



IMCO

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

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

Summary of proposed amendments to Articles 5 and 6

Prepared by the Secretariat

ARTICLE 5

1. Complete new texts of Article 5

USA - proposal contained in MP/CONF/C.1/WP.6 is reproduced at Annex

Sub-amendment: Paragraph 2, line 1, after "shall" insert "be empowered to"

United Kingdom: Paragraph 2(a), line 2, delete "reasonable" substitute "clear"

Paragraph 5, line 4, delete all of the first sentence after "Convention".

2. Amendments to the original draft

(a) Title

Canada - Title to read "Inspection"

(b) Paragraph (2)

Denmark -

Amend paragraph (2) to read:

"A ship to which the present Convention applies may be subject in ports and off-shore terminals to inspection by officers appointed or authorized by Contracting States for the purpose of determining whether harmful substances have been discharged in contravention of the provisions of the Regulations. If it appears from such inspection that harmful substances have been thus discharged, the report of the inspection shall be forwarded to the Administration for appropriate action".

Norway -

Amend second sentence of paragraph (2) to read:

"Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate."

In line 11 of paragraph (2) delete "State" and substitute "Officer".

In the last line of paragraph (2) delete "the nearest repair yard" and substitute "a repair yard".

Netherlands -

In the last line of paragraph (2) amend "nearest repair yard" to read "nearest appropriate repair yard".

Greece -

(1)

Amend first four lines of paragraph (2) to read:

"As to ships required to hold a certificate issued in accordance with the provisions of the Regulations, any inspection made by an officer duly authorized and concerning the implementation of ...".

(ii)

At the end of paragraph (2) add the following sentence:

"Any inspection shall be limited to the slop tanks or other special waste tanks, and to the documents related to them."

Indonesia -

Amend last three lines to read as follows:
"unreasonable threat to the marine environment or to grant such a ship permission to leave the port or off-shore terminal for the purpose of proceeding to the nearest repair yard available or to reach its home port".

(MP/CONF/C.1/WP.15)

(c) New paragraph

Indonesia -

Insert new paragraph between (2) and (3) to read as follows:

"An inspection if carried out, shall not be conducted so as to delay unduly the operation of the ship concerned".

(MP/CONF/C.1/WP.15).

(d) Paragraph (3)

United Kingdom -

Delete paragraphs (3), (4) and (5) and substitute the following paragraph:
"(3) If a Contracting State denies a foreign ship access to ports in its territory or to off-shore terminals under its jurisdiction or takes any action against such a ship for the reason that the ship does not comply with the provisions in the present Convention, the State shall immediately inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly. The State may before taking such action request consultation with the Administration. Information shall also be given to the Administration when a ship does not carry a valid certificate in accordance with the provisions of the Regulations."

(e) Paragraph (4)Spain -

Delete paragraph (4)

Norway -

Retain paragraph (4) but in line 6 delete the word "shall" and the square brackets.

(f) Paragraph (5)Spain -

Delete paragraph (5)

Norway -

Retain paragraph (5) but in line 3 delete the word "shall" and the square brackets.

ARTICLE 6Amendments to the original draftParagraph (2)

(i) In lines 1 and 2 delete "loading ports" and substitute: "in any port or off-shore terminal of a Contracting State".

(ii) Amend last two lines to read "report of such inspection which indicates a breach of the Convention, shall be forwarded to the Administration for any appropriate action".

Japan -

In line 3 of paragraph (2) delete "determining" and substitute "verifying".

France -

In the last two lines delete the words "for any appropriate action".

USSR -

(i) In lines 2 and 3 delete "Contracting States" and substitute "a Contracting State".

(ii) After the first sentence, insert the following sentences:
 "Such inspection shall be limited to the inspection of slop tanks or other tanks specially provided for wastes and of related documents. Should the inspection reveal that the ship has discharged any harmful substances in contravention of provisions of the Regulations, the State shall forward a report of such inspection to the Administration for appropriate action".

Paragraph (4)

Norway -

In lines 6 and 7 delete the words "it shall cause such proceedings to be taken as soon as possible" and substitute the following: "it shall submit the matter to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence under the law of the state".

Paragraph (5)

United Kingdom -

In line 1, delete "shall" and the square brackets.

Greece -

In line 5, delete the words "or has otherwise contravened the Convention in any place".

USSR -

Delete paragraph (5) and substitute the following:

"(5) A Contracting State shall investigate a ship entitled to fly the flag of another Contracting State when it enters the ports or off-shore terminals under its jurisdiction, if a request of such investigation is received from any Contracting State together with sufficient evidence that the ship has discharged harmful substances or effluent containing these substances in any place.

With respect to discharge in the high seas in contravention of the Convention such investigation shall be initiated with the consent of the Administration.

The report of such investigation shall be sent to the State requesting it and to the Administration so that the appropriate action may be taken under the present Convention".

Paragraph (6)

Spain -

Replace paragraph (6) by a new Article 6 bis with the same wording and add an additional paragraph to the new Article to read as follows:

"When a ship is unjustifiably detained, that ship shall be entitled to indemnification for any loss or damages suffered".

Sub-amendment

Liberia -

(i)

In line 2 of the original paragraph, delete the words "action under this Article" and substitute "application of Articles 4, 5 and 6 of the present Convention".

ANNEX

Article 5

(proposed amendment by the United States (MP/CONF/C.1/WP.6))

Article 5

Amend to read as follows:

"(1) Subject to the provisions of this Article and Articles 4 and 6, a Certificate issued under the authority of a Contracting State in accordance with the provisions of the Convention shall be accepted by other Contracting States for the purposes of the present Convention as having the same validity as a Certificate issued by them.

(2) Each Contracting State shall conduct an inspection of any ship in ports or off-shore terminals under its jurisdiction:

- (a) to verify that there is on board a valid Certificate, if required by the Convention, where such Contracting State has reasonable grounds to believe that the ship does not have such a Certificate;
- (b) to verify the compliance of the ship with the requirements of the Convention or the particulars of its Certificate where the State has reasonable grounds to believe that the ship does not so comply;
- (c) to determine whether the ship or its master has violated any provisions of the Convention where the State has reasonable grounds to believe that the ship or its master has committed such a violation.

(3) Where an inspection is based on information provided by another Contracting State, the State conducting the inspection shall notify such other State of the results of the inspection and any actions taken as a result thereof.

(4) Contracting States shall co-operate in the detection of offences and the enforcement of the provisions of the present Convention using all appropriate and practicable measures of detection and environmental monitoring, adequate reporting procedures and accumulation of evidence.

(5) Any Contracting State shall furnish to the Administration and the ship's next port of call evidence, if any, that a ship has discharged harmful substances or effluent containing such substances in contravention of

the provisions of the Convention, including any visible traces on or below the surface of the water in the vicinity of that ship or its wake which, taking into account existing wind and sea conditions and the track and speed of the ship, may reasonably be attributed to a discharge of harmful substances by that ship. If it is practicable to do so, the competent authority of the former State shall notify the master of the ship of the alleged contravention."
