



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 proposals for amendment of the
draft text of Article 17 as set out in
MP/CONF/C.1/WP.40

Prepared by the Secretariat

Paragraph 1

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Paragraph 2

Brazil, Mexico and Spain

Delete the whole of paragraph (2) and renumber the following paragraphs accordingly.

New Zealand

Delete the words "amendment after consideration in the Organization".

Paragraph 2(i)

Norway

After the words "Any amendment" in the first line of sub-paragraph 2(i), insert the words "of Articles and Annexes".

United States

In line 2, replace "the appropriate body in the Organization" with "the appropriate permanent organ established by the Assembly of the Organization and charged with functions in respect of marine pollution".

Netherlands

Insert in paragraph 2(i) in the first line between the words "amendment" and "proposed" the words:

"to the Articles of the Convention".

Insert in this paragraph in the penultimate line between the words "participate" and "when" the words "and vote".

New Zealand

Delete sub-paragraphs (i) and (ii).

Replace by the following:

"2. Upon the request of a Contracting State, an amendment to the present Convention shall be considered in accordance with the following procedures:

- (i) an amendment proposed by a Contracting State to the Articles of the Convention shall be communicated to all the Contracting States by the Organization;
- (ii) an amendment proposed by a Contracting State to an Annex to the present Convention may be submitted to the Maritime Safety Committee or any other appropriate permanent organ established by the Organization and charged with functions in respect of marine pollution. If adopted by a two-thirds majority of those present and voting in the Maritime Safety Committee or the organ as the case may be, including a two-thirds majority of Contracting States such amendment shall be communicated by the Organization to all Contracting States for acceptance. Any Contracting State which is not a member of the Maritime Safety Committee or the organ shall be entitled to participate and to vote when the amendment is considered."

Paragraph 2(ii)Norway

Delete sub-paragraph 2(ii) but retain the proposed text as an addition to sub-paragraph 2(i).

Add a new sub-paragraph 2(ii) to read:

"Any amendment to an Appendix to an Annex proposed by a Contracting Party shall be communicated by the Organization to all Members of the Organization

and all Contracting Parties at least (two) months prior to the consideration by the appropriate body of the Organization.

If adopted by two-thirds majority of those present and voting in the appropriate body, the amendment shall be communicated to all Contracting Parties for acceptance.

United States

In line 3, add "present and voting" after "Contracting Parties".

Paragraph 2(ii) bis

Netherlands

Insert between paragraphs 2(ii) and 2(iii) a new paragraph, reading as follows:

"(a) Any amendment to the Annexes and Appendices proposed by a Contracting Party shall be considered in the Organization and shall be communicated to all Contracting Parties and Members of the Organization at least (six) months prior to that consideration.

(b) If adopted by a two-thirds majority of those present and voting in the appropriate body of the Organization, to which all Contracting Parties shall have been invited to participate and 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 acceptance".

United States

Add a new sub-paragraph(ii) bis as follows:

"However, any amendment to an [Annex/Appendix] adopted in accordance with sub-paragraph(i) shall be communicated directly to all Contracting Parties for acceptance without consideration by the Assembly".

Paragraph 2(iii)(a)

Greece

In paragraph (2)(iii)(a), in lines 3-4, delete "or by Contracting Parties".

In lines 6-7, delete "whichever condition is first achieved".

Netherlands

Delete in paragraph 2(iii)(a) all the words after "Contracting Parties" in the third line.

United Kingdom

In paragraph 2(iii)(a) after the word "Convention" in line 1 add "or to the Appendix to Article 10".

United States

Paragraph 2(iii)(a): Replace the last five lines with:

"By a majority of the Contracting Parties, including:

- (1) States with one-third of the total for all Contracting Parties of gross merchant shipping tonnage and
- (2) States with one-third of the total for all Contracting Parties of goods loaded and unloaded in international seaborne trade".

Paragraph 2(iii)(b)Netherlands

Insert in paragraph 2(iii)(b) in the first line between the words "Annex" and "shall" the words: "or an Appendix".

Delete in paragraph 2(iii)(b) all the words after "Contracting Parties" in the fifth line.

New Zealand

In paragraph 2, sub-paragraph (iii)(b): Delete in line 2 the words "to be determined by the Assembly at the time of its adoption" and replace with: "at the end of a period of two years from the date of its adoption".

United Kingdom

In paragraph 2(iii)(b) after the word "Annex" in line 1 add the words "or to the Appendix to Article 7".

United States

Paragraph 2, sub-paragraph (iii)(b): In lines 2-3, delete "by the Assembly". Replace the last five lines with:

"(1) more than one-third of the Contracting Parties, or

(2) Contracting Parties with:

- (a) one-third of the total for all Contracting Parties of gross merchant shipping tonnage, and
- (b) one-third of the total for all Contracting Parties of goods loaded and unloaded in international seaborne trade".

Paragraph 2(iii) bis

Norway

Add a new sub-paragraph 2(iii)(c) to read as follows:

"An amendment to an Appendix to an Annex shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of the amendment, unless within that period objection is communicated to the Organisation by more than one-third of the Contracting Parties or by 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, whichever condition is fulfilled".

Paragraph 2(iv)(a)

New Zealand

In line 3: delete brackets and the word "six" and replace with the word "twelve".

Delete the words "with respect to the Contracting States which have declared that they have accepted it" and replace with: "with the exception of those which, before that date, have made a declaration that they do not accept it".

Paragraph 2(iv)(b)

Netherlands

Insert in paragraph 2(iv)(b) between the words "Annex" and "to" in the first line the following words: "or to an Appendix".

Paragraph 2(iv) bisUnited States

Add the following new sub-paragraphs:

"(c) Any Contracting Party for which an amendment has not entered into force in accordance with sub-paragraphs (a) and (b) may accept it at any time after that six-month period, and the amendment shall thereupon enter into force with respect to that Contracting Party.

(d) Any Contracting Party which has declined to accept an amendment to an Annex after its entry into force shall be treated as a non-Contracting Party for the purpose of application of that amendment.

(e) The Assembly, by a two-thirds majority of those present and voting, including two-thirds of the Contracting Parties present and voting may determine at the time of adoption of an amendment that it is of such an important nature that any Contracting State which has declined to accept it for a period of twelve months after it enters into force, shall cease to be a Party upon the expiry of that period."

Norway

Add a new sub-paragraph 2(iv)(c) to read:

"In the case of an amendment to an Appendix to an Annex the amendment deemed to have been accepted in accordance with the foregoing conditions shall enter into force (six) months after its acceptance for all the Contracting Parties with the exception of those which, before that date, have made a declaration that they do not accept it."

Paragraph 2(v)Greece

Delete sub-paragraph (v).

Netherlands

Delete sub-paragraph (v).

Norway

In sub-paragraph 2(v) replace the words "the Members" with the word "those" and amend the last line to read:

"with the procedures specified in sub-paragraphs (iii)(a) and (iv)(a) above.

Paragraph 2(vi) bis

Norway

Add a new sub-paragraph 2(vi) to read as follows:

"Notwithstanding the provisions of sub-paragraphs (iii)(c) and (iv)(c) above, the appropriate body may decide by a majority of those present and voting, that a given amendment to an Appendix to an Annex shall be accepted, and shall enter into force in accordance with the procedures specified in sub-paragraphs (iii)(a) and (iv)(a) above."

Paragraph 3(c)

Brazil, Mexico and Spain

Delete paragraph 3(c) and substitute the following three sub-paragraphs:

- "(c) An amendment to the Convention shall come into force six months after the date of its acceptance, with respect to the Contracting Parties which have accepted it.
- (d) An amendment to the Annexes of the Convention shall come into force in accordance with the procedures established in sub-paragraph (c) of Section A of paragraph 3 of the present Article.
- (e) An amendment to the Appendices to the Annexes of the Convention shall come into force in accordance with the procedures established in sub-paragraph (c) of Section B of paragraph 3 of the present Article."

Norway

After the word "Assembly" in sub-paragraph 3(c) insert:

"and the words 'the appropriate body'".

New Zealand

Delete the words: "For the purpose of implementing these provisions, the word 'Assembly' shall be deemed to denote the Conference".

Paragraph 3 bis

Brazil, Mexico and Spain

Insert a new Title and a new paragraph 3 bis to read as follows:

3. Amendment by an "ad hoc" Committee

A. Amendments to the Annexes

- (a) Any amendments to the Annexes of the Convention proposed by a Contracting Party or by the Organization shall be communicated by the Organization to the Contracting Parties not less than three months before its examination by an "ad hoc" Committee established within the Organization and composed of representatives of the Contracting Parties.
- (b) An amendment to the Annexes shall be adopted by a majority of two-thirds of the Contracting Parties, the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet.
- (c) The amendment shall come into force six months after the date of its acceptance, with respect to the Contracting Parties which have expressly accepted it. However, a Contracting Party may declare to the Organization that any amendment to the Annexes shall be considered to have been accepted by the said State 10 months after it has been notified of the adoption of the amendment unless the State in question has submitted its objection within the last mentioned time limit.

B. Amendments to the Appendices

- (a) Any amendment to the Appendices to the Annexes of the Convention proposed by a Contracting Party or by the Organization shall be communicated by the Organization to the Contracting Parties not less than three months before each examination by the "ad hoc" Committee referred to in sub-paragraph (a) of Section A of this paragraph.
- (b) An amendment to the Appendices shall be adopted by a majority of two-thirds of the Contracting Parties, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet.

- (c) An amendment to the Appendices shall be considered accepted if, within a period of ten months of the date of the adoption, no objection has been made by not less than one-third of the Contracting Parties. The amendment shall come into force three months after the said amendment is deemed to have been accepted. It shall not come into force for those States who have made an objection to it."

New Zealand

Insert a new paragraph 3 bis:

"Any Contracting State may propose that an amendment is of an important nature. If three-quarters of the Contracting States accept this proposal, then any Contracting State which makes a declaration under paragraph 2(vi) of this Article and which has not accepted the amendment within two years of its entry into force, shall cease to be party to the present Convention upon expiry of that period".

Paragraphs 4, 5 and 6

Brazil, Mexico and Spain

Delete paragraphs 4, 5 and 6 and insert a new paragraph 4 to read as follows:

"4.* Any declaration of acceptance or of objection to an amendment under the present article shall be notified in writing to the Secretary-General of the Organization."

Paragraph 4 bis

United States

Add a new paragraph 4 bis:

"Any amendment to an Annex shall relate to the substance of that Annex and shall be consistent with the Articles of the present Convention".

* The contents of paragraph 6 and the second sentence of paragraph 7 of document ME/CONF/C.1/WP.40 should be included in Article 20.

Paragraph 5

Netherlands

Amend the figure "ten" in paragraph 5 to read "fifteen".

Norway

Amend paragraph 5 to read:

"The adoption of a new Annex shall take place under the conditions specified in paragraph 2(i) or 3(a) and (b) above. It shall enter into force in accordance with provisions stipulated in Article 16(2) with respect to the Contracting Parties which have declared that they have accepted it twelve months after the date on which it shall have been accepted by not less than 15 Parties, the combined merchant fleets of which constitute not less than 50 per cent of the gross tonnage of the world's merchant fleet."

Paragraph 5 bis

ICS

Add a new paragraph after paragraph 5 to read:

"(5) Unless expressly provided otherwise, any amendment to the present Convention made under this Article which relates to the structure of a ship shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, on or after the date on which the amendment comes into force".

Norway

Add a new paragraph after existing paragraph 5 to read:

"(6) Unless expressly provided otherwise, any amendment to the present Convention made under this Article which relates to the structure of a ship shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid on or after the date on which the amendment comes into force."

Amend existing paragraphs (6) and (7) to (7) and (8) respectively.