



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

Revised Summary of proposed amendments to Articles 5 and 6

Prepared by the Secretariat

ARTICLE 5

(Note: paragraph (1) was adopted).

1. Complete new text of paragraph (2)

Canada and Spain -

Amend paragraph to read:

"Each Administration, and the owner and master of the ship required to hold a certificate issued in accordance with the provisions of the Regulations, shall co-operate fully with the officers duly authorized by any Contracting State desiring to conduct an inspection 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 the present Convention.

Canada and Spain (continued)

If the ship inspected does not carry a valid certificate in accordance with the provisions of the Regulations, or if there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, the inspecting State shall take steps as will ensure that the ship shall not sail until it can do so without presenting an unreasonable threat of harm to the marine environment."

2. Amendments to original draft

Greece -

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 ...".

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."

USA -

In line 8, delete "clear" and substitute "reasonable".

Norway -

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

USA -

Replace final two sentences with:

"In that case, or if the ship does not carry a valid certificate, the State carrying out the inspection shall take such steps as will ensure that the ship shall not sail, except to proceed to the nearest suitable repair facility or where the safety of the port or the marine environment clearly requires the ship's departure. If the ship is permitted to leave, all reasonable steps must be taken prior to departure to minimize any threat to the marine environment."

Netherlands -

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

Indonesia -

Amend last three lines to read as follows:

(Note: This amendment is withdrawn if the Netherlands amendment is accepted).

"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".

3. 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".

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

Complete new texts of paragraphs

United Kingdom -

Delete paragraphs (3), (4) and (5) and substitute the following paragraph:

United Kingdom (continued)

"(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."

Canada and Spain

Delete paragraphs (3), (4) and (5) and substitute the following paragraph:

"(3) In the event that an inspection gives rise to action of any kind by the inspecting State, that State shall immediately inform in writing the consul or diplomatic representative of the State whose flag the ship is entitled to fly of this action and of the circumstances thereof.

5. Paragraph (4)Amendments to original textNorway -

In line 8 delete the word "shall" and the square brackets.

France -

Amend last three lines of paragraph to read:
 "such State [may/shall] subject the entry of the ship to its ports to certain conditions which are likely to guarantee that such entry does not present excessive risks to the environment."

(Note: For official text, see MP/CONF/C.1/WP.45)

6. Paragraph (5)

Norway -

In line 3 delete the word "shall" and the square brackets.

7. New Paragraph (6)

USA -

"(6) With respect to the ships of non-Contracting States, Contracting States shall apply the requirements of the present Convention as may be necessary to ensure that there is no discrimination in favour of such ships.

ARTICLE 6

Amendments to the original draft

1. Paragraph (2)

United Kingdom -

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

USSR -

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

Japan -

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

USSR -

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".

United Kingdom -

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".

2. Paragraph (3)

Canada and Spain -

In line 2, after "any", insert "and if proceedings have not been initiated by that State in respect of any violation within its jurisdiction ..."

3. Paragraph (4)

Netherlands -

In line 6, after "taken" insert "in accordance with its law ..."

4. Paragraph (5)

Complete new text of paragraph

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 beyond the limits of the jurisdiction of the Contracting State in contravention of the Convention such investigation shall be initiated with the consent of the Administration.

USSR (continued) -

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".

Sub-amendment

United Kingdom -

Delete the second sentence.

Amendments to the original draft

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".

5. Paragraph (6)

Liberia -

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

NEW ARTICLE

Canada and Spain

Insert a new Article to read as follows:

"Article 6 bis

1. All possible efforts shall be made to avoid a ship being unduly detained or delayed under Articles 5 and 6 of the present Convention.

2. When a ship is unduly detained or delayed under Articles 5 and 6 of the present Convention, it shall be entitled to compensation for any loss or damage suffered".