



MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
56th session  
Agenda item 23

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**REPORT OF THE MARINE ENVIRONMENT PROTECTION COMMITTEE  
ON ITS FIFTY-SIXTH SESSION**

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## 1 INTRODUCTION

1.1 The fifty-sixth session of the Marine Environment Protection Committee was held at Royal Horticultural Halls and Conference Centre, London, from 9 to 13 July 2007, under the chairmanship of Mr. A. Chrysostomou (Cyprus). The Committee's Vice-Chairman, Mr. A. Chatterjee (India), was also present.

1.2 The session was attended by delegations from the following 87 Members of IMO:

ALGERIA	KUWAIT
ANGOLA	LATVIA
ANTIGUA AND BARBUDA	LIBERIA
ARGENTINA	LUXEMBOURG
AUSTRALIA	MALAYSIA
BAHAMAS	MALTA
BAHRAIN	MARSHALL ISLANDS
BARBADOS	MEXICO
BELGIUM	MONACO
BELIZE	MOROCCO
BOLIVIA	MYANMAR
BRAZIL	NETHERLANDS
BULGARIA	NEW ZEALAND
CANADA	NIGERIA
CHILE	NORWAY
CHINA	OMAN
COLOMBIA	PANAMA
CROATIA	PAPUA NEW GUINEA
CUBA	PERU
CYPRUS	PHILIPPINES
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA	POLAND
DENMARK	PORTUGAL
DOMINICA	QATAR
DOMINICAN REPUBLIC	REPUBLIC OF KOREA
ECUADOR	ROMANIA
EGYPT	RUSSIAN FEDERATION
ESTONIA	SAINT KITTS AND NEVIS
FINLAND	SAINT VINCENT AND THE GRENADINES
FRANCE	SAUDI ARABIA
GERMANY	SINGAPORE
GHANA	SLOVENIA
GREECE	SOUTH AFRICA
ICELAND	SPAIN
INDIA	SWEDEN
INDONESIA	SYRIAN ARAB REPUBLIC
IRAN (ISLAMIC REPUBLIC OF)	THAILAND
IRELAND	TURKEY
ISRAEL	TUVALU
ITALY	UKRAINE
JAMAICA	UNITED KINGDOM
JAPAN	UNITED REPUBLIC OF TANZANIA
KENYA	

UNITED STATES  
URUGUAY

VANUATU  
VENEZUELA

the following Associate Member of IMO:

HONG KONG, CHINA

and the following State not Member of IMO:

COOK ISLANDS

by representatives from the following United Nations and Specialized Agencies:

UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)/SECRETARIAT OF  
THE BASEL CONVENTION  
WORLD METEOROLOGICAL ORGANIZATION (WMO)  
INTERNATIONAL LABOUR ORGANIZATION (ILO)  
UNITED NATIONAL FRAMEWORK CONVENTION ON CLIMATE CHANGE  
(UNFCCC)

by observers from the following 6 intergovernmental organizations:

EUROPEAN COMMISSION (EC)  
MARITIME ORGANISATION FOR WEST AND CENTRAL AFRICA (MOWCA)  
INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEA (ICES)  
REGIONAL ORGANIZATION FOR THE PROTECTION OF THE MARINE  
ENVIRONMENT (ROPME)  
INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS (IOPC FUNDS)  
INTERNATIONAL MOBILE SATELLITE ORGANIZATION (IMSO)  
WEST AND CENTRAL AFRICA MEMORANDUM OF UNDERSTANDING ON  
PORT STATE CONTROL (ABUJA MoU)

and by observers from the following 34 non-governmental organizations:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)  
INTERNATIONAL SHIPPING FEDERATION (ISF)  
INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)  
COMITÉ MARITIME INTERNATIONAL (CMI)  
INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)  
BIMCO  
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)  
EUROPEAN CHEMICAL INDUSTRY COUNCIL (CEFIC)  
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)  
INTERNATIONAL MARITIME PILOTS' ASSOCIATION (IMPA)  
FRIENDS OF THE EARTH INTERNATIONAL (FOEI)  
INTERNATIONAL ASSOCIATION OF THE INSTITUTES OF NAVIGATION (IAIN)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
COMMUNITY OF EUROPEAN SHIPYARDS' ASSOCIATIONS (CESA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)

THE INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION LIMITED  
(ITOPF)  
WORLD CONSERVATION UNION (IUCN)  
ADVISORY COMMITTEE ON PROTECTION OF THE SEA (ACOPS)  
CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA)  
INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS  
(INTERCARGO)  
WORLD WIDE FUND FOR NATURE (WWF)  
ASSOCIATION OF EUROPEAN MANUFACTURERS OF INTERNAL COMBUSTION  
ENGINES (EUROMOT)  
INTERNATIONAL PETROLEUM INDUSTRY ENVIRONMENTAL  
CONSERVATION ASSOCIATION (IPIECA)  
THE INSTITUTE OF MARINE ENGINEERING, SCIENCE AND TECHNOLOGY  
(IMarEST)  
INTERNATIONAL PARCEL TANKERS ASSOCIATION (IPTA)  
INTERNATIONAL SAILING FEDERATION (ISAF)  
THE INTERNATIONAL MARINE CONTRACTORS ASSOCIATION (IMCA)  
WORLD NUCLEAR TRANSPORT INSTITUTE (WNTI)  
INTERNATIONAL HARBOUR MASTERS' ASSOCIATION (IHMA)  
THE ROYAL INSTITUTION OF NAVAL ARCHITECTS (RINA)  
INTERFERRY  
INTERNATIONAL BUNKER INDUSTRY ASSOCIATION (IBIA)  
THE FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND  
AGENTS (FONASBA)

1.3 The Vice-Chairman of the Maritime Safety Committee (MSC), Mr. N. Ferrer (Philippines); and the Chairman of the Sub-Committee on Bulk Liquids and Gases (BLG), Mr. Z. Alam (Singapore); were also present.

#### **The Secretary-General's opening address**

1.4 The Secretary-General welcomed participants and delivered his opening address. The full text of the opening address is reproduced in document MEPC 56/INF.16.

#### **The WMO Secretary-General's address**

1.5 At the invitation of the Secretary-General, the Secretary-General of the World Meteorological Organization (WMO) also addressed the Committee. The full text of the address is reproduced in document MEPC 56/INF.17.

#### **Chairman's remarks**

1.6 The Chairman thanked the Secretary-General for his opening address and stated that it would be given every consideration in the work of the Committee.

1.7 The Chairman also thanked the Secretary-General of WMO for his kind words and for his support of IMO's work to reduce air pollution from ships.

## **Adoption of the agenda**

1.8 The Committee adopted the agenda (MEPC 56/1) and the provisional timetable for guidance during the session (MEPC 56/1/1, annex 2, as amended). The agenda, as adopted, with a list of documents considered under each agenda item, is set out in document MEPC 56/INF.18.

## **Credentials**

1.9 The Committee noted the report of the Secretary-General that credentials of the delegations were in due and proper order.

## **2 HARMFUL AQUATIC ORGANISMS IN BALLAST WATER**

2.1 The Committee recalled that, from 31 May 2005, the “International Convention for the Control and Management of Ships’ Ballast Water and Sediments” (BWM Convention) had been open for accession by any State and noted that four more States (Barbados, Egypt, Kiribati and Norway) had acceded to the Convention since the last session, which brought the number of contracting Governments to 10, representing 3.42% of the world merchant fleet tonnage. The Committee urged Member States to ratify this Convention at their earliest possible opportunity.

### **Establishment of the Ballast Water Review Group**

2.2 The Committee recalled that MEPC 55 had agreed to re-establish the Ballast Water Review Group at this session. In view of the significant volume of work, the Committee instructed the Group to start working immediately on the “Methodology for information gathering and conduct of work of the GESAMP-Ballast Water Working Group (GESAMP-BWWG)” and re-join the plenary at a later stage to consider the remaining sub-items of the terms of reference assigned to the Review Group.

### **Methodology for information gathering and the conduct of work of GESAMP-BWWG (the Methodology)**

2.3 The Committee recalled that MEPC 55 had requested the GESAMP-BWWG to continue to develop the Methodology during its third meeting, taking into account the comments regarding consistency with the Procedure for approval of ballast water management systems that make use of Active Substances (G9); the development of an Emission Scenario Document; the definition and scope of “Active Substances”; and the other recommendations made at that session. The Committee also recalled that MEPC 55 had instructed BLG 11 to consider the Methodology and subsequently report to MEPC 56.

2.4 The Committee noted that the results of the GESAMP-BWWG’s considerations and the amended draft Methodology were contained in the report of the third meeting of the GESAMP-BWWG (MEPC 56/2/2) and the outcome of BLG 11 related to the Methodology was reported in document MEPC 56/2/5 (Secretariat). The Committee also noted that two documents, MEPC 56/2/8 (United States) and MEPC 56/2/13 (ICS), commenting on the Methodology had been submitted at this session.

2.5 Having had a brief introduction of the above-mentioned documents and having noted that BLG 11 had invited the Committee to allocate time for a thorough consideration of the Methodology, the Committee agreed to refer the matter to the Ballast Water Review Group for detailed consideration.

### **Report of the third meeting of the GESAMP-BWWG**

2.6 The Committee noted that the third GESAMP-BWWG meeting was held at IMO Headquarters, in London, from 19 to 24 February 2007, under the chairmanship of Dr. Tim Bowmer and that the Group had reviewed four proposals concerning ballast water management systems submitted by Japan, Norway, the Republic of Korea and Sweden.

2.7 After some discussion on the procedural details regarding the approval process, the Committee agreed that only the results of the land-based testing on residual toxicity are needed for Final Approval and that the rest of the testing under Guidelines (G8) remain the responsibility of the Administration conducting the type approval process.

2.8 Having noted the statement made by the delegation of Norway confirming that the PureBallast System described in document MEPC 56/2/1 is in the process of being tested in accordance with Guidelines (G8) and that all concerns raised by the GESAMP-BWWG in document MEPC 56/2/2, annex 5, with regard to ship and crew safety will be fully addressed by the Norwegian Administration before granting Type Approval, the Committee agreed to give both Basic Approval and Final Approval to the PureBallast system described in documents MEPC 55/2/5 (Sweden) and MEPC 56/2/1 (Norway).

2.9 Having considered the recommendations contained in document MEPC 56/2/2, annex 6, the Committee agreed to give Basic Approval to the NK Ballast Water Treatment System proposed by the Republic of Korea in documents MEPC 55/2/3 and MEPC 55/2/27 and, at the same time, invited the Administration of the Republic of Korea to take into account all the conditions indicated in annex 6 to the report during the further development of the system.

2.10 The Committee did not agree to give Basic Approval to the proposal contained in document MEPC 56/2 (Japan) for the reasons given in annex 7 to the report of the third meeting of the GESAMP-BWWG.

2.11 The Committee agreed with the suggested time schedule for the fourth meeting of the GESAMP-BWWG (5 to 9 November 2007) and invited Members to submit their proposals for approval (application dossiers) and the non-confidential description of their ballast water management systems to MEPC 57, as soon as possible but not later than 7 September 2007.

2.12 The observer from CEFIC, supported by some delegations, expressed concerns that in light of the number of ballast water treatment systems awaiting approval identified in the Lloyd's Register Study, it would be necessary to hold another GESAMP-BWWG meeting to consider applications in a timely manner prior to MEPC 57; otherwise, progress would be severely impeded.

2.13 Having considered document MEPC 56/2/3 (South Africa), the Committee noted the information provided and, subject to the submission of the complete application dossier before the deadline agreed in the above paragraphs, referred this document to the next meeting of the GESAMP-BWWG for detailed consideration.

### **Adoption of Guidelines for uniform implementation of the BWM Convention**

2.14 The Committee recalled that MEPC 55 had instructed BLG 11 to further consider the draft Guidelines for additional measures regarding ballast water management including emergency situations (G13), focusing on section 2.3 related to the situation when IMO approval is necessary, and to submit the final draft to MEPC 56 with a view to its adoption by an

MEPC resolution. Having considered the recommendations of BLG 11 regarding the above draft Guidelines and the associated draft MEPC resolution (BLG 11/16, annex 3), the Committee adopted the Guidelines for additional measures regarding ballast water management including emergency situations (G13) by resolution MEPC.161(56), as set out in annex 1.

2.15 The Committee noted that BLG 11 had completed the work on the Guidelines for risk assessment under regulation A-4 of the BWM Convention (G7) and had invited MEPC 56 to consider their adoption by an MEPC resolution. Having considered the final draft of these Guidelines and the associated draft MEPC resolution (BLG 11/16, annex 4), the Committee adopted the Guidelines for risk assessment under regulation A-4 of the BWM Convention (G7) by resolution MEPC.162(56), as set out in annex 2.

2.16 After the adoption of the two sets of Guidelines mentioned above, the delegation of the United States expressed its appreciation for the work done in two separate statements, which, as requested, are attached in annex 3.

2.17 The Committee recalled that, MEPC 54, having considered an initial draft provided by the United Kingdom, had supported the development of specific guidelines for ballast water exchange in the Antarctic waters. Having considered the recommendations of BLG 11 regarding the 'Guidelines for ballast water exchange in the Antarctic Treaty area' and the associated draft MEPC resolution (BLG 11/16, annex 2), the Committee adopted the Guidelines, which provide common guidance for all vessels undertaking ballast water exchange in Antarctic waters, by resolution MEPC.163(56), as set out in annex 4.

2.18 Having noted the concerns expressed by some delegations with regard to the Guidelines for ballast water sampling (G2), which could not be considered by the Ballast Water Working Group during BLG 11 due to time constraints, the Committee agreed to extend the target completion date to the year 2008. The Committee urged Members and observers to submit documents on Guidelines (G2) to BLG 12 with a view to finalizing them at that session.

### **Availability of ballast water treatment technology**

2.19 The Committee noted that seven documents – MEPC 56/2/4 (Japan), MEPC 56/2/5 (Secretariat), MEPC 56/2/6 (Secretariat), MEPC 56/2/7 (United Kingdom), MEPC 56/2/10 (Germany), MEPC 56/2/12 (Republic of Korea) and MEPC 56/2/14 (CESA) – commenting on the availability of the ballast water treatment technologies had been submitted to this session.

2.20 The Committee recalled that MEPC 55 had requested the Legal Office of the Organization to provide legal opinions on the two options identified by the Ballast Water Review Group to minimize the negative consequences caused by the possible delay in the development of type-approved ballast water management systems and advise of other possible options to address these concerns.

2.21 The Committee noted that the Legal Office had concluded that the two options identified by the Ballast Water Review Group at MEPC 55 were not viable and the most appropriate legal option to address the situation created was the adoption of a Protocol to BWM Convention. As the Protocol solution was not supported, the Legal Office offered other three possible options for consideration by the BLG Sub-Committee. The Sub-Committee, after consideration, agreed that a resolution calling on States not to enforce the D-2 standard for a limited period of time appeared to address the concerns regarding the delay in the development of type-approved ballast water management systems.

2.22 Having considered document MEPC 56/2/6 (Secretariat), the Committee did not agree with the advice provided by the Legal Office of the Organization and decided that the non-retroactivity provisions contained in the Vienna Convention on the Law of Treaties are not relevant for this discussion as this is not a matter of retroactivity. As the majority of the delegations that spoke found the adoption of a Protocol to the BWM Convention impracticable, the Committee agreed to instruct the Review Group to further consider the possibility of adopting an MEPC resolution as suggested by BLG 11, with a view to revisiting this matter after the consideration of the report of the Review Group on the availability of the ballast water treatment technologies.

2.23 The delegation of Spain stated, in respect of paragraph 18.2 of document 56/2/5, that, as a contracting Government to the BWM Convention, it could not agree with the draft MEPC resolution calling on States not to enforce the first application date of the D-2 standard. Consequently, the delegation of Spain placed a reservation concerning the possible issuance of such a resolution.

2.24 The Committee agreed further to refer the information provided in document BLG 11/4/6 (IACS), regarding the estimated number of ships in the first category to which the BWM Convention may apply, to the Review Group for further consideration.

2.25 Having considered documents MEPC 56/2/7 (United Kingdom) and MEPC 56/2/10 (Germany), the Committee agreed to refer these two documents to the Ballast Water Review Group for detailed consideration to determine whether appropriate technologies were available to achieve the D-2 standard.

2.26 Having also considered document MEPC 56/2/4 (Japan) on the estimated number of vessels to which regulation D-2 may apply and documents MEPC 56/2/12 (Republic of Korea) and MEPC 56/2/14 (CESA) commenting on it, the Committee agreed to refer these three documents to the Ballast Water Review Group for detailed consideration.

2.27 With regard to the interpretation of the application dates in regulation B-3.1 of the BWM Convention, the Committee noted the clarification by IACS that those application dates should be interpreted in conjunction with regulation B-3.2, i.e. the application date is the date not later than the first intermediate or renewal survey, whichever occurs first, after the anniversary date of the ship in the year of compliance with the standard applicable to the ship.

### **Proposal for alternative ballast water management method**

2.28 Having considered document MEPC 56/2/11 (Saudi Arabia and India) on an alternative ballast water management method and after some discussion, the Committee agreed on the need to develop a Procedure for approving other methods of ballast water management in accordance with regulation B-3.7 of the BWM Convention and instructed the BLG Sub-Committee to develop such a Procedure inviting interested Members and observers to submit documents on this matter to BLG 12.

### **Other issues related to ballast water management**

2.29 The Committee recalled that MEPC 55 had instructed BLG 11 to further consider document MEPC 55/2/14 (India) regarding a self-validating e-Ballast Water Reporting Form and document MEPC 55/2/28 (ICS) commenting on it, and to examine possible benefits derived from using such a form.

2.30 Having considered the outcome of BLG 11 relating to e-Ballast Water Reporting Form and document MEPC 56/2/9 (India) which provided an update on that reporting form, the Committee agreed that since there were no requirements in the BWM Convention for such reporting, the various forms currently in use in different countries should not be promoted by the MEPC at this stage.

2.31 After the clarification provided by the delegation of India with respect to the fact that the self validating e-Ballast Water Reporting Form, described in document MEPC 56/2/9, is identical to the one indicated in the IMO Assembly resolution A.868(20) and the data base generated from the collation of the data from such reporting is of value in developing risk assessment and port state control procedures, the Committee agreed that the decision to use such reporting forms should be left to each Member State if deemed appropriate.

### **Terms of reference for the Ballast Water Review Group**

2.32 Having completed the consideration of all the documents submitted, the Committee agreed on the following terms of reference for the Ballast Water Review Group:

“Taking into consideration comments made in plenary, the Ballast Water Review Group is instructed to:

- .1 consider the draft Methodology for information gathering and the conduct of work of the GESAMP-BWWG contained in annex 4 of document MEPC 56/2/2, taking into account the outcome of the BLG 11, document MEPC 56/2/5 (Secretariat) on this issue, and documents MEPC 56/2/8 (United States) and MEPC 56/2/13 (ICS);
- .2 consider the recommendation of BLG 11 that any system which makes use of, or generates, Active Substances or free radicals during the treatment process to eliminate organisms in order to comply with the BWM Convention, should be evaluated by the GESAMP-BWWG and advise the Committee accordingly;
- .3 advise the Committee on how to address the recommendations made by the GESAMP-BWWG during its third meeting as contained in action items 1-11 of document MEPC 56/2/2;
- .4 provide additional comments and further guidance on the development of the Methodology as appropriate;
- .5 review the information regarding ballast water treatment technologies provided in documents MEPC 56/2/7 (United Kingdom) and MEPC 56/2/10 (Germany);
- .6 review the information regarding the estimated number of vessels to which regulation D-2 may apply contained in documents BLG 11/4/6 (IACS), MEPC 56/2/4 (Japan), and documents MEPC 56/2/12 (Republic of Korea) and MEPC 56/2/14 (CESA) commenting on it and advise the Committee on how to address the concerns raised by Japan;
- .7 determine the availability of ballast water treatment technologies to achieve the standard set in regulation D-2, by conducting a focused assessment of the type approved equipment and other relevant information;

- .8 should the availability of technologies still be a matter of concern, consider the text proposed by ICS (MEPC 56/2/5, annex) as a basis for the development of an MEPC resolution calling on States not to enforce the first compliance date for a limited period of time and advise the Committee accordingly;
- .9 develop draft terms of reference for the next meeting of the Ballast Water Working Group tentatively scheduled for 4 to 6 February 2008 during BLG 12; and
- .10 submit a written report to the Committee on Thursday, 12 July 2007.”

### **Report of the Ballast Water Review Group**

2.33 The Ballast Water Review Group met from 9 to 11 July 2007 under the chairmanship of Mr. Brian Elliott (United Kingdom).

2.34 In introducing the report of the Review Group (MEPC 56/WP.4), the Chairman indicated that significant progress has been made in further developing the Methodology for information gathering and the conduct of work of GESAMP-BWWG and that a common understanding of the need to address the concerns of the shipping industry related to ballast water treatment technologies was achieved. The Chairman of the Review Group pointed out, in particular, the need for advice on how to address these concerns in order to provide the certainty required by the shipping industry and an acceptable mechanism to ensure that ship owners facing these problems are not legally penalized.

2.35 The Chairman of the Review Group expressed appreciation for the participation of Dr. T. Bowmer, Chairman of the GESAMP-BWWG, who provided valuable support and expert advice during the deliberations regarding the Methodology.

2.36 The Chairman of the Review Group invited the Committee to consider the action points contained in paragraph 64 of document MEPC 56/WP.4 and approve the report in general.

2.37 Most of the delegations which took the floor were of the view that 1 January 2011 would be more appropriate as the first date of application of the D-2 standard. In this respect, the delegation of China suggested that the Review Group should continue to pursue this matter until the technology is matured enough to meet the D-2 standard.

2.38 The delegation of Norway informed that apart from the testing facilities mentioned in the report of the Review Group a new facility became operational in Oslo and invited the Committee to consider the “full package” of the “phase in” period when dealing with the application dates of the D-2 standard with a view to identifying a legally robust solution. Norway urged Member States that have not ratified the BWM Convention to do so at their earliest convenience.

2.39 The delegation of Japan pointed out that paragraph 60 of the Review Group’s report contains mechanisms to address the concerns regarding the possible delays in the development of ballast water treatment technologies and referred, in particular, to the procedure used in the case of MARPOL Annex IV, which in their view could also be applied to the BWM Convention. Japan informed about its intention to submit a document on the interpretation of the application dates and the other aspects contained in paragraphs 58 to 62 of the Review Group’s report for consideration by BLG 12.

2.40 The delegation of China sought clarification on the Committee's decision regarding the issue of non-retroactivity of the treaties contained in document MEPC 56/2/6 and expressed the view that if this decision means that irrespective of the status of BWM Convention (i.e. even the Convention does not enter into force before 1 January 2009) ships constructed in or after 2009, with a ballast water capacity of less than 5,000 cubic metres, shall meet the D-2 standard, the decision is against the Vienna Convention and contradicts previous decisions made by the Organization when developing new legally binding instruments.

2.41 In this respect, the delegation of China recalled the decision made by the International Conference on the Control of Harmful Anti-Fouling Systems for Ships (document AFS/CONF/RD/2), which states that "in case of the reference to a requirement being effective on 1 January 2003, if the Convention comes into force at a later date, then the legal effect is the requirement to be moved forward to that date." China expressed serious concern with regard to Committee's view that non-retroactivity provisions contained in the Vienna Convention are not relevant in case of the BWM Convention and requested the Committee to refer this issue and document MEPC 56/2/6 to the Legal Committee for further consideration.

2.42 The delegation of Bahamas suggested a three stage approach: firstly, to determine if 1 January 2009 could be a realistic date for the entry into force of the BWM Convention and if not, secondly, to determine what should be done to identify the appropriate mechanism to move forward the application date of D-2 standard and thirdly, to agree at a later stage on the most appropriate new application date.

2.43 The observer from ICS expressed concern that further delaying a decision on these matters, which have been discussed since MEPC 54, would add uncertainty and create further confusion for the shipping industry.

2.44 During the discussions, an opinion was expressed that, as there are still no type-approved technologies for ships contracted to be constructed in 2009, the proposal to develop a protocol to modify the BWM Convention may be further investigated by the Committee.

#### **Action taken by the Committee**

2.45 Having considered the report of the Ballast Water Review Group (MEPC 56/WP.4) and the comments made by various delegations, the Committee:

- .1 agreed that a Ballast Water Working Group be convened at BLG 12, to undertake the work not finalised during BLG 11, and complete the work recommended to BLG 12 in this report;
- .2 agreed that the definition of *Relevant Chemicals* in Procedure (G9) be interpreted as shown in paragraph 1.1.6 of the Methodology (MEPC 56/2/2, annex 4);
- .3 agreed, as an interim measure until the Guidelines (G8) can be revised, that Administrations should require manufacturers developing Ballast Water Treatment Systems that only use physical processes that may produce chemical by products, to utilize the relevant guidance and testing provisions for eco-toxicology, human health and ship and crew safety that are included in the Procedure (G9), as part of the Guidelines (G8) Type Approval process;

- .4 agreed further that Administrations should provide appropriate guidance on this matter to manufacturers and ensure that the resources to evaluate this information are available;
- .5 agreed that the existing IMO Conventions and Codes might serve as a basis for developing technical guidance so that the handling and storage of chemicals used to treat ballast water can be done safely;
- .6 agreed that the existing IMO Conventions and Codes might serve as a basis for developing guidance on safety procedures for the resulting risks to the ships crew from the treatment process;
- .7 requested that BLG 12 begin to develop the guidance referred to in subparagraphs .5 and .6 above, seeking advice from other relevant sub-committees, such as DSC, if necessary;
- .8 agreed that the GESAMP-BWWG Methodology is a living document in need of further development, but that it is currently suitable as technical guidance for use by applicants submitting requests for evaluation of ballast water treatment systems;
- .9 agreed that Guidelines (G8) and Procedure (G9) should be revised to further clarify, co-ordinate and improve them, taking account of the issues raised in this report, best practice and lessons learned by the GESAMP-BWWG and the Administrations;
- .10 instructed the Secretariat to update the Procedure (G9) to reflect the additional data recommended by the GESAMP-BWWG and subsequently agreed by the Committee at MEPC 54, 55 and 56, and submit a revised draft of Procedure (G9) for consideration by the Ballast Water Working Group to be established at BLG 12;
- .11 agreed that once a system has received Final Approval under Procedure (G9), then that system does not have to retrospectively submit new data to meet any changes to the GESAMP-BWWG Methodology;
- .12 agreed that when a manufacturer applies for Final Approval under Procedure (G9), every effort should be made in conjunction with the Administration to ensure that the latest GESAMP-BWWG Methodology is applied and additional data in the application is provided as appropriate;
- .13 agreed that future changes in the GESAMP-BWWG Methodology should include an application date from which they should apply;
- .14 endorsed the need for a Human Exposure Scenario (HES) as part of the Risk Assessment procedure for ballast water management systems, and instructed the Ballast Water Working Group and BLG 12 to further consider the HES through formal technical negotiations based on the outline provided by GESAMP-BWWG (MEPC 56/2/2, annex 9). In this respect, the Committee invited members and observers to submit their comments on annex 9 of MEPC 56/2/2 for further consideration of this matter at BLG 12;

- .15 endorsed the need for a Emission Scenario Document (ESD) as part of the Risk Assessment procedure for ballast water management systems and agreed that the proposal based on the worst case discharge scenario contained in BLG 11/4/11, and supported by BLG 11/4/15, should be regarded as the first stage of a stepped approach to the development of a full ESD, until more data on potential discharges and technologies becomes available;
- .16 agreed that, as an interim measure, the GESAMP-BWWG could use the initial HES and ESD approaches as described in annex 9 of MEPC 56/2/2 and BLG 11/4/11, and that manufacturers should consider this when preparing application dossiers and provide information in such a way to support these evaluations;
- .17 agreed that information on Total Residual Oxidants (TRO) and Total Residual Chlorine (TRC) should be provided as part of the application for evaluation, for both the ballast water treatment process and the ballast water discharge;
- .18 encouraged Administrations and manufacturers to ensure standardization in toxicity testing data submitted for both Basic and Final Approval;
- .19 requested that BLG 12 develops criteria to evaluate systems using the same Active Substances or Preparations, to determine when it is appropriate to apply the Basic Approval granted to one applicant to another applicant, taking into consideration confidentiality and ownership of data, and considers options on how to incorporate such situations into Procedure (G9);
- .20 recommended that Administrations submitting applications for Basic Approval should undertake a comprehensive review of the application to ensure its completeness, sufficiency and soundness of conclusions reached, to aid the GESAMP-BWWG approval process;
- .21 requested the Secretariat to amend the GESAMP-BWWG Methodology in annex 2 to MEPC 56/2/2 to remove the mandatory wording and change it to guidance document language;
- .22 agreed the changes to the GESAMP-BWWG Methodology outlined in paragraph 6 of MEPC 56/2/8; and that the text changes suggested in paragraphs 7 and 8 be referred to BLG 12 for further consideration;
- .23 endorsed the conclusions of the Review Group, that the Basic Approval under Procedure (G9) is not a pre-requisite of Type Approval testing, as the GESAMP-BWWG Methodology and the Procedure (G9) do not apply to land-based test facilities, and that an Administration can regulate discharges from its own ships in its own jurisdiction. The Committee concurred, however, with the Review Group's view that in such cases, Basic Approval would still be required, and that the technology could not be used in vessels in another jurisdiction without Basic Approval;
- .24 requested that delegations submit appropriate data and comments to BLG 12 on the issues raised in subparagraphs .7, .10, .15, .19, .22 and .29 in paragraph 2.45 of this report;

- .25 instructed BLG 12 to consider possibilities to formalize the GESAMP-BWWG Methodology;
- .26 agreed that the MEPC 56/2/4 (Japan), MEPC 56/2/12 (Republic of Korea) and the comments made by IACS in plenary on the issue of the interpretation of dates in the Ballast Water Convention should be sent to BLG 12 for further discussion;
- .27 noted the conclusions of the Review Group regarding the concerns of the shipping industry related to ballast water treatment technologies contained in paragraphs 58 and 59 of the Review Group's report (MEPC 56/WP.4) and, recognizing that most of the delegations which took the floor were of the view that moving forward the first date of application of the D-2 standard by two years would be more appropriate, agreed, subject to appropriate reviews, to consider 1 January 2011 as the new possible D-2 application date;
- .28 noted the interventions made by the delegations of the Bahamas, Japan and Norway and invited Members and observers to submit documents to MEPC 57 aimed at providing guidance on how to address the concerns contained in paragraphs 58 and 61 of the Review Group's report and, in particular, how to ensure that shipowners facing problems related to unavailability of ballast water treatment technologies are not legally penalized, with a view to taking a final decision at that session;
- .29 approved the terms of reference for the Ballast Water Working Group to be established at BLG 12, as set out in annex 5; and
- .30 approved the report in general.

2.46 Following a request from the Republic of Korea to have two meetings of the GESAMP-BWWG before MEPC 57 the Chairman informed the Committee that due to the fact that not all the members of the Group are available for the proposed additional meeting, only one meeting will be possible between now and MEPC 57 and the proposals for approval will be considered in the chronological order of their submissions (see also paragraphs 2.11 and 2.12).

### **3 RECYCLING OF SHIPS**

3.1 The Committee recalled that at its fifty-fifth session (9 to 13 October 2006) it had established an intersessional Correspondence Group on Ship Recycling to further develop the draft Convention and the draft guidelines necessary under the draft Convention, and to submit a written report to the Intersessional Working Group on Ship Recycling for its consideration.

3.2 The Committee also recalled that an Intersessional Working Group on Ship Recycling was hosted by the Government of the United Kingdom in London from 7 to 11 May 2007 under the chairmanship of Mr. Jens Henning Koefoed (Norway). The Intersessional Working Group had thanked Norway for coordinating the Correspondence Group on Ship Recycling and had expressed its appreciation to Mr. Sveinung Oftedal for his hard work in successfully coordinating the difficult work of the group and for compiling its report in a clear and concise manner. The Intersessional Working Group had used the report of the correspondence group as a basis for its further work.

## **PLANNING OF THE WORK**

3.3 In planning its work, the Committee recognized that there were three broad areas of interest for this session, namely, the revision of the draft text of the Convention; the development of the Guidelines; and organisational matters. It was agreed to consider the three areas one by one.

## **CONSIDERATION OF THE REPORT OF THE INTERSESSIONAL WORKING GROUP ON SHIP RECYCLING AND OF ISSUES RELATING TO THE REVISED DRAFT TEXT OF THE CONVENTION**

3.4 The chairman of the intersessional working group, Mr. Jens Koefoed (Norway), introduced the group's report (MEPC 56/3). The intersessional working group had used the report of the correspondence group as base document and the text of the draft Convention was further developed following detailed discussions on the appendices to the Convention, on the Articles and on the regulations, with the exception of regulations 21.2 to 24 and 26 which had not been discussed due to lack of time. Also due to lack of time, the group had not managed to address the guidelines.

3.5 The Committee approved the report in general and, in particular (paragraphs and annexes are those of document MEPC 56/3):

- .1 noted the information contained in annex 1 (summary of the report of the correspondence group) and in annex 3 (information from Norway on Proposal on hazardous substances);
- .2 noted the further development of the text of the articles of the draft Convention on ship recycling (paragraphs 12 to 22 and annex 2);
- .3 noted the further development of the regulations and appendices to the draft Convention on ship recycling and that, due to lack of time, the text of the regulations had not been fully reviewed (paragraphs 10 to 11 and 23 to 35 and annex 2);
- .4 agreed with the request of the working group to continue to work on documents submitted to the intersessional working group, i.e. documents MEPC-ISRWG 2/2 and MEPC-ISRWG 2/3 (paragraphs 36 and 37);
- .5 noted the other matters discussed by the group (paragraphs 38 to 42); and
- .6 agreed to re-establish the Working Group on Ship Recycling and to task it to finalize the review of the text of the Annex, to review the guidelines for recycling facilities, and if time permitted, to start a second review of the Convention and its Annex.

3.6 A further 16 documents containing comments on the draft Convention had been submitted. These documents were not introduced in plenary but instead the Working Group was instructed to discuss these and to take them into account in its deliberations.

3.7 The Committee had a general discussion on the outcome of the Intersessional Working Group and on the key issues relating to the revised draft Convention.

3.8 The ILO observer noted that in the area of ship recycling, IMO and ILO are working together in overlapping spheres of influence. Avoiding conflicts and ensuring overall coverage and the achievement of shared goals posed challenges for national law makers, administrations and international organizations. ILO stressed that the longstanding principle of co-operation must be demonstrated by giving it practical effect in the wording of the Convention itself, including in Article 15. The ILO also stated that wording that recognized the principle of co-operation would ensure that the new IMO Convention would not inadvertently place Governments in a position where they must deal with inconsistent international obligations between applicable ILO and IMO Conventions. The Committee agreed that the working group should look into this problem and seek a solution.

3.9 The ISO observer reminded the Committee of its earlier submission, MEPC 55/3/3, which had advised of the ISO work plan on ship recycling, namely the ISO 30000 series. ISO also advised that a working group had now been established which included experts from the developed and developing world. Furthermore, ISO had also established an official liaison with UNEP (Basel Convention). The ISO observer reconfirmed its supportive role to the needs of IMO and reaffirmed that the ISO work would not be in conflict to the work of IMO.

3.10 The Committee agreed that the revised text contained in annex 2 to document MEPC 56/3 should be used by the working group as a base document for the further development of the draft Convention. Noting the progress towards the conference and in the spirit of co-operation, the Committee encouraged the working group to focus its work on the text of the draft Convention, which should contain as few square brackets as possible.

#### **DISCUSSION ON THE DEVELOPMENT OF THE GUIDELINES FOR THE INTERNATIONAL CONVENTION FOR THE SAFE AND ENVIRONMENTALLY SOUND RECYCLING OF SHIPS**

3.11 It was agreed that, because the Intersessional Working Group on Ship Recycling did not have sufficient time to address the development of the Guidelines, the relevant parts of the report of the Correspondence Group on Ship Recycling (MEPC-ISRWG 2/2) dealing with the development of the Guidelines would be introduced in plenary, followed by a discussion on key issues on the Guidelines. There were a further 11 documents submitted to MEPC 56 providing comments on the draft guidelines. The Committee instructed the Working Group to discuss these documents and to take them into account in its deliberations.

3.12 The co-ordinator of the correspondence group, Mr. Sveinung Oftedal of Norway, introduced the relevant parts of the group's report (MEPC-ISRWG 2/2) dealing with the development of the Guidelines. The main tasks of the group had been to further develop the draft Convention and the necessary guidelines. The guidelines were addressed in paragraph 14 and in annexes 5 and 6 to the report. In particular, annex 6 provided the following draft list of guidelines that the correspondence group considered necessary:

- .1 Guidelines for the Inventory of Hazardous Materials;
- .2 Guidelines for Survey and Certification;
- .3 Guidelines for Inspection of Ships;
- .4 Guidelines for the Authorization of Ship Recycling Facilities;

- .5 Guidelines for the Safe and Environmentally Sound Ship Recycling; and
- .6 Guidelines for the Development of the Ship Recycling Plan.

3.13 The Committee agreed that priority should always be given to the development of the Convention and, if time permitted, some priority/key guidelines may be developed in parallel to the Convention, which may be adopted by conference resolutions at the same time as the Convention. However, the Committee was reminded that guidelines can always be developed after the adoption of the Convention.

3.14 The Committee had a general discussion regarding the development of the guidelines, on the understanding that the issue would be discussed in detail by the Working Group.

#### **DISCUSSION ON THE ORGANIZATIONAL ISSUES**

##### **Another intersessional meeting of the Working Group?**

3.15 The Committee noted that, depending on the progress made at the current session, there may be a need for a further intersessional meeting of the Working Group in order to ensure that the draft Convention was finalized in time to be adopted by the diplomatic conference in the biennium 2008-2009, with a possible date in early 2009. The Committee therefore agreed to instruct the Working Group to consider the need for an intersessional meeting to further develop the draft Convention, prior to MEPC 57.

##### **Joint ILO/IMO/BC Working Group on Ship Scrapping**

3.16 The Committee recalled that the second session of the Joint ILO/IMO/BC Working Group on Ship Scrapping, hosted by the Basel Convention in Geneva from 12 to 14 December 2005, had agreed on the value of continued co-operation between ILO, IMO and the Basel Convention on the subject of ship recycling.

3.17 The Committee recalled further that, at its fifty-fifth session, it had discussed whether there was a need for a third session of the Joint ILO/IMO/BC Working Group and, recognizing that it was not practical or desirable to alter the terms of reference of the Joint Working Group, agreed to defer a decision to MEPC 56.

3.18 The Committee noted that there was a submission from the Secretariat of the Basel Convention (MEPC 56/3/17) referring to the relevant decision of the eighth meeting of the Conference of the Parties to the Basel Convention, which had supported the holding of a third meeting of the Joint Working Group, and a submission from the International Labour Office (MEPC 56/3/24) referring to the decision of the 298th session of the ILO Governing Body which, subject to the decision to be taken by MEPC 56, had agreed to host the third meeting under terms of reference to be agreed.

3.19 The Committee had a general discussion on the need, specific objectives and agenda for a possible third meeting of the Joint ILO/IMO/BC Working Group in 2008 and agreed to instruct the Working Group on Ship Recycling to further consider this issue and to make a recommendation to the plenary.

## ESTABLISHMENT OF THE WORKING GROUP

3.20 The Committee agreed to re-establish the Working Group on Ship Recycling under the chairmanship of Mr. Jens Koefoed (Norway) with the following Terms of Reference:

“Taking into consideration submissions by Members and comments made in Plenary, the Working Group on Ship Recycling is instructed to:

- .1 further develop the text of the draft International Convention for the Safe and Environmentally Sound Recycling of Ships on the basis of the revised text contained in annex 2 of document MEPC 56/3 (report of intersessional working group), taking into account comments made during plenary and proposals in documents MEPC 56/3/1 (Japan); MEPC 56/3/7 (Japan); MEPC 56/3/8 (Comité Maritime International); MEPC 56/3/9 (Japan); MEPC 56/3/10 (Norway); MEPC 56/3/12 (Denmark); MEPC 56/3/13 (India); MEPC 56/3/14 (India); MEPC 56/3/16 (Belgium and the Netherlands); MEPC 56/3/17 (Secretariat of the Basel Convention); MEPC 56/3/18 (United States); MEPC 56/3/19 (United States); MEPC 56/3/21 (United Kingdom); MEPC 56/3/22 (United Kingdom); MEPC 56/3/23 (International Labour Office); and MEPC-ISRWG 2/2 (report of the correspondence group by Norway);
- .2 further develop the draft “Guidelines for the Safe and Environmentally Sound Ship Recycling”, on the basis of documents MEPC 56/3/4 (Japan); MEPC 56/3/5 (Japan); MEPC 56/3/6 (United States); and MEPC-ISRWG 2/3 (Denmark);
- .3 further develop the remaining draft Guidelines required under the draft Convention on the basis of documents MEPC 56/3/2 (Japan and Germany); MEPC 56/3/3 (Japan); MEPC 56/3/11 (IACS); MEPC 56/3/15 (Japan); MEPC 56/3/19 (United States); MEPC 56/3/20 and Corr.1 (United States); and MEPC 56/3/25 (ICS, BIMCO, INTERTANKO, INTERCARGO and IPTA);
- .4 consider the need for an intersessional meeting of the Working Group on Ship Recycling to be held prior to MEPC 57 to further develop the draft Convention; and if so, consider its possible timing and venue and develop draft Terms of Reference for such a meeting;
- .5 revise the work plan for the further development of the draft Convention;
- .6 consider the need, specific objectives and agenda for a possible third meeting of the Joint ILO/IMO/BC Working Group in 2008 taking into account documents MEPC 56/3/17 (Secretariat of the Basel Convention) and MEPC 56/3/24 (International Labour Office);
- .7 if time permits, start a second review of the Convention and of its Annex; and
- .8 submit a written report to Plenary on Thursday, 12 July 2007.”

## **REPORT OF THE WORKING GROUP ON SHIP RECYCLING**

3.21 The Committee considered the report of the working group MEPC 56/WP.5 and noted that the group, in view of the limited time available and large number of documents submitted, had decided not to introduce each document but instead had agreed that documents should be introduced during the discussion of the Articles, regulations and guidelines they referred to. For that purpose the Secretariat had developed a table cross-referencing the issues raised in each submission against the provisions of the draft Convention. The table was shown as annex 1 to the working group's report.

### **Further development of the text of the draft Convention**

3.22 The Committee noted that the ILO had proposed the addition of a new preambular paragraph *4bis* which aimed to reflect the intent that the new IMO Convention would not inadvertently place governments in a position where they must deal with inconsistent international obligations between applicable ILO and IMO Conventions. The proposed text had been placed within square brackets pending further information on the Copenhagen Declaration.

3.23 The Committee also noted that considerable discussion had taken place on Article 1.2 upon which the ILO had submitted a proposed revision. The IMO Legal Office had advised that the present wording providing for States to be able to take more stringent measures was unclear and it could raise legal concerns since it could be read as suggesting that a coastal State could impose more stringent requirements than those of the Convention on foreign flag ships. Some delegations had proposed that the paragraph should be deleted; some had proposed that it should be maintained and some had proposed that a clearer text should be introduced. Following a lengthy discussion an alternative text was produced and both the old and the new text had been maintained in square brackets.

3.24 The Committee was informed of discussions in the group regarding Article 2 which had defined a ship as a vessel operating in the aquatic or marine environment. Both words, aquatic and marine, had been within square brackets. It had been argued that the definition utilizing the term aquatic would bring under the application of the Convention inland waterways vessels because many of these vessels would not be exempt from the application of the new Convention because of their size or because of their domestic trading, as such vessel often trade between more than one country. The Committee noted that the group had agreed to keep only the word marine in the definition and in this way to exclude inland waterway vessels from the application of the new Convention, although some had preferred that the same result should be achieved by amending Article 3 (Application).

3.25 The Committee also noted that the group discussed whether the new Convention should apply to ships engaged solely in domestic voyages. The majority of the group had agreed that the Convention should not apply to such ships and therefore that relevant text should be introduced in Article 3.3 to exclude ships which have exclusively operated within a single country and which are recycled within the same State. Two versions of text had been introduced in square brackets for further discussion. A number of delegations however had felt that the proposed text may inadvertently introduce loopholes. Furthermore, Denmark had raised a concern that when groups of ships are excluded, as they are in Article 3, paragraphs 2 and 3, this would result in a double regulation for the recycling of ships because the Basel Convention would apply to these ships.

3.26 Regarding Article 12, dealing with requirements for information to be communicated by Parties to the Organization, the Committee noted the discussions within the group. The chapeau to this Article had provided that the Organization would subsequently communicate the information to other Parties. Some delegates had preferred that the information should be made available to other international organizations for dissemination as appropriate, or be disseminated by the Organization to all stakeholders, while other delegations had preferred a controlled dissemination because the information included alleged violations. It had also been proposed that, instead of communicating the information to the Organization, the Article should make a provision to communicate the information to the Committee who would then consider if further dissemination was necessary. The group had agreed to further discuss this issue at its next session.

3.27 The Committee noted that there had been a further exchange of views on Article 13*bis* whose deletion had been proposed by India (MEPC 56/3/13) and which proposal had been supported by some. China had pointed out that the IMO's Legal Office, had identified the following potential problems in connection with Article 13*bis*: (1) the lack of precision in making a mandatory application of "the general auditing scheme developed by the Organization"; (2) the problem of maintaining the level of confidentiality called for; (3) the creation of a mandatory enforcement mechanism over State-Parties with no clear consequence for failure to comply; and (4) the awkward relationship that might develop between the Organization and its members if it was empowered to compel Parties to undergo a periodic audit. The question had arisen on whether both alternatives should be deleted but no common position had been agreed. It had been identified that the discussion regarding Article 13*bis* contained two separate issues, namely, whether the group accepted the need for a mechanism for uniform implementation of the Convention in recycling yards and secondly whether Article 13*bis* was the right mechanism. The Committee noted that the group could agree on the need for a mechanism for uniform implementation without interfering with the sovereign rights of the recycling State but could not agree on the alternatives in Article 13*bis*. Due to time constraints the discussion concerning the deletion of Article 13*bis* had not been concluded and therefore the Article had been kept within square brackets. The Committee noted that the text had been kept in square brackets for the time being with no changes.

3.28 The Committee was informed that the United Kingdom had introduced in their document MEPC 56/3/21 a proposal for a new Article 13*ter* on an implementation compliance mechanism. There had been a broad exchange of views on the ideas contained in the proposal by the United Kingdom but some delegations had been concerned that this mechanism, after the entry into force of the Convention, would effectively legalize non-compliance in State Parties. Others had supported the proposal for a mechanism that would facilitate State Parties' implementation. Many other issues had been raised, as for example that a variation of the proposed mechanism could be applied during the transitional period from the adoption and up to the entry into force of the Convention. It had been agreed not to add any of the proposed text to the draft Convention at this stage and that the United Kingdom would work further on its proposal and submit a more refined proposal to clarify the position at the next session.

3.29 The Committee noted that the group had continued its discussion on the form of Article 15, which dealt with the relationship of this Convention to international law and other international agreements. At its last meeting the group had agreed to await the adoption of the Wreck Removal Convention and perhaps use the final text from that Convention. That text had been introduced into Article 15 as an alternative text within square brackets. The Committee noted that the group had decided to keep both texts for the time being. Furthermore some delegations had asked whether such a clause was necessary. The Secretariat subsequently had obtained advice from IMO's Legal Office which was that this Article provided comfort to

signatory countries that may be anxious that the implementation of a given Convention might interfere with UNCLOS. Article 15 provided the assurance that UNCLOS would prevail in case of a conflict.

3.30 Regarding the text referring to other relevant international conventions and which appears within square brackets at the end of Article 15, the Committee was informed that the ILO had wished to ensure that the Convention would not prejudice the obligations of States that have ratified relevant ILO conventions. ILO had suggested that this reference offered a way to avoid any misunderstanding that the IMO regime was intended to be applied in place of the ILO conventions ratified by the States concerned. Furthermore, France had proposed the words “including international labour conventions” to come after “other relevant international conventions”. Although there had been some support for the French proposal the group had been unable to resolve the matter and had agreed to return to it at the next review of the text.

3.31 The Committee noted that IACS had proposed to the group to include in regulation 5.2 a reference to the need to develop a specific document (the Sampling Plan) which had been found to have been required when developing the relevant guidelines but for which there had been no supporting requirement within the text of the Convention. It was noted that the group could not agree with the proposed wording.

3.32 The Committee also noted that the United States had presented its proposal contained in document MEPC 56/3/18 regarding recycling of Convention ships in facilities located in non-Party States. The group had had a broad exchange of views and had agreed not to conclude on this issue at this session. There had been significant support for solving the issue of non-Party recycling facilities that meet or exceed the standards of the Convention, though serious concerns had been expressed about the solution proposed by the United States. Many had felt that the consequences of the proposal were still unclear and it had been suggested that more time was needed to find solutions to this issue. India had supported the proposal for non-Party States recycling Convention ships in its submission MEPC 56/3/14.

3.33 The Committee was also informed that Norway had stated and had been supported by other delegations, that if a future decision was taken by the Organization to establish a solution within the Convention for non-Party facilities which could demonstrate a standard according to the Convention, it would be necessary to ensure the following:

- .1 specific conditions for the use of non-Party facilities;
- .2 a legally robust regime;
- .3 control mechanisms and transparency; and
- .4 it must not be more favourable to be non-Party to the Convention.

3.34 The Committee noted that India in document MEPC 56/3/13 had proposed that when a ship is handed over to a recycling yard and it ceases to be a ship a De-registration Certificate or Cancellation of Registration Certificate should be issued. The proposal by India had been discussed by the group extensively. While many had recognized that the issuance of such a certificate and the communication of this information identifying the name and location of the recycling facility to the Organization would prevent the circumvention of the Convention’s requirement by accounting for every ship that ends up in a recycling facility, on the other hand some delegations had agreed that practical considerations would not allow this. The group had agreed to revisit this issue at its next session in light of submissions from Members.

3.35 The Committee also noted that extensive discussion had taken place within the group following India's introduction of their document MEPC 56/3/13 proposing that the Convention should require the provision of a contract or agreement between the shipowner and Ship Recycling Facility. India had expressed concern that the draft Convention did not take into account current sale/purchase practices of the shipping industry for recycling whereby a ship may become flagless before it is delivered to the recycling facility. There had been general agreement within the group of a potential problem and Members had been invited to look into the issue and submit their proposal to the next session.

3.36 The Committee was informed that ILO had requested the working group that the views of the Legal Office of the IMO be sought on possible avenues to resolve in the text of the Convention the issue of overlapping subject matters relating to the ILO's proposals for the preamble and for Articles 1.2 and 15. The ILO had noted relevant examples in other IMO texts such as SUA 2005 and had recalled that the Chairman of MEPC 56 had requested the group to seek wording to ensure that neither Organization's conventions had the effect of lowering the standards of the other. The Committee noted that the group had agreed that the views of the Legal Office of IMO should be sought and reported to the next session. ILO had reiterated its interest to see an effective solution in this regard and that it would be submitting further proposals concerning these drafting matters.

3.37 The Committee noted that the group had not been able to finalize the work given to it. This had been due to the high number of documents and interventions and due to lack of time for reaching agreements/compromises. The group had therefore run out of time after considering regulation 9 of the Annex to the Convention and had not attempted to discuss other square brackets in the text of the draft Convention, as also shown in annex 1 to the report of the working group. The Committee also noted that the outcome of the group's discussion on the text of the draft Convention was contained in annex 2 to the report of the working group which included square brackets from earlier deliberations.

#### **Further development of the guidelines required under the draft Convention**

3.38 The Committee was informed that the group had sufficient time to consider only the draft Guidelines for Safe and Environmentally Sound Ship Recycling. In this respect the following documents had been considered: MEPC 56/3/4 (Japan), MEPC 56/3/5 (Japan), MEPC 56/3/6 (United States) and MEPC-ISRWG 2/3 (Denmark). Following an exchange of views the group had agreed that the Japanese documents should be the basis and that the other two documents should be integrated as relevant in the further development of the guidelines.

3.39 Furthermore, the Committee noted that the group had considered that the finalization of the guidelines could not take place until after the adoption of the Convention. The group had therefore concluded that the submitted documents addressing the guidelines should be referred to at a later stage.

#### **Intersessional working group**

3.40 The Committee agreed that there was a strong need for a third intersessional meeting of the Working Group on Ship Recycling and endorsed the holding of such a meeting prior to MEPC 57, in order to help the finalization of the draft text of the Convention in good time to be circulated for the diplomatic conference planned for in the 2008-2009 biennium.

3.41 Following some discussion the Committee accepted with appreciation the offer of France to host the meeting and noted that due to planning constraints France's strong preference was for holding the meeting in January 2008.

3.42 The Committee considered the draft Terms of Reference which had been proposed by the working group for the Third Intersessional Working Group and following some discussion approved the following Terms of Reference:

“Taking into consideration the outcome of MEPC 56, any outstanding documents submitted to MEPC 56 and any documents submitted to ISRWG 3, the Third Intersessional Working Group on Ship Recycling is instructed to:

- .1 further develop the text of the draft Convention, aiming to reduce the square brackets in the text to the minimum possible by consensus or by clear majority; and
- .2 submit a written report to MEPC 57.”

### **Development of a work plan**

3.43 The Committee noted the revised work plan for the development of the Convention which had been prepared by the working group and which is outlined below. Some delegations suggested that it would be more logical for the Committee to recommend a date for the diplomatic conference after the draft Convention is finalized. Other delegations supported the work plan as proposed. Following discussion, the Committee approved the work plan as proposed by the working group on the understanding that, if necessary, the plan could be adjusted after MEPC 57.

ISWG	January 2008	Further develop the draft Convention.
MEPC 57 WG	April 2008	Article-by Article and regulation-by-regulation review of the draft Convention; Recommendation on date for diplomatic conference.
Council C100	June 2008	Endorse date for diplomatic conference.
MEPC 58 DG	October 2008	Finalize the draft Convention; Circulate the draft Convention for the diplomatic conference.
Diplomatic Conference	April 2009	Adoption of the International Convention for the Safe and Environmentally Sound Recycling of Ships.

3.44 The observer delegation of the European Commission stated that the Commission had taken great interest in the problem of ship recycling for some years and for this reason it had recently presented a Green Paper on this issue to generate discussion which could lead to proposals for solving the problem. Furthermore, the observer delegation of the European Commission stated that the Commission is first looking at IMO to develop a permanent global solution and also a solution for the interim period. However the Commission was disappointed with the progress made during this session as the working group had partly gone over the same ground again and the draft text now had more square brackets than at the beginning of the week. The Commission hoped that IMO would be able to make more progress from now on.

3.45 Some other delegations shared similar concerns over the limited progress achieved by the working group. Nevertheless a number of delegations recognized the very large work load which had been faced by the group, both in terms of number of documents and in terms of important and difficult issues. These delegations therefore commended the group for the progress it had achieved during the limited working period that had been available to it.

3.46 With regard to the view expressed by some delegations that the draft text of the Convention should be reviewed by the Legal Committee before being circulated for the diplomatic conference, the Committee, after some discussion, agreed that the draft Convention should be considered and finalized by the MEPC and that delegations at the MEPC should consider including legal experts along with their technical advisors. The MEPC would consider, at an appropriate time, whether to send the draft Convention to the Legal Committee for review.

### **Third meeting of the Joint ILO/IMO/BC Working Group**

3.47 The Committee concurred with the working group who had considered the need for a possible third meeting of the Joint ILO/IMO/BC Working Group to be hosted by ILO in Geneva, probably in 2008 and had agreed to propose to the Committee to invite ILO to convene a third meeting. The group had also suggested that, within the existing terms of reference for the Joint Working Group, the following two elements could be included in the agenda of the proposed meeting, bearing in mind that the hosting organization would be setting the agenda in collaboration with the Secretariats of the two other Organizations:

- .1 joint technical co-operation activities; and
- .2 co-ordinated approach to interim measures to be taken pending entry into force of the new IMO Convention.

3.48 During the discussion on this matter the ILO observer clarified that the Governing Body of the ILO would take a decision concerning the meeting of the Joint Working Group on Ship-scraping at its meeting in November 2007.

### **International Ship Recycling Trust Fund and proposed pilot project**

3.49 The Committee noted with appreciation that the Ship Recyclers' Association of Turkey had donated the sum of US\$5,000 to the IMO's International Ship Recycling Trust Fund. Turkey had stated that since early 2000, its ship recycling industry had undergone a significant transformation in terms of technology, regulation and most importantly in terms of mentality. Turkey wished to encourage other recycling States to follow a similar path and to that effect Turkey was confident that this money would be well spent on activities raising awareness of safety, health and protection of the environment related to ship recycling.

3.50 The Committee noted the additional information provided by the delegation of Turkey who stated that during MEPC 55 the working group had welcomed its proposal to offer its facilities for the recycling of two ships according to the provisions of the draft Convention and that the group had invited Turkey to revert with more information. Due to operational delays, Turkey had been unable to make a relevant submission to MEPC 56 and its intention was to revert with additional information at the next session.

#### **4 PREVENTION OF AIR POLLUTION FROM SHIPS**

4.1 The Committee noted that this agenda item contained two major sub-items: Revision of MARPOL Annex VI and the NO<sub>x</sub> Technical Code; and control of shipping's contribution to greenhouse gases and climate change, both of them complex and often contentious.

4.2 The Committee agreed that, in view of time constraints, some technical documents should not be introduced in plenary but should be taken into account as appropriate by the Working Group. Following a proposal by the Chairman, the Committee agreed to consider matters under this agenda item in the following order:

- .1 outcome of BLG 11 on revision of MARPOL Annex VI and the NO<sub>x</sub> Technical Code, including submissions related thereto;
- .2 washwater criteria for exhaust gas-SO<sub>x</sub> cleaning systems and amendments to resolution MEPC.130(53);
- .3 matters related to greenhouse gas emissions from ships: scope and Terms of Reference for updating of the IMO GHG Study; and
- .4 other matters related to greenhouse gases from ships and work in accordance with the work plan adopted by MEPC 55.

#### **OUTCOME OF BLG 11 ON THE REVISION OF MARPOL ANNEX VI AND THE NO<sub>x</sub> TECHNICAL CODE**

4.3 The Committee recalled that, following the entry into force of the Protocol of 1997 to the MARPOL Convention which contains MARPOL Annex VI "Regulations for the Prevention of Air Pollution from Ships" on 19 May 2005, MEPC 53 agreed that MARPOL Annex VI should undergo a general revision and gave the task to the BLG Sub-Committee with a view to significantly reducing air pollution from ships in the shortest possible time. BLG 10 started the work in April 2006 and BLG 11 continued the work in April 2007.

4.4 The Committee considered the outcome of BLG 11 on the revision of MARPOL Annex VI and the NO<sub>x</sub> Technical Code (MEPC 56/4/13). The Committee expressed satisfaction with the work undertaken by the BLG Sub-Committee and its Working Group on Air Pollution.

4.5 The Committee noted the progress made by the BLG Sub-Committee on the revision of MARPOL Annex VI, including progress concerning VOC emissions, development of Tier II and Tier III NO<sub>x</sub> regulations for new engines, economic instruments to reduce emissions, sulphur and particulate matter emissions, and non-cargo ozone-depleting substances.

4.6 The Committee noted further that, due to time constraints, the BLG-Sub-Committee was unable to fully consider the proposed amendments to resolution MEPC.130(53) on Guidelines for on-board exhaust gas-SO<sub>x</sub> cleaning systems, and agreed to the Sub-Committee's invitation to consider the proposed amendments when considering issues relevant to washwater criteria for exhaust gas-SO<sub>x</sub> cleaning systems and to instruct the Working Group accordingly.

### **Informal Cross Government/Industry Scientific Group of Experts**

4.7 The Secretary-General, in his note MEPC 56/4/15, proposed the setting up of an informal Cross Government/Industry Scientific Group of Experts to undertake a comprehensive study to evaluate the effects of the different fuel options proposed under the revision of MARPOL Annex VI. The Secretary-General stated that the Organization had always been able to produce well worked out and timely results, when needed.

4.8 The Secretary-General stated that he had been following closely developments within the Organization's efforts to revise MARPOL Annex VI and the NOx Technical Code. He reasoned that it would be beneficial if the matter in hand were pursued in a comprehensive manner; by involving all interested parties and by adopting an inclusive approach, the "big picture" would be better and more readily understood by all concerned, thus enabling the Committee to consider and adopt amendments which would be both workable and capable of achieving the agreed objectives. The Secretary-General also stated that he was keen to demonstrate the Organization's eagerness and ability to always produce well worked-out and timely results; and that shipping was an energy-efficient, clean, environmentally-friendly and responsible industry – vital to sustainable world trade and development.

4.9 In order, however, to further strengthen the environmental credentials of sea transport, apace with the progress that the land-based transport system has reportedly made of late, and to establish and maintain a high esteem in the eyes of civil society for shipping. The Secretary-General urged the shipping community to, **working together**, seek even better results by, among other commendable initiatives, intensifying our efforts to reduce harmful air pollution from ships by tightening the emission limits in MARPOL Annex VI in the shortest possible time frame. To maintain both the primary role of IMO in regulating international shipping and the status of the MARPOL Convention as the Organization's spearhead in its ceaseless efforts to protect and preserve the marine environment from any source of marine and atmospheric pollution emanating from shipping operations, thus preventing unilateral or regional measures, we need to take a quantum leap and **establish a long-term strategy on prevention of harmful emissions from ships engaged in international trade**, and once such a strategy is in place, to see that it is implemented as widely and effectively as possible.

4.10 The Secretary-General stated that he had no doubt the Committee would find it beneficial to pursue the revision of MARPOL Annex VI and the NOx Technical Code in a comprehensive manner and that, in such an exercise, all interested parties – including oil producers and engine manufacturers – should be invited to participate. He believed that, by adopting an inclusive approach engaging governments, industry, environmental interests and the scientific community, the "big picture" would be better and more readily understood by all concerned, thus enabling the Committee to make balanced decisions, based on sound criteria, which would ensure practicable, workable and affordable solutions. The Secretary-General therefore proposed the setting up of an **informal Cross Government/Industry Scientific Group of Experts** to undertake a comprehensive study to **evaluate the effects of the different fuel options** proposed under the revision of MARPOL Annex VI – a study, the aim of which would not be to promote any particular position but one which, instead, would gather and present facts and data that would facilitate the Committee's decision-making process.

4.11 The proposed Scientific Group of Experts was not meant to undertake a parallel process to the ongoing revision of MARPOL Annex VI and the NOx Technical Code the BLG Sub-Committee was engaged with. **Instead**, it would focus on reviewing the impact on the environment, on human health and on the shipping and petroleum industries, of applying any of the proposed fuel options to reduce SOx and particulate matter generated by shipping and the

consequential impact such fuel options could have on NO<sub>x</sub> and other emissions. The proposed Terms of Reference also provided for the study to assess the consequential impact on CO<sub>2</sub> emissions from ships and refineries, taking into account the availability of CO<sub>2</sub> abatement technologies.

4.12 It was imperative, the Secretary-General stated, that the proposed Group of Experts carried out its assignment in such a manner as to ensure that **the MARPOL Annex VI revision process was not delayed in any way**. In this connection, he suggested to schedule its work in **three distinct phases** (as explained in paragraph 9 of MEPC 56/4/15), which, if followed, should enable the Group to finalize its report by mid-December 2007, and submit it to BLG 12 (scheduled to be held in early February 2008), as well as to MEPC 57 seven weeks later, under a relaxed deadline, for consideration and appropriate action.

4.13 In deciding on the composition of the Scientific Group of Experts, the Secretary-General had endeavoured to include, in a balanced manner of representation, a small number of persons with expertise on matters within the scope of the study who, although nominated, as they were, by Member Governments and industry/environmental organizations, were expected to serve the Group in their **personal capacity**. He thanked Members and organizations who have offered to assist the Scientific Group of Experts, and encouraged those who felt that they could contribute to the Group's task, to provide scientific support in any area of their expertise. He also thanked those Member Governments and organizations, which had responded to the request for funds to support the study, and informed the Committee that he had made available an initial contribution of 20,000 US dollars from the balance of funds from the Onassis Foundation Prize for the Environment which was awarded to IMO in 1997.

4.14 The Secretary-General expressed hope that based on the outcome of the proposed intersessional Working Group on Air Pollution in the autumn of 2007, coupled with the factual advice that the Scientific Group of Experts would be tasked to provide, and the outcome of BLG 12, the Committee would be able to make the balanced decisions required for a fair regulatory regime that would offer practicable, achievable and affordable solutions to the air pollution problem.

4.15 Following the introduction of document MEPC 56/4/15 by the Secretary-General, there was overwhelming support for the initiative and agreement with the actions requested of the Committee. Some delegations proposed minor changes to the Terms of Reference of the Scientific Group of Experts or sought clarifications, including: to insert in paragraph 5.1.1 the distribution by age and type of ships in the world fleet; how they could contribute to the work of the Group; the composition and number of experts in the Group; and if the petroleum industry was represented. One delegation expressed concern over the short time available for the Group to conduct its complex task and urged that the timeline should be flexible.

4.16 The Secretary-General thanked delegations for their support and stated that he would consider the comments on the Terms of Reference of the Group and any input to the Group would be welcomed and could be submitted through the Director of the Marine Environment Division, Mr. M. Palomares, who would be the focal point for the study. The Secretary-General also made it clear that the proposed timeline could not be flexible, because the Group had to carry out its assignment in the revision process of MARPOL Annex VI within the timeframe agreed by the Committee. The final Terms of Reference for the Group are set out in annex 6.

4.17 The Secretary-General reiterated that the Scientific Group of Experts, for the purpose of efficiency, would consist of a limited number of experts with appropriate expertise on matters within the scope of the study and that petroleum industry would be represented. The composition of the Group is set out in annex 7.

#### **REVISION OF MARPOL ANNEX VI AND THE NOX TECHNICAL CODE**

4.18 The Committee approved the Sub-Committee's request for an extension of one session to complete the revision of MARPOL Annex VI, including the holding of an intersessional meeting of the BLG Air Pollution Working Group in the latter part of 2007, and approved a timetable on the revision of MARPOL Annex VI as follows:

- .1 the second intersessional meeting of the BLG Working Group on Air Pollution (BLG-WGAP 2) should continue the revision work from BLG 11 and report to BLG 12; and
- .2 BLG 12 (4-8 February 2008) should finalize all technical revisions and report the outcome to MEPC 57 (31 March – 4 April 2008) for consideration and approval; thus could then be circulated for adoption at MEPC 58 (6-10 October 2008).

4.19 The Committee noted with appreciation that Germany had offered to host the second Intersessional Working Group meeting (BLG-WGAP 2) in Berlin and that the tentative dates had been identified as the week from Monday, 29 October to Friday, 2 November 2007.

4.20 The Committee agreed to instruct the Working Group to develop draft terms of reference for BLG-WGAP 2 for approval by the Committee.

#### **Monitoring the worldwide average of sulphur content of residual fuel**

4.21 The Committee recalled that, as called for by MARPOL Annex VI, the monitoring of the worldwide average of sulphur content in residual fuel oils had been ongoing since 1999. Prior to the entry into force of MARPOL Annex VI, the monitoring was undertaken under the leadership of the Netherlands, supported financially by a number of other Member States. Following decisions by MEPC 52 and the Council, the Secretariat would continue the monitoring and the sulphur monitoring for 2006 was the first result to be presented by the Secretariat.

4.22 The Committee noted the results of the sulphur monitoring programme for 2006 provided in document MEPC 56/4 (Secretariat) that established the average sulphur content at 2.59%, which showed a reduction from 2005 when the average was 2.70%. The Committee also noted that the reason for the decrease could be the calculation method and that ships took on board smaller quantities of low sulphur fuel as a result of the Baltic SECA being in full effect from May 2006, and not that the global average actually had gone down. The three year (2004-2006) rolling average could be established as 2.66%, which was a slight reduction compared to the previous year's rolling average at 2.70%. The reference value was 2.7%. As stipulated in the Guidelines, if in any given year the three year rolling average exceeds the reference value by 0.2%, the Committee should consider the need for further measures to reduce SO<sub>x</sub> emissions from ships. This had not happened in 2006 and the Committee agreed that no further action was needed. It was further noted that the Guidelines stipulated that the Committee should continually review this excess value (now 0.2%) once the reference value had been set.

## **Environmental and economic effects of the BLG proposals**

4.23 The Committee noted the information provided by the Netherlands (MEPC 56/4/3) that it has commissioned independent research institutes to perform a number of studies to evaluate the environmental and economic effects for the Netherlands on a number of proposals in connection with the ongoing revision of MARPOL Annex VI. The studies included: an assessment of emissions of PM and NO<sub>x</sub> on sea-going vessels by field measurements; the environmental effects of the different BLG draft proposals for the Netherlands's air quality; and the effects of the proposal to use only distillate fuels. The Committee noted with appreciation that the outcome of the studies would be made available both to BLG and as a contribution to the informal Cross Government/Industry Scientific Group of Experts.

### **NO<sub>x</sub> emissions from existing engines**

4.24 The Committee considered the information provided in document MEPC 56/4/7 (FOEI) and noted the view that adoption of measures to substantially reduce emissions of nitrogen oxides (NO<sub>x</sub>) from existing engines, as part of the amendments to MARPOL Annex VI, was needed to reduce the overall NO<sub>x</sub> emissions from ships. FOEI argued that without substantial NO<sub>x</sub> reductions from the existing fleet, even assuming substantial improvement in the emissions performance of new engines, fleet-wide NO<sub>x</sub> emissions would increase as a result of low fleet turnover, combined with expected fleet growth in coming years.

4.25 The delegation of Sweden expressed support for further consideration of NO<sub>x</sub> regulations for existing (pre 2000) engines and informed the Committee that the Swedish shipping industry has substantial experience in successfully retrofitting after-treatment technologies to existing engines and that significant NO<sub>x</sub> reduction has been achieved. The delegation of India expressed the view that before considering applying retrospective regulations for existing engines the reduction achieved by the current NO<sub>x</sub> limits should be assessed.

### **A goal-based approach to air emissions**

4.26 The Committee considered document MEPC 56/4/14 (ICS) and relevant parts of document BLG 11/5/8 (ICS) transferred from BLG 11. The documents provided background for the introduction of a goal-based approach to reduce air pollution from ships and advocated that a holistic approach should be taken in the introduction of a goal-based approach instead of specific fuel requirements and also argued that CO<sub>2</sub> should be an integral part of the MARPOL Annex VI revision process.

4.27 A number of delegations supported further consideration of a goal based approach to reduce air pollution from ships and others supported the integration of CO<sub>2</sub> as part of the revision of MARPOL Annex VI. A number of delegations expressed the view that CO<sub>2</sub> and reduction of harmful air pollution from ships should continue to be considered as two separate issues and that an inclusion of CO<sub>2</sub> in the revision process would make finalization within the agreed timetable impossible. Some delegations maintained that as consequential CO<sub>2</sub> emissions were part of the Terms of Reference for the comprehensive study to be undertaken by the informal Cross Government/Industry Scientific Group of Experts, this would be taken into consideration and that the efforts of the Committee should be on addressing CO<sub>2</sub> emissions as part of the GHG work. One delegation reminded the Committee that NO<sub>x</sub> emissions have an indirect GHG impact and that reduction of NO<sub>x</sub> emissions would also reduce the total GHG emissions.

## **Documents forwarded to the BLG Sub-Committee**

4.28 The Committee agreed that documents MEPC 56/4/7 (FOEI); MEPC 56/4/10 (Norway); MEPC 56/4/14 (ICS); and MEPC 56/INF.12 (European Commission) should be transferred to the second intersessional meeting of the BLG Working Group on Air Pollution (BLG-WGAP 2) and that the informal Cross Government/Industry Scientific Group of Experts would take them into account as appropriate.

## **WASHWATER CRITERIA FOR EXHAUST GAS-SO<sub>x</sub> CLEANING SYSTEMS**

4.29 The Committee recalled that MEPC 55 agreed to establish a correspondence group co-ordinated by the United States (Mr. Wayne Lundy) to continue the work on establishment of washwater criteria for exhaust gas-SO<sub>x</sub> cleaning systems. The Committee thanked the co-ordinator of the Working Group for his hard work and excellent report.

4.30 A number of delegations expressed the view that washwater criteria for exhaust gas-SO<sub>x</sub> cleaning systems was essential to establish in the shortest possible time in order to promote development of such equipment that shows very promising results from trials and already were installed in a number of ships. The Committee agreed that it was desirable that this work should be finalized at this session. The Committee noted that some of the data from trials dated back to the nineteen nineties and agreed that the working group should consider the relevance of this data and also whether the washwater discharge criteria should apply to the current MARPOL Annex VI only.

4.31 The Committee agreed to instruct the Working Group to continue the work in line with the terms of reference agreed at MEPC 55 and, if possible, finalize draft washwater criteria with the view to adoption when the Group reported back to plenary.

4.32 The Committee also agreed to instruct the Working Group to consider the proposed amendments to the Guidelines for On-board Exhaust Gas-SO<sub>x</sub> Cleaning Systems (resolution MEPC.130(53)) in documents MEPC 56/4/4 (EUROMOT) and annex 11 to BLG 11/5 (Finland and Norway); and finalize draft amended Guidelines with the view to adoption at this session, if possible.

## **MATTERS RELATED TO GREENHOUSE GAS EMISSIONS FROM SHIPS**

### ***Scope and Terms of Reference for updating the IMO GHG Study***

4.33 The Committee recalled that the most comprehensive assessment to date of the contribution made by international shipping to increased levels of atmospheric CO<sub>2</sub> and to climate change is contained in the IMO Study on Greenhouse Gas Emissions from Ships published in 2000 (MEPC 45/8). It also recalled that MEPC 55 agreed that an update of the IMO GHG Study was necessary to give a better foundation for future decisions and invited Member States and observers to submit input to the scope of the update and its terms of reference to this session.

4.34 The Committee considered documents MEPC 56/4/2 (Japan and Norway) and MEPC 56/4/5 (Australia) on the update of the IMO GHG Study; both advocating the need to update the IMO study. Document MEPC 56/4/12 (United States) expressed the view that the 2000 IMO GHG Study was still largely relevant and that priority should be given to implementing the work agreed in the GHG work plan adopted by MEPC 55.

4.35 A number of delegations expressed the view that significant changes had taken place in the world's shipping industry since the 2000 IMO GHG Study and considerable growth had been experienced and that, therefore, there was a compelling need for accurate figures and verified data to substantiate future decisions. Also several delegations maintained that the 2000 IMO GHG Study was still largely relevant and that seen in the context of the workload of the Committee its updating of the Study should not be prioritized. Focus should be on the work in accordance with the "work plan to identify and develop the mechanisms needed to achieve the limitation or reduction of CO<sub>2</sub> emissions from international shipping" adopted by MEPC 55.

4.36 Several delegations stated that CO<sub>2</sub> emissions were governed by the UNFCCC and its Kyoto Protocol and that the guiding principle of "common but differentiated responsibilities" for developing and developed countries also should be applied in IMO's work on reduction of greenhouse gases from international shipping. Other delegations stated that for the regulation of international shipping the principle of "no more favourable treatment" should be applied and that any measure aimed at controlling emissions of GHG from international shipping should be flag neutral. The majority of those delegations who spoke maintained that IMO should follow the work plan adopted by MEPC 55.

4.37 The Committee noted that the figure on the contribution by international shipping to climate change as presented in the documents differed significantly, and agreed that IMO needed factual information when taking decisions that would affect a large industry for decades, hence the need for an update, and that the Working Group should be instructed to develop draft scope and terms of reference with a view to approval by the Committee at this session.

#### **OTHER GHG MATTERS AND WORK IN ACCORDANCE WITH THE WORK PLAN ADOPTED BY MEPC 55**

##### ***IMO GHG policy and co-operation with other UN bodies***

4.38 The Committee noted that there had been ongoing co-operation between the Secretariats of IMO and the United Nation's Framework Convention on Climate Change (UNFCCC) and its Subsidiary Body for Scientific and Technical Advice (SBSTA) on the reduction of greenhouse gas emissions from ships in international trade and the use of bunker fuel oils in recognition of the Kyoto Protocol requirements.

4.39 The Committee recalled that the Assembly, by resolution A.963(23), requests the Secretariat of IMO to continue co-operating with the Secretariat of UNFCCC and the Secretariat of the International Civil Aviation Organization (ICAO). The co-operation between the Secretariats of UNFCCC and IMO had been ongoing since 1998 and the outcomes of MEPC sessions and SBSTA sessions have been reported between the two organizations.

4.40 The Committee noted the information provided in document MEPC 55/4/16 (Secretariat) on the outcome of SBSTA 25 and 26 that both were unable to reach any conclusions on emission from international bunker used by aviation and shipping, and that the deliberations would continue at the next session in November/December 2007.

4.41 The Committee considered documents MEPC 56/4/6 (Denmark and Portugal) and MEPC 56/4/8 (FOEI), both of which call for initiatives dealing with GHG emissions from international shipping and for the need for immediate action.

4.42 In the ensuing debate, a number of delegations argued that the lack of progress by international organizations may lead countries or regional organizations to take initiatives, such as unilateral inclusion of international shipping in the European Emission Trading Scheme. Given still a greater public and political focus on GHG emissions, the time had come for IMO Member States to show their willingness to act and deal with the global challenge on GHG emissions from international shipping in a mandate of the world community. Action was required to maintain and enhance the positive environmental image of maritime transport.

4.43 A large number of delegations supported the content of the two documents introduced and that IMO should take concrete and ambitious actions to find global solutions to a global problem. They stated that prolonged negotiations without commitments should be avoided. They believed that climate change would have devastating effect for the entire world, in particular for developing countries, and that the effects already was experienced in different ways. Some reports had shown that the cost of inaction would far exceed the cost of early actions. A number of delegations pointed out that inaction could also damage the image of sea transport and the credibility of the Organization and that time had come to reinforce the efforts to reduce GHG emissions from ships.

4.44 Some delegations cautioned the Committee not to rush to conclusions and expressed the view that the adopted GHG work plan should be followed and that only technical and methodological considerations should take place leaving policy issues to UNFCCC.

4.45 A large number of delegations stressed that climate change caused by greenhouse gas emissions from burning of fossil fuel was a steadily growing concern, and that scientists had found more and more proof of connections and that no disagreement of the big picture existed among the world's leading scientists. The threat from global warming was far too serious to be ignored and the shipping industry, although an environmentally friendly and fuel-efficient mode of transport, was still causing a part of the problem and should therefore also be responsible for a part of the solution. IMO had already recognized in resolution A.963(23) that the projected adverse effects of climate change called for the implementation of measures to limit or reduce the emissions from international shipping, which constituted one of the sources of GHG emissions.

4.46 The Committee agreed that IMO should maintain its leading position to avoid unilateral action either on a regional or national level. It was further agreed that MEPC should continue to take the lead in developing GHG strategies and mechanisms for international shipping and continue to co-operate closely with other relevant UN bodies.

4.47 The Committee agreed to instruct the Working Group on Air Pollution to consider relevant documents from a technical and methodological perspective and conduct work in accordance with the approved GHG work plan.

#### ***Possible strategies to reduce GHG emissions from shipping***

4.48 The Committee recalled that MEPC 55 adopted a work plan with timetable for further GHG work as called for by resolution A.963(23) and that the work plan stated that technical, operational and market-based methods for dealing with GHG emissions should, from a technological and methodological perspective, be considered at this session.

4.49 The Committee considered document MEPC 56/4/9 (Norway), which presented a possible scheme to reduce CO<sub>2</sub> emissions from ships based on collecting a "CO<sub>2</sub> toll" according to CO<sub>2</sub> emission from all international shipping without the need for a baseline or allocation (flag neutral), introducing an international fund. The funds collected could be invested in emissions

reductions on ships and to buy emissions reductions from other sectors through different trading schemes and project mechanisms. Funds collected could also be a source of contributory funding for climate adaptation projects in developing countries.

4.50 The majority of delegations who spoke saw merit in considering the proposal further and that the working Group should be tasked accordingly, since this was in line with the timetable in the adopted “work plan to identify and develop the mechanisms needed to achieve the limitation or reduction of CO<sub>2</sub> emissions from international shipping”. Some delegations expressed concerns over a uniform carbon tax applied to ships, as this could harm trade and development in non-Annex 1 countries. Some delegations stated that more data was needed and that modelling or examination of how the scheme would affect developing countries was needed, while others opposed any action within IMO in contrast to the guiding principles of the UNFCCC and its Kyoto Protocol of “common but differentiated responsibilities” between developed and developing countries.

4.51 A number of delegations stated that under the UNFCCC ship emissions could not be allocated in line with emissions from land-based sources as shipping was a unique international transport industry and that any measures adopted should apply to all ships irrespective of flag. Some delegations expressed the view that general policy decisions were needed before detailed proposals could be considered, while other delegations stated that resolution A.963(23) on IMO Policies and Practices Related to the Reduction of Greenhouse Gas Emissions from Ships had mandated MEPC to identify the needed mechanisms. Some delegations supported operational and technical means to reduce GHG emissions from ships but called for voluntary measures and opposed introduction of any mandatory mechanism.

4.52 The Committee agreed that the Working Group should consider relevant documents from a technical and methodological perspective and conduct work in accordance with the approved GHG work plan, and start to develop:

- .1 different options for technical, operational and market-based methods for dealing with GHG emissions from international shipping; and
- .2 methodology for CO<sub>2</sub> emission baseline(s) in terms of efficiency.

### ***GHG module in GISIS***

4.53 The Committee recalled that the Working Group on Air Pollution at MEPC 55 was instructed to consider the establishment of a GHG module under GISIS and how to establish the database within the reporting period. However, due to time constraints, the Working Group was unable to finalize this task. MEPC 55 therefore agreed that the advice sought by the Secretariat on a GHG module in GISIS should be revisited at this session and invited Member States and observers to submit input.

4.54 The Committee considered the proposal set out in document MEPC 56/4/11 (Norway) for a reporting format for a GHG module under GISIS, and subsequently agreed that the collected CO<sub>2</sub> indexing data from trials should be made available to Member States and the industry to enable further research work. The Committee also agreed to instruct the Working Group to further consider a GHG module under GISIS in line with the instructions from MEPC 55.

## **Other Air pollution matters**

4.55 The Committee noted the information provided in MEPC 56/INF.7 (Japan) on a International Workshop on Air pollution from ships, particularly NO<sub>x</sub>, SO<sub>x</sub> and PM held by the National Maritime Research Institute (NMRI) on 28 February 2007 in Mitaka City, Japan, and that the presentations and comments at the panel discussions were made available at NMRI's website: <http://www.nmri.go.jp>.

4.56 The Committee noted the information provided in MEPC 56/INF.13 (European Commission) which pointed out that a significant amount of information was already available on the effects of air pollution from ships and possible measures to reduce such pollution. The document offered a brief overview of relevant studies performed for the European Commission over the past six years.

4.57 The Committee noted the information provided in MEPC 56/INF.13 (IAPH). IAPH drew the attention of the Committee to its decision that ports should take practical and effective measures to create a clean air environment and that the development of guidance for such measures which would be included in a so called "Tool Box for Port Clean Air Programs". The purpose of this Tool Box was to provide ports, members and non members of IAPH, quick access to information, options, and tools that can be used to start the planning process to address port-related air quality issues. This guidance was still being developed and would be available towards the autumn of 2007 and would be submitted to the next session of the Committee.

## **Statement by the delegation of China**

4.58 With regard to the issue of GHG emissions from ships, the delegation of China holds the view that the Committee shall only consider this issue from a technical and methodological perspective. Participation in discussions in this regard by the Chinese delegation shall not be interpreted that the delegation accepts that any relevant technical or methodological issue applies to non-Annex I Parties to the UNFCCC.

## **RE-ESTABLISHMENT OF THE WORKING GROUP ON AIR POLLUTION**

4.59 The Committee re-established the Working Group under the joint chairmanship of Mr. Bin Okamura (Japan) on GHG-related issues and Mr. Bryan Wood-Thomas (United States) on revision of MARPOL Annex VI and air pollution matters with the following Terms of Reference:

"Taking into consideration the outcome of BLG 11 and submissions by Members and comments made in Plenary, the Working Group on Air Pollution was instructed to:

### **MARPOL Annex VI related issues:**

- .1 consider proposed amendments and other changes relating to the NO<sub>x</sub> Technical Code;
- .2 develop draft terms of reference and provisional agenda for the intersessional meeting of the BLG Working Group on Air Pollution (BLG-WGAP 2);

- .3 consider relevant documents and, in particular, MEPC 56/4/1 (United States) and MEPC 56/INF.5 (United States); and finalize, if possible, draft washwater criteria for Exhaust Gas-SOx Cleaning Systems (EGCS-SOx) for approval by the Committee to be disseminated by an MEPC circular;
- .4 consider the proposed amendments to the Guidelines for On-board Exhaust Gas-SOx Cleaning Systems (resolution MEPC.130(53)) in documents MEPC 56/4/4 (EUROMOT) and Annex 11 to BLG 11/5 (Finland and Norway); and finalize draft amended Guidelines with a view to adoption at this session, if possible;

#### **GHG-related issues:**

- .5 consider the time frame for updating the IMO GHG Study, including funding, scope and draft terms of reference for the update, using document MEPC 56/4/2 (Japan and Norway) as the base document and taking into consideration, as appropriate, documents MEPC 56/4/3 (Netherlands) and MEPC 56/4/12 (United States);
- .6 consider relevant documents from a technical and methodological perspective and conduct work in accordance with the approved GHG work plan, and start to develop:
  - different options for technical, operational and market-based methods for dealing with GHG emissions from international shipping; and
  - methodology for CO<sub>2</sub> emission baseline(s) in terms of efficiency;
- .7 provide advice for a GHG module in GISIS, including how this should be designed and managed; and
- .8 present a written report to Plenary on Thursday, 12 July 2007.”

#### **REPORT OF THE WORKING GROUP**

4.60 In introducing the part of the report of the Working Group (MEPC 56/WP.6) concerning MARPOL Annex VI related issues, the Chairman, Mr. Bryan Wood-Thomas (United States), emphasized the following:

- .1 consistent with the instructions from the Committee, the Working Group developed draft washwater criteria for exhaust gas cleaning systems addressing several parameters;
- .2 the Working Group undertook extensive revisions to the existing Guidelines for On-board Exhaust Gas-SOx Cleaning Systems to improve the structure and logic of the document. While remarkable progress in the development of the criteria and revision of the Guidelines was made, it was the judgement of the Working Group that it would be premature to immediately adopt the revised Guidelines, given the need to carefully review the criteria drafted during the session as well as the many amendments proposed in the Guidelines themselves. Insufficient time was available to completely review the revised document. This was especially

relevant given the complexity of the Guidelines and that a number of questions raised during the work;

- .3 consequently, the Working Group recommended that the Committee request the Secretariat to ensure that all conforming changes and formatting issues associated with the redrafting of the Guidelines are completed and to submit a revised draft, including the draft washwater criteria for review and finalization at BLG-WGAP 2;
- .4 the Working Group also made considerable progress in reviewing specific technical proposals to modify the NOx Technical Code. Given the need to consider these proposed amendments in the context of the MARPOL Annex VI review process, specific technical amendments to the Code will be forwarded to BLG-WGAP 2 for further review and considerations; and
- .5 The Working Group articulated terms of reference for the intersessional meeting, BLG-WGAP 2, to be held from 29 October to 2 November 2007 in Berlin, Germany. The Working Group was in full agreement on the respective terms of reference, the draft agenda and recommendation to allow media participation in the opening session.

4.61 In introducing the part of the report of the Working Group concerning GHG related issues, the Chairman, Mr. Bin Okamura (Japan), emphasized the following:

- .1 as instructed, the Working Group considered the proposed draft terms of reference for updating of the IMO GHG Study and further developed them and agreed to the draft terms of reference for consideration and approval by the Committee;
- .2 in the GHG work plan approved by MEPC 55 all the different elements are supposed to be finalized at MEPC 59. The Working Group agreed that the outcome of the Study would surely assist the Committee in making decisions. Therefore, the report of the Study should be submitted to MEPC 59, if possible, but at the latest in year 2010;
- .3 in order to meet this timeline, the Working Group agreed that the study had to be started soon and at least within 2007, then the Study would have a year and a half to complete;
- .4 on the issue of the technical, operational and market-based methods for control of GHG emissions, the Working Group realised that this includes a very wide range of issues and, therefore, there was a need to gather all the different ideas by correspondence during the intersessional period, the Working Group agreed to request the approval of the Committee to establish a correspondence group;
- .5 the Working Group was unable, due to time constraints, to consider the methodology for CO<sub>2</sub> emissions baselines, but it was noted that if CO<sub>2</sub> index was assigned to all ships this could form a basis for establishing an efficiency baseline in the future; and
- .6 with regard to the Committee's agreement at the last session that data from voluntary CO<sub>2</sub> indexing on trial basis should be collected in an IMO database, the Working Group prepared a format for this purpose.

4.62 The two Chairmen thanked all the members of the Working Group for their co-operation and constructive approach as well as their patience and flexibility in working through these many issues, given the space and time constraints faced during the session.

4.63 A number of delegations thanked the Working Group for its productive work. One delegation expressed the view that establishing of “washwater discharge criteria” for On-board Exhaust Gas-SO<sub>x</sub> Cleaning Systems without input from GESAMP would be a deviation by the Committee compared to earlier work on discharge criteria. In a short debate that followed, the Committee agreed that any delay should be avoided and that the matter has to be revisited at a later session based on submissions.

4.64 A number of delegations welcomed the terms of reference for updating of the 2000 IMO GHG Study and wanted to be included in the Steering Committee. They stated that their participation in the Steering Committee should not in any way be linked to financial contributions.

4.65 The Committee welcomed the information provided by the delegation of Germany that the second intersessional meeting of the BLG Working Group on Air Pollution, scheduled to be held in Berlin, Germany from 29 October to 2 November 2007 would end at 3 pm on Friday, 2 November.

#### **Statement by the European Commission on GHG-related issues**

4.66 The observer delegation of the European Commission thanked the Working Group, its Chairmen and Secretary for the work done. He recalled that, during the opening plenary session of the Committee, Mr. Mitropoulos and Mr. Jarraud highlighted the importance of action to reduce man-made GHG emissions. He noted that many IMO Member States have committed themselves to reaching a global agreement, within the UNFCCC, on a post-2012 climate change regime in 2009, and IMO must agree soon on the necessary rules for reducing GHG emissions from maritime transport. He then expressed appreciation to what has been achieved in the Working Group although, despite commitment by the plenary on Monday, progress towards the urgent and significant reductions necessary has been more difficult than the European Commission would have wished. He stated that the EC considers reductions in GHG to be of the utmost importance and is interested in all possible technical, operational and market-based methods to deal with emissions from ships, and that the EC will certainly contribute to and participate in the proposed correspondence group on this issue in the run up to MEPC 57 and beyond. He urged the Committee to maintain IMO’s leadership position on this issue; to contribute to post-2012 discussions; and to make meaningful progress by producing initial preferences and proposals on effective measures to reduce GHG emissions from ships at MEPC 57 and elaborating them further at MEPC 58.

4.67 Following introduction of the report of the Working Group by the two Chairmen and a general debate, the Committee approved the report in general and, in particular:

- .1 noted the draft washwater criteria for Exhaust Gas-SO<sub>x</sub> Cleaning Systems (EGCS-SO<sub>x</sub>) developed by the Working Group;
- .2 noted the draft amended Guidelines for On-board Exhaust Gas-SO<sub>x</sub> Cleaning Systems (resolution MEPC.130(53)) developed by the Working Group;

- .3 agreed with the Working Group's recommendation that finalization of draft washwater criteria for Exhaust Gas-SOx Cleaning Systems (EGCS-SOx) and draft amended Guidelines for On-board Exhaust Gas-SOx Cleaning Systems (resolution MEPC.130(53)) should be included in the Terms of Reference and on the agenda for the second intersessional meeting of the BLG Working Group on Air Pollution (BLG-WGAP 2) and the result be submitted directly to the next session of Committee (MEPC 57);
- .4 instructed the Secretariat to ensure that all conforming changes and formatting issues associated with the redrafting of the revised Guidelines for On-board Exhaust Gas Cleaning Systems was completed and to submit the revised document to BLG-WGAP 2;
- .5 approved the terms of reference and agenda for the second intersessional meeting of the BLG Working Group on Air Pollution (BLG-WGAP 2), as set out in annex 8, and instructed the Secretariat to issue the Invitation Circular for the Intersessional Meeting of the Working Group as soon as possible;
- .6 agreed that the opening session of the second intersessional meeting of the BLG Working Group on Air Pollution (BLG-WGAP 2) would be open to the media;
- .7 noted the Working Group's considerations with relation to paragraph 1.1 of the Terms of Reference on the proposed amendments and changes to the NOx Technical Code;
- .8 agreed that the Working Group's informal considerations of the proposed amendments and changes to the NOx Technical Code should be reported by the Secretariat to the second intersessional meeting of the BLG Working Group on Air Pollution (BLG-WGAP 2);

#### **GHG-related issues**

- .9 approved the Terms of Reference for the update of the 2000 IMO GHG Study on Greenhouse Gas Emissions from Ships, as set out in annex 9;
- .10 instructed the Secretariat to initiate the update of the 2000 IMO GHG Study in accordance with the Terms of reference including the establishment of a Steering Committee to assist the Secretariat;
- .11 agreed to encourage Member States and observers to contribute towards the funding of the update of the IMO GHG Study;
- .12 noted the Working Group's considerations with regard to the need for an Intersessional Correspondence Group on GHG Related Issues and approved the establishment of the Correspondence Group with the following Terms of Reference:

The Correspondence Group on GHG Related Issues is instructed, with a view to providing input on the ongoing discussions in accordance with the adopted GHG work plan, to:

- (a) discuss possible approaches on technical, operational and market-based measures to address GHG emissions from ships; and
  - (b) present a written report to MEPC 57.
- .13 noted that Australia<sup>1</sup> and the Netherlands<sup>2</sup> would serve as joint co-ordinators of the Correspondence Group on GHG Related Issues;
- .14 encouraged Member States and observers to put forward concrete and practical proposals for technical, operational and market-based mechanisms to address GHG emissions from international shipping;
- .15 agreed to the recommendation of the Working Group on the establishment of a GHG module in GISIS and approved the format for the module, as set out in annex 10;
- .16 instructed the Secretariat to establish the GHG module in GISIS in accordance with the approved format as soon as possible;
- .17 instructed the Secretariat to communicate the availability of the GHG module in GISIS through an MEPC circular (MEPC.1/Circ.589), the text of which is set out in annex 6 to MEPC 56/WP.6, when it is established and report the progress to the Committee;
- .18 instructed the IMO Secretariat to arrange for an officer to attend the next session of SBSTA; and
- .19 noted the information provided by Norway that they would host a technical workshop on emissions from international aviation and maritime transport in Oslo, Norway on 4 and 5 October 2007.

4.68 The Committee expressed appreciation to the two Chairmen, Mr. B. Okamura (Japan), Mr. B. Wood-Thomas (United States) and to the members of the Working Group for the work done.

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## **5 CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS**

### **Proposed amendment to MARPOL Annex I**

5.1 The Committee recalled that MEPC 55 (9 to 13 October 2006) approved a proposed amendment to MARPOL Annex I with a view to adoption at the present session (MEPC 55/23, paragraph 6.29 and annex 16). The proposed amendment was circulated by the Secretary-General of the Organization, in accordance with Article 16(2)(a) of the MARPOL Convention, under cover of Circular letter No.2752 of 2 November 2006.

5.2 The Committee considered document MEPC 56/5 (Secretariat) with the text of the proposed amendment to Annex I relating to the inclusion, in regulation 38.2.5 on Reception facilities outside Special Areas, of mention of the obligation to provide facilities in respect of oily mixtures from cargo areas of oil tankers by referencing regulation 34 of MARPOL Annex I on discharge requirements from those cargo areas.

5.3 The Committee noted that, as instructed by MEPC 55, the Secretariat had issued MEPC.1/Circ.541 so that the proposed amendment was brought to the attention of Member Governments, port authorities and industry pending its entry into force.

5.4 The Committee agreed to send the proposed amendment and the draft MEPC resolution on its adoption to the Drafting Group for review.

### **Proposed amendment to MARPOL Annex IV**

5.5 The Committee recalled that MEPC 55 approved a proposed amendment to MARPOL Annex IV with a view to adoption at the present session (MEPC 55/23, paragraph 10.72 and annex 27). The proposed amendment was circulated by the Secretary-General of the Organization, in accordance with Article 16(2)(a) of the MARPOL Convention, under cover of Circular letter No.2752 of 2 November 2006.

5.6 The Committee considered document MEPC 56/5 (Secretariat) with the text of the proposed amendment which related to the inclusion, in regulation 11.1.1 on the requirements for discharge of sewage into the sea, of the phrase "*or sewage originating from spaces containing living animals*" to the effect that animal effluent shall be discharged into the sea not instantaneously but at a moderate rate, as is currently the requirement for the discharge of untreated sewage from holding tanks.

5.7 The Committee agreed to send the proposed amendment and the draft MEPC resolution on its adoption to the Drafting Group for review.

### **Proposed amendments to the IBC Code**

5.8 The Committee recalled that MEPC 53 (18 to 22 July 2005) approved in principle, subject to MSC 81's concurrent decision, proposed amendments to the fire protection requirements in chapter 11 of the IBC Code with a view to adoption at MEPC 56 (MEPC 53/24, paragraph 10.74 and annex 29) and agreed that the proposed amendments should be circulated after the deemed acceptance of the revised IBC Code (1 July 2006).

5.9 The Committee recalled also that, in view of the special character of the IBC Code which is a mandatory instrument under both the MARPOL and SOLAS Conventions, MSC 81 (10 to 19 May 2006) also approved the same proposed amendments with a view to adoption at MSC 82.

5.10 The Committee recalled further that MEPC 55 approved the consolidated text of the draft amendments to chapters 17, 18 and 19 of the IBC Code with a view to adoption at the present session (MEPC 55/23, paragraph 10.91 and annex 28).

5.11 The Committee noted that the proposed amendments to the IBC Code were circulated by the Secretary-General of the Organization, in accordance with Article 16(2)(a) of the MARPOL Convention, under cover of Circular letter No.2752 of 2 November 2006 for those relating to chapters 17, 18 and 19 of the IBC Code and, under cover of Circular letter No.2755 of 13 November 2006, for those relating to chapter 11 of the same instrument.

5.12 The Committee noted further that MSC 82 (29 November to 8 December 2006) adopted the amendments to the IBC Code by resolution MSC.219(82).

5.13 The Committee agreed to send the proposed amendments and the draft MEPC resolution on their adoption to the Drafting Group for review.

5.14 In this connection, the Committee considered the comments by India (MEPC 56/5/3) about the date of application of the proposed amendments to the IBC Code relating to chapter 11 on Fire Protection (1 January 2009) which was after the date of application of equivalent provisions in the BCH Code that were adopted by resolution MEPC.144(54) and which would enter into force on 1 August 2007. In the view of India, the entry-into-force date for the amendments to the BCH Code should be modified and brought into line with that proposed for the amendments to the IBC Code.

5.15 Several delegations expressed the view that, while the BCH Code is mandatory under MARPOL and recommendatory for the purpose of safety, the matter raised by India would require action by the MSC, as it concerned fire protection requirements, which was a safety issue.

5.16 In considering what action to take, the Committee felt that, if the MSC agrees with the proposal by India, a joint MSC/MEPC circular could be prepared, inviting parties to defer the application date of the BCH Code to 1 January 2009. The Committee agreed to invite MSC 83 (October 2007) to consider the proposal by India, the outcome of which could then be concurred by the Committee.

#### **Proposed amendments to the 1973 Intervention Protocol (Revised List of Substances)**

5.17 The Committee recalled that MEPC 55 had approved proposed amendments to the Revised List of Substances annexed to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other Than Oil, 1973 (1973 Intervention Protocol), with a view to adoption at the present session (MEPC 55/23, paragraph 10.45 and annex 25).

5.18 The Committee recalled also that the proposed amendments were circulated by the Secretary-General of the Organization, in accordance with paragraph 2 of Article III of the 1973 Intervention Protocol, under cover of Circular letter No.2752 of 2 November 2006.

5.19 The Committee recalled further that the Revised List of Substances, to which the 1973 Intervention Protocol applied, incorporated among others, by reference, those Noxious Liquid Substances as defined in MARPOL Annex II.

5.20 The Committee noted that the proposed amendments had become necessary following the entry into force of the revised MARPOL Annex II on 1 January 2007, as the pollution categories allocated to the Noxious Liquid Substances, as defined in Annex II, were now changed.

5.21 The Committee agreed to send the proposed amendments to the revised List of Substances annexed to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other Than Oil, 1973, and the draft MEPC resolution on its adoption, to the Drafting Group for review.

### **Establishment of the Drafting Group on amendments to mandatory instruments**

5.22 The Committee agreed to establish a Drafting Group on amendments to mandatory instruments and, taking into account documents submitted, as well as decisions, comments and proposals made in plenary, instructed it to:

- .1 review and finalize the texts of proposed amendments to the revised MARPOL Annex I (Reception facilities outside Special Areas), MARPOL Annex IV (Discharge of sewage), the IBC Code (chapters 11, 17, 18 and 19) and the Revised List of Substances to the 1973 Intervention Protocol, as well as the text of the associated MEPC resolutions on their adoption; and
- .2 submit a written report to the plenary for consideration and adoption of the amendments on Thursday, 12 July 2007.

### **Outcome of the Drafting Group and adoption of the amendments**

5.23 Having considered the report of the Drafting Group on amendments to mandatory instruments (MEPC 56/WP.7), which met on 11 and 12 July 2007 under the chairmanship of Mr. Z. Alam (Singapore), the Committee approved the report in general and, by consensus, consequently:

- .1 adopted the amendments to MARPOL Annex I (Reception facilities outside Special Areas) and to MARPOL Annex IV (Discharge of sewage) by resolution MEPC.164(56), as set out in annex 11;
- .2 adopted the amendments to the 1973 Intervention Protocol (Revised List of Substances) by resolution MEPC.165(56), as set out in annex 12;
- .3 adopted the amendments to the IBC Code (chapters 11, 17, 18 and 19) by resolution MEPC.166(56), as set out in annex 13 to this report, which includes the amendments in document MEPC 56/5/1 and the editorial changes to the amendments (chapters 17 and 19), as contained in annex 4 to document MEPC 56/WP.7;
- .4 instructed the Secretariat to insert into the final report of the Committee the above-mentioned editorial changes to the amendments to the IBC Code (chapters 17 and 19); and

- .5 instructed the Secretariat also to check the amendments for any editorial omissions and, if necessary, insert these in the final text of the amendments; and further to ensure the amendments remain identical under both SOLAS and MARPOL.

## **6 INTERPRETATIONS AND AMENDMENTS OF MARPOL 73/78 AND RELATED INSTRUMENTS**

6.1 The Committee had before it 14 substantive documents and agreed to deal with them by grouping together those addressing the same or related issues, in the following order:

- .1 MEPC 56/6/1 (Canada), providing the outcome of the Correspondence Group for the review of MARPOL Annex V;
- .2 MEPC 56/6, MEPC 56/6/4 and MEPC 56/6/5 (IACS) with proposals for Unified Interpretations to mandatory instruments and guidelines; and MEPC 56/6/10 and MEPC 56/6/12 (India) providing comments on the proposals;
- .3 MEPC 56/6/3 (Norway, Marshall Islands, Singapore and INTERTANKO), MEPC 56/6/7 (Republic of Korea) and MEPC 56/6/13 (Liberia) with proposals for clarification on issues relating to the application of regulation 4.1.3 of MARPOL Annex II on exemptions from the carriage requirements applicable to vegetable oils; and
- .4 MEPC 56/6/2 (United States), MEPC 56/6/11 (India), MEPC 56/6/6 (IACS) and MEPC 56/6/9 (ICFTU) with miscellaneous proposals for clarification or interpretation.

6.2 The Committee agreed to consider also document MEPC 56/11/4 (Secretariat) on the outcome of the 28<sup>th</sup> Consultative Meeting under the London Convention and the 1<sup>st</sup> Meeting of the London Protocol, in respect of the Boundary issues between MARPOL Annex V and the London Convention, in the context of the review of MARPOL Annex V (MEPC 56/6/1).

6.3 The Committee noted that document MEPC 56/6/8 (INTERTANKO) would be considered under agenda item 14 on Promotion of implementation and enforcement of MARPOL 73/78 and related instruments as it focused on implementation issues concerning IBC Code high-viscosity cargoes, which were being dealt with under that agenda item.

### **OUTCOME OF THE CORRESPONDENCE GROUP ON THE REVIEW OF MARPOL ANNEX V**

6.4 The Committee recalled that MEPC 55 had agreed to establish an intersessional correspondence group under the co-ordination of Canada and instructed it to:

- .1 develop the framework, method of work and timetable for a comprehensive review of MARPOL Annex V and the associated Revised Guidelines for the implementation of MARPOL Annex V (resolution MEPC.59(33), as amended) taking into consideration:
  - .1.1 resolution A/RES/60 of the UN General Assembly inviting IMO to review MARPOL Annex V, in consultation with relevant organizations and bodies, and to assess its effectiveness in addressing sea-based sources of marine debris; and

- .1.2 the recommendations of the Joint London Convention/MEPC Correspondence Group set out in document MEPC 55/11/3;
- .2 taking into account documents MEPC 55/6/3, MEPC 55/6/4 and MEPC 55/6/7 and the comments made at MEPC 55, prepare a list of initial draft amendments to MARPOL Annex V and the associated Revised Guidelines for the implementation of MARPOL Annex V; and
- .3 submit a written report to MEPC 56.

6.5 In introducing the report of the intersessional correspondence group (MEPC 56/6/1), the Chairman of the group, Mr. Paul Topping (Canada), highlighted the action the Committee was invited to take in the context of the review of MARPOL Annex V, namely to:

- .1 endorse the Proposed Framework (annex 1 of the report) for the review containing the following stages:
  - examination of Annex V and its Guidelines;
  - consideration of the issues submitted;
  - an assessment of trends in sea-based sources of marine debris;
  - consideration of relevant work of other bodies; and
  - development of necessary amendments to Annex V and its Guidelines.
- .2 approve the draft Timetable (annex 2 of the report) suggesting the re-establishment of the correspondence group after both MEPC 56 and MEPC 57 for finalization of the draft amendments to MARPOL Annex V and its Guidelines for consideration and approval at MEPC 58;
- .3 regarding any possible proposals to amend MARPOL Annex V in the interim period while the review was being carried out, endorse the group's preference for the holistic approach so that a complete revision of Annex V and the Guidelines be completed at the same time without prejudice to a Party's right to bring proposed amendments to the attention of the Committee at any time; and
- .4 note the invitation to environmental non-governmental organizations in consultative status with IMO to participate in the review.

6.6 The Secretariat introduced document MEPC 56/11/4 with the outcome of the consideration of the report of the Joint London Convention – MEPC Correspondence Group on Boundary issues between MARPOL Annex V and the London Convention/Protocol. A summary of the introduction is given in the ensuing paragraphs.

6.7 The Committee recalled that MEPC 55 had accepted the report of the Joint London Convention – MEPC Correspondence Group which had examined the boundaries between the London Convention/Protocol and MARPOL Annex V (MEPC 55/11/3). The same report of the Correspondence Group was also considered by the 28<sup>th</sup> Consultative Meeting of the London Convention and the 1<sup>st</sup> Meeting of Contracting Parties of the London Protocol, which met

concurrently from 30 October to 3 November 2006, and the outcome of that discussion had been summarized in document MEPC 56/11/4.

6.8 The Committee noted that the governing bodies of both the London Convention and the London Protocol also accepted the report of the Joint Correspondence Group and that several recommendations, as stated in paragraph 6 of document MEPC 56/11/4, were in close relationship with issues associated with the revision of MARPOL Annex V and had been taken into account by the correspondence group on the review of MARPOL Annex V in its submission MEPC 56/6/1.

6.9 The Committee noted also that, in addition, both governing bodies had established the “Working Group on Boundary Issues” under the auspices of the London Convention Scientific Group aimed at developing practical guidance to mariners to manage spoilt cargoes, as well as building upon the current work undertaken to develop advice on managing hull wastes from ships and platforms at sea.

6.10 The Committee noted further that during the 30<sup>th</sup> session of the London Convention Scientific Group and the 1<sup>st</sup> session of the London Protocol Scientific Group, which had met concurrently in Santiago de Compostela (Spain) from 18 to 22 June 2007, the Working Group on Boundary Issues had also met. The Committee noted the information provided orally by the Chairman of the Working Group on the outcome of that meeting which was relevant for the review of MARPOL Annex V.

6.11 The Committee, in particular, noted that the Working Group met briefly to discuss draft guidance to mariners to manage spoilt cargoes and held a discussion focusing on the following points:

- .1 advice on who should apply for a permit should be clarified;
- .2 ensuring consistency with the London Convention, London Protocol and Annex V of the MARPOL Convention as regards advice on managing small quantities;
- .3 advice on cases where the ship is at sea, and wishes to dump spoilt cargo during the course of its voyage;
- .4 the draft guidance for mariners should be directed at the broader marine community, including shipping agents, insurance clubs, and ports; and
- .5 the need to update the existing LC Circular letter No.2074.

6.12 The Committee noted that the Working Group had recommended to the Scientific Groups that an intersessional correspondence group continue this work to further develop guidance on spoilt cargo, continuing under the terms of reference outlined in LC/SG 30/8/1 and that it further proposed that:

- .1 the draft guidance remain open for comment and that Parties may submit comments to the Chair ([paul.topping@ec.gc.ca](mailto:paul.topping@ec.gc.ca)) by 18 September 2007;
- .2 a revised document would be circulated by the Chair by 15 October 2007 for comments;

- .3 the Chair would also circulate, by the same date, the revised document to members of MEPC carrying out the Review of Annex V of MARPOL to seek the views of the maritime shipping community; and
- .4 depending on the issues raised, Parties and members of MEPC would be invited to comment and the Chair would circulate additional draft documents in 2008 to develop a final draft that could be considered for approval at the next meeting of the Scientific Groups.

## **Discussion**

6.13 The Committee held a debate on the proposed course of action for the review of MARPOL Annex V and associated Guidelines in the light of the report of the correspondence group and developments within the framework of the London Convention and Protocol.

6.14 The Committee expressed its appreciation for the excellent work carried out by the correspondence group under the coordination of Canada and, in commenting on the list of issues set out in annex 3 to the report, advised that future work should be focused on those matters directly related to MARPOL Annex V only leaving aside any other issues not directly connected with that Annex.

6.15 In concluding, the Committee considered the action points in the report of the correspondence group (MEPC 56/6/1) and:

- .1 approved the framework for the review of MARPOL Annex V, set out in annex 1 to the report;
- .2 approved the timetable for the review, set out in annex 2 to the report;
- .3 endorsed the preference of the correspondence group for a holistic approach so that a complete revision of Annex V, and its Guidelines, is carried out without prejudice to a Party's right to bring proposed amendments to the attention of the Committee during the interim period; and
- .4 noted the invitation to environmental non-governmental organizations in consultative status with IMO to participate in the review.

6.16 The Committee agreed to re-establish the correspondence group under the leadership of Canada\* with the following revised Terms of Reference:

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\* **Co-ordinator of the correspondence group:**

Mr. Paul Topping  
Environment Canada  
351 St. Joseph Blvd., 12<sup>th</sup> Floor  
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Canada  
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- .1 taking into account comments, proposals and decisions made in plenary, continue the review of MARPOL Annex V and the Guidelines for its implementation, in accordance with the framework, method of work and timetable approved by the Committee; and
- .2 submit a written report to MEPC 57.

#### PROPOSALS FOR UNIFIED INTERPRETATIONS

6.17 IACS, in document MEPC 56/6, invited the Committee to consider IACS's Unified Interpretation MPC 87, relating to the implementation of MARPOL Annex I new regulation 12A on oil fuel tank protection which would enter into force on 1 August 2007 for ships delivered on or after 1 August 2010. Unified Interpretation MPC 87 had three main elements as follows:

- .1 the requirement in regulation 12A.9 for valves (of oil fuel tanks) to be located "within or immediately adjacent to the oil fuel tank" be treated in a similar manner as that for suction wells, which as per regulation 12A.10, are allowed to protrude into the double bottom up to a distance  $h/2$  from the bottom shell plating;
- .2 valves for oil fuel tanks which are allowed at a distance less than  $h$  or  $w$  from the ship's bottom or side, as per alternative regulation 12A.11 (accidental oil fuel outflow performance), may also be arranged at the distance less than  $h$  or  $w$  respectively; and
- .3 fuel air escape pipes and overflow pipes are not to be considered as part of "lines of fuel oil pining" and therefore may be located at a distance from the ship's side less than  $w$ .

6.18 The Committee considered document MEPC 56/6/10 (India) providing comments on the proposal by IACS. In the view of India, IACS's proposed Unified Interpretation could also be applicable to oil tanker cargo tanks under regulation 25.3.3.

6.19 Following debate, the Committee agreed with the comments by India and approved the Unified Interpretation to regulations 12A and 25.3.3 of MARPOL Annex I, set out in annex 14 and annex 15 respectively.

6.20 IACS, in document MEPC 56/6/5, invited the Committee to consider IACS's Unified Interpretation MPC 85, Rev.2, applicable to regulation 22 of MARPOL Annex I on pump-room bottom protection, which was an improvement of the previous versions of that interpretation which had been endorsed at MEPC 54 as MARPOL Annex I, Unified Interpretation UI 41.

6.21 The Committee noted that the improvement consisted in adding specifications relating to the size and location of bilge wells, which now were not mentioned in the regulation itself, in line with parallel regulations of MARPOL Annex I (regulations 19.3.5 for suction wells in cargo tanks; 12A10 for suction wells in oil fuel tanks; and 23.4.6 for suction wells in oil tanks).

6.22 Following debate, the Committee approved the revised Unified Interpretation to regulation 22 of MARPOL Annex I, set out in annex 16.

6.23 IACS, in document MEPC 56/6/4, invited the Committee to consider IACS's Unified Interpretation MPC 88 applicable to resolution MEPC.159(55) on the Revised Guidelines on implementation of effluent standards and performance tests for Sewage Treatment Plants which

will apply to equipment “installed on board on or after 1 January 2010”. In the view of IACS, this requirement should be interpreted as follows:

- for new ships, installations on board ships the keels of which are laid or are in a similar state of construction on or after 1 January 2010; and
- for existing ships, new installations with a contractual delivery date to the ship on or after 1 January 2010, or, in the absence of a contractual delivery date, the actual delivery of equipment to the ship is on or after 1 January 2010.

6.24 The delegation of India, in document MEPC 56/6/12, disagreed with the interpretation by IACS as, in its view, it would give undue advantage to a new ship over an existing ship. Hence the application date for new installations for a new ship should be on the basis of the date of delivery of the ship, rather than the keel-laying date.

6.25 Following debate, the Committee, for reasons of consistency with relevant provisions of other IMO instruments, did not agree with the proposal by India and approved the Unified Interpretation to resolution MEPC.159(55) on the Revised Guidelines on implementation of effluent standards and performance tests for Sewage Treatment Plants, set out in annex 17.

#### **CLARIFICATION ON THE APPLICATION OF REGULATION 4.1.3 OF MARPOL ANNEX II**

6.26 The Committee considered documents MEPC 56/6/3 (Norway, Marshall Islands, Singapore and INTERTANKO); MEPC 56/6/7 (Republic of Korea); and MEPC 56/6/13 (Liberia) focusing on problems encountered in the implementation of regulation 4.1.3 of MARPOL Annex II concerning exemption from certain carriage requirements for vegetable oils.

6.27 The delegation of Norway, in introducing document MEPC 56/6/3 on behalf of the co-sponsors, expressed concern over the lack of a uniform understanding on the implementation of regulation 4.1.3 of MARPOL Annex II, particularly through the port State control mechanism. In the view of the co-sponsors, as per that regulation, chemical tankers carrying vegetable oils identified by footnote “k” in chapter 17 of the IBC Code “shall meet all requirements for ship type 3 as identified in the IBC Code except for cargo tank location”. A Ship Type 2 (ST2) did meet all the requirements for Ship Type 3 (ST3) as it could be downgraded at any time simply by reissuing the Certificate of Fitness and removing the ST2 cargoes from the list of products allowed to be carried. Therefore, when an ST2 ship was authorized to carry vegetable oils under regulation 4.1.3, the only ST2 exempted requirement would be the maximum permissible quantity of 3,000 m<sup>3</sup> per tank.

6.28 Other points raised in document MEPC 56/6/3 were that a large number of ships was being affected by the lack of uniformity in the application of regulation 4.1.3, particularly older tonnage with double bottom but single sides and three tanks abreast, where ST2 cargoes may be allowed in the centre tanks and ST3 cargoes in wing tanks. Those centre tanks were larger than 3,000 m<sup>3</sup> in many cases. Other older ships had been fitted with double sides and fully complied with ST2 standards, however, their centre tanks were larger than 3,000 m<sup>3</sup> too. Finally, newer combined products/chemical tankers were fully double hull but their tank sizes were typically 3,500 to 5,000 m<sup>3</sup>.

6.29 The co-sponsors requested the Committee to confirm that “granting exemptions in accordance with regulation 4.1.3 to a chemical tanker certified as ST2 is not a violation of MARPOL”.

6.30 The delegation of the Republic of Korea, in document MEPC 56/6/7, supported the main thrust in document MEPC 56/6/3 by Norway *et al* and expressed concern that a number of Administrations did not allow ST2 chemical tankers to carry vegetable oil in excess of 3,000 m<sup>3</sup> per individual tank, while allowing ST3 chemical tankers to carry vegetable oils without such operational limitation, despite the fact ST2 tankers offered better structural protection than ST3 tankers.

6.31 The delegation of Liberia, in document MEPC 56/6/13, expressed its support for the concerns of Norway, the Marshall islands, Singapore, Republic of Korea and INTERTANKO. However, in the view of Liberia, an interpretation was unnecessary as a further reading of regulation 4.1.3 would provide clarification that an Administration was allowed to exempt a Ship Type 2 ship from the 3,000 m<sup>3</sup> limitation of paragraph 16.1.2 of the IBC Code provided the exemption was limited to the carriage of individual vegetable oils identified with footnote “k” in chapter 17, column “e” of the IBC Code.

## Discussion

6.32 The delegation of the Netherlands expressed disagreement with the terms of the proposals in documents MEPC 56/6/3, MEPC 56/6/7 and MEPC 56/6/13. In the view of the Netherlands, regulation 4 of MARPOL Annex II on Exemptions had been developed in consideration of a possible shortage of ST2 tonnage for the carriage of vegetable oils whose carriage requirements had been upgraded to ST2 following the review of MARPOL Annex II and the IBC Code that had entered into force on 1 January 2007. It then followed that vegetable oils, when carried on a ST2 ship had to comply with all requirements, hardware and operational, for that type of ship as for any other ST2 product, as same GESAMP hazard profiles called for same carriage requirements. Moreover, no compelling need for the proposed exemption from the requirements applicable to ST2 had been demonstrated as no figures relating to a shortage of tonnage for the carriage of vegetable oils had been provided. Regulation 4.1.3 provided the mechanism for exempting a ship and not an individual tank of that ship. Based on legal advice obtained, the IBC Code does not provide any legal basis to “pick and choose” requirements at will.

6.33 Consequently, the delegation of the Netherlands, whilst recognizing that downgrading the certification of any given ship from ST2 to ST3 with the sole purpose of carrying vegetable oil in tanks of more than 3,000 m<sup>3</sup> was not commendable but, in itself, not a violation of MARPOL Annex II, stressed that the only unambiguous and legally justified way to allow the carriage of vegetable oils on ST2 ships in excess of 3,000 m<sup>3</sup> per tank was through an amendment of section 16.1.2 of the IBC Code, in accordance with the requirements of the Committee’s Guidelines on the method of work for new work programme items.

6.34 The International Parcel Tankers Association (IPTA), in support of the Netherlands, stressed that it represented chemical parcel tanker owners whose ships usually traded in ST2 products and it was its experience that chemical tanker owners did not build ST2 ships with tanks appreciably larger than 3,000 m<sup>3</sup> because that would mean a significant loss of cargo carrying capacity when trading in any ST2 cargo. In recalling the circumstances under which regulation 4.1.3 was developed, IPTA confirmed the then perceived shortage of tonnage as the cause for its development. If the proposals in documents MEPC 56/6/6, MEPC 56/6/7 and MEPC 56/6/13 were to be accepted now, it would effectively mean the goalposts being moved only six months after the revised MARPOL Annex II had entered into force, to the detriment of those shipowners who had built their ST2 ships in full compliance with the IBC Code requirements as they have stood for more than 20 years.

6.35 A majority of delegations supported the views expressed by the Netherlands and IPTA. In particular, it was mentioned that there had not been any reports showing that shortage of tonnage existed for the carriage of vegetable oils in ST2 ships; that allowing a relaxation concerning the 3,000 m<sup>3</sup> limit would undermine basic GESAMP hazard evaluation principles that the Committee itself had supported for the evaluation of products; that the Paris MoU followed the regulation concerning the 3,000 m<sup>3</sup> tank limit for the carriage of vegetable oil in ST2 ships; and that abolishing this requirement would open the gates for other possible future exemptions for the carriage of other ST2 products.

6.36 Other delegations, in support of the proposals, stressed that the clear and unambiguous language of regulation 4.1.3 of MARPOL Annex II precluded that the exemption could in any way be applied to cargoes other than vegetable oils; that a careful reading of regulation 4.1.3 supported the view that ST2 ships could be exempted from the 3,000 m<sup>3</sup> limitation when carrying vegetable oil; and that allowing ST3 ships to carry vegetable oils in tanks larger than 3,000 m<sup>3</sup> while, at the same time, denying ST2 ships the same allowance, showed lack of coherence given the higher safety and pollution prevention qualities of the latter.

6.37 In conclusion, the majority of the delegations who spoke agreed with the points raised by the Netherlands and IPTA, that allowing the carriage of any cargo, including vegetable oil, in excess of the 3,000 m<sup>3</sup> operational limit on a Ship Type 2 is in violation of the provisions of the Convention and would distort competition and penalize the owners that are compliant with the provisions of the Convention.

6.38 Therefore, the Committee did not agree with the views expressed in documents MEPC 56/6/3, MEPC 56/6/7 and MEPC 56/6/13 and decided to urge all Parties to take into account the outcome of the debate.

## **OTHER PROPOSALS**

### **Proposed phase-out of existing pollution prevention equipment**

6.39 The delegation of the United States, in document MEPC 56/6/2, proposed the mandatory phase-out of oily water separators and oil discharge monitoring systems complying with resolutions MEPC.60(33) and A.586(14), respectively, which had been superseded by resolutions MEPC.107(49) and MEPC.108(49). A five-year phase-out period was suggested in order to allow for the change of equipment during dry-docking; draft amendments to regulations 14.6, 14.7 and 31.2 of MARPOL Annex I were provided as a means to implement the phase-out.

6.40 The delegation of India, in document MEPC 56/6/11, expressed opposition to the proposed phase-out on the grounds that the existing standards, approved under resolutions MEPC.107(49) and MEPC.108(49) were applicable to ships built on or after 1 January 2005 and there was no sufficient experience to date on their on board performance. A period of five years would be necessary to gather sufficient data to compare the performance of equipment complying with both sets of resolutions before considering any mandatory phase-out. The issue of equipment maintenance, now absent in the resolutions, should also be adequately addressed.

6.41 A considerable debate followed on the merits of the proposal by the United States and comments by India. Whilst the majority of the delegations that intervened in the discussion could not agree with the United States proposal to phase-out and replace, within five years, existing oil pollution prevention equipment with equipment complying with resolutions MEPC.107(49) and

MEPC.108(49), many delegations expressed support for the upgrading of existing equipment with agreed maintenance standards.

6.42 Other issues raised during the discussion concerned the high costs associated with the mandatory phase-out that, if implemented, would affect around 45,000 ships worldwide; the fact that the 15ppm standard had not changed in the meantime and the existence of many ships where high maintenance standards were kept helped ensure that equipment approved under resolutions MEPC.60(33) and A.586(14) performed in full compliance with the discharge requirements of MARPOL Annex I. The Integrated Bilge Water Treatment System concept, recently approved by the Committee, was also cited as an example of best practice operating with existing equipment.

6.43 In concluding, the Committee agreed to refer documents MEPC 56/6/2 and MEPC 56/6/11 to the DE Sub-Committee and instructed it to examine, in the context of its work programme item on the review of MEPC.1/Circ.511 and relevant MARPOL Annex I and Annex VI requirements, the following issues with a target completion date of 2009:

- .1 the practicalities and time scale for the proposed phase-out;
- .2 the possible upgrading of existing equipment and the development of an appropriate standard for such an upgrade; and
- .3 the need to address in-service maintenance issues for all pollution prevention equipment under MARPOL.

#### **Implementation of MEPC.2/Circ.12**

6.44 In document MEPC 56/6/6, IACS pointed out a practical problem regarding the issuance of Certificates of Fitness (COF) under the IBC Code. As the COF was issued for a 5-year period, but the MEPC.2/Circular listing new chemical products that have been evaluated was issued annually, it would appear that the COF itself, with the updated list of products a ship was entitled to carry, should be issued on an annual basis which would entail a considerable administrative burden for the recognized organizations (RO). To alleviate the administrative burden of re-issuing the COF when the cargo list (Attachment 1 of the COF) is re-issued (as might be suggested by the use of the phrase "*as for Certificate*", which was specified under the date of entry in Attachment 1 to the COF), IACS considered that, since a revised cargo list would have an approval date and a signature of the RO surveyor, there was no need to ensure that the cargo list approval date was the same as the issuance date of the COF, and a revised cargo list with an approval date different from that of the COF issuance date could be acceptable.

6.45 Following the debate, the Committee recognized that the large number of products in List 1 of the latest issue of the MEPC.2/Circular, namely MEPC.2/Circ.12, dated 2 December 2006, was an exceptional case as a consequence of the revision of MARPOL Annex II. That process has led to the extra 230 products evaluated at that time. Further it was noted that by disconnecting the List of products from the basic COF, confusion might occur during any Port State Control as it would not be clear whether the list shown is the latest edition. The Committee agreed not to accept the proposal by IACS.

6.46 Given this decision of the Committee that the issuance date of the IBC Code COF was to be the same as the approval date of the cargo list or, as relevant, the cargo list addendum, IACS considered that two possible consequences would result, both of which could cause confusion:

- .1 if a revised cargo list (or cargo list addendum) was issued and back-dated so as to correspond to the date of the IBC Code COF, then there might be two cargo lists onboard, both of which had the same approval date; and
- .2 if the IBC Code COF is re-issued so that its issuance date corresponded to the approval date of the cargo list (or cargo list addendum, as relevant), then there would be no history of the endorsements provided for any intermediate or annual surveys that had been satisfactorily carried out under the original COF.

### **Applicability of Article 2(4) of the MARPOL Convention to FPSOs and FSUs**

6.47 The International Confederation of Free Trade Unions (ICFTU) expressed its concern, in document, MEP 56/6/9, about the, in their view, unclear status of Floating Production, Storage and Offloading Facilities (FPSOs) and Floating Storage Units (FSUs) as a ship under MARPOL and other IMO Conventions. ICFTU invited the Committee to confirm that Article 2 of the MARPOL Convention on the definition of a ship was entirely applicable to FPSOs and FSUs.

6.48 The Secretariat clarified that the 1973 MARPOL Convention states in its Article 2(4) that the term “ship”, for the purposes of the Convention, includes “fixed or floating platforms”. It then followed that the requirements of MARPOL Annex I were applicable to FPSOs and FSUs with the exceptions and specificities contained in regulation 39 of the same Annex on Special requirements for fixed or floating platforms, which clearly states that “*Fixed or floating platforms when engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources ..... shall comply with the requirements of this Annex applicable to ships of 400 gross tonnage and above other than oil tankers ..*”.

6.49 The Committee noted that regulation 39.3 of MARPOL Annex I determines that “*In verifying compliance with this Annex in relation to platforms configured as FPSOs and FSUs, Administrations should take account of the Guidelines developed by the Organization*”, and that resolution MEPC.139(53) on Guidelines for the application of the revised MARPOL Annex I requirements to FPSOs and FSUs, as amended by resolution MEPC.142(54), include applicability details to FPSOs and FSUs concerning all 39 regulations of MARPOL Annex I.

6.50 The Committee confirmed that Article 2 of the MARPOL Convention on the definition of a ship was applicable, for the purposes of the Convention, to FPSOs and FSUs with the special requirements for these types of ships as defined in regulation 39 of MARPOL Annex I and resolution MEPC.139(53), as amended.

## **7 IMPLEMENTATION OF THE OPRC CONVENTION AND THE OPRC-HNS PROTOCOL AND RELEVANT CONFERENCE RESOLUTIONS**

7.1 The Committee considered ten documents under this agenda item as follows: MEPC 56/7 (United States), Guidance document on establishment of co-ordinated Joint Information Centres during oil spill response; MEPC 56/7/1 (Secretariat), Manual on Oil Pollution – Section V: Administrative aspects of oil spill response; MEPC 56/7/2 (United States), Guidance document on Incident Command System during oil spill response; MEPC 56/7/3 (United States), A Guideline for oil spill response in fast currents; MEPC 56/7/4 (United States), Guidance document on incident command system position possibilities; MEPC 56/7/5 (United States) Guidance document on identification and observation of spilled oil; MEPC 56/7/6 (United States) Guideline for oil spill response offshore in situ burning; MEPC 56/WP.1, Report of the sixth meeting of the OPRC-HNS Technical Group; MEPC 56/INF.6 (France), Study of the On-board Passive and

Corrective Safety Devices (FOR System); and MEPC 56/INF.15 (India), Report on the implementation of the OPRC Convention in India.

### **Manual on Oil Pollution – Section V: Administrative aspects of oil spill response**

7.2 The Committee recalled that at its fifty-third session, it instructed the OPRC-HNS Technical Group to consider a document submitted by the United Kingdom, containing a detailed review of the 1998 edition of the Manual on Oil Pollution – Section V: Administrative aspects of oil pollution response (MEPC/OPRC-HNS/TG 3/8/2), which provided specific recommendations on the main areas in the manual requiring review and updating.

7.3 The Committee considered document MEPC 56/7/1, containing the draft text of the revised Manual on Oil Pollution – Section V: Administrative aspects of oil spill response, as prepared by the OPRC-HNS Technical Group and agreed at TG 5 and:

- .1 approved the finalized draft text of the revised Manual, as set out in the annex to MEPC 56/7/1; and
- .2 instructed the Secretariat to carry out any final editing and to submit the document for publishing as an IMO publication.

### **Guidance documents on various aspects of oil spill preparedness and response**

7.4 The Committee considered documents MEPC 56/7 (United States), Guidance document on establishment of co-ordinated Joint Information Centres during oil spill response; MEPC 56/7/2 (United States), Guidance document on Incident Command System during oil spill response; MEPC 56/7/3 (United States), A Guideline for oil spill response in fast currents; MEPC 56/7/4 (United States), Guidance document on incident command system position possibilities; MEPC 56/7/5 (United States) Guidance document on identification and observation of spilled oil; and MEPC 56/7/6 (United States) Guideline for oil spill response offshore *in situ* burning together, given that all were being proposed as guidance documents related to some aspect of oil spill preparedness and response.

7.5 The delegation of the Russian Federation expressed its support for the proposals put forward by the delegation of the United States for consideration by the Committee and highlighted the experience gained in using and implementing such guidance, in particular in the region of the Sakhalin shelf. It underlined that caution would need to be exercised in addressing, in particular, document MEPC 56/7/6 on *in situ* burning. It noted that such an approach may be suitable in certain circumstances; however, cautioned that it should be used selectively and only where viable, given the significant air pollution generated and the potential impacts to sensitive marine ecosystems in particular in the Arctic, as evidenced by the results of the trials it had carried out jointly with the United States in Alaska in the early nineties. In this regard, the observer from ITOPF noted that *in situ* burning may not be an appropriate response technique from the perspective of developing countries.

7.6 Further to an intervention by the Netherlands and the expression of support from a number of delegations, the Committee agreed to refer the six documents to the OPRC-HNS Technical Group for its consideration and to include them in its work programme and instructed it to:

- .1 review the documents and prioritize the order of work, noting that several delegations recommended that MEPC 56/7/3 and MEPC 56/7/5 should be given

priority; and to report back to MEPC 58 accordingly before commencing work on the individual guidance documents;

- .2 take into account that that the various documents, which are to be used a basis for the development of proposed guidance, may be country-specific and that other nations and regions may have alternate systems in place that are equally effective;
- .3 ensure that the end products, once finalized by the Technical Group, provide a more general, consolidated and user-friendly guidance, since the documents in their present format, although providing a sound basis for the development of IMO guidance, are presently too detailed;
- .4 ensure that the nomenclature and definitions presented in the documents are brought in line with that which are found in MARPOL and other IMO instruments; and
- .5 give careful consideration to the need for the development of guidance on *in situ* burning techniques, taking into account the concerns expressed on *in situ* burning as a response technique.

#### **Study of the On-board Passive and Corrective Safety Devices (Fast Oil recovery (FOR) System)**

7.7 The Committee noted the information in document MEPC 56/INF.6 (France), on a study of the on-board passive and corrective safety devices, a new technology for fast oil recovery in the event of ship-based incident involving a leak of oil and for the recovery of liquid substances from wrecks, which may be accessed at the following url: [www.jlmdsystem.com](http://www.jlmdsystem.com).

#### **Report on implementation of the OPRC Convention in India**

7.8 The Committee noted the information in document MEPC 56/INF.15 (India), on recent activities undertaken by India in implementing the provisions of the OPRC Convention, in particular covering the designation of authorities and responsibilities under the national contingency plan, the acquisition of several new pollution response vessels, regional co-operation initiatives undertaken through the regional contingency plan and an updated country profile for India and noted the information accordingly.

#### **Report of the sixth meeting of the OPRC-HNS Technical Group**

7.9 The Committee noted that the sixth session of the OPRC-HNS Technical Group was held from 2 to 6 July 2007, in Southampton, hosted by the United Kingdom Maritime and Coastguard Agency, under the chairmanship of Mr. Mark Meza (United States), and that the report of the Group was issued under symbol MEPC 56/WP.1.

7.10 Following the presentation of the report of the Technical Group, a number of delegations took the floor to commend the Technical Group on its work and express support for the important role it played in addressing the technical issues and the development of guidance related to the preparedness for and response to pollution from oil and HNS, noting that such tools are vital in providing assistance to developing nations in ratifying and implementing the provisions of the OPRC Convention and OPRC-HNS Protocol, as well as for enhancing response capacity at national and regional levels.

7.11 The Russian Federation noted the progress of the Technical Group in advancing the development of the Manual on oil spill risk evaluation and assessment and emphasized the need to develop more specific, concise and practical guidance in the final draft text than that contained in the previous drafts, considered by the Technical Group.

7.12 The Committee approved the report in general (MEPC 56/WP.1) and:

- .1 noted the progress made on the Manual on oil spill risk evaluation and assessment, which would be further developed by a correspondence group and referred to a consultant for finalization, with a view to agreement by the Group at TG 7 and subsequent approval by MEPC;
- .2 noted the progress in the development of the IMO/UNEP Manual on the assessment and restoration of environmental damage following marine oil spills, in particular, the continuation of the correspondence group to finalize the Manual with the final drafting and editing carried out jointly by UNEP and the co-ordinator of the correspondence group, with a view to submission of a final draft text for agreement at TG 7;
- .3 noted the progress on the revision of the Manual on oil pollution, Section I – Prevention, in particular, the agreement reached on a draft outline and structure for the Manual, which would be used as the basis for developing the full draft Manual for submission to TG 7;
- .4 noted the discussions of the Group on the development of guidance materials to address the legal and administrative aspects of HNS incidents;
- .5 noted the advanced state of development of two introductory courses on preparedness for and response to HNS, both of which will be sent to a validation group for a more detailed evaluation, and submitted to TG 7 for agreement by the Technical Group;
- .6 noted the progress in the revision of the OPRC Train-the-Trainer course and the continuance of a correspondence group to finalize the outline and structure of the course for submission to TG 7;
- .7 noted the progress on planning for a Fourth R&D Forum, in particular the agreement reached to host the Forum in conjunction with the 2009 Interspill Conference, the identification of HNS in the marine environment as a theme for the Forum and the elaboration of a preliminary draft programme;
- .8 noted the information on the United Kingdom's response to the MSC Napoli incident and the invitation extended by the Group to the United Kingdom to provide a follow-up report on the incident to TG 7, in particular, on the process of container identification;
- .9 noted the information on lessons learnt in the follow-up to the Eastern Mediterranean oil spill and approved the addition of the work items to the work programme of the Technical Group, as requested by REMPEC in light of the lessons learnt and follow-up actions and the recent outcome of the REMPEC Focal points meeting;

- .10 noted the information on the work and activities of the Helsinki Commission on matters related to oil pollution preparedness and response in the Baltic Sea;
- .11 noted the information on the work and activities of the Regional Activity Centre/Regional Marine Pollution Emergency, Information and Training Centre, Wider Caribbean (REMPEITC-Carib);
- .12 noted the information on the role and activities of the European Maritime Safety Agency in connection with preparedness for and response to pollution from oil and HNS;
- .13 noted the information on the WMO Marine Accident Emergency Support and concurred with the proposal of the Technical Group to exchange programmes of work between the OPRC-HNS Technical Group and the WMO Expert Team on Marine Accident Emergency Support (ETMAES) and to disseminate the information submitted by WMO to regional centres;
- .14 noted the information on the grounding and resulting oil spill from the M/V **Sierra Nava**, which occurred in Algeciras Bay, Spain, in the Straits of Gibraltar in January 2007;
- .15 noted the summary of incidents involving HNS and concurred with the Group's proposal that this be added as a regular information item to the agenda of the Technical Group;
- .16 noted the discussions initiated between the IMO and IAEA Secretariats with regard to establishing an arrangement for co-operation in the event of nuclear or radiological incident at sea or in port;
- .17 noted that the Group welcomed the reports on the implementation of Technical Co-operation activities in connection with OPRC and HNS;
- .18 approved the draft work programme of the Technical Group and provisional agenda for the seventh meeting of the OPRC-HNS Technical Group, as set out at annex 18 and approved the scheduling of the seventh session of the OPRC-HNS Technical Group meeting the week prior to MEPC 57;
- .19 noted the information on the validation of the Bonn Agreement Oil Appearance Code (BAOAC) and concurred with the actions proposed by the Technical Group with regard to considering the possibility of developing an IMO Manual on the basis of the BAOAC, and other relevant oil spill identification guidelines, once approved;
- .20 noted the progress made by the United Kingdom in developing a methodology for implementation of new planning and response requirements for HNS; and
- .21 noted the discussions of the Group on its potential future direction, taking into account the work that may be requested of it in light of new emerging issues related to the preparedness and response to oil pollution as well as the requirements that will arise from the recent entry into force of the OPRC-HNS Protocol.

## **8 IDENTIFICATION AND PROTECTION OF SPECIAL AREAS AND PARTICULARLY SENSITIVE SEA AREAS**

### **Designation of the Papahānaumokuākea Marine National Monument as a Particularly Sensitive Sea Area**

8.1 The Committee considered the proposal submitted by the United States (MEPC 56/8 and MEPC 56/INF.2) to designate the Papahānaumokuākea Marine National Monument (North-western Hawaiian Islands or NWHI) as a Particularly Sensitive Sea Area (PSSA) in accordance with the Revised PSSA Guidelines (resolution A.982(24)).

8.2 The delegation of the United States made the following points:

- .1 the proposed area for designation consisted of an approximately 1,200 mile stretch of small islands, atolls, banks, seamounts, pinnacles, shoals, and other emergent features located northwest of the main Hawaiian Islands. It contained a unique, fragile and integrated coral reef ecosystem and was one of the last apex predator (sharks) dominated ecosystems in the world. The area had been the subject of protections declared by three US Presidents, including its recent designation as a Marine National Monument by President Bush on 15 June 2006;
- .2 ship traffic had been identified as one of the primary threats to this pristine area and consequently the following three associated protective measures (APMs) had been identified as necessary to prevent damage to the recognized attributes of this area by international shipping activities:
  - .1 inclusion of the six existing IMO-adopted Areas To Be Avoided (ATBAs);
  - .2 amendment and expansion of these ATBAs; and
  - .3 establishment of a ship reporting system, which is recommendatory for transiting ships and mandatory as a matter of entry into a US port or place; and
- .3 the impacts of the APMs on international shipping is minimal while the objectives for establishing the PSSA - increased maritime safety, protection of the fragile environment, preservation of cultural resources and areas of cultural importance significant to Native Hawaiians, and facilitation of the ability to respond to developing maritime emergencies – are significantly furthered.

8.3 The delegation of the United States stated that the proposals for amendment and expansion of the ATBAs and the establishment of a ship reporting system had been appended to the PSSA proposal, consistent with the Revised PSSA Guidelines, and had also been submitted to the NAV Sub-Committee for consideration.

8.4 The same delegation proposed that the Committee approve the designation of this PSSA proposal “in principle” at this session, inform the NAV Sub-Committee of its assessment and, after consideration of the APMs by NAV and approval of the APMs by MSC, designate the PSSA at MEPC 57.

8.5 All delegations that spoke supported the proposal by the United States to designate the Papahānaumokuākea Marine National Monument as a PSSA and agreed that the proposed APMs should be forwarded to the NAV Sub-Committee for consideration.

8.6 The Committee noted that the proposal, being the first to be subject to the Revised PSSA Guidelines, was clearly specified and followed the Guidelines well. It was recognized that the attributes identified were indeed vulnerable to international shipping and the chosen APMs were found to be suitable in addressing this vulnerability. Some delegations questioned whether the area should remain navigable at all and another suggested that more APMs should be considered in the future.

8.7 The delegation of India stated that, while it supported the proposal in general and in particular the extension of ATBAs, it was concerned about the need to have the ship reporting system with the estimated small number of shipping movements in the proposed PSSA at present.

8.8 In responding, the delegation of the United States noted that even though the amount of international ship traffic through this area is relatively low, a single maritime incident could have a devastating effect on this pristine area.

8.9 The Committee decided to establish an Informal Technical Group to investigate if the proposed PSSA met the criteria in resolution A.982(24).

#### **Status of the existing Special Areas under MARPOL**

8.10 The Committee, in considering document MEPC 56/8/1 on the Status of the existing Special Areas under MARPOL, recalled that, over the years, a number of Special Areas had been established under MARPOL Annex I, Annex II and Annex V. In addition, two SOx Emission Control Areas (SECAs) had also been established under MARPOL Annex VI. For ease of reference by the Committee, the Secretariat had prepared a summary table of those areas, and their current status, which was set out in annex 1 to that document.

8.11 The Committee noted that the discharge requirements for many Special Areas under MARPOL Annex I and Annex V had taken effect. However, the discharge requirements for several other Special Areas have not yet taken effect, although some of them were listed as Special Areas in the MARPOL Convention as far back as 1973 – when the Convention was adopted. The reason for this was because, in accordance with regulation 38.6.1 of MARPOL Annex I and regulation 5(4)(b) of MARPOL Annex V (MEPC 56/8/1, paragraph 3), until the Parties bordering those Special Areas had informed the Committee that there were adequate reception facilities in their Special Areas, the Committee could not establish a date for the discharge requirements of those Special Areas to take effect.

8.12 The Committee also noted that the countries bordering the Caribbean Sea and the Mediterranean Sea were making efforts to provide adequate reception facilities and it looked forward to receiving information on the outcome of their efforts in the near future.

8.13 The Committee, in response to a request by the delegation of Cyprus regarding the process of notification to the Organization of adequate reception facilities in countries bordering the Mediterranean Sea, advised that this information could be provided by the countries as a group.

8.14 In referring to the Southern South African waters Special Area, adopted by the Committee in October last year by resolution MEPC.154(55) and taking into account the information provided by South Africa at MEPC 54 (MEPC 54/8) regarding the adequate reception facilities in that area, the Committee instructed the Informal Technical Group to review and finalize the MEPC resolution on the establishment of the date on which the amendments to regulation 1.11 of MARPOL Annex I in respect of the Southern South African waters Special Area shall take effect.

8.15 The Committee, having noted the usefulness of the list of Special Areas under MARPOL as shown in annex 1 of document MEPC 56/8/1, requested the Secretariat to develop a similar list of PSSAs designated by the Committee since 1990 for information by MEPC 57.

### **The “Gulfs area” as a Special Area under MARPOL Annexes I and V**

8.16 The Committee, in considering document MEPC 56/8/2 and having noted that **Qatar** should be added to the list of sponsoring countries of the document, noted that the discharge requirements for the Special Area had not yet taken effect, because adequate reception facilities had not been provided.

8.17 The observer from ROPME, on behalf of the sponsoring States of document MEPC 56/8/2, made the following points:

- .1 the “Gulfs area” contains many sensitive marine habitats, including coral reefs and mangroves and is at risk from increasing international shipping. This traffic is expected to grow to 70,000 ship movements per year by 2009;
- .2 the “Gulfs area” was designated as a Special Area under MARPOL Annexes I and V in 1973; and
- .3 during the last 10 years, a regional project on implementation of MARPOL has been successfully organized and administrated by ROPME/MEMAC. As a result of this, the States in the “Gulfs area” have now ratified the Convention and have provided adequate reception and treatment facilities for Annex I and Annex V ship’s generated wastes in ports, terminals and ships’ repair ports in the area.

8.18 The same observer requested the Committee to set a date from which the Special Area shall take effect.

8.19 The Committee, having considered the proposal by the co-sponsoring States, instructed the Informal Technical Group to review the information concerning the “Gulfs area” as a Special Area under MARPOL Annex I and Annex V and, if the criteria have been met, prepare an MEPC resolution on the establishment of the date on which regulation 1.11 of MARPOL Annex I and regulation 5(1)(e) of MARPOL Annex V in respect of the “Gulfs area” as a Special Area shall take effect.

### **Instructions to the Informal Technical Group**

8.20 The Committee set up an Informal Technical Group with the following terms of reference:

- .1 review the proposal by the United States for the designation of the Papahānaumokuākea Marine National Monument (North-western Hawaiian Islands or NWHI) as a Particularly Sensitive Sea Area (MEPC 56/8 and MEPC 56/INF.2), and to determine whether it meets the provisions of the Revised PSSA Guidelines (resolution A.982(24));
- .2 review and finalize the MEPC resolution on the establishment of the date on which the amendments to regulation 1.11 of MARPOL Annex I in respect of the Southern South African waters Special Area shall take effect;
- .3 review the information concerning the Gulfs area as a Special Area under MARPOL Annexes I and V and, if the criteria have been met, prepare an MEPC resolution on the establishment of the date on which regulation 1.11 of MARPOL Annex I and regulation 5(1)(e) of MARPOL Annex V in respect of the “Gulfs area” as a Special Area shall take effect; and
- .4 provide a written report to plenary on Thursday, 12 July 2007.

### **Report of the Informal Technical Group**

8.21 The Committee, in considering the report of the Informal Technical Group (MEPC 56/WP.9) as introduced by its Chairman Ms. Annaliese Caston (Australia), noted that, in relation to the review of the proposal to designate the Papahānaumokuākea Marine National Monument as a PSSA, the Group:

- .1 had examined the submission by the United States (MEPC 56/8) against the questions posed in the PSSA Proposal Review Form and discussed each element. The outcome of this analysis was shown at annex 1 to MEPC 56/WP.9;
- .2 agreed that the proposal by the United States met the requirements of the Revised PSSA Guidelines (resolution A.982(24)). In its decision, the Group also noted that the United States had submitted detailed proposals for the APMs to NAV 53 for its consideration in July 2007;
- .3 in particular concluded that:
  - .1 the proposed area fulfilled the ecological criteria, noting in particular the information relating to dependency and diversity criterion. The dependency attribute occurs throughout the proposed PSSA with coral reefs forming the foundation of an ecosystem that culminates at its apex in wide-ranging, top predators such as sharks, jacks, and groupers, and also the breeding, feeding and pupping areas of the Hawaiian monk seal, which stretch from Nihoa to Kure. Diversity is evident from the large number of marine species and seabirds throughout the extent of the proposed PSSA as well as the diversity of habitats. The Group also noted that in addition to the dependency and diversity criterion, the submission included information on all three of the required criteria in the Revised PSSA Guidelines;
  - .2 there are factors relating to vessel traffic characteristics and natural conditions that result in the recognized attributes of the proposed area being vulnerable to damage from international shipping activities passing

through or adjacent to the area. While the amount of international ship traffic through this area is relatively low, the Group noted that a single maritime incident could have a devastating effect on this area; and

- .3 the associated protective measures proposed are appropriate and specifically tailored to meet the need of the proposed area to prevent, reduce, or eliminate the identified vulnerability of the area from international shipping activities. The ATBAs serve to keep ships away from the navigation hazards, allow any spilled cargo an opportunity to disperse before coming ashore, and provide time to mount a response to a developing maritime emergency. The ship reporting system will provide mariners with critical alerts and other urgent information to assist them in navigating safely through the area. It will also provide information on vessel traffic, thus facilitating the ability to respond to developing maritime emergencies;
- .4 noted that it would be useful for future proposals to include more detailed information, if available, estimating the potential impact of the APMs on safety and efficiency of navigation (e.g., increased distance or time for course alteration);
- .5 noted that the other information provided by the United States in section 4.9 of document MEPC 56/8 was useful in giving a clearer understanding of the negative impact of international shipping activities in the proposed PSSA area, in particular regarding shipwrecks, pollution incidents, response operations, introduction of alien species and marine debris;
- .6 noted that although designation of the area as a PSSA could have been based on the existing measure, the United States sought designation to allow all of the proposed APMs to be considered before the PSSA designation takes effect. Additionally the United States wanted the proposal to serve as a model for the entire PSSA process, since this is the first proposal submitted in accordance with the revised PSSA Guidelines; and
- .7 recommended that the Committee approve, in principle, the designation of the Papahānaumokuākea Marine National Monument as a PSSA and inform the Sub-Committee on Safety of Navigation (NAV) accordingly.

8.22 The Committee, in relation to the Southern South African waters Special Area under MARPOL Annex I, noted that the Group had:

- .1 reviewed and finalized the MEPC resolution on the establishment of the date on which the amendments to regulation 1.11 of MARPOL Annex I in respect of the Southern South African waters Special Area shall take effect. The date agreed by the Group for the discharge requirements in regulations 15 and 34 of MARPOL Annex I is 1 August 2008 in accordance with regulation 38.6.1 of Annex I; and
- .2 reviewed and finalized the draft MEPC resolution on the establishment of the date on which regulation 1.11.5 of MARPOL Annex I in respect of the Southern South African waters Special Area shall take effect.

8.23 The Committee, in relation to the “Gulfs area” as a Special Area under MARPOL Annexes I and V, noted that the Group had:

- .1 reviewed the information concerning the Gulfs area as a Special Area under MARPOL Annexes I and V and concluded that the criteria regarding the provision of adequate reception facilities by all States bordering the Special Area, in accordance with regulations 38.4 of MARPOL Annex I and 5(4)(b) of MARPOL Annex V, have been met. The Group also agreed that the date on which the discharge requirements for the Special Area shall take effect is 1 August 2008; and
- .2 subsequently prepared a draft MEPC resolution on the establishment of the date on which regulation 1.11.5 of MARPOL Annex I and regulation 5(1)(e) of MARPOL Annex V in respect of the “Gulfs area” as a Special Area shall take effect.

8.24 The Committee, having considered the report of the Informal Technical Group, took the following action:

- .1 noted the discussions and results of the Informal Technical Group and approved its report in general;
- .2 approved, in principle, the designation of the Papahānaumokuākea Marine National Monument as a Particularly Sensitive Sea Area; noting that the United States had submitted detailed proposals for the APMs to the NAV Sub-Committee in July 2007 (NAV 53), which would provide recommendations to the Committee with a view to final designation at MEPC 57;
- .3 adopted MEPC resolution MEPC.167(56) on the establishment of the date on which the amendments to regulation 1.11 of MARPOL Annex I in respect of the Southern South African waters Special Area shall take effect, set out in annex 19; and
- .4 adopted MEPC resolution MEPC.168(56) on the establishment of the date on which regulation 1.11 of MARPOL Annex I and regulation 5(1)(e) of MARPOL Annex V in respect of the “Gulfs area” as a Special Area shall take effect, set out in annex 20.

8.25 The Committee thanked Ms. Caston (Australia) and the members of the Group for the excellent work they had carried out.

### **Outcome of MSC 82 in relation to the Galapagos Particularly Sensitive Sea Area**

8.26 The Committee noted that MSC 82 (MEPC 56/11/2, paragraph 27), had adopted, by resolution MSC.229(82), the new mandatory ship reporting system “In the Galapagos Particularly Sensitive Sea Area (PSSA)” for dissemination by means of SN.1/Circ.258; and decided that the new mandatory ship reporting system should be implemented six months after its adoption, i.e., on 1 July 2007 at 0000 hours UTC (paragraph 11.6).

## **9 INADEQUACY OF RECEPTION FACILITIES**

9.1 The Committee recalled that MEPC 55 approved the draft Action Plan to tackle the inadequacy of port reception facilities and instructed the FSI Sub-Committee to progress the work items described in the plan, with the exception of work item 5.1 “Regulatory matters –

Development of Guidelines for establishing regional arrangements for reception facilities". The Committee noted that the outcome of FSI 15 concerning the inadequacy of reception facilities would be discussed under agenda item 10 (see paragraphs 10.43 to 10.45).

9.2 With regard to work item 5.1 of the Action Plan, the Committee recalled that MEPC 55, recognizing that resolution MEPC.83(44) already provided guidance to the issue of regional arrangements, agreed that it was not appropriate to adopt a further MEPC resolution to recognize regional arrangements as satisfying MARPOL obligations to provide adequate port reception facilities in view of the fact that the relevant MARPOL regulations require each Party to provide reception facilities and that regional arrangements may contravene the current MARPOL requirements.

9.3 The Committee further recalled that MEPC 55, recognizing, though, the benefit of having such regional arrangements in place, had agreed to recognize them as a means to provide reception facilities in light of the requirements of the MARPOL Convention, and requested Member States to provide their views to future sessions of the Committee on how these regional arrangements could be better institutionalized. The Committee reiterated its invitation to Members to submit relevant information to MEPC 57 for consideration, bearing in mind that the target completion date for this work item of the Action Plan is 2008.

9.4 In this connection, the Committee noted the concern expressed by the delegation of Greece over the low rate of reporting of alleged inadequacies in reception facilities and emphasized the need to take further measures to encourage such reporting, which would, in turn, promote the provision of adequate reception facilities.

## **10 REPORTS OF SUB-COMMITTEES**

### **OUTCOME OF DE 50**

10.1 The Committee noted that the fiftieth session of the Sub-Committee on Ship Design and Equipment was held from 5 to 9 March 2007 and its report was issued as DE 50/27.

10.2 The Committee also noted that DE 50, acting upon instructions from MEPC 55, had reviewed MEPC.1/Circ.511 and the relevant MARPOL Annex I and Annex VI requirements, and that following referral by MEPC 54, it had also discussed the harmonized implementation of the Revised guidelines and specifications for pollution prevention equipment for machinery space bilges of ships (resolution MEPC.107(40)).

10.3 In this connection, the Committee further noted that DE 50 had agreed to establish a correspondence group, under the co-ordination of Denmark, to progress the work on MEPC.1/Circ.511 intersessionally and to submit a report to DE 51. The Sub-Committee had also agreed to request that this same correspondence group develop a draft MEPC circular on the harmonized implementation of the Revised guidelines and specifications for pollution prevention equipment for machinery space bilges of ships (resolution MEPC.107(40)), for consideration at DE 51.

### **OUTCOME OF BLG 11**

10.4 The Committee noted that the eleventh session of the Sub-Committee on Bulk Liquids and Gases (BLG 11) was held from 16 to 20 April 2006 and its report was issued as BLG 11/16.

10.5 The Committee further noted that the outcome of BLG 11 on matters relating to Ballast Water Management and Air Pollution had already been considered under agenda items 2 and 4 respectively.

10.6 The Committee approved the report in general and took action on all remaining items referred to it by the Sub-Committee (MEPC 56/10/1) as indicated hereunder.

### **Reporting of non-conformities with the requirements of MARPOL Annex II**

10.7 The Committee endorsed the Sub-Committee's view that issues relating to reported non-conformities with the application of the requirements of MARPOL Annex II regulation 4.1.3, concerning carriage of unmodified oils and fats, were a matter for the MEPC and that Parties to the Convention should submit details of such non-conformities to the MEPC for its consideration as appropriate.

10.8 The Committee recalled that the subject on the application of MARPOL Annex II, regulation 4.1.3 to the carriage of vegetable oils had been discussed earlier under agenda item 6 and did not warrant further consideration.

### **Provisional assessments for tripartite agreements**

10.9 The Committee, following a clarification given by the delegation of the Netherlands, endorsed the BLG Sub-Committee's proposal that any tripartite agreement containing key information as outlined in paragraph 5.3 of BLG 11/WP.3 should be made available on the IMO's public domain website as soon as possible. The Committee further agreed that in the near future a new GISIS module should be developed for this purpose, noting that there are a number of modules already earmarked for development.

10.10 The Committee recognized that this would overcome the time gap that, on occasions, could exist between concluding a tripartite agreement and its appearance in the MEPC.2/Circular which could place an unnecessary burden on Administrations, the industry and the Organization in that such entities may not be aware that a tripartite agreement existed until such time that it appeared on the circular when it was issued in December of every year.

10.11 In endorsing this proposal, the Committee noted that this particular new GISIS module would be developed as soon as the resources in the IT Section of the Secretariat became available.

### **Cleaning additives**

10.12 The Committee noted that, as a consequence of the revised MARPOL Annex II, amendments to the guidance note and reporting form on cleaning additives (MEPC/Circ.363) were required and that this work was finalized at BLG 11.

10.13 Consequently, the Committee approved the revised Guidance note and reporting form on cleaning additives which would supersede those in MEPC/Circ.363 as set out at annex 1 to BLG 11/16, to be issued under a new circular letter (MEPC.1/Circ.590).

10.14 Furthermore, the Committee endorsed the BLG Sub-Committee's decision that cleaning additives which would be submitted to the intersessional meeting of the ESPH Working Group later this year and those which had been submitted for BLG 11 should be submitted or re-submitted as appropriate, based on the revised guidelines.

10.15 The Committee agreed with the BLG Sub-Committee decision to add the re-evaluation of the cleaning additives as a new future programme item for the ESPH Working Group. In this regard, the Committee further endorsed the decision of the Sub-Committee that the current information in annex 10 of the MEPC.2/Circular would cease to be valid three years after the date of adoption of the revised guidelines, i.e. 2010.

10.16 Recognizing that the evaluation of cleaning additives applies to a specific sector of the industry, the Committee tasked the Secretariat to bring these revised guidelines to the attention of manufacturers and vendors of these products and of the relevant decisions it had taken on the re-evaluation of cleaning additives and to impress upon industry the need to resubmit to the Organization through its Administrations, for approval under MARPOL Annex II, for subsequent inclusion in annex 10 of the MEPC.2/Circular.

### **Long-term funding for the GESAMP/EHS Working Group**

10.17 The Committee recalled that MEPC 54 had considered the issue of finding a long-term funding solution to support the work of the GESAMP/EHS Working Group and it had suggested that any solution should involve those cargo interests, namely manufacturers of the chemical products which directly benefited from the work carried out by the GESAMP/EHS Working Group on the basis of the “owner pays principle”.

10.18 The Committee also recalled that MEPC 55 had instructed the Secretariat to develop draft proposals for review and finalization by BLG 11 for consideration by MEPC 56.

10.19 The Committee noted that BLG 11 considered three possible options based on proposals prepared by the Secretariat:

- .1 for the Organization to continue to provide all the funding from its regular budget;
- .2 for the costs to be split between the Organization and industry; or
- .3 for industry to bear the entire cost.

10.20 The Committee noted that there was agreement at BLG 11 that it was inappropriate for the Organization to continue to bear all the costs of these meetings and the majority of delegations considered that the most practical solution was for the costs to be split between the Organization and those cargo interests submitting products for evaluation, on the basis of a cost-sharing scheme. Some delegations, however, agreed that all costs should be borne by the applicants.

10.21 The delegation of the Netherlands expressed the view that the evaluation of products to be carried in bulk or those used as a component in a mixture and the evaluation of components in cleaning additives should get identical treatment if a fee-based system was to be introduced. Furthermore, it pointed out that the GESAMP/EHS WG not only carried out the hazard evaluation of bulk products but also other work generated by or at the request of the Organization. In this regard, it would be difficult to apply the same principles for funding as that for the GESAMP BWG. It underlined that the introduction of a fee based system should not create unnecessary administrative burdens to implement. Recalling the “owners pay principle” the Committee had considered at MEPC 54, it also proposed that a fixed fee should be paid each time an evaluation is carried out on a product. In the opinion of the delegation of the Netherlands, this would provide an incentive to industry to provide the whole range of data necessary for the Working Group to carry out an evaluation in one submission.

10.22 Having considered the proposals of BLG 11 and the intervention of the delegation of the Netherlands, the Committee agreed on the cost sharing option (option 2) between the Organization and industry and requested the Secretariat to put in place the necessary administrative mechanism to implement such a mechanism based on a fixed cost per application.

### **Anomalies in chapter 19 of the IBC Code**

10.23 The Committee agreed with the BLG Sub-Committee's view that an in-depth review of chapter 19 of the IBC Code was needed in light of the anomalies identified. The Committee agreed that this required specialized expertise in nomenclature chemistry and urged delegations to send experts to the ESPH Working Group to assist in this work.

### **Ship-to-ship transfer at sea**

10.24 The Committee noted the divergent views existed within the BLG Sub-Committee, on the application and nature of regulations to be devised as proposed amendments to MARPOL Annex I on ship-to-ship oil transfer operations.

10.25 Whilst endorsing the decision by the BLG Sub-Committee to establish a correspondence group to further progress the matter in the intersessional period under the coordination of Denmark with the terms of reference as set out paragraph 7.22 in document BLG 11/16, the Committee agreed to the request by the Sub-Committee to extend the target completion date for this work to 2008 (see also agenda item 19 on work programme of the Sub-Committees).

### **Renewable diesel oil**

10.26 In noting the extensive deliberation by the BLG Sub-Committee on the subject of renewable diesel oil, the Committee endorsed the approach proposed by the BLG Sub-Committee that, in the first instance, data sheets for covering a range of compositions should be submitted to the GESAMP/EHS Working Group to allow an in-depth scientific evaluation upon which an informed technical decision could then be made for their transport.

### **Use of Heavy Grade Oil (HGO) in the Antarctic area**

10.27 In noting the discussion by the BLG Sub-Committee on the proposed ban on the use and carriage of heavy grade oil (HGO) in the Antarctic area, the Committee recognized that BLG 11 could not solve the many issues associated with the proposal in the short time available for discussion given the fact that, despite majority support shown, there remained important issues that raised serious concerns for several delegations and industry observers.

10.28 The Committee considered document MEPC 56/10/2 (CLIA), which reiterated the practical concerns raised by a number of delegations at BLG 11 regarding the proposed complete ban of the carriage of any HGO on vessels operating in the Antarctic.

10.29 The observer from CLIA pointed out that the proposed definition for HGO, by being identical to that in regulation 21 of MARPOL Annex I after its recent amendment, would not allow the use of lubricating oil on board ships in the Antarctic Sea as lubricating oil was defined as a HGO for the purpose of that regulation effectively prohibiting all commercial vessels from operating in the Antarctic sea. Furthermore, for ships that normally operated on HGO, an outright ban on the carriage of HGO would in effect require such ships to strip, clean, and gas-free all HGO tanks prior to entering the Antarctic region. Indeed, a ban on the carriage of HGO would reduce the probability of a spill of HGO in Antarctic waters. However, other means

of achieving these goals may be available, e.g. as protective location of tanks above double bottoms which would in the view of CLIA also substantially reduce the probability of such a spill. Concern was expressed on the extension of the scope of the restriction to Arctic waters and whether such an extension was justified.

10.30 The delegation of the Bahamas, supported by a number of delegations, shared the concerns expressed by CLIA. Whilst underlining the need to protect the sensitive environment of the Antarctic area, the various options available to improve protection needed further consideration. In the view of the delegation of the Bahamas, the complete ban of using lubricating oils was never the intent of the current proposals and also needed in-depth consideration.

10.31 The Committee, having considered the views expressed, agreed to return the issue to the BLG Sub-Committee and tasked the Sub-Committee to examine all available options and make recommendations to MEPC 57, highlighting that each option should be thoroughly examined and that the protection location of tanks above double bottom be given careful consideration.

### **Other related matters**

10.32 While referring to the report from BLG 11, the delegation of Denmark pointed out that it was quite concerned with the Sub-Committee's conclusion on the subject of devices to prevent passage of flame into cargo tanks, as this conclusion is in contradiction with the similar considerations of the issue at FP 51.

10.33 The delegation of Denmark drew the attention of the Committee that FP51 had concluded that the regulations were clear, and that consequently a ship must be constructed and equipped according to the cargoes it is certified to carry, while BLG 11 had concluded that a ship may be equipped with devices to prevent passage of flame into cargo tanks not tested and certified to the cargoes it was allowed to carry.

10.34 The delegation of Denmark underlined that this divergence could lead to accidents, and it was in any case non-operational either for administrations or for the industry. Consequently, it intended to seek a clarification on this matter at MSC 83 (refer to document MSC 83/10/1).

10.35 The Committee approved, subject to concurrent decision by MSC 83, the holding of an intersessional meeting of the ESPH Working Group in the latter part of 2008.

10.36 The BLG Sub-Committee's proposed revised work programme and provisional agenda for BLG 12 was dealt with under agenda item 19.

### **OUTCOME OF FSI 15**

10.37 The Committee noted that the fifteen session of the Sub-Committee on Flag State Implementation (FSI 15) was held from 4 to 8 June 2007 and its report was issued as FSI 15/18.

10.38 The Committee approved the report in general and took action on all remaining items referred to it by FSI 15 (MEPC 56/10/3).

### **Code for the Implementation of Mandatory IMO instruments**

10.39 The Committee approved, subject to concurrent decision by MSC 83, the draft Revised Code for the Implementation of Mandatory IMO Instruments and the associated draft Assembly

resolution, for submission to the Assembly at its twenty-fifth session for adoption, as set out in annex 21.

### **ISM Code related issues**

10.40 Whilst recognizing that that International Safety Management (ISM) Code was mandatory under SOLAS (see SOLAS, regulation IX/1.1) and not under MARPOL, the Committee endorsed the FSI Sub-Committee's decision to commence at FSI 16 the revision of the Revised Guidelines on the implementation of the International Safety Management (ISM) Code by Administrations (resolution A.913(22)), taking into account the outcome of the work of the Independent Group of Experts on the impact and effectiveness of implementation of the ISM Code, and to develop amendments to the ISM Code, including those relating to requirements for seafarer safety representation.

### **Mandatory reports under MARPOL 73/78**

10.41 The Committee noted the possible reasons responsible for the low rate of mandatory reports under MARPOL and endorsed the following related action taken by the FSI Sub-Committee's to address this issue, namely:

- .1 the table in annex 1 to document FSI 15/4 containing information on which Parties had submitted reports in the last five years, in future this should also include information identifying Parties who had submitted reports outside the reporting periods;
- .2 the low level of reporting could be indicative of difficulties arising from the format and/or information content specified by MEPC/Circ.318 and therefore submissions from Members were invited to the next session of the Sub-Committee to identify any problems posed by MEPC/Circ.318 and to propose any appropriate changes to the circular; and
- .3 the Secretariat was instructed to revert to the next session of the Sub-Committee with further information on the potential extraction of data required by MEPC/Circ.318 from relevant modules of GISIS, thus simplifying the mandatory reporting requirements for Parties to MARPOL.

10.42 The Committee endorsed the FSI Sub-Committee's additional instruction to the Secretariat to update the data and the annexed list to document FSI 15/4 on the status of mandatory reports under MARPOL and to submit these to FSI 16 for consideration.

### **Port reception facilities – related issues**

10.43 Having noted the FSI Sub-Committee's instruction to the Secretariat to make the necessary consequential amendments to the revised consolidated format for reporting alleged inadequacies of port reception facilities following the entry into force of the revised MARPOL Annex II and the introduction of new categories of NLS, the Committee agreed to the Sub-Committee's request to re-issue the revised consolidated format for reporting alleged inadequacies of port reception facilities by means of MEPC/Circ.469/Rev.1.

10.44 The Committee endorsed the FSI Sub-Committee's decision to establish a correspondence group under the coordination of Portugal to progress on the work items with a

target completion date of up to 2008 in the Action Plan to tackle the inadequacy of port reception facilities and to report back to FSI 16.

10.45 Furthermore, the Committee agreed to the FSI Sub-Committee's request to amend the Action Plan accordingly, so that the target completion date of work item 6.1 "Development of assistance and training programme" was brought forward from 2010 to 2009.

### **Ballast water exchange training**

10.46 The Committee endorsed the FSI Sub-Committee's decision, subject to concurrent decision by MSC, to invite the STW Sub-Committee to consider the need for training requirement for Ballast Water Exchange to be learned from the Cougar Ace casualty.

### **Casualty Investigation Code**

10.47 the Committee endorsed, subject to concurrent decision by MSC, the course of action taken by the Sub-Committee for the adoption of the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) and to make it mandatory under SOLAS.

10.48 The Committee further endorsed the FSI Sub-Committee's agreement, subject to concurrent decision by MSC, to consider in the future the revision of the Guidelines (resolution A.884(21)) to assist investigators in the implementation of the Code for the Investigation of Marine Casualties and Incidents, with a view to inclusion as an appendix to the Casualty Investigation Code.

### **PSC related matters**

10.49 The Committee approved, subject to concurrent decision by MSC, the draft MSC-MEPC.4 circular on the Code of good practice and invited PSC regimes to develop and adopt a similar Code to assist PSCOs in conducting their inspections.

10.50 The Committee invited Member States to update their contact details in the IMO list of national contact points for safety and pollution prevention and response as contained in MSC-MEPC.6/Circ.2.

### **HSSC-related issues**

10.51 The Committee, in recalling its earlier decision at MEPC 43 (MEPC 43/21, paragraphs 11.2 and 11.3) on the validity of surveys of fixed and floating platforms which was to leave it to the flag State and shelf State to come to an arrangement whereby the flag State may act on behalf of the shelf State to issue the IOPP Certificate endorsed the view of the Sub-Committee that no further action was required at this stage.

10.52 The Committee approved, subject to concurrent decision by MSC 83, the Revised Survey Guidelines under the Harmonized System of Survey and Certification (HSSC) and the associated Assembly resolution, with a view to submission to the Assembly at its twenty-fifth session for adoption, as set out in annex 22.

## **Other related items**

10.53 The FSI Sub-Committee's proposed revised work programme and provisional agenda for FSI 16 were dealt with under agenda item 19.

## **11 WORK OF OTHER BODIES**

11.1 The Committee considered four documents by the Secretariat on the outcomes of LEG 92, C 97, MSC 82 and FAL 34, respectively. With regard to document MEPC 56/11/4 (Secretariat) concerning boundary issues between MARPOL Annex V and the London Convention, the Committee noted that it had been considered under agenda item 6 in relation to the review of MARPOL Annex V.

### **Outcome of LEG 92 and the International Conference on Wreck Removal**

11.2 The Committee noted that the 92nd session of the Legal Committee (LEG 92) was held from 16 to 20 October 2006 and its report had been circulated as LEG 92/13. The outcome of LEG 92 on the draft convention on wreck removal, fair treatment of seafarers in the event of a maritime accident and monitoring the implementation of the HNS Convention was summarized in document MEPC 56/11 (Secretariat).

11.3 The Committee noted the information provided by the Director, Marine Environment Division, on the outcome of the International Conference on Wreck Removal held in Nairobi, Kenya, from 14 to 18 May 2007 that concluded with the adoption of the International Convention on the Removal of Wrecks, 2007. The Committee noted that the new Convention provided the legal basis for States to remove, or have removed, shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine environment.

11.4 The Committee noted also that the Wreck Removal Convention would fill a gap in the existing international legal framework by providing the first set of uniform international rules aimed at ensuring the prompt and effective removal of wrecks located beyond the territorial sea. It also included an optional clause enabling States Parties to apply certain provisions to their territory, including their territorial sea.

11.5 The Committee noted further that the Convention provided criteria for determining the hazard posed by wrecks, including "environmental criteria" such as damage likely to result from the release into the marine environment of cargo or oil.

11.6 The Committee noted, finally, that the new Convention would enter into force 12 months following the date on which 10 States had deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.

### **Outcome of C 97**

11.7 The Committee noted that the ninety-seventh session of the Council (C 97) was held from 6 to 9 November 2006 and its summary of decisions was contained in document C 97/D.

11.8 The Committee noted that the matters of interest to it were reported in paragraphs 2 to 13 of document MEPC 56/11/1 (Secretariat), including Strategy and planning – monitoring of performance; Voluntary IMO Member State Audit Scheme; consideration of the report of MEPC 55; relations with intergovernmental and non-governmental organizations; and report on the status of conventions and other multilateral instruments.

11.9 The Committee noted, especially, that the Council:

- .1 had approved the Committee's request to allocate a five-day diplomatic conference on ship recycling in the 2008-2009 biennium, with a view to adopting the draft convention, for inclusion in the Secretary-General's relevant budget proposals; and
- .2 had stressed, once again, the need for Governments to ratify, as soon as possible, the various environment-related instruments adopted by the Organization which had not yet entered into force.

### **Outcome of MSC 82**

11.10 The Committee was informed of the outcome of the eighty-second session of the Maritime Safety Committee (MSC 82) held in Istanbul, Turkey, from 29 November to 8 December 2006, as reported in document MSC 82/24.

11.11 The Committee noted that the outcomes of MSC 82 on Human Element (HE); Formal Safety Assessment (FSA); Work Programme of the Committee and subsidiary bodies and the Application of the Committees' Guidelines were reported under agenda items 17, 18, 19, and 20, respectively.

11.12 The Committee concurred with MSC 82's decision on the list of eight countries (Argentina, Canada, China, Denmark, Liberia, Norway, the Republic of Korea and Turkey) that would represent IMO at the second Joint IMO/FAO Working Group on Illegal, Unregulated and Unreported (IUU) fishing and related matters to be held in Rome, Italy, from 16 to 18 July 2007.

11.13 The Committee noted, finally, the outcome of MSC 82 on the many other issues of relevance to its work (MEPC 56/11/2) and took action, as appropriate, under the relevant agenda items.

### **Outcome of FAL 34**

11.14 The Committee noted that the thirty-fourth session of the Facilitation Committee (FAL 34) was held at the International Coffee Organization, London, from 26 to 30 March 2007 and the report of that session had been issued as FAL 34/19.

11.15 The Committee noted the outcome of FAL 34 concerning online access to IMO certificates and documents required to be carried on board ships, including the decision by FAL 34 to establish a correspondence group on the matter and its view that online access to certificates and documents was a long term project and objective (MEPC 56/11/3).

11.16 The Committee agreed to invite interested delegations and observers to participate in the work of the FAL Correspondence Group on the matter.

### **Outcome of TC 57**

11.17 The Committee noted that the fifty-seventh session of the Technical Co-operation Committee (TC 57) was held at the International Coffee Organization, London, from 18 to 21 June 2007 and its report had been circulated under the symbol TC 57/14.

11.18 The Committee noted further that the outcome of TC 57 concerning marine environment protection-related matters had been considered under agenda item 16 - Technical Co-operation Programme.

## 12 STATUS OF CONVENTIONS

12.1 The Committee noted the information on the status of IMO conventions and other instruments relating to marine environment protection (MEPC 56/12) as follows:

- .1 Annex 1 shows the status, as at 6 April 2007, of the IMO conventions and other instruments relating to marine environment protection;
- .2 Annex 2 shows the status, as at 6 April 2007, of MARPOL;
- .3 Annex 3 shows the status, as at 6 April 2007, of the amendments to MARPOL;
- .4 Annex 4 shows the status, as at 6 April 2007, of 1990 OPRC Convention;
- .5 Annex 5 shows the status, as at 6 April 2007, of 2000 OPRC-HNS Protocol;
- .6 Annex 6 shows the status, as at 6 April 2007, of 2001 AFS Convention; and
- .7 Annex 7 shows the status, as at 6 April 2007, of 2004 BWM Convention.

12.2 The Committee also noted the following information provided by the Secretariat since MEPC 56/12 was issued on 6 April 2007:

- .1 With regard to annex 2 on the status of MARPOL:
  - .1 Chile deposited its instrument of accession to MARPOL Annex VI on 16 October 2006;
  - .2 Bahrain deposited its instrument of accession to MARPOL Annex I, II and V on 27 April 2007; and
  - .3 Belize deposited its instrument of accession to MARPOL Annex VI on 14 June 2007.
- .2 With regard to annex 4 on the status of 1990 OPRC Convention:
  - .1 Qatar deposited its instrument of accession on 8 May 2007; and
  - .2 Namibia deposited its instrument of accession on 18 June 2007.
- .3 With regard to annex 5 on the status of 2000 OPRC-HNS Protocol:
  - .1 Chile deposited its instrument of accession on 16 October 2006; and
  - .2 France deposited its instrument of accession on 24 April 2007.

- .4 With regard to annex 6 on the status of 2001 AFS Convention:
  - .1 Slovenia deposited its instrument of accession on 18 May 2007.
- .5 With regard to annex 7 on the status of 2004 BWM Convention:
  - .1 Barbados deposited its instrument of accession on 11 May 2007; and
  - .2 Egypt deposited its instrument of accession on 18 May 2007.

12.3 The Committee further noted the following information from delegations:

- .1 the delegation of Australia stated that their Government would deposit their instrument of accession to MARPOL Annex VI soon;
- .2 the delegation of Panama stated that their Government would deposit their instrument of accession to the AFS Convention soon;
- .3 the Associate Member of Hong Kong, China stated that the accession by China to the MARPOL Annex VI would extend to the Hong Kong Special Administration Region of China in early 2008.

12.4 In this connection, the Committee was happy to note that, once Panama deposited the instrument of accession to the AFS Convention, the conditions for entry into force of the AFS Convention would be met.

12.5 The Committee noted the information provided by Greece (MEPC 56/INF.8) on the amendments (as at 26 June 2006) to Annexes I, II, III, IV, V and VI to the MARPOL Convention, which had been accepted or ratified by Greece, together with their instruments of acceptance or ratification.

## **13 HARMFUL ANTI-FOULING SYSTEMS FOR SHIPS**

### **General**

13.1 The Committee noted that seven more States (Australia, Cook Islands, Croatia, France, Kiribati, Lithuania and Slovenia) had ratified the International Convention on the Control of Harmful Anti-Fouling Systems on Ships (the AFS Convention) since its last session, bringing the total to 24 Contracting States, representing 16.63% of the world's merchant fleet shipping tonnage – against the required 25 States, representing 25% of the world's merchant shipping tonnage. The Committee urged Member States to give consideration to the ratification, acceptance, approval of, or accession to, the AFS Convention at the earliest possible opportunity.

13.2 The Committee noted that the delegation of Panama had informed Council 98 that, following approval from the parliament, their government was expected to accede to the AFS Convention very soon. The Committee further noted that the 2006 world merchant fleet statistics showed that Panama owns 21.46% of world's merchant fleet and that once Panama deposited the instrument of accession, the conditions for entry into force of the AFS Convention would be met.

13.3 The observer delegation from the European Commission reiterated its statement at MEPC 55 that, fully in line with the AFS Convention, the European Union (EU) adopted Regulation (EC) No.782/2003 on the prohibition of organotin compounds on ships in 2003, which prohibited the application or reapplication of organotin compounds acting as biocides in anti-fouling systems on ships flying the flag of an EU Member State from 1 July 2003; the regulation also contains provisions which do not allow any ship with a tin-based anti-fouling system to enter any EU port or offshore terminal from 1 January 2008.

#### **Management of wastes from the application or removal of anti-fouling systems**

13.4 The Committee recalled that, in an effort to provide countries with practical guidance on article 5 of the AFS Convention, Members were invited to provide examples of their Codes of Practice, Guidance Documents, or other relevant documentation that could serve as a basis for the preparation of a concise guide on the environmentally sound management of wastes from the application or removal of harmful anti-fouling systems.

13.5 The Committee noted the progress made by the intersessional Correspondence Group established under the London Convention on “Management of waste streams resulting from the removal of anti-fouling systems from ships”. The Committee noted further that the twenty-eighth Consultative Meeting of Contracting Parties to the London Convention had encouraged the participants to contribute information for preparation of a report on best management practices for consideration by MEPC and agreed that a report on best management practice regarding removal of anti-fouling systems would be useful before the entry into force of the AFS Convention.

#### **Guidance document for minimizing the transfer of invasive aquatic species via bio-fouling on recreational and similar small boats**

13.6 The Committee recalled that MEPC 55 had invited Friends of the Earth International (FOEI), International Sailing Federation (ISAF) and other interested delegations to redraft the proposed “Code of Practice for minimizing the transfer of invasive aquatic species via bio-fouling on recreational and similar small boats” contained in document MEPC 55/13/1 (FOEI) in the form of a guidance document.

13.7 The Committee noted that documents MEPC 56/13 and MEPC 56/13/1 submitted under this agenda were mainly related to bio-fouling and, following a suggestion by Australia, agreed to consider these documents together with document MEPC 56/19/3 (New Zealand *et al*) under agenda item 19 (see paragraphs 19.7 to 19.11).

13.8 The Committee noted the information provided by India that an international conference on bio-fouling and ballast water would be held in Goa, India in February 2008.

#### **Information on management of bio-fouling risks on vessels entering Australian waters**

13.9 The Committee noted the information provided by Australia (MEPC 56/INF.11) on new requirements that would be introduced for the management of bio-fouling risks posed by vessels entering and operating in Australian waters. The delegation of Australia advised that the requirements would not come into effect until March/April 2008.

## **14 PROMOTION OF IMPLEMENTATION AND ENFORCEMENT OF MARPOL 73/78 AND RELATED INSTRUMENTS**

14.1 Under this agenda item the Committee had before it documents MEPC 56/14 (Secretariat) and MEPC 56/14/1 (IPTA). In addition, the Committee agreed also to consider document MEPC 56/6/8 (INTERTANKO) as it dealt with a related matter to that addressed by IPTA.

### **Short titles of conventions and protocols**

14.2 In introducing document MEPC 56/14, the Secretariat stated that the main purpose of this document was to invite the Committee to confirm the short titles of environmental conventions and protocols under the responsibility of the MEPC, as there were occasionally minor discrepancies in the short titles used by delegations and the Secretariat. Although those minor discrepancies had not caused any problems so far, it would be desirable for the Committee to agree on the same short titles for use in meeting documents and communications.

14.3 Following an exchange of views, the Committee endorsed the short titles of environmental conventions and protocols under the responsibility of the MEPC, as contained in document MEPC 56/14.

14.4 The Committee instructed the Secretariat, and invited all delegations, to make use of the approved short titles in meeting documents and communications where the formal title of a convention, protocol or mandatory instrument need not be quoted in full.

### **Information on properties of MARPOL Annex II and IBC Code cargoes**

14.5 IPTA, in document MEPC 56/14/1, advised that the information in respect of viscosity and other properties was now required for many more products in the IBC code than previously as a result of the entry into force of the revised MARPOL Annex II and amended IBC Code on 1 January 2007. Since such information can only be provided by the manufacturers and/or shippers of these products, IPTA proposed the issuance of a circular, the draft text of which was annexed to its document, requesting Member Governments to remind their respective industries of their obligations with respect to the provision of such information.

14.6 INTERTANKO, in introducing its document MEPC 56/6/8 focusing on the same problem as reported in document MEPC 56/14/1, recognized that the issuance of an MEPC circular, as suggested by IPTA, was the simplest way to address this issue.

14.7 The Committee, consequently, approved the draft Circular on Provision of information in respect of products carried in accordance with the requirements of MARPOL Annex II and the IBC Code, set out in the annex to document MEPC 56/14/1. The Committee, however, taking into account that matters pertaining to the IBC Code fall also under the remit of the MSC, agreed to invite the MSC to concur with this decision, so as to issue a joint MSC/MEPC circular immediately after approval by MSC 83.

## **15 FOLLOW-UP TO UNCED AND WSSD**

15.1 The Committee recalled that, under this item, the Committee was normally invited to note or consider developments of the marine environment sector in relation to the Plan of Implementation adopted at the World Summit on Sustainable Development (WSSD), which was held in 2002 in Johannesburg, South Africa.

15.2 The Committee noted that the actions requested of the Organization by the 2002 WSSD, such as the development of the Ballast Water Management Convention and the call to enhance maritime safety and protection of the marine environment from pollution by actions at all levels, had already been completed or were being taken under other agenda items of the Committee.

15.3 The Committee, having noted that no documents had been submitted under this agenda item since MEPC 52, discussed the suggestion to delete the item from its agenda. The Committee, however, having considered the views expressed by the delegations of Singapore and South Africa and that of the observer from FOEI, decided to postpone the decision until its next session.

15.4 The Committee then instructed the Secretariat to prepare a document setting out the actions requested of the Organization by the 2002 WSSD and the progress made towards achieving those actions, for consideration by the Committee at its fifty-seventh session next year.

## **16 TECHNICAL CO-OPERATION PROGRAMME**

16.1 With regard to the reporting on technical co-operation (TC) activities, the Committee recalled that it was past practice to have technical co-operation on its agenda only on alternate meetings but, given the importance of technical co-operation in the work of the Organization, the Committee agreed at its 51st session that a report on TC activities be made on a regular basis; the even-numbered sessions providing exhaustive status reports and updates provided, whenever necessary, at odd-numbered sessions.

16.2 The Committee recalled that MEPC 52 approved the updated thematic priorities and the Committee's contribution to the ITCP for 2006-2007. These formed the basis for the preparation of the marine environment-related components of the overall ITCP for 2006-2007 and in this connection the Committee considered two documents prepared by the Secretariat: MEPC 56/16 on the activities under the ITCP for the period July 2006 – March 2007; and MEPC 55/16/Add.1 on activities carried out mainly under major projects.

16.3 The Committee noted the developments regarding:

- .1 achievements under the ITCP, which pertained mainly to the training of officials in seminars/workshops/training courses on marine environment protection, in particular OPRC and MARPOL, promotion and enhancement of regional co-operation through the development of regional actions such as strategic action plans for the implementation of MARPOL and OPRC, regional contingency plans for response to oil pollution, etc.;
- .2 the project on building Partnerships for Environmental Protection and Management of the Seas of East Asia (PEMSEA);
- .3 the PDF-B Project on Building Partnerships to assist Developing Countries to Reduce the Transfer of Harmful Aquatic Organisms in Ships' Ballast Water (GloBallast Partnerships);
- .4 the project on the development of a Regional Marine Electronic Highway (MEH) Demonstration Project in the Straits of Malacca and Singapore; and
- .5 the EC/MEDA financed project on EUROMED Co-operation on Maritime Safety and Prevention of Pollution from Ships (SAFEMED).

16.4 The Secretariat provided additional information on the outcome of the GEF Council meeting in June 2007, related to the GEF-UNDP-IMO GloBallast Partnership Project Proposal by IMO and on the MEH Project since the preparation of document MEPC 57/16/Add.1.

16.5 The Committee noted that, following the successful partnership between IMO, the Global Environment Facility (GEF) and UNDP in the GloBallast Pilot Phase, a GEF Grant was approved by the GEF Council in June 2007 to provide further assistance to the developing countries for implementation of the Ballast Water Management Convention. The Committee noted that the new project, titled *GloBallast Partnerships*, would be a five-year project and would focus on national level legal, policy and institutional arrangements to help in implementing the BWM Convention. A grant of US\$5.64 million would be provided by GEF and significant co-financing had been mobilized, mostly in the form of in-kind contributions from 13 Lead Partnering Countries from six new high priority regions, as well as from strategic partners including the private sector. It was expected that the Project pre-commissioning activities would be concluded between August and October 2007 so that the Project could be commissioned by end of 2007.

16.6 The Secretariat updated the Committee on developments regarding the Marine Electronic Highway (MEH) Demonstration Project in the Straits of Malacca and Singapore. The Committee noted that, following the approval on 13 June 2006 by the World Bank Board of the 4-year Project, the GEF Grant Agreement for IMO of US\$6.86 million and for the Republic of Indonesia of US\$1.44 million were signed in June and July 2006 respectively. The Committee further noted that the first Project Steering Committee Meeting was held in May 2007 in Batam, Indonesia and approved, among others, the revised Project Implementation Plan and the budget as well as the scope of services for the hydrographic survey of the Traffic Separation Scheme of the Straits of Malacca and Singapore, for inclusion in the tender document for the hydrographic survey. The Project Steering Committee Meeting also agreed to hold an intersessional PSC Meeting in Singapore in September 2007 to consider the report of the Technical Committee on Shore Base Infrastructure and Facilities with a view to its approval by the Second PSC Meeting. During the meeting the International Hydrographic Bureau offered to review the draft TOR for the work to be carried out on Environmental Marine Information Overlays. The Committee also noted that the project implementation plan reflected the offer of assistance of US\$850,000 equivalent in Korean Won by the Republic of Korea.

16.7 The Committee also recalled that MEPC 55 had approved the Committee's contribution to the overall IMO ITCP for 2008-2009 and instructed the Secretariat to finalize such input for inclusion by the IMO Technical Co-operation Division into the overall ITCP. The overall IMO ITCP for 2008-2009 was subsequently considered and endorsed by TCC at its fifty-seventh session in June 2007 and approved by the ninety-eighth session of the IMO Council.

16.8 The Director, Technical Co-operation Division, provided information on the outcome of the 57th session of the Technical Co-operation Committee. The Committee noted that the new ITCP for 2008-2009 was approved comprising 14 programmes, seven regional and seven global, including a new Global programme on support to SIDS and LDCS. The Committee further noted that the proposal by the Secretary-General to allocate 12 million USD from the TC Fund to support the implementation of priority elements of the ITCP was endorsed by TCC and subsequently approved by the Council.

16.9 The Committee further noted the popularity with donors of environmental protection programmes and the donors' confidence in IMO's, and in particular the Marine Environment Division's ability to develop and manage large scale projects related to the protection of the marine environment.

16.10 The Committee also noted the endorsement by TCC 57 of a consolidated paper demonstrating the conceptual linkage between the goals of the ITCP and the relevant Millennium Development Goals (MDGs), including MDG 7 ensuring environmental sustainability. The Committee further noted that a draft resolution on the linkage between the ITCP and the MDGs would be submitted to the twenty-fifth session of the Assembly for its consideration.

16.11 Many delegations expressed their appreciation of the technical assistance provided by IMO through the Integrated Technical Co-operation Programme (ITCP). The Committee noted the offers of support to the ITCP expressed by a number of delegations in particular through the provision of expertise and hostship facilities for the technical co-operation activities. One delegation expressed regret for the noticeable decrease of the OPRC-HNS training courses in its region during the past year and hoped that this would be re-addressed in the future.

16.12 The observer delegation of the International Petroleum Industry Environment Conservation Association (IPIECA) informed the Committee on the joint IMO/IPIECA activities under the Global Initiative (GI). In this connection, the Committee noted the GI objectives, the geographical scope of the programme and the significant results achieved in terms of ratification and implementation of IMO Conventions and the development of national and regional preparedness and response systems as a result of the co-operation between IMO and the industry.

16.13 The Committee took note of the information provided regarding the implementation of the technical co-operation activities for the period from July 2006 to March 2007.

16.14 In summing up, the Chairman emphasized that the constituent programmes of the ITCP could only be delivered if the required funding is secured from IMO's internal resources and/or external donor contributions. Having expressed appreciation for all financial and in-kind contributions to the ITCP, the Chairman invited Member States and international organizations to continue and, if possible, increase their support for IMO's technical co-operation activities so that successful delivery of the programme can be achieved.

## **17 ROLE OF THE HUMAN ELEMENT**

### **REPORT OF THE JOINT MSC/MEPC WORKING GROUP ON HUMAN ELEMENT**

17.1 The Committee recalled that MSC 82 had reconvened the Joint MSC/MEPC Working Group on Human Element.

17.2 The Committee approved, in general, the report of the Joint MSC/MEPC Working Group on Human Element (MSC 82/WP.6 and MEPC 56/17) and took action as indicated hereunder.

#### **Guidelines for abandonment of ships alongside in port, under ISM Code provisions**

17.3 The Committee agreed with the Joint MSC/MEPC Working Group's view that there was no need to develop guidelines for abandonment of ships alongside in port under ISM Code provisions.

## **The impact of the ISM Code and its effectiveness in the enhancement of safety of life at sea and protection of the marine environment**

### ***Report of the Group of Independent Experts***

17.4 In the context of consideration of PSC data, the Committee agreed that this should be considered by a further study and invited PSC MoUs, flag States and P&I Clubs to provide further data to supplement this study to the Secretariat at an early date.

17.5 The Committee agreed with the recommendations made by the group and, in particular, that:

- .1 guidelines for Administrations should be revised to make them more effective and user-friendly; and
- .2 guidelines and associated training should be developed to assist companies and seafarers in improving the implementation of the Code,

and invited Member Governments and international organizations to submit proposals for discussion at the next session of the group.

17.6 The Committee further agreed that the results of the study should be given wide publicity across the industry and urged Member Governments, intergovernmental and non-governmental organizations in consultative status to circulate them within the industry.

### **Code of safe working practice for seafarers**

17.7 The Committee invited Member Governments and international organizations to submit comments and proposals on the need for developing a code for safe working practice for seafarers.

### **Near-miss information**

17.8 The Committee invited Member Governments, intergovernmental and non-governmental organizations to submit proposals with a view to preparing guidance to encourage companies and seafarers to document and record information on near misses and hazardous situations in order to understand the precursors to events that were detrimental to safety and the marine environment.

## **THE ORGANIZATION'S STRATEGY TO ADDRESS THE HUMAN ELEMENT**

### **Updated Human Element Action Plan**

17.9 Liberia (MEPC 56/17/3) proposed to update the Human Element Action Plan as provided at annex to MSC-MEPC.7/Circ.4 (the Organization's Strategy to Address the Human Element).

### **Near-miss data in accident and incident investigations**

17.10 IFSMA (MEPC 56/17/6) provided information on the Marine Accident Reporting Scheme (MARS) operated by the Nautical Institute.

17.11 Liberia (MEPC 56/17/7) proposed draft guidance on near-miss reporting as requested by MSC 82 to address concerns regarding near-miss information. In their opinion, the proposed

guidance could be used as a starting point for providing user-friendly guidance on near-miss information and reporting.

### **Guidelines for the operational implementation of the ISM Code by Companies**

17.12 Austria *et al* (MEPC 56/17/8 and MEPC 56/17/10) proposed that the existing industry guidelines were reviewed to complement the Organization's guidelines to Administrations to assist Companies in effective and efficient operational implementation of the ISM Code and provided draft guidelines for the operational implementation of the ISM Code by companies.

### **Comic pamphlet for seafarers: Protecting the Marine Environment**

17.13 The Committee noted the information provided by Liberia (MEPC 56/17/2) on the comic pamphlet publication, *Protecting the Marine Environment*, prepared by the American P&I Club to ensure that seafarers considered that those items brought aboard ship such as people, cargo, stores, fuel, etc., were taken off or removed from the vessel in a safe and environmentally friendly way. Copies of the comic pamphlet were provided to delegations.

17.14 Having briefly considered documents MEPC 56/17/3 (Liberia), MEPC 56/17/6 (IFSMA), MEPC 56/17/7 (Liberia) and MEPC 56/17/8 and MEPC 56/17/10 (Austria *et al*), the Committee agreed to forward them to the joint working group for detailed consideration.

### **EXPERIENCE, QUALIFICATIONS AND TRAINING FOR THE ROLE OF DESIGNATED PERSON UNDER THE INTERNATIONAL SAFETY MANAGEMENT CODE**

17.15 Austria *et al* (MEPC 56/17/1) proposed specific minimum competency requirements (experience, qualifications and training) for a person nominated as Designated Person pursuant to the requirements of the ISM Code. Accordingly, they had provided a draft amended annex to replace the existing annex in the revised Guidelines on Implementation of the ISM Code (resolution A.913(22)).

17.16 Having briefly considered document MEPC 56/17/1 (Austria *et al*), the Committee agreed to forward it to the joint working group for detailed consideration.

### **DEVELOPMENT OF A SAFE WORKING ENVIRONMENTAL STANDARD AND ITS APPLICATION TO TIER II FUNCTIONAL REQUIREMENTS OF THE GOAL BASED CONSTRUCTIONAL STANDARDS**

17.17 ICFTU (MEPC 56/17/5) proposed that there should be a Code of Safe Working Environmental Standards for seafarers' consistent with resolution A.947(23). In their opinion, these standards should be incorporated into the future design of all vessels through Tier II of the Goal Based Constructional Standards. Furthermore, they also proposed to modify the Organization's strategy to address the human element to identify areas where occupational safety and health concerning the seafarer had been omitted or revised.

17.18 Having briefly considered document MEPC 56/17/5 (ICFTU), the Committee agreed to forward it to the joint working group for detailed consideration.

### **ONGOING WORK OF THE HUMAN FACTORS TASK GROUP (HFTG) ESTABLISHED BY THE INDUSTRY**

17.19 ICS (MEPC 56/17/4) proposed that the Committee should instruct the STW Sub-Committee to consider introducing for each STCW Function at management,

operational and support level, an additional five key elements relating to Understanding, Behaviour, Compliance, Risk management and Leadership as the competencies.

17.20 Having briefly considered document MEPC 56/17/4 (ICS), the Committee agreed to forward it to the joint working group for detailed consideration.

#### **ILO PROPOSAL FOR THE ESTABLISHMENT OF IMO/ILO JOINT WORKING GROUP ON THE HUMAN ELEMENT**

17.21 The Secretariat (MEPC 56/17/9) informed the Committee that MSC 82 had noted the information provided by ISF (MSC 82/15/1) on the adoption of the ILO Maritime Labour Convention, 2006, and the ILO Resolution on addressing the human element through co-operation between United Nations specialized agencies, and had agreed to await official communication from ILO before taking a decision on this matter. Pursuant to resolution X of the 94<sup>th</sup> (Maritime) session of the International Labour Conference, the International Labour Office had now formally requested the Organization to establish a Joint IMO/ILO Working Group on the Human Element with the following terms of reference:

- .1 to make recommendations and provide advice to relevant Committees and other bodies of both Organizations, as well as to their Secretariats; and
- .2 to enable them properly to address the human element in shipping when they are preparing or reviewing legal or technical texts or proposals on matters within the competence of both Organizations, including seafarer training; hours of work and rest; manning levels; seafarer fatigue; career and skill development and opportunities for seafarers' employment.

17.22 Having briefly considered document MEPC 56/17/9 (Secretariat), the Committee agreed to forward it to the joint working group for detailed consideration.

#### **OTHER ISSUES**

17.23 The Committee noted the updated information provided by the United Kingdom (MEPC 56/INF.3) on the development of two human element assessment tools i.e. HEAT-S and HEAT-C.

17.24 The Committee noted the information provided by Australia (MEPC 56/INF.9) on their experience with awareness-raising on environmental issues. In this context, they had conducted two marine awareness courses in 2006 in Australia and were planning to conduct another two in August 2007.

#### **ESTABLISHMENT OF THE JOINT MSC/MEPC WORKING GROUP**

17.25 The Committee established the Joint MSC/MEPC Working Group on Human Element and instructed it, taking into account the comments and decisions made in plenary, to:

- .1 consider information provided in documents:
  - .1 MEPC 56/17/3 and update the action plan provided in the Organization's strategy to address the human element;

- .2 MEPC 56/17/6 and MEPC 56/17/7 with a view to developing appropriate guidance to encourage near-miss reporting;
  - .3 MEPC 56/17/1 on the need to provide for specific minimum competency requirements (experience, qualifications and training) for a person nominated as Designated Person pursuant to the requirements of the ISM Code and if considered appropriate finalize the draft Assembly resolution/MSC-MEPC circular;
  - .4 MEPC 56/17/4 related to the ongoing work of the Human Factors Task Group (HFTG) established by the industry and advise the Committee as appropriate;
  - .5 MEPC 56/17/5 related to the development of a safe working environmental standard and its application to Tier II Functional Requirements of the Goal Based Constructional Standards and advise the Committee as appropriate;
  - .6 MEPC 56/17/8 and MEPC 56/17/10 related to the guidelines for the operational implementation of the ISM Code by Companies and if considered appropriate finalize the draft MSC-MEPC circular;
  - .7 MEPC 56/17/9 related to ILO proposal for the establishment of a Joint IMO/ILO Working Group on the Human Element and advise the Committee as appropriate; and
- .2 submit a report to plenary on Thursday, 12 July 2007.

#### **REPORT OF THE WORKING GROUP**

17.26 Upon receipt of the report of the working group (MEPC 56/WP.8), the Committee approved it in general and took action as outlined in the following paragraphs.

#### **THE ORGANIZATION'S STRATEGY TO ADDRESS THE HUMAN ELEMENT**

##### **Updated Human Element Action Plan**

17.27 The Committee considered the proposal by Liberia (MEPC 56/17/3) to update the Human Element Action Plan as provided at annex to MSC-MEPC.7/Circ.4 (the Organization's Strategy to Address the Human Element) and approved, subject to concurrent action by MSC 83, the updated action plan for the Organization's Strategy to Address the Human Element.

##### **Near-miss data in accident and incident investigations**

17.28 The Committee noted with appreciation the information provided by IFSMA (MEPC 56/17/6) and agreed that information from similar confidential reporting systems would be useful in promoting a safety culture and disseminate "lessons learnt" for the benefit of the entire industry.

17.29 The Committee agreed that there was a need to provide guidance to encourage companies and seafarers to document and record information on near misses and hazardous situations in order to understand the precursors to events that are detrimental to safety and the marine

environment. The Committee further agreed that the preliminary text on near miss reporting proposed by Liberia should form the basis for consideration at its next session and invited Member Governments, intergovernmental and non-governmental organizations to submit comments on the preliminary text on near-miss reporting to the next session of the group.

### **Guidelines for the operational implementation of the ISM Code by Companies**

17.30 The Committee considered the proposal by Austria *et al* (MEPC 56/17/8 and MEPC 56/17/10) relating to the review of existing industry guidelines and the development of new guidelines to complement the Organization's guidelines to Administrations to assist Companies in effective and efficient operational implementation of the ISM Code. In this context, the Committee recognized that to support and encourage the development of a safety culture and to strengthen the operational implementation of the ISM Code the following elements had to be considered:

- .1 internal audits;
- .2 SMS review/assessment by the Company and master;
- .3 reporting and analysing of non-conformities, accidents and hazardous occurrences; and
- .4 persons performing internal audits and internal system reviews.

17.31 The Committee agreed that it was essential to review the existing guidelines and develop new guidelines to assist companies in effective and efficient operational implementation of the ISM Code. Accordingly, the Committee approved, subject to approval by MSC 83, MSC-MEPC.7 circular on Guidelines for operational implementation of the ISM Code by Companies.

### **EXPERIENCE, QUALIFICATIONS AND TRAINING FOR THE ROLE OF DESIGNATED PERSON UNDER THE INTERNATIONAL SAFETY MANAGEMENT CODE**

17.32 The Committee considered the proposal by Austria *et al* (MEPC 56/17/1) relating to experience, qualifications and training for undertaking the role of the Designated Person (DP) under the International Safety Management Code. In this context, Austria *et al* advised the group that existing Assembly resolution A.913(22) provides guidelines to Administrations for the implementation of the ISM Code, whereas the nomination of DP was the responsibility of the shipping company and proposed that the proposed guidance for qualification, training and experience of DPs should be disseminated as an MSC-MEPC.7 circular.

17.33 The Committee recognized the key role of the DP in the implementation and effectiveness of the ISM Code and that presently there were no requirements/guidelines on the experience, qualification and training of the DP. Accordingly, the Committee approved, subject to approval by MSC 83, MSC-MEPC.7 circular, as amended, on Guidelines on qualifications, training and experience necessary for undertaking the role of the DP under the provisions of the International Safety Management (ISM) Code.

17.34 In responding to Australia's concern that the qualifications for DPs did not include a requirement for those with a background in quality assurance, the Committee clarified that, as there was no formal educational programme related to quality assurance, they would be sufficiently covered under management qualifications as reflected in paragraph 2.1.1 of the

Guidance on the qualifications, training and experience necessary for undertaking the role of the designated person under the provisions of the ISM Code.

**DEVELOPMENT OF A SAFE WORKING ENVIRONMENTAL STANDARD AND ITS APPLICATION TO TIER II FUNCTIONAL REQUIREMENTS OF THE GOAL BASED CONSTRUCTIONAL STANDARDS**

17.35 The Committee considered the proposal by ICFTU (MEPC 56/17/5) relating to the need for a code for safe environmental standards for seafarers and broad human element considerations in Tier II of the Goal Based Standards and recalled that, at MSC 82, ICFTU had expressed the view that it was first necessary to collate the existing standards, recommendations and guidelines developed by the Organization, intergovernmental organizations and the industry before considering the need for developing a code for safe working practices for seafarers.

17.36 In considering the need for a code for safe environmental standards for seafarers, the Committee noted concerns that this issue would be addressed by the Goal Based Standards Working Group when discussing the safety level approach at MSC 83. Some delegations were of the view that this should be considered, instead, by the relevant sub-committees. Accordingly, the Committee invited MSC 83 to take note of these concerns when deciding on paragraph 11.1.5 in document MEPC 56/WP.8.

**ONGOING WORK OF THE HUMAN FACTORS TASK GROUP (HFTG) ESTABLISHED BY THE INDUSTRY**

17.37 The Committee considered the proposal by ICS *et al* (MEPC 56/17/4) to instruct the STW Sub-Committee to consider introducing for each STCW function, at support, operational and management level, an additional five key elements relating to Understanding, Behaviour, Compliance, Risk management and Leadership as the competencies to assist seafarers to understand variations in company specific safety cultures on different ships.

17.38 In this context, the Committee agreed that the issues involved covered not only seafarers on board ships but also those dealing with operations ashore. Accordingly, ICS *et al* agreed that the Human Factors Task Group (HFTG) established by the industry would continue its work and submit a comprehensive proposal to prevent a failure to follow cargo operation guidelines and procedures at both shipboard and ship management levels to the next session of the group.

**ILO PROPOSAL FOR THE ESTABLISHMENT OF IMO/ILO JOINT WORKING GROUP ON THE HUMAN ELEMENT**

17.39 The Committee considered the request from ILO to establish a Joint IMO/ILO Working Group on the Human Element with the following terms of reference:

- .1 to make recommendations and provide advice to relevant Committees and other bodies of both Organizations, as well as to their Secretariats; and
- .2 to enable them properly to address the human element in shipping when they are preparing or reviewing legal or technical texts or proposals on matters within the competence of both Organizations, including seafarer training; hours of work and rest; manning levels; seafarer fatigue; career and skill development and opportunities for seafarers' employment.

17.40 The Committee recalled that the Joint MSC/MEPC Working Group on the Human Element had been functioning effectively since 1991 and a significant amount of work had been accomplished by this group and agreed that, subject to approval by MSC 83, the Joint MSC/MEPC Working Group on the Human Element should continue its work in accordance with the Organization's Strategy to Address the Human Element (MSC-MEPC.7/Circ.4).

17.41 The Committee further recalled that issues relating to seafarer training; hours of work and rest; manning levels; seafarer fatigue; career and skill development were already being addressed by the STW Sub-Committee on a regular basis. In this context, the Committee recognized that ILO input was valuable and that ILO should continue to participate in the future meetings of the STW Sub-Committee and agreed that, subject to approval by MSC 83, there was no need to establish a Joint ILO/IMO Working Group at this stage to address these issues.

17.42 Furthermore, the Committee agreed that it was not appropriate to establish the proposed Joint ILO/IMO Working Group with wide and open ended terms of reference. However, the Committee also agreed, subject to approval by MSC 83, that in future when preparing or reviewing other technical text or proposals on matters within the technical competence of both Organizations, if considered necessary, an *Ad Hoc* Joint ILO/IMO working group with specific terms of reference on case by case basis could be established to properly address the human element on a tripartite basis.

### **Other issues**

17.43 The Committee agreed, subject to agreement by MSC 83, that in order to facilitate effective implementation of the ISM Code, it would be helpful to incorporate all guidance related to the ISM Code including those developed at this session in the next edition of the ISM Code and guidelines published by the Organization. Accordingly, the Committee instructed the Secretariat to include all related guidance issued by the Organization in the next edition of the ISM Code.

17.44 The Committee noted that the Joint MSC/MEPC Working Group on the Human Element was scheduled to be reconvened at MSC 84 and invited Member Governments, intergovernmental and non-governmental organizations to submit proposals in accordance with the Organization's Strategy to Address the Human Element (MSC-MEPC.7/Circ.4).

## **18 FORMAL SAFETY ASSESSMENT**

18.1 The Committee noted that the one matter that needed consideration within the context of the Formal Safety Assessment Guidelines relevant to the work of the MEPC was the draft Environmental Risk Evaluation Criteria.

18.2 The Committee recalled that MEPC 55 had considered the draft Criteria set out in annex 3 to document MEPC 55/18 and agreed that the draft criteria still needed in-depth consideration from the marine environment protection perspective. Subsequently, Members were invited to give their views on the draft Environmental Risk Evaluation Criteria for consideration by MEPC 56.

18.3 The Committee also recalled that MSC 82 considered whether this agenda item should be included in the agenda for MSC 83 and, recognizing that there may be an outcome of MEPC 56 regarding Environmental Risk Acceptance Criteria and other submissions at MSC 83, agreed to retain the item on the provisional agenda for MSC 83.

18.4 The Committee considered the document MEPC 56/18/1 (Greece) which drew attention to some issues pertaining to the development of Environmental Risk Evaluation Criteria and emphasized that the need of the Organization (and other regulatory bodies) to assess environmental risk and formulate relevant policy necessitated the development of a risk matrix to assess effects on the environment. In the view of Greece, the use of risk matrices was crucial in Formal Safety Assessment, and only after gaining the needed experience, quantitative criteria to evaluate cost effectiveness could be discussed. In this regard, any environmental risk evaluation criterion should have a strong theoretical background and should be based on assumptions that could be justified.

18.5 All the delegations that spoke supported, in principle, the proposal put forward by Greece, to carry out a more in-depth analysis of the proposed environmental risk assessment criteria for the purpose of the Formal Safety Assessment (FSA) and for the inclusion of such criteria in the IMO FSA Guidelines (MSC/Circ.1023–MEPC/Circ.392).

18.6 The Committee recognized that environmental risk assessment criteria are still under development and there is limited experience on their practical application. In this connection, the Committee agreed that gaining practical experience with risk acceptance and cost benefit criteria is of importance to establish the criteria and threshold values for use in the decision making process in the future.

18.7 The Committee, noting that further work, including more research, was needed on the subject, agreed to establish a correspondence group, under the co-ordination of Greece<sup>\*</sup>, with the following terms of reference:

- .1 to review the draft Environmental Risk Acceptance Criteria as set out in annex 3 to document MEPC 55/18, taking into account document MEPC 56/18/1 (Greece) and the comments made in plenary with a view to finalize the Criteria; and
- .2 to submit a written report to MEPC 57.

## **19 WORK PROGRAMME OF THE COMMITTEE AND SUBSIDIARY BODIES**

### **Proposed amendments to the revised MARPOL Annex I (Electronic means to control oil discharges from ships)**

19.1 The Committee noted the submission by Dominica (MEPC 56/19/2) on the proposed amendments to the revised MARPOL Annex I (Electronic means to control oil discharges from ships) and its inclusion in the work programme of the DE Sub-Committee and in the provisional agenda of DE 51. The purpose of the proposal was to address the perceived international problem of illegal discharges of waste oil through amendments to regulations 17 and 36 of

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<sup>\*</sup> **Co-ordinator of the correspondence group:**

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MARPOL Annex I to supplement and possibly replace parts of the Oil Record Book with an electronic oil discharge monitoring system (EODMS).

19.2 The Committee also noted the additional information provided by Dominica on findings relating to illegal oil waste discharges associated with malfunctioning and/or inadequate oil-water separation systems, highlighting the significance of their proposal (MEPC 56/INF.4).

19.3 In this connection, the Committee noted that, the Chairman, in accordance with paragraph 2.20 of the Committees' Guidelines (MSC-MEPC.1/Circ.1), made a preliminary assessment on the proposed new work programme by Dominica (MEPC 56/WP.3, annex 1).

19.4 Many delegations took the floor on the issue. While there was support for the proposal of Dominica, the majority of those that spoke expressed disagreement with the draft amendments to MARPOL Annex I proposed by Dominica in document MEPC 56/19/2. The Committee, after discussion, was of the view that the important issue at this stage is to consider how to deal with the perceived problems with the pollution prevention equipment required under MARPOL Annex I, including how to improve the current standards for the equipment, and not consider amendments to MARPOL Annex I.

19.5 The Committee decided to instruct the DE Sub-Committee to consider the matter at its next session under the item on "Any other business", and to advise MEPC 57 accordingly. The Committee then invited Dominica and other interested delegations to submit appropriate documents to DE 51 for consideration.

19.6 The delegation of Dominica informed the Committee that the Technical and Research Committee of the Society of Naval Architects and Marine Engineers had established a panel (Panel 4) to address the oily water separator (OSW) issues. It will evaluate the effectiveness of OSW systems now fitted on ships as well as those under development; carry out a root cause analysis of problems experienced (design, training, operation, and maintenance); and develop proposed solutions and guidelines. The work of Panel 4 will be presented to the DE Sub Committee. All Member, NGOs and IGOs are welcome to participate in the work either directly or by correspondence. Those interested should contact the Dominica delegation by e-mail at [nlemley@dominica-registry.com](mailto:nlemley@dominica-registry.com).

### **Development of international measures for minimizing the translocation of invasive aquatic species through bio-fouling of ships**

19.7 The Committee noted the proposal by New Zealand, Australia, the United Kingdom, Friends of the Earth International (FOEI) and the World Conservation Union (IUCN) (MEPC 56/19/3) on the development of international measures for minimizing the translocation of invasive aquatic species through bio-fouling of ships for inclusion as a new item in the work programme of the BLG Sub-Committee and in the provisional agenda of BLG 12.

19.8 The Committee further noted that the proposed new work programme item would aim to investigate the measures required to address the risks from bio-fouling of ships, and to explore the implementation options such as:

- .1 developing Guidelines for adoption as an MEPC or an Assembly resolution;
- .2 linking measures to the AFS Convention;

- .3 linking measures to the BWM Convention; or
- .4 developing a new Convention;

These options needed to take into account the range of different aspects of the bio-fouling issues including:

- (a) anti-fouling paint application and use;
- (b) approaches to minimize bio-fouling in niche areas;
- (c) in-water cleaning;
- (d) documentation/certification standards for maintenance regimes; and
- (e) design of dry dock and other vessels cleaning facilities to minimize the risk of release of biological material into the environment.

19.9 The Committee, having considered the proposed Codes of practice for minimizing the transfer of invasive aquatic species via bio-fouling on recreational and similar boats by the International Sailing Federation (MEPC 56/13) and Friends of the Earth International (FOEI) (MEPC 56/13/1), decided that these proposals should be considered together with the issue of bio-fouling.

19.10 The Committee noted that the Chairman, in accordance with paragraph 2.20 of the Committees' Guidelines (MSC-MEPC.1/Circ.1), had made a preliminary assessment on the proposed new work programme by New Zealand, Australia, the United Kingdom, Friends of the Earth International (FOEI) and the World Conservation Union (IUCN) (MEPC 56/WP.3, annex 2). The Chairman's assessment showed that the criteria for general acceptance provided in paragraph 2.10 of the Committees' Guidelines had been met.

19.11 The Committee, having considered the proposal by New Zealand, Australia, the United Kingdom, Friends of the Earth International (FOEI) and the World Conservation Union (IUCN), including the proposed Codes of practice referred to in paragraph 19.7, approved the inclusion of a new high priority item in the BLG Sub-Committee's work programme on "Development of international measures for minimizing the translocation of invasive aquatic species through bio-fouling of ships" and in the provisional agenda of BLG 12. The Committee invited New Zealand, Australia, the United Kingdom, Friends of the Earth International (FOEI), the World Conservation Union (IUCN) and other interested delegations to submit appropriate documents to BLG 12 for consideration.

#### **Work programme and provisional agenda of the BLG Sub-Committee**

19.12 The Committee noted that MSC 82 (29 November to 8 December 2006), noting MEPC 55's concurrent decision, approved the work programme of the BLG Sub-Committee and the provisional agenda for BLG 11, including a new high-priority work programme item for the BLG Sub-Committee on "Application of the requirements for the carriage of bio-fuels and bio-fuel blends" with a target completion date of 2008 (MSC 82/24, paragraphs 21.4, 21.9 and 21.10).

19.13 The Committee recalled that, under its agenda item 10, it considered the report of BLG 11 which met from 16 to 20 April 2007 and revised its work programme and the provisional agenda for BLG 12 for approval by MEPC 56 and MSC 83 (MEPC 56/10/1, paragraph 3.11; and BLG 11/16, paragraphs 13.1 to 13.2, annex 10).

19.14 The Committee approved, subject to concurrent decision of MSC 83, the work programme of the BLG Sub-Committee and the provisional agenda for BLG 12, as revised by BLG 11, with the addition of a new item on the “Development of international measures for minimizing the translocation of invasive aquatic species through bio-fouling of ships” with a target completion date of 2010 (three sessions). The work programme of the BLG Sub-Committee and the provisional agenda for BLG 12, as revised, are contained in annex 23.

#### **Work programme and provisional agenda of the FSI Sub-Committee**

19.15 The Committee noted that MSC 82 revised and approved the work programme of the FSI Sub-Committee and the provisional agenda for FSI 15 (MEPC 56/19, paragraph 4).

19.16 The Committee recalled that, under its agenda item 10, it considered the report of FSI 15 which met from 4 to 8 June 2007 and revised its work programme and the provisional agenda for FSI 16 for approval by MEPC 56 and MSC 83 (MEPC 56/10/3, paragraph 2.22; and FSI 15/18, paragraph 15.7 and annex 10).

19.17 The Committee approved, subject to concurrent decision of MSC 83, the work programme of the FSI Sub-Committee and the provisional agenda of FSI 16, as revised by FSI 15. The work programme of the FSI Sub-Committee and the provisional agenda of FSI 16 are contained in annex 24.

#### **Work programme items of the DSC, FP, NAV, DE and STW Sub-Committees, which relate to environment issues**

19.18 The Committee recalled that it had considered a new item on the proposed amendments to the revised MARPOL Annex I (Electronic means to control oil discharges from ships) to the work programme of the DE Sub-Committee and in the provisional agenda of DE 51 (see also paragraphs 19.4 to 19.6).

19.19 The Committee approved, subject to concurrent decision by MSC 83, the items on the work programmes of the DSC, FP, NAV, DE and STW Sub-Committees, which related to environmental issues, as set out in annex 25.

#### **Proposals for the High-level action plan and priorities, including planned output for the 2008-2009 biennium**

19.20 The Committee noted that the Secretariat, after consideration of document MEPC 55/19/7 by MEPC 55, had submitted the updated information concerning review of progress made in implementing the High-level action plan and priorities for 2006-2007 biennium and proposals for the High level action plan for the 2008-2009 biennium to the Council Working Group on the Strategic Plan (March 2007).

19.21 The Committee, being aware of the progress made at MEPC 56, requested the Secretariat to update, as necessary, the information on the progress made in implementing the High-level action plan and priorities for 2006-2007 biennium and proposals for the High-level action plan and priorities for the 2008-2009 biennium, and submit it to the next session of the Council

Working Group on the Strategic Plan (September 2007), which would subsequently report to the twenty-fourth extraordinary session of the Council (November 2007).

**Items to be included in the Committee's agenda for its forthcoming three sessions**

19.22 The Committee approved the items to be included in the agendas for MEPC 57, MEPC 58 and MEPC 59 (MEPC 56/WP.2), which are set out in annex 26.

**Dates for MEPC 57, MEPC 58 and MEPC 59**

19.23 The Committee noted that MEPC 57 would be held from 31 March to 4 April 2008, and that MEPC 58 is tentatively scheduled in October 2008 and MEPC 59 in July 2009.

**Working/review/drafting groups at MEPC 57**

19.24 The Committee agreed, in principle, to establish the following working groups/review groups at MEPC 57:

- .1 Review Group on Ballast Water Technologies;
- .2 Working Group on Ship Recycling; and
- .3 Working Group on Air Pollution.

**Correspondence groups**

19.25 The Committee agreed to establish the following intersessional correspondence groups, which should report to MEPC 57:

- .1 Correspondence Group on Review of MARPOL Annex V;
- .2 Correspondence Group on Environmental Risk Evaluation Criteria; and
- .3 Correspondence Group on GHG-related issues.

**Intersessional meetings**

19.26 The Committee agreed to hold the following intersessional meetings:

- .1 BLG Working Group on Air Pollution to be held from 29 October to 2 November 2007;
- .2 Working Group on Ship Recycling to be held in January 2008;
- .3 ESPH Working Group to be held some time in the latter part of 2008; and
- .4 OPRC/HNS Technical Group to be held in the week before MEPC 57, which should report to MEPC 57.

## **20 APPLICATION OF THE COMMITTEES' GUIDELINES**

### **Review of the Committees' Guidelines**

20.1 The Committee recalled that MEPC 55 had considered and agreed to the revised text of the Committees' Guidelines, which included text on the Committee's "technical or review groups" required under relevant conventions.

20.2 The Committee noted that MSC 82 also approved the revised text of the Committees' Guidelines.

20.3 The Committee further noted that the Committees' Guidelines, as revised and approved by both Committees, had been issued as MSC-MEPC.1/Circ.1, superseding the Guidelines contained in MSC/Circ.1099-MEPC/Circ.405.

### **Need for capacity-building when developing new instruments or amending existing ones**

20.4 The Committee noted that, at MSC 82, the Bahamas, Italy, Nigeria, South Africa and Spain proposed that the Committees and all sub-committees should ensure that when developing new instruments, and/or when amending existing ones, where necessary, guidance for implementation was prepared; they should also identify issues which the Technical Co-operation Committee might need to consider for the purpose of developing related technical co-operation and assistance programmes, in particular, of amending the terms of reference of the FSI Sub-Committee to empower the Sub-Committee, where appropriate, to develop implementation guidance for new and/or amended instruments.

20.5 The Committee also noted that MSC 82, while supporting the proposal in principle, recognized that an appropriate mechanism for preparing such guidance for implementation should be established and noted further that expanding the terms of reference of the FSI Sub-Committee may not be the only option to develop such guidance and that other sub-committees may be more appropriate when considering new measures under respective fields of responsibilities.

20.6 The Committee further noted that MSC 82 noted an opinion that a consultation mechanism for the implementation of new measures should be established, including a view that an appropriate policy should be established, taking into account relevant paragraphs of resolution A.500(XII) as an Assembly resolution to be adopted at the next Assembly.

20.7 The Committee noted that MSC 82 recognized that the issue was also relevant to other Committees (MEPC, FAL, LEG), the Assembly and Diplomatic Conferences, while noting the concerns raised by some delegations that preparing such guidance should not delay the process of development of new instruments or amending existing ones.

20.8 The Committee noted also that MSC 82 agreed to further consider the matter at MSC 83 and included, in the provisional agenda for MSC 83, a new item on "Capacity-building for the implementation of new measures" and invited Members to submit their proposals.

20.9 In the ensuing discussion, the delegation of South Africa reiterated its support on the decision of MSC 82 that the option to develop guidance for implementation of new instruments and/or when amending existing ones can be equally applied to MEPC and other Committees, including the inclusion of a new agenda item on "Capacity-building for the implementation of new measures," and urged the Committee to contribute to the initiative made by MSC 82 and to

find mechanism to make it a policy for all the Committees and Sub-Committees to enhance Technical Co-operation and its delivery process.

20.10 Several delegations voiced their support for the decision of MSC 82 on guidance for implementation and capacity-building of new measures:

- .1 the delegation of the United Kingdom observed that many of the newly developed instruments have become highly technical and difficult to implement, and reiterated, in principle, its support of the decision of MSC 82;
- .2 the delegation of the Philippines expressed its support to the decision of MSC 82, and invited the Committee to note the resolution on Promotion of technical co-operation and assistance related to the Nairobi Convention adopted by the International Conference on Wreck Removal, held in Nairobi, Kenya (14 to 18 May 2007), stating that the option to develop guidance for implementation could also be applied to the Assembly and other diplomatic conferences; and
- .3 the delegations of Italy and Barbados also expressed their support to the MSC 82's decision and that Barbados requested clarification whether such guidance for implementation will apply to instruments that have yet to enter into force.

20.11 The Chairman stated that the guidance for implementation was meant for new instruments, and in order for the Committee to consider this matter at its next session, delegations were invited to submit documents to MEPC 57 under "Any Other Business", taking into account the outcome of MSC 83.

20.12 The delegation of the Bahamas expressed their concern that the Committees' Guidelines were not being strictly adhered to. That delegation stated that the increased number of Working, Drafting, Technical and Correspondence Groups during this session, including intersessional meetings, resulted in unrealistic timescales and priorities being allocated to work programme items as well as taxing the resources of Member States, in particular, the developing and least developed countries, as well as the Secretariat. The delegation of the Bahamas recommended that the next meeting of the Chairmen of the Committees and their subsidiary bodies should discuss ways to address the aforementioned issues and, at the very least, to ensure the strict enforcement of the Committees' Guidelines and, if necessary, to modify it to make the Committee's and subsidiary bodies' workload realistic.

20.13 The delegations of Cyprus and Panama expressed their support for the concerns raised by the Bahamas and reiterated the need to take action to address the concerns at the next Chairmen's Meeting in Copenhagen during MSC 83.

20.14 The Chairman stated that the concerns raised by the delegation of the Bahamas were chronic problems faced by the Committees and their subsidiary bodies, which had been dealt with in the past. The Chairman assured the Committee that these issues would be considered at the Chairmen's Meeting to be held prior to MSC 83 in Copenhagen and would report back to MEPC 57.

## 21 ELECTION OF THE CHAIRMAN AND VICE-CHAIRMAN FOR 2008

21.1 In accordance with rule 17 of the Rules of Procedure, the Committee unanimously re-elected Mr. Andreas Chrysostomou (Cyprus) as Chairman, and Mr. Ajoy Chatterjee (India) as Vice-Chairman, both for 2008.

## 22 ANY OTHER BUSINESS

### Report on the IMO/MOWCA Forum (MEPC 56/22)

22.1 The Committee noted the information provided in document MEPC 56/22 on the Report of the IMO/MOWCA Forum on the establishment of an integrated coast guard function network for West and Central African Countries, held in Dakar, Senegal, from 23 to 25 October 2006. In particular, it noted that the IMO/MOCWA Forum, which was attended by over 160 participants and observers from the region and other interested States and UN specialized agencies, had adopted a resolution with actions that aimed, *inter alia*, to: enhance States' search and rescue capabilities; increase maritime security; and improve the protection of the marine environment. Such a system, once in place, could play a major role in States' efforts to realize the potential of their exclusive economic zones and to develop and maintain viable fishing industries, thus contributing to sustainable development, consistent with the United Nations Millennium Development Goals.

### Consultative Status of INTERFERRY

22.2 The Committee noted that the Council, at its ninety-eighth session (25 to 29 June 2007), decided to convert the consultative status granted to INTERFERRY on a provisional basis, to permanent full consultative status.

### Inventory of industrial production processes on board ships whilst at sea

22.3 In introducing its document (MEPC 56/22/2) on the Inventory of industrial production processes on board ships whilst at sea, the delegation of the Netherlands stated that, in the summer of 2006, there was an incident in the Côte d'Ivoire related to the disposal of slops from on board the **Probo Koala**, which were dumped on land and resulted in human suffering. The delegation also stated that there were strong signals indicating that the generation of these slops were a consequence of an industrial process on board the vessel whereby a cargo of mineral oil was mixed with sodium hydroxide.

22.4 The Committee noted that the Netherlands had subsequently conducted research showing that certain types of industrial production processes on board ships, whilst the ship was at sea, were not specifically regulated, from safety and environmental points of view, although operations like these should be covered within the Safety Management System under the ISM Code (Part A, paragraph 1.4.2). Before proposing a new work programme item in this respect, the Netherlands sought to receive from delegations any information on industrial production processes on board ships from Member States and NGOs. This would assist to complete an inventory on the extent of such operations taking place, procedures employed, composition of the original cargo and the newly developed cargo, safety and environmental concerns, development of procedures within the scope of the ISM, etc.

22.5 Having noted the information provided, the Committee invited Member States and NGOs to submit details, as outlined in paragraph 8 of document MEPC 56/22/2, on any relevant industrial production process on board ships to the delegation of the Netherlands on the E-mail address: [marja.tiemens@minvenw.nl](mailto:marja.tiemens@minvenw.nl).

22.6 In considering document MEPC 56/22/3 submitted by the Secretariat of the Basel Convention concerning this matter, the Committee agreed to take into account decisions adopted by the Conference of the Parties to the Basel Convention, as well as the actions being undertaken by the Basel Convention and the United Nations Environment Programme in its consideration of the request by the Netherlands for information on industrial production processes on board ships.

22.7 The Committee noted that the President of the eighth meeting of the Conference of the Parties to the Basel Convention underscored the need for the international community to:

- .1 support Côte d'Ivoire in the expeditious conclusion of ongoing investigations in order to establish the culpability of those responsible for the illegal dumping of toxic wastes;
- .2 support the clean-up activities being undertaken by Côte d'Ivoire, as well as the follow-up activities aimed at monitoring and addressing the long-term effects of the toxic wastes; and
- .3 consider the international legal regimes established under the Basel Convention and the instruments of the International Maritime Organization, with a view to identifying and addressing any gaps.

22.8 In this regard, the Committee noted that the sixth session of the Open-ended Working Group under the Basel Convention to be held in September 2007 will consider relevant information.

22.9 The Committee noted that the Secretariat of IMO have co-operated with the Secretariat of the Basel Convention on the matter, including provision of information and views on:

- .1 the respective competencies of the Basel Convention and the MARPOL Convention in respect of hazardous wastes and other wastes;
- .2 any gaps between those instruments; and
- .3 any option for addressing those gaps.

#### **Area to be Avoided “In Roseway Basin, south of Nova Scotia”**

22.10 The Committee noted the information provided by Canada (MEPC 56/INF.10) about its proposal to the NAV Sub-Committee (NAV 53) to establish a recommended seasonal area to be avoided “In Roseway Basin, south of Nova Scotia” for the purpose of helping to protect the endangered North Atlantic right whale by reducing the risk of ship/whale collisions.

### **Applications for consultative status**

22.11 The Committee noted that the Council, at its ninety-eighth session (25 to 29 June 2007), referred the applications from the International Paint and Printing Ink Council (IPPIC) and the International Fund for Animal Welfare (IFAW) for consultative status to the Committee and the MSC for advice. The Committee also noted that Council had also referred the application from the International Spill Control Organization (ISCO) for consultative status to the Committee only for further screening (MEPC 56/WP.11).

22.12 The Committee established an informal group on consultative status under the Chairmanship of Mr. Ajoy Chatterjee (India), Vice Chairman of the Committee, to consider this application in accordance with the Rules Governing Relationships with Non-Governmental International Organizations and report back to plenary.

22.13 Having received the report of the informal group on consultative status (MEPC 56/WP.11), the Committee endorsed the recommendation to the Council that consultative status be granted to the International Paint and Printing Ink Council (IPPIC). The Committee also endorsed the recommendation to the Council that consultative status be granted to the International Fund for Animal Welfare (IFAW) and the International Spill Control Organization (ISCO) on a provisional basis for no more than two years, after which a review should be conducted.

### **Expressions of appreciation**

22.14 The Committee expressed appreciation to:

- Mr. A. Chrysostomou (Chairman of the Committee);
- Mr. A. Chatterjee (Vice-Chairman of the Committee and Chairman of the Informal Group on Consultative Status);
- Mr. B. Elliot (Chairman of the Review Group on Ballast Water);
- Mr. J. Koefoed (Chairman of the Working Group on Ship Recycling);
- Mr. B. Okamura and Mr. B. Wood-Thomas (Chairmen of the Working Group on MARPOL Annex VI and GHG related issues);
- Dr. W. Moore (Chairman of the Joint MSC/MEPC Working Group on the Human Element);
- Mr. Z. Alam (Chairman of the Drafting Group on Amendments to Mandatory Instruments); and
- Ms. A. Caston (Chairman of the Informal Technical Group on Special Areas under MARPOL and PSSAs)

for their excellent work and invaluable contribution to the success of MEPC 56.

22.15 The Committee also expressed appreciation to all delegates and members of the Secretariat, who are about to retire, including:

- Mr. J. Morris (Canada);
- Mr. D. Edwards (Secretariat); and
- Ms. J. Hallett (Secretariat)

for their excellent work and invaluable contribution to the work of the Committee over many years, and wished them a long and happy retirement.

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## ANNEX 1

## RESOLUTION MEPC.161(56)

Adopted on 13 July 2007

**GUIDELINES FOR ADDITIONAL MEASURES REGARDING BALLAST WATER MANAGEMENT INCLUDING EMERGENCY SITUATIONS (G13)**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by the international conventions for the prevention and control of marine pollution,

RECALLING ALSO that the International Conference on Ballast Water Management for Ships held in February 2004 adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (Ballast Water Management Convention) together with four Conference resolutions,

NOTING that regulation A-2 of the Ballast Water Management Convention requires that discharge of ballast water shall only be conducted through Ballast Water Management in accordance with the provisions of the Annex to the Convention,

NOTING FURTHER that Section C of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediments provides that, if a Party, individually or jointly with other Parties, determines that measures in addition to those in Section B of the Convention are necessary to prevent, reduce, or eliminate the transfer of harmful aquatic organisms and pathogens through ships' ballast water and sediments, such Party or Parties may, consistent with international law, require ships to meet a specified standard or requirement taking into account the Guidelines developed by the Organization,

NOTING ALSO that resolution 1 adopted by the International Conference on Ballast Water Management for Ships invited the Organization to develop these Guidelines as a matter of urgency,

HAVING CONSIDERED, at its fifty-sixth session, the draft Guidelines for additional measures regarding ballast water management including emergency situations (G13) developed by the Ballast Water Working Group,

1. ADOPTS the Guidelines for additional measures regarding ballast water management including emergency situations (G13) as set out in the annex to this resolution;
2. INVITES Governments to apply these Guidelines as soon as possible, or when the Convention becomes applicable to them; and
3. AGREES to keep these Guidelines under review.

## ANNEX

### **GUIDELINES FOR ADDITIONAL MEASURES REGARDING BALLAST WATER MANAGEMENT INCLUDING EMERGENCY SITUATIONS (G13)**

#### **1 INTRODUCTION**

1.1 The International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, hereafter referred to as the "Convention", regulates the transfer of harmful aquatic organisms and pathogens from ships' ballast water and sediments.

1.2 These Guidelines have been developed pursuant to regulation C-1 of the Convention. These Guidelines provide guidance under regulation C-1 for a Party or Parties to use when determining if measures in addition to those in Section B of the Convention are necessary in order to prevent, reduce or eliminate the transfer of harmful aquatic organisms and pathogens through ships' ballast water and sediments.

1.3 The Guidelines should be kept under review in order to make use of experiences gained in their application.

#### **2 ASSESSMENT WHEN A STATE INTENDS TO INTRODUCE ADDITIONAL MEASURES**

##### **2.1 General**

2.1.1 The Convention, in regulation C-1 Additional Measures, provides that a Party individually or jointly with other Parties, may introduce measures in addition to those in Section B. A Party or Parties may require ships, in accordance with international law, to meet or exceed a specified standard or requirement.

2.1.2 A Party intending to introduce additional measures should take these Guidelines into account, and endeavour to make available all appropriate services for ships to facilitate their compliance with any additional measures.

##### **2.2 The assessment**

2.2.1 Before a Party, individually or jointly with other Parties, intends to introduce additional measures in accordance with regulation C-1 of the Convention, it should assess the need for and nature of the measures, which should include:

- .1 identification of the concern, i.e., the potential harm from the introduction of harmful aquatic organisms and pathogens in the area to be covered by the additional measures;
- .2 description of the cause(s) of the identified concern;
- .3 identification of potential additional measures to be introduced; and
- .4 identification of potential effects and consequences, beneficial and detrimental, resulting from introduction of the proposed additional measure(s).

2.2.2 A Party should assess the character of the concern. Such an assessment may include a consideration of such things as:

- .1 What are the probabilities or consequences of future introductions of harmful aquatic organisms and pathogens on the environment, human health, property, or resources?
- .2 If harmful aquatic organisms or pathogens have already been introduced, what effects are they already having on the environment, human health, property or resources, and how might this be affected by future introductions?
- .3 Whether ballast water from ships is a vector for the introduction of harmful aquatic organisms and pathogens?

### **Identification of the additional measures to be introduced**

2.2.3 The additional measure(s) to be introduced shall be in accordance with Article 7.2 and regulation C-1.3 of the Convention, and should be clearly identified in respect of:

- .1 the area(s) where the additional measure(s) is/are applicable defined by precise co-ordinates;
- .2 the operational and/or technical requirement(s) which applies to ships in the area(s), and the requirement(s) to provide documentation for compliance if needed;
- .3 the arrangements which may be provided to facilitate ships' compliance with the additional measure(s);
- .4 the effective date and duration of the measure(s); and
- .5 any other requirements and services in relation to the additional measure(s).

### **Effects and consequences of introduction of the proposed measure(s)**

2.2.4 The economic consequences resulting from the introduction of the additional measure(s) should be taken into account. In this respect the following aspects may be relevant:

- .1 the economic benefits and possible costs, including costs to the industry, associated with the additional measure(s); and
- .2 any other effects and consequences.

### **2.3 Procedures to follow when establishing additional measures**

2.3.1 A Party or Parties intending to introduce additional measures in accordance with regulation C-1 of the Convention should consult adjacent States and other States that may be affected before the additional measures are decided upon so that such consultations can, where appropriate, meaningfully inform decision making. The Assessment as outlined in section 2.2 of

these Guidelines should be presented to affected States, and States should be invited to comment on the draft assessment, if appropriate.

- .1 In regulation C-1 of the Convention two procedures for introducing additional measures are possible – one procedure which requires IMO approval, and another procedure which only requires IMO notification.
- .2 The Party or Parties should ensure that any additional measure(s) shall not compromise the safety and security of the ship and in any circumstances not conflict with any other conventions or customary international law with which the ship must comply.
- .3 The legal determination upon which the additional measure(s) is submitted should be identified.
- .4 In introducing additional measures, the Party or Parties should, *inter alia*, provide the following information to the Organization, in particular the Marine Environment Protection Committee (hereafter known as the “MEPC”):
  - .1 the Assessment as outlined in section 2.2;
  - .2 the identification of the legal determination upon which each additional measure(s) is submitted; and
  - .3 the following additional details:
    - .1 if the additional measure(s) is already provided under an existing IMO instrument; or
    - .2 if the additional measure(s) does not yet exist but could become available through amendment of any IMO instrument or adoption of a new IMO instrument; or
    - .3 if the additional measure(s) is proposed for adoption in the territorial sea<sup>1</sup> or pursuant to the United Nations Convention on the Law of the Sea where existing measures or a generally applicable measure would not adequately address the concern identified in section 2.2.
- .5 Where a Party or Parties may seek to introduce additional measures through the notifying procedure, the IMO should be notified at least 6 months prior to the projected date of implementation, except in emergency circumstances in accordance with regulation C-1.3.2 of the Convention.

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<sup>1</sup> This provision does not derogate from the rights and duties of coastal States in the territorial sea as provided for in the United Nations Convention on the Law of the Sea.

- .6 In the case where a Party or Parties intend to introduce additional measure(s) that requires approval by the Organization under international law as reflected in UNCLOS (see regulation C-1.3.3 of the Convention), the Party or Parties should, in accordance with the rules adopted by the MEPC for submission of papers, submit the application to introduce additional measure(s) to the MEPC for its approval.
- .7 In considering additional measures that require the approval of the Organization, the MEPC should be expected to consider an application submitted to it by a proposing Party or Parties on a case-by-case basis. In assessing each proposal, the MEPC should be expected in particular to consider:
  - .1 whether such additional measures are in accordance with Article 7.2 and regulation C-1.3 of the Convention;
  - .2 whether the proposed additional measures are appropriate to prevent, reduce, or eliminate the identified potential harm from the introduction of harmful aquatic organisms and pathogens in the area to be covered by the additional measures;
  - .3 whether such measures might result in an increased potential for significant adverse effects by international shipping activities on the environment outside the area to be covered by the additional measures; and
  - .4 whether such measures might, *inter alia*, result in any impact on the safety and commercial aspect of international shipping activities.
- .8 In the case where an application is submitted for approval, if the MEPC approves the application, the additional measure(s) may be implemented. If the application is not approved, the additional measure(s) cannot be implemented. The proposing Party or Parties may submit a revised application to the Marine Environment Protection Committee for approval subsequently.

## **2.4 Communication of information**

2.4.1 A Party or Parties intending to introduce additional measures should inform adjacent States and other States that may be affected, the shipping industry in general and ships entering the areas concerned as soon as possible, and in the case of those measures requiring approval of the Organization, as soon as the proposal has been so approved. The information should at least contain:

- .1 the precise co-ordinates where and applicable date when additional measure(s) is/are applicable;
- .2 the need and reasoning for the application of the additional measure(s), including, whenever possible, benefits;

- .3 a description of the additional measure(s); and
- .4 any arrangements that may be provided to facilitate ships' compliance with the additional measures.

2.4.2 Communications in accordance with regulation C-1 of the Convention shall be submitted to the Marine Environment Protection Committee. Except in emergency situations, the intention to establish such additional measures is required by regulation C-1.3 to be communicated to the Organization at least six months prior to the projected date of implementation. In emergency situations, additional measures should be communicated to the Organization as soon as possible.

2.4.3 In both cases (approval/non-approval), in due time before the introduction of the additional measure(s) a Party or Parties intending to introduce additional measures should inform affected States, the shipping industry in general and ships entering the areas concerned, the following should be communicated:

- .1 the precise co-ordinates where additional measure(s) is/are applicable;
- .2 the operational and/or technical requirement(s) which applies or apply to ships in the area(s), and the requirement(s) to provide documentation for compliance if needed;
- .3 the arrangements which may be provided to facilitate ships' compliance with the additional measure(s);
- .4 the effective date and duration of the measure(s); and
- .5 any other requirements and services in relation to the additional measure(s).

2.4.4 The Organization shall issue circulars or post relevant information on the website in accordance with the provisions of the Convention.

### **3 EMERGENCY OR EPIDEMIC SITUATION**

3.1 A Party or Parties may adopt an additional measure(s) to address an emergency or epidemic situation.

3.2 If such a measure is adopted, a Party or Parties should, as soon as possible, notify adjacent and other States that may be affected, the shipping industry in general, and ships operating in the areas of concern. Such information should contain:

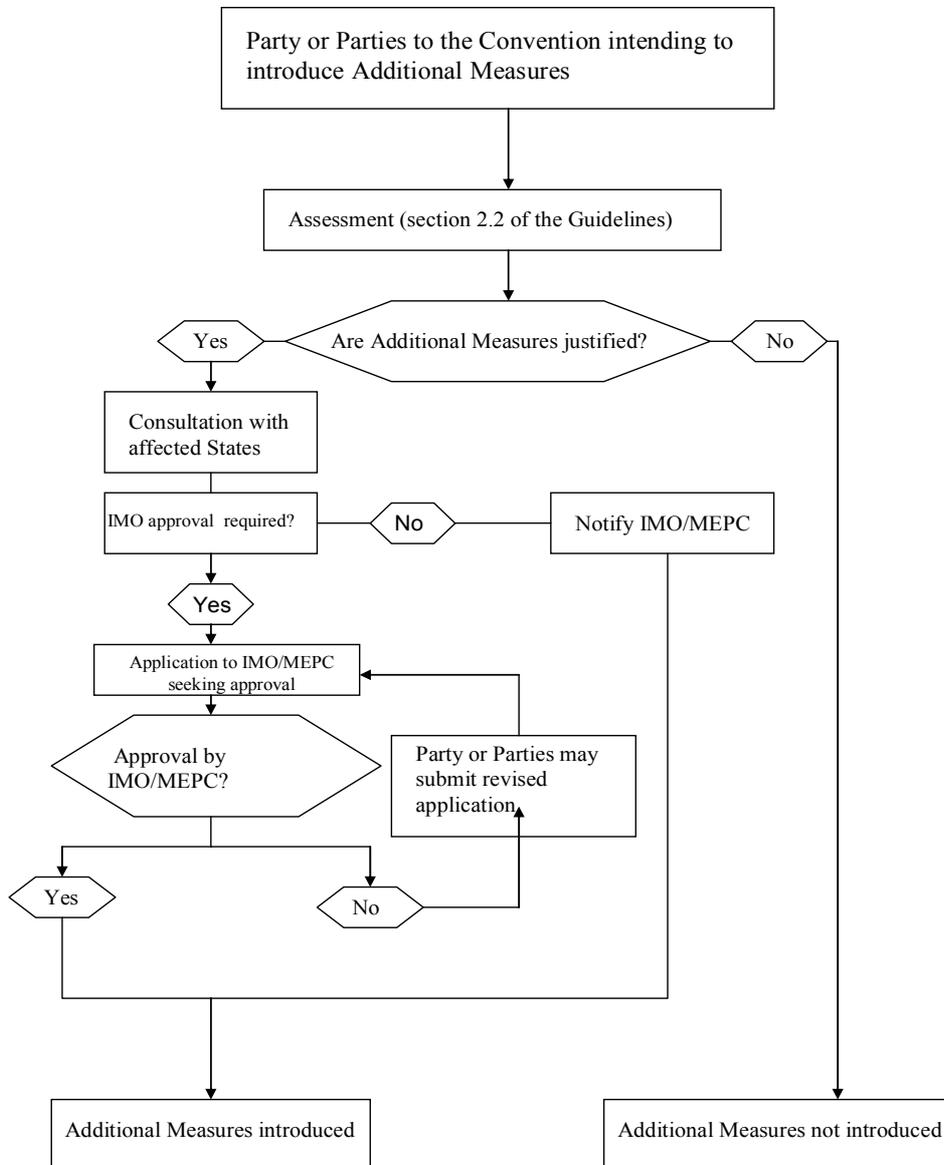
- .1 the precise co-ordinates of the area;
- .2 the need for such additional measure(s);
- .3 a description of the additional measure(s);

- .4 any arrangements that may be provided to facilitate ships' compliance with the additional measure(s); and
- .5 the effective date when the measure(s) applies and when the measure(s) is no longer in effect.

3.3 In an emergency or epidemic situation, the additional measure(s) adopted should be communicated to the Organization as soon as possible. The Organization shall post relevant information on its website and retain such information for dissemination to the Committee.

APPENDIX

**FLOW CHART – PROCEDURE FOR INTRODUCING ADDITIONAL MEASURES**



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## ANNEX 2

## RESOLUTION MEPC.162(56)

Adopted on 13 July 2007

GUIDELINES FOR RISK ASSESSMENT UNDER REGULATION A-4  
OF THE BWM CONVENTION (G7)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by the international conventions for the prevention and control of marine pollution,

RECALLING ALSO that the International Conference on Ballast Water Management for Ships held in February 2004 adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (the Ballast Water Management Convention) together with four Conference resolutions,

NOTING that regulation A-2 of the Ballast Water Management Convention requires that discharge of ballast water shall only be conducted through Ballast Water Management in accordance with the provisions of the Annex to the Convention,

NOTING FURTHER that regulation A-4 of the Convention stipulates that a Party or Parties, in waters under their jurisdiction, may grant exemptions to any requirements to apply regulation B-3 or C-1, in addition to those exemptions contained elsewhere in this Convention, but only when they are, *inter alia*, granted based on the Guidelines on risk assessment developed by the Organization.

NOTING ALSO that the International Conference on Ballast Water Management for Ships, in its resolution 1, invited the Organization to develop the Guidelines for uniform application of the Convention as a matter of urgency,

HAVING CONSIDERED, at its fifty-sixth session, the draft Guidelines for risk assessment under regulation A-4 (G7) of the BWM Convention developed by the Ballast Water Working Group, and the recommendation made by the Sub-Committee on Bulk Liquids and Gases at its eleventh session,

1. ADOPTS the Guidelines for risk assessment under regulation A-4 (G7) of the BWM Convention as set out in the annex to this resolution;
2. INVITES Governments to apply the Guidelines as soon as possible, or when the Convention becomes applicable to them; and
3. AGREES to keep the Guidelines under review.

## ANNEX

### **GUIDELINES FOR RISK ASSESSMENT UNDER REGULATION A-4 OF THE BWM CONVENTION (G7)**

#### **1 PURPOSE**

1.1 The purpose of these Guidelines is to assist Parties to ensure that provisions of regulation A-4 of the Convention are applied in a consistent manner, and based on scientifically robust risk assessment, which ensures that the general and specific obligations of a Party to the Convention are achieved.

1.2 An additional purpose is to provide assurance to affected States that exemptions granted by a Party meet the regulation A-4.3 obligations.

1.3 The Guidelines outline three risk assessment methods that will enable Parties to identify unacceptable high risk scenarios and acceptable low risk scenarios, and advise Parties on procedures for granting and withdrawing exemptions in accordance with regulation A-4.

#### **2 INTRODUCTION**

2.1 Regulation A-4 of the Convention states that a Party or Parties, in waters under their jurisdiction may grant exemptions to any requirements to apply regulation B-3 or C-1, in addition to those exemptions contained elsewhere in the Convention, but only when they are:

- .1 granted to a ship or ships on a voyage or voyages between specified ports or locations; or to a ship which operates exclusively between specified ports or locations;
- .2 effective for a period of no more than five years subject to intermediate review;
- .3 granted to ships that do not mix ballast water or sediments other than between the ports or locations specified in paragraph 2.1.1; and
- .4 granted based on the Guidelines that have been developed by the Organization.

2.2 These Guidelines provide advice and information regarding risk assessment principles and methods, data needs, advice on application of risk assessment methods, procedures for granting exemptions, consultation and communication processes, information for reviewing exemptions and advice regarding technical assistance, co-operation and regional co-operation.

2.3 These Guidelines also provide advice regarding the roles of the Organization, shipping industry, port States and other States that might be affected by granting an exemption in accordance with regulation A-4 of the Convention.

2.4 Scientifically robust risk assessment underpins the process of Parties granting exemptions under regulation A-4 of the Convention. The assessment must be sufficiently robust to distinguish between unacceptable high risk scenarios and acceptable low risk scenarios where the discharge of ballast water not meeting regulations B-3 and C-1 is unlikely to impair or damage the environment, human health, property or resources of the granting Party and of adjacent or other States.

2.5 Risk assessments should be based on best available scientific information.

2.6 The Guidelines should be kept under review in order to incorporate experiences gained during their application and any new scientific and technical knowledge.

### **3 APPLICATION**

3.1 These Guidelines apply to Parties granting exemptions to ships under regulation A-4 of the Convention.

3.2 Shipowners or operators wanting to seek an exemption under regulation A-4 should also consult these Guidelines.

### **4 DEFINITIONS**

4.1 For the purposes of these Guidelines, the definitions in the Convention apply.

4.2 “Anadromous”: species that spawn/reproduce in freshwater environments, but spend at least part of their adult life in a marine environment.

4.3 “Biogeographic region”: a large natural region defined by physiographic and biologic characteristics within which the animal and plant species show a high degree of similarity. There are no sharp and absolute boundaries but rather more or less clearly expressed transition zones.

4.4 “Catadromous”: species that spawn/reproduce in marine environments, but spend at least part of their adult life in a freshwater environment.

4.5 “Cryptogenic”: species that are of unknown origin, i.e. species that are not demonstrably native or introduced to a region.

4.6 “Donor Port”: port or location where the ballast water is taken onboard.

4.7 “Euryhaline”: species able to tolerate a wide range of salinities.

4.8 “Eurythermal”: species able to tolerate a wide range of temperatures.

4.9 “Freshwater”: water with salinity lower than 0.5 psu (practical salinity units).

4.10 “Marine water”: Water with salinity higher than 30 psu.

4.11 “Non-indigenous species”: any species outside its native range, whether transported intentionally or accidentally by humans or transported through natural processes.

4.12 “Recipient port”: port or location where the ballast water is discharged.

4.13 “Target species”: species identified by a Party that meet specific criteria indicating that they may impair or damage the environment, human health, property or resources and are defined for a specific port, State or biogeographic region.

## 5 RISK ASSESSMENT PRINCIPLES

5.1 Risk assessment is a logical process for assigning the likelihood and consequences of specific events, such as the entry, establishment, or spread of harmful aquatic organisms and pathogens. Risk assessments can be qualitative or quantitative, and can be a valuable decision aid if completed in a systematic and rigorous manner.

5.2 The following key principles define the nature and performance of risk assessment:

- .1 **Effectiveness** – That risk assessments accurately measures the risks to the extent necessary to achieve an appropriate level of protection.
- .2 **Transparency** – That the reasoning and evidence supporting the action recommended by risk assessments, and areas of uncertainty (and their possible consequences to those recommendations), are clearly documented and made available to decision-makers.
- .3 **Consistency** – That risk assessments achieve a uniform high level of performance, using a common process and methodology.
- .4 **Comprehensiveness** – That the full range of values, including economic, environmental, social and cultural, are considered when assessing risks and making recommendations.
- .5 **Risk Management** – That low risk scenarios may exist, but zero risk is not obtainable, and as such risk should be managed by determining the acceptable level of risk in each instance.
- .6 **Precautionary** – That risk assessments incorporate a level of precaution when making assumptions, and making recommendations, to account for uncertainty, unreliability, and inadequacy of information. The absence of, or uncertainty in, any information should therefore be considered an indicator of potential risk.
- .7 **Science based** – That risk assessments are based on the best available information that has been collected and analysed using scientific methods.
- .8 **Continuous improvement** – Any risk model should be periodically reviewed and updated to account for improved understanding.

5.3 In undertaking risk assessment when considering granting an exemption, the risk assessment principles should be carefully applied. The lack of full scientific certainty should be carefully considered in the decision making process. This is especially important under these Guidelines, as any decision to grant an exemption will allow for the discharge of ballast water that does not meet the standards of regulation D-1 or D-2.

## **6 RISK ASSESSMENT METHODS**

### **6.1 General**

6.1.1 There are three risk assessment methods outlined in these Guidelines for assessing the risks in relation to granting an exemption in accordance with regulation A-4 of the Convention:

- Environmental matching risk assessment
- Species' biogeographical risk assessment
- Species-specific risk assessment

6.1.2 Environmental matching risk assessment relies on comparing environmental conditions between locations, species' biogeographical risk assessment compares the overlap of native and non-indigenous species to evaluate environmental similarity and to identify high risk invaders, while species-specific risk assessment evaluates the distribution and characteristics of identified target species. Dependent on the scope of the assessment being performed, the three approaches could be used either individually or in any combination, recognizing that each approach has its limitations.

6.1.3 Environment matching and species' biogeographical risk assessment may be best suited to assessments between biogeographic regions. Species-specific risk assessment may be best suited to situations where the assessment can be conducted on a limited number of harmful species within a biogeographic region.

### **6.2 Environmental matching risk assessment**

6.2.1 Environmental matching risk assessments compare environmental conditions including temperature and salinity between donor and recipient regions. The degree of similarity between the locations provides an indication of the likelihood of survival and the establishment of any species transferred between those locations.

6.2.2 Since species are widely distributed in a region, and are rarely restricted to a single port the environmental conditions of the source region should be considered.

6.2.3 These regions are typically defined as biogeographic regions. Noting that all of the existing biogeographical schemes were derived for different purposes than proposed here, it is suggested that the Large Marine Ecosystems (LME) scheme (<http://www.edc.uri.edu/lme>) be used based on best available information at this time, with local and regional adaptation as necessary. It is recognized that the suggested biogeographical scheme may not be appropriate in certain circumstances and in this case other recognized biogeographical schemes may need to be considered<sup>1</sup>.

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<sup>1</sup> Watling and Gerkin (<http://marine.rutgers.edu/OBIS/index.html>) based on Briggs (1953) and Springer (1982); IUCN bioregion system; Briggs (1953) and Ekman (1974; 1995); Longhurst provinces.

6.2.4 Environmental matching should therefore compare environmental conditions between the donor biogeographic region and the recipient port to determine the likelihood that any species found in the donor biogeographic region are able to survive in the recipient port in another biogeographic region. The environmental conditions that may be considered for environmental matching include salinity, temperature or other environmental conditions, such as nutrients or oxygen.

6.2.5 The difficulty in using environmental matching risk assessments is identifying the environmental conditions that are predictive of the ability of the harmful species to successfully establish and cause harm in the new location, and in determining whether the risk of ballast water discharge is sufficiently low to be acceptable. Environmental matching risk assessments have limited value where the differences between a donor biogeographic region and a recipient port are small as high similarity is likely to indicate high likelihood of successful establishment.

6.2.6 Environmental conditions should also be compared between the donor and recipient ports. Similarity in key environmental conditions between the two ports is a stronger indication that species entrained in ballast water in the donor port could survive when released into the waters of the recipient port. The environmental conditions that may be considered for environmental matching include salinity, temperature or other environmental conditions, such as nutrients or oxygen.

6.2.7 The data necessary to enable a risk assessment using environmental matching includes, but is not limited to:

- .1 Origin of the ballast water to be discharged in recipient port.
- .2 Biogeographic region of donor and recipient port(s).
- .3 The average and range of environmental conditions, in particular salinity and temperature.

This information is used to determine the degree of environmental similarity between the donor and recipient environments. In many cases, it should be possible to use existing data for part or all of these environmental profiles.

6.2.8 The following should be considered in gathering data on the environmental conditions:

- .1 The seasonal variations in surface and bottom salinities and temperatures at the recipient port and the larger water body the port is contained within (e.g., estuary or bay). Surface and bottom values are needed to determine the full range of environmental conditions available for a potential invader (e.g., low salinity surface waters allowing the invasion of a freshwater species). Salinity and temperature depth profiles are not required if available data indicates the waters are well mixed over the entire year.
- .2 In recipient ports with strong tides or currents, the temporal variations in salinity should be determined over a tidal cycle.
- .3 In areas with seasonal or depth variations, the salinity should be determined on a seasonal and/or depth basis.

- .4 Any anthropogenic influences on freshwater flow that could temporarily or permanently alter the salinity regime of the recipient port and surrounding waters.
- .5 The seasonal temperature variation of coastal waters for the biogeographic region of the recipient port. Consideration should be given to both surface waters and to how temperature varies with depth.

6.2.9 It is recommended that the analysis of environmental conditions be followed by a consideration of the species known to be in the donor region that can tolerate extreme environmental differences. If present, a species-specific approach should be used to evaluate the risks associated with these species. Such species include:

- species that utilize both fresh and marine environments to complete their life-cycle (including anadromous (e.g., Sea Lamprey) and catadromous (e.g., Chinese Mitten crab) species);
- species with a tolerance to a wide range of temperatures (eurythermal species) or salinities (euryhaline species).

### **6.3 Species' biogeographical risk assessment**

6.3.1 Species' biogeographical risk assessment compares the biogeographical distributions of nonindigenous, cryptogenic, and harmful native species that presently exist in the donor and recipient ports and biogeographic regions. Overlapping species in the donor and recipient ports and regions are a direct indication that environmental conditions are sufficiently similar to allow a shared fauna and flora. The biogeographical analysis could also be used to identify high risk invaders. For example, native species in the donor biogeographic region that have successfully invaded other similar biogeographic regions but that are not found in the recipient biogeographic region could be considered high risk invaders for the recipient port or location. The larger the number of biogeographic regions that such species have invaded, the greater the potential that those species would be able to become established in the recipient port or biogeographic region if introduced by ballast water not meeting regulation B-3 or C-1. Another general indicator of risk would be if the donor biogeographic region is a major source of invaders to other areas.

6.3.2 The data necessary to enable a risk assessment using a species biogeographical approach includes but may not be limited to:

- .1 records of invasion in the donor and recipient biogeographic regions and ports;
- .2 records of native or non-indigenous species that could be transferred through ballast water in the donor biogeographic region that have invaded other biogeographic regions and the number and nature of biogeographic regions invaded;
- .3 records of native species in the donor region that have the potential to affect human health or result in substantial ecological or economic impacts after introduction in the recipient region through ballast water transfer.

6.3.3 The species' biogeographical risk assessment could also be used to identify potential target species in the donor regions as indicated by native species with wide biogeographical or habitat distributions or which are known invaders in other biogeographic regions similar to that of the recipient port.

#### **6.4 Species-specific risk assessment**

6.4.1 Species-specific risk assessments use information on life history and physiological tolerances to define a species' physiological limits and thereby estimate its potential to survive or complete its life cycle in the recipient environment. That is, they compare individual species characteristics with the environmental conditions in the recipient port, to determine the likelihood of transfer and survival.

6.4.2 In order to undertake a species-specific risk assessment, species of concern that may impair or damage the environment, human health, property or resources need to be identified and selected. These are known as the target species. Target species should be selected for a specific port, State, or geographical region, and should be identified and agreed on in consultation with affected States.

6.4.3 To determine the species that are potentially harmful and invasive, parties should initially identify all species (including cryptogenic species) that are present in the donor port but not in the recipient port. Target species should then be selected based on criteria that identify the species that have the ability to invade and become harmful. The factors to consider when identifying target species include, but should not be limited to:

- evidence of prior introduction;
- demonstrated impacts on environment, economy, human health, property or resources;
- strength and type of ecological interactions, e.g. ecological engineers;
- current distribution within biogeographic region and in other biogeographic regions; and
- relationship with ballast water as a vector.

6.4.4 Species-specific risk assessments should then be conducted on a list of target species, including actual or potentially harmful non-indigenous species (including cryptogenic species). As the number of species included in the assessment increases the number of low risk scenarios decreases. This is justified if the species assessments are accurate. The difficulty arises when the assessments are conservative due to lack of data. It should be recognized however, that the fewer the number of species analyzed, the greater the uncertainty in predicting the overall risk. The uncertainty associated with limiting the analysis to a small number of species should therefore be considered in assessing the overall risk of invasion.

6.4.5 It should be noted that there are limitations involved with using a target species approach. Although some data and information can be obtained to support decision making, identifying species that may impair or damage the environment, human health, property or resources is subjective and there will be a degree of uncertainty associated with the approach. For example, it

is possible that species identified as harmful in some environments may not be harmful in others and vice versa.

6.4.6 If species-specific risk assessments are undertaken when the donor and recipient ports are within different biogeographic regions, Parties should identify and consider any uncertainties resulting from lack of data on the presence of potentially harmful species in the donor location.

6.4.7 The data necessary to enable a risk assessment using the species-specific approach includes, but is not limited to:

- .1 biogeographic region of donor and recipient port(s);
- .2 the presence of all non-indigenous species (including cryptogenic species) and native species in the donor port(s), port region and biogeographic region, not present in the recipient port, to allow identification of target species;
- .3 the presence of all target species in the recipient port(s), port region, and biogeographic region;
- .4 the difference between target species in the donor and recipient ports, port region, and biogeographic region;
- .5 life history information on the target species and physiological tolerances, in particular salinity and temperature, of each life stage; and
- .6 habitat type required by the target species and availability of habitat type in the recipient port.

6.4.8 If a target species is already present in the recipient port, it may be reasonable to exclude that species from the overall risk assessment for that port unless that species is under active control. It is important to recognize, however, that even when a non-indigenous species or cryptogenic species has been reported from the donor and recipient ports, its continual introduction into the recipient ports could increase the probability that it will become established and/or achieve invasive population densities.

6.4.9 A risk assessment can take different forms. A simple assessment can be undertaken as outlined in paragraph 6.4.7 of whether a target species is present in the donor port but not in a recipient port and can be transported through ballast water. However, if considered appropriate, the likelihood of target species surviving each of the following stages may be assessed, including:

- .1 Uptake – probability of viable stages entering the vessel’s ballast water tanks during ballast water uptake operations;
- .2 Transfer – probability of survival during the voyage;
- .3 Discharge – probability of viable stages entering the recipient port through ballast water discharge on arrival; and

- .4 Population establishment – probability of the species establishing a self-maintaining population in the recipient port.

6.4.10 To determine the likelihood of transfer and survival of a harmful species, the probability of each species surviving each of the stages contained in paragraph 6.4.9 may be assessed. To the extent possible the different life stages of the target species may also be assessed considering seasonal variations of life stage occurrence in donor port with seasonal conditions in the recipient port. The overall risk assessment for the discharge of unmanaged ballast water is therefore determined based on the assessment of all target species surviving all these stages.

6.4.11 In assessing whether a species will survive in the recipient port, physiological tolerances of all life stages need to be considered.

- .1 The ability of the adults to survive would be indicated by the physiological limits for both temperature and salinity that fall within the environmental ranges observed in the recipient port and larger water body. As a check, a comparison could be made with the native and/or introduced ranges of the species to determine if the predicted tolerances (based on lab or field studies) reflect actual distributions.
- .2 For other life stages the physiological requirements of each stage in the life cycle should be compared against the environmental conditions during the season(s) of reproduction, noting that these stage(s) may live in different habitats to complete their life cycle (e.g., coastal pelagic larvae of estuarine benthic invertebrates). Data should be collected as appropriate.
- .3 Comparisons of known physiological tolerances for other conditions should be conducted if the data are available and relevant.

6.4.12 To evaluate whether the species-specific risk assessment approach is sufficiently robust to predict invaders, the approach could be used to estimate the probabilities of invasion for a suite of existing invaders within the recipient port. Failure to accurately predict existing invaders may indicate that the model under predicts the risk.

## **6.5 Evaluation and decision-making**

6.5.1 The port State granting exemptions shall, in both the evaluation and consultation processes, give special attention to regulation A-4.3 which states that any exemptions granted under this regulation shall not impair or damage the environment, human health, property or resources of adjacent or other States. Regulation A-4.3 also states that States that may be adversely affected shall be consulted, and Parties should refer to section 8 regarding consultation.

6.5.2 It is important for the transparency and consistency of the risk assessments to define a priori criteria to distinguish between unacceptable high risk scenarios and acceptable low risk scenarios where the risk of ballast water not meeting regulations B-3 and C-1 is unlikely to impair or damage the environment, human health, property or resources of the granting Party and of adjacent or other States. The specific criteria depend upon the risk assessment approach, as well as the uncertainty in the analysis.

6.5.3 For an environmental matching risk assessment:

- .1 A high-risk scenario could be indicated if the environmental conditions of the donor ports overlap the environmental conditions of the recipient region.
- .2 A low-risk scenario could be indicated if the environmental conditions of the donor port do not overlap the environmental conditions of the recipient region.

6.5.4 For the species' biogeographical risk assessment:

- .1 A high-risk could be indicated if the recipient port presently contains non-indigenous species whose native range includes the donor biogeographic region.
- .2 A high-risk could be indicated if the donor and recipient ports share non-indigenous species whose source is from other biogeographic regions.
- .3 A moderate to high risk could be indicated if the recipient biogeographic region presently contains non-indigenous species whose native range includes the donor biogeographic region.
- .4 A moderate to high risk could be indicated if the donor biogeographic region is a major source for invaders for other biogeographic regions.

6.5.5 For a species-specific risk assessment, an assessment could be deemed high risk if it identifies at least one target species that satisfies all of the following:

- likely to cause harm;
- present in the donor port or biogeographic region;
- likely to be transferred to the recipient port through ballast water; and
- likely to survive in the recipient port.

6.5.6 The overall probability of a successful invasion also depends in part on the number of organisms and the frequency with which they are introduced over the entire period of the exemption. Therefore, it is recommended that a risk assessment should consider estimates of at least the following four factors:

- .1 the total volume of water discharged
- .2 the volume of water discharged in any event (voyage)
- .3 the total number of discharge events
- .4 the temporal distribution of discharge events.

6.5.7 In all cases, the level of uncertainty needs to be considered in evaluating the extent of risk. High levels of uncertainty in the biogeographical distributions and/or physiological tolerances of a target species may be sufficient in themselves to classify the risk as high. Additionally, the potential ecological impact of the target species should be considered in deciding the level of acceptable risk. The absence of, or uncertainty in, any information should not be considered a reason to grant an exemption to regulation B-3 or C-1.

6.5.8 Once the level of risk and the extent of uncertainty have been assessed, the result can be compared to the levels a Party(s) is willing to accept in order to determine whether an exemption can be granted.

6.5.9 Ships on a voyage(s) or route(s) that satisfy the requirements of regulation A-4.1 and that pass(es) the terms of acceptance in the risk assessment may be granted an exemption.

6.5.10 It is recommended that an independent peer review of the risk assessment method, data and assumptions be undertaken in order to ensure that a scientifically rigorous analysis has been conducted. The peer review should be undertaken by an independent third party with biological and risk assessment expertise.

## **7 PROCEDURES FOR GRANTING EXEMPTIONS**

7.1 The purpose of this section is to provide guidance for Parties, Administrations and ships, engaged in the process of applying for, evaluating and/or granting exemptions in accordance with the provisions of regulation A-4. The appendix also identifies minimum information required for an exemption application.

7.2 Parties may undertake the risk assessment themselves in order to grant exemptions, or require the shipowner or operator to undertake the risk assessment. In any event the Party granting an exemption is responsible for evaluating the risk assessment, verifying the data and information used, and ensuring the risk assessment is conducted in a thorough and objective manner in accordance with the Guidelines. The recipient port State(s) should reject any application for exemption found not to be in accordance with these Guidelines, and should provide reasons as to why the application was not accepted.

7.3 Shipowners or operators wanting to seek an exemption should contact the relevant Parties to ascertain the risk assessment procedures to be undertaken and the information requirements of these procedures.

7.4 Where a Party has determined that the shipowner or operator should undertake the risk assessment, the Party should provide relevant information, including any application requirements, the risk assessment model to be used, any target species to be considered, data standards and any other required information. The shipowner or operator should follow these Guidelines and submit relevant information to the Party.

7.5 The port State shall ensure that, as required by regulation A-4.1.3, exemptions are only granted to ships that do not mix ballast water or sediments other than between the locations specified in the exemption. The port State should require evidence of the specific measures undertaken to ensure compliance with this regulation at the time the exemption is granted and over the duration of the exemption. Non-compliance during the period of exemption should result in prompt suspension or revocation of the exemption.

7.6 An exemption shall not be effective for more than 5 years from the date granted. The approval may contain seasonal and time-specific or other restrictions within the time of validity.

7.7 The result of the risk assessment should be stated as:

- .1 The voyage(s) or route(s) represent(s) an acceptable risk. The application for an exemption is granted.

- .2 The voyage(s) or route(s) may represent an unacceptable risk. Further consideration is required.
- .3 The voyage(s) or route(s) represent(s) an unacceptable risk. The exemption from the ballast water management requirements of regulation B-3 or C-1 of the Convention is not granted.

## **8 CONSULTATION**

8.1 In accordance with regulation A-4.3, Parties shall consult any State that may be adversely affected from any exemptions that may be granted. This should include adjacent States and any other States that may be affected, including those located in the same biogeographic region as the recipient port(s). States should exchange information and endeavour to resolve any identified concerns. Sufficient time must be given for affected States to consider proposed exemptions carefully.

8.2 Affected States should be provided with information on: the risk assessment method applied; the quality of the information used in the assessment; uncertainties in the model, model inputs and/or risk assessments; the rationale for the proposed exemption; and any terms or conditions applicable to the exemption.

8.3 The risk assessment should document the following elements as appropriate:

- Criteria or reference for defining target species in the risk method.
- The inventories of native, non-indigenous, and cryptogenic species used in the species' biogeographical risk assessment.
- Acceptance criteria applied in each step of the analysis. The risk assessment has to be put in a relevant context to enable determination of whether the risk level is acceptable or not. The only transparent verifiable way of doing this is to compare the actual risk level with clear predefined acceptance criteria in paragraphs 6.5.2 to 6.5.8.

8.4 In addition, the criteria or scientific methods used in defining and delimiting the biogeographic regions shall be presented if a scheme other than that recommended in paragraph 6.2.3 is used.

8.5 The invitation for comments should contain one of the two following options for the affected State's response:

- .1 Supported without comments or conditions.
- .2 Supported with comments and/or conditions.

8.6 The deadline for comments from the affected State(s) should be specified in the invitation. If no response within the given time-limit is received, this may be regarded as "Accepted without comments or conditions".

8.7 If an affected State does not support the granting of the exemption(s), the appropriate reasons should be provided. Any conditions or limitations which an affected State believes to be necessary to enable them to support an exemption should be clearly identified.

## **9 COMMUNICATION OF INFORMATION**

9.1 Each Party to the Convention that has indicated it will grant exemptions should establish a point or points of contact for receipt of applications. Relevant contact details should be submitted to the Organization. In the absence of such information from a Party, the IMO MEPC contact point should be regarded as the contact point for the purpose of these Guidelines.

9.2 The Organization should circulate the list of contacts, and keep this list updated on a regular basis.

9.3 The decision of the recipient port State(s) shall be communicated to the shipowners or operators, the affected State(s), and the Organization as soon as possible before the effective date of the exemption. The decision should explain the basis for granting the exemption and how any comments from affected States were addressed and specify the voyage or voyages in which the exemption is granted, including the specified ports or location(s), the duration of the exemption and details of any conditions or limitations on the exemption.

9.4 Exemptions granted in accordance with regulation A-4 of the Convention, shall be effective after communication to the Organization and circulation of relevant information to Parties.

9.5 Any exemption granted shall also be recorded in the ballast water record book in accordance with regulation A-4.4.

9.6 Where exemptions have been granted for a specific voyage, any changes in voyage plans must be communicated to the Party that has granted the exemption prior to undertaking the voyage or prior to discharge of ballast water.

## **10 REVIEW OF RISK ASSESSMENT AND WITHDRAWAL OF EXEMPTIONS**

10.1 It is recommended that information used in the risk assessment be reviewed regularly as data and assumptions used in the assessment can become outdated.

10.2 It is recommended that an intermediate review be undertaken within 12 months but in any circumstances no later than 36 months after permission is granted. A recipient port State may require several reviews to be taken during the period the exemption is granted for, but more frequent than annual reviews generally should not be required.

10.3 Renewal of an exemption following the initial 60 months must not be granted without a thorough review of the risk assessment, consultation with affected States, and notice of the decision to the Organization under regulation A-4.2.

10.4 An exemption granted under regulation A-4 of the Convention may need to be withdrawn where the actual risk associated with a voyage has increased substantially since the risk assessment was conducted. This would include emergency situations such as outbreaks, incursions, infestations, or proliferations of populations of harmful aquatic organisms and pathogens (e.g., harmful algal blooms) which are likely to be taken up in ballast water (regulation C-2 of the Convention).

10.5 When a port State notifies mariners of areas under its jurisdiction where ships should not uptake ballast water due to an emergency or other high risk situation, all exemptions should be withdrawn from ships that take up ballast water in the defined area. In such circumstances the shipowners or operators should be notified of the decision to withdraw the exemption as soon as possible.

10.6 Guidelines for additional measures regarding ballast water management including emergency situations (G13) adopted by resolution MEPC.161(56) provide guidance to rapidly identify appropriate additional measures whenever emergency situations occur in relation to ballast water operations.

## **11 TECHNICAL ASSISTANCE, CO-OPERATION AND REGIONAL CO-OPERATION**

11.1 Article 13 of the Convention provides that Parties undertake, directly or through the Organization and other international bodies, to provide support for those Parties which request technical assistance, that Parties undertake to co-operate and that Parties shall endeavour to enhance regional co-operation.

11.2 With regard to these risk assessment Guidelines, assistance should include provision of data and information required to undertake a risk assessment, technical assistance regarding the methods for undertaking risk assessment and acceptance criteria.

## APPENDIX

### APPLICATION TO PORT STATE

An application for exemption to the port State should as a minimum contain information on the points listed below.

#### 1 GENERAL INFORMATION

- Period for which an application is sought; from month and year to month and year.
- Why an exemption under regulation A-4 is sought.

#### 2 SHIP'S INFORMATION

- Ship name
- IMO number
- Port of registry
- Gross Tonnage
- Owner
- Call sign
- Ballast water management option usually undertaken by ship, including ballast water treatment technology, if installed
- A copy of the Ship's Ballast Water Management Plan should be submitted
- The Administration may also require ballast water and sediment management history for a determined period

#### 3 ROUTE INFORMATION

- Route of application, given as donor port(s) and recipient port for ballast water discharge.
- If single voyage: Date and time of departure and arrival.
- If multiple voyages: Voyage frequency, regularity and estimated amount of ballast water discharged during the exemption period. Estimated time and dates for departures and arrivals.
- Any voyages the ship plans to take to ports other than the specified ports during the duration of the exemption.
- If multiple voyages, the estimated total number of voyages and the amount of ballast water discharged under the duration of the exemption.

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**ANNEX 3****STATEMENTS BY THE DELEGATION OF THE UNITED STATES AFTER THE ADOPTION OF THE GUIDELINES (G13) AND (G7)****1 After adoption of the Guidelines (G13)**

The United States supports the Guidelines (G13) as drafted and thanks all participants for their efforts in the difficult process of developing and subsequently revising them. The task of developing this voluntary guidance was very challenging because of the need to maintain the compromise, originally struck during negotiation of the BWM Convention itself. That compromise was crafted to accommodate various viewpoints regarding the requirements of international law as they may relate to the introduction of additional measures. The task of developing these guidelines was further complicated by the lack of any existing model for providing guidance to parties on how to submit the relevant information to the Organization. The United States greatly appreciates the delicate work that was required to strike a careful balance of creating a workable process, which provides sufficiently detailed guidance to Parties without prejudice to the requirements of the Law of the Sea Convention and existing customary international law. This was no easy task and the United States is pleased to thank and congratulate all participants, as well as the Organization itself. Our Organization is truly unique in its collegial and respectful atmosphere and we are once again honoured and pleased to have contributed to its very important work.

**2 After adoption of the Guidelines (G7)**

The United States welcomes the Committee's action in adopting the Guidelines (G7) and appreciates the substantial work that contributed to the drafting of these Guidelines and their careful review by BLG 11. We support the adoption of these Guidelines.

The United States would like to re-state our well established views with respect to section 5.2. First, while my country has made clear that, although there is the "precautionary approach" adopted as part of the Rio Declaration, there is no "precautionary principle" under international law or otherwise, and yet we do recognize the importance of precaution as an element in the conduct of any risk assessment supporting the granting of an exemption pursuant to regulation A-4.

That leads to our second point. In adopting the BWM Convention, IMO Member States recognized the high risk inherent in the discharge of ballast water. Thus, in order for an exemption to be granted pursuant to Regulation A-4 be permitted, the applicant needs to rebut this general finding of risk. Against the backdrop, we can accept that the proponent of an exemption bears the burden of demonstrating that the proposed deviation from the otherwise applicable guidelines does not pose an unacceptable risk. For that reason we can support 5.2 as written, even though we would take exception to a general statement that the absence of information should be considered an indicator of risk.

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**ANNEX 4****RESOLUTION MEPC.163(56)****Adopted on 13 July 2007****GUIDELINES FOR BALLAST WATER EXCHANGE IN THE  
ANTARCTIC TREATY AREA**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by the international conventions for the prevention and control of marine pollution,

RECALLING ALSO that the International Conference on Ballast Water Management for Ships held in February 2004 adopted the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (Ballast Water Management Convention),

MINDFUL of Article 13 of the Ballast Water Management Convention which provides that in order to further the objectives of the Convention, Parties with common interests to protect the environment, human health, property and resources in a given geographical area, in particular, those Parties bordering enclosed and semi-enclosed seas, shall endeavour, taking into account characteristic regional features, to enhance regional co-operation, including through the conclusion of regional agreements consistent with the Ballast Water Management Convention,

BEING AWARE of the designation of Antarctica as a Special Conservation Area and of the measures adopted under the Antarctic Treaty to protect the Antarctic environment and dependent and associated ecosystems,

BEING AWARE ALSO of the requirements of Annex II to the Protocol on Environmental Protection to the Antarctic Treaty regarding conservation of Antarctic fauna and flora and in particular of the precautions taken to prevent the introduction of non-native species to the Antarctic Treaty area,

NOTING that Article 18 of the Ballast Water Management Convention provides that it shall enter into force twelve months after the date on which not less than thirty States, the combined merchant fleets of which constitute not less than thirty-five percent of the gross tonnage of the world's merchant shipping, have become Parties to it in accordance with Article 17 of the Convention and noting further that the Ballast Water Management Convention is yet to enter into force,

CONSCIOUS of the potential for invasive marine organisms to be transported into, or moved between biologically distinct regions within the Antarctic Treaty area by ships in their ballast water,

HAVING CONSIDERED the draft Guidelines for ballast water exchange in the Antarctic Treaty area and the recommendation made by the Sub-Committee on Bulk Liquids and Gases at its eleventh session,

1. ADOPTS the Guidelines for ballast water exchange in the Antarctic Treaty area as set out in the annex to this resolution;
2. INVITES Governments to apply the Guidelines as soon as possible, as an interim measure for all ships entering Antarctic Treaty area before the Ballast Water Management Convention comes into force; and
3. AGREES to keep the Guidelines under review.

ANNEX

**GUIDELINES FOR BALLAST WATER EXCHANGE IN THE  
ANTARCTIC TREATY AREA**

1 The application of these Guidelines should apply to those vessels covered by Article 3 of the International Convention for the Control and Management of Ships' Ballast Water and Sediments (the Ballast Water Management Convention), taking into account the exceptions in regulation A-3 of the Convention. These Guidelines do not replace the requirements of the Ballast Water Management Convention, but provide an interim Ballast Water Regional Management Plan for Antarctica under Article 13(3).

2 If the safety of the ship is in any way jeopardized by a ballast exchange, it should not take place. Additionally these guidelines do not apply to the uptake or discharge of ballast water and sediments for ensuring the safety of the ship in emergency situations or saving life at sea in Antarctic waters.

3 A Ballast Water Management Plan should be prepared for each vessel with ballast tanks entering Antarctic waters, specifically taking into account the problems of ballast water exchange in cold environments and in Antarctic conditions.

4 Each vessel entering Antarctic waters should keep a record of ballast water operations.

5 For vessels needing to discharge ballast water within the Antarctic Treaty area, ballast water should first be exchanged before arrival in Antarctic waters (preferably north of either the Antarctic Polar Frontal Zone or 60°S, whichever is the furthest north) and at least 200 nautical miles from the nearest land in water at least 200 metres deep. (If this is not possible for operational reasons then such exchange should be undertaken in waters at least 50 nautical miles from the nearest land in waters of at least 200 metres depth).

6 Only those tanks that will be discharged in Antarctic waters would need to undergo ballast water exchange following the procedure in paragraph 5. Ballast water exchange of all tanks is encouraged for all vessels that have the potential/capacity to load cargo in Antarctica, as changes in routes and planned activities are frequent during Antarctic voyages due to changing meteorological and sea conditions.

7 If a vessel has taken on ballast water in Antarctic waters and is intending to discharge ballast water in Arctic, sub-Arctic, or sub-Antarctic waters, it is recommended that ballast water should be exchanged north of the Antarctic Polar Frontal Zone, and at least 200 nautical miles from the nearest land in water at least 200 metres deep. (If this is not possible for operational reasons then such exchange should be undertaken in waters at least 50 nautical miles from the nearest land in waters of at least 200 metres depth.)

8 Release of sediments during the cleaning of ballast tanks should not take place in Antarctic waters.

9 For vessels that have spent significant time in the Arctic, ballast water sediment should preferably be discharged and tanks cleaned before entering Antarctic waters (south of 60°S). If this cannot be done then sediment accumulation in ballast tanks should be monitored and sediment should be disposed of in accordance with the ship's Ballast Water Management Plan. If sediments are disposed of at sea, then they should be disposed of in waters at least 200 nautical miles from the shoreline in waters at least 200 metres deep.

10 Governments are invited to exchange information on invasive marine species or anything that will change the perceived risk associated with ballast water.

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**ANNEX 5****TERMS OF REFERENCE FOR THE BALLAST WATER WORKING GROUP  
TO BE ESTABLISHED DURING BLG 12**

Taking into account the relevant comments and decisions made in plenary, the Working Group is instructed to:

- .1 further develop the Guidelines for ballast water sampling (G2) based on the updated version provided in document BLG 11/4/1 (Secretariat), taking into account relevant comments made in documents BLG 11/4/5 (Brazil) and BLG 11/4/10 (United Kingdom), with a view to finalizing the work on these Guidelines;
- .2 develop a “guidance document” on arrangements for responding to emergency situations involving ballast water operations, using document MEPC 55/2/19 (Brazil) as a basis for the development of a circular on this matter;
- .3 consider document MEPC 55/2/20 (Brazil) and make recommendations regarding the long-term effects, maintenance and reliability of Ballast Water Management Systems as appropriate;
- .4 develop a Procedure for assessing “same levels of protection” of, and approval for other methods of ballast water management under regulation B-3.7 of the BWM Convention;
- .5 develop a guidance document on how chemicals used to treat ballast water should be handled and stored on board, taking into account relevant existing IMO Conventions and Codes;
- .6 develop a guidance document on safety procedures for ships’ crew against risks associated with ballast water management systems that make use of Active Substances taking into account relevant existing IMO Conventions and Codes;
- .7 further consider the outline on Human Exposure Scenario (HES) contained in annex 9 of the GESAMP-BWWG report (MEPC 56/2/2) with a view to develop specific provisions that could be incorporated in the GESAMP–BWWG Methodology and the Procedure (G9) as appropriate;
- .8 develop criteria to evaluate systems using the same Active Substances or Preparations, to determine when it is appropriate to apply the Basic Approval granted to one applicant to another applicant, taking into consideration confidentiality and ownership of data, and consider how to develop and incorporate such measures into Procedure (G9);
- .9 clarify the relationship between Guidelines (G8) and Procedure (G9) to ensure co-ordinated application of these recommendations on the basis of GESAMP-BWWG and Administrations’ suggestions contained in the report of the Review Group (MEPC 56/WP.4);

- .10 revise draft of Procedure for approval of ballast water management systems that make use of Active Substances (G9) and the GESAMP-BWWG methodology, based on the draft text provided by the Secretariat in document [.....] taking into account the additional data requirements recommended by the GESAMP-BWWG in document MEPC 56/2/2 and consider possibilities of formalizing the above-mentioned methodology;
- .11 further consider the text changes suggested in paragraphs 7 and 8 of document MEPC 56/2/8 regarding the GESAMP–BWWG Methodology;
- .12 further consider the conclusions contained in paragraphs 58 to 62 of the report of the Review Group (MEPC 56/WP.4) concerning the first date of application of the standard D-2 on vessels subject to regulation B-3.3 of the Convention including the mechanisms to address the delays in the development of ballast water treatment technologies; and
- .13 submit a written report on the work carried out, including recommendations to MEPC 57, for consideration by the Sub-Committee on Thursday, 7 February 2008.

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## ANNEX 6

**TERMS OF REFERENCE FOR THE INFORMAL CROSS GOVERNMENT/INDUSTRY  
SCIENTIFIC GROUP OF EXPERTS TO EVALUATE THE EFFECTS OF THE  
DIFFERENT FUEL OPTIONS PROPOSED UNDER THE REVISION  
OF MARPOL ANNEX VI**

1 The scope of the study is to review the impact on the environment, on human health and on the shipping and petroleum industries, of applying any of the options identified as possible amendments to MARPOL Annex VI to introduce measures aiming at reducing emissions from ships into the atmosphere.

2 The study will be conducted by a group of selected members, nominated by Member Governments and industry organizations, with appropriate expertise on matters within the scope of the study, who, in the discharge of their duties, will serve the group in their personal capacity. Although the experts as members of the group will be expected to assist in its deliberations independent of the entities nominating them, they may draw on the expertise of others, as it may be necessary, to fulfil their task.

3 While aiming at addressing issues as specified in paragraph 1, the study will specifically address the effects of the proposed fuel options to reduce sulphur-oxides (SO<sub>x</sub>) and particulate matter (PM) emissions generated by shipping, as well as the consequential impact such emission reductions may have on others (e.g. carbon-dioxide (CO<sub>2</sub>)) resulting from changes in the refining industry that may be necessary to meet potential new MARPOL Annex VI requirements.

4 The end result, aimed at assisting the MEPC to make well-informed decisions, should be an objective study containing facts and data and specifying the pros and cons of any proposed solution. Thus, the study, while refraining from making comments, which might jeopardize the impartial and objective character of the exercise, should not make recommendations on policy issues, leaving them to MEPC to make when weighing up the outcome of the study.

5 Within the above remit, the Group should:

.1 ***assess:***

- .1.1 the number of ships in the world fleet to which the amended MARPOL Annex VI will apply, distributed by gross tonnage, age, ship type and installed power;
- .1.2 the total volume of bunkers being consumed by international shipping at present, showing the proportion of distillate and residual fuels;
- .1.3 the predicted fuel and emission trends leading to 2020, based on current MARPOL Annex VI regulations;
- .1.4 any other relevant trends in the global fuel markets and the world fleet leading up to 2020; and
- .1.5 the incidence and trend of emission-reduction measures already adopted voluntarily by the shipping industry;

- .2 **evaluate:**
  - .2.1 the repercussions for the relevant industry sectors (shipping, petroleum, bunkering, engine and equipment manufacturers) resulting from the application of those options requiring the use of specific fuels, with a view to ascertaining the feasibility of these approaches in terms of global availability of the fuels in question;
  - .2.2 where applicable, the related future capacity for the production of marine engines and relevant abatement technologies;
  - .2.3 the implications arising from various proposed implementation dates (e.g. 2012, 2015, 2018, etc.), taking into account commercial considerations for different trades and segments of the shipping industry; and
  - .2.4 the relevant safety and operational aspects;
- .3 **assess:**
  - .3.1 the impact on human health and the environment associated with the scenarios identified in subparagraph .2, with regard to SO<sub>x</sub> and PM emissions from ships and consequential impact on other emissions, such as nitrogen-oxides (NO<sub>x</sub>); and
  - .3.2 the waste associated with production and operation of abatement technologies;
- .4 **assess** the consequential impact on CO<sub>2</sub> emissions from ships and refineries taking into account the availability of CO<sub>2</sub> abatement, capture and storage technologies; and
- .5 **present** its conclusions in a written report to BLG 12 and MEPC 57, to be submitted by mid-December 2007.

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## ANNEX 7

**COMPOSITION OF THE INFORMAL CROSS  
GOVERNMENT/INDUSTRY SCIENTIFIC GROUP OF EXPERTS**

<b>Expert</b>	<b>Nominated by</b>
Mr. Mike Hunter (Chairman) Deputy Director – International Liaison Unite Kingdom’s Permanent Representative to the IMO Maritime and Coastguard Agency	Appointed by the Secretary-General
Mr. Ken McLean Director The Bahamas Maritime Authority	Bahamas
Mr. Xu Shiming Senior Engineer China Maritime Safety Administration	China
Ms. Petra Bethge Deputy Head of Section Federal Ministry of Transport, Building and Urban Affairs, Germany	Germany
Mr. Koichi Yoshida Director of International Coordination Centre National Maritime Research Institute of Japan	Japan
Mr. Olav Tveit Customer Service Manager Det Norske Veritas Petroleum Services	Norway
Mr. Mohammed H. Al-Zayer Environmental Adviser Ministry of Petroleum and Mineral Resources Saudi Arabia	Saudi Arabia
Mr. Mark Lim Yew Guan 2 <sup>nd</sup> Deputy Director (Shipping) Maritime and Port Authority of Singapore	Singapore

<p>Mr. Stefan Lemieszewski          Principal Administrative Officer          Swedish Maritime Administration</p>	<p>Sweden</p>
<p>Ms. Gillian Reynolds          Principal Environmental Specialist          Lloyd's Register</p>	<p>United Kingdom</p>
<p>Mr. Bryan Wood-Thomas          Associate Director          Office of Transportation &amp; Air Quality U.S          Environmental Protection Agency of the United States</p>	<p>United States</p>
<p>Mr. Peter Hinchliffe          General Manager (Marine)          International Chamber of Shipping (ICS)</p>	<p>ICS</p>
<p>Mr. Niels Bjørn Mortensen          Senior Manager          The Baltic and International Maritime Council (BIMCO)</p>	<p>BIMCO</p>
<p>Mr. Dragos Rauta          Technical Director          The International Association of Independent Tanker          Owners (INTERTANKO)</p>	<p>INTERTANKO</p>
<p>Mr. J.A.D. (Ian) Hunter          Director, Marine Services          International Marine Transportation Ltd          ExxonMobil</p>	<p>OCIMF</p>
<p>Mr. Eddy Van Bouwel          Regulatory Advisor          ExxonMobil International Services</p>	<p>IPIECA</p>
<p>Mr. Ian Adams          Secretary General          The International Bunker Industry Association (IBIA)</p>	<p>IBIA</p>

<p>Mr. Fritz Fleischer Senior Manager – Environmental Design MAN Diesel SE</p>	<p>EUROMOT</p>
<p>Mr. Donald M. Gregory Director, Environment and Sustainability BP Marine Ltd</p>	<p>IMarEST</p>
<p>Mr. Donald DeMers Principal Engineer Atkins Ltd</p>	<p>RINA</p>
<p>Mr. Eelco Leemans Coordinator Maritime Campaign North Sea Foundation Friends of the Earth International (FOEI)</p>	<p>FOEI</p>
<p>Mr. John Bainbridge Permanent Representative to IMO International Transport Worker’s Federation (ITF)</p>	<p>ITF (previously ICFTU)</p>
<p>Mr. Roger Holt Secretary General International Association of Dry Cargo Shipowners (INTERCARGO)</p>	<p>INTERCARGO</p>
<p>Mr. John De Rose Permanent Representative to IMO International Association of Classification Societies (IACS)</p>	<p>IACS</p>
<p>Mr. Tim Carter Chief Medical Officer Department of Transport United Kingdom</p>	<p>IMHA</p>

**Secretariat support**

Mr. Miguel Palomares  
Director, Marine Environment Division

Mr. Du Dachang  
Senior Deputy Director,  
Marine Environment Division

Mr. Eivind Vagslid  
Technical Officer, Sub-Division for Pollution Prevention  
Marine Environment Division

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**ANNEX 8****TERMS OF REFERENCE FOR THE SECOND INTERSESSIONAL MEETING  
OF THE BLG WORKING GROUP ON AIR POLLUTION (BLG-WGAP 2)  
AND AGENDA FOR BLG-WGAP 2**

1 BLG-WGAP 2 is instructed to follow the Terms of Reference on the revision of MARPOL Annex VI and the NO<sub>x</sub> Technical Code as agreed by MEPC 53, taking into consideration documents transferred from MEPC 56 and submissions by Members and to:

- .1 continue the work from BLG 11;
- .2 finalize draft proposals for “Tier II” and “Tier III” NO<sub>x</sub> regulations for new engines;
- .3 examine the feasibility of establishing of NO<sub>x</sub> regulations for existing (pre-2000) engines, including which engines (age, size and type) that should be exempted;
- .4 develop a draft proposal for possible NO<sub>x</sub> regulations for existing engines;
- .5 take resolutions A.500(12), A.777(18) and A.900(21) and MSC-MEPC.1/Circ.1 into account, as appropriate, when considering reducing NO<sub>x</sub> and PM limits for existing engines;
- .6 develop a draft simplified certification scheme for existing engines as a new chapter to the NO<sub>x</sub> Technical Code;
- .7 consider definition and measurement methods of possible emission limits for PM and implementation of possible PM limits;
- .8 consider improved implementation and enforcement of MARPOL Annex VI and the NO<sub>x</sub> Technical Code;
- .9 identify and develop new draft definitions needed in the amended MARPOL Annex VI and the NO<sub>x</sub> Technical Code;
- .10 identify outstanding work on the revision of the NO<sub>x</sub> Technical Code;
- .11 identify related guidelines and circulars that need to be developed or amended;
- .12 consider introduction of provisions to allow flag States to approve trials to be undertaken and to exempt ships which embodies features of a novel kind in order not to impede research and development into technologies for prevention of air pollution from ships;
- .13 consider the introduction of market-based instruments to reduce emissions from international shipping and develop a draft text to be considered for adoption in the amended MARPOL Annex VI;
- .14 consider the proposed amendments to regulation 16;

- .15 further develop the draft proposal for introduction of a record keeping requirement for on-board handling of Ozone Depleting Substances other than cargoes;
  - .16 further develop the draft proposal for introduction of operational measures to prevent VOC emissions; and
  - .17 consider the need for further intersessional work prior to BLG 12, including establishment of a correspondence group(s); and
- 2 submit the outcome of the above paragraphs in a written report to BLG 12;
  - 3 review and finalize, if possible, draft washwater criteria for Exhaust Gas-SO<sub>x</sub> Cleaning Systems (EGCS-SO<sub>x</sub>) and submit the outcome in a written report to MEPC 57; and
  - 4 review the draft amendments to the Guidelines for On-board Exhaust Gas-SO<sub>x</sub> Cleaning Systems (resolution MEPC.130(53)) and, if possible, finalize the draft amended Guidelines; and submit the outcome in a written report to MEPC 57.

## AGENDA BLG-WGAP 2

### Second Intersessional Meeting of the BLG Working Group on Air Pollution

to be held at the Federal Ministry of Transport, Building and Urban Affairs  
Invalidenstr a e 44, Berlin, Germany

from Monday, 29 October to Friday, 2 November 2007

Session commences at 9.30 a.m. on Monday, 29 October 2007

#### Opening of the session

- 1 Adoption of the agenda
- 2 Revision of MARPOL Annex VI, the NOx Technical Code and related guidelines
- 3 Consideration of the need for further intersessional work prior to BLG 12, including establishment of correspondence group(s)
- 4 Washwater discharge criteria for Exhaust Gas-SOx Cleaning Systems
- 5 Amendments to the Guidelines for On-board Exhaust Gas-SOx Cleaning Systems (resolution MEPC.130(53))
- 6 Any other business
- 7 Consideration of the report to BLG 12

#### Note:

All documents for the Intersessional Meeting should be submitted via e-mail to IMO's e-mail address (i.e. [info@imo.org](mailto:info@imo.org)) and should reach the IMO Secretariat no later than **Friday, 5 October 2007**, so that they can be processed and distributed in time for consideration by the second Intersessional Meeting.

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## ANNEX 9

### TERMS OF REFERENCE FOR THE UPDATE OF THE 2000 IMO STUDY ON GREENHOUSE GAS EMISSIONS FROM SHIPS

As part of IMO's efforts to maintain its leading position, and recognizing the IMO's responsibility with regard to greenhouse gas emissions from the maritime sector, the MEPC has decided to undertake an update of the 2000 IMO Study on Greenhouse Gas Emissions from Ships. Taking the first study as a good starting point, the terms of reference for this update are as follows:

1 It is recognized that CO<sub>2</sub> is the most significant GHG emitted by ships. The updated study should be transparent, not policy prescriptive and include the issues below.

#### **Current inventories and future scenarios of emissions of GHGs and relevant substances from international shipping**

1.1 The study should include current global inventories of GHGs and relevant substances emitted from ships engaged in international transport, any methodological aspects and future emission scenarios, described as follows:

- (a) GHGs should be defined as the gases considered under the UNFCCC process: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>);
- (b) Other relevant substances that may contribute to climate change include: nitrogen oxides (NO<sub>x</sub>), non-methane volatile organic compounds (NMVOC), carbon monoxide (CO), particulate matter (PM) and sulphur oxides (SO<sub>x</sub>);
- (c) The inventories should include the annual emission series from 1990 to the year as far as statistical data are available;
- (d) CO<sub>2</sub> inventories should be estimated both by top down method and by bottom up method subject to data availability. Top down method is based on the statistical data on fuel delivered to international shipping and bottom up method is based on the transport activity such as fuel consumption by individual ships\*. These two inventories should be compared and analysed for QA/QC and transparency of these data; and
- (e) Estimations of future shipping emission scenarios should be performed in base-case (business as usual) for the years 2020 and 2050. Economic growth and increased transportation amounts, as well as expected efficiency improvements should be considered as part of emissions scenarios. Effects of amendments to MARPOL Annex VI should be taken into account.

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\* For example, the top down method should rely on existing statistical sources of fuel delivery data regarding marine uses of fossil fuels, such as international surveys (e.g. IEA) and national statistics on fuel deliveries for marine uses. The bottom-up method could investigate fuel deliveries and ship manifest logs at ports.

## **Current and future emission reduction potential of GHGs and other relevant substances**

1.2 The study should identify progress made to date in reducing GHG emissions and other substances, including for example which options are available for further reductions based on current technologies and practices? What balances and potential trade-offs are involved in reducing GHG and other relevant substances? The answers should include consideration of the CO<sub>2</sub> index.

1.3 The study should identify possible future measures to reduce emissions of GHGs and other relevant substance and related potential for reductions, such as options for technological change, fuel switching, alternative power, changes in operational practices, market-based measures and other actions (e.g. labelling and certification).

1.4 The study should undertake a cost benefit analysis, including environmental and public health impacts, of options for current and future reductions in GHG emissions and other relevant substances from international shipping.

## **Climate impacts of international shipping**

1.5 The study should include identification of the impacts of emissions from shipping on climate change; taking into account GHGs considered by the UNFCCC process, and other relevant substances as identified above in paragraph 1.1(b).

1.6 A comparison of emissions from various modes of transport, based on tonnes-miles of cargo transported, should be included in the study. In this respect, consideration should also be given to different types of ships.

## **Organizational matters**

2 While taking into account relevant new information, the authors should not duplicate existing studies that have already been completed. Therefore, in conducting the study, the authors may consult a broad range of reputable organizations, institutions and resources with relevant experience and/or expertise within areas of the terms of reference. Authors should validate the credibility of information obtained. The responsibility for the content of the updated Study would rest with the authors.

3 A Steering Committee should be established by the IMO Secretariat. The Steering Committee should be geographically balanced (e.g. with reference to the five UN regions) and equitably represent developing and developed countries. Relevant stakeholders should also be represented. The Steering Committee should:

- (a) have input into the tendering process for authors and approve the study outline;
- (b) monitor progress of the study and report on progress to the Marine Environment Protection Committee;

- (c) provide general oversight to authors as necessary; and
- (d) confirm that the study meets the terms of reference before submission to the Marine Environment Protection Committee.

3.1 The Steering Committee should, as far as possible, make decisions by consensus and make all efforts to ensure timely completion of the study.

4 The updated study should be submitted to the 59th session of the Marine Environment Protection Committee, if possible, but at the latest in 2010.

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## ANNEX 10

## GHG MODULE FOR GISIS DATABASE

Mandatory parameters										Optional parameters					
Name of parameters	Cargo unit <sup>1</sup>	Ship Category <sup>2</sup>	Gross Tonnage	CO <sub>2</sub> Index	Indexing commence	Index period <sup>3</sup>	Dead weight	Cargo capacity	Reference <sup>4</sup>	Index data <sup>5</sup>	Year built	Service Speed	Contract type <sup>6</sup>	Trade type <sup>7</sup>	Comment
Unit of parameters	[-]	[list]	[-]	[g /X*nm]	[year]	[days]	[DWT]	[-] same as Cargo unit	text	See below	[year]	knots	text	text	text
An example of numbers and texts for Containership	TEU	Container ship	12,345	321	2005	365	12,345	2000	Name, e-mail, etc.		2001	21		Line service	-



Voyage or day (i)	Fuel consumption (FC) at sea and in port in tonnes				Voyage or time period data	
	Fuel type ( )	Fuel type ( )	Fuel type ( )	...	Cargo (m) (tonnes or units)	Distance (D) (NM)
1						
2						
3						
4						
..						
..						

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<sup>1</sup> TEU, Tonnes, Passengers, m<sup>3</sup> for liquid bulk cargoes.

<sup>2</sup> Choose from list using Fairplay definitions.

<sup>3</sup> Period (days, months) covered by the data used to calculate the index (should be at least twelve months).

<sup>4</sup> Contact details of data provider [name – e-mail address].

<sup>5</sup> Fuel consumption and transport work data for individual voyage legs [insert comment field].

<sup>6</sup> Long term charter, spot, etc.

<sup>7</sup> Fixed route, spot trade, short, etc.



**ANNEX 11****RESOLUTION MEPC.164(56)****Adopted on 13 July 2007****AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO  
THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF  
POLLUTION FROM SHIPS, 1973****(Reception facilities outside Special Areas and discharge of sewage)**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee (the Committee) conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING Article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confer upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

HAVING CONSIDERED proposed amendments to regulation 38.2.5 of Annex I and regulation 11.1.1 of Annex IV to MARPOL 73/78,

1. ADOPTS, in accordance with Article 16(2)(d) of the 1973 Convention, the amendments to Annex I and Annex IV of MARPOL 73/78, the texts of which are set out at Annex 1 and Annex 2 respectively to the present resolution;
2. DETERMINES, in accordance with Article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 1 June 2008, unless prior to that date, not less than one-third of the Parties or Parties the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objection to the amendments;
3. INVITES the Parties to note that, in accordance with Article 16(2)(g)(ii) of the 1973 Convention, the said amendments shall enter into force on 1 December 2008 upon their acceptance in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General, in conformity with Article 16(2)(e) of the 1973 Convention, to transmit to all Parties to MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in the Annexes; and
5. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to MARPOL 73/78 copies of the present resolution and its Annexes.

ANNEX 1

**AMENDMENTS TO MARPOL ANNEX I**

**(Reception facilities outside Special Areas)**

Regulation 38.2.5 is replaced by the following:

“all ports in respect of oily bilge waters and other residues that cannot be discharged in accordance with regulations 15 and 34 of this Annex; and”

ANNEX 2

**AMENDMENTS TO MARPOL ANNEX IV**

**(Discharge of sewage)**

Regulation 11.1.1 is replaced by the following:

- “1 the ship is discharging comminuted and disinfected sewage using a system approved by the Administration in accordance with regulation 9.1.2 of this Annex at a distance of more than 3 nautical miles from the nearest land, or sewage which is not comminuted or disinfected, at a distance of more than 12 nautical miles from the nearest land, provided that, in any case, the sewage that has been stored in holding tanks, or sewage originating from spaces containing living animals, shall not be discharged instantaneously but at a moderate rate when the ship is *en route* and proceeding at not less than 4 knots; the rate of discharge shall be approved by the Administration based upon standards developed by the Organization<sup>8</sup>; or”

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<sup>8</sup> Refer to the Recommendation on standards for the rate of discharge of untreated sewage from ships adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.157(55).



**ANNEX 12****RESOLUTION MEPC.165(56)****Adopted on 13 July 2007****AMENDMENTS TO THE LIST OF SUBSTANCES ANNEXED TO THE PROTOCOL  
RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF POLLUTION  
BY SUBSTANCES OTHER THAN OIL, 1973**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

NOTING resolution 26 of the International Conference on Marine Pollution, 1973 which requested the appropriate body, designated by the Organization, to establish the list of substances to be annexed to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other Than Oil, 1973 (1973 Intervention Protocol),

NOTING FURTHER resolution A.296(VIII) by which the Assembly designated the Marine Environment Protection Committee (the Committee) as the appropriate body referred to in Articles I and III of the 1973 Intervention Protocol,

RECALLING resolution MEPC.100(48) by which the Committee adopted on 11 October 2002 a revised list of substances annexed to the 1973 Intervention Protocol,

RECOGNIZING the need to keep the list of substances current with the revised MARPOL Annex II adopted by resolution MEPC.118(52),

HAVING CONSIDERED the proposed amendments to the Annex to the 1973 Intervention Protocol, which were approved by the fifty-fifth session of the Committee and circulated in accordance with paragraph 2 of Article III of the 1973 Intervention Protocol,

1. ADOPTS, by the required two-thirds majority of the Parties to the 1973 Intervention Protocol present and voting, the amended list of substances annexed to the Protocol, the text of which is set out at Annex to the present resolution;
2. REQUESTS the Secretary-General, in accordance with paragraph 5 of Article III of the 1973 Intervention Protocol, to communicate the amendments to all Parties to the Protocol, for acceptance, and to inform them that the amendments shall be deemed to have been accepted at the end of the period of six months after they have been communicated, unless within that period an objection to these amendments has been communicated to the Organization by not less than one third of the Parties to the Protocol;
3. INVITES the Parties to note that, in accordance with paragraph 7 of Article III of the 1973 Intervention Protocol, the amendments shall enter into force three months after they have been deemed to have been accepted in accordance with paragraph 2 above; and
4. REQUESTS FURTHER the Secretary-General to annex the amended list to the 1973 Intervention Protocol in accordance with paragraph 2(a) of Article I of the Protocol, once the amendments have entered into force, to replace the existing list of substances.

ANNEX

**AMENDMENTS TO THE LIST OF SUBSTANCES ANNEXED  
TO THE PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS  
IN CASES OF POLLUTION BY SUBSTANCES OTHER THAN OIL, 1973  
(RESOLUTION MEPC.100(48))**

In the List of Substances referred to in paragraph 2(a) of Article 1 of the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, set out in the Annex to resolution MEPC.100(48), paragraph 2 is replaced by the following:

“2 **Noxious Liquid Substances**, as defined in Annex II to MARPOL 73/78, as amended, when carried in bulk, and identified:

- .1 as Pollution Category X or Y, in:
  - .1 Chapter 17 of the International Bulk Chemical Code (IBC Code); or
  - .2 Lists 1 to 4 of MEPC.2/Circulars, issued annually in December; or
- .2 in the composite list of GESAMP Hazard Profiles, issued periodically as BLG circulars, with either:
  - .1 a ‘2’ in column B1 and ‘2’ in column E3; or
  - .2 ‘3’ in column E3;”

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**ANNEX 13**

**RESOLUTION MEPC.166(56)**

**Adopted on 13 July 2007**

**AMENDMENTS TO THE INTERNATIONAL CODE FOR THE CONSTRUCTION  
AND EQUIPMENT OF SHIPS CARRYING DANGEROUS CHEMICALS IN BULK  
(IBC CODE)**

[See MEPC 56/23/Add.1]

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**ANNEX 14****UNIFIED INTERPRETATION TO REGULATION 12A OF MARPOL ANNEX I**

1 Valves for oil fuel tanks located in accordance with the provisions of paragraphs 6, 7 and 8 of MARPOL Annex I, regulation 12A, may be treated in a manner similar to the treatment of suction wells as per MARPOL regulation 12A.10 and, therefore, arranged at a distance from the ship's bottom of not less than  $h/2$ .

2 Valves for tanks which are permitted to be located at a distance from the ship's bottom or side at a distance less than  $h$  or  $w$ , respectively, in accordance with the accidental oil fuel outflow performance standard of MARPOL Annex I, regulation 12A.11, may be arranged at the distance less than  $h$  or  $w$ , respectively.

3 Fuel tank air escape pipes and overflow pipes are not considered as part of "*lines of fuel oil piping*" and, therefore, may be located at a distance from the ship's side of less than  $w$ .

4 In addition to being as small as practicable, the size of the suction wells mentioned in MARPOL Annex I, regulation 12A.10, should be appropriate to the size of the suction pipe and area covered.

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**ANNEX 15****UNIFIED INTERPRETATION TO REGULATION 25.3.3 OF MARPOL ANNEX I**

1 Valves or other closing arrangements located in accordance with the provisions of MARPOL Annex I, regulation 25.3.3, may be treated in a manner similar to the treatment of suction wells as per MARPOL regulation 12A.10 and, therefore, arranged at a distance from the ship's bottom of not less than  $h/2$ .

2 In addition to being not excessive in area, the size of the suction wells mentioned in MARPOL Annex I, regulation 25.3.3, should be appropriate to the size of the suction pipe and area covered.

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**ANNEX 16****UNIFIED INTERPRETATION TO REGULATION 22 OF MARPOL ANNEX I**

1 The term “*pump-room*” means a cargo pump-room. Ballast piping is permitted to be located within the pump-room double bottom provided any damage to that piping does not render the ship’s pumps located in the “*pump-room*” ineffective.

2 The double bottom protecting the “*pump-room*” can be a void tank, a ballast tank or, unless prohibited by other regulations, a fuel oil tank.

3 Bilge wells may be accepted within the double bottom provided that such wells are as small as practicable and the distance between the well bottom and bottom shell plating is not less than  $0.5h$ .

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**ANNEX 17**

**UNIFIED INTERPRETATION TO RESOLUTION MEPC.159(55)**

For application of resolution MEPC.159(55), the phrase “*installed on board a ship on or after 1 January 2010*” shall be interpreted as follows:

- (a) For new ships, installations on board ships the keels of which are laid or which are at a similar stage of construction on or after 1 January 2010.
- (b) For existing ships, new installations with a contractual delivery date to the ship on or after 1 January 2010 or, in the absence of a contractual delivery date, the actual delivery of the equipment to the ship on or after 1 January 2010.

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## ANNEX 18

**WORK PROGRAMME OF THE OPRC-HNS TECHNICAL GROUP AND  
PROVISIONAL AGENDA FOR TG 7**

**WORK PROGRAMME**

<b>ACTIVITY</b>	<b>MEPC 56</b>	<b>MEPC 57</b>	<b>MEPC 58</b>	<b>MEPC 59</b>	<b>MEPC 60</b>
<b>Year:</b>	<b>2007</b>	<b>2008</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>HNS - Related Activities</b>					
<b>INFORMATION SERVICES</b>					
<b>1. Organization of the Fourth R&amp;D Forum</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	
<b>MANUALS &amp; RESOURCES FOR CAPACITY BUILDING</b>					
<b>2. Development of manuals and guidance documents on chemical pollution</b>					
1. Guidance document on chemical pollution to address legal and administrative aspects of HNS incidents	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	
<b>TRAINING</b>					
<b>3. Two model courses on preparedness and response to HNS incidents</b>					
1. Introductory Course for HNS First Responders	<b>X</b>	<b>X</b>	<b>X</b>		
2. Introductory Course for HNS Managers	<b>X</b>	<b>X</b>	<b>X</b>		
<b>OPRC - Related Activities</b>					
<b>4. Reviewing and upgrading combating manuals/guidelines</b>					
1. Manual on oil pollution – Section I : Prevention	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	
<b>5. Creation of new manuals and guidance</b>					
1. Manual on oil spill risk evaluation and assessment of response preparedness	<b>X</b>	<b>X</b>	<b>X</b>		
2. IMO/UNEP Manual on the assessment and restoration of environmental damage following marine oil Spills	<b>X</b>	<b>X</b>	<b>X</b>		
3. Terms of reference for the comparative study and the development of the draft standard guidelines on shoreline cleanup assessment	<b>X</b>	<b>X</b>	<b>X</b>		
4. Comparative study and the development of the draft standard guidelines on shoreline cleanup assessment			<b>X</b>	<b>X</b>	<b>X</b>
5. Guidelines on shoreline clean-up assessment (developed through REMPEC)			<b>X</b>	<b>X</b>	<b>X</b>
6. Technical guidelines on waste management (carried out initially through REMPEC)			<b>X</b>	<b>X</b>	<b>X</b>
7. Technical guidelines on sunken oil assessment and removal techniques	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	
8. Guidance document on establishment of Joint Information Centres during oil spill response	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	

<b>ACTIVITY</b>	<b>MEPC 56</b>	<b>MEPC 57</b>	<b>MEPC 58</b>	<b>MEPC 59</b>	<b>MEPC 60</b>
<b>Year:</b>	<b>2007</b>	<b>2008</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
9. Guidance document on Incident Command System during oil spill response and on incident command system position possibilities	X	X	X	X	
10. A Guideline for oil spill response in fast currents	X	X	X	X	
11. Guidance document on identification and observation of spilled oil	X	X	X	X	
12. Guideline for oil spill response offshore in-situ burning	X	X	X	X	
<b>6. OPRC Training programme</b>					
1. Revision of the OPRC Train-the-Trainer course	X	X	X		
<b>Co-operation with other International Organizations</b>					
<b>7. Co-operation with IAEA</b>					
1. MOU for response to radiological/nuclear incidents at sea/in port	X	X	X	X	X
<b>8. Co-operation between IMO and EC</b>	X	X	X		
<b>9. Co-operation between IMO and WMO's Expert Team on Marine Accident Emergency Support (ETMAES)</b>	X	X	X		

## PROVISIONAL AGENDA FOR TG 7

### Opening of the session

- 1 Adoption of the agenda
- 2 Decisions of other bodies
- 3 Manuals and guidance documents
- 4 Training
- 5 Information services and exchange
- 6 Co-operation with other organizations
- 7 Technical co-operation implementation on OPRC and HNS
- 8 Work programme and provisional agenda for TG 8
- 9 Any other business
- 10 Report to the Committee

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**ANNEX 19****RESOLUTION MEPC.167(56)****Adopted on 13 July 2007****ESTABLISHMENT OF THE DATE ON WHICH THE AMENDMENTS TO  
REGULATION 1.11 OF MARPOL ANNEX I, IN RESPECT OF THE SOUTHERN  
SOUTH AFRICAN WATERS SPECIAL AREA, SHALL TAKE EFFECT**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38 of the Convention on the International Maritime Organization concerning the functions of the Committee,

NOTING resolution MEPC.154(55) by which the Committee adopted amendments to regulation 1.11 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), to designate the Southern South African waters as a Special Area,

NOTING ALSO the definition of the Special Area under MARPOL Annex I, i.e. a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of pollution of the sea by oil is required,

NOTING FURTHER the information provided in document MEPC 54/8, submitted by South Africa as the sole State bordering the Southern South African Waters Special Area, that adequate reception facilities are provided in all major ports within the said Special Area, in accordance with the provisions of regulation 38.4 of MARPOL Annex I,

TAKING INTO ACCOUNT that the Committee, at its fifty-fifth session, had agreed to issue MEPC.1/Circ.543 on the Early and effective implementation of the Southern South African waters as a Special Area, pending its entry into force, whereby it requested Member Governments and industry groups to comply with the Special Area requirements immediately on a voluntary basis and, in particular, to urge oil tankers to refrain from washing their cargo tanks in the Southern South African waters, pending the entry into force of the Special Area requirements,

HAVING CONSIDERED the matter to establish the date, on which the discharge requirements of regulation 1.11 of MARPOL Annex I in respect of the Southern South African waters Special Area shall take effect,

1. DECIDES that the discharge requirements for Special Areas in regulations 15 and 34 of MARPOL Annex I for the Southern South African Waters Special Area shall take effect on 1 August 2008, with the proviso that the aforesaid amendments to regulation 1.11 of MARPOL Annex I enter into force on 1 March 2008;
2. REMINDS Member Governments and industry groups of the MEPC.1/Circ.543 which requested them to comply on a voluntary basis with the requirements immediately for the Southern South African Waters Special Area;

3. REQUESTS the Secretary-General to notify all Parties to MARPOL 73/78 of the aforementioned decision by 31 July 2007; and

4. FURTHER REQUESTS the Secretary-General to notify all Members of the Organization of the aforementioned decision.

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**ANNEX 20****RESOLUTION MEPC.168(56)****Adopted on 13 July 2007****ESTABLISHMENT OF THE DATE ON WHICH REGULATION 1.11.5 OF MARPOL ANNEX I AND REGULATION 5(1)(e) OF MARPOL ANNEX V, IN RESPECT OF THE GULFS AREA SPECIAL AREA, SHALL TAKE EFFECT**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38 of the Convention on the International Maritime Organization concerning the functions of the Committee,

NOTING regulation 1.11.5 of Annex I and regulation 5(1)(e) of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), define the Gulfs area as a Special Area under Annexes I and V respectively, as adopted in 1973,

NOTING ALSO the definition of the Special Area under MARPOL Annex I and V, i.e. a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of pollution of the sea by oil and by garbage, respectively, is required,

NOTING FURTHER the information provided in document MEPC 56/8/2, submitted by Bahrain, Iran (Islamic Republic of), Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, representing all States bordering Gulfs area Special Area, that adequate reception facilities are provided in all major ports within the said Special Area, in accordance with the provisions of regulation 38.4 of MARPOL Annex I and regulation 5(4)(a) of MARPOL Annex V,

HAVING CONSIDERED the matter to establish the date, on which the discharge requirements of regulation 1.11.5 of MARPOL Annex I and regulation 5(1)(e) of MARPOL Annex V in respect of the Gulfs area Special Area shall take effect,

1. DECIDES that the discharge requirements for Special Areas in regulations 15 and 34 of MARPOL Annex I and regulation 5 of MARPOL Annex V for the Gulfs area Special Area shall take effect on 1 August 2008, in accordance with the requirements set out in regulation 38.6.1 of MARPOL Annex I and regulation 5(4)(b) of MARPOL Annex V;
2. ENCOURAGES Member Governments and industry groups to comply immediately on a voluntary basis with the Special Area requirements for the Gulfs area;
3. REQUESTS the Secretary-General to notify, in conformity with regulation 38.6 of MARPOL Annex I and regulation 5(4)(b) of MARPOL Annex V, all Parties to MARPOL 73/78 of the aforementioned decision by 31 July 2007; and
4. FURTHER REQUESTS the Secretary-General to notify all Members of the Organization of the aforementioned decision.

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## ANNEX 21

## DRAFT ASSEMBLY RESOLUTION

REVISED CODE FOR THE IMPLEMENTATION OF MANDATORY  
IMO INSTRUMENTS

THE ASSEMBLY,

RECALLING Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

RECALLING ALSO that, by resolution A.973(24), it adopted the Code for the Implementation of Mandatory IMO Instruments,

RECOGNIZING the need for the above Code to be revised to take account of the amendments to the IMO instruments referred to the above, which have entered into force or become effective since the adoption of resolution A.973(24),

BEING AWARE of the request of the seventh session of the UN Commission on Sustainable Development (CSD 7) to develop measures to ensure that flag States give full and complete effect to the IMO and other relevant conventions to which they are party, so that the ships of all flag States meet international rules and standards,

RECOGNIZING that Parties to the relevant international conventions have, as part of the ratification process, accepted to fully meet their responsibilities and to discharge their obligations under the conventions and other instruments to which they are party,

REAFFIRMING that States have the primary responsibility to have in place an adequate and effective system to exercise control over ships entitled to fly their flag, and to ensure that they comply with relevant international rules and regulations in respect of maritime safety, security and protection of the marine environment,

REAFFIRMING ALSO that States, in their capacity as port and coastal States, have other obligations and responsibilities under applicable international law in respect of maritime safety, security and protection of the marine environment,

NOTING that, while States may realize certain benefits by becoming Parties to instruments aiming at promoting maritime safety, security and the prevention of pollution from ships, these benefits can only be fully realized when all Parties carry out their obligations as required by the instruments concerned,

NOTING ALSO that the ultimate effectiveness of any instrument depends, *inter alia*, upon all States:

- (a) becoming Parties to all instruments related to maritime safety, security and pollution prevention and control;

- (b) implementing and enforcing such instruments fully and effectively;
- (c) reporting to the Organization, as required,

NOTING FURTHER that, in the context of the Voluntary IMO Member State Audit Scheme, the enactment of appropriate legislation, its implementation and enforcement are the three key issues on which a Member State's performance can be measured,

BEARING IN MIND that the Voluntary IMO Member State Audit Scheme contains references to the Code for the implementation of mandatory IMO instruments, as appropriate; and that the Code, in addition to providing guidance for the implementation and enforcement of IMO instruments, forms the basis of the Audit Scheme, in particular concerning the identification of the auditable areas,

HAVING CONSIDERED the recommendations made by the Maritime Safety Committee, [at its eighty-third session] and by the Marine Environment Protection Committee, [at its fifty-sixth session],

1. ADOPTS the Revised Code for the Implementation of Mandatory IMO Instruments, set out in the Annex to the present resolution;
2. URGES Governments of flag States, port States and coastal States to implement the Revised Code on a national basis;
3. REQUESTS the Maritime Safety Committee and the Marine Environment Protection Committee to keep the Revised Code under review and, in co-ordination with the Council, to propose amendments thereto to the Assembly;
4. REVOKES resolution A.973(24).

ANNEX

**CODE FOR THE IMPLEMENTATION OF MANDATORY IMO INSTRUMENTS**

[FSI 15/18/Add.1, annex to annex 1]

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**ANNEX 22****DRAFT ASSEMBLY RESOLUTION****REVISED SURVEY GUIDELINES UNDER THE HARMONIZED  
SYSTEM OF SURVEY AND CERTIFICATION (HSSC)**

THE ASSEMBLY,

RECALLING Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

RECALLING ALSO:

- (a) the adoption by the International Conference on the Harmonized System of Survey and Certification, 1988, of the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, and the Protocol of 1988 relating to the International Convention on Load Lines, 1966, which, *inter alia*, introduced the harmonized system of survey and certification under the International Convention for the Safety of Life at Sea, 1974 and the International Convention on Load Lines, 1966, respectively,
- (b) the adoption by resolution MEPC.39(29) of amendments to introduce the harmonized system of survey and certification into the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the 1978 Protocol relating thereto (MARPOL 73/78),
- (c) the adoption by resolution MEPC.132(53) of amendments to introduce the harmonized system of survey and certification to the MARPOL Annex VI, and
- (d) the adoption, by the resolutions given below, of amendments to introduce the harmonized system of survey and certification into:
  - (i) the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code), (resolutions MEPC.40(29) and MSC.16(58)),
  - (ii) the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code), (resolution MSC.17(58)),
  - (iii) the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code), (resolutions MEPC.41(29) and MSC.18(58)),

RECALLING FURTHER that, by resolution A.948(23), it adopted the Survey Guidelines under the Harmonized System of Survey and Certification, with a view to assisting Governments in the implementation of the requirements of the aforementioned instruments,

RECOGNIZING the need for the Revised Survey Guidelines to be further revised to take account of the amendments to the IMO instruments referred to above, which have entered into force or become effective since the adoption of resolution A.948(23),

HAVING CONSIDERED the recommendations made by the Maritime Safety Committee [at its eighty-third session] and the Marine Environment Protection Committee [at its fifty-sixth session],

1. ADOPTS the Revised Survey Guidelines under the Harmonized System of Survey and Certification set out in the Annex to the present resolution;
2. INVITES Governments carrying out surveys required by the relevant IMO instruments to follow the provisions of the annexed Revised Survey Guidelines;
3. REQUESTS the Maritime Safety Committee and the Marine Environment Protection Committee to keep the Revised Survey Guidelines under review and amend them as necessary;
4. REVOKES resolution A.948(23).

ANNEX

**REVISED SURVEY GUIDELINES UNDER THE HARMONIZED  
SYSTEM OF SURVEY AND CERTIFICATION**

[FSI 15/18/Add.1, annex to annex 7]

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## ANNEX 23

**REVISED WORK PROGRAMME OF THE BLG SUB-COMMITTEE  
AND PROVISIONAL AGENDA FOR BLG 12**

**REVISED WORK PROGRAMME OF THE SUB-COMMITTEE**

		<b>Target completion date/number of sessions needed for completion</b>	<b>Reference</b>
1	<b>Evaluation of safety and pollution hazards of chemicals and preparation of consequential amendments</b>	Continuous	BLG 10/19, section 3
2	<b>Casualty analysis</b> (co-ordinated by FSI)	Continuous	MSC 70/23, paragraphs 9.17 and 20.4; MSC 80/24, paragraph 21.6; BLG 10/19, section 10
3	<b>Consideration of IACS unified interpretations</b>	Continuous	MSC 78/26, paragraph 22.12; BLG 10/19, section 9
H.1	Environmental and safety aspects of alternative tanker designs under MARPOL 73/78, regulation I/13F		BLG 3/18, paragraph 15.7
.1	assessment of alternative tanker designs, if any (as necessary)	Continuous	BLG 1/20, section 16; BLG 4/18, paragraph 15.3
H.2	<b>Development of provisions for gas-fuelled ships</b> (in co-operation with FP and DE)	2009	MSC 78/26, paragraph 24.11; BLG 10/19, section 6 BLG 11/16, section 6

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- Notes:**
- 1 "H" means a high priority item and "L" means a low priority item. However, within the high and low priority groups, items have not been listed in any order of priority.
  - 2 Items printed in bold letters have been selected for the provisional agenda for BLG 11.

		<b>Target completion date/number of sessions needed for completion</b>	<b>Reference</b>
H.3	<b>Development of guidelines for uniform implementation of the 2004 BWM Convention</b>	2008	MEPC 52/24, paragraph 2.21.6; BLG 10/19, section 4 BLG 11/16, section 4 MEPC 56/23, paragraph 2.18
H.4	<b>Amendments to MARPOL Annex I for the prevention of marine pollution during oil transfer operations between ships at sea</b>	2008	MEPC 53/24, paragraph 20.6; BLG 10/19, section 15 MEPC 56/23, paragraph 10.25
H.5	<b>Review of MARPOL Annex VI and the NO<sub>x</sub> Technical Code</b>	2008	MEPC 53/24, paragraph 4.50; BLG 10/19, section 14 BLG 11/16, section 5 MEPC 56/23, paragraph 4.18
H.6	<b>Application of the requirements for the carriage of bio-fuels and bio-fuel blends</b>	2008	MEPC 55/23, paragraphs 19.4 and 19.5
H.7	<b>Development of international measures for minimizing the translocation of invasive aquatic species through bio-fouling of ships</b>	2010	MEPC 56/23, paragraph 19.12
L.1	<b>Guidelines on other technological methods verifiable or enforceable to limit SO<sub>x</sub> emissions</b>	2 sessions	MEPC 53/24, paragraph 4.40 BLG 11/16, section 9 MEPC 56/23, paragraph 19.12

**PROVISIONAL AGENDA FOR BLG 12\***

- Opening of the session
- 1 Adoption of the agenda
  - 2 Decisions of other IMO bodies
  - 3 Evaluation of safety and pollution hazards of chemicals and preparation of consequential amendments
  - 4 Application of the requirements for the carriage of bio-fuels and bio-fuel blends
  - 5 Development of guidelines for uniform implementation of the 2004 BWM Convention
  - 6 Review of MARPOL Annex VI and the NO<sub>x</sub> Technical Code
  - 7 Development of provisions for gas-fuelled ships
  - 8 Amendments to MARPOL Annex I for the prevention of marine pollution during oil transfer operations between ships at sea
  - 9 Development of international measures for minimizing the translocation of invasive aquatic species through bio-fouling of ships
  - 10 Casualty analysis
  - 11 Consideration of IACS unified interpretations
  - 12 Work programme and agenda for BLG 13
  - 13 Election of Chairman and Vice-Chairman for 2009
  - 14 Any other business
  - 15 Report to the Committees

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\* Agenda item numbers do not necessarily indicate priority.



## ANNEX 24

**REVISED WORK PROGRAMME OF THE FSI SUB-COMMITTEE AND  
PROVISIONAL AGENDA FOR FSI 16**

**REVISED WORK PROGRAMME OF THE FSI SUB-COMMITTEE**

		<b>Target completion date/number of sessions needed for completion</b>	<b>Reference</b>
1	<b>Mandatory reports under MARPOL 73/78</b>	Continuous	MSC 70/23, paragraph 20.12.1; FSI 14/19, section 4
2	<b>Casualty statistics and investigations</b>	Continuous	MSC 68/23, paragraphs 7.16 to 7.24; FSI 14/19, section 5
3	<b>Harmonization of port State control activities</b>	Continuous	MSC 71/23, paragraph 20.16; MSC 80/24, paragraph 21.16; FSI 14/19, section 7
4	<b>Responsibilities of Governments and measures to encourage flag State compliance</b>	Continuous	MSC 68/23, paragraphs 7.2 to 7.8; FSI 14/19, section 3
5	<b>Comprehensive analysis of difficulties encountered in the implementation of IMO instruments</b>	Continuous	MSC 69/22, paragraph 20.28; FSI 8/19, paragraph 4.3; FSI 14/19, section 10
6	<b>Review of the Survey Guidelines under the HSSC (resolution A.948(23))</b>	Continuous	MSC 72/23, paragraph 21.27; FSI 14/19, section 11

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- Notes:**
- 1 “H” means a high priority item and “L” means a low priority item. However, within the high and low priority groups, items have not been listed in any order of priority.
  - 2 Strike-out text indicates proposed deletions and shaded text shows proposed additions and changes.
  - 3 Items printed in bold letters have been selected for the provisional agenda for FSI 16.

		<b>Target completion date/number of sessions needed for completion</b>	<b>Reference</b>
7	<b>Consideration of IACS unified interpretations</b>	Continuous	MSC 78/26, paragraph 22.12; FSI 14/19, section 14
H.1	<b>PSC guidelines on seafarers' working hours</b>	2009	MSC 70/23, paragraph 20.12.3; FSI 14/19, section 8 FSI 15/18, paragraph 10.5
H.2	<b>Illegal, unregulated and unreported (IUU) fishing and implementation of resolution A.925(22)</b>	2008	MSC 72/23, paragraph 21.28; FSI 10/17, section 11; MSC 75/24, paragraphs 13.11 and 22.25.3; FSI 14/19, section 15
H.3	<b>Development of guidelines on port State control under the 2004 BWM Convention</b>	2008	MEPC 52/24, paragraph 2.21.2; FSI 14/19, section 9
H.4	<b>Port reception facilities-related issues</b>	2010	MEPC 53/24, paragraph 9.7; FSI 14/19, section 3
H.5	<b>Amendments to the ISM Code relating to requirements for seafarer safety representation</b>	2009	MSC 82/24, paragraph 21.24.1
H.6	Code of conduct during demonstrations/ campaigns against ships on high seas (co-ordinated by NAV)	2 sessions	MSC 82/24, paragraph 21.26

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- Notes:**
- 1 "H" means a high priority item and "L" means a low priority item. However, within the high and low priority groups, items have not been listed in any order of priority.
  - 2 Strike-out text indicates proposed deletions and shaded text shows proposed additions and changes.
  - 3 Items printed in bold letters have been selected for the provisional agenda for FSI 16.

**PROVISIONAL AGENDA FOR FSI 16**

- Opening of the session
- 1 Adoption of the agenda
  - 2 Decisions of other IMO bodies
  - 3 Responsibilities of Governments and measures to encourage flag State compliance
  - 4 Mandatory reports under MARPOL 73/78
  - 5 Port reception facilities-related issues
  - 6 Amendments to the ISM Code relating to requirements for seafarer safety representation
  - 7 Casualty statistics and investigations
  - 8 Harmonization of port State control activities
  - 9 Development of guidelines on port State control under the 2004 BWM Convention
  - 10 PSC Guidelines on seafarers' working hours
  - 11 Comprehensive analysis of difficulties encountered in the implementation of IMO instruments
  - 12 Review of the Survey Guidelines under the HSSC (resolution A.948(23))
  - 13 Consideration of IACS Unified Interpretations
  - 14 Illegal, unregulated and unreported (IUU) fishing and implementation of resolution A.925(22)
  - 15 Work programme and agenda for FSI 17
  - 16 Election of Chairman and Vice-Chairman for 2009
  - 17 Any other business
  - 18 Report to the Committees

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## ANNEX 25

**WORK PROGRAMME ITEMS OF THE DSC, FP, NAV, DE AND STW  
SUB-COMMITTEES WHICH RELATE TO ENVIRONMENTAL ISSUES**

		<b>Target completion date/number of sessions needed for completion</b>	<b>Reference</b>
<b>SUB-COMMITTEE ON DANGEROUS GOODS, SOLID CARGOES AND CONTAINERS (DSC)</b>			
2	Reports on incidents involving dangerous goods or marine pollutants in packaged form on board ships or in port areas	Continuous	CDG 45/22, section 11 and paragraph 20.2; DSC 11/19, section 6
H.1	Amendments (34-08) to the IMDG Code and supplements	2007	DSC 3/15, paragraph 12.6; DSC 11/19, section 14
<b>SUB-COMMITTEE ON FIRE PROTECTION (FP)</b>			
H.12	Fixed hydrocarbon gas detection systems on double-hull oil tankers (in co-operation with BLG, as necessary and when requested by FP)	2 sessions	MSC 82/24, paragraph 21.18
<b>SUB-COMMITTEE ON SAFETY OF NAVIGATION (NAV)</b>			
1	Routeing of ships, ship reporting and related matters	Continuous	MSC 72/23, paragraphs 10.69 to 10.71, 20.41 and 20.42; NAV 52/18, section 3
H.14	Amendments to the General Provisions on Ships' Routeing	1 session	MSC 82/24, paragraph 21.34
<b>SUB-COMMITTEE ON SHIP DESIGN AND EQUIPMENT (DE)</b>			
H.1	Amendments to resolution A.744(18)	2007	DE 45/27, paragraphs 7.18 and 7.19; DE 49/20, paragraphs 3.4 to 3.8
H.3	Performance standards for protective coatings	2007	MSC 76/23, paragraphs 20.41.2 and 20.48; DE 49/20, section 6

		<b>Target completion date/number of sessions needed for completion</b>	<b>Reference</b>
<b>SUB-COMMITTEE ON SHIP DESIGN AND EQUIPMENT (DE) (continued)</b>			
H.18	Review of MEPC/Circ.511 and relevant MARPOL Annex I and Annex VI requirements	2009	MEPC 55/23, paragraph 6.16 MEPC 56/23, paragraph 6.43
H.23	Cargo oil tank coating and corrosion protection	2009	MSC 82/24, paragraphs 20 and 21
L.3	Guidelines on equivalent methods to reduce on-board NO <sub>x</sub> emission	2 sessions	MEPC 41/20, paragraph 8.22.1; BLG 10/19, paragraph 12.3; MEPC 55/23, paragraph 19.9
<b>SUB-COMMITTEE ON STANDARDS OF TRAINING AND WATCHKEEPING (STW)</b>			
H.5	Development of training requirements for the control and management of ship's ballast water and sediments	2007	MSC 71/23, paragraph 20.55.3; STW 37/18, section 9

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## ANNEX 26

**ITEMS TO BE INCLUDED IN THE AGENDAS  
FOR MEPC 57, MEPC 58 AND MEPC 59**

No.	Item	MEPC 57 March - April 2008	MEPC 58 October 2008	MEPC 59 July 2009
1	Harmful aquatic organisms in ballast water	RG X	X	X
2	Recycling of ships	WG X	WG X	[WG] X
3	Prevention of air pollution from ships	WG X	WG X	[WG] X
4	Consideration and adoption of amendments to mandatory instruments		[X]	[X]
5	Interpretations and amendments to MARPOL and related instruments	X	X	X
6	Implementation of the OPRC Convention and the OPRC-HNS Protocol and relevant Conference resolutions	X	X	X
7	Identification and protection of Special Areas and PSSAs	X	X	X
8	Inadequacy of reception facilities	X	X	X
9	Reports of sub-committees	X	X	X
10	Work of other bodies	X	X	X
11	Status of Conventions	X	X	X
12	Harmful anti-fouling systems for ships	X	X	X

No.	Item	MEPC 57 March - April 2008	MEPC 58 October 2008	MEPC 59 July 2009
13	Promotion of implementation and enforcement of MARPOL and related instruments	X	X	X
14	Follow-up to UNCED and WSSD	X	[X]	[X]
15	Technical co-operation programme	X	X	X
16	Role of the human element	X	X	[WG] X
17	Formal safety assessment	X	[X]	[X]
18	Work programme of the Committee and subsidiary bodies	X	X	X
19	Application of the Committees' Guidelines	X	[X]	[X]
20	Election of the Chairman and Vice-Chairman		X	X
21	Any other business	X	X	X