



COUNCIL - 89th session

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SUMMARY RECORD OF THE SECOND MEETING

**held at IMO Headquarters, 4 Albert Embankment, London SE1 7SR
on Monday, 25 November 2002, at 2.30 p.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 89/INF.1.

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AGENDA ITEM 5 - CONSIDERATION OF THE REPORT OF THE LEGAL COMMITTEE (continued) (C 89/5 and Add.1; LEG 85/11)

Mr. GASC (France) said the review of the SUA Convention was a very important aspect of the set of measures to prevent acts of terrorism which IMO was in process of adopting. He urged Member States to make all possible efforts to tackle the issue urgently. It should be borne in mind that there was also need to establish a legal link between the SUA Convention and SOLAS in regard to security aspects. Although a great deal of work had been done on the issue by the Correspondence Group, he would have liked progress to have been faster.

He suggested that when the Council came to take up item 20 (Review of the Work Programme and Budget for 2003) it might consider the possibility of organizing a diplomatic conference on the SUA Convention in that year.

Mr. KOBASHI (Japan) said Japan proposed the creation of an international framework which would allow a captain of a vessel to hand over criminals to the police at the nearest port of call. He expressed appreciation of the contribution made by Member States and the Secretariat to work on that issue. Japan intended to amend its criminal law regarding foreigners who committed serious crimes against Japanese nationals on foreign soil, but that was only part of the solution to the problem: an international framework was needed to ensure the safe operation of ships.

He would like the Committee to continue discussion of the issue based on responses to the questionnaire being prepared by the Secretariat on the legal framework in place in Member States.

Mr. KORAN (United States), welcoming the new Members of the Council, said amending the SUA Convention and its Protocol was an important part of the international effort to combat the real and growing threat of acts of terrorism against shipping. Document C 89/5/Add.1 only gave a brief summary of the proposed amendments, and did not fully represent the variety of views expressed. However, there appeared to have been consensus that the SUA Convention and its Protocol needed to be updated. He hoped that Members would continue to approach the issue with an open mind.

He looked forward to working with other delegations on the intersessional Correspondence Group, and hoped to receive specific drafting suggestions from them in the coming weeks.

Mr. STUITJE (Netherlands) congratulated the Chairman of the Legal Committee on the progress made at the previous session, particularly regarding the development of a convention on wreck removal. His country had a great interest in the subject, and therefore welcomed the constructive spirit shown in the discussions. The Committee's forthcoming session would be crucial for a positive outcome concerning a recommendation for a diplomatic conference in the 2004-2005 biennium.

Mr. CHRYSOSTOMOU (Cyprus) said he was very pleased with the outcome of work on the draft convention on wreck removal, and with progress made regarding the SUA and HNS Conventions.

He recalled that at the Committee's last session the delegation of Denmark had introduced a document containing a resolution adopted by the Quality Shipping Conference 2002, the annex to which summarized the conference's conclusions. The conclusions regarding the role of the flag State carried the implication that flag States were failing to take the action they should and were not following IMO recommendations despite the fact that they had acceded to most of its conventions, and he found that implication somewhat insulting. As indicated in paragraph 35(d) of document C 89/5/Add.1, the Committee had taken note of the information concerning the Quality Shipping Conference hosted by Denmark but had decided that no further action was required. He suggested that the Council should follow the example of the Legal Committee when it came to consider the proposal by Denmark on the issue (document C 89/13/2), and should merely take note of it for information.

The CHAIRMAN said the suggestion by Cyprus would be taken up under the appropriate agenda item.

He invited the Council to take note of the report of the Legal Committee on its eighty-fifth session, which, in accordance with Article 21(b) of the IMO Convention, would be transmitted, together with the comments of the Council, to Member Governments for information and to the Assembly for consideration and action, as appropriate.

In particular, he invited the Council to note the progress of the Committee's work on a draft convention on wreck removal and the request for the Secretariat to prepare a document on the mandate of IMO to regulate the coastal State's intervention powers in the EEZ within the framework of international law, including UNCLOS; the Committee's decision to continue with the work on the review of the SUA Convention and the SUA Protocol and, consequently, its decision to instruct the Correspondence Group to continue its deliberations; the work done by the International Oil Pollution Compensation Funds (IOPC Funds) on the development of an electronic database to report contributing cargo under the HNS Convention and the further work envisaged by the HNS Correspondence Group; the outcome of the fourth session of the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, in particular the preparation of questionnaires on the implementation of Assembly resolutions A.930(22) and A.931(22), and to urge Members of the Organization and relevant organizations to respond to the questionnaires in order to facilitate the monitoring process; to note the Committee's acceptance of the offer by the CMI to develop a questionnaire, in consultation with the IMO Secretariat, on information regarding measures to protect crews and passengers against crimes on vessels; the Committee's decision to examine the legal aspects of the draft Assembly resolutions on the liability aspects of places of refuge, in the event that the Maritime Safety Committee requested the Committee to do so, and the request made to the Secretariat to review, in co-operation with the CMI, the provisions of existing international instruments and national law dealing with liability and compensation and their application to places of refuge; and, finally, the agreement of the Committee to examine, if requested by other IMO bodies, legal issues regarding the treatment of persons rescued at sea.

It was so decided.

AGENDA ITEM 6 - CONSIDERATION OF THE REPORT OF THE MARINE ENVIRONMENT PROTECTION COMMITTEE (C 89/6 and Add.1 and 2; MEPC 48/21)

The SECRETARY-GENERAL, introducing the report, said that the forty-eighth session of the Marine Environment Protection Committee had been held from 7 to 11 October 2002 and had been attended by 86 Member States, one Associate Member, two United Nations agencies, six intergovernmental and 35 non-governmental organizations. The report on the meeting had been issued as documents C 89/6/Add.1 and Add.2, and the full report of the meeting was contained in document MEPC 48/21.

The Committee had continued its consideration of the draft international convention for the control and management of ships' ballast water and sediments, taking into account the report of an intersessional meeting of the Ballast Water Working Group. It had considered a number of areas of concern including the objectives of the convention, the concept of acceptable ballast water, Tier Two requirements and ballast water treatment standards, and had developed a revised draft text. While recognizing that substantial progress had been made by the Working Group in formulating the revised draft, which would provide a sound framework for discussion at the diplomatic conference, it had considered that that draft should be further reviewed by MEPC 49 in July 2003 and circulated six months before the conference. Based on those factors, it had agreed to request the Council to approve the holding of a second five-day intersessional meeting of the Working Group, without interpretation or translation, at IMO Headquarters in the spring of 2003 to refine the draft text. The report of that intersessional meeting would be submitted to MEPC 49 for consideration with a view to approving the draft text for circulation to the Diplomatic Conference on Ballast Water Management now planned for early 2004.

Council would recall that the eighty-sixth session of the Council had agreed in principle to hold a five-day diplomatic conference in 2003, subject to confirmation by MEPC in 2002, and had included financial provision for that conference in the budget for 2003. If the Council approved the holding of that conference in early 2004, the budget allocated for it for 2003 would be saved and reallocated in the budget for 2004. He would include provision for that element in the Organization's work programme and budget proposals for the biennium 2004-2005.

The Committee had continued consideration of matters relating to ship recycling and had confirmed IMO's overall responsibility associated with that issue. It had agreed that IMO, for the time being, should develop guidelines to be adopted by an Assembly resolution, while recognizing the need for continued co-operation with ILO and the Basel Convention Secretariat. It had considered the draft IMO guidelines prepared by the Working Group on Ship Recycling, and had agreed that they needed further development before being submitted to the twenty-third session of the Assembly for adoption. It had also requested inputs from the DE, BLG and FSI Sub-Committees, and had decided to establish an intersessional correspondence group on the matter and to reconvene the Working Group during MEPC 49 with a view to finalizing a draft text of IMO guidelines.

With regard to prevention of air pollution from ships, the Committee had continued to develop an IMO strategy on greenhouse gas reduction to be adopted by an Assembly resolution, and had noted that the Working Group on Air Pollution had made significant progress on the proposed future IMO measures for controlling greenhouse gas emissions. However, it had agreed that before further action was taken on that resolution, the policy issues on greenhouse gas

emission in the context of article 2.2 of the Kyoto Protocol had to be resolved, and had agreed to consider that point further at its next session. The Committee had also noted statements made by delegations regarding prevention of air pollution from ships and their intention to ratify MARPOL Annex VI in the near future. It had recalled the recommendation of the 1997 Air Pollution Conference that it should identify the impediment to entry into force of the Annex if the entry into force conditions had not been met by 31 December 2002, and had agreed to review the situation at MEPC 49. He again requested Governments to ratify MARPOL Annex VI as soon as possible, so that the target date set by the 1997 Air Pollution Conference could be met.

In the revised Manual on Oil Pollution, the Committee had approved Section IV on Combating Oil Spills, and had approved in principle the revised work programme for the early entry into force and implementation of the OPRC-HNS Protocol. It had also discussed future arrangements for its work on implementation of the OPRC Convention and the OPRC-HNS Protocol. It had considered the need for a technical working group to develop manuals and guidelines for the implementation of that Protocol, and had agreed in principle to establish a Technical Group on the OPRC Convention and the OPRC-HNS Protocol, which would be a subsidiary body of the Committee and meet in the week preceding it, submitting its report to the subsequent session of the Committee for consideration. Terms of reference for the Technical Group would be further considered by MEPC 49, which would inform Council at its extraordinary session before the twenty-third session of the Assembly of the results of further discussions.

The issue of identification and protection of Special Areas and Particularly Sensitive Sea areas (PSSAs) had become a major item on the agenda of recent MEPC sessions. At MEPC 48 the Wadden Sea area of Denmark, Germany and the Netherlands had been designated a new PSSA by resolution MEPC.101(48), and the Committee had also approved in principle the designation of the Paracas National Reserve of Peru as a new PSSA, pending consideration of the proposal for an "area to be avoided" by the NAV Sub-Committee. With a view to assisting Member Governments in formulating their PSSA proposals for consideration by the Committee, a guidance document had been approved and would be issued as MEPC/Circ.398. The Committee had also approved proposed amendments to regulation 10 of MARPOL Annex I for designating the Oman area of the Arabian Sea as a special area, and had requested him to circulate the text of those amendments in accordance with the provisions of article 16 of MARPOL 73/78 for consideration at MEPC 49 with a view to adoption.

The important issue of the harmful effects of use of anti-fouling systems on ships had also been dealt with. As a follow-up action to the adoption of the International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS Convention), guidelines were to be developed on surveys of anti-fouling systems, brief sampling of ships' anti-fouling systems and inspection of ships' anti-fouling systems. The first of those three sets of guidelines had been adopted by resolution MEPC.102(48), and the Committee had requested the FSI Sub-Committee to develop the other two sets of guidelines as soon as possible. Since the AFS Convention had set 1 January 2003 as the target date for global prohibition of paints containing organotin compounds, it was extremely important that that Convention should come into force as soon as possible, and he again urged Member Governments to take positive steps to ratify and implement it so that measures to eradicate harmful anti-fouling paints could be implemented as scheduled.

At the request of the eighty-eighth session of Council, MEPC 48 had conducted an initial discussion of how the details of an IMO Model Audit Scheme could be developed, and he would report the outcome of that discussion under agenda item 13.

MEPC 48, having considered committee and sub-committee activities and priorities for the biennium 2004-2005, had approved, subject to a concurrent decision by MSC 76, the proposed plan of 25.5 meeting-weeks of the MSC and MEPC and their subsidiary bodies for the biennium 2004-2005 for inclusion in his budget proposals. MEPC 48 had considered that that number of meeting-weeks represented the minimum required to maintain the efficiency and effectiveness of the Organization's technical bodies.

The Committee's recommendation on an application for consultative status (document C 89/6/Add.2) would be considered under agenda item 26.

Lastly, the Committee had expressed its deep appreciation to the outgoing Chairman, Mr. Julian of Australia, for his outstanding leadership and significant contribution to the work of the Committee and of the Organization as a whole over many years, and especially during the past five years. It had elected Mr. A. Chrysostomou of Cyprus and re-elected Mr. G. Fernandez of Panama as Chairman and Vice-Chairman respectively for 2003.

Mr. ALLAN (United Kingdom) joined in welcoming the new Members of the Council.

He noted the progress made by the intersessional meeting and at MEPC 48 with regard to ballast water. He would support the holding of a second intersessional meeting in the spring of 2003, but would leave it to MEPC 49 to decide whether to hold a diplomatic conference early in 2004. Concerning air pollution from ships, he would support the continuation of work at IMO, and the development of an IMO strategy on greenhouse gas production to be adopted as an Assembly resolution.

He would also support the establishment of an OPRC working group, which he believed would be a pragmatic solution in view of the amount of work still to be completed. He could agree to an intersessional meeting of the ESPH Working Group during 2003.

He thanked the outgoing Chairman, Mr. Julian, for his efforts in successfully completing an extremely heavy workload, including the issue of the **Erika**, and congratulated Mr. Chrysostomou on his election as the new Chairman.

Mr. STUITJE (Netherlands) said that the Netherlands supported the time schedule for completion of the new ballast water instrument proposed by MEPC. On the basis of that schedule, it should be possible to hold a successful conference in early 2004.

Mr. SEVILLA (Philippines) joined in welcoming the new Members of the Council.

The Philippines had recently attended a seminar in Beijing sponsored by IMO on harmful aquatic organisms in ballast water. The IMO representative had made a presentation showing the risks involved in failing to provide proper ballast water management, risks which were even more serious than those posed by marine pollution. In order to motivate countries to introduce rules and regulations on the subject prior to adoption of the Convention in 2004, he proposed that the Secretariat should provide each Member State with a copy of that presentation.

Mr. ALAM (Singapore), welcoming new Members of the Council and thanking the outgoing Chairman for his leadership, said he too was pleased to note the substantial progress made by the Ballast Water Working Group in formulating the revised draft convention, which

would provide a sound framework for discussion at the diplomatic conference. The holding of a second intersessional meeting of the Working Group in spring 2003 was important for ensuring a successful conference in early 2004.

He also noted with satisfaction the progress achieved by the Committee on ship recycling, air pollution from ships, OPRC matters and PSSAs, and appreciated the important work carried out by the OPRC Working Group. He could support the establishment of a working group on the OPRC Convention and Protocol to meet in the week prior to the Committee, provided that it did not involve too much expenditure and did not clash with the meetings of any other working group the MEPC might decide to set up.

Finally, he supported the convening of an intersessional meeting of the ESPH Working Group in 2003.

Mr. GASC (France) said the problem of harmful aquatic organisms in ballast water was an urgent one, but since discussions needed to be continued he could agree to the postponement of a diplomatic conference until early 2004. He could also approve the holding of a second meeting of the intersessional working group in spring 2003 in order better to define the draft instrument.

He urged that co-operation between the IMO Secretariat and the Secretariat of the Convention on Climate Change should be enhanced.

Mr. CHARALAMBOUS (Cyprus) said he too could endorse the setting up of a technical group on the OPRC Convention and Protocol, but believed that that solution should not be considered final, and should be reviewed when the study on the restructuring of committees and sub-committees had been completed.

He could agree to the convening of a second meeting of the intersessional working group, and would prefer the conference to be held in early 2004. He endorsed the Secretary-General's proposals regarding budgetary provision for that conference.

Lastly, he proposed that the Council acknowledge the contribution of Mr. Julian to the work of MEPC in an appropriate decision.

Mr. DAVIDSON (Australia) thanked delegates for their kind words concerning Mr. Julian, which he would convey to him.

Australia remained deeply committed to the work of MEPC. It had had the Great Barrier Reef declared the first PSSA, and looked forward to promulgation of the new guidelines. In particular, it was very concerned at the number of ships transiting the Torres Strait without a pilot, and would be taking action within IMO to extend compulsory pilotage and PSSA status to that area.

Mr. PINTO (India) joined in paying tribute to Mr. Julian and in welcoming the new Chairman.

Concerning ship recycling, he believed that the mechanism governing transactions between shipowners and recyclers needed to be streamlined. Currently, there was no actual transfer of ownership from seller to buyer and a great deal of uncertainty surrounded the exercise.

If a ship had been subject to any maritime lien claim involving oil spills, serious accidents, serious groundings or any clandestine operation or terrorist activity, there was no way of pinning responsibility on the owner. In his view, there should be a clear and transparent system which would protect the recycler from such hazards.

He suggested that flag States should play a more proactive role in the matter. They could either issue a certificate of demolition or could deregister the vessel as soon as the deal for scrapping or recycling was finalized. After deregistration, the flag State should carry out all necessary inspections to allow the vessel to proceed on a single voyage to the scrapyards. Much of the uncertainty surrounding such transactions could thus be dispelled.

On the subject of the draft Ballast Water Convention, while he appreciated the initiative taken to carry out pilot studies on bio-invasion, he warned that much work still remained to be done. Unless the risks associated with ballast water in different regions of the world were clearly established, the adoption of management technologies would be premature. Methods of identifying the risks involved should be in place before the proposed convention was ratified.

Similarly, the practice of mid-ocean exchange currently advocated needed careful consideration. Such exchanges often took place not far from shore or in regions where fragile ecosystems existed. He therefore suggested that an acceptable form of mid-ocean exchange should be defined in the ballast water management guidelines.

While he welcomed the AFS Convention, he noted that as at 1 September 2002 no Member State had ratified it and it had therefore not yet come into force. Until then, there should be no unilateral implementation of the Convention's provisions.

The CHAIRMAN suggested that the representative of India should submit his proposals to the Legal Committee.

Mr. AHMED (Bangladesh) said his country was very pleased to be represented on the newly-expanded Council. He expressed his appreciation of Mr. Julian's chairmanship of the MEPC, and welcomed the incoming Chairman.

Turning to the issue of harmful aquatic organisms in ballast water, he supported the two recommendations set out in paragraph 8 of document C 89/6/Add.1. As Chairman of the Working Group on Ship Recycling, he was pleased to note the constructive comments made by India, which should be taken into account before completing the draft guidelines. Regarding the prevention of air pollution from ships, he supported the establishment of an intersessional correspondence group and the reconvening of the Working Group on Air Pollution during MEPC 49 with a view to finalizing IMO strategy.

He endorsed the views of Cyprus in connection with the implementation of the OPRC Convention and the OPRC-HNS Protocol, and expressed support for the convening of an intersessional meeting of the ESPH Working Group of the BLG Sub-Committee in 2003.

Mr. JÓHANNESON (Iceland) joined previous speakers in expressing his gratitude to the outgoing Chairman of the MEPC, Mr. Julian, for his outstanding leadership, and congratulated Mr. Chrysostomou on his election.

He welcomed the progress made in the preparation of a convention for the control and management of ships' ballast water and sediments. The environmental threat caused by the introduction of harmful aquatic organisms from distant ecosystems could not be sufficiently stressed. He urged all participating States to work effectively towards an acceptable solution, bearing in mind the potential risks. With a view to ensuring a successful diplomatic conference, he could support the holding of an intersessional meeting of the Ballast Water Working Group in the early part of 2003, and the consequent adjustment of the timing of the diplomatic conference to be held in early 2004.

He welcomed the co-operation between the Secretariats of IMO and the UNFCCC: the Organization had taken a most responsible attitude in the difficult task of considering greenhouse gas emissions from ships. Iceland also commended the work done by the correspondence group on greenhouse gases.

The CHAIRMAN invited the Council to transmit the report of the forty-eighth session of MEPC, together with its comments and recommendations, to the Assembly, in accordance with Article 21(b) of the IMO Convention.

In particular, he invited the Council to note that the Committee had adopted amendments to the Condition Assessment Scheme by resolution MEPC.99(48), and amendments to the 1973 Intervention Protocol by resolution MEPC.100(48); the significant progress made by the Committee in the development of the draft International Convention for the Control and Management of Ships' Ballast Water and Sediments; to approve the holding of a second intersessional meeting of the Ballast Water Working Group in the spring of 2003, and to approve the convening of the Diplomatic Conference on Ballast Water Management in early 2004 instead of October 2003; to note the progress made by the Committee in dealing with matters relating to ship recycling, prevention of air pollution from ships, OPRC-related matters, protection of Special Areas and Particularly Sensitive Sea Areas, and harmful anti-fouling systems on ships; and to note the outcome of the Committee's initial discussion on the proposed IMO Model Audit Scheme, which was considered under item 13 of the Council's agenda.

He further invited the Council to approve the holding of an intersessional meeting of the ESPH Working Group of the BLG Sub-Committee in 2003, subject to a concurrent decision by MSC 76; to note the Committee's approval, subject to a concurrent decision by MSC 76, of the proposed plan of 25.5 meeting-weeks of the MSC and MEPC and their subsidiary bodies for the biennium 2004-2005 for inclusion in the Secretary-General's work programme and budget proposals; to note the recommendation of the Committee to grant consultative status to the International Marine Transit Association/Interferry (IMTA-Interferry) on a provisional basis, which was considered under item 26 of the Council's agenda; to express its deep appreciation to the outgoing Chairman of the Committee, Mr. M. Julian of Australia, for his outstanding contribution to the work of the Organization over many years and to note the election of Mr. A. Chrysostomou of Cyprus and the re-election of Mr. G. Fernández of Panama as Chairman and Vice-Chairman of the Committee respectively for 2003.

It was so decided.

AGENDA ITEM 7 – CONSIDERATION OF:

**(a) THE REPORTS OF THE TECHNICAL CO-OPERATION COMMITTEE
(C 89/7(a); TC 51/11)**

Mr. AHMED (Bangladesh), speaking as Chairman of the Technical Co-operation Committee, said that the Committee had held its fifty-first session on 13 June 2002, and its report had been circulated as document TC 51/11. The main focus of the Committee's work had been the technical co-operation aspect of maritime security. In November the previous year, Assembly resolution A.924(22) had requested the Secretary-General to take appropriate measures within the ITCP to assist Governments in strengthening port safety and security. The Secretariat had responded quickly to that request by developing a global technical co-operation programme for capacity-building in maritime security, beginning with the preparation of a training package to be delivered through regional workshops during 2002-2003.

At the TCC meeting in June, Member States had expressed their willingness to host workshops, and had acknowledged the need to invest in maritime and port security infrastructure in order to achieve effective implementation of the regulatory regime being developed by IMO. The Committee would continue to consider that very important issue and would receive a status report at its session that week. The Committee had also concurred with the views of the Council regarding the possible establishment of a maritime security trust fund by the Secretary-General, should he determine it to be a feasible and appropriate means of ensuring that future assistance could be delivered for effective compliance with IMO's emerging regulatory regime on maritime security.

Another development at the Committee's fifty-first session had been the introduction of a new format for the annual reports on the ITCP. One advantage of the change was that increased transparency made possible a clearer understanding of the work undertaken by the Secretariat through the ITCP, and a better analysis not only of the financial aspects of the programme but, equally importantly, of the work actually accomplished. The document recorded the substantive results achieved: for example, during the year 2001, 145 advisory missions had been carried out, seven packages of model primary or secondary legislation had been developed, and 116 courses, seminars and workshops had been held at national, regional and global levels, resulting in the training of almost 3,000 persons. The improvements in the reporting format had met with a positive reception by the Committee.

With regard to the financial aspects of the programme, some concern had been expressed over delivery rates. However, the Committee had expressed its appreciation of the steps already taken by the Secretariat to improve delivery, and of the additional regulatory measures being introduced through the Change Management Programme.

Another achievement acknowledged by the Committee had been the success of IMO's regional co-ordinators scheme through three African regional presence offices in Côte d'Ivoire, Ghana and Kenya. The decentralization of implementation of the ITCP through that scheme and the partnership arrangements with the regional organizations, national Governments and other institutions should also impact positively on delivery rates. The Committee had fully endorsed the Secretariat's proposal for further decentralization through the extension of similar arrangements to other regions.

The Committee had considered a proposal to launch a pilot scheme to make IMO publications available at no cost on the Internet, and had decided that it would continue to examine the matter at its session later that week, taking into account the information provided by the Secretariat on the potential consequences of the proposal. On conclusion of its discussion, the Committee would submit its views to the Council.

Lastly, the Committee had also approved modifications to the Guidelines on methods and organization of work of the Technical Co-operation Committee. The modified text could be found in the annex to document TC 51/11.

The SECRETARY-GENERAL noted that at the fiftieth and fifty-first sessions of the Committee it had not been possible to complete the approved agenda within the time available. However, a number of options had been considered for improving the time allocation and, as a consequence, measures had been approved for the current biennium which would result in a two-day stand-alone session at TC 53 in 2003. That session would be held back to back with a workshop on partnership-building and would take place before the Council's session in June 2003. Although at the fifty-first session there had been a general preference for the holding of two stand-alone sessions of three days each for the 2004-2005 biennium, the matter would be discussed further at the Committee's fifty-second session and the Council could consider the question again at its ninetieth session in June 2003.

Since the fifty-first session, through the global technical co-operation programme on capacity-building for maritime security, the Secretariat had held a number of successful seminars and workshops on maritime and port security. In July, a workshop had been held for the Eastern and Southern Africa region in Mombasa, Kenya, and in August one had been held in Singapore for the Asian region and one in Sydney for the Pacific Island countries. In September, the Academy in Alexandria, Egypt, had provided the venue for another workshop for the Arab and Mediterranean States. In October and early November, three further workshops had taken place, one in Uruguay for the ROCRAM region, another in Panama for the ROCRAM-CA countries and one in Poland for the Baltic Sea region. The feedback had been very positive and the programme would be developed further after the Diplomatic Conference on Maritime Security, which was expected to adopt amendments to SOLAS 74 to enhance maritime security. Subsequently, the training programme would be updated to take into account the amendments. A further series of seminars on maritime and port security were planned for 2003: the Secretariat had also been providing Member States with technical assistance in that field through advisory missions when requested and would continue to do so under the programme.

Mr. SOEHARTO (Indonesia) expressed his appreciation to IMO and to donor countries for the technical assistance received by his Government, and in particular for the IMO expert missions which had recently visited Jakarta to discuss the issue of maritime security. Security, both offshore and in port, was of great concern to Indonesia, which was committed to preventing and combating maritime crime, including acts of terrorism and piracy. Expressing deep regret for the bomb blast tragedy in Bali on 12 October, he assured the Council that his authorities were taking the necessary action to investigate the incident and to arrest and bring to justice those responsible.

He looked forward to the convening of the diplomatic conference and to the development of further measures to guarantee maritime security, and emphasized the need for continuing technical assistance to enable developing countries to comply with the relevant IMO instruments. He fully supported the establishment of a maritime security trust fund.

Ms GARCIA (Panama) said Panama was grateful for IMO's Technical Co-operation Programme in general, and in particular for the regional programme on protection of the marine environment, from which it had derived great benefit.

Ms MOETZEL (Germany) drew attention to the issue of access to IMO documents in electronic format referred to in paragraphs 28 to 30 of the report. It was current practice for United Nations treaties to be made available on the United Nations website, and the General Assembly of the United Nations had encouraged the Secretary-General to adopt that practice. She thought it appropriate that IMO should publish its instruments free of charge on its website in a similar manner, since that would greatly facilitate compliance with those instruments.

Mr. CHRYSOSTOMOU (Cyprus), supported by Mr. GALEA (Malta), agreed with Germany that it would be useful to publish IMO instruments on the website. Nevertheless, it should be borne in mind that the surplus from the Printing Fund was used to finance technical co-operation in developing countries. It would be counter-productive if the publishing of instruments on the IMO website were to lead to a depletion in the Printing Fund surplus, and consequently to a reduction in the funds available for technical co-operation. IMO's reputation for technical assistance was based not only on the manner of its delivery, but also on the way in which it was funded. He would be in favour of publishing documents on the Internet provided that a way was found of maintaining the surplus in the Printing Fund and that the scheme was introduced on a trial basis only.

Mr. AGUILAR-SALAZAR (Mexico) supported the views expressed by Germany. The Committee could discuss the matter further, taking into account on the one hand the fact that circulation of IMO instruments contributed to their implementation, and on the other hand the fact that depleting the Printing Fund would have financial implications for technical co-operation.

Mr. PINTO (India), supported by Mr. FINLEY (Panama), endorsed the views expressed by Cyprus. It was of prime importance that a surplus be maintained in the Printing Fund for transfer to the Technical Co-operation Fund. Technical co-operation was central to IMO's work, in that enabled developing countries to upgrade their systems and practices with a view to ensuring that the principles of IMO were put into practice.

Mr. GENNÉ (Argentina) recalled that it was his delegation, at a previous meeting of the Committee, which had made the proposal to place IMO documents on the Internet. He agreed that the matter should be further examined in the Committee and that the outcome should be submitted to the Council for discussion under agenda item 16 (Consideration of the electronic access to certain IMO publications).

The CHAIRMAN invited the Council to agree with the action requested of it as indicated in paragraph 45 of document C 89/7(a), and to decide that the report of the fifty-first session of the Technical Co-operation Committee would be submitted to the Assembly at its twenty-third regular session, in accordance with Article 21(b) of the IMO Convention.

It was so decided.

(b) TECHNICAL CO-OPERATION FUND: FINAL REPORT ON ACTIVITIES OF THE 2000-2001 PROGRAMME (C 89/7(b); C 88/19)

The SECRETARY-GENERAL said that an interim progress report on the status of implementation of the technical co-operation activities that were financed or co-financed by the Technical Co-operation Fund had been presented to the Council during its eighty-sixth session in June 2001. Document C 89/7(b) updated that information and reported on all projects implemented during the biennium with TC Fund financing approved by the Council. In addition, it included data on area projects that had also been financed or co-financed through the TC Fund and which had residual activities carried out during 2000 and 2001. Document C 88/19 had been prepared in accordance with the requirements of the new rules of operation of the TC Fund approved by the Council in November 2000.

The report should be considered in the context of the Integrated Technical Co-operation Programme as a whole, of which the TC Fund programme had supported some 34% during the previous biennium. Comprehensive reporting on the ITCP for that period had been presented to the Technical Co-operation Committee at its fiftieth and fifty-first sessions.

He thanked the many partner States, institutions and recipient countries for providing cost-sharing contributions for TC Fund activities, both in terms of financial resources and in terms of in-kind resources in the form of experts and facilities. He urged them to continue their generous support.

Mr. EUN LEE (Republic of Korea) stressed the importance of IMO's role as a provider of technical assistance. He was pleased to announce that his Government was preparing to sign a memorandum of understanding with IMO in respect of financial and technical co-operation with a view to strengthening the ITCP.

The CHAIRMAN invited the Council to take note of the information provided in the final report on the activities of the TC Fund programme for 2000-2001, and to express its appreciation to the Organization's development partners and to the Secretary-General for the assistance that was being provided to the developing countries.

It was so decided.

AGENDA ITEM 13 - PROPOSED IMO MODEL AUDIT SCHEME (C 89/13 and Add.1; C 89/13/1; C 89/13/2; C 89/13/3; C 88/13/2; C 88/13/3 and C 88/13/4)

The SECRETARY-GENERAL, introducing the item, said that document C 89/13 provided a summary of the decisions made by the Council on the proposed IMO Model Audit Scheme. At its previous session in June, the Council had approved in principle the concept of a model audit scheme submitted by 18 Member Governments and one Associate Member, to be implemented on a voluntary basis, as outlined in document C 88/13/2. It had decided, in view of the lack of time, to consider first the comments made by Brazil in document C 88/13/3 and by the Bahamas in document C 88/13/4, and, in order to take advantage of the presence of the newly expanded Council, to continue discussion on the matter at the current session.

The Council had requested the MEPC, the MSC and the Technical Co-operation Committee to give the issue preliminary consideration, if possible without seriously disrupting their work schedules for the current year, requesting MEPC 48 and TC 52 in particular, to advise

the Council accordingly. It had requested the MSC and MEPC to consider, taking into account the proposals by Brazil and the Bahamas and any other submissions received, how the details of an IMO Model Audit Scheme could be developed, and to advise on the safety-critical and environmentally-critical areas they considered should be covered by the scheme. It had additionally requested the TCC to consider the issue from a capacity-building point of view. All three committees had been requested to consider the desirability of establishing a joint working group to meet at MSC 77 to consider the matter further. The Council had also requested that MSC 77, MEPC 49 and TCC 53 take the actions specified in subparagraphs 2.3(i), (ii) and (iii) of document C 89/13.

The Council had requested him to study the ICAO model audit scheme, and to advise the Council and the three committees concerned on any aspects of it which might be taken into account in developing the IMO scheme. His response to that request was provided in document C 89/13/Add.1. Paragraphs 3 to 5 of the document provided a summary of ICAO's audit programme, and paragraph 6 outlined the principles underlying ICAO's Universal Safety Oversight Audit Programme (USOAP). Since that programme apparently continued to receive the strong support of Contracting States to the ICAO Convention, he had concluded that it would be prudent for IMO Members to also consider setting out clear principles as the foundation of any voluntary IMO Model Audit Scheme, taking into account as appropriate the successful ICAO model.

Paragraphs 8 to 10 referred to the development of audit objectives under the ICAO scheme. Against that background information, it was suggested in paragraph 11 that it would be important for IMO Member States to decide on the objectives of the IMO scheme and how audit reports would be developed, circulated, considered and used. Paragraph 12 dealt with the establishment of the ICAO audit mandate, its operation and procedures, and paragraph 13 noted that, while it was recognized that the ICAO scheme was mandatory and that of IMO voluntary, it was essential for any audit to have a clear mandate which defined its purpose, the process to be followed, and associated procedures, as well as the action to be taken by both parties prior to, during and after the audit.

Paragraphs 14 to 17 referred to the funding, capacity-building and audit protocol for the ICAO programme, while paragraph 18 contained his advice that the Council might wish to consider whether the credibility, sustainability and integrity of an audit scheme would depend on the creation of a special project budget, which would not be dependent on the State being audited. Specialized training for auditors, the careful identification of those responsibilities of the State which were contained in the appropriate treaties and which could be audited without subjectivity, and the development of clear and unambiguous audit protocols, would all be crucial components for the success of an audit programme.

Paragraph 19 concluded that the IMO Model Audit Scheme as outlined in document C 88/13/2 was an adaptation of the ICAO model. Were such a scheme to be developed, further work would be required to consider those elements of the ICAO audit programme which could be endorsed by IMO Member States as suitable for the Organization.

Mr. OLIVA (Italy) said that defining the principles and criteria to be used in applying the proposed IMO Model Audit Scheme was of great importance in ensuring proper application of any measures taken, transparency of auditing activities, and respect for the rights of flag States in the exercise of their international obligations. He endorsed the proposals set out in paragraph 10 of the annex to document C 89/13/Add.1, which would form an excellent basis for defining criteria.

Mr. PEREIRA (Brazil), referring to document C 88/13/3, said any IMO audit scheme should be established on a professional basis, taking into account the different cultural backgrounds and legal structures of countries. Moreover, careful consideration would need to be given to the selection of the audit teams and to the structure and funding of the scheme before any decision was taken on whether it should be implemented.

Mr. BELL (Bahamas), referring to his country's proposals in document C 88/13/4, said he had some doubts as to the wisdom of developing an IMO Model Audit Scheme. However, having noted the degree of support for such a scheme, he would not oppose its introduction and would work constructively with others to ensure that the scheme was the best possible and would bring benefits to all concerned.

Mr. MOUZOUROPOULOS (observer, Belize), referring to document C 89/13/1, said that the comprehensive and extensive proposals being put forward for the IMO Model Audit Scheme risked being so complex that the scheme was unlikely to become available in time to deal with the current generation of substandard ships. The crux of the matter was to determine precisely what faults IMO wished to remedy. Most of the problems appeared to arise in respect of technical certification, *i.e.* supervision by flag States of their recognized organizations and the performance of those organizations. The IMO scheme should be introduced as soon as possible, on an interim basis if necessary, and should initially determine how Member States controlled and monitored their recognized organizations, with a view to assessing the latter for inclusion on an IMO approved list. That procedure would be cost-effective and relatively easy to implement since it would not require too many auditors and the documents reviewed would relate to appropriate instruments and conventions.

Countries that accepted certificates from flag States should surely have the right to examine how such certificates were issued. A focused IMO audit would deal with the problem of substandard shipping in a more effective and timely manner. It would also avoid duplication, since many flag States already had an ISO 9002 accreditation. Moreover, if a recognized organization appeared to fail an audit or if doubts were raised about its performance, other flag States would avoid using that organization, thus bringing about an earlier solution to substandard performance. Some 160 flag States were currently auditing some 150 recognized organizations: that was clearly an inefficient system involving considerable duplication.

Mr. RASMUSSEN (Denmark) recalled that the Quality Shipping Conference which had taken place in Copenhagen on 10-11 July 2002 had requested his Government to draw IMO's attention to the resolution it had adopted, which was contained in document C 89/13/2. The Conference had reached a number of conclusions, set out in the annex to the resolution, relating to the role of the flag State, decent working and living conditions for seafarers, and the human element. He drew particular attention to paragraphs 2, 5, 6 and 10 in the section on the role of the flag State, which were of direct relevance to the agenda item under consideration. The Council was invited to take those and the other conclusions of the Conference into account in its future work.

He expressed surprise at the intervention made that morning by the representative of Cyprus regarding document C 89/13/2. There were no restrictions on either the form or the content of documents presented by Member Governments to the Council, and there had been no indication that document C 89/13/2 was intended specifically as an information document. All he had tried to do was to convey the views of a large group of participants in the Conference, views which were endorsed by his Government, to IMO. It was for the Organization to deal with that information in whatever way it wished.

Mr. ROWE (United Kingdom) drew attention to document C 89/13/3, which set out his Government's proposals to facilitate further discussion of an IMO Model Audit Scheme. The aim was to develop a common understanding of the proposed audit process prior to detailed discussions regarding what was to be audited and who should undertake the audit task. The audit scheme should be voluntary, but it was hoped that most Member States would wish to use it. Mechanisms would need to be devised to inform other Member States of the lessons learned during the audit process, as was done in the case of accident investigation reports. Some of the important items that would need to be considered during the development of the Model Audit Scheme were set out in paragraphs 6 to 14 of the document. He drew particular attention to the contribution that self-assessment forms could make to the scheme, as indicated in paragraph 12. It was, however, difficult to be objective in undertaking self-assessment; an external element would therefore be of benefit.

At its eighty-eighth session the Council had requested the MSC, MEPC and Technical Co-operation Committee to consider the desirability of establishing a joint working group to meet at MSC 77 to consider the Model Audit Scheme further. MEPC had supported that proposal. He urged the Council to contribute to the discussion in a way that would assist such a working group. In order to maintain the momentum, the United Kingdom was willing to organize an informal meeting in January 2003 at which Members of Council and other interested Member States would have an opportunity to consider a preliminary paper, which would facilitate the development of a discussion paper for consideration by the joint working group in May 2003.

The SECRETARY-GENERAL said that, as indicated in paragraphs 25 to 27 of document C 89/6/Add.1, MEPC had given preliminary consideration at its forty-eighth session to the proposed IMO Model Audit Scheme. In doing so, it had considered submissions from Belize and India and a joint submission from 15 Governments, which had been introduced by the representative of the United Kingdom. The MEPC had noted that all three submissions had been supportive of the idea of an audit scheme, while recognizing that India had also proposed a system to facilitate self-auditing by Member States. The Committee had agreed that, whichever approach was taken, it should not incur any costs for IMO.

The representative of the Bahamas had questioned the need for further flag State auditing schemes, identifying a number of problems which might arise should a model scheme be developed. The MEPC, taking into account proposals made in the documents submitted, had expressed a preference for those in the 15-country joint submission, while recognizing that there were elements in the submissions by Belize and India that should also be explored, and that the concerns expressed by Bahamas should be taken into account. Finally, the Committee had agreed to the proposal that a joint MSC/MEPC/TCC working group should be established, to meet during MSC 77, and had requested its Members to participate in the work of the group in order to provide input on MARPOL-related issues, with specific reference to annex 2 to document MEPC 48/10/5.

The CHAIRMAN recalled that at its previous session the Council had decided that, in addition to receiving a report on the preliminary consideration of the item by MEPC 48, it should also receive such a report from TC 52. TC 52 had not yet taken place, however, and he therefore suggested that the TC Committee be asked to report to the Council at its ninetieth session, unless it wished to seek advice on urgent matters relating to the proposed Model Audit Scheme, in which case it might do so on Friday 29 November 2002.

Mr. TSANTZALOS (Greece) said that Greece continued to support the proposed Model Audit Scheme in principle, although, as was indicated in document C 89/13/3, further work was needed to develop the details. He supported the establishment of a joint working group of the three committees to undertake that work. He requested clarification of the suggestion contained in paragraph 12 of document C 89/13/3 that audits might explore how Member States carried out their responsibilities: it was his understanding that they focus on the implementation of conventions by Member States rather than on the methods of such implementation, which would vary according to the internal structure of each State.

Mr. KOBASHI (Japan) expressed support for the proposals submitted by the United Kingdom. The Model Audit Scheme would provide an effective tool for monitoring the performance of flag States. The document submitted by Brazil had raised a number of technical difficulties, but these were not incompatible with the scheme and could be resolved by the proposed joint working group. He urged the Council to support the establishment of such a group.

Mr. EUN LEE (Republic of Korea) reiterated his country's support for the introduction of the IMO Model Audit Scheme, while emphasizing that audit reports on flag States should not be made public and should be treated as confidential. Release of an unfavourable report to all IMO Member States might lead to the ships of the flag State concerned being penalized by port States, which would discourage acceptance of the audit scheme. As in the case of the ICAO Universal Safety Oversight Audit Programme, a summary report only should be released.

He pointed out that the proposed scheme would require a large number of auditors, who would need to be selected and trained with care in order to minimize the risk of subjective judgments. Moreover, guidelines would be needed to establish how substandard recognized organizations and "flag hopping" should be dealt with. Observance of the guidelines could be checked during audit.

Mr. PEREIRA (Brazil) said it was essential to understand clearly what IMO was trying to achieve with the proposed audit scheme, and warned against proceeding too quickly. The aim of the process and the tasks of the technical auditors must be clearly defined. He therefore supported further study of the scheme.

Mr. GASC (France) expressed support for the introduction of the proposed Model Audit Scheme and the establishment of a joint working group of the three committees. The comments raised during the discussion should be considered by that group. The French word "vérification", perhaps gave a clearer indication of the aim of the procedure than the English word "audit".

Mr. YUDIN (Russian Federation) said the proposed voluntary nature of the scheme gave rise to a number of concerns. For example, some of the more disciplined Member States might subject themselves to a double check, one under existing controls and one under the new scheme, while others might try to avoid any audit at all. Moreover, who would pay for the creation and maintenance of the scheme? Document C 89/13/Add.1 appeared to suggest the establishment of the special budget for the scheme, with a view to achieving objectivity regardless of the country being audited, but the same document indicated that the establishment of such a mechanism in ICAO had cost its member States some US \$7-8 million. It might therefore be worth considering the comprehensive strengthening of existing IMO control mechanisms, which would cost much less than the introduction of a new scheme.

Mr. TOOMER (Australia) said that, as one of the sponsors of the 15-country joint submission to the eighty-eighth session of the Council, Australia continued to support the introduction of the proposed IMO Model Audit Scheme. However, he agreed that further work was needed and supported the establishment of a joint working group of the three committees, to meet at MSC 77, to consider the matter further.

Mr. CHRYSOSTOMOU (Cyprus) said that Cyprus, as one of the 15 sponsors of the original proposal, supported the proposals submitted by the United Kingdom in document C 89/13/3. However, like the representative of Greece, he sought further clarification of the suggestion in paragraph 12 of that document that audits might explore how Member States carried out their responsibilities. It was his understanding that the audits would identify the different ways in which IMO instruments were implemented but would not evaluate them.

He endorsed the decision by MEPC that a joint working group of the three committees be established, to meet at MSC 77. The three committees should prepare draft terms of reference for the joint working group and that the Council should give overall guidance on the group's mandate.

Referring to paragraph 21 of document C 89/13/Add.1, he could agree that the Council should establish clear principles as a basis for the proposed audit scheme, and could endorse most of the ICAO principles set out in paragraph 7 of the document as being appropriate for IMO. However, the principle of all-inclusiveness required further consideration. Turning to the objectives of the ICAO programme set out in paragraph 8, he pointed out that objective .2, regarding States' adherence to ICAO recommended practices, associated procedures, guidance material and safety-related practices, and objective .4, relating to advice to Contracting States to improve their safety oversight capability, were not entirely appropriate to IMO. The objectives of the IMO scheme would therefore need to be clarified. Referring to the budget for the ICAO scheme, mentioned in paragraph 14 of the document, he said that while it was acceptable for development and training for the IMO scheme to be financed through assessments on Member States, he could not agree that the execution of audits should be funded from the regular budget. Cyprus would be submitting a proposal in that regard to the TC Committee at its next meeting. In document C 89/13/1, Belize had raised a number of important points. He suggested that they be referred to the proposed joint working group for further consideration.

Mr. PACHA (Spain) said that Spain supported further work, along the lines suggested by the United Kingdom, with a view to the introduction of the proposed IMO Model Audit Scheme as soon as possible. Spain would prefer the scheme to be mandatory. The aim was to avoid vessels flying the flags of countries not complying with IMO requirements.

Mr. CZERWINSKI (Poland) supported the original concept of the IMO Model Audit Scheme as set out in document C 88/13/2 and the establishment of a joint working group of the three committees. The scheme should be implemented on a voluntary basis.

Mr. MANGION (Malta) also supported the proposal that a joint working group of the three committees be established, to meet at MSC 77, and that an advance informal meeting be held in London, which would facilitate the substantive further work that was still required.

Mr. KORAN (United States), supported by Mr. McDONALD (Canada), Mr. SIVERTSEN (Norway), Mr. OLIVA (Italy) and Mr. BAUTISTA (Philippines) joined in

endorsing the initiative to establish a joint working group of the three committees. The group should take into consideration the comments made by Council Members. Effective and consistent implementation of international instruments would best be improved by a system of third party audits that focused on multiple aspects of flag administration performance. The self-assessment system should be strengthened and supported, but was not a substitute for external audit. He favoured a voluntary scheme that would encompass how Member States monitored the performance of recognized organizations and how they implemented IMO conventions and national legislation to support such conventions. The submission of self-assessment forms should be mandatory.

Mr. LEE Seng Kong (Singapore) said that Singapore was one of the sponsors of the original proposal and continued to support the introduction of the proposed IMO Model Audit Scheme, which should strengthen flag State implementation of IMO instruments and identify gaps for capacity-building. The ICAO audit programme offered some useful ideas for IMO, including the principle of inclusiveness which, in IMO's case, would mean engaging all stakeholders in the development of the scheme. The scheme should be assistance-oriented, providing a means of enhancing shipping through capacity-building and technical assistance, and transparent, in terms of the criteria for audit and the composition of audit teams. He supported the further consideration of the scheme by a joint working group of the three committees as proposed.

Mr. MOKHTAR (Egypt) supported the introduction of a voluntary IMO audit scheme. Audit reports should remain confidential; IMO could make Member States aware of the general findings without divulging the names of the countries concerned. It would be necessary to develop modalities for ensuring the implementation of any recommendations made by the audit teams. He supported the establishment of a joint working group of the three committees to consider the matter further.

Mr. PINTO (India) said that India had initially considered that it would be preferable to introduce an internal audit scheme that could eventually be expanded into an external scheme. However, the importance of the objectivity provided by an external system had become clear. The main drawback of a voluntary arrangement was that flag States that were already performing well would embrace it readily, while those that were not might seek to avoid it. However, a mandatory scheme would have serious implications, and might be difficult to implement. Details of the audit scheme, including its financing, the selection of audit teams and the elements to be audited, also required further consideration and should be addressed by the proposed joint working group. It was important to ensure that the scheme was widely accepted.

Mr. RASMUSSEN (Denmark) said that the discussions had been most heartening, showing extensive support for the proposed IMO Model Audit Scheme and the establishment of a joint working group to address questions raised. He was sure that appropriate solutions would be found. He agreed that the scheme should be implemented with care: the aim was not to conduct examinations of countries, but to provide a beneficial quality control system.

Mr. COWLEY (observer, Vanuatu) said that Vanuatu had participated fully in all IMO's initiatives and would continue to do so if the proposed Model Audit Scheme went ahead. However, it was important to complete the self-assessment exercise before embarking on the new

initiative. Vanuatu had completed two self-assessment reports, including comprehensive performance indicators, and considered that such reports could be assessed within the current IMO committee structure for determining flag State performance. Vanuatu flag State procedures had been accredited with ISO 9002 international quality assurance standards by professional auditors. Nevertheless, in the interests of transparency, Vanuatu was ready to permit any flag State or other interested country to be present at such assessments.

The meeting rose at 5.35 p.m.