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COUNCIL  
90th session  
Agenda item 11

C 90/11/Add.1  
10 June 2003  
Original: ENGLISH

**PROGRESS REPORT TO THE ASSEMBLY IN COMPLIANCE WITH  
RESOLUTION A.920(22) ON REVIEW OF SAFETY MEASURES AND  
PROCEDURES FOR THE TREATMENT OF PERSONS RESCUED AT SEA**

**Note by the Secretary-General**

**SUMMARY**

<i>Executive summary:</i>	This document contains, in compliance with operative paragraph 5 of resolution A.920(22), the draft progress report on review of safety measures and procedures for the treatment of persons rescued at sea
<i>Action to be taken:</i>	Paragraph 68
<i>Related documents:</i>	Resolution A.920(22), C 90/11, MSC 77/26

**BACKGROUND**

1 The Assembly, at its twenty-second session, unanimously adopted resolution A.920(22) on Review of safety measures and procedures for the treatment of persons rescued at sea. Operative paragraph 1 of that resolution requests the Maritime Safety Committee, the Legal Committee and the Facilitation Committee, under the direction of the Council, to review, on a priority basis, the international conventions referred to therein (i.e., the United Nations Convention on the Law of the Sea; the International Convention for the Safety of Life at Sea, 1974, as amended; the International Convention on Maritime Search and Rescue, 1979, as amended; the Convention on Facilitation of International Maritime Traffic, 1965, as amended; and the International Convention on Salvage, 1989) and any other IMO instruments under their scope for the purpose of identifying any existing gaps, inconsistencies, ambiguities, vagueness or other inadequacies and, in the light of such review, to take action as appropriate so that:

- survivors of distress incidents are provided assistance regardless of nationality or status or the circumstances in which they are found;
- ships, which have retrieved persons in distress at sea, are able to deliver the survivors to a place of safety; and
- survivors, regardless of nationality or status, including undocumented migrants, asylum seekers and refugees, and stowaways, are treated, while on board, in the manner prescribed in the relevant IMO instruments and in accordance with relevant international agreements and long-standing humanitarian maritime traditions.

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2 Operative paragraph 5 of the resolution has requested the Secretary-General to submit a report to the twenty-third session of the Assembly on progress made in the interim which is what this document aims at providing for endorsement by the Council and subsequent forwarding to A 23 for information and action as appropriate.

### **1<sup>ST</sup> EXTRAORDINARY SESSION OF THE MARITIME SAFETY COMMITTEE (MSC/ES.1)**

3 The MSC, at its first extraordinary session, noting that resolution A.920(22) had requested it to take certain specific action, agreed that COMSAR 6 should, without committing MSC 75 as to its decisions, give preliminary consideration to any action needed to give effect to the requests of the Assembly within the Sub-Committee's purview; and instructed the Secretariat to forward that resolution to COMSAR 6.

### **29<sup>TH</sup> SESSION OF THE FACILITATION COMMITTEE**

4 In considering the issue from its own competence point of view, FAL 29 recognized that the following IMO instruments might need to be reviewed to address the requests of the Assembly:

- .1 the FAL Convention, in particular Section 6 (Miscellaneous Provisions), C. (Emergency Assistance), Standards 6.8 to 6.10;
- .2 resolution A.773(18) on Enhancement of safety of life at sea by the prevention and suppression of unsafe practices associated with alien smuggling by ships;
- .3 resolution A.871(20) on Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases; and
- .4 resolution A.867(20) on Combating unsafe practices associated with the trafficking or transport of migrants by sea.

5 FAL 29 agreed:

- .1 to review the FAL Convention, in particular Standards 6.8 to 6.10 and any provisions relating to undocumented migrants; and
- .2 to consider whether there was a need to amend the other three resolutions mentioned above.

6 FAL 29 noted that measures and procedures for the treatment of persons rescued at sea might differ in various countries and further noted the existence of different levels of responsibilities for public authorities when dealing with the matter, as well as the potential risk of confusion between maritime casualties and smuggling of migrants by sea.

7 FAL 29 further noted that a possible way to address these issues in the framework of the relevant IMO instruments could be to develop provisions to ensure:

- .1 disembarkation of persons rescued at sea in the next port of call or the nearest port;
- .2 decision on their acceptance/admissibility according to national law and international conventions; or

.3 return to their country of origin or reception in a third country.

8 FAL 29 agreed to defer consideration of these matters to its next session and invited Member Governments and international organizations to submit relevant comments and proposals to FAL 30.

#### **75<sup>TH</sup> SESSION OF THE MARITIME SAFETY COMMITTEE**

9 MSC 75 noted that the Secretary-General had brought the issue of persons rescued at sea to the attention of a number of competent United Nations specialized agencies and programmes pointing out the need for a co-ordinated approach to all attendant aspects at the United Nations inter-agency level. Further to proposing a review of the relevant legislation adopted by the competent United Nations agencies and programmes, the Secretary-General had also proposed the establishment of a co-ordinating mechanism (possibly in the form of an inter-agency co-ordinating panel to be activated when the circumstances so dictated) to ensure that the response of the United Nations in any future emergency could be co-ordinated in a consistent manner. It noted, in particular, that, following consultations initiated by the Secretariat, in pursuance of the request of the Assembly in operative paragraph 4 of resolution A.920(22), a meeting had been organized between representatives of the United Nations Division for Ocean Affairs and the Law of the Sea, the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office for Drug Control and Crime Prevention (ODCCP), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Organization for Migration (IOM) and the IMO Secretariat, at the UNHCR Headquarters on 2 and 3 July 2002 to consider and agree on how to take their task forward.

10 MSC 75 also noted that, pursuant to the instruction of MSC/ES.1, COMSAR 6 had given preliminary consideration to the issue through its SAR Working Group, which, *inter alia*, had suggested that there might be a need for an intersessional SAR meeting.

11 MSC 75 considered a number of documents giving a summary of reviews which had been carried out in response to resolution A.920(22) and inviting it to instruct the COMSAR Sub-Committee to review, with priority, the provisions of the SOLAS and SAR Conventions in accordance with that resolution and to consider also the need for amending the FAL and SALVAGE Conventions as well at a lower priority; proposing a methodology for, and proposals to the substance of, the requested review; and identifying gaps in instruments other than the SOLAS and SAR Conventions and proposing terms of reference for an intersessional SAR meeting.

12 Appreciation was expressed for the Secretary-General's initiative, and it was recognized that the inter-agency meeting would be dealing mostly with aspects of the issue, such as refugee and immigrant aspects, which were outside the IMO scope. It was strongly recommended that the Organization should not await the outcome of the inter-agency meeting and, instead, start acting as requested by resolution A.920(22).

13 After an extensive exchange of views, during which various proposals were made on how to take the matter forward within the momentum established by, and the provisions of, resolution A.920(22), MSC 75 agreed to:

.1 instruct the Secretariat to take into account the salient points in documents MSC 75/2/2/Add.2 (Norway), MSC 75/11 (France) and MSC 75/11/2 (Germany) in the deliberations of the July 2002 meeting in Geneva; and to report on the outcome of that meeting to MSC 76;

- .2 receive, at MSC 76, the report of a relevant meeting in Sweden to discuss matters within the scope of resolution A.920(22) and the aforementioned documents;
- .3 further discuss the issue at MSC 76 on the basis of the reports of the inter-agency meeting and the Swedish initiative and decide, as appropriate, including directing COMSAR 7 on action to be taken in its context, such as:
  - .3.1 to continue the review of the provisions of the SOLAS and SAR Conventions regarding the treatment of persons rescued at sea, based on the requests of resolution A.920(22). The review should be given high priority and should be completed at COMSAR 8. The results to be reported to the Committee should, if appropriate, include specific proposals for amendments to these Conventions;
  - .3.2 to consider whether additional guidance should be developed for shipmasters, RCCs, coastal States and other interested parties to ensure that persons rescued at sea are delivered to a place of safety;
  - .3.3 to identify other issues raised during its debate and include them in the report to MSC 77 as issues that the Organization should forward to other international organizations that have responsibilities related to this issue;
  - .3.4 to also consider the possible need for, or desirability of, effecting amendments to the FAL and SALVAGE Conventions regarding provisions relating to persons rescued at sea or in distress at sea. This task, which would involve the FAL and LEG Committees respectively, should be given lower priority than the review of the SOLAS and SAR Conventions; and
- .4 discuss the issue further at MSC 77, taking into account the outcome of COMSAR 7 and any submissions from parties concerned.

#### **INTER-AGENCY MEETING**

14 To progress the inter-agency initiative, a Meeting took place at UNHCR Headquarters in July 2002 as mentioned in paragraph 9 above.

15 In considering the identification gaps, inconsistencies, vagueness and other shortcomings in the participating organizations' work relevant to its scope, the Meeting noted that gaps so far identified by IMO mainly related to the lack of definition of a "place of safety" and clarification of the provisions in both the SOLAS and SAR Conventions relating to the obligations of the master to deliver the persons rescued at sea to such a "place of safety"; and of Contracting Governments thereto to accept such persons delivered at a "place of safety".

16 The Meeting agreed to focus on the following issues:

- .1 establishing the areas (geographical and legislative) of competence and/or co-competence of each of the participating agencies and programmes.

It was agreed that IMO's area of competence was the search-and-rescue-at-sea part of any such operation and, afterwards, the delivery of survivors to a place of

safety, as regulated by the SOLAS and SAR Conventions. The area of competence of the United Nations, as far as UNCLOS was concerned, was also restricted to sea operations and related aspects, including issues of sovereignty, territorial waters, etc. However, the areas of competence of UNHCR, ODCCP, OHCHR and IOM were considered to be multidisciplinary as they respectively relate to issues concerning asylum, transnational organized crime including the smuggling of migrants and trafficking in human beings, human rights and migrants in general, on a global scale;

- .2 agreeing on a general framework of responsibility that each organization should assume for follow-up action in emergency cases.

It was agreed that the responsibilities of the agencies and programmes concerned related to their areas of competence and co-competence. The general framework envisaged should point out these responsibilities, spelling out the anticipated follow-up action in future emergency cases and, following consultations between the partners in the initiative, identifying which organization was supposed to do what and when;

- .3 establishing a co-ordinated mechanism to respond, in a coherent and consistent manner, to emergencies.

It was agreed that the designated focal points should, at future emergency cases necessitating action at the inter-agency level, communicate with each other immediately before any joint statements are made and share relevant specific statements as they are made by individual organizations; and

- .4 exchanging views on the meaning of the term “place of safety”.

Due to time constraints, the Meeting did not consider the definition of a “place of safety” in any depth.

17 Finally, the Meeting agreed to a list of focal points representing the participating agencies and programmes to be activated for the exchange of information between members of the group as directly and quickly as possible in any future emergency; and also that the participating organizations would keep each other informed of further developments in the review process of instruments under their scope relevant to the inter-agency work.

#### **INFORMAL SAR MEETING – SWEDEN**

18 As mentioned in paragraph 13.2 above, an informal SAR meeting was hosted by the Swedish Maritime Administration in Norrköping in September 2002 to progress the review process requested by resolution A.920(22). It was attended by delegations from Australia, France, Germany, Nigeria, Norway, Sweden, the United Kingdom and the United States and observers from IMO, UNHCR, ICS and IFSMA/ITF.

19 The Meeting agreed, in principle, that the ultimate goals to be achieved in the review process undertaken by IMO should be to:

- .1 save the lives of persons in distress at sea;

- .2 ensure a situation in which the master of a ship continues to readily come to the assistance of persons in distress at sea;
- .3 ensure the least inconvenience/delay to assisting ships; and
- .4 ensure the integrity of the SAR system.

20 The Meeting agreed that it was necessary to review the relevant provisions in both the SOLAS and SAR Conventions to identify any gaps, inconsistencies, vagueness or ambiguities or whether the existing provisions had proven to be satisfactory in “normal” SAR cases; and that additional guidance would only be needed in isolated cases when other issues had to be considered as well. It was envisaged that such additional guidance for masters could be incorporated in Volume 3 of the IAMSAR Manual, while additional guidance for Administrations and RCCs could be incorporated in Volumes 1 and 2 respectively.

21 It was stressed that all operations and procedures (such as screening and status assessment of rescued persons) which went beyond the actual distress assistance and rescue of persons situation, should be undertaken after the persons embarked at sea had been taken off the assisting ship.

22 Recognizing that, in most cases, a “place of safety” would be located ashore, it was acknowledged that a place of safety could, however, be a properly equipped and staffed ship. The Meeting agreed that one of the most important issues was to get the rescued persons off the assisting ship as quickly as possible, since such a ship would normally not have the appropriate facilities and equipment to sustain the additional persons on board without endangering its own safety or to provide proper care to the rescued persons. It was agreed that, at this stage, there was no need to define the term “place of safety”.

23 In reviewing SOLAS regulation V/33, the Meeting agreed that there was a need to balance the obligations of the master to render assistance by a corresponding obligation for Contracting Governments to co-ordinate and co-operate in relieving the master of the burden and to deliver the persons retrieved at sea to a place of safety. It was proposed that Governments responsible for the specific SAR region in which the operation takes place should also assume responsibility for co-ordination and co-operation between parties concerned.

24 The view was also expressed that, even if the proposed text to amend regulation V/33 was a step in the right direction, one could still foresee situations when a master would not receive the assistance or the permission needed to be able to disembark, within a reasonable period of time, persons retrieved from a ship in distress.

25 The Meeting eventually agreed on a draft text for incorporation in SOLAS regulation V/33 on Obligation of Contracting Governments on co-operation and co-ordination to relieve the master of the burden of persons retrieved from distress situations at sea. It was observed that the draft text went a long way to reassure a master that he/she would be able to disembark persons retrieved from distress at sea at the earliest opportunity. It was, however, recognized that the Convention regulation would not be able to ensure that this could be assured in all extraordinary, isolated cases. For that particular purpose, further guidance would be needed to be incorporated into the IAMSAR Manual.

26 The Meeting agreed on a new SOLAS regulation V/34*bis* on “Master’s discretion” derived from regulation V/34.3 and a new paragraph 33.6 relating to the on board humanitarian treatment of persons retrieved from distress situations at sea, as explicitly required by resolution A.920(22).

27 It was agreed that a text similar to that proposed for inclusion in SOLAS regulation V/33 could possibly be used for incorporation in the annex to the SAR Convention as a new paragraph 3.1.9. Further proposed new texts were agreed for paragraphs 2.1.1, 3.1.6.4 and 4.8.5 of the Annex to the SAR Convention.

#### **85<sup>TH</sup> SESSION OF THE LEGAL COMMITTEE**

28 With respect to the SALVAGE Convention (as one of the instruments which might need to be reviewed in the context of resolution A.920(22)) with particular reference to article 10 thereof referring to the obligation of the master to render assistance to persons in danger of being lost at sea, the CMI observer recalled that the SALVAGE Convention was primarily a private law convention, and the provisions of article 10 were intended to ensure that the exercise of that duty did not negate a claim of salvage. He expressed the view that the SALVAGE Convention might not be the most appropriate vehicle for addressing the public law issue of treatment of persons rescued at sea.

29 LEG 85 decided there was no specific action to be taken at that session but took note that it might be requested by other IMO bodies to examine particular issues.

#### **76<sup>TH</sup> SESSION OF THE MARITIME SAFETY COMMITTEE**

30 Having noted the various documents submitted on the issue, including the reports on the inter-agency Meeting, the informal meeting in Sweden and LEG 85 and taking into account views expressed in plenary, MSC 76 instructed COMSAR 7, in accordance with the terms of reference set out in paragraph 13 above, to consider any documents submitted and to finalize using, the outcome of the informal Meeting in Sweden as a basis, the text of appropriate draft amendments to SOLAS chapter V and the SAR Convention, for consideration by MSC 77 with a view to approval and adoption at MSC 78.

#### **7<sup>TH</sup> SESSION OF THE SUB-COMMITTEE ON RADIOCOMMUNICATIONS AND SEARCH AND RESCUE**

31 COMSAR 7 considered documents reporting on the outcome of the inter-agency Meeting on the treatment of persons rescued at sea and the informal Meeting in Sweden containing proposed draft amendments to SOLAS chapter V and the SAR Convention and agreed that the text of those draft amendments provided a good basis for further consideration and development by the SAR Working Group.

32 Some delegations were of the view that the text was well balanced and any amendments thereto should be considered very carefully. However, some other delegations were of the view that the proposed amendments needed additional provisions to cover every rescue scenario.

33 After some discussion, COMSAR 7 agreed that the issue was very complex and it should be considered within the scope of IMO mandatory instruments. It was pointed out that the SOLAS Convention already contained obligations on masters and Contracting Governments and that there was a clear need to find a well-balanced compromise.

34 On the other hand it was stressed that the asylum-seeker and refugee issues should not be ignored and further discussions on the matter should continue at the inter-agency level.

35 COMSAR 7 agreed on a number of the proposed amendments to the title and paragraph 1 and on a new paragraph 6 of SOLAS regulation V/33, as well as on the text for new regulation V/34*bis* (Master's discretion), derived from the current regulation V/34.3, as amended.

36 In reviewing the new regulation V/33.1*bis*, as developed by the informal Meeting in Sweden, COMSAR 7 noted that the text had been painstakingly drafted and was carefully balanced in its wording and any amendments thereto needed to be considered with utmost caution.

37 COMSAR 7 noted that the majority of the SAR Working Group, which had been established to, *inter alia*, consider the issue, had felt that the draft text prepared in Sweden was sufficiently strong and clear in its obligations on Contracting Governments that it would be reasonably easy to put diplomatic pressure on Contracting Governments violating their treaty obligations in future cases.

38 In response to the above viewpoints, the delegation of Norway expressed the view that the present text of regulation V/33.1*bis* could lead to a ship not being able to disembark the survivors in given circumstances, even if no Contracting Governments had violated their treaty obligations.

39 Since neither the SOLAS nor the SAR Conventions, for good reasons, have a mechanism to determine the legal status of persons in distress at sea, it was considered necessary to look at other international instruments outside IMO's remit to address and find solutions related to the post-SAR operation issues within the inter-agency initiative referred to in paragraph 9 above.

40 It was recognized that the SOLAS and SAR issues needed to be addressed separately from those related to status assessment and resettlement of refugees. The latter needed to be considered by States, assisted by UNHCR and other relevant organizations, in order to develop burden-sharing agreements and procedures and to discourage people from trafficking and smuggling.

41 COMSAR 7 agreed that there was a need to strike a balance between the obligations of the master to come to the assistance of persons in distress at sea and the obligations of Contracting Governments to permit and assist the master to disembark such persons to a place of safety within a reasonable period of time. A number of delegations were of the opinion that the balance was well struck by the text produced by the informal Meeting in Sweden but that additional guidance was needed to assist the master on the one hand and the Contracting Governments on the other to clearly understand what the provisions of this new draft regulation actually meant. Consequently, reference to "guidelines developed by the Organization" were included in both SOLAS regulation V/33.1*bis* and paragraph 3.1.9 of the Annex to the SAR Convention.

42 COMSAR 7 agreed on a number of draft amendments to paragraph 2.1.1 and new paragraphs 3.1.6.4 and 4.8.5 of the Annex to the SAR Convention.

43 COMSAR 7, recognizing that the new proposed paragraph 3.1.9 of the Annex to the SAR Convention contained the same provision as new SOLAS regulation V/33.1*bis* as adjusted for the purpose, consequently agreed on the proposed new text for inclusion in the Annex to the SAR Convention, noting that the delegation of Norway had similar misgivings with this provision as it had had with the new proposed SOLAS regulation V/33.1*bis*, which were shared by some delegations and observers.

44 During the discussion which followed the introduction of the SAR Working Group report, the delegation of Norway made a statement which, as instructed, was reproduced in its entirety in annex 9 to the Sub-Committee's report (COMSAR 7/22). In that statement, Norway expressed support for the text produced by the informal Meeting in Sweden but also expressed serious concerns that the "system" described must be expected to fail in certain circumstances. Such failures might result in masters having rescued persons in distress at sea not being permitted by any coastal State to disembark the survivors to a place of safety within a reasonable period of time. Such concerns might prevent some masters from fulfilling their obligation to rescue persons in distress at sea. Norway was therefore of the opinion that additional provisions need to be developed and added to the text produced by the informal Meeting in Sweden both in SOLAS and in SAR so as to eliminate these concerns.

45 The Norwegian statement was supported by a number of other delegations and observers. However, a number of other delegations supported the report of the SAR Working Group and the compromise text of the proposed draft amendments to the SOLAS and SAR Conventions.

46 The delegation of Denmark expressed support for the Norwegian point of view and stated that it too would have liked to see a clearer basis for the disembarkation of persons rescued at sea at the earliest and most convenient opportunity. Several other delegations and observers, whilst not objecting to the compromise text, but wishing to see further going supplementary provisions, expressed similar views.

47 The delegation of the United States, supported by a number of other delegations, expressed the view that there might not be so much as two different schools of thought, as had been suggested by the delegation of Norway, but rather two competing interests in the rescue at sea scenario, namely the interest of the master to deliver the persons rescued at sea to a place of safety within a reasonable period of time and the interests of the State to protect its borders and other sovereignty concerns. Both interests could conflict at times, the latter was beyond the remit of the Organization and should be considered at the interagency initiative level in co-operation with other co-competent agencies and programmes. The rescue at sea and delivery to a place of safety part was under the remit of IMO and was, to that delegation's opinion, well-balanced and addressed as far as possible in the new draft SOLAS regulation V/33.1*bis*, which should provide a sufficient basis to remind Contracting Governments of their treaty obligations in cases of need. Any attempt to try to regulate any further in the delivery process would run the risk of going beyond the remit of IMO. To assist SOLAS Contracting Governments to very clearly understand their treaty obligations, and to provide the master with clear guidance, if not some certainty as to the procedures to be followed under the new regulations, additional guidelines, perhaps containing harmonized interpretation of what these regulations actually meant, would be probably as far as IMO could go at this stage in any further development.

48 All delegations supporting that view considered the SOLAS amendments text developed by the SAR Working Group as the best possible compromise for the time being and, therefore, supported the recommendation of the Working Group to submit it, together with the comments made by the Sub-Committee, to MSC 77 for consideration and approval with a view to adoption at MSC 78.

49 Having considered the matter to some considerable extent and, recognizing that none of the delegations were actually opposing the text of the proposed SOLAS and SAR amendments, but that those supporting the Norwegian view only wished to see additional further-going regulations developed, COMSAR 7, noting that the delegation of Norway intended to address the issue in a relevant submission to MSC 77, agreed to submit the proposed draft amendments to the

SOLAS and SAR Conventions to MSC 77 for consideration and approval with a view to adoption at MSC 78.

### **30<sup>TH</sup> SESSION OF THE FACILITATION COMMITTEE**

#### **General**

50 In considering the issue at FAL 30, some delegations were of the opinion that it would be premature, for the FAL Committee, to review the FAL Convention to address facilitation matters in the context of the treatment of persons rescued at sea, as the proposed amendments to the SOLAS and SAR Conventions, which might have an impact on such a review, had yet to be finalized by MSC 77. Others were of the view that the said amendments were not of direct relevance as the FAL Committee was expected to consider the facilitation aspects of this issue only, which were independent of provisions in the SAR Convention. It would, therefore, be more appropriate for the FAL Committee to establish a working group to deal with the facilitation aspects of the issue.

51 Some delegations emphasized that when persons are rescued at sea, it was of no relevance to the master whether they were stowaways, refugees or asylum seekers. The master, under such circumstances, takes into consideration the humanitarian aspect of the situation and explores avenues for the survivors' earliest and safe disembarkation in co-operation with the coastal State concerned. Those delegations were of the opinion that it should be left to the UNHCR and other relevant UN agencies, which, in association with other bodies concerned, should explore avenues for landing them ashore at the first incidence.

#### **Administrative procedures for disembarking persons rescued at sea**

52 FAL 30 noted that the majority of the *ad hoc* working group established, recognizing that the issue of disembarking persons rescued at sea was a complex one that had been referred to MSC within the wider context of political questions relating thereto, believed that it would be premature to attempt to develop administrative procedures for disembarkation before policy decisions had been made. The working group agreed, however, that any procedure developed should point in the direction of facilitating the disembarkation of survivors to a place of safety as expeditiously as possible.

53 FAL 30 further noted the group's view that the identification of any administrative procedures should take into account that, when a ship sent a distress message, such a message should contain:

- the ship's name and call sign;
- position;
- nature of distress;
- assistance required; and
- any other relevant information.

54 FAL 30 also noted that the working group had recognized that the distance and location of the ship involved in the disembarkation of persons rescued at sea, in relation to the place of safety, would influence the time available to secure the requisite information.

55 After a lengthy discussion, FAL 30 agreed to further consider the issue at its next session and urged Member Governments to identify administrative procedures for disembarking persons rescued at sea and submit them to FAL 31.

#### **Need for the development of a checklist**

56 FAL 30 noted that the majority of the working group had agreed that, at this stage, the development of a standardized form for recording information on persons rescued at sea was not appropriate as such a form might be considered as a requirement, which needed to be fulfilled by the Master when rendering assistance to persons in distress at sea and, instead, it would be more appropriate to develop a checklist of information to be used for guidance purposes only.

57 FAL 30 agreed that there was a need for the development of such a checklist and that the preliminary checklist prepared by the group needed to be further reviewed at a later stage, when administrative procedures for disembarking persons rescued at sea were clearly identified.

58 FAL 30 instructed the Secretariat to keep it informed of all relevant developments in the Organization and other international organizations or fora, including progress on the consolidation of the UNHCR guidelines on persons rescued at sea involving asylum seekers and refugees, so that it might have more comprehensive information against which to make well-informed decisions.

#### **Review of the FAL Convention**

59 FAL 30 noted the preliminary draft amendments to the FAL Convention, prepared by the group and agreed to further consider them at its next session, taking into consideration any relevant developments in the Organization and other international organizations or fora.

#### **Amendments to resolutions A.773(18), A.867(20) and A.871(20)**

60 FAL 30 agreed that, in the context of measures and procedures for the treatment of persons rescued at sea, there was no need, for the time being, to make amendments to the above three Assembly resolutions from the facilitation point of view.

#### **86<sup>TH</sup> SESSION OF THE LEGAL COMMITTEE**

61 LEG 86, noting that no legal issues had yet been referred to it for consideration since LEG 86 (see paragraphs 28 and 29 above), expressed its continued readiness to provide advice on any legal issues that might be brought to its attention by other IMO bodies and decided to keep the matter under review and to report to the Assembly on work undertaken in compliance with resolution A.920(22).

#### **77<sup>TH</sup> SESSION OF THE MARITIME SAFETY COMMITTEE**

62 MSC 77 considered the actions taken by COMSAR 7, as given in paragraphs 31 to 49 above and a new proposal on "safeguard provisions" for inclusion in the SAR and SOLAS Conventions, which would assure shipmasters that they would be permitted and able to deliver persons rescued at sea to a place of safety in some suitable State in all cases and circumstances.

63 The Secretariat informed MSC 77 of a recent communication with UNHCR on the issue of the latter updating, possibly in co-operation with IMO, their guidelines to masters and the

understanding reached between the two organizations that such an exercise could be undertaken after IMO had decided on the regulatory regime which would govern the treatment of persons rescued at sea, presumably through the contemplated amendments to the SOLAS and SAR Conventions.

64 The Secretariat further clarified that the purpose of the inter-agency initiative launched by the Secretary-General in 2001 was to create a mechanism of co-operation and co-ordination among the United Nations agencies and programmes involved to respond to emergency situations in a co-ordinated and consistent manner; and not to seek regulatory arrangements for which the Secretariat had had no mandate and which were the prerogative of Governments party to relevant Conventions such as SOLAS and SAR.

65 During the debate on the issue some delegations pointed out that more time would be needed to consider the proposed amendments; however, taking into account the importance and complexity of the issue they agreed to consider a proposal jointly submitted by Australia, France, Norway, Sweden, the United Kingdom and the United States providing draft MSC resolutions on adoption of amendments to the SAR and SOLAS Conventions, as a carefully drafted compromise text.

66 After considerable discussion and, taking into account the various views expressed and comments made by COMSAR 7, MSC 77:

- .1 approved the proposed draft amendments to the SOLAS and SAR Conventions and associated draft MSC resolutions, with a view to adoption at MSC 78;
- .2 established a correspondence group co-ordinated by the United States to prepare draft guidelines based on a proposed outline and report to COMSAR 8; and
- .3 instructed COMSAR 8 to finalize the draft guidelines referred to in the proposed draft amendments to the SOLAS and SAR Conventions and submit them to MSC 78 for appropriate action.

#### **UNITED NATIONS RESOLUTION**

67 MSC 77 noted that the United Nations General Assembly resolution 57/141 on Oceans and the Law of the Sea, in operative paragraph IX.34, had welcomed the initiatives by the International Maritime Organization, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration to address the issue of the treatment of persons rescued at sea.

#### **ACTION REQUESTED OF THE COUNCIL**

68 The Council is invited to endorse this progress report and forward it to the Assembly for information and action as appropriate.