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Agenda item 3(b)

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STRATEGY, PLANNING AND REFORM

(b) Reform

Access to information

Submitted by Australia

SUMMARY

Executive summary: This document recommends a number of options to increase access to IMO discussions and decisions to improve public confidence in and awareness of the Organization's work

Strategic direction, if applicable: 1, 6 and 7

Output: 7.8 and 7.9

Action to be taken: Paragraph 26

Related documents: C 120/4/3, C 120/4/5; resolutions A.1111(30) and A.909(22)

1 Openness and transparency should be core priorities for IMO. As the global regulator of international shipping, the policies and standards developed by the Organization affect a broad range of stakeholders beyond the maritime industry. Open and transparent decision-making will give these stakeholders confidence in and awareness of the Organization's work. It will also ensure that the policies and standards adopted achieve the outcomes of the Strategic Plan including strategic direction 1 (improve implementation), strategic direction 6 (ensure regulatory effectiveness) and strategic direction 7 (ensure organizational effectiveness).

2 Australia has identified a number of options to increase public access to discussions and decisions. These include: providing access to documents prior to consideration at meetings; providing public access to timely (or preferably live) video streaming of plenary meetings of the Council and the committees; reform of the media guidelines to allow more comprehensive reporting of IMO issues; publication of reports of the Council and the Assembly meeting outcomes; and providing free electronic copies of consolidated versions of key IMO instruments and administrative documentation.

Access to IMO meeting documents

3 Australia thanks the Secretariat for document C 120/4/3 which clarifies the current policies of the Organization regarding access to information. This document also made a number of recommendations to increase public access to documents which were adopted by the Council. We welcome in particular the decisions to release selected Secretariat documents as well as documents which sponsors elect to publish prior to meetings. The proposals in this document are intended to make openness and transparency central to the way IMO operates and that the default status for IMO documents is that they are to be made available to the public.

4 Public access to IMO documents has been a subject of substantial debate since at least the 100th session of the Council in 2008 with a number of Member States consistently calling for greater transparency and openness. Australia considers that it is timely to revisit the matter in more detail with a view to achieving a firmer outcome.

5 The ninety-eighth session of the Council decided that IMODOCS should be expanded to facilitate public access to selected IMO documents. In document C 100/4(a)/1 the Secretariat sought to clarify how this decision could be implemented and how access to documents should be controlled. This proposal was developed in consultation with a small sub-group from the Secretariat's Knowledge Management Steering Group which concluded that "...given the Organization's aims and objectives...all meeting documents should be available to the public, unless there was a sound reason for them not to be".

6 The Group decided that access to meeting documents should be determined by whether the Rules of Procedure provide that the meeting is held in "public" or "private". The document recommended that public access should not be provided to Council documents, working papers or summary records (as Council meetings are held in "private"), or to any meeting documents before the meeting is held.

7 A number of Member States questioned why meeting documents would not be made available to the public before each meeting, and identified a number of advantages to releasing meeting documents in advance. These advantages included to: stimulate informed debate; gain broader support for the Organization's work; provide the public with insight into the issues that had affected the debate; enhance transparency; and improve decision-making. This issue was not resolved and the Council requested the Secretariat to provide further analysis of the implications of making meeting documents publically available prior to the relevant meeting for consideration at the following session (C 100/D page 6).

8 The Secretariat submitted document C 101/4/1 to the 101st session of the Council restating the existing policy. Member States again emphasized the advantages of transparency, although some concerns were raised about the ability of the server to handle an increased number of documents being downloaded. The Council endorsed the proposals in the annex to document C 101/4/1 "as a point of departure" (see C 101/SR.2 and C 101/D). The Council requested the Secretariat undertake an assessment of the extent of public demand for access to documents (considering possible limitations on internet access) and to make further proposals for consideration at the 104th session of the Council.

9 The Secretariat submitted document C 104/4/1, which noted that "most United Nations agencies provide universal access to their documentation" and also noted that at that time the Secretariat provided access to approximately four documents per week via the Public Information Service and Maritime Knowledge Centre. The document made no further proposals to increase public access to information.

10 The current policy on access to information appears to have been endorsed by previous sessions of the Council primarily as an interim step in an ongoing process to increase public access to documents once the appropriate IT infrastructure was installed.

11 Australia believes that it is timely to revise the document access policy so that all meeting documents will be released to the public prior to the relevant meeting, consistent with the majority of United Nations agencies. This would ensure that broad consultations can be undertaken before technical and policy decisions are finalized at IMO and would help ensure that policies and standards adopted at IMO are fit for purpose and can be efficiently implemented by Member States.

12 Many Member States have policy or legal frameworks that require domestic consultations to take place to inform their positions on proposed changes, policies and standards to be considered at IMO. The Secretariat is aware of this issue and has noted that "in the case of some Member States, domestic law or policy requires that meeting information be made available to the public prior to a meeting's commencement, in conflict with the IMO policy" (C 120/4/3). The current IMO policy should not be maintained while it conflicts with Member States' domestic requirements and presents a clear impediment to developing sound policy and regulation at IMO.

Publicity of Council meetings and access to governance documents

13 The Council is the executive organ of IMO and considers a range of governance issues as well as setting the strategic direction of the Organization. Increasing public access to Council meetings and governance documents will help the public to understand the role, functions and structure of IMO and increase public confidence in the Organization's governance arrangements.

14 The Rules of Procedure of the Council provide that the Council may decide to hold meetings in public or private, but that meetings shall be held in private unless a decision is made to hold them in public. The Rules of Procedure of IMO committees are expressed in similar terms. The United Nations Security Council appears to have more open and transparent procedures than the Council. Rule 48 of the Provisional Rules of Procedure of the United Nations Security Council provides that "Unless it decides otherwise, the Security Council shall meet in public." The United Nations Security Council also publishes an official (verbatim) record of each public meeting.

15 Australia proposes that the Council and the committees should decide that plenary meetings will be held "in public", which means that documents and meeting audio files would be made available to the public online, reflecting Member States' commitment to increase transparency at IMO. There would still be the option to discuss any sensitive issues as part of a closed working group or to close portions of plenary if needed, with public access provided only to the final decision and reasoning, consistent with the approach taken by UNSC.

16 Australia also proposes meeting audio files should be made available for all plenary meetings, consistent with the recent Council decision on access to Assembly audio files.

17 Live streaming of plenary meetings should be made available for all IMO meetings. This would assist Member States and NGOs in consultative status that do not have resources to send a large delegation to each meeting to gain a better understanding of the discussions and decisions which took place. For other registered users it would provide an opportunity to understand how meetings are conducted and how decisions are reached. Australia notes that meetings are currently live streamed within IMO and that it may be possible to use existing infrastructure for this purpose.

18 Australia recommends publishing core documents relating to the IMO's governance and administration, including the financial regulations, funding formula and sources of funding. This will increase accountability and transparency and encourage greater public confidence in the operation and governance of the Organization.

Reporting on IMO meetings

19 Australia recommends a review of the current terms and conditions of accredited media access to IMO. Currently journalists are restricted from reporting discussions during plenary or directly quoting delegates without their express permission.

20 Additionally, media requests to film during committee or subsidiary bodies must be supported by a national delegation or organization in consultative status. Since these applications are also assessed by the Secretariat and approved by the relevant meeting, this additional step is unnecessary.

21 In Australia's view the current terms and conditions place needless limitations on press reporting and limit public understanding of the discussions and decisions taken at IMO. Delegates represent their national governments and statements made during plenary are statements of confirmed government policy and should therefore be able to be quoted without permission.

Production of reports from the Council and the Assembly

22 The Council and the Assembly ceased producing summary reports in 2011 as a cost-saving measure. This has decreased accessibility to discussions and decisions for both Member States and the public. Member States and the Secretariat frequently refer to previous Council decisions and discussions and so it is vitally important that delegations are able to access verbatim records to assess whether the previous reasoning has both been correctly interpreted and should continue to apply.

Publication of IMO instruments

23 Australia recommends that electronic copies of reports and publications (including conventions, codes and guidelines) should be provided to the public free of charge. Currently most IMO conventions and standards are available online from a range of sources. However, there is no guarantee that these versions are accurate and up to date.

24 Article 102 of the Charter of the United Nations provides that every treaty and every international agreement entered into by a Member of the United Nations must be registered and published. Multilateral treaties published by the United Nations online are generally published in full.

25 Ensuring that current consolidated versions of IMO instruments are readily accessible to the public online may increase compliance by the maritime industry and raise the public profile of and support for IMO's work. Australia does not suggest that hard copy publications or other value-added features be provided free of charge and so this initiative should have limited effect on the sale of hard copy publications or the ability of IMO to potentially market more sophisticated products in the future.

Action requested of the Council

26 Australia invites the Council to provide increased public access to documents, discussions and decisions by deciding that:

- .1 acknowledging openness and transparency are core priorities for IMO, access to documents and information needs to be included alongside the highest priorities in the budget;
- .2 meeting documents should be released to the public prior to the relevant meeting, consistent with the approach taken by the majority of other United Nations agencies;
- .3 the Council and the committees should hold plenary meetings in public, reflecting Member States' commitment to increase transparency at IMO;
- .4 meeting audio files for all plenary meetings should be made available to the public;
- .5 live streaming of plenary meetings for the Council, the committees and sub-committees should be made available to Member States, organizations in consultative status and registered users;
- .6 core documents relating to IMO's governance and administration, including the financial regulations, funding formula and sources of funding, should be published on the public website;
- .7 the terms and conditions for media access to meetings should be reviewed, with a view to increasing media access and the ability to accurately report discussions held in plenary meetings;
- .8 summary records of the Council and the Assembly should be produced and published; and
- .9 consolidated electronic versions of reports and publications (including conventions, codes and guidelines) should be provided free of charge to the public.
