



COUNCIL - 90th session

C 90/SR.1
26 August 2003
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SUMMARY RECORD OF THE FIRST MEETING

**held at IMO Headquarters, 4 Albert Embankment, London SE1 7SR
on Monday, 16 June 2003 at 9.30 a.m.**

Chairman: Mr. CHEN TZE PENN (Singapore)
Vice-Chairman: Mr. J. FRANSON (Sweden)
Secretary-General: Mr. W.A. O'NEIL

A list of participants is given in document C 90/INF.1.

N.B. Corrections to the summary record should be submitted in writing, preferably on a copy of the summary record, to the Conference Division, IMO Secretariat, 4 Albert Embankment, London SE1 7SR not later than 13 October 2003.

Corrections to all summary records of the session will be issued in a consolidated corrigendum.

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OPENING OF THE SESSION

The CHAIRMAN declared open the ninetieth session of the Council and extended a warm welcome to all Members.

INVITATION TO NON-MEMBERS OF THE COUNCIL TO ATTEND THE SESSION

The CHAIRMAN said that in accordance with Article 20 of the IMO Convention and rule 4 of the Council's Rules of Procedure, a number of Members of the Organization had expressed a wish to participate in the session, namely Algeria, Barbados, Belize, Benin, Colombia, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Ecuador, Gabon, Gambia, Grenada, Guatemala, Iceland, Iran (Islamic Republic of), Liberia, Marshall Islands, Mauritius, Monaco, Morocco, Oman, Papua New Guinea, Peru, Portugal, Qatar, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Thailand, Trinidad and Tobago, United Republic of Tanzania, Uruguay, and the Associate Members, Hong Kong, China and the Faroe Islands. He suggested that the representatives of those countries be invited to attend the session as observers.

It was so decided.

INVITATION TO JOURNALISTS TO ATTEND THE SESSION

The CHAIRMAN said that a request had been received from Mr. O'Mahony, a journalist from Lloyd's List, to observe the proceedings of the session. He drew the Council's attention to rule 52 of its Rules of Procedure, which provided that the appointment of the Secretary-General should be considered in private meeting. He asked whether the Council would agree to open its meetings, apart from the meeting dealing with the Secretary-General's appointment, to that journalist and to any other journalists who might make a similar request.

Mr. CHARALAMBOUS (Cyprus), supported by Mrs. SEET-CHENG (Singapore) and Mr. GALEA (Malta), pointed out that according to rule 5 of the Rules of Procedure, non-governmental organizations wishing to participate in a session of the Council must have a direct concern with an item on the agenda. The proceedings of the Council were private and he did not think they should be open to the press or the public.

Mr. ASUQUE (Philippines) shared that view. However, it was important that the results of the session should be made public.

The CHAIRMAN said he took it that the Council preferred to hold its meetings in private.

It was so decided.

AGENDA ITEM 1 - ADOPTION OF THE AGENDA (C 90/1/Rev.1)

The CHAIRMAN invited the Council to adopt the agenda contained in document C 90/1/Rev.1 and to defer until later in the session its decision on the request to consider a supplementary agenda item entitled "Requests from the news media to attend meetings".

He further invited the Council to take up the items for consideration in the order in which they were listed on the agenda, except for agenda item 34, "Appointment of the Secretary-General", which would be dealt with as the first item of business on the morning of Wednesday, 18 June 2003; and with respect to item 29(a) "Applications for consultative status",

to convene a small group to screen the two new applications which had been submitted. The group was composed of the following delegations: Argentina, China, Cyprus, Italy, Nigeria, Singapore and the United States. Mr. Chrysostomou of the delegation of Cyprus had agreed to chair the group.

It was so decided.

**AGENDA ITEM 2 - REPORT OF THE SECRETARY-GENERAL ON CREDENTIALS
(C 90/2)**

The SECRETARY-GENERAL reported that credentials had not yet been received from all delegations and invited representatives who had not yet submitted their credentials to do so as soon as possible.

**AGENDA ITEM 3 - REPORT ON THE STATUS OF THE CONVENTION AND
MEMBERSHIP OF THE ORGANIZATION (C 90/3)**

The SECRETARY-GENERAL said that the position regarding the membership of the Organization was given in document C 90/3. Since the matter had last been reported to the Council at its eighty-ninth session in November 2002, there had been one change in the associate membership of the Organization, following the declaration by the Kingdom of Denmark, notified to the United Nations on 3 December 2002, that the Faroe Islands had become an Associate Member of the Organization in conformity with Articles 8 and 72 of the IMO Convention. The membership therefore currently stood at 162 Member States, plus three Associate Members. Regarding the application for membership of the Organization by the Government of the Cook Islands, one further reply had been received since the matter had last been reported to the Council at its eighty-ninth session in November 2002. The total number of replies received to date was therefore 33.

Annex 2 to document C 90/3 gave the list of Members which, as at 1 March 2003, had accepted the amendments to the IMO Convention relating to the institutionalization of the Facilitation Committee adopted by the seventeenth regular session of the Assembly in 1991. As of 16 June 2003, therefore, 76 Members had accepted the 1991 amendments. In accordance with the provisions of Article 66 of the IMO Convention, the amendments would enter into force 12 months after the requisite instruments of acceptance from two thirds of the Members of the Organization, namely 108 Member Governments out of the present total membership of 162, had been deposited with the Secretary-General of the United Nations. Thirty-two more acceptances were therefore required for the 1991 amendments to enter into force.

The Council would recall that he had repeatedly emphasized the importance of the early entry into force of the amendments, given the importance of the Facilitation Committee's contribution to the facilitation of international maritime traffic. To that end, and as requested by the Council, he had sent a Note Verbale on 14 February 1995 urging Member Governments which had not accepted the amendments to give the highest priority to their consideration and acceptance. Additionally, on the occasion of meetings of the Committees, the Secretariat had written to each individual delegation, which had yet to accept the amendments, urging them to take the matter up with their Governments. Further initiatives to that end had been undertaken by the regional co-ordinators, including direct approaches to participants at regional seminars.

The Council would recall the resolution adopted at its eighty-eighth session, which had been transmitted to all Member States on 17 June 2002. The operative paragraphs of the resolution welcomed the action taken so far by Member States which had already accepted the

amendments and urged Member States which had not yet done so to accept the 1991 amendments as soon as possible, with a view to achieving the requisite acceptance by two thirds of the Members of the Organization needed in order to give effect to the institutionalization of the Facilitation Committee.

He reiterated that he was ready at all times to provide additional information and assistance to any Government which might require it in the consideration of those items.

Mr. CHARALAMBOUS (Cyprus) asked whether the information which the Council had requested at its last session regarding the acceptance of the application of the Cook Islands to join the United Nations had been received. He urged Council Members to accept the 1991 amendments, and proposed that an Assembly resolution, similar to the resolution adopted by the Council, should be adopted at the next session of the Assembly. The Council could consider such a draft resolution at its next extraordinary session.

The SECRETARY-GENERAL said that the Cook Islands was not yet a Member of the United Nations, and that no further information was available.

Mr. GALEA (Malta) and Mr. HANSEN (Denmark) supported the proposal by Cyprus.

Mr. AZUMA (Ghana) said that his Government had approved the acceptance of the amendments. The instrument of acceptance would be deposited with IMO within two weeks.

The CHAIRMAN invited the Council to note the information provided by the Secretary-General in document C 90/3 and in his introduction, in particular the admission to IMO, as an Associate Member, of the Faroe Islands on 3 December 2002, and to extend its welcome to the Faroe Islands; and to note the status of replies received with regard to the application of the Cook Islands for membership of the Organization.

He further invited the Council to note the information provided by the Secretary-General concerning the number of Member States which had accepted the 1991 amendments to the IMO Convention and the steps he had taken to encourage further acceptances in that regard; and to commend the Secretary-General on the initiatives he had taken to urge those Member States which had not already done so to consider accepting the 1991 amendments at the earliest possible opportunity.

It was so decided.

AGENDA ITEM 4 - REPORT ON THE STATUS OF CONVENTIONS AND OTHER MULTILATERAL INSTRUMENTS IN RESPECT OF WHICH THE ORGANIZATION PERFORMS FUNCTIONS (C 90/4 and Add.1)

The SECRETARY-GENERAL said that document C 90/4 reported on the status of the various conventions and other instruments in respect of which IMO performed depositary or other functions as at 1 March 2003, and document C 90/4/Add.1 updated the information to 9 June 2003. Since the issue of Add.1, further instruments had been received: accession by the Republic of Korea to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988 (SUA PROT 88); acceptance by India of optional Annexes III, IV and V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78); ratification by Poland of the International Convention on Oil Pollution Preparedness, Response

and Co-operation, 1990 (OPRC 1990); and accession by Poland to the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS 2000).

With the increasing emphasis on security-related issues, the Council would be pleased to note the comprehensive maritime security measures adopted in December 2002 by a Conference of Contracting Parties to the International Convention for the Safety of Life at Sea, 1974. The International Code for the Security of Ships and of Port Facilities (ISPS Code) would take effect on 1 July 2004, when the new chapter XI-2 of SOLAS would enter into force. A full report on the Conference was provided to the Council under item 9 of the agenda.

The Council would also be pleased to note the adoption, reported in document C 90/4/Add.1, of the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992. A full report on the Conference was provided under item 10 of the agenda.

Section I of document C 90/4 provided information on instruments and amendments to instruments for which the entry into force requirements had been met since the last report to the Council. There were currently 45 viable treaty instruments, 33 of which were in force. Thanks were due to IMO's Member Governments for their important contribution to the development and implementation of those treaty instruments, which constituted an indispensable part of the international legal regime of shipping. Section II of the document outlined the current situation with regard to the 12 instruments and amendments to them for which entry into force requirements had not yet been fulfilled.

The Secretariat would continue its efforts to encourage and assist all Governments to accept and implement the various conventions and protocols, in accordance with the decisions of the Assembly, the Council and other bodies of IMO.

Mr. HORIKE (Japan) said he was pleased to inform the Council that Japan, mindful of the importance of establishing global measures to ban the use of TBT in order to prevent harm to marine ecosystems and human health, had approved the International Convention on the Control of Harmful Anti-fouling Substances on Ships, 2001 and was finalizing procedures for its ratification.

Ms MOETZEL (Germany) said that her country had completed the process of ratifying Annex VI to MARPOL and would deposit the instrument shortly.

Mr. SOLORZANO (Panama) said that his country too had recently ratified Annex VI to MARPOL, and its provisions would therefore come into force in the near future.

The CHAIRMAN invited the Council to take note of the developments which had occurred since the eighty-ninth session of the Council in November 2002, including the adoption, by a Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74), of amendments to SOLAS 74 introducing a new chapter XI-2 on Special measures to enhance maritime security, supplemented by the International Code for the Security of Ships and of Port Facilities (ISPS Code), which was expected to take effect on 1 July 2004; to note the adoption, on 16 May 2003, of the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992; to endorse and support the Secretary-General's continuing efforts to encourage Governments to take early action on the consideration and acceptance of the instruments to

which they were not yet parties; and to extend its appreciation to the Secretary-General for his efforts, which had contributed immensely to those favourable developments, and to urge him to maintain those efforts in the future.

It was so decided.

AGENDA ITEM 5 - CONSIDERATION OF THE REPORTS OF THE MARITIME SAFETY COMMITTEE (C 90/5, and Add.1; MSC 76/23 and MSC 77/26)

The CHAIRMAN, on behalf of the Council, asked the United Kingdom delegation to convey to Mr. T. Allan, Chairman of the Maritime Safety Committee, its best wishes for a speedy and complete recovery from his recent illness.

The SECRETARY-GENERAL said that developments within IMO, and the efficiency and effectiveness of the Organization to respond quickly to any need for enhanced safety at sea and environmental protection by providing solutions to global maritime problems and addressing all attendant issues in a proactive manner, continued to be closely followed both by the general public and by political authorities around the world. That had again been demonstrated in the context of the **Prestige** incident in 2002, which had been brought to the attention of the Council at its last session. To ensure that regulatory measures to remedy any weaknesses in the existing regime identified in the **Prestige** context would be brought to IMO for consideration, he had taken a number of initiatives, including maintaining an open line of communication with both the flag and coastal States affected and the classification society concerned, and visiting the President of the European Union Transport Ministers' Council and the European Commission Transport Commissioner. He had received the European Union's proposals to amend MARPOL, which would be considered by MEPC in July and later in the year, if the Council approved a special session of that Committee to take place in conjunction with the November-December session of the Assembly. He made a plea to European Union countries to await the outcome of the work of IMO, and not to take any measures which might cause problems to the industry or harm the Organization.

Since the last session of the Council, the Maritime Safety Committee had met twice, at its seventy-sixth session in December 2002 and at its seventy-seventh session in May-June. The outcome of those two sessions was summarized in documents C 90/5 and C 90/5/Add.1. Throughout its deliberations, the Committee had followed the policy and operational guidelines of the Organization laid down in resolutions A.500(XII), A.777(18), and A.900(21).

The report of the seventy-sixth session of the Committee had been issued as document MSC 76/23 and addendum. The session had been held from 2 to 13 December 2002, concurrently with the 2002 SOLAS Conference on Maritime Security. The session had been attended by a record number of 105 States, two Associate Members, four United Nations organizations and 45 international organizations. The report of the outcome of the session was contained in document C 90/5. Many of the items addressed had been further considered at the Committee's seventy-seventh session, and were therefore also included in the report of that session.

Paragraphs 6 and 7 reported on the adoption by the Committee of amendments to the SOLAS Convention and the INF Code, as well as the adoption of technical provisions for means of access for inspections. Paragraphs 8 and 10 covered the actions taken by the Committee before and after the SOLAS Conference on Maritime Security. The Committee had continued work to enhance the safety of bulk carriers and large passenger ships as reflected in paragraphs 11 to 14, and had also confirmed new STCW Parties which had qualified for

inclusion in the “white list”, as reported in paragraphs 15 and 16. Paragraphs 17 to 50 reported on important issues the Committee had dealt with in the context of the reports of the DE, FSI, BLG, NAV, SLF and DSC Sub-Committees, and paragraph 54 listed the safety-and security-related thematic priorities which the Committee had agreed should be included in the ITCP for the 2004-2005 biennium.

Paragraphs 70 to 73 reported on the outcome of the meeting of the MSC, MEPC, TCC and the FAL Committee Chairmen with the Chairmen of the technical sub-committees of the Organization convened in June 2002 to consider ways and means to enhance the efficiency and effectiveness of the IMO bodies concerned. That meeting had been successful, and recommendations had been submitted to the relevant Committees for endorsement. Paragraphs 74 to 77 reflected the Committee’s decisions on matters relating to its work programme and that of its subsidiary bodies, including the recommendation that 25.5 meeting-weeks be allocated to the MSC and MEPC and their subsidiary bodies during the 2004-2005 biennium. Paragraph 78 listed the 20 guidelines and other recommendations on various safety-related issues approved by the Committee for dissemination to Member Governments.

The report of the outcome of the seventy-seventh session of the Committee was contained in document MSC 77/26. The session had been attended by 105 Member States, two Associate Members, five United Nations organizations and 39 international organizations. Paragraphs 4 to 9 of document C 90/5/Add.1 reported on the outcome of the discussion on the proposals of the Bahamas and Greece that IMO should play a larger role in determining the standards to which new ships should be built. The Committee had had an in-depth discussion, as requested by the Council, and had decided to consider the matter further at its next session under a new agenda item on “Goal-based new ship construction standards”. It had also suggested that the Council should consider the matter in the context of the development of the Organization’s Strategic Plan. Paragraphs 10 and 11 reported on the adoption of amendments to the SOLAS Convention and the 1988 Load Lines Protocol as well as to the Enhanced Survey Programme, while paragraphs 12 to 14 reflected the Committee’s actions on the issue of large passenger ship safety and its decision to assess, at its next session, the work accomplished so far within the guiding philosophy, strategic goals and objectives previously adopted, in order to decide how to take the matter forward. Paragraph 15 reported on the Committee’s further work on the enhancement of the safety of bulk carriers.

The Committee had continued work on measures to enhance maritime security in its efforts to assist in the implementation of the regulatory regime established by the Conference in 2002, as reported in paragraph 21, while paragraphs 17 to 20 reported on action taken within the agreed framework of co-operation with ILO and WCO, including the decision to nominate the eight IMO representatives to the Joint ILO/IMO Working Group to progress matters on the wider issue of port security. Paragraphs 24 to 31 covered the main action taken by the Committee on places of refuge, and in particular its instructions to NAV 49 to finalize and submit directly to the twenty-third session of the Assembly for adoption two draft resolutions on Guidelines on places of refuge for ships in need of assistance and Maritime Assistance Services. Paragraphs 32 to 59 reported on important issues covered by the Committee in the context of the reports of the DSC, COMSAR, FP, STW, DE, BLG and FSI Sub-Committees, in particular the review of safety measures and procedures for the treatment of persons rescued at sea, the intergovernmental oversight of possible future mobile-satellite service providers for the GMDSS, the progress made in the implementation of the revised STCW Convention, and the transportation of cargoes containing toxic substances. Paragraphs 60 to 62 reported on safety-and security-related technical co-operation activities undertaken by the Maritime Safety Division, paragraphs 65 and 66 on human element issues and paragraph 67 on formal safety assessment.

Paragraphs 68 to 75 reported on the Committee's efforts to co-ordinate work on the prevention and suppression of acts of piracy and armed robbery against ships, with particular reference to the continuing increase in reported incidents and the violence with which attacks had been carried out, resulting in loss of life; the regional meeting held in Accra in March 2003 to assist countries in the West and Central African subregions to conclude an agreement on regional co-operation; and the co-ordinated action plan for future action.

Paragraphs 76 and 77 described the Committee's continuing efforts to ensure ratification of the 1993 Torremolinos Protocol and 1995 STCW-F Convention by a sufficient number of Governments to bring the two instruments into force without delay.

The Committee had approved a revised version of the Guidelines on the organization and method of work and had instructed the Secretariat to issue them after concurrence by the MEPC. As reported in paragraphs 81 to 84, work programme issues and the Committee's contribution to the Organization's long-term work plan would be considered under agenda item 21.

Paragraphs 87 and 88 listed the five draft Assembly resolutions and 88 guidelines and other recommendations on safety issues that the Committee had approved at its previous session. The Council would be pleased to note that, as reflected in paragraphs 89 to 91, the conditions set for the participation of IMO in the work of the Equasis Information System had now been met.

As reported in paragraphs 94 to 97, the Committee had expressed appreciation to Singapore and Hong Kong, China for sharing with IMO their experiences of severe acute respiratory syndrome, following which MSC/Circ.1068 had been issued to increase awareness of the syndrome and the measures being taken to prevent its spread. The Committee had also appreciated the positive response of the World Health Organization to an invitation to send an expert to advise the Committee on the disease.

Since the seventy-seventh session had provided the last opportunity for him to address the Committee, he had reviewed the current state of maritime safety and emphasized the beneficial effect that IMO's work had had on maritime safety as a whole. Since becoming Secretary-General, he had encouraged the adoption of the highest practical standards in all areas of concern to the Organization. In addressing the Committee at its sixtieth session in 1992, he had emphasized the need for concerted efforts to adopt realistic and highly regarded safety standards, and had observed that watered-down proposals on important safety issues might provide the industry with short-term economies but would not enhance its long-term viability because unilateral action taken by others would undoubtedly follow. He had added that the proponents of unilateral action should be given no cause to believe that IMO was not capable of adopting sufficiently strong measures to deal with well-known and publicized deficiencies in international safety regulations. One year later, at MSC 62 in 1993, he had observed that, although constructional, operational and cargo safety standards had steadily improved and strenuous efforts had been made to protect and preserve the marine environment from pollution from ships, one accident would have been enough to provoke strong criticism of the shipping industry and the technical standards regulating it.

Although he had emphasized the importance of shipping and its good safety record as a whole, he had recognized that more needed to be done in order to create a safer, more secure and environmentally friendlier maritime world. He had suggested, in the midst of a succession of accidents in the early 1990s, that it served no purpose to continue to blame others instead of accepting collective responsibility for maritime accidents. He had been among the first to accept that the **Erika** had slipped through the safety net and that co-operation was essential to prevent a

recurrence of such accidents. While he had understood the anger of the victims of accidents, the anguish of those who had lost loved ones at sea and the anger of those whose coasts and livelihood had been damaged by catastrophic pollution incidents, he had considered that, taking into account the safety record of the industry as a whole, it had been a gross distortion to brand shipping as uncaring, unsafe and unconcerned about the environment every time that a major shipping casualty occurred.

Any assessment of the safety record of the industry should be based on statistics and analytical information provided by authoritative sources. From a review of the statistics for the period 1991 to 2001, recently issued by Lloyd's Underwriters Marine Intelligence Unit, it could only be concluded that the allegation that shipping had a poor safety record was unfounded, for those statistics clearly showed a decline in the number of ships over 500 gross tons lost each year from over 180 units in 1991 to less than 80 units just 10 years later. During the same period, the decline in terms of aggregate gross tonnage lost each year was from 1.75 million gross tons in 1991 to less than 0.75 million tons lost in 2001.

Bulk carrier safety had also improved. The International Association of Dry Cargo Shipowners had concluded, in its latest bulk carrier casualty report, that, during the 10-year period from 1993 to 2002, the average number of bulk carriers, lives and deadweight tonnage lost had fallen. The beneficial impact of the standards adopted by IMO and those approved by the International Association of Classification Societies should be recognized as contributing to the improvements in that sector of shipping, and further gains would accrue from the recent adoption of amendments to the 1988 Load Line Protocol.

He believed that the Council would share his satisfaction with IMO's contribution to the overall effort to raise the safety standards of the shipping industry – a satisfaction which should serve to strengthen the Organization's determination to work harder to achieve even better results in the future.

The nine sub-committees that had met since the Committee's last session had submitted their reports to MSC 76 and 77, notwithstanding the difficulty of finalizing their work and that of the SOLAS Conference on Maritime Security in time. The strenuous efforts of all those concerned, of which he was appreciative, would serve safety and security at sea and in ports and the marine environment when the measures agreed at the Committee's last two sessions, and those to be agreed in the near future, were widely and effectively implemented and rigorously enforced on a worldwide basis. As the world's regulatory body, IMO had shouldered its responsibilities, and it was now up to Governments and industry to implement the standards it had developed. He therefore sincerely hoped, for the sake of seafarers, of those who worked in ports and offshore terminals and platforms, and of those who depended on the seamless flow of international maritime trade, that they would fulfil their obligations.

The CHAIRMAN invited comments on the reports.

Mr. CHARALAMBOUS (Cyprus) proposed that, to avoid confusion, the Council should consider separately the two sets of actions requested of the Council as a result of its seventy-sixth and seventy-seventh sessions, as set out in documents C 90/5 and C 90/5/Add.1, respectively, and that the recommended actions resulting from the Committee's seventy-sixth session should be considered first.

The CHAIRMAN said that the Council was first invited to make general comments, after which the actions requested would be discussed.

Mr. LEE Seng Kong (Singapore) said the efforts the MSC had undertaken during its seventy-sixth session were in large part responsible for the success of the 2002 SOLAS Conference on Maritime Security. He welcomed the improvements made in maritime safety, an issue that required the full support of every Member State. He also welcomed the Committee's in-depth discussion on severe acute respiratory syndrome, and the prompt issuing of a circular containing guidelines based on information provided by the World Health Organization to ensure that the maritime community was made aware of the precautions to be taken against the disease.

Mr. GIANNIMARAS (Greece) expressed his appreciation of the swift, decisive and effective way in which the Secretary-General had responded to the challenges posed by the sinking of the tanker **Prestige**. His delegation particularly welcomed the effective management of the Committee's work by the Chairman and the Acting Chairman, and endorsed the conclusions and recommendations made. He hoped that the Chairman would make a speedy recovery and looked forward to his prompt return.

Mr. DIOP (observer, Senegal) thanked IMO for assisting his country during the unfortunate events of September 2002. He urged the Committee to devote increased attention to passenger ship safety, particularly in Eastern and Central Africa, and to encourage the implementation of all the provisions of the International Convention on Maritime Search and Rescue. While safety standards had improved overall, some regions required additional support from IMO in their endeavours to enhance ship safety.

Mr. BARKINDO (Nigeria) joined previous speakers in commending the Committee on its work. The reduction in the number of reported incidents of piracy and armed robbery in West Africa for the period between 1 January and 31 December 2002, as indicated in the report of the Committee's seventy-seventh session, demonstrated the subregion's determination to curb the scourge of piracy. Nigeria had already established a broad-based committee to suppress such unlawful acts and to pursue all offenders. Nigeria was also collaborating with other countries in the subregion, under the auspices of the Maritime Organization for West and Central Africa, to establish a coastguard network, and he thanked IMO and other organizations for their assistance in that endeavour.

Mr. ADDICO (observer, Maritime Organization for West and Central Africa) joined previous speakers in wishing the Chairman of the Committee a speedy recovery. He expressed his appreciation to IMO for its prompt response to his organization's request for the convening of a subregional meeting on combating piracy and armed robbery against ships, which had been held in Accra in March 2003, and thanked Ghana for its co-operation in that regard. He welcomed IMO's offer to assist in implementing the anti-piracy project and in establishing an integrated coastguard network in the subregion. The project would help to ensure implementation of IMO's many international conventions for the suppression of piracy, would aid search and rescue operations and would ensure that unfortunate incidents such as that which had occurred off the coast of Dakar in 2002 would not recur.

Mr. ROWE (United Kingdom) said he wished to place on record his delegation's appreciation of the good wishes for a speedy recovery extended to Mr. Allan, Chairman of the Committee, and to convey to the Council Mr. Allan's gratitude for the support expressed.

Mr. KAGIMBI (Kenya) reported that his Government had recently signed a Multilateral Agreement on Co-ordination of Maritime Search and Rescue Services in Kenya, the Seychelles and the United Republic of Tanzania. The three Governments concerned urged the Council to release funding from the Integrated Technical Co-operation Programme for the speedy

completion of maritime rescue co-ordination centres in their respective countries. He thanked IMO for the financial resources it had provided, which had made a global search and rescue system attainable in his region.

Mr. BELL (Bahamas) endorsed the Secretary-General's comments and welcomed the improvements made in maritime safety and pollution prevention as a result of the efforts of various bodies, including IMO, and of all those involved in ships' operations. No mention had been made, however, of the important contribution to those improvements made by flag States, which were responsible for ensuring the implementation of safety standards. Although flag States were usually blamed for the faults of the shipping industry, it was important to recognize the vital contribution that they made to maritime safety.

Mr. AMEYAW-AKUMFI (Ghana) commended the Committee on its work and wished its Chairman a speedy recovery. A subregional meeting on combating piracy and armed robbery had recently been held in Accra. Such subregional meetings were valuable, and their value would be even greater if they were held on a regular basis, since they enabled countries within subregions to compare the progress made in implementing safety measures. He therefore urged the Council to support the draft resolutions that promoted the concept of subregional meetings.

Mr. MENSAH-ZOGUELET (observer, Gabon) commended the MSC on its reports and thanked IMO for its assistance in the organization of a seminar on maritime safety to be held in Libreville, Gabon, from 23 to 27 June 2003.

Mr. ADDICO (observer, Maritime Organization for West and Central Africa), speaking on behalf of the Ports Management Association of West and Central Africa and the Pan-African Association for Port Co-operation, thanked IMO for its assistance in enhancing port safety and security in the West and Central African subregions. Two seminars that had recently taken place, one in Kenya in 2002 and the other Cameroon in April 2003, both under the auspices of IMO, and which had addressed security procedures in African ports, represented a considerable achievement. He also welcomed the observer status that the Organization had granted to two port associations in Africa. All those activities reflected IMO's commitment to the achievement of maritime safety worldwide. However, further efforts were needed to enhance navigational safety and port security in Africa.

Mr. CHARALAMBOUS (Cyprus) said that his delegation's silence on the matter of the contacts that had been established between the IMO Secretariat and the European Commission concerning the **Prestige** incident should not be interpreted as an endorsement of those contacts.

Referring to paragraphs 75 and 76 of document C 90/5, he said that the Committee's proposals of 25.5 meeting-weeks for the biennium 2004-2005 should be discussed within the context of the budget for the forthcoming biennium.

The CHAIRMAN explained that the Council was being invited to note the Committee's recommendation that 25.5 meeting-weeks should be allocated to the MSC, MEPC and their subsidiary bodies for the biennium 2004-2005; approval of that recommendation would be considered at a later stage.

Mr. CHARALAMBOUS (Cyprus) said that the Council had not had the opportunity of considering paragraphs 77 to 88 of document C 90/5.

Mr. MITROPOULOS (Assistant Secretary-General and Director, Maritime Safety Division) said that in the Secretariat's opinion there was nothing in paragraphs 77 to 88 that merited the Council's attention or required it to take a decision. After paragraph 77, the only important issue for the Council was contained in paragraph 89.4 on developments concerning the Equasis Information System. A final decision on that issue could, however, be deferred until the Council came to consider the report of MSC 77.

Mr. CHRYSOSTOMOU (Cyprus), referring to paragraph 42 of document C 90/5/Add.1, said that the TCC was the best organ to carry out feasibility studies on the three options for funding the subregional MRCCs proposed by the Florence Conference. He suggested that the issue should be referred to that Committee.

Mr. AGUILAR-SALAZAR (Mexico) and Mr. GALEA (Malta) supported that suggestion.

Mr. MITROPOULOS (Assistant Secretary-General and Director, Maritime Safety Division) recalled that the establishment of an international SAR Fund had been recommended in a resolution adopted at the 2000 Florence Conference. On that basis, the MSC had agreed on a five-step approach. One of the first actions taken had been to establish a subregional MRCC in Mombasa, the African continent having been identified as lacking an SAR infrastructure. Progress had been satisfactory, with Mombasa co-operating with its neighbouring States of Tanzania and Seychelles in setting up two further subregional centres.

However, the MSC had not made a decision on whether to recommend the establishment of an international SAR Fund. When the matter had last been considered, the Chairman had suggested that, because of the importance of the matter, the Secretariat should conduct an analysis of the financial implications of each of the three options. The MSC would, of course, consult the TCC in the course of that process. It might be two or three sessions hence before the Council would be asked to make a decision on whether the Organization should proceed with the establishment of such a fund.

The SECRETARY-GENERAL, referring to paragraph 55 of document C 90/5/Add.1, said that the problem raised by Argentina and France, regarding the difficulties experienced by Spanish-speaking and French-speaking delegations when invited to approve working group reports which were available in English only, was not new. The extent of the problem varied according to the workload and the volume of reports prepared by the working group concerned. The MSC rarely experienced the problem because its sessions lasted one-and-a-half weeks, and two night shifts had been arranged to serve its needs. The cost of various solutions considered by the Secretariat ranged from £10,000 to over £20,000.

The allocation of more time to working groups might solve the problem. That solution had first been aired at the meeting of Committee and Sub-Committee Chairmen in 2002, when it had been suggested that draft reports presented to the plenary sessions of the Council on Fridays for approval should only contain a summary of decisions, annexes, if any, and the action requested of the Committees. After the meeting, a full report would be prepared by the Secretariat, in consultation with the Chairman, for approval by the sub-committee at its following session. That procedure would serve the dual purpose of enabling sub-committees to devote more time to their substantive work during a meeting-week and reducing the demands made on the translation services, because their peak workload would be spread over a longer period. He proposed that the arrangement should be tried out at one or two sub-committee meetings, and the results analysed by their Chairmen before being reported to the Committees for consideration and decision.

Mr. GASC (France), supported by Mr. GENNÉ (Argentina), agreed that the translation of reports was a recurrent problem, which affected not only working groups and sub-committees but also the Council itself: for example, he had received the MSC reports only five minutes before the meeting.

It was crucial for Member State representatives at Council sessions to be provided with documents in their working languages, and he urged the Council to take action to solve the problem and not merely to take note or consider it. He did not think the trial arrangement suggested would help to alleviate the current unacceptable situation, and he was concerned about the wide range of costs that had been quoted. It remained to be clarified whether the problem was primarily financial or logistical in nature.

Mr. SAN MIGUEL (Venezuela) endorsed the views expressed by Argentina and France.

Mr. AMEYAW-AKUMFI (Ghana) said that the matter should be seriously considered and the specific problems involved addressed. He did not support the Secretary-General's proposal: as he saw it, the solution was more a matter of logistics.

Mr. CHARALAMBOUS (Cyprus) said that further information was required to pinpoint the exact problem, be it technical, logistical or financial. That problem could then be addressed either at the current Council session, before the budget for the next biennium was discussed, or at the next session under an appropriate agenda item.

The CHAIRMAN suggested that consideration of the matter should be deferred to a later stage.

Mr. CHARALAMBOUS (Cyprus), referring to paragraph 57, said Cyprus was strongly opposed to the development of unique IDs for shipowning companies. It felt that a clear case had not been made for such a development and that it would bring no benefits. The recommendations should simply be noted.

Referring to paragraph 84.2, he expressed concern that the membership of the Joint ICAO/IMO Working Group on Harmonization of Aeronautical and Maritime SAR was not rotated. The current practice was restrictive, and was being used to exclude the broader membership of the Organization from participating in the work and to pre-empt decisions by the Council. Cyprus could not, therefore, endorse the MSC's decision in the matter.

Mr. MITROPOULOS (Assistant Secretary-General and Director, Maritime Safety Division) said that the position of Cyprus was well known and had been outlined at numerous sessions of the Committee. MSC had sought the advice of the COMSAR Sub-Committee, which was the IMO body responsible for the work of the Joint ICAO/IMO Working Group, and had been advised that although the arguments put forward by Cyprus and other Member States were valid, it could see no reason to change the current position, given that the representation of ICAO had remained the same over a considerable period of time. The MSC had endorsed the recommendation of the COMSAR Sub-Committee that although observers were welcome to attend meetings of the Joint Working Group, its composition should not change.

Mr. CHRYSOSTOMOU (Cyprus), referring to paragraphs 89 to 91, noted that the Equasis Memorandum of Understanding had been changed to provide for participation by IMO as an observer, and the question that still remained was whether the change allowed other port State control MoUs to submit information. Was that the case and, if not, was IMO still willing to

be on the Equasis Supervisory Committee? He recalled that the Secretary-General, during the initial stages when the agreement had been signed with Equasis, had mentioned that at a certain stage the MoU should be changed to include data from other MoUs. The point at issue was that the Paris MoU, the Turkey MoU and the United States Coast Guard system had neither been created nor assisted in their creation by IMO, whereas others, like the Mediterranean MoU, to which Cyprus was a party, the Acuerdo de Viña del Mar and the African MoU, had been created with IMO assistance. Was IMO willing to protect those MoUs that it had created or helped to create?

Mr. MITROPOULOS (Assistant Secretary-General and Director, Maritime Safety Division) confirmed that when the Secretary-General had first communicated with Equasis he had suggested opening the way for MoUs and regional MoUs on port State control to be accepted and admitted to the “company”. The text before the Council reported on decisions and actions of MSC in response to the conditions set by the Equasis Supervisory Committee to allow the IMO Secretariat to participate as an observer in its meetings. He would look into the questions raised by Cyprus and advise the Council accordingly.

**AGENDA ITEM 6 - CONSIDERATION OF THE REPORT OF THE LEGAL COMMITTEE
(C 90/6 and Add.1; LEG 86/15)**

Mr. POPP (Canada), speaking as Chairman of the Legal Committee, said that document C 90/6/Add.1 provided details on the outcome of the deliberations of the Legal Committee’s eighty-sixth session. Those deliberations had focused on its three main tasks, namely adopting new treaties and amendments to existing treaty instruments; implementing treaties adopted as a result of the work of the Committee; and providing legal advice to the Organization’s other deliberating bodies.

Concerning the first task, he said the draft convention on wreck removal had first come to the Committee’s attention in 1970, 12 years before the 1982 adoption of the Convention on the Law of the Sea (UNCLOS), when the lack of a fundamental regulatory framework for the law of the sea had made it difficult for coastal and flag States to reach consensus on their rights and obligations relating to the removal of wrecks along their coastlines. Consideration of the matter had begun in earnest at the Committee’s seventy-third session in 1995. Tensions between coastal States and flag States still persisted, particularly over jurisdiction, as demonstrated by some delegations questioning IMO’s mandate to develop a treaty allowing coastal States to remove wrecks posing a danger to navigation from the exclusive economic zone. At its last session, however, the Committee had overwhelmingly endorsed the views of the Secretariat, in consultation with the Law of the Sea Office of the United Nations, upholding IMO’s mandate to produce the treaty. It had also made progress with several other key articles, including draft articles 9 and 10, which dealt with the marking of wrecks and measures to facilitate wreck removal. The Committee still needed to resolve other outstanding issues, including insurance cover or other financial guarantee to cover the costs of removal of wrecks; whether cargo interests should contribute to compensation payouts; and whether the scope of application of the draft convention should cover the master and operator of the ship. He expressed his thanks to the delegation of the Netherlands and all members of the correspondence group for their work in elaborating the draft wreck removal convention.

The Committee had also begun an urgent review of the SUA Convention and its Protocol concerning the Suppression of Unlawful Acts against the Safety of Navigation and of Fixed Platforms, in order to ensure the continued validity of those instruments in the light of the events of 11 September 2001. He commended the work of the correspondence group, under the leadership of the United States delegation.

The task had posed particular difficulties because the instruments in question were not only concerned with maritime law but also dealt with issues of criminal law and extradition, areas not usually considered by Committee Members, who were mainly maritime law experts. Much co-ordination and consultation within government administrations was therefore required, and each new proposal had to be carefully scrutinized to ensure precision in drafting and to avoid ambiguities in interpretation. Criminal law had to be precise so as not to interfere with the individual's right to freedom.

Provisions being introduced to allow the naval authorities of another State to board a suspect ship, thereby affecting the basic principles of the law of the sea and of maritime law, had compounded the legal complexities involved. Consequently, careful consideration was needed of the terms and conditions to avoid abuse of boarding procedures. The Committee had had to deal with a range of opinions and diverging views on the desirability of such proposals.

Another issue raised by the proposed amendments was the protection of human rights of seafarers whose liberty, and possibly lives, might be put at risk without necessary safeguards. The Committee had agreed that a reference to the protection of rights and freedoms of seafarers would be included in the preambles to the prospective SUA Protocols, with safeguards inserted in the body of the texts.

Further work by the Committee concerned the monitoring of the implementation of conventions, notably the HNS Convention. Seven years after its adoption, only three out of the total of 12 States needed had become Contracting States and the Committee, through a correspondence group led by the United Kingdom, had identified and suggested solutions for the difficulties faced by many States in implementing the Convention. Those difficulties centred on the complexities involved in identifying the receivers of HNS for the purpose of making contributions to the HNS Fund and, at the last session of the Committee, the IOPC Fund had demonstrated a prototype of a database system for monitoring, identifying and reporting contributing cargo. In anticipation of entry into force, the IOPC Fund Assembly, at its seventh extraordinary session following on from the Legal Committee's eighty-sixth session, had begun considering administrative arrangements to enable its Fund Secretariat to function in a dual capacity. A meeting of interested States had taken place in Ottawa two weeks previously to assist the correspondence group in finalizing its core work. Good progress had been made, and a full report would be given to the eighty-seventh session of the Committee.

The meeting rose at 12.30 p.m.