INTERNATIONAL MARITIME ORGANIZATION

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COUNCIL - 89th session

C 89/SR.6
27 November 2002
Original: ENGLISH

SUMMARY RECORD OF THE SIXTH MEETING

held at IMO Headquarters, 4 Albert Embankment, London SE1 7SR
on Wednesday, 27 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.

N.B. Corrections to the summary record should be submitted in writing, preferably on a copy of the summary record, to the Conference Division, IMO Secretariat, 4 Albert Embankment, London SE1 7SR not later than 23 May 2003.

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

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The SECRETARY-GENERAL, referring to document C 89/12/Add.2, said that, in future years, the work programme and budget for each biennium would be seen as a key component in delivering any targets and objectives which might be defined in the Strategic Plan. In the meantime, he would welcome any specific guidance from the Council that could be taken into account in preparing the proposed work programme and budget for the 2004-2005 biennium, which would be presented to the Council at its ninetieth session.

Mr. CHRYSOSTOMOU (Cyprus), noting that there was no response to the Secretary-General's request for guidance, pointed out that it would be too late to provide such guidance at the ninetieth session. He therefore suggested that the Secretary-General prepare the work programme and budget proposals in the same way as in the past.

The CHAIRMAN invited the Council to appreciate the Secretary-General's reminder of the linkages between the Strategic Plan and the Work Programme and Budget for 2004-2005, to look forward to the Secretary-General's proposals for consideration at the ninetieth session of the Council in June 2003, and to suggest that he prepare those proposals in accordance with past practice.

It was so decided.

AGENDA ITEM 14 - ORGANIZATION AND METHOD OF WORK OF THE COUNCIL (C 89/14)

The SECRETARY-GENERAL recalled that the item had its origin in the work of the Council Intersessional Working Group on the Organizational Review of the IMO Secretariat. The Group had raised the issue of the Council reviewing its own organization and method of work, and had recommended that consideration be given to establishing a Council working group. Time had not permitted the Council to discuss the matter at its eighty-eighth session, and it had been decided to keep the item on the agenda and to invite written proposals. However, no written proposals had been received from either Council Members or non-Council Members. He invited the Council to consider what action it wished to take on the matter.

Mr. PEREIRA (Brazil) drew attention to Brazil's proposal in document C 89/12/2 concerning the Organization's Strategic Plan. Under that proposal, the Council would be subdivided into small groups to oversee different areas of the Organization's administration. The groups could then reconvene in an informal session to report on their findings, suggest policy modifications and put forward proposals. Such informal sessions could be open to a wider membership, thus facilitating a broader political spectrum, and they could draft reports to be submitted to the Council's regular sessions. That method of work would avoid the current unsatisfactory situation whereby, in some cases, documents were issued only a few days before the meetings took place. It would also enable the Council to follow the day-to-day administration of the Organization on a continuing basis.

Mr. CHRYSOSTOMOU (Cyprus) pointed out that it had already been agreed that document C 89/12/2 would be referred to the Council Working Group on IMO's Strategic Plan. Agenda item 14 concerned a different body, namely the Council Intersessional Working Group on the Organizational Review of the IMO Secretariat (CIWGOR), which had been formed in response to the MANNET report.

He could agree to the latter's recommendation that a new working group be established to review the Council's organization and method of work. That group could, for example, set deadlines for the production of documents which would ensure that they were issued in good time for meetings. While it was unavoidable that some documents, such as those relating to the budget, should be distributed at the last minute, it should be possible for many others, including submissions from Member States, to be distributed well in advance.

Although he could not agree to making certain Council sessions open to all Member States, as that would entail amending the IMO Convention, he did believe that it was a good idea to establish small groups to assist the Secretary-General in his work. Indeed, the practice had become established in recent years by the setting up of a group studying audit questions and a group conducting an evaluation of the MANNET report.

He suggested that the new working group should meet between the ninetieth session of the Council and the following extraordinary session, in order to determine preliminary guidelines which could later be further developed. The matter could be kept on the agenda of the Council and reviewed at the next session.

Mrs. SEET-CHENG (Singapore) supported that suggestion.

Mr. KORAN (United States), supported by Mr. McDONALD (Canada), said he shared the concerns expressed by Brazil in regard to the timely submission of documents. He was also concerned that the budget should be presented in a transparent manner in order to allow Member States to fulfil their obligation to shape the financial structure of the Organization. However, he did not envisage the Council as a permanent body overseeing the Organization's work, and he believed that the various *ad hoc* working groups and sub-groups to which reference was made in the Brazilian proposal would lead to micromanagement of the Secretariat and the technical committees. It would also go beyond the role of the Council as envisaged under article 21 of the IMO Convention, which made it clear that the draft work programme and budget were to be considered by the Council after they had been prepared by the Secretary-General. With a clear work plan and budget, it should be sufficient for the Council to continue to meet twice a year, and no permanent oversight body was needed.

Mr. ALLARD (Panama) said that there was a link between the long-term strategy of the Organization and the way in which the Council and the Committees organized their work. In his view, Brazil's proposals could also be considered in the context of the organizational review.

Mr. RASMUSSEN (Denmark), supported by Mr. BELL (Bahamas) and Mr. GASC (France), endorsed the recommendation that a working group be set up to consider the Council's organization and method of work. That group could also take into account the proposal by Brazil contained in document C 89/12/2.

The CHAIRMAN invited the Council to agree that the question of the organization and method of work should remain on its agenda, and to decide to set up a working group on this matter to meet after the Council's ninetieth session in June 2003 to prepare a preliminary set of guidelines on the method of work of the Council.

It was so decided.

AGENDA ITEM 15 - PROPOSED COUNCIL RECOMMENDATIONS ON AMENDMENTS TO THE GUIDELINES ON ORGANIZATION AND METHOD OF WORK OF COMMITTEES (C 89/15; C 88/29(a), C 88/29(b) and C 88/29(c))

The SECRETARY-GENERAL said that document C 89/15 referred to the decision of the Council, at its eighty-eighth session, to defer, due to lack of time, the consideration of the Brazilian submissions in document C 88/29(a), C 88/29(b) and C 88/29(c) to the current session. The three submissions called for Council recommendations to effect amendments to the Guidelines on the organization and method of work of the MSC, MEPC and the FAL Committee with respect to the procedures for establishing the priorities of the Committees' agenda items; intersessional working group meetings; and the terms of reference for the working groups.

Mr. PEREIRA (Brazil) said that the purpose of his submission in document C 88/29(a) was not to propose a method for establishing priorities, since that was the prerogative of the Committees, but rather to avoid the last-minute presentation of proposals to the Committees by requiring that they be formally endorsed by the Member States before being assigned priority.

Mr. RASMUSSEN (Denmark) said that he was somewhat confused by the proposal, as it implied that Member Governments would no longer be able to submit a document without seeking the endorsement of one-fifth of the Organization's membership. He believed that in practice it would be difficult to achieve such endorsement, and was concerned that the proposal could be interpreted as an attempt to limit the right of Member States to submit documents on any subject.

Mr. ALLAN (United Kingdom) said that he too had been confused by the proposal, as both the MSC and the MEPC already had Guidelines in relation to the submission of documents and it was the right of any Member State to submit a document provided it complied with them. The Guidelines, as agreed by Member States, also defined the criteria for assigning an issue high or low priority. The only issues which could bypass those Guidelines were those referred directly to the Committees by the Assembly or by the Council. He did not believe that there was anything in the current Guidelines which was contrary to the proposal put forward by Brazil.

Mr. CHARALAMBOUS (Cyprus) said it was true that experience had shown that the current process of assigning priorities to items did not allow full participation by all Member States. However, he too believed that it would be difficult to secure formal endorsement of a document by one-fifth of Member States. It would also be difficult to assign issues high or low priority, as the priority of an issue might depend upon the stage it had reached in the IMO decision-making process. It might be appropriate to refer the proposal to the MSC and MEPC.

Mr. SIVERTSEN (Norway) shared the concerns expressed by the United Kingdom and Denmark regarding the proposal, which might limit the ability of the Organization to carry out its work. IMO should remain the forum for rule-making on international maritime issues, and he feared that the proposal would lead to unilateral or regional actions which could detract from the Organization's leadership. There was a need for a flexible approach, and he was satisfied with the current methods of work.

Mr. KORAN (United States) associated his delegation with the comments of previous speakers. He believed that the Committee chairmen should set the priorities for their Committees.

Mr. PEREIRA (Brazil), introducing document C 88/29(b), said that the purpose of his second submission was to limit the number of intersessional working groups, in view of the fact that they were a cost not only to the Organization but also to those Member States whose delegates had to travel long distances to attend them. It suggested that, wherever possible, intersessional working groups should be replaced by correspondence groups.

Mr. RASMUSSEN (Denmark) said he had a great deal of sympathy with the aim of the proposal by Brazil and could support the action requested. He agreed that, where possible, intersessional meetings should be held either immediately before or immediately after other meetings of the Organization, in order to reduce the costs incurred by Member States.

Mr. SIVERTSEN (Norway) pointed out that the proposal did not sit well with Brazil's previous proposal that the Council should meet in *ad hoc* working groups on an almost continuous basis. However, while he did not share the view that the Council should continuously monitor the work of the Secretary-General and his staff, he could support the general thrust of the proposal.

Mr. CHARALAMBOUS (Cyprus) agreed that clear guidelines were needed in respect of the establishment of intersessional working groups. While he was broadly in agreement with the proposal, he pointed out that it was not only a question of the priority and urgency of the work, but also of its effect on the Organization's work programme. While holding intersessional group meetings back-to-back with committee meetings would have benefits in regard to the cost of travelling arrangements, it could pose practical difficulties if, for instance, a working group completed its report on Friday of one week and the relevant committee meeting began on Monday of the following week, as delegates, especially those who had not been present the preceding week, would have a minimal amount of time in which to study the report and to prepare for the committee meeting.

Mr. ALLAN (United Kingdom), speaking as Chairman of the Maritime Safety Committee, recalled that at the meeting of the Chairmen of MSC, MEPC, TCC and FAL and Sub-Committee Chairmen, it had been agreed that account would be taken of Brazil's proposals. It had been the general view, however, that those proposals were already covered by the Guidelines governing the work of the Committees: for example, whenever it was suggested that an intersessional meeting be held, all the considerations referred to by Brazil were taken into account before the suggestion was put to the Council for approval. He was concerned that to take the matter further would involve rather more micro-management than was necessary.

Ms. TIEMENS-IDZINGA (Netherlands) said she would prefer requests for intersessional meetings to be dealt with on a case-by-case basis. The arrangements for such meetings should be made in such a way as to ensure maximum progress. Back-to-back meetings were not necessarily always appropriate.

Mr. VASSALLO (Malta) agreed that the need for more intersessional meetings should be examined carefully. It was not just a matter of financial cost. Any increase would make unreasonable demands on the time of delegates who, in many cases, had also to represent their countries at meetings of Sub-Committees, Committees, the Council and the Assembly. He agreed that it was not necessary to assess Secretariat performance continuously: the Committees and Sub-Committees were the bodies to monitor such performance.

Mr. CHARALAMBOUS (Cyprus) said that, although the Council and the Assembly had repeatedly stressed that the Committees should adhere strictly to the Guidelines on the organization and method of work of the Committees, delegates frequently asked that they be applied in a flexible manner, leading to certain problems, as experience in the MEPC in respect of the intersessional working group on water ballast management and the subsequent correspondence group had shown. Clear guidance should be given to the Committees as to how and when they should submit proposals for intersessional working group meetings to the Council for approval.

Mr. PEREIRA (Brazil) explained that Brazil's proposals related to working groups of the Committees, which dealt with technical rather than governance matters: technical experts in various areas were therefore needed. The proposals simply sought to clarify the Guidelines, and were not intended to restrict the Committees in preparing proposals for intersessional meetings. His proposal did not exclude the possibility of holding meetings at times other than immediately before or after committee meetings.

Mr. VASSALLO (Malta) said that in his view the existing mechanisms to determine whether requests to hold intersessional meetings should be approved were adequate. Too many rules and regulations would stifle the work of the Organization. It was important that Member States should be represented by individuals with practical day-to-day experience in their home country rather than by Permanent Representatives based in London, who might be out of touch with the realities of the maritime sector. Moreover, countries that could not afford permanent representation should not be denied the right to participate at any level in the work of the Organization.

Mr. BELL (Bahamas) said that in addition to the difficulties already mentioned by previous speakers, the question of language should also be considered. Meetings of working groups were held in English only, without interpretation, penalizing those who were not fluent in that language. Correspondence groups had the advantage of allowing participants time to study the communications in English, to have them translated if necessary and to discuss them within their administrations.

Mr. GASC (France) said that he could not accept that Permanent Representatives might be out of touch with the realities of the maritime sector. Intersessional meetings were never convened lightly, but only when they had become necessary because of accidents or to resolve an urgent problem. For budgetary reasons, they had always been held in London and without interpretation, which caused difficulties for some countries. France had accepted that situation for exceptional cases, but would not be in favour of additional intersessional working groups on the same basis.

While he supported the Brazilian submission in principle, he noted that on the one hand it proposed that intersessional meetings should be held at IMO Headquarters without interpretation, and on the other hand that limitations on the participation of Member States because of difficulties in sending representatives to London or lack of interpretation should be taken into account, which appeared to be a contradiction. It might be preferable to include in the regular budget provision for two to four intersessional meetings with interpretation per biennium, and to amend the Brazilian proposals accordingly.

Mr. KOBASHI (Japan) said that he shared the concerns expressed by the representative of Malta and would not wish to see any additional IMO meetings.

Mrs. SEET-CHENG (Singapore) noted that there appeared to be agreement that intersessional working group meetings placed heavy demands on Member States and should be kept to a minimum. Moreover, the Brazilian proposal in document C 88/29(b) did not contradict the existing Guidelines for convening such meetings. She suggested that the debate should be closed, and that the Council should simply reiterate to the Committees the need to observe the Guidelines.

The ASSISTANT SECRETARY-GENERAL referred to the Council's instruction to the Committees, some ten years earlier, that they should keep the number of intersessional working groups to a minimum. In decisions related to the convening of such meetings, the MSC invariably drew attention to that advice, and to the Guidelines on the organization and method of work of the Committees. The relevant paragraph of the Guidelines stated that, subject to the approval of the Council, intersessional meetings of working groups might be convened without interpretation services, but that they should only be held if considered to be absolutely essential and after careful consideration on a case-by-case basis, taking into account the priority and urgency of the specific matter such meetings would be invited to address. It further stated that such meetings should be held at IMO Headquarters immediately before or after an agreed session of the parent body concerned. Other arrangements might be considered, but no arrangements should be made until such meetings had been approved by the Council. The Guidelines further indicated that no more than three correspondence groups should be established by the Committees concerned, and then only on matters of high priority.

The CHAIRMAN suggested that the second Brazilian proposal should be referred to the MSC and MEPC for further consideration.

Mr. PEREIRA (Brazil) said since his proposal was aimed at clarifying and expanding the Guidelines, it should be for the Council rather than the Committees to take a decision.

Mr. VASSALLO (Malta) supported the views expressed by Singapore. The Council should warn the Committees that they would need to submit a very good case for holding any intersessional working group meeting or establishing a correspondence group and that, in doing so, they should adhere to the existing Guidelines.

Mr. PEREIRA (Brazil) said that document C 88/29(c) contained his third proposal, regarding procedures for establishing the terms of reference of working groups of MSC, MEPC and FAL. In the past, such terms of reference had been agreed by the plenary and sent to the working groups without any written record being made available. Moreover, when a written record had been supplied it had not always met the expectations of the Member States that had approved it.

He proposed that the terms of reference should be made available in a “J” document, preferably before the working group started its work but no later than 24 hours after it had done so, and that the groups should be instructed to restrict their work to discussion of the issues identified in the terms of reference. The Council was therefore invited to direct the three Committees to amend their Guidelines by deleting the provision that terms of reference could be amended by agreement between the Chairman of the relevant Committee and the subsidiary body concerned.

Mr. ALLAN (United Kingdom), speaking as Chairman of the Maritime Safety Committee, stated that the meeting of Chairmen of MSC, MEPC, TCC and FAL and sub-committee chairmen had already considered the proposal. Following a lengthy debate, the meeting had agreed that, where possible, provisional terms of reference for working and drafting groups should be prepared by the Secretariat in consultation with the Chairmen of the Committee and Sub-Committee concerned and issued as working papers at the beginning of the session for approval by the plenary before the groups started their work. It had also agreed that working, drafting and correspondence groups should not modify the terms of reference established for them without the prior consent of the parent body concerned. Those recommendations would be submitted to the three Committees for their consideration.

The CHAIRMAN invited the Council to consider proposals submitted by Brazil in documents C 88/29(a), C 88/29(b) and C 88/29(c) calling for amendments to the Guidelines on the organization and method of work of Committees; to note that the matters raised by Brazil in the aforementioned documents had been considered by the meeting of the Chairmen of MSC, MEPC, TCC and FAL and sub-committee Chairmen which had taken place on 15 June 2002 to review the structure of sub-committees, and further to note that the same documents would be considered in the context of MSC 76’s consideration of the outcome of the June meeting and, therefore, to agree that the outcome of these considerations should be reported to the Council at its ninetieth session in June 2003; and to reiterate its view that the number of intersessional working groups should be restricted to the minimum necessary, and request all Committees involved to observe strictly the implementation of the Guidelines.

It was so decided.

AGENDA ITEM 16 - CONSIDERATION OF THE ELECTRONIC ACCESS TO CERTAIN IMO PUBLICATIONS (C 89/16)

Mr. GENNÉ (Argentina) suggested that consideration of the item be postponed until it had been discussed by the Technical Co-operation Committee at its fifty-second session.

The CHAIRMAN invited the Council, in the light of the Secretary-General’s background report and the prospective consideration of the matter by the Technical Co-operation Committee, to decide to defer substantive consideration of this matter to Friday, 29 November 2002.

It was so decided.

AGENDA ITEM 17 - IMO INTERNATIONAL MARITIME LAW INSTITUTE

(a) REPORT OF THE GOVERNING BOARD (C 88/16(a) and Add.1; C 89/17(a))

The SECRETARY-GENERAL recalled that the Council had been kept informed of the progress of the IMO International Maritime Law Institute since it had commenced operation in 1989. The thirteenth annual report of the Institute's Governing Board, consideration of which had been deferred from the previous session of the Council, had focused once again on the academic operations of the Institute and its continuing efforts to achieve long-term financial sustainability. The Institute had managed to attract sufficient funding to cover its operations in the short and medium terms, and continued to enjoy an excellent academic reputation, as witnessed by the outstanding performance of its graduates and the increased number of eminent visiting fellows. The Institute now had 251 graduates from 91 States and territories.

The Board had noted with appreciation that the Integrated Technical Co-operation Programme had funded the participation of six students from developing countries on full scholarship for the academic year 2001/2002. The importance of such funding in attracting students from countries that did not enjoy technical assistance from international organizations currently supporting the Institute could not be over-emphasised. The Institute planned to publish three occasional papers on international maritime law in the form of individual booklets, and more would be produced in the future. It had also finalised the production of a video to publicise its image as a centre of excellence for international maritime law. Information technology facilities at the Institute had improved with the upgrading of a larger, faster and more reliable network in the Lloyds Register computer room and in all 22 residential flats. The matter of the Institute's financial future would be dealt with in greater detail under the next agenda item.

The CHAIRMAN invited the Council to take note of the information contained in documents C 89/17(a) and C 88/16(a)/Add.1; to express its appreciation to the Secretary-General for his continuing efforts to ensure the long-term viability of the Institute; to express its appreciation to the faculty and staff for their determined and dedicated efforts to strengthen the Institute's academic and financial base; to pledge its support to the Institute, which had commenced its fourteenth academic year, and to acknowledge that it had maintained high academic standards of tuition in the field of international maritime law; and to note that the Institute was still playing an essential role in strengthening the capacity of developing countries to implement the IMO regulations.

It was so decided.

(b) BUDGET (C 89/17(b); C 88/16(b) and Add.1)

The SECRETARY-GENERAL said he would like to record his appreciation of the continuing support from those donors who had made possible the continuation of the IMO International Maritime Law Institute, either by general donations to its funds or by the donation of fellowships. Those contributions had resulted in sufficient income to cover the Institute's budget for the academic year 2001-2002.

In the financial year 2000-2001, the Institute had received two full fellowships from the International Transport Workers' Federation Seafarers' Trust, two partial fellowships from the Commonwealth Fund for Technical Co-operation, one full fellowship from the United Nations Development Programme and another full fellowship from the World Bank. It had also received funding from other Governments and national entities which had accounted for the course fees for five participants. Three participants had been financed by the European Commission and three more had been privately funded.

It was noteworthy that the Comptroller and Auditor General of India, in the Report of the External Auditor on the Financial Statements of the Institute for the year ended 31 August 2001, had concluded that the funding position of the Institute had continued to improve during the year ended 31 August 2001. He had accordingly been able to issue an unqualified opinion on the financial statements for the financial year 31 August 2001.

In September 2002, the Institute had begun its fourteenth year of operation with an intake of 20 students from 17 countries. It was heartening to note that the demand for participation in its LLM degree course was constantly increasing. However, the number of donor organizations contributing to the Institute was on the decrease, with both the European Commission and the Commonwealth Fund for Technical Co-operation declining requests for funding. In view of the decrease in fellowship donations from its long-term contributors for the 2002-2003 academic year, the Organization, using the Technical Co-operation Fund, had become the largest contributor of fellowship funding to IMLI, providing a total of seven fellowships for deserving candidates from developing countries to train at the Institute. Despite that, the Institute's expected income for the year 2002-2003 was lower than usual.

IMLI had recently embarked on a project to extend the facilities it currently used with the support of the Maltese Government. Its information technology facilities were also being improved, with a one-time contribution of £25,000 from Lloyd's Register of Shipping.

Mr. VASSALLO (Malta) thanked the Secretary-General for having expressed appreciation of the support given by his Government to IMLI. A further grant for 2003 of some £10,000 was currently before Parliament for approval. The work done by the Institute was of great value, not only in imparting knowledge of maritime law but also in encouraging mutual understanding between maritime administrations of different countries.

He emphasized that his earlier comments concerning permanent representatives had not been intended to reflect on the importance of their contribution to the work of the Organization.

Mr. CHRYSOSTOMOU (Cyprus) recalled that the previous Assembly had adopted three separate resolutions regarding the long-term viability of IMLI, WMU and the IMA, and asked if the Council could be informed as to the impact of those resolutions. It was important to ensure that the three institutions continued to flourish in the future.

The CHAIRMAN invited the Council to take note of the information contained in documents C 89/17(b) and C 88/16(b)/Add.1, as amplified by the Secretary-General in his introduction; to express its deep gratitude to the Government of Malta for its continuing support for the Institute and to those donors who had contributed so generously over the years, and to new donors.

He further invited the Council to note that, notwithstanding the generous donations received and the considerable improvements made by the Institute and the Board of Governors to build up reserves, the long-term financial situation of the Institute was still uncertain, and to urge Member States to provide the Institute with sustained financial assistance.

It was so decided.

AGENDA ITEM 18 - PRIVILEGES AND IMMUNITIES (C 89/18; Assembly resolution A.908(22))

The CHAIRMAN said the Council would recall that the Assembly, at its twenty-second session, had adopted resolution A.908(22) on Agreement with the Host State regarding the Extension of Privileges and Immunities to Permanent Representatives and Divisional Directors.

The SECRETARY-GENERAL said he was pleased to inform the Council that, since its last session in June 2002, he had been informed by the United Kingdom that the legislative process needed to bring into effect the amendments to the Headquarters Agreement relating to privileges and immunities of Permanent Representatives, Acting Permanent Representatives and Divisional Directors had been completed. The legislation had come into force on 17 July 2002. He had subsequently notified the Secretary-General of the United Nations of that development in writing, and had confirmed that the effective date of the revision of Annex XII of the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations had been 17 July 2002.

He had also informed the Members of the Organization of that development by means of Circular letter No. 2405 dated 29 July 2002. An additional circular letter was in preparation to provide Members with a consolidated text of the Headquarters Agreement reflecting all amendments made hitherto, as well as the amended text of the Procedure for Accreditation to IMO of Permanent Representatives and Members of the Permanent Missions of Member Governments.

He recalled that the matter had been before the Council and under discussion since 1985, and he was pleased that it had finally been brought to a conclusion. He expressed his appreciation to the former Secretary of State for Foreign and Commonwealth Affairs and to the United Kingdom delegation for their co-operation over the years.

Mr. ALLAN (United Kingdom) said he was pleased to see that the issue had now been successfully concluded.

Mr. CHARALAMBOUS (Cyprus), supported by Mr. VASSALLO (Malta), proposed that the Council should record its satisfaction at the conclusion of the matter, and its appreciation of the action taken by the United Kingdom Government. The item should now be deleted from the Council's agenda.

The CHAIRMAN invited the Council to take note of the information provided in document C 89/18 and the additional information provided by the Secretary-General; to express its appreciation to the Secretary-General, and to the former Secretary of State for Foreign and Commonwealth Affairs in the United Kingdom, for bringing the matter to a successful conclusion; and to agree to inform the Assembly of the successful outcome of the matter and, as a consequence, to delete this item from its agenda.

It was so decided.

AGENDA ITEM 19 - RESOURCE MANAGEMENT:

(a) PERSONNEL MATTERS INCLUDING AMENDMENT TO THE STAFF REGULATIONS AND STAFF RULES (C 89/19(a) and Add.1)

The SECRETARY-GENERAL recalled that the common system of conditions of service for IMO staff was determined by the ICSC and the General Assembly. Changes approved by the General Assembly concerning the ceiling on allowable expenses for the determination of the education grant (as summarized in paragraph 2 of C 89/19(a)/Add.1) would add approximately £30,000 to the Organization's budget. That increase could be contained within the approved appropriations for 2003. In accordance with agreed common system procedures, an interim adjustment to the salary scale for staff in the General Service category had been made with effect from 1 October 2002, resulting in a net increase of 2.2% over the October 2001 scale. The revised appendix A to the Staff Rules was attached at annex 1. That increase had been contained in the 2002 appropriation which had allowed for a 3% year-on-year increase.

Council would recall that the net remuneration of United Nations staff members in the Professional and higher categories was based on the net remuneration of United States Federal Civil Service employees in Washington, within a margin varying between 110 and 120. Since the overall margin had now fallen to 109.3, the ICSC was proposing for adoption by the General Assembly the introduction of a new salary scale as of 1 March 2003 in order to restore the margin somewhere closer to its ideal level of 115. The proposed salary scale was shown at annex 2. The Council would note that the percentage of increase varied according to grades: however, the average increase was 5.4%, in order to ensure that the future margin would be fixed at 115 for all grades.

The budgetary implications were noted in document C 89/19(b) and its addendum, and in C 89/20 and its addendum. The increase would become effective from March 2003, and would therefore not affect the 2002 appropriations. There had been no cost of living increase for Professional staff in 2002, with consequent budgetary savings for that year and for 2003. However, as the proposed increase had not yet been considered by the General Assembly, he would report to the Council's ninetieth session in June 2003 on the General Assembly decision.

Recalling that he had undertaken to report periodically to the Council on the situation with regard to the employment of women in IMO, he said that as at 31 October 2002 the overall percentage of female staff in the Professional and higher categories had been 37.6%. In grades P.1 to P.5 it had been 40.2%, whilst D.1 and above had been 20% with 33% in the D.2 category. He would urge Governments to propose well-qualified female candidates whenever possible.

As requested, he had displayed the geographical distribution of posts as at 31 October 2002 in annex 3 to document C 89/19(a)/Add.1. It would be noted that of the 83 posts in Professional and higher categories which were subject to geographical distribution and were filled, staff came from 43 Member States of the Organization.

Mr. CHRYSOSTOMOU (Cyprus), referring to the table in annex 3 giving a breakdown of Professional posts by country, grade and gender, said that for some five years the pattern had been that when a post became vacant it was awarded to a candidate from the same country that had held it previously. He would like to see a wider geographical distribution which would be more representative of the membership of the Organization.

Referring to table 3, he asked which was the D.1 position which was currently vacant.

The SECRETARY-GENERAL said that when a position was vacated, a vacancy notice was issued to all Member States inviting applications. IMO did not consider that any country should be seen as "inheriting" a post: the selection was made on the basis of other criteria.

The post that was currently vacant was that of Senior Deputy Director of the Technical Co-operation Division.

The CHAIRMAN invited the Council to note the information contained in document C 89/19(a) and its addendum and that provided orally by the Secretary-General, relating to personnel matters, and to approve the implementation in IMO of the decisions of the United Nations General Assembly with respect to the recommendations in the 2002 report of the International Civil Service Commission, with effect from the dates determined by the General Assembly.

It was so decided.

(b) REVIEW OF THE FINAL ACCOUNTS AND AUDIT FOR THE TWENTY-FIRST FINANCIAL PERIOD, INCLUDING THE REPORT OF THE WORKING GROUP (C 89/19(b) and Add.1; C 88/18(a) and Adds.1 and 2)

The SECRETARY-GENERAL, introducing the report in the absence of the Chairman of the Working Group, recalled that the Council at its eighty-eighth session had re-established the Working Group to advise it on the report of the External Auditor covering the final accounts of the Organization for the twenty-first financial period and his own response to the points raised. The terms of reference for the Group given by the Council had been the same as those established for the review of the 2002 accounts, with the addition of a review of the progress made on the implementation of the recommendations agreed in respect of 2000.

The Group had reviewed each of the recommendations concerning financial administration. It had welcomed his planned change for the 2004-2005 biennium for the presentation and voting of the Organization's appropriation on a gross rather than on a net basis, in line with United Nations practice. It had recognized the difficult balance he had to strike in forecasting support cost income, and had supported his cautious approach. The Group had welcomed his plans to further increase the transparency of the estimating process in respect of trust fund income flows in the presentation of the Work Programme and Budget for 2004-2005.

On management issues, the Group had been particularly concerned at the impact of the rising costs of health care on staff members, as explained by the Chair of the Staff Union, and had invited the Secretary-General to consider ways of reducing that impact. He himself had responded to this initiative by the Group in document C 89/20.

The Group had noted the recommendation of the External Auditor that the Intersessional Working Group be institutionalized as an Audit Committee, but had concluded that it was not appropriate since that was a function of the Council. The Group had welcomed the evident attempt that had been made in the consultation process between the Secretary-General and the External Auditor to reduce the number of outstanding or unresolved issues. It had suggested, a suggestion that had been noted sympathetically by the External Auditor, that comments which were for information or of a general nature could be so annotated in future reports.

In conclusion, the Group had appreciated the presence at its meeting of the Deputy Comptroller and Auditor General of India, Mr. P.K. Brahma, Mr. A.K. Thakur, Minister (Audit), and Mr. S. Raman (First Secretary). Appreciation had also been expressed to the Secretary-General, the Director of Administration, and the Chair of the Staff Union.

Speaking on his own behalf, he said the Council would note that he had taken steps to recover, in 2001, the unavoidable overspend incurred in 2000. For the biennium as a whole, which was the financial and accounting period, a small net budgetary surplus had been achieved.

A great deal of management effort had been invested in the audit process so as to ensure that all queries raised were given proper attention, and those recommendations which strengthened accountability had been implemented. At the same time, if there appeared to be no particular merit in a recommendation, IMO's position had been fully explained, to the satisfaction of all concerned.

Mr. CHARALAMBOUS (Cyprus) proposed that the Council accept the recommendations of the Working Group. The external audit had shown a positive development, and he looked forward to further improvements. As changes in management were implemented, the role of internal oversight would become critical, and he hoped that in the budget proposals for 2004-2005 the internal oversight unit would be strengthened. He was confident that the arrangements relating to the inventory of the Organization's property would be successfully completed.

Concerning the issue of medical insurance, he hoped that discussions with the staff would be continued.

The CHAIRMAN invited the Council to express its gratitude to the Working Group and its Chairman for the extremely thorough job they had performed in reviewing the Organization's accounts for the twenty-first financial period and the report of the External Auditor; to also express its gratitude to the External Auditors, particularly to the Deputy Comptroller and Auditor General, Mr. P.K. Brahma, who had attended the Working Group's session, together with Mr. A.K. Thakur, Minister (Audit), and Mr. S. Raman (First Secretary); and to agree that it was highly appreciative of the Secretary-General's continued careful attention to the External Auditors' reports, and for the positive way in which he had helped the Working Group, which had again facilitated a satisfactory outcome.

Accordingly, he invited the Council to recommend to the twenty-second session of the Assembly approval of the accounts of the Organization for the twenty-first financial period 2000-2001 and the accounts of IMO's transactions for 2001 as a participating and executing agency for the UNDP, together with the External Auditors' reports thereon.

It was so decided.

(c) REPORT ON ARREARS OF CONTRIBUTIONS AND OF ADVANCES TO THE WORKING CAPITAL FUND AND ON THE IMPLEMENTATION OF ARTICLE 56 OF THE IMO CONVENTION (C 89/19(c) and Adds.1 and 2)

The SECRETARY-GENERAL said document C 89/19(c)/Add.2 reported on the situation as at 31 October 2002 with respect to the payment of contributions, and on the implementation of

Article 56 of the IMO Convention by the Assembly. The collective efforts made, and the initiatives which he had taken with the Council's strong support, had continued to yield positive returns. The position as at 31 October had been that 91.9% of the 2002 assessment had been received. In 2000 and 2001, contributions levels of 81% and 87.5% respectively had been achieved: since that date, contributions of £195,010, £322,416, and £4,074 had been received from the Philippines, Malta and Comoros respectively, increasing the percentage level to 94.6%. The new 40-Member Council now represented 77.7% of total contributions, and to date 77.3% of those contributions had been paid. Currently, 36 Members of the Council had paid their contributions in full, two had paid in part and two had not paid.

Concerning implementation of Article 56 of the IMO Convention, Council would recall that rule 56*bis* concerning the waiver of the provision of Article 56, together with rule 56*ter* concerning eligibility to seek election to the Council, had been applied for the first time at the Assembly's eighteenth session, on the basis of a report from the Council. Those rules had been applied most recently for the fifth time at the twenty-second session of the Assembly in November 2001. In annex 1 to document C 89/19(c)/Add.2, he had provided a status report on those Member States which still fell within the provision of Article 56. Of the four Member States which had been granted a waiver, Guatemala had cleared all its arrears of contributions and paid its contributions for 2002, but two Member States which had been granted a waiver at the twenty-second session of the Assembly had still not discharged their obligations. The Government of Yugoslavia had stated that, concerning the arrears of £355,306, settlement depended on the results of ongoing negotiations regarding succession issues. Consequently, the Federal Republic of Yugoslavia would discharge its share of financial obligations to IMO only upon the conclusion of those negotiations.

Of the 26 Members which had lost their voting rights at the twenty-second regular session of the Assembly in November 2001, Cameroon, El Salvador, Pakistan and Senegal had settled their arrears fully and regained their voting rights; the Dominican Republic had settled its arrears from 1972 to 2000 and partially settled its 2001 contribution, and had had its right to vote restored. A payment of £335,829 had been received from the Libyan Arab Jamahiriya, which had settled its arrears from 1989 to 1999 and partially settled its arrears for 2000. A payment had also been received from Kazakhstan partially settling its arrears for 1995.

In conclusion, the Council would note that IMO, ITU and UPU had achieved 95% to 98% of their contribution rates. United Nations programmes and specialized agencies had achieved results between 80% and 90%.

Mr. CHARALAMBOUS (Cyprus) said he appreciated the progress made with respect to arrears, although it was unfortunate that some Member States had failed to discharge the commitments they had undertaken at the previous Assembly. Concerning the question of Yugoslavia, he would be glad if the Secretariat could ascertain from the United Nations the status of the negotiations on succession, so that the Council could have that information before it at its next session.

Council Members should set an example by paying their contributions in good time.

The CHAIRMAN invited the Council to take note of the information contained in document C 89/19(c) and its addenda, to take further note of the continuing arrears of some Member States, and to urge all Member States, and Council Members in particular, to remit all outstanding contributions.

It was so decided.

(d) WORK PROGRAMME AND BUDGET PROSPECTS FOR 2002 (C 89/19(d) and Adds.1-3)

The SECRETARY-GENERAL recalled that the Assembly at its twenty-second session in November 2001 had approved the Organization's work programme and budget for the twenty-second financial period 2002-2003. The total approved appropriation for the current biennium had reflected a shift in the Council's policy from ZNG to ZRG, thus recognizing that IMO had reached the point of being unable to continue to absorb external pay and price increases and that its resilience had been worn over-thin.

The direct costs of the approved work programme consisted primarily of salaries, benefits and allowances of staff, meetings, official travel and consultancies. The indirect costs of the Organization comprised bought-in goods and services and rent, rates and utilities of the Headquarters building. Variations in the actual level of expenditure when compared with the budget estimates were affected by external pay and price movements in the United Kingdom economy, as well as by changes in the conditions set by the ICSC and approved by the United Nations General Assembly. Programme variations also arose because of in-year changes in priorities.

The programme budgets for the current biennium had been constructed on the assumption of increases in average earnings and retail price increases in the United Kingdom economy of 3% and 2.3% respectively. An exchange rate of US $1.41 to £1 sterling had been used to translate dollar-based expenditure items into pounds sterling, and the average rate for 2002 was expected to be US $1.49 to £1. The latest reports on the United Kingdom economy showed that movements on pay and price factors in 2002 were comparable to his budgetary assumptions, and he therefore concluded that movements in external pay and price factors would not have an adverse effect on the Organization's 2002 approved appropriations.

He noted that the post adjustment allowance for Professional staff in London had once again been frozen in 2002, and there were thus some savings from the non-award of a cost of living adjustment. However, it was worrying to note that prospective candidates for vacant Professional posts had been hesitant in taking up appointments, or had refused appointments, because of the high cost of living in London. The situation might improve if the General Assembly approved the recommendation of the ICSC concerning Professional salary scales.

For staff in the General Service category, the Council at its eighty-eighth session had approved the recommendation of the ICSC of a salary scale increase of 4.37% to take effect from 1 October 2001. In that connection, Council would recall that costs of retrospection were not included in the appropriation for 2002, since they had not been known at the time the latter had been established. He was pleased to report that offsetting economies had been found, and that the unbudgeted costs would be absorbed without recourse to a supplementary estimate. An annual interim adjustment of the GS salary scale had been made with effect from 1 October 2002 in accordance with the ICSC methodology, which was broadly in line with the estimated provision made in the appropriation.

In summary, the overall budget prospects for 2002 were satisfactory, and programme delivery was on course. He was fully committed to delivering the major programmes within the resources available and within the appropriation approved by the Assembly. Brief descriptions of the deliverables by Major Programme and Programme for 2002 in document C 89/19(d)/Add.1 showed that the programme objectives would be achieved within the approved appropriations.

In accordance with past practice, he sought the Council's authorization to make the necessary transfers between major programmes of the budget to the extent that balances were available.

Concerning income for 2002, he would urge all Members which had not done so to fulfil their financial obligations. Council would note that the Assembly at its twenty-second session had authorized him to draw upon the Printing Fund, Headquarters Capital Fund, the Technical Co-operation Fund and the Termination Benefit Fund to finance the approved regular budget programme appropriations, but that had not proved necessary in 2002.

The position on accumulated surpluses was set out in table 1 in document C 89/19(d)/Add.1, and an update of the Organization's Capital Programme was provided in document C 89/19(d)/Add.3, to take account of the deferred decision on the ERP system and also to prune back as far as possible on capital expenditure in 2003, recognizing that prospective new systems could have a knock-on effect on work practices and on capital expenditures liability. He was concerned that IMO did its best to carry forward the momentum of the Change Management Programme.

Since the Organization could not afford to be investing heavily in interim solutions, he had included a contingency of £200,000 to fund the essential systems work which was needed to keep up the momentum. Council would appreciate that there would have to be a decision in June 2003 on ERP or the Brazilian offer with a view to implementing a new system during 2004, if not at the start of the year. It might well be that the new system would only be effective from 1 January 2005, at the midpoint of the biennium. However, the precise timing would have to be assessed in June 2003 in the light of the timescale of the chosen contractor. Council would appreciate that the Assembly target date of completion of the Change Management Programme by January 2004 would be deferred until 2005, although he would do his utmost to improve on that timescale.

He would also like to touch upon the status of monies under the Training and Development Fund which had been established in accordance with the decision of the Assembly at its twenty-second session to finance the Change Management Programme. The outturn for 2002 showed that expenditure would exceed the initial provision of the Fund of £200,000 which had been transferred from the Printing Fund. He now sought the Council's agreement to meet the additional costs from accumulated transfers.

Concerning accumulated reserves, he now sought the Council's approval to transfer £2.9 million to the Headquarters Capital Fund, and not £3.3 million as originally envisaged, in order to finance the prospective demands on that Fund and to transfer £200,000 to the Training and Development Fund so that the Change Management Programme could be sustained. That took account of the prospective need to draw upon the Organization's accumulated reserves in 2003 to meet unbudgeted and unforeseen demands. He wished to draw attention to the fact that total transfers from the accumulated surpluses of £3.1 million would have to be made in stages during 2003, taking into account that the first three months' cash reserves were needed for the payroll and other operational costs in 2003. The Council could be assured that all capital investments in 2003 and beyond would be carefully reviewed in terms of their economic returns, and prioritised so that the procurement programme matched the resources available.

As far as future funding of the Organization's capital investment programme was concerned, there were unavoidable continuing capital investment liabilities in terms of sharing with the United Kingdom authorities the increasing maintenance costs of the ageing Headquarters building; there was also need to enhance the progress made over the last few years on the IT infrastructure and communications systems. The financing of those capital programmes had to be established on a secure and sustained basis. He would provide his assessment of the Organization's minimum capital investment requirements for 2004-2005 and for the longer term in the context of the Strategic Plan and the Organization's work programme and budget to the Council at its ninetieth session in June 2003.

The meeting rose at 5.40 p.m.