



COUNCIL - 89th session

C 89/SR.8  
29 November 2002  
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**SUMMARY RECORD OF THE EIGHTH MEETING**

**held at IMO Headquarters, 4 Albert Embankment, London SE1 7SR  
on Friday, 29 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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Corrections to all summary records of the session will be issued in a consolidated corrigendum.

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**CONTENTS**

	<b>Page</b>
<b>Agenda item 29 -</b> Appointment of future Secretaries-General:	3
(a) Review of the contract document	3
(b) Interpretation of the Rules of Procedure of the Council relating to the participation of observers	3
<b>Agenda item 30 -</b> Appointment of the Secretary-General	4
<b>Agenda item 31 -</b> Date and place of the next session of the Council	5
<b>Agenda item 12 -</b> Consideration of the strategy and policy of the Organization, including the report of the Working Group (resumed)	5
<b>Agenda item 7 -</b> Consideration of:	6
(a) Reports of the Technical Co-operation Committee (resumed)	6
<b>Agenda item 13 -</b> Proposed IMO Model Audit Scheme (resumed)	6
<b>Consideration of the draft Summary of Decisions</b>	7
<b>The “Prestige” incident (resumed)</b>	9
<b>Closure of the session</b>	10

**AGENDA ITEM 29 - APPOINTMENT OF FUTURE SECRETARIES-GENERAL:**

**(a) REVIEW OF THE CONTRACT DOCUMENT (C 89/29(a); C 88/27(a))**

The SECRETARY-GENERAL recalled that the Council had decided, at its eighty-eighth session, to defer until the current session the matter of its planned review of the contractual aspects of the appointment of future Secretaries-General. The question of the scope and interpretation of the Rules of Procedure of the Council concerning the presence of observer Member States at Council meetings relating to that matter was to be dealt with under agenda item 29(b). He pointed out that the two issues were entirely separate.

Mr. CHARALAMBOUS (Cyprus) suggested that consideration of the item be deferred until the forthcoming session. The Council needed more time to discuss the clauses that should be added to the contract to prevent the recurrence of the situation that had arisen in November 2000.

The CHAIRMAN invited the Council to decide to defer this matter until its ninetieth session in June 2003.

**It was so decided.**

**(b) INTERPRETATION OF THE RULES OF PROCEDURE OF THE COUNCIL RELATING TO THE PARTICIPATION OF OBSERVERS (C 89/29(b); C 88/27(b))**

The SECRETARY-GENERAL said the document was submitted pursuant to the Council's decision at its eighty-seventh session to include an additional item on its agenda for the eighty-eighth session in order to consider whether the Rules of Procedure allowed observer Member States (*i.e.* non-Council Members) to be present at discussions on matters relating to the appointment of the Secretary-General. At that session, the Council had agreed to defer discussion of the item to the current session.

The relevant Rules of Procedure of the Council were reported in paragraphs 4-8 of the document. Of particular note was rule 52, which prescribed that the Council should consider in private meetings its recommendation to the Assembly for the appointment of the Secretary-General, and vote by secret ballot. Other relevant provisions included article 20 of the IMO Convention and rule 4 of the Council's Rules of Procedure, which allowed any IMO Member to participate, upon invitation by the Council and without voting rights, in the deliberations of the Council on any matter of particular concern to that member.

The past practice had been to consider the appointment and contract of the Secretary-General in closed meetings, in the absence of observers and members of the Secretariat. That exclusion had been extended also to delegations of observer Member States, namely non-Council Members who had been invited to attend the session under rule 4 of the Council's Rules of Procedure. Criticism of that practice had been expressed at the seventy-seventh and eighty-fifth sessions of the Council, particularly with regard to the exclusion of observer Member States.

Mr. MANGION (Malta) said Malta had always taken the position that observer Member States should be allowed to participate throughout Council sessions. In particular, it believed that they should not be excluded when an item as important as the appointment of the Secretary-General was being considered.

Mr. CHARALAMBOUS (Cyprus) supported that view. He proposed that the meeting at which Council considered its recommendation to the Assembly on that item under rule 52 of the Rules of Procedure should be open to all Member States, including observer Member States. Oral presentations by Member States which were putting forward candidates should be limited to ten minutes. After all the nominations had been put forward, the Council should proceed to a vote without further debate.

His proposal could be examined, and a decision taken, at the Council's ninetieth session.

Mr. PEREIRA (Brazil), Mrs. SEET-CHENG (Singapore) and Mr. GALEA (Malta) supported the Cyprus proposal.

Mr. ALLAN (United Kingdom) feared that the Council was in danger of confusing two issues. While he agreed that the proposal by Cyprus relating to rule 52 of the Rules of Procedure could be decided on at the ninetieth session, Malta's proposal related to rule 4, which stated that any Member could be invited to participate without vote on a matter of concern to it. It went without saying that observer Member States had an interest in the appointment of the Secretary-General, and he himself saw no difficulty in their attending under that rule. However, the meeting should remain secret to the extent that intergovernmental organizations, non-governmental organizations and members of the Secretariat would not be allowed to attend.

Mrs. NDAGUBA (Nigeria), Mr. PEREIRA (Brazil), Mrs. SEET-CHENG (Singapore), Mr. KORAN (United States), Mr. PINTO (India), Mr. McDONALD (Canada), Mr. NTULI (South Africa) and Mr. COWLEY (observer, Vanuatu) associated themselves with the view that all Member States, including observer Member States, should be able to be present at discussions on matters relating to the appointment of the Secretary-General.

The CHAIRMAN invited the Council, in the light of comments, to decide that observer Member States invited to participate in the Council under Rule 4 of the Council's Rules of Procedure would be allowed to participate as observers also at meetings considering matters in connection with the appointment of the Secretary-General.

**It was so decided.**

### **AGENDA ITEM 30 - APPOINTMENT OF THE SECRETARY-GENERAL (C 89/30)**

Mr. CHARALAMBOUS (Cyprus), referring to paragraph 4(iii) of document C 89/30, said the deadline for applications from candidates for the post of Secretary-General should be set three months before the June session of the Council. It should be made clear that applicants should be nationals of Member States. The question of whether or not applications from individuals, as distinct from persons nominated by Member States, would be accepted should also be clarified.

The CHAIRMAN suggested that the deadline date should be March 31.

Mr. GALEA (Malta) and Mr. NDULI (South Africa) supported that suggestion.

Mr. PINTO (India) said that although he had no strong views on the matter, theoretically he could see no objection to the acceptance of applications from individual candidates.

Mr. CHARALAMBOUS (Cyprus) suggested that if such applications were accepted, the individuals concerned should be given the right to present their candidatures to the Council.

Mr. FINLEY (Panama) said he was concerned that the Council was about to take a decision it might live to regret. He would be totally opposed to accepting candidatures from individuals: since IMO was an intergovernmental organization, it was only right that candidatures should be sanctioned by Member States.

Mr. MOKHTAR (Egypt), Mr. KORAN (United States), Mr. HERNANDEZ ESPINOZA (Honduras) and Mr. PACHA (Spain) supported that view.

The CHAIRMAN invited the Council to decide that the procedures which were followed in 1988 should continue to be followed, as set out in paragraph 4 of document C 89/30, with the final date for submission of candidates being 31 March 2003; and to further decide that candidates should be nominated by Member States.

**It was so decided.**

**AGENDA ITEM 31 - DATE AND PLACE OF THE NEXT SESSION OF THE COUNCIL  
(C 89/31)**

The SECRETARY-GENERAL said that taking into account past practice, as well as the provisional programme of meetings of the Organization for 2003, it was proposed to hold the ninetieth session of the Council from 16-20 June 2003.

It was also mentioned in the document under consideration that at its eighty-eighth session in June 2002 the Council had approved the recommendation of the Technical Co-operation Committee to hold a two-day stand-alone session of the Technical Co-operation Committee back-to-back with a workshop on partnership building, before the ninetieth session of the Council in 2003. In that case, the Council would have the full meeting week for its ninetieth session.

The CHAIRMAN invited the Council to decide, in the light of the suggestions made by the Secretary-General, that its ninetieth session would be held from 16 to 20 June 2003.

**It was so decided.**

**AGENDA ITEM 12 - CONSIDERATION OF THE STRATEGY AND POLICY OF THE  
ORGANIZATION, INCLUDING THE REPORT OF THE  
WORKING GROUP (resumed)**

The SECRETARY-GENERAL said that, following discussions with the Chairman of the Working Group, it would appear that 17-21 March 2003 would be an appropriate date for the Group's next meeting.

Ms. TIEMENS-IDZINGA (Netherlands) said her Government had a great interest in the discussions on the strategy and policy of the Organization, and particularly in the work of the Working Group. The Netherlands had a strong preference for the dates 31 March to 4 April 2003, since by that time the results of its desk study would be available.

The CHAIRMAN said he took it that those dates would be acceptable.

**It was so decided.**

#### **AGENDA ITEM 7 - CONSIDERATION OF:**

##### **(a) REPORTS OF THE TECHNICAL CO-OPERATION COMMITTEE (resumed) (TC 52/WP.2)**

Mr. AHMED (Bangladesh), speaking as Chairman of the Technical Co-operation Committee, said that at its fifty-second session the Committee had decided to request that for the biennium 2004-2005 it be allocated two annual sessions of three days each, to be convened prior to the Council's June session. It had agreed that additional information should be provided by the Secretariat on the details, parameters and implications of the proposed introduction on a limited pilot basis of a system providing free electronic access to IMO publications. The additional information would be submitted to the Committee's fifty-third session with a view to the pilot phase starting in July 2003 should the scheme be approved by the Committee and the Council. The Council was requested to take note of the Committee's decision to participate actively in the joint working group on the IMO Model Audit Scheme, to be comprised of MSC, MEPC and TCC, to be convened at MSC 77, and to continue its consideration of the capacity-building implications of the Scheme. The Council was invited to note the report of the Committee on its fifty-second session and to make such comments and give such guidance to the Committee as it deemed appropriate. The Council was invited to approve on that basis the Committee's future work programme for the biennium 2004-2005.

The Committee had also taken the opportunity to review the proposed terms of reference of the joint working group, and had agreed that paragraph 2 of the annex to document C 89/WP.1/Rev.1 adequately reflected the need to include technical assistance activities and capacity-building in the work plan.

The CHAIRMAN invited the Council to take note of the report of the Chairman of the Technical Co-operation Committee on its fifty-second session.

**It was so decided.**

#### **AGENDA ITEM 13 - PROPOSED IMO MODEL AUDIT SCHEME (resumed) (C 89/WP.1/Rev.1)**

Mr. ALLAN (United Kingdom), speaking as Chairman of the Maritime Safety Committee, introducing document C 89/WP.1/Rev.1, said that paragraph 4 of the annex should read "... issues referred to in paragraphs 1 to 3". The Chairman of TCC had suggested that the audit procedure should also include technical co-operation and capacity-building. That would be done, and the document relating to that issue would appear as an MSC 77 document.

Mr. CHARALAMBOUS (Cyprus), commenting on the draft terms of reference contained in the annex to the document, said that the auditing of THE security activities of a State should be seen in the proper context. It was the exclusive and absolute prerogative of a Member State to raise any issue related to international security.

Mr. MOUZOUROPOULOS (observer, Belize) said that, while he fully understood that the Joint Working Group should consider matters relating to the voluntary IMO Audit Scheme, he believed that the conditions relating to granting of assistance by the TCC, such as the proposed requirements for self-assessment schemes, self-assessment returns and national action plans, should be considered by that Committee and not by the Joint Working Group. Belize itself had done its best to resolve problems regarding the eradication of sub-standard shipping and had de-registered some 1,584 non-compliant vessels within 12 months.

The CHAIRMAN said he took it that the Council endorsed the contents of C 89/WP.1/Rev.1.

**It was so decided.**

### **CONSIDERATION OF THE DRAFT SUMMARY OF DECISIONS (C 89/WP.2 and Adds.1-13)**

The CHAIRMAN invited the Council to consider the draft summary of decisions contained in document C 89/WP.2 and its addenda, paragraph by paragraph.

#### **Invitation to non-members of the Council to attend the session**

Mr. PINTO (India) requested that the phrase ‘additional Members which’ be amended to read ‘additional Members who’ and that the semi-colon after the words ‘had come into force’ be removed.

**Subject to those amendments, the paragraph was approved.**

#### **The “Prestige” incident**

The ASSISTANT SECRETARY-GENERAL said that the representative of France had proposed that the item should be amended to read “The ‘Prestige’ and other incidents”. And that the words “as well as statements concerning the **Joola** and **Limburg** incidents” should be added at the end of the paragraph.

**Subject to those amendments, the paragraph was approved.**

#### **Agenda items 1-3**

**The decisions relating to agenda items 1-3 were approved.**

#### **Agenda item 4**

##### **Paragraph 4.3**

The CHAIRMAN noted that the words “(see also item 9)” should be added after “.... Carriage of Passengers and their Luggage by Sea, 1974”.

**Subject to that amendment, the decisions relating to item 4 were approved.**

**Agenda items 5-10**

**The decisions relating to agenda items 5-10 were approved.**

**Agenda item 11**

Mr. PEREIRA (Brazil) noted that document C 89/11/1 should be added to the list of reference documents for the item.

**Subject to that amendment, the decisions relating to agenda item 11 were approved.**

**Agenda item 12**

**Paragraph 12.1(ii)**

The CHAIRMAN noted that the words “between the eighty-ninth and ninetieth sessions of the Council” should be replaced by the words “from 31 March to 4 April”.

**Subject to that amendment, the decisions relating to agenda item 12 were approved.**

**Agenda items 13-18**

**The decisions relating to agenda items 13-18 were approved.**

**Agenda items 19(a), (b) and (c)**

**The decisions relating to agenda items 19(a), (b) and (c) were approved.**

**Agenda item 19(d)**

**Paragraph (d)(xvi)**

Mr. ALLAN (United Kingdom) proposed that the text should read “noted, in the context of the Organization’s obligations under the Headquarters Capital Fund, the statement by the United Kingdom representative concerning its prospective options study of the Organization’s Headquarters building”.

**Subject to that amendment, the decisions relating to agenda item 19(d) were approved.**

**Agenda items 20-29**

**The decisions relating to agenda items 20-29 were approved.**

**Agenda item 30**

**Paragraph 30.1**



The CHAIRMAN noted that the word "candidates" should be replaced by the word "candidacies".

Mr. CHARALAMBOUS (Cyprus) proposed that a further paragraph be added to the effect that the Council had decided to instruct the Secretary-General to issue the relevant communications to Member States.

**Subject to those amendments, the decisions relating to agenda item 30 were approved.**

### **Agenda item 31**

**The decision relating to agenda item 31 was approved.**

The CHAIRMAN said that consideration of the draft summary of decisions contained in document C 89/WP.2 and its addenda had now been completed.

### **THE "PRESTIGE" INCIDENT (resumed)**

Mr. BELL (Bahamas) said that he had been asked to make a further statement on behalf of His Excellency Mr. O'Brien, High Commissioner and Permanent Representative of the Bahamas to IMO, on the accident to the oil tanker **Prestige**. Despite diplomatic efforts by the Government of the Bahamas, the master of the **Prestige** remained in custody in Spain and the Bahamian accident investigators were still being denied access to him. The Government of the Bahamas would be taking action under article 282 of the United Nations Convention on the Law of the Sea with a view to securing his release.

Mr. PACHA (Spain) said that during the previous week, since his delegation's statement to the Council on 25 November 2002, the consequences of the accident to the oil tanker **Prestige** had worsened. Marine pollution on the surface and at the bottom of the sea had extended widely along the Spanish coast, and technical experts had indicated that a further slick of some 10,000 tonnes of oil was approaching the coast. Over the next few days, using submarine technology, the state of the sunken hull of the vessel would be assessed. Further repercussions of the accident remained unforeseeable and Spain was grateful for the help extended by Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Norway, United Kingdom and United States. The response of those countries was an indication of the seriousness of the accident and of the great concern of the international community.

He thanked the Secretariat for the support provided by the Organization, including the presence of one of its experts in Spain, and for circulating document C 89/INF.3, which reproduced the statement made by his delegation to the Council on 25 November 2002 and drew attention to the package of proposed measures set out in the conclusions therein. He regretted that the Council had lost an opportunity by failing to request the Committees to review those proposals. In addition to the **Prestige** incident, two other serious accidents had occurred recently, to the **Joola** off the coast of Senegal and the **Limburg** off the coast of Yemen. As well as its responsibilities for technical and administrative decisions in relation to the work and structure of IMO, the Council should also consider the political concerns of Member States in the light of serious maritime incidents. Spain would submit its proposals to IMO's technical bodies with a view to achieving the Organization's objectives in respect of safe navigation. Spain was

aware of the relevant articles in the United Nations Convention on the Law of the Sea, but it was his delegation's understanding that the master of the **Prestige** was subject to criminal proceedings, which must take their due course. He hoped that the matter would be resolved quickly.

#### **CLOSURE OF THE SESSION**

After an exchange of courtesies, the CHAIRMAN declared the session closed.

**The meeting rose at 4.55 p.m.**