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23rd session
Agenda item 14(c)

C/ES.23/14(c)/1/Add.2
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EXTERNAL RELATIONS

(c) Relations with non-governmental organizations

Note by the Secretary-General

SUMMARY

Executive summary: This document reports on follow-up actions regarding the Advisory Committee on Protection of the Sea (ACOPS) and Greenpeace International, in the context of the periodical review of organizations in consultative status with IMO

Action to be taken: Paragraph 2

Related documents: C 94/17(d)/1, C 94/D and C/ES.23/14(c)/1

Advisory Committee on Protection of the Sea (ACOPS) and Greenpeace International

1 Since the issue of document C/ES.23/14(c)/1, the Secretary-General has received responses from ACOPS and Greenpeace International, which are reproduced at annex 1 and annex 2, respectively.

Action requested of the Council

2 The Council is invited to consider the information provided by ACOPS and Greenpeace International and to comment and decide accordingly.

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29th September 2005

Mr. Efthimios Mitropoulos
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Dear Mr. Mitropoulos

Subject: ACOPS' Consultative Status with IMO

Thank you for your letter dated 7th July 2005 addressed to our Chairman, Professor Laurence Mee, concerning ACOPS' consultative status with IMO.

As explained in my previous letter to you dated 23rd May 2005, while ACOPS acknowledges that due to various temporary organisational constraints and other commitments over the past two years we have been unable to participate as actively as we would have wished, it was and remains our intention to enhance ACOPS' level of participation in the work of the IMO.

In this regard, I am pleased to confirm that ACOPS will in future be in a position to attend and actively participate in the work of IMO Meetings, in compliance with the basic conditions for the continuance of consultative status.

I would also like to take this opportunity to draw your attention to activities that ACOPS continues to be actively involved in a number of important projects and programmes. In addition to conducting the *Annual Survey of Oil Pollution Around the UK Coast* on behalf of the Maritime and Coastguard Agency, ACOPS has also played an important role in the development of the GEF Russian Arctic NPA Project, which is about to commence. As one of two Partner Agencies for the project, ACOPS' will play an important role in coordinating the implementation of activities funded by a number of bilateral partners to the project.

In addition, ACOPS has recently launched a global Ocean Security Initiative (OSI), in Tripoli, Libya, on 17-19th July 2005, which was very successful and well attended. A number of important initiatives are envisaged following this conference, with a particular focus on the issues relating to enclosed seas. The next OSI conference is scheduled to take place in Cartagena des Indias, Colombia, in July 2006. I would be happy to brief you further concerning both the Tripoli Conference and its outcomes, and the proposed follow up activities to the Conference.

In the meantime, I would once again like to assure you of our intention to be represented and actively participate in the work of relevant IMO meetings. I also look forward to enhanced cooperation between ACOPS and IMO in the future.

Yours sincerely
Julian Hunt

Lord Hunt of Chesterton

GREENPEACE

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4 October 2005

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SUBJECT: IMO CONSULTATIVE STATUS OF GREENPEACE INTERNATIONAL

Dear Dr. Balkin,

I am writing in response to your letter of 1 July 2005. Greenpeace International appreciates the opportunity to respond to the decision of the Council, adopted at its June 2005 session, as described in your letter. We note that at that session, the Council requested the Secretariat continue to monitor the activities of Greenpeace International; and decided to review the status of Greenpeace International at its twenty third extraordinary session, due to take place in November 2005.

Before I take this opportunity to comment on the Council's recent decision concerning Greenpeace International, I would like to provide you with some background information I believe to be relevant for this matter.

introduction

Greenpeace is an independent campaigning organisation that uses non-violent, creative confrontation to expose global environmental problems, and force solutions for a green and peaceful future. Greenpeace's goal is to ensure the ability of the earth to nurture life in all its diversity.

Greenpeace does not solicit or accept funding from governments, corporations or political parties. Greenpeace neither seeks nor accepts donations that could compromise its independence, aims, objectives or integrity. There are over 2.8 million supporters of Greenpeace worldwide and Greenpeace has offices in 38 countries around the world. Thus Greenpeace is one of the world's leading environmental NGO's.

Greenpeace organises global public campaigns for the protection of oceans and ancient forest, to stop climate change, to eliminate toxic chemicals, to prevent genetically modified organisms being released into nature and to end the nuclear threat.

We exist to expose environmental malpractices, and to challenge government and corporations when they fail to live up to their mandate to safeguard our environment and our future. We promote open, informed debate about society's environmental choices. We use research, lobbying, and diplomacy to pursue our goals, as well as high profile, non-violent creative protests to raise the level and quality of public awareness and debate. All protests are carried out with safety as our paramount concern, drawing on over thirty years experience.

Showing widespread recognition of our role, Greenpeace has been granted consultative or observer status at a wide range of international bodies, such as the UN, ECOSOC, IWC, FAO, WTO, UNEP, IPCC, OSPAR, IAEA and IMO, and at international conventions such as the Basel and Stockholm Conventions, the Conventions on

Biodiversity (CBD), on Trade in Endangered Species (CITES), on Climate Change (UNFCCC), and treaties on nuclear disarmament (NPT and CTBT).

Greenpeace's consultative status at IMO

Greenpeace International was granted consultative status at IMO in 1991 under the Rules Governing Relationship with Non-Governmental International Organisations and the Guidelines on the Grant of Consultative Status. We believe that we have been able to make a substantial contribution to the work of the IMO. Greenpeace attends meetings of the IMO and participates actively on many of the issues before the organisation, ranging from ocean incineration, dumping and illegal fishing to substandard shipping.

In the last five years, Greenpeace International has regularly reaffirmed that it fully complies with all international law, including the 1972 Regulations for Preventing Collisions at Sea (COLREGs), with the principles of good seamanship and with the principles of the IMO, and that it will continue to do so. On occasions when a complaint to the IMO referred to a particular protest, Greenpeace has adequately provided information to set the record straight. Greenpeace has, to its knowledge, never been charged with any breaches of the COLREGs. States that have complained have complained simply of peaceful protests against vessels, which drew attention to hazardous or harmful activities and practices of certain ships, not of COLREGs breaches. Greenpeace has been carrying out peaceful protests at sea since it was founded in 1971. This continued when consultative status was granted in 1991, and continues today.

Response to recent concerns by Council Members and subsequent Council decision

At the Council's 94th session of June 2005, Council adopted a decision comprising four elements, as recorded in your letter and in part 17 (d) 10 of the report on the Council's 94th session. I will respond to these below.

(i) [Council] Noted the views expressed by Council Members, reiterating the necessity for Greenpeace international to comply with the international regulations concerning the safety of navigation and, in particular, the Collision Regulations and the implementation of the ISPS Code;

Greenpeace renews its undertaking to the IMO under rule 4 of the Rules Governing Relationship with Non-Governmental International Organizations and its assurances given on 25 July 2001 and renewed in 2002, 2003, and 2004. Greenpeace International is committed to ensuring that vessels carrying out our campaigns and peaceful protests at sea comply with the COLREGs. As stated above, we can confirm we have no record of any violations by our fleet, nor are we aware of any proceedings underway alleging such breaches. Greenpeace gave an undertaking in 1991, that "Greenpeace observes and will continue to observe 'rules of good seamanship'. This of course includes Greenpeace's commitment to comply with the international regulations concerning collisions at sea." Unquestionably this is a continuing commitment.

Our ships are not required to comply with the ISPS Code under the applicable law of the relevant flag state (the Netherlands). I stress, however, that our ships and crew do comply with all applicable safety standards and we do subject ourselves to security measures based upon the ISPS Code.

(ii) [Council] requested the Secretary General to draw the attention of Greenpeace International to the serious allegations made against it at MSC 80 and C94, which appear to contradict Greenpeace's undertaking previously given to IMO not to endanger the Safety of Shipping; to invite Greenpeace International to respond to the allegations; and to report to the Council at its 23rd session accordingly,"

Although not present at the 80th session of the Maritime Safety Committee, we note that Greenpeace International was mentioned specifically under the heading "Environmental Protests", in parts 23.36, 23.37 and 23.38 of its report. In particular, the MSC noted the "very real concerns of the industry at these ongoing tactics adopted by environmental protestors, particularly Greenpeace International, which had particularly serious effects on the safety of life at sea, and, in particular, in these times of increased security awareness, had the potential for causing severe stress for the master and crews of the ships concerned."

Firstly, it is not the case that campaigns and protests at sea by Greenpeace jeopardize the safety of life at sea in any way. Greenpeace is a completely non-violent organization; we would never put any lives at risk and have not

¹ The operator of our ships is voluntarily ISM certified and is in the process of obtaining ISM certification for all Greenpeace's international ships. In addition, ships are certified according to MARPOL 73/78 and SOLAS and classified by DNV and GL. Almost all crew is certified according to STCW.

done so. We put safety first in every action we undertake. Our ships are crewed by certificated professionals, and our activists trained so that they can act safely and in an entirely peaceful manner. Our track record speaks for itself.

With respect to the claim of a potential to cause severe stress for the master and crews of other ships, we are aware of the overall climate of heightened security and security awareness in place by port authorities and among industries worldwide. Nevertheless, the potential for any security-related stress, is addressed by our policy of clearly identifying who we are and the nature of our activities. Our vessels are amongst the most easily identifiable in the world. They are clearly marked and their pictures are available on websites and in numerous newspapers and magazines. More importantly however, it is not just a question of whether we are identifiable - we pro-actively identify ourselves. Our captains always communicate their intentions to any ship involved in a protest activity. Any protest activity involving the boarding of a ship is preceded by an extensive communication between our captain and the captain or crewmember of that ship. Our organization's core principle is non-violence, and therefore, this simple, yet effective system should reassure all captains and crew about the identity of our ships, and thus, the peaceful nature of our intentions.

We have an ongoing duty to address corporations responsible for unsafe, illegal or irresponsible shipping practices, in the interests of protecting the marine environment and bio-diversity. Indeed, as we have seen with the *Prestige* and other disasters, threats posed by unsound practices themselves pose a very real security threat to the environment and that is the object of the IMO and the duty of all States to protect.

- Response to Complaint Submitted by BIMCO, ICS, INTERCARGO, INTERTANKO.

On 21 September 2005 we were made aware of a specific complaint concerning Greenpeace raised by BIMCO, INTERCARGO and others at the 80th session of the Maritime Safety Committee. Greenpeace considers this complaint by INTERCARGO and others divisive and unhelpful to the work of the IMO.

Incident described

On 25 January 2005 the Bulk Carrier "*Golden Lion*", was carrying a cargo of approximately 30,000 tonnes of genetically engineered soy from Argentina to France, en route to the port of Lorient. Greenpeace, along with French farming groups and members of the public were protesting against the transport of GE soy into France and the destruction of Argentinian rainforest to make room for GMO soy plantations.²

The *MV Esperanza* encountered the *Golden Lion* at approximately 140 nautical miles off the coast of Portugal on the 25th. Early that morning, the *Esperanza* captain communicated with the *Golden Lion*, identified himself and the ship, advised of an intention to put some people on board, and assured that there would be no interference with navigation. Shortly thereafter, at approximately 9:00am one protestor on board an inflatable boat did attempt to board the *Golden Lion* via a ladder, but abandoned the attempt due to the waves. Inflatables and all persons were back on board the *Esperanza* by approximately 9:30am. They had intended to establish a communication platform. At no time during this activity did the *Esperanza* come closer than approximately 1 nautical mile to the *Golden Lion*, and indeed remained behind the ship. Nor were any boats etc "zigzagging" in front of the *Golden Lion*.

Three days later, farmers, consumers and citizens mobilized at the quayside of the port of Lorient to greet the *Golden Lion* at port, and protest the import of GMO's in to the food chain in France and Europe. The protest again was peaceful, and was well monitored by a significant French police presence. Although several canoes and inflatable boats were in the area as part of the protest, their movements were visible, well monitored and directed by French police presence, and at no time presented any danger of collision whatsoever. The persons in both inflatables and canoes reported good contact and co-operation with the French local police. Attached to this letter is a photo taken during the protest as the *Golden Lion* is in Port. The *Esperanza* did not take part in this activity³.

² Millions of hectares of Argentinian forest have been cleared in the past decade to make room for soybean plantations. Whereas the use of GE products for human consumption is regulated in the EU, the vast majority of soybeans imported into Europe are destined for animal feed, and EU legislation does not yet require labelling of GE animal feed for the end consumer (i.e. of meat and dairy products).

³ The *Esperanza* was anchored outside the Harbour at the time the *Golden Lion* came into Port, and subsequently berthed nearby.

Questions raised by Intercargo concerning COLREGS/Good Seamanship

At point 7 of their submission to the Maritime Safety Committee, Intercargo alleges that activities have contravened the Collision Regulations and the principles of Good Seamanship. We would strongly dispute this allegation. The Esperanza was at no time on any collision course with the Golden Lion.

Each and every peaceful protest activity carried out by Greenpeace protestors is preceded by careful and extensive on-site safety and security risk assessment. All Greenpeace protestors who operate smaller crafts such as inflatables, canoes etc, thanks to their training and skill, do so with due regard to the observance of good seamanship. There is no question of any breach of the COLREGS.

(iii) *[Council] requested the Secretariat to continue to monitor the activities of Greenpeace International*

We accept and encourage the Secretariat to do so. The competence and activities of Greenpeace International have not changed since we were first given consultative status in 1991. We believe that the safety of life at sea and the protection of the marine environment are of paramount importance. These concerns underpin all our work, both the issues we address and how we address them.

Last year Greenpeace International, representing the Deep Sea Conservation Coalition⁴, was invited to address the General Assembly of the United Nations in New York on the issue of bottom trawling. We believe there is an urgent need for an immediate United Nations moratorium on high seas bottom trawling because of the devastating effect it has on marine life. Our work continued with activities on the high seas this year in July and August. The Greenpeace ship Esperanza spent three weeks documenting the bottom trawl fisheries in the international waters of the Northwest Atlantic. Greenpeace holds real concerns that Regional Fisheries Management Organizations are failing to implement ecosystem-based precautionary fisheries management in accordance with the United Nations Fish Stocks Agreement. As such, a ship tour was undertaken focused on obtaining first hand evidence and shedding light on what is happening in this area. This is an example of the type of important work Greenpeace ships undertake on behalf of deep-sea biodiversity, which will be of interest to the IMO and its Member States. We were invited on board five of the 19 vessels that were observed bottom trawling during the ship tour, and we will present our findings to the Northwest Atlantic Fisheries Management Organization.

We also note the IMO response to the Asian Tsunami was included on the agenda of MSC 80. We would be willing to communicate to the IMO at its twenty third session in November the work undertaken by the Rainbow Warrior crew in December 2004 and January 2005, in support of Médecins Sans Frontières and other relief agencies, who were unable to get essential medical supplies, equipment and food into the devastated region in Aceh immediately following the disaster.

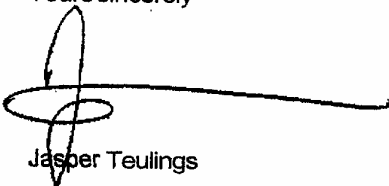
(iv) *[Council] decided to review the status of Greenpeace International at its twenty third extraordinary session.*

We value the opportunity to contribute to the work of the IMO in its own field and we look forward to further constructive engagement in furtherance of the purposes of the IMO.

It goes without saying that we believe the IMO has no basis for altering our consultative status at the Council's twenty-third session.

Please let us know if you need any further information on any of these matters, or on any other matters. I can confirm that I intend to attend the IMO Council meeting of November 17 and 18 and that I would be happy to elaborate on the above statement, if Council wishes.

Yours sincerely



Jasper Teulings

⁴ Steering Group Members of the Deep Sea Conservation Coalition include: Marine Conservation Biology Institute (MCBI), Conservation International, Oceana, Seas at Risk and the National Resources Defense Council (NRDC).