

AC16R

International Mobile Satellite Organization
ADVISORY COMMITTEE
Sixteenth Session
20 – 21 September 2006

IMSO/AC/16/Report
Origin: Chairman of
Advisory Committee
Date: 21 August 2006

**REPORT OF THE SIXTEENTH MEETING OF THE
ADVISORY COMMITTEE**

20 – 21 September 2006

**SIXTEENTH SESSION
OF THE IMSO ADVISORY COMMITTEE**

TABLE OF CONTENTS

	<u>Page</u>
Opening of the Meeting	1
1. Approval of Agenda	1
2. Outcome of the Fifteenth Session of the Advisory Committee	1
3. Draft Reference Public Services Agreement (PSA)	1
3.1 Assignment Clause	2
3.2 IMO Evaluation and Approval: Alternative Text	2
4. Long Range Identification and Tracking of Ships (LRIT): Staff, Administrative and Budgetary Implications of Extending the Organization's Mandate	4
5. Any Other Business	5
5.1 Next Session of the Advisory Committee	5
6. Approval of Report	5

LIST OF ANNEXES

ANNEX I	Agenda for the Sixteenth Session of the Advisory Committee
ANNEX II	List of Participants
ANNEX III	Terms of Reference for the Advisory Committee

REPORT OF THE SIXTEENTH SESSION OF THE ADVISORY COMMITTEE

OPENING OF THE MEETING

The Advisory Committee met at IMSO Headquarters on 20 and 21 September 2006. Representatives of Japan and the Russian Federation and of the Observer from Portugal attended via conference call.

Colombia mentioned that before its representative came to the meeting, the functions of the Advisory Committee were analysed in light of the new status of its representative who is also a candidate for the post of IMSO Director. The conclusion was that there was no impediment for its representative to attend this meeting.

1 APPROVAL OF AGENDA

The Committee approved the Agenda. The Agenda, List of Participants and Terms of Reference are attached at Annexes I to III, respectively, to this Report.

2 OUTCOME OF THE FIFTEENTH SESSION OF THE ADVISORY COMMITTEE

The Committee noted the report of its Fifteenth Session, which was held on 26 and 27 June 2006. The report was sent to all IMSO Member States on 18 August 2006.

3 DRAFT REFERENCE PUBLIC SERVICES AGREEMENT (PSA)

The Committee agreed that Inmarsat could attend the meeting for discussions on the draft Reference Public Services Agreement, as observer, and to contribute to the discussions. The Inmarsat Company Secretary therefore joined the meeting for this agenda item.

3.1 **Assignment Clause**

3.1.1 The Committee noted that, since the fifteenth session, the Director had negotiated the Assignment clause with Inmarsat and agreed the revised text given in document AC/16/3 with the Company. The Committee noted that this text had not been co-ordinated with any potential GMDSS satellite service providers, although the United States informed the Committee that they had made an effort to co-ordinate the issue internally with some US-based companies. In this regard the Committee noted that it had been invited only to review and comment on the revised text but not to approve it.

3.1.2 With regard to the proposed revised text, the Committee also noted that the word "endeavour" (used in draft paragraph 11.4 of the revised text) has no precise legal meaning and its use in this context places an obligation on a company signing the PSA to seek assurances from the banks or lending institutions but does not establish any consequent obligation on the part of those banks or lending institutions to respond positively.

3.1.3 The observer from Inmarsat informed the Committee that the Company was ready to sign the present draft reference PSA (which was agreed at the Thirteenth Session of the Committee, and which the Committee recommended be approved by the Assembly (paragraph 4.15 and Annex VII to AC/13/Report and document ASSEMBLY/18/5/ADD/2 refer) if it included the text of the Assignment clause that had been agreed and presented in document AC/16/3. Inmarsat informed the Committee that it was also ready to sign the alternative draft Reference PSA as presented in AC/16/3.1, subject to whatever decision may be taken by IMO in this regard.

3.1.4 The delegation of Colombia reiterated the point it raised at the Fifteenth Session that before a new PSA is signed by Inmarsat, some outstanding issues should be clarified between IMSO and Inmarsat (paragraph 3.3.2 of AC/15 Report refers).

3.2 **Draft Reference Public Services Agreement**

3.2.1 The Committee recalled that, at its Fifteenth Session, it had requested the Director to distribute the IMO legal advice on evaluation and recognition to the members of the Committee when it was received. IMO document MSC 82/8/2, including the advice of the IMO Legal Division on this

subject, was accordingly distributed to all members of the Committee on 27 July 2006. The Committee also noted that *“if the IMO legal advice is that IMO may decide to evaluate and approve new providers itself, the Director will prepare an alternative version of the draft Reference PSA, for consideration by the Assembly, to take account of that eventuality.”* The Committee therefore reviewed and commented on the text of an alternative draft Reference PSA which had been prepared by the Director (AC/16/3.1).

3.2.2 The Committee discussed the possible procedures for evaluation and recognition of possible new satellite service providers for the GMDSS, and noted the opinion of the Director that these processes will be institutionalised by IMO, probably by incorporation into the revision of IMO Assembly resolution A.888(21), which is expected to happen at the eighty second session of the Maritime Safety Committee in November 2006. There was general agreement that the Committee will need to review and revise the draft Reference PSA in the light of any decisions taken by IMO, and that the Committee should seek a mandate from the Assembly to do this.

3.2.3 In this regard, the Committee agreed that the alternative draft reference PSA presented in the document reflects a clear distinction between the evaluation and recognition functions, which may be carried out by or on behalf of IMO, and the oversight functions, which are the present responsibility of IMSO in relation to Inmarsat, and may be extended to other providers of mobile satellite services for the GMDSS through the amendments to the IMSO Convention to be considered by the Assembly at its Eighteenth Session.

3.2.4 The Committee noted that, in the event of an extension of oversight by IMSO to other satellite operators, the apportionment of costs remained an issue for further discussion. The Committee also noted the intention of the Director to submit this text to the Eighteenth Session of the Assembly, with a recommendation that the Assembly decides to delegate final agreement of the text of the PSA to the Advisory Committee to take account of final decisions by IMO. The Committee noted that other options may also be available to the Assembly for the purpose of final agreement of the text of the PSA, for example, an expanded or open ended membership of the Advisory Committee or an Extraordinary Session of the Assembly.

3.2.5 The Committee noted, that at its Seventeenth Session, the Assembly had *“requested the Advisory Committee to work with the Director in developing a draft Reference Public Services Agreement and to assist the Director with any matters pertaining to the introduction of new Providers”* (Assembly/17/Report, paragraph 6.2.21 refers).

3.2.6 The USA noted its long standing concern that neither draft Public Services Agreement will attract new GMDSS providers.

4 **LONG RANGE IDENTIFICATION AND TRACKING OF SHIPS (LRIT)**

4.1 At its Fifteenth Session, during its discussions relating to Long Range Identification and Tracking of Ships (LRIT), the Committee “noted that the Director intended to provide further details of personnel aspects, including comparison with the UN system, job description, organization diagram, and procedures for the selection of personnel, taking into account comments made, and submit it to the next session of the Advisory Committee and the Assembly” (AC/15/Report, paragraph 3.2.13) refers.

4.2 The Committee reviewed the Director’s preliminary proposals for expanding the staff of the Secretariat in the event that the Assembly decides to broaden the mandate of the Organization (AC/16/4). The preliminary proposals included details of a proposed illustrative new staff structure, contract and pay issues and funding implications, with supporting information.

4.3 In considering the Director's proposals in this respect, the Committee was informed of various options for funding the start-up of the possible new LRIT business stream but did not reach any firm conclusion on the issue. In addition, several members recalled the previous agreement of the Committee that:

- "(c) *the budgets for GMDSS and LRIT should be kept separate, recognizing that there would be some common costs to be shared between the two systems;*
- (d) *funding should be based on commercial practice and a system of payments in advance; there was a need to explore how to fund initial*

start up costs, recognizing that funding will come from commercial providers of the service; and

- (e) *some delegations were concerned to ensure that the Organization will be able to recover all its costs, and that no financial burden will fall on Governments in the event that a commercial provider fails or defaults on a payment. The Director indicated his intention to limit this risk through the use of modern commercial business practices."* (AC/15 Report, paragraph 3.2.10).

4.4 The Committee agreed that it was not yet ready to endorse the Director's specific proposals at this time, because it did not have sufficient information to decide whether the Director's proposals were the only correct solution or not. The Committee considered that the Assembly may have to decide whether the Organization should undertake the performance review and audit of certain aspects of the LRIT system, as LRIT Coordinator, as it had been invited to do by IMO. Only then would the Committee be in a position to advise the Director on relevant staffing, administrative and budgetary issues. In the meantime, the Committee noted that the Director already has sufficient authority from the Assembly to proceed on these matters, in consultation with the Advisory Committee where appropriate.

4.5 The Committee noted that Colombia did not share, in principle, the recommendation made by the Advisory Committee in its Fourteenth Session (AC/14 Report, paragraph 3.8.2) to apply to the staff of the Secretariat the ICSC UN Common System. It is the Colombian opinion that the proposal needs more careful consideration in the Advisory Committee because the system is not flexible and, especially taking into account the consequences of entering into this system, which are mentioned in paragraphs 17 to 20 of the document Assembly/18/11.1.

4.6 In considering the possible size of the overall budget for LRIT for IMSO, the Director informed the Committee of his informal consultations with industry and other interested parties concerning the proposed level of costs, and the generally favourable response he had received.

4.7 The Committee noted that the Director had submitted his proposals to the Assembly as document Assembly/18/11.1.

5 ANY OTHER BUSINESS

5.1 Next Session of the Advisory Committee

The Committee noted that the new Committee would be appointed at the Eighteenth Session of the Assembly.

The Director expressed his wholehearted thanks to the Chairman for his dedicated work with the Secretariat during two years of sometimes difficult negotiations regarding the draft Reference Public Services Agreement and other issues relating to the future of the Organization in general. The Director was grateful to the Chairman for comments made and for the guidance he had given to the Director.

On behalf of the Committee, the representative of South Africa expressed appreciation to the Chairman for the objective manner in which he had conducted the business of the Committee. The Chairman had run the meeting in a manner which had encouraged debate and discussion, and thanked him in particular for the successful conclusion of this meeting. In recognition that the end of term of the current Committee was approaching, he wished the Chairman all the best for his future.

The Chairman thanked Committee for its advice and hard work, and stated that it had been a privilege and an honour for himself personally and for the Government of Spain to participate in the deliberations of the Committee.

6 APPROVAL OF THE REPORT

The Meeting approved the Report of its Sixteenth Session.

**AGENDA FOR THE SIXTEENTH SESSION
OF THE IMSO ADVISORY COMMITTEE**

Opening of the Meeting

1. Approval of Agenda
 2. Outcome of the Fifteenth Session of the Advisory Committee
 3. Draft Reference Public Services Agreement (PSA)
 - 3.1 Assignment Clause
 - 3.2 IMO Evaluation and Approval: Alternative Text
 4. Long Range Identification and Tracking of Ships (LRIT):
Staff, Administrative and Budgetary Implications of
Extending the Organization's Mandate
 5. Any Other Business
 6. Approval of Report
-

LIST OF PARTICIPANTS

BRAZIL

Mr Jose Bartos Mollica
Agencia Nacional de Telecomunicacoes
ANATEL

Mr David Silveira da Mota Neto
Alternate Permanent Representative of
Brazil to IMO
Brazilian Embassy, London

COLOMBIA

Ms Martha Ines Ortegon
Second Secretary
Embassy of Colombia, London

ITALY

Rear Admiral Giancarlo Olimbo
Maritime Attaché
Italian Embassy, London

JAPAN

Mr Shuji Yamaguchi
First Secretary
Embassy of Japan, London

Mr Toru Nakaya (via Conference Call)
Director, International Organizations Office
International Affairs Department
Telecommunications Bureau
Ministry of Internal Affairs and Communications

Mr Yasuhiro Otsuka (via Conference Call)
Deputy Director
International Organizations Office
International Affairs Department
Telecommunications Bureau
Ministry of Internal Affairs and Communications

Ms Kazuko Maruyama (via Conference Call)
Assistant Director
International Organizations Office
International Affairs Department
Telecommunications Bureau
Ministry of Internal Affairs and Communications

LIBERIA	Mrs Armena Richards Researcher/Analyst Liberian Permanent Mission to the IMO, London
MALTA	Ms A.M. Sciberras Counsellor, Maritime Affairs Merchant Shipping Directorate Malta High Commission, London
MARSHALL ISLANDS	Mr David J. F. Bruce Permanent Maritime Representative of the Republic of the Marshall Islands to IMO.
MEXICO	Mr Héctor M. Rodríguez Arellano Alternate Permanent Representative of Mexico to IMO Embassy of Mexico, London Mr Luis Muriel del Castillo Counsellor for Communications and Transport Embassy of Mexico, London
POLAND	Mr Andrzej Kossowski Counsellor - Permanent Representative of the Republic of Poland to the IMO Embassy of Poland, London
RUSSIAN FEDERATION	Mrs Nadya Nesterenko Morsviazputnik (via conference call)
SOUTH AFRICA	Mr Dumisani Ntuli Alternative Permanent Representative of South Africa to IMO South Africa High Commission, London
SPAIN	Capt. Esteban Pacha Vicente (Chairman) Counsellor for Transport & Representative of Spain to IMO Embassy of Spain, London

Mr Antonio J. Castro Tendero

Mr Alvaro Herrero Porteros
Consejero Técnico
Secretaría de Estado de Telecomunicaciones y
para la Sociedad de la Información

Ms Andrea Garcia
Embassy of Spain, London

UNITED KINGDOM

Mr Gary R. Hunt
International Communications
Department of Trade and Industry

**UNITED STATES
OF AMERICA**

Mr Douglas May
Director for Technology Policy
International Communications and
Information Policy

Ms Diane Steinour
Office of International Affairs
National Telecommunications and Information
Administration
Department of Commerce

OBSERVERS

FRANCE

Mr Michel Babkine
Organisme d'étude et de coordination pour la
recherche et le sauvetage en mer (SECMER)

PANAMA

Mr Arsenio Dominguez
Technical Adviser
Embassy of Panama, London

PORTUGAL

Ms Cristina Lourenço (via conference call)
External Affairs Department
ANACOM

**Inmarsat Group
Holdings Ltd**

Ms Alison Horrocks
Company Secretary

AC16R

AC/16/Report
ANNEX II
Page 4 of 4

IMSO

Mr Jerzy W. Vonau
Director

Mr Andy Fuller
Head of Technical Services

Ms Jenny Ray
Head of Administrative Services

TERMS OF REFERENCE FOR THE ADVISORY COMMITTEE

1 ADVISORY COMMITTEE

1.1 The Advisory Committee is established by the Assembly on a permanent basis, to carry out, on behalf of and under delegation from the Assembly, the tasks set forth in these Terms of Reference.

1.2 The Advisory Committee shall consist of representatives from the fifteen Parties, elected by each Session of the Assembly, taking into account the need for full geographical representation, and for continuity of membership.

1.3 The Committee shall appoint its own Chairman.

2 TASKS

2.1 The Committee shall consult with the Director and give its guidance and advice to the Director on the following matters:

- (a) preparation by the Director of the annual budget of the Secretariat, and accounting and auditing procedures;
- (b) any proposed action by the Director to convene an extraordinary general meeting of the Holdings Company or initiate arbitration or judicial proceedings in the event of any alleged breach by the Companies of their obligations under the PSA, provided that if the Committee so requests, or the Director so decides, the Director shall convene an extraordinary session of the Assembly to authorize appropriate enforcement action;
- (c) determination by the Director of the staffing structure of the Secretariat, and standard terms of employment of Secretariat staff, and the Staff Rules;
- (d) any other matters delegated by the Assembly; and
- (e) any other matters on which the Director identifies a need to consult the Advisory Committee on a case-by-case basis.

2.2 The Committee shall approve the regular report of IMSO to the IMO envisaged in Article 4.3 of the Public Service Agreement (PSA), prepared and submitted by the IMSO Director.

2.3 The Committee shall agree the annual budget and resolve any issues regarding the annual budget which may be submitted by the Company.

2.4 The Committee shall review the Audited Annual Financial Statements of the Organization, and submit a report thereon to the Assembly.

3 **WORKING METHODS**

3.1 The Rules of Procedure for the Assembly shall *mutatis mutandi* apply to the Advisory Committee.

3.2 The Committee shall determine its own working procedures, including the frequency and location of its meetings.

3.3 The Director is requested to provide such practical assistance to the Committee as may be necessary. In arranging its work and holding meetings, the Committee shall endeavour to minimise costs to the extent possible.

4 **COSTS**

Costs associated with all travel, accommodation and subsistence of the members of the Committee at their meetings shall be borne by their respective Parties.

5 **REPORTING TO PARTIES AND TO THE ASSEMBLY**

On behalf of the Committee, the Chairman shall, through the Director, send regular reports to Parties on the results of its work, and shall also submit a report thereon to the Assembly.
