

MARITIME SAFETY COMMITTEE
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REPORT OF THE MARITIME SAFETY COMMITTEE ON ITS NINETY-FIFTH SESSION

TABLE OF CONTENTS

Section	Page
1 INTRODUCTION – ADOPTION OF THE AGENDA	4
2 DECISIONS OF OTHER IMO BODIES	5
3 CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS	5
4 MEASURES TO ENHANCE MARITIME SECURITY	27
5 GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS	30
6 PASSENGER SHIP SAFETY	34
7 PERFORMANCE REVIEW AND AUDIT OF LRIT DATA CENTRES	36
8 CARRIAGE OF CARGOES AND CONTAINERS (report of the first session of the Sub-Committee)	38
9 HUMAN ELEMENT, TRAINING AND WATCHKEEPING (report of the second session of the Sub-Committee)	39
10 SHIP DESIGN AND CONSTRUCTION (report of the second session of the Sub-Committee)	44
11 NAVIGATION, COMMUNICATIONS AND SEARCH AND RESCUE (report of the second session of the Sub-Committee)	50
12 SHIP SYSTEMS AND EQUIPMENT (urgent matters emanating from the second session of the Sub-Committee)	53
13 CAPACITY BUILDING FOR THE IMPLEMENTATION OF NEW MEASURES	60
14 FORMAL SAFETY ASSESSMENT, INCLUDING GENERAL CARGO SHIP SAFETY	61

Expression of appreciation

20.2 The Committee expressed sincere thanks and appreciation to Mr. Christian Breinholt (Denmark) and Capt. Abdullah Muhammad Segar (Singapore) for their excellent services to the Committee during the last four years when they served the Committee as its Chairman and Vice-Chairman, respectively.

21 ANY OTHER BUSINESS

Unsafe mixed migration by sea

General

21.1 Having agreed to consider document MSC 95/21/13 (Secretary-General) under agenda item 1, the Committee agreed to hold a special session on unsafe mixed migration by sea to consider the outcome of the inter-agency High-level meeting to address unsafe mixed migration by sea, and other issues surrounding unsafe migration.

21.2 In his opening remarks, the Secretary-General expressed his appreciation to the Committee for its willingness to dedicate a morning session of the Committee to unsafe mixed migration despite having a full agenda. He stated that the current situation was a humanitarian crisis and not sustainable. Therefore, it was imperative for the international community to strengthen its resolve to work together so that a solution could be found as no one entity could deal with this crisis. He emphasized that it would be appropriate for the Organization to deal with unsafe mixed migration matters which fell under its purview.

Video message of the United Nations Secretary-General Ban Ki-moon

21.3 United Nations Secretary-General Ban Ki-moon in his video message, inter alia, thanked Mr. Sekimizu and IMO members for their efforts to address the migration challenge which, this year, had witnessed unprecedented acceleration in the numbers of people forced to flee war, famine, poverty, or human rights abuses in search of a better life. He emphasized that any approach to dealing with the migration challenge must be comprehensive so that it protects human rights, upholds international law and recognizes the benefits of migration, and that it requires all to work together. The full text of the video message is set out in annex 24 and the video itself can be viewed by following the link <http://www.imo.org/MediaCentre/HotTopics/seamigration/Pages/MSC-95-session.aspx>.

Inter-agency High-level meeting to address unsafe mixed migration

21.4 The Committee noted the information provided in documents:

- .1 MSC 95/2/1 and MSC 95/WP.11 (Secretariat) on the outcome of LEG 102 relevant to the outcome of the inter-agency High-level meeting to address unsafe mixed migration; and
- .2 MSC 95/21/4/Rev.1 (Secretariat) on the outcome of the inter-agency meeting to address unsafe mixed migration by sea, which was held at IMO Headquarters on 4 and 5 March 2015 at the initiative of the Secretary General.

21.5 Having considered documents MSC 95/21/10 and Add.1 (Secretariat) on Joint databases IMO/IOM/UNODC on migrant incidents and on suspected smugglers and vessels, the Committee:

- .1 accepted, as work in progress, the amended reporting format set out in the annex to document MSC 95/21/10/Add.1;
- .2 forwarded MSC/Circ.896/Rev.1 and the revised format to FAL Committee for its consideration from that Committee's point of view with a view to adopting a joint MSC/FAL circular by FAL 40 and MSC 96; and
- .3 invited Member Governments to bring the amended reporting format to the attention of all parties concerned, and to provide timely and accurate information on migrant incidents and on suspected smugglers and vessels to the Organization via the facilitation module in GISIS.

New industry guidance on large-scale rescue operations at sea

21.6 Having considered document MSC 95/21/1 (ICS), providing new Industry guidance on large-scale rescue operations at sea to ensure the safety and security of seafarers and rescued persons during such operations that was developed in response to the growing number of merchant ships involved in the rescue of persons, often migrants, in the Mediterranean, the Committee thanked ICS for developing such guidance and encouraged Member Governments and observer organizations to promote its availability as widely as possible.

Open discussion

21.7 The Committee took note of the statements delivered by the representatives of UNODC, UNHCR, IOM and observers from the EC and ICS, as set out in annex 27.

21.8 The delegations of Bangladesh, Côte d'Ivoire, Greece, Indonesia, Italy, Malaysia, Malta, Nigeria, the Philippines, the Republic of Korea, Thailand, Turkey, the United Kingdom, and the United States, and the observer of BIMCO also delivered statements and made comments. In addition, at their request, the statements of delegations of Bangladesh, Greece, Indonesia, Italy, Nigeria, the Philippines, Thailand, Turkey, the United Kingdom and the United States, and the observer from BIMCO are set out in annex 27.

21.9 The delegation of Italy made specific proposals related to the issue of unsafe migration by sea, which included:

- .1 a review of the SAR Convention, including the definition of "distress" and its interpretation;
- .2 development and increase of controls on suspected or substandard ships, which are not engaged in commercial voyages, without any cargo on board, and with no specific destination;
- .3 enhancing port and coastal State monitoring, including monitoring of ships in transit;
- .4 development of information and advice to prospective migrants on dangers of irregular sea routes;
- .5 development of clear policy statements by States on disembarkation of migrants;

- .6 re-energizing the dialogue between States in the Mediterranean and other regions on the prevention of irregular, unsafe journeys by sea and on the treatment of persons rescued at sea, as this was an international issue; and
- .7 development of joint databases on migrant incidents and on suspected smugglers and vessels.

21.10 The delegation of Malta also made a specific proposal for the Committee to revisit the present international legal regime related to maritime search and rescue, mixed migration by sea.

21.11 Following deliberations, the Committee:

- .1 expressed concern at the current, unprecedented wave of unsafe mixed migration by sea in the Mediterranean Sea, in the Bay of Bengal, in the Gulf of Aden and in other parts of the world; and over the high numbers of deaths at sea resulting from the smuggling of migrants in unsafe, grossly overloaded vessels not fit for the carriage of persons;
- .2 condemned the activities of criminals who embark persons on unsafe craft with no regards for the safety of life at sea;
- .3 recalled the provisions under UNCLOS, the SOLAS Convention and the SAR Convention concerning the duty of a master of a ship and the duty to provide assistance to any person in distress at sea, regardless of the nationality or status of such a person;
- .4 recalled also the duties of Parties to coordinate and cooperate to ensure that masters of ships providing assistance by embarking persons in distress at sea are released from their obligations with minimum further deviation from the ships' intended voyage and that rescued persons are delivered to a place of safety as soon as reasonably practicable;
- .5 noted the forecast increase in numbers of mixed migrants taking to sea and the fact that many more lives will be lost unless something is done and that saving lives remains an urgent priority;
- .6 commended the brave and selfless actions of the personnel of the naval, coast guard, merchant and fishing vessel fleets and the owner of pleasure vessels conducting rescue of migrants at sea;
- .7 drew attention to the need for greater efforts to address unsafe migration through more safe and regular migration pathways, addressing the factors that force people to risk their lives in that way, and eliminating the criminal unsafe movement of migrants by sea;
- .8 noted with concern the risks to those involved in rescue operations and the need for port and coastal States to take fully into account the special circumstances on board ships that have been involved in the rescue of large numbers of persons;
- .9 recognized that merchant shipping and maritime rescue services were close to being overwhelmed and that there was a compelling need to find sustainable solutions;

- .10 appreciated the initiatives and efforts of the IMO Secretary-General in dealing with issues surrounding unsafe migration by sea, and requested him to remain engaged with the United Nations and its specialized agencies, and intergovernmental and nongovernmental organizations with a view to finding sustainable solutions to unsafe migration by sea; and
- .11 agreed to place an agenda item on the work programme of the Committee to deal with matters pertaining to "Unsafe mixed migration by sea", and invited the Facilitation Committee and the Legal Committee to do the same.

Consideration of key issues (MSC 95/WP.13)

21.12 Following initial consideration of the issue, the Committee considered document MSC 95/WP.13 (Secretariat), proposing that the Committee should take action on key issues within its competence including search and rescue, operation of merchant ships in view of the recent development of mass rescue of migrants and, in particular, the interpretation of "in distress"; and consider how port State monitoring could be enhanced, including monitoring ships in transit.

21.13 The Committee expressed concern that the proposals did not reflect the decisions of the Committee, in particular, the proposal to consider the interpretation of "in distress" had not been agreed and it had not been made clear how port State control could monitor ships in transit.

21.14 The Committee noted that High Level Action 5.1.2 – "Development and review of safe evacuation, survival, recovery and treatment of people following maritime casualties or in case of distress" and the associated planned output 5.1.2.2 – "Measures to protect the safety of persons rescued at sea" were included in the HLAP and the parent organs for output 5.1.2.2 are MSC and FAL, with NCSR and III as coordinating and associated organs, respectively.

21.15 The Committee also noted that FAL 40 will meet in April 2016 and could consider matters under its agenda item on Measures to protect the safety of persons rescued at sea.

21.16 The Committee noted the intention of ICS to forward the industry-developed guidance on "Large-scale rescue operations at sea: Guidance on ensuring the safety and security of seafarers and rescued persons" to the NCSR Sub-Committee for its consideration. ICS further proposed that the Committee should consider the guidance as a live document to be promulgated and updated by the industry co-sponsors.

21.17 Following further discussion, the Committee:

- .1 agreed to place on the agenda of MSC 96 an item on "Unsafe Mixed Migration by Sea";
- .2 invited Member States to make submissions to MSC 96, further elaborating on the issues and suggestions that they raised during MSC 95;
- .3 placed planned output 5.1.2.2 on the agenda of NCSR 3 from the 2016-2017 biennium agenda; and
- .4 forwarded the *Guidance on ensuring the safety and security of seafarers and rescued persons* to the NCSR Sub-Committee for consideration and instructed NCSR 3 to report back to MSC 96.