



**EIGHTEENTH CONSULTATIVE
MEETING OF CONTRACTING PARTIES
TO THE CONVENTION ON THE
PREVENTION OF MARINE POLLUTION
BY DUMPING OF WASTES AND OTHER
MATTER**

**4 - 8 December 1995
Agenda item 11**

REPORT OF THE EIGHTEENTH CONSULTATIVE MEETING

Table of Contents

	Paragraph Nos.	Page Nos.
1 INTRODUCTION	1.1 - 1.13	3 - 5
2 STATUS OF THE LONDON CONVENTION 1972 ...	2.1 - 2.2	3
3 DISPOSAL OF OFFSHORE INSTALLATIONS	3.1 - 3.7	5 - 6
4 SCIENTIFIC GROUP: CONSIDERATION OF REPORT OF EIGHTEENTH MEETING	4.1 - 4.7	6 - 7
5 AMENDMENT GROUP: CONSIDERATION OF OUTCOME OF THIRD MEETING	5.1 - 5.80	7 - 17
6 GLOBAL WASTE SURVEY: STRATEGY AND ACTION PLAN	6.1 - 6.13	17 - 19
7 TECHNICAL CO-OPERATION AND ASSISTANCE PROGRAMME UNDER THE LONDON CONVENTION 1972	7.1 - 7.7	19 - 20
8 MATTERS RELATED TO THE DISPOSAL AT SEA OF RADIOACTIVE WASTES	8.1 - 8.13	20 - 23
9 FUTURE WORK PROGRAMME AND DATE OF NEXT CONSULTATIVE MEETING IN 1997	9.1 - 9.10	23 - 24
10 ANY OTHER BUSINESS	10.1 - 10.4	25
11 CONSIDERATION AND ADOPTION OF THE REPORT ...	11	25

ANNEXES

- ANNEX 1 - AGENDA FOR THE EIGHTEENTH CONSULTATIVE MEETING**
- ANNEX 2 - RESOLUTION LC.52(18) ON A DREDGED MATERIAL ASSESSMENT FRAMEWORK**
- ANNEX 3 - DRAFT PROTOCOL OF 1996 RELATING TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER, 1972**
- ANNEX 4 - RESOLUTION LC.53(18) ON PROCEDURE FOR CONSIDERATION AND ADOPTION OF THE 1996 PROTOCOL TO THE LONDON CONVENTION 1972**
- ANNEX 5 - DRAFT ANNEX TO A REVISED LONDON CONVENTION 1972 DERIVED FROM THE WASTE ASSESSMENT FRAMEWORK**
- ANNEX 6 - RESOLUTION LC.54(18) ON TECHNICAL CO-OPERATION AND ASSISTANCE ACTIVITIES RELATED TO THE LONDON CONVENTION 1972**

1 INTRODUCTION

1.1 The Eighteenth Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972 (London Convention 1972), convened in accordance with article XIV(3)(a) of the Convention, was held at IMO Headquarters, London, from 4 to 8 December 1995 under the chairmanship of Mr. D. Tromp (Netherlands). Mr. A. Sielen (United States) and Ambassador G.E. do Nascimento e Silva (Brazil) were Vice-Chairmen.

1.2 The Meeting was attended by delegations from the following 39 Contracting Parties to the London Convention 1972:

ARGENTINA	JAMAICA
AUSTRALIA	JAPAN
BELGIUM	MEXICO
BRAZIL	NETHERLANDS
CANADA	NEW ZEALAND
CHILE	NORWAY
CHINA	PANAMA
COSTA RICA	PHILIPPINES
CYPRUS	POLAND
DENMARK	REPUBLIC OF KOREA
EGYPT	RUSSIAN FEDERATION
FINLAND	SOLOMON ISLANDS
FRANCE	SOUTH AFRICA
GABON	SPAIN
GERMANY	SWEDEN
GREECE	SWITZERLAND
HONDURAS	UNITED KINGDOM
ICELAND	UNITED STATES
IRELAND	VANUATU
ITALY	

1.3 Representatives from the following Associate Member of IMO attended the Meeting:

HONG KONG

1.4 Observers from the following States that are not Contracting Parties to the London Convention 1972 attended the Meeting:

CONGO
INDONESIA
LIBERIA
MALAYSIA
PERU
SYRIAN ARAB REPUBLIC
VENEZUELA

1.5 Representatives from the INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) and the following United Nations Organization attended the Meeting:

SECRETARIAT OF THE BASEL CONVENTION/UNITED NATIONS ENVIRONMENT PROGRAMME (SBC/UNEP)

1.6 An observer from the following intergovernmental organization attended the Meeting:

ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT/NUCLEAR ENERGY AGENCY (OECD/NEA)

1.7 Observers from the following international non-governmental organizations also attended the Meeting:

INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)
EUROPEAN COUNCIL OF CHEMICAL MANUFACTURERS' FEDERATIONS (CEFIC)
GREENPEACE INTERNATIONAL
INTERNATIONAL UNION FOR CONSERVATION OF NATURE AND NATURAL RESOURCES (IUCN)
PERMANENT INTERNATIONAL ASSOCIATION OF NAVIGATION CONGRESSES (PIANC)
OIL INDUSTRY INTERNATIONAL EXPLORATION AND PRODUCTION FORUM (E & P FORUM)
ADVISORY COMMITTEE ON PROTECTION OF THE SEA (ACOPS)
CENTRAL DREDGING ASSOCIATION (CEDA)

Opening of the Meeting

1.8 In opening the proceedings, the Chairman welcomed all participants to the Eighteenth Consultative Meeting. He noted that since the Seventeenth Consultative Meeting, the Islamic Republic of Pakistan had joined the London Convention 1972. The Chairman also appreciated the presence of observers from those States which are not yet Contracting Parties to the London Convention 1972.

Address of welcome

1.9 The Secretary-General of IMO, Mr. W. O'Neil, in his welcoming address drew attention to the importance of the review of the London Convention 1972 to which considerable efforts had been dedicated by the Secretariat and by many of the Contracting Parties during the intersessional period. Mr. O'Neil further stressed the need to continue considerations aimed at the development of a technical co-operation and assistance programme within the framework of the Convention.

1.10 The Secretary-General wished the Consultative Meeting good progress and success with its work.

Adoption of the Agenda

1.11 The agenda for the Meeting (LC 18/1/Rev.1) as adopted, is shown at annex 1 and includes under each respective agenda item a list of documents prepared for consideration at the Meeting.

1.12 The Consultative Meeting agreed to devote a very substantial part of its time to consideration of issues related to the review of the London Convention 1972.

Participation of intergovernmental organizations and international non-governmental organizations

1.13 The Meeting, noting that the next Consultative Meeting will be convened in 1997, requested the Secretariat to review participation and contributions of organizations that had been previously invited to meetings convened within the framework of the London Convention. The Secretariat agreed to select intergovernmental and international non-governmental organizations to be invited to the Consultative Meeting in 1997, in consultation with the Chairman and the Vice-Chairmen.

2 STATUS OF THE LONDON CONVENTION 1972

2.1 The Consultative Meeting noted the report of the Secretary-General (LC 18/2) on the status of the Convention. To date seventy-four Governments have ratified or acceded to the Convention.

2.2 The Consultative Meeting took note of a paper prepared by the Secretariat on compliance with the notification and reporting requirements under article VI of the London Convention 1972 (LC 18/2/1). The Secretariat was requested to resubmit the paper to a future Consultative Meeting if necessary, after updating its contents.

3 DISPOSAL OF OFFSHORE INSTALLATIONS

3.1 The delegation of Denmark introduced a draft resolution on sea disposal of offshore installations (LC 18/3), requesting the Meeting "to adopt a moratorium on the disposal at sea of decommissioned offshore installations until the London Convention 1972 has been amended with a view to banning the disposal of offshore installations at sea". This was inspired by the outcome of the Fourth International Conference on the Protection of the North Sea, 8 and 9 June 1995, at which the majority of countries bordering the North Sea had agreed that decommissioned offshore installations shall either be reused or be disposed of on land. Denmark further informed the Meeting that, accordingly, the majority of Parties to the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Oslo, 1972) had agreed on a moratorium on sea disposal of decommissioned offshore installations which entered into force on 4 August 1995.

3.2 The delegation of Norway expressed its concern that the proposed moratorium would exclude one of several options for disposal, without any scientific basis. Norway was pursuing a case-by-case approach, taking into account all relevant factors. There was no scientific evidence that land-based disposal is the preferable alternative in all cases. Norway favoured multilateral, scientific-based rules to ensure that disposal of decommissioned offshore installations meets commonly agreed environmental objectives. A similar position was expressed by the delegation of the United Kingdom which also had adopted a case-by-case approach and emphasized that in a number of cases land-based disposal may be the preferred option, based on sound science and on high environmental standards.

3.3 Other Parties to the Oslo Convention supported the Danish proposal for a moratorium within the London Convention 1972. Iceland would also support such a moratorium. However, that delegation underlined the need that specific guidance be developed within the framework of the London Convention 1972 concerning disposal of offshore installations and structures. Several delegations felt that the text of the draft resolution proposed by Denmark could be improved. The delegation of New Zealand agreed that the matter deserved further scientific study, although the outcome should not be prejudged. That delegation expressed the view that a moratorium, perhaps for a limited time, could be consistent with such an approach.

3.4 A clear majority of Contracting Parties did not support the proposal submitted by Denmark, indicating that this was not based on any scientific evidence and that flexible approaches should be used

in reaching decisions particularly in different geographical areas. It was further noted that an open-ended moratorium was not acceptable and that adoption of the Danish proposal would prejudice the outcome of ongoing negotiations in relation to the review of the London Convention 1972.

3.5 The Consultative Meeting further recalled that the Scientific Group in 1989, requested by the Consultative Meeting for advice in regard to the then proposed IMO Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone, concluded that the existing provisions of the London Convention's Annex III and the guidelines thereto were sufficient to address environmental aspects in relation to disposal at sea (LDC/SG 12/13, paragraph 7.11). In 1992 the Scientific Group reaffirmed this view (LDC/SG 15/17, paragraph 8.3).

3.6 The Meeting also noted that the IMO Guidelines and Standards provide for specific determination of the potential effect on the marine environment of the removal of offshore installations and structures and that these Standards provide that: "on or after 1 January 1998, no installation or structure should be placed on any continental shelf or in any EEZ unless the design and construction of the installation or structure is such that entire removal upon abandonment or permanent disuse would be feasible" (IMO resolution A.672(16), paragraph 3.13).

3.7 The Consultative Meeting concluded that, pending further development, Contracting Parties should apply the London Convention 1972 and the IMO Guidelines and Standards of A.672(16) in their national practice on a case-by-case basis and requested the Scientific Group to again review status of the disposal at sea of offshore installations, taking into account:

- .1 the introduction of the Waste Assessment Framework in the London Convention;
- .2 current notification and consultation procedures; and
- .3 existing technical international guidelines and standards

in order to assess their adequacy and to report back to the Consultative Meeting in 1997.

4 SCIENTIFIC GROUP: CONSIDERATION OF REPORT OF EIGHTEENTH MEETING

4.1 The Chairman of the Scientific Group, Mr. J. Campbell (United Kingdom), informed the Consultative Meeting of the progress made at the eighteenth meeting of the Scientific Group (LC 18/4). The Meeting took note of the proceedings and discussions of the Scientific Group. In light of its earlier decision to focus at this Meeting on the amendment process, the Consultative Meeting decided to give priority to those issues that required particular action as outlined below.

Review and Evaluation of the Guidelines for the Application of the Annexes to the Disposal of Dredged Material (Resolution LDC.23(10))

4.2 The Meeting noted that the *Ad Hoc* Group of Experts on Dredged Material had met in Los Angeles (United States) from 23 to 27 January 1995, at the invitation of the International Association of Ports and Harbors, to prepare comprehensive guidelines in the form of a "Dredged Material Assessment Framework" (DMAF) that should replace the 'Guidelines for the Application of the Annexes to the Disposal of Dredged Material' (resolution LDC.23(10)).

4.3 The Scientific Group had emphasized that the draft text prepared by the *Ad Hoc* Group of Experts (LC/SG 18/13, annex 3) represented a major improvement over the existing Guidelines and addressed existing and future requirements under the London Convention 1972 in a clear and concise manner.

4.4 The Meeting unanimously adopted resolution LC.52(18) to replace the "Guidelines for the Application of the Annexes to the Disposal of Dredged Material" (resolution LDC.23(10)) by the newly developed Dredged Material Assessment Framework as shown in annex 2 to this report.

Scientific and Technical Advice on Proposed Amendments to the London Convention 1972

4.5 The Meeting noted that the Scientific Group had, at the instruction of the third meeting of the Amendment Group, considered the inclusion of the Waste Assessment Framework as Annex to an amended London Convention (LC 18/5/6). Discussion on this issue is reflected under section 5 of this report.

Future work programme

4.6 The Consultative Meeting noted that the Scientific Group had identified topics for future consideration. The Meeting reviewed the future work programme of the Scientific Group under item 9 of its agenda (see section 9 of this report).

Election of Chairman and Vice-Chairman

4.7 The meeting noted that Mr. J. Campbell (United Kingdom) and Mr. J. Karau (Canada) had been unanimously re-elected as Chairman and Vice-Chairman.

5 AMENDMENT GROUP: CONSIDERATION OF OUTCOME OF THIRD MEETING PROPOSED AMENDMENTS

5.1 In discussing proposals to amend the London Convention 1972, the Meeting considered the following documents:

- .1 the report of the third meeting of the LC 1972 Amendment Group (LC/AM 3/7), together with a list of actions to be taken by the Consultative Meeting (LC 18/5/8);
- .2 the text for a draft Protocol of 1996 Relating to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (LC 18/5) containing the textual preferences and proposals put forward by Contracting Parties as received by the Secretariat;
- .3 a set of the responses and proposals to amend the Convention submitted by Contracting Parties, as compiled by the Secretariat (LC/18/5/5);
- .4 a proposal for a draft Waste Assessment Framework Annex to an amended London Convention 1972 (LC/18/5/6);
- .5 the draft consolidated text of the amended London Convention (LC 18/5/3);
- .6 Draft Provisional Rules of Procedure for the conduct of the diplomatic conference in 1996 (LC 18/5/4);
- .7 an updated timetable for review of the Convention (LC 18/5/7/Rev.1);
- .8 a document by the Secretariat to distinguish between Special and General Permits under an amended London Convention (LC 18/5/9);

- .9 a proposal by Greenpeace International on the global regulation of environmental aspects of offshore exploration and exploitation of oil and gas (LC 18/5/1), accompanied by a report reflecting the environmental effects of such activities (LC 18/INF.3);
- .10 a document submitted by E & P Forum with its interpretation of the present text of the London Convention 1972 regarding offshore activities (LC 18/5/2), and a response by E & P Forum (LC 18/5/10) to document LC 18/5/1 by Greenpeace International; and
- .11 a document submitted by Greenpeace International concerning plans of a private company to carry out disposal of radioactive wastes into the seabed and the subsoil thereof.

5.2 The Meeting agreed to use document LC 18/5 in conjunction with the report of the third meeting of the Amendment Group (LC/AM 3/7), and the main actions to be taken as listed in LC 18/5/8 as the basis for consideration of the proposed amendments, taking into account all other documents mentioned above as appropriate. Results of discussions on controversial issues are described in the paragraphs below. Draft text of articles derived from these discussions are shown in annex 3 of this report.

Meeting in 1996/Format of amendments/rules of procedure

5.3 The Consultative Meeting recalled that the Amendment Group at its third meeting in April 1995, had agreed to recommend convening a diplomatic conference to consider the amendment package in the form of a protocol to the London Convention 1972 with a view to adoption (LC/AM 3/7, paragraph 3.12).

5.4 The Meeting, when discussing these recommendations identified two important questions as follows:

- .1 how can the package of proposed amendments be adopted and enter into force under procedures that are different from those set out in the existing Convention's article XV(1)(a)?
- .2 should there be participation in the conference by States that are non-Contracting Parties to the London Convention 1972?

5.5 The Meeting recognized that it was important on the one hand to invite as many States as possible to take an active part in the discussions during the conference; on the other hand the work of the conference should be based on the results of the two years of discussion on amendments to the Convention.

5.6 There was general agreement on the following:

- .1 the diplomatic conference should adopt a single instrument;
- .2 the single instrument should contain its own provisions for entry into force; (the number of 10 to 15 ratifications was suggested);
- .3 all States should be invited to the conference, with preferential voting rights to Contracting Parties.

5.7 The Consultative Meeting established a Working Group to advise on how the above questions could be resolved. The Meeting noted the results of the Working Group as reflected in the following

paragraphs and the draft resolution concerning consideration and adoption of the 1996 Protocol to the London Convention 1972 (LC 18/WP.7).

5.8 Some delegations attending the Working Group believed that it would be legally problematic to amend the Convention without following the provisions given in article XV of the Convention. In order to resolve these difficulties, it was proposed to convene a Special Meeting in accordance with article XIV(3)(a); this could take the form of a diplomatic conference to consider and adopt an integrated instrument.

5.9 Based on the assumption that the rules of procedure for Consultative and Special Meetings of the Contracting Parties to the London Convention 1972 which had been adopted by the First Consultative Meeting in 1976 (LDC I/16, annex II) could be used at the diplomatic conference, the Working Group proposed to amend Rule 28 to increase the voting requirements on matters of substance to two thirds (rather than a simple majority), on the grounds that the two thirds requirement would be more appropriate for substantive matters likely to arise at the conference to consider and adopt the Protocol.

5.10 In considering the question of whether the existing rules of procedure should be further modified to provide for participation at the conference of States which are non-Contracting Parties, the Group agreed that this was in essence a political question to be resolved by the Consultative Meeting and developed several options to deal with this matter as part of the draft resolution.

5.11 The Consultative Meeting, when considering the draft resolution prepared by the Working Group, agreed that States that are not Contracting Parties to the Convention should be encouraged to participate actively in the diplomatic conference, including in meetings of its subsidiary bodies or working groups, as observers with a view to becoming Parties to the 1996 Protocol to the London Convention 1972.

5.12 The Consultative Meeting adopted the draft resolution on the Procedure for Consideration and Adoption of the 1996 Protocol to the London Convention 1972 as resolution LC.53(18) as shown in annex 4 to this report.

5.13 As a consequence of the above decisions, the Consultative Meeting agreed to instruct the Secretariat to submit to the diplomatic conference the rules of procedure for the Consultative and Special Meeting of the Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, as amended by resolution LC.53(18) as the rules of procedure for the conduct of that conference.

Article 2 of the draft Protocol

Extension to include "elimination" of pollution of the sea

5.14 The Consultative Meeting recalled the previous discussions held on the concept and interpretation of a general obligation to be included in the Convention "...to prevent pollution of the sea by **and, where possible, to eliminate the practice of dumping and incineration of wastes or other matter at sea.**" as initially proposed by the Netherlands.

5.15 Several delegations supported this proposal as an appropriate expression of intent in light of experience under the Convention to prohibit sea disposal of certain waste categories. Other delegations regarded this inclusion as unrealistic, and as another burden to candidate Contracting Parties. Other delegations felt that the proposed text could be interpreted as requesting remedial action in certain circumstances.

5.16 Eventually, the Meeting agreed to include "...to prevent, **reduce, and, where practicable eliminate** pollution...", as reflected in annex 3

Article 3 of the draft Protocol

Precautionary Approach

5.17 The Meeting considered the five options developed at the third meeting of the Amendment Group to incorporate the precautionary approach into the Convention, recalling that a general agreement had been reached at the Seventeenth Consultative Meeting to include this approach into the body of the Convention (LC 17/14, paragraph 5.20).

5.18 With regard to the degree to which Parties would commit themselves to apply this approach as part of the Convention, the majority of delegations indicated to accept, as a compromise, the combination of: "... Contracting Parties **shall apply/ are likely to** cause harm ...". Some delegations preferred to retain the combination : "... **be guided by/ are likely to** ...", as originally reflected in resolution LDC.44(14).

5.19 Subsequently, the Meeting agreed to delete the elaboration of the precautionary approach as proposed in Protocol article 3, 2Bis, in view of the agreement on the Waste Assessment Framework Annex and the progress with the development of reverse lists as reflected below in this section of the report.

Polluter-Pays-Principle

5.20 After Sweden and the United States had withdrawn their proposals set out in document LC 18/5 under options 1 and 2 respectively, the Meeting agreed to find a compromise based on option 3. A small working group under the lead of Sweden prepared a new proposal (LC 18/WP.4). As on previous occasions, some delegations were concerned that State liability and compensation issues would be connected with inclusion of the polluter-pays-principle, whereas others emphasized that such confusion should not occur because the proposal was to provide incentives for allocation of costs.

5.21 The Consultative Meeting agreed to an adapted version of the proposal developed by the working group, as reflected in annex 3 to this report.

5.22 The delegation of France, supported by the Solomon Islands, expressed the view that the polluter-pays-principle, in this context, was intended to apply to primary sources of pollution, as generally understood at the Seventeenth Consultative Meeting (LC 17/14, paragraph 5.23) and thus would apply, *inter alia*, to those activities causing contamination of sediments to be dredged, but not to dredging and disposal activities themselves, carried out in accordance with the London Convention 1972.

Article 4 of the draft Protocol

Definitions

5.23 With regard to the issue of inclusion of the term "... wastes or other matter **or energy**. ...", as part of the definition of "pollution" in article III of the Convention, the Consultative Meeting agreed to follow the advice given by GESAMP that thermal energy or energy emitted by radioactive substances were very unlikely to be candidates for disposal at sea under the current terms of the Convention and that, therefore, inclusion of "or energy" would probably not be essential, largely academic, and should therefore be deleted.

5.24 The proposal by Germany to include under the definition of dumping in article III a new indent (1)(a)(iv) concerning abandonment and toppling of offshore platforms in accordance with a decision on this matter at the Thirteenth Consultative Meeting, was briefly considered and retained as reflected in annex 3 for consideration at the conference.

Inclusion of internal waters under the Convention

5.25 In revisiting the issue of the possible inclusion of "internal waters" under the Convention, the Meeting first focused on the principle of such inclusion. Several delegations preferred inclusion of internal waters into the scope of a revised Convention. Other delegations opposed such inclusion, some on the grounds that this might affect their national sovereignty. Accordingly, the Meeting concentrated on a proposal developed by the Amendment Group in article 6 of the Protocol (article IV(quarter)).

5.26 A working group elaborated on the text under article IV(quarter) based on the following assumptions:

- .1 the definition of "sea" under article III would **exclude** internal waters;
- .2 a definition of "internal waters" as proposed at earlier occasions would not be necessary, as this was already covered in international law, in particular under Article 8 of the UN Convention on the Law of the Sea; and
- .3 the focus in article IV(quarter) would be on internal **marine** waters.

5.27 In considering the proposal to include article IV(quarter) developed by the working group (LC 18/WP.5/Rev.1), the Meeting agreed to focus on **marine** internal waters to distinguish it from **inland** waters, and discussed the information requirements regarding implementation, compliance and enforcement of national regulations concerning dumping and incineration in marine internal waters. Some delegations indicated the need to study further the implications of the current proposal.

5.28 The Meeting agreed to retain the text of article IV(quarter) as reflected in annex 3, for consideration by the conference.

5.29 The delegation of Chile entered a reservation on the proposed article, because the matter of jurisdiction over the application of certain norms to internal waters was not clear, which, in the view of that delegation, would be subject to the exclusive sovereignty of the coastal State.

Proposal to delete article III(1)(c) concerning offshore oil and gas activities

5.30 The Consultative Meeting considered the Netherlands' proposal to delete article III(1)(c) with the aim of permitting future consideration by Contracting Parties of regulating activities resulting from offshore oil and gas exploration and exploitation within the context of the Convention. It recalled that at the third meeting of the Amendment Group (LC/AM 3/7, paragraphs 2.24 and 2.25) a majority of delegations had expressed their opposition to such a deletion.

5.31 At this Consultative Meeting a clear majority of delegations were again opposed to the proposal by the Netherlands, while the delegations of Argentina and Chile expressed a reservation on the proposal.

5.32 Several delegations held the view that as a result of the proposed deletion, in legal terms, regulation of the activities resulting from offshore oil and gas exploration and exploitation would become subject to the Convention, resulting in differing legal interpretations.

5.33 The Consultative Meeting agreed to retain article III(1)(c), with the agreed inclusion of "or storage" as reflected in annex 3.

5.34 The delegation of Denmark, supported by others, made a proposal to consider at the diplomatic conference the possible development of future regulatory activities concerning offshore oil and gas exploration and exploitation under the Convention, pending the outcome of discussion on this matter in the Committee on Sustainable Development (CSD) in 1996.

5.35 This proposal to add a new paragraph (1)(d) under article III reads as follows (LC 18/WP.8):

"Specific regulations on the disposal on site (i.e. operational discharges) of wastes or other matter directly arising from or related to the offshore exploration and exploitation of oil and gas could be developed under this Convention. The adoption of these regulations will follow the procedure set out in article XV [bis], paragraphs 3, 4 and 5, for adoption of amendments to the Annexes to the Convention".

Waste Assessment Framework Annex to an amended London Convention 1972

5.36 The Consultative Meeting noted that the Scientific Group, in response to a request from the Amendment Group, had prepared a concise version of the Waste Assessment Framework (WAF) that might be suitable as an Annex to an amended Convention (LC/SG 18/13, annex 2). On the basis of that draft, the Secretariat had edited this paper to produce a 'legally-consistent' draft Annex (LC 18/5/6).

5.37 Some delegations expressed a preference for the more flexible approach prepared by the Scientific Group, while others preferred the stricter "legal version" prepared by the Secretariat. The Meeting established a working group to review the texts.

5.38 The working group developed a concise version of the Waste Assessment Framework that took account of key aspects where stricter language was preferable and those where a recommendatory approach was appropriate. The working group also addressed the incorporation of substances listed in Annexes I and II to the existing Convention into the Action List of the Waste Assessment Framework and how these substances were to be assessed in light of their perceived environmental significance (LC 18/WP.1/Rev.1).

5.39 The Meeting agreed that the text of the Waste Assessment Framework as prepared by the working group might replace the existing Annex III to the London Convention 1972, if used in conjunction with the Reverse Listing approach. The draft annex to a revised London Convention 1972 derived from the Waste Assessment Framework as agreed by the Meeting is shown in annex 5 to this report.

5.40 The delegation of Japan, although not objecting to the Waste Assessment Framework Annex as agreed at this Consultative Meeting, observed that the Action List contained in the Waste Assessment Framework was less stringent than the current Annexes I and II to the Convention, but more practicable for day-to-day application.

Articles 5 and 22 of the draft Protocol - Reverse List on dumping

5.41 The Chairman noted that Contracting Parties had reached the point in their consultations where it would greatly facilitate further proceedings if agreement in principle could be reached on a reverse list approach. Much of the work on amendments had in fact already proceeded on the assumption that the 1996 Protocol would incorporate the reverse list approach in its regulations. In addition progress on several important related issues would be greatly enhanced by an early decision on a reverse list. It was

also noted that support for a reverse list had increased substantially since the concept had first been introduced.

5.42 Most delegations supported the idea of reaching agreement in principle at this Meeting on a reverse list. Some, however, noted certain qualifications. Most notably, some delegations emphasized that although they were prepared to support a reverse list in principle, their final acceptance would depend on which wastes were included in the list. One delegation also suggested that a reverse list was but one element in the overall package to be contained in the 1996 Protocol, and that acceptance of a reverse list was dependent on a satisfactory outcome to other issues that it considered to be of vital importance.

5.43 Some delegations expressed the view that they were not prepared to agree in principle to a reverse list, and that they would prefer that two options be presented to the diplomatic conference, i.e. a reverse list as well as the current system of Annexes containing, *inter alia*, a prohibition list. In this regard one delegation observed that it was not clear that a reverse list would afford a higher level of environmental protection than the present system, and that there had not been any comparative analysis demonstrating that from a scientific standpoint either approach was preferable. Several delegations responded by noting that in their view the reverse list combined with the Waste Assessment Framework would be more stringent environmentally than the current system of Annexes.

5.44 The Meeting agreed to return to the question of whether or not to accept in principle a reverse list after further discussions on the content of the reverse list. Its conclusions on this matter are reflected in paragraph 5.54 below.

5.45 The Meeting agreed unanimously to include dredged material, inert inorganic geological material, and organic material of natural origin in a reverse list. Other materials proposed for inclusion in the reverse list were discussed as described below.

Sewage Sludge

5.46 Several delegations supported a proposal by Germany to include a phase-out date for sea disposal of sewage sludge in the reverse list, e.g. after 5 years. A majority of delegations however felt that many Contracting Parties and States which considered to accede to the London Convention 1972 might not be able to adhere to such a provision as the phase-out of sewage sludge disposal at sea would require additional resources.

5.47 The Meeting agreed not to include a phase-out date at this stage, and supported the suggestion that Contracting Parties could commit themselves to work together towards phasing out sea disposal of sewage sludge in the future. A resolution to this end could be considered by the diplomatic conference.

5.48 It was recalled that the Fourteenth Consultative Meeting in 1991 had supported the conduct of an evaluation of sewage management at an international level, and that the Secretariat had investigated possibilities of co-sponsoring a survey on sewage management in co-operation with other UN agencies (LDC 14/16, paragraph 3.18). The Meeting encouraged the Secretariat to continue its efforts in this regard, taking into account developments in the context of the recently adopted "Washington Declaration on Protection of the Marine Environment from Land-based Activities" (LC 18/INF.6).

Fish waste, or materials resulting from industrial fish processing operations

5.49 The delegation of Sweden proposed to limit inclusion of industrial fish processing operations on a reverse list to only those carried out at sea. However, the Consultative Meeting agreed that the

dumping of fish waste or material resulting from industrial fish processing operations should be allowed for both land-based and sea-based fish processing operations.

Vessels and platforms and other man-made structures at sea

5.50 The Meeting agreed not to include a phase-out date for the dumping at sea of **vessels** as proposed by the delegation of Sweden. Some delegations were in favour of deleting vessels from a reverse list.

5.51 The Consultative Meeting reconsidered the proposal by Denmark and Germany, supported by others, to delete **platforms or other man-made structures at sea** in a reverse list, in the light of the rejection of the proposal by Denmark for a moratorium on sea disposal of offshore installations (see section 3 of this report). It agreed to retain the text with a footnote in the draft Protocol to be presented to the diplomatic conference, indicating that some delegations were in favour of deleting this provision.

Containers, scrap metal and other similar bulky wastes

5.52 The Meeting noted that **containers, scrap metals and other bulky wastes** ... were listed in Annex IIB to the Convention as amended in 1993. Some delegations interpreted the 1993 Amendments to the Annexes I and II in such a way that sea disposal of containers etc. was not allowed from 1 January 1996 as these materials were not exempt from industrial waste, as defined in Annex I, paragraph 11. Others disagreed with this interpretation.

5.53 A majority preferred to delete **containers, scrap metal and other similar bulky wastes** from a reverse list. The Meeting agreed to retain the proposal in brackets for consideration at the conference, and to reflect the majority view in a footnote.

5.54 In light of the decisions on the contents of the reverse list, the majority of delegations agreed to the proposal to replace the current Annexes I and II to the Convention with a reverse list. Several delegations were in favour of presenting both a reverse list and the current system of Annexes I and II to the conference. The Meeting therefore agreed to put article 5 of the draft Protocol in brackets and to present the reverse list for consideration by the conference as reflected in annex 3 to this report.

5.55 In considering the text of article 5 of the draft Protocol, the Meeting agreed to retain the term **wastes or other matter** throughout the text of the Convention instead of the proposed "materials and wastes". The Meeting also agreed to retain the existing system of permits and to amend the proposed article 5(1)(b) with a view to ensuring that when permits are issued the assessment of the proposed dumping operation is conducted in accordance with the Waste Assessment Framework Annex as reflected in annex 3 to this report.

Articles 6 and 23 of the draft Protocol - reverse list on incineration at sea

5.56 A drafting group was established to resolve remaining issues on the reverse list on incineration at sea. The group recommended removal of waste materials not generated by manufacturing or processing operations and wooden debris from the list proposed under article 23 of the draft Protocol (LC 18/5). The group felt that the relationship of the incineration provisions as currently proposed with those of other relevant Conventions might warrant further clarification.

5.57 In considering the proposal as revised by the drafting group, the delegations of Denmark, Brazil, Germany and Finland indicated that they favoured a complete prohibition of incineration at sea of wastes or other matter under the Convention. The majority of delegations, however, wished to retain the option, without having long-term or immediate plans to carry out incineration at sea.

5.58 The delegation of Japan noted that with the agreement for a continued exclusion of internal waters from the definition of "sea" under the draft Protocol, it could support a complete prohibition of incineration at sea under the Convention. That delegation expressed a reservation on the term "household wastes" in the proposed reverse list in light of its intention to commence incineration of municipal wastes in internal waters in the near future.

5.59 The Consultative Meeting agreed to forward an amended proposal to the conference for a reverse list on incineration at sea as reflected in annex 3, and to reflect the proposal for a complete prohibition in a footnote.

Articles 8 to 10 of the draft Protocol - Reporting and Compliance

5.60 The Meeting briefly considered changes to the proposed amendments in articles 8 to 10 of the draft Protocol (other than sovereign immunity) as prepared by a drafting group (LC 18/WP.10).

5.61 The delegations of Canada and Poland expressed a reservation concerning the inclusion of a final provision under article 8: "Technical and scientific matters included in the reports submitted under subparagraphs 4(b) and 4(c) shall be evaluated initially by the Scientific Group. The Scientific Group will apprise the Meetings of Parties of its conclusions, including any identified deficiencies in enforcement of or compliance with this Convention."

5.62 With regard to proposals to amend article VII(1)(c) of the Convention (article 9 of the draft Protocol) the Meeting agreed to include the term "within its jurisdiction" as a second option after the proposed addition "within its territorial sea or its exclusive economic zone or onto its continental shelf" for consideration by the conference.

Sovereign immunity

5.63 The Meeting recalled that previous attempts to find common grounds for proposals to amend the current provisions concerning "sovereign immunity" in the context of the Convention had not yet succeeded. Three options had been developed to include vessels entitled to sovereign immunity under the London Convention 1972, as opposed to the current text under article VII(4), which excludes application of the Convention to such vessels (LC 18/5, annex).

5.64 Several delegations opposed the application of an amended Convention to vessels entitled to sovereign immunity, in line with the requirements laid down in Article 236 of the UN Convention on the Law of the Sea. Others favoured such application.

5.65 The Meeting agreed to retain the current text under article VII(4) of the Convention and one proposal extending application of the Convention to vessels entitled to sovereign immunity (LC 18/5: option 2) as the two options for consideration at the conference and as reflected in annex 3.

5.66 The Meeting agreed to minor editorial changes to the proposal to include compliance mechanisms under the Convention (article 10). The delegation of the Russian Federation expressed its reservation on article 10 as proposed.

Articles 11, 12 and 13 of the draft Protocol - Technical Co-operation

5.67 The Meeting noted that two options were identified under article 11. Option 1 had previously been developed by a drafting group and Option 2 was a new proposal put forward by Brazil. It was noted that article 12, a submission from Brazil, included proposals concerning financial support for activities

under the Convention and for the establishment of a special revolving fund for the implementation of technical co-operation projects and initiatives. Article 13 dealt with the period of grace for new and existing Contracting Parties to achieve full compliance with the amended Convention.

5.68 A working group was established to review the three articles. The working group was also requested to review the London Convention Draft Technical Co-operation and Assistance Programme (LC 18/INF.10). The working group's conclusions on the draft Technical Co-operation and Assistance Programme are reported in under section 7 of this report.

5.69 In considering the report of the working group (LC 18/WP.6), the Meeting noted that Option 1 had been selected as the drafting text. The text had been clarified with specific references to technical co-operation for the prevention and control of pollution from dumping and incineration at sea. It was further noted that a reference to the strengthening of national capabilities, extracted from Option 2, brought the article into closer alignment with the views of Contracting Parties regarding the role of technical co-operation.

5.70 The Meeting agreed to the proposed article 11 as amended and as reflected in annex 3 to this report.

5.71 With regard to the proposed article 12, the working group concluded that bilateral financial assistance between Contracting Parties in support of technical co-operation initiatives was more efficient and cost effective than a proposed special revolving fund for technical co-operation and capacity building. Brazil withdrew the proposed amendments.

5.72 The working group revised the proposed article 13, applying the grace period only to new Parties. However, it also noted that this was without prejudice to the possibility of a future consideration to extend some similar, although not identical, privilege to existing Parties as a consequence of developments under the amended Convention. A footnote had been drafted to article 13 to cover the issue of grace period for existing Contracting Parties. The article, as redrafted for new Contracting Parties, retained the concept of considering requests for a grace period on the basis of demonstrated need. The grace period would extend up to five years, commencing on the date of accession to the Protocol, provided that such date was within five years of entering into force of the Protocol. The grace period would not apply to the dumping of radioactive wastes or other radioactive matter nor to incineration at sea. A compliance programme, timetable and reporting condition would be required as part of any request for a grace period, together with identification of relevant technical co-operation and assistance needs.

5.73 A large majority of delegations accepted the text of article 13 as amended by the working group. Some delegations preferred the concept of a grace period to apply also to existing Contracting Parties. The Meeting agreed to present article 13 together with the footnote as mentioned in paragraph 5.72 above for consideration by the conference as set out in annex 3 to this report.

Articles 20, 21, and 26 - 32 of the draft Protocol - Administrative and Procedural Matters

5.74 The Consultative Meeting requested a working group to review the proposals dealing with tasks to the Organization and to Contracting Parties (article 20), amendments to the Convention and its Annexes (article 21), the relation between the Convention and the Protocol (article 26), and the final clauses of the Protocol (articles 27 - 32).

5.75 In considering the report by the working group (LC 18/WP.9), the Consultative Meeting agreed to present its proposals as amended to the conference, to replace in the Protocol the term "Consultative

Meeting" by "Meeting of Parties", and instructed the Secretariat to review the text of the proposed articles in light of the adoption of resolution LC.53(18), leading, *inter alia*, to deletion of article 26 and of the provisions allowing denunciation of the Protocol. While agreeing to these proposals as reflected in annex 3 to this report, the Meeting noted observations made as follows.

5.76 With regard to article 20, one delegation indicated its hesitation to retain the following sentence of article XIV(2) of the Convention as part of the proposed amendments: "Any Party to this Convention **not being a member of this Organization** shall make an appropriate contribution to the expenses incurred by the Organization in performing these duties."

5.77 In this context, the Meeting was informed that the IMO Assembly at its 19th session in November 1995 had requested the IMO Council to consider the possible implications for IMO in formally assuming responsibilities for the administration of the London Convention 1972, and to advise, as appropriate, the diplomatic conference in 1996.

5.78 Also in this context, the Meeting agreed to include a new provision under article XIV(2)(f) as one of the tasks of the Organization to: "prepare, on a biennial basis, a budget and a financial account for the administration of this Protocol."

5.79 Two delegations preferred to delete the last words of the proposal under article 20 (article XIV(3)(c)): "co-operate with competent global, international and regional organizations concerned with the prevention and control of marine pollution, **and coordinate its activities accordingly**;"

5.80 The delegations of Cyprus and Poland entered a reservation on a proposal to include article 30 on the provisional application of the Protocol on the grounds that such a clause should not appear in the text of the Convention as amended. In their opinion this matter should be treated on a case-by-case basis.

6 GLOBAL WASTE SURVEY

6.1 In presenting the Final Report of the Global Waste Survey (LC 18/INF.8), the Secretariat briefly reviewed the history of the project, and some of its important milestones. It was pointed out that the project was initiated following approval of the project work plan at the Fourteenth Consultative Meeting in 1991 (LDC 14/16, paragraphs 8.1-8.12). The purpose of the Survey was to address the potential implications of bans on incineration at sea of noxious liquid wastes and disposal at sea of industrial waste for countries world-wide, especially developing countries. It should further assist in formulating a plan requesting Contracting Parties to address their commitment to enable all other Contracting Parties to comply with the ban, including the promotion of technical assistance.

6.2 The project was completed over a three-year period involving four phases of activity, namely preparation of the Global Waste Inventory (1992), completion of National Waste Management Profiles (1993), the development and implementation of three Case Studies (Chile, Fiji and the Philippines) on industrial waste management and the elimination or avoidance of waste disposal at sea (1994) and the formulation of a draft technical co-operation and assistance programme (1994-1995). In 1995, a draft final report was submitted to the Scientific Group for comment. Revisions suggested by the Group were incorporated into the final report.

6.3 The Meeting noted that, during the Global Waste Survey, two international workshops were held at IMO headquarters (1992 and 1993) to examine various outputs from the project and to collaborate with representatives from developing and developed countries and international agencies on the planning and

implementation of subsequent phases of activity. The Meeting was also informed of three regional briefing sessions on preparation of National Profiles, involving nine countries (1993), and three national workshops (as part of the Case Study phase of the project), which included over two hundred participants from government, industry, the private sector, United Nations agencies and other international organizations (1994).

6.4 Concerning interagency co-operation and collaboration, the Secretariat recalled that ten international organizations had contributed information and support to the project, and that an Interagency Steering Committee, comprising representatives from IMO, UNEP and WHO had been organized for the purpose of developing and co-ordinating project activities. The Interagency Steering Committee met on five separate occasions. In addition, the Secretariat had made two presentations on the objectives, progress and outputs of the Global Waste Survey to the Conference of Parties to the Basel Convention in November 1992 and in April 1994.

6.5 In reviewing the implications of the ban on dumping of industrial waste, as outlined in the Global Waste Survey Report, the Meeting noted that there were direct implications for four Contracting Parties, namely: Australia, Japan, the Philippines and South Africa.

6.6 The Meeting recalled that:

- .1 the Government of Australia had made a declaration to the Secretary-General of IMO, confirming that under no circumstances would dumping of jarosite be permitted beyond 31 December 1997;
- .2 the delegation of Japan had reported to the eighteenth meeting of the Scientific Group that appropriate land-based waste management and disposal options had been identified for its industrial waste;
- .3 the Philippines was not issuing any additional permits for dumping of industrial waste; and
- .4 the Republic of South Africa was experiencing difficulty in discontinuing the practice of dumping of obsolete ammunition within the same time frame as the ban on industrial waste disposal at sea.

6.7 The Meeting noted that there were other implications to be considered namely, the technological and institutional capacities of some developing countries to comply with the prohibition on dumping. For example, it was noted that the National Profiles for the Philippines and Nigeria, two Contracting Parties for the past 20 years, indicated a lack of appropriate legislation, enforcement and/or technical capacity and institutional framework to fully implement the London Convention 1972.

6.8 The Meeting also recalled that a number of other deficiencies and concerns with respect to national waste management programmes were raised by developing countries over the course of the Global Waste Survey, including diffusion of authority among government agencies, limited availability of land-based facilities, lack of a strategy and know-how to effect the transition from limited or no control over waste disposal to environmentally sound programmes, and financial sustainability of programmes and facilities.

6.9 The Secretariat pointed out that the strategies and processes for assisting Contracting Parties to address identified technical co-operation needs concerning elimination or avoidance of sea disposal practices had been incorporated into a draft document on technical co-operation and assistance (LC 18/INF.10).

6.10 The Meeting noted that the published Final Report of the Global Waste Survey was delayed at the publishers, but would be available for distribution by mid-December 1995. A number of delegations emphasized that the Final Report receive wide distribution to Contracting Parties and non-Contracting Parties, United Nations organizations, regional programmes and international and intergovernmental agencies. Delegations also emphasized that the Final Report, the Global Waste Inventory and the National Profiles be employed as mechanisms for strengthening co-operation and co-ordination of activities among United Nations organizations.

6.11 The Secretariat further informed the Meeting that the Global Waste Inventory and National Profiles would be maintained within IMO, and updated, expanded and extended as part of technical co-operation activities under the marine environment protection sub-programme of IMO's Integrated Technical Co-operation Programme. Collaboration and co-operation with other United Nations organizations would be sought to contribute to the information base and a system of data dissemination would be developed.

6.12 On behalf of the Meeting, the Chairman thanked the Secretariat for the efforts put forward in developing and completing the Global Waste Survey.

6.13 The Meeting concluded that, based on the results of the Global Waste Survey, the decision to implement a global prohibition of dumping at sea of industrial waste, in hindsight, was a good one. It was also concluded that follow-up efforts to give global effect to the prohibition would be developed and implemented as part of technical co-operation and assistance programme activities under the Convention.

7 TECHNICAL CO-OPERATION AND ASSISTANCE PROGRAMME UNDER THE LONDON CONVENTION 1972

7.1 The Secretariat introduced the draft Technical Co-operation and Assistance Programme (LC 18/INF.10) emphasizing that this had been developed within the framework of IMO's Integrated Technical Co-operation Programme, and that it incorporated the conclusions of the Seventeenth Consultative Meeting and the recommendations of the eighteenth meeting of the Scientific Group.

7.2 The Secretariat noted that the paper contained two scenarios for a technical co-operation and assistance programme. Scenario 1 was characterized as a reactive programme, employing existing human resources within the Secretariat. The principal activities identified were information gathering, clearinghouse, networking with other United Nations agencies and international organizations and, through workshops and seminars, promotion of the London Convention 1972 and other IMO and marine pollution-related Conventions. The Meeting was advised that financial support would be sought from external sources to implement the various activities in scenario 1 as a component endeavour of the Organization's Integrated Technical Co-operation Programme.

7.3 Scenario 2 depicted a proactive technical co-operation and assistance programme, in which the Secretariat was tasked with developing and advancing priority issues identified under the London Convention 1972, within the Organization's Integrated Technical Co-operation Programme. Building upon available resources and activities under scenario 1, scenario 2 identified incremental costs (i.e. one implementation officer and \$200,000) required to address all five objectives of the proposed technical co-operation and assistance programme. Key among the additional activities of the Secretariat were project identification, planning and development, and the submission of project proposals to Contracting Parties, financial institutions and donor agencies. The scenario also identified programme accountability as an important component to provide Contracting Parties with a means to assess progress towards technical co-operation and assistance objectives within the Convention.

7.4 The working group tasked with the responsibility of reviewing amendments to article IX of the Convention (see section 5 of this report) was also requested to consider the draft Technical Co-operation and Assistance Programme.

7.5 The Meeting noted that there was insufficient time for the working group to review the draft Programme and the specific scenarios which had been identified. It was acknowledged, however, that technical co-operation under the London Convention deserved priority attention and that a strong message of commitment by Contracting Parties to such a programme needed to be communicated to the Secretary-General of IMO before completion and adoption of the full Programme.

7.6 To this end, and while noting that the Nineteenth Consultative Meeting would be convened not before autumn 1997, the working group prepared a draft resolution urging Contracting Parties to consider adoption of a full Technical Co-operation and Assistance Programme at the diplomatic conference in 1996, and until adoption of that Programme, to consider provision, on a bilateral and multilateral basis as appropriate, of the necessary means for maintaining current technical co-operation activities.

7.7 The Consultative Meeting agreed to maintain the thrust of technical co-operation activities during the intersessional period and unanimously adopted resolution LC.54(18) concerning Technical Co-operation and Assistance Activities Related to the London Convention 1972, which is set out in annex 6 to this report.

8 MATTERS RELATED TO DISPOSAL AT SEA OF RADIOACTIVE WASTES

The concept of *de minimis*

8.1 The Consultative Meeting noted the response of the International Atomic Energy Agency (IAEA) to its request that IAEA should define *de minimis* (exempt) levels of radioactivity in relation to "radioactive wastes or other radioactive matter" listed in paragraph 6 of Annex I to the Convention. Wastes or other materials (e.g. sewage sludge and dredged material) containing such levels of radioactivity would not fall under the radioactive waste prohibition of Annex I but be subject to provisions of Annexes II and III, as appropriate (LC 18/8/1).

8.2 The representative of the IAEA informed the Meeting that the *de minimis* concept as used by her Agency included two separate elements, corresponding to:

- .1 situations where radiation sources and practices were not amenable to control through regulation, called **exclusion** in the context of radioprotection; and
- .2 situations where radiation sources and practices have only trivial consequences and, therefore, are **exempted** from regulation.

In addition, for those radiation sources and practices which have been under regulatory control but do present only a trivial risk due to radioactive decay or some form of processing, regulatory control may also be removed, i.e. they are **cleared**.

8.3 After these introductory notes, the Consultative Meeting was informed that the IAEA in 1994, in response to the request from the Consultative Meeting, convened a Technical Committee Meeting to consider a draft document containing generic exempt levels expressed as activity concentrations. The Technical Committee, however, expressed its view that generic values for exempt concentrations were

no longer needed, taking into account recent amendments of the London Convention 1972. The Technical Committee emphasized that in most cases the exemption or exclusion in the context of radioprotection was automatic and that in the cases where numerical guidance was needed, these should be based on assessments carried out by the national regulatory authorities of Contracting Parties. The Technical Committee prepared a new document which provides guidance for making judgments on whether materials can be automatically excluded or exempted, or whether a specific assessment is needed. In light of these conclusions, the IAEA was now in the position of having two draft documents expressing conflicting views, and therefore requested guidance from the Consultative Meeting on which approach it should follow. The three options, which IAEA could further develop, were as follows:

- .1 a document which gives guidance on which materials can be automatically excluded or exempted and leaves the site specific case-by-case assessment to be carried out by national radiological protection authorities on the basis of internationally accepted principles and criteria;
- .2 a document which gives the guidance above, but which also gives numerical exempt values, derived using generic models, for sea disposal of bulk amounts of material;
- .3 a document which gives the same guidance as the first alternative, but which also contains practical advice on how the national authority should carry out the site specific assessment.

8.4 In the subsequent discussion, different views were expressed by Contracting Parties on which of the above options should be further developed by IAEA and applied within the framework of the London Convention 1972; however, there was no clear majority on either of the options offered by the IAEA. Several Contracting Parties preferred a combination of the second and third options outlined above. Other Contracting Parties expressed their view that no further efforts in integrating the *de minimis* concept into the London Convention 1972 were necessary, as such concept is being included in the currently developed IAEA Waste Management Safety Convention; this was strongly supported by France. The United States delegation reiterated its view that the option listed under paragraph 8.3.3 above was the only technically feasible approach.

8.5 The Consultative Meeting requested the IAEA to continue its work on the *de minimis* exemption levels of radioactivity and either work out both the second and third options listed above, or seek a solution in a combination of these two options. The Meeting further requested Contracting Parties involved in IAEA work concerning the definition of *de minimis* exemption levels of radioactivity to ensure that their participating experts are familiar with the requirements of the London Convention 1972, and the views expressed on the *de minimis* concept at meetings held within the framework of that Convention.

8.6 The representative from the IAEA expressed her disappointment that this Consultative Meeting had not been able to provide clear advice to her Agency on what direction the work related to the development of the application of exclusion and exemption principles to disposal at sea of wastes and other matter should proceed. The IAEA would consider whether continuation of the work was useful or not, taking into account the above requests and their financial implications.

The Co-ordinated Research and Environmental Surveillance Programme (CRESP) of OECD/NEA

8.7 The Consultative Meeting was informed that part of the CRESP programme concerning the development of scientific and technical bases for future assessments of the NE Atlantic dumpsite had been disbanded, due to the total prohibition of sea disposal of radioactive waste and other radioactive matter, as adopted by the Consultative Meeting in 1993 (LC 18/8). A report is being prepared, summarizing the knowledge accumulated by CRESP over its 15 years of existence, in particular with regard to the elements that used to be considered in an impact assessment of radioactive waste disposal at sea.

International Arctic Seas Assessment Project (IASAP)

8.8 The Consultative Meeting took note of the progress made within the IASAP project as presented by IAEA (LC 18/INF.4). The IAEA representative further noted that one of the purposes to establish IASAP was to provide a mechanism for co-ordinating international efforts in the field of assessing the risks to human health and to the environment associated with the radioactive waste disposal in the Kara and Barents Seas. Co-operation with the Norwegian-Russian expert group on investigations of these dumping operations has been excellent, as well as with other groups working in the area of radioactive contamination of the Arctic, notably with the Arctic Nuclear Waste Assessment Programme of the United States.

Russian-Norwegian investigations in the Arctic

8.9 The Norwegian delegation introduced paper LC 18/INF.2 summarizing the result of the 1993 Russian-Norwegian expedition to the Kara Sea. This document, which is directed at a general audience, discusses the sources and effects of radioactivity, summarizes the extent of radioactive waste dumping in the Kara and Barents Seas and briefly describes the nature and results of surveys that have been conducted under Russian-Norwegian auspices.

8.10 The Norwegian delegation then introduced paper LC 18/INF.9 comprising an extended summary of the results of joint Russian-Norwegian investigations of radioactive contamination of the Kara Sea during the period 1992-1994. This document outlines the basis and nature of investigations of radioactivity in the Arctic, especially in connection with radioactive waste objects dumped in the Kara Sea. It concludes that enhanced levels of artificial radionuclides can be found in sediments in the immediate vicinity of most dumped objects; however, the associated radiological consequences of such contamination are negligible.

Disposal of High-level Radioactive Wastes at Sea

8.11 The Meeting took note of information submitted by Greenpeace International (LC 18/INF.7) concerning plans by a private company to carry out disposal of radioactive wastes into the seabed and the subsoil thereof, starting from 1996. The company concerned had made contacts in, among others, Italy and South Africa, to offer its services.

8.12 The Meeting expressed its concerns on these plans, as sub-seabed disposal of radioactive wastes would not be in compliance with resolution LC.51(16) concerning sea disposal of radioactive wastes and other matter. The delegations of Italy and South Africa undertook to contact their capitals to validate any involvement in this matter within their countries. They were determined to stop any further involvement if such plans were to be confirmed, to contact the involved company, and to inform the Secretariat of the results.

8.13 The Consultative Meeting agreed to request Contracting Parties to inform the Secretariat of any known contacts or involvement concerning disposal in the sea-bed or the subsoil thereof of any radioactive waste or other highly toxic material. The Meeting requested the Chairman to inform the involved company that the planned disposal activities are not sanctioned under the London Convention 1972. It also requested the IAEA to contact the involved company, and expressed its appreciation to Greenpeace International for informing the Meeting of this matter..

9 FUTURE WORK PROGRAMME AND DATE OF NEXT CONSULTATIVE MEETING IN 1997

The Nineteenth Consultative Meeting

9.1 The Consultative Meeting requested the Secretariat, in co-operation with the Chairman and Vice-Chairmen, to prepare a draft agenda for its Nineteenth Meeting in 1997, taking into account the outcome of the diplomatic conference in 1996. Likewise, tentative dates for that Consultative Meeting would be proposed by the Secretariat and agreed upon within the Bureau.

The nineteenth session of the Scientific Group

9.2 The Meeting noted that the Scientific Group had identified a number of substantive issues which were particularly relevant to the changes in the operational structure of the current and the amended Convention (LC/SG 18/13, paragraph 10.2). These issues were:.

- .1 review of technical guidance packages;
- .2 testing of Impact Hypotheses;
- .3 criteria for issuing permits for disposal at sea;
- .4 WAF Action List (levels); and
- .5 technical co-operation and assistance.

9.3 The Meeting further considered requirements for sound scientific advice in support of a number of the issues during the transition period between the present and the amended Conventions. Accordingly, the Meeting requested the Scientific Group to prepare advice to the Nineteenth Consultative Meeting in 1997 on the following issues:

- .1 Waste Assessment Framework and, in particular:
 - development of the Action List and Action Levels;
 - update of the WAF Guidelines to align with the Reverse Listing;
 - testing of Impact Hypotheses;
 - overall assessment for permitting;
- .2 disposal at sea of offshore installations, in light of the discussions reflected in section 3 of this report;
- .3 guidance on sewage sludge disposal at sea within the context of an interagency review of sewage treatment and disposal;

- .4 technical co-operation and assistance; and
- .5 monitoring the marine environment, in particular:
 - evaluation of monitoring reports; and
 - review of national and regional strategies.

Contracting Parties were urged to submit documents on the selected issues, as appropriate.

9.4 The Meeting agreed that the nineteenth meeting of the Scientific Group should be held from 13 to 17 May 1996, while noting with appreciation that the delegation of Brazil is considering inviting the Group to hold that meeting in Rio de Janeiro.

Preparation of the Diplomatic Conference in 1996 to amend the London Convention 1972

9.5 Some delegations queried the usefulness of convening a Jurists and Linguists Group, in light of the considerable negotiations still needed to complete the review of the Convention, its timing in February 1996, and its mandate.

9.6 Nevertheless, the Meeting considered that a Jurists and Linguists Group would be valuable at this stage of the review and could carry out preparatory work which would facilitate negotiations during the diplomatic conference.

9.7 The Secretariat informed the Meeting that the meeting of the London Convention 1972 Jurists and Linguists Group would be held with full interpretation and would be attended by translators of IMO's Conference Division and by representatives of IMO's Legal Division.

9.8 The Consultative Meeting agreed that the London Convention 1972 Jurists and Linguists Group:

- .1 should be held from 12 to 16 February 1996 as originally planned;
- .2 be open for participation by Contracting Parties only;
- .3 be instructed to deal **only** with linguistic matters and legal consistencies concerning the draft 1996 Protocol to amend the London Convention 1972; and
- .4 be convened under the leadership of the Chairman of the Consultative Meeting.

9.9 The Meeting noted that the Diplomatic Conference would be convened from 28 October to 8 November 1996 as agreed in resolution LC.53(18).

Committee on Sustainable Development

9.10 The Meeting requested the Secretariat to prepare a report for submission to the Committee on Sustainable Development in early 1996, reflecting the role of the London Convention for the protection of the marine environment, and its future development. The draft report would be cleared by the Bureau before its submission.

10 ANY OTHER BUSINESS

Allegations of illegal waste dumping in coastal waters of Somalia

10.1 The Secretariat informed the Consultative Meeting that UNDP had asked IMO for assistance in intervening in current disposal practices possibly involving the burial of radioactive wastes in coastal waters of Somalia (LC 18/INF.11). In searching for confirmation of these allegations, the Secretariat had received, through Greenpeace International, some information from the Somali Beneficent and Charity Society.

10.2 The Meeting requested the Secretariat to ensure that the information received so far had been verified before distributing it to all Contacting Parties, asking them to carry out investigations within their countries concerning the possible source of the wastes and involvement of vessels registered in their countries.¹

Washington Declaration

10.3 The Meeting took note of the Washington Declaration on Protection of the Marine Environment from Land-based Activities (LC 18/INF.6), that had been adopted by more than a hundred governments at a Conference in Washington, D.C. (23 October to 3 November 1995). The Global Programme of Action adopted by the Conference will require for its implementation close co-operation between IMO, UNEP and other United Nations organizations. In this regard the nineteenth session of the IMO Assembly on 22 November 1995 adopted a resolution recommending that the Secretary-General of IMO maintain liaison with UNEP with a view to ensuring good co-ordination and to avoiding any overlap with IMO's field of competence.

10.4 The Meeting also took note of resolution MEPC.67(37) adopted in September 1995 by the IMO Marine Environment Protection Committee concerning "Guidelines on Incorporation of the Precautionary Approach in the Context of Specific IMO Activities" (LC 18/INF.5). These Guidelines were adopted on an interim basis until further experience with their application has been gained, and were in response to Principle 15 of the Rio Declaration. The resolution requests "all relevant IMO bodies to review the guidelines and provide comments to MEPC with a view to their eventual submission to the IMO Assembly for adoption as guidance for all relevant IMO activities".

11 CONSIDERATION AND ADOPTION OF THE REPORT

The report of the Eighteenth Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention 1972) including annexes to the report, was adopted on the final day of the Meeting (8 December 1995).

¹ IMO was informed on 18 December 1995 that the activities that resulted in allegations regarding waste disposal into the seabed were related to salvage operations recovering treasure from a vessel that sank 130 years ago. In light of this information no further action has been taken by the Secretariat.

ANNEX 1

AGENDA FOR THE EIGHTEENTH CONSULTATIVE MEETING

- 1 **Adoption of the Agenda**
 - LC 18/1/Rev.1 - Provisional Agenda
 - LC 18/1/1 - Annotated Agenda
- 2 **Status of the London Convention 1972**
 - LC 18/2 - Report of the Secretary General on the Status of the London Convention 1972
 - LC 18/2/1 - Secretariat: Compliance with the notification and reporting requirements under Article VI of the London Convention 1972
- 3 **Disposal of offshore installations**
 - LC 18/3 - Denmark: Draft resolution on sea disposal of offshore installations
- 4 **Scientific Group: Consideration of report of eighteenth meeting**
 - LC 18/4 - Secretariat: Action by the Consultative Meeting
 - LC 18/WP.2 - Secretariat
- 5 **Amendment Group: Consideration of outcome of third meeting**
 - LC 18/5 - Secretariat: Draft Protocol of 1996 Relating to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972
 - LC 18/5/1 - Greenpeace International: Discharges from the offshore industry
 - LC 18/5/2 - E & P Forum: Interpretation of the present text of the London Convention 1972 with regard to offshore activities
 - LC 18/5/3 - Secretariat: Draft consolidated text of the amended London Convention
 - LC 18/5/4 - Secretariat: Draft Provisional Rules of Procedure
 - LC 18/5/5 - Secretariat: Responses and proposals received from Contracting Parties
 - LC 18/5/6 - Secretariat: Proposal for a draft Waste Assessment Framework Annex to an amended London Convention 1972

- LC 18/5/7/Rev.1 - Secretariat: Updated timetable for review of the Convention
- LC 18/5/8 - Secretariat: Action by the Consultative Meeting
- LC 18/5/9 - Secretariat: Distinction between Special and General Permits under an amended London Convention
- LC 18/5/10 - E & P Forum: Discharge from offshore industry
- LC 18/INF.3 - Greenpeace International: Discharges from the offshore industry: the environmental effects of oil and gas exploration and exploitation
- LC 18/INF.7 - Greenpeace International: "Oceanic Disposal Inc." Disposal of High-level Radioactive Wastes at Sea
- LC 18/WP.1 - Report of the Working Group
- LC 18/WP.3 - Italy
- LC 18/WP.4 - Sweden
- LC 18/WP.5/Rev.1 - Secretariat
- LC 18/WP.6 - Report of the Working Group
- LC 18/WP.7 - Report of the Working Group on Legal Matters
- LC 18/WP.8 - Denmark, Finland, Germany, Iceland, Italy, Netherlands, Spain & Sweden
- LC 18/WP.9 - Report of the Working Group on Legal Matters
- LC 18/WP.10 - United States

6 Global Waste Survey: Strategy and Action Plan

- LC 18/INF.8 - Secretariat: Final Report of the Global Waste Survey - Executive Summary

7 Technical Co-operation and Assistance Programme under the London Convention 1972

- LC 18/INF.10 - Secretariat: Draft Technical Co-operation and Assistance Programme

8 Matters related to the disposal at sea of radioactive wastes

- LC 18/8 - Secretariat: Statement by the OECD/NEA Executive Group for Research on Sea Disposal of Radioactive Waste (CRESP)
- LC 18/8/1 - IAEA: The concept of "*de minimis*"
- LC 18/INF.2 - Norway: Radioactive contamination at dumping sites for nuclear waste in the Kara Sea - Results of the 1993 Russian-Norwegian expedition to the Kara Sea
- LC 18/INF.4 - IAEA: The International Arctic Seas Assessment Project (IASAP) - Progress Report
- LC 18/INF.7 - Greenpeace International: "Oceanic Disposal Inc." Disposal of High-level Radioactive Wastes at Sea
- LC 18/INF.9 - Norway/Russian Federation: Joint Russian - Norwegian Investigations on Radioactive Contamination of the Kara Sea (1992 - 1994) - Extended Summary

9 Future work programme and date of next Consultative Meeting in 1997

No documents submitted under this item

10 Any other business

- LC 18/INF.5 - Secretariat: Guidelines on Incorporation of the Precautionary Approach in the context of Specific IMO Activities (Resolution MEPC.67(37))
- LC 18/INF.6 - Secretariat: Washington Declaration on Protection of the Marine Environment from Land-based Activities
- LC 18/INF.11 - Secretariat: Allegations of illegal waste dumping in the waters of Somalia

11 Consideration and adoption of the report

- LC 18/11 - Report
- LC 18/WP.11 - Secretariat
- LC 18/WP.11/Add.1 - Secretariat
- LC 18/INF.1 - List of Participants

ANNEX 2**RESOLUTION LC.52(18)
ON A DREDGED MATERIAL ASSESSMENT FRAMEWORK****THE EIGHTEENTH CONSULTATIVE MEETING,**

- 1 **RECALLING** Article I of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Convention 1972), which provides that Contracting Parties shall individually and collectively promote the effective control of all sources of pollution of the marine environment;
- 2 **RECOGNIZING** the need for maintaining open shipping lanes and harbours for maritime transport and that undue burden should be avoided with regard to the interpretation and application of the provisions of the London Convention 1972;
- 3 **RECOGNIZING ALSO** that the major part of the sediments dredged from the waterways of the world is, by nature, similar to undisturbed sediments in inland waters, whereas a minor part is contaminated, mostly resulting from the emission of hazardous substances into internal waters, requiring application of major environmental constraints when depositing these sediments, and that problems will continue until such emissions are controlled at source;
- 4 **RECALLING** that the Tenth Consultative Meeting by resolution LDC.23(10) adopted Guidelines for the Application of the Annexes to the Disposal of Dredged Material with a view to assessing the suitability of dredged material for disposal at sea in accordance with the provisions of the London Convention 1972, and the agreement to review these Guidelines within five years time in light of experience gained by Contracting Parties, in particular with regard to the application of the terms "trace contaminants", "rapidly rendered harmless" and "special care" as defined for disposal of dredged material at sea;
- 5 **NOTING** the experience with these Guidelines as reported by Contracting Parties;
- 6 **RECALLING** that the Fifteenth Consultative Meeting instructed the Scientific Group to carry out a full review of the Guidelines and that it considered the Waste Assessment Framework, which it had adopted on a provisional basis, to be an appropriate starting point for this review;
- 7 **CONSIDERING** that the Guidelines for the Application of the Annexes to the Disposal of Dredged Material (resolution LDC.23(10)) had primarily focused on Annex III, Part A of the London Convention 1972, and that the review of these Guidelines would have to include, where appropriate to dredged material, a review of parts B and C of the Guidelines for the Implementation and Uniform Interpretation of Annex III to the London Dumping Convention as contained in resolution LDC.32(11);
- 8 **NOTING** the adoption of the Amendments to the Annexes to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, Concerning Phasing out Sea Disposal of Industrial Waste and Concerning Disposal at Sea of Radioactive Wastes and Other Radioactive Matter, by resolutions LC.49(16) and LC.51(16) respectively, in particular with regard to the references contained therein to sea disposal of dredged material;

9 HAVING CONSIDERED the draft Dredged Material Assessment Framework prepared by the Scientific Group;

1. **ADOPTS the Dredged Material Assessment Framework as set out at Annex hereto, thereby replacing the Guidelines for the Application of the Annexes to the Disposal of Dredged Material at Sea, as adopted by resolution LDC.23(10);**

2. **RESOLVES that Contracting Parties to the Convention when assessing the suitability of dredged material for disposal at sea shall take full account of the Dredged Material Assessment Framework;**

3. **AGREES to review the Dredged Material Assessment Framework within five years time in light of experience gained by Contracting Parties with it, and in light of relevant amendments to the London Convention 1972, adopted in accordance with resolution LC.48(16);**

4. **REQUESTS Contracting Parties to submit to the Organization for distribution to all Contracting Parties information on their experience gained with the Dredged Material Assessment Framework, including case studies;**

5. **CALLS UPON Contracting Parties to take all practicable steps at the source to prevent and reduce contamination of marine sediments.**

ANNEX

DRAFT DREDGED MATERIAL ASSESSMENT FRAMEWORK**1 INTRODUCTION**

1.1 Dredging is essential to maintain navigation in ports, harbours and inland waterways and for the development of port facilities. Much of the material removed during these necessary activities requires disposal at sea. The greater proportion of the total amount of material dredged world-wide is, by nature, similar to undisturbed sediments in inland and coastal waters. A smaller proportion of dredged material, however, is contaminated by human activity to an extent that major environmental constraints need to be applied when depositing these sediments

1.2 Within the framework of the London Convention 1972, Contracting Parties have recognized that dredged material, due to its characteristics, can be managed separately from waste materials. In 1986, the Tenth Consultative Meeting adopted "Guidelines for the Application of the Annexes to the Disposal of Dredged Material" (resolution LDC.23(10)). It was agreed that the guidelines should be kept under regular review to take into account developments in dredging technology and improved understanding of the environmental consequences of disposal at sea.

1.3 The Dredged Material Assessment Framework (DMAF) is a generic guideline for decision makers in the field of management of dredged material. It is derived from the Waste Assessment Framework and sets out the basic practical, though not necessarily detailed considerations required for determining the conditions under which dredged material might (or might not) be deposited at sea.

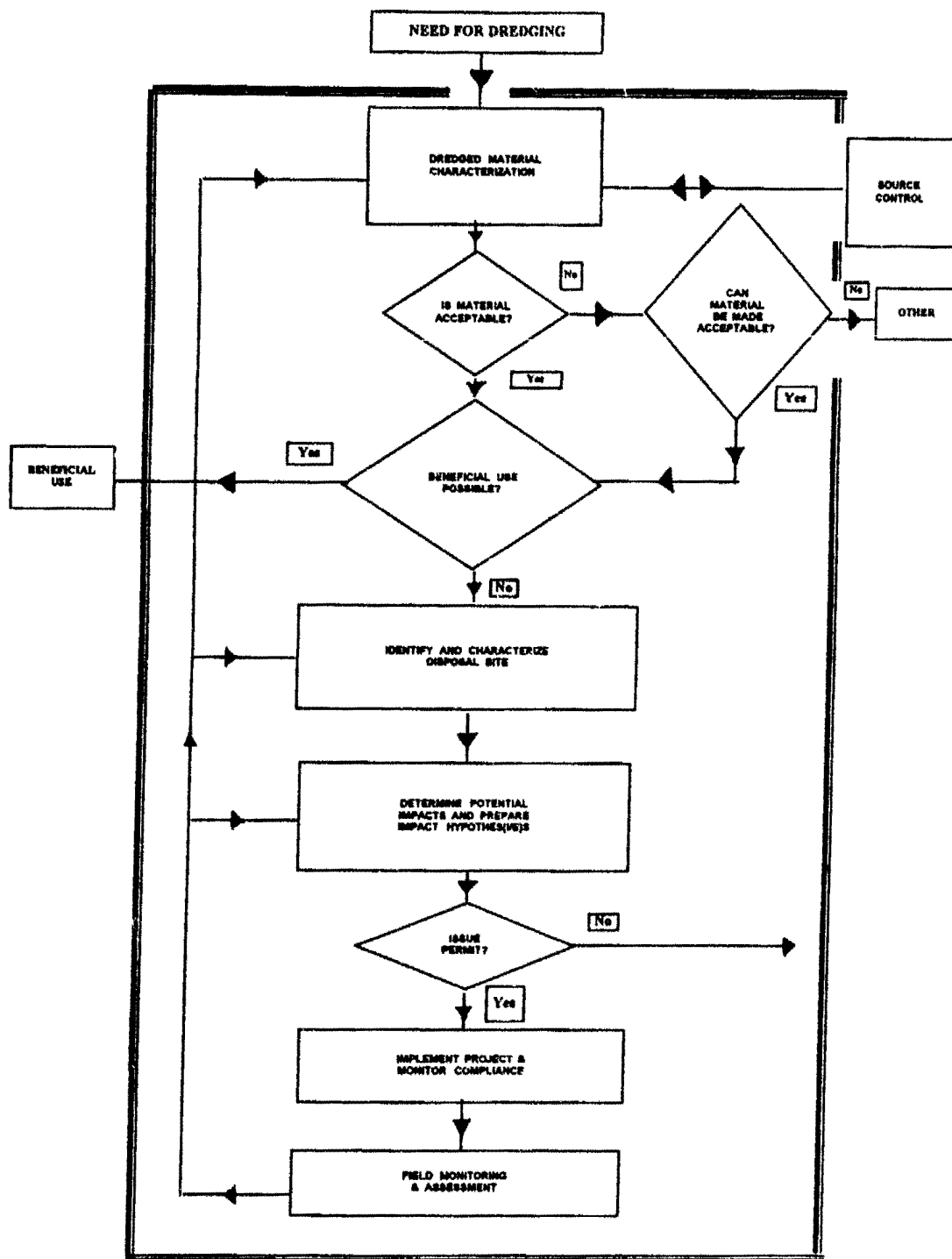
2 EVALUATION OF NEED FOR DREDGING AND DISPOSAL

2.1 There are a number of dredging activities which may give rise to the need to relocate or dispose of sediments. These include:

1. **Capital dredging** - for navigation, to enlarge or deepen existing channel and port areas or to create new ones; and for engineering purposes; e.g., trenches for pipes, cables, immersed tube tunnels, removal of material unsuitable for foundations, removal of overburden for aggregate extractions;
2. **Maintenance dredging** - to ensure that channels, berths or construction works are maintained at their designed dimensions; and
3. **Clean-up dredging** - deliberate removal of contaminated material for human health and environmental protection purposes.

2.2 Before beginning a full assessment of the material and the disposal options the question should be asked "Is dredging necessary?". In the event of a subsequent full assessment indicating no acceptable options for disposal it will be necessary to re-address this question in a broader context.

DREDGED MATERIAL ASSESSMENT FRAMEWORK



REPRESENTATION OF THE JURISDICTIONAL BOUNDARY OF THE CONVENTION

3 DREDGED MATERIAL CHARACTERIZATION

Physical characterization

3.1 Evaluation of the physical characteristics of sediments for disposal is necessary to determine potential environmental impact and the need for chemical and/or biological testing. The basic physical characteristics required are the amount of material, particle size distribution and specific gravity of solids.

Exemptions from detailed characterization

3.2 Dredged material may be exempted from the full characterization requested in paragraphs 3.3 to 3.9 below if it meets **one** of the criteria listed below:

- .1 dredged material is excavated from a site away from existing and historical sources of appreciable pollution, so as to provide reasonable assurance that the dredged material has not been contaminated, **or**
- .2 dredged material is composed predominantly of sand, gravel and/or rock, **or**
- .3 dredged material is composed of previously undisturbed geological materials.

Dredged material that does not meet one of these criteria will require a full characterization to assess its potential impact.

Chemical characterization

3.3 Sufficient information for chemical characterization may be available from existing sources: in such cases new measurements may not be required of the potential impact of similar material at similar sites.

3.4 Considerations for additional chemical characterization of dredged material are as follows:

- .1 major geochemical characteristics of the sediment including redox status;
- .2 potential routes by which contaminants could reasonably have been introduced to the sediments;
- .3 data from previous sediment chemical characterization and other tests of the material or other similar material in the vicinity, provided this information is still reliable;
- .4 probability of contamination from agricultural and urban surface runoff;
- .5 spills of contaminants in the area to be dredged;
- .6 industrial and municipal waste discharges (past and present);

.7 source and prior use of dredged materials (e.g., beach nourishment); and

.8 substantial natural deposits of minerals and other natural substances.

3.5 Sampling of sediments from the proposed dredging site should represent the vertical and horizontal distribution and variability of properties of the materials to be dredged.

3.6 Further information may also be useful in interpreting the results of chemical testing, such as total organic carbon (TOC).

Biological characterization

3.7 If the potential impacts of the dredged material to be dumped cannot be assessed on the basis of the chemical and physical characterization and available biological information, biological testing should be conducted.

3.8 It is important to ascertain whether an adequate scientific basis exists on the characteristics and composition of the material to be dumped and on the potential impacts on marine life and human health. In this context, it is important to consider information about species known to occur in the area of the disposal site and the effects of the material to be dumped and of its constituents on organisms.

3.9 Biological tests should incorporate species that are considered appropriately sensitive and representative and should determine, where appropriate:

.1 acute toxicity;

.2 chronic toxicity such as long-term sub-lethal effects, covering an entire life cycle;

.3 the potential for bioaccumulation; and

.4 the potential for tainting.

Action List

3.10 The following is a screening mechanism for assessing properties and constituents of dredged material with a set of criteria for specific substances similar to that developed in the Waste Assessment Framework. These should reflect experience gained with published scientific research relating to the potential effects on human health or the marine environment. An Action List should be devised as a trigger mechanism for dredged material management decisions, including the identification and development of source control measures as described in paragraphs 3.13 to 3.15 below.

3.11 Action List levels¹ should be developed on a national or regional basis and might be set on the basis of concentration limits, biological responses, environmental quality standards, flux considerations or other reference values.

¹ The Action List should, as a minimum, address the substances as currently contained in Annexes I and II to the Convention.

3.12 An Action List may include an upper and lower level giving these possible actions:

- .1 material which contains specified contaminants, or which causes biological responses, in excess of the relevant upper levels should generally be considered unsuitable for disposal at sea;
- .2 material which contains specified contaminants, or which causes biological responses, below the relevant lower levels should generally be considered of little environmental concern for disposal at sea; and
- .3 material of intermediate quality should require more detailed assessment before suitability for disposal at sea can be determined.

Contaminant Source Evaluation and Control

3.13 Contamination of estuarine and coastal marine sediments both as a consequence of historical and present day inputs presents a continuing problem for the management of dredged material. High priority should be given to the identification of sources, reduction and prevention of further contamination of sediments and should address both point and diffuse sources. Successful implementation of prevention strategies will require collaboration among agencies with responsibility for the control of point and diffuse sources of contamination.

3.14 In developing and implementing the source control strategy, appropriate agencies should take into account:

- .1 the continuing need for dredging;
- .2 the hazards posed by contaminants and the relative contributions of the individual sources to these hazards;
- .3 existing source control programmes and other regulations or legal requirements;
- .4 technical and economic feasibility;
- .5 the evaluation of the effectiveness of measures taken; and
- .6 consequences of not implementing contaminant reduction.

3.15 In cases where there has been historical contamination or where control measures are not fully effective in reducing contamination to acceptable levels, disposal management techniques, including the use of containment or treatment methods may be required.

4 EVALUATION OF DISPOSAL OPTIONS

4.1 The results of the physical/chemical/biological characterization will indicate whether the dredged material, in principle, is suitable for disposal at sea. Where sea disposal is identified as an acceptable option it is nonetheless important, recognizing the potential value of dredged material as a resource, to consider the availability of beneficial uses.

Beneficial Uses

4.2 There is a wide variety of beneficial uses depending on the physical and chemical characteristics of the material. Generally, a characterization carried out in accordance with chapter 3 of this Framework will be sufficient to match a material to possible uses such as:

- .1 **Engineered uses** - land creation and improvement, beach nourishment, offshore berms, capping material and fill;
- .2 **Agricultural and product uses** - aquaculture, construction material, liners; and
- .3 **Environmental enhancement** - restoration and establishment of wetlands, upland habitats, nesting islands, and fisheries.

The technical aspects of beneficial uses are well-established and described in the literature.

Management Options

4.3 Where the characteristics of the dredged material are such that its disposal would not meet the requirements of the Convention, treatment or other management options should be considered. These options can be used to reduce or control impacts to a level that will not constitute an unacceptable risk to human health, or harm living resources, damage amenities or interfere with legitimate uses of the sea.

4.4 Treatment, such as separation of contaminated fractions, may make the material suitable for a beneficial use and should be considered before opting for sea disposal. Disposal management techniques may include placement on or burial in the sea floor followed by clean sediment capping, utilization of geochemical interactions and transformations of substances in dredged material when combined with sea water or bottom sediment, selection of special sites such as abiotic zones, or methods of containing dredged material in a stable manner.

5 SEA DISPOSAL SITE SELECTION²

5.1 The selection of a site for sea disposal involves not only considerations of an environmental nature but also economic and operational feasibility.

5.2 For the evaluation of a sea disposal site information should be obtained on the following, as appropriate:

- .1 the physical, geochemical and biological characteristics of the sea-bed (e.g., topography, redox status, benthic biota);
- .2 the physical, chemical and biological characteristics of the water column (e.g., currents, dissolved oxygen, pelagic species); and
- .3 proximity to:
 - .1 areas of natural beauty or significant cultural or historical importance;
 - .2 areas of special scientific or biological importance such as sanctuaries and critical habitats;
 - .3 recreational areas;
 - .4 subsistence, commercial and sport fishing areas;
 - .5 finfish and shellfish spawning, recruitment and nursery areas;
 - .6 migration routes of marine organisms;
 - .7 shipping lanes;
 - .8 military exclusion zones;
 - .9 engineering uses of the sea such as mining, undersea cables, water intakes, energy conversion sites, etc.

Such information can be obtained from existing sources complemented by field work where necessary.

5.3 The information on the characteristics of the sea disposal site referred to above is required to determine the probable fate and effects of the dumped material. The physical conditions in the vicinity of the sea disposal site will determine the transport and fate of the dredged material. The physico-chemical conditions can be used to assess the mobility and bioavailability of the chemical constituents of the material. The nature and distribution of the biological community and the proximity of the site of sea disposal to marine resources and amenities will, in turn, define the nature of the effects that are to be expected. Careful evaluation will then permit prediction of the consequences of dumping

² Matters related to criteria for selection of sea disposal sites are addressed by the London Convention 1972 and are currently contained in Annex III thereto. These criteria should be considered in conjunction with this Framework.

if it is authorized. It will also permit determination of environmental processes that may dominate the transport of material away from the sea disposal site. The influence of these processes may be reduced through the imposition of permit conditions.

5.4 In some cases, dumping can augment existing effects attributable to inputs of contaminants to coastal areas through land runoff and discharge, resource exploitation and maritime transport. These existing stresses on biological communities should be considered as part of the assessment of potential impacts caused by dumping. The proposed method of dumping and potential future uses of resources and amenities in the marine receiving area should also be taken into account.

6 IMPACT ASSESSMENT

6.1 Impact assessment should lead to a concise statement of the expected consequences of the disposal option (i.e., the Impact Hypothesis). Its purpose is to provide a basis for deciding whether to approve or reject the proposed disposal option and for defining environmental monitoring requirements.

6.2 Impact assessment comprises a summary of the potential effects on human health, living resources, amenities and other legitimate uses of the sea. It should define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.

6.3 For a **retentive site**, where the material deposited will remain within the vicinity of the site, the impact assessment should delineate the area that will be substantially altered by the presence of the deposited material and what the severity of these alterations might be. At the extreme, this may include an assumption that the immediate receiving area is entirely smothered. In such a case the likely timescale of recovery or recolonization should be projected after disposal operations have been completed as well as the likelihood that recolonization will be similar to, or different from, the existing benthic community structure. The impact assessment should specify the likelihood and scale of residual impacts outside the primary zone.

6.4 In the case of a **dispersive site**, the impact assessment should include a definition of the area likely to be altered in the shorter term by the proposed disposal operation (i.e., the near-field) and the severity of associated changes in that immediate receiving environment. It should also specify the likely extent of long-term transport of material from this area and what this flux represents in relation to existing transport fluxes in the area thereby permitting a statement regarding the likely scale and severity of effects in the long-term and far-field.

7 PERMIT ISSUE

7.1 If sea disposal is the selected option, then a permit authorizing sea disposal must be issued in advance. In granting a permit, the immediate impact of dredged material occurring within the boundaries of the disposal site such as alterations to the local, physical, chemical and biological environment is accepted by the permitting authority. Notwithstanding these consequences, the conditions under which a permit for sea disposal is issued should be such that environmental change beyond the boundaries of the disposal site are as far below the limits of allowable environmental change as practicable. The disposal operation should be permitted subject to conditions which further ensure that environmental disturbance and detriment are minimized and benefits maximized.

7.2 The permit is an important tool for managing sea disposal of dredged material and will contain the terms and conditions under which sea disposal may take place as well as provide a framework for assessing and ensuring compliance.

7.3 Permit conditions should be drafted in plain and unambiguous language and will be designed to ensure that:

- .1 only those materials which have been characterized and found acceptable for sea disposal, based on the impact assessment, are dumped;
- .2 the material is disposed of at the selected disposal site;
- .3 any necessary disposal management techniques identified during the impact analysis are carried out; and
- .4 any monitoring requirements are fulfilled and the results reported to the permitting authority.

7.4 Sufficient surveillance of sea disposal operations should assure the licensing authority that the permit conditions are met.

8 MONITORING

8.1 Monitoring in relation to disposal of dredged material is defined as measurements of compliance with permit requirements and of the condition and changes in condition of the receiving area to assess the Impact Hypothesis upon which the issue of a disposal permit was approved.

Specification of Baseline Conditions

8.2 It may usually be assumed that suitable specifications of existing (pre-disposal) conditions in the receiving area are already contained in the application for disposal. If the specification of such conditions is inadequate to permit the formulation of an Impact Hypothesis, additional information will be required by the licensing authority before any final decision on the permit application is made.

Post-Operational Monitoring

8.3 The Impact Hypothesis forms the basis for defining post-operational monitoring. The measurement programme should be designed to ascertain that changes in the receiving environment are within those predicted. In designing a monitoring programme the following questions must be answered:

- .1 what testable hypotheses can be derived from the Impact Hypothesis?
- .2 what measurements (type, location, frequency, performance requirements) are required to test these hypotheses?
- .3 how should the data be managed and interpreted?

8.4 The permitting authority is encouraged to take account of relevant research information in the design and modification of monitoring programmes. The measurements can be divided into two types - those within the zone of predicted impact and those outside.

8.5 Measurements should be designed to determine two things:

- .1 whether the zone of impact differs from that projected; and
- .2 whether the extent of change projected outside the zone of impact is within the scale predicted.

The first of these questions can be answered by designing a sequence of measurements in space and time that circumscribe the projected zone of impact to ensure that the projected spatial scale of change is not exceeded. The second question can be answered by the acquisition of measurements that provide information on the extent of change that occurs outside the zone of impact after the disposal operation. Frequently, this latter suite of measurements will only be able to be based on a null hypothesis - that no significant change can be detected.

Feedback

8.6 Information gained from field monitoring (or other related research studies) can be used to:

- .1 modify or terminate the field monitoring programme;
- .2 modify or revoke the permit; and
- .3 refine the basis on which applications to dump dredged material at sea are assessed.

ANNEX 3

(DRAFT) PROTOCOL OF 1996 RELATING TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER, 1972

(PREAMBLE)

(Text of Preamble to be considered after agreement
on Articles and Annexes.
Current proposals not reflected here.)

ARTICLE 1

For the purposes of this Protocol:

- 1 "Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972;
- 2 "Organization" means the International Maritime Organization;
- 3 "Secretary-General" means the Secretary-General of the Organization.

ARTICLE 2

The existing text of Article I is replaced by the following text:

Contracting Parties shall, individually and collectively, *protect and preserve the marine environment from* all sources of pollution *and take effective measures, according to their scientific, technical and economic capabilities*, to prevent, *reduce, and, where practicable eliminate* pollution of the sea by dumping *and incineration* of wastes or other matter *at sea*. *Where appropriate, they shall harmonize their policies in this regard.*

ARTICLE 3

Article II is replaced by the following text:

- 1 ***In implementing this Convention, the Contracting Parties shall***
[be guided by¹][apply²]

¹ Some delegations including China and the Russian Federation prefer this option.

² The majority of delegations indicated to prefer this option as a compromise.

a precautionary approach to environmental protection from disposal and incineration of wastes and other matter at sea whereby appropriate preventative measures are taken when there is reason to believe that substances or energy introduced in the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects.

- 2 *Each Contracting Party shall endeavour to promote practices, in accordance with the polluter-pays-principle, whereby those it has authorized to engage in dumping or incineration at sea bear the cost of meeting the pollution prevention and control requirements for the authorized activities, having due regard to the public interest.*
- 3 *In implementing the provisions of this Convention, Contracting Parties shall act so as not to transfer, directly or indirectly, damage or [hazards] from one part of the environment to another or transform one type of pollution into another.*
- 4 *No provision of this Convention shall be interpreted as preventing the Contracting Parties from taking, individually or jointly, more stringent measures in accordance with international law with respect to the prevention, reduction, and, where practicable elimination of pollution of the sea.*

ARTICLE 4

Article III is amended as follows.

- 1 *After paragraph 1(a)(ii) the following sub-paragraph[s] [is]/[are] added:*

(iii) any deliberate disposal or storage of wastes or other matter in the sea-bed and the subsoil thereof from vessels, aircraft, platforms, or other man-made structures at sea.

(iv) any abandonment or any toppling at site of platforms, or other man-made structures at sea, for no other purpose than disposal.³

- 2 *After paragraph 1(b)(ii) the following sub-paragraph is added:*

(iii) abandonment in the sea-bed and subsoil thereof of matter (e.g., cables, pipelines, and marine research devices) placed for a purpose other than the mere disposal thereof.

- 3 *Paragraph 1(c) is replaced by the following text:*

The disposal or storage of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources will not be covered by the provisions of this Convention

³ Proposed by Germany. Reflects agreement of Thirteenth Consultative Meeting. No decision taken at the Eighteenth Consultative Meeting.

4 *Paragraph 3 is replaced by the following text:*

"Sea" means all marine waters other than the internal waters of States, *as well as their bed and the subsoil thereof; it does not include sub-seabed repositories accessed only from land.*

5 *Paragraph 7 is deleted.*

6 *After paragraph 6 the following paragraphs are added:*

7 **"Pollution" means the introduction, directly or indirectly, by human activity, of wastes or other matter into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.**

8 **"Incineration at sea" means the deliberate combustion of wastes or other matter on marine incineration facilities for the purpose of their thermal destruction. Activities incidental to the normal operation of vessels, platforms or other man-made structures carried out in accordance with applicable international law are excluded from the scope of this definition.**

9 **"Marine incineration facility" means a vessel, platform, or other man-made structure operating for the purpose of incineration at sea.**

[ARTICLE 5⁴

Article IV is replaced by the following text:

- 1 (a) Contracting Parties shall prohibit the dumping of any wastes or other matter with the exception of those listed in Annex I.
- (b) The dumping of wastes or other matter listed in Annex I shall require a permit. Contracting Parties shall adopt administrative or legislative measures governing the issuance of permits to ensure that the assessment of proposed dumping is conducted in accordance with Annex III.
- 2 No provision of this Convention is to be interpreted as preventing a Contracting Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter mentioned in Annex I. That Party shall notify such measures to the Organization.]

⁴ Some delegations expressed the view that the option with the existing Annexes to the Convention as well as the option with the reverse list should be presented to the conference.

ARTICLE 6

After Article IV three new Articles are inserted as follows:

[Article IV (bis)⁵

- 1 Contracting Parties shall prohibit the incineration at sea of any wastes or other matter with the exception of those listed in Annex II.
- 2 The incineration at sea of wastes or other matter listed in Annex II shall require a permit. Contracting Parties shall adopt administrative or legislative measures governing the issuance of permits to ensure that the assessment of proposed incineration at sea is conducted in accordance with Annex III.]

Article IV (ter)⁶

Contracting Parties shall not permit the export of wastes or other matter to other countries for dumping or incineration at sea.

Article IV (quater)⁷

- 1 Notwithstanding any other provision of this Convention, this Convention shall relate to internal waters only to the extent provided for in paragraphs 2 and 3 of this Article.
- 2 Each Contracting party shall at its discretion either apply the provisions of this Convention or adopt other effective permitting and regulatory measures to control the deliberate disposal of wastes or other matter in marine internal waters where such disposal would be "dumping" or "incineration at sea" within the meaning of Article III, if conducted at sea.
- 3 Each Party shall provide the Organization with information on legislation and institutional mechanisms regarding implementation, compliance and enforcement in marine internal waters. States should also use their best efforts to provide on a voluntary basis summary reports on the types and nature of the materials dumped in marine internal waters.

ARTICLE 7

Article V(2) is replaced by the following text:⁸

⁵ Pending acceptance of a reverse list. The delegations of Brazil, Denmark, Finland and Germany favour a complete prohibition of incineration at sea.

⁶ Final text to be reviewed in light of the type and contents of the regime ultimately adopted in this Protocol for dumping and incineration at sea.

⁷ Reservation by Chile.

⁸ Remains as drafted in LC 18/5.

ARTICLE 8

Article VI is amended as follows.

1 *Sub-paragraph 1(c) is replaced by the following text:*

keep records of the nature and quantities of all matter permitted to be dumped ***and, where practicable, actually dumped*** and the location, time and method of dumping;

2 *Paragraph 4 is replaced by the following text:*

Each Contracting Party, directly or through a Secretariat established under a regional agreement, shall report to the Organization, and where appropriate to other Parties:

- (a) the information specified in sub-paragraphs (c) and (d) of paragraph (1) above;
- (b) ***the legal and regulatory measures taken to implement the provisions of this Convention and its Annexes, including a summary of enforcement measures; and***
- (c) ***the effectiveness of the measures referred to in sub-paragraph 4(b) above and any problems encountered in their application.***

The information referred to in sub-paragraphs (c) and (d) of paragraph 1 above shall be submitted on an annual basis. The information specified in sub-paragraph 4(b) and 4(c) shall be submitted on a regular basis.

Technical and scientific matters included in the reports submitted under subparagraphs 4(b) and 4(c) shall be evaluated initially by the Scientific Group. The Scientific Group will apprise the Meeting of Parties of its conclusions, including any identified deficiencies in enforcement of or compliance with this Convention.⁹

ARTICLE 9

*Article VII is replaced by the following text:*¹⁰

1 Each Contracting Party shall apply the measures required to implement this Convention to all:

- (a) vessels ~~[or]~~**[and]** aircraft registered in its territory or flying its flag;
- (b) vessels ~~[or]~~**[and]** aircraft loading in its territory ***the wastes or other matter which are to be dumped or incinerated;***
- (c) vessels ~~[or]~~**[and]** aircraft and fixed or floating platforms believed to be engaged in dumping or incineration at sea within its ~~[territorial sea or its exclusive economic zone or onto its continental shelf]~~ **[jurisdiction]**.

⁹ Reservations by Canada and Poland.

¹⁰ # To be considered by jurists/linguists. Argentina prefers to retain the existing text "vessels and aircraft" throughout this Article, also to avoid possible confusion with the meaning of "or" in other languages.

Paragraphs 2, 3 and 5 as reflected in document LC 18/5.

Paragraph 4:

Option 1: (The existing text)

- 4 [This Convention shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Convention, and shall inform the Organization accordingly.]

Option 2: (Proposal developed by a drafting group)

- 4 [Each Contracting Party shall ensure that its vessels and aircraft entitled to sovereign immunity under international law comply with this Convention. In accordance with international law, only the Flag State of such vessels and the State of registry of such aircraft may enforce this Convention against those vessels and aircraft.]

ARTICLE 10¹¹

After Article VII, a new Article is inserted as follows:

- 1 No later than [...] years after the entry into force of this Article, the Meeting of Parties shall establish procedures, rules, regulations and institutional mechanisms necessary to monitor, assess and promote compliance with this Convention and its Annexes. Such procedures and mechanisms shall be developed with a view to allowing for full and open exchange of information in a facilitative and non-confrontational manner.
- 2 After full consideration of any information submitted pursuant to this Convention and any recommendations made by the institutional mechanisms, the Meeting of Parties may offer advice, assistance or co-operation to Contracting Parties and non-Contracting Parties.

ARTICLE 11

Article IX is replaced by the following text:

- 1 The Contracting Parties shall, through collaboration within the Organization and *in co-ordination with other competent* international bodies, promote *bilateral and multilateral support for the prevention, reduction, and, where practicable elimination of pollution from dumping and incineration at sea as provided for in this Convention* to those Parties that request it for:
- (a) training of scientific and technical personnel *for research, monitoring and enforcement, including, as appropriate*, the supply of necessary equipment and facilities, *with a view to strengthening national capabilities*;

¹¹ Reservation by the Russian Federation.

- (b) *advice on implementation of this Convention;*
 - (c) *information and technical co-operation relating to waste minimization and clean production processes;*
 - (d) *the disposal and treatment of waste and other measures to prevent or mitigate pollution caused by dumping and incineration at sea;*
 - (e) *access to and transfer of environmentally sound technologies and corresponding know-how, in particular to developing countries and countries in transition to market economies, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights as well as the special needs of developing countries and countries in transition to market economies.*
- 2** *The Contracting Parties designate the Organization, subject to the availability of adequate resources, to perform the following functions:*
- (a) *to forward requests from Contracting Parties for technical co-operation to other Contracting Parties, taking into account such factors as technical capabilities;*
 - (b) *to co-ordinate requests for assistance with other competent international bodies, as appropriate; and*
 - (c) *to assist developing countries and those in transition to market economies, which have declared their intention to become Contracting Parties to this Convention, to examine the means necessary to achieve full implementation.*

ARTICLE 12
(deleted)

ARTICLE 13¹²

After Article IX a new Article is inserted as follows:

Article IX[bis]

- 1** *Parties ratifying or acceding to this Protocol, which were not Contracting Parties to the London Convention 1972 before December 1996, may request, based upon demonstrated need, a period up to 5 years to achieve full compliance with specific provisions of this Protocol with the exception of the dumping of radioactive wastes or other radioactive matter and incineration at sea. That period would begin on the date of ratification or accession to this Protocol, provided that this date is within 5 years of entry into force of this Protocol.*

¹² The Consultative Meeting agreed that it would not be appropriate to include a "grace" period for Contracting Parties to the London Convention 1972 in this Article. However, the question of whether an optional phase-in period for such Parties which request it is required, needs to be discussed in the light of developments in the negotiation of the proposed Protocol. In the event that such a provision is considered necessary, it should be applied narrowly and only to those new or more stringent requirements in the Protocol.

- 2 *Upon ratification or accession, these Contracting Parties shall submit to the Meeting of Parties for its consideration a programme and timetable to achieve full compliance, together with any requests for relevant technical co-operation and assistance in accordance with Article 11. The programme and timetable should be specific to those provisions to which such a period would apply.*
- 3 *Contracting Parties that avail themselves of such a period shall establish procedures and institutional mechanisms to implement and monitor submitted programmes designed to achieve full compliance with this Protocol. A report on progress toward compliance shall be submitted by such Parties to each Meeting of Parties for appropriate action.*

ARTICLE 14

After Article IX [bis] a new Article is inserted as follows.¹³

Article IX (ter)

- 1 Contracting Parties shall promote and facilitate the development and conduct of scientific and technical research for the protection and preservation of the marine environment, in particular the prevention, reduction, and, where practicable elimination of pollution of the sea by dumping and incineration at sea including the assessment and management of materials suitable for dumping and incineration at sea.
- 2 Contracting Parties shall, consistent with the rights of other States, endeavour, as far as practicable, directly or through competent international organizations, to observe, measure, evaluate and analyze, by recognized scientific methods, the effects of human activities on the marine environment
- 3 Contracting Parties shall [notify the Organization of] [make available by publication and dissemination through appropriate channels,] information on:
 - (a) activities or measures developed to prevent, reduce, and, where practicable eliminate pollution of the sea in accordance with this Convention;
 - (b) marine scientific and technological programmes in respect of prevention, reduction, and, where practicable elimination of pollution of the sea;
 - (c) the state of the marine and coastal areas; and
 - (d) marine scientific and technological programmes and their objectives.
- 4 Contracting Parties shall encourage and use scientific and socio-economic research in order to achieve an improved understanding on which to base long-term policy options.

¹³ Proposal not discussed at this Consultative Meeting. Further comparison is required between this Article and Articles XIV and XIV(bis) (Institutional Arrangements). Reservations expressed on the application and broad scope of this Article, particularly with respect to paragraph 3.

ARTICLE 15

Article X is replaced by the following text:

In accordance with the principles of international law regarding State responsibility for damage to the environment of other States or to any other area of the environment, caused by dumping ***or incineration at sea*** of wastes and other matter of all kinds, the Contracting Parties undertake to develop procedures ***for settlement of claims for liability and compensation regarding dumping or incineration.***

ARTICLE 16

Article XI is replaced by the following text:¹⁴

- 1 Any disputes regarding the interpretation or implementation of this Convention shall be resolved in the first instance through negotiation, mediation or conciliation.
- 2 If no resolution is possible within a period of twelve months, the dispute shall be settled by means of the arbitral procedure set forth in Annex [IV], unless the Parties agree to use one of the procedures listed in Article 287(1) of the United Nations Convention on the Law of the Sea.
- 3 The twelve month period referred to in paragraph 2 may be extended for another twelve months by mutual consent of the Parties concerned.
- 4 When signing, ratifying or acceding to the Convention [or at any time thereafter], a Contracting Party may declare [to accept][not to accept] the procedure provided for in paragraph 2 of this Article. [A declaration of non-acceptance may be revoked in written form at any time thereafter.]

ARTICLE 17

Article XII is replaced by the following text:¹⁵

The Contracting Parties ***shall*** promote, within the competent specialized agencies and other international bodies, measures to protect the marine environment against pollution caused by:

- (a) hydrocarbons, including oil and their wastes;
- (b) other noxious or hazardous matter transported by vessels for purposes other than dumping;
- (c) wastes generated in the course of operation of vessels, aircraft, platforms and other man-made structures at sea;

¹⁴ Proposals not discussed at this Consultative Meeting.

¹⁵ The text of this Article is to be reviewed in light of the definition of "pollution".

- (d) radio-active pollutants from all sources, including vessels;
- (e) agents of chemical and biological warfare;
- (f) wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

ARTICLE 18

Article VIII is replaced by the following text and inserted after Article XII

Article XII (bis)

In order to further the objectives of this Convention, the Contracting Parties with common interests to protect the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to ***enhance regional co-operation including the conclusion of*** regional agreements consistent with this Convention for the prevention, ***reduction, and, where practicable elimination*** of pollution by dumping ***and incineration of wastes or other matter at sea***. The Contracting Parties to the present Convention shall endeavour to act consistently with the objectives and provisions of such regional agreements, which shall be notified to them by the Organization. Contracting Parties shall seek to co-operate with the Parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned. Special attention shall be given to co-operation in the field of monitoring and scientific research.

ARTICLE 19

Article XIII is deleted.

ARTICLE 20 - 21

Article XIV is replaced by the following two Articles:

Article XIV

- 1 ***The Organization shall*** be responsible for Secretariat duties in relation to this Convention. Any Party to this Convention not being a member of this Organization shall make an appropriate contribution to the expenses incurred by the Organization in performing these duties.
- 2 ***The Organization shall perform the functions that are necessary for the administration of this Convention, which include to:***
 - (a) convene Meetings of Parties ***once per year, unless otherwise decided***, and special meetings of Parties at any time on the request of two-thirds of the Parties;

- (b) *provide advice on request on the implementation of this Convention, and on guidance and procedures developed thereunder;*
- (c) *consider enquiries by, and information from, the Contracting Parties, consulting with them and with the appropriate International Organizations, and providing recommendations to the Parties on questions related to, but not specifically covered by, this Convention;*
- (d) *prepare and assist, in consultation with the Contracting Parties and appropriate International Organizations, in the development and implementation of procedures referred to in Article [XIV(bis)(f)];*
- (e) *convey to the Parties concerned all notifications received by the Organization in accordance with Articles [IV(2), V(1) and (2), VI(4), XV, XX, and XXI];*
- (f) *prepare, on a biennial basis, a budget and a financial account for the administration of this Protocol.*

3 *The Organization shall subject to the availability of funds, inter alia:*

- (a) *carry out functions as mentioned in Article IX(2)*
- (b) *collaborate in assessments of the state of the marine environment;*
- (c) *co-operate with competent global and regional organizations concerned with the prevention and control of marine pollution, and coordinate its activities accordingly;*

Article XIV (bis)

Meetings or special meetings of the Contracting Parties shall keep under continuing review the implementation of this Convention and evaluate its effectiveness with a view to identifying means of strengthening action, where necessary, to prevent, reduce, and, where practicable eliminate pollution caused by dumping and incineration of wastes and other matter at sea. To these ends, meetings or special meetings may, inter alia:

- (a) *review and adopt, where appropriate, amendments to this Convention and its Annexes in accordance with Articles XV and XV(bis).*
- (b) *establish subsidiary bodies, as required, to consider any matter with a view to facilitating the effective implementation of this Convention;*
- (c) *invite appropriate expert bodies to advise the Parties or the Organization on matters relevant to this Convention;*
- (d) *promote co-operation with global and regional organizations concerned with the prevention and control of marine pollution;*
- (e) *consider the information made available pursuant to Article VI(4);*

- (f) develop or adopt, in consultation with *competent* International Organizations, procedures referred to in Article V(2), including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter *at sea* in such circumstances;
- (g) *consider any additional action that may be required.*

ARTICLE 21

Article XV is replaced by the following two Articles:

Article XV

- 1** *Any Contracting Party may propose amendments to this Convention. The text of a proposed amendment shall be communicated to all Contracting Parties by the Organization at least six months prior to its consideration at a meeting or special meeting of Parties.*
- 2** *Amendments to this Convention shall be adopted by a two-thirds majority vote of the Contracting Parties which are present and voting at a meeting or special meeting designated for this purpose. For the purpose of this Article, "Contracting Parties which are present and voting" means Parties present and casting an affirmative or negative vote.*
- 3** *An amendment shall enter into force for the Parties which have accepted it on the sixtieth day after [two-thirds] of the Parties shall have deposited an instrument of acceptance of the amendment with the Organization. Thereafter the amendment shall enter into force for any other Party on the *sixtieth* day after *the date on which* that Party has deposited its instrument of acceptance of the amendment.*
- 4** *The Organization shall inform all Contracting Parties of any amendments adopted at meetings of Parties and of the date on which such amendments enter into force *generally and* for each Party.*
- 5** *After entry into force of an amendment to this Convention any new Contracting Party to the Convention shall become a Contracting Party to the Convention as amended.*

Article XV (bis)

- 1** *Annexes to this Convention form an integral part of the Convention.*
- 2** *Any Contracting Party may propose amendments to the Annexes to this Convention. The text of a proposed amendment shall be communicated to all Contracting Parties by the Organization at least six months prior to its consideration by a meeting or special meeting of Parties.*
- 3** *Amendments to the Annexes will be based on scientific or technical considerations. They shall be adopted by a two-thirds majority vote of the Contracting Parties present and voting at a meeting or special meeting designated for this purpose. For the purpose of this Article "Contracting Parties which are present and voting" means Parties present and casting an affirmative or negative vote.*

- 4 *The Organization shall without delay communicate to all Contracting Parties amendments that have been adopted at a meeting or special meeting of Parties.*
- 5 *Amendments to the Annexes shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organization. For all other Contracting Parties the amendments enter into force 100 days after the date of their adoption at a meeting, except for those Contracting Parties which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. A Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Party.*
- 6 *The Organization shall without delay notify all Contracting Parties of instruments of acceptance or objection deposited with the Organization.*
- [7 *The adoption and entry into force of a new Annex shall be subject to the same procedures as those for the adoption and entry into force of an amendment to an Annex.*]
- 8 *A new Annex or an amendment to an Annex which is related to an amendment of this Convention shall not enter into force until such time as the amendment to this Convention enters into force.*
- 9 *With regard to amendments to Annex IV concerning procedures for the settlement of disputes [and with regard to the adoption and entry into force of new Annexes]¹⁶ the procedures on amendments to this Convention shall apply.*

ARTICLE 22

[The text of Annex I is replaced by the following:¹⁷

THE REVERSE LIST ON DUMPING

- 1 *The following wastes or other matter are those that may be considered for dumping. It is essential that the list is implemented by rigorous application of the Waste Assessment Framework (Annex III) on a case-by-case basis. Particular attention shall be paid to opportunities to avoid dumping in favour of environmentally preferable alternatives. In the application of the Waste Assessment Framework, assessment of the impact of the wastes or other matter on the marine environment shall take into account the inherent uncertainties.*

¹⁶ Inclusion of this bracketed text is dependent on deletion of paragraph 7 above.

¹⁷ To be concluded in connection with a final decision on Article 5 of this Protocol.

2 The list of wastes or other matter is as follows:

- .1 dredged material;**
- .2 sewage sludge;**
- .3 fish waste, or material resulting from industrial fish processing operations;**
- .4 vessels and platforms or other man-made structures at sea¹⁸; ***
- .5 inert, inorganic geological material;**
- .6 organic material of natural origin; and**
- [.7 containers, scrap metal and other similar bulky wastes.]¹⁹***

3 Notwithstanding the above, materials listed in paragraphs [2.1 to 2.7] containing levels of radioactivity greater than de minimis (exempt) concentrations as defined by the IAEA and adopted by Contracting Parties, shall not be considered eligible for dumping; provided further that within 25 years of February 20 1994, and at each 25 year interval thereafter, the Contracting Parties shall complete a scientific study relating to all radioactive wastes and other radioactive matter other than high level wastes or matter, taking into account such other factors as the Contracting Parties consider appropriate and shall review the prohibition on dumping of such substances in accordance with the procedures set forth in Article XV(bis).

*** Provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacles to fishing or navigation.]**

ARTICLE 23

[The text of Annex II is replaced by the following:²⁰

THE REVERSE LIST ON INCINERATION AT SEA

1 The following wastes or other matter are those that may be considered for incineration at sea. It is essential that the list is implemented by rigorous application of the Waste Assessment Framework (Annex III²¹). This shall be done on a case-by-case basis, paying particular attention to opportunities to avoid incineration at sea in favour of environmentally preferable alternatives, as well as assessing the impact of the products of the combustion of wastes or other matter on the marine environment, taking into account the inherent uncertainties.

¹⁸ Some delegations were in favour of deletion of this provision.

¹⁹ A majority of delegations was in favour of deletion of this indent.

²⁰ To be included in connection with a final decision on Article 6 of this Protocol.

²¹ Technical Guidelines will need to be developed.

2 *The list of wastes or other matter is as follows:*

- .1** *ship-generated oily wastes; **
- .2** *household wastes;²²*
- .3** *ship galley waste; **
- .4** *fish waste, or material resulting from industrial fish processing operations.]²³*

* *Where these wastes are not excluded in accordance with Article
III(1)(b)(i).]*

ARTICLE 24

The text of Annex III is replaced by the following:²⁴

ARTICLE 25

After Annex III a new Annex IV is inserted as follows:

SETTLEMENT OF DISPUTES²⁵

ARTICLE 26 (deleted)

²² Reservation by Japan - Contracting Parties are requested to review the need for incineration of these wastes.

²³ Contracting Parties are requested to review the need for incineration of these wastes.

²⁴ This Article is to reflect the Annex to an amended London Convention 1972 derived from the Waste Assessment Framework, as reproduced in annex 6 to this report.

²⁵ Text as contained in Appendix accepted with the 1978 Amendments to the Convention. Not reproduced here.

FINAL CLAUSES

ARTICLE 27

Signature, Ratification, Acceptance, Approval and Accession

- 1** *This Protocol shall be open for signature at the Headquarters of the Organization [from to] and shall thereafter remain open for accession. States may become Parties to this Protocol by:*
 - (a) signature without reservation as to ratification, acceptance or approval; or*
 - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or*
 - (c) accession.*
- 2** *Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.*
- 3** *This Protocol will supersede the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 as between States Party to the Protocol which are also Party to that Convention.*
- [4]** *Any instrument of ratification, acceptance, approval, or accession deposited after the entry into force of an amendment to the Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.]²⁶*

ARTICLE 28

Entry into Force

- 1** *This Protocol shall enter into force ... days after the date on which no less than ... States , among which ... States which are Parties to the Convention have become Parties to it in accordance with Article 27 of this Protocol.*
- 2** *Any instrument of ratification, acceptance, approval or accession deposited after the date on which this Protocol enters into force shall take effect .. days after the date of deposit.*

²⁶ For further consideration by the diplomatic conference.

ARTICLE 29

Denunciation

- 1 *This Protocol may be denounced by any Party at any time after expiry of .. years from the date on which this Protocol enters into force for that Party.*
- 2 *Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.*
- 3 *A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General.*

[ARTICLE 30

Provisional Application

- 1 *Pending the entry into force of this Protocol, this Protocol will apply ...]*²⁷

ARTICLE 31

Depositary

- 1 *This Protocol shall be deposited with the Secretary-General.*
- 2 *The Secretary-General shall:*
 - (a) *inform all States which have signed this Protocol or acceded thereto of:*
 - (i) *each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;*
 - (ii) *the date of entry into force of this Protocol;*
 - (iii) *the deposit of any instrument of denunciation of this Protocol and of the Convention together with the date on which it was received and the date on which the denunciation takes effect;*
 - (b) *transmit certified copies of this Protocol to all States which have signed this Protocol or acceded thereto.*
- 3 *As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.*

²⁷ Reservation by Cyprus and Poland.

ARTICLE 32

Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Protocol.

DONE AT LONDON this eighth day of November, 1996.

ANNEX 4**RESOLUTION LC.53(18)****ON PROCEDURE FOR CONSIDERATION AND ADOPTION OF
THE 1996 PROTOCOL TO THE LONDON CONVENTION 1972****THE EIGHTEENTH CONSULTATIVE MEETING,**

RECALLING resolution LC.48(16) to carry out an overall and thorough review of the existing provisions of the London Convention 1972 and the proposed amendments thereto, and to convene a special meeting or conference no later than 1996 with a view to amending the London Convention 1972 through a single instrument:

- 1 REQUESTS the Organization, in accordance with Article XIV(3)(a) and 4(1) of the London Convention 1972, to convene a special meeting between 28 October and 8 November 1996;
- 2 DECIDES that the special meeting will take the form of a diplomatic conference to consider and adopt an integrated instrument setting forth the altered provisions of the London Convention 1972 resulting from its thorough review and repeating the unaltered provisions of that Convention with only such modifications as are necessary for flow and consistency;
- 3 FURTHER DECIDES that this integrated instrument, which may have a different entry into force threshold than that set forth in Article XV(1)(a) of the Convention, will be called the "1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972";
- 4 AGREES that the rules of procedure for Consultative and Special Meetings of the Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter and, in particular, with respect to credentials, Rule 7 thereof will apply to the diplomatic conference;
- 5 FURTHER AGREES that Rule 28 of these rules of procedure shall, for purposes of the diplomatic conference, be modified to increase to two thirds the majority required for voting on matters of substance;
- 6 ALSO AGREES that States which are not Contracting Parties to the London Convention 1972 shall be encouraged to participate actively, including in any subsidiary body or working group meetings, as observers with a view to becoming Parties to the 1996 Protocol to the London Convention 1972.

ANNEX 5

DRAFT ANNEX TO AN AMENDED LONDON CONVENTION 1972, DERIVED FROM THE WASTE ASSESSMENT FRAMEWORK

GENERAL

1 (Preamble WAF) The Waste Assessment Framework should be applied with a view that acceptance of dumping under certain circumstances does not remove the obligation to make further attempts to reduce the necessity for dumping.

WASTE PREVENTION AUDIT

2 (5.2.3 WAF) The initial stages in assessing alternatives to dumping should, as appropriate, include an evaluation of:

- .1 types, amounts, and relative hazard of wastes generated;
- .2 details of the production process and the sources of wastes within that process; and
- .3 feasibility of the following waste reduction/prevention techniques:
 - .3.1 product reformulation;
 - .3.2 clean production technologies;
 - .3.3 process modification;
 - .3.4 input substitution; and
 - .3.5 on-site, closed-loop recycling.

3 (5.2.6 WAF) In general terms, if the required audit reveals that opportunities exist for waste prevention at source, an applicant is expected to formulate and implement a waste prevention strategy (in collaboration with relevant local and national agencies) which includes specific waste reduction targets and provision for further waste prevention audits to ensure that these targets are being met. Permit issuance or renewal should be subject to compliance with this requirement.

4 (5.2.8 WAF) For dredged material and sewage sludge, the goal of waste management should be to identify and control the sources of contamination. This should be achieved through implementation of waste prevention strategies and requires collaboration between the relevant local and national agencies involved with the control of point and non-point sources of pollution. (5.2.11 WAF) Until this objective is met, the problems of contaminated dredged material may be addressed by using disposal management techniques at sea or on land.

CONSIDERATION OF WASTE MANAGEMENT OPTIONS

5 (5.2.9 WAF) Applications to dump wastes should demonstrate that consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environmental impact:

- .1 re-use;
- .2 off-site recycling;
- .3 destruction of hazardous constituents;
- .4 treatment to reduce or remove the hazardous constituents; and
- .5 disposal on land, into air and in water.

6 (5.2. 10 WAF) A permit to dump wastes should be refused if opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs. The practical availability of other means of disposal should be considered in the light of a comparative risk assessment involving both dumping and the alternatives.

CHEMICAL/PHYSICAL CHARACTERISTICS AND BIOLOGICAL PROPERTIES

7 (5.3.1 WAF) A detailed description and characterisation of the waste is an essential precondition for the consideration of alternatives and the basis for a decision as to whether a waste may be dumped. If a waste is so poorly characterised that proper assessment cannot be made of its potential impacts on human health and the environment, that waste shall not be dumped.

8 (5.3.4 WAF) Characterisation of the wastes and their constituents shall take into account:

- .1 origin, total amount, form and average composition;
- .2 properties: physical, chemical, biochemical and biological;
- .3 toxicity;
- .4 persistence: physical, chemical and biological; and
- .5 accumulation and biotransformation in biological materials or sediments.

Action List

9 (5.3.5 WAF) Contracting Parties shall develop national Action Lists to provide a mechanism for screening candidate wastes and their constituents on the basis of their potential effects on human health and the marine environment. In selecting substances for consideration in the Action List, priority shall be given to toxic, persistent, and bio-accumulative substances from anthropogenic sources (e.g., cadmium, mercury, organohalogens, petroleum hydrocarbons, and, whenever relevant, arsenic, lead, copper, zinc, beryllium, chromium, nickel and vanadium, organosilicon compounds, cyanides, fluorides, and pesticides or their by-products other than organohalogens). An Action List can also be used as a trigger mechanism for further waste prevention considerations.

10 (5.3.6 WAF) The Action List shall specify an upper level and may also specify a lower level. The upper level should be set so as to avoid acute or chronic effects on human health or on sensitive marine organisms representative of the marine ecosystem. Application of the Action List will result in three possible categories of waste:

- .1 wastes which contain specified substances, or which cause biological responses, *exceeding* the relevant upper level shall not be dumped, unless made acceptable for dumping through the use of management techniques or processes;
- .2 wastes which contain specified substances, or which cause biological responses, below the relevant lower levels should be considered to be of little environmental concern in relation to dumping; and
- .3 wastes which contain specified substances, or which cause biological responses, below the upper level but above the lower level require more detailed assessment before their suitability for dumping can be determined.

DUMPSITE SELECTION

11 Information required to select a dump-site shall include:

- .1 physical, chemical and biological characteristics of the water-column and the sea-bed;
- .2 location of amenities, values and other uses of the sea in the area under consideration;
- .3 assessment of the constituent fluxes associated with dumping in relation to existing fluxes of substances in the marine environment; and
- .4 economic and operational feasibility.

ASSESSMENT OF POTENTIAL EFFECTS

12 (6.1 DM) Assessment of potential effects should lead to a concise statement of the expected consequences of the sea or land disposal options (i.e., the Impact Hypothesis). It provides a basis for deciding whether to approve or reject the proposed disposal option and for defining environmental monitoring requirements.

13 (6.2 DM) (5.5.12 WAF) The assessment for dumping should integrate information on waste characteristics, conditions at the proposed dump-site(s), fluxes, and proposed disposal techniques and specify the potential effects on human health, living resources, amenities and other legitimate uses of the sea. It should define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.

14 (5.5.13 WAF) An analysis of each disposal option should be considered in light of a comparative assessment of the following concerns: human health risks, environmental costs, hazards (including accidents), economics and exclusion of future uses. (5.5.12 WAF) If this assessment reveals that adequate information is not available to determine the likely effects of the proposed disposal option then this option should not be considered further. (5.5.13 WAF) In addition, if the interpretation of the comparative assessment shows the dumping option to be less preferable, a permit for dumping should not be given.

15 (5.5.14 WAF) Each assessment should conclude with a statement supporting a decision to issue or refuse a permit for dumping.

MONITORING

16 (5.6.2 WAF) Monitoring is used to verify that permit conditions are met (compliance monitoring) and that the assumptions made during the permit review and site selection process were correct and sufficient to protect the environment and human health (field monitoring). It is essential that such monitoring programmes have clearly defined objectives.

PERMIT AND PERMIT CONDITIONS

17 A decision to issue a permit should only be made if all impact evaluations are completed and the monitoring requirements are determined. The provisions of the permit shall ensure, as far as practicable, that environmental disturbance and detriment are minimized and the benefits maximized. Any permit issued shall contain data and information specifying:

- .1 the types and sources of materials to be dumped;
- .2 the location of the dump-site(s);
- .3 the method of dumping; and
- .4 monitoring and reporting requirements.

18 Permits should be reviewed at regular intervals, taking into account the results of monitoring and the objectives of monitoring programmes. Review of monitoring results will indicate whether field programmes need to be continued, revised or terminated, and will contribute to informed decisions regarding the continuance, modification or revocation of permits. This provides an important feedback mechanism for the protection of human health and marine environment.

ANNEX 6

RESOLUTION LC.54(18)

**ON TECHNICAL CO-OPERATION AND ASSISTANCE ACTIVITIES
RELATED TO THE LONDON CONVENTION 1972**

THE EIGHTEENTH CONSULTATIVE MEETING,

RECALLING Article IX of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Convention 1972), which provides that Contracting Parties shall promote, through collaboration within the Organization and other international bodies, support for those Parties requesting it, so furthering the aims and purposes of this Convention;

NOTING the various activities that have been undertaken by the Organization and the Contracting Parties on a bilateral and multilateral basis, in the past for this purpose;

RECALLING ALSO, in particular, the Global Waste Survey that was commissioned to the International Maritime Organization in September 1991 for addressing the potential global implications of the prohibition of sea disposal of industrial waste as of 1 January 1996, especially in developing countries, and to formulate a plan that would assist Contracting Parties to address their commitment to scientific and technical support in a practical and cost-effective manner; and noting that the findings of the Global Waste Survey were presented to and noted by the Eighteenth Consultative Meeting;

RECALLING FURTHER that individual Contracting Parties and the Organization, through its regular budget, provided the necessary financial resources for the Global Waste Survey;

NOTING ALSO that the Organization currently implements its Integrated Technical Co-operation Programme to provide support to Contracting Parties in need of assistance for the full implementation of the provisions of the London Convention 1972 and to non-Contracting Parties which have declared their intention to become a Party to the London Convention 1972, or satisfy its provisions, as appropriate;

NOTING FURTHER that Contracting Parties are in the process of revising the London Convention 1972, with a view to strengthening its provisions, among others, with respect to technical co-operation and assistance;

NOTING the desire to promote membership to the London Convention 1972, in particular of developing countries and States Parties to the United Nations Convention on the Law of the Sea, 1982, which are not Contracting Parties to the London Convention 1972:

- 1 URGES Contracting Parties to consider at the diplomatic conference to amend the London Convention 1972, which will be convened from 28 October to 8 November 1996, adoption of an enhanced technical co-operation and assistance programme under the London Convention 1972 as part of the Organization's Integrated Technical Co-operation Programme;
- 2 FURTHER URGES Contracting Parties to consider providing, on a bilateral and multilateral basis, as appropriate, the necessary means for maintaining current technical co-operation activities, e.g. the maintenance of the database and national profiles of the Global Waste Survey, the provision of follow-up actions to the case studies developed under the Global Waste Survey,

and for the refinement and implementation of a technical co-operation and assistance programme after its adoption; and

- 3 INVITES the Secretary-General of the Organization to take note of the above and to take the necessary steps to ensure maintenance of current activities until further decisions are taken by the Contracting Parties to the London Convention 1972.
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