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SUMMARY RECORD OF THE EIGHTH MEETING

**held at IMO Headquarters, 4 Albert Embankment, London SE1 7SR
on Thursday, 2 July 2009 at 2.30 p.m.**

Chairman: Mr. J. FRANSON (Sweden)
Vice-Chairman: Mr. D. NTULI (South Africa)
Secretary-General: Mr. E. E. MITROPOULOS

A list of participants is given in document C 102/INF.1.

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CONTENTS

	Page
Agenda item 15 – World Maritime University:	3
(a) Report of the Board of Governors (continued)	3
(b) 2009 Budget	9
Agenda item 16 – IMO International Maritime Law Institute:	10
(a) Report of the Governing Board	10
(b) Budget	11
Agenda item 14 – Protection of vital shipping lanes	12

AGENDA ITEM 15 – WORLD MARITIME UNIVERSITY:

(a) REPORT OF THE BOARD OF GOVERNORS (C 102/15(a), Corr.1-2 and Add.1) (continued)

Mr. CHRYSOSTOMOU (Cyprus), referring to document C 102/15(a)/Add.1, said that the current charter was perfect for WMU in its present state. The university was mainly funded by donations from Member States and organizations involved in maritime affairs. He saw no reason for reducing the number of members of the board of governors from 70 to 20, as the current charter stipulated only a maximum. The number should remain the same in order to allow full geographical representation on the board and the allocation of some places to people outside the Organization who might be of assistance. There was also no reason for reducing the number of *ex officio* members. UNDP, UNESCO, UNCTAD and ILO were currently represented, and although the links between UNDP and IMO were not as close as in the past, with the current economic crisis and a possible change in the world economic order, the Organization might need UNDP in future.

The executive council was a sub-set of the board, just as the IMO Council was a sub-set of the IMO Assembly. At the present stage he could not accept the proposal that the executive council should become an executive board or should include 11 people who might not be members of the board of governors, or who might even be alien to it, although that might be reviewed before the Assembly. He agreed that board members should be reappointed every two years. Noting the proposal that members of the board should be assessed on their performance, he said he had been a member for some years. If he remained silent during an exchange of views at a meeting, that did not mean that he had not made a positive contribution. Likewise, there was only one meeting of the board each year, but if he had not been able to attend, that did not mean that he was inactive. While it might seem prudent to make such an assessment, there should be an accompanying explanation. The Council should wait until the overall governance of WMU had evolved before considering such radical changes.

Mr. ISHIZUKA (Japan) said that his country, which contributed to WMU through the Nippon Foundation, held the WMU in high esteem and recognized its important role in the maritime field. He supported the proposed revision of the charter as stated in document C 102(a)/15(a)/Add.1. In the continuing development of the WMU the opinions of countries directly benefiting from it should be adequately reflected in its board of governors. Japan would continue its support for the WMU in the interests of strengthening maritime education and fellowship.

Mr. DANBATTA (Nigeria) thanked the Secretary-General for his presentation. He commended the efforts which had been made to streamline the operation and governance of WMU through the reduction of the board. However, when reducing the number of board members, due care should be taken to ensure that the new board was constituted in such a manner that the influence and aspirations of the developing countries were represented and protected. He would prefer either to leave the number of members as it was or to reduce the number to not less than 50, in line with WMU's objective of assisting developing countries to enhance their capacity in the areas of safety, security and protection of the marine environment. Nigeria attached importance to the WMU and wished to encourage current efforts to make it more functional and protective.

Mr. HAJARA (India) thanked the Secretary-General for the excellent documents and his presentation. He congratulated Mr. Kjerfve on his appointment as president of WMU. He also wished to record his appreciation to the previous president, Mr. Laubstein, for his long and

dedicated service, which had helped the university attain its current status as the worldwide centre of maritime excellence. He congratulated the faculty staff and students for their contribution to such a great institution over 25 years.

As a member of the board, he had raised his concern about the proposed changes to the WMU charter. Each board member acted as an ambassador of the university and he felt that the number of members should not be so drastically reduced. The university did not pay any travel expenses incurred by members, but it should not be difficult to find more than 20 dedicated members. As mentioned by Cyprus, it need not be the maximum number of 70. The university had been set up by IMO with the same objectives as that of IMO's Integrated Technical Co-operation Programme, namely to assist capacity-building and to enhance the competence of developing countries, many of which aspired to be fully involved in the decision-making of the university. In his opinion the achievement of those aims would be hindered by such a drastic reduction.

While some members had expressed their concern regarding the curtailment of the training period to 14 months, the board had been assured that the course contents and quality would not suffer. He hoped that not only the course content and quality, but also the content, duration and quality of internships and field trips would remain unchanged, as they were integral parts of the course. He requested the Council to make a decision about such a drastic change only after further careful review and with the direct involvement of the alumni and developing countries.

Mr. LANTZ (United States) congratulated Mr. Kjerfve on his appointment. He shared the concerns expressed by the representatives of Cyprus and India regarding the reduction of the number of members from 70 to 20, which might be too drastic, and he suggested that a number somewhere between the two might be more suitable. His main concern about the proposals was that, while the aim was to make the board of governors more active, responsible, and participatory in the WMU, an executive board which did not derive from the board of governors would distance the board of governors. He echoed the view expressed by the representative of India that no hasty decision should be made about the proposed changes.

Ms BERGLUND (Sweden) said that she would pass the Secretary-General's thanks to the Swedish Government. She supported the proposals set out in document C 102/15(a)/Add.1 and its annex, although she had noted that some concerns had been expressed. The proposed change in numbers, as the Secretary-General had explained, had been a response to the review, and the Council should act upon the recommendations of that review. She supported the proposal to bring different skills into the board since, especially fundraising, bearing in mind the need to find additional financial resources. If the objectives were right, the number of members might be less important.

Mr. VASSALLO (Malta) associated himself with most of the views expressed by the representatives of Cyprus and India. He emphasized that governors could not be assessed simply on the work that they were seen to do at the discussion table, as they were likely to be doing much more behind the scenes.

Mr. BELL (Bahamas) thanked the Secretary-General for his presentation and congratulated the new president of the university on his appointment. He shared the concerns of Cyprus, India, the United States and Malta about the size of the board, owing to the need for wide geographic representation and the involvement of developing countries. As suggested by the representative of India, further consideration should be given as to how the governance of the university should be taken forward.

Mr. LIM (Republic of Korea) expressed appreciation to the Secretary-General and the WMU on the excellent results achieved in 2008. The Republic of Korea actively worked to further the development of the WMU, which had been established by IMO to foster expertise in the maritime field. In particular, his country had been conducting its Visit Korea Programme since 2004, under which WMU students visited shipyards and marine research centres in Korea. In April 2009 his country had again invited 28 students and professors from the WMU's Maritime Safety and Environment Administration course.

Mr. MRUGALSKI (Chile) said that the proposed changes to the charter would facilitate improvement in the current internal procedures of the university and would encourage stronger commitment and participation by members of the board of governors and the executive board. He suggested that the new membership of the board of governors should be geared to geographical distribution, to ensure suitable representation of developing countries. He suggested that it might be helpful to carry out a consultation to ascertain which Member States were prepared to be actively involved in the board of governors and to provide names of suitably experienced candidates for membership.

Mr. BRADY (Jamaica) thanked the Government of Sweden, the Nippon Foundation and other donors for their stalwart contributions and support over the years, which had ensured the development of a university whose graduates had made a tremendous contribution to many countries. He supported the basic philosophy underlying the main proposals for change. The board of governors represented the global community, reflecting the membership of IMO, and it could be constituted in different ways. Seventy members, if they all turned up, would make an unwieldy meeting. He recommended a membership of about 30, following the suggestion by the United States. The proposed executive board should, as mentioned by the representative of the United States, come from the board of governors, just like any corporate entity whose committees derived from the corporate board itself.

Mr. COCKBURN (United Kingdom) thanked the Secretary-General for the report and congratulated the new president on his appointment. He shared the concerns expressed by previous speakers, and in particular the statement made by the representative of the United States.

Mr. ELAHI (Bangladesh) congratulated the new president of WMU on his appointment. He supported the views expressed by India, Cyprus and the United States about the drastic reduction in the number of members of the board of governors.

Ms BAUTISTA (Philippines) said that, as a member of the board, she had agreed during its previous meeting on retaining 20 plus 3 members. However, after listening to the comments by the other Member States, she felt that further consideration should be given to the suggestions by the representatives of the United States and Jamaica for a compromise of somewhere between 30 and 70. She supported the statement by the representative of India that care should be taken not to compromise the quality of the curriculum and of the graduates of the university.

Miss FERNÁNDEZ (Panama) congratulated the new president on his appointment. Having participated in the relevant meetings, Panama appreciated that the aim of the proposed changes to the charter was to raise the university to a new level. It had been run within certain parameters over some years with good results, but as it evolved new measures had to be sought to establish a more advanced institution. Hence the analysis designed to produce proposals for helpful changes to increase the governability of the university. The previous maximum number of governors had never been reached, and a lower number would be more manageable. Board members had a responsibility to attend meetings and to make decisions on behalf of the university, and while they might also be very good worldwide ambassadors for the university, they also had to

be active in the work of the university. Other people who were not board members could also assist in the work of the university. She agreed with the representative of Sweden that members of the board should be knowledgeable people drawn from the academic and financial environments, enabling the board to take holistic decisions concerning the university. At present, the members of the executive council were also members of the board of governors. For reasons of governability, the executive council should report to the board of governors, but one could not be both judge and jury, which was why members of the executive council should be different from members of the board of governors. It was a good idea to reduce the length of the master's programme, as it made the university's overall programme more dynamic and would better suit those people who found it difficult to take time off work. Since the proposal was to reduce time but not credits, the academic excellence of the programme should not be affected. She supported the proposals made in the annex to document C 102/15(a)/Add.1, and had noted the comments which had been made.

Ms KARIGITHU (Kenya) congratulated the new president of WMU on his appointment and expressed appreciation for the good work carried out by his predecessor, which had enabled the university to reach great heights. Over the years the university had contributed immensely to the maritime industry, especially to maritime administrations, enabling Member States to deliver on IMO's mandate, in particular in her region. Her delegation associated itself with the representatives of Cyprus, India, and the United States, in that the drastic reduction of the number of board members would mean loss of geographic representation, and she also fully agreed with Jamaica on the issue of governance.

Mr. MARZBAN (Islamic Republic of Iran, observer) said he understood the philosophy behind the proposed amendments to the charter. However, he associated himself with the concerns just expressed by representatives of other Member States: at the current stage it appeared premature to decrease dramatically the number of members of the board from 70 to 20.

The SECRETARY-GENERAL, speaking as the chancellor of the WMU, said he considered that it was his responsibility to bring any suggestions for improvement to the attention of the WMU's Board of Governors and Executive Council, and of the IMO Council, and to ensure that the decisions taken were in the university's best interests. He wished to pass on a strong university to his successor, just like his predecessors Mr. O'Neil and Mr. Srivastava. The changes proposed by the board of governors were intended to strengthen the university not weaken it, and the review had been a difficult exercise. He had deep respect for the governors and his subsequent comments were not a reflection on their past performance.

The current charter stipulated that the board should comprise up to 70 governors, who should have the relevant qualifications and were to serve in their personal capacity. However, countries had begun to believe that they were entitled to nominate a replacement who was not necessarily properly qualified if one their nationals left the board. He had been reluctant to sign letters of appointment in such cases and, as indicated in document C 102/15(a)/Add. 1, some two years earlier had initiated an external review to seek recommendations on how best to arrive at a leaner board that was better able to manage the university in pursuit of its objectives. Members of the Council might wish to reread those objectives, which were clearly set out in the WMU's charter. The review had been carried out by three high-level experts, two academics and the Secretary-General of ICS/ISF. The IMO Council had been kept fully informed about the process and so there was no question of a hasty decision. The results of the exercise had been considered by the university's executive council. Some recommendations on changes in management had been implemented immediately, including the bringing in of a new president. Others had been passed to a working group under the chairmanship of the current IMO Council chairman. The recommendations of the working group had been considered by the university's executive council and board of governors and were now before the IMO Council for

approval, if appropriate after amendment, and transmission to the Assembly. It was hoped that the new president would begin a new era of management with a revised and stronger charter on 1 January 2010.

In his submission to the board of governors in May 2007, he had noted that, while the charter permitted up to 70 governors, the board at that time had comprised 40 governors and 9 *ex officio* governors, none of whom had ever been to the university. He had suggested that a board of a more manageable size might be better able to focus on management issues and work in a more coordinated manner, and that a reduction in size might be achieved through attrition. Chile had suggested earlier that countries should be asked whether they were interested in participating actively. However, many countries might wish to be represented on the board, and there was no mechanism to determine who should be included. He had pointed out to the board that the charter stipulated that it was for the Secretary-General of IMO alone, after consulting others if wished, to appoint the governors for two-year terms, which could be renewed. He had not been happy with that situation and had suggested that a more appropriate procedure for appointments should be established. The charter also stipulated that at the time of appointment it should be emphasized that governors were to serve in a personal capacity. Consideration had been given as to whether attendance at board meetings should be a criterion for appointments and reappointments. It was felt that, although regular attendance was considered essential, board members who were unable to attend could still make a positive contribution and promote support for the university. In the past there had been an element of automaticity in the appointment and reappointment process with, as he had indicated earlier, some governments and institutions treating the position of governor as transferable as in “hereditary” entitlements, which might not be in the best interests of the university. He had suggested that the procedure should cease and that the departure of a board member should be viewed as an opportunity to consider an appointment in the light of the established criteria. A board should then emerge whose composition would be fully in line with the provisions of the charter and should ensure the best possible service to the institution. Those were the incentives behind the exercise the Council was in the process of considering – how to strengthen the system to ensure what everyone wanted the university to achieve.

The working group’s report, dated March 2009, had been submitted to the executive council and the board of governors by the group’s chairman (the chairman of the IMO Council). It stated that the WMU, which had been in existence for 25 years, was no longer an experiment but a well-established and well-respected maritime university. However, its charter, statutes and other legal instruments regulating its governance did not fully reflect that situation. Moreover, despite being well respected, not least by IMO Member States, the university had no long-term financial sustainability. Although that area had not been included in the terms of reference of the working group, the group had considered that IMO would need to come to grips with the financial situation to ensure the university’s future prospects.

The working group had recommended that the board of governors should be retained and that it should be a manageable group of 20 members. That was a sizeable reduction in the number of governors from the maximum permitted (70), and also from the current level of 40, but it had been noted that not all governors attended meetings and that *ex officio* members did not attend. The working group had not seen much merit in the composition of the board as prescribed in the charter and as currently implemented. It was not sufficiently active as a whole and was not truly exercising governance. Whatever the historical background, the charter must reflect current realities and needs. A carefully appointed board with a limited number of members had the potential to govern the university successfully. He would, of course, ensure that appointments to the board respected the principle of equitable geographical representation. It was for the Council to decide whether to accept or amend the proposals submitted. For example, he would have no problem with a board of governors of 30 members.

Mr. NTULI (South Africa), noting that South Africa was not represented on the Board of Governors, expressed confidence in the board's ability to oversee the governance of the WMU. The WMU had been established under the auspices of IMO, and the Organization must therefore ensure that its reputation stood the test of time and that it could compete with similar academic institutions worldwide. He expressed satisfaction with the review process and the strategic vision for the WMU, and had no doubt that the underlying intentions of the chancellor, the Board of Governors and the Executive Council were in the best interests of the institution at the present time and for the future. The new president must be supported in making the right decisions to take the institution forward. It would also be important to monitor the effects of any changes, for example in the size of the board of governors. The financial implications of the size of the board of governors were not clear. However, it was obviously essential to establish an efficient and workable governance structure so as to ensure a credible institution that attained its goals. He therefore supported the proposed amendments to the charter of the WMU.

Mr. CHRYSOSTOMOU (Cyprus) stressed that his comments had not been intended as a criticism of the intent of those who had drafted the proposals. He could not agree that *ex officio* members never attended board meetings; he had attended in 2008 but had not attended in 2009 as he had not been invited. Cyprus was well disposed towards the WMU; although it was a small country, it made an annual contribution of £8,000 and it also sponsored students from time to time. His main objection to the proposals was that, although they might have the potential to improve the university in isolation from IMO, they did not reflect the institution's connection with IMO. When the Organization had comprised 100 Member States, there had been 20 members of the Council. When the Organization had expanded to 168 Member States the Council had expanded to 40, and if the Organization continued to expand, there might be a need to expand the membership of Council again in the future. It was valuable to gain expertise from a wide geographical range with different maritime needs and conditions. It therefore seemed inappropriate to reduce the size of the WMU board of governors at a time of potential expansion of the university, especially since the charter was flexible in permitting up to 70 governors but allowing fewer, as was currently the case. He recognized the point made by the representative of Panama but remained unconvinced of the need to limit the size of the board as proposed.

The CHAIRMAN said that as chairman of the working group as well as chairman of the IMO Council he was in a difficult position. Speaking as the latter, he could confirm that there had never been any question that the principle of geographical distribution must be respected in constituting the board of governors. The working group had considered that the board should be academically, scientifically and educationally qualified to manage the university successfully but it had recognized that the current financial instability of the institution was a real problem and it had tried to suggest how that might be overcome through changes to the board of governors.

Speaking as the chairman of the IMO Council, he concluded that the main concerns of members of the Council related to the geographical distribution of governors, the proposed limit on the number of governors (although in his view there should be a reasonable limit; 70 was the same number as the forecast 2009 student intake) and the proposal that governors should not also be members of the proposed Executive Board. The reason for the latter was to ensure an appropriate system of checks and balances and to keep the board of governors free from the day-to-day running of the WMU. That principle had not really been considered during the discussion and the Council might have to look at it during its forthcoming extraordinary session.

He invited the Council to note the information provided in document C 102/15(a) and its addendum and corrigenda, and that provided orally by the Secretary-General.

He invited the Council in particular to welcome Dr. Kjerfve as the new president of the university and wish him every success in the discharge of his responsibilities; to note the report and recommendations of the board of governors concerning governance arrangements; to request the IMO Legal Affairs and External Relations Division to review the proposed amendments to the charter of the university on governance arrangements and, on the basis of the report and recommendations of the board of governors, and comments made by the Council, to submit them to the twenty-fifth extraordinary session of the Council for approval and onward submission to the twenty-sixth regular session of the Assembly for adoption, in accordance with article 45(a) of the charter of the university; to note with appreciation the achievements of the university during its Silver Jubilee year 2008; to welcome to the university global network 100 new WMU graduates; to express deep appreciation to all contributors to the success of the university, including donors and staff, both academic and administrative; to note with concern the continuing dependence of the university on a narrow donor base; to encourage the leadership of the university to intensify and expand its revenue earning activities; and to urge all IMO Member States and the maritime community as a whole to respond to the requests of resolution A.933(22) on *Sustainable financial support for the World Maritime University* to enable the university to continue playing its important role efficiently and effectively.

It was so decided.

(b) 2009 BUDGET (C 102/15(b))

The SECRETARY-GENERAL recalled that he had referred earlier to the financial challenges faced by the WMU in 2008. The document before the Council outlined the WMU budget for 2009, and was submitted for information in accordance with article 29 of the university's charter. The depreciation of the United States dollar over recent years had put a strain on the university's finances and on the salaries of professional staff. The latter had been an increasingly negative factor in attracting and retaining senior academic staff. The adoption from 1 January 2009 of the euro as the currency used for expressing the university's budget had helped to produce a more stable operating environment, although financial markets remained turbulent. More importantly, the budget for 2009 had had to be set at a lower level than that for 2008 because of the reduced flow of donor funds and lower levels of reserves. The main impact of the reduction had fallen on the fellowship programme.

In 2008, student intake at the Malmö campus had totalled 96; the forecast intake for 2009 was 70. The table in annex 3 to C 102/15(b) showed a figure for 2008 of 75, which represented the number of the 2008 intake of students that had proceeded to their second year at the Malmö campus. The 2008 intake had also included some one-year degree students who had graduated that year. Inevitably, the lower level of intake in 2009 meant that the total Malmö campus population in 2009 (154) was lower than that in 2008 (189).

The university's general annual target intake for the Malmö campus was around 100 students, which was consistent with the size of the faculty and the physical capacity of the university building. Steps were therefore being taken to rebuild the fellowship programme from 2010. The board of governors, at its meeting in June 2009, had been informed that the university had budgeted for an annual intake of 94 for 2010 and that, with prudent management, the desired intake of 100 would be re-established by 2012-2013.

As the Council had acknowledged on several occasions in the past, the international community should contribute towards establishing more resilience in the financing of the university. The Council was invited to take note of the document.

Mr. VASSALLO (Malta) recalled that for many years Malta had advocated the need for the training institutions operated under the auspices of IMO to have a guaranteed budget in order to facilitate forward planning. It had been particularly motivated by concern at the hard times being experienced by the International Maritime Law Institute (IMLI), which was based in Malta. Although IMLI was currently in a somewhat better position, there was still a need to ensure sustainable funding for the institutions. There had even been a call for use of funds from the regular budget – a call that might not be too popular under the current circumstances. During the discussion of the budget proposal under agenda item 8, he had pointed out the danger of using surpluses in the Technical Co-operation Fund that might be committed although not yet expended. However, perhaps the Technical Co-operation Fund could finance more than the current five WMU fellowships, especially given the pleas by the Secretary-General to third-party institutions across the world for more support for fellowships. The IMO should itself try harder. He expressed appreciation to all donors to IMO institutions.

The CHAIRMAN invited the Council to note the information set out in document C 102/15(b) and that provided orally by the Secretary-General; to express appreciation to those governments and organizations that supported the WMU financially, most notably the Government of Sweden and the City of Malmö, the Nippon Foundation and the Ocean Policy Research Foundation of Japan, the International Transport Workers' Federation, the Governments of Canada, Denmark, France, the Republic of Korea and the United Kingdom, and Inmarsat Global Limited; to take note of the continuing financial challenges facing the university; and to urge Member States to establish, maintain and increase their support for the university through operational or fellowship funding to enable it to continue to discharge effectively its mandate of service to the global maritime community.

It was so decided.

AGENDA ITEM 16 – INTERNATIONAL MARITIME LAW INSTITUTE:

(a) REPORT OF THE GOVERNING BOARD (C 102/16(a))

The SECRETARY-GENERAL drew attention to the annex to document C 102/16(a) containing the twentieth annual report of the governing board of the International Maritime Law Institute, concerning its academic operations in 2007/2008 and 2008/2009.

He emphasized the recognition, by the United Nations General Assembly, of IMLI's contribution to the international maritime community, in its resolution entitled "Oceans and the law of the sea", which read as follows: [The Assembly] "*recognizes the importance of the work of the International Maritime Law Institute of the International Maritime Organization as a centre of education and training of Government legal advisers, mainly from developing States; notes that the number of its graduates in more than 102 States confirms its effective capacity-building role in the field of international law; and urges States, intergovernmental organizations and financial institutions to make voluntary financial contributions to the budget of the Institute*".

The number of IMLI graduates continued to rise, and by the end of the 2007/2008 academic year a total of 428 students from 111 countries and territories worldwide had successfully graduated from the Institute's LL.M. programme. Many of them had since assumed high-level posts in their home countries and in the industry.

Mr. VASSALLO (Malta) pledged his country's continuing support for IMLI.

Mr. FLEITAS (Uruguay, observer) expressed his country's gratitude to IMO and other donors for helping to make it possible for Uruguay's first postgraduate student at IMLI to commence in September 2009. After graduation, the student would be influential in providing his country's maritime administration with a new and valuable tool for capacity-building and for professionalizing its human resources management.

The CHAIRMAN invited the Council to note the information contained in the document under review and that provided orally by the Secretary-General; and, in particular, to express appreciation for the continuous efforts of the Institute's governing board and director to ensure that the Institute continued to enjoy an excellent academic reputation; to express appreciation to the IMLI academic and administrative staff for their determined and dedicated efforts regarding the Institute's performance and financial base; to recognize the essential role the Institute continues to play in strengthening the capacity of developing countries to effectively implement the IMO treaty instruments to which they are party; and to reaffirm its continuous support for the Institute, in recognition of its success in maintaining high academic standards in the field of international maritime law.

It was so decided.

(b) BUDGET (C 102/16(b))

The SECRETARY-GENERAL said that the document under review reported on the Institute's operations and budget for the 2007/2008 and 2008/2009 financial years and on what was anticipated for 2010, as considered by the governing board of IMLI at its meeting in March 2009.

The governing board had noted that the Institute's external auditor had issued an "unqualified" report on its financial statements for the year ended 31 August 2008. In his report, the external auditor had concluded that the funding position of the Institute continued to be healthy.

The Secretary-General expressed his appreciation to those donors whose sustained contributions, in the form of either general donations to the Institute's funds or scholarships, had provided substantive assistance for the development of IMLI. Their contributions had secured sufficient income to cover the Institute's budget for the 2008/2009 financial year.

The governing board had also noted with appreciation that funds from IMO's Integrated Technical Co-operation Programme, authorized by the Council, had permitted the award of five full scholarships and one partial scholarship for the financial year 2008/2009.

The governing board had also been appreciative of the support provided from the following sources:

- (i) The Nippon Foundation, for the provision of ten full scholarships per academic year in the 2008/2009 and 2009/2010 periods;
- (ii) the "Euromed Cooperation on Maritime Safety and Prevention of Pollution from Ships – SAFEMED" project, for financing ten scholarships between 2006 and 2009;
- (iii) the Lloyd's Register Educational Trust, for providing a grant to cover three scholarships in each of the academic years 2008/2009, 2009/2010 and 2010/2011;

- (iv) the Government of Switzerland, for extending its financial support to the Institute up to the 2010/2011 academic year;
- (v) the Government of the Republic of Korea, for donating \$100,000 to the Institute's 2007/2008 budget;
- (vi) the Comité Maritime International (CMI) Charitable Trust, for its contribution of €5,500 to IMLI's budget;
- (vii) the Neptune Orient Lines of Singapore, for pledging to support an annual prize for the Best Overall Performance from the academic year 2007/2008 onwards; and
- (viii) the Sea Pine Tree Foundation of the Republic of Korea, for pledging, through the initiative of the IMO Legal Committee chairman, to subsidize two annual prizes.

Mr. VASSALLO (Malta) reiterated his conviction that the Technical Co-operation Fund should provide more fellowships for IMLI and the Organization's other training institutions.

Mrs. MBANEFO (Director, Technical Co-operation Division) said that the current level of reserves in the TCF was not an accurate reflection, since many invoices remained unpaid, in some cases relating to work done in 2007. As soon as the true balance was known, she intended to recommend to the Secretary-General a reasonable increase in the number of scholarships funded from the TCF for the WMU, IMLI and the other institutions of higher learning associated with the Organization.

The CHAIRMAN invited the Council to note the information contained in the document and that provided orally by the Secretary-General; to note the "unqualified" nature of the financial audit of the Institute up to August 2008; to express appreciation to the Government of Malta for its financial support; and to express appreciation to all donors which had supported the Institute financially, in particular those just mentioned by the Secretary-General in his introduction, and IMO, through its Integrated Technical Co-operation Programme.

It was so decided.

AGENDA ITEM 14 – PROTECTION OF VITAL SHIPPING LANES (C 102/1, C 102/2, C 102/3 and Corr.1; C 102/INF.3)

The SECRETARY-GENERAL said that document C 102/14 reported on the outcome of the IMO subregional meeting on maritime security, piracy and armed robbery against ships, for the States of the western Indian Ocean, Gulf of Aden and Red Sea, held in Djibouti from 26 to 29 January 2009.

The meeting, attended by 17 States of the region, had adopted the *Code of Conduct on the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden*, known as the *Djibouti Code of Conduct*. Having been signed on 29 January 2009 by Djibouti, Ethiopia, Kenya, Madagascar, Maldives, the Seychelles, Somalia, the United Republic of Tanzania and Yemen, it was brought into immediate effect.

The Djibouti Code of Conduct aimed to ensure cooperation among its signatories on (a) the investigation, arrest and prosecution of pirates; (b) the interdiction and seizure of suspect ships and property on board such ships; (c) the rescue of ships, persons and property subject to piracy and armed robbery; and (d) the conduct of shared operations – both among signatory States and

between them and navies from countries outside the region. Signatories to the Code further undertook to review their national legislation to ensure they had laws in place to criminalize piracy and armed robbery against ships and adequate provisions for the exercise of jurisdiction, the conduct of investigations and the prosecution of alleged offenders. The Code also provided for the sharing of piracy-related information, through centres to be established in Sana'a, Mombasa and Dar es Salaam.

To promote and ensure the Code's wide and effective implementation, the Djibouti Meeting had also adopted a resolution requesting states, IMO, other UN entities and the maritime industry to provide assistance, either directly or through IMO, to those states which required support for that purpose. To the same end, the meeting had further recommended the establishment of a regional training centre in Djibouti.

The document under review detailed the various outcomes of the Djibouti meeting. He drew particular attention to the meeting's request that the IMO Secretary-General be authorized to act as the depositary for its record.

To follow up the Djibouti meeting a programme of activities to promote speedy and effective implementation of the Djibouti Code of Conduct had been developed within the Organization, as summarized in document C 102/14/1. The Secretariat was fine-tuning, taking into account the generous offer by Japan to provide \$15 million to support the programme – a gesture he appreciated very much, as the funds would enable the Secretariat to develop the project at a fast pace without drawing on the resources of the Technical Co-operation Fund or the Maritime Security Trust Fund.

Document C 102/INF.3 reported on the outcome of a related development, namely the Seoul High-Level Meeting on Piracy off the Coast of Somalia, held on 9 and 10 June 2009. It had been organized by the Government of the Republic of Korea, with a contribution by the Government of Japan and in cooperation with IMO, to discuss, amongst other matters, capacity-building, implementation of the Djibouti Code of Conduct and the need for increased coordination in the military operations. That meeting had adopted the Seoul Statement – annexed to the document under review – which, *inter alia*, called upon governments to support projects proposed by IMO, by other international/regional organizations and by individual states, for the suppression of piracy and armed robbery against ships off the coast of Somalia.

The work to implement the Djibouti Code of Conduct was progressing well and in accordance with the established plan – he would keep the Council informed of progress.

Turning to developments within the United Nations relating to piracy off the coast of Somalia, he drew attention to document C 102/14/3, which reported on actions taken since the Council's 101st session.

On 20 November 2008 he had briefed the UN Security Council with a view to inviting it to strengthen the international community's response to protect shipping from the scourge of piracy and armed robbery off the coast of Somalia and in the Gulf of Aden. In his briefing he had paid tribute to the efforts of individual states and political, defence and regional organizations in addressing the issue, and underlined that IMO's concerns in the regrettable situation off the coast of Somalia were threefold: to protect seafarers, fishermen and passengers on ships sailing off the coast of Somalia and in the Gulf of Aden; to ensure the safe delivery of humanitarian aid to Somalia in ships chartered by the World Food Programme; and to preserve the integrity of the shipping lane through the Gulf of Aden, given its strategic importance and significance to shipping and trade east and west of the Suez Canal.

He drew attention to two resolutions in particular which had subsequently been adopted by the Security Council. The first was resolution 1846 which, at IMO's request, extended the mandate for naval operations in the region for a period of 12 months, enabling naval vessels and military aircraft to enter the country's territorial waters with the consent of the Transitional Federal Government of Somalia, and authorizing the use of all necessary means to repress piracy. The same resolution recognized the role played by, and importance of, IMO in countering piracy and armed robbery against ships in waters off the coast of Somalia. The second, resolution 1851, *inter alia*, invited all states and regional organizations fighting piracy off Somalia, in cooperation with its Transitional Federal Government, to conclude special agreements to embark law enforcement officials ("shipriders"), and called upon States and regional organizations to establish an international cooperation mechanism for combating piracy and armed robbery against ships.

One development in the context of the latter had been the establishment, at the initiative of the United States, of the Contact Group on Piracy off the Coast of Somalia (CGPCS), to facilitate discussion and coordination among States and organizations in suppressing piracy in the region. The Contact Group had itself established four working groups to address various topics. IMO had participated in all the relevant efforts, including hosting meetings of working group 1 (on military and civilian cooperation) and working group 3 (on shipping self-awareness). The output of the latter had been used by the latest session of the MSC.

It had been a source of great satisfaction to see so many bodies showing such strong and genuine determination to halt the unacceptable incidence of piracy off the coast of Somalia. The fact that navies from countries far and wide had converged on the western Indian Ocean area, joining forces in an unparalleled demonstration of solidarity, spoke volumes of the degree of rejection by the international community and of its determination to eradicate the scourge once and for all. In commending the ongoing military operation in those troubled waters, he also paid tribute to the shipping industry's efforts in raising their level of defence and applying self-protection measures, in particular its development of best management practices, which had since been approved and disseminated by the MSC.

The challenge for the shipping industry now was how best to ensure wide application of such practices by all ships navigating in the Gulf of Aden and the western Indian Ocean. In that context, he welcomed the declaration made by several flag State administrations at the most recent meeting of the contact group in New York, and the statements made during MSC 86 indicating the willingness of states to promulgate and implement the shipping industry's best management practices.

Mr. OLIMBO (Italy) commended the Secretary-General for his vital contribution to the agreement reached on the Djibouti Code of Conduct and to the fostering of regional capacities to establish new measures for tackling piracy off Somalia. He also thanked Japan for its generous donation to support implementation of the Djibouti Code and thus lighten considerably the burden on the TC Fund and the Maritime Security Trust Fund.

Convinced that dissuasion, prevention and repression were the key elements in tackling piracy and thus restoring maritime security and regional stability, Italy was playing an active part in the ongoing multilateral maritime operations. During its forthcoming presidency of the EU, Italy would actively promote follow-up of the decisions taken by the CGPCS, to assist regional states in building their own capacity to control their borders, coasts and territorial waters. He encouraged the international community to take maximum advantage of the training opportunities offered by Italy through the International Maritime Safety, Security and Environmental Academy (IMSSEA) in Genoa, operated in association with IMO, and of the regional training centre to be established in Djibouti.

Italy supported capacity-building initiatives aimed at enhancing ownership in regional states, and to that end it had provided technical cooperation to Yemen for coastguard training and for the development of a vessel traffic management system for detecting small boats. The latter was readily upgradeable as an anti-piracy system and could be transferred as such to other states. Italy regarded the impact of the first six months of Operation Atalanta as very positive. The operation had been characterized by excellent collaboration, and Italy looked forward to further progress on land with respect to law enforcement, especially regarding security sector review.

Mr. SHIMIZU (Japan) said his country was very grateful to the Secretary-General for his unstinting efforts on piracy. He also thanked the Republic of Korea for hosting the High-Level Meeting on piracy off Somalia. He was pleased to announce that recently the Japanese Diet had approved a new anti-piracy law which enabled the Japanese Marine Defence Force to protect not only Japanese but all vessels, regardless of flag. The full text in English had been submitted to the Secretariat. The Diet had also approved a supplementary budget bill intended to strengthen anti-piracy measures off the coast of Somalia and the Gulf of Aden, which had led to the donation of 1.4 billion yen, or approximately 15 million dollars, to IMO to help implement the Djibouti Code of Conduct. Japan considered there were four pillars to implementation of the Code: establishment of three piracy information-exchange centres and a training centre; capacity-building; support for new national legislation; and the creation of maritime zone awareness, through tools such as AIS.

Japan looked forward to the inauguration of a multi-donor trust fund by IMO to implement the Djibouti Code. It remained strongly committed to the anti-piracy activities conducted by the international community.

Mr. ABUMELHAH (Saudi Arabia) thanked the Organization's maritime security staff for their great efforts before and during the Djibouti meeting. As one of the first nations to have sent ships to join the task force in the Gulf of Aden, Saudi Arabia considered that the elements most conducive to putting an end to the scourge of piracy off Somalia and in the Gulf of Aden were: a lasting political and economic solution in Somalia itself, supervised by the United Nations; enhanced coordination among all parties currently engaged in the military operation in the Gulf; a determination on the part of merchant ship crews not to resist pirate attacks when they came; increased protection by shipowners; and a central information-sharing centre for the anti-piracy operations, operated under IMO auspices.

Mr. POLDERMAN (Netherlands) said he fully supported regional initiatives to safeguard the interests of global shipping and praised the outcome of the Djibouti Meeting. He thanked the governments that had financially supported and convened that meeting and IMO for its preparation and conduct of the meeting. The Djibouti Code stood as a model for international cooperation and he welcomed its preambular reference to the Regional Co-operation Agreement on Combating Piracy and Armed Robbery against ships in Asia (ReCAAP), which had shown that concrete measures could make a difference at regional level. He applauded the Secretariat's decisive action in developing a programme of activities for the implementation of the Code, in particular the eight proposed projects outlined in document TC 59/4/2. He announced that the Netherlands would donate 50,000 euros, to be earmarked for project 3 concerning the establishment of a training centre in Djibouti to train law enforcement officers and coastguards from the region, and project 6 concerning the training of coastguards and other personnel entrusted with law enforcement roles.

Mr. ALI (Kenya) said that Kenya was at the forefront of combating piracy and armed robbery against ships in the waters off the Somali coast and had organized regional and international meetings to discuss ways to address the problem, which was a threat to the economies

of the states served by the ports of the region and risked causing disruption to international trade. He emphasized the need to support mechanisms and programmes for suppressing piracy and armed robbery against ships and to enhance the safety of navigation, environmental protection and maritime security in the region, especially given its strategic importance to global seaborne trade and fishing and the need to ensure the area was open to shipping at all times.

He congratulated IMO on providing the impetus for the United Nations resolutions and on providing leadership on other initiatives, such as the Djibouti Code and the Contact Group on Piracy off the Coast of Somalia (CGPCS), and called for focused coordination of those initiatives, preferably by IMO in the interests of synergy and effective results.

Kenya was taking a number of actions in the fight against piracy. For example, it had signed the Djibouti Code and had taken the lead in using its courts to prosecute captured pirates, with ten pirates prosecuted so far and a further 101 in the process of being prosecuted. Kenya had concluded memorandums of understanding (MoUs) with the EU and the naval forces of the United Kingdom and the United States so that captured pirates could be brought to justice through the Kenyan courts, and two further MOUs between Kenya and Denmark and Kenya and China were under way. Kenya was also cooperating with the United States Government through its anti-terrorist assistance programme and had offered to host a regional centre of excellence at Bandari College in order to train senior officers at national and regional levels on policies regarding piracy and other maritime security matters. Furthermore, Kenya had offered the Mombasa MRCC for the implementation of the Djibouti Code and the CGPCS. Kenya had also enacted the revised Merchant Shipping Act, which provided stiff penalties for piracy and armed robbery against ships, and was requesting IMO to extend assistance through the ITC to develop rules and regulations to implement those provisions. It had also requested governments in the region to cooperate to form an interregional coastguard to counter piracy and armed robbery against ships with the assistance of the international shipping community and IMO.

Mr. NIKITAKIS (Greece) said that his government supported the initiatives taken by the international community to address the problem of piracy off the Somali coast. Greece had actively participated in all meetings, CGPCS meetings and working groups and thus had been supporting actions at the diplomatic, legal, political and operational levels. Its naval forces were currently involved in EU NAVFOR Somalia (Operation Atalanta), the NATO naval force and other allied naval forces. The issue of piracy had been raised explicitly by the Greek Minister of Mercantile Marine during a recent Council of Europe transport ministers' meeting and he had called for coordinated operational and legal action to be taken at EU level. Greece envisaged the problem being best resolved through political means within the framework of international organizations and strongly supported the IMO efforts to mobilize the international community to coordinate a cohesive response in order to minimize the potential detrimental effects on world trade.

Mr. MALIK (Malaysia) said that the primary responsibility for ensuring maritime safety and security lay with coastal States and measures to repress piracy and armed robbery against ships were more effectively managed when coastal States cooperated with neighbouring countries. The increasing number of incidents off the Somali coast called for greater cooperation among states in line with IMO and United Nations Security Council resolutions. Malaysia had organized the Kuala Lumpur International Conference on Piracy and Crimes At Sea in May 2009 and the prevailing view of participants was that it was vital to address the root causes of piracy and armed robbery against ships off the Somali coast in order to ensure a lasting solution to the problem. The conference had acknowledged the positive efforts of international organizations such as IMO, which had been instrumental in the adoption of the Djibouti Code.

Mr. PROSSER (Australia) said that Australia was actively participating in the international efforts to combat escalating acts of piracy, kidnapping and armed robbery off the Somali coast. In May 2009, the Australian Government had announced it was sending a frigate and one AP03 Orion aircraft to help patrol the region and it was also providing \$500,000 in addition to skills and expertise to the joint European Union/United Nations Office for Drugs and Crime (UNODC) programme in Kenya to counter piracy. As part of that contribution, it would send an Australian Government official to Kenya to act as international maritime security liaison officer in the UNDOC office in Nairobi, working with local authorities to receive and process apprehended piracy suspects. Furthermore, Australia was participating in the US-initiated CGPCS and would also provide \$2 million in security and humanitarian assistance to support international efforts to restore durable peace to Somalia and to address the root causes of piracy.

Mr. LEGROUX (France) welcomed the adoption of the Djibouti Code, which was an important achievement, since combating piracy involved the international community as a whole. France had been aware of the problem for some time and, aside from providing escorts for World Food Programme (WFP) vessels, was a participant in the EU NAVFOR (Operation Atalanta). He agreed with Kenya that an intervention by the international community on such a scale could not be effective without coastal States playing an important operational and legal role and he thanked those that had contributed to the implementation of the capacity-building programme in the various states, in particular the Japanese Government. Turning to the MSC's initiative on promoting best management practices, he was pleased that the situation of fishing vessels had been taken into account. He called for States to do as much as possible to ensure that IMO recommendations reached the vessels flying their flags and to engage professional bodies, NGOs and the industry to help in that task. Combating piracy was a real challenge and should be tackled using all the tools available, military or otherwise, in a coherent manner in order to try to overcome the problem.

Mr. LOLDRUP (Denmark) said that the situation off the Somali coast was still very grave and, despite efforts by the international community and the presence of navy vessels, ships and crew were still being attacked. It was crucial to seek ways to combat the threat to the shipping industry and Denmark lent its full support to that quest. The role played by coastal States and the international community was vital and Denmark welcomed the Djibouti Code. A clear infrastructure was paramount, both for the extradition and prosecution of perpetrators, and he suggested that IMO should give priority to the need for legal expertise on issues such as bilateral agreements concerning the extradition and prosecution of pirates.

Mr. LIM (Republic of Korea) said that the Republic of Korea was making every effort to combat acts of piracy that persisted in the waters off the Somali coast, including dispatching naval vessels to the region. The highly successful Third Seoul International Maritime Forum had been held jointly with IMO in June 2009 on the theme of "Preventing and suppressing acts of piracy" and had led to the adoption of the Seoul Statement. The forum had brought together renowned experts on piracy prevention from across the world and had included a high-level meeting, a working group meeting on the CGPCS and a steering committee meeting on the Djibouti Code. The global consensus was that establishing stability in Somalia and capacity-building in neighbouring States were essential to eradicating acts of piracy, and in-depth discussions had taken place on specific ways to provide support, enhance navigational safety of ships and coordinate military activities.

Ms TANG (China) said that China was deeply concerned about the frequent attacks of piracy and armed robbery against ships in the waters off the Somali coast and firmly supported the United Nations and IMO in their efforts to suppress such unlawful acts. In order to maintain normal shipping transport and ensure the safety of ships, the Chinese Government had sent three naval ships in December 2008 to the Gulf of Aden and the sea off the Somali coast to escort merchant

ships and would continue to do so to ensure the safety of ships and persons on board and to safeguard ships carrying humanitarian aid for international organizations. The Chinese Government attached great importance to and actively participated in international cooperation activities organized under the auspices of the United Nations and would be willing to improve information exchange with relevant countries, international organizations and industry. She expressed the Chinese Government's appreciation of IMO's actions in suppressing piracy and confirmed it would continue to cooperate with IMO and its Member States to try to bring peace and stability to the waters off the Somali coast.

Mr. FROLOV (Russian Federation) said that, in line with the relevant United Nations Security Council resolutions, naval vessels of the Russian Federation were currently patrolling the waters off the Somali coast. He welcomed the Djibouti Code, saying that the key to combating piracy was cooperation between states, including the countries of the region, and he expressed his gratitude for Japan's allocation of \$50,000 to help with the implementation of the Code. Thanks largely to IMO, the issue of piracy had been included on the Security Council's agenda and the resolutions passed would give further legal justification for IMO actions in combating piracy off the coast of Somalia. The Russian Federation wholeheartedly supported IMO efforts to try to find ways to reduce the threat of piracy and to develop coordinated approaches to solving the problem.

Mr. YEE (Singapore) said that Singapore viewed the piracy situation off the coast of Somalia as complex, requiring a coordinated and multi-faceted international effort to address the issue. Singapore supported the actions of the United Nations Security Council and IMO and had contributed a naval vessel and two helicopters to the Combined Task Force (CTF) 151 as well as participating in the working groups of the CGPCS. It had also encouraged the ReCAAP Information Sharing Centre to share, through its memorandum of understanding with IMO, its experience and expertise with countries in the region as they embarked on establishing a similar arrangement.

Mr. FERRER (Philippines) commended IMO and its Member Governments on their efforts to address piracy and armed robbery off the Somali coast, particularly the governments that had provided naval ships and escorts, organized meetings and provided financial contributions. He praised the coastal States that had taken part in the Djibouti Meeting and signed the Djibouti Code, especially Kenya which had offered to play a major role in prosecuting pirates, and the shipping industry for its contribution, particularly the recently-adopted best management practices. He also expressed his appreciation for the assurance given by governments that there would be no flag discrimination when providing security escorts in the region. The Philippines was taking steps to promote and implement the best management practices and cooperate with other governments in prosecuting pirates. At present there were two Filipino seafarers in Mombasa acting as witnesses in the prosecution trial of pirates and the Philippines would continue to allow its seafarers to participate in similar prosecution cases. The Philippines was also reviewing its domestic legislation in order to improve systems for prosecuting pirates.

Ms VENKATACHALAM (India) said that her country, as a major provider of seafarers, had been particularly affected by the incidents off the Somali coast and therefore appreciated the Secretary-General's efforts to prioritize measures to protect seafarers, fishermen and passengers and the safe delivery of humanitarian aid and to preserve the integrity of shipping lanes in the Gulf of Aden. India welcomed the adoption of the Djibouti Code and recognized that legal instruments had to be strengthened in order to combat the problem in the long term and also welcomed the industry's efforts to promote best management practices. India agreed with Singapore that the issue was complex and required a coordinated, multi-faceted and sustained response.

The meeting rose at 5.45 p.m.