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INTERNATIONAL CONFERENCE ON
MARINE POLLUTION, 1973
Agenda item 7

CONSIDERATION OF A DRAFT INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

Comments and proposals on a draft text of the Convention

Submitted by the Government of the Kingdom of the Netherlands

The comments and proposals of the Government of the Netherlands with respect to the draft text of the Convention are attached hereto.

**DRAFT INTERNATIONAL CONVENTION
FOR THE PREVENTION OF POLLUTION
FROM SHIPS, 1973**

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**COMMENTS AND PROPOSALS SUBMITTED
BY THE GOVERNMENT OF THE KINGDOM
OF THE NETHERLANDS**

Convention

Preamble, 4th Considerans

Replace the present text by the following:

"Considering that this object may best be achieved by establishing rules not limited to oil pollution having a universal purport,"

Explanation

The Netherlands Government agrees that this Convention attributes to the world wide attempt to preserve the human environment in general and the marine environment in particular. Its conclusion should therefore not be brought in relation with the 1954 Oil Convention, but should stress the importance of combatting at a world wide level the pollution of the marine environment.

Article 1

Recognizing especially the need for amendment procedures which accelerate the entry into force for all Contracting Parties of amendments to the Annexes to the Convention and the Appendices to these Annexes, the Netherlands Government recommends that the Conference adopts a resolution requesting the Contracting Parties to take measure ensuring that the provisions of the Convention, its Annexes and Appendices and later amendments thereto take effect in the national systems of law with the minimum of delay.

Article 2, paragraphs (4)(b) and (5)

The Netherlands Government regrets, but understands that the release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of seabed mineral resources is excluded from the operation of this Convention, since there is no sufficient time now to draw up rules concerning these mining activities. In view thereof and also of the fact that the provisions on jurisdiction cannot be the same for conventional ships and platforms used for those mining activities, the Netherlands Government deems it desirable to discuss at the Conference the question, whether or not fixed and floating platforms should fall within the scope of this Convention and the drawing-up of rules with regard to these platforms and other artificial constructions operating in the marine environment should be left to the third UN-Conference on the law of the sea.

Article 4

Replace the present article by the following ones:

" Article 4

- (1) Violation of any of the requirements of the present Convention shall be prohibited under the law of the Administration of the ship concerned, wherever the violation occurs.
- (2) Discharge of harmful substances or effluent containing these substances in contravention of the provisions of the Regulations shall, moreover, be prohibited under the law of any other Contracting State, wherever the violation occurs, subject to the provisions of Article 4 bis.
- (3) The penalties provided for under the law of a Contracting State in respect of any violation of the requirements of the present Convention shall be adequate in severity to discourage such violation. The penalties provided for in respect of violations outside the territorial sea of a Contracting State shall be no less severe than the penalties provided for in respect of the same infringement within its territorial sea.

Article 4 bis

- (1) A Contracting State may cause proceedings to be taken when a ship to which the present Convention applies enters its ports or off-shore terminals, in respect of an act prohibited under paragraph (2) of Article 4, committed by that ship, or its owner or master. A report of such proceedings shall be sent to the Administration of the ship.
- (2) For the purpose of the preceding paragraph the proceedings instituted by a Contracting State, not being the State of the Administration of the ship concerned,
 - (a) have to be commenced no later than three years after the act has been committed;
 - (b) shall not lead to the imposition of penalties other than fines, unless the Contracting State concerned and the State of the Administration agree otherwise.
- (3) Whenever one Contracting State has commenced proceedings, no other proceedings in respect of the same act may be instituted by any other Contracting State except for a Contracting State which has prosecutorial priority pursuant to paragraph (4) of this Article. In case a Contracting State having prosecutorial priority commences proceedings, the proceedings instituted by another Contracting State are suspended.

- (4) The prosecutorial priorities among the Contracting States are as follows:
- (a) In case a Regulation requires for special precautions to be observed within a certain distance from the nearest land and the alleged violation of the requirement has been committed within the distance stipulated, the coastal State of such nearest land has prosecutorial priority over the Contracting States mentioned in the following sub-paragraphs.
 - (b) In case the alleged violation occurred within $\sqrt{100}$ nautical miles from the nearest land, the coastal State of such nearest land has prosecutorial priority over the Contracting States mentioned in the following sub-paragraphs.
 - (c) The State of the Administration of the ship concerned has prosecutorial priority over the Contracting States mentioned in the following sub-paragraphs.
 - (d) Any other Contracting State after consultation with the State of the Administration of the ship concerned.
- (5) A Contracting State which has commenced proceedings may transfer the prosecution to the Administration of the ship concerned. In that case the State of the Administration has, in relation to any other Contracting State, the same prosecutorial priority as the Contracting State from which it has taken over the prosecution."

Explanation

The rules contained in the draft convention comprise:

- (a) rules with regard to the construction and equipment of ships;
- (b) rules with regard to the operation of ships;
- (c) rules with regard to the holding and keeping of certificates and other documents which establish compliance with the rules under a and b.

Contraventions of the rules under a and c are sufficiently dealt with in Article 5.

With regard to contraventions of the rules under b the following should be noted.

1. The supervision on observance of the rules (i.e. the establishment of a violation) should not be restricted to the flag-State.
2. The enforcement of rules contained in the Convention should also not be restricted to the flag-State. A system of joint enforcement advances the effectivity of the international rules. However, it seems desirable not to allow enforcement by any given Contracting State, but to establish a priority-list of "fora".

Footnote 11

The Netherlands Government strongly supports what is said in this footnote and suggests that wherever in the Convention a provision containing the obligation to take proceedings is foreseen, this provision should be revised in the light of footnote 11.

Article 5
Paragraph (2)

In the last line change "nearest repair yard available " into "nearest appropriate repair yard available".

Explanation:

In supporting footnote 16 the Netherlands Government suggests the above additional word "appropriate".

Paragraph (4)

The intention of this paragraph is not clear and gives rise to different interpretations especially when reading it in combination with par. (5)

Paragraph (5)

This paragraph gives also rise to some questions for instance whether this provision also applies to cases of non-compliance with operational discharge control requirements (discharge criteria).

Both paragraphs need further clarification before any firm view can be taken on them. Apart from that it is considered that provisions of this kind are without any value if the measures mentioned in these paragraphs are only optional.

Article 6
Paragraph 2

Substitute in first and second line " ports and off-shore terminals" for " loading ports ".
Delete last sentence of this paragraph.

Paragraphs (3), (4) and (5)

Replace these paragraphs by the following ones:

"(3) Such inspection shall be carried out if a request to that effect of another Contracting State has been received or a report is received / from another Contracting State_7 that the ship has discharged harmful substances or effluent containing these substances in contravention of the provisions of the Regulations.

(4) The Contracting State that carried out the inspection shall furnish to the Administration, to the Contracting States that requested the inspection or send a report and to the States mentioned in Article 4 bis, paragraphs 4 (a) and 4 (b) evidence, if any, that the ship has discharged harmful substances or effluent containing such substances in contravention of the provisions of the Regulations.
If it is practicable to do so, the competent authority of the Administration shall notify the master of the ship of the alleged contravention.

(5) Upon receiving such evidence, the Contracting States concerned shall investigate the matter and may request the State that carried out the inspection to furnish further or better evidence of the alleged contravention.

(6) A Contracting State concerned and so informed may then cause proceedings in accordance with the provisions of Article 4 bis, paragraph 4.

(7) All possible effort shall be made to avoid the ship being unduly delayed through action under this Article."

Explanation
Paragraph (2)

The Netherlands Government supports the principles in footnote 21 (1) and 22. However, with respect to the principle in this last footnote we consider that this has been sufficiently covered in the following paragraph (3) in the original text as well as in par. (4) in our proposals for revised paragraphs (3), (4), (5) and (6) and therefore suggest the complete deletion of the last sentence of par. (2).

Paragraphs (3), (4), (5) and (6)

In the light of the proposal for Article 4, these paragraphs needed redrafting and addition.

Article 7
Paragraph (7)

Insert after "shall" in the first line the words "as far as possible".

Explanation

It must be realized that incidents often occur under circumstances in which it is impossible to collect and provide the total of the large number of particulars summed up in this paragraph. It is more realistic and acceptable to make this requirements somewhat less stringent.

Article 8

Paragraph (1): to be deleted

Paragraph (2):

retain this paragraph without the brackets in the text and add in the third line after "design " the word "equipment".

Article 16

Insert between paragraphs (4) and (5) the following paragraph:

"For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention or an optional Annex entered into force, the Convention or the optional Annex shall become effective three months after the date of deposit of the instrument."

Explanation

The Convention should not only contain a provision on its entry into force with respect to States which have become parties to the Convention after the requirements for entry into force have been met but prior to the actual date of entry into force, but also a provision on its entry into force with respect to States which have become parties to the Convention after the date of its entry into force.

Article 17

Replace this Article by the following Articles:

Article A

- "(1) Any amendment to the Convention, its Annexes and any amendment to the Appendices as a consequence of amendments to the Convention or its Annexes, proposed by a Contracting Party, shall be considered in the Organisation at the request of that Party.
- (2) If adopted by a two-thirds majority of those present and voting in the Maritime Safety Committee of the Organisation, such amendment shall be communicated to all Contracting Parties and Members of the Organisation at least six months prior to its consideration by the Assembly of the Organisation. Any Contracting Party which is not a Member of the Organisation shall be entitled to participate and vote when the amendment is considered by the Assembly.
- (3) If adopted by a two-thirds majority of those present and voting in the Assembly, and if such majority includes a two-thirds majority of the Contracting Parties present and voting, the amendment shall be communicated by the Secretary-General to all Contracting Parties for their acceptance.

- (4) Such an amendment shall enter into force on a date to be determined by the Assembly at the time of its adoption, unless by a prior date determined by the Assembly at the same time, more than one-third of the Contracting Parties or the Contracting Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, notify the Secretary-General of their objection to the amendment, whichever condition is first achieved. Determination by the Assembly of the dates referred to in this paragraph shall be by a two-thirds majority of those present and voting, which majority shall include a two-thirds majority of the Contracting Parties present and voting.
- (5) On entry into force, any amendment shall replace and supersede any previous provision to which the amendment refers, for all Contracting Parties / except those which have objected to the amendment / provided that a Contracting Party may exempt itself from the application of the amendment for a period not exceeding ... / months / year(s) / from the date of entry into force of that amendment. /
- / (6) The Assembly, by a two-thirds majority of those present and voting, including two-thirds of the Contracting Parties, may decide at the time of its adoption that an amendment is of such an important nature that any Contracting Party which objects to the amendment and which does not withdraw its objection within a period of / twelve / months after the date of entry into force of the amendment, shall cease to be a Contracting Party upon the expiry of that period / .
- (7) The Secretary-General shall inform all Contracting Parties and Members of the Organisation of any request and communication under this article and the date on which any amendment enters into force.

Article B

- (1) Any amendment to the Appendices proposed by a Contracting Party shall be considered in the Organisation at the request of that Party, and shall be communicated to all Contracting Parties and Members of the Organisation at least six months prior to that consideration.
- (2) If adopted by a two-thirds majority of those present and voting in the Maritime Safety Committee of the Organisation to which all Contracting Parties shall have been invited to participate and to vote, and if such majority includes a two-thirds majority of the Contracting Parties present and voting, such amendment shall be communicated to all Contracting Parties for their acceptance.

- (3) Such an amendment shall enter into force on a date to be determined by the Maritime Safety Committee at the time of its adoption, unless by a prior date determined by the Maritime Safety Committee at the same time more than one-third of the Contracting Parties or the Contracting Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, notify the Secretary-General of their objection to the amendment, whichever condition is first achieved. Determination by the Maritime Safety Committee of the dates referred to in this paragraph shall be by a two-thirds majority of those present and voting, which majority shall include a two-thirds majority of the Contracting Parties present and voting.
- (4) On entry into force, any amendment shall replace and supersede any previous provision to which the amendment refers, for all Contracting Parties except those which have objected to the amendment provided that a Contracting Party may exempt itself from the application of the amendment for a period not exceeding ... months year(s) from the date of entry into force of that amendment .
- (5) The Maritime Safety Committee, by a two-thirds majority of those present and voting, including two-thirds of the Contracting Parties, may decide at the time of its adoption that an amendment is of such an important nature that any Contracting Party which objects to the amendment and which does not withdraw its objection within a period of twelve months after the date of entry into force of the amendment shall cease to be a Contracting Party upon the expiry of that period .
- (6) The Secretary-General shall inform all Contracting Parties and Members of the Organisation of any request and communication under this Article and the date on which any amendment enters into force.

Article C

- (1) The Organisation may convene a Conference for the purpose of revising the present Convention.
- (2) The Organisation shall convene a Conference for the purpose of revising the present Convention at the request of a Contracting Party, concurred in by at least one-third of the Contracting Parties.

Article D

- (1) A new Annex to the present Convention shall be adopted and communicated to all Contracting Parties for their acceptance in accordance with the procedures laid down in paragraphs 1, 2 and 3 of Article A.

- (2) A new Annex shall enter into force twelve months after the date on which not less than 10 States the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant shipping have ratified, accepted or approved the new Annex.
- (3) For States which have deposited an instrument of ratification, acceptance or approval after the requirements for entry into force of a new Annex have been met but prior to the date of its entry into force, the ratification, acceptance or approval shall take effect on the date of entry into force of the new Annex or three months after the date of deposit of the instrument whichever is the later date.
- (4) For States which have deposited an instrument of ratification, acceptance or approval after the date on which a new Annex entered into force, it shall become effective three months after the date of deposit of the instrument.
- (5) The Organisation shall inform the States which have signed or acceded to the present Convention of the date on which a new Annex enters into force.

Explanation

1. The amendment procedure by unanimous acceptance (paragraph 2 of Article 17 of the Draft Convention) has not been included in the proposal as the procedure was never made use of. Paragraphs (3)(a), (3)(b), (3)(c), (3)(d) and (4) of Article 17 have, for clarity's sake, been modified to constitute four separate Articles:
 - (i) Article A comprises paragraphs (3)(a) and (3)(b) (amendment to the Articles of the Convention and amendment to Annexes after consideration in the Organisation).
 - (ii) Article B comprises paragraph (3)(c) (amendment to Appendices to Annexes after consideration in the Organisation)
 - (iii) Article C comprises paragraph (4) (amendment by a Conference), and
 - (iv) Article D comprises paragraph (3)(d) (addition of new Annexes).
2. Sub-paragraphs (a) and (b) of paragraph (3) of Article 17 concerning amendment to the Articles of the Convention and amendment to Annexes after consideration in the Organisation have been joined to constitute one Article (Article A), since the Netherlands Government prefers the procedure of tacit acceptance also for amendments to the Articles of the Convention.

3. The procedure contained in Article A does not entitle Contracting Parties not represented in the Maritime Safety Committee to take part in discussions within the Committee on proposed amendments or to vote on them. As regards this procedure, under which definitive decisions on proposed amendments are, after all, taken only by the Assembly, representation in the Maritime Safety Committee of the above-mentioned Contracting Parties would not seem very appropriate, since the object of enlisting the services of the Maritime Safety Committee is to obtain the views of experts. The idea is that the technical merits of a proposed amendment should be examined. The limited membership of the Maritime Safety Committee would be a guarantee that technical considerations only would play a part in the evaluation of any amendment proposed.

The procedure set out in Article B does entitle Contracting Parties not normally represented in the Maritime Safety Committee to take part in discussions within the Committee on proposed amendments and to vote on them, since under this procedure the Maritime Safety Committee is also the adopting body.

4. Contrary to the provisions of paragraph (3)(a)(vi) of Article 17, the votes of members of the Maritime Safety Committee have not been made decisive in paragraph (6) of Article A, since the Netherlands Government fails to see why members of the Maritime Safety Committee should be accorded this privileged position.

It seemed to be desirable also to make it possible for the Maritime Safety Committee as adopting body to decide that an amendment is of such outstanding importance that Contracting Parties which do not comply with it once it has entered into force shall cease to be Parties to the Convention (see paragraph (5) of Article B).

5. Since the present Annexes to the Convention enter into force in accordance with the provisions of paragraph (1) of Article 16 of the Draft Convention, it would be possible for the procedure envisaged for amendments to the Articles of the Convention and its Annexes to be followed only with respect to adoption and not with respect to the entry into force of new Annexes.

ANNEX I

regulation 1.

par(1): The last line should read as follows "listed in Category I and II in Appendix I to this Annex".

Explanation:

We have proposed in our comment on Appendix I to make in that Appendix a distinction between persistent and non-persistent oil products, since some of the regulations of this Annex obviously relate only to persistent oil products, where in other regulations there should be separate provisions for persistent and non-persistent oil products.

(for reasons see footnote 14 and document PCMP 4/11 mentioned in part.III of the Appendix to Conference document MP/Conf/inf.2).

With a view to this we suggest to reflect this distinction also in the definition of oil where reference is made to the substances listed in Appendix I.

par(5): The words "in the absence of a building contract" should be retained.

par(16): in the third line: substitute "ship" for "tanker"

explanation:

A tank as referred to in the first line can also be a (deep) tank of a cargo ship which makes it more appropriate to change the word "tanker" in the third line into "ship".

regulation 2.

par(2): Amend this paragraph as follows

(2) When in ships other than oil tankers in a space oil is carried in a quantity of ≥ 200 cubic metres or above the requirements of this annex for oil tankers except those of Regulation 11, 13, 22, 23, 24(2) and (3) and 25 shall apply to the construction and operation of that space, whilst with respect to the methods to effect the control of discharge the methods specified in regulation 11(1)(b) or alternatively 11(1)(c) shall be applied when it concerns oil listed under category I of appendix I and the method specified in reg.11(4) when it concerns oil listed under category II of appendix I.

explanation.

In the proposed text account has been taken of our proposals for appendix I and regulation 11. The provisions of this paragraph should apply only to spaces, in which oil actually is carried in bulk of $\geq 200\text{m}^3$ or more and not to such spaces which are capable to do so but in which oil is never carried. Where on cargo vessels in which oil is carried in deep tanks exceeding 200m^3 in many cases only the in-port disposal method is applied when such spaces are cleaned

we consider it unnecessary and unreasonable to require without any distinction that all the arrangements are present on board to carry out both the LOT-system as specified in reg.11(c) and the in-port disposal system as specified in reg.11(b).

We feel that the option for one of the methods or both should be left open in this paragraph.

regulation 4.

par(1)(c): amend this paragraph as follows

A periodical inspection at intervals specified by the Administration but not exceeding 33 months, which shall berest the same

explanation.

since a periodical survey shall take place at intervals not exceeding 5 years with the proposed amendment it is possible to keep the periodical inspection limited to one in this period of 5 years (= 60 months).

regulation 8.

par(2): substitute the following paragraphs for this par.

() If a ship at the time when the certificate expires is not in a port of the country in which it is registered, the certificate may be extended by the Administration, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the country in which it is registered or is to be surveyed and then only in cases where it appears proper and reasonable to do so.

() No certificate shall be thus extended for a longer period than five months and a ship to which such extension is granted shall not on its arrival in the country in which it is registered or the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or country without having obtained a new certificate.

() A certificate which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it.

explanation

The present wording is considered too strict and has already caused problems in practice as experience with the Load Line Convention has learned.

We prefer the wording of par (c), (d) and (e) of reg.14 of Chapter I of the 1960 Safety Convention which gives the opportunity for a survey in the ports of the country of registry or in other ports where such a survey can be carried out. The above proposed paragraphs are an exact repetition of the text of the paragraphs in SOLAS.

/properly

regulation.....Report on Incidents

Insert the following text:

"The notification procedure set out in article 7 of the present Convention shall apply to all incidents which have given or may give rise to discharge of oil, exceeding $\frac{1}{15}m^3$ ".

explanation.

We propose this text as a complement of article 7 since we feel that a certain quantification of the amount of oil involved in an incident is necessary in order to avoid that even the smallest quantity has to be reported.

regulation 9

The following amended text for this regulation is proposed.

(1) Subject to the provisions of Regulation 19 of this Annex any discharge into the sea of oil or oily mixtures other than those listed under category II of appendix I to this Annex from ships to which this Annex applies shall be prohibited except when all the following conditions are satisfied:

(a) for an oil tanker:

- (i) the tanker is proceeding en route;
- (ii) the tanker is more than 50 nautical miles from the nearest land;
- (iii) the tanker is not within any of the areas defined in regulation 1(10) of this annex;
- (iv) the instantaneous rate of discharge of oil content does not exceed 60 litres per nautical mile;
- (v) the total quantity of oil discharged into the sea which may be permitted only during the first or second voyages following unloading of the cargo shall not exceed:
 - (1) for the new tankers of less than 100.000 tons deadweight and for existing tankers 1/15.000 of the total quantity of the cargo of which residue formed a part; and
 - (2) for new tankers of 100.000 tons deadweight or more, 1/30.000 of the total quantity of the cargo of which the residue formed a part;
- (vi) the tanker has in operation an oil discharge monitoring and control system required by regulation 15 of this annex;
- (vii) the tanker has in operation a slop tank arrangement required by Regulation 15 of this Annex

The discharge of oil or oily mixture, other than mixture equivalent to clean ballast, from machinery space bilges, excluding cargo pump room bilges, is governed by sub.paragraph(b) of this paragraph;

(b) for a ship other than an oil tanker of 4007 tons gross tonnage and above

- (i) the ship is proceeding en route
- (ii) the oil content of the discharge is less than 100 parts of oil per 1.000.000 part of effluent;
- (iii) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;
- (iv) the discharge is made as far as practicable from the land, but in no case less than 10 nautical miles from the nearest land;
- (v) the ship if of 7 tons gross tonnage or above is not within any of the areas defined in Regulation 1(10) of this annex
- (vi) the ship has in operation an oily water separation equipment or other installation as required by Regulation 16 of this Annex.

(new par.)

(c) for a ship other than an oil tanker of less than 4007 tons gross tonnage:

- (i) the ship is proceeding en route;
- (ii) the instantaneous rate of discharge of oil content does not exceed 10 litres per nautical mile;
- (iii) the discharge is made as far as practicable from the land but in no case less than 5 nautical miles from the nearest land.

(new par.)

(2) Subject to the provisions of regulation 10 of this Annex any discharge into the sea of oil or oily mixture as listed under category II of appendix I to this annex from ships to which this annex applies shall be prohibited except when all the following conditions are satisfied:

- (i) the ship is proceeding en route;
- (ii) the discharge is made as far as practicable from land but in no case less than 5 nautical miles from the nearest land;
- (iii) the ship is not within any of the areas defined in regulation (1)(10) of this annex;
- (iv) the ship's tanks have been stripped, lines drained and discharged ashore to the maximum extent practicable before sailing from a discharge port when ballast water is loaded in a tank or tanks from which cargo has been discharged;
- (v) before any discharge of ballast water is made into the sea, lines have been flushed with water back into the appropriate cargo tank or tanks and such tank or tanks have been filled-up with water to an amount of at least 1/100th of the appropriate tank volume.

- (original par.(2)) (3) Ships, while operating in special areas defined in Regulation 1(10) of this Annex shall be subject to appropriate requirements of Regulation 12 of this Annex
- (original par.(3)) (4) [7
- (original par.(4)) (5) The discharge shall not contain chemicals or other substances which are hazardous to the marine environment. The discharge shall not contain chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation
- (original par.(5)) (6) The provisions of sub-paragraph (1)(a) of this Regulation shall not apply to the discharge of clean or segregated ballast provided that any such discharge which has been contaminated with oil to a level above that which would be permitted as clean ballast shall be treated as oily mixture and shall comply with the provisions of paragraph(1) of this Regulation.

explanation.

In this regulation separate provisions should be made for persistent and non-persistent oils.

To this end par(1) is so amended that it applies only to oils or oily mixtures other than those listed under Category II of Appendix I. This means that if oils are not yet categorized they fall under the provisions for Category I until the category has been established.

In fact the list for Category I is an "open" one and that for Category II is a "restrictive" one.

In (a new) par(2) the provisions are made for substances listed under Category II of Appendix I. (on page 95)

Par. 1(b) and (c) make a distinction between ships for which certain equipment is required and ships for which no equipment is required according to regulation 16. Ships with equipment can comply with the combined criteria of no more than 100 ppm oil in the effluent and an instantaneous rate of discharge of 30 litres oil content or less per nautical mile.

It is not reasonable to require ships which are not obliged to be fitted with a separator to comply with the 100 ppm criteria. Better is, therefore, to lay down a very low instantaneous rate of discharge (10 litres) and because it concerns small and very small ships to permit them to discharge closer to land (see new par(1)(c)).

A step further might be the total prohibition of discharge into the sea of oil for very small ships e.g. of less than 50 tons gross. If this would be possible, but we doubt it since these ships have to apply the in-port disposal-method in very small ports which is often not possible, no distinction in criteria and required equipment (separator) would be necessary for ships of 50 gross tons and over with the exception of the distance from nearest land which should be for ships of 400 tons gross and over 10 nautical miles and smaller ships 5 nautical miles.

In par(1)(b)(vi) we have proposed the deletion of the words "oil discharge monitoring and control system" since, as we will explain under regulation 16, we do not consider it reasonable nor necessary to require such advanced equipment for the discharge of small quantities of oil residues from even the largest cargo vessel. With a separator the criteria for discharge can be easily achieved and adhered to.

Finally we have proposed a new par(2) dealing with criteria for the discharge of non-persistent oil products other than lubricating oil.

In fact the provisions are based on the reasoning followed in the addendum to footnote 14 in Annex I.

Regulation 11.

par(1): Insert in the first line after "oil tanker" the following words "carrying oils other than those listed under Category II of Appendix I to this Annex".

Add at the end of the first sentence after "annex" the words "except for the requirements of Regulation 9(2)" (of the text proposed by the Netherlands for reg.9).

par(2): Insert in the second sentence after "above" the words "to which paragraph(1) of this regulation applies".

par(3): Insert in the second sentence after "tanker" the words "to which paragraph(1) of this regulation applies".

par(4): Add a new par(4) reading as follows:

"As from the date of entry into force of the present Convention every oil tanker carrying oils as listed under Category II of Appendix I to this Annex shall be capable, subject to the provisions of regulation 12 of this Annex, operating under the methods specified in sub-paragraph(1)(c) of this regulation to the standards and requirements of regulation 9(2) and (5) of this Annex.
(of Netherlands proposal)

explanation:

The provisions in par(1)(2) and (3) should only apply to oil tankers carrying oils other than those listed under category II of appendix I.

A separate new par(4) is proposed dealing with tankers carrying the products listed under category II of the above appendix I.

Regulation 12.

par(2)(b): add the following words after "tankers" at the end of this paragraph:

"as would remain on board as a consequence of the application of this annex".

explanation:

With the additional words it is intended to indicate that "adequate capacity" for shore facilities should be required within reasonable limits, that is to say where the LOT-method can be applied by tankers coming from outside the Mediterranean they should do so and not require that they can discharge the total bulk of their ballast and washings into shore reception facilities.

Regulation 13.

par(3): Research and study on this subject is in progress in the Netherlands and hopefully a well developed proposal will be submitted in due time before the Conference. The reports on the research and the studies will be available at the Conference as background information.

Insert after par(4) an new paragraph(5) reading as follows:

() A lesser capacity for segregated ballast of an oil tanker may be accepted by the Administration provided that:

(a) on no occasion waterballast shall be carried in cargo tanks and the oil tanker shall only operate on short voyages of such duration as approved by the Administration;

Additional ballast deemed necessary before departure on a ballast voyage because of expected weather and sea conditions shall consist of part of the cargo to be retained on board; or

(b) the oil tanker can apply solely the in-port disposal method as referred to in regulation 11(1)(c).

The Administration shall indicate on the corresponding certificate such lesser segregated ballast capacity and the reasons for granting such relaxation and specify the areas or voyages for which the relaxation applies.

Renumber original par(5) in par(6).

explanation:

The employment of oil tankers on short voyages is a growing transport requirement due to more intensive exploitation of oil fields in sea areas.

At present two 40.000 dwt. tankers are being modified to operate in a shuttle service from an oil production field in the North Sea to a near-by refinery. Voyage time being about 12 hours makes the application of the LOT-procedure impossible. In order not to lose time for in-port disposal of dirty ballast water these ships

retain

retain when in ballast condition that part of their cargo on board as is deemed necessary with a view to weather and sea conditions. A similar project is being considered for tankers between 70.000 and 100.000 dwt of which the voyage time will be approximately 20 hours. It can be foreseen that in future even larger vessels will be employed in the same trade pattern. Since these ships which are permanently employed in these services never carry ballast water in their tanks, but use oil as ballast, it is unreasonable to require for these oil tankers a large segregated ballast capacity. Under these conditions we consider it justified to provide for a possibility of a relaxation of this requirement which we have suggested in the form of par(5)(a) above.

The same applies to tankers which are permanently operating in an area where the application of the LOT procedure is prohibited or are in regular service on such short voyages that the application of LOT-procedure is not possible. Such ships are forced to apply solely the in-port disposal system and also for these cases we consider it justified to permit some relaxation of the large segregated ballast capacity requirement. The proposed text for par(5)(b) provides for such a relaxation.

Regulation 14.

par(1) and (3): delete brackets around the figures.

Regulation 15.

par(3)(b): the volume and number of sloptanks necessary for the cleaning capacity and the application should be further considered in detail.

par(3)(d): delete the square brackets and the words between them appearing in the first line and at the end of this paragraph.

explanation:

We recognize that it would be an ideal solution if on board all tankers an automatic monitoring arrangement is in operation which will automatically stop pumps and close valves when oil in an effluent exceeds a certain concentration.

However, before making it a requirement in the Convention we prefer a full investigation of the technical possibilities and implications to equip all tankers, the smaller as well as the larger ones, with such an arrangement which has to be fool-proof and fully reliable under all conditions at sea. Otherwise we fear a forced delay in ratification of the Convention until such a requirement, which applies to all tankers and enters into force simultaneously with the Convention, really can be implemented.

For this reason we give preference to a requirement in the Convention for a simple and reliable control system which can be tested and examined quickly and easily to obtain the approval of the Administration. With respect to the proposal in the last sentence between brackets we would like to remark that a device only recording the oil content of the discharge is of little value, if not simultaneously other information as speed of the ship and rate of discharge is recorded in order to be able to draw any useful conclusions with respect to the instantaneous rate of discharge criterion.

Regulation 16.

par(1) and (5): delete paragraphs (1) and (5) entirely.

explanation:

The quantity of residues even in big ships other than oil tankers is so limited that in our view also big ships can suffice with an oily water separating or filtering system as prescribed in par(2).

Regulation 18.

par(2): Amend this paragraph to read as follows:

"In every oil tanker all pipelines for the discharge into the sea of oily ballast residue and washings from sloptank(s) or reception tank(s) as required in regulation 15 of this Annex, shall be led to the open deck or to the ship's side above the waterline in the heaviest ballast condition".

explanation:

The requirement for a pipeline to be led to the open deck or to the ship's side should be limited to the discharge pipelines from the sloptank(s) only instead of requiring this also for the large ballast discharge lines.

The latter has quite an impact on the construction of the tanker and the use of energy for the ship's pumps bearing in mind that also all the clean ballast has to be discharged through these pipelines which moreover if this takes place in ports may cause problems of flooding jetties or objects or small boats alongside or passing nearby the ship.

par(3): Amend the paragraph to read as follows:

"In new oil tankers remote control of the pumps or the ship's side valves for discharge pipes referred to in paragraphs (1) and (2) of this Regulation, shall be provided at a position immediately accessible from where the discharge from pipes is under visual supervision".

ANNEX II
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regulation 5

par. (2)(b)

We doubt whether it is feasible to realize procedures and arrangements on board with which this criterion of 1 ppm in the wake can be achieved.

A more realistic approach would be to study what is the maximum possible and feasible on board with regard to procedures and arrangements for discharging substances in residues and then to consider whether the result is acceptable for the marine environment from the pollution point of view. The Netherlands will try to undertake such a study and will try to submit the results to the Conference. At any case we consider it dangerous to lay down a criterion of which we do not know yet whether ever arrangements and procedures can be carried out on board with which this criterion can be achieved.

Regulation 7 - reports on incidents

Insert the following text

"The notification procedures set out in article 7 of the present Convention shall apply to all incidents which have given or may give rise to discharge of substances of category B exceeding $\frac{1}{17}$ m³ or of substances of category C exceeding $\frac{1}{3}$ m³. "

explanation.

We propose this text as a complement of article 7 since we feel that a certain quantification is necessary in order to avoid that even the smallest quantity has to be reported. The quantities suggested above for category B and C substances are those which in the present text of regulation 5(2)(c) and (3)(c) are permitted to be discharged into the sea as a maximum from each tank.

regulation 8 - add the following sentence to the lead-in sentence:

the inspection shall be carried out without causing undue "delay to ships"

par(6) amend in line 2 and 3 of this paragraph the wording "in excess of the maximum quantities" as follows:
"in excess of the aggregate of maximum quantities from the ship's tanks as specified..."

explanation.

We believe that in par(6) the aggregate of maximum quantities is meant in line 2 and 3.

To make this clear we have submitted the proposed amendment above on par(6).

Apart from that we consider that in the light of par(4) of this regulation, par(6) is not entirely clear.

The question is whether a ship is permitted to leave port after unloading with tanks not cleaned (see par (4)(a) and then may clean her tanks at sea (see par (4)(b)).

In that case par(6) is clear.

If, however, the procedures laid down in par(4)(b) have to be carried out in port after unloading and prior to sailing par(6) might mean that either in the slop tank may be collected from each tank that part of the residue which contains as a maximum, the maximum quantity of substance specified in reg.5(2)(c) or (3)(c) and that the remaining residue has to be discharged ashore in the port of unloading (but this is nowhere indicated) or that according to par(4)(b)(ii) residue with a certain maximum quantity of substance remains in each tank for disposal at sea and the remaining residue may be collected and retained on board in a slop tank and has to be discharged ashore but not necessarily in the port of unloading.

In short par(6) and we believe also par(4) are not clear and need some further consideration.

regulation 10

par(2)(a): add in the first line after the word "space" the following word: "intended"

explanation:

The meaning of the words "fitted with spaces for the carriage of noxious substances" is not clear. It might mean that the provisions in par(2) apply to any ships fitted with a deeptank. We consider that the text gives a clearer indication of what is meant by the addition of the word "intended". This is of special importance since according to regulation 11(1) and (2) such ships have to comply with certain structure and equipment provisions to be established by the Administration.

par(2)(a)(iii): in second sentence substitute 33 months for two years.

explanation.

The interval between periodical inspections for a ship other than a chemical tanker should be such that the possibility is left to suffice with one inspection between two periodical surveys.

ANNEX IV.

Regulation 4.

par(1)(a): Insert 4 in the place of the brackets.

explanation:

There are no indications neither is there any scientific information submitted to IMCO or known giving evidence that sewage discharged from ships at a distance of more than 4 nautical miles from land has to be considered as a "harmful substance" as defined in art.2(3).

ANNEX V.

Though it is recognized that with a view to the problems of establishing sufficient shore reception facilities all over the world it might not be opportune to make at this moment in time this Annex a "mandatory" one we support strongly the idea of implementing internationally the provisions of this Annex as soon as possible, particularly because of

- a. the safety of navigation is seriously affected by floating synthetic material as ropes, fishing nets and garbage bags
- b. the increasing pollution of the sea by such materials which are non-biodegradable.

We suggest, therefore, that the Conference adopts a resolution in which it is strongly recommended to implement the provisions of the Annex as soon as possible for the reasons given above.
