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COUNCIL – 23rd extraordinary session

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**SUMMARY RECORD OF THE FOURTH MEETING**

**held at IMO Headquarters, 4 Albert Embankment, London SE1 7SR  
on Friday, 18 November 2005 at 2.35 p.m.**

Chairman: Mr. L. DÍAZ-MONCLUS (Venezuela)

Vice-Chairman: Mr. J. FRANSON (Sweden)

Secretary-General: Mr. E.E. MITROPOULOS

A list of participants is given in document C.ES/23/INF.1

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**AGENDA ITEM 5 – WORK PROGRAMME AND BUDGET FOR THE TWENTY-FOURTH FINANCIAL PERIOD 2006-2007: DEVELOPMENTS SINCE THE NINETY-FOURTH SESSION OF THE COUNCIL (C/ES.23/5, Add.1 and C/ES.23/5/1) (continued)**

The SECRETARY-GENERAL suggested that, in view of the mostly positive views expressed on the proposed budget during the previous meeting, the Director of Administration should reply to points raised earlier, after which the discussion on the budget might be concluded with the agreement that Committee 1 should scrutinize the budget in detail and make recommendations to the Assembly as appropriate. Likewise, the draft Assembly resolution intended to replace resolution A.873(20) submitted by Mexico, Argentina, Chile, Nigeria, Portugal, Spain and Venezuela, which appeared to have been agreed in principle by the Council, might be submitted to Committee 1 for finalization of the text prior to submission to the Assembly's plenary session.

The CHAIRMAN said he took it that there were no objections to that proposal.

**It was so agreed.**

Mr. JONES (Director, Administrative Division), replying to points raised during the previous meeting, said that Singapore and the Bahamas were correct in pointing out that the revised biennial level of assessment of 10.51 per cent, together with an appropriation level of 7.65 per cent, reflected the reduction in the reimbursement from the Printing Fund to the regular budget as a result of the closure of the Production Unit. In other words, the business activity that related to payment of the Organization's overhead costs, such as rent, lighting and security, no longer had to cover the Publishing Service. Document C/ES.23/5, paragraph 25, explained that a transitional contribution of £350,000 had been provided for, to help mitigate the impact on the Member State assessment. As the Bahamas had pointed out, that transfer did not fully offset the effects on assessment of the Production Unit closure, since that would entail a transfer of £1 million from the TC Fund and a corresponding reduction in that Fund. In that regard, he recalled the comment by the representative of Australia, that if the Organization were successful in subletting, the resulting income would benefit Members directly by reducing their assessment level.

Turning to the questions raised by Singapore and Australia about the funding and composition of the IT Programme, he said that there were three main elements. The first was the replacement of hardware, namely the servers and desktop computers, on a three- to four-year business replacement cycle for the staff, for training and for the delegates' business centre; servers required expansion in order to provide business continuity and redundancy. Those investments would total approximately £200,000 annually. The second major element concerned software development. IMO did not hire consultants, preferring to contract in programmers, who were then directed and managed by IMO through the IT Service. Moreover, core business-related databases, such as GISIS, GESAMP and those on chemical products, CAS and ballast water management, had all been designed in-house for cost reasons. As the Secretary-General had said in response to the Russian Federation, other software improvements included the enhancement of the IMO website and of the IMODOCS website, which the Council would recall had been funded by Australia some years ago and was due for an overhaul. The total investment for those applications came to about £150,000 annually. The third element was the approximately £200,000 spent on maintaining software and network upgrades and on investment in new software products such as the "Multitrans" program used to help manage the technical language database held by the Translation Services. With no line in the regular budget dedicated to IT capital investment, and since the global explosion in IT was taking place at the

same time as the Organization was committed to a zero nominal growth budget, the only possible funding mechanism that it had been possible to provide for the third element to meet the approval of the Council and the Assembly was the Headquarters Capital Fund. Furthermore, bearing in mind that the IT Services would be expected to provide a twenty-four hour service during the move to 55 Victoria Street, some unplanned challenges would have to be faced. Procurement of desktop computers for 2006-2007 would be geared to the relocation, with one tranche supplied to the temporary premises in 2006, and a further tranche held back until the return to headquarters in 2007.

Regarding the question raised by the United States about costs of overtime and night differential, he noted that the matter had been discussed by the Council on previous occasions following an external audit review. The response given then by the IMO management and the *ad hoc* Working Group on the Organization's Strategic Plan, was that overtime and night differential reflected the way in which the Organization carried out its business and the need to be able to produce reports for delegates for the final day. The increase shown in table 7 under "Overtime, temporary assistance and consultancy" reflected greater consultancy demands for GESAMP and the new requests made by MSC 80 concerning passenger ship safety.

Table 7 and annex 3 reflected increased meeting costs of 17.6 per cent over the biennium in respect of pay rises for interpreters; those were determined within the framework of the United Nations common system. The United States had also asked about the relatively high increase in the programme budget for technical and legal work. That reflected the redistribution of work months from other programmes, in line with the strategic plan, and also the biennial effect of the deferred recruitment to the Professional posts approved for 2004-2005; recruitment had taken place in 2005.

Some delegations had referred to a reduction in proposed transfers to the TC Fund in 2006-2007, citing document C 94/6. That seemed to be a misunderstanding: that document, considered by the Council in June 2005, had recommended transfers of £3 million from the surplus of the Printing Fund to the TC Fund. The document now under review contained a recommendation for an additional £1.8 million, making a total transfer for the biennium of £4.8 million from the Printing Fund surplus to the TC Fund.

Finally, regarding the question Cyprus had raised, he said that table 5 showed that miscellaneous income was forecast to fall by some 20 per cent. Essentially, that reflected reduced income from the catering service following the relocation to 55 Victoria Street; a breakdown was shown in table 12. The reduction in income would not quite be matched by reduction in expenditure, as explained previously, and the transitional cost of the catering service would thus be charged to project costs.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/5 and its addendum, as well as that provided orally by the Secretary-General; to express appreciation for the Secretary-General's determination to balance the budgetary concerns of the membership with the demands of the work programme, and its expectations that IMO remain at the forefront of regulation within the maritime sector in respect of safety, security and environmental protection; to support the Secretary-General's revised budgetary proposals as set out in document C/ES.23/5 and its addendum; and to recommend their adoption by the forthcoming twenty-fourth regular session of the Assembly, subject to further scrutiny in Committee 1.

In particular, he invited the Council to approve an appropriation for 2006-2007 of £49,730,300, comprising an appropriation of £24,298,300 for 2006 and an appropriation of

£25,432,000 for 2007; to agree to the financing of the appropriations by assessments upon Member States of £22,419,100 for 2006 and £23,568,200 for 2007, after deducting: direct and indirect costs for publishing activities to be recovered from the Printing Fund of £1,016,800 in 2006 and £1,040,200 in 2007; transitional support from the Printing Fund of £175,000 for each year of the next biennium; reimbursement of support costs for administrative and technical backstopping of technical co-operation activities of £300,000 for each year of the next biennium; and miscellaneous income, including catering and refurbishment related receipts, of £387,400 for 2006 and £348,600 for 2007; to agree to the number of meeting-weeks of 41.2, comprising 21.6 meeting-weeks for 2006 and 19.6 meeting-weeks for 2007; to welcome the offer by the Government of Kenya to host the prospective diplomatic conference on wreck removal, possibly in 2007, at no cost to IMO; to thank the Government of Turkey for its offer to host MSC 82 in December 2006, at no cost to IMO, and the Governments of Egypt and Panama for their offers to host other meetings; and to endorse the list of proposed posts for 2006-2007, as shown in annex 2 to document C/ES.23/5/Add.1.

With regard to the other Funds of the Organization, he invited the Council to approve the proposed budget for the Headquarters Capital Fund of £1,245,700 for 2006 and £1,262,400 for 2007; to approve the proposed budget for the Termination Benefit Fund of £488,300 for 2006 and £142,100 for 2007; to approve the proposed budget for the Training and Development Fund of £66,000 for 2006 and £66,000 for 2007; and to approve the proposed budget for the Printing Fund of £3,904,800 for 2006 and £4,011,800 for 2007.

With regard to transfers, he invited the Council to approve the transfer from the surplus of the Printing Fund to the Headquarters Capital Fund of £700,000 in each year of the next biennium; to the Termination Benefit Fund of £300,000 in each year of the next biennium; to the Training and Development Fund of £65,000 in each year of the next biennium; and to the Technical Co-operation Fund of £2,400,000 in each year of the next biennium.

Finally, he invited the Council to approve, in principle, the draft resolution annexed to document C/ES.23/5/Add.1 for submission to the twenty-fourth regular session of the Assembly for adoption; to note the information set out in document C/ES.23/5/1, submitted by Mexico, Argentina, Chile, Nigeria, Portugal, Spain and Venezuela, and that provided orally by the Secretary-General, on proposals for the future level of transfers to the Technical Co-operation Fund from the surplus of the Printing Fund; and to express its general support, in principle, for the draft resolution annexed to document C/ES.23/5/1, and agree to forward it to the twenty-fourth regular session of the Assembly, with the Council's recommendation for adoption, subject to further scrutiny in Committee 1.

**It was so decided.**

Mr. ENRIQUEZ ROSAS (Mexico) thanked the Council Members for accepting in principle the proposed draft Assembly resolution in document C/ES.23/5/1. He thanked Mr. Jones for his replies, but still had some doubts about the 75 per cent. As the draft resolution was linked to that aspect, he reserved the right to revert to that topic at the Assembly or, if possible, clarify that point with Mr. Jones before the Assembly.

The CHAIRMAN replied that Mexico's concern had been reflected in the fact that the Council had decided to refer not only the draft resolution but also the budget proposals to Committee 1.

## **AGENDA ITEM 6 – VOLUNTARY IMO MEMBER STATE AUDIT SCHEME (C/ES.23/6 and C/ES.23/6/1)**

The SECRETARY-GENERAL said that document C/ES.23/6/1 contained the outcome of the consideration by MEPC 53 of the report of the Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Member State Audit Scheme.

He recalled that, at its ninety-fourth session in June, the Council had considered the report of the third session of the Joint Working Group and had taken decisions on its recommendations, taking into account also the outcome of MSC 80 and the consideration by TCC 55 of the working group's report, with the proviso also that MEPC 53 would also consider the report of the working group and make appropriate recommendations to the Council for consideration.

Subsequently, the MEPC, at its fifty-third session in July, had considered the request of the Council and the report of the Joint Working Group; and its report was contained in document MEPC 53/24. MEPC 53 had endorsed the framework for the scheme. While endorsing the procedures for the scheme, the Committee had considered a proposal by India to amend the pre-audit questionnaire and agreed that, instead of modifying the questionnaire, India's proposal should be taken into account in the preparation of the auditors training course material. The MEPC had also endorsed the associated draft Assembly resolution.

The decisions made by MEPC 53 on the documentation for the audit scheme were consistent with the decisions already made by MSC 80, TCC 55 and C 94, and thus no change to the documentation approved by C 94 was necessary.

MEPC 55 had also approved the draft "Code for the implementation of mandatory IMO instruments" and submitted it to the Assembly for adoption.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/6/1 and that provided orally by the Secretary-General; to note that MEPC 53 had approved the draft "Code for the implementation of mandatory IMO instruments" and the associated draft Assembly resolution, and also the draft framework and procedures for the Voluntary IMO Member State Audit Scheme together with the associated draft Assembly resolution, and to concur with the recommendation that the pre-audit questionnaire should not be modified, but that instead the proposal of India should be taken fully into account when preparing the auditors training course material.

### **It was so decided.**

Mr. ROWE (United Kingdom), speaking on behalf of Australia, the United States and the United Kingdom, introduced document C/ES.23/6 which put forward for consideration a draft Assembly resolution on the future development of the Voluntary IMO Member State Audit Scheme, in particular with regard to security-related matters.

Although MSC 80 had decided not to include security at the present time, it had agreed that a second draft Assembly resolution could be submitted addressing the possible future inclusion of security in the scheme. The proposed draft resolution requested the MSC and the MEPC to review the future feasibility of including security-related responsibilities within the scope of the audit scheme, to identify any implications of broadening the scope of the audit scheme in that way, and to consider including within the scope of the audit scheme other safety- and environmental protection-related issues not currently covered by the scheme. The draft resolution requested the Council to develop suitable provisions for possible future inclusion of

those further issues in the audit scheme, taking into account the experience gained from its implementation. He asked the Council to continue taking the same careful step-by-step approach to the development of the scheme, and to consider the draft resolution and comment as appropriate.

Mr. DAVENA (Brazil) thanked the three co-sponsors for the document and draft Assembly resolution. Brazil supported the exclusion of security matters from the scheme as a matter of principle, because security measures were very recent and there was still insufficient information on implementation. He supported the suggestion in the draft that security-related issues might be included in the future, so as to ensure that security could be taken into account in relation to protection from unlawful acts. He suggested including in the first preambular paragraph, in square brackets, the words “hereinafter referred to as the ‘Audit Scheme’”, for purposes of clarification.

Mr. CHRYSOSTOMOU (Cyprus) said that Cyprus had a major concern in respect of the decisions taken by the twenty-second session of the Assembly. At that time the United States had suggested that security issues should be included in the Voluntary IMO Member State Audit Scheme, but the Assembly had decided that it did not have the authority to do so because it was a matter for the Parties to the amended SOLAS Convention, 1974, and those Parties had not changed their mind. He did not understand what was intended by the first request for the MSC and the MEPC to review the feasibility of including in the scheme security-related functions. To be correct, the Council should request the Parties to SOLAS to make the decision, and not the two committees. He supported the draft resolution’s second request, although he found it to be superfluous, because the Council had already approved an Assembly resolution on adoption of the Framework and Procedures of the Audit Scheme which stated, “... requests the Council to monitor the implementation of the Audit Scheme with a view to its further improvement and development and to report to the Assembly, as appropriate” (annex to document A 24/19). He felt it would be possible to amend that paragraph to include the proposal by the United States, so that a second resolution would not be necessary.

The SECRETARY-GENERAL asked whether, in view of the time constraints, the Council would be prepared to send the draft resolution to the Assembly. In the meantime, the Secretariat would work with the proponents of the resolution, so that the text which the plenary might wish to send to Committees 1 and 2 would take account of the comments made by the representatives of Cyprus, Brazil and any other Member States. That would allow the Council to agree, without approving the draft resolution, that it should go to the Assembly for such action as the Assembly might decide.

Mr. FINLEY (Panama) said he had taken note of the comments by the representative of Cyprus, which seemed to him practical. The draft resolution reflected his understanding in light of the discussions of the MSC that a proposal for a second resolution recognizing that time was required to ensure submission of the necessary qualitative views would be welcome. He believed that the co-sponsors had largely done what was requested of them. He supported the Secretary-General’s proposal as to the way the resolution should be put to the Assembly.

Mr. RANGEL JALLEY (Venezuela) and Mr. SGUEGLIA (Argentina) welcomed the document submitted by the United States, the United Kingdom and Australia, the comments made by the representative of Brazil and the proposal of the Secretary-General.

Mr. ALLAN (United Kingdom), speaking as Chairman of the MSC, said that the representative of Panama was correct in that the debate had taken place at the MSC. It was at the request of that Committee that “maritime security” had been deleted from the initial proposal for the audit scheme and that the proposal should go to the Assembly requesting it to ask the MSC to

take the matter forward and consider it at a future date. That recommendation was in line with the initial debate in the Assembly in 2003 which had covered security more generally. He confirmed that the document was in line with the debate at the MSC.

Mr. CHRYSOSTOMOU (Cyprus) asked that the word “approve” be excluded and that the Council be requested to forward the documents to the Assembly with the comments made by the Council so that there would be time at the Assembly to make necessary changes.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/6, containing a draft Assembly resolution regarding consideration of security-related matters, submitted by Australia, the United Kingdom and the United States; and to note comments made for possible improvements to the text of the draft Assembly resolution and for consolidating some of its contents into the draft resolution on the adoption of the framework and procedures for the audit scheme; and to agree to forward the draft resolution, as amended, to the Assembly for its consideration, with a view to Committee 1 or 2 being invited to finalize the draft resolution, as appropriate.

**It was so decided.**

Mr. FINLEY (Panama) said that he looked forward to a brief discussion in the Assembly with adoption of the necessary resolution and to going ahead with the Voluntary IMO Member State Audit Scheme. There had been many press articles on the audit scheme. It was obvious that there was some confusion amongst some of those non-governmental organizations that had the privilege of consultative status, and which might be assumed to have a proper understanding and awareness of what the scheme was about. It was generally recognized that the audit scheme was a capacity-building process and not punitive non-mandatory regulation. It was there to help rather than criticize. The audit scheme was there to be entered into freely and with good will and with the highest expectations by all Member States. It was not a flag State audit, but a Member State audit.

**AGENDA ITEM 7 – STRATEGIC PLAN OF THE ORGANIZATION INCLUDING THE REPORT OF THE *AD HOC* COUNCIL WORKING GROUP (C/ES.23/7)**

The CHAIRMAN recalled that at its ninety-fourth session the Council had agreed that its *ad hoc* Working Group on the Organization’s Strategic Plan should be reconvened for its fifth meeting with revised terms of reference. At the same session, the Council had considered the second set of information collected and collated by the Secretariat on the Organization’s performance, as measured against the performance indicators included in the strategic plan, and had instructed the Secretariat to prepare an analysis of the data and to draw any relevant conclusions to aid the group in its work.

He invited the working group’s chairman, Mr. Franson (Sweden), to introduce document C/ES.23/7.

Mr. FRANSON (Sweden), speaking as chairman of the *ad hoc* Council Working Group, said the group’s two key tasks had been, first, to review the Organization’s Strategic Plan, and secondly to prepare a final high-level action plan with related biennium priorities.

In its consideration of the analysis prepared by the Secretariat, the working group had agreed that the performance indicators provided a useful assessment of the Organization’s performance in meeting its strategic directions, and that those indicators, despite certain



weaknesses which the Council should instruct the Secretariat to address, did not need to be subjected to detailed review for the present. The working group had also agreed that, notwithstanding some negative indications regarding performance in the analysis, the data collected on ships and lives lost, as well as on pollution of the marine environment, showed continually improving flag State performance. On the basis of its consideration of the analysis, the working group had agreed to give the Council the advice indicated in the annex to document C/ES.23/7.

In considering the trends, developments and challenges facing the Organization over the new strategic plan period 2006-2011, the group had agreed to update references in the sections on globalization, heightened maritime security, heightened environmental consciousness and people at sea. It had added a new challenge for IMO in the section on technology as a major driving force for change in the maritime transport sector, and in the section on the marine environment had reflected the human element provisions already contained in the sections relating to safety and security.

The working group had recalled that two indicators remained to be developed, and invited the Council to instruct the Secretariat to make proposals for a suitable indicator on implementation and compliance, as well as to agree to the amendments it had made to the indicator on ship-generated air pollution. On the basis of its consideration of the provisional draft strategic plan and the analysis prepared by the Secretariat, the working group had agreed the revised strategic plan rolled forward for the period 2006-2011 and the related Assembly resolution at annex 2 to its report, and invited the Council to approve it and forward it to the Assembly for adoption.

The working group had agreed amendments to the high-level action plan consequential to its proposed amendments to the strategic plan, and had considered amendments proposed by the committees: its recommendations were to be found in paragraph 19 of the report. It had agreed to recommend to the Council that three new high-level actions on facilitation be included in the high-level action plan related to the strategic direction on the efficiency of shipping, as well as a new high-level action plan on identification of the developmental needs of Small Island Developing States (SIDS) and Least Developed Countries (LDCs). The group had also noted that a number of strategic directions did not have related high-level actions, but did not consider that to be problematic, since it was anticipated that such actions would be subject to detailed review more frequently than the strategic plan. The group had reviewed the planned outputs for the committees for the 2006-2007 biennium, and had made editorial improvements to the text and consolidated outputs where appropriate. It invited the Council to bring those additional outputs to the attention of the committees, and to urge them to set aside sufficient time at future sessions for considering the high-level actions and associated priorities for the next biennium, in order to ensure that they accurately and concisely described planned activities and work.

Lastly, the working group had reviewed proposed revised reporting arrangements in the light of the adoption of the strategic plan. It recommended that the Council endorse the arrangements provided diagrammatically in annex 4 to the report.

The SECRETARY-GENERAL recalled that at its previous session the Council had welcomed the second set of data collected by the Secretariat against the performance indicators in the strategic plan, which demonstrated the key role played by the Organization in safety, security and environmental protection and also its efforts at promoting adoption of standards. On the Council's instructions, the Secretariat had undertaken an analysis of that data in order to assist the working group in its consideration of the information presented. That analysis had provided some measure of the Organization's progress towards its strategic objectives, and the group had made some recommendations to the Council for action which would be important in

aiding the Organization to target its resources over the next biennium and hence meet its longer-term objectives. That would help it to demonstrate how ably it could respond to the trends, developments and challenges currently arising in the maritime arena and to those that would surely arise in the future.

In the review of the strategic plan, no significant omissions had been noted in the review of those trends, developments and challenges, and as a result the adjustments needed to the strategic policy framework adopted by the last Assembly to address them had been relatively minor.

More importantly, the outcome of the working group's review of the draft high-level action plan and related biennium priorities completed the work of developing the revised planning processes begun by the first strategic plan, and would also form the basis for future monitoring and reporting of progress towards strategic aims and objectives.

Another valuable gain to the work of the Organization through the new planning and reporting processes should be a reduction in the size of reports by the committees to the Council, and by the Council and committees to the Assembly. Identification of the planned outputs for the biennium and of their clear relationship to the Organization's strategic objectives would provide an opportunity not only to monitor progress in terms of output, but also to identify clearly the contribution that those outputs made to wider strategic objectives.

The strategic plan and its related action plan would ensure that the output of the committees and the work of the Secretariat needed to implement strategic objectives would be clearly linked, thus increasing transparency and clarifying the allocation of resources to overall objectives. He fully supported the work being done, and considered that a revised and more transparent process would enhance oversight and monitoring of the Organization's work by the Council, while helping to reduce unnecessary documentation.

Ms. MOLINA (Venezuela) said the Council should consider allocating the working group interpretation at least in the Organization's working languages, in order to facilitate participation by the greatest number of Member States in its work. It should also consider developing an annex to the strategic plan containing a glossary of performance indicators, giving the characteristics of each indicator, the source of the data used, and how the indicators had been calculated. That would facilitate proper use of the indicators in assessing performance with a view to achieving the objectives of the plan.

Mr. GASC (France) supported that view. He emphasized the importance of the work done by the *ad hoc* Working Group, and was pleased to note that the Council was assuming its responsibilities for defining policy and strategy in order to support the Secretary-General in his efforts to carry out his mission.

However, he wished to emphasize the need for the Organization to be flexible and to be ready to adapt to new or unforeseen situations. The strategic plan should be an aid, not a hindrance, to action by the various committees.

France could endorse the action requested of the Council in paragraph 2 of the report.

Mr. ALLAN (United Kingdom), supported by Mr. CLAY (United States), said he too concurred with the action requested. In order to save time, he proposed that paragraph 2 be approved as a whole.

Mr. BELL (Bahamas) said the strategic plan was a major step forward in the proactive approach that IMO was now seeking to take, although it would take some time to mature into a fully developed tool for guiding the whole of the Organization's work. The efforts made to achieve a tie-up between the strategic plan and the work programmes of the committees were to be welcomed. All proposed new items should be examined to ensure that they fitted into the strategic plan.

Some of the performance indicators clearly needed more development, but they were vital if IMO was to show to the outside world an unbiased picture of the performance of the shipping industry. He supported Venezuela's proposal for an annex explaining the origins of the performance indicators, and endorsed all the actions requested of the Council in paragraph 2 of the report.

Mr. OLIMBO (Italy) said that Italy too endorsed the working group's conclusions, while taking account of the various comments made.

Mr. POLDERMAN (Netherlands) applauded the Secretary-General and the Secretariat for their commitment to the new strategy and high-level action plan, and for the way they had adapted their administrative practices accordingly. That represented a historic achievement for IMO in a relatively short time.

The Netherlands supported the updated strategic plan and high-level action plan for 2006-2007 and approved the actions requested of the Council. It endorsed the proposal by the United Kingdom that paragraph 2 of the report be approved as a whole.

Mr. CHRYSOSTOMOU (Cyprus), supported by Mr. NTULI (South Africa), joined in supporting the actions requested in paragraph 2 of the report. He proposed that at its forthcoming regular session on 2 December 2005 the Council should include on its agenda any instructions it might wish to give to the committees, so as to minimize the period during which their work programmes were not in line with the strategic plan.

The CHAIRMAN thanked Mr. Franson, the working group and the Secretariat for their excellent work, which he was convinced would successfully guide the Organization in the future.

He invited the Council to note the information set out in document C/ES.23/7, and that provided orally by the Secretary-General, on the strategic plan of the Organization, including the report of the *Ad Hoc* Council Working Group; to note the working group's conclusions on the analysis of data collected and collated against the agreed performance indicators, in general, and in particular to instruct the Secretariat to make proposals on performance indicators for *the monitoring of trends in the Organization's output related to the work of other UN bodies* and also on *the effect on efficiency of shipping of IMO measures* and in addition to consider further the availability of statistics to monitor the strategic direction related to the impact of shipping on the environment; to concur with the working group's recommendation that the strategic direction on goal-based standards be monitored through a performance indicator on *progress towards development of the goal-based standards concept*; and to note the working group's advice to the Council in paragraphs 7.1 to 7.5 of its report and agree to bring those issues to the attention of the committees in the context of the prioritization of their work during the next biennium.

He further invited the Council to note the working group's consideration of the provisional draft strategic plan rolled forward for the period 2006 to 2011, and in particular to instruct the Secretariat to make proposals for a suitable performance indicator on implementation and compliance, pending adoption by the twenty-fourth regular session of the Assembly, of the Voluntary IMO Member State Audit Scheme and the Code for Implementation of Mandatory

IMO Instruments; and agree to amend indicator 9 as proposed; and to approve the revised strategic plan and its related Assembly resolution and decide to forward it to the twenty-fourth regular session of the Assembly for adoption.

He invited the Council to note further the working group's consideration of the high-level action plan and prioritized committees' output for the 2006-2007 biennium, and in particular to concur with its recommendations not to add a high-level action on co-operation, consultation and co-ordination with other international organizations and stakeholders on matters related to the facilitation of maritime traffic and not to amend the text on monitoring and improving conventions by the addition of a reference to the development of conventions; to concur with the working group's recommendations that three new high-level actions on facilitation matters be included in the high-level action plan related to the Strategic Direction on the efficiency of shipping; and to concur on the inclusion of a new high-level action on the identification of the developmental needs of SIDS and LDC; to agree to bring the additional outputs in paragraphs 22.2 to 22.6 of the working group's report to the attention of the committees, and urge them to set aside sufficient time at their future sessions for considering the high-level actions and their associated priorities for the next biennium, in order to ensure that they both accurately and concisely describe their planned activities; to approve the draft high-level action plan and prioritize committees' output for the 2006-2007 biennium and its related Assembly resolution and to forward it to the twenty-fourth regular session of the Assembly for adoption; to note the working group's consideration of proposed revised reporting arrangements in the light of adoption of the strategic plan and concur with its recommendations on reporting arrangements in paragraphs 27.1 to 27.4 and to approve the summarized reporting cycle in diagrammatic form; and to approve the report in general.

**It was so decided.**

**AGENDA ITEM 8 – PROTECTION OF VITAL SHIPPING LANES (C/ES.23/8; C 93/D, paragraph 15 and C 94/D, paragraph 8)**

The SECRETARY-GENERAL recalled that at its ninety-third session, when considering the issue of the protection of vital shipping lanes, the Council had decided, *inter alia*, that the Organization could play a role in the protection of shipping lanes of strategic importance and significance. It had requested him to continue work on the issue, and to report as appropriate. In addition, the Council had decided that the Organization should at the current stage concentrate efforts on the enhancement of safety, security and environmental protection in the Strait of Malacca, and had agreed to the convening of an IMO-sponsored meeting in Jakarta in 2005, to consider ways and means of achieving those objectives. At the previous session, he had given an overview of actions taken to convene that meeting, and had drawn attention to paragraph 49 of United Nations General Assembly resolution A/RES/59/24 on *Oceans and the Law of the Sea*, which referred to decisions of the Council with regard to keeping shipping lanes of strategic importance and significance safe and open to international maritime traffic.

Following extensive consultations with the Governments of Indonesia, Malaysia and Singapore, he had announced, through Circular letter No.2659, the convening of a meeting on the issue in Jakarta on 7 and 8 September 2005. The meeting had been attended by representatives of 34 States, two intergovernmental and seven non-governmental organizations. He believed that the meeting had achieved its main objective, namely to provide a forum for discussions among interested parties with the aim of agreeing on a framework of co-operation to enhance safety of navigation, environmental protection and security in the Straits of Malacca and Singapore. The outcome of the meeting was recorded in the Jakarta Statement, which had been unanimously adopted by the participants and was set out in annex 2 of the document under consideration. The

Statement recorded the measures that littoral States had already taken in an effort to enhance safety, security and environmental protection in the Straits, and further actions they contemplated in that respect. In addition, it invited the Organization to convene a series of follow-up meetings for littoral States to identify and prioritize their needs, and for user States to identify possible assistance, such as information exchange, capacity building, training and technical support.

He had already initiated consultations with the three littoral States, and would report to the Council as soon as substantial progress had been made. At the current stage, he would like to recommend that the Council acknowledge and accept the invitation to IMO and authorize him, in the interval before its next session, to proceed with convening any follow-up meetings deemed necessary.

He recalled that at its ninety-third session the Council had agreed that, in conjunction with the efforts undertaken in relation to the Straits, he should seek to promote the Marine Electronic Highway Project specifically designed for the Straits. The Council would therefore be pleased to know that during the Jakarta Meeting a Memorandum of Understanding and a Memorandum on Arrangements relating to the regional highway demonstration project in the Straits had been signed. He would like to take the opportunity to thank all those involved in the preparation of those two instruments.

Mr. PRASETYO (Indonesia) thanked the Governments of Malaysia and Singapore, the Secretary-General, user States and representatives of the shipping industry for their contribution to the success of the Jakarta Meeting. Indonesia welcomed the Jakarta Statement as a unanimous commitment to co-operation in enhancing safety of navigation, environmental protection and security in the Straits of Malacca and Singapore. He called on all parties to use the Statement as a means of identifying the needs of user States, securing possible assistance, and promoting co-operation.

Ms. SHAARI (observer, Malaysia) said her government would continue to give its fullest support to the Secretary-General's initiative in regard to the protection of the Straits as a shipping lane of strategic importance and significance. It would continue to share with IMO, user States and other stakeholders information on any initiative taken to ensure that the Straits remained open for international navigation in a safe, secure and orderly manner. Malaysia looked forward to the implementation of the Marine Electronic Highway Project, and would contribute in any way possible to expedite its implementation.

Lastly, her government was prepared to host a further meeting to follow up suggestions and recommendations made at the Jakarta Meeting.

Mrs. SEET-CHENG (Singapore) said the Secretary-General's initiative was a significant and visionary one, and she thanked him and his staff for their efforts in bringing about the success of the Jakarta Meeting. The discussions had been particularly constructive in that they had involved not only littoral and user States, but also international organizations and industries. A clear consensus had emerged to enhance multilateral co-operation in contributing to safety, security and environmental protection of the Straits. The littoral States looked forward to discussing specific collaborative arrangements with all parties involved.

One initiative already under way was the introduction of Straits stakeholders to the work of the tripartite technical expert group; they were working together to maintain safety in the Straits. It was intended to launch practical projects with those stakeholders through a Straits users forum. The first meeting of the forum had been held in Jakarta, and had involved China, Japan and the Republic of Korea, and a second meeting was to be held in the first half of 2006.

Further dialogue would help sustain the momentum of the Jakarta Meeting, and she was pleased to learn that Malaysia would be hosting a follow-up meeting. Singapore would do all it could to ensure that that meeting contributed to the success of the initiative.

Mr. CLAY (United States) strongly supported IMO's efforts to facilitate a dialogue between littoral and user States, and to create a framework for multilateral co-operation. He appreciated the Secretary-General's leadership, and commended Indonesia, Malaysia and Singapore for their commitment to such co-operation.

The United States agreed with the Jakarta Statement that it was crucial to identify and prioritize the needs of littoral States in securing the Straits, and for user States to identify potential assistance in responding to those needs. It would participate fully in future meetings.

Mr. FERRER (Philippines) congratulated the three governments concerned and the Secretary-General on the success of the Jakarta Meeting. He fully supported the continued engagement of IMO with the issue, and would be participating in future meetings.

Mr. INNAMI (Japan) joined in welcoming the successful conclusion of the Jakarta Meeting. It was very significant that participants had agreed to establish a mechanism for regular discussions on international co-operation between littoral and user States. The meeting was a first step towards establishing a framework for such co-operation, and he fully supported the Secretary-General's initiative in that respect. Japan, as the main user country, would be contributing to future discussions, and he was grateful to Malaysia for agreeing to host the follow-up meeting.

Mr. OLIMBO (Italy) joined in expressing appreciation to the Secretary-General and the three governments concerned for organizing the Jakarta Meeting.

He suggested that the mandate given to the Secretary-General in that regard should be expanded to include all maritime regions where there was need to set up a framework of co-operation to enhance safety of navigation, security and protection of marine echo systems.

Italy urged IMO, in accordance with article 43 of the United Nations Convention on the Law of the Sea (UNCLOS), calling for closer co-operation between states on matters relating to safety of navigation and pollution prevention, to encourage such co-operation through, for example, maritime security training programmes, joint maritime exercises, and information exchange.

Mr. ISLAM (Bangladesh) said that, as a user State, Bangladesh was especially interested in the safety and security of the Malacca and Singapore Straits and hoped that the Secretary-General would continue his commendable efforts to improve the situation there.

Mr. NTULI (South Africa), commending IMO on its activities to protect vital shipping lanes, said that document C/ES.23/8 confirmed the commitment of the countries of the region concerned in dealing with piracy in the Malacca and Singapore Straits. Their action, which was in accordance with UNCLOS, should serve as a model for dealing with similar problems elsewhere in the world.

Mr. JINGLU HU (China) welcomed the Secretary-General's initiative on the protection of vital shipping lanes. He expressed appreciation to the host country, Indonesia, and the other littoral countries involved for the successful Jakarta meeting. China looked forward to co-operating with the littoral countries and with IMO in activities to enhance the safety and the security of the Straits and other vital shipping lanes.

Mr. AZUH (Nigeria) observed that protection of vital shipping lanes was a collective responsibility of littoral and user States alike. He welcomed the outcome of the Jakarta Meeting, in particular the comprehensive Jakarta Statement, and looked forward to participating in follow-up meetings and to co-operating in the continued efforts of the Secretary-General in ensuring global maritime safety and security, and environmentally sound shipping activities.

Mr. YEANG-JUN JANG (Republic of Korea) expressed appreciation to the Secretary-General for his innovative initiative on the protection of vital shipping lanes. As a major user of the Malacca and Singapore Straits, the Republic of Korea would participate fully in activities to keep the Straits safe and secure.

The SECRETARY-GENERAL welcomed the kind offers from Malaysia and Singapore to host the first and second follow-up meetings of the Jakarta Meeting and looked forward to productive outcomes. The offers made by China and the Republic of Korea to support the meeting infrastructure were a welcome addition to the contribution already received from Japan. He thanked Council Members for their expressions of support for IMO's actions to protect vital shipping lanes, and paid tribute to the hard work undertaken in relation to the Jakarta Meeting by Mr. N. Charalambous, Head of IMO's Maritime Security Section.

Mr. PRAYOONPROHM (observer, Thailand) welcomed the outcome of the Jakarta Meeting. Thailand fully supported IMO and the littoral States concerned in their efforts to protect the Malacca and Singapore Straits and looked forward to participating in future meetings and co-operating in other joint activities.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/8 and that provided orally by the Secretary-General and by the delegations of Indonesia, Malaysia and Singapore and others; to express its appreciation to Indonesia for hosting the Jakarta Meeting and to Indonesia, Malaysia and Singapore for their co-operation and support; to express also its appreciation to the States and intergovernmental and non-governmental organizations that had sent representatives to the Jakarta Meeting and for their contributions to the proceedings and the successful conclusion of the meeting; to express its appreciation to the Secretary-General and his staff for their efforts in organizing, convening and conducting the Jakarta Meeting; to note with satisfaction the adoption of the Jakarta Statement on Enhancement of Safety, Security and Environmental Protection in the Straits of Malacca and Singapore (the Jakarta Statement); to note in particular the elements of the Jakarta Statement relating to the measures the littoral States had already established in an effort to enhance safety, security and environmental protection in the Straits of Malacca and Singapore and the further actions they contemplated taking in that respect; to note also with satisfaction the signing, during the Jakarta Meeting, of the Memorandum of Understanding and of the Memorandum on Arrangements relating to the regional Marine Electronic Highway (MEH) demonstration project in the Straits of Malacca and Singapore; to authorize the Secretary-General to convene, in consultation with the littoral States and pursuant to requests contained in the Jakarta Statement, a series of follow-on meetings for the littoral States to identify and prioritize their needs, and for user States to identify possible assistance to respond to those needs, which might include information exchange, capacity building, training and technical support, with a view to promoting and co-ordinating co-operative measures; to thank the Government of Malaysia for its offer to host the next IMO-sponsored meeting on the Malacca and Singapore Straits, which, like the Jakarta Meeting, should involve the littoral and user States; and to reaffirm its mandate to the Secretary-General to continue his work relating to the protection of shipping lanes of strategic importance and significance and to report to the Council as and when appropriate.

**It was so decided.**

**AGENDA ITEM 17 – SUPPLEMENTARY AGENDA ITEM:****(a) PIRACY AND ARMED ROBBERY AGAINST SHIPS IN WATERS OFF THE COAST OF SOMALIA (C/ES.23/17(a))**

The SECRETARY-GENERAL, introducing the item, said that for some time the number, frequency and nature of the piracy and armed robbery incidents and attempts reportedly occurring in waters off the coast of Somalia had been of great concern to the IMO Secretariat. On many occasions during the course of 2005, therefore, he had raised the matter with officials from the region and other interested parties. Over the years, the Secretariat had co-operated, on a number of occasions, with the Monitoring Group on Somalia, which had been set up by the United Nations Security Council to monitor the arms embargo on Somalia established by the Security Council in January 1992. In November 2004, the IMO Council had considered the recommendation of the Monitoring Group that IMO, in consultation with neighbouring States and other agencies and organizations concerned, should develop a practical coastline-monitoring programme for Somalia, and had agreed to bring that recommendation to the attention of the MSC, MEPC and TCC for consideration and action as appropriate. As indicated by Italy during consideration of the previous item, with financial support from the United Kingdom and the involvement of other United Nations organizations, IMO had organized a seminar in Sana'a, Yemen in April 2005, which had brought together the States along the coast of the Red Sea and the Gulf of Aden in an effort to enhance security and regional co-operation against piracy and armed robbery in those areas. Following the evaluation of the results of that meeting, arrangements were being made for a follow-up meeting in Oman in January 2006.

The situation in the waters off the coast of Somalia had secured the attention of the world's news media following the hijacking on 27 June 2005 of a ship carrying food aid to Somalia for the United Nations World Food Programme. Demands for the payment of ransom for the release of the ship, its crew and cargo had been made; the vessel had been held for 100 days and had finally been released on 5 October 2005. The number of incidents off the coast of Somalia had increased dramatically during the course of 2005. He had therefore raised the matter on 28 October 2005 at a meeting of the United Nations Chief Executives Board for Co-ordination. In sharing his grave concerns with the United Nations Secretary General, he had indicated that he would raise the matter at the current session of the IMO Council, seeking its approval for an *ad hoc* resolution to be submitted to the forthcoming session of the Assembly.

Annex 1 to document C/ES.23/17(a) listed the 33 incidents reported between 15 March and 8 November 2005. Annex 2 provided a map of the attacks; one recent incident had occurred 390 nautical miles from the nearest land, the remainder at distances of up to 180 nautical miles. In 13 cases, it had been confirmed that the perpetrators had opened fire against the ship; up to seven ships had possibly been held hostage, although details of the circumstances were not yet available. Luckily, so far only one seafarer had been reported as injured.

Clearly the situation presented a grave danger to life and a serious risk to the safety of navigation. Moreover, given the types of ships that had been attacked, the possibility of an environmental disaster could not be ruled out. The strategic importance of the navigational routes along the coast of Somalia for regional and global seaborne trade required that they remained safe at all times. He shared the view of the United Nations World Food Programme that the current, unacceptable situation had had a negative impact on the prompt and effective delivery of humanitarian assistance to Somalia and posed a serious threat to the health and wellbeing of its people. He also shared the safety and security concerns of the shipping industry and the seafaring community at the attacks, which had culminated in that on the cruise ship **Seabourn Spirit** on 5 November 2005 at a distance of some 100 nautical miles from the coast.



The fact that attacks had been launched from small craft at considerable distances from the shore pointed to well co-ordinated operations organized by criminal groups seeking funds to subsidize operations of another kind. Whatever the motives or objectives, the fact remained that innocent merchant ships had become the targets of unlawful acts, jeopardizing the lives of seafarers and passengers, and placing at risk ships, cargoes and the environment. There was clear need for the institution of a range of appropriate measures at all levels to bring the situation under control.

The purpose of the proposed draft Assembly resolution set out in annex 3 to document C/ES.23/17(a) was to raise the level of awareness, encourage flag States to provide specific instructions to their ships and foster co-operative arrangements in an effort to reduce the likelihood of further incidents in the area. It also sought the Assembly's authorization for him to notify the United Nations Secretary General who could then take appropriate action, including referring the matter to the Security Council. In addition, it envisaged the provision of technical assistance to Somalia and to the nearby coastal States for support to the maritime community when sailing through the waters off the Somali coast.

While it was not his intention to discuss the recent political history of Somalia, it was clear, from a variety of United Nations sources, that the current situation was fragile and that the Transitional Federal Government did not appear to be in a position to exercise various executive and law-enforcement functions. He was mindful of the technical and regulatory character of IMO, which he wished to maintain, and was fully aware of potential political connotations. However, the maritime community was facing a unique and complex situation, which required an exceptional response. He had endeavoured, through various channels, to invite Somalia's Transitional Federal Government to send representatives to attend the proceedings of the Council and of the Assembly. He did not yet know whether a representative would attend the Assembly.

He suggested that, because of time constraints at the current session, the Council might wish to approve the proposed draft resolution in principle, to submit any proposed amendments in writing to the Secretariat, and to allow him to prepare a revised text, indicating the proposed amendments, for consideration in detail at the forthcoming Assembly.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/17(a) and that provided orally by the Secretary-General, and to unreservedly condemn and deplore all acts of piracy and armed robbery against ships, irrespective of where such acts had occurred or might occur; to appeal to all parties which might be able to assist to take action to ensure that all acts or attempted acts of piracy and armed robbery against ships were terminated forthwith and any plans for committing such acts were abandoned and that any hijacked ships were immediately and unconditionally released and that no harm was caused to seafarers serving on them.

**It was so decided.**

Mr. DIAMOND (United States), commending the Secretary-General for his leadership in the area under consideration, agreed that the serious situation in the waters off the coast of Somalia had been further highlighted by recent events. All countries should join in condemning acts of piracy and armed robbery against ships and make a commitment as individual States and through regional and international co-operation to eliminate such acts. The United States therefore supported the operative paragraphs of the draft resolution and the procedure suggested by the Secretary-General. However, his delegation intended to submit some minor amendments to the preamble to the Secretariat. It also proposed the deletion of the tenth preambular paragraph. Piracy and armed robbery at sea were serious enough threats to warrant a specific resolution and it was therefore unnecessary to refer to United Nations General Assembly

resolution A/RES/60/1. The latter dealt primarily with terrorism and organized transnational crime and there was as yet no conclusive evidence to indicate that piratical acts against ships were linked to either.

Mr. PONOMAREV (Russian Federation) supported the draft resolution as proposed. The Council did not have sufficient time to consider the current text or any proposed amendments at the current session and he therefore supported the procedure suggested by the Secretary-General.

Mr. CZERWINSKI (Poland) supported the draft resolution, with the amendment proposed by the United States, and the procedure proposed by the Secretary-General. He expressed appreciation for the prompt action taken by the Secretary-General, which he hoped would help solve what was a difficult problem.

Mr. GASC (France) supported the suggestion made by the Secretary-General that the Council should approve the draft resolution in principle and transmit it to the Assembly for consideration, together with any comments or proposed amendments. The Council should consider that suggestion rather than making detailed comments on the text of the resolution. He requested the chairman to clarify the course of action the Council should follow.

The CHAIRMAN said that the Secretary-General's suggestion was before the Council but that Members nevertheless had the right to present their views.

Mr. GASC (France) said that in that case he would also propose several amendments. First of all, however, there should be no doubt that France supported wholeheartedly the Secretary-General's initiative to submit a draft resolution to the Assembly on the situation off the Somali coast. He supported the amendment proposed by the United States that the reference to United Nations General Assembly resolution A/RES/60/1 on the World Summit Outcome should be deleted. He proposed that there should be a specific reference to Article 110 of UNCLOS on right of visit, in addition to the reference to Article 100. Referring to paragraph 7.1, he said that it was for the United Nations Secretary General rather than IMO to determine how he should proceed and the level to which he should refer the matter. Moreover the Security Council was already aware of the problem. He therefore proposed that the words "including bringing the matter to the attention of the Security Council for consideration and action as appropriate" should be deleted. He also drew attention to a discrepancy in meaning between the English and French texts in that paragraph: the English word "including" had been rendered as "*notamment*" in French.

Mr. ALLAN (United Kingdom), supporting the views of the Russian Federation, said that the draft resolution was important for IMO and the United Nations and should be given due attention. The Council did not have the time at its current session to discuss the matter adequately, however. It should therefore approve the draft resolution in principle and pass it to the Assembly for detailed consideration in committee.

Mr. STENSCHKE (Germany) said that Germany had expressed concern about the situation around the Horn of Africa. It had warned its ships not to enter the 200-mile zone off the coast of Somalia; if they did so they should raise the level of security in accordance with the ISPS Code. He therefore supported the IMO initiative to protect vital shipping lanes and approved the draft resolution in principle.

Mr. PACHA VICENTE (Spain) joined previous speakers in fully supporting the Secretary-General's suggested procedure. The Council did not have time to discuss specific points during the current session and the draft resolution should be submitted to the Assembly for detailed consideration in committee.

Mr. RIOS VARELA (Chile) shared Spain's viewpoint.

Mr. SHIREEN (Egypt), condemning all acts of violence irrespective of where they occurred in the world, expressed his grave concern about the incidents, especially in view of their proximity to the Suez Canal, a vital waterway for international sea trade. While he supported the spirit of the draft resolution and endorsed the comments of France and the United States, before approving the draft resolution he needed to discuss the wording used with other East African and Arab Member States.

Recalling that the United Nations Security Council had agreed in its resolution S/RES/1630 of 14 October 2005 to reactivate the Somalia Monitoring Group, he expressed disappointment that there was no mention of that in either the preamble or the text of the draft resolution. Similarly, the report of the Monitoring Group asking for a ban on foreign fishing in the 200-mile exclusive economic zone off the coast of Somalia had not been mentioned, and neither had the IMO April 2005 workshop in Sana'a, Yemen, whose many recommendations included one on establishing a monitoring system for neighbouring countries.

He pointed out that the Jakarta Statement was completely different in its philosophy and phrasing, speaking of full respect for the sovereignty and rule of the littoral State, whereas the draft resolution merely appealed to all countries to assist. Pointing out that a coalition maritime force, known as the "Joint Task Force – Horn of Africa", was already in operation and had successfully intervened in three incidents, he requested clarification on the relationship between that task force, the draft resolution and the United Nations embargo resolution. Moreover, the Arab ministries of transport would meet on 23 and 24 November 2005 to discuss the situation in detail, when IMO's conclusions on the issue would be reported. Likewise, the COMESA countries were gravely concerned about the situation and had convened a meeting for 5 December 2005.

He suggested a few amendments to the text of the draft resolution: first, subparagraph 7.4 should be changed to the effect that IMO would accept the recommendations of the Member States that had met in Sana'a; secondly, he supported the deletion of the tenth preambular paragraph, as proposed by the United States; thirdly, he suggested that the international legal regime should be mentioned in operative paragraph 2, so that it read: "Appeals to all parties, which may be able to assist within the framework of the international legal regime, to take action to ensure that ...".

Finally, he expressed full support for the draft Assembly resolution in principle and said that Egypt was willing to host any further meeting on the issue, following on from the Oman meeting.

Mr. DIAMOND (United States) said he fully concurred with the Secretary-General's suggested procedure.

Mr. HANSEN (Denmark) joined previous speakers in expressing his appreciation of the initiative and supported the proposed procedure of the Secretary-General.

Mr. NESTEROULIS (Greece) associated himself with the recommendations made by the United Kingdom and Spain and agreed that the best way forward was to follow the Secretary-General's suggestion.

Mr. DAVENA (Brazil) firmly supported the draft resolution in principle, provided the text was amended to take into account the comments of the United States and France before being forwarded to the Assembly.

Mr. AL-OHALY (Saudi Arabia) agreed that the draft resolution should be submitted to the Assembly for consideration and adoption, taking into account the comments of the United Kingdom.

Mr. NTULI (South Africa) wished to record that at least two African Member States had spoken on the very serious matter of piracy off the Somali coast. The position of Egypt was shared widely by other African countries, including his own, and he urged that any solution should take into account the work that was already being undertaken at local level. He recalled that the response to the Malacca Strait incidents had ensured that the process was controlled by, and had the full participation of, the Member States of that region, and South Africa had not expected an exception to be made when it came to the continent of Africa. He joined previous speakers in supporting the procedure suggested by the Secretary-General.

Mr. AZUH (Nigeria) associated himself with the comments of South Africa and also endorsed the procedure proposed by the Secretary-General.

Mr. OLIMBO (Italy), agreeing that such a sensitive issue merited greater deliberation, said that Italy would like to propose some changes to the text and therefore fully supported the procedure suggested by the Secretary-General.

Mr. RAFIQUL (Bangladesh) supported submitting the draft resolution to the Assembly. However, since, as was stated in document C/ES.23/17(a), the particular character of the present situation in Somalia required an exceptional response, it would not be sufficient to forward a draft resolution to the Assembly, and he suggested that IMO might consider taking immediate steps to improve ship security by adopting a designated sea route off the coast of Somalia for shipping, requesting the United Nations Secretary General to provide security on that sea route by any possible means at their disposal. He also suggested that the area should be declared dangerous for international shipping and that all flag States should inform their ships to proceed there with care. Furthermore, all ships using the designated sea route should be asked to report regularly to the nearest port State about the progress of their voyage.

Mr. SEMANE (Algeria) endorsed the reservations expressed by Egypt, especially the view that the main responsibility for ensuring the safety of their coastlines lay with the Member States in the region affected.

Mr. VASSALLO (Malta) suggested that comments and proposed amendments made by Member States should be collated so as to facilitate the work of the committee asked to consider the draft resolution.

Mr. IKIARA (observer, Kenya) welcomed the timeliness of the initiative and supported the draft resolution in principle. As one of Somalia's neighbouring States and having an IMO designated Search and Rescue Centre, Kenya had been directly affected by the incidents. International co-operation was paramount and Kenya was therefore willing to offer any facilities or assistance that IMO and the Somali Transitional Federal Government might require and hoped to be fully involved in finding a permanent solution to the problem.

The SECRETARY-GENERAL said he regretted having to submit the draft resolution so tardily. The serious and audacious attack in the eastern Straits had acted as a wake-up call, prompting immediate action. As many comments as possible from Member States had been sought beforehand and those had been taken into account in drafting the text. The additional comments from the present session would also be taken into consideration in a further effort to ensure that the Assembly adopted the best possible text, addressing as many as possible of the

concerns raised, in order to guarantee safety, security and environmental protection in the area affected by the piracy attacks.

He had been concerned at comments by Member States that IMO was taking a different line of action to that adopted in the case of the Malacca Strait. He pointed out that the two areas bore no similarity in terms of geographical situation, the Malacca Strait not being in the open ocean. It had certainly not been IMO's intention to be discriminatory, and he warned against the issue becoming regionalized in a way that might have a negative effect on the general desire to enhance safety, security and environmental protection off the coast of Somalia.

He thanked Kenya for drawing attention to the establishment of the IMO-supported regional maritime rescue co-ordination centre in Mombasa, with two sub-centres in Tanzania and the Seychelles, which was at an advanced stage and would play an important role in rendering assistance or in preventing criminals from attacking merchant ships in that part of the Indian Ocean. He reported that \$500,000 from the Tsunami Maritime Relief Fund, inaugurated largely thanks to a generous donation of \$1,050,000 by the Union of Greek Shipowners, would be spent on finalizing the infrastructure for the Mombasa centre to enable it to be operational as soon as possible. Although mainly concerned with co-ordinating search and rescue operations in the area, the centre could also deal with some aspects of the piracy problem.

Mr. GASC (France) asked under which agenda item of the Assembly's twenty-fourth session the issue would be considered and to which committee it would be referred.

The SECRETARY-GENERAL confirmed that the matter would form part of the Council's report to the Assembly on the work of the Organization since the twenty-third regular session of the Assembly, under agenda item 8. The Assembly would decide to which committee the item would be sent for further consideration.

The CHAIRMAN invited the Council to support the Secretary-General's initiative and approve the draft resolution, in principle, for submission to the twenty-fourth session of the Assembly for consideration with a view to adoption.

He also invited the Council to express appreciation to all those who had rendered assistance or responded to calls from ships under attack in the waters off the coast of Somalia and to encourage them within their means and mandates to continue to do so when possible; and to record its appreciation for the good work done by the International Maritime Bureau of the International Chamber of Commerce and the help it had provided to the industry over the years, in particular in relation to incidents occurring in the waters off the coast of Somalia; and to agree that those issues should be acknowledged in the draft resolution by the inclusion of an appropriate paragraph in the preamble.

**It was so decided.**

#### **AGENDA ITEM 9 – CONSIDERATION OF THE REPORT OF THE FACILITATION COMMITTEE (C/ES.23/9; FAL 32/22)**

Mr. ABELA (Malta), speaking as Chairman of the Facilitation Committee, said that, as the report of the thirty-second session of the Facilitation Committee had been distributed some time previously, Council Members would be aware of the outcome.

There were three blocks of amendments to the FAL Convention, the first dealing with systems to allow pre-arrival and pre-departure information to facilitate the processing of

information by public authorities. The second block of amendments dealt with the amendments to the FAL Forms that were required to align the terms used in the forms with those in other IMO instruments. Other amendments concerned facilitation of the arrival and departure of vessels engaged in the rescue of persons at sea.

The Committee had also continued its development of a comprehensive explanatory manual to the FAL Convention.

An important item discussed had been facilitation for the clearance of ships by electronic means; the Committee had decided to develop the “single window” system to simplify, standardize and make effective use of the ship’s arrival and departure information. In that regard, it had also decided to revise the “IMO Compendium on Facilitation and Electronic Business” to reflect the amendments that had been agreed.

Another important item had been the review of the “Guidelines for the Prevention and Suppression of the Smuggling of Drugs, Psychotropic Substances and Precursor Chemicals on Ships” (resolution A.872(20)). Having reviewed the Guidelines in detail, the Committee had agreed that its alignment with the provisions of SOLAS chapter XI-2 and the ISPS Code should be done jointly with the MSC, and had prepared a draft Assembly resolution on the revision of the Guidelines which, *inter alia*, invited the Assembly to authorize the FAL Committee and the MSC jointly to adopt the revised Guidelines.

The Committee had also considered various issues related to facilitation aspects of maritime security. In particular, it had agreed that information, data or documents which had been submitted prior to the arrival of the ship should not have to be submitted again by the public authorities once the ship had arrived within the port, unless there had been any changes. Recalling that the 2002 SOLAS Conference had adopted resolution 9 on *Enhancement of security in co-operation with the World Customs Organization (WCO)* and noting that the WCO Council in June 2005 had adopted the “Framework of Standards to Secure and Facilitate Global Trade”, the Committee had decided to further consider, at FAL 33, the issues emanating from the work of WCO.

The Committee had also reviewed the problem of stowaway incidents and had noted that there had been a marked decrease in the number of cases. It had felt that the 2002 amendments to the FAL Convention addressing the resolution of stowaway incidents and the implementation of the ISPS Code had had a positive impact on the reduction of stowaway cases.

Another important issue considered by the Committee was online access to the certificates and documents required to be carried on board ships. The Committee had considered whether access by port State control officers to information on such certificates and documents would be facilitated and simplified through the use of modern communication technology, such as online databases. In view of the perceived advantages of online access to such information, the Committee had agreed to study the development of such a system, and had requested the MSC and the MEPC to provide feedback.

With regard to ship/port interface matters, the Committee had approved a FAL circular on “Guidelines on minimum training and education for mooring personnel”.

The Committee had also considered the transportation and shipment of IMDG Code class 7 radioactive materials, in particular Cobalt-60, being concerned about the potential adverse consequences that denial of such materials used in medical applications might have on public health. In that regard, the Committee had approved a FAL circular, which Canada would be following up with a draft Assembly resolution.

The Committee had also approved a FAL circular on “Facilitation in avoiding safety-threatening conditions” in response to cases in which public authorities for various reasons had refused or delayed the movement of material, equipment, fuel and other supplies to ships essential for their safe operation. The circular urged public authorities not to unreasonably prevent, except in the case of judicial proceedings, the delivery of essential supplies to ships.

FAL 32 had also discussed its work in detail and refined its role, mission, strategic direction and work in order to be able to actively contribute, in co-operation with other IMO bodies, towards the achievement of the objectives of the Strategic Plan of the Organization.

As to the 1991 amendments to the IMO Convention aimed at institutionalizing the FAL Committee, the Facilitation Committee expressed its sincere appreciation to the Secretary-General and to the Council for taking the initiatives to achieve early implementation of the amendments. As resolution A.945(23) had emphasized, the FAL Committee would continue to make an important contribution to the facilitation of international maritime traffic.

Finally, he expressed the hope that the Council would concur that the work of the FAL Committee would definitely contribute to the efficiency of maritime traffic.

The SECRETARY-GENERAL reiterated the Council’s invitation to Member Governments to accept the 1991 amendments to the IMO Convention concerning the institutionalization of the FAL Committee in order to bring them into force.

He remarked that the theme of the 2005 World Maritime Day: “International Shipping – Carrier of World Trade” was one that should be at the heart of the work of the FAL Committee. As had been reflected in the report of the *ad hoc* Council Working Group on the Organization’s Strategic Plan, further progress in the field of facilitation was among the priority issues on which significant achievements were anticipated in the Organization’s high-level action plan for 2006 and 2007. The FAL Committee had contributed to that by establishing its own mission and strategic directions for its work programme, which was a commendable step forward. He and the Council had every confidence that, under the able leadership of its Chairman, the FAL Committee would continue making progress in the pursuit of its objectives.

Mr. RAFIQUL (Bangladesh) informed the Council that his government was finalizing its accession to the 1991 amendments and was expecting to send the instrument of accession to IMO by early 2006.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/9 and that provided orally by the Secretary-General and the Chairman of the FAL Committee; to note the actions taken by the FAL Committee as itemized in document C/ES.23/9, paragraphs 29.1 to 29.17, and in particular to approve the list of substantive items to be included in the agenda for the Committee’s thirty-third session and endorse the Committee’s recommendation that two meeting weeks be allocated to the Committee for the biennium 2006-2007.

He further invited the Council to transmit the report of the Committee’s thirty-second session, with its comments and recommendations, to the twenty-fourth session of the Assembly.

**It was so decided.**

**AGENDA ITEM 10 – CONSIDERATION OF THE REPORT OF THE MARINE ENVIRONMENT PROTECTION COMMITTEE (C/ES.23/10)**

Mr. CHRYSOSTOMOU (Cyprus), speaking as Chairman of the Marine Environment Protection Committee (MEPC), said that the Committee had held its fifty-third session from 18 to 22 July 2005, which had been attended by 88 Member States, one Associate Member, four United Nations agencies and five intergovernmental and 38 non-governmental organizations. The report of the session was summarized in document C/ES.23/10; the full report was contained in document MEPC 53/24.

The Committee had made significant progress on all the substantive items on its agenda. In particular, it had adopted amendments to MARPOL Annex VI, which introduced the Harmonized System of Survey and Certification (HSSC) to the Annex and established the North Sea as a SO<sub>x</sub> Emission Control Area (SECA). The amendments were expected to enter into force on 22 November 2006. The Committee had also adopted amendments to the Condition Assessment Scheme (CAS) for oil tankers to bring its cross-references into line with the revised MARPOL Annex I. The amendments were expected to enter into force on 1 January 2007. Further, the Committee had adopted five priority guidelines called for under the Ballast Water Management (BWM) Convention: guidelines for ballast water management equivalent compliance; guidelines for ballast water exchange; guidelines for approval of ballast water management systems; procedures for approval of ballast water management systems that make use of active substances; and guidelines for ballast water management and development of ballast water management plans.

The Committee, having considered proposals for approval of ballast water management systems that made use of active substances and with a view to ensuring that such active substances did not present unreasonable risks to the environment, human health, property or resources, had agreed that a dedicated GESAMP-Ballast Water Technical Group on Active Substances, financed through a fee scheme paid by the industries requesting such approval, would best serve the needs of the shipping industry and meet the challenges posed by the timeline established by the BWM Convention. The Committee had approved the terms of reference for such a technical group and had instructed the Secretariat to approach GESAMP formally for its establishment so that the first meeting of the technical group could be held as soon as possible.

In accordance with regulation D-5 of the BWM Convention, the Committee had established the Ballast Water Review Group to review and determine whether appropriate technologies were available to achieve the ballast water performance standard required under regulation D-2 of the BWM Convention. It was reasonable to expect that the ballast water management technologies and systems would be available to meet the review criteria of regulation D-5.2 of the BWM Convention by October 2008.

The Committee had agreed that IMO should develop, as a high priority, a new instrument on ship recycling with a view to providing legally binding and globally applicable ship recycling regulations for the international shipping industry and recycling facilities. It had also agreed that the development of the instrument should be completed in time for consideration and adoption by a diplomatic conference in the 2008-2009 biennium. The Committee had further agreed that the development of a new legally binding instrument on ship recycling should not shift attention away from implementation of the “IMO Guidelines on Ship Recycling” adopted by resolution A.962(23). With a view to improving the current IMO guidelines and to facilitating their implementation, the Committee had approved a number of amendments to the IMO guidelines for submission to the twenty-fourth session of the Assembly for adoption.



The Committee had approved an MEPC circular on “Interim Guidelines for Voluntary Ship CO<sub>2</sub> Emission Indexing for Use in Trials”.

The Committee had agreed on the need for a general review of MARPOL Annex VI and the NO<sub>x</sub> Technical Code with a view to revising the regulations to take account of current technology and the need to further reduce air pollution from ships. It had approved the terms of reference for the revision work to be undertaken by the BLG Sub-Committee with a target completion date of 2007.

Having considered the outcome of the NAV Sub-Committee and the Maritime Safety Committee with regard to associated protective measures, the MEPC had designated four new Particularly Sensitive Sea Areas (PSSAs): the Torres Strait as an extension of the Great Barrier Reef PSSA, the Canary Islands, the Galapagos Archipelago, and the Baltic Sea Area. The Committee had approved a revised text of the PSSA Guidelines and the associated draft Assembly resolution for submission to the twenty-fourth session of the Assembly.

In an effort to improve the rate of reporting of alleged reception facility inadequacies so that the problem could be tackled more effectively, the Committee had approved an MEPC circular on “Revised Consolidated Format for Reporting Alleged Inadequacy of Port Reception Facilities”. It had also approved an MEPC circular on “Waste Reception Facility Reporting Requirements” and, with a view to promoting easy access to all the information on available reception facilities collected by the IMO Secretariat over the years, had agreed to develop a port reception facility database as a module of the IMO Global Integrated Shipping Information System (GISIS).

The Committee had noted the importance and implication of the long-range identification and tracking of ships (LRIT) system for pollution prevention and, having considered a proposal by Norway, had agreed to invite the MSC to note that the MEPC wished to see, at an appropriate time, the extension of LRIT to include environmental applications. However, the MEPC had not wished to put forward any specific proposals as it had recognized the priorities set by the MSC in relation to development of the LRIT system.

The Committee had noted that, during the June 2005 meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, IMO, as the Administrative Secretary of GESAMP, had convened a meeting of the sponsoring organizations to discuss the GESAMP reform process. It had been concluded that the GESAMP mechanism and its future should not be linked to the regular process for global reporting and assessment of the state of the marine environment but should continue irrespective of the decision on that process. With the exception of WHO, UNEP and IOC, the sponsoring organizations had supported the continuation of GESAMP, recognizing that the restructuring and financing of the proposed new GESAMP had not yet been resolved. The MEPC had also noted that the Administrative Secretary would convene another meeting in 2005 of the GESAMP secretariat to address the structuring and financing of the proposed new GESAMP. The next session of GESAMP itself, in early 2006, would develop a work programme for GESAMP, based on its mission statement and strategic vision.

The Committee’s conclusions and decisions on various other items were also summarized in document C/ES.23/10. The action requested of the Council was summarized in paragraph 76.

The SECRETARY-GENERAL drew attention to the landmark decision of the MEPC that IMO should develop, as a high priority, a new instrument on ship recycling with a view to providing legally binding and globally applicable regulations for the international shipping and

ship recycling industries. As indicated by the Chairman of the MEPC, a draft resolution had been prepared for adoption by the forthcoming Assembly, requesting the Committee to develop such an instrument in order to provide regulations to facilitate safe and environmentally sound ship recycling, including regulations for the design, construction, operation and preparation of ships; for the operation of ship recycling facilities; and for the establishment of an appropriate enforcement mechanism for ship recycling. The Secretariat would provide all the necessary support to ensure that the preparation of the new instrument could be completed in time for consideration and adoption by a conference in the 2008-2009 biennium, as recommended in the draft resolution.

He stressed the importance of bringing the BWM Convention into force as soon as possible. In all meetings with Member Governments, he explained the benefits that would accrue to the marine environment once implementation of the Convention commenced. He was therefore grateful to the Governments of the Maldives, Nigeria, Saint Kitts and Nevis, Spain and the Syrian Arab Republic for their prompt action in ratifying the Convention. The MEPC was continuing efforts to assist and had made significant progress on the development of implementation guidelines, five of which had been adopted by MEPC 53. That should facilitate the understanding of the Convention's requirements and encourage more governments to ratify the Convention, accelerating its entry into force.

He was particularly pleased that the Committee had approved the "Interim Guidelines for Voluntary Ship CO<sub>2</sub> Emission Indexing for Use in Trials" as requested by resolution A.963(23), and hoped that further progress would be made at future sessions to demonstrate the Organization's commitment in that area.

The progress made by the MEPC during the session under review clearly indicated that the Committee was performing well as the global regulatory forum for addressing environmental issues generated by, or affecting, international shipping. He therefore hoped that the Council would continue to support the Committee to enable it to discharge its heavy responsibilities in a manner commensurate with the expectations of Members and those entities that were sensitive to the need to protect the marine environment from all sources of ship-generated pollution.

Mr. FINLEY (Panama) paid tribute to the outstanding work of the Chairman of the MEPC.

The CHAIRMAN invited the Council to note the information provided in document C/ES.23/10 and that provided orally by the Secretary-General and the Chairman of the MEPC, and, in particular, to note the recent establishment of a GESAMP – Ballast Water Working Group on Active Substances and to authorize the Secretary-General to establish a Trust Fund for the management of the income and expenditure that would be entailed in the operation of the group's work; to endorse the agreement by the MEPC to develop a new legally-binding instrument on ship recycling, together with an associated draft resolution for adoption by the twenty-fourth session of the Assembly; to endorse the Committee's decision to undertake a general review of MARPOL Annex VI and the NO<sub>x</sub> Technical Code; and to endorse the Committee's approval of the revised text of the PSSA Guidelines together with an associated draft resolution for adoption by the twenty-fourth session of the Assembly. He further invited the Council to transmit the report of the Committee's fifty-third session, with its comments and recommendations, to the twenty-fourth session of the Assembly.

**It was so decided.**

**AGENDA ITEM 11 – REPORT ON THE 2005 INTERNATIONAL CONFERENCE ON THE REVISION OF THE SUA TREATIES (C/ES.23/11)**

The SECRETARY-GENERAL said that document C/ES.23/11 reported on the outcome of the 2005 International Conference on the Revision of the SUA Treaties, which had been convened by decision of the Council pursuant to the request of the IMO Assembly in resolution A.924(22). It had been held at IMO headquarters from 10 to 14 October 2005. The Conference had adopted the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

The two new Protocols were aimed at ensuring that the legal framework put in place by IMO in Rome in 1988 continued to provide an adequate basis for the arrest, detention, extradition and punishment of terrorists acting against shipping or fixed platforms or using ships to perpetrate acts of terrorism. Their main objective was to broaden the list of offences made unlawful under the parent treaties, including the use of a ship itself in a manner that causes death or serious injury or damage, and transporting on-board ship biological, chemical or nuclear weapons. The 2005 Protocol to the SUA Convention also introduced provisions for consensual boarding of ships where there were reasonable grounds to suspect that the ship or a person on board the ship was, had been, or was about to be involved in, the commission of an offence under the Convention.

The 2005 SUA Protocols complemented the practical maritime security measures adopted by IMO, in particular SOLAS chapter XI-2 and the ISPS Code which had entered into force in July 2004, by regulating the legal situation in the unfortunate event that, despite all reasonable precautions having been taken, a terrorist attack should occur.

The Protocols would be open for signature at IMO headquarters from 14 February 2006 until 13 February 2007, and would thereafter remain open for accession. The 2005 Protocol to the SUA Convention would enter into force ninety days following the date on which twelve States had expressed their consent to be bound by it, while the 2005 Protocol to the SUA Protocol would enter into force ninety days following the date on which three States had expressed their consent to be bound by it, provided, as it was important to note, that the 2005 SUA Protocol to the Convention had entered into force.

Under the Final Act and the Protocols, he was required to perform certain functions, including the preparation of the authentic texts in Arabic, Chinese, English, French, Russian and Spanish, the transmission of certified copies of the Final Act and of the text of the Protocols to the governments of the States invited to be represented at the Conference, and the preparation of consolidated texts of the Protocols in those six languages. Document C/ES.23/11 invited the Council to authorize the performance of those functions.

The success of the Conference was due in no small measure to the excellent contribution of the elected officers, to whom he extended his warm appreciation. They were the President of the Conference: Ambassador Giancarlo Aragona (Italy); the Vice-Presidents: Vice-Admiral Francisco Martínez (Chile), Ambassador Gehad Madi (Egypt), Ambassador Aurimas Taurantas (Lithuania), Ambassador António Gumende (Mozambique) and Ambassador Edgardo B. Espiritu (the Philippines); the Chairman of the Committee of the Whole: Mr. Alfred Popp (Canada); the Chairperson of the Drafting Committee: Ms. Renée E. Leon (Australia); and the Chairman of the Credentials Committee: Mr. Evans King (Trinidad and Tobago). The outcome of the 2005 SUA Conference would be of great value in supplementing the regulatory regime IMO had so

diligently put in place to protect shipping against acts of terrorism. He was confident that governments would give the two new protocols their most favourable consideration, promptly ratify them and bring them into force at the earliest possible opportunity.

Mr. FINLEY (Panama), referring to the list of those attending the diplomatic conference, asked for clarification as to the status and role of the European Commission.

The SECRETARY-GENERAL said that the European Commission had been present as an observer following an agreement between it and IMO.

Mrs. BALKIN (Director, Legal Affairs and External Relations Division) said that the European Union had been admitted as an observer under the rules governing IGOs in 1974, as only IGOs or NGOs were permitted that status. At the SUA Conference there had been an objection to the Commission being included with the IGOs, and so they had been listed as the European Commission. It was not clear whether the Commission was an IGO.

The SECRETARY-GENERAL said that the Final Act of the Conference reflected what had taken place. Paragraph 7 of the Final Act listed the IGOs which had attended as observers, with paragraph 8 noting that the European Commission had sent observers to the Conference.

Mr. CHRYSOSTOMOU (Cyprus) thanked the representative of Panama and the Secretary-General and Mrs. Balkin for their explanations. He asked whether the European Commission had been allowed to attend the Conference, not as an IGO, but as an observer with general status.

Mrs. BALKIN (Director, Legal Affairs and External Relations Division) said that when the drafting committee had been discussing the Final Act, some Member States belonging to the European Community had objected to the Commission being listed with the IGOs and had asked the drafting committee to find a way to list the Commission separately.

The CHAIRMAN invited the Council to note the information contained in document C/ES.23/11 and that provided orally by the Secretary-General, and in particular to note the successful conclusion of the Conference; to express appreciation to the President and the Officers of the Conference; and to authorize the Secretary-General to perform the depositary functions and other functions required under the Final Act of the Conference and under the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, as set forth in documents LEG/CONF.15/21, LEG/CONF.15/22 and LEG/CONF.15/23, respectively.

**It was so decided.**

**AGENDA ITEM 12 – REPORT ON THE TWENTY-SEVENTH CONSULTATIVE MEETING OF CONTRACTING PARTIES TO THE LONDON CONVENTION, 1972 (C/ES.23/12 and Add.1)**

The SECRETARY-GENERAL said that the Twenty-seventh Consultative Meeting of Contracting Parties to the London Convention had been convened from 24 to 28 October 2005 at IMO headquarters. With regard to preparations for the entry into force of the London Protocol, which was expected in 2006 or 2007, the meeting had continued with the development of compliance procedures and mechanisms under the Protocol and completed emergency procedures and criteria, after incorporation of advice from the MSC on the safety risks to vessels.

With regard to CO<sub>2</sub> sequestration in sub-seabed geological structures, the meeting had reviewed an interim report on relevant technical aspects showing that capture and storage of CO<sub>2</sub> in geological structures was technically feasible, but also that there were gaps in knowledge related to possible impacts on the marine environment and in technology, such as monitoring techniques, which needed to be addressed. The meeting had also reviewed a compilation and analysis of the views of Contracting Parties concerning the compatibility of CO<sub>2</sub> sequestration with the London Convention and Protocol. That analysis had been aimed at helping to structure discussion of that issue in order to focus on the most pertinent legal issues and to identify various views and scope for common agreement. The meeting had also agreed, *inter alia*, that the London Convention and Protocol were the appropriate global instruments to address the implications of CO<sub>2</sub> sequestration in sub-seabed geological structures for the marine environment, and had decided that it was desirable to consider options for facilitating and/or regulating CO<sub>2</sub> sequestration.

With regard to co-operation with the MEPC, the meeting had reviewed the MEPC's response to its request to collaborate and help clarify two boundary issues between MARPOL and the London Convention and Protocol, concerning "dumping" versus "discharges" during normal operations of ships and the promotion of good waste management when dealing with spoilt cargoes. The meeting had approved the establishment of a Joint London Convention/MEPC Correspondence Group, its terms of reference and organizational arrangements as proposed by MEPC 53, and had agreed to apply a pragmatic approach in that collaboration.

With regard to technical co-operation and assistance issues, the meeting had considered the provisional programme and the financial arrangements for the Workshop on Marine Pollution Prevention and Environmental Management in East Asia, which, at the invitation of the Chinese Government, would be held in Dalian, China, from 29 May to 2 June 2006.

The meeting had decided that concerted outreach activities were required to raise the profile of the London Protocol, in view of its slow pace of ratification. It had also instructed the Secretariat to prepare a compilation of the guidelines developed under the London Convention since 1997, to be issued as an IMO publication in 2006.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/12 and its addendum, and that provided orally by the Secretary-General.

**It was so decided.**

**AGENDA ITEM 13 – REPORT OF THE COUNCIL TO THE ASSEMBLY ON THE WORK OF THE ORGANIZATION SINCE THE TWENTY-THIRD REGULAR SESSION OF THE ASSEMBLY (C/ES.23/13)**

The SECRETARY-GENERAL said that document C/ES.23/13 presented the Council with the final draft of his report to the Assembly on the work of IMO since the twenty-third regular session of the Assembly, in response to the request by the Council at its ninety-fourth session in June. The draft now before the Council for consideration and approval had been duly updated.

In accordance with previous practice, the draft had been circulated to all Member Governments in connection with the twenty-third extraordinary session of the Council and the twenty-fourth regular session of the Assembly. Any changes that the Council might make to the draft would be reported to the Assembly at an appropriate time. As he had stated earlier in his

reply to the representative of France, a report of the discussion would be made to the Assembly, and the draft resolution on the Somalia issue would be attached.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/13 and that provided orally by the Secretary-General, and to approve the report for submission to the Assembly at its forthcoming twenty-fourth regular session.

**It was so decided.**

#### **AGENDA ITEM 14 – EXTERNAL RELATIONS:**

##### **(a) RELATIONS WITH THE UNITED NATIONS AND THE SPECIALIZED AGENCIES (C/ES.23/14(a); C/ES.23/14(a)/1-2)**

The SECRETARY-GENERAL said document C/ES.23/14(a) reported on resolutions adopted by the General Assembly of the United Nations which were of relevance to IMO. No specific action or decision was requested of the Council in respect of those resolutions.

As in the past, developments in connection with the resolutions which might be of interest to the Organization would be closely monitored by the Secretariat, and in due course would be reported to the Council for information and action as might be necessary.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/14(a) and that provided orally by the Secretary-General, and also to note the information set out in documents C/ES.23/14(a)/1 and 2, as well as that provided orally by the Secretary-General, reporting on the outcome of the 2005 World Summit at the United Nations and on the outcome of the second regular session for 2005 of the United Nations Chief Executives Board for Coordination, respectively.

**It was so decided.**

##### **(b) RELATIONS WITH INTERGOVERNMENTAL ORGANIZATIONS (C/ES/23/14(b) and Add.1-3 and Add.3/Corr.1)**

The SECRETARY-GENERAL said that the proposed draft Agreement of Co-operation between IMO and the International Criminal Police Organization (Interpol) annexed to document C/ES.23/14(b), had been developed in consultation with Interpol and had been approved by Interpol's Executive Committee. It followed the pattern of agreements previously concluded by IMO with other intergovernmental organizations. If approved by the Council, the Agreement would be submitted to the Assembly the following week for final approval.

Document C/ES.23/14(b)/Add.1 reported on the progress made with regard to the formulation of an Agreement of Co-operation with the African Union (AU). As indicated, following receipt of a formal communication from the Deputy Chairperson of the AU, the secretariats of both organizations were in the process of reviewing the 1974 Agreement of Co-operation between IMO and the Organization of African Unity (OAU), the AU's predecessor organization, to take into account the change of identity. The revised text of the Agreement, if agreed by both secretariats, would be submitted to the Council for consideration and approval in due course.

Document C/ES.23/14(b)/Add.2 referred to the proposed Agreement of Co-operation between IMO and the South Asia Co-operative Environment Programme (SACEP). The draft Agreement, which was annexed to the document, had been developed in consultation with

SACEP and had already been approved by the Third Intergovernmental Ministerial Meeting of the South Asian Seas Programme. It followed the pattern of agreements previously concluded by IMO with other intergovernmental organizations. If approved by the Council, the Agreement would be submitted to the Assembly the following week for final approval.

Document C/ES.23/14(b)/Add.3 reported on developments concerning six other proposed Agreements of Co-operation. The proposed Agreement of Co-operation between IMO and the Paris MoU on Port State Control, contained in annex 1 to document C/ES.23/14(b)/Add.3, had been drafted in consultation with the Paris MoU and had been considered and agreed by the Paris MoU Advisory Board. The proposed Agreement of Co-operation between IMO and the Acuerdo de Viña del Mar, contained in annex 2 to document C/ES.23/14(b)/Add.3, had been developed in consultation with the Acuerdo de Viña del Mar Secretariat. The proposed Agreement of Co-operation between IMO and the Tokyo Memorandum of Understanding on Port State Control (Tokyo MoU), contained in annex 3 to document C/ES.23/14(b)/Add.3, had been drafted in consultation with the Secretariat of the Tokyo MoU.

The proposed Agreement of Co-operation between IMO and the Indian Ocean MoU on Port State Control (IOMoU), contained in annex 4 to document C/ES.23/14(b)/Add.3, had been developed in consultation with the IOMoU Secretariat. The proposed draft Agreement of Co-operation between IMO and the Caribbean MoU on Port State Control (CMoU), contained in annex 5 to document C/ES.23/14(b)/Add.3, had been drafted in consultation with the CMoU Secretariat and had been agreed by the 10th CMoU Committee Meeting. Finally, the proposed Agreement of Co-operation between IMO and the West and Central Africa MoU on Port State Control (Abuja MoU), contained in annex 6 to document C/ES.23/14(b)/Add.3, had been developed in consultation with the Abuja MoU Secretariat.

All of the agreements of co-operation referred to in document C/ES.23/14(b)/Add.3 followed the pattern of agreements previously concluded by IMO with other intergovernmental organizations. If approved by the Council, all of them would be submitted to the Assembly the following week for final approval.

Document C/ES.23/14(b)/Add.3/Corr.1 reported on an error in the spelling of the surname of the Secretary of the Acuerdo de Viña del Mar in the draft Agreement of Co-operation between IMO and the Acuerdo de Viña del Mar. The correct spelling was “Beltritti”.

The CHAIRMAN invited comments on the nine agreements of co-operation reported on by the Secretary-General.

Mr. AL-OHALY (Saudi Arabia) thanked the Secretary-General for preparing the agreements, which would undoubtedly benefit the work of the Organization. He drew attention to paragraph 2 of article 4 of the draft Agreement of Co-operation between IMO and Interpol, annexed to document C/ES.23/14(b), which stated, “IMO, at Interpol’s request, may review projects at national, regional and global levels in order to provide comments and suggestions appropriate to its domain and expertise”. He would appreciate clarification on that point.

The SECRETARY-GENERAL explained that the agreements concerned followed the pattern of previous agreements of co-operation with other international organizations. If the Council decided to include a paragraph whereby IMO might request Interpol to provide assistance or advice, he would have no objection.

Mr. CHRYSOSTOMOU (Cyprus) said the Secretary-General had reported on agreements of co-operation with six MoUs on port State control, and he presumed that in future the list

would grow. Since the six bodies concerned performed virtually the same function, he did not see the need for them all to be represented at IMO as observers and to receive documentation, which would involve considerable expenditure.

He emphasized that, as was made clear in Article 2(a) of the Convention, intergovernmental organizations had considerably more powers than non-governmental organizations in that IMO was required to consider matters submitted to it by them, without necessarily having the support of Member States. That gave rise to certain legal issues which should have been given more consideration. For example, paragraph 4 of the draft terms of an agreement of co-operation between IMO and the South Asia Co-operative Environmental Programme (SACEP), annexed to document C/ES.23/14(b)/Add.2, stated that the Secretary-General of IMO and the Director-General of SACEP might consult, where appropriate, on the use of personnel, material, services, equipment and facilities for joint undertakings which might be agreed between them in fields of common interest to IMO and SACEP. While he could understand that consultations on technical matters would be desirable, he could not agree that any intergovernmental organization should be entitled to use IMO equipment and facilities.

He believed that the Council had an obligation to explain to the Assembly why that agreement was different from other agreements.

Mr. VASSALLO (Malta) said the question was a delicate one, which required careful consideration. He pointed out that technically, MoUs were not agreements between governments: rather, they were agreements between maritime administrations, which could be considered as semi-autonomous bodies within the sphere of government. He agreed with Cyprus that it was not desirable to have a large number of MoU organizations represented at IMO as observers.

He suggested that consideration of the issue be deferred to a later Council session, when there would be more time to consider its implications.

The SECRETARY-GENERAL said that having representatives of MoU organizations present at IMO meetings as observers could be seen as both positive and negative. The organizations would enhance their status and draw closer to IMO, which might give them renewed enthusiasm for carrying out their responsibilities and activities, leading to better services to the benefit of safety, security and environmental protection.

With respect to the question raised by Cyprus relating to paragraph 4 of the IMO/SACEP agreement, he drew attention to the wording “may ... where appropriate”, which ensured that organizations would enjoy the use of personnel, materials, services, equipment and facilities only when appropriate: if there were common interests for joint action, the organizations would help IMO and vice versa. As the Council might like to consider the matter further, he suggested that it agree in principle the draft agreements of co-operation and forward them to the Assembly. In the meantime, the Secretariat would prepare responses to the issues raised so that the Assembly would be in a position to make an informed decision.

Mr. GASC (France) said that France associated itself with the positive aspects of MoU organizations being present as observers. He was disappointed, however, that due to time constraints the Council might only forward an agreement in principle to the Assembly. Co-operation between IMO and MoU organizations was of high importance and would benefit the work of the Organization.

Mr. NTULI (South Africa) said that the advantages of the agreements outweighed any disadvantages and he fully supported the Secretary-General’s proposal.



Mr. FINLEY (Panama) said that many IMO Member State governments were party to MoUs, meaning that MoU organizations already had access to IMO via one or more Member States. Panama was against allowing the organizations under discussion to be represented as observers at IMO, on principle.

Mr. CASTRO RIVAS (Argentina) said that the MoU organizations in question were very much concerned with seafarers, unlike some other observers to IMO, and he considered their presence to be very important. Moreover, he recalled that IMO had been at the forefront of promoting their formation.

Mr. TADAYUKI (Japan) associated himself with the comments of France. Japan and the Member States of the Tokyo MoU believed in giving consultative status to the MoU organizations concerned, which were invaluable in contributing to safety, security and environmental protection.

Mr. CHRYSOSTOMOU (Cyprus) was concerned that Council Members might be confusing MoU organizations, pointing out that consultative status was only given to non-governmental organizations. Revisiting paragraph 4 of the draft agreements of co-operation, he suggested that they be brought into line with the rest of the agreements. Finally, he noted that he had not mentioned any negative or positive aspects to having MoU organizations present as observers.

The SECRETARY-GENERAL reiterated that the draft agreements of co-operation had followed the previously established pattern of agreements and he recalled that at its ninety-fourth session, as recorded in the relevant Summary of Decisions under the sub-heading of “Relations with intergovernmental organizations”, the Council had approved a similar text in the draft agreement of co-operation with the Commonwealth Telecommunications Organization (CTO) and the draft Memorandums of Understanding on Port State Control in the Black Sea and in the Mediterranean regions, respectively.

Turning to requests from Council Members for a re-examination of the draft agreements under discussion, he shared France’s view that an agreement in principle might be unnecessary but confirmed that the issue would be reviewed and relevant information provided to the Assembly for further consideration.

Mr. OLUWOLE (Nigeria) endorsed the views expressed by South Africa and France. He was in favour of such agreements of co-operation and considered the concerns voiced by Cyprus to be groundless.

Mr. DAVIDSON (Australia) said that the proposals should go forward as prepared; they reflected what the Council had already agreed in relation to other memorandums of understanding. He suggested that the Chairman should call for a show of hands to determine whether the Council was ready to support the proposals.

Mr. STENSCHKE (Germany) supported the views of France. Port State control and flag State control were realities and maritime nations gained benefits from such agreements of co-operation.

The CHAIRMAN said that the procedure before the Council was not new – it had already been followed in relation to other memorandums of understanding. A consensus appeared to be emerging in favour of the proposals.

Mr. FINLEY (Panama) replied that it was perhaps premature to speak of consensus. It was not realistic for IMO to cope with a burgeoning number of such agreements, each

memorandum of understanding being given special status in the Organization and permitting representation at IMO meetings. It might be preferable for the parties concerned to establish an international federation of MoUs, which could then be represented at IMO.

Mr. VASSALLO (Malta) said that while he was not opposed to agreements of co-operation between IMO and memorandums of understanding on port State control, he was concerned at opening the membership of the Organization to memorandums of understanding which represented regional agreements. Their status as entities was not clear, although they were a type of intergovernmental organization. Further, there were many other types of regional agreement – were they too to be treated in a similar manner? The Organization should consider carefully how it wished to proceed. Malta would, however, be prepared to approve the proposals in principle and to refer them to the Assembly for further discussion.

The CHAIRMAN replied that there were no homogeneous rules for memorandums of understanding. The Council might wish to transmit the proposals to the Assembly and to propose that, at a subsequent session, the Council might examine the possibility of developing an instrument to clarify the interpretation of relations between IMO and MoUs.

Mr. SHIREEN (Egypt) pointed out that the Council had already been given the task of determining how such external relations were to be handled so that there was no need for an additional instrument. Given the time constraints, he suggested that the Council should move forward on the matter as quickly as possible.

Mr. NYGAARD (Norway), endorsing the views expressed by France, supported closer co-operation between IMO and the various MoUs which, after all, were working to implement IMO instruments and were therefore important partners. MoUs should be regarded as intergovernmental organizations and recognized as such through their agreement of co-operation with IMO. He therefore supported the approach taken by IMO and could see no problem with paragraph 4 of the agreements as drafted.

Mr. OLIMBO (Italy) endorsed the views of France and South Africa.

The Chairman invited the Council to note the information set out in document C/ES.23/14(b) and its addenda, and that provided orally by the Secretary-General, and to approve the proposed draft Agreements of Co-operation with:

- (i) the International Criminal Police Organization – Interpol;
- (ii) the South Asia Co-operative Environment Programme (SACEP);
- (iii) the Paris Memorandum of Understanding on Port State Control (Paris MoU);
- (iv) the Acuerdo de Viña del Mar;
- (v) the Tokyo Memorandum of Understanding on Port State Control (Tokyo MoU);
- (vi) the Indian Ocean Memorandum of Understanding on Port State Control (IOMoU);
- (vii) the Caribbean Memorandum of Understanding on Port State Control (CMoU); and
- (viii) the West and Central Africa Memorandum of Understanding on Port State Control (Abuja MoU),

and submit them to the twenty-fourth regular session of the Assembly for final approval.

He further invited the Council to consider the proposed Agreement of Co-operation with the African Union (AU) whenever that Agreement might be submitted to it for approval.

**It was so decided.**

**(c) RELATIONS WITH NON-GOVERNMENTAL ORGANIZATIONS  
(C/ES.23/14(c), C/ES.23/14(c)/1 and Add.1-2)**

The SECRETARY-GENERAL said that document C/ES.23/14(c) referred to the application for consultative status made by the International Bunker Industry Association (IBIA), which the Council had transmitted to the MSC and the MEPC for advice. Both Committees had now agreed to recommend the grant of consultative status to the IBIA.

Document C/ES.23/14(c)/1 referred to the periodical review of organizations in consultative status with IMO, and in particular to those organizations whose attendance at IMO meetings had been unsatisfactory or not otherwise in accordance with the “Rules Governing Relationship with Non-Governmental International Organizations”. At its ninety-fourth session the Council had noted the poor attendance record over the previous two years of the Advisory Committee on Protection of the Sea (ACOPS) and the Latin American Shipowners’ Association (LASA) and had requested that those two organizations be reminded of their obligations and that it be advised accordingly during the current session, to enable it to take a decision on their status. Both organizations had duly been advised of the Council’s decision by letters dated 18 July 2005.

The responses received from LASA and ACOPS since then were annexed to documents C/ES.23/14(c)/1/Add.1 and Add.2, respectively.

The Council at its ninety-fourth session had also reiterated the necessity for Greenpeace International to comply with the international regulations concerning the safety of navigation, in particular the Collision Regulations and the ISPS Code, requesting the Secretary-General to draw to the attention of Greenpeace the serious allegations made against it at MSC 80 and during that Council session, and to invite the organization to respond to them, so that the Council might consider the matter during its current session. Greenpeace International had been advised of the Council’s decision by letter dated 1 July 2005.

A response from Greenpeace International had been received and was reproduced in annex 2 to document C/ES.23/14(c)/1/Add.2.

The Council was therefore being invited to take note of the information provided in the documents under consideration and, in particular, to decide whether to grant consultative status to IBIA and to maintain the consultative status of ACOPS, LASA and Greenpeace International.

The CHAIRMAN said that the MSC and the MEPC had decided to recommend that consultative status should be granted to IBIA, since it had been found to meet the requisite criteria, and in particular because it was assessed as able to contribute directly to the Committees’ work.

The CHAIRMAN then enquired whether a representative of Greenpeace International wished to add to that organization’s submission.

Mr. TÚRLINGS (observer, Greenpeace International) said it was noteworthy that the status of Greenpeace at IMO was being considered on the very day that the Greenpeace initiative on “Defending our oceans” – calling for a global network of marine reserves – had been launched, and so soon after the inspiring appeal for protection of the world’s oceans had been made by the winner of the 2004 World Maritime Prize, Mr. Luis Martínez Wolf, who was a longstanding supporter of Greenpeace. Recalling that NGO involvement in environmental decision-making by organizations was widely recognized, not least by the 1998 Aarhus Convention and the associated rules adopted at Almaty in 2005, he noted that IMO had valued NGO participation since long before entry into force of the Aarhus Convention. Greenpeace

highly appreciated the IMO consultative status it had enjoyed since 1991; it regarded IMO as a crucial forum for discussion of marine environmental policy and hoped to continue making a substantial contribution to IMO affairs.

The campaigns mounted by Greenpeace ranged from lobbying at international conventions to staging creative protests. The latter were always peaceful and safe, and Greenpeace had never been prosecuted under the Collision Regulations, a record of which it was justly proud. Greenpeace believed that IMO Member States respected the fundamental human rights of freedom of speech and freedom of association, and therefore trusted that the IMO Council would consider the protest actions of Greenpeace to be lawful unless declared otherwise by a court of law.

In conclusion, he said that Greenpeace looked forward to the constructive and co-operative exercise of its consultative status in IMO.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/14(c) and document C/ES.23/14(c)/1 and its addenda, as well as that provided orally by the Secretary-General.

He then invited the Council to grant consultative status to the International Bunker Industry Association (IBIA), and, with regard to the periodic review of organizations in consultative status with IMO, to maintain the consultative status of the Latin American Shipowners' Association (LASA) and the Advisory Committee on Protection of the Sea (ACOPS); and to maintain the consultative status of Greenpeace International, subject to that organization undertaking not to endanger the safety of navigation or maritime security.

**It was so decided.**

**(d) REPORT ON WORLD MARITIME DAY 2005 (C/ES.23/14(d) and Add.1)**

The SECRETARY-GENERAL noted that document C/ES.23/14(d) and its addendum reported on the arrangements made to celebrate World Maritime Day 2005. The theme decided by the Council for 2005 had been "International shipping – carrier of world trade". Appropriate information had been prepared and circulated to Member Governments and relevant organizations; the information had also been posted on the IMO website.

At IMO headquarters, World Maritime Day had been celebrated on 29 September 2005 with a reception attended by many distinguished guests, including members of the diplomatic corps in London, members of the maritime community, City of London representatives, and representatives of organizations and other entities associated with the work of the Organization and the Secretariat.

The available information indicated that World Maritime Day had been appropriately observed in many Member States and by many organizations associated with IMO. Information on messages received and details of the arrangements made by governments and organizations in connection with the 2005 celebration of World Maritime Day were provided in the addendum to document C/ES.23/14(d). Since the issue of document C/ES.23/14(d)/Add.1, he had been informed of special activities held in Chile.

On behalf of the Organization and himself, he wished to convey his sincere appreciation to the governments, organizations and other entities, IMO staff and individuals that had so generously lent their support and assistance to the commemoration. Special thanks were due to

all those Members that had responded to his proposals to revitalize the Day by organizing special events for the occasion and informing the Secretariat in advance of such activities. Once again, the co-operation and enthusiasm shown by all involved had contributed to the success of the Day, which continued to be a source of inspiration and encouragement to the world maritime community and the Secretariat.

Turning to paragraph 6 of document C/ES.23/14(d) concerning the trial parallel event organized by IMO in conjunction with the Government of Portugal on 15 November 2005, he noted that a full report on the subject would be submitted to the Council at its session in June 2006. However, he was able to report that the Government of Portugal had gone to great lengths to ensure its success, with many ministers and other dignitaries attending. He expressed his thanks and appreciation to all who had contributed to the splendour of that occasion.

In accordance with the established practice, the necessary arrangements were being made to celebrate the next World Maritime Day in 2006, for which he proposed the theme:

**“Technical Co-operation: IMO’s response to the 2005 World Summit”.**

The theme would give the Organization the opportunity to enhance its technical co-operation activities in response to the World Summit, with special emphasis on its technical co-operation programme and on maritime needs in Africa.

Mrs. SEET-CHENG (Singapore) commended the Secretary-General on the initiative to hold events in parallel with World Maritime Day, which Singapore regarded as a useful component of the Organization’s outreach programme designed to enhance the profile of shipping and its own work. Welcoming the success of the first parallel event held recently in Portugal, she announced that Singapore wished to host the parallel event in 2006. Provided the Council accepted that offer, her delegation looked forward to co-operating with the Secretariat on the arrangements.

The SECRETARY-GENERAL said that the offer made by Singapore was particularly welcome, in view of its strategic location and proximity to so many of the Organization’s Member States.

The Chairman invited the Council to note the information set out in document C/ES.23/14(d) and its addendum, and that provided orally by the Secretary-General, and to note that World Maritime Day 2005 had once again been successful and extend its appreciation to all those involved in the preparation for the event and for the excellent arrangements made for its celebration.

He invited the Council to note in particular the worthwhile contributions which various Member Governments, organizations and individuals had made to the success of the Day, by their attendance at the reception held at IMO Headquarters, and through other events organized by them and by sending relevant messages to the Secretary-General; to express appreciation to those Members which had responded to the Secretary-General’s efforts to revitalize World Maritime Day by organizing special events to mark the Day, and for informing the Secretariat, in advance of those activities, and to express the wish that more Members would do the same in the future.

He invited the Council to welcome the information on the trial parallel event which had been successfully organized by IMO, in conjunction with the Government of Portugal, in Lisbon, on 15 November 2005 and note that a full report on that subject would be submitted for its

consideration in due course; and to express appreciation both to the Government of Portugal for hosting the event, and to the Member Governments, international organizations and the media, for their attendance.

With regard to World Maritime Day 2006, he invited the Council to approve the Secretary-General's proposal that the theme for the Day should be:

“Technical Co-operation: IMO's response to the 2005 World Summit”

so as to give the Organization the opportunity to enhance its technical co-operation activities in response to the World Summit, with special emphasis on its technical co-operation programme and maritime needs in Africa; and to authorize the Secretary-General to make the necessary arrangements for the celebration of the Day, in accordance with the practice approved by the Council and the Assembly.

Finally, he invited the Council to approve the holding of the parallel event for the celebration of the 2006 World Maritime Day in Singapore and thanked the Government of Singapore for its offer to host the event.

**It was so decided.**

Mr. FINLEY (Panama) welcomed the choice of theme for 2006, and remarked that it would make Kenya's generous offer, made earlier in the session, to host the future diplomatic conference on wreck removal seem all the more apposite if approved by the Council.

Mrs. de OLIVEIRA (Portugal) said her country had been proud to host the first parallel event, and thanked the Secretary-General and his staff for their efficient and friendly collaboration.

**AGENDA ITEM 15 – REPORT ON THE STATUS OF THE CONVENTION AND MEMBERSHIP OF THE ORGANIZATION (C/ES.23/15)**

The SECRETARY-GENERAL drew the Council's attention to document C/ES.23/15, which noted that document A 24/6, submitted to the Assembly, gave detailed information on the status of the membership of the Organization as at 19 August 2005. It showed that, by that date, IMO had 166 Members and three Associate Members. Since the Council's previous regular session in June 2005, one new Member, namely the Republic of Zimbabwe, had joined the Organization, following the deposit of an instrument of acceptance of the IMO Convention with the Secretary-General of the United Nations on 16 August 2005.

Turning to the application by the Government of the Cook Islands to become an IMO Member, he recalled that the matter had originally been considered by the Council at its twentieth extraordinary session in November 1999, when it had decided to recommend the application in accordance with article 7 of the IMO Convention. For the application to take effect, at least two-thirds of the Members of the Organization, namely 111 Members out of the total membership of 166, had to give their approval. One further approval had been received since the matter had last been reported to the Council in June, bringing the number of approvals received to 60, which meant that a further 51 approvals were still required before the application could proceed. Pursuant to the Council's decisions at its ninety-second and ninety-third sessions, the Government of the Cook Islands had been invited to participate as an observer in meetings of the Assembly, the MSC and the MEPC and their subsidiary bodies, as an interim measure, until such time as its application for membership was approved.

With regard to the 1991 amendments to the IMO Convention, he said that annex 2 to document A 24/6 gave the list of Members which, as at 19 August 2005, had accepted the amendments to the IMO Convention relating to the institutionalization of the Facilitation Committee, which had been adopted by the seventeenth regular session of the Assembly in 1991. Since the issue of that document, five further acceptances of the amendments had been received from the Governments of the Republic of Albania, Jamaica, Saint Lucia, the Republic of Ecuador and the Kingdom of Saudi Arabia. That brought the total number of acceptances received to 96. In accordance with the provisions of Article 66 of the IMO Convention, the amendments in question would enter into force twelve months after the requisite instruments of acceptance from two-thirds of the Members of the Organization (*i.e.* 111 out of 166) were deposited with the Secretary-General of the United Nations. Fifteen acceptances were, therefore, still required for the 1991 amendments to enter into force. Eight current Council Members, namely Argentina, Bangladesh, Germany, Japan, Nigeria, the Philippines, South Africa and Turkey, had yet to accept the amendments. He appealed to them to do so as soon as possible.

Mr. INNAMI (Japan) announced that the FAL Convention had come into force for his country on 1 November 2005, following ratification. In keeping with its keen interest in improving international maritime transport, Japan intended to play an active part in the activities of the FAL Committee.

The CHAIRMAN invited the Council to take note of the information set out in document C/ES.23/15, and that provided orally by the Secretary-General; to note with satisfaction the further growth in the membership of the Organization since its last session and extend its welcome to the Republic of Zimbabwe as a new Member of IMO; and to note the status of replies received with regard to the application of the Cook Islands for membership of the Organization.

Turning to the 1991 amendments to the IMO Convention, he invited the Council to take particular note of the information provided by the Secretary-General concerning the number of acceptances by Member States, and of the additional measures he had undertaken to encourage the further acceptances required to bring the amendments into force; and to request the Secretary-General to continue urging those Member States that had not already done so to consider accepting the 1991 amendments to the IMO Convention at the earliest possible opportunity, and to report to the ninety-sixth session of the Council accordingly.

**It was so decided.**

**AGENDA ITEM 16 – REPORT ON THE STATUS OF CONVENTIONS AND OTHER MULTILATERAL INSTRUMENTS IN RESPECT OF WHICH THE ORGANIZATION PERFORMS FUNCTIONS (C/ES.23/16)**

The SECRETARY-GENERAL said that document C/ES.23/16 drew the Council's attention to document A 24/7 and its addendum, intended for submission to the following week's Assembly, which reported respectively on the status, as at 19 August 2005, of the various conventions and other instruments in respect of which the Organization performed depositary or other functions, and on that status as updated to 11 November 2005. Since the issue of addendum 1, one further instrument had been received, namely the acceptance by the Netherlands of Optional Annex IV of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended.

Section I of document A 24/7 provided information on one of the new instruments – the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM Convention) – adopted since the twenty-third regular session of the Assembly in November/December 2003.

Prior to the Council's previous session in June, he had written to 30 governments with regard to ratification of the BWM Convention, and was pleased to report that his efforts had resulted in a further three ratifications. However, the total number of Contracting States was still only five out of the 30 required to bring the Convention into force.

Section II informed the Assembly, *inter alia*, about developments concerning two conventions which had been the subject of the Council's particular concern because of the length of time between their adoption and their as yet unachieved entry into force, namely the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, and the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995.

Section II also informed the Assembly about another recently adopted convention – the International Convention for the Control of Harmful Anti-Fouling Systems on Ships (AFS Convention), 2001. In view of the substantial benefits to the marine environment that were expected to ensue upon the convention's entry into force, he had written, with the Council's approval, to the 68 Member Governments that had signed the Final Act of the Conference which adopted it, reminding them of the need to consider taking action with regard to ratification. Unfortunately, that had not brought the positive response he had been hoping for, as only one additional State had since ratified the convention, bringing the total number of Contracting States to 12, representing approximately 9.3 per cent of the gross tonnage of the world's merchant shipping. At least 25 States, representing 25 per cent of the world's merchant shipping, were required in order for the convention to enter into force.

Section II also provided information on instruments and amendments to instruments for which the entry-into-force requirements had been met since his previous report on the matter to the twenty-third session of the Assembly. The adoption of the two new SUA Protocols meant that 49 viable treaty instruments had been adopted under the auspices of IMO, 37 of which were either already in force or shortly due to enter into force. That was a satisfactory achievement, and Member Governments should be congratulated for their contribution to the development of the impressive regime of treaty instruments that IMO had created over the years, which had become an indispensable part of the international legal framework for shipping.

Section III outlined the current situation with regard to instruments, and amendments to them, for which the entry-into-force requirements had not yet been fulfilled. The total number of such instruments was currently twelve. At the Council's previous session, he had drawn particular attention to two of those instruments, the first of which was the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F Convention), 1995. Since then, one additional government had acceded to the Convention, bringing the total number of Contracting States to five out of the 15 needed to bring it into force.

Once again, he would encourage governments to consider becoming party to the convention to enable it to enter into force at the earliest possible date, which would be in line with the emphasis that had been placed in recent years on the human element and its contribution to safe shipping. The Secretariat would continue assisting interested governments in increasing awareness and explaining the implications of the STCW-F Convention, as it had done when organizing a series of *ad hoc* regional seminars and workshops. The second such instrument was the Torremolinos Protocol of 1993 relating to the 1977 Torremolinos International Convention for the Safety of Fishing Vessels. The Council would recall his report on the results of the study undertaken by the Secretariat at its request, concerning the size of the current world fishing vessel fleet. The study had shown a significant increase in the number of fishing vessels since



the adoption of the Protocol in 1993, and therefore the Council at its ninety-third session had seen no reason to seek an amendment to the relevant provisions in order to expedite its entry into force, instead deciding to urge all Member States which had not yet ratified the Protocol to take the necessary action to do so at the earliest opportunity. The efforts he had undertaken in that regard, including communication with governments of States owning large fleets of fishing vessels, had resulted in a further two accessions to the protocol, bringing the total number of Contracting States to twelve out of the fifteen required. However, while that was closer to the number of Contracting States required by the entry-into-force provisions, the aggregate number of fishing vessels owned by those States was only approximately 3,064 units, which fell far short of the 14,000 units required for actual entry into force. He therefore reiterated his request to Member States, particularly those with large numbers of fishing vessels, to ratify the Torremolinos Protocol on a priority basis. As ever, the Secretariat stood ready to provide any assistance that might facilitate that objective.

Document A 24/7/Add.1 provided information on the two other instruments adopted recently, namely the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and the Protocol of 2005 for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. The two protocols had been adopted by the International Conference on the Revision of the SUA Treaties convened at IMO in October, representing a milestone in IMO's security-related legislation regime and complementing the provisions of the International Ship and Port Facility Security (ISPS) Code in order to ensure that the international maritime community was in a position to counteract the grave menace posed by terrorism. The protocols considerably expanded and strengthened the original treaties by extending the range of terrorist acts made subject to prosecution and extradition. They also included new rules of decisive importance to States, in that they provided the necessary legal basis to intercept terrorist activities already in progress. That being the case, it was impossible to over-emphasize the importance of their early entry into force.

In conclusion, he re-emphasized the significant impact that entry into force of the AFS Convention and the BWM Convention would have on the marine environment, and renewed his appeal to Member Governments to consider taking appropriate action to enable their entry into force as soon as possible.

The CHAIRMAN asked if any representatives wished to make comments or give information on the action taken or contemplated by their governments in relation to IMO instruments.

Mr. GASC (France) said that his country had set in train the ratification process for the Torremolinos Protocol of 1993 to the 1977 Torremolinos Convention, and for the AFS Convention. France also intended to sign, prior to ratification, the two new SUA Protocols.

Mr. CHRYSOSTOMOU (Cyprus) announced that his country had ratified the AFS Convention and would shortly deposit the appropriate instrument with the Secretariat.

The CHAIRMAN invited the Council to note the information set out in document C/ES.23/16 and that provided orally by the Secretary-General, and to endorse and support the Secretary-General's continuing efforts to encourage governments to consider accepting those instruments to which they were not yet parties.

In particular, he invited the Council to reiterate its plea to Member Governments to pay particular attention to ratifying:

- with respect to safety-related conventions, the 1993 Torremolinos Protocol and the 1995 STCW-F Convention; and
- with regard to environment-related conventions, the 2001 AFS Convention and the 2004 BWM Convention; and
- with regard to security-related conventions, the 2005 SUA Protocols,

so as to enable them to enter into force as early as possible.

**It was so decided.**

Following the customary exchange of courtesies, the CHAIRMAN brought the session to a close.

**The meeting rose at 8.10 p.m.**