



IMCO

INTERNATIONAL CONFERENCE ON MARINE POLLUTION, 1973

SUMMARY OF ACTIVITIES OF THE UNITED NATIONS IN THE FIELD OF MARINE POLLUTION

With reference to paragraph 14 of document MP/CONF/INF.7, attached hereto for the information of delegations attending the Conference is a copy of a letter addressed to the Secretary-General of IMCO by the Chairman of the United Nations Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction.

As requested by the Chairman of the Sea-Bed Committee, a document containing relevant extracts from the summary records of the main Committee and its Sub-Committee III, is also attached for information.

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RÉF. No :
(à rappeler dans la réponse)

24 August 1973

Dear Mr. Secretary-General,

The Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction at the conclusion of its July/August 1973 session has asked me to transmit to you, for the information of delegations attending the "International Conference on Marine Pollution," the attached document which reproduces relevant parts of certain summary records of its Main Committee and its Sub-Committee III. The subjects dealt with by Sub-Committee III in some areas are related to those with which the Conference will be concerned. Such areas include, inter alia, the setting of standards for the prevention of vessel source pollution, enforcement of such standards and intervention following a maritime casualty involving a grave and imminent threat of pollution.

The Committee has noted Article 9.2 of the Draft Text of the proposed International Convention for the Prevention of Pollution from Ships, 1973. While not questioning the mandate of the "International Conference on Marine Pollution," the Committee has asked me to inform you that the Conference on the Law of the Sea would not consider itself limited by any decisions taken on these matters by the Marine Pollution Conference.

The Committee would be grateful if this letter and its attachment could be reproduced and circulated as a conference document. Also I am sending for reference, with this letter, a copy of all documents of the 1973 session of the Committee concerning the protection of the marine environment.

Sincerely,

A handwritten signature in dark ink, appearing to read 'H. S. Amerasinghe', written in a cursive style.

H. S. Amerasinghe
Chairman

Committee on the Peaceful Uses of the Sea-Bed and
the Ocean Floor Beyond the Limits of
National Jurisdiction

Secretary-General
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EXTRACT FROM A SUMMARY RECORD OF MAIN COMMITTEE
(A/AC.138/SR.96)

Mr. PARDO (Malta) said that the question of marine pollution and the protection of the marine environment came within the Committee's terms of reference and was among the questions on which draft articles had to be prepared. He therefore considered it desirable to draw the Committee's attention to the initiative taken by the United States at the last session of the Council of the Inter-Governmental Maritime Consultative Organization (IMCO). The United States representative had stated that it was necessary to develop methods for controlling the discharge of pollutants from ships as well as effective and dynamic international institutional arrangements to ensure such control. He had proposed that IMCO should be the international agency responsible for controlling ship-generated pollution and should establish a Marine Environment Protection Committee for the purpose, to develop, adopt and bring to the notice of Governments the new regulations relating to marine pollution applicable under the conventions for which IMCO was responsible. If there were no objections, the regulations would enter into force on the date notified by the Committee. The latter would be empowered to amend the regulations, by unanimous decision, without the consent of the contracting parties. It could also give technical and practical advice to Member States on pollution prevention methods and measures to be taken in case of pollution, consider the establishment of regional sub-committees and supervise the observance of IMCO conventions on marine pollution. To enable it to perform those new functions, IMCO would have to increase its staff, and that would have budgetary implications. It had been suggested that an ad hoc committee should be asked to study the United States proposals and submit a report on them to the IMCO Conference on Marine Pollution, to be held in 1973. The United States proposals appeared to have been well received by all members of the IMCO Council, and one representative had expressed the view that they provided a good opportunity to review the status of the Organization, which had so far been only consultative.

He shared the concern of the United States representative with regard to marine pollution, but was surprised that the United States should have made such a proposal, particularly to IMCO.

There was in fact no immediate danger to the marine environment but rather a progressive deterioration, the consequences of which would be felt only in one, two or three generations time. The pollution of the marine environment caused by the discharge of pollutants from ships might be about 10 per cent, but was certainly not more than 20 per cent, of global marine pollution. It was therefore inadmissible to concentrate attention on that particular factor of pollution, particularly since 80 per cent of the 20 per cent was caused by ships belonging to not more than a dozen countries. Finally, the serious cases of pollution were to be found in waters within the jurisdiction of heavily industrialized coastal States.

There was therefore no general emergency and the international community still had time to make a rational study of the best means of controlling marine pollution. Moreover, the industrialized countries which were mainly responsible for such pollution could confer and take the necessary measures without recourse to an intergovernmental organization.

What was lacking from the United States proposal was any provision for an action for damages by a coastal State against the flag State when a ship of the flag State polluted waters within the jurisdiction of the coastal State. The international community should similarly have the right to institute proceedings against a State whose ships polluted international waters.

Nor did the United States proposals take into account the question of assistance, in case of pollution by ships, to countries with only very limited resources and technical capacity. How could such countries observe the numerous regulations issued by a body of whose existence they were hardly aware? Moreover, the United States proposals dealt only with pollution caused by ships and sought to confer the responsibility for drafting regulations on a consultative organization which played a relatively unimportant role in the United Nations system.

His delegation considered that the problem of marine pollution should be viewed from an entirely different angle. It was prepared to place its trust not in regulations drawn up by a technical body but in the acceptance by the international community of new principles of international law. First, that a State was responsible for the damage from whatever source caused to the marine

environment within the jurisdiction of another State or to the marine environment beyond its national jurisdiction by physical or legal persons under its jurisdiction or by ships flying its flag. Secondly, that the international community was competent to take action against a country which polluted, or permitted the pollution of, the marine environment beyond its national jurisdiction. In both cases, action should be taken not against those who had caused the pollution and who might be without financial resources, but against the State concerned. The tribunal responsible for judging such cases should be international and impartially constituted. Of course regulations were not without value and the establishment of general non-discriminatory regulations or guiding principles for the conduct of States would be useful for assessing cases of negligence in the matter of marine pollution.

With regard to the procedure favoured by the United States, he said that the proposals concerned had been submitted to the Council of an intergovernmental organization whose functions did not extend to pollution. There was no mention of pollution or preservation of the marine environment in the IMCO Convention. His delegation was not opposed to IMCO's continuing to be a forum for the discussion of the control of pollution by ships - even though the question was not actually within its competence - because that was a useful international service, but it was opposed to any basic change in IMCO's functions introduced by what might look like backstairs methods. IMCO's Council and Assembly were not attended by pollution experts of member States but by representatives dealing with technical aspects of navigation. Only three or four developing countries were represented on the IMCO Council: while that might not prevent the Organization from dealing effectively with the technical aspects of navigation, it hardly made it competent to deal with marine pollution on a world-wide basis, particularly when it came to enacting regulations that were binding on all States.

The IMCO Council or Assembly could not consider a basic change in the Organization's functions without first proposing to its member States appropriate amendments to its Convention. If new functions were to be conferred on IMCO in the field of marine pollution control the appropriate procedure would be to submit a resolution to that effect to the United Nations General Assembly; the States members of IMCO would then be consulted and appropriate amendments to

the IMCO Convention could then be formulated, discussed and finally adopted, first in the Economic and Social Council, the co-ordinating body of the United Nations system, and then in the General Assembly.

If that procedure were not followed, it could happen that a specialized agency might study and apply proposals outside its competence, without reference to the Economic and Social Council or the General Assembly. That would be a grave mistake both from the constitutional point of view - with regard to the Organization itself - and from the point of view of co-ordination between United Nations bodies. Any one of them might seek to exceed its competence, but it would be the first time that a specialized agency had attempted to change the main purpose of its statutory functions.

Lastly, the United States proposals were to be submitted for adoption in October; that was too soon for the General Assembly to be able to take action. In those circumstances, the Sea-Bed Committee should adopt some procedure that would make it possible to study the United States proposals, both from the constitutional and the substantive points of view, before these were adopted.

The CHAIRMAN said that, under the terms of operative paragraph 8 of General Assembly resolution 3029 B (XXVII) IMCO had been invited to co-operate fully with the Secretary-General in the preparations for the Santiago Conference. For that purpose it would have to submit draft articles, including articles on marine pollution.

He felt that the Committee should avoid starting a discussion on the functions of IMCO.

Mr. ZIGERS (Chile) said he thought that IMCO's activities mentioned by the representative of Malta raised a real problem. IMCO was contemplating the adoption of a convention on marine pollution in October. The adoption of a separate convention of that kind could very well restrict the scope of the Sea-Bed Committee and also that of the Third United Nations Conference on the Law of the Sea. IMCO was responsible for dealing with navigational safety, not with pollution. The question of the adoption of a convention by IMCO had not been put either to the Economic and Social Council, or to the General Assembly or to the Sea-Bed Committee. What was more, IMCO was enlarging its terms of reference without enlarging its composition. Few developing countries were members.

Again, problems of marine pollution could hardly be discussed apart from the question of the rights and duties of coastal States. At the next meeting he intended to ask a question about the recent oil spillages in Chilean waters following an accident to a tanker, which had affected Chile's fisheries. It was important to work out a procedure for settling disputes arising out of situations of that kind.

In conclusion, he emphasized that IMCO must not adopt either final recommendations or a global convention in October.

Mr. STEVENSON (United States) said he agreed with the Chairman that the Committee should avoid any discussion of the functions of IMCO.

His delegation would enlarge on its draft articles on pollution in Sub-Committee III on Wednesday 18 July, and reply to a number of questions which had just been asked. For the moment he would confine himself to stating that his country's concern was to make the best use of the technical possibilities of the organizations in the United Nations system.

He would try to have the text of the United States proposals distributed to all the members of the Committee.

EXTRACTS FROM SUMMARY RECORDS OF SUB-COMMITTEE III

A/AC.138/SC.III/SR.37

MARINE POLLUTION

Mr. IENSAH (Observer for the Inter-Governmental Maritime Consultative Organization), describing the state of preparations for the International Conference on Marine Pollution to be convened by IMCO in October, said that work had now been completed on a draft international convention for the prevention of pollution from ships and on a draft instrument relating to intervention on the high seas in cases of marine pollution damage by substances other than oil. A limited number of copies of those documents in English and in French had been made available to the United Nations Secretariat. During the coming weeks complete sets of the documentation for the Conference would be circulated to all Governments of States invited to participate in the Conference, i.e., all Members of the United Nations or members of its specialized agencies and States Parties to the Statute of the International Court of Justice. Governments receiving the drafts were being invited to submit comments or suggestions regarding amendments or additions thereto to the IMCO secretariat, which would collate them and circulate them to other Governments for consideration prior to the Conference. All the relevant documentation would be available to the Sea-Bed Committee at its summer session.

The draft international convention for the prevention of pollution from ships consisted of formal treaty articles and five technical annexes containing regulations for preventing pollution of the sea by various categories of substances carried by ships.

The draft convention specifically stated that it did not apply to the dumping of substances into the sea within the scope of the Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter prepared by the 1972 London Conference or to the release of harmful substances arising directly from the exploration and exploitation of the sea-bed and associated activities. That did not mean that the draft convention permitted or encouraged marine pollution in those areas; rather, the purpose of those provisions was to underline the fact that the IMCO draft was not intended to encroach on subjects

within the competence of other bodies. Matters relating to the types of pollution to which he had just referred were properly within the purview of the Sea-Bed Committee and the Conference on the Law of the Sea, or of efforts undertaken as a follow-up to their work.

He described the types of vessels to which the IMCO draft convention applied and said that the document provided that offences would be punishable under the laws of the flag State of the ship contravening the provisions of the convention or of the State within whose jurisdiction the offence occurred. The draft did not define the precise area within which a coastal State might exercise jurisdiction over foreign ships for purposes of enforcing the convention's provisions. Various alternatives had been suggested. It had been decided to leave the question open until the Conference, by which time, it was hoped, a conclusion or trends towards a conclusion would have emerged from the deliberations of the Sea-Bed Committee, providing a useful point of departure for a decision as to the appropriate expression which should be used to define the area. In any event, irrespective of the formula adopted, the nature and extent of the area could not be determined in the IMCO convention; that was a question for the Conference on the Law of the Sea to decide. Moreover, it was not necessary for the matter to be settled in order for the IMCO convention to enter into force or be applied effectively. Accordingly, all that would be decided at the IMCO Conference was whether the right of a coastal State to take measures of enforcement would be restricted to offences committed in its territorial sea or whether the right would extend to a wider area and, if so, what that area should be.

On the specific question of the convention's relation to the issues of the law of the sea, the draft expressly provided that nothing in the convention would prejudice the codification and development of the law of the sea by the Conference on the Law of the Sea pursuant to General Assembly resolution 2750 (XXV), or the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal-State and flag-State jurisdiction.

Two alternative proposals had been presented regarding the right of a contracting State to take enforcement action against a ship entering its ports in respect of contraventions of the convention. One proposal would limit the right of the port State to take action only in respect of contraventions which

occurred in areas within its jurisdiction, thus in effect assimilating port-State jurisdiction with coastal-State jurisdiction. The other proposal was that a ship which violated the provisions of the convention outside the jurisdiction of any contracting State (including violations on the high seas) should be subject to enforcement action by any contracting State whose ports such a ship entered. The latter suggestion had not received majority support in the bodies which had prepared the draft; however, if a majority of Governments represented at the Conference so desired, it could be incorporated as a provision.

Under the draft convention, contracting States would agree on various measures of co-operation in the detection and enforcement of its provisions, using all appropriate and practical means of detection and environmental monitoring, adequate reporting procedures and accumulation of evidence. The draft also specifically provided that contracting States were entirely free to apply measures stricter than those laid down in the convention.

The purpose of the instrument relating to intervention on the high seas in cases of marine pollution by substances other than oil was to extend the provisions of the 1969 Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties to noxious and hazardous substances other than oil carried by ships. It established the right of coastal States to take measures on the high seas to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution following upon a maritime casualty which might reasonably be expected to result in major harmful consequences. Certain conditions governed the implementation of those measures.

The only major unresolved question in the draft related to the categories and numbers of substances. One group of countries considered that the substances covered should be specifically listed in the instrument, while another group favoured a more general formula which would enable new substances to be brought into the instrument's ambit without the need to amend the instrument itself. It was hoped that a compromise would be reached at the Conference.

The work of IMCO was complementary to the work of the Sub-Committee and the Sea-Bed Committee as a whole. He wished to emphasize that the two draft documents he had just described did not attempt to alter the general international law of the sea. Whether the general rules of international law

regarding the extent of coastal-State and flag-State jurisdiction and related matters would be altered and, if so, to what extent was a matter which IMCO recognized to be the exclusive mandate of the Conference on the Law of the Sea. It was hoped that the final and successful conclusion of the latter Conference in respect of those general policy questions would make the application of the IMCO instruments easier and more effective and that IMCO's work in the area would provide some indication of the type of regulatory activities which could be included in the "umbrella convention" on the preservation of the marine environment which the Sub-Committee and its Working Group had been considering.

Every effort would be made to ensure that the suggestions advanced in the Sea-Bed Committee were taken into account at the IMCO Conference, in order to ensure that it adopted instruments compatible with the objectives of the future convention on the law of the sea in so far as it dealt with the preservation of the marine environment. IMCO would continue to make available the results of its work and the benefits of the experience it had acquired over the years regarding the prevention of marine pollution by ships. He strongly urged wide participation by Governments in the IMCO Conference, in order to ensure that the Conference produced international instruments reflecting the collective will of the international community as a whole. It was also necessary for participating Governments to ensure that the views which their delegations presented at the Conference were fully co-ordinated with those they had expressed in the Sea-Bed Committee.

Mr. BUNSLBY (Canada) commended the observer for IMCO for his lucid and helpful statement. His delegation agreed that wide participation in IMCO's work was essential if the outcome of the IMCO Conference was to complement the Sea-Bed Committee's work on the law of the sea, particularly with respect to marine pollution. He wished to know whether the proposals advanced in the Sub-Committee on Marine Pollution of IMCO's Maritime Safety Committee would be made available to the Sea-Bed Committee at its summer session. He had in mind in particular the Canadian and Australian proposals.

Mr. IJENSAH (Observer for the Inter-Governmental Maritime Consultative Organization) said that all the proposals which had been advanced in connexion with the draft convention would be made available.

Mr. BLESLEY (Canada) said that, in view of the interrelationship between the work of IMCO and the Sea-Bed Committee regarding intentional discharge from ships and intervention on the high seas in cases of marine pollution, it would have been better if the results of IMCO's deliberations had been available at the current session of the Sea-Bed Committee.

His delegation considered that the two alternative proposals regarding enforcement in cases of intentional discharge of pollutants from ships were too narrow, both conceptually and in respect of the territory covered, and hoped that IMCO would arrive at a broader formulation at its October Conference. The Canadian delegation's proposal, which had been relegated to a footnote in a working paper considered at the preparatory meetings for the IMCO Conference, would read as follows:

"Any Contracting State may cause proceedings to be taken when any ship to which the present Convention applies enters its ports or offshore terminals, in respect of any violation by that ship, or its owner or master, of the requirements of the Convention, wherever the violation occurred, provided, however, that such proceedings are commenced no later than [three] years after the violation occurred. Whenever one Contracting State has commenced such proceedings, no other proceedings in respect of the same violation may be commenced by any other Contracting State except for the Administration of the ship or any State within whose territorial sea the violation occurred. A report of any such proceedings shall be sent to the Administration of the ship."

That provision was related to the basic concept of concurrent jurisdiction. His delegation believed that the convention should provide not only for flag-State jurisdiction, but also for concurrent port-State and coastal-State jurisdiction in cases of violations. A number of representatives at the preparatory meetings, including certain major maritime Powers, had expressed support for the concept of port-State jurisdiction. The Sea-Bed Committee should consider jurisdictional questions, with a view to making recommendations to IMCO.

Lastly, remarks made in Sub-Committees I and III of the Sea-Bed Committee regarding intervention on the high seas in cases of marine pollution should be taken into account by IMCO in order to ensure a co-ordinated approach.

Mr. HOKERMAN (United States of America) said that his delegation had listened with interest to the statement made by the representative of IMCO. It had also carefully studied document A/AC.138/SC.III/L.30, which described IMCO's work in relation to the preservation of the marine environment. The progress made by IMCO in preparatory work for the 1973 International Conference on Marine Pollution was encouraging. Marine pollution knew no national boundaries. Hence, it was only by means of an international approach that it would be possible to prevent deterioration of the marine environment while taking into account the diverse needs and interests of States. Moreover, the formulation of standards for the prevention of pollution by ships depended very much upon the technical expertise available from international organizations such as IMCO. His delegation commended IMCO for the important work it had done on the subject. Despite IMCO's good record, however, efforts must not be relaxed either in the Sea-Bed Committee or in other international organizations to bring marine pollution under effective control. His delegation therefore earnestly appealed for broad participation in the forthcoming International Conference on Marine Pollution. Such participation would facilitate progress towards the protection and preservation of the marine environment.

A/AC.138/SC.III/SR.41

Mr. MOORE (USA)... At the Committee's spring session his delegation had introduced a working paper explaining why it considered that standards for vessel-source pollution should be internationally established. Because of its technical competence and experience, IMCO should be designated as the international organization responsible for establishing those standards. To ensure that new problems were adequately and rapidly dealt with and that all countries interested in participating in the establishment of such standards would have an opportunity to do so, the United States had proposed in the IMCO Council the creation of a marine environment protection committee for dealing with vessel-source pollution. That committee, whose membership would be open to all interested States, would be empowered to adopt regulations and circulate them directly to Governments without review or approval by the IMCO Assembly or Council. The regulations would then come into effect automatically unless opposed by a specified number, or category, of States. The committee would have regional sub-committees for considering solutions to regional problems.

.....

The United States proposal for the establishment of a new marine environment protection committee in IMCO, copies of which had been circulated to members of the Committee, would in no way detract from the jurisdiction of the Sea-Bed Committee, or prejudice the options of the Law of the Sea Conference regarding the jurisdiction of States. There was general agreement that strict international standards were needed for the protection of the marine environment and the United States proposal was designed to ensure that those standards were expeditiously and effectively established. There could be no question that IMCO had broad authority, under its Charter, to deal with vessel-source pollution problems, and it had been active in that field since its inception.

Mr. IBOYE (Kenya)... With regard to the United States proposal in IMCO that a new permanent body should be established to carry out IMCO's environmental responsibilities, his delegation considered that the proposed new functions should be performed by the United Nations Environment Programme, with IMCO acting as the latter's technical department. The United Nations Environment Programme should also be responsible for administering any other existing or future conventions or organizations concerned with the prevention of pollution to the marine environment.

Mr. VELLA (Malta) said that his delegation considered that the United States proposal in the IMCO Council that a new marine environment protection committee should be set up under the auspices of IMCO would be prejudicial to the forthcoming Conference on the Law of the Sea. Such a step meant expanding IMCO's terms of reference, and it was therefore a constitutional matter, which involved all members of the United Nations. Since the Sea-Bed Committee was a preparatory Committee for the Conference on the Law of the Sea, it was directly affected by any proposal that conflicted with the objectives of the Conference. His delegation had no objection to the discussion of the issue in the Sub-Committee, although perhaps it was a matter that should be dealt with by the Main Committee. He read out to the Sub-Committee a statement made to the Council of IMCO on 5 June 1973 by Mr. Russel Train, in support of his own view that the establishment of a new IMCO subsidiary would be prejudicial to the work of the Conference on the Law of the Sea.

A/AC.138/SC.III/SR.42

PREVENTION OF MARINE POLLUTION FROM SHIPS

Mr. JEGAU (Canada) recalled that his delegation had on a number of occasions pointed out that the draft IMCO Convention for the Prevention of Pollution from Ships raised basic issues relating to the law of the sea which were of vital concern to the Committee. In March 1973, therefore, it had presented a working paper (A/AC.138/SC.III/L.37) with a view to drawing the Committee's attention to those issues in order to ensure full co-ordination between the work of the United Nations Conference on the Law of the Sea and the IMCO Conference on Marine Pollution, to be held in London in October 1973.

His delegation had now submitted an addendum (A/AC.138/SC.III/L.37/Add.1) to that document, containing proposals for redrafting articles 4, 5, 6 and 8 of the draft IMCO Convention and dealing essentially with the enforcement of the Convention and the residual right of coastal States to adopt and enforce special measures for the prevention of ship-generated pollution in waters within their jurisdiction.

Draft article 4(1) of his delegation's proposed amendments posited the obligation of flag-States to implement and enforce the Convention with regard to their own vessels. In his delegation's view, however, flag-States were not in a position to carry out that obligation adequately and the role of coastal States in the enforcement of internationally-agreed rules should be strengthened. For that reason article 4(2) of the Canadian proposals stated that when a violation of the provisions of the Convention by a foreign ship occurred within waters under the jurisdiction of a contracting State, that State should be free to prosecute the ship directly or call upon the flag-State to do so.

Draft article 4(3) stipulated that contracting States might prosecute vessels which had violated the provisions of the Convention when such vessels entered their ports or offshore terminals. That proposal should ensure more effective implementation of international rules to prevent marine pollution from ships, since it constituted a recognition of the general interest of the international community as a whole in the preservation of the marine environment.

In both draft articles 4(2) and 4(4), his delegation had employed the neutral phrase "waters under the jurisdiction", since the precise definition of the limits of the jurisdiction of coastal States for taking measures to prevent pollution of the ocean was one of the most controversial issues the Conference would have to solve. It would therefore be wrong for the IMCO Conference to attempt to reach conclusions which might prejudice issues to be considered by the Conference on the Law of the Sea.

Draft article 5 of his country's proposals dealt with the right of coastal States to inspect foreign vessels in their ports or in waters under their jurisdiction. Draft article 6 repeated a proposal already contained in the draft IMCO text, which should permit the effective implementation of a universal system of international standards for the prevention of ship-generated pollution.

No delegation was more eager than his own to promote the establishment of sound and effective international standards to prevent marine pollution, but he was doubtful whether such standards could ever be perfect, since there were bound to be circumstances and problems for which universal or even regional rules would not have provided. Consequently, the IMCO Convention should not derogate from the existing right of coastal States to take, in waters under their jurisdiction, special measures to prevent marine pollution. That was a fundamental right of all States. None the less, draft article 8(2) of the Canadian proposed amendment stated that any measures taken by the coastal State must remain within the strict limits of the Convention and must not be discriminatory in their application.

Some delegations had criticized what they termed the "unilateralism" allegedly sanctioned by the Canadian proposal concerning the residual right to be enjoyed by the coastal State. Those delegations would have provided for a unilateral right on the part of flag-States to adopt special measures for the prevention of ship-generated pollution. Admittedly, the unilateral action favoured by those States would be confined to adopting standards higher than those internationally approved. But who would determine the value of those standards? His delegation was not against the proposal, but simply wished to point out that its acceptance involved an element of trust and good faith, as did the Canadian proposal concerning the residual right of coastal States. It should be remembered that the interests of a shipowner or even a flag-State might not coincide with those of a coastal State.

The purpose of his delegation's proposed amendments was not only to ensure co-ordination between the work of the IMCO Conference and the Conference on the Law of the Sea, but also to achieve the necessary balance between the interests of the flag-States and those of the international community in the preservation of the marine environment. They took no account, however, of the United States proposal to give IMCO exclusive authority to regulate pollution from vessels, since that proposal was not reflected in the draft IMCO Convention. For the time being, he did not wish to expound his delegation's position with regard to that proposal, though his country would find it difficult to accept it if the intention was to introduce a system of exclusive international standards which would bar any residual prescriptive competence for coastal States to adopt special measures in waters under their jurisdiction. The elevation of IMCO to the rank of an environmental standard-setting agency would seem to go hand in hand with the draft articles on marine pollution presented by the United States. There were many constructive elements in those draft articles, particularly the recognition of new kinds of rights of intervention by coastal States to protect their environment. However, the draft did not seem to assure a rational balance between the preservation of freedom of navigation and the preservation of the marine environment; it should give greater emphasis to the latter objective if it was to prove more generally acceptable.

It was relevant to ask whether the proposed new functions of IMCO were compatible with its present structure and constitution. IMCO was primarily concerned with navigation and the technical rules for the exercise of freedom of navigation. Its structure and constitution might therefore have to be completely revised to enable it to assume a role in the protection of the marine environment. The mere creation of a new Marine Environment Protection Committee within IMCO would not necessarily change that body's basic orientation. Questions regarding IMCO's structure and constitution would call for the closest study if it was desired to avoid the continuation of a system whereby some international rules and standards for the prevention of marine pollution could be described as rules and standards drawn up and enforced by the flag-States alone. As the Maltese representative had so eloquently pointed out a few days earlier, the United States proposal concerning a new environmental protection role for IMCO was not one of interest to IMCO alone; it also concerned the

Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, the United Nations Environment Programme, the Economic and Social Council and many other bodies. It was a matter requiring inter-agency consultations. Accordingly, IMCO should not take a final decision on that proposal at its October Conference and should avoid presenting the United Nations system with a fait accompli.

His delegation hoped that the proposals presented in document A/AC.130/SC.III/L.37/Add.1 would be studied by the members of the Committee, and that all the delegations participating in the IMCO Conference in October 1973 would include experts on the law of the sea familiar with the work of the Committee and prepared to discuss the legal and institutional issues involved.

The CHAIRMAN reminded the Sub-Committee that questions concerning the work of other organizations should be considered exclusively within the working groups.

A/AC.138/SC.III/SR.43

Mr. ZEGERS (Chile) said that he wished to comment on the report of the Chairman of the Working Group concerned with pollution, with special reference to what Mr. Vallarta had described as a highly controversial question. That question covered a number of subjects - international standards on pollution and the authorities which might draw them up or apply them, the standards applicable to the flag-State or applied by it, those applied by the port-State and those applied by the coastal State. His delegation believed that all those questions should be treated as a whole. With particular regard to the international standards applicable in cases of pollution, Chile believed that they were closely linked to national standards, which came first in its view. International conventions and practices concerning the territorial sea and the continental shelf, and recent practice concerning the economic zone, gave the coastal State jurisdiction in matters of pollution within that zone. Hence the standards applicable in the zone under national jurisdiction should be considered first. International standards would come second, and the manner in which they were established (usually by treaty or agreement) would come third. The fourth stage would be to ascertain whether the enforcement and supervision of the international standards would be undertaken by one or several international organizations.

He pointed out that even if the Sub-Committee were to regard the four questions enumerated as forming a whole, that had not been the method adopted by IMCO, which had decided to give a working group the task of studying the standards, and international standards in particular, that could be drawn up to combat pollution, with a view to considering a draft convention at its Conference in October 1973. His delegation believed that the Sea-Bed Committee should transmit to IMCO on the occasion of that Conference, which would indeed be duplicating the Committee's work, a recommendation on the way in which the respective activities of the two bodies might be co-ordinated in future. In its capacity as Preparatory Committee to the Conference on the Law of the Sea, the Committee had been entrusted by the General Assembly with the task of drawing up the treaty articles on marine pollution, but, as far as he knew, IMCO had not been given any such mandate by the General Assembly.

However, as IMCO had acquired technical know-how which might be valuable in relation to the work of the Committee, any recommendations it made should be put into a working paper for consideration by the Conference on the Law of the Sea. His delegation would like the matter to be raised in plenary Committee. Rumours were rife that the Secretary-General had sent Governments a letter of invitation to the IMCO Conference, and his delegation wished, through the Chairman of the Sub-Committee, to ask the representative of the Secretary-General on the Sea-Bed Committee to clear up certain points, and in particular to indicate the resolution authorizing the invitation in question.

The CHAIRMAN pointed out to the Chilean representative that the question he had just brought up was still under discussion in Working Group II, and hence that the Sub-Committee was not yet in a position to consider a statement of the kind the Chilean representative had just made. For the time being the matter could be discussed only in the Working Group. He urged delegations not to make statements in the Sub-Committee which were more appropriate to meetings of the Working Groups.

Mr. KATEKA (United Republic of Tanzania) suggested that the Sub-Committee should ask the plenary Committee to invite its Chairman to send a letter to the IMCO Conference scheduled for October, setting out the Committee's views on marine pollution on the lines of the procedure followed the previous year for the Stockholm Conference. The summary records of the Committee's meetings could also be transmitted to the Conference for purposes of information.

The CHAIRMAN took note of the suggestion but added that it was still too soon, at the present stage of the work, to take such a step. The Committee would take up the matter in due course, when it had completed its work.

A/AC.138/SC.III/SR.45

PROPOSAL TO SEND A LETTER FROM SUB-COMMITTEE III TO THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

The CHAIRMAN said that the Tanzanian delegation had proposed that IMCO should be kept informed of the Sub-Committee's work. He asked if the Tanzanian delegation had produced a precise text for its proposal.

Mr. KATEKA (Tanzania) said that his delegation would like the Chairman of the Sub-Committee to send a letter to IMCO, reading as follows:

"I have the honour to inform you that, at its ... session, Sub-Committee III requested me to convey the following to you:

"In view of the interest shown by the Sub-Committee in the work and scope of the proposed IMCO Conference to be held in October 1973, it was felt that the views of the Sub-Committee should be conveyed to that Conference. It is the view of the Sub-Committee that there should be co-operation between the Sea-Bed Committee and IMCO in so far as marine pollution from vessels is concerned. In this respect, the Sub-Committee wishes to stress that whatever is decided by the IMCO Conference should in no way prejudice the work of the Law of the Sea Conference to be held in Santiago next April. On behalf of the Sub-Committee, therefore, I am requesting you to address a note to the Secretary-General of the IMCO Conference conveying the views of the Sub-Committee expressed on IMCO in one document".

Mr. VELLA (Malta), thanking the Tanzanian delegation for its proposal, suggested that delegations interested should discuss the draft with the author with a view to making any necessary modifications to it.

Mr. BRIGSTOCKE (United Kingdom) said he agreed with the representative of Tanzania that all States should follow the work of the IMCO Conference that was to be held in October. The report of Sub-Committee III should also be sent to the IMCO Conference. On the other hand, it was not appropriate to ask that the work of the IMCO Conference should in no way prejudice the work of the Law of the Sea Conference, since that would mean holding up IMCO's work on marine pollution which was already very advanced. The letter should be drafted in more encouraging terms.

Mr. BEESLEY (Canada) said he too welcomed the Tanzanian proposal but shared the doubts expressed by the United Kingdom representative. The letter to IMCO should be drafted very carefully and avoid mentioning purely technical questions which fell within the competence of IMCO. It should keep strictly to questions relating to the law of the sea which were the province of the Committee, such as the right of intervention, who should set up environmental standards applicable to shipping - the ship owners, the coastal State or both -

who should enforce those standards if they were both national and international, and whether the coastal State should have a residuary right in the matter. What was essential was not to impede the work of IMCO, so it was important to weigh the terms of the letter very carefully. His delegation supported the Maltese proposal and was willing to collaborate in drafting a text.

Mr. ZEGERS (Chile) thanked the Tanzanian delegation for its proposal and said he supported the view expressed by the representative of Canada. Chile had been one of the first to draw attention to the terms of reference of the Conference summoned by IMCO, namely to consider a draft convention for the prevention of pollution from ships, since they partly overlapped with those of the future United Nations Conference on the Law of the Sea. In his government's opinion, IMCO was competent to deal with matters concerning safety of navigation and pollution by ships but not to draw up general standards for the law of the sea, which was the responsibility of the Plenipotentiary Conference convened by the United Nations at Santiago in April-May 1974.

His delegation shared the view of the Tanzanian delegation that all members of IMCO should attend the Conference to be held in October 1973. It also thought that IMCO should be informed of the views of the Sub-Committee and, in that connexion, he would read out a letter which had been circulated informally to other delegations by the delegation of Kenya and which seemed to him to be clearer than that proposed by Tanzania. Kenya's letter read as follows:

"A conference has been convened, under the auspices of IMCO in October 1973, to discuss and approve a convention on pollution from vessels. This effort duplicates the work of the Conference on the Law of the Sea, convened by the General Assembly for April-May 1974 in Santiago and detracts from the mandate of the said Conference, tending to affect the unity of the law of the sea. Any draft convention on marine pollution which may come out from the IMCO Conference should have to be forwarded for consideration and approval by the Conference on the Law of the Sea."

In the event of a drafting group being appointed to work out the text of a letter to be sent to the IMCO Conference, his delegation would like to be a member.

Mr. MBCTE (Kenya) said he supported the statements by Canada and Chile. The purpose of the Tanzanian proposal was to establish co-operation between IMCO and the Preparatory Committee for the Conference on the Law of the Sea. In his view, IMCO had every reason to establish such co-operation if it wished all States to take part in its October 1973 Conference. The text drafted by the Kenyan delegation, which the representative of Chile had read out, had the same aim as that of the Tanzanian delegation. He would be willing to take part in a meeting to draft a satisfactory text.

Mr. YTURRIAGA (Spain) said he approved of the Tanzanian proposal generally, but, like the Canadian and United Kingdom delegations, felt that there was a need to reconsider the wording of the letter. He consequently supported the Maltese proposal.

Mr. FATTAH (Lebanon) said he must point out that it was for the Plenary Committee to communicate its views to IMCO and that if States were afraid that the IMCO Conference might run across principles that might be adopted at the Law of the Sea Conference it was for them to go to London in October.

Mr. ABDEL-HAMID (Egypt) said he supported the Tanzanian proposal and shared the view expressed by Canada and Chile that there was a need to establish co-operation between IMCO and the Preparatory Committee for the Conference. Delegations appeared to agree with the idea of establishing a drafting group to work out the text of the letter to be sent to the IMCO Conference, and he proposed that the group should take the two texts that had been read out as a basis for its work. He would like to be a member of the group.

Mr. VALLARTA (Mexico), supporting the Tanzanian draft, said that the purpose was to draw the attention of representatives attending the IMCO Conference to a problem that IMCO sometimes tended to forget. His delegation thought that the date of the IMCO Conference had been chosen deliberately so as to precede the United Nations Conference on the Law of the Sea. In his view, the letter to be sent to the General Committee of the IMCO Conference should also ask that the opinions expressed in the Sub-Committee on the subject of the IMCO Conference should be circulated as a Conference document; it was also desirable that the representatives of the developing countries should go to London to express the views of their countries to IMCO.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that his delegation had no objection to establishing contact with the IMCO Conference and agreed that it would be helpful to send IMCO the documents prepared by Sub-Committee III. It was right and proper that co-operation should be established between two plenipotentiary conferences. On the other hand, his delegation did not approve of some of the suggestions that had been made concerning the content of the letter. One could not request a conference not to take any decision that might prejudice the work of another conference, particularly when one was not in a position to communicate to it the documents to be considered by the second conference. The letter to be sent to IMCO would have to be very carefully worded and his delegation would like to participate in the drafting.

Mr. MCKERNAN (United States of America) said he approved of the suggestion that a small drafting group should be set up to study and review the Tanzanian text, provided the new text was then submitted to the Sub-Committee. He supported the statements by Lebanon and the USSR, and thought that the relevant documents of Sub-Committee III and the other Sub-Committees should be attached to the letter to be sent to the IMCO Conference and that the hope should be expressed that co-operation would be established with a view to organizing the campaign against pollution from ships as soon as possible.

Mr. PAILEY (Australia) said he welcomed the Tanzanian proposal. His country hoped to see a wide representation of States at the IMCO Conference, as well as co-ordination between that Conference and the Conference on the law of the sea. Australia supported the Maltese proposal and would like to take part in the consultations over the drafting of the text of the letter.

The CHAIRMAN said that all delegations that had spoken supported in principle the proposal to send a letter to the IMCO Conference to be held in October 1973, as well as the suggestion that a drafting group should be set up to prepare a text for submission to the Sub-Committee. He suggested that the drafting group be composed of the delegations that had expressed a wish to participate in the drafting, namely, Tanzania, Malta, the United Kingdom, Canada, Chile, Kenya, Spain, Lebanon, Egypt, Mexico, USSR, the United States and Australia, and that it be asked to meet as soon as possible.

It was so agreed.

L/AC.138/SC.III/SR.47

Mr. FIGUEIREDO BUSTANI (Brazil) expressed his regret that the IMCO conference in October would be taking place only a few months before the Santiago conference on the Law of the Sea, which was competent to deal with the full range of related problems. His delegation hoped that the decisions of the London conference would in no way prejudice those of the Santiago conference, to which they should be submitted. He therefore proposed that the following paragraph should be inserted between the first and second paragraphs of the present text:

"In addition, Mr. Chairman, some delegations requested me to inform you that they consider that those items which fall within the competence of the Conference on the Law of the Sea should be left open for further decision by the Conference".

Mr. BRIGSTOCKE (United Kingdom) said that it was essential that nothing should be done to discourage or hamper the work of the Conference on Marine Pollution, which was one of a series extending over nearly 20 years in which valuable progress had been made in the attempt to develop international rules to protect the marine environment. It would be extremely harmful if the participants in the Conference on Marine Pollution were to abandon their work on the preparation of standards, and the means of applying them, simply because a convention on the law of the sea might be concluded at a later date. The Sea-Bed Committee could not ask them to hold up their work until it had completed its own. To do so would be to delay progress. His delegation therefore took the view that if a letter was to be sent to the Conference on Marine Pollution, it must be drafted in such a way as not to have that discouraging effect. The letter drafted by the Ad Hoc Working Party was not prejudicial to the work of the Conference on Marine Pollution and was therefore acceptable to his delegation.

Moreover, there was something rather unattractive about one United Nations body instructing another on how to conduct its business. The governments attending the Conference on Marine Pollution would hardly be unaware of the activities of the Sea-Bed Committee, since all of them would either be represented in that Committee or would be aware of its activities. Secondly,

the letter appeared to be unnecessary, but his delegation was prepared to accept the agreed draft. Finally, it was difficult to understand how the Conference on Marine Pollution could in fact prejudice the eventual conclusion of a convention on the law of the sea. The Brazilian amendment was therefore unacceptable to his delegation.

Mr. ZEGERS (Chile), supporting the Brazilian amendment, recalled that his delegation had already expressed its views on the relative competence of a United Nations conference convened to deal with the whole of the law of the sea and that of a specialized agency concerned only with particular aspects. He pointed out that the Brazilian amendment referred only to "some delegations" which obviously did not include that of the United Kingdom.

It should be borne in mind that, whereas the United Nations had 140 members, IMCO had only 70, and that whereas the United Nations adopted decisions by a majority vote, IMCO decisions must have the support of the big maritime powers. He was therefore strongly opposed to the United Kingdom's interpretation of the situation. He also proposed that the word "inter-related" should be changed to "related", that the word "may" be deleted after the words "such areas", and that the words "inter alia" should be added after the word "include".

The CHAIRMAN wondered whether a letter should be sent at all.

Mr. BACON (Canada) said that his delegation was, in principle, in favour of the Brazilian proposal. If the disputed words could be amended to read "The items under the competence of the Conference on the Law of the Sea should be treated in such a manner at the International Conference on Marine Pollution so as to leave them open for resolution at the Conference on the Law of the Sea", the paragraph might perhaps be acceptable to the United Kingdom delegation. The amendments proposed by Chile were also acceptable to his delegation.

The CHAIRMAN asked the United Kingdom representative whether he would accept the Brazilian amendment as amended by the Canadian representative.

Mr. BRIGSTOCKE (United Kingdom) replied that he could not do so. The text already represented a compromise, and it would be unfair to other delegations if it was amended.

The CHAIRMAN suggested that, since the draft letter was not acceptable to the Sub-Committee, it should be referred back to the Working Party.

It was so decided.

A/AC.138/SC.III/SR.49

DRAFT LETTER BY THE CHAIRMAN OF THE COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION TO THE SECRETARY-GENERAL OF THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO) FOR COMMUNICATION TO THE INTERNATIONAL CONFERENCE ON MARINE POLLUTION (concluded)

The CHAIRMAN invited the representative of the United Republic of Tanzania to introduce the text prepared by the informal drafting group set up at the forty-seventh meeting of the Sub-Committee.

Mr. KATEKA (United Republic of Tanzania) said that the drafting group had produced the following new paragraph to be inserted between the first and second paragraphs of the text submitted at the forty-seventh meeting:

"The Committee has noted article 9.2 of the draft text of the proposed international convention for the prevention of pollution from ships, 1973. While not questioning the mandate of the 'International Conference on Marine Pollution', I have been asked by the Committee to inform you that the Law of the Sea Conference would not consider itself limited by any decisions taken on these matters by the marine pollution Conference."

Account had been taken of the modifications requested by the Chilean delegation at the forty-seventh meeting. Furthermore, at the request of the same delegation, the title of the IMCO Conference would be placed in inverted commas in the letter.

The CHAIRMAN suggested that the draft letter should be adopted, with the amendments proposed, for submission to the Committee.

The draft letter, as amended, was adopted.

Mr. PARDO (Malta) recalled that his delegation had raised another important question, that of the creation by IMCO of a permanent marine environment protection committee. At the thirtieth session of the Council of IMCO, the United States had proposed the creation of a committee responsible for all work in connexion with the prevention and control of marine pollution. The Council had decided to set up an ad hoc working group to study the question; the ad hoc group had met from 23 to 27 July and had just issued its report. It had been composed of a certain number of members of the Council, including only two developing countries. It had recommended

to the Council that a marine environment protection committee should be established by the IMCO Assembly as a permanent body pursuant to articles 12 and 16 C of the IMCO Convention, neither of which referred to either "pollution" or "protection of the marine environment".

In its report, the ad hoc working group had recommended that the proposed committee should be entrusted with important functions, in particular the establishment, adoption and communication to governments of new regulations relating to pollution of the marine environment and applicable within the framework of the conventions for whose enforcement IMCO was responsible. The proposed committee would also act as a co-ordinating body between the various organizations and establish such subsidiary bodies as it might consider necessary. The first session of the committee was scheduled for early in 1974 hence, prior to the Santiago Conference.

The question was whether a specialized agency had the right to change or enlarge its functions without prior consultation with any other organization in the United Nations family and without the endorsement of the Economic and Social Council and the General Assembly. A grave question arose of co-ordination within the United Nations system. There had certainly been cases in which agencies had taken initiatives somewhat outside their competence, but those were not examples to be followed.

It should also be noted that there was nothing in the IMCO Convention that gave that organization any power whatsoever with regard to marine pollution or protection of the marine environment. It was true that IMCO had some technical functions to perform, and had performed them efficiently in the past.

His delegation considered that that organization could take certain initiatives with regard to the prevention of pollution of the marine environment; however, it was unacceptable that IMCO should change its functions on its own authority.

It would also be unfortunate that questions relating to pollution of the marine environment should come principally within the competence of an agency dominated by the major shipping powers. It should be borne in mind that important interests, in particular financial interests, were at stake.

It had been pointed out that if the marine environment protection committee was not created, the proposed functions would be taken over by the Marine Safety Committee of IMCO. Since the majority of the developing countries did not participate in the functions performed by that Committee, matters concerning marine pollution would, in that case, be handled in a relatively restricted forum. That was perfectly true, but at the same time his delegation wondered whether, for the time being, that solution would not be the better of the two.

The report of the ad hoc working group would be considered by the IMCO Assembly. The composition of that Assembly was such that the working group's recommendations would certainly be adopted. Furthermore, the General Assembly would not be able to take any action, since the decision by IMCO would have been taken before the General Assembly had been able to consider the question. His delegation intended to raise the matter, which was serious, at the twenty-eighth session of the General Assembly.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) observed that the IMCO Conference on marine pollution was an independent and sovereign body with an important task to perform, namely, the prevention of pollution from ships. It was impossible for the Committee to bring any pressure whatsoever to bear on that Conference, or even to give it any advice. The Conference had the right to take any decision it might deem necessary, including that of drawing up a convention, a move which appeared necessary in order to prevent pollution of the marine environment by ships. However, in response to the wish expressed by some delegations, the informal drafting group had succeeded in finding a compromise solution and had drafted a letter which established a link between the Committee's activities and those of the IMCO Conference.

He had been surprised at the criticisms levelled by the representative of Malta against the internal functioning of IMCO. That organization performed very useful work in establishing rules for maritime navigation, and questions concerning the prevention of marine pollution from ships came within its competence. It was therefore unjustified to ask whether or not IMCO should establish the committee in question. On the contrary, all the activities undertaken by IMCO in that field should be noted with satisfaction, for they were linked with the Committee's activities and would facilitate achievement of the common goal.

Mr. FATTAL (Lebanon) said that any international organization or group of States was free to call a conference and to conclude a convention and that the United Nations did not have a monopoly in such matters. Furthermore, as stated in the draft letter approved by the Sub-Committee, the convention to be prepared by IMCO was not binding on the Conference on the Law of the Sea. In the final resort, the convention to be concluded at Santiago would take precedence over that of London, because it would have been concluded subsequently and the Conference on the Law of the Sea, at which all the States of the world would be represented, would therefore be much more universal in nature. He did not think that the Sub-Committee had any right to challenge the competence of IMCO. The unity of the law of the sea had been invoked, but that did not mean that there had to be a unity in the instruments which governed it or that the matter could only be dealt with by a single organization. In his delegation's opinion, the Committee had no reason to be concerned about the activities of IMCO. The Committee worked slowly and nobody knew when it would complete its work. The IMCO convention would therefore be concluded first and would thus have the advantage of coming into force before the Convention on the Law of the Sea and of being applied until such time as the latter Convention came into force.

Mr. MBOTE (Kenya) endorsed the comments made by the representative of Yugoslavia when he submitted draft articles in document A/AC.138/SC.III/L.55, of which his delegation was one of the sponsors.

The reason why the General Assembly had decided to set up a Sea-Bed Committee was that it considered that the existing law of the sea no longer reflected the present situation and that a new law had to be established. Certain delegations had however tried to raise difficulties by stating that certain new concepts, such as the ocean space, the patrimonial sea and the exclusive economic zone, could not be used because they had not been clearly defined or embodied in a law. However, the formulation of new rules of law required new concepts.

He was glad that the Sub-Committee had been able to agree on the text of a letter to IMCO. In his opinion, the IMCO Conference should be held after the Conference on the Law of the Sea. He hoped that the work of the two conferences would be carefully co-ordinated and that the decisions taken at the IMCO Conference would not be binding on States except to the extent that they had been examined and endorsed by the Conference on the Law of the Sea.

Mr. BEESLEY (Canada) said that his delegation, like that of Malta, attached great importance to the co-ordination of the activities of the organizations within the United Nations system. However, while it was perfectly justified to raise at IMCO or in the Sea-Bed Committee issues such as those under discussion, no one body should attempt to dictate to another what its mandate should be.

Canada was a member of the IMCO working group referred to by the representative of Malta, and during the discussions in that body, it had emphasized the need for co-ordination and consultation. Canada considered that the setting up of subsidiary organs, such as the marine environment protection committee proposed by that working group, was within IMCO's mandate. It believed, however, that certain activities of the new committee had been defined in too general terms. Thus, with regard to the functions referred to by the representative of Malta, he noted that although the first function was restricted to the prevention of pollution from ships, no mention was made of ships in the third and fifth functions, concerning scientific research; instead, much broader language was used. Such terms of reference could give rise to difficulties with other organs, including UNEP. That was something which needed watching; Canada hoped that the countries members of the Committee would raise the matter at the IMCO Conference and elsewhere, in the way suggested by the representative of Malta and in other ways.

The USSR had rightly emphasized that IMCO had an important part to play in the prevention and control of marine pollution. Canada was in favour of whatever would guide the activities of that organization more in the direction of the environment. However, he believed that, for example, on a question such as the relationship between the jurisdiction of a flag State and the responsibilities of that State, decisions concerning the environment could not be made on a purely economic and commercial basis. The international community should adopt a pluralistic approach in the matter, and there should accordingly be co-operation, especially as between IMCO, the Sea-Bed Committee and UNEP.

He noted further that the Deputy Executive Director of UNEP, in his statement to the Committee at its 100th meeting, had not mentioned the Statement of Objectives, adopted unanimously at Stockholm and concerning the

management of the environment and the special interests of coastal States, nor had he mentioned the 23 Marine Pollution Principles adopted unanimously at Stockholm. With regard to standards, he had only referred to minimum international standards, but had said nothing about the special standards which were necessary in some parts of the world. He (the speaker) believed that, unlike IMCO, UNEP should widen its horizon on the basis of the work of the Stockholm Conference as a whole, instead of focussing its attention on certain recommendations only.

Mr. KOLCHEAROV (Bulgaria), referring to the draft letter to IMCO, said that the IMCO Conference would be a diplomatic conference of sovereign States which should be able to study any question and take any decisions they deemed appropriate. No pressure should be exerted on that conference, since that would be tantamount to exerting pressure on the participating States.

Mr. PAPAGEORGIU (Greece) agreed with the USSR representative that IMCO was competent to take any action it considered justified for the prevention of pollution from ships.

Mr. McKERNAN (United States of America) said that his delegation disagreed with the views of Malta as to the competence of IMCO. That organization had been dealing with vessel-source pollution for many years. The setting up of a Marine Environment Protection Committee was clearly in conformity with its mandate.

Mr. BURCIUAK (Ukrainian Soviet Socialist Republic) said that although his delegation had some doubts about sending a letter to IMCO, it had not wished to oppose that move. It would now like to say that the Conference to be held in London would be a sovereign conference, on which no pressure should be exerted. Sending a letter to IMCO would be inappropriate. What was more, it was important to take effective action against marine pollution as soon as possible. His delegation also doubted whether the Committee had the right to speak for the Santiago Conference. It would be for that Conference to study the decisions of IMCO.

Mr. ZAORSKI (Poland) shared the views expressed by the USSR, Greece, Bulgaria, the Ukrainian SSR and the United States of America on the competence of IMCO. It was a United Nations specialized agency which had been very successful in its work. Each of its conferences should have full powers. The Sea-bed Committee had nothing to say about the internal organization of IMCO.

Mr. BRIGSTOCKE (United Kingdom) said that he wished to comment on two points made by the representative of Malta.

First, it could not be said that IMCO had a limited membership. It had 77 members, all with equal voting rights, of which only 20 were traditional maritime powers. Most of those 77 member States were developing countries. Furthermore, it could not be said that an organization consisting of 60 per cent of the States Members of the United Nations was not representative.

Secondly, if the representative of Malta believed that IMCO did not obtain sufficiently quick results, the remedy lay in the hands of the States, more of which should ratify its conventions.

As to the competence of IMCO, he recalled that the General Assembly, in its Resolution 2414 (XXIII), had invited "Member States and organizations dealing with marine pollution, especially the Inter-Governmental Maritime Consultative Organization and the International Atomic Energy Agency, to promote the adoption of effective international agreements on the prevention and control of marine pollution as may be necessary". The setting up of a Marine Environment Protection Committee was in accordance with that invitation of the General Assembly and was not open to criticism.

Mr. PARDO (Malta) regretted that he had been misquoted. He had said that the IMCO Council - and not the Assembly - had a limited membership. Furthermore, he had not said that IMCO did not act promptly.

Like other delegations, Malta did not wish the Sea-bed Committee to deal with questions concerning the internal organization of IMCO. What was at issue was a major change in the functions of that organization. As matters had been arranged the change could not be discussed outside IMCO, and would become operative before the United Nations General Assembly could express its views; as for the Economic and Social Council, it had not been consulted. Such a situation was almost unprecedented.

Holding a conference on marine pollution would indeed be in harmony with the resolution quoted by the United Kingdom representative; however, that resolution did not justify any modification of IMCO's terms of reference.
