



IMCO

INTERNATIONAL CONFERENCE ON
MARINE POLLUTION, 1973
Committee I

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

Text of Article 10 as agreed by the Committee

Article 10

Settlement of Disputes

Any dispute between two or more Contracting States concerning the interpretation or application of the present Convention shall, if settlement by negotiation between the States involved has not been possible, and if these States do not otherwise agree, be submitted upon request of any of them to arbitration as set out in Protocol 2.

Protocol 2 ^{1/}

ARBITRATION

Rule 1

Arbitration procedure, unless the Parties to the dispute decide otherwise, shall be in accordance with the rules set out in this Annex.

Rule 2

- (1) An Arbitration Tribunal shall be established upon the request of one Contracting State addressed to another in application of Article 10 of the Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.
- (2) The requesting Party shall inform the Secretary-General of the Organization of the fact that it has applied for the establishment of a Tribunal, of the names of the other State or States Party ^{2/} to the dispute, and of the Articles or Regulations of the Convention over which there is in its ~~opinion~~ disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Contracting States.

Rule 3

The Tribunal shall consist of three members: one Arbitrator nominated by each Party to the dispute and a third Arbitrator who shall be nominated by agreement between the two first named, and shall act as its Chairman.

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- 1/ The Drafting Committee is requested to insert at the appropriate place in the Convention, a suitable paragraph to provide that amendments to Protocol 2 shall be made under the same conditions as apply to amendments to the Articles of the Convention.
 - 2/ The Drafting Committee is invited to consider a proposal that these words should be deleted and replaced by "Parties" on the assumption that arbitration can only be applied between two Parties.

Rule 4

(1) If, at the end of a period of 60 ^{3/} days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of 60 days proceed to such nomination, selecting from a list of qualified persons previously drawn up by the Council of the Organization.

(2) If, within a period of 60 days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of 60 days, selecting him from the list prescribed in paragraph (1) of the present Article.

(3) The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

(4) The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.

(5) In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of 60 days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article 3 above, or in the absence of agreement between the members of the Tribunal within a period of 60 days of the decease or default, according to the provisions of the present Article.

^{3/} The Drafting Committee is requested to ensure that the starting date for each period of 60 days is clearly specified.

Rule 5

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Rule 6

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. Half of the remuneration of the Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne by each Party. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

Rule 7

[If a procedure has been initiated between two Parties^{4/}, ^{4/} any [other^{4/} Contracting State which considers that it has an interest of a legal nature which may be affected by the decision in the case may join in the arbitration procedure by giving written notice to the Parties which have originally initiated the procedure.

Rule 8

Any Arbitration Tribunal established under the provisions of the present Annex shall decide its own rules of procedure.

Rule 9

(1) Decisions of the Tribunal both as to its procedure and its place of meeting and as to any controversy laid before it, shall be taken by majority vote of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the Chairman shall cast the deciding vote.

(2) The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:

^{4/} The Drafting Committee should consider the deletion of these words as they appear to be superfluous.

- (a) provide the Tribunal with the necessary documents and information;
 - (b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.
- (3) Absence or default of one Party shall not constitute an impediment to the procedure.

Rule 10

- (1) The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period not exceeding three months. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organization. The Parties shall immediately comply with the award.
- (2) Any controversy which may arise between the Parties as regards interpretation and execution of the award may be submitted by either Party for judgement to the Tribunal which made the award, or, if it is not available to another Tribunal constituted for this purpose in the same manner as the original Tribunal.
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