving advice on matters related to QSCS policy. As indicated in the aforementioned IMO consultant/observer's report since the previous report to the Committee, the Advisory Committee had continued its work in line with its terms of reference and had provided its recommendations to the IACS Quality Committee through consideration of specific quality-related issues. The Advisory Committee considered the issue of external factors, such as the impending IMO Code for recognized organizations and the revision of the Council Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations, which might imply significant changes to the structure and manner of operation of the current IACS QSCS, e.g., the possible transfer of responsibility for assessing compliance to an external body and the possible extension of the membership of the Scheme, if finalized and implemented.

25.14 The Committee decided that the Organization should continue participation in the IACS QSCS on the same basis as in the past, that is with no financial implication for the Organization, and requested the Secretariat to report on developments to MSC 86.

25.15 The Committee noted that the contract of the IMO consultant/observer, Mr. Thompson, would be terminated at the end of this year and expressed its appreciation for his contributions to the work of the Committee and wished him all the best for his future career.

### **OCIMF mooring equipment guidelines 3rd edition (MEG3)**

25.16 The Committee noted the information provided by OCIMF (MSC 85/INF.4) of the publication of a comprehensively revised 3rd Edition of Mooring Equipment Guidelines (MEG3). These guidelines provide an extensive overview of the requirements for safe mooring from both a ship and terminal design and operation perspective. They embrace the full spectrum of mooring issues from the calculation of the ship's restraint requirements, the selection of rope and fitting types to the retirement criteria for mooring lines. Numerous aspects of the guidance including many best practices set forth for tankers and tanker terminals are equally applicable to other types of ships and marine terminals.

### **Survival craft best practice guidance**

25.17 The Committee noted document MSC 85/INF.5 (OCIMF, INTERTANKO, SIGTTO), informing it about a best practice booklet entitled "Survival Craft, A Seafarers Guide" which has been developed by OCIMF, INTERTANKO and SIGTTO to address concerns regarding continuing incidents involving survival craft resulting in injury or fatality of seafarers. The Committee, thanking the sponsoring organizations for this very useful initiative, referred the document to DE 52 for information, in the context of the Sub-Committee's work on measures to prevent accidents with lifeboats.

### **Terrorist attacks in Mumbai**

25.18 In the context of the tragic events in India following the terrorist attacks in Mumbai on Wednesday, 26 November, the Committee expressed its condolences and sympathy and conveyed them to the Indian delegation attending the meeting and through them to the people of India.

25.19 The delegation of India thanked the Secretary-General, Chairman and the Member States for their sympathy and support in these very difficult times.

### **Expression of appreciation**

25.20 The Committee expressed appreciation to the following delegates and observers for their invaluable contribution to its work and of IMO in general:

- Mr. Jorgen Hammer-Hansen, Director-General of the Danish Maritime Administration, for his role in the splendid arrangements for the eighty-third session of the Maritime Safety Committee in Copenhagen in October last year;
- Captain Ronald Quipildor Tito, Alternate Permanent Representative of Bolivia to IMO, on return home;
- Mrs. Tatjana Krilić of Croatia, who will stand down as Chairman of the Sub-Committee on Flag State Implementation;
- Mr. Jeremy Parkinson of Australia, who is standing down as Chairman of the Maritime Security Working Group;
- Mr. Richard Leslie, Permanent Secretary of IACS, on impending retirement; and
- Mr. Gordon Thompson, after 16 years of service, as the IMO consultant/observer, to the IACS Quality System Certification Scheme (QSCS),

and wished them a long and happy retirement or, as the case might be, every success in their current or new duties.

### **Expressions of condolences**

25.21 The Committee noted with great sadness the sudden, unexpected and untimely demise of Mrs. Marcia Silcock, Technical Officer of the Permanent Representation of Brazil to IMO. Mrs. Silcock's high standards of professionalism, combined with a great personality, had synthesized an amalgam that would ensure a cherished memory of all those who knew her.

25.22 As a token of respect to the memory of Mrs. Silcock, a book of condolence was placed at the Headquarters building for signature by delegates, and the Committee requested the delegation of Brazil to convey the Committee's condolences and sympathy to the family, friends and colleagues of the deceased who would be greatly missed by this Organization.

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