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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 of Governments
on a draft text of the Convention

Submitted by the Government of Canada

The following texts are put forward as replacements for Articles 4, 5, 6 and 8 as they appear in the draft text of the proposed International Convention to be considered by the Conference.

Article 4 - Violations:

- (1) Any violation of the requirements of this Convention by a ship, its owner or master, or by any person on board, shall be prohibited under the law of the Administration of that ship irrespective of where such violation may occur. If the Administration is informed of such a violation and is satisfied that sufficient evidence is available in accordance with its own law to enable proceedings to be brought against the ship, its owner or master, or other person on board in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible. The Administration shall promptly inform the Organization and the State which reported the violation to it of any action taken in response to the report.

- (2) Any violation of the requirements of this Convention by a ship, its owner or master, or by any person on board, shall be prohibited under the law of a contracting State when such violation occurs within the waters under the jurisdiction of that State. Whenever such a violation occurs, that State shall;
- (A) Cause proceedings to be taken against that ship, its owner or master, or other person on board in respect of such violation; or
- (B) Furnish to the Administration of the ship such evidence as may be in its possession that the ship, its owner or master, or other person on board, has committed such a violation.
- (3) Subject to paragraph 4 of this Article, any contracting State may cause proceedings to be taken against any ship not entitled to fly its flag, its owner or master, or other person on board, in respect of any violation of the requirements of this Convention by such ship, owner, master or person wherever the violation occurred, when the ship is found within its ports or off-shore terminals. Such proceedings must be commenced no later than three years after the date on which the violation occurred.

Proceedings shall not be taken by a contracting State under the provisions of paragraph 3 of this Article in respect of a violation of the requirements of this Convention which occur within the waters under the jurisdiction of another State unless expressly requested by that other State.

Whenever one contracting State has commenced proceedings in respect of a violation of the requirements of this Convention, no other proceedings in respect of the same violation may be commenced by any other contracting State except in the case of the Administration of the ship. A contracting State other than the Administration of the ship which causes such proceedings to be taken shall promptly inform the Organisation and the Administration of the ship.

The penalties specified under the law of a contracting State pursuant to this Article shall be adequate in severity to discourage violations and the penalty specified under the law of that State in respect of any one particular violation shall remain the same irrespective of where such violation may occur.

Article 5 - Inspection:

- (1) Each Administration, and the owner and master of the ship, shall cooperate fully with any contracting State which desires to conduct an inspection in that State's ports or off-shore terminals, or within waters under its jurisdiction, of any ship of that Administration for the purpose and to the extent necessary to ascertain whether that ship is in compliance with the requirements of this Convention. An inspection shall be conducted so as not to delay unduly the ship involved. In the event that an inspection gives rise to action of any kind by the inspecting State, the authorities of that State shall immediately inform in writing the Administration of the ship or its diplomatic or consular representatives of all the circumstances thereof.
- (2) Contracting States shall cooperate in the detection of the offenses and the enforcement of the provisions of the Convention using all appropriate and practicable measures of detection and environmental monitoring, in addition to adequate reporting procedures and the securing of evidence.

Article 6

Notwithstanding the provisions of paragraph (1) of Article 3, five years after entry into force of this Convention, all contracting States shall apply the provisions of the Convention to any ship, as if the Administration thereof were a party to this Convention.

'Article 8 - Powers of Contracting States:

- (1) Nothing in the present Convention derogates from the right of any contracting State to take special measures in waters under its jurisdiction in respect of any matter to which the Convention relates.
 - (2) Measures taken in accordance with this Article must remain within the strict limits of the objectives of this Convention and must not be discriminatory in their application.'
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