

AC11R

**International Mobile Satellite Organization**  
**ADVISORY COMMITTEE**  
Eleventh Session  
24 – 25 May 2005

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Advisory Committee  
Date: 24 June 2005

**REPORT OF THE ELEVENTH MEETING OF THE  
ADVISORY COMMITTEE**

24 – 25 MAY 2005

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## **REPORT OF THE ELEVENTH MEETING OF THE ADVISORY COMMITTEE**

### **1 OPENING OF THE MEETING**

The Advisory Committee met at IMSO Headquarters on 24 and 25 May 2005 under the chairmanship of Mr Mohammed Dukuly of Liberia. The Agenda, List of Participants and Terms of Reference are attached at Annexes I to III, respectively, to this Report. The representatives of Portugal and the United States of America attended via conference call.

### **2 APPROVAL OF AGENDA**

The Committee approved the Agenda, which is attached at Annex I.

### **3 OUTCOME OF THE TENTH SESSION OF THE ADVISORY COMMITTEE**

The Committee noted the report of its Tenth Session, which was held on 28 February and 1 March 2005. The report was sent to all Parties on 18 March 2005.

### **4 DRAFT REFERENCE PUBLIC SERVICES AGREEMENT**

4.1 The Committee noted that, at its Seventeenth Session, the IMSO Assembly (paragraphs 6.2.17 and 6.2.21 of Assembly/17/Report refer) 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 of mobile satellite services for the GMDSS*”.

4.2 The Committee recalled that Inmarsat Ltd had offered to assist in developing a draft Reference Public Services Agreement, and that it may eventually be necessary to revise the existing Public Services Agreement between Inmarsat Ltd and the Organization to bring it into line with any new Reference Public Services Agreement that may be adopted in the future.

4.3 The Committee agreed that representatives of Inmarsat, Iridium and Mobile Satellite Ventures could attend the meeting for discussions on the Draft Reference Public Services Agreement, as observers, and as necessary they were encouraged to contribute to the discussions on the draft Reference Public Services Agreement.

4.4 The Committee also recalled that, at its Tenth Session (AC/10/Report, Section 4 refers), it had reviewed the draft Reference Public Services Agreement and had:

- “(a) noted that there appeared to be agreement on some of the issues raised by Inmarsat and potential GMDSS providers. However, there were a number of issues still to be resolved, in particular the budgetary apportionment and compliance mechanisms. The Committee particularly invited the Director to work with IMO and the Group to see if the issue of five years’ notice could be resolved;*
- (b) agreed that the cooperation of potential providers was important and their concerns should be taken into account, as far as possible without compromising the oversight principles which must always reflect the essential public interest in the provision of GMDSS services;*
- (c) requested the Director to continue to work with Inmarsat and potential GMDSS providers to prepare, on the basis of the draft prepared by the Director, a further consolidated text of a draft Reference Public Services Agreement, taking into account discussions at this meeting, to be presented to members of the Committee for discussion at its next meeting. The Committee noted that the Director will keep members of the Committee fully informed of progress on the text of the draft Reference Public Services Agreement.”*

4.5 The Committee noted document AC/11/2 and its Addendum “Draft Reference Public Services Agreement”; in particular that:

- “(a) on 8 April 2005, the Director sent to all members of the Advisory Committee a draft of the Reference Public Services Agreement which incorporated the discussions held during the Tenth Session of*

*the Committee into a new text. This text was also provided to Inmarsat and potential service providers for comment;*

- (b) discussions of the text continued with Inmarsat and potential service providers, and a further version was provided to all members of the Committee on 3 May 2005; and*
- (c) a meeting was then held on 9 May 2005 with representatives of Inmarsat and potential service providers, where some minor changes were agreed, as indicated in the Annex to document AC/11/2.”*

4.6 The Committee also noted information provided by Inmarsat that, although the operators acknowledge that it is the Assembly that will determine the method of apportioning costs and ultimately setting budgets, following appropriate consultation between IMSO and potential new providers of mobile satellite services for the GMDSS, there also needs to be sufficient certainty to allow operators (and particularly new operators) to plan for expenditure on a medium term basis and to be assured that the budget will be controlled. Inmarsat noted that rolling or longer term budgets and other methods to achieve the twin goals of a strong independent regulator and a fair and transparent method of setting and apportioning budgets could be considered.

4.7 The Committee considered the draft Reference Public Services Agreement, taking into account developments at IMO on revisions to Resolution A.888 and noted that the following items needed further consideration:

- (a) the methodology by which potential new providers of mobile satellite services for the GMDSS would be evaluated;
- (b) the need to ensure that the amended Convention and/or Resolution A.888 provide for the evaluation and assessment to be carried out by IMSO;
- (c) the procedure to be followed in the event that a potential service provider were not accepted, including any appeal mechanism, is a matter for IMO to address;

- (d) the methodology for budget approval and apportionment;
- (e) the granting of observer status to providers of mobile satellite services for the GMDSS at meetings of the Assembly and its subsidiary bodies (Clause 6 of the draft Reference PSA);
- (f) the appropriate periods of notice in Clause 12 of the draft Reference PSA “Winding Up” and Clause 19 “Termination”; IMO has in the past requested a minimum of five years notice for such events; at the request of the potential providers, the draft Reference PSA proposes three years; both periods therefore appear in square brackets in the draft Reference PSA for future resolution;
- (g) termination of the current Public Services Agreement with Inmarsat; and
- (h) the contingency fund and how this fund would be replenished.

4.8 In relation to paragraph 4.7 above, the following comments were made:

- (a) further consideration should be given to whether the Reference Public Service Agreement, amended IMSO Convention, and/or IMO Resolution A.888 should assume that the evaluation and assessment of new providers of mobile satellite services for the GMDSS would be carried out solely by IMSO or by IMO or National governments;
- (b) IMSO rather than IMO should effectively decide which providers should be authorised to provide GMDSS; this needs to be adequately covered either in the amended Convention or by means of another instrument; and
- (c) how litigation would be handled, in the event that an IMSO decision were challenged on the grounds that, for example, IMSO was purportedly protecting Inmarsat's monopoly position; the mechanism in the draft PSA would not be relevant because the undertaking in question in this case would not be a contracting party in the PSA.

4.9 In view of the comments expressed in paragraph 4.8, the Director explained that it was clear that the request of the IMO MSC means that IMSO is being asked to undertake the oversight of future providers of mobile satellite services for the GMDSS as the sole body to oversee such providers on behalf of IMO. This position is reflected in the new draft of IMO Assembly Resolution A.888 being developed by IMO<sup>1 2 3</sup>

4.10 In this regard, the Committee noted the Director's statement that the amendments to the IMSO Convention should be approved before the adoption by IMO of the revised Resolution A.888. Some delegations questioned this sequence.

4.11 The Committee also noted that the timetable of meetings in IMSO was expected to be as follows:

- Twelfth Session of the Advisory Committee: 3 to 4 October 2005
- Eighteenth (Extraordinary) Session of the Assembly: 14 to 16 December 2005, preceded by a one day meeting of the Advisory Committee on 13 December.

4.12 The Committee noted the current draft of revised IMO Assembly Resolution A.888, that the Correspondence Group appointed by IMO is expected to produce a further draft by the end of July 2005, and that a formal submission would then be made to COMSAR 10 (to be held in the first quarter of 2006).

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<sup>1</sup> At its Seventy-Seventh Session, the IMO Maritime Safety Committee (MSC) had "*agreed that an intergovernmental oversight, similar to the oversight presently carried out by IMSO in respect of Inmarsat Ltd., would be needed when other providers of GMDSS satellite services would, in future, be accepted and recognized by the Organization. It, therefore, instructed the Secretariat to communicate with IMSO enquiring if that organization could carry out the oversight of future providers of satellite services for the GMDSS and advise MSC 78 accordingly.*"

<sup>2</sup> At its Seventeenth Session, the IMSO Assembly "agreed by an overwhelming majority that IMSO is willing to carry out the oversight of future providers of mobile satellite communications services for the GMDSS" (paragraph 6.2.17 of Assembly/17/Report refers).

<sup>3</sup> At its Seventy-Ninth Session, the IMO MSC "*confirmed and reiterated its decision at MSC 78, that IMSO was the appropriate organization to carry out the required oversight and it, therefore, instructed the Secretariat to communicate with IMSO formally inviting that organization to carry out such oversight.*"

4.13 The Committee noted that the Russian Federation reserves its position on some clauses in the draft PSA. A statement by the Russian Federation is attached at Annex IV to this Report. Subsequent to the meeting, the United States associated itself with the statement by the Russian Federation.

4.14 The Committee noted a presentation by the IMSO Head of Technical Services on a potential budget apportionment arrangement. The Committee also noted that the Director will develop principles for budget structure and apportionment in consultation with Inmarsat and potential new providers of mobile satellite services for the GMDSS, and will circulate them to the Committee for comments, and approval by the Assembly.

4.15 The Committee noted the suggestion that there could be alternative mechanisms for establishing the Budget, including charging fixed fees to the providers according to criteria to be defined. This could have the advantage that the budget would be approved by the Assembly without any intervention by the providers and the Director would assume the responsibility of preparing a detailed annual or biannual budget to be covered by those fees following the principle that the Member States do not have to pay any contribution, as is the current situation.

4.16 The Committee reviewed the draft Reference Public Services Agreement on a clause by clause basis.

4.17 The Committee agreed most of the Clauses of the draft Reference PSA, but noted that a few items remained in square brackets, as indicated in Annex V to this Report.

4.18 The Committee noted that the Director will continue to work with IMO and to consult with Inmarsat and potential new providers of mobile satellite services for the GMDSS to resolve outstanding issues in relation to the draft Reference Public Services Agreement, and will report to the next Session of the Committee.

4.19 The Committee noted that it would finalize its consideration of the text of the Reference Public Services Agreement at its next meeting, inviting the Director to submit the document to the Assembly for adoption.

4.20 The Committee expressed its appreciation to Inmarsat and the potential new providers of mobile satellite services for the GMDSS for their valuable contributions in progressing the development of the Reference Public Services Agreement.

## 5 LONG RANGE IDENTIFICATION AND TRACKING OF SHIPS (LRIT)

5.1 The Committee noted that, at its Seventeenth Session, the Assembly “noted a statement by the Director that IMO is currently discussing the issue of Long Range Identification and Tracking of Ships (LRIT), and has charged the IMO Sub-Committee on Search and Rescue (COMSAR) with making recommendations. One possibility at that time was that IMO would decide to ask IMSO whether it would be willing in future to carry out oversight and some other roles in relation to LRIT. The Assembly endorsed the Director’s intention to keep in close touch with developments in this area and inform the Assembly accordingly” (ASSEMBLY/17/Report, paragraph 10.3.9 refers).

5.2 The Committee noted, as had been discussed at its previous meeting, that the Director had submitted a document to the Eightieth Session of the IMO Maritime Safety Committee (MSC) entitled “Measures to Enhance Maritime Security: A Practical System for Implementing Long Range Identification and Tracking of Ships (LRIT), as an IMSO Secretariat paper.

5.3 The Committee noted document IMSO/AC/11/3 “Long Range Identification and Tracking of Ships (LRIT)”; in particular that the IMO MSC, at its Eightieth Session:

- “(a) agreed that the LRIT Co-ordinator should carry out the oversight of the LRIT Data Centre, the LRIT Tracking Services and relevant elements of the communications systems used, and, as appropriate, of the contracts between participants in the system;
- (b) agreed that oversight by the LRIT Co-ordinator should include verification that the security requirements established by IMO for the entire LRIT system are adhered to, and that the LRIT Co-ordinator should report to IMO on its findings;

- (c) *requested IMSO to advise the IMO MSC whether IMSO would be willing and able to undertake the oversight of the LRIT system on behalf of IMO; and*
- (d) *invited IMSO, if it was not already doing so, to contribute to the work of the COMSAR Correspondence Group on LRIT.”*

5.4 The Committee considered the request from the IMO MSC referred to in paragraph 5.3(c) and noted that a number of issues should be further considered regarding the oversight of IMSO in the developing LRIT, including:

- (a) the implementation timetable within IMO and IMSO, including the correspondence groups and the intersessional working groups which have been established by IMO to work on the principles;
- (b) the architecture of the system, including the technical and practical details;
- (c) the scope of IMSO's role, as appropriate, and the budgetary and staffing implications; and
- (d) the possible reintroduction of one of the amendments to the IMSO Convention proposed by the IWG but which were not pursued by the Assembly at its Seventeenth Session<sup>4</sup>; or an alternative means of incorporating LRIT oversight within the Convention.

5.5 Subsequent to the meeting, the United States expressed their concern that there may be insufficient time to build awareness of the LRIT issue within IMSO.

5.6 The Committee noted that the Director will keep members of the Committee informed of progress in relation to the development of the LRIT system, and will report thereon to the next Session of the Committee.

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<sup>4</sup>

Proposed new IWG paragraph (1) (bis) to Article 3 "Purpose": "*Subject to the decision of the Assembly, the Organization may assume any other [oversight] functions or duties [at the request of xxx].*" Or proposed new IWG paragraph of Article 9 "Functions of the Assembly": "*At the request of a Member State or at the initiative of the Director, the Assembly can consider a proposal to entrust new functions to the Organization, and the Assembly will take a decision on the proposal in accordance with Article 8.*"

## 6 ANY OTHER BUSINESS

### 6.1 Financial Matters

6.1.1 The Committee noted document AC/11/4 "Financial Matters"; in particular that:

- (a) the relocation of the Cospas-Sarsat Secretariat is expected to take place in August 2005. IMSO currently shares the services of a Finance Officer with Cospas-Sarsat and the major implication for IMSO is the need to replace his services well in advance of 30 June 2005 as he will be relocating to Canada on 1 July 2005;
- (b) the Director has been in touch with other small intergovernmental organizations to ascertain their financial arrangements and information so far received indicates that many small IGOs have similar arrangements whereby a staff member undertakes the functions of financial "book-keeper", responsible for the day to day accounting practices, with the services of a qualified Accountant to oversee the daily accounts on a regular basis and to prepare the annual accounts for audit. This practice appears to be efficient as well as cost effective;
- (c) the Director has therefore reviewed the services currently performed by the IMSO/Cospas-Sarsat Finance Officer. After six years since the establishment of the Secretariat, all the financial systems are working well and a considerable amount of experience has been gained. The Director considers that it is now appropriate to divide the financial and book-keeping functions along the lines followed by some other IGOs and therefore proposed to extend the job description of the Head of Secretariat Services to cover some of the day to day functions of the Finance Officer. Some minimal training may be required on the appropriate financial systems.

6.1.2 The Committee shared the view of the Director that it would be appropriate to outsource the supervisory accounting functions and noted that a draft Request for Proposals is being sent to appropriate qualified

accounting firms. The Director will inform the Committee of his decision on this matter.

## 6.2 **IMSO Trademarks**

6.2.1 The Committee noted information provided by the Director that Inmarsat Limited had requested the Director to confirm that Inmarsat may stop expenditure on renewal fees to protect redundant trademarks registered to the Organization. The Director indicated that in his view there would be no objection on the part of IMSO to Inmarsat proceeding as indicated.

6.2.2 The Committee agreed that the Director may confirm to Inmarsat that IMSO has no objection to Inmarsat stopping expenditure on renewal fees to protect redundant trademarks.

## 6.3 **IMSO Website**

The Committee noted that the IMSO website had now been set up as [www.imso.org](http://www.imso.org), and that the Director was in the process of reviewing the contents of the files available on the site. The Director also indicated that arrangements will be made for IMSO documents to be made available for downloading by Member States. The Director will also endeavour to register IMSO within the “.int” domain. Members of the Committee were invited to provide any comments or recommendations relating to the IMSO website to the Director.

## 6.4 **Extraordinary Session of the IMSO Assembly**

6.4.1 At its Tenth Session, the Committee had agreed that the Director should make provisional reservations for an Extraordinary Session of the Assembly to be held during the week of 7 to 11 November 2005, pending the outcome of work on the Reference Public Services Agreement. However, the Director was now proposing that it would be more appropriate for this meeting to be held immediately prior to the IMO Council, on 14 and 15 November 2005.

6.4.2 Following interventions by some members of the Committee that these dates would not be appropriate because of other international events, the Committee noted that the Director will consult as necessary to make

arrangements for a three day Extraordinary Session of the Assembly in December 2005.<sup>5</sup>

6.5 **Date of Next Meeting of the Advisory Committee**

The Committee noted that the Director will consult as necessary to make arrangements for the Twelfth Session of the Advisory Committee.<sup>6</sup>

7 **APPROVAL OF THE REPORT**

The Meeting approved the Report of its Eleventh Session by correspondence.

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<sup>5</sup> Following consultation with the Committee, the Director is now in a position to propose the dates 14 to 16 December 2005 for the Extraordinary Session of the Assembly, at IMSO Headquarters, preceded by a one day meeting of the Advisory Committee on 13 December 2005.

<sup>6</sup> Following consultation with the Committee, the Director is proposing that the Twelfth Session of the Advisory Committee be held on 3 and 4 October 2005, commencing at lunchtime on the first day.

**AGENDA FOR ELEVENTH MEETING OF ADVISORY COMMITTEE**

1. Opening of the Meeting
2. Approval of Agenda
3. Outcome of the Tenth Session of the Advisory Committee
4. Draft Reference Public Services Agreement
5. Long Range Identification and Tracking of Ships (LRIT)
6. Any Other Business
  - 6.1 Financial Matters
  - 6.2 IMSO Trademark
  - 6.3 IMSO Website
  - 6.4 Extraordinary Session of the IMSO Assembly
  - 6.5 Date of the Twelfth Session of the Advisory Committee
7. Approval of Report

**LIST OF PARTICIPANTS**

Chairman: Mr M. Dukuly

<b>COLOMBIA</b>	Ms Martha Ines Ortegon Second Secretary (Human Rights) Embassy of Colombia, London
<b>DENMARK</b>	Mr Jørgen Rasmussen Chief Ship Surveyor Danish Maritime Authority
<b>ITALY</b>	Cdr Cosma Scaramella Italian Coast Guard
<b>JAPAN</b>	Mr Akira Nishihara Director, International Organizations Office International Affairs Department Telecommunications Bureau Ministry of Internal Affairs and Communications  Mr Shuji Yamaguchi First Secretary Embassy of Japan, London
<b>LIBERIA</b>	His Excellency Mr Mohammed Dukuly (Chairman) Permanent Representative of the Republic of Liberia to IMO  Captain Armett E. Hill Deputy Permanent Representative of the Republic of Liberia to IMO
<b>MALTA</b>	Ms Anne Marie Sciberras Malta High Commission. London
<b>MARSHALL ISLANDS</b>	Mr David J. F. Bruce Permanent Maritime Representative of the Republic of the Marshall Islands to IMO.

**MEXICO**

Dr. David Enriquez  
Mexican Embassy, London

**POLAND**

Mr Pawel Czerwinski  
Counsellor - Permanent Representative of the  
Republic of Poland to the IMO  
Embassy of Poland, London

**RUSSIAN FEDERATION**

Mr Valery Bogdanov  
Director General  
Morsviazputnik

Mrs Nadya Nesterenko  
Morsviazputnik

**SPAIN**

Mr Luis Sanz Gadea  
Head of Division for International  
Organizations  
Ministry of Industry, Tourism and Commerce

Capt. Esteban Pacha Vicente  
Counsellor for Transport &  
Representative of Spain to IMO  
Spanish Embassy, London

Ms Andrea Garcia  
Transport Office  
Spanish Embassy, London

**UNITED KINGDOM**

Mr Mike Leach  
OFCOM

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

**UNITED STATES  
OF AMERICA**

Mr Richard Lamb  
Information Technology Policy Officer  
Bureau of Economic and Business Affairs  
Department of State

via conference call



## **TERMS OF REFERENCE OF 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.

**STATEMENT BY THE REPRESENTATIVE OF THE  
RUSSIAN FEDERATION <sup>7</sup>**

Regarding document IMSO/AC/11/2 Draft Reference Public Service Agreement (PSA), we in principle, support the oversight function of IMSO for GMDSS satellite service, however we can not support the current text of the draft PSA document together with connected draft IMO resolutions (e.g. A.888) which make IMO recognition of a new GMDSS provider conditional upon the initial evaluation and oversight by IMSO as a sole source of evaluation and recognition thus leaving no recourse for service providers.

We consider that the process of initial evaluation for the purpose of recognition should be either done by IMO itself (via COMSAR or MSC working group) or, if this process is considered to slow – by a working group of experts under IMSO. This working group should work in an open manner allowing IMO members to submit comments and exchange information. The results of the evaluation should then be submitted to IMO MSC for approval and recognition. Only after that would the service provider negotiate and sign a contract with IMSO for the oversight.

We also hold the position that IMSO should not have a veto position regarding acceptance of additional providers. We believe oversight by IMSO is one alternative for satellite systems participating in the GMDSS; oversight by government (s) is another. Our main objective must be an orderly and timely process to ensure maximum capabilities are provided to the mariner

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<sup>7</sup> Subsequent to the meeting, the United States associated itself with the statement by the Russian Federation.

**TEXT OF THE DRAFT REFERENCE PUBLIC SERVICES AGREEMENT  
AS AGREED AT THE ELEVENTH SESSION OF THE ADVISORY COMMITTEE**