INTERNATIONAL MARITIME ORGANIZATION

E

MARITIME SAFETY COMMITTEE
89th session
Agenda item 25

MSC 89/25
27 May 2011
Original: ENGLISH

# REPORT OF THE MARITIME SAFETY COMMITTEE ON ITS EIGHTY-NINTH SESSION


| Section | | Page |
|---|---|---|
| 1 | INTRODUCTION – ADOPTION OF THE AGENDA | 5 |
| 2 | DECISIONS OF OTHER IMO BODIES | 9 |
| 3 | CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS | 10 |
| 4 | MEASURES TO ENHANCE MARITIME SECURITY | 18 |
| 5 | GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS | 24 |
| 6 | LRIT-RELATED MATTERS | 26 |
| 7 | DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS (report of the fifteenth session of the Sub-Committee) | 34 |
| 8 | SHIP DESIGN AND EQUIPMENT (report of the fifty-fourth session and urgent matters emanating from the fifty-fifth session of the Sub-Committee) | 37 |
| 9 | STABILITY AND LOAD LINES AND ON FISHING VESSELS SAFETY (report of the fifty-third session of the Sub-Committee) | 41 |
| 10 | TRAINING AND WATCHKEEPING (report of the forty-second session of the Sub-Committee) | 48 |
| 11 | BULK LIQUIDS AND GASES (report of the fifteenth session of the Sub-Committee) | 56 |
| 12 | FLAG STATE IMPLEMENTATION (urgent matters emanating from the nineteenth session of the Sub-Committee) | 58 |
| 13 | RADIOCOMMUNICATIONS AND SEARCH AND RESCUE (urgent matters emanating from the fifteenth session of the Sub-Committee) | 61 |
| 14 | TECHNICAL ASSISTANCE SUB-PROGRAMME IN MARITIME SAFETY AND SECURITY | 68 |




PIRACY IMO ORCHESTRATING THE RESPONSE

| Section | | Page |
|---|---|---|
| 15 | CAPACITY-BUILDING FOR THE IMPLEMENTATION OF NEW MEASURES | 69 |
| 16 | FORMAL SAFETY ASSESSMENT | 70 |
| 17 | GENERAL CARGO SHIP SAFETY | 72 |
| 18 | PIRACY AND ARMED ROBBERY AGAINST SHIPS | 73 |
| 19 | IMPLEMENTATION OF INSTRUMENTS AND RELATED MATTERS | 87 |
| 20 | RELATIONS WITH OTHER ORGANIZATIONS | 88 |
| 21 | APPLICATION OF THE COMMITTEE'S GUIDELINES | 88 |
| 22 | WORK PROGRAMME | 91 |
| 23 | ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2012 | 101 |
| 24 | ANY OTHER BUSINESS | 101 |


**LIST OF ANNEXES**


| | |
|---|---|
| ANNEX 1 | RESOLUTION MSC.317(89) – ADOPTION OF AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED |
| ANNEX 2 | RESOLUTION MSC.318(89) – ADOPTION OF AMENDMENTS TO THE INTERNATIONAL MARITIME SOLID BULK CARGOES (IMSBC) CODE |
| ANNEX 3 | RESOLUTION MSC.319(89) – ADOPTION OF AMENDMENTS TO PART B OF THE INTERNATIONAL CODE ON INTACT STABILITY, 2008 (2008 IS CODE) |
| ANNEX 4 | RESOLUTION MSC.320(89) – ADOPTION OF AMENDMENTS TO THE INTERNATIONAL LIFE-SAVING APPLIANCE (LSA) CODE |
| ANNEX 5 | RESOLUTION MSC.321(89) – ADOPTION OF AMENDMENTS TO THE REVISED RECOMMENDATION ON TESTING OF LIFE-SAVING APPLIANCES (RESOLUTION MSC.81(70)) |
| ANNEX 6 | EDITORIAL CORRECTIONS TO THE ANNEX TO RESOLUTION MSC.171(79) FOR ISSUING A NOTE VERBALE OF RECTIFICATION |
| ANNEX 7 | EDITORIAL CORRECTIONS TO ANNEX 1 TO RESOLUTION MSC.216(82) FOR ISSUING A NOTE VERBALE OF RECTIFICATION |
| ANNEX 8 | RESOLUTION MSC.322(89) – OPERATION OF THE INTERNATIONAL LRIT DATA EXCHANGE |

ANNEX 9 DRAFT ASSEMBLY RESOLUTION ON ADOPTION OF THE CODE OF SAFE PRACTICE FOR SHIPS CARRYING TIMBER DECK CARGOES, 2011 (2011 TDC CODE)

ANNEX 10 AMENDMENTS TO THE IMO/ILO/UNECE GUIDELINES FOR PACKING CARGO TRANSPORT UNITS (CTUS)

ANNEX 11 DRAFT MSC-MEPC CIRCULAR ON UNIFIED INTERPRETATIONS ON THE APPLICATION OF SOLAS, MARPOL AND LOAD LINES REQUIREMENTS TO CONVERSIONS OF SINGLE-HULL TANKERS TO DOUBLE-HULL TANKERS OR BULK CARRIERS

ANNEX 12 RESOLUTION MSC.323(89) – ADOPTION OF AMENDMENTS TO THE REVISED RECOMMENDATION ON TESTING OF LIFE-SAVING APPLIANCES (RESOLUTION MSC.81(70))

ANNEX 13 DRAFT AMENDMENTS TO SOLAS REGULATION III/20.11.2

ANNEX 14 DRAFT ASSEMBLY RESOLUTION ON ADOPTION OF THE INTERNATIONAL CODE ON THE ENHANCED PROGRAMME OF INSPECTIONS DURING SURVEYS OF BULK CARRIERS AND OIL TANKERS, 2011 (2011 ESP CODE)

ANNEX 15 DRAFT AMENDMENTS TO SOLAS REGULATION XI-1/2

ANNEX 16 GUIDELINES TO ASSIST COMPETENT AUTHORITIES IN THE IMPLEMENTATION OF PART B OF THE CODE OF SAFETY FOR FISHERMEN AND FISHING VESSELS, THE VOLUNTARY GUIDELINES FOR THE DESIGN, CONSTRUCTION AND EQUIPMENT OF SMALL FISHING VESSELS, AND THE SAFETY RECOMMENDATIONS FOR DECKED FISHING VESSELS OF LESS THAN 12 METRES IN LENGTH AND UNDECKED FISHING VESSELS

ANNEX 17 DRAFT AMENDMENTS TO SOLAS REGULATION II-1/8-1

ANNEX 18 DRAFT AGREEMENT ON THE IMPLEMENTATION OF THE 1993 PROTOCOL RELATING TO THE 1977 TORREMOLINOS CONVENTION ON THE SAFETY OF FISHING VESSELS

ANNEX 19 DRAFT ASSEMBLY RESOLUTION ON ADOPTION OF AMENDMENTS TO THE 1966 LL CONVENTION

ANNEX 20 DRAFT AMENDMENTS TO THE 1988 LL PROTOCOL

ANNEX 21 REVISED TERMS OF REFERENCE FOR THE STW SUB-COMMITTEE

ANNEX 22 DRAFT AMENDMENTS TO SOLAS CHAPTER VI

ANNEX 23 DRAFT ASSEMBLY RESOLUTION ON ADOPTION OF THE REVISED RECOMMENDATIONS FOR ENTERING ENCLOSED SPACES ABOARD SHIPS

ANNEX 24 DRAFT ASSEMBLY RESOLUTION ON THE PROCEDURES FOR PORT STATE CONTROL, 2011

ANNEX 25 DRAFT ASSEMBLY RESOLUTION ON ADOPTION OF THE SURVEY GUIDELINES UNDER THE HARMONIZED SYSTEM OF SURVEY AND CERTIFICATION (HSSC), 2011

ANNEX 26 DRAFT IMO INSTRUMENTS IMPLEMENTATION CODE (III CODE)

ANNEX 27 DRAFT ASSEMBLY RESOLUTION ON ADOPTION OF THE CODE FOR THE IMPLEMENTATION OF MANDATORY IMO INSTRUMENTS, 2011

ANNEX 28 DRAFT ASSEMBLY RESOLUTION ON ADOPTION OF THE IMO/WMO WORLDWIDE MET-OCEAN INFORMATION AND WARNING SERVICE GUIDANCE DOCUMENT

ANNEX 29 RESOLUTION MSC.324(89) – IMPLEMENTATION OF BEST MANAGEMENT PRACTICE GUIDANCE

ANNEX 30 DRAFT AMENDMENTS TO SOLAS CHAPTER II-2

ANNEX 31 DRAFT MSC-MEPC.1 CIRCULAR ON GUIDELINES ON THE ORGANIZATION AND METHOD OF WORK OF THE MARITIME SAFETY COMMITTEE AND THE MARINE ENVIRONMENT PROTECTION COMMITTEE AND THEIR SUBSIDIARY BODIES

ANNEX 32 BIENNIAL AGENDAS OF THE SUB-COMMITTEES

ANNEX 33 PROVISIONAL AGENDAS FOR THE SUB-COMMITTEES

ANNEX 34 REPORT ON THE STATUS OF PLANNED OUTPUTS FOR THE 2010-2011 BIENNIUM

ANNEX 35 PROPOSED HIGH-LEVEL ACTION PLAN OF THE ORGANIZATION AND PRIORITIES FOR THE 2012-2013 BIENNIUM FOR MATTERS UNDER THE PURVIEW OF THE MARITIME SAFETY COMMITTEE

ANNEX 36 POST-BIENNIAL AGENDA OF THE MARITIME SAFETY COMMITTEE

ANNEX 37 STATEMENT BY THE DELEGATION OF JAPAN

ANNEX 38 STATEMENT BY THE DELEGATION OF INDIA

ANNEX 39 STATEMENT BY THE DELEGATION OF TUVALU

ANNEX 40 STATEMENT BY THE DELEGATION OF CHINA

ANNEX 41 STATEMENT BY THE DELEGATION OF PANAMA

ANNEX 42 STATEMENT BY THE DELEGATION OF DOMINICA

## 1 INTRODUCTION – ADOPTION OF THE AGENDA

1.1 The eighty-ninth session of the Maritime Safety Committee was held from 11 to 20 May 2011 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
ANGOLA
ANTIGUA AND BARBUDA
ARGENTINA
AUSTRALIA
AUSTRIA
AZERBAIJAN
BAHAMAS
BAHRAIN
BANGLADESH
BARBADOS
BELGIUM
BELIZE
BOLIVIA (PLURINATIONAL STATE OF)
BRAZIL
BULGARIA
CAMBODIA
CAMEROON
CANADA
CHILE
CHINA
COLOMBIA
COOK ISLANDS
CROATIA
CUBA
CYPRUS
CZECH REPUBLIC
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA
DENMARK
DOMINICA
DOMINICAN REPUBLIC
ECUADOR
EGYPT
EL SALVADOR
ESTONIA
ETHIOPIA
FINLAND
FRANCE
GEORGIA
GERMANY
GHANA
GREECE
HONDURAS
ICELAND
INDIA
INDONESIA
IRAN (ISLAMIC REPUBLIC OF)
IRAQ
IRELAND
ISRAEL
ITALY
JAMAICA
JAPAN
JORDAN
KAZAKHSTAN
KENYA
KIRIBATI
LATVIA
LIBERIA
LIBYAN ARAB JAMAHIRIYA
LITHUANIA
LUXEMBOURG
MALAYSIA
MALTA
MARSHALL ISLANDS
MEXICO
MONACO
MOROCCO
NETHERLANDS
NEW ZEALAND
NICARAGUA
NIGERIA
NORWAY
OMAN
PANAMA
PAPUA NEW GUINEA
PERU
PHILIPPINES
POLAND
PORTUGAL
QATAR
REPUBLIC OF KOREA
ROMANIA
RUSSIAN FEDERATION
SAINT KITTS AND NEVIS
SAINT VINCENT AND THE GRENADINES
SAN MARINO
SAUDI ARABIA
SENEGAL

SERBIA
SINGAPORE
SOUTH AFRICA
SPAIN
SWEDEN
SWITZERLAND
SYRIAN ARAB REPUBLIC
THAILAND
TONGA
TUNISIA
TURKEY
TUVALU
UKRAINE
UNITED ARAB EMIRATES
UNITED KINGDOM
UNITED REPUBLIC OF TANZANIA
UNITED STATES
URUGUAY
VANUATU
VENEZUELA (BOLIVARIAN REPUBLIC OF)
YEMEN

and the following Associate Members of IMO:

HONG KONG, CHINA
MACAO, CHINA

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

OFFICE OF THE UN HIGH COMMISSIONER FOR REGUGEES (UNHCR)
WORLD METEOROLOGICAL ORGANIZATION (WMO)
INTERNATIONAL LABOUR ORGANIZATION (ILO)
FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

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

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO)
EUROPEAN COMMISSION (EC)
MARITIME ORGANISATION OF WEST AND CENTRAL AFRICA (MOWCA)
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)
REGIONAL COOPERATION AGREEMENT ON COMBATING PIRACY AND ARMED ROBBERY AGAINST SHIPS IN ASIA (ReCAAP-ISC)
MARINE ACCIDENT INVESTIGATORS' INTERNATIONAL FORUM (MAIIF)

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

INTERNATIONAL CHAMBER OF SHIPPING (ICS)
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)
INTERNATIONAL SHIPPING FEDERATION (ISF)
INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)
INTERNATIONAL UNION OF MARINE INSURANCE (IUMI)
INTERNATIONAL CHAMBER OF COMMERCE (ICC)
INTERNATIONAL ASSOCIATION OF MARINE AIDS TO NAVIGATION AND LIGHTHOUSE AUTHORITIES (IALA)
COMITÉ INTERNATIONAL RADIO-MARITIME (CIRM)
INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)
BIMCO
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)
ICHCA INTERNATIONAL LIMITED
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)

INTERNATIONAL COUNCIL OF MARINE INDUSTRY ASSOCIATIONS (ICOMIA)
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)
INTERNATIONAL LIFE-SAVING APPLIANCE MANUFACTURERS' ASSOCIATION (ILAMA)
COMMUNITY OF EUROPEAN SHIPYARDS' ASSOCIATIONS (CESA)
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS (INTERTANKO)
INTERNATIONAL GROUP OF P&I ASSOCIATIONS (P&I Clubs)
SOCIETY OF INTERNATIONAL GAS TANKER AND TERMINAL OPERATORS LIMITED (SIGTTO)
INTERNATIONAL MARITIME RESCUE FEDERATION (IMRF)
CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA)
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS (INTERCARGO)
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 HARBOUR MASTERS' ASSOCIATION (IHMA)
INTERNATIONAL BULK TERMINALS ASSOCIATION (IBTA)
INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)
THE ROYAL INSTITUTION OF NAVAL ARCHITECTS (RINA)
INTERFERRY
INTERNATIONAL BUNKER INDUSTRY ASSOCIATION (IBIA)
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)
INTERNATIONAL PAINT AND PRINTING INK COUNCIL (IPPIC)
WORLD SHIPPING COUNCIL (WSC)
NACE INTERNATIONAL
INTERNATIONAL ASSOCIATION OF AIRPORT AND SEAPORT POLICE (IAASP)
THE NAUTICAL INSTITUTE (NI)
BUREAU INTERNATIONAL DES CONTAINERS ET DU TRANSPORT INTERMODAL (BIC)

and by a representative from the:

WORLD MARITIME UNIVERSITY (WMU)

1.5 The Chairmen of all sub-committees were also present. The session was also attended by the Mr. J.G. Lantz (United States), Chairman of the Council, and Mr. A. Chrysostomou (Cyprus), Chairman of the Marine Environment Protection Committee.

**Opening address of the Secretary-General**

1.6 The Secretary-General welcomed the participants and delivered his opening address, the full text of which is reproduced in document MSC 89/INF.26.

**Chairman's remark**

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

**Statements by delegations**

1.8 While thanking the Secretary-General and those delegations that spoke for their kind words and actions for Japan regarding the Great East Japan Earthquake, the delegation of Japan provided the Committee with an update on the situation in their country. The full text of their statement is set out in annex 37. Still on the sadness of natural catastrophes, the delegation of Spain also thanked the Committee for its kind words regarding the recent earthquakes in the South-East of Spain.

1.9 In expressing their appreciation for the Secretary-General's words on the issue of piracy off the coast of Somalia and in the Gulf of Aden, the delegation of the Philippines stressed the fact that 120 Filipino seafarers were still in captivity. The observer from ITF who emphasized the seafarers' frustration that not enough was being done to eliminate the threat of piracy, stated that they were being severely abused and traumatized, thus also profoundly impacting on their families. The delegation of India, having further indicated that 46 Indian seafarers were also captive, introduced the counter piracy activities of the Indian Navy and Maritime Administration while putting forward a series of suggestions, as set out in annex 38.

1.10 The delegation of Iran (Islamic Republic of) intervened later in the week to refer to the 16 Iranian fishers who were used as human shields by pirates in several occasions. The seafarers were rescued after interception of their fishing vessel by the Danish Navy ship **Esbern Snare** and taken care of by the Iranian Red Crescent in Kenya. The delegation, on behalf of the Government of the Islamic Republic of Iran, its Nation and the families of the seafarers, expressed its deep and sincere thanks to the Danish Government, Navy and delegation attending MSC 89 for confronting the pirates and rescuing the helpless fishers. It continued by informing the Committee that the Iranian Navy recently assisted two ships in the Arabian Sea, successfully disrupting the pirate action and continues its presence in pirate infested areas.

1.11 Still on the issue of piracy, the delegation of Kenya referred to the operative further responsibilities of the Regional Maritime Rescue Coordination Centre in Mombasa as a Piracy Information Sharing Centre and the observer from ICC informed the Committee about the forthcoming issuance of a "Call for action on Piracy" during the International Transport Forum, which will take place in Leipzig (Germany) from 25 to 27 May 2011.

1.12 Referring to the maritime consequences of the troubled situation in the North African sub-region, the delegation of Tunisia informed the Committee about the undisrupted implementation of the provisions of the ISPS Code in the Tunisian ports during the past events and the supporting role of Tunisia for the repatriation, and care, of refugees from Libya. The delegation of Panama intervened to report the incident which involved the Panamanian-flagged ship **Red Star One**, earlier in May 2011, in the context of her humanitarian mission for the International Organization for Migration, when she came under a rocket attack in the port of Misrata.

1.13 In turn, the delegation of Italy confirmed that their country would continue to make every possible effort to assist people of every ethnic group who risk their lives in the Mediterranean Sea seeking better living conditions.

**Adoption of the agenda and related matters**

1.14 The Committee adopted the agenda (MSC 89/1) and agreed to be guided during the session by the annotated agenda (MSC 89/1/1) and the provisional timetable referred to in the annex to document MSC 89/1/2 (Secretariat), as amended. The agenda, as adopted,

with a list of documents considered under each agenda item, is set out in document MSC 89/INF.28.

1.15 The Committee agreed to the arrangement for the working and drafting groups as proposed in document MSC 89/1/2 and further reflected under the respective sections of this report.

**Credentials**

1.16 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 NINETY-SEVENTH AND NINETY-EIGHTH SESSIONS OF THE LEGAL COMMITTEE**

2.1 The Committee noted that LEG 97 (MSC 89/2), after consideration of document LEG 97/6/2 (Islamic Republic of Iran) relating to the unfair treatment of seafarers because of nationality or religion and citing a number of cases concerning denial of shore leave and of medical care for ill or injured Iranian seafarers, or seafarers on Iranian ships in foreign ports due to their nationality or nationality of their workplace, had shared the above concerns and requested the Secretariat to bring them to the attention of the Facilitation Committee and the Maritime Safety Committee. In this context, LEG 97 had agreed that humanitarian considerations should prevail in cases where seafarers in port on foreign ships are ill or injured and require access to shore-side medical facilities. Furthermore, LEG 97 had also agreed that:

.1 the IMO/ILO Guidelines on fair treatment of seafarers in the event of a maritime accident (resolution LEG.3(91)), should be implemented in tandem with the IMO Casualty Investigation Code (resolution MSC.255(84)); and

.2 ineffective implementation of the above Guidelines and the continued unfair treatment of seafarers could have an adverse impact on recruitment of seafarers and on IMO's "Go to Sea!" campaign.

2.2 The Committee also noted that LEG 98 (MSC 89/2/Add.1) had:

.1 urged those States that had not already done so, to consider ratifying the Maritime Labour Convention, 2006, at their earliest convenience; and

.2 invited Member States and interested organizations to submit information on cases of abandonment for inclusion in the database in a timely manner, to ensure the accuracy of the information contained therein.

2.3 The Committee further noted that LEG 98 had approved the draft Assembly resolution on Guidelines on fair treatment of seafarers in the event of a maritime casualty (LEG 98/14, annex 2) to promote compliance with the IMO/ILO Guidelines on fair treatment of seafarers in the event of a maritime accident and had decided to submit it to C 106 for consideration with a view to submission to the twenty-seventh session of the Assembly for adoption. The Committee also took action on other items related to its work as reported under the relevant agenda items.

## 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 International Maritime Solid Bulk Cargoes (IMSBC) Code (resolution MSC.268(85); and

.2 Part B of the International Code on Intact Stability, 2008 (2008 IS Code).

3.2 The Committee was also invited to consider matters related to the evaluation and replacement of lifeboat release and retrieval systems, as set out in document MSC 89/3/4 (Secretariat), in particular adopt the following proposed amendments and approve related MSC circulars, as appropriate:

.1 regulation III/1 of the International Convention for the Safety of Life at Sea, 1974, as amended;

.2 International Life-Saving Appliance (LSA) Code;

.3 Revised recommendation on testing of life-saving appliances (resolution MSC.81(70));

.4 draft MSC circular on Guidelines for evaluation and replacement of lifeboat release and retrieval systems; and

.5 draft MSC circular on Early application of new SOLAS regulation III/1.5.

3.3 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.

3.4 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 letters No.2978 of 17 July 2009 (proposed amendments to the SOLAS Convention and the LSA Code) and No.3112 of 18 October 2010 (proposed amendments to the IMSBC Code).

3.5 The Committee agreed to also consider under this agenda item document MSC 89/19, regarding proposed amendments to appendices of the 1974 SOLAS Convention and its 1978 and 1988 Protocols.

### *CONSIDERATION OF AMENDMENTS TO MANDATORY INSTRUMENT*

#### *PROPOSED AMENDMENTS TO THE IMSBC CODE*

3.6 The Committee recalled that the proposed amendments to the IMSBC Code (MSC 89/3, annex) had been developed by DSC 15, and that MSC 86, having approved the procedure for the adoption of future amendments to the IMSBC Code, had agreed that the

next amendment to the IMSBC Code should be submitted to MSC 89 for adoption. Having noted that no comments had been submitted on the draft amendments, the Committee confirmed their contents, subject to editorial improvements, if any.

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

3.7 The Committee agreed that the amendments to the IMSBC Code, proposed for adoption at the current session, should enter into force on 1 January 2013, and that Contracting Governments to the SOLAS Convention may apply the amendments from 1 January 2012 on a voluntary basis, and instructed the drafting group to prepare the text of the draft requisite MSC resolution for adoption.

***CONSIDERATION OF NON-MANDATORY INSTRUMENT***

***PROPOSED AMENDMENTS TO PART B OF THE INTERNATIONAL CODE ON INTACT STABILITY, 2008 (2008 IS CODE)***

3.8 The Committee recalled that the proposed amendments to part B (recommendatory) of the International Code on Intact Stability, 2008 (2008 IS Code) (MSC 89/3/1, annex) were developed by SLF 52 and approved by MSC 87, in accordance with SOLAS regulation II-1/2.27.2 and 1988 LL Protocol regulation I/3(16).2. Having noted that no comments had been submitted on the draft amendments, the Committee confirmed their contents, subject to editorial improvements, if any.

**Effective date of the proposed amendments**

3.9 The Committee agreed that the amendments to part B of the 2008 IS Code, proposed for adoption at the current session, should become effective on 19 May 2011, and instructed the drafting group to prepare the text of the draft requisite MSC resolution for adoption.

***CONSIDERATION OF THE DRAFT AMENDMENTS TO SOLAS CHAPTER III AND THE LSA CODE, AND RELATED NON-MANDATORY INSTRUMENTS RELATED TO LIFEBOAT RELEASE AND RETRIEVAL SYSTEMS***

***GENERAL***

3.10 In considering matters related to the evaluation and replacement of lifeboat release and retrieval systems, following the explanation by the Chairman of the DE Sub-Committee (MSC 89/3/4), the Committee noted concerns raised by delegations and observers from industry associations that, although progress was made by the Organization, further work is needed on matters related to the safety of lifeboat release and retrieval systems, in particular, the need for a permanent secondary safety system (e.g., a locking pin, etc.) for the design of new systems, an appropriate vibration test, standardization of life-saving appliances and training issues. In this regard, the Committee welcomed the initiative by the industry to develop guidance to assist shipowners and operators in their selection of replacement hooks.

3.11 The Committee, having noted the further explanation by the DE Chairman on discussions held at DE 54 and DE 55, agreed that the DE Sub-Committee should further consider the above issues under its item on "Development of a new framework of requirements for life-saving appliances", based on relevant submissions, taking into account the proposals made by the industry lifeboat group (ISWG LRH/2/3).

***PROPOSED AMENDMENTS TO SOLAS CHAPTER III***

**Regulation 1 – Application**

3.12 The Committee recalled that the proposed amendments to SOLAS chapter III were developed by DE 52 and approved by MSC 86, and that their adoption had been deferred by MSC 87 and MSC 88 (MSC 88/3, annex 1), pending finalization of the associated Guidelines for evaluation and replacement of lifeboat release and retrieval systems.

3.13 The Committee also recalled the outcome of the *Ad Hoc* Working Group on Lifeboat Release Hooks, established by MSC 88, and DE 55, which prepared modifications to the proposed amendments to SOLAS chapter III (MSC 89/3/4, annex 2), in particular the date for replacement of lifeboat release and retrieval systems, included in square brackets in the new draft paragraph 5 of SOLAS regulation III/1.

3.14 The Committee noted that no comments had been submitted on the draft amendments to regulation III/1 and confirmed their contents, to delete square brackets around the dates "1 July 2014" and "1 July 2019" and retain the text, subject to editorial improvements, if any.

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

3.15 The Committee agreed that the SOLAS amendments proposed for adoption at the current session should be deemed to have been accepted on 1 July 2012 and should enter into force on 1 January 2013, and instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption.

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

3.16 The Committee recalled that the proposed amendments to the LSA Code were developed by DE 52 and approved by MSC 86, and that their adoption had been deferred by MSC 87 and MSC 88 (MSC 88/3, annex 3), pending finalization of the associated Guidelines for evaluation and replacement of lifeboat release and retrieval systems.

3.17 The Committee also recalled the outcome of the *Ad Hoc* Working Group on Lifeboat Release Hooks, established by MSC 88, and DE 55, which prepared modifications to the proposed amendments to the LSA Code (MSC 89/3/4, annex 4).

3.18 The Committee noted that no comments had been submitted on the draft amendments to the LSA Code and confirmed their contents, subject to editorial improvements, if any.

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

3.19 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 July 2012 and should enter into force on 1 January 2013, and instructed the drafting group to prepare the final text of the draft requisite MSC resolution for adoption. In this regard, the Committee, taking into account that the new SOLAS regulation III/1.5 would apply to all ships after 1 July 2014, endorsed, for ships constructed on or after 1 July 2014, that lifeboat release and retrieval systems shall comply with the amended LSA Code, and also that, for ships constructed on or after date of approval of the Guidelines (see paragraph 3.21) but before 1 July 2014, lifeboat release and retrieval systems should comply with the amended LSA Code. Consequently, the Committee agreed that the above decision should also be

reflected in the draft MSC circular on Early application of new SOLAS regulation III/1.5 (see paragraph 3.24).

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

3.20 The Committee recalled the outcome of the *Ad Hoc* Working Group on Lifeboat Release Hooks, established by MSC 88, and DE 55, which prepared associated draft amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)) (MSC 89/3/4, annex 5), and confirmed the contents, subject to any editorial improvements.

***PROPOSED GUIDELINES FOR EVALUATION AND REPLACEMENT OF LIFEBOAT RELEASE AND RETRIEVAL SYSTEMS***

3.21 The Committee recalled that the draft Guidelines for evaluation and replacement of lifeboat release and retrieval systems and the associated MSC circular had been considered by MSC 88 (MSC 88/3/4) and that their approval had been deferred to this session, pending further consideration of the draft Guidelines at DE 55.

3.22 The Committee also recalled the outcome of the *Ad Hoc* Working Group on Lifeboat Release Hooks, established by MSC 88, and DE 55, which prepared modifications to the draft Guidelines (MSC 89/3/4, annex 1), and confirmed the contents, subject to any editorial improvements, if any.

3.23 With regard to the reporting procedure on the results of evaluation of existing systems and a factual statement to be issued by a manufacturer upon satisfactory completion of the overhaul examination, which are described in the draft Guidelines, the Committee, while approving the contents, noted the concerns expressed on actual implementation of these procedures raised by the observer from IACS and instructed the DE and FSI Sub-Committees to further consider the matter in detail and advise the Committee, as appropriate.

***MSC CIRCULAR ON EARLY APPLICATION OF NEW SOLAS REGULATION III/1.5***

3.24 The Committee also considered the associated draft MSC circular on Early application of new SOLAS regulation III/1.5, prepared by the *Ad Hoc* Working Group on Lifeboat Release Hooks, established by MSC 88, and DE 55 (MSC 89/3/4, annex 3), and confirmed the contents, subject to any editorial improvements (see also paragraph 3.19).

***AMENDMENTS TO APPENDICES OF THE 1974 SOLAS CONVENTION AND ITS 1978 AND 1988 PROTOCOLS***

3.25 The Committee recalled that MSC 88, while considering document MSC 88/20/2 (IACS), referring to the amendments to the appendix of the 1974 SOLAS Convention in relation to the Cargo Ship Safety Construction Certificate and the Passenger Ship Safety Certificate with regard to the expression "Date of build" (resolution MSC.216(82)) which, as a consequence, might have also been relevant for amending the 1988 SOLAS Protocol. Consequently, MSC 88 had requested the Secretariat, based on its initial internal study, to carry out a thorough and comprehensive review of the consistency among the forms of certificates and records contained in the appendices of the 1974 SOLAS Convention and its 1988 Protocol and to submit the results of such review to MSC 89.

3.26 The Committee also recalled that MSC 88 had decided that the document to be prepared by the Secretariat should contain a set of draft amendments to the above-mentioned instruments, which should be strictly consequential to the amendments already adopted, and a possible procedure to avoid future anomalies.

3.27 In pursuance of the above request, the Committee noted document MSC 89/19 (Secretariat), presenting a study (annex 1), which found that the amendments to the appendices of the 1974 SOLAS Convention and its 1978 and 1988 Protocols were not always harmonized and, in some cases, had resulted in inconsistencies in some forms of certificates or records of equipment. The study also found that records of equipment might need to be updated in order to reflect current requirements of the SOLAS Convention.

3.28 The Committee also noted that the study suggested that proposed amendments to appendices of the aforementioned instruments, which are only consequential to the amendments to the appendices already adopted, could be approved and/or adopted in two complementary forms. First, errors contained in amendments to forms of certificates or records of equipment, which were adopted by previous resolutions MSC.171(79), MSC.216(82) and MSC.283(86), need to be rectified via a Note Verbale. Second, for the purpose of streamlining documentation, avoiding unnecessary duplication of the contents and facilitating the drafting of future revisions, draft amendments should be developed in order to reduce the number of records of equipment by removing the records of equipment for Form P, Form E and Form R from the appendix of the 1988 SOLAS Protocol, and the records of equipment for Form PNUC and Form CNUC from the appendix of the 1974 SOLAS Convention. The study, in its additional considerations, also pointed out that the records of equipment (Form P, Form E, Form R, Form C, Form PNUC and Form CNUC) might need to be updated to reflect the current requirements of the Convention.

3.29 In considering how best to proceed in light of the above study, the Committee decided to refer document MSC 89/19 to the drafting group and instructed the group to prepare the final text of editorial corrections to the annexes to resolutions MSC.171(79), MSC.216(82) and MSC.283(86), concerning the forms of certificates, for issuing Note Verbale of rectifications.

3.30 With regard to harmonizing the certificates and records of equipment, the Committee decided to defer preparation of any draft amendments to the appendices of the 1974 SOLAS Convention and its 1978 and 1988 Protocols to MSC 90, when more time would be available to consider the matter in detail. In this connection, Member Governments and international organizations were invited to submit comments and proposals to MSC 90, taking into account the above study (MSC 89/19).

***DEVELOPMENT OF GUIDANCE ON THE DRAFTING OF AMENDMENTS TO SOLAS CHAPTERS II-1, II-2 AND III AND RELATED MANDATORY CODES***

3.31 In the context of the thorough and comprehensive review of the forms of certificates of the 1974 SOLAS Convention and the 1988 SOLAS Protocol, with a view to providing a possible procedure to avoid future anomalies, the Committee noted document MSC 89/3/2 (Secretariat), identifying the need for a consistent and systematic approach to avoid any future anomalies and errors in the process of drafting amendments to IMO instruments, in particular regarding amendments to SOLAS requirements concerning structure and equipment, and undertaking to provide guidance for the drafting of amendments to the SOLAS Convention, as set out in the annex to document MSC 89/3/2. The Committee also noted that this was the first attempt at establishing such guidance and that it should be improved in the future, taking into account the experience gained in the application of the guidance. The Committee agreed that, in order to ensure effective implementation of such guidance in a systematic way, every

opportunity of drafting work in the Organization should be utilized to apply it, with a view to examining all amendments to SOLAS thoroughly from the point of view of providing clean application provisions for future amendments to technical SOLAS requirements.

3.32 In this connection, the Committee also noted document MSC 89/3/3 (Argentina), proposing a methodology for establishing the scope of application of amendments to certain chapters of the SOLAS Convention, and the LSA, FSS and FTP Codes, in order to establish a fast and systematic set of requirements to apply to a ship according to its age.

3.33 The Committee, taking into account that similar issues were being discussed in relation to the revision of the Committee's Guidelines, decided to instruct the 2011 Chairmen's meeting to consider the above documents and, having considered the part of the meeting's report (MSC 89/WP.10) related to this issue, noted that the meeting had considered the methodologies proposed in the above documents and agreed that, as a first step, clear definitions should be prepared for the words "construction" and "equipment" with a view to clarifying the scope of application of article VIII(e) of the Convention. The meeting also agreed that the guidance proposed in the above documents, once harmonized, should initially be limited to the application of the SOLAS Convention and applied by the MSC Drafting Group on Adoption of Amendments. Notwithstanding the above view, the meeting felt that eventually, once experience has been gained, future guidance could also be applied to other IMO instruments, as appropriate.

3.34 The Committee noted the above-mentioned meeting's views on the issue of drafting of amendments to IMO instruments and, having agreed that any new drafting procedures should initially be limited to the application of the SOLAS Convention, decided to forward the above outcome to MEPC 62 for consideration and instructed the FSI Correspondence Group on the Review of the Survey Guidelines under the HSSC and the Code for the Implementation of Mandatory IMO Instruments to consider documents MSC 89/3/2 and MSC 89/3/3 and report its outcome to FSI 20 (see also paragraph 8.7).

***ESTABLISHMENT OF A DRAFTING GROUP***

3.35 Having considered the above matters, the Committee established the *Ad Hoc* Drafting Group on Amendments to Mandatory Instruments and instructed it to prepare:

.1 the final text of the draft amendments to the International Maritime Solid Bulk Cargoes (IMSBC) Code and the associated draft MSC resolution;

.2 the final text of the draft amendments to part B of the International Code on Intact Stability, 2008 (2008 IS Code) and the associated draft MSC resolution;

.3 the final text of the draft amendments to regulation III/1 of the International Convention for the Safety of Life at Sea, 1974, as amended, and the associated draft MSC resolution;

.4 the final text of the draft amendments to the International Life-Saving Appliance (LSA) Code and the associated draft MSC resolution;

.5 the final text of the draft amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)) and the associated draft MSC resolution;

.6 the final text of the draft Guidelines for evaluation and replacement of lifeboat release and retrieval systems and the associated draft MSC circular;

.7 the final text of the draft Early application of new SOLAS regulation III/1.5 and the associated draft MSC circular; and

.8 the final text of editorial modifications to the annexes to resolutions MSC.171(79), MSC.216(82) and MSC.283(86) concerning the forms of certificates for issuing Note Verbale of rectifications,

for consideration by the Committee with a view to adoption and approval, as appropriate.

***REPORT OF THE DRAFTING GROUP***

3.36 Having considered the report of the drafting group (MSC 89/WP.5), the Committee approved it in general and took action as indicated hereunder.

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

3.37 The expanded Committee, including delegations of 106 Contracting Parties to the 1974 SOLAS Convention, considered the final text of the proposed amendments to chapter III of the 1974 SOLAS Convention, related to lifeboat release and retrieval systems (see paragraphs 3.43 to 3.49), prepared by the drafting group (MSC 89/WP.5, annex 3), and adopted the amendments unanimously by resolution MSC.317(89), as set out in annex 1.

3.38 In adopting resolution MSC.317(89), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted amendments to chapter III of the SOLAS Convention should be deemed to have been accepted on 1 July 2012 (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 2013, in accordance with the provisions of article VIII thereof (see also paragraph 3.48).

**ADOPTION OF AMENDMENTS TO THE IMSBC CODE**

3.39 The expanded Committee, including the delegations of 106 Contracting Governments to the 1974 SOLAS Convention, considered the final text of the proposed amendments to the IMSBC Code, prepared by the drafting group (MSC 89/WP.5, annex 1), and adopted the amendments unanimously by resolution MSC.318(89), set out in annex 2.

3.40 In adopting resolution MSC.318(89), the expanded Committee determined, in accordance with article VIII(b)(vi)(2)(bb) of the 1974 SOLAS Convention, that the adopted amendments to the IMSBC Code should be deemed to have been accepted on 1 July 2012 (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 2013, in accordance with the provisions of article VIII thereof.

3.41 The Committee agreed that, in accordance with the procedure approved by MSC 86 for the adoption of amendments to the IMSBC Code with regard to, *inter alia*, voluntary application of new amendments one year prior to their date of entry into force, as stated in the operative paragraph 4 of the resolution, Contracting Governments may apply the aforementioned amendments in whole or in part on a voluntary basis from 1 January 2012, pending their entry into force on 1 January 2013.

**ADOPTION OF AMENDMENTS TO PART B OF THE 2008 IS CODE**

3.42 The Committee considered the final text of the proposed amendments to Part B (recommendatory) of the International Code on Intact Stability, 2008 (2008 IS Code), prepared by the drafting group (MSC 89/WP.5, annex 2), and adopted the amendments by resolution MSC.319(89), as set out in annex 3.

**ADOPTION OF AMENDMENTS TO THE LSA CODE AND RELATED NON-MANDATORY INSTRUMENTS CONCERNING LIFEBOAT RELEASE AND RETRIEVAL SYSTEMS**

### Adoption of amendments to the LSA Code

3.43 The expanded Committee, including delegations of 106 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 89/WP.5, annex 4), and adopted the amendments unanimously by resolution MSC.320(89), as set out in annex 4.

3.44 In adopting resolution MSC.320(89), 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 July 2012 (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 2013, in accordance with the provisions of article VIII thereof (see also paragraphs 3.38 and 3.48).

### Proposed amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70))

3.45 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 89/WP.5, annex 6), and adopted the amendments by resolution MSC.321(89), as set out in annex 5.

3.46 In light of the above, the Committee noted that the group, in considering the draft amendments to resolution MSC.81(70), had noted that footnotes, referring to resolution MSC.81(70), in chapter III of the 2009 Consolidated Edition of the 1974 SOLAS Convention, needed to be amended, to include the words "as amended" after the words "resolution MSC.81(70)", and requested the Secretariat to amend the aforementioned footnotes, as appropriate.

### Approval of the Guidelines for evaluation and replacement of lifeboat release and retrieval systems

3.47 The Committee considered the final text of the proposed Guidelines for evaluation and replacement of lifeboat release and retrieval systems and the associated draft MSC circular, prepared by the drafting group (MSC 89/WP.5, annex 5), and approved MSC.1/Circ.1392 on Guidelines for evaluation and replacement of lifeboat release and retrieval systems.

### Early application of new SOLAS regulation III/1.5

3.48 The Committee considered the final text of the draft MSC circular to encourage early application of new SOLAS regulation III/1.5 prepared by the drafting group (MSC 89/WP.5, annex 7) and, having agreed to replace the word "should" by "are encouraged to" in paragraph 2.2, approved MSC.1/Circ.1393 on Early application of new SOLAS regulation III/1.5 (see also paragraphs 3.37 and 3.43).

3.49 In this regard, the Committee noted the statement by the observer from IACS that it would carefully review the amendments adopted to SOLAS regulation III/1 and the LSA Code, relating to lifeboat release and retrieval systems, to consider if the necessary clarity was provided regarding the application provisions therein; and whether it would be necessary to ask the Committee for further clarification in this respect. In particular, whether the application of the LSA Code amendments, other than those referred to in the amendment to SOLAS regulation III/1, was clear.

### EDITORIAL MODIFICATIONS TO THE ANNEXES TO RESOLUTIONS MSC.171(79), MSC.216(82) AND MSC.283(86)

3.50 In considering the proposed editorial modifications to the annexes to resolutions MSC.171(79), MSC.216(82) and MSC.283(86) concerning the forms of certificates, the Committee, noting document MSC 73/21/Add.2/Corr.1, containing a corrigenda to the item numbers relevant to the proposed editorial modifications to the annexes to resolutions MSC.171(79) and MSC.283(86), noted that the group had agreed that there was no need to make modifications to the annex to resolution MSC.283(86). However, having noted an editorial mistake in the proposed modifications to the annex to resolution MSC.171(79), contained in annex 4 to document MSC 89/19, the Committee noted that the group had agreed on the need for a relevant editorial modification to the aforementioned resolution.

3.51 Subsequently, the Committee considered the proposed editorial modifications to the annexes to resolutions MSC.171(79) and MSC.216(82) concerning the forms of certificates, prepared by the drafting group (MSC 89/WP.5, annexes 8 and 9), endorsed the aforementioned editorial modifications, as set out in annexes 6 and 7, respectively, and requested the Secretariat to issue the relevant Note Verbale of rectifications accordingly.

### INSTRUCTIONS TO THE SECRETARIAT

3.52 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 Parties to the 1988 SOLAS Protocols.

## 4 MEASURES TO ENHANCE MARITIME SECURITY

### Outcome of FSI 19

4.1 In considering the outcome of FSI 19 (MSC 89/12) with respect to maritime security, the Committee recalled that control and compliance measures with respect to security-related matters are covered by SOLAS regulation XI-2/9 and in the ISPS Code and that additional guidance was detailed in the Interim guidance on control and compliance measures to enhance maritime security (resolution MSC.159(78)) as well as in the Guidance relating to the implementation of SOLAS chapter XI-2 and the ISPS Code (MSC/Circ.1111).

4.2 The Committee noted that FSI 19 had agreed that the new set of guidance related to the ISPS Code should not be incorporated into the draft revised Port State Control (PSC) procedures that have been submitted to this session of the Committee for approval (FSI 19/19/Add.1, annex 3). However, the draft revised PSC procedures did include, in appendix 9, new draft guidelines for PSC officers related to long-range identification and tracking of ships (LRIT), which took into consideration: the provision of SOLAS regulation V/19-1; the revised performance standards; the Guidance on the Implementation of the LRIT system (MSC.1/Circ.1298); the outcome of the LRIT-related discussions at MSC 88; and the outcome of the eighth session of the *Ad Hoc* LRIT Group to finalize the aforementioned draft guidelines for PSC officers related to LRIT.

**Communication of information to the Organization**

4.3 In considering document MSC 89/4 (Secretariat), the Committee recalled that MSC 88 (MSC 88/26, paragraph 4.5) had invited SOLAS Contracting Governments to review, as soon as possible, the information that they had provided to the maritime security module of the IMO Global Integrated Shipping Information System (GISIS) to ensure that it was complete and accurate, and to ensure that the information would be updated as and when changes occurred.

4.4 The Committee also recalled the support given at MSC 88 to the proposal by the Secretariat to improve the maritime security module of GISIS by adding two fields in the section of port facilities: one field relates to port facilities reflecting the requirement of a regular review of port facilities pursuant to SOLAS regulation XI-2/10.2; and the other field provides for input on a Statement of Compliance (SoCPF), if applicable.

4.5 The Committee also recalled that SOLAS regulation XI-2/13.4 requires that "Contracting Governments shall, at five-year intervals after 1 July 2004, communicate to the Organization a revised and updated list of all approved port facility security plans (PFSPs) for the port facilities located in their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval (and the date of approval of any amendments thereto), which will supersede and replace all information communicated to the Organization, pursuant to paragraph 3 (SOLAS regulation XI-2/13.3), during the preceding five years. The Committee reiterated that there was no requirement to reapprove plans every five years, but there was a requirement that PFSPs be regularly reviewed. It was noted that the recent changes to the GISIS module enabled Contracting Governments to indicate when PFSPs were last reviewed or updated in accordance with part A, section 16.3.8, of the ISPS Code.

4.6 The Committee noted with concern the information provided by the Secretariat that a significant proportion of the port facilities and locations in GISIS, declared as being covered by port facility security plans, did not appear to have been updated or reviewed since initial approvals were given prior to 1 July 2004. As the changes in GISIS had only been recently incorporated, the Secretariat conceded that many Contracting Governments had not had the opportunity to update the information therein.

4.7 In this respect, the Committee noted the outcome of the request initiated by the Secretariat (MSC 89/4) addressing Contracting Governments to update their information in accordance with SOLAS regulation XI-2/13 on Communication of information, which requires Contracting Governments to communicate to the Organization various information related to maritime security, including the names and contact details of their national authority or authorities responsible for ship and port facility security.

4.8 The Secretariat informed the Committee that, in order to keep the information provided in the maritime security module up-to-date as well as to promote an increased use of GISIS, the Secretariat had contacted all national focal points stored in the system, requesting each to verify and, if necessary, update the information provided by their respective Member State. This was followed by a subsequent appeal requesting those Contracting Governments that had not responded to confirm they had received the request and reviewed the relevant information.

4.9 The Committee urged SOLAS Contracting Governments to meet their obligations under the provisions of SOLAS regulation XI-2/13 by reviewing, as soon as possible, the information which they had provided to the maritime security module of GISIS to ensure that it was complete and accurate, and to continue to update their information in GISIS as and when changes occurred.

**Report of the Correspondence Group on the Maritime Security Manual**

4.10 The Committee recalled that MSC 88 had established the Correspondence Group on the Maritime Security Manual (the MSM Correspondence Group) with the terms of reference set out in paragraph 4.40 of document MSC 88/26 and instructed the group to submit a report to MSC 89. All members of the Working Group on Maritime Security including Piracy and Armed Robbery against Ships (MSPWG), established at MSC 88, had been invited to participate in the MSM Correspondence Group and were sent an electronic copy of the draft Manual, as were individuals who had not participated in the MSPWG but expressed an interest in participating. The MSM Correspondence Group conducted a review of the draft Manual and suggested amendments to ensure accuracy, consistency and completeness against existing guidance. Explanatory text was also reviewed and supplemented where required. A matrix of all proposed amendments, the stated rationale for their submission and the action taken on each, was provided to all members of the MSM Correspondence Group to ensure transparency. The MSM Correspondence Group was encouraged to provide any further proposed amendments to the coordinators so as to inform discussions on the Manual at MSC 89.

4.11 In considering the report of the MSM Correspondence Group (MSC 89/4/1), the Committee noted that, during the review process, the MSM Correspondence Group had discovered a number of minor editorial errors in existing guidance; however, beyond noting those corrections and ensuring that applicable guidance was accurately and comprehensively reflected in the Manual, the MSM Correspondence Group did not make any recommendations with respect to expansion or revocation of existing IMO guidance.

4.12 In considering the text of the draft Manual (MSC 89/INF.13), the Committee noted the suggested improvements to the text of the Manual, including reviewing the title of the Manual and the need to clarify ambiguities with respect to initial and interim inspections; and considerations on how best to distribute the final product. The Committee expressed its unanimous support for finalizing the Manual at this session and instructed the MSPWG accordingly (see paragraph 4.22).

4.13 The Committee agreed with the MSM Correspondence Group's recommendation to consider a supplementary document on long-range identification and tracking of ships, which was addressed at a high level in the Manual, and a separate document on piracy and armed robbery against ships, which was not addressed in any detail in the Manual.

**Consideration of periodical survey to Ship Security Alert System (SSAS)**

4.14 The Committee recalled that the survey of the Ship Security Alert System (SSAS) by radio inspectors had been discussed during FSI 14, which subsequently had referred the matter to this Committee, and that MSC 82 had decided that it was not appropriate at that time to make it mandatory for SSAS to be included in the list of items to be surveyed by radio inspectors. However, the Committee had noted the recommendation of the Working Group on Maritime Security (MSWG) that it may wish to re-examine the issue at a future date on the basis of information to be provided by SOLAS Contracting Governments attesting to the need to instigate a system of inspections for all or for specific types of SSAS.

4.15 The Committee also recalled that MSC 82 had agreed with the conclusions of the MSWG that the survey of the SSAS by radio inspectors would require the disclosure to a radio inspector of almost all details relating to the SSAS, which would open the possibility of recording the related information in the radio survey report, which was not necessarily subject to the same protection of confidentiality as the information contained in the Ship Security Plan (SSP).

4.16 In considering document MSC 89/4/2 (Republic of Korea), the Committee noted the research carried out by the Republic of Korea on the necessity of a periodical survey of SSAS and the current problems associated with the absence of a periodical survey. The Committee noted in particular the malfunction rate of approximately 11% of inspected SSAS inspections. After an extensive debate, the Committee agreed that the reliability of SSAS equipment was an important issue and that there were two main issues to be resolved: whether to make the surveys of SSAS mandatory; and, if applicable, by whom this should be done. Views were expressed on the need for confidentiality; the diversity of SSAS equipment *vis-à-vis* the difficulty of introducing clear regulations; whether a periodic testing regime mandated by the ISPS Code was an adequate substitute for an inspection; and national regulation by the flag State as opposed to global regulation.

4.17 The Committee instructed the MSPWG to further consider the issue and to provide recommendations on the need to conduct periodical surveys of SSAS equipment and, if appropriate, advise on how this issue should be taken forward (see paragraph 4.22).

**Report on application and implementation of the ISPS Code including measures taken to enhance maritime security**

4.18 The Committee recalled that, at both MSC 85 and MSC 86, SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status had been urged to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of the guidance in MSC.1/Circ.1192, MSC.1/Circ.1193 and MSC.1/Circ.1194, for consideration of action to be taken.

4.19 The Committee noted the measures taken by the Republic of Korea (MSC 89/4/3) to enhance maritime security in port facilities within its territorial waters and on vessels entitled to fly its flag, and the outcomes thereof. In addition to noting details of the application and implementation of the ISPS Code, the Committee also noted details of the Republic of Korea's anti-piracy efforts.

**Enhancement of the security of ships other than those already covered by SOLAS chapter XI-2 and the ISPS Code**

4.20 The Committee recalled that MSC 85 had approved the Non-mandatory 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 (MSC.1/Circ.1283).

4.21 The Committee also recalled that the United States had released its Small Vessel Security Strategy (SVSS) in 2008, with copies and a presentation supplied to MSC 84. In this regard, the Committee noted that, on 24 January 2011, the United States had released its DHS Small Vessel Security Implementation Plan (SVS-IP), which was developed from the goals and objectives of the SVSS and was intended to reduce the risk of a small vessel being used by a terrorist for an attack on the maritime transportation system. The Committee noted that hard copies of the SVS-IP had been distributed to delegations and that a presentation on the subject was held during the session.

**Establishment of the Working Group on Maritime Security, including Piracy and Armed Robbery against Ships**

4.22 Following consideration of agenda item 18, the Committee established the Working Group on Maritime Security, including Piracy and Armed Robbery against Ships, and instructed the group (see also paragraph 18.50), taking into account the comments and decision taken in plenary, to:

.1 with respect to the development of the Maritime Security Manual, and with reference to documents MSC 89/4/1 and MSC 89/INF.13:

.1 consider and provide recommendations on any proposals received by the correspondence group since document MSC 89/INF.13 was issued;

.2 discuss and resolve any outstanding substantive issues;

.3 recommend the final text of the document disclaimer; and

.4 submit the final document to plenary with a view to approval in the following format:

(a) main body (to be translated); and

(b) appendices (English only); and

.2 with reference to the proposals contained in document MSC 89/4/2 (Republic of Korea), consider and provide recommendations on the need to conduct periodical surveys of SSAS equipment and, if appropriate, how this issue should be taken forward.

**REPORT OF THE WORKING GROUP**

4.23 Having considered the part of the report of the working group (MSC 89/WP.6) related to this agenda item, the Committee approved it in general and took action as indicated in paragraphs 4.24 to 4.27.

***Development of the Maritime Security Manual***

4.24 The Committee noted that the group, having reviewed all of the proposals received by the MSM Correspondence Group and issues raised in plenary, had agreed to amend the draft Maritime Security Manual (document MSC 89/INF.13) as follows:

.1 changed the title of the document to "User Guide to SOLAS chapter XI-2 and the ISPS Code" (the User Guide) to more accurately capture its purpose and content;

.2 changed the definition of Contracting Government in 1.8.1.m;

.3 added a new paragraph 2.2.31*bis* related to national legislation and review of PFSAs;

.4 added new paragraphs under 2.10.8 to clarify the issue raised related to interim and initial verifications;

.5 added a new paragraph 2.17.17 indicating that some Governments exercise oversight to ensure sustained implementation of PFSPs through frequent spot checks;

.6 added a new section on preventing unauthorized access (3.8.22), and a new section on effective security of cargo, ship's stores and ship's equipment (3.8.23); and

.7 finalized the text of the disclaimer in the preamble to the User Guide.

4.25 The Committee approved the IMO User Guide to SOLAS chapter XI-2 and the ISPS Code; and instructed the Secretariat to undertake a final editorial review of the User Guide prior to its publication, make consequential amendments to the User Guide when changes to the related IMO instruments occurred and to report such amendments to subsequent sessions of the Committee.

4.26 The Committee noted that the group had discussed the issue relating to further consideration of potential supplementary documents related to LRIT and piracy and armed robbery against ships. Regarding LRIT matters, the group had acknowledged the fact that a user guide on LRIT had already been adopted by means of MSC.1/Circ.1298 on Guidance on the implementation of the LRIT system. Having noted that there had been no submissions to MSC 89 in relation to piracy and armed robbery against ships, the Committee invited interested Member Governments and international organizations to submit proposals with respect to the possible development of a User Guide on piracy and armed robbery against ships for its consideration at future sessions.

***Consideration of periodical survey to Ship Security Alert System (SSAS)***

4.27 The Committee noted that the group had agreed that section A/19-1 of the ISPS Code addressed requirements for verification of SSAS; MSC/Circ.1097 on Guidance relating to the implementation of SOLAS chapter XI-2 and the ISPS Code provided guidance on means to ensure the system is correct and viable; and that these were sufficient to provide appropriate guidance. The Committee agreed that, in spite of the general understanding of the reliability issues related to SSAS, there was no need to establish a new instrument requiring periodic surveys of the SSAS system and that annual testing procedures could be put in place by the Administration.

## 5 GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS

### General

5.1 The Committee recalled that MSC 88, in considering the future work on Goal-based Standards (GBS), had agreed that this work should continue and supported relevant proposals, set out in documents MSC 88/5/1 (Germany) and MSC 88/5/2 (Republic of Korea), in particular the way forward suggested by Germany (i.e. finalization of the draft Generic guidelines for developing goal-based standards and specification of the acceptable safety level and of the model to determine it). At the same time, the Committee acknowledged that this would be a longer term project during which a number of unresolved issues needed to be considered, such as the role of FSA in the context of GBS, the availability of relevant data and statistics and the expansion of the scope beyond structural requirements.

5.2 The Committee also recalled that MSC 88, having invited Member Governments and international organizations to submit detailed proposals to this session, had requested the Secretariat to submit a background document (see paragraph 5.3) listing any relevant documents submitted to previous sessions that the Committee had postponed consideration until after the finalization of the GBS for bulk carriers and oil tankers, including a brief summary of such documents, and agreed to establish a joint working group on goal-based standards and formal safety assessment at this session to, *inter alia*, finalize the draft Generic guidelines for developing goal-based standards and to consider any proposals submitted.

### Generic guidelines for developing goal-based standards and further work on GBS

5.3 The Committee noted documents MSC 89/5 and MSC 89/5/Add.1 (Secretariat), listing relevant documents submitted to previous sessions that the Committee had postponed until after the finalization of the GBS for bulk carriers and oil tankers, and recalled that the latest version of the draft Generic guidelines for developing goal-based standards was set out in the annex to document MSC 87/5 (Secretariat), which contained a consolidated text, based on the report of the GBS Working Group at MSC 84 (MSC 84/WP.4) and incorporating amendments to the Guidelines proposed by the GBS Correspondence Group established at MSC 84 (MSC 86/5/2).

5.4 The Committee considered document MSC 89/5/2 (Germany), proposing the further development of the draft Guidelines, in particular concerning the structure of goal-based frameworks and regulations; the determination and formulation of goals and functional requirements and the terminology to be used; and the need for monitoring the effectiveness of IMO regulations with possible use of GISIS database.

5.5 The Committee noted that many delegations generally supported the proposals by Germany, in particular the proposed structure for the development of the draft Generic guidelines for GBS. The Committee also noted the views expressed regarding the need for monitoring IMO regulations using the GISIS database and that the working group should develop a long-term work plan for goal-based standards.

### Establishment of a working group

5.6 Having considered the above matters, the Committee established the Joint Working Group on Goal-based Standard and Formal Safety Assessment (GBS/FSA Working Group) and instructed the group (see also paragraph 16.7), with regard to this agenda item, taking into account the comments made in plenary and documents MSC 89/5 and MSC 89/5/Add.1, to:

.1 finalize the draft Generic guidelines for developing goal-based standards, on the basis of document MSC 87/5, taking into account the proposals made in document MSC 89/5/2, and prepare a covering draft MSC circular; and

.2 discuss how the work on GBS should be progressed, taking into account documents MSC 88/5/1 and MSC 88/5/2, and prepare relevant recommendations for the consideration of the Committee.

**Implementation of the GBS verification scheme**

5.7 The Committee considered documents MSC 89/5/1 and Corr.1 (Secretariat) and noted the activities of the Secretariat regarding the implementation of the GBS verification scheme, which has been carried out in accordance with the timetable and schedule of activities agreed at MSC 87 and based on relevant replies received from Member Governments and international organizations.

5.8 In this connection, the Committee noted that the number of GBS auditors nominated to date by Member Governments (13) was not sufficient to allow for the proper selection and establishment of GBS Audit Teams and that the lack of nominations may endanger the timely implementation of the GBS verification scheme.

5.9 Subsequently, the Committee urged Member Governments and, in particular, international organizations to submit further nominations for GBS auditors to the Secretariat as a matter of priority.

**Report of the working group**

5.10 Having considered the part of the report of the working group (MSC 89/WP.7) related to this agenda item, the Committee approved it in general and took action as indicated in paragraphs 5.11 to 5.13.

***Generic guidelines for developing goal-based standards***

5.11 The Committee approved MSC.1/Circ.1394 on Generic guidelines for developing goal-based standards.

***Future work on GBS***

5.12 The Committee endorsed the group's view on the future work on GBS, in particular on the further development of the safety level approach as a high-priority issue under the current agenda item on GBS, noting the view that the current prescriptive method should also be pursued due to difficulties for developing the safety level approach (e.g., lack of sufficient data, etc.) (see also paragraph 22.54.2).

***Strategic Directions, High-level Actions and Planned outputs for the coming biennium***

5.13 The Committee endorsed the group's recommendation to include security and protection of the marine environment for GBS in the Strategic Directions, High-level Actions and Planned outputs for the coming biennium (see paragraphs 22.49 and 22.54.2).

## 6 LRIT-RELATED MATTERS

**DEVELOPMENTS IN RELATION TO THE ESTABLISHMENT AND TESTING OF LRIT DATA CENTRES (DCS) AND THE OPERATION AND FUNCTIONING OF THE LRIT SYSTEM SINCE MSC 88**

6.1 The Committee considered the documents submitted by the Secretariat (MSC 89/6, MSC 89/6/2, and MSC 89/INF.9), Canada (MSC 89/6/4, paragraphs 8 and 9, MSC 89/6/6 and MSC 89/6/7), IEC (MSC 89/6/3) and the European Commission (MSC 89/INF.15) and took action as indicated in the ensuing paragraphs.

### Information communicated to the Organization

6.2 The Committee recalled that, at MSC 88, after reviewing the status of implementation of the provisions of SOLAS regulation V/19-1, it had invited the Secretary-General to write to, and seek clarifications from, those SOLAS Contracting Governments that had not communicated any information or only part of the information specified in SOLAS regulation V/19-1.8.2 and paragraphs 5.2, 8.1 or 8.2, 8.3.2, 11.2 and 16.1.1 of the Revised performance standards and functional requirements for the long-range identification and tracking of ships (the Revised performance standards), as adopted in resolution MSC.263(84).

6.3 The Committee noted that the Secretary-General had sent written communications to the above-mentioned SOLAS Contracting Governments reminding them of their obligation to communicate information to the Organization in relation to the implementation of the requirements of SOLAS regulation V/19-1 and inviting them to do so, at their earliest convenience, and that, as of 6 May 2011, only a few of them had either responded or communicated the information they were obliged to communicate.

6.4 The Committee urged, once again, SOLAS Contracting Governments to communicate to the Organization the information they were obliged to communicate pursuant to the provisions of SOLAS regulation V/19-1.8.2 and paragraphs 5.2, 8.1 or 8.2, 8.3.2, 11.2 and 16.1.1 of the Revised performance standards and requested the Secretariat to consider, under the Integrated Technical Co-operation Programme (ITCP), organizing national or regional seminars in order to assist SOLAS Contracting Governments with the implementation of the provisions of SOLAS regulation V/19-1 and identify the problems they might be facing in this respect.

6.5 The delegation of South Africa advised the Committee that the South Africa National LRIT Data Centre (NDC) was available for use by those African SOLAS Contracting Governments wishing to join the centre and invited interested parties to contact them in order to progress matters.

### Establishment and testing of LRIT Data Centres (DCs)

6.6 The Committee noted that, as of 6 May 2011:

.1 sixty-four (64) DCs were operating in the production environment of the LRIT system providing services to 93 SOLAS Contracting Governments, 10 non-metropolitan territories and two (2) special administrative regions; and

.2 ten (10) DCs were undergoing developmental or integration testing or had not yet requested to start testing.

6.7 The Committee urged those SOLAS Contracting Governments that were in the process of establishing DCs to complete developmental and integration testing and become part of the production environment of the LRIT system as soon as possible.

**Results of the first modification testing phase of the LRIT system**

6.8 The Committee recalled that, at MSC 88, it had approved procedures for the Modification testing phase, together with relevant Guidance notes for the first modification testing phase of the LRIT system and urged DCs to take the necessary actions in order to complete the modification testing phase before 1 March 2011. The Committee had also instructed the Secretariat to report to MSC 89 on the results of, and any issues regarding, the first modification testing phase of the LRIT system.

6.9 The Committee noted the results of the first modification testing phase of the LRIT system, along with the actions taken by the Secretariat, including, in particular, the issuance of MSC.1/Circ.1338 on Guidance to Search and Rescue services in relation to requesting and receiving LRIT information on 1 March 2011, which incorporated the amendments approved by MSC 86 (MSC 86/6/1, annex 6, part III, refers).

6.10 The Committee also noted that, as of 6 May 2011, the LRIT International Data Exchange (IDE) and the majority of the DCs operating in the production environment had satisfactorily completed modification testing and thanked them for having implemented the necessary amendments and new functionalities and for having successfully conducted modification testing.

6.11 The Committee further noted that those DCs that had not completed modification testing might not be operating, as expected, within the LRIT system and, consequently, SOLAS Contracting Governments and search and rescue (SAR) services requesting LRIT information might not receive from them the expected LRIT information. The Committee, therefore, strongly urged SOLAS Contracting Governments that had established DCs which had not completed modification testing to take the necessary actions in order to ensure that their DCs complete modification testing as soon as possible.

**Transfer of operations of the International LRIT Data Exchange (IDE)**

6.12 The Committee recalled that, at MSC 88, it had agreed, pursuant to the provisions of SOLAS regulation V/19-1.14 and paragraph 10.1 of the Revised performance standards, on the establishment of the IDE by the European Maritime Safety Agency (EMSA), in Lisbon, Portugal, and invited EMSA to firstly establish the IDE in the testing environment of the LRIT system and submit, through the proposing Contracting Governments and the European Commission, the results of developmental testing for the consideration of the Committee at this session.

6.13 The Committee noted that the switch over of the IDE operating in the testing environment from the United States to EMSA had occurred on 2 March 2011 and the results of developmental testing had been submitted to the Organization. All test cases and procedures had been reported as satisfactorily conducted and all test cases required to be externally certified had been confirmed by the European Union CDC and the United States NDC, who had acted as the first and second assisting DCs, respectively, and by the Organization, on behalf of the LRIT Data Distribution Plan (DDP) server.

6.14 The delegation of Belgium, on behalf of the SOLAS Contracting Governments that had submitted the proposal for the establishment, maintenance and operation of the IDE by EMSA in Lisbon, Portugal, and the European Commission, reported on the transfer of

operations of the IDE in the testing environment from the United States to EMSA and the satisfactorily completion of developmental testing and conveyed their appreciation for the good co-operation and assistance provided by the United States and the Secretariat. That delegation also advised that EMSA was ready to continue the work of taking over the operation of the IDE in the operation environment from the United States during October 2011.

6.15 The delegation of the United States provided further information on the transfer of operation of the IDE in the testing environment and advised that they were ready to transfer the operations of the IDE in the production environment to EMSA and make the interim IDE available as the disaster recovery site for the IDE after its transfer of operations, subject to the United States national procurement regulations, at no cost to either the Contracting Governments or the Organization.

6.16 Having considered the results of developmental testing of the IDE established by EMSA, the Committee considered document MSC 89/WP.12 and approved resolution MSC.322(89) on Operation of the International LRIT Data Exchange, as set out in annex 8.

6.17 The United States and EMSA were invited to advise the Committee, at its next session, on the continued operation of the IDE by EMSA and the disaster recovery site for the IDE by the United States after 2013, together with any further information on their finance, maintenance and operation after 2013, for consideration.

**Operation of the Information Distribution Facility (IDF) and issues concerning the provision of flag State LRIT information to security forces operating in waters of the Gulf of Aden and the western Indian Ocean**

6.18 The Committee recalled that the IDF had been established by the Secretariat at IMO Headquarters, for the provisions of flag State LRIT information to security forces operating in waters of the Gulf of Aden and the western Indian Ocean to aid their work in the repression of piracy and armed robbery against ships and noted that two security forces, namely the North Atlantic Treaty Organization (NATO) and the European Union Naval Force (EU NAVFOR), had been associated with the IDF.

6.19 The Committee noted that several SOLAS Contracting Governments had deactivated the exclusions added by the Secretariat in the DDP on their behalf and were providing flag State LRIT information to NATO and EU NAVFOR through the IDF. The use of the IDF had proved to be efficient and both security forces had advised the Secretariat that the information they had received was invaluable in helping them to build a more accurate picture of the ships operating in the area and deploy the available naval and military resources in a more effective and efficient way in order to enhance the protection of all shipping transiting the area, including contacting each individual ship directly when they were about to enter an area of particularly high risk of piracy attack. Both security forces had also indicated their preference for receiving flag State LRIT information through the IDF only.

6.20 Canada, as a country member of NATO, conveyed NATO's appreciation to those SOLAS Contracting Governments that were already providing flag State LRIT information to security forces operating in the area, as well as NATO's encouragement to those who were not providing the information to do so.

6.21 Recognizing that the use of the IDF had proven to be efficient, the Committee encouraged those SOLAS Contracting Governments that had not done so to consider providing flag State LRIT information to security forces through the IDF by deactivating or deleting the exclusions added by the Secretariat on their behalf in the DDP, taking into account the guidance provided in the annex of document MSC 89/6.

6.22 The Committee also encouraged those SOLAS Contracting Governments that were already providing flag State LRIT information to the security forces associated to the IDF through other separate systems, to do so through the IDF.

6.23 The Committee, whilst welcoming the proposal of adding polling functionalities to the IDF, agreed that this should be implemented as an "opt-in" arrangement in the LRIT system where each flag State would have the ability to determine which security force, if any, would be entitled to transmit polling request messages to them.

6.24 The Committee further recognized that there was a need to authorize holding a meeting of the *Ad Hoc* LRIT Group to consider the technical implementation of the issue of adding polling functionality to the IDF to help security forces to more accurately identify the current location of at-risk vessels (see paragraph 6.51).

**Performance of the LRIT system from a port State tracking perspective**

6.25 The Committee noted the statistical information provided in document MSC 89/6/7 (Canada), regarding the operational compliance of foreign flagged vessels entering Canadian ports, along with issues they had experienced with the lack of reception of LRIT information as a port State, and encouraged SOLAS Contracting Governments to work in collaboration with their Application Service Providers (ASP(s)), DC and shipowners in order to address the issue.

6.26 The Committee recognized that there was a need to instruct the *Ad Hoc* LRIT Group to consider the issue further and recommend an approach to be taken (see paragraph 6.51).

**Issues concerning LRIT shipborne equipment**

***Type approval of LRIT shipborne equipment***

6.27 The Committee noted the information provided in document MSC 89/6/3 (IEC), regarding the preparation of a third edition of IEC 61097-4 and other standards intended to assist the type approval of LRIT shipborne equipment. The Committee thanked IEC for the preparation of these standards and invited IEC to continue advising the Committee on further developments in this respect.

***LRIT Shipborne equipment not operating, as expected, within the LRIT system***

6.28 The Committee noted the updated statistical information provided in document MSC 89/INF.15 (European Commission) on LRIT shipborne equipment not operating, as expected, within the LRIT system, including the main reasons which had been identified for not reporting and failure issues during the integration process of LRIT shipborne equipment into the European Union CDC and possible solutions thereof.

6.29 The Committee was of the view that the *Ad Hoc* LRIT Group should be also tasked to consider this issue further and recommend an approach to be taken (see paragraph 6.51).

**INFORMATION CONCERNING THE USE OF THE LRIT SYSTEM AND ITS LONG-TERM OPERATIONAL AND FINANCIAL VIABILITY**

6.30 The Committee recalled that, at MSC 87, whilst considering issues concerning the use of, and demand for, LRIT information, it had encouraged SOLAS Contracting Governments to submit proposals to MSC 89 concerning the long-term operational and financial viability of the LRIT system.

6.31 The Committee considered the information provided in documents MSC 89/6/5, MSC 89/6/6 (Canada) and MSC 89/6/9 (Liberia), regarding the use of the LRIT system and its long-term operational and financial viability, along with the comments and observations made by several delegations.

6.32 In this connection, some delegations shared their experiences on the use of the LRIT system, in particular, for the search and rescue of persons at sea, the prevention of pollution disasters, the control of fishing activities, including also other uses related to safety and security.

6.33 The Committee, having noted the information provided by Canada, Liberia and other SOLAS Contracting Governments on their experience in promoting and using the LRIT system, encouraged SOLAS Contracting Governments to continue to promulgate the uses of LRIT information within their various departments and agencies and also to request LRIT information, in particular, in their capacity as port and coastal States.

6.34 The Committee further requested the Secretariat to consider, under the ITCP, organizing national or regional seminars to promote the use of the LRIT system for the purposes agreed by the Organization.

6.35 The Committee noted the offer by the delegation of Liberia of making the LRIT information available free of charge for a period of, e.g., six months to promote the use of the LRIT system by SOLAS Contracting Governments, in particular, as coastal and port States.

6.36 The delegation of Tuvalu made a statement highlighting the high costs of operation and maintenance of their DC, the unduly high cost of the annual audit conducted by the LRIT Coordinator, the low use of the system and the efforts made by SOLAS Contracting Governments to maintain the system in operation. The full text of their statement is set out in annex 39.

6.37 A number of delegations shared the concerns raised by Tuvalu and, whilst recognizing the benefits of the various possible applications of the system, recommended that the Committee should give consideration to the issue of reducing the financial burden put on Administrations with the implementation of the LRIT system.

6.38 The Committee noted the concerns expressed by some SOLAS Contracting Governments regarding the costs associated with the establishment, testing, integration, maintenance and operation, as well as the performance review and audit of DCs.

6.39 The Committee also noted that the unduly high prices of LRIT information charged by some SOLAS Contracting Governments, which had not adopted the "US$0.25 1:2:6" cost model, was still discouraging others from completing financial contracts and, consequently, from activating their coastal States standing orders and requesting LRIT information; and that the low rate of requests of LRIT information, as a port and a coastal State, was putting financial burden on Administrations in maintaining their DCs.

6.40 Having considered the above views, the Committee:

.1 reiterated its concurrence with the establishment of the "US$0.25 1:2:6" cost model as from 3 December 2010 and encouraged SOLAS Contracting Governments to adopt the cost model and negotiate in an open, fair, and transparent manner with other SOLAS Contracting Governments requesting LRIT information, the completion of financial contracts for the provision of LRIT information;

.2 agreed that the pricing file in the IDE was no longer necessary and should be deleted given the Committee's decision thereon;

.3 recognized the need to further instruct the *Ad Hoc* LRIT Group to:

.1 prepare the necessary consequential draft amendments to the LRIT-related documentation regarding the deletion of the pricing file from the IDE, including, if necessary, guidance for implementing such amendments;

.2 consider a possible technical solution to the issue that was discouraging SOLAS Contracting Governments from activating their costal State standing orders; and

.3 consider the issue of reducing the financial burden of SOLAS Contracting Governments for the maintenance, operation and audit of DCs and recommend an approach to be taken.

6.41 The Committee invited SOLAS Contracting Governments to submit proposals to the next session of the *Ad Hoc* LRIT Group regarding the long-term operation and financial viability of the LRIT system.

6.42 The Committee also invited IMSO, as the LRIT Coordinator, to provide the *Ad Hoc* LRIT Group, at its next session, with an overview of the charges it would expect to be levying during the next five years for the work required to be undertaken by the LRIT Coordinator, in particular, those related to the performance review and audit of DCs.

**PERFORMANCE REVIEW AND AUDIT OF DCS AND OF THE IDE**

**Audit reports, findings and recommendations**

6.43 The Committee noted the information contained in documents MSC 89/6/8 and MSC 89/INF.14 (IMSO), providing information on the audits conducted, as well as the summary audit reports of the DCs and the IDE audited by IMSO during the period from 22 September 2010 to 7 March 2011. It was also noted that IMSO had submitted, to the Secretary-General, the detailed audit reports; and to the Committee, through the Secretary-General, the summary audit reports of the IDE and the following NDCs: Bahrain, Bermuda (United Kingdom), China, Croatia, Faroe Islands (Denmark), Indonesia, Jordan, Morocco, Myanmar, Pakistan, Panama, Russian Federation, Saint Kitts and Nevis, Sierra Leone and South Africa.

6.44 IMSO further advised that the majority of findings identified during the course of the audits carried out during the period since MSC 88 had been resolved through consultation between the LRIT Coordinator and the DCs concerned. However, IMSO had identified a number of issues of sufficient importance or which might affect core LRIT policy related, in particular, to:

.1 latency issues;

.2 notification of temporary suspension or reduction of the service;

.3 duration of the temporary suspension or reduction of the level of service;

.4 need for additional test cases for DCs;

.5 request for the archived LRIT information of a vessel that has changed flag; and

.6 receipt of repeated poll position request messages.

6.45 IMSO also provided information regarding the request of inputs from SAR services; the implementation of a revised audit reporting format; LRIT-related circulars published by IMSO; statistics on the amount of LRIT messages transmitted through the IDE; a consultation it had with the LRIT Operational governance body; and the informal meeting of DC operators hosted by IMSO on 3 and 4 March 2011 at IMSO headquarters in London.

6.46 The Committee noted the information provided by IMSO and thanked them for submitting the audit reports and its findings and recommendations, as well as the SOLAS Contracting Government that had established the IDE and those SOLAS Contracting Governments that had established the DCs that were audited during the above-mentioned period for sharing this information with the Committee.

6.47 The Committee recognized the need for the *Ad Hoc* LRIT Group to further consider the observations of the LRIT Coordinator given in paragraphs 13 to 30 of document MSC 89/6/8 (see paragraph 6.51).

**Scale of charges to be levied by the LRIT Coordinator during 2011**

6.48 The Committee noted the information provided in document MSC 89/INF.2 (IMSO) with respect to the scale of charges to be levied by the LRIT Coordinator during 2011.

**HANDLING FURTHER WORK OF LRIT-RELATED ISSUES**

6.49 The Committee recalled that, at its eighty-eighth session, it had requested the Secretariat to consider how the work on LRIT-related issues should be handled in the future, either by the Committee itself, or the NAV or COMSAR Sub-Committees, or by any other possible arrangements, and provide its views to MSC 89.

6.50 Having considered document MSC 89/6/1 (Secretariat), containing a proposal for handling the further work on LRIT, the Committee agreed that the COMSAR Sub-Committee should be tasked to deal with the further work on LRIT-related issues and:

.1 advised SOLAS Contracting Governments and the LRIT Coordinator accordingly;

.2 included, in the 2012-2013 biennial agenda of the COMSAR Sub-Committee and in the provisional agenda for COMSAR 16, a planned output on "Consideration of LRIT-related matters", as an ongoing output (see paragraph 22.15);

.3 authorized COMSAR 16 to report, as an urgent matter, to MSC 90 on its outcome on the above planned output; and

.4 requested the LRIT Coordinator to report on the review and audit of the performance of DCs and/or of the IDE, as well as on any other LRIT-related issues, to the Committee through the COMSAR Sub-Committee.

**ESTABLISHMENT OF THE *AD HOC* LRIT GROUP**

6.51 Bearing in mind the number of LRIT-related issues still need to be addressed, the Committee authorized a four-day meeting of the *Ad Hoc* LRIT Group (see paragraph 22.52), to be held from 26 to 29 September 2011, to deal with any outstanding technical issues of the LRIT system and, in particular, instructed the group, taking into account the relevant decisions of the Committee, to:

.1 with regard to the handling of further LRIT work by the COMSAR Sub-Committee, prepare draft amendments to:

.1 the Principles and guidelines relating to the review and audit of the performance of LRIT Data Centres and of the International LRIT Data Exchange; and

.2 the Procedures for the consideration of proposals for the amendment of the Technical specifications for the LRIT system, the XML schemas and the Test procedures and cases, set out in annex 3 to the annex of MSC.1/Circ.1294/Rev.2;

.2 consider the issue of adding polling functionalities to the IDF to help security forces to more accurately identify the current location of at-risk vessels, in particular, its technical implementation, and recommend the approach to be taken;

.3 consider the lack of reception of LRIT information as port State (MSC 89/6/7) and recommend the approach to be taken;

.4 consider the updated statistical information provided by the European Commission (MSC 89/INF.15) on LRIT shipborne equipment not operating, as expected, within the LRIT system and recommend the approach to be taken;

.5 with regard to the deletion of the pricing file from the IDE, prepare draft amendments to the LRIT-related documentation, including, if necessary, guidance for implementing such amendments;

.6 consider a possible technical solution to facilitate and encourage the activation of costal State standing orders by SOLAS Contracting Governments;

.7 consider the possibility of reducing the financial burden of SOLAS Contracting Governments for the maintenance, operation and audit of DCs and recommend an approach to be taken;

.8 consider the observations of the LRIT Coordinator given in paragraphs 13 to 30 of document MSC 89/6/8 and recommend the approach to be taken; and

.9 submit a report to COMSAR 16.

**ANY OTHER ISSUES**

### Guidance to port State control officers on LRIT-related matters

6.52 The Committee recalled that, at MSC 88, it had referred to the FSI Sub-Committee the consideration of the issue of the preparation of Guidance on LRIT-related matters for PSC officers.

6.53 The Committee noted that FSI 19 had prepared draft Guidelines for PSC officers related to LRIT as part of the draft Revised PSC Procedures and the matter had been considered under agenda item 12 (see paragraphs 12.6 and 12.8).

### Renewal of PKI certificates

6.54 The Committee noted that all PKI certificates issued by the Organization, as a PKI Certificate Authority, to LRIT system components would expire on 31 December 2011.

6.55 The Committee recalled that the arrangements for the renewal of PKI certificates agreed by MSC 87 had worked well as a result of well coordinated work between all DCs, the IDE and the Secretariat and, taking into account the above, agreed that PKI changeover date and time for both the testing and production environments of the LRIT system would be Tuesday, 8 November 2011, at 12:00 UTC, and requested the Secretariat to provide the necessary instructions to all LRIT system components in this respect.

6.56 The Committee also agreed extending the expiration time of PKI certificates from one to two years (i.e. new PKI certificates would expire on 31 December 2013).

## 7 DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS

**REPORT OF THE FIFTEENTH SESSION OF THE SUB-COMMITTEE**

### General

7.1 The Committee approved, in general, the report of the fifteenth session of the Sub-Committee on Dangerous Goods, Solid Cargoes and Containers (DSC) (DSC 15/18 and MSC 89/7) and took action as indicated in paragraphs 7.2 to 7.13, recalling that MSC 88 had already taken action on urgent matters emanating from DSC 15.

### Lists of solid bulk cargoes for which a fixed gas fire-extinguishing system may be exempted or for which a fixed gas fire-extinguishing system is ineffective

7.2 The Committee considered the draft MSC circular on Lists of solid bulk cargoes for which a fixed gas fire-extinguishing system may be exempted or for which a fixed gas fire-extinguishing system is ineffective, together with document MSC 89/7/5 (Japan), proposing to modify Table 1 to address cargoes which are not listed in the IMSBC Code since the carriage of non-IMSBC Code cargoes may be accepted in accordance with section 1.3 of the IMSBC Code and, having agreed to the proposed modifications to Table 1, approved MSC.1/Circ.1395 on Lists of solid bulk cargoes for which a fixed gas fire-extinguishing system may be exempted or for which a fixed gas fire-extinguishing system is ineffective.

**Safe use of pesticides for the fumigation of cargo holds**

7.3 The Committee approved MSC.1/Circ.1396 on Recommendations on the safe use of pesticides in ships applicable to the fumigation of cargo holds.

**Racking strength of timber deck cargoes when revising ISO 4472:1983**

7.4 The Committee endorsed the Sub-Committee's action to request ISO to consider the issue of the racking strength of timber deck cargoes when revising ISO 4472:1983.

**Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011 (2011 TDC Code)**

7.5 The Committee noted that DSC 15, having agreed to the draft Assembly resolution on Adoption of the Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011 (2011 TDC Code), had requested the Secretariat to prepare updated line diagrams to replace the existing diagrams contained in chapter 2 of the draft 2011 TDC Code, for consideration at MSC 89.

7.6 The Committee had the following documents for its consideration:

.1 MSC 89/7/2 and Corr.1 (Secretariat), proposing new diagrams for the replacement of the existing diagrams contained in figures 2.3, 2.4 and 2.5 and the new diagram 2.6, as requested by DSC 15;

.2 MSC 89/7/3 (New Zealand), expressing the view that it is not the intent of the draft TDC Code to exclude or infer that loop lashings are not an appropriate method of securing logs, poles, cants and similar cargoes, and proposing that a new paragraph 5.4.5 be inserted into the draft Code to clarify that such cargoes may be secured by chain or wire loop lashing; and

.3 MSC 89/7/8 (IACS), providing comments and proposing modifications to the technical requirements of the draft 2011 TDC Code.

7.7 Recognizing that a few of the technical issues raised in the above documents could not be resolved at this session, the Committee approved, in principle, the draft Assembly resolution on Adoption of the Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011 (2011 TDC Code), as set out in annex 9, for submission to the twenty-seventh session of the Assembly for adoption; instructed DSC 16 to further consider documents MSC 89/7/2 and Corr.1, MSC 89/7/3 and MSC 89/7/8 with a view to preparing proposed amendments to the draft 2011 TDC Code; and authorized the Sub-Committee to submit them directly to the twenty-seventh session of the Assembly. In this regard, the Committee invited experts on the stability of timber deck carriers to attend DSC 16 (see also paragraph 9.2).

**IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs)**

7.8 The Committee approved the amendments to the IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs), as set out in annex 10, and requested the Secretariat to forward them to ILO and the UNECE for concurrent approval, as appropriate.

**Fitting of low pressure audible alarms on breathing apparatus**

7.9 The Committee noted that the Sub-Committee's views on the need for mandatory provisions on the fitting of a low pressure audible alarm on breathing apparatus had been forwarded to FP 55.

**Revised recommendations for entering enclosed spaces aboard ships**

7.10 The Committee decided to consider this matter under agenda item 11 (Bulk liquids and gases), when considering the related outcome of BLG 15 (see paragraph 11.11).

**Container inspection programmes to assist developing countries**

7.11 The Committee, having noted the views expressed on the need for training related to container inspection programmes to assist developing countries in carrying out such programmes, invited the Technical Co-operation Committee to consider including the aforementioned training in its Integrated Technical Co-operation Programme (ITCP).

**Installation of equipment for detection of radioactive sources and radioactive contaminated objects in ports**

7.12 The Committee noted the actions taken by the Sub-Committee in regard to the installation of equipment for detection of radioactive contaminated objects in ports.

**Amendments to SOLAS to mandate enclosed space entry and rescue drills**

7.13 The Committee noted that DSC 15 was unable to reach a consensus on a way forward due to time constraints and had decided to establish a working group on the matter at DSC 16.

**OUTCOME OF THE GLOBAL DIALOGUE FORUM ON SAFETY IN THE SUPPLY CHAIN IN RELATION TO THE PACKING OF CONTAINERS**

7.14 The Committee, having considered document MSC 89/7/6 (ILO), proposing the elevation of the status of the IMO/ILO/UNECE Guidelines for packing cargo transport units (CTUs) to a non-mandatory Code of Practice, as recommended by the Global Dialogue Forum on Safety in the Supply Chain in relation to the Packing of Containers, endorsed the proposal of ILO and instructed DSC 16 to contribute to the development of the new Code under its existing agenda item on "Revised Guidelines for packing of cargo transport units".

**PROPOSED EDITORIAL AND TECHNICAL GROUP ON THE IMSBC CODE**

7.15 The Committee considered document MSC 89/7/1 (Australia, France, Germany, United Kingdom and INTERCARGO), proposing several options to establish an Editorial and Technical (E&T) Group for dealing with matters related to the IMSBC Code, and agreed to expand the terms of reference of the existing E&T Group (option 1), established for preparation of amendments to the IMDG Code, to include the preparation of amendments to the IMSBC Code and supplements. In this regard, the Committee agreed that the E&T Group would meet twice every even year (the first session would take place in April or May before the meeting of the Sub-Committee and the second session would take place just after the meeting of the Sub-Committee) to prepare and finalize, respectively, amendments to the IMSBC Code. In addition, the group would continue to meet twice every odd year to prepare and finalize the IMDG Code amendments. As in the case of the preparation of amendments to the IMDG Code, all decisions would be taken, in principle, in plenary and the documents,

along with the comments, would be referred to the E&T Group for finalization. Under this option, the Committee also noted that the Sub-Committee would only convene two working groups at each session, starting in 2012.

**MEASURES FOR SAFE TRANSPORTATION OF SOLID BULK CARGOES BY SHIPS**

7.16 The Committee, having considered document MSC 89/7/4 (China), proposing measures for the safe transportation of solid bulk cargoes, together with document MSC 89/7/7 (INTERCARGO and BIMCO), providing comments on document MSC 89/7/4, agreed to the proposal, in general, and forwarded the aforementioned documents to DSC 16 for detailed consideration under its existing agenda item on "Amendments to the IMSBC Code, including evaluation of properties of solid bulk cargoes"; and instructed the Sub-Committee to advise MSC 90 accordingly.

7.17 Taking into account the many comments and concerns expressed during the discussion, the Committee also invited Member Governments and international organizations to submit any studies, comments, proposals and reports on incidents involving solid bulk cargoes directly to the Sub-Committee in order to assist it in taking an informed decision.

## 8 SHIP DESIGN AND EQUIPMENT

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

### General

8.1 The Committee approved, in general, the report of the fifty-fourth session of the Sub-Committee on Ship Design and Equipment (DE) (DE 54/23, DE 54/23/Add.1 and MSC 89/8) and took action as indicated in paragraphs 8.2 to 8.15, recalling that MSC 88 had already taken action on urgent matters emanating from DE 54.

### Unified interpretations

8.2 The Committee approved MSC.1/Circ.1397 on Unified interpretation of SOLAS regulation III/15.1 concerning the stowage of marine evacuation systems.

8.3 In considering the draft MSC circular on Unified interpretation of SOLAS regulations II-1/28 and II-1/29 concerning mechanical, hydraulic and electrical independency and failure detection and response of steering control systems, the Committee, having noted the additional information in document MSC 89/8/2 (IACS), approved MSC.1/Circ.1398 on Unified interpretation of SOLAS regulation II-1/29.

### Unified interpretations related to conversions of single-hull tankers to double-hull tankers or bulk carriers

8.4 With regard to the draft MSC-MEPC circular on Unified interpretations on the application of SOLAS, MARPOL and Load Lines requirements to conversions of single-hull tankers to double-hull tankers or bulk carriers (DE 54/23, annex 4), the Committee concurred with the decision of the Sub-Committee to refer paragraph 9 of appendix 1 of the unified interpretations, concerning navigation bridge visibility, to NAV 57 for comments, so that any changes that may be proposed by the NAV Sub-Committee could be included before final approval of the draft MSC-MEPC circular by MEPC 62.

8.5 In considering the draft MSC-MEPC circular, the Committee took into account document MSC 89/8/3 (IACS), proposing improvements to clarify the text of the unified interpretations, and approved, as modified, subject to comments from NAV 57 (see paragraph 8.4) and the concurrent decision by MEPC 62, the draft MSC-MEPC circular on Unified interpretations on the application of SOLAS, MARPOL and Load Lines requirements to conversions of single-hull tankers to double-hull tankers or bulk carriers, as set out in annex 11. Subsequently, the Committee requested the Secretariat to forward the above draft MSC-MEPC circular to NAV 57 for comments and MEPC 62 for concurrent approval.

8.6 In considering the draft Unified interpretations to SOLAS chapter III, the Committee noted the concerns expressed by the delegation of Norway, with respect to the fitting of free-fall lifeboats, that the Unified interpretations allow for ships converted into bulk carriers to maintain their existing lifeboat arrangements.

**Application of amendments to SOLAS chapter III and the LSA Code**

8.7 The Committee endorsed the decision of the Sub-Committee to refer the outcome of its considerations of the agenda item on "Application of amendments to SOLAS chapter III and the LSA Code" to FSI 19, in view of MSC 87's instruction to the FSI Sub-Committee to consider the issue of the scope of application of amendments to SOLAS and related Codes and Guidelines from a holistic point of view, taking into account that FSI 19 had established a correspondence group to consider the issue further (see also paragraph 3.34).

**Performance standards for recovery systems**

8.8 The Committee noted that the Sub-Committee would continue its consideration of performance standards for recovery systems at DE 55, with a view to finalization (see also paragraph 8.17).

**Guidelines for passenger ship tenders**

8.9 The Committee noted that the Sub-Committee had decided to postpone further consideration of the draft Guidelines for passenger ship tenders to DE 55, when the contributions of other cooperating sub-committees would be available.

**Amendments to resolution A.744(18)**

8.10 The Committee endorsed the decision of the Sub-Committee to prepare a new draft Assembly resolution, superseding resolution A.744(18) on Guidelines on the enhanced programme of inspections during surveys of bulk carriers and oil tankers (ESP Guidelines), and associated draft amendments to SOLAS regulation XI-1/2.

8.11 The Committee noted the recommendation of the Sub-Committee to rename the output "Consideration of IACS unified interpretations" as "Consideration of IACS unified interpretations and amendments to the ESP Guidelines" when preparing the proposals for the new High-level Action Plan for the 2012-2013 biennium and decided to deal with the matter under agenda item 22 (Work programme).

8.12 The Committee agreed, in principle, to the draft revised ESP Guidelines (DE 54/23/Add.1) and noted that the draft Assembly resolution for their adoption by the twenty-seventh session of the Assembly and associated SOLAS amendments were prepared at DE 55 (see also paragraphs 8.21 to 8.23).

**Development of a mandatory Polar Code**

8.13 The Committee noted the progress made in the development of a mandatory Polar Code, in particular that the Sub-Committee had:

.1 agreed that the question of addressing the societal differences between the Arctic and the Antarctic regions and how to address possible risks posed by Arctic shipping to vulnerable indigenous and other local communities in the Arctic was outside its remit;

.2 endorsed the utilization of a risk-based/goal-based approach, including the development of goals and functional requirements which would be accompanied by prescriptive provisions; and

.3 noted the view that after the Polar Code has been finalized, training requirements for navigation in polar waters and an associated model course should be developed.

**Amendments to the Revised recommendation on testing of life-saving appliances**

8.14 The Committee adopted resolution MSC.323(89) on Amendments to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)), as set out in annex 12.

**Counterfeit life-saving appliances**

8.15 The Committee noted that the Sub-Committee had agreed that awareness should be raised with regard to counterfeit life-saving appliances and had decided to consider the matter further at DE 55.

**URGENT MATTERS EMANATING FROM THE FIFTY-FIFTH SESSION OF THE SUB-COMMITTEE**

**General**

8.16 The Committee considered urgent matters referred to it (MSC 89/8/4), emanating from the fifty-fifth session of the Sub-Committee (DE 55/22) and took action as indicated hereunder.

**Performance standards for recovery systems**

8.17 The Committee noted that the Sub-Committee would further consider the draft performance standards for recovery systems and the associated draft new SOLAS regulation III/17-1 at DE 56, with a view to finalization.

**Amendments to SOLAS regulation III/20.11.2 concerning testing of free-fall lifeboat release systems**

8.18 With regard to the testing of free-fall lifeboat release systems, the Committee approved the draft amendments to SOLAS regulation III/20.11.2, as set out in annex 13, and requested the Secretary-General to circulate the aforementioned draft amendments in accordance with SOLAS article VIII, with a view to adoption at MSC 90.

8.19 With regard to the early implementation of the aforementioned SOLAS amendments, the Committee noted that the Sub-Committee had agreed on the need for their early implementation and requested the Secretariat to prepare a draft MSC circular on the early implementation of the amendments to SOLAS regulation III/20.11.2, for consideration at MSC 90, in conjunction with the adoption of the draft amendments.

**Matters related to evaluation and replacement of lifeboat release and retrieval systems**

8.20 The Committee agreed to consider the draft MSC circular on Guidelines for evaluation and replacement of lifeboat release and retrieval systems and the associated amendments to SOLAS regulation III/1, the LSA Code and the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)), as well as the draft MSC circular on Early application of new SOLAS regulation III/1.5, under agenda item 3 (Consideration and adoption of amendments to mandatory instruments) (see paragraphs 3.10 to 3.24).

**Amendments to resolution A.744(18)**

8.21 The Committee, having recalled that it had agreed, in principle, to the draft revised ESP Guidelines (see paragraph 8.12), approved the draft Assembly resolution on Adoption of the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code), as set out in annex 14, with a view to submission to the twenty-seventh session of the Assembly for adoption. In this connection, the Committee authorized the Secretariat to make the necessary consequential changes to the draft 2011 ESP Code (i.e. replace "Guidelines" by "Code"), as proposed by DE 55.

8.22 The Committee also approved the draft amendments to SOLAS regulation XI-1/2, as set out in annex 15, and requested the Secretary-General to circulate them in accordance with SOLAS article VIII, with a view to adoption at MSC 90.

8.23 With respect to consequential amendments to related mandatory instruments emanating from the adoption of the 2011 ESP Code, the Committee endorsed the Sub-Committee's decision to prepare the consequential amendments to related mandatory instruments, as appropriate.

**Guidelines on procedures for in-service maintenance and repair of coating systems for cargo oil tanks of crude oil tankers**

8.24 The Committee approved MSC.1/Circ.1399 on Guidelines on procedures for in-service maintenance and repair of coating systems for cargo oil tanks of crude oil tankers.

**Application of SOLAS regulation II-1/3-2 to ore carriers and combination carriers**

8.25 The Committee considered document MSC 89/8/1 (IACS), seeking clarification on a possibly unintended application of SOLAS regulation II-1/3-2, as amended by resolution MSC.216(82), to void wing spaces on ore carriers or combination carriers, which, from IACS's point of view, was not intended by the regulation, and noted that differing views had been expressed at DE 54 on the same issue when considering the relevant document DE 54/22/2 (IACS).

8.26 In considering the above document, the Committee noted that the majority of the delegations that spoke on this matter were of the view that SOLAS regulation II-1/3-2 was clear that double-side skin spaces on ore carriers and combination carriers must be coated since the aforementioned regulation should be applied to all dedicated seawater ballast tanks arranged in ships and double-side skin spaces arranged in bulk carriers of 150 m in length and upwards, including on ore carriers and combination carriers, taking into account the

definition of bulk carriers stipulated in SOLAS regulation XII/1.1. In this regard, the Committee also agreed that any interpretation that differed from the above views would constitute an amendment to the SOLAS Convention.

## 9 STABILITY AND LOAD LINES AND ON FISHING VESSELS SAFETY

### REPORT OF THE FIFTY-THIRD SESSION OF THE SUB-COMMITTEE

9.1 The Committee approved, in general, the report of the fifty-third session of the Sub-Committee on Stability and Load Lines and on Fishing Vessels Safety (SLF) (SLF 53/19 and MSC 89/9) and took action as indicated hereunder.

### Second generation intact stability criteria

9.2 The Committee noted that SLF 53, having considered the recommendation contained in paragraph 3.7 of part B of the 2008 IS Code, which states that the GM should not exceed 3% of the beam, had agreed to include excessive stability of timber deck carriers in the plan of action for the development of second generation intact stability criteria and that no action should be taken at this time regarding a possible revision of the 1966 LL Convention and 1988 LL Protocol (see also paragraph 7.7).

### Safety of small fishing vessels

9.3 The Committee approved the Guidelines to assist competent authorities in the implementation of Part B of the Code of Safety for fishermen and fishing vessels, the Voluntary Guidelines for the design, construction and equipment of small fishing vessels and the Safety Recommendations for decked fishing vessels of less than 12 metres in length and undecked fishing vessels (hereinafter referred to as "Implementation Guidelines"), as set out in annex 16, and requested the Secretariat to forward them to FAO and ILO for concurrent approval, as appropriate.

9.4 In this connection, the representatives of FAO informed the Committee that the FAO Committee on Fisheries (COFI) would consider the text of the Implementation Guidelines at its next session, to be held from 9 to 13 July 2012, and stated that the Implementation Guidelines would be a very useful guide for Governments in the implementation of Part B of the Code of Safety for Fishermen and Fishing Vessels, Voluntary Guidelines and Safety Recommendations into their domestic legislation and/or codes of safe practice, or other measures in consultation with all stakeholders in the industry. The representative of ILO, associating himself with FAO, thanked the Sub-Committee for the work done and stated that the Governing Body of ILO would consider the text of the Implementation Guidelines upon its receipt.

9.5 The Committee also agreed to the request by SLF 53 to make the Implementation Guidelines publicly available on the IMO website, after approval by all parties concerned, and instructed the Secretariat to take action accordingly.

9.6 As requested by SLF 53, the Committee invited the Technical Co-operation Committee to consider including the Implementation Guidelines within the Integrated Technical Co-operation Programme (ITCP) and, when implementing a related TC activity, securing funding for translation of the Implementation Guidelines into the language of the recipient countries, if it is not one of the six official languages of IMO.

**Options to improve effect on ship design and safety of the 1969 TM Convention**

9.7 The Committee decided to consider the Sub-Committee's decisions on the best way to improve the effect of the 1969 TM Convention on ship design and safety, including the following documents submitted on the matter:

.1 MSC 89/9/5 (Germany), containing another option to improve the effect on ship design and safety within the 1969 TM Convention, taking into account the need to further enhance working and living conditions on board; and

.2 MSC 89/9/8 (ILO), commenting on the submission by Germany,

under agenda item 22 (Work programme) in conjunction with the justification for the inclusion of a new planned output on "Development of provisions to ensure the integrity and uniform implementation of the 1969 TM Convention", as proposed by SLF 53 (see also paragraph 22.34).

**Stability and sea-keeping characteristics of damaged passenger ships in a seaway when returning to port by own power or under tow**

***Draft unified interpretations related to safe return to port and safe areas***

9.8 The Committee noted that SLF 53 had considered the draft Interpretations to SOLAS regulation II-2/21 (Safe return to port and safe areas), in respect of the Interim Explanatory Notes for the assessment of passenger ship systems' capabilities after a fire or flooding casualty (MSC.1/Circ.1369), which were under the purview of the Sub-Committee, and that the outcome had been forwarded to FP 55 for coordination purposes.

9.9 In this regard, the Committee noted that the delegation of the United States did not agree with the aforementioned draft interpretations for inclusion in the Interim Explanatory Notes for the assessment of passenger ship systems' capabilities after a fire or flooding casualty (MSC.1/Circ.1369). The delegation was of the opinion that these draft interpretations could allow essential systems to be located adjacent to the side or bottom shell and be considered to remain operational after a flooding casualty if they could withstand the pressure of the water expected.

***Draft amendments to SOLAS regulation II-1/8-1***

9.10 In considering the draft amendments to SOLAS regulation II-1/8-1, which introduces a mandatory requirement for either onboard stability computers or shore-based support, the Committee noted the comments from some delegations that the draft amendments needed further consideration and editorial corrections, specifically with regard to the words "in accordance with guidelines developed by the Organization", which may imply a mandatory nature to the guidelines, and decided to place the words "in accordance with" in square brackets, for further consideration prior to adoption.

9.11 Subsequently, the Committee approved the draft amendments to SOLAS regulation II-1/8-1, as set out in annex 17, and requested the Secretary-General to circulate the proposed amendments, in accordance with SOLAS article VIII, for consideration with a view to adoption at MSC 90.

9.12 In this connection, the Committee considered document MSC 89/9/4 (Germany), supporting the development of guidance to Administrations for the approval of damage stability modules for safe return to port, and following discussion referred the document

to SLF 54 for consideration under the output on "Development of guidelines on safety return to port for passenger ships" with a view to advising MSC 90 accordingly. Subsequently, the Committee invited Member Governments and international organizations to submit proposals to SLF 54.

***Guidelines on operational information for masters of passenger ships for safe return to port by own power or under tow***

9.13 The Committee approved MSC.1/Circ.1400 on Guidelines on operational information for masters of passenger ships for safe return to port by own power or under tow. In this connection, the Committee noted that SLF 53 had referred the matter of additional training for masters and crew members assigned to operate stability computers to the STW Sub-Committee for further consideration.

**Safety provisions applicable to tenders operating from passenger ships**

9.14 The Committee noted that SLF 53 had considered the draft Guidelines for passenger ship tenders, prepared by the DE Sub-Committee, and had referred its comments to DE 55 for coordination purposes.

**Legal and technical options to facilitate and expedite the earliest possible entry into force of the 1993 Torremolinos Protocol**

***Legal options prepared by SLF 53***

9.15 In considering the draft Agreement (option 1) and the draft Assembly resolution (option 2) prepared by SLF 53 in order to facilitate the implementation of the requirements of the 1993 Torremolinos Protocol, the Committee noted the comments from the Chairman of the SLF Sub-Committee that, at SLF 53, all Member Governments that spoke on the matter expressed support for the Agreement option. In this regard, he pointed out that this is the third attempt of IMO to develop and put into force regulations related to fishing vessels safety. He informed the Committee that, although the discussions at SLF 53 were lengthy and there was a spirit of co-operation, the Sub-Committee was unable to reach consensus on the conditions of entry into force of the Agreement option.

9.16 Commenting on the points raised by the SLF Sub-Committee Chairman, the Committee noted the view of the delegation of South Africa that 34 years have passed after the first attempt to put in place a convention that would give a measure of protection to this maritime sector, which is estimated to employ 15 million persons, of which approximately 1.5 million seafarers work on fishing vessels of 24 m in length and over; with the highest death rate of any industry in the world. They further pointed out that a second attempt was also made 17 years ago, again unsuccessfully. It was their concern that a failure to make progress with the implementation of the 1993 Torremolinos Protocol, at this stage, would make it difficult for IMO to adopt a viable safety regime for this sector in the foreseeable future. The delegation was of the opinion that the requirements of the 1993 Torremolinos Protocol should be further amended/updated after the Agreement enters into force, taking into account the technological developments and operational changes related to fishing vessels, and would recommend that the matter be considered in the future.

9.17 The Committee further noted the concerns expressed by the delegation of the United States that, from a legal perspective, regarding the proposed way ahead for facilitating the implementation of the 1993 Torremolinos Protocol, the intended way forward appears to involve two possible tracks, each containing a legal instrument which could come into force independently governing the same conduct (i.e. the 1993 Torremolinos Protocol

and Agreement). The delegation considered that the best way forward would be to pursue a single new Agreement that incorporates all the provisions of the 1993 Protocol and amends those provisions that are in need of updating, which would avoid the possibility of having two legally binding instruments covering the same subject matter.

9.18 In response to the above concerns raised about the possibility that both the proposed Agreement and the 1993 Torremolinos Protocol could come into force independently and address the same subject matter, the Committee noted the clarification by the Secretariat (representative of the Sub-Division for Legal Affairs), which recalled that the proposed Agreement had been developed originally by a legal consultant (Dr. Mensah), who had been asked to identify a legally viable means of bringing the technical requirements of the 1993 Torremolinos Protocol into force subject to some revisions, taking into account the status of that Protocol. The draft Agreement has a special legal feature to allow any Contracting State to the 1993 Torremolinos Protocol to follow a simplified procedure to give its consent to be bound to the Agreement provided that the procedure was permitted under its constitution. While it was theoretically possible that the 1993 Torremolinos Protocol could come into force (if States ignored the existence of the Agreement and submitted ratifications), this was highly unlikely; and the new Agreement would supersede the 1993 Torremolinos Protocol and would be seen as the IMO instrument governing the subject matter. The conference adopting the Agreement could also adopt a resolution calling on States not to ratify the 1993 Torremolinos Protocol.

9.19 Following an extensive discussion and having considered the two options prepared by SLF 53 to facilitate the implementation of the 1993 Torremolinos Protocol, the Committee unanimously agreed to proceed with the draft Agreement (option 1).

***Entry into force criteria for the Agreement option***

9.20 In considering the entry into force criteria for the draft Agreement, the Committee noted that SLF 53 had agreed to the following criteria for bringing the Agreement into force, as set out in article 4 of the draft Agreement:

.1 3,000 vessels + 15 States;

.2 1,800 vessels + 20 States; and

.3 1,800 vessels + 30 States,

and that FAO had been invited to provide updated information on the number of fishing vessels operating on the high seas, in the context of the FAO Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas (Compliance Agreement). In this connection, Member Governments were also invited to submit the number of fishing vessels of 24 m in length and over under their flag, identifying vessels operating on the high seas, to the Organization, if possible prior to MSC 89.

9.21 In this connection, the Committee considered document MSC 89/9/6 (FAO), providing the latest FAO data on the number of fishing vessels of 24 m in length and over operating on the high seas, which was 5,415 vessels, to assist with resolving the text in square brackets (i.e. 3,000 or 1,800) in paragraph 1 of article 4 of the draft Agreement. In this regard, the Committee also noted with appreciation the new information on the number of fishing vessels operating on the high seas provided by the delegations of China (788) and the Republic of Korea (379).

9.22 In the ensuing discussion, the Committee noted the following views expressed during the debate:

.1 that the term "operating on the high seas" should be included in the articles to the Agreement, as well as in the scope of application of the 1993 Torremolinos Protocol, and that an appropriate definition or reference should be added to the Agreement (i.e. UNCLOS 86);

.2 while some delegations felt the entry into force criteria should require at least 50% of the vessels operating on the high seas, others felt that 30% was a sufficient number;

.3 while some delegations felt the entry into force criteria should require at least 30 States, others felt that 15 States was a sufficient number; and

.3 that the data on the number of vessels operating on the high seas should be based on reports from States to IMO, while others expressed the view that the FAO data should be used as the basis.

9.23 In light of the above comments, the Committee noted the statement by the delegation of the Republic of Korea that they supported option 1 (i.e. 3,000 fishing vessels of 24 m in length and over operating on the high seas and 15 States), as the criteria for bringing the Agreement into force.

9.24 The Committee also noted the statement by the delegation of China, supported by other delegations, that countries with the large fishing fleets, which have undertaken major responsibility for fishing vessel safety, would be the most affected by the entry into force of the Agreement and, therefore, they supported 50% of the fishing vessels operating on high seas as the entry into force criteria. The full text of their statement is set out in annex 40.

9.25 The Committee further noted the statement by the delegation of Belgium that, in Belgium, like in other EU Member States, there needed to be higher safety rules for fishing vessels than those of the Torremolinos Protocol. The delegation stated that these higher safety standards apply to foreign flagged fishing vessels operating in the fishing zones of the European Community and the territorial waters of the Member States of the European Union or vessels landing their catch in a port of a Member State of the European Union.

9.26 In considering the above views and following an extensive discussion, the Committee noted that the majority of those that spoke on the matter were in favour of an entry into force criteria of 15 States and 1,800 fishing vessels of 24 m in length and over operating on the high seas, to facilitate the entry into force of the Agreement. Notwithstanding the above views, the Committee agreed to retain the square brackets in paragraphs (1) and (3) of article 4 of the draft Agreement since the entry into force criteria would be a decision taken at the time of adoption of the draft Agreement.

***Draft amendments to the 1993 Torremolinos Protocol***

*Draft amendments to regulation I/2 (Definitions)*

9.27 In considering document MSC 89/9/1 (Secretariat), containing proposed amendments to regulation I/2 (Definitions) to the 1993 Torremolinos Protocol, related to the word "baseline" defined in regulation I/2(14), which is not used anywhere in the Protocol, except in the definition itself, the Committee noted the view expressed by the delegation of Spain that the definition of "baseline" in regulation I/2 (Definitions) of draft amendments can

be incompatible with the geographic baseline, and although the definition is not used anywhere in the Protocol, except in the definition itself, from the point of view of Naval Architecture the definition is necessary for the determination of the depth and length, which are parameters that define the scope of application of the 1993 Torremolinos Protocol. The delegation of Spain stated that they did not object to deleting the above-mentioned definition for the sake of the instrument's clarity, as long as this aspect is resumed and discussed subsequently, if the instrument is amended.

9.28 Following the discussion and taking into account that the majority of the delegations supported the deletion of the definition, the Committee agreed to delete the definition of "baseline" (regulation I/2(14)) and the footnote in the proposed amendments to Protocol regulation I/3(3) (subparagraph .3), referring to UNCLOS.

*Draft amendments to regulation VII/5 (Number and types of survival craft and rescue boats)*

9.29 Having considered documents MSC 89/9/3 (Norway) and MSC 89/9/9 (Argentina), proposing amendments to regulation 5 of chapter VII in order to clarify matters related to the carriage of survival craft, the Committee, taking into account that the majority of the delegations supported the proposal by Norway, agreed to a new paragraph to regulation 5 of chapter VII, as contained in paragraph 7 of document MSC 89/9/3.

*Draft amendments to regulation I/2(25) (definition of "A common fishing zone")*

9.30 In considering document MSC 89/9/7 (FAO), providing a proposal for modifications to the definition of "A common fishing zone" in regulation I/2(25), the Committee noted the proposal by the delegation of Belgium to include the words "or other authorized vessels" in the definition of "A common fishing zone", as follows:

> "… an agreement between such States wherein fishing vessels entitled to fly the flag of those States <u>or other authorized vessels</u> may have access and fish in accordance with the terms and conditions set in such an agreement.".

9.31 In this connection, the Committee noted the views of the representative of FAO that the proposed amendment by Belgium broadens the scope of the exemption unnecessarily. In their view, the effect of such additional language (i.e. "or other authorized vessels") would be that any two or more countries with adjoining EEZs would create an exemption, within the common fishing zone (CFZ), for any authorized vessels, including foreign sea-going vessels, from complying with the Torremolinos Protocol. The Committee noted that the FAO proposal starts with the words, "A common fishing zone, for the purposes of this [Agreement] ...", which restricts the use of the term CFZ only to the Agreement (or whatever instrument that will amend the Torremolinos Protocol).

9.32 In light of the above, the Committee also noted the view of the delegation of Spain that the scope of exemption of the draft Agreement is already very broad and that the draft Agreement should not consider aspects related to the exploitation of living sea resources, as this is established in UNCLOS.

9.33 Following an in-depth discussion, the Committee agreed to the proposal by FAO regarding modifications to the definition of "A common fishing zone" in regulation I/2(25) of the draft amendments to the 1993 Torremolinos Protocol, as contained in paragraph 3 of document MSC 89/9/7, with the addition of the words "or other authorized vessels", as proposed by the delegation of Belgium (see also paragraph 9.30).

*Draft amendments to the 1993 Torremolinos Protocol*

9.34 In light of the above decisions, the Committee agreed on the draft Agreement on the Implementation of the 1993 Protocol relating to the 1977 Torremolinos Convention on the Safety of Fishing Vessels, as set out in annex 18. The Committee also agreed that any further proposals for amendments to the 1993 Torremolinos Protocol should be submitted to the Organization prior to adoption.

9.35 The Committee noted the statement by the delegation of South Africa that, once the Agreement is adopted, it intends to submit a new output proposing a comprehensive review of the technical provisions of the 1993 Torremolinos Protocol with a view to updating such provisions.

***Adoption of the draft Agreement***

9.36 The Committee considered document MSC 89/9/2 (Secretariat), proposing that the adoption of the draft Agreement on the Implementation of the 1993 Torremolinos Protocol takes place in 2012, through a three-day diplomatic conference of all Member Governments, and noted the views of many delegations that the Agreement should be adopted as soon as possible and that the Assembly would be the best option for the adoption, while other delegations were of the view that a separate diplomatic conference would be a more appropriate means for the adoption of a new international treaty instrument, taking into account that a number of issues still needed to be resolved. Furthermore, the Committee was informed by South Africa that it was considering inviting the diplomatic conference to be held in South Africa in 2012.

9.37 Having considered the above views, the Committee, taking into account that the Council would be the final arbiter of the best option for adoption of the new instrument, agreed that the following three options should be forwarded to C 106 for consideration:

.1 to adopt the Agreement at the twenty-seventh session of the Assembly;

.2 to hold a three-day diplomatic conference before or in conjunction with MSC 91, for which the number of meeting days for MSC 91 was reduced to five days in order to cover the cost of the conference; or

.3 to hold a separate diplomatic conference in 2012, in South Africa, covering the cost to hold conference outside the Headquarters of the Organization, subject to a concrete proposal put forward to the Council by South Africa,

taking into account that a separate diplomatic conference would require a six-month circulation period for all the instruments to be adopted, while the Assembly option would utilize the Committee's report as the means for circulation of the draft text of the Agreement. In this regard, the Committee authorized the Secretariat to review the instruments to be adopted to ensure editorial and legal consistency of the draft texts and to prepare recommendations, as appropriate.

9.38 In regard to the option for adopting the new Agreement at the next Assembly (see paragraph 9.37.1), the Committee noted the information provided by the Director of the Legal Affairs and External Relations Division that there is no legal obstacle to this option. However, noting the present rules of procedure of the Assembly for adoption of instruments requires only a simple majority and having considered the need to adopt the Agreement by two-thirds majority as pointed out by the Director, the Committee agreed to recommend,

through the Council, the Assembly to adopt a specific rule for adopting the new instrument by a two-thirds majority in case the Assembly option was to be pursued.

**Amendments to the 1966 LL Convention**

9.39 The Committee approved the draft Assembly resolution on Adoption of amendments to the 1966 LL Convention, as set out in annex 19, shifting the Winter Seasonal Zone off the southern tip of Africa further southward by 50 miles, and requested the Secretary-General to circulate the draft amendments in accordance with article 29 of the 1966 LL Convention, with a view to adoption at MSC 90 and A 28.

**Amendments to the 1988 LL Protocol**

9.40 Subsequently, the Committee also approved a corresponding draft amendments to the 1988 LL Protocol, as set out in annex 20, and requested the Secretary-General to circulate the draft amendments in accordance with article VI of the 1988 LL Protocol, with a view to adoption at MSC 90.

## 10 TRAINING AND WATCHKEEPING

**REPORT OF THE FORTY-SECOND SESSION OF THE SUB-COMMITTEE**

10.1 The Committee approved, in general, the report of the forty-second session of the Sub-Committee on Standards of Training and Watchkeeping (STW) (STW 42/14 and MSC 89/10) and took action as indicated in paragraphs 10.2 to 10.6.

**Unlawful practices associated with certificates of competency**

10.2 The Committee agreed to place the information relating to fraudulent certificates detected/found on board ships during inspections or reportedly being used, as reported to the Secretariat (STW 42/4), on the IMO public website to assist all concerned in ensuring that no seafarer serving on board ships was holding fraudulent certificates of competency.

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

10.3 The Committee noted that no further amendments were required to the draft revised recommendations as prepared by DSC 15, since training relating to entry into enclosed spaces was already covered in chapters V and VI of the STCW Code (see paragraph 11.11).

**Development of model procedures for executing shipboard emergency measures**

10.4 The Committee endorsed the Sub-Committee's decision that there was no need to establish procedures to respond to emergency situations, as it was the responsibility of the shipping company to do so under the provisions of section 8 of the ISM Code.

**Development of unified interpretations for the term "approved seagoing service"**

10.5 The Committee endorsed the Sub-Committee's decision that there was no need for a unified interpretation (UI) for the term "approved seagoing service".

**Date of the forty-third session of the Sub-Committee**

10.6 The Committee decided that the forty-third session of the Sub-Committee would take place from 30 April to 4 May 2012.

**ROLE OF THE HUMAN ELEMENT AND IMPLEMENTATION OF THE 2010 MANILA AMENDMENTS**

**Joint MSC/MEPC Working Group on the human element**

10.7 The Committee recalled that, at MSC 88, the delegation of the Netherlands had proposed that the general subject of the human element could well be included within the responsibility of the STW Sub-Committee where human element experts could attend on a regular basis and advise the Committees accordingly. In this context, they had advised the Committee of their intention to submit proposals on this issue to the current session and MEPC 62.

10.8 The Committee had the following documents for consideration on this matter:

.1 MSC 89/10/4 (Australia et al.), proposing to discontinue the Joint MSC/MEPC Working Group on the Human Element and, subsequently include the general subject of the human element within the responsibility of the STW Sub-Committee. In this context, they also provided the associated draft revised terms of reference for the Sub-Committee;

.2 MSC 89/10/7 (Germany), commenting on document MSC 89/10/4, in particular expressing the view that the discontinuation of the Joint MSC/MEPC Working Group on the Human Element under the auspices of the two Committees would affect the structured approach for addressing human-element issues in a holistic way, as set out in resolution A.947(23). Accordingly, they recommended the continuation of the Joint MSC/MEPC Working Group on the Human Element and, in case the scheduling of regular meetings of the Joint Working Group became difficult due to the workload of the Committees, consideration could be given to convening the Working Group during the meetings of sub-committees, when an appropriate timeslot was available for a Working Group session, under the direction of both the Maritime Safety Committee and the Marine Environment Protection Committee; and

.3 MSC 89/10/8 (United Kingdom), commenting on document MSC 89/10/4, in particular expressing their concern that subsuming the role of the Joint MSC/MEPC Working Group on the Human Element under a sub-committee risked diminishing the importance given to the subject of the human element by the Organization and would not convey a positive message that the human element was being treated with the seriousness it deserved. Due to the prominent and comprehensive nature of issues across the broad spectrum of the human element, these should remain, in their opinion, under the authority and strategic direction of the two Committees. In order to facilitate the workload of the Committees, they were not opposed, in the short term, to the Joint Working Group on the Human Element being hosted by an appropriate sub-committee; however, it should remain as a separate group under the auspices of the Committees and this particular issue should be also discussed at MEPC 62 under the agenda item "Role of the Human Element".

10.9 In considering the above documents, the following views were also expressed:

.1 a holistic approach to human element issues was necessary to include all aspects of shipping including the entire chain of responsibility and should not be restricted to shipboard operations;

.2 there was a need for a fixed and permanent time slot within the IMO meeting schedule for consideration of human element matters *vis-à-vis* the current alternation between MSC and MEPC which did not work satisfactorily;

.3 transferring the responsibility to the STW Sub-Committee would indeed increase the importance of human element issues and provide a regular and continuous forum and focus on such matters;

.4 in accordance with the provisions of Assembly resolution A.974(23), matters relating to human element issues should remain within the purview of MSC and MEPC so as to provide a holistic approach;

.5 the broad spectrum of human element issues could not be considered by only one particular sub-committee and, therefore, the existing arrangements should remain;

.6 Member Governments would need to adjust the composition of their delegations to include human element experts to attend the STW Sub-Committee in case the responsibility was transferred;

.7 the transfer of responsibility to the STW Sub-Committee did not mean that matters relating to human element issues would no longer be considered by the Organization, to the contrary, it provided the possibility of a new beginning and fresh approach;

.8 the two Committees still retained the ultimate responsibility for human element matters, since the STW Sub-Committee reported to them both;

.9 certain issues relating to the human element issues were not within the expertise of the STW Sub-Committee and should be considered by other bodies, as appropriate; and

.10 the issue needed also to be considered and agreed to by MEPC 62 based on consideration of document MEPC 62/17 (Australia et al*.)* and the outcome of this current session.

10.10 After an in-depth discussion, the Committee agreed, in principle, to entrust a leading and coordinating role for the implementation of the Organization's strategy to address the human element to the Sub-Committee, subject to the concurrence of MEPC 62, and agreed to instruct the working group to be established under this agenda item to prepare revised draft terms of reference of the Sub-Committee accordingly, for consideration by the Committee (see paragraph 10.14).

**Issues emanating from the implementation of the 2010 Manila Amendments to the STCW Convention and Code**

10.11 In considering issues emanating from the implementation of the 2010 Manila Amendments to the STCW Convention and Code, the Committee had the following documents for its consideration:

.1 MSC 89/10/2 (Islamic Republic of Iran), which identified different implementation dates between the "application of Bridge Resource Management (BRM) and Engine-room Resource Management (ERM) principles in maintaining watches" and the "BRM and ERM principles for training" requirements and, in order to avoid the problem of different interpretations and to ensure uniform implementation of the provisions of section A-VIII/2, part 3 internationally, invited the Committee to consider the matter and, if deemed necessary, issue appropriate advice;

.2 MSC 89/10/3 (Islamic Republic of Iran), proposing that a circular should be issued to avoid the problem of different interpretations in respect of the implementation date/timeline for the new security-related training requirements and to ensure uniform implementation internationally; and

.3 MSC 89/10/5 (United States), proposing that an STCW circular should be issued, bearing in mind Resolution 4 of the 2010 Manila STCW Conference, encouraging the orderly transition to full and effective implementation of the amendments and in order to reduce the possibility of different interpretations among member countries, including port State control authorities, to clarifying that:

.1 STCW regulation I/15 should be applied in such a way that certificates issued in accordance with the provisions of the Convention which applied immediately prior to 1 January 2012 could be revalidated until 1 January 2017 or up to five years at any time, provided that the requirements of the 2010 amendments were met; and

.2 all amendments, except for STCW regulations II/5, III/5 and section A-VI/6, should follow the transitional provisions in STCW regulation I/15 and should be fully implemented by 1 January 2017.

10.12 In considering the above documents, the following views were expressed:

.1 there seemed to be a lack of common understanding on the scope of application of the transitional provisions and consequently there existed different interpretations about the implementation dates of the various amendments;

.2 although there was a general agreement that the transitional provisions in regulation I/15 related to the "certification of seafarers", it was not unmistakably clear as to which provisions came under the term "certification of seafarers";

.3 consideration of provisions of chapters I to VII, including table B-I/2, in a holistic approach was necessary to minimize as much as possible the potential problem of different interpretations regarding the scope of application of transitional provisions;

.4 port State control officers would need to be advised on the common understanding on the application of transitional provisions in order to avoid undue delays to ships;

.5 the requirements for bridge and engine resource management are provided in chapters II and III for the training of seafarers, while watch-keeping principles in section A-VIII/2 are provided for each individual ship and should not be clubbed together. Consequently, there was no need to provide any clarifications;

.6 transitional provisions in the 2010 Manila Amendments would apply to those seafarers who had commenced their training prior to 1 January 2012. Any further clarifications relating to section A-VI/6, as proposed, would lead to the replacement of the existing transitional provisions with new ones; and

.7 the lack of guidance on which documentation seafarers should hold to meet transitional provisions in paragraphs 5 and 9 of section A-VI/6, would lead to different interpretations by Administrations and port State control officers and might result in ships being unduly delayed.

10.13 After an extensive discussion, the Committee agreed to forward the above documents to the working group to be established under this agenda item to prepare an STCW.7 circular on Clarifications relating to the 2010 Manila Amendments to the STCW Convention and Code, for consideration by the Committee (see paragraph 10.14).

**Establishment of a working group**

10.14 Having considered the above issues on the role of the human element and the 2010 Manila Amendments, the Committee established the Working Group on Implementation of the Manila Amendments and Future Terms of Reference for the STW Sub-Committee and instructed the group, taking into account the comments and decisions made in plenary, to:

.1 prepare revised terms of reference of the Sub-Committee to entrust a leading and coordinating role for the implementation of the Organization's strategy to address the human element to the Sub-Committee;

.2 consider the harmonized implementation of the 2010 Manila Amendments, as set out in documents MSC 89/10/2, MSC 89/10/3 and MSC 89/10/5, and prepare a STCW.7 circular on Clarifications relating to the 2010 Manila Amendments to the STCW Convention and Code for consideration by plenary; and

.3 if time permits, consider other issues of uniform implementation of the 2010 Manila Amendments to the STCW Convention and Code and advise the Committee accordingly.

**Report of the working group**

10.15 Having considered the report of the working group (MSC 89/WP.8), the Committee approved it in general and took action as indicated in paragraphs 10.16 to 10.18.

***Revised terms of reference for the STW Sub-Committee***

10.16 The Committee approved the revised terms of reference for the STW Sub-Committee, as set out in annex 21, and agreed, subject to MEPC 62's concurrent decision, to include in the 2012-2013 biennial agenda of the STW Sub-Committee and in the provisional agenda for STW 43, a planned output on "Role of the human element", as an

ongoing output (see paragraph 22.39). The Committee had requested the Secretariat to inform MEPC 62 accordingly.

***Implementation of the 2010 Manila Amendments***

10.17 The Committee approved:

.1 STCW.7/Circ.16 on Clarification of transitional provisions relating to the 2010 Manila Amendments to the STCW Convention and Code; and

.2 STCW.7/Circ.17 on Advice to port State control authorities on transitional arrangements leading up to the full implementation of the requirements of the 2010 Manila Amendments to the STCW Convention and Code.

10.18 The Committee invited Member Governments and international organizations to bring to the notice of the STW Sub-Committee (see paragraph 22.41) any difficulties encountered in implementing the requirements of the 2010 Manila Amendments, with a view to providing the appropriate guidance.

**SECRETARY-GENERAL'S REPORT PURSUANT TO STCW REGULATION I/7, PARAGRAPH 2**

10.19 The Committee noted that no reports pursuant to STCW regulation I/7, paragraph 2 had been submitted to this session.

10.20 The Committee recalled that the Cook Islands had communicated information pursuant to STCW regulation I/7 on 1 August 2001 and MSC 78 had confirmed that the Cook Islands was giving the relevant provisions of the STCW Convention full and complete effect. Accordingly, MSC 78, noting that New Zealand had previously extended the application of the Convention to the Cook Islands, included the Cook Islands as a footnote to New Zealand in the list of Parties so far found to be giving the relevant provisions of the STCW Convention full and complete effect. Subsequently, the Cook Islands had acceded to the STCW Convention on 17 February 2010 with a date of entry on 17 May 2010.

10.21 Bearing in mind that MSC 78 had confirmed that the information communicated by the Cook Islands had demonstrated that it was giving full and complete effect to the Convention, the Committee agreed to include the Cook Islands henceforth independently in the list of Parties so far found to be giving the relevant provisions of the STCW Convention full and complete effect. In this context, the Committee instructed the Secretariat to revise circular MSC.1/Circ.1163/Rev.6 accordingly and issue updated MSC.1/Circ.1163/Rev.7.

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

10.22 In introducing his report (MSC 89/WP.2), the Secretary-General advised the Committee that, in preparing the reports required by STCW regulation I/8, paragraph 2, he 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/Circ.797. Each report, as required by MSC/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.

10.23 The Committee was subsequently invited to consider the reports attached to document MSC 89/WP.2 for the purpose of confirming that the information provided by six STCW Parties pursuant to STCW regulation I/8 confirmed that full and complete effect was given to the provisions of the STCW Convention.

10.24 As was the case with the Secretary-General's reports to previous sessions of the Committee, 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 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.

10.25 The Committee confirmed that the procedures for the assessment of information provided had been correctly followed in respect of 6 STCW Parties and instructed the Secretariat to update MSC.1/Circ.1164/Rev.8 accordingly and issue it as MSC.1/Circ.1164/Rev.9.

**APPROVAL OF COMPETENT PERSONS**

10.26 The Committee approved additional competent persons nominated by Governments (MSC 89/10/1 and Add.1) and instructed the Secretariat to update MSC.1/Circ.797/Rev.20 accordingly and issue the updated circular as MSC.1/Circ.797/Rev.21.

**OTHER ISSUES**

**Follow-up actions relating to the IMO/ILO *Ad Hoc* Working Group on Guidelines for medical examination of seafarers and contents of ships' medicine chests**

10.27 The Committee recalled that MSC 88 had agreed to:

.1 reconvene the IMO/ILO *Ad Hoc* Working Group on Guidelines for Medical Examination of Seafarers and Contents of Ships' Medicine Chests, in the last quarter of 2011, subject to the concurrence of the International Labour Organization's (ILO) Governing Body; and

.2 request the Secretariat, in co-operation with ILO, to contact the World Health Organization (WHO) to seek their co-operation on all health-related matters pertaining to seafarers, as the expertise of all three agencies was necessary to ensure the safety, health and well-being of seafarers.

10.28 The Committee was informed that the Secretary-General had written to the Director-General of WHO seeking their co-operation, as requested by MSC 88.

10.29 The Committee was further informed that WHO had expressed its interest in the continued collaboration in the revision of the Guidelines on Standards for Medical Fitness for Seafarers and the International Medical Guide for Ships, 3rd edition and its Quantification Addendum. However, their collaboration was dependent on two factors, namely:

.1 the drafting and revision process of these guidelines would need to comply with WHO's Guidelines Review Committee requirements, adopted by the WHO Assembly in 2008; and

.2 joint identification of resources for the revision of these guidelines,

and, presently, resources were not available within the WHO's regular budget.

10.30 In this regard, the Committee considered document MSC 89/10/6 (ILO), proposing that:

.1 the next and final meeting of the *Ad Hoc* Working Group should be held from 26 to 30 September 2011 to finalize the revision of the existing Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations of Seafarers;

.2 the revised Guidelines should also apply to fishers with the possibility of the adoption of an annex to the main guidelines for seafarers which would address the special concerns of the fishing industry; and

.3 due to the complexity of the ships' medicine chests, a separate tripartite meeting should be convened by the ILO, in co-operation with the IMO and the WHO, at a later date in 2011, to review the preparatory work of the Joint ILO/IMO Working Group. The tripartite meeting would be composed of three Government representatives nominated by WHO and IMO respectively, as well as three seafarer representatives and three shipowner's representatives, nominated by the Workers' and Employers' groups of the Governing Body. The revised requirements would be submitted to the ILO Governing Body.

Furthermore, the Committee noted that ILO was continuing to discuss with WHO an appropriate mechanism for the periodic review of the International Medical Guide for Ships.

10.31 The representative from ILO informed the Committee that WHO had confirmed that the revised Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations of Seafarers should be issued as joint IMO/ILO guidelines and that WHO would continue to provide technical inputs as and when necessary. In addition, WHO could not withdraw the Addendum to the International Medical Guide for Ships, 3rd edition. However, WHO was prepared to consider its revision subject to the availability of appropriate financial resources.

10.32 After a brief discussion, the Committee agreed that:

.1 the next and final meeting of the *Ad Hoc* Working Group should be held from 26 to 30 September 2011 to finalize the revision of the existing Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations of Seafarers as a matter of priority (see paragraph 22.52);

.2 there was no need, at this stage, to extend the applicability of the revised Guidelines to fishers, since this would entail a change of the corresponding provisions of the STCW-F Convention which had not entered into force yet. This work could be taken up at a later stage after the finalization of the guidelines for seafarers; and

.3 due to the complexity of the ships' medicine chests, a separate tripartite meeting might be convened by the ILO, in co-operation with IMO and WHO, at a later date to consider the revision of the Addendum to the International Medical Guide for Ships, 3rd edition after the financial resources had been identified by WHO.

## 11 BULK LIQUIDS AND GASES

### REPORT OF THE FIFTEENTH SESSION OF THE SUB-COMMITTEE

11.1 The Committee approved, in general, the report of the fifteenth session of the Sub-Committee on Bulk Liquids and Gases (BLG) (BLG 15/19 and MSC 89/11) and took action as indicated hereunder.

### Outcome of ESPH 16

11.2 The Committee endorsed, subject to MEPC 62's concurrent decision, the decisions taken by the Sub-Committee regarding the outcome of ESPH 16.

### Decisions on the categorization and classification of products

11.3 The Committee endorsed, subject to MEPC 62's concurrent decision, the issuance of BLG.1/Circ.33 on Decisions on the categorization and classification of products.

### Timeline for amendments to chapters 17, 18 and 19 of the IBC Code

11.4 The Committee approved, subject to MEPC 62's concurrent decision, the timeline for the preparation of the draft amendments to chapters 17, 18 and 19 of the IBC Code with a view to adoption by MSC 91.

### Carriage conditions and special requirements assigned for Mixed C4

11.5 The Committee endorsed, subject to MEPC 62's concurrent decision, the issuance of BLG.1/Circ.32 on Carriage conditions and special requirements assigned for Mixed C4, which will be included as a new entry into the revised IGC Code.

### Prohibition of the blending of bulk liquid cargoes during the sea voyage

11.6 The Committee, in considering the draft amendments to SOLAS chapter VI, regarding the prohibition of the blending of bulk liquid cargoes during the sea voyage, considered document MSC 89/11/1 (Netherlands), proposing that an additional regulation be added to specifically prohibit production processes on board ships that result in new products and, having noted the general support for the importance of the issues raised by the Netherlands, decided to refer the above document to BLG 16 for further consideration under its existing agenda item on "Evaluation of safety and pollution hazards of chemicals and preparation of consequential amendments" and instructed the Sub-Committee to advise MSC 90 accordingly.

11.7 Having considered the above matter, the Committee approved the draft amendments to SOLAS chapter VI, as set out in annex 22, and requested the Secretary-General to circulate them in accordance with SOLAS article VIII, with a view to adoption at MSC 90.

**Guidelines on tank entry for tankers using nitrogen as an inerting medium**

11.8 The Committee recalled that, when considering the outcome of DSC 15 under agenda item 7 (see paragraph 7.10), it had decided to consider the approval of the draft Assembly resolution on Adoption of the Revised Recommendations for entering enclosed spaces aboard ships, under this agenda item, taking into account the draft MSC circular on Guidelines on tank entry for tankers using nitrogen as an inerting medium, which was prepared by BLG 15.

11.9 In this context, the Committee noted that it had the following two documents for its consideration on this matter:

.1 MSC 89/11/2 (Argentina), expressing the view that the draft MSC guidelines prepared by BLG 15 are not necessarily specific to ships using nitrogen for inerting and that they largely reproduce, verbatim in some cases, the guidance contained in the Revised Recommendations prepared by DSC 15; and

.2 MSC 89/11/3 (Norway, INTERTANKO, OCIMF, IFSMA, ITF, NI and BIMCO), expressing the view that the need for separate guidelines has not been fully considered and that it may be detrimental having two sets of guidelines for what is essentially a single issue (i.e. dangers associated with entering enclosed spaces), which runs contrary to the goal of reducing complexity for seafarers, and proposing modifications to the draft Revised Recommendations.

11.10 After an extensive discussion on the pros and cons of having two sets of guidelines dealing with the dangers associated with entering enclosed spaces, the Committee noted that the vast majority of delegations that spoke on the issue supported the outcome of BLG 15, taking into account that this issue had been under intensive discussion since 2007.

11.11 In this regard, the sponsors of document MSC 89/11/3, supported by the delegations of United States, United Kingdom and others, reaffirmed their appreciation of the work done on developing the guidance on the dangers of Nitrogen and stated that the purpose of their document was to ensure the widest possible application of this guidance on Nitrogen, particularly as Nitrogen is used on many types of ships other than just tankers. They further pointed out that Nitrogen is also used as an inerting medium on bulk carriers and gas carriers as well as on offshore supply vessels.

11.12 Having considered the above issues, the Committee approved the draft Assembly resolution on Adoption of the Revised Recommendations for entering enclosed spaces aboard ships, as set out in annex 23, for submission to the twenty-seventh session of the Assembly for adoption; and approved MSC.1/Circ.1401 on Guidelines on tank entry for tankers using nitrogen as an inerting medium. Consequently, the Committee agreed that the work on this output has been completed and, therefore, FP 55 should take no further actions on this matter.

**Amendments to chapter 14 of the FSS Code**

11.13 The Committee noted that the draft amendments to chapter 14 of the FSS Code have been forwarded to FP 55 for consideration and action, as appropriate.

## 12 FLAG STATE IMPLEMENTATION

### URGENT MATTERS EMANATING FROM THE NINETEENTH SESSION OF THE SUB-COMMITTEE

12.1 The Committee considered urgent matters referred to it (MSC 89/12) emanating from the nineteenth session of the Sub-Committee (FSI 19/19 and Add.1) and took action as indicated hereunder.

### Piracy-related matters

12.2 The Committee noted the discussions which took place at FSI 19 on piracy-related matters and considered them further under item 18 (Piracy and armed robbery against ships) (see paragraph 18.41).

### Construction and installation of onboard lifting appliances

12.3 The Committee noted the recommendation of the Sub-Committee to include winches in the spectrum of its consideration of document MSC 89/22/12 (Chile et al.) in view of the very serious and serious incidents reports which have been analysed and decided to further consider the matter under agenda item 22 (Work programme) when considering the above document (see paragraph 22.26).

### Revised Port State control procedures

#### *Guidelines for PSC officers related to LRIT*

12.4 Having recalled that MSC 87 had referred the issue of whether guidance on LRIT-related matters for port State control officers (PSCOs), including the understanding of technical difficulties with shipborne equipment, to the Sub-Committee, the Committee first considered the inclusion of draft Guidelines for PSCOs related to LRIT as Appendix 9 of the draft revised PSC procedures.

12.5 In considering the above guidelines, the Committee agreed to:

.1 add the following words "taking into account the guidance set out in MSC.1/Circ.1298" at the beginning of paragraph 4;

.2 delete the words "and operational" in paragraph 3.1.1.3, while retaining the footnote; and

.3 include the text of editorial improvements proposed by the Secretariat under paragraphs 2.2, 3.1.1, 3.2.1.4 and 3.3.2.3 of the draft Guidelines, with removal of the square brackets.

12.6 Subsequently, the Committee agreed to the inclusion of the draft Guidelines for PSCOs related to LRIT as Appendix 9 of the draft revised PSC procedures and agreed to keep the above Guidelines under review for future amendments (see paragraph 12.8). Flag States and PSC regimes were invited to provide the Sub-Committee with any necessary feedback on the implementation of the Guidelines.

#### *Safety of pilot transfer arrangements*

12.7 In pursuance of the instruction of MSC 87 for the Sub-Committee to take appropriate action in encouraging PSC regimes to formally include pilot ladders as part of the safety

equipment that their PSCOs would be examining in the course of a port State inspection, the Committee approved the expansion of the draft Revised PSC procedures to include pilot transfer arrangements in the context of the initial and more detailed inspections (see paragraph 12.8) and approved MSC.1/Circ.1402 on Safety of pilot transfer arrangements.

***Draft revised PSC procedures***

12.8 Having considered the above matters, the Committee approved, subject to MEPC 62's concurrent decision, the draft Procedures for Port State Control, 2011, and the associated draft Assembly resolution, as set out in annex 24, for submission to the twenty-seventh session of the Assembly for adoption.

**Guidelines for PSCOs related to the ISM Code**

12.9 Recalling the Interim guidelines for PSC related to the ISM Code (MSC/Circ.890–MEPC/Circ.354) and the Procedures concerning observed ISM Code major non-conformities (MSC/Circ.1059–MEPC/Circ.401), the Committee, having noted that FSI 19 had recommended that a further development of the guidelines for PSCOs related to the ISM Code should be carried out, where appropriate, approved, subject to MEPC 62's concurrent decision, the further development of the Guidelines for PSCOs related to the ISM Code by the Sub-Committee under the existing output on "Harmonization of PSC activities", in co-operation with the STW Sub-Committee, as appropriate.

**Concentrated inspection campaigns**

12.10 The Committee endorsed the request to the Secretariat to call the attention of the DE Working Group on Lifeboat Release Hooks, DE 55 and STW 43 to the findings of the concentrated inspection campaigns on lifeboat launching arrangements, which are substantiated in documents FSI 19/INF.7 and FSI 19/INF.9, having noted that DE 55 had decided to take the information contained therein into account in its discussions (see paragraph 8.20).

**Survey Guidelines under the Harmonized System of Survey and Certification**

12.11 The Committee approved, subject to MEPC 62's concurrent decision, the draft Survey Guidelines under the Harmonized System of Survey and Certification (HSSC), 2011, and the associated draft Assembly resolution, as set out in annex 25, for submission to the twenty-seventh session of the Assembly for adoption.

**Code for the implementation of mandatory IMO instruments**

***Draft mandatory Code for implementation***

12.12 With regard to the proposed title of the new Code for implementation of mandatory IMO instruments (Code for implementation), the Committee agreed, subject to MEPC 62's concurrent decision, that the name of the new Code for implementation should be "IMO Instruments Implementation Code (III Code)" in its mandatory form.

12.13 The Committee, in considering document MSC 89/12/1 (Secretariat) on the outcome of the fourth session of the Joint Working Group on the Member State Audit Scheme (JWGMSA), agreed to use paragraph 7.1 of the draft revised Framework for the IMO Member State Audit, as developed by the group, as a replacement text for paragraph 4 of the draft III Code.

12.14 The Committee also considered documents MSC 89/12/2 (Austria et al.) and MSC 89/12/3 (United States et al.), providing comments on the draft text for the draft revised Code for the implementation of mandatory IMO instruments in its mandatory form, for deciding on the issue of retaining or removing the draft text which the United States had proposed at FSI 19 and which was shown within square brackets in both the draft III Code and the draft Code for Recognized Organizations (RO Code) (see paragraph 12.20).

12.15 During an extensive debate, the proposal to remove the square brackets and to retain the text contained therein (MSC 89/12/3) was supported by a wide majority of delegations*, while a lesser number of delegations supported the proposal to delete the text within square brackets (MSC 89/12/2).

12.16 In an attempt to put forward a compromise solution to allow unanimous acceptance of the proposed text, the delegation of Sweden suggested, without gaining sufficient support, to insert the following text in the draft III Code as a new paragraph under paragraphs 5 or 18 and in the RO Code under paragraph 6.1:

> "No flag State shall be prohibited from applying, as a condition for recognition by that flag State, requirements on the organizations it recognizes that go beyond Convention requirements and the mandatory instruments of the Organization in the interest of safety, security, environmental protection and other legitimate interests of that State."

12.17 After having agreed to delete the square brackets around the proposed text in both draft instruments, the Committee approved, subject to MEPC 62's concurrent decision, the draft IMO Instruments Implementation Code (III Code), as set out in annex 26, for submission to the Assembly at a future session (i.e. after the forthcoming session of the Assembly) for adoption. In this context, the Committee noted several reservations which were entered by some Member States** with regard to its decision on the two draft instruments.

12.18 The Committee, having noted the considerations at FSI 19 for the process of making the III Code and auditing mandatory and rationale thereof, requested the Secretariat to provide the Sub-Committee with a comprehensive review of the options available and also agreed to consider, at its next session, the draft amendments to mandatory IMO instruments, as prepared by the Secretariat and reviewed by FSI 20, together with the course of action for adoption of, and future amendments to, the III Code in its mandatory form.

***Draft non-mandatory Code for implementation***

12.19 The Committee approved, subject to MEPC 62's concurrent decision, the non-mandatory draft Code for the implementation of mandatory IMO instruments, 2011, as consolidated by the Secretariat, and the associated draft Assembly resolution, set out in annex 27, for submission, through the Council at its twenty-sixth extraordinary session, to the twenty-seventh session of the Assembly for adoption.

---

* Argentina, Australia, Bahamas, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, China, Colombia, Cook Islands, Dominica, Ecuador, Honduras, Jamaica, Japan, Kenya, Kiribati, Liberia, Malaysia, Marshall Islands, Mexico, Morocco, New Zealand, Nicaragua, Panama, Papua New Guinea, Peru, Philippines, Republic of Korea, Russian Federation, Saudi Arabia, Singapore, South Africa, Thailand, Tuvalu, Uruguay, United States, Venezuela and Hong Kong, China.

** Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden and United Kingdom.

**Draft Code for Recognized Organizations**

12.20 The Committee agreed, subject to MEPC 62's concurrent decision, to extend the target completion date of the output on the development of a Code for Recognized Organizations (RO Code) to the year 2012.

12.21 With regard to the nature of the RO Code, the Committee noted the request to the Secretariat to prepare the draft text of a relevant instrument to adopt the RO Code and draft amendments to existing instruments to make the RO Code mandatory, and the future consideration of the time period between the adoption of the RO Code and the entry into force of the regulations mandating the RO Code.

12.22 Further to its earlier decision on the matter (see paragraph 12.17), the Committee agreed, subject to MEPC 62's concurrent decision, to delete all square brackets and retain the text of the draft RO Code, as prepared by the Sub-Committee, which is being progressed intersessionally with a view to completion at FSI 20, for submission of the draft RO Code to MSC 90 and MEPC 64.

**Measures to protect the safety of persons rescued at sea**

12.23 The Committee noted the Sub-Committee's decision to await the outcome of COMSAR 15 and FAL 37 before considering further the measures to protect the safety of persons rescued at sea and agreed to extend the current target completion date to 2012 and to include this output as an accepted output for the next biennium.

**Shipping Industry Flag State performance Table**

12.24 The delegation of Panama, referring to the consideration during FSI 19 of documents FSI 19/INF.16 (ICS, et al.) and FSI 19/3/1 (Ireland), related to the latest Shipping Industry Flag State performance Table, 2010, accompanying the "Shipping Industry Guidelines on Flag State Performance", reiterated the concerns that the table was inaccurate and misleading. The delegation indicated that a document would be issued as a guidance for appropriate use of these external statistics by companies. The full text of their statement is set out in annex 41.

## 13 RADIOCOMMUNICATIONS AND SEARCH AND RESCUE

**URGENT MATTERS EMANATING FROM THE FIFTEENTH SESSION OF THE SUB-COMMITTEE**

**General**

13.1 The Committee considered urgent matters referred to it (MSC 89/13) emanating from the fifteenth session of the Sub-Committee (COMSAR 15/16) and took action as indicated in paragraphs 13.2 to 13.26.

**Scoping exercise to establish the need for a review of the elements and procedures of the GMDSS**

13.2 The Committee noted the progress made with regard to the Work Plan on the Scoping Exercise to establish the need for a review of the elements and procedures of the GMDSS and the establishment of a correspondence group. It was further noted that the Correspondence Group on the Scoping Exercise should progress the development of the Work Plan, including consideration as to how the matter of incorporation of additional satellite systems into the GMDSS might be achieved, as an outcome of the scoping exercise, with a

view to finalization at COMSAR 16 and subsequent approval of an unplanned output on the review and modernization of the GMDSS by MSC 90.

**Review of the NAVTEX Manual**

13.3 The Committee approved MSC.1/Circ.1403 on the Revised NAVTEX Manual. In this connection, the Committee noted that the revision of the NAVTEX Manual was the last step in the holistic review of all World-Wide Navigational Warning Service documentation, following the adoption of amendments to resolutions A.705(17) and A.706(17), as amended by MSC 85; the approval of the revised Joint IMO/IHO/WMO Manual on Maritime Safety Information (MSI) by MSC 86; and the approval of the revised International SafetyNET Manual by MSC 87.

**Development of an Assembly resolution on the Worldwide Met-Ocean Information and Warning Service**

13.4 The Committee approved the draft Assembly resolution on IMO/WMO Worldwide Met-Ocean Information and Warning Service Guidance Document, as set out in annex 28, with a view to adoption by the twenty-seventh session of the Assembly.

13.5 The Committee recalled that this draft Assembly resolution had been developed to ensure consistency with other components of maritime safety information and to meet the requirements of SOLAS regulation V/5.4, by providing specific guidance for the promulgation of internationally coordinated meteorological information, forecast and warnings. It was further recalled that this would complement the existing resolution A.706(17), as amended (MSC.1/Circ.1288), containing the IMO/IHO Worldwide Navigational Warning Services Guidance Document.

**NAVAREA Coordinators**

13.6 The Committee endorsed the Sub-Committee's action in instructing the Secretariat to circulate COMSAR.1/Circ.51/Rev.1 containing the list of NAVAREA Coordinators.

13.7 The Committee endorsed the action taken by the Sub-Committee in authorizing the Secretariat to issue future updates of the list of NAVAREA Coordinators upon receipt of changes from either a NAVAREA Coordinator or from IHO and to issue appropriate revisions to the COMSAR circular, informing the COMSAR Sub-Committee accordingly.

**ITU Maritime Radiocommunication matters**

***The seventh meeting of the Joint IMO/ITU Experts Group***

13.8 The Committee authorized the convening of the seventh meeting of the Joint IMO/ITU Experts Group, to be held at the Organization's London Headquarters, from 13 to 15 September 2011 (see also paragraph 22.52).

***IMO position on WRC-12 Agenda items concerning matters relating to maritime services***

13.9 The Committee approved the revised draft IMO position on WRC-12 Agenda items concerning matters relating to maritime services. The Committee noted that this was the final approval of the IMO position for submission to the ITU World Radiocommunication Conference, which was scheduled to take place from 23 January to 17 February 2012.

13.10 The Committee authorized the Joint IMO/ITU Experts Group, at its September 2011 meeting, to add, as appropriate, more non-contentious information in the background sections of the agenda items contained in the IMO position for WRC-12, as approved at the current session of the Committee, in order to strengthen the arguments supporting the IMO position. The Secretariat was instructed to submit the IMO position, amended as appropriate, to ITU after the meeting of the Experts Group had taken place.

**Matters concerning search and rescue, including those related to the 1979 SAR Conference and the implementation of the GMDSS**

13.11 The Committee authorized the convening of the eighteenth session of the ICAO/IMO Joint Working Group, to be held in Norway, from 3 to 7 October 2011.

**Measures to protect the safety of persons rescued at sea**

13.12 The Committee noted the outcome of discussions with regard to measures to protect the safety of persons rescued at sea and, in particular, that COMSAR 15 had:

.1 noted the progress made in the work on the development of a draft regional arrangement;

.2 in view of the ongoing work, agreed to invite MSC 89 to extend the target completion date to 2012; and

.3 concluded that the parties concerned should meet again, as early as possible, to take stock and review the situation; and eventually consider the expansion of the group to other interested parties in the light of the development of a draft regional agreement as a "pilot scheme" which, if successful, could be extended to other parts of the world experiencing the same or similar situations.

13.13 The Committee further noted document MSC 89/INF.23 (Secretariat), providing information on the progress made in the development of a draft Regional agreement on concerted procedures relating to the disembarkation of persons rescued at sea. It was also noted that the second consultation of a group of interested parties had been held under the auspices of, and chaired by, the Secretary-General on 6 April 2011 and, that the meeting had been attended by representatives from Italy, Spain and the Secretariat.

13.14 The meeting had reviewed the situation in the region; noted the loss of more than 200 lives when a vessel had capsized in the Mediterranean Sea on 6 April 2011; and had agreed that urgent action was required towards the establishment of a draft Regional agreement on concerted procedures relating to the disembarkation of persons rescued at sea. The meeting also had:

.1 reviewed the terms of reference for future meetings to consider the development of such a Regional agreement;

.2 completed a first reading and prepared the draft text for the above Regional agreement, to be used as the basis for consideration at a future meeting;

.3 agreed that, since the issue under consideration was concerning the Mediterranean region, with global dimensions, the group should be expanded to include other interested parties concerned in the region, and the next meeting should consequently be convened as a regional meeting

with relevant regional and international organizations, as early as possible after MSC 89; and

.4 agreed that consideration of the development of a Regional agreement should be restricted to purely maritime matters, in view of IMO's primary concern for the integrity of the search and rescue and, consequentially, the safety of life at sea regime.

13.15 The delegation of Malta stated that they could not attend the meeting held on 6 April 2011 and that they were not in complete agreement with the outcome of that meeting, as reflected in document MSC 89/INF.23. Malta added that while they had no difficulty with the essence of the terms of reference, in the interest of clarity and consistency the text needed to be revisited. Malta had some reservations about the expansion of the Group, particularly to international and regional organizations and to other States outside the region, but had strong reservations about the text of a first draft of a Regional Agreement they had seen which, as far as they were aware, had not been officially circulated. Malta was of the opinion that perhaps another meeting between the three States under the auspices of the Secretariat to address these issues would not be amiss, since up to now everything was still open for discussion. Malta stressed that the Committee should be aware that, while there might be some divergence of opinion on the procedure related to the disembarkation of persons rescued at sea, Italy, Spain and Malta still continued to carry out their search and rescue responsibilities and extensive activities and here there was no divergence of opinion. Search and Rescue operations in the West Mediterranean were carried out successfully on a regular basis.

13.16 The delegation of Italy thanked Malta for its availability for future meetings and reiterated its willingness to progress the development of the procedures related to the disembarkation of persons rescued at sea. Italy further stated that during COMSAR 14, it had been already made clear that the problem in the region was serious indeed and could become worse and worse and, unfortunately, what had happened, in particular, during the last few months went beyond the worst predictions. Since 1 January 2011, Italy had coordinated and carried out more than 600 SAR operations in the southern part of the Mediterranean basin [and around 34,000 persons had thus far been rescued and accepted on Italian territory]. Italy expressed the view that the Group was ready to be expanded to and involve other interested parties in the region.

13.17 The representative from UNHCR explained that developments in North Africa in the first few months of 2011, notably events in Libya, had led to the movement of hundreds of thousands of people to neighbouring countries and also across the Mediterranean, often in unseaworthy vessels. UNHCR's statistics indicated that since February 2011, some 700,000 people, Libyans and other nationalities, had departed from the Libyan Arab Jamahiriya alone. To date, 14,000 people had arrived by boat in Italy and Malta from Libyan Arab Jamahiriya. The UNHCR expressed its concerns about the very high number of casualties, which had recently occurred in the Mediterranean. Based on accounts from survivors and family members, over 1,200 people were still unaccounted for since 25 March 2011. The UNHCR representative also urged States to strengthen the rescue at sea regime in the Mediterranean through early initiation of Search and Rescue operations, better coordination and information sharing. It welcomed the efforts of the Secretary-General and interested countries to work towards the establishment of a regional agreement and declared its readiness to do whatever it could within its protection mandate, to assist and contribute to a successful outcome of the process.

13.18 The delegation of Spain stated that it had actively participated in the meetings held so far to find a solution to this problem and reiterated its readiness to co-operate and continue working on this issue at future meetings.

13.19 The Director of the Maritime Safety Division, speaking on behalf of the Secretariat, explained that significant progress had thus far been made under the auspices of the Secretary-General. The IMO Secretariat wished to proceed working on this matter with all three countries involved, taking into account the views expressed, and would give careful consideration as to how to move forward.

**Development of standards for Inmarsat equipment**

13.20 The Committee agreed to recommend to the Assembly, at its twenty-seventh session, to revoke resolution A.570(14), since the recommendations in that resolution were now incorporated into the recommendations contained in the performance standards disseminated by resolutions A.807(19), MSC.130(75) and MSC.306(87).

13.21 In considering the matter of LRIT shipborne equipment not operating within the LRIT system in accordance with the provisions of SOLAS regulation V/19-1 and the revised performance standards, the Committee recalled that MSC 88 had invited IEC to consider the issue of the type approval of LRIT shipborne equipment and report its findings to the COMSAR Sub-Committee for consideration. The Committee noted that it had dealt with the matter of LRIT shipborne equipment under agenda item 6 (see paragraphs 6.27 to 6.29).

**LSA Code amendment concerning lifeboat exterior colour**

13.22 The Committee recalled that MSC 87, in considering draft amendments to the LSA Code clarifying the phrase "highly visible colour" in relation to the lifeboat exterior colour, had noted the view of the observer from CLIA, supported by several other delegations, that yellow was a comparably highly visible colour, as required by the current provisions of paragraph 1.2.2.6 of the LSA Code. It was further recalled that they were opposing a draft amendment to paragraph 1.2.2.6, prepared by DE 53, proposing an amendment to the LSA Code to restrict the lifeboat exterior colour to international or vivid reddish orange only.

13.23 The Committee recalled also that MSC 87 had, consequently, decided to refer the proposed LSA Code amendments to COMSAR 15 for detailed technical consideration and advice before the Committee considered and approved them with a view to subsequent adoption.

13.24 The Committee noted that COMSAR 15 had considered document COMSAR 15/15/2 (United States), providing information on a "Field Study of Detectability of Colored Targets at Sea" conducted by the United States Naval Medical Research Laboratory in 1955, and that, the majority of the delegations who spoke on this issue at COMSAR 15, were of the view that the study presented by the United States was outdated and that a new study was needed, taking into account present circumstances. Views were also expressed that there was no evidence that life-saving equipment had not been located for lack of visible colour; no compelling need was demonstrated for such a change of the LSA Code; and it would not be advisable to make any hasty decisions on an issue of such severity and financial impact for the shipping industry.

13.25 The Committee noted further that COMSAR 15, taking into account the information provided by the observer of IACS, informing that they had developed a unified interpretation for the expression "or a comparably highly visible colour" in this context, had concluded that

the proposed amendment to the LSA Code was not justified and invited the Committee to take appropriate action.

13.26 Having considered the above views, the Committee decided to:

.1 not approve the proposed amendment to paragraph 1.2.2.6 of the LSA Code; and

.2 instruct the DE Sub-Committee to reconsider the IACS unified interpretation, which had been brought to the attention of DE 53 by document DE 53/17 (IACS), and develop an MSC circular, as appropriate, under its existing agenda item "Development of a new framework of requirements for life-saving appliances".

**ESTABLISHMENT OF REGIONAL MRCCS**

**Establishment of Regional MRCCs in Africa**

13.27 The Committee noted that the final link in the chain of sub-regional MRCCs around Africa's coast had been completed on 3 March 2011 with the signing, in the presence of representatives from Cape Verde, the Gambia, Guinea-Bissau, Mauritania, Morocco and Senegal, of an *ad hoc* multi-lateral co-operative agreement on the North and West African sub-regional MRCC, which established a new Regional MRCC in Morocco, with its associated sub-centres in the other participating countries.

13.28 Subsequently, together with the competent Moroccan Minister and Ministers of the participating regional countries, the Secretary-General had commissioned the Regional MRCC in Rabat, which, together with the Regional MRCCs already established in Mombasa, Cape Town, Lagos and Monrovia, completed the network of Regional MRCCs in Africa, as recommended by the 2000 Florence Conference. The Florence Conference had proposed a regional approach to the provision of search and rescue services in western, southern and eastern parts of Africa in countries selected for their strategic location.

13.29 The delegation of Senegal confirmed that Senegal had not signed the *ad hoc* multi-lateral co-operative agreement on the North and West African sub-regional MRCC. They were of the view that the outcome of the Lagos Sub-Regional Conference on Maritime Search and Rescue (8-10 October 1991) had not been fully respected, which had dedicated a search and rescue region (SRR) under the coordination of Senegal. Senegal had expressed their readiness to keep the operational coordination of that SRR also under the arrangements made pursuant to the outcome of the 2000 Florence Conference, as laid down in the *ad hoc* multi-lateral co-operative agreement. Senegal was of the opinion that their views had not been fully taken into account in the completion of the agreement.

13.30 The delegation of Morocco expressed the view that the *ad hoc* multi-lateral co-operative agreement on the North and West African sub-regional MRCC was fully in line with the outcome of the 2000 Florence Conference. The Secretary-General had inaugurated the Regional MRCC in Morocco, thus completing the establishment of all five regional centres along the African coast, as agreed at the Florence Conference. Morocco further informed the Committee that the Rabat MRCC was well equipped and prepared to provide SAR services for the whole area under its responsibility.

**Establishment of Regional MRCCs in Central America**

13.31 The Committee recalled that COMSAR 4, held in July 1999, had identified East and West Africa and some parts of Asia and the Pacific, Central and South America and the Mediterranean region as being the areas mainly lacking SAR and GMDSS facilities. COMSAR 4 had agreed that, in considering any action to be taken, priority should be given to the African regions first and to the other regions later, in accordance with the outcome of assessments. It was noted the MSC 72, held in May 2000, had endorsed this approach.

13.32 In the above context, the Committee considered document MSC 89/13/1 (Secretariat), requesting the Committee's approval to develop a technical co-operation project for the establishment of two Regional MRCCs and five associated sub-centres in Central America for search and rescue coordination purposes.

13.33 The Committee noted that, following the establishment of the five Regional MRCCs in Africa and the ongoing work on the establishment of associated sub-centres in that region, the Secretariat had recently explored the possibilities to extend the implementation of the concept of the regional approach, by establishing Regional MRCCs and sub-centres in other regions. It had become evident that the Central America region needed urgent attention. Although limited SAR and GMDSS Services were available in several countries in the region, no relevant information had been provided to the Organization for inclusion in the Global SAR Plan (SAR.8 circular) and the GMDSS Master Plan (GMDSS.1 circular). Furthermore, none of the seven countries concerned (Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) had so far ratified the SAR Convention.

13.34 The Committee noted further that, if it was to agree to the desirability of addressing the adequacy of an appropriate SAR infrastructure in Central America, a first step would be the organization, preferably towards the latter part of 2011, of a series of needs assessment and evaluation missions on the availability of SAR and GMDSS facilities to all the seven aforementioned Central American countries concerned. Following these missions, a decision could be made as to which two countries (one on the Pacific and one on the Caribbean side) should be hosting the Regional MRCC and which countries would need to establish associated sub-centres.

13.35 The Committee noted also that available ITCP Funds could be used for undertaking the proposed needs assessment and evaluation missions. Further follow-up action would involve development of a relevant project proposal including identification and mobilization of funds from the International SAR Fund to undertake the resulting proposed technical assistance activities.

13.36 The delegation of Chile expressed its support for the proposed project and explained that, in 2002, it had signed a Memorandum of Understanding (MoU) with the Organization for the provision of Technical Co-operation for Latin American countries relating to any matters within the scope of the Organization. This MoU had been amended in 2005 with the aim of introducing the Global SAR Plan to all IMO Member States. Under the terms of the current MoU, Chile offered all human, material, technical and technological resources available, through its maritime authority, to implement the technical co-operation project aimed at the establishment of two Regional MRCCs and five associated sub-centres in Central America.

13.37 All delegations that spoke on this subject supported the proposed project, recognizing the urgent need for the establishment of appropriate SAR and GMDSS facilities in the region. The offer of Chile to provide the necessary assistance was very much

appreciated. Some other delegations also offered to provide technical assistance to implement the project.

13.38 Following debate, the Committee approved the development of a technical co-operation project aimed at the establishment of two Regional MRCCs and five associated sub-centres in Central America for search and rescue coordination purposes and requested the Secretariat to take action accordingly.

#### SAR EDUCATION AND TRAINING

13.39 The delegation of Mexico informed the Committee that, on 8 April 2011, it had inaugurated new facilities for SAR education and training in Acapulco.

13.40 The delegation of Malta reminded the Committee that, thanks to the ongoing large financial and technical support from the United States Coast Guard, Malta was continuing to provide technical co-operation in terms of SAR education and training on a regular basis to a number of countries.

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

#### DEVELOPMENTS CONCERNING TECHNICAL CO-OPERATION ACTIVITIES

### Progress report on TC activities

14.1 The Committee noted the information provided by the Secretariat in document MSC 89/14 on the safety-, security- and facilitation-related activities implemented for the period October 2010 to March 2011 and those planned activities for the rest of 2011 under the Integrated Technical Co-operation Programme (ITCP) for the biennium 2010-2011.

14.2 The Committee urged Governments and industry to contribute to the technical co-operation programme, with special donations to the SAR fund to enable the project to be completed successfully, and requested the Secretariat to continue providing the Committee with updated information on the programme.

### Technical activities undertaken by IHO in coordination with IMO

14.3 The Committee noted the information provided in document MSC 89/INF.10 (IHO), which focused on the enhancement of coordination of training activities and the sharing of resources to strengthen the capabilities of developing countries to comply with SOLAS regulation V/9 on the provision of hydrographical services. The document also provided information on the activities conducted between 2008 and 2010 and those planned for 2011 in collaboration with IMO and proposed a number of similar activities to be included in the 2012-2013 ITCP.

14.4 Whilst appreciating the information provided and the efforts of IHO towards the safety of navigation, the Committee requested the Secretariat to forward the above document to the Technical Co-operation Committee for its information and consideration in developing the ITCP for the 2012-2013 biennium.

#### IMO MODEL COURSE PROGRAMME

14.5 The Committee noted the information in document MSC 89/14/1 (Secretariat) that one new model course 3.22 on flag State implementation has been published, 35 model

courses had been translated into French and 38 into Spanish, of which 32 have been published in French and 35 in Spanish. The Committee requested the Secretariat to continue its follow-up activities and provide an updated report to MSC 90.

## 15 CAPACITY-BUILDING FOR THE IMPLEMENTATION OF NEW MEASURES

### General

15.1 The Committee recalled that, in accordance with the provisions of paragraph 2.11-1 of the Guidelines on the organization and method of work of the MSC and the MEPC and their subsidiary bodies (MSC-MEPC.1/Circ.2, as amended), the Committee should assess the implication for capacity-building and technical co-operation and assistance, initiated at the acceptance of a proposal for the work programme item (output) concerning new, or amendments to existing, mandatory instruments, against the criteria for identification of capacity-building implications.

15.2 The Committee recalled also that, at its eighty-eighth session (MSC 88/26, paragraph 15.6), it had requested the Vice-Chairman of the Committee, in consultation with the Chairman and assisted by the Secretariat, to submit to MSC 89, a preliminary assessment and, if relevant, a draft post-assessment of mandatory instruments approved at MSC 87 and at MSC 88, together with a preliminary assessment of the unplanned outputs related to mandatory instruments approved at MSC 88.

### Assessment of capacity-building implications for the implementation of new measures

15.3 The Committee considered document MSC 89/15 (Vice Chairman), providing the preliminary assessment of capacity-building implications for the amendments to mandatory instruments approved at MSC 87 and MSC 88 and the unplanned outputs related to mandatory instruments approved at MSC 88, which was prepared to assist the Committee in the consideration of capacity-building for the implementation of new measures in pursuance of the request of MSC 88, and agreed that the *Ad Hoc* Capacity-building Needs Analysis Group (ACAG) should be established to consider the preliminary assessment.

### Establishment of the ACAG

15.4 The Committee established the ACAG, under the chairmanship of the Vice-Chairman of the Committee (Mr. C. Breinholt), and instructed it, taking into account comments, proposals and decisions made in plenary, to:

.1 make an assessment of the capacity-building actions that may include technical assistance or technical co-operation required by Administrations and/or the shipping industry for the implementation of the amendments to the instruments; and

.2 advise the Committee of the implications for capacity-building relating to the proposed amendments to existing instruments.

### Report of the ACAG

15.5 Having considered the report of the ACAG (MSC 89/WP.9), the Committee approved it in general and took action as set out in paragraphs 15.6 to 15.8.

***Improvement of the assessment process***

15.6 The Committee agreed that future assessments to the Committee should include recommendations of the way forward. In particular, the Vice-Chairman, after assessing the capacity-building implications for each item, should:

.1 indicate if there were no capacity-building needs, or

.2 indicate if there were capacity-building needs and, if possible, specifically address whether there is any need for guidelines to be developed by a sub-committee and/or any need for technical assistance.

***Implications related to the amendments to the International Convention for Safe Containers (CSC), 1972***

15.7 The Committee noted that the preliminary assessment indicated that Administrations and industry would need to provide equipment and financial and human resources to ensure that the latest amendments to the International Convention for Safe Containers (CSC), 1972, as amended, would be fully implemented. In this regard, the Committee, noting that the amendments had been adopted during MSC 88 and were due to enter into force on 1 January 2012, invited the Technical Co-operation Committee to consider including a training programme for implementation of the 1972 CSC in the ITCP, with a view to further consolidation of the programme with the currently available training on cargo transport units (CTUs).

***Preliminary assessment for MSC 90***

15.8 The Committee requested the Vice-Chairman, in consultation with the Chairman and assistance of the Secretariat, to submit, to MSC 90, a preliminary assessment of the amendments to mandatory instruments and the new outputs related to mandatory instruments, approved at the session.

## 16 FORMAL SAFETY ASSESSMENT

**General**

16.1 The Committee recalled that MSC 87 had established a Correspondence Group on Formal Safety Assessment (FSA) and instructed it to prepare the draft revisions of the FSA Guidelines (MSC/Circ.1023-MEPC/Circ.392) and the Guidance on the use of HEAP and FSA (MSC/Circ.1022-MEPC/Circ.391, as amended by MSC-MEPC.2/Circ.6), for submission to this session.

16.2 The Committee also recalled (MSC 89/16) that MSC 88 had agreed that the amendments to the aforementioned Guidelines and Guidance should be further considered by a joint GBS/FSA Working Group, to be established at this session.

16.3 The Committee further recalled that MSC 88 had established an FSA Experts Group, which met prior to this session, on 9 and 10 May 2011, to review the FSA studies on general cargo ship safety submitted by IACS to previous sessions of the Committee and submit a report to MSC 89.

16.4 The Committee agreed to consider the report of the FSA Experts Group (MSC 89/WP.3) under agenda item 17 (General cargo ship safety) (see paragraph 17.3).

**Amendments to FSA-related guidelines and guidance**

16.5 The Committee considered the report of the FSA Correspondence Group (MSC 89/16/1), containing amendments to the FSA Guidelines and the Guidance on the use of HEAP and FSA, together with a list of discussion points and suggestions for further consideration, noting that the matter of the cost/benefit indicator for environmental issues was still under consideration by the MEPC. In this connection, the Chairman of the FSA Experts Group (Mr. K. Yoshida) verbally reported on the group's recommendation (MSC 89/WP.3, paragraph 17) that the FSA Guidelines should be amended to strengthen the feedback from steps 3 to 1 and to include consideration of the application of the recommended measures in the final recommendations (step 5). He also reported the group's recommendation that future FSA studies should more fully take into account the role of the human element.

16.6 The Committee noted document MSC 89/INF.12 (United States), providing information on the use of expert judgment and expert elicitation (requirement gathering) which could be useful to Member Governments and/or organizations that plan to conduct an FSA or are currently working on one.

**Instructions for the GBS/FSA Working Group**

16.7 Following discussions, the Committee instructed the GBS/FSA Working Group, established under agenda item 5 (see paragraph 5.6), taking into account the comments made and decisions taken in plenary, and based on the report of the correspondence group (MSC 89/16/1), to:

.1 finalize the draft revised Guidelines for Formal Safety Assessment (FSA) for use in the IMO rule-making process (MSC/Circ.1023 – MEPC/Circ.392, as amended);

.2 finalize the draft revised Guidance on the use of human element analysing process (HEAP) and Formal Safety Assessment (FSA) in the IMO rule-making process (MSC/Circ.1022 – MEPC/Circ.391, as amended by MSC-MEPC.2/Circ.6); and

.3 consider whether it is necessary to re-establish the correspondence group and, if so, advise the Committee as appropriate.

**Report of the GBS/FSA Working Group**

16.8 Having considered the part of the report of the GBS/FSA Working Group (MSC 89/WP.7) dealing with the agenda item, the Committee took action as indicated hereunder.

16.9 With regard to the revision of the FSA Guidelines and the Guidance on the use of HEAP and FSA, the Committee endorsed, in principle, the draft amendments to the FSA Guidelines set out in annex 2 of document MSC 89/WP.7 and noted that other matters would need to be further considered.

16.10 The Committee also endorsed the group's recommendation that the amendments to the FSA Guidelines and the Guidance on the use of HEAP and FSA, once approved, should be issued as consolidated texts in lieu of issuing just the amendments to the above circulars.

**Re-establishment of the correspondence group**

16.11 Subsequently, the Committee agreed to re-establish the Correspondence Group on Formal Safety Assessment, under the coordination of Japan*, and instructed it, taking into account the comments made and decisions taken by the Committee, based on documents MSC 89/16/1 and MSC 89/WP.7, to:

.1 prepare draft amendments to the FSA Guidelines (MSC/Circ.1023 – MEPC/Circ.392, as amended);

.2 prepare draft amendments to the Guidance on the use of HEAP and FSA relating to the review of FSA studies (MSC/Circ.1022 – MEPC/Circ.391, as amended by MSC-MEPC.2/Circ.6); and

.3 submit the report to MSC 90 (see also paragraph 17.8).

## 17 GENERAL CARGO SHIP SAFETY

**General**

17.1 The Committee recalled (MSC 89/17) that MSC 88 had agreed that relevant documents submitted by IACS to previous sessions regarding their FSA studies on general cargo ship safety should be reviewed by the FSA Experts Group with a view to providing advice to the Committee, for further consideration at this session. The Committee noted that the group met on 9 and 10 May 2011 and its report has been circulated under the symbol of MSC 89/WP.3.

17.2 The Committee also noted that document MSC 89/17/1 (Argentina), proposing the development of an extended survey system for general cargo ships to take into account age and condition, in endorsing one of the cost-effective risk control options proposed by IACS, and also proposing to take measures to strengthen ship maintenance responsibilities, including specific actions in the context of implementing the SMS and ship survey requirements, had been considered by the FSA Experts Group.

**Report of the FSA Experts Group**

17.3 Having considered the report of the FSA Experts Group (MSC 89/WP.3), the Committee approved it in general and took action as indicated in paragraphs 17.4 to 17.7.

***Review of the FSA study submitted by IACS***

17.4 The Committee endorsed the group's review of the IACS FSA study on General Cargo Ship Safety, in particular regarding the group's agreement that the study was in line with the FSA Guidelines.

---

* **Coordinator:**
Mr. Koichi Yoshida
Director, Centre for International Cooperation
National Maritime Research Institute (NMRI)
6-38-1 Sinkawa, Mitaka,
Tokyo 181-0004, Japan
Tel: +81 422 41 3615
Fax: +81 422 41 3247
E-mail: koichiy@nmri.go.jp
Website: www.nmri.go.jp

17.5 In this regard, the observer from IACS stated that, in relation to the group's finding that the FSA study mainly focused on consequences of accidents rather than analysing root causes, considerable effort was made in its study to perform a very comprehensive analysis of accidents, utilizing a number of databases (including GISIS) and, in its report of step 2, a high-level fault tree that shows the relation between accident categories and their initiating events is documented; and reiterated that comprehensive and accurate reporting by Administrations to GISIS is essential to support FSA studies, which are recognized as providing an important input to the Organization's decision-making process, and should continue to be strongly encouraged.

***Final recommendations in the FSA study***

17.6 With regard to the group's view on the final recommendations in the FSA study on general cargo ship safety, in particular that some RCOs (risk control options) should be further considered by relevant sub-committees (MSC 89/WP.3, paragraphs 18 to 20), some delegations expressed concerns that the recommended RCOs were not clear enough for detailed consideration by sub-committees and needed justifications based on the Guidelines on the organization and method of work, whereas other delegations supported that those RCOs should be forwarded to relevant sub-committees for further consideration.

17.7 The Committee, noting the additional explanation by the Chairman of the FSA Experts Group that the detailed information was provided in relevant documents (MSC 89/WP.3, paragraph 3), in particular in documents MSC 88/INF.6 and MSC 88/INF.8 (IACS), recognized the need to further consider the matter under the current agenda item on General cargo ship safety and agreed that the GBS/FSA Working Group should consider the recommended RCOs in detail at MSC 90 (see paragraph 22.54.2).

17.8 The Committee also agreed to instruct the FSA Correspondence Group, established under item 16 (see paragraph 16.11), to further consider the recommended RCOs in the IACS FSA study on General Cargo Ship Safety, based on documents MSC 88/19/2, MSC 88/INF.6, MSC 88/INF.8, MSC 87/20/1, MSC 87/INF.3, MSC 87/INF.4, MSC 86/INF.4 and MSC 85/19/1 and taking into account document MSC 89/17/1, and advise the Committee, in particular regarding their further consideration by relevant sub-committees.

17.9 Subsequently, the Committee invited Member Governments and international organizations to submit comments and proposals to the next session under this agenda item.

## 18 PIRACY AND ARMED ROBBERY AGAINST SHIPS

### General

18.1 Prior to the initial consideration of this agenda item, the Secretary-General addressed two issues raised in Circular letter No.3164 on "Responding to the scourge of piracy": firstly, the need for full compliance with best management practices; and, secondly, the need for more assets to support under-resourced navies. The Committee noted that the Secretary-General had written letters to Baroness Ashton of the European Union and Secretary-General Rasmussen of NATO on the need for greater support to navies, and also noted his appeal to all Member Governments to spare no effort in providing more assets to the region for the protection of seafarers and the safeguarding of vital shipping lanes.

**Statistical information**

18.2 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 circular series.

18.3 The Committee also recalled that, since June 2001 and in accordance with the instructions of MSC 74, the MSC.4 circulars reporting on acts of piracy and armed robbery differentiate (in separate annexes) acts of piracy and armed robbery actually "committed" from those "attempted".

18.4 The Committee noted the information contained in document MSC 89/18 (Secretariat), in particular that the number of acts of piracy and armed robbery against ships reported to have occurred during 2010 was 489 against 406 during 2009, representing an increase of 20.4% from the figure for 2009. In the first four months of 2011, 214 incidents were reported to the Organization.

18.5 The Committee also noted that during the period under review (i.e. 1 January 2010 to 31 December 2010), it emerged that the areas most affected (i.e. five incidents reported or more) in 2010 were East Africa and the Indian Ocean as well as the Far East and, in particular, the South China Sea, followed by West Africa, South America and the Caribbean. Over the period under review, the number of acts reported to have occurred, or to have been attempted, in East Africa decreased from 222 to 172; however, the number of incidents in the Indian Ocean increased from 27 to 77 and in the Arabian Sea the number increased from two (2) to 16, largely as a result of Somalia-based piracy. The number of incidents in the South China Sea increased from 77 to 134. The areas less affected were South America, where the number of incidents increased from 36 to 40, and West Africa, with an increase from 46 to 47 reported incidents. Three reported attacks occurred in the Malacca Strait, compared with two (2) reported for 2009. Most of the attacks worldwide were reported to have occurred or to have been attempted outside of coastal States' territorial waters. In many of the reports received, the crews were violently attacked by groups of five (5) to 10 people carrying knives or guns.

18.6 The Committee expressed its concern that, in many of the reports received, the crews had been violently attacked, at least two (2) crew members had been killed and at least 30 crew members were reportedly injured/assaulted. About 1,027 crew members were reportedly taken hostage/kidnapped and 57 ships were reportedly hijacked, largely off the coast of Somalia.

18.7 The Committee urged, once again, all Governments and the industry to intensify and coordinate their efforts to eradicate piracy and armed robbery against ships.

18.8 The Committee noted that despite numerous requests at previous sessions of the Committee, the Secretariat still receives very few, if any, reports from Member Governments on action taken with regard to incidents reported to have occurred in their territorial waters. Therefore, the Committee reiterated the urgent need for all Governments to provide the Organization with the information requested.

18.9 The Committee recalled that, at MSC 88, the Secretariat had advised of its intention to open a "piracy and armed robbery against ships" module on the Global Integrated Shipping Information System (GISIS) in order to improve the timeliness of reporting of incidents and to enable users to generate their own search criteria and produce customizable reports. The Committee noted that details of all incidents of piracy and armed robbery against ships that have been reported to the Organization since 1994 are recorded in the

Piracy and armed robbery against ships database within GISIS (http:\\gisis.imo.org). This database is now configured for public, read-only access and is searchable. Reports can be compiled in GISIS directly by Member States and registered public users. These reports can now include follow-up information, for example, dates of release of hijacked ships.

18.10 The Committee noted that monthly reports under the MSC.4 series of circulars would continue to be issued; however, given that the new functionality in GISIS allowed for user-defined piracy reports, the Committee agreed that the practice of publishing quarterly summaries was no longer warranted.

**Activities of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia Information Sharing Centre (ReCAAP-ISC)**

18.11 The Committee recalled that ReCAAP-ISC was an ongoing contributor to the IMO piracy reports, and regularly provided updates on the achievements of the ReCAAP-ISC and the work done in co-operation with IMO. In this regard, the Committee noted the information provided in documents MSC 89/INF.18 and MSC 89/INF.19 (ReCAAP-ISC) with respect to RECAAP-ISC activities, in particular: the situation of piracy and armed robbery against ships in Asia; ReCAAP's capacity-building activities; the outcome of the investigation of the hijacking of the tug **Atlantic 3**, the hijacking of which was reported to MSC 88; and a new case study on the attempted hijacking of the tanker **MT Chios** on 5 February 2011, which demonstrated the concerted efforts by the Indian authorities in combating and suppressing incidents of piracy carried out by Somali pirates in the Arabian Sea overlapping India's area of responsibility. The Committee also noted the commitment of ReCAAP-ISC to share information with information sharing centres established under the Djibouti Code of Conduct.

**Reports on initiatives to suppress piracy and armed robbery**

***Action by the Secretariat***

18.12 The Committee noted documents MSC 89/18/2, MSC 89/18/2/Add.1 and MSC 89/INF.25 (Secretariat) reporting on the actions taken by the Secretariat since MSC 88, pursuant to the repression of piracy and armed robbery against ships in waters off the coast of Somalia and in the context of the 2011 World Maritime Day theme: "Piracy: orchestrating the response". Key actions had included: the development of the Action Plan to promote the 2011 World Maritime Day theme; the issuing of Circular letter No.3164; the continued implementation of the Djibouti Code of Conduct; participation in meetings of the Contact Group on Piracy off the coast of Somalia; and a range of meetings held at IMO, including one between representatives of naval forces and countries that participate in the anti-piracy campaign off the coast of Somalia by making available naval assets and military aircraft, representatives of the shipping industry and the Secretariat, held at IMO Headquarters on 28 February 2011.

18.13 The Committee considered the issue of coordination of efforts by naval forces and how this could be enhanced. Some delegations suggested that there would be merit in operating warships under a unified United Nations command structure. In this context, the Committee noted that one of the conclusions of the 28 February meeting had been that the existing Shared Awareness and Deconfliction (SHADE) mechanism worked by consensus, was effective, and should be supported. Other delegations questioned whether a UN command would be any more effective in coordinating the efforts of ships operating counter-piracy controls with national convoys.

18.14 The Committee noted the view that the escorting of ships chartered by the World Food Programme (WFP) to deliver humanitarian aid to Somalia was resource intensive for naval forces, given the small size of the ships being chartered. The Secretary-General undertook to write to the Executive Director of the WFP to see if larger ships could be chartered.

***Outcome of the IMO Legal Committee***

18.15 The Committee noted that LEG 98 had met from 4 to 8 April 2011, and had addressed a number of piracy-related issues under its agenda item 8 on Piracy which were of relevance to the Committee. The Committee also noted that the report of LEG 98 would be issued in due course under the symbol LEG 98/14.

18.16 In this regard, the Committee noted that, in addition to receiving information on the work carried out by Working Group 2 of the Contact Group on Piracy off the Coast of Somalia, (CGPCS), LEG 98 had agreed that it was a priority for States to have suitable legislation in place for prosecution of pirates, based on UNCLOS and customary international law. To aid in the review of national legislation on piracy, the UN Division for Ocean Affairs and the Law of the Sea (UN-DOALOS) had prepared documents describing piracy-related elements based on UNCLOS; the IMO Legal Office had prepared a document describing elements of the SUA Convention which could complement the piracy provisions of UNCLOS; and the UN Office on Drugs and Crime (UNODC) had prepared a document with an overview of conventions within its competence which might relate to piracy and related crimes, such as hostage taking. The Committee noted that these documents are available on the IMO website and will also be issued, in due course, under cover of an IMO Circular letter. It was also noted, however, that the aforementioned documents do not purport to constitute definitive interpretations of the instruments referred to therein and do not, in any way, limit the possible interpretations by States Parties of the provisions of those instruments.

***Contact Group on Piracy off the coast of Somalia (CGPCS)***

18.17 The Committee noted that, since MSC 88, the CGPCS and its working groups had met on a number of occasions, in particular:

.1 Working Group 1 (civil/military co-operation and technical assistance) had met at IMO Headquarters on 17 February 2011;

.2 Working Group 2 (legal matters), had met in Copenhagen on 2 and 3 November 2010 and 3 and 4 March 2011;

.3 Working Group 3 (seafarer guidance) had met in Washington DC on 28 February 2011; and

.4 the Eighth Plenary session of the CGPCS was held in New York on 21 March 2011.

18.18 In considering the report of the Chairman of Working Group 3, as set out in document MSC 89/INF.16 (United States), the Committee noted the summary reports of the meetings of Working Groups 1 and 2; and further noted that Working Group 3 had agreed to conduct intersessional work to design a framework into which BMPs and other counter-piracy guidance could be incorporated that readily related to implementation of the ISPS Code. Working Group 3 had also agreed to work intersessionally to develop guidelines for the employment of armed security teams.

***The United Nations Security Council***

18.19 The Committee noted that since MSC 88, the United Nations Security Council had adopted three resolutions with respect to the situation in Somalia:

.1 resolution 1964 (2010), adopted on 22 December 2010, which extends the mandate of the African Union military mission in Somalia (AMISOM);

.2 resolution 1972 (2011), adopted on 17 March 2011, which, *inter alia*, reaffirms the arms embargo on Somalia and stresses the need for non-politicized humanitarian aid to Somalia; and

.3 resolution 1976 (2011), adopted on 11 April 2011, addressing a number of issues related to the issue of piracy within the context of the need for good governance, the rule of law and sustainable economic development in Somalia; stressing the need for prosecution of pirates; calling for funding for the Djibouti Code of Conduct and other counter-piracy trust funds; and recognizing the value of the Best Management Practices.

**Development of guidance to shipowners, masters and crews with respect to the investigation of piracy and armed robbery against ships**

18.20 The Committee recalled that at MSC 88, it noted that the International Chamber of Commerce (ICC) had undertaken work to produce guidance for ships' masters on the handling of evidence after a piracy attack had been completed, which was targeted predominantly at investigative officers. During the ensuing discussions on the proposed guidance, which some delegations welcomed as an excellent supplement to resolution A.1025(26) and which other delegations considered to be overly complex, MSC 88 had requested ICC to resubmit the proposal to MSC 89 as a document rather than as an information document, and invited Member States and other interested parties to review the proposals and guidance contained therein with the aim of providing comments to MSC 89.

18.21 In considering the resubmitted and updated proposals, as contained in document MSC 89/18/9 (ICC), for guidelines for the investigators of flag States and other authorities who are tasked with boarding vessels that have been released after prolonged captivity, in order to assist them in the collection of evidence, intended as a supplement to resolution A.1025(26), the Committee discussed whether the IMO was the correct forum to develop guidance for States on the investigation of piracy offences. In this regard, the Committee noted that the Assembly had adopted, in 2001, the predecessor to resolution A.1025(26) and that this new proposed guidance was intended as a supplement to resolution A.1025(26). The Committee further deliberated on whether any guidance on investigations should be for seafarers (as proposed by ICC at MSC 88, but which had not been supported) or for States (as proposed by ICC to MSC 89).

18.22 The Committee noted that CGPCS Working Group 2 was also developing guidance on the investigation of offences and that duplication of effort should be avoided. In this regard, the Committee noted the views of some delegations that, as this work was an extension of an Assembly resolution, any duplication was being done in the CGPCS.

18.23 Having noted the divergence of views, the Committee referred the proposals to the MSPWG for detailed review and advice on how best to proceed.

**Development of guidance with respect to the use of armed security personnel on board ships**

18.24 The Committee recalled that the Organization's current guidance on the carriage of firearms on board merchant ships is detailed in paragraphs 4 to 8 of the Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships (MSC.1/Circ.1333); and in paragraphs 59 to 64 of the Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships (MSC.1/Circ.1334).

18.25 The Committee noted that the salient points of the guidance contained in MSC.1/Circ.1333 and the corresponding sections of MSC.1/Circ.1334 included the following:

.1 "For legal and safety reasons, flag States should strongly discourage the carrying and use of firearms by seafarers for personal protection or for the protection of a ship" (MSC.1/Circ.1333, paragraph 5);

.2 "The use of unarmed security personnel is a matter for individual shipowners, companies, and ship operators to decide" (MSC.1/Circ.1333, paragraph 6);

.3 "The use of privately contracted armed security personnel on board ships may lead to an escalation of violence. The carriage of such personnel and their weapons is subject to flag State legislation and policies and is a matter for flag States to determine in consultation with shipowners, companies and ship operators, if and under which conditions this will be allowed. Flag States should take into account the possible escalation of violence which could result from carriage of armed personnel on board merchant ships, when deciding on its policy" (MSC.1/Circ.1333, paragraph 7); and

.4 "The use of military, or law enforcement officers duly authorized by the Government of the flag State to carry firearms for the security of the ship is a matter for the flag State to authorize in consultation with shipowners, companies, and ship operators. Flag States should provide clarity of their policy on the use of such teams on board vessels entitled to fly their flag" (MSC.1/Circ.1333, paragraph 8).

18.26 The Committee considered six documents outlining a range of proposals in relation to the use of armed security personnel on board ships: documents MSC 89/18/1 (Cook Islands); MSC 89/18/5 (Philippines, Singapore, BIMCO and ICS); MSC 89/18/6 (Liberia); MSC 89/18/7 (Bahamas and Marshall Islands); MSC 89/18/10 (BIMCO); and MSC 89/18/11 (IPTA). The Committee also noted that the Secretariat (MSC 89/INF.21) had submitted copies of the International Code of Conduct for Private Security Service Providers (ICoC), which was completed in October 2010 and which built upon the 2008 "Montreux Document", a joint initiative by the Swiss Government and the International Committee of the Red Cross, as both documents had been cited in the above-mentioned six documents.

18.27 The Committee noted that the Cook Islands (MSC 89/18/1) proposed that the deployment of privately contracted armed security personnel on board merchant ships and fishing vessels was a matter for a flag State to determine in consultation with shipowners, operators and companies, and the development of guidelines to regulate such personnel should not be viewed as an endorsement by the Organization of the use of such personnel or interpreted as supporting self regulation by the security industry.

18.28 The Committee also noted that the Philippines, et al., (MSC 89/18/5) proposed that the Committee should discuss the need for the development of guidance, for shipowners and ship operators, on the employment of private armed security service providers on board their ships, to deter and counter piracy in the Gulf of Aden, the Western Indian Ocean and the Arabian Sea. The co-sponsors supported the use of existing IMO guidance as a first resort but proposed the development of further guidelines where flag States permitted the carriage of armed guards. The emphasis was therefore on developing guidance for the industry, rather than for Governments.

18.29 Liberia (MSC 89/18/6) proposed that the Committee should establish guidelines, for shipowners and ship operators, on the use of armed security personnel on board ships, to deter and counter piracy in the High Risk Area. The Liberian Maritime Regulation provides that the ship's master has full responsibility for the safety of the members of the crew and passengers; and has overriding authority and discretion to take whatever action he or she deems necessary to exercise that responsibility, including permitting the use of armed security personnel or allowing armed personnel from an escorting military vessel to board the vessel when transiting the high risk waters of the Gulf of Aden or when operating off the Coast of Somalia and in the Indian Ocean.

18.30 The Bahamas and the Marshall Islands (MSC 89/18/7) sought a constructive discussion on whether or not to recognize the use of armed security services aboard vessels, and if so decided, in what acceptable manner; and proposed that the IMO Legal Affairs and External Relations Division (LED) provide advice on legal issues particularly those relating to liability with respect to the use of military Vessel Protection Detachments (VPDs).

18.31 In response to the request of the Bahamas and the Marshall Islands for the assistance of LED on the issue of legal arrangements for the carriage of VPDs, including terms of reciprocity on liability issues meant to protect the vessel operator, master and crew when VPDs are deployed aboard their vessel, the LED Director, gave a preliminary briefing on the issue, the text of which was circulated, with a copy of a general template of an EUNAVFOR VPD agreement, and at the request of the Committee, as contained in document MSC 89/INF.27 (Secretariat).

18.32 During the briefing, the Committee noted, *inter alia*, the following general points:

.1 there are clearly many scenarios in which liability issues may potentially arise, for example, injury to or death of a crew member or passenger (where the ship is a cruise ship or a cargo ship carrying passengers) caught in the cross-fire during a piracy-related incident; injury to or death of a member of the VPD during such an incident; as well as damage to the ship itself or to cargo or property on board the ship, which might belong to a variety of owners;

.2 the potential liability may be either or both criminal and civil in nature and, depending on the facts of any particular case, may involve not only a member of a VPD but, possibly, the ship's company or shipowner, vessel operator, master or crew member. The possibility of State responsibility also exists;

.3 liability for injury, death or damage may arise as a result of unlawful, unjustified, excessive, reckless or negligent use of force. The extent of the liability will depend, in part, upon the national law of the jurisdiction in which the case is potentially subject to judicial procedures;

.4 in this regard, a variety of jurisdictions may be involved: that of the flag State; the State in which the vessel owner does business or is incorporated; the State of nationality of a member of a VPD; the State of nationality of the crew member, passenger victim or that of a family member in the event that a member of the crew or a passenger is killed;

.5 issues of civil liability – i.e. claims for compensation might well be directed at the shipowner rather than at a member of a VPD or at a member of the crew, on the assumption that the shipowner has the deeper pocket and is more likely to be in a position to pay out a higher amount of compensation;

.6 as far as criminal liability is concerned, the template for the Unilateral Declaration provides that the authorities of the Sending State "shall have the exclusive right to exercise criminal and disciplinary jurisdiction over the personnel of the VPD"; and

.7 liability on the part of both the flag State as well as the Sending State may, however, be limited by a number of factors. One such factor is the doctrine of self-defence (and defence of others), which may be held to justify the use of force, in both criminal and civil proceedings, depending on the particular facts of the case and the jurisdiction in which an accusation is adjudicated.

18.33 The Committee forwarded document MSC 89/INF.27 to the MSPWG to facilitate its deliberations, as applicable.

18.34 BIMCO (MSC 89/18/10) invited the Committee to develop, as an MSC circular, a complete set of guidelines on the use of private armed security personnel that include due diligence, stating that this work should take into account the work of CGPCS Working Group 3. In this connection, BIMCO requested that some recently-developed Industry guidelines for the use of private maritime security contractors could be introduced during the session, as requested in paragraph 6 of document MSC 89/18/10 (BIMCO). The Committee accepted that the guidelines could be used to inform the deliberations of the MSPWG.

18.35 IPTA (MSC 89/18/11) advised the Committee that as the position of IPTA Members with respect to firearms on board had been reversed, IPTA agreed that the time had come for a frank and open discussion of the various issues involved, be they legal, practical or otherwise, within the IMO. While guidance and self regulation by the security industry may be useful in the short term, the ultimate aim should be for IMO, as the competent authority, to develop an accreditation and oversight capacity for private armed security companies, possibly linked to the work being carried out in respect of land-based companies under the ICoC.

18.36 The Committee recalled that it had not endorsed the use of privately contracted armed security personnel on board ships but had agreed that this was a matter for individual shipowners, companies and ship operators to decide in consultation with and subject to the laws and policies of flag States. Nevertheless, given the recognition of the growing use of armed security personnel, the Committee considered the request to provide further direction on this important issue. The options presented in the above documents indicated several possible courses of action, in particular:

.1 developing guidance for flag States;

.2 developing guidance to shipowners, ship operators and shipmasters;

.3 developing guidance for both flag States and for shipowners, ship operators and shipmasters; or

.4 regulation of security companies themselves, either in the form of a self-regulating security industry association (i.e. ICoC), or with IMO serving as the regulatory body.

18.37 Following extensive discussions in plenary, the Committee reaffirmed its position that it did not endorse the use of armed personnel on board merchant ships and accepted that the carriage of armed personnel was an individual decision subject to the law of flag States. The Committee also accepted that there was a need to be realistic and to accept that some shipowners were using armed personnel on board and that there were consequential effects on the insurance industry and other incentives.

18.38 The Committee agreed that there was a need for the Organization to develop guidance on the issue; however, the Committee underscored the need for extreme caution in matters relating to liability; jurisdiction of flag, coastal and port States; sovereignty; ships in transit and rights of innocent passage; and a number of outstanding issues. In this regard, the Committee noted the statement by the delegation of Dominica, which is set out in annex 42.

18.39 The Committee supported the need for guidelines for flag States and for shipowners at this session but agreed that the priority was to develop guidance for shipowners. The Committee referred all of the documents on this matter to the MSPWG to develop draft guidelines and to advise on how best to progress the issue.

18.40 The Committee recognized that the work produced by the Committee would be dynamic, and would require the possible development of regulations, clarification of the role of the United Nations, and coordination with other bodies and UN agencies. The Committee further recognized that the work of the Committee should also take into account the work of other entities, such as Working Group 3 of the CGPCS, and encouraged States and organizations in consultative status who participated in the CGPCS to inform the MSPWG of the work carried out so that they could take it into account in their deliberations.

**Implementation of counter-piracy measures, including the Best Management Practices (BMP)**

18.41 In considering the implementation of counter-piracy measures, including the BMP, the Committee noted that two documents had been submitted that propose the adoption of an MSC resolution in this regard, in particular, documents MSC 89/18/3 (Ukraine) and MSC 89/18/8 (Secretariat); and that document MSC 89/18/4 (Republic of Korea) proposed, *inter alia*, that a "Rule of good practice" be developed and implemented.

18.42 The Committee noted that the Republic of Korea (MSC 89/18/4) proposed that a mechanism to enhance the role of the Organization in combating piracy in waters off the coast of Somalia and in the Indian Ocean could be established by developing a "Rule of good practice"; a compilation of preventive, evasive and defensive measures, incorporating effective existing measures contained in guidance such as MSC.1/Circ.1333, MSC.1/Circ.1334 and BMP3, which can be implemented and made mandatory. In this context, the Republic of Korea made two specific proposals:

.1 to establish a mechanism to ensure effective implementation of the existing measures developed by the Organization and maritime industry with a view to making the mechanism mandatory; and

.2 to establish a mechanism to monitor vessels transiting through high risk areas on a real-time basis and to carry out the operation within the framework of the Organization.

18.43 However, the Committee was unable to support the proposals of the Republic of Korea at this time.

18.44 The Committee noted the proposal by Ukraine (MSC 89/18/3) that Member States, while implementing certain provisions of the ISPS Code, should take into account the measures to prevent and suppress piracy and armed robbery against ships contained in circulars MSC.1/Circ.1333 and MSC.1/Circ.1334. Ukraine further proposed that the Committee adopt an MSC resolution on "Facilitating the introduction of special measures to prevent and suppress piracy and armed robbery against ships while implementing the ISPS Code".

18.45 The Committee recalled that MSC 88 had agreed that there was a clear need for ships operating in pirate-infested waters to take measures to protect themselves from the threat of piracy and armed robbery against ships, which included, in waters off the coast of Somalia, the full application of the IMO guidance and BMP3, and cooperation with naval forces operating in the area. The ensuing discussions at MSC 88 had broadly focused on whether these measures should fall within the remit of the ISPS Code and be included in ship security plans. However, consensus had not been reached as some States already aligned the counter-piracy measures to the ISPS Code, while others aligned them to the ISM Code, mandated them in their own right, or left it to the master's discretion. MSC 88 had agreed that there was no need to develop any guidance or recommendations to address the issue.

18.46 The Secretariat (MSC 89/18/8) proposed the adoption of an MSC resolution to encourage full implementation of the best management practice guidance and for States to make compulsory the implementation of the best management practices guidance for vessels flying their flag when operating in the Gulf of Aden and the Indian Ocean.

18.47 The Committee, having recognized the importance of BMP and the need to comply with the provisions therein, expressed its general understanding of the need to keep the BMP alive, relevant, dynamic and updated. However, there was no support for making the BMP mandatory through one instrument, which should be a decision for flag States.

18.48 Having noted that operative paragraph 95 of UN General Assembly resolution 65/37 on Oceans and the Law of the Sea "invites the Assembly of the International Maritime Organization to consider adopting a resolution on commitments to best management practices to avoid, deter or delay acts of piracy", the Committee supported the development of an MSC resolution, with a view to developing subsequently an Assembly resolution.

**The role of IMO**

18.49 The Committee considered documents MSC 89/18/4 and MSC 89/18/4/Add.1 (Republic of Korea) proposing to establish a mechanism to monitor vessels transiting through high risk areas on a real-time basis to ensure effective implementation of the existing measures; and to carry out the operation within the framework of the Organization, in the light of preceding debate, decided not to progress the issue at this time.

**Establishment of the Working Group**

18.50 Having considered the above issues, the Committee instructed the Working Group on Maritime Security, including piracy and armed robbery against ships, established under agenda item 4 (see paragraph 4.22) to:

.1 with reference to documents MSC 89/18/9 and MSC 88/INF.13, review the proposed guidelines for the investigators of flag States and other authorities who are tasked with boarding vessels that have been released after prolonged captivity, in order to assist them in the collection of evidence, and, if appropriate, develop draft guidance for adoption by the Assembly as a supplement to resolution A.1025(26);

.2 with reference to documents MSC 89/18/1 (Cook Islands), MSC 89/18/5 (Philippines, Singapore, BIMCO and ICS), MSC 89/18/6 (Liberia), MSC 89/18/7 (Bahamas and Marshall Islands), MSC 89/18/10 (BIMCO), MSC 89/18/11 (IPTA), MSC 89/INF.20 (Secretariat), MSC 89/INF.21 (Secretariat), and further supplementary materials that had been provided by BIMCO, ICS, INTERCARGO, INTERTANKO, OCIMF and P&I Clubs in support of MSC 89/18/10 (BIMCO):

.1 as a priority, develop interim guidance to shipowners, ship operators, and shipmasters on the use of privately contracted armed security personnel on board ships, for adoption at this session; and

.2 draft interim recommendations to Governments on the use of privately contracted armed security personnel on board ships, for adoption at this session; and

.3 advise the Committee on how best to progress the issue; and

.3 using the annex to document MSC 89/18/8 (Secretariat) as a basis and taking into account relevant sections of the annex to document MSC 89/18/3 (Ukraine), draft a resolution for adoption by the Committee on Implementation of Best Management Practice Guidance.

**Report of the working group**

18.51 Having considered the part of the report of the working group (MSC 89/WP.6) related to this item, the Committee approved it in general and took action as indicated in paragraphs 18.52 to 18.73.

***Guidelines for flag States and other authorities to assist investigators to collect evidence after a hijack***

18.52 The Committee approved MSC.1/Circ.1404 on Guidelines to assist in the investigation of crimes of piracy and armed robbery against ships.

***Development of guidance on the use of privately contracted armed security personnel on board ships***

18.53 In considering the development of guidance on the use of privately contracted armed security personnel (PCASP) on board ships, the Committee noted that the group had

agreed that the guidance should apply to the High Risk Area as defined in the Best Management Practices, unless otherwise defined by the flag State, and that the guidelines would be applicable to all ships.

18.54 The Committee noted that the group had developed two sets of guidelines on the use of armed security personnel on board ships: one for ship operators, shipowners and ship masters; and another for Governments, with the priority given in the group to development of the former, as instructed by the Committee, though both were considered to be extremely important and inter-related.

18.55 The Committee noted that the group had had an extensive discussion on the master's responsibility and liability where actions of the PCASP caused injury or death to any person, including the PCASP themselves, or any other damage caused to the ship or its cargo. The group had expressed different opinions as to what extent the master could be held liable in such cases. The group had agreed that it was important to include, in contract documentation, a clear statement that at all times the master remains in command and retains the overriding authority on board. The group had noted the distinction between the use of the terms authority versus responsibility in this regard and the importance of further consideration of the issues regarding the apportionment of liability.

18.56 Having considered the above matter, the Committee approved MSC.1/Circ.1405 on Interim Guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area.

18.57 The Committee noted that the group had agreed that interim recommendations for Governments on the use of PCASP were an essential complement to the guidance developed for the industry. It was further agreed that, due to different legislative regimes among Member States, only high-level recommendations were appropriate to cover the aspects on the employment of PCASP.

18.58 The Committee noted that the group had agreed to limit the scope of the current interim recommendations to flag States only as, due to time constraints and the lack of submissions appropriate to the subject, the matters relevant to port and coastal States could not be elaborated upon. However, as it had been agreed that the interests of port and coastal States should be reflected in the preamble to the recommendations utilizing the appropriate text from MSC.1/Circ.1333 and that the recommendations should be complemented in the near future by the development of guidelines to address port, coastal and flag State issues, the Committee agreed to invite Member Governments to submit proposals on guidelines to address port State, coastal State and flag State issues to MSC 90.

18.59 The Committee agreed that there was a need to revise MSC.1/Circ.1333 and MSC.1/Circ.1334 with respect to the use and carriage of PCASP on board ships and invited Member Governments to submit relevant proposals in this respect.

18.60 The Committee noted that the group had identified other outstanding issues which comprised, *inter alia*:

.1 oversight, governance and accountability procedures relating to compliance of PMSCs with national regulations and standards;

.2 guidance to port and coastal States; and

.3 guidance to Governments relating to the import, export, embarkation and disembarkation of firearms.

18.61 Having considered the above issues, the Committee approved MSC.1/Circ.1406 on Interim Recommendations for flag States regarding the use of privately contracted armed security personnel (PCASP) on board ships in the High Risk Area.

***Recommendations to progress matters relating to the use of PCASP on board ships***

18.62 The Committee noted that the group, in considering how best to progress the issue of the use of PCASP on board ships, had agreed that the draft MSC circular on interim recommendations to flag States (now MSC.1/Circ.1406) should be approved by the Committee at this session but was essentially a work in progress.

18.63 The Committee noted that the use of armed personnel on board ships was becoming increasingly widespread and that the need for a consistent approach and the avoidance of an escalation of violence due to the inappropriate use of force indicated the need for urgent action to be taken to control the situation.

18.64 The Committee noted further the report by the Philippines that the death of a Filipino seafarer on 11 May 2011 had brought further urgency to the situation. Flag States and seafarer providers were grateful for the guidance developed by the Organization, but sought further clarity on the issue of carriage of PCASP.

18.65 Having approved MSC.1/Circ.1406 on Interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area, the Committee agreed that there was an urgent need to develop further guidance to Governments and, in particular, for coastal and port States on the customs-related aspects of the carriage, embarkation and disembarkation of firearms and security equipment in areas under the jurisdiction of such States; and that there was also an urgent need to develop further guidance to Governments reflecting the concerns of port and coastal States with respect to the presence of teams of armed personnel entering their territorial waters. The Committee also agreed to take note of work being done in other bodies, including the FAL Committee and CGPCS and its working groups.

18.66 The Committee requested the Secretariat to report the outcomes of MSC 89 to FAL 37 in respect of the use of privately contracted armed security personnel on board ships in the High Risk Area and invited FAL 37 to advise MSC 90 on the following issues:

.1 embarkation and disembarkation of privately contracted armed security personnel;

.2 embarkation and disembarkation of firearms (including the associated ammunitions, consumables, spare parts and maintenance equipment and materials) for use by the privately contracted armed security personnel;

.3 embarkation and disembarkation of security-related equipment (including protective and communication ones) for use by the privately contracted armed security personnel; and

.4 recommend to the Committee the provisions which should be included in the aforesaid interim recommendations and guidelines in connection with the matters, which need to be taken into account as a result of the activities taking place in areas either within the territory or under the jurisdiction of a State as a port or a coastal State.

18.67 Given the importance and urgent nature of these issues, and the need to finalize and promulgate detailed guidance as soon as possible, the Committee agreed to request the Council to authorize the convening of the MSPWG intersessionally in the week commencing 12 September 2011. Such a meeting would be able to take account of the outputs of Working Group 2 of the CGPCS (due to meet in June 2011); FAL 37; and Working Group 3 of the CGPCS (due to meet in London in the same week).

18.68 The Committee noted that the group had agreed that specific instructions, terms of reference and clear statements of the expected outputs for the work to be undertaken by the Intersessional MSPWG should be developed in order for the Intersessional MSPWG to review, amend and amplify the guidance contained in the two circulars developed at this session; to issue new circulars; and to revoke the existing guidance, as appropriate.

***Terms for reference for the intersessional meeting of the ad hoc working group***

18.69 The Committee agreed to the following terms of reference for the Intersessional meeting of MSPWG:

.1 develop interim recommendations to Governments on the use of privately contracted armed security personnel for adoption taking into account relevant guidelines developed by the Organization;

.2 review the interim guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel (PCASP) on board ships in the High Risk Area for any consequential amendments in relation to the interim recommendations to Governments on the use of privately contracted armed security personnel;

.3 prepare an MSC circular for the promulgation of the recommendations to Governments on the use of privately contracted armed security personnel;

.4 if necessary, adopt a revised MSC circular on Guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel (PCASP) on board ships in the High Risk Area;

.5 identify any necessary consequential amendments to MSC.1/Circ.1333 and MSC.1/Circ.1334; and

.6 submit a written report to MSC 90.

18.70 In this connection, the Committee authorized the group and the Secretariat, on behalf of the Committee, to issue an MSC circular for the promulgation of the recommendations to Governments on the use of privately contracted armed security personnel as soon as possible after the intersessional meeting.

***Implementation of counter-piracy measures, including BMP***

18.71 The Committee noted that, while drafting the proposed MSC resolution on Implementation of Best Management Practice Guidance and, in particular, the provisions on reporting, the group had noted that some delegations had expressed the view that it would be desirable to provide for a broader wording relating to the reporting of ships when transiting the High Risk Area, which could encompass also reporting to flag States and the three Information Sharing Centres established under the Djibouti Code of Conduct. Other delegations stated that reporting under stress should be limited to the contacts listed in the

BMP as a ship's master should not be confused and therefore had to prioritize when reporting attacks. Concern had also been expressed over possible implications for the Organization when adopting an MSC resolution on an industry-developed measure as it was not clear whether the BMP would continue to reflect the policy and directions taken by Member States to the Organization.

18.72 The delegation of China expressed the view that the resolution should include, in addition to the reference to UKMTO Dubai, a broader wording relating to the reporting of ships when transiting the High Risk Area which could encompass other reporting centres. This was not supported by the Committee, which recalled the discussions on this issue in the MSPWG and which agreed that the emphasis of the resolution was full implementation of the BMP as a minimum.

18.73 Having considered the above issues, the Committee adopted resolution MSC.324(89) on Implementation of Best Management Practice Guidance, as set out in annex 29.

## 19 IMPLEMENTATION OF INSTRUMENTS AND RELATED MATTERS

### Study on the consistency among the forms of certificates and records contained in the 1974 SOLAS Convention and the 1978 and 1988 SOLAS Protocols

19.1 The Committee decided to consider document MSC 89/19 (Secretariat), proposing amendments to appendices of the 1974 SOLAS Convention and its 1978 and 1988 Protocols, under item 3 (see paragraphs 3.25 and 3.30).

### Status of conventions

19.2 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 31 March 2011 (MSC 89/19/1 and MSC 89/INF.11).

### Clarification of SOLAS regulation II-2/19.3

19.3 The Committee considered document MSC 89/19/2 (IACS), seeking clarification on the application of SOLAS regulation II-2/19.3, as amended by resolution MSC.269(85), for ships intended to carry packaged dangerous goods, constructed on or after 1 September 1984 but before 1 July 2002; in particular, raising the question whether such existing ships need to comply with the "2000 SOLAS Amendments".

19.4 Having recognized the urgency of the matter and in order to avoid any confusion due to the lack of clear application provisions for the above new requirements, which specify how existing ships intended to carry packaged dangerous goods shall comply with the amended SOLAS regulation II-2/19.3 not later than the first renewal survey on or after 1 January 2011, the Committee requested the Secretariat to prepare draft amendments to SOLAS regulation II-2/1.2.4 and a draft MSC circular on Guidance for application of SOLAS regulation II-2/19.3, in consultation with IACS, for consideration by the Committee.

19.5 Having considered document MSC 89/WP.14, the Committee approved the draft amendments to SOLAS regulation II-2/1.2.4, as set out in annex 30, and requested the Secretary-General to circulate them in accordance with SOLAS article VIII, for consideration with a view to adoption at MSC 90. The Committee also approved MSC.1/Circ.1407 on Guidance for application of SOLAS regulation II-2/19.3, which invites Member Governments to apply the above draft amendments pending their formal entry into force.

## 20 RELATIONS WITH OTHER ORGANIZATIONS

20.1 The Committee noted that no documents had been submitted under this agenda item.

## 21 APPLICATION OF THE COMMITTEE'S GUIDELINES

### DRAFT REVISED COMMITTEES' GUIDELINES ON THE ORGANIZATION AND METHOD OF WORK

21.1 In considering document MSC 89/21 (Secretariat), the Committee recalled that, MSC 88, on the issue of enhancing the clarity of the scope of application of the adopted amendments to mandatory instruments and the two sets of proposed draft amendments to the Guidelines on the organization and method of work of the MSC and the MEPC and their subsidiary bodies (hereafter the "Guidelines") contained in documents MSC 88/22/1 (Italy) and MSC 88/22/2 (United Kingdom), had requested the Secretariat to develop a consolidated text amalgamating both proposals. MSC 88 had also requested the Secretariat to annex to the draft revised Guidelines the content of existing paragraph 4.7 on submission of proposals for unplanned outputs and the aforementioned new consolidated text.

21.2 The Committee also recalled that MSC 88 had approved, in principle, the draft amendments prepared by the Joint MSC/MEPC Working Group on the Human Element to incorporate the human element principles into the Guidelines and had requested the Secretariat to prepare a draft MSC-MEPC.1 circular containing a consolidated version of the draft revised Guidelines. MSC 88 had deferred consideration of whether the Committees' Guidelines should be made available as a publication that could be downloaded from the IMO website to MSC 89.

21.3 The Committee, in pursuance of the above requests, noted that the Secretariat had prepared a draft MSC-MEPC.1 circular containing a consolidated version of the draft revised Guidelines (MSC 89/21, annex), taking into account the Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization (resolution A.1013(26)) and the Guidelines on the organization and method of work of the Council (Circular letter No.3085) in order to harmonize the different sets of Guidelines, while aiming at addressing some specific elements of the organization and methods of work of the Committees and their subsidiary bodies.

### REPORT OF THE 2011 CHAIRMEN'S MEETING

21.4 The Committee was advised that, as indicated in document MSC 89/INF.17 (Secretariat), the 2011 Chairmen's meeting, which was held on 13 May 2011, had considered the issues addressed in documents MSC 89/21, MSC 89/3/2 and MSC 89/3/3. The meeting also considered document C 105/3(a)/4 on Reducing administrative burdens, as invited by the Council at its 105th session, and document C 106/3(b) regarding the application of the Organization's Risk Management Framework, as invited by the fifth session of the Council Risk Review, Management and Reporting Working Group (CWGRM 5). The Committee considered the report of the meeting (MSC 89/WP.10) and, having approved it in general, took action as indicated in the following paragraphs.

21.5 The outcome of the consideration by the meeting of the issue of the drafting of amendments to IMO instruments, including the development of a methodology for establishing the scope of application of amendments to certain chapters of the SOLAS Convention, and the LSA, FSS and FTP Codes, is reported under agenda item 3 (see paragraphs 3.31 to 3.34).

**Review of the draft revised Guidelines**

21.6 The Committee agreed that the Guidelines should adhere to the following founding principles:

.1 encouraging wider participation by the whole membership of the Organization without having deterrent effects and while remaining at a manageable level of detailed guidance;

.2 putting forward efficient responses and promoting consistent approaches;

.3 defining a structured way to deal with matters and to implement the High-level Action Plan of the Organization; and

.4 supporting the work of the Secretariat.

21.7 The Committee noted that the meeting, in reviewing the proposed amendments which had been incorporated into the text of the draft revised Guidelines (MSC 89/21, annex), had made the following recommendations to the Committee:

.1 the insertion of the text of the proposed footnote under paragraph 4.2 directly at the end of that paragraph in order to stress the importance of the guidance for submissions proposing new planned outputs;

.2 the deletion of paragraph 4.8 and annex 2 of the draft revised Guidelines, with the consequential deletion of paragraphs 5.11, 5.25, 5.27 and 5.39 and the amendment to paragraphs 4.2 and 6.5;

.3 the insertion of the proposed changes to incorporate the human element principles (i.e. paragraph 4.14 and subparagraph .8 of annex 1); and

.4 the addition of a reference to the arrangements in the Secretariat for the production of working papers during meetings in paragraph 6.10 and the insertion of a new annex 5 with the understanding that the text referring to the delivery of working papers in paragraph 2.2.1 of the annex does not exclude the processing of documents delivered after 9 a.m. on the day of the report night during the last day of the meeting.

21.8 The Committee, having concurred that the non-mandatory nature of all Guidelines on the organization and method of work of IMO bodies is clearly supported by the use of the word "should" in the English text, requested the Secretariat to harmonize the various translations of the text of the Guidelines, in particular, in its Spanish version.

21.9 Further to the recommendation of the Chairmen's meeting to delete paragraph 4.8 and annex 2 of the draft revised Guidelines and the consequential deletions and amendments (paragraph 21.7.2), the Committee, recalled its decision at its eighty-eighth session (paragraph 21.1) in support of inserting additional text on the basis of the proposals contained in documents MSC 88/22/1 (Italy) and MSC 88/22/2 (United Kingdom). The Committee also took into account its decision on the issue of the drafting of amendments to IMO instruments (paragraph 21.5) and discussed how it could address, in a consistent manner, the recurrent problems concerning the scope of application of amendments to mandatory instruments and the development of appropriate guidelines.

21.10 In this context, the Committee, having instructed the FSI Correspondence Group on the Review of the Survey Guidelines under the HSSC and the Code for the implementation of mandatory IMO instruments to consider documents MSC 89/3/2 and MSC 89/3/3 (paragraph 3.34), also instructed the group to review the text of paragraphs 4.2, 4.8, 5.11, 5.25, 5.27 and 6.5 and annex 2 of the initial draft version of the revised Guidelines, as set out in the annex to document MSC 89/21, in order to put forward a comprehensive proposal to further amend the Guidelines, for consideration by FSI 20 and reporting to the Committees, as appropriate.

21.11 Having considered the above issues and the draft Revised Committee's Guidelines prepared by the Chairmen's meeting (MSC 89/WP.10, annex 3), the Committee approved, subject to MEPC 62's concurrent decision, the draft MSC-MEPC.1 circular on Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their Subsidiary Bodies, as set out in annex 31, in order to allow the timely issuance of the revised Guidelines for completion of the Migration Plan relating to the Guidelines on the application of the Strategic Plan and the High-level Action Plan of the Organization during the current biennium.

**Facilitating the work of correspondence groups**

21.12 The Committee noted that the meeting had considered the establishment of a central platform hosting the various correspondence groups established by IMO bodies which could allow traceable accredited participants, from Member States, IGOs and NGOs, to join directly correspondence groups and to contribute to the work of the groups, in a form other than threads, and the uploading of documents to be shared by the groups.

21.13 In this context, the Committee endorsed the request to the Secretariat, in consultation with the Chairmen of relevant IMO bodies and Coordinators of correspondence groups, as appropriate, to formulate a project plan and an estimated completion time frame for the development of the above-mentioned central platform, for consideration at a future session of the meeting.

**Release of the Committee's Guidelines on the IMO website**

21.14 Having noted that the Chairmen's meeting had called the Committee's attention to the fact that the Guidelines are issued as a MSC-MEPC.1 circular which can already be consulted and downloaded on IMODOCS by all those who are the intended users of such Guidelines, the Committee agreed that there was no need to make them available on the IMO website.

**Reducing administrative burdens**

21.15 The Committee recalled that the Council, at its 105th session, had invited the Chairmen's meeting to consider the proposals contained in document C 105/3(a)/4 (Australia, Denmark and Sweden) on the reduction of administrative burdens deriving from IMO legislation, and, through the Committees, to advise the Council on the matter so that the proposals might be subsequently finalized by the co-sponsors, as appropriate.

21.16 In this context the Committee agreed to advise the Council that, should it decide to invite the co-sponsors to continue this process, the effect of measures aimed at reducing administrative burdens should not have the potential counter-effect of the proliferation of additional burden put on IMO bodies. The Committee also noted that other possible relevant initiatives might be ongoing within the Organization, e.g., the consideration by the FSI Sub-Committee of the issue of the fulfilment of reporting requirements through GISIS.

**Risk Management Framework**

21.17 The Committee noted that CWGRM 5 had considered the report of a correspondence group (CWGRM 5/4) on the issue of whether the Organization's Risk Management Framework should be applied to all aspects of IMO's Strategic and High-level Action Plans, rather than being limited, as at present, to the Secretariat's planned outputs (C 106/3(b)). As a result of its deliberations, CWGRM 5 had requested advice from the Chairmen's meeting, with a view that such advice might inform future work on the matter by the *Ad Hoc* Council Working Group on the Organization's Strategic Plan (CWGSP).

21.18 The Committee also noted that the meeting, having supported the potential usefulness of a performing methodological tool that could help prioritizing the work of the Organization and allocating appropriate resources to the various priorities, had identified implications that the development of such a tool should address, thereby stressing the pivotal role of the professional judgement of Chairmen.

21.19 The Committee, while concurring that the development of a methodology for the assessment of risks associated with IMO's regulatory functions should be correctly framed with more consideration by the meeting management team (Chairmen, Vice-Chairmen and Secretaries) needed, further noted that the meeting had envisaged the convening of another meeting, preferably, prior to CWGSP 12.

21.20 In the absence of suitable meeting opportunities during MEPC 62 or back-to-back and before the next session of CWGSP 12, as proposed in document MSC 89/WP.10, the Committee strongly urged the Chairmen of its subsidiary bodies to attend CWGSP 12, which is scheduled to take place from 3 to 7 October 2011, and to contribute actively to the work of the Council's working groups.

## 22 WORK PROGRAMME

**BIENNIAL AGENDAS OF THE SUB-COMMITTEES AND PROVISIONAL AGENDAS FOR THEIR FORTHCOMING SESSIONS, INCLUDING CONSIDERATION OF NEW OUTPUTS PROPOSED BY MEMBER GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS AND SUB-COMMITTEES CONCERNED**

***GENERAL***

22.1 Taking into account the recommendations made by the Sub-Committees which had met since MSC 88 (MSC 89/22, MSC 89/22/Add.1 and MSC 89/22/Add.2); the Guidelines on the application of the Strategic Plan and the High-level Action Plan (resolution A.1013(26)); various proposals for new outputs submitted to the session by the Member Governments and international organizations and the sub-committees concerned; a preliminary assessment of such proposals (MSC 89/WP.4), undertaken by the Chairman with the assistance of the Secretariat, in accordance with the relevant provisions of the Committees' Guidelines (MSC-MEPC.1/Circ.2); and decisions taken during the session, the Committee reviewed the biennial agendas of the sub-committees and the provisional agendas for their forthcoming sessions and took action as indicated hereunder.

22.2 The Committee recalled that, with regard to the Committee's method of work relating to the consideration of proposals for new outputs, it had agreed at MSC 78 that the objective when discussing these proposals was to decide, based upon justification provided by Member Governments in accordance with the Committees' Guidelines, whether an output should or should not be included in the sub-committee's biennial agenda. A decision to include an output in a sub-committee's biennial agenda does not mean that the Committee agreed with the technical aspects of the proposal, and 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.

***SUB-COMMITTEE ON BULK LIQUIDS AND GASES (BLG)***

**Biennial agenda of the Sub-Committee and provisional agenda for BLG 16**

22.3 The Committee approved the Sub-Committee's biennial agenda for the 2012-2013 biennium for matters related to safety, as set out in annex 32.

22.4 The Committee approved the provisional agenda for BLG 16, as set out in annex 33, and requested the Secretariat to inform the MEPC accordingly.

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

**Guidance on continuous examination programmes**

22.5 The Committee considered document MSC 89/22/3 (United States), proposing to develop guidance for continuous examination programmes in order to establish a foundation for recognizing Approved Continuous Examination Programmes (ACEP) outlined in the 1972 CSC as meeting accepted international standards, and agreed to include, in the post-biennial agenda of the Committee, an output on "Development of guidance for approved Continuous Examination Programmes (ACEP)", with a target completion year of 2013, assigning the DSC Sub-Committee as the coordinating organ; and instructed the DSC Sub-Committee to give preliminary consideration to the output at DSC 16 under the agenda item "Any other business" and include the output in the provisional agenda for DSC 17.

**Measures to prevent loss of containers**

22.6 Having considered document MSC 89/22/11 (Australia, Denmark and the Netherlands), proposing to reduce the amount of damaged and lost containers through the strengthening of the requirements for lashing gear, the verification of proper weight used on the shipboard loading computers, the adequate stacking of containers and the provision of a feedback instrument for the crew of container ships, the Committee, taking into account comments provided in document MSC 89/22/17 (ICS and WCS), agreed to include, in the post-biennial agenda of the Committee, an output on "Development of measures to prevent loss of containers", with a target completion year of 2013, assigning the DSC Sub-Committee as the coordinating organ, in association with the DE, SLF and STW Sub-Committees as and when requested by the DSC Sub-Committee; and instructed the DSC Sub-Committee to give preliminary consideration to the output at DSC 16 under the agenda item "Any other business", taking into account the above documents and the affect this output may have on the work related to the development of a new mandatory Polar Code, and include the output in the provisional agenda for DSC 17.

**Biennial agenda of the Sub-Committee and provisional agenda for DSC 16**

22.7 The Committee confirmed the Sub-Committee's biennial agenda, as set out in annex 32.

22.8 The Committee confirmed the provisional agenda for DSC 16, as set out in annex 33.

***SUB-COMMITTEE ON FIRE PROTECTION (FP)***

**Requirements for foam-type fire-extinguishers**

22.9 The Committee considered document MSC 89/22/5 (China), proposing to develop amendments to the requirements in SOLAS regulation II-2/10.5 for the arrangements of 45 and 135 litre foam-type fire extinguishers in the engine-rooms and boiler-rooms of cargo ships, and agreed to include, in the post-biennial agenda of the Committee, an output on "Development of amendments to the requirements for foam-type fire-extinguishers in SOLAS regulation II-2/10.5", with four sessions needed to complete the output, assigning the FP Sub-Committee as the coordinating organ.

**Function tests of fire-fighting equipment**

22.10 The Committee considered document MSC 89/22/13 (Denmark), proposing to develop amendments to SOLAS regulation II-2/10 and the Survey guidelines under the harmonized system of survey and certification, 2007 (resolution A.997(25)) to require mandatory function tests of fire-fighting equipment at the initial survey or in case of new installations, and did not agreed to the proposed output, taking into account the views expressed that surveys and testing for such systems are already adequately covered by the SOLAS Convention.

**Biennial agenda of the Sub-Committee and provisional agenda for FP 55**

22.11 The Committee confirmed the Sub-Committee's biennial agenda, as set out in annex 32.

22.12 The Committee confirmed the provisional agenda for FP 55, as set out in annex 33. In this connection, the Committee instructed FP 55 to delete the output on Revised recommendations for entering enclosed spaces from its biennial agenda for 2012-2013 as the work on this matter had been completed (see paragraph 11.12).

***SUB-COMMITTEE ON FLAG STATE IMPLEMENTATION (FSI)***

**Biennial agenda of the Sub-Committee and provisional agenda for FSI 20**

22.13 The Committee approved the Sub-Committee's biennial agenda for the 2012-2013 biennium for matters related to safety, as set out in annex 32.

22.14 The Committee approved the provisional agenda for FSI 20, as set out in annex 33, and requested the Secretariat to inform the MEPC accordingly.

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

**Further work of LRIT-related issues**

22.15 The Committee recalled that, following consideration of document MSC 89/6/1 (Secretariat), on the handling of the further work of LRIT-related issues, it had agreed to include, in the 2012-2013 biennial agenda of the COMSAR Sub-Committee and in the provisional agenda for COMSAR 16, a planned output on "Consideration of LRIT-related matters", as an ongoing output (see also paragraph 6.50).

**Protection of the AIS VHF Data Link**

22.16 The Committee considered document MSC 89/22/1 (Netherlands or IALA), proposing to update the Recommendation for the protection of the AIS VHF Data Link (resolution MSC.140(76)), and agreed to include, in the 2012-2013 biennial agenda of the COMSAR Sub-Committee and in the provisional agenda for COMSAR 16, a planned output on "Revision of the Recommendation for the protection of the AIS VHF Data Link (resolution MSC.140(76))", with a target completion year of 2013.

**Biennial agenda of the Sub-Committee and provisional agenda for COMSAR 16**

22.17 The Committee approved the Sub-Committee's biennial agenda for the 2012-2013 biennium, as set out in annex 32.

22.18 The Committee approved the provisional agenda for COMSAR 16, as set out in annex 33.

***SUB-COMMITTEE ON SAFETY OF NAVIGATION (NAV)***

**Review of the 2009 Code on Alerts and Indicators**

22.19 The Committee recalled that, following consideration of document MSC 89/22/10 (Germany and IACS), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Review of the 2009 Code on Alerts and Indicators", with two sessions needed to complete the item, assigning the DE Sub-Committee as the coordinating organ, in association with the NAV Sub-Committee as and when requested by the DE Sub-Committee (see paragraph 22.25).

**General Provisions on Ships' Routeing**

22.20 The Committee considered document MSC 89/22/4 (Netherlands and United States), proposing to amend resolution A.572(14) to include additional guidance for the design and description of traffic separation schemes, in particular to those traffic separation schemes that form part of a composite routeing system, including associated routes or routeing measures other than traffic separation schemes, and agreed to include, in the post-biennial agenda of the Committee, an output on "Amendments to the General Provisions on Ships' Routeing (resolution A.572(14), as amended)", with a target completion year of 2013, assigning the NAV Sub-Committee as the coordinating organ; and instructed the NAV Sub-Committee to include the output in the provisional agenda for NAV 58.

**Biennial agenda of the Sub-Committee and provisional agenda for NAV 57**

22.21 The Committee confirmed the Sub-Committee's biennial agenda, as set out in annex 32.

22.22 The Committee confirmed the provisional agenda for NAV 57, as set out in annex 33.

***SUB-COMMITTEE ON SHIP DESIGN AND EQUIPMENT (DE)***

**Measures to prevent loss of containers**

22.23 The Committee recalled that, following consideration of documents MSC 89/22/11 (Australia, Denmark and the Netherlands) and MSC 89/22/17 (ICS and WCS), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of

measures to prevent loss of containers", with a target completion year of 2013, assigning the DSC Sub-Committee as the coordinating organ, in association with the DE, SLF and STW Sub-Committees as and when requested by the DSC Sub-Committee; and instructed the DSC Sub-Committee to give preliminary consideration to the output at DSC 16 under the agenda item "Any other business" and include the output in the provisional agenda for DSC 17 (see paragraph 22.6).

**Proposed amendments to the 2009 MODU Code**

22.24 The Committee considered document MSC 89/22/6 (Brazil), proposing to develop amendments to the 2009 MODU Code to allow alternative drills for lifeboats on mobile offshore drilling units to those required by paragraph 14.11.5 of the Code, which is referring to the requirements set out in SOLAS regulation III/19.3.3.3, and agreed to include, in the post-biennial agenda of the Committee, an output on "Development of amendments to the 2009 MODU Code concerning lifeboat drills", with two sessions needed to complete the output, assigning the DE Sub-Committee as the coordinating organ.

**Review of the Code on Alerts and Indicators**

22.25 Having considered document MSC 89/22/10 (Germany and IACS), proposing to review and update the 2009 Code on Alerts and Indicators, taking into account the proposals contained in document DE 55/21/2 (Germany), the Committee agreed to include, in the post-biennial agenda of the Committee, an output on "Review of the 2009 Code on Alerts and Indicators", with two sessions needed to complete the item, assigning the DE Sub-Committee as the coordinator, in association with the NAV Sub-Committee as and when requested by the DE Sub-Committee.

**Construction and installation of onboard lifting appliances and winches**

22.26 Having considered document MSC 89/22/12 (Chile, Japan, New Zealand, Norway and Republic of Korea), proposing to develop SOLAS requirements and associated guidelines for the construction and installation of onboard lifting appliances and winches, taking into account the outcome of FSI 19 (MSC 89/12, paragraph 5.2), the Committee agreed to include, in the post-biennial agenda of the Committee, an output on "Development of requirements for onboard lifting appliances and winches", with two sessions needed to complete the output, assigning the DE Sub-Committee as the coordinator. In this connection, the Committee agreed that: ILO should be consulted on this matter to avoid any duplication of work; the incidents reports identified by FSI 19 (FSI 19/19, paragraph 5.21) should be taken into account; and that the Sub-Committee should first agree on the specific deliverables before undertaking any technical work and seek the Committee's approval accordingly.

**Security and safety guidelines for passenger ships**

22.27 The Committee considered document MSC 89/22/15 (United States), proposing to develop comprehensive non-mandatory security and safety guidelines for passenger ships carrying at least 250 passengers, with onboard sleeping facilities for each passenger, engaged on an international voyage; covering ship design, equipment and construction standards for passenger ships, crime scene preservation training and medical equipment and treatment for victims after an assault, and did not agree to the proposed output, taking into account the views expressed that the industry should develop best practices for dealing with the issues raised in the proposal.

**Biennial agenda of the Sub-Committee and the provisional agenda for DE 56**

22.28 The Committee approved the Sub-Committee's biennial agenda for the 2012-2013 biennium, as set out in annex 32.

22.29 The Committee approved the provisional agenda for DE 56, as set out in annex 33.

**Urgent matters to be considered by MSC 90**

22.30 The Committee noted that, due to the close proximity between DE 56 and MSC 90, only urgent matters emanating from DE 56 would normally be considered at its ninetieth session, in accordance with Guidelines on the organization and method of work. However, taking into account that the 13-week deadline was missed by only a few days, authorized DE 56 to report in full to MSC 90.

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

**Measures to prevent loss of containers**

22.31 The Committee recalled that, following consideration of documents MSC 89/22/11 (Australia, Denmark and the Netherlands) and MSC 89/22/17 (ICS and WCS), it had agreed to include, in the post-biennial of the Committee, an output on "Development of measures to prevent loss of containers", with a target completion year of 2013, assigning the DSC Sub-Committee as the coordinating organ, in association with the DE, SLF and STW Sub-Committees as and when requested by the DSC Sub-Committee; and instructed the DSC Sub-Committee to give preliminary consideration to the output at DSC 16 under the agenda item "Any other business" and include the output in the provisional agenda for DSC 17 (see also paragraph 22.6).

**Proposed amendments to the 2008 IS Code**

22.32 Having considered document MSC 89/22/7 (United Kingdom), proposing to develop amendments to paragraph 3.1.2 of the 2008 IS Code to correct apparent discrepancies between the Code criterion for maximum angle of heel in turns for passenger ships and the turning ability that the ship is required to have under the Standards for ship manoeuvrability (resolution MSC.137(76)), the Committee, taking into account the comments provided in document MSC 89/22/16 (RINA), agreed to include, in the 2012-2013 biennial agenda of the SLF Sub-Committee and the provisional agenda for SLF 54, an output on "Development of amendments to the criterion for maximum angle of heel in turns of the 2008 IS Code", with a target completion year of 2013. The Committee also agreed to forward document MSC 89/22/16 to SLF 54 for consideration under this output.

**Application of SOLAS subdivision standards to cargo ships**

22.33 The Committee considered document MSC 89/22/8 (Germany and United Kingdom), proposing to develop amendments to SOLAS regulation II-1/4 in order to clarify the application of SOLAS subdivision standards to cargo ships which are complying with the subdivision standards of other IMO instruments, and agreed to include, in the 2012-2013 biennial agenda of the SLF Sub-Committee and the provisional agenda for SLF 54, a planned output on "Development of amendments to SOLAS regulation II-1/4 concerning subdivision standards for cargo ships", with a target completion year of 2013.

**Comprehensive review of the 1969 TM Convention**

22.34 The Committee considered a proposal by SLF 53 (MSC 89/9, paragraph 2.5), proposing to conduct a comprehensive review of the rules and requirements of the Tonnage Measurement Convention, associated interpretations of TM.5/Circ.5, and other interpretations or practices, to ensure the integrity and uniform implementation of the gross tonnage and net tonnage parameters, including the use of gross tonnage figures as parameters for the applicability of standards concerning living and working conditions on ships and fishing vessels, together with documents MSC 89/9/5 (Germany) and MSC 89/9/8 (ILO), providing comments on the need to improve the effect on ship design and safety within the 1969 TM Convention with regard to working and living conditions on board ships, and agreed to include, in the 2012-2013 biennial agenda of the SLF Sub-Committee, and in the provisional agenda for SLF 54, an output on "Development of provisions to ensure the integrity and uniform implementation of the 1969 TM Convention", with a target completion year of 2014. In this regard, the Committee also agreed to forward the above documents to SLF 54 for consideration under the new output.

**Review of damage stability regulations for ro-ro passenger ships**

22.35 The Committee considered a proposal by SLF 53 (MSC 89/9, paragraph 2.11), proposing to expand the scope of the existing output "Review of damage stability regulations for ro-ro passenger ships" to include potential damage stability deficiencies of ro-ro passenger ships other than those related to water on deck only, in order to ensure an adequate level of safety and consistent implementation of the relevant IMO instruments, and agreed to expand the scope of the existing output on "Review of damage stability regulations for ro-ro passenger ships", to include the potential damage stability deficiencies of ro-ro passenger ships other than those related to water on deck only.

**Biennial agenda of the Sub-Committee and the provisional agenda for SLF 54**

22.36 The Committee approved the Sub-Committee's biennial agenda for the 2012-2013 biennium, as set out in annex 32.

22.37 The Committee approved the provisional agenda for SLF 54, as set out in annex 33.

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

**Measures to prevent loss of containers**

22.38 The Committee recalled that, following consideration of documents MSC 89/22/11 (Australia, Denmark and the Netherlands) and MSC 89/22/17 (ICS and WCS), it had agreed to include, in the post-biennial agenda of the Committee, an output on "Development of measures to prevent loss of containers", with a target completion year of 2013, assigning the DSC Sub-Committee as the coordinating organ, in association with the DE, SLF and STW Sub-Committees as and when requested by the DSC Sub-Committee; and instructed the DSC Sub-Committee to give preliminary consideration to the output at DSC 16 under the agenda item "Any other business" and include the output in the provisional agenda for DSC 17 (see paragraph 22.6).

**Role of the human element**

22.39 The Committee recalled that, following consideration of documents MSC 89/10/4, MSC 89/10/7 and MSC 89/10/8 (see paragraph 10.16), it had agreed, subject to MEPC 62's concurrent decision, to include, in the 2012-2013 biennial agenda of the STW Sub-Committee and in the provisional agenda for STW 43, a planned output on "Role of the

human element", as an ongoing item; and instructed the STW Sub-Committee to also consider document MSC 89/24/1 under this output (see paragraph 24.5).

**Enhancing the efficiency and user-friendliness of ISM Code**

22.40 The Committee considered documents MSC 89/22/9, MSC 89/INF.3, MSC 89/INF.4, MSC 89/INF.5, MSC 89/INF.6, MSC 89/INF.7 and MSC 89/INF.8 (Austria et al.), proposing to enhance the efficiency and user-friendliness of the ISM Code through the development of amendments to the Code and to the related IMO instruments, and agreed to include, in the 2012-2013 biennial agenda of the STW Sub-Committee and in the provisional agenda for STW 43, a planned output on "Enhancing the efficiency and user-friendliness of ISM Code", with a target completion year of 2013, for consideration under the new ongoing output and agenda item on "Role of the human element" (see paragraphs 10.16 and 22.39). The Committee requested the Secretariat to inform MEPC 62 accordingly.

**Follow-up actions to the 2010 Manila Conference**

22.41 The Committee considered document MSC 89/22/14 (Australia and United States), proposing to address issues that may arise during the implementation and transition of the 2010 amendments to the STCW Convention by all Parties, with the aim of facilitating an orderly transition and anticipating complications which could otherwise undermine full and effective implementation of the amendments, and agreed to include, in the 2012-2013 biennial agenda of the STW Sub-Committee and in the provisional agenda for STW 43, a planned output on "Development of guidance for the implementation of the 2010 Manila Amendments", with a target completion year of 2014. In this connection, the Committee agreed that the Sub-Committee should first agree on the specific deliverables for this output and advise the Committee accordingly.

**Biennial agenda of the Sub-Committee and the provisional agenda for STW 43**

22.42 The Committee approved the Sub-Committee's biennial agenda for the 2012-2013 biennium, as set out in annex 32.

22.43 The Committee approved the provisional agenda for STW 43, as set out in annex 33.

***APPROVAL OF NEW PLANNED OUTPUTS***

22.44 The Committee, having agreed to the Sub-Committees' biennial agendas and the provisional agendas for their forthcoming sessions (MSC 89/WP.15, annexes 1 and 2), authorized the Secretariat to include the outputs approved at this session in the Committee's proposal for the High-level Action Plan of the Organization and priorities for the 2012-2013 biennium (see also paragraph 22.48).

**PLAN OF MEETING WEEKS OF THE COMMITTEE FOR THE 2012–2013 BIENNIUM**

22.45 The Committee recalled that MSC 88, having approved the plan of 25.5 meeting weeks of the MSC and the MEPC and their subsidiary bodies for the 2012-2013 biennium, as a basis for the preparation of the Secretary-General's relevant budget proposals, agreed to consider, at MSC 89, the possibility of reducing the number of days of its sessions (i.e. eight days for MSC 90 (May 2012), five days for MSC 91 (November 2012) and eight days for MSC 92 (May 2013)), as requested by C 104 (MSC 88/23/3, paragraph 2), which could be achieved through improved planning, prioritization, workload management and

implementation of the guidelines annexed to resolution A.1013(26), and report to the Council on the outcome.

22.46 In considering the request of C 104, the Committee, taking into account the substantive items approved for inclusion in the provisional agenda for MSC 91 (MSC 89/WP.11), agreed to reduce the number of days for MSC 91 to five days and invited C 106 to note the above decision (see also paragraph 9.37.2).

**STATUS OF PLANNED OUTPUTS FOR THE 2010-2011 BIENNIUM**

22.47 Having recalled its relevant decision at MSC 88 (MSC 88/26, paragraph 23.24) that, in the spirit of the efficiency sought by the Council, the status of planned outputs only be produced as an annex to the Committee's report to avoid any unnecessary duplication of work, the Committee invited the Council to note the Report on the status of planned outputs for the 2010-2011 biennium, as set out in annex 34, and requested the Secretariat to submit any changes to the aforementioned report emanating from NAV 57, FP 55 and DSC 16 to CWGSP 12 or C/ES.26, as appropriate.

**PROPOSALS FOR THE HIGH-LEVEL ACTION PLAN OF THE ORGANIZATION AND PRIORITIES FOR THE 2012-2013 BIENNIUM**

22.48 The Committee recalled that MSC 87, in the context of resolution A.1011(26) on Strategic plan for the Organization (for the six-year period 2010 to 2015) and resolution A.1012(26) on High-level Action Plan of the Organization and priorities for the 2010–2011 biennium, requested the Secretariat, in consultation with the Chairman, to prepare proposals for the High-level Action Plan and priorities for the 2012-2013 biennium, for consideration by MSC 89 and submission to C 106.

22.49 The Committee, having considered document MSC 89/22/2 (Secretariat), proposing modifications to the planned output assigned to the Committee for the 2010-2011 biennium, which took into account the progress made by the sub-committees during the current biennium, endorsed the proposals for High-level Action Plan of the Organization and priorities for the 2012-2013 biennium for matters under the purview of the Maritime Safety Committee, as set out in annex 35, for submission to C 106; and requested the Secretariat to submit any changes to the annexed proposals emanating from NAV 57, FP 55 and DSC 16 to CWGSP 12 or C/ES.26, as appropriate.

**POST-BIENNIAL AGENDA OF THE COMMITTEE**

22.50 In the context of the Guidelines on the application of the Strategic Plan and the High-level Action Plan (resolution A.1013(26)), the Committee noted that it had been requested to establish and maintain a post-biennial agenda, using the format set out in the aforementioned Guidelines and that the Secretariat had prepared the Committee's post-biennial agenda based on the proposals made by the sub-committees at their last sessions, taking into account any new outputs agreed at this session (MSC 89/WP.15, annex 3).

22.51 The Committee, having noted that the updated post-biennial agenda would also be annexed to its report, in accordance with the aforementioned Guidelines, invited the Council to note the updated post-biennial agenda of the Maritime Safety Committee, as set out in annex 36.

**INTERSESSIONAL MEETINGS**

22.52 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 Committees' Guidelines, 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/confirmed, as appropriate, the following intersessional meetings:

.1 the seventh meeting of the Joint IMO/ITU Experts Group, to held at IMO Headquarters from 13 to 15 September 2011;

.2 a meeting of the MSPWG, to held in September 2011;

.3 the sixteenth meeting of the E&T Group for the IMDG Code, to take place directly after DSC 16, from 26 to 30 September 2011, as approved by MSC 88;

.4 the IMO/ILO *Ad Hoc* Working Group on Guidelines for Medical Examination of Seafarers and Contents of Ships' Medicine Chests, to held from 26 to 30 September 2011;

.5 a meeting of the *Ad Hoc* LRIT Group, from 26 to 29 September 2011;

.6 the eighteenth session of the Joint ICAO/IMO Working Group, to be held in Norway from 3 to 7 October 2011;

.7 the seventeenth meeting of the ESPH Working Group, to take place from 24 to 28 October 2011, as approved by MSC 88 and MEPC 61;

.8 the seventeenth and eighteenth meetings of the E&T Group for the IMSBC Code, the seventeenth to take place in the first half of 2012 and the eighteenth to take place after DSC 17 (see paragraph 7.15); and

.9 a meeting of the ESPH Working Group to be held in 2012, subject to concurrent decision of MEPC 62,

and invited the Council to endorse the above decisions.

**SUBSTANTIVE ITEMS FOR INCLUSION IN THE COMMITTEE'S AGENDAS FOR THE NEXT TWO SESSIONS AND PROPOSED ARRANGEMENTS FOR MSC 90**

### Substantive items for inclusion in the agendas for MSC 90 and MSC 91

22.53 The Committee agreed on the substantive items to be included in the agendas of its ninetieth and ninety-first sessions, as set out in document MSC 89/WP.11.

### Establishment of working, drafting and expert groups during MSC 90

22.54 Recalling the provisions of the Committees' Guidelines concerning the number of groups which may be established at a session, the Committee, taking into account decisions made under various agenda items, agreed that working groups on the following subjects should be established at the Committee's ninetieth session:

.1 maritime security and piracy; and

.2 goal-based standards and formal safety assessment,

and also agreed to establish a drafting group on consideration and adoption of the amendments to mandatory instruments.

22.55 The Committee agreed that the Capacity-Building Needs Analysis Group (AGAG) may also need to be established.

**Duration and dates of the next two sessions**

22.56 The Committee noted that its ninetieth session has been tentatively scheduled to take place from 16 to 25 May 2012, and that its ninety-first session has been tentatively scheduled for November 2012.

## 23 ELECTION OF CHAIRMAN AND VICE-CHAIRMAN FOR 2012

23.1 The Committee, having been informed of the Chairman's decision not to stand for re-election, expressed its deep appreciation to Mr. Neil Ferrer (Philippines) for the outstanding contribution he had made over many years to the attainment of IMO's objectives in general and to the work of the Organization, especially the Committee which he had chaired with unique distinction, and wished him success in all his professional undertakings.

23.2 The Committee unanimously elected Mr. Christian Breinholt (Denmark), current Vice-Chairman, as Chairman for 2012, and unanimously elected Capt. M. Segar (Singapore) as Vice-Chairman for 2012.

## 24 ANY OTHER BUSINESS

**Global Integrated Shipping Information System (GISIS)**

24.1 The Committee recalled that the Global Integrated Shipping Information System (GISIS) had started to be developed by the Secretariat in July 2005 and allows public access to sets of data collected by the Secretariat as well as the direct recording of data by Member States.

24.2 The Committee noted the information contained in document MSC 89/24 (Secretariat) that GISIS presently consists of 26 modules, which had been developed or are in the process of development, for the collection, processing and sharing of shipping-related data in order to assist Member States and the Secretariat in carrying out their respective and complementary duties, generate reports and provide information about shipping to the public.

**Control of safety when transferring persons at sea**

24.3 The Committee considered document MSC 89/24/1 (Denmark), stating that, following several incidents during transfer of persons from small transport tenders to larger ships lying at anchor in Danish coastal waters, the latest resulting in a fatality, Denmark had recognized a need within the industry for a set of uniform guidelines that might help to prevent unsafe situations and mitigate unplanned consequences. Consequently, Denmark had provided a set of recommendations that might be introduced to Administrations and the industry during the transfer of personnel at sea.

24.4 A number of delegations, including an industry observer, welcomed and supported the proposal by Denmark to develop guidance on the transfer of personnel at sea and were of the view that the text provided in the Danish proposal was a good basis for further development.

24.5 Accordingly, the Committee agreed, as a first step, to refer the matter to the STW Sub-Committee for consideration under the agenda item on the "Role of the human element" and instructed STW 43 to advise MSC 90 on the way forward (see also paragraph 22.39).

**Operating anomalies identified within ECDIS**

24.6 The Committee considered document MSC 89/24/2 (IHO), reporting on the outcome of a workshop organized by IHO in February 2011 to discuss the issues raised during MSC 88 regarding "Operating anomalies in ECDIS" and requesting the Committee to: note the outcome of the ECDIS stakeholders' workshop; continue to encourage flag States to collect and disseminate relevant information on ECDIS anomalies in accordance with MSC.1/Circ.1391; and inviting Member Governments to consider proposing an unplanned output in the biennial agenda of the NAV Sub-Committee, which would clarify the policy on working-life validity of software driven electronic navigation equipment.

24.7 The Committee also considered document MSC 89/24/3 (Australia, Canada, Chile, Japan, Norway, the United Kingdom, ICS and IFSMA), supplementing the report on the outcome of a workshop organized by the IHO to discuss the issues raised during MSC 88 regarding "Operating anomalies in Electronic Chart Display and Information System (ECDIS)", as reported in document MSC 89/24/2, and proposing further steps which ought to be taken. In addition, the Committee had been requested to: consider how maximum advantage could be gained from feedback from seafarers; and, if so, how the IMO could adopt a role to coordinate the necessary programme of activities to address the issues of potential anomalies in type-approved ECDIS, using official ENCs, and establish processes, capabilities and modalities to achieve this.

24.8 The delegations who spoke on the issue fully supported the concerns outlined in documents MSC 89/24/2 and MSC 89/24/3 and were of the view that it was an important matter of relevance and concern for the COMSAR, NAV and STW Sub-Committees. They also expressed the view that this issue needed to be considered carefully, but on an urgent basis, and therefore, as a first step, the matter should be referred to NAV 57 for initial detailed consideration.

24.9 Consequently, the Committee decided to refer the matter to NAV 57 for detailed consideration under its agenda item on "Any Other Business" and instructed NAV 57 to advise MSC 90 on the way forward.

**Information on development of guidance for coastal States on how to respond to a maritime emergency involving radioactive materials**

24.10 The Committee noted the information contained in document MSC 89/INF.22 that the IAEA Secretariat had advised the IMO Secretariat that due to the recent earthquakes and tsunami in the Pacific region and the impact on the availability of Member State experts, work on the development of guidance for coastal States on how to respond to a maritime emergency involving radioactive materials had been placed on hold until further notice.

24.11 The Committee also noted that the Secretariat would continue to participate in the work on this matter and keep the Committee informed accordingly.

**Expression of appreciation**

24.12 The Committee expressed appreciation to the following delegates and members of the Secretariat, who had recently relinquished their duties, retired or were transferred to other duties or were about to, for their invaluable contribution to its work and wished them a long and happy retirement or, as the case might be, every success in their new duties:

- Mr. George M. Arku (Liberia) (on transfer);
- Captain Jean-François Fauduet (France) (on retirement);
- Rear-Admiral Giancarlo Olimbo (Italy) (on transfer);
- Mr. Graham Mapplebeck (Secretariat) (on retirement);
- Mrs. Juana Navarro (Secretariat) (on retirement)
- Mr. Dumisani Ntuli (South Africa) (on transfer);
- Mr. Tony Smith (United Kingdom) (on retirement);
- Dr. Jack S. Spencer (United States) (on retirement); and
- Captain Hadi Supriyono (Indonesia) (on transfer).

**Expression of condolence**

24.13 The Committee noted, with great sadness, the passing away of Captain John Lawrence Thompson, an IMO staff member until his retirement in 1997, who served as Deputy Director, Head, Navigation Section and as a Secretary of four sub-committees. Captain Thompson had first joined IMCO on 31 May 1974 but, before that, had been based at the United Kingdom's Department of Trade and Industry (D.T.I.), employed as Radar Adviser and Examiner of Radar Aids. Captain Thompson had been greatly respected by both his superiors and subordinates alike for his vast knowledge and deep commitment to the shipping industry. He had been the epitome of all that characterized shipmasters of his generation: knowledgeable, hard working, patient and a good teacher to young professionals joining the Secretariat. Above all, he had been a good friend and a good man, and he would be sorely missed. The Committee appreciated his contribution to the work of the Organization and requested the Secretary-General to convey the Committee's sincere sympathy to his family.

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

_____