



## IMCO

INTERNATIONAL CONFERENCE ON  
MARINE POLLUTION, 1973  
Committee I  
Agenda item 3

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

#### Proposal on Article 12

#### Submitted by Canada

#### ARTICLE 12 - Casualties to ships

Being mindful of the Resolution of the IMCO Assembly, Resolution A.173(ES.IV), entitled "Participation in official inquiries into maritime casualties", dated 28 November, 1968, the text of Article 12 of the draft Convention clearly falls short of the stated objectives of that Resolution viz., to reduce variation in the practices of Member States regarding inquiries, to seek active co-operation between affected States and to encourage international unification of practice in relation to such inquiries.

Article 12 has been redrafted so as to incorporate the basic philosophy behind the Resolution, and in such redrafting the actual phraseology and wording of the Resolution has been used to a large extent as appropriate. The majority of Member States of IMCO, who are also present at this Conference, have already agreed in principle to the Resolution, and it is hoped that the opportunity to give expression to the Resolution in the draft Convention, by way of Article 12, will not be forsaken.

Attached to this paper is a draft text of Article 12 which attempts to give expression to the spirit and philosophy of the IMCO Assembly Resolution. The Government of Canada is pleased to submit to the Conference this Note and its attachment for consideration and in the hope that it will form the basis for useful discussion on the subject of casualties and their subsequent investigation.

Article 12

Casualties to ships

- (1) For the purposes of the present Article the following meanings are to be attributed to the terms listed:
  - (a) "casualty" includes the loss, stranding, abandonment of or damage to a ship;
  - (b) "incident" has the meaning assigned to it under the provisions of Article 7; and
  - (c) "investigation" includes inquiries and other such proceedings relating to casualties but does not include a preliminary or informal inquiry or other similar proceedings.
- (2) Subject to paragraph (3), when a ship is involved in an incident which results from a casualty, an investigation into such casualty shall be conducted without delay in accordance with the provisions of the present Article by the administration of the ship.
- (3) If a Contracting State has been seriously affected by or has a substantial interest in a casualty in which an incident occurs, that state shall
  - (a) be consulted by the administration of the ship as to the holding of an investigation into the casualty by one or other of them, unless an investigation is held by the administration as a matter of course; and
  - (b) be informed of the time and place of the investigation where the administration conducts such investigation as a matter of course.
- (4) A Contracting State shall not be treated for the purposes of the present Article as being affected by or having a substantial interest in a casualty in which an incident occurs by reason only that
  - (a) it is the flag State, but not the administration referred to in paragraph (3) of the present Article, of one of two ships in collision; or
  - (b) one or more of its nationals has a commercial interest in the ship or its cargo.

- (5) An investigation shall be so conducted that, subject to the national rules relating to the special conditions under which investigations are held in camera,
- (a) the public is permitted to attend;
  - (b) arrangements are made which will, subject to the discretion of the authority holding the investigation, allow a representative of a Contracting State which has been seriously affected by or which has a substantial interest in the casualty, or which is the State of the flag of the ship, as the case may be, to attend and participate in the investigation, at least to the extent of
    - (i) questioning witnesses or causing questions to be put through the authority concerned, and
    - (ii) viewing all relevant documents.
- (6) Each Contracting State shall furnish to the Organization information concerning the findings of an investigation held under the provisions of the present Article, so that such information can assist in determining
- (a) whether the provisions of the present Convention are effective; and
  - (b) whether changes in the present Convention might be desirable.
- (7) Each Contracting State shall co-operate fully, to the maximum extent possible, with any other Contracting State which is conducting an investigation in accordance with the provisions of the present Article.
-