TER-GOVERNMENTAL MARITIME
ONSULTATIVE ORGANIZATION

MP/CONF/SR.12
4 March 1974
Original: FRENCH/ENGLISH

IMCO

INTERNATIONAL CONFERENCE ON
MARINE POLLUTION, 1973

SUMMARY RECORD OF THE TWELFTH PLENARY MEETING

held at Church House, Westminster, London, S.W.1,
on Thursday, 1 November 1973 at 2.35 p.m.

President: Mr. S. BHAVE (India)

Secretary-General: Mr. Colin GOAD (Secretary-General of IMCO)

Executive Secretary: Mr. A. SAVELIEV (IMCO Secretariat)

A list of participants is given in MP/CONF/INF.1/Rev.3

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AGENDA ITEM 7 - CONSIDERATION OF A DRAFT INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (MP/CONF/WP.14-15; MP/CONF/WP.17, MP/CONF/WP.17/Corr.1; MP/CONF/WP.20; MP/CONF/WP.24; MP/CONF/WP.27; MP/CONF/WP.31-34; MP/CONF/WP.36-37) (continued)

Article 9 (formerly 8)

Mr. ERTEL (Poland) asked the President, under Rule 11 of the Rules of Procedure, to limit the time accorded to speakers to five minutes.

Mr. YTURRIAGA (Spain) pointed out that to do so would not be fair at that stage of the debate, since many delegates had been able to express their points of view at leisure.

The PRESIDENT suggested that the time accorded to speakers should be limited after the discussion on Article 9.

It was so decided.

Mr. CABOUAT (France) was afraid that any decision on Article 9 would be ambiguous, because although a number of delegations had proposed deleting that Article, they had done so for opposing reasons. He had for that reason proposed the continuation of the debate and he thanked the representative of Tanzania for having withdrawn his motion.

The adoption of uniform regulations within the framework of the Convention would inevitably result in restricting the jurisdictional competence of States, since total respect for their supreme authority would risk interfering with the freedom of international navigation.

Nevertheless, any international legislation that provided for uniform regulations, would be impossible if the principle of such limitation were rejected. That did not mean, however, that States would have to renounce their supreme authority entirely because a certain degree of flexibility was possible and in some cases they could be authorized to take more stringent measures, provided that they did not impose severe constraints on ships. Article 9, however, appeared to acknowledge the right of States to take more stringent measures within their jurisdiction and did not provide for sufficiently clear limitations; the French delegation therefore considered it difficult to accept.

It seemed further that unanimity could not be achieved with respect to the rights which a State could exercise in some areas. That was a matter which demanded careful examination and the competent authority on that subject was the Law of the Sea Conference.

The Conference would strengthen the value of the Convention by deciding to delete Article 9, and in so doing would recognize that Contracting States could not take special measures within their jurisdiction and consequently go against its objectives.

Mr. YTURRIAGA (Spain) stated that his delegation was prepared to support all the solutions contemplated, and considered that the question should be examined objectively. The proposed text however was the outcome of long negotiations and he did not understand why the representative of the United Kingdom, who was one of its main authors, had decided to vote against the Article.

Like any compromise, the text had its faults, but they were minor ones; yet in itself it was of cardinal importance. It was essential to take account of States which had to deal with particularly serious difficulties, and it should be emphasized that the conditions laid down in Article 9, while seeking to respect the rights of those States, provided guarantees by virtue of the fact that the derogations allowed were of an exceptional character and because the Parties that adopted special measures had to inform the other Parties to the Convention accordingly, through the Organization. It would be far more dangerous to delete Article 9, as coastal States might then believe they were authorized to take any restrictive measures they liked.

Unlike some delegations, he did not consider that the adoption of Article 9 would prejudice the decision taken by the Law of the Sea Conference and stressed that in any event the criteria adopted for ship construction came undeniably within the competence of the present Conference.

Finally, he moved that Article 9 be put to the vote without amendments, and stated that if the Conference had to decide on the proposal to delete that Article, he would vote against it.

Mr. TIMAGENIS (Greece) considered that Article 9, approved after long discussions, represented the best possible solution. The aim of the Conference was to draw up a Convention that was acceptable to all. For that purpose, on the one hand, certain criteria had to be imposed in the matter of ship construction and, on the other hand, uniform regulations had to be adopted.

The first eight Articles and the Annexes related to those criteria; Article 9 endeavoured to provide the required uniformity and the balance of the Convention.

Certainly the second sentence of paragraph (2) made exceptions possible for particularly vulnerable areas but in all fairness, the need for such exception had to be recognized. The one defect in that sentence was its failure to define the criteria whereby the vulnerable areas could be defined; however, it had the merit of laying down a principle to enable an acceptable method to be worked out at international level.

As the representative of Australia had stressed, however the sentence was interpreted, its requirements were still exceptional; moreover compulsory arbitration provided a guarantee against abuse and, finally, it was stated in the second paragraph of Article 10 that nothing in the Convention would prejudice the decisions of the Law of the Sea Conference. Article 9 therefore provided a very satisfactory compromise.

While it could not be denied that the decisions on the law of the sea should not be prejudged, the matters relating to the main objectives of the Convention still had to be considered. The entire Convention, in fact, dealt with affairs that came under the law of the sea and if it was desired to observe that principle strictly, the task of preparing a Convention would have to be abandoned.

In conclusion the Greek delegation considered that the Conference could provide no better compromise than that proposed in Article 9, which it approved in its present form.

Mr. BREUER (Federal Republic of Germany) stressed the importance of not imposing useless obstacles on international shipping. He considered that the derogations laid down in the second sentence of paragraph (2) were too important; and the delegation of the Federal Republic of Germany had emphasized in Committee that an exception to those derogations would have to be provided by stating that the requirement did not apply to the great international routes, and it had in vain endeavoured to reach a compromise. As the second sentence was contrary to the principle established in the first sentence of paragraph (2), the delegation of the Federal Republic of Germany moved that Article 9 be deleted and proposed the adoption of the draft resolution submitted by the

delegations of Mexico and Venezuela (MP/CONF/WP.24) with the addition of the paragraph contained in MP/CONF/WP.27 which his delegation had submitted to the Conference.

Mr. RAVNEBJERG (Denmark) proposed an amendment to delete Article 9 and said that that amendment, being the furthest removed from the original text, should be put to the vote first.

Mr. OXMAN (USA) recalled that according to Rule 22 of the Rules of Procedure "a motion is considered to be an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal". The proposal made by the representative of Denmark relating to Article 9 in its entirety could not therefore be considered as an amendment.

Mr. YTURRIAGA (Spain) admitted that the representative of the United States was right and proposed that paragraphs (1) and (2) of Article 9 be deleted.

Mr. OXMAN (USA) considered that such an important matter should be dealt with seriously, and stressed that to delete the main point of an Article was tantamount to deleting the Article altogether; the proposed amendment was therefore unacceptable.

Mr. SOLOMON (Trinidad and Tobago), Chairman of Committee I, expressed his delegation's doubts as to the value of Article 9 which, in Committee, had given rise to an extremely long discussion during which many and diverse subjects had been brought up. The representative of Mexico had proposed that the Article be deleted, as he considered that it introduced undue derogations into the Convention. Some delegates had proposed introducing a similar requirement to that which appeared in Article 11 of the 1954 Oil Pollution Convention, so as to avoid possible misunderstandings. The words "more stringent measures" (paragraph (1)) had also been discussed, and it had been proposed that they should be replaced by the words "special measures". The use of the expression "discharge standards" had led the Committee to ask who could define the quantities that, if discharged, would constitute an accident. There still remained the question of which scientific criteria could be adopted to define the notion of "vulnerable waters" and who was to fix such criteria.

The question of the sovereign rights of States had also been a matter of discussion. The Committee had finally agreed, through that Article, to derogate from those rights. That was inevitable as marine pollution was an

international problem and had to be controlled in accordance with international rules, which could only be respected if the States agreed to a reduction of their sovereign rights.

The question then arose as to whether the solutions to those problems were to be found during the present Conference or at the Conference on the Law of the Sea. The outcome of the Law of the Sea Conference must clearly not be prejudged in the Convention under discussion; however, that Conference would not take place until April or May 1974; it would last a certain time and take decisions which would probably enter into force five or six years later. By that time, pollution of the sea by ships would not have ceased to increase, and it demanded immediate measures.

The delegation of Trinidad and Tobago could not say that it was satisfied with the compromise text produced by the Committee. It drew the Conference's attention to the fact that the requirements of the Convention would be of no value if they were not approved by a very large majority of participating countries.

Mr. BOYES (New Zealand) supported the comments made by the representatives of Canada, Australia and Trinidad and Tobago. He acknowledged that the Conference should not prejudge any decisions that might be taken by the Conference on the Law of the Sea. That argument, however, should not be rendered nonsensical by seeking to exclude from the present Convention all things that were not exclusively technical standards; the Law of the Sea Conference should not become a kind of monster that would frighten everyone into emptying the present Convention of all substance. Furthermore, the object of Article 9 was not to settle real jurisdictional problems.

He recalled the position his delegation had adopted in committee, namely in favour of including in the present Convention a provision based on Article 11 of the 1954 Oil Pollution Convention, and the proposal submitted by the delegation of Tanzania. A compromise text could obviously not fully satisfy anyone. The delegation of New Zealand considered, however, that it added a useful element to the Convention and reconciled quite justifiable but in many cases conflicting concerns: those respecting pollution control and those respecting States which had to take into account the interests of their fleet.

Paragraph (2) in particular provided useful guidelines on the possibilities open to States whose coastal regions were more exposed to pollution. New Zealand would therefore support that Article.

Mr. SEKYI (Ghana) accepted in principle the proposed text of Article 9, the result of a compromise reached after long negotiations between two sets of interests: those of the maritime powers and those of the coastal States. Those contradictory preoccupations could only be reconciled by establishing minimum norms. The Conference did not appear to have succeeded thus far in reaching an agreement on the complex jurisdictional questions which had been raised; he thought it unlikely, however, that an even bigger Conference such as the Law of the Sea Conference would have more success.

The delegation of Ghana perfectly understood the difficulties of maritime and oceanic coastal States which were particularly vulnerable to marine pollution. However, it had doubts as to the wording of the second sentence in paragraph (2). Rather than giving those States freedom of action to protect themselves against pollution by unilateral decisions, it might have been preferable to state that whatever measures taken should be based on objective criteria established at international level. The delegation of Ghana therefore wanted a separate vote on that sentence, on which it would abstain.

The PRESIDENT summarized the proposals and amendments put forward during the discussion of Article 9.

The delegation of Tanzania had proposed to replace the words "more stringent measures" in the first paragraph by "special measures"; to replace in the same paragraph the words "in respect of discharge standards" by the words "in all areas to which this Convention applies"; and to delete paragraph (2).

The delegation of Tunisia had proposed adding the word "however" at the beginning of the second sentence of paragraph (2).

Mr. HAREIDE (Norway) supported Denmark's proposal to delete Article 9 completely and, if necessary, Spain's proposal to delete the first two paragraphs of the Article. The arguments put forward by the representative of the United States were not, in his opinion, convincing.

Mr. KATEKA (Tanzania), referring to the Rules of Procedure, supported the views of the representative of the United States: a proposal to delete an Article did not appear to him to be in order.

The PRESIDENT asked the Conference to decide on the expediency of taking a separate vote on the second sentence of paragraph (2) following the proposal made by the delegation of Ghana.

Mr. DAVIS (Canada) said that the Conference should decide first of all on the proposed amendments which were furthest removed from the original text - in other words, the Danish proposal to delete the Article or, if that was unacceptable, the Spanish proposal to delete the first two paragraphs.

Mr. ADERO (Kenya) protested against the Danish proposal which would ruin everything which the Committee had been at great pains to build up. He moved that the Conference should decide first of all on the amendments submitted by Tanzania, and then take a separate vote on the two sentences of paragraph (2), in accordance with Ghana's proposal, and finally vote on the Article as a whole.

Mr. YTURRIAGA (Spain) understood that the President would not ask the Conferenc to decide first of all on Denmark's proposal, and proposed that paragraphs (2) and (3) of Article 9 be deleted.

Miss GRANDI (Argentina), referring to Rule 21(b) of the Rules of Procedure, moved that the Conference should decide on the text as a whole.

Mr. MEGRET (France) said that account could be taken of the various considerations that had been expressed, by voting successively on each paragraph of the Article and - within paragraph (2), by voting on each of the two sentences - in each vote, due account being taken of the various amendments put forward.

Mr. EHRMAN (Panama) thought that the Conference should decide first of all on the Danish proposal; it would be useless to vote on the amendments if there was any risk of the amended text later being deleted.

The PRESIDENT said that in the circumstances it would be advisable to abide by the Rules of Procedure; the Conference would first of all decide on the proposed amendments, and then on Article 9 either in its entirety or by sections, according to whatever was decided, whether or not the text had been amended. If Article 9 did not obtain the required two-thirds majority in the form it would by that time have acquired, the delegations would be free to put forward new proposals.

Mr. HAREIDE (Norway) hoped that, after the Conference had decided on the amendments, should the amended Article 9 not have obtained the required two-thirds majority, the Conference would then reconsider the text submitted by the

Drafting Committee (MP/CONF/WP.17) so as to be able to preserve a compromise solution patiently reached in Committee I.

Mr. YTURRIAGA (Spain) withdrew his amendment; if the amended Article 9 was finally not retained, he would submit a new draft Article worded similarly to the Article 9 under consideration.

Mr. RAVNEBJERG (Denmark) maintained that it might be better for the Conference to decide first of all on the Danish proposal to delete Article 9. If that proposal were rejected by a large majority, its supporters would endeavour to make the wording of Article 9 acceptable. The Danish delegation, however, would follow whichever voting procedure was upheld by the President.

The PRESIDENT put to the vote Tanzania's amendment to replace the words "more stringent" in paragraph (1) of Article 9 by the word "special".

The amendment was rejected by 35 votes to 14, with 14 abstentions.

The PRESIDENT put to the vote Tanzania's amendment to replace the words "in respect of discharge standards" in paragraph (1) of Article 9 by the words "in respect of any matter to which this Convention relates".

The amendment was rejected by 39 votes to 7 with 14 abstentions.

The PRESIDENT put to the vote Tanzania's amendment to delete paragraph (2) of Article 9.

The amendment was rejected by 34 votes to 17 with 13 abstentions.

The PRESIDENT recalled that Tunisia had moved that the word "however" should be inserted at the beginning of the second sentence of paragraph (2).

Mr. BOUSSOFFARA (Tunisia) acknowledged that it was a matter of drafting, and did not insist on its being considered.

The PRESIDENT asked the Conference to decide on the voting procedures to be followed. The representative of Tanzania had proposed voting section by section.

Mr. DAVIS (Canada) recalled that his delegation had previously proposed that Article 9 be put to the vote as a whole in the form in which it had been submitted by the Drafting Committee. That proposal had priority.

Following a debate on procedure between Mr. KOTLIAR (USSR), Mr. KATEKA (Tanzania), Mr. YTURRIAGA (Spain) and Mr. BRENNAN (Australia), the PRESIDENT put to the vote Tanzania's proposal that Article 9 be voted on section by section.

The proposal was rejected by 35 votes to 22 with 7 abstentions.

The PRESIDENT called for a roll-call vote on Article 9 (MP/CONF/WP.17) as a whole to the vote.

Sweden, having been drawn by lot by the President, was called upon to vote first. The result of the vote was as follows:

In favour: Sweden, Thailand, Trinidad and Tobago, Australia, Canada, Chile, Cyprus, Denmark, Egypt, Ghana, Greece, Iceland, India, Indonesia, Jordan, Liberia, New Zealand, Nigeria, Norway, Panama, Peru, Philippines, Poland, Saudi Arabia, Spain and Sri Lanka.

Against: Switzerland, United Kingdom, Tanzania, United States of America, Uruguay, Venezuela, Argentina, Belgium, Cuba, Ecuador, France, Federal Republic of Germany, Ireland, Italy, Japan, Kenya, Khmer Republic, Monaco, Netherlands, Republic of Korea, Romania and Singapore.

Abstentions: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Dominican Republic, Finland, German Democratic Republic, Iraq, Kuwait, Libyan Arab Republic, Mexico, Portugal and South Africa.

There were 26 votes in favour, 22 votes against, with 14 abstentions.

Article 9 (formerly 8) (MP/CONF/WP.17) was rejected having failed to obtain the required two-thirds majority (33 votes).

Mr. TOUKAN (Jordan) explained that his Government had instructed him to vote in favour of Article 9 with a view to defending the cleanliness of the Jordanian part of the Gulf of Aqaba. Jordan had in fact embarked upon a big tourist project in that area. All measures to prevent pollution in that area were, therefore, vital from Jordan's economic point of view.

The PRESIDENT asked the various delegations to explain their votes in writing so that they might subsequently be included in the record.

Mr. DAVIS (Canada) proposed the insertion of a new Article 9 in place of the text which the Conference had just rejected, to read:

"Nothing in the present Convention shall be construed as derogating from the powers of any Contracting Government to take measures within its jurisdiction in respect of any matter to which the Convention relates or as extending the jurisdiction of any Contracting Government".

The text was that of Article 11 of the 1954 Convention for the Prevention of Pollution of the Sea by Oil. Canada had put forward that same proposal at the beginning of the Conference and had been supported by many countries including Australia, Brazil, Denmark, Iceland, Indonesia, Kenya, New Zealand, Philippines, Spain, Trinidad and Tobago.

Mr. TIMAGENIS (Greece) pointed out that the main criticism raised against Article 9 as submitted by the Drafting Committee related to the second sentence of paragraph (2). The Conference could therefore have retained that part of Article 9 by deleting the sentence objected to and by drawing up a resolution inviting the United Nations Conference on the Law of the Sea to take special measures to defend exceptionally vulnerable zones.

Mr. BRENNAN (Australia) supported Canada's proposal.

Mr. SONDAAL (Netherlands) moved that a roll-call vote be taken on the Canadian proposal.

The PRESIDENT, before putting the Canadian proposal to the vote, asked if there were any other proposals to be considered.

Mr. SAVELIEV (Executive Secretary) recalled the proposal put forward by the Greek delegation, for the maintenance of Article 9 with the exception of the second sentence of paragraph (2).

Mr. KOTLIAR (USSR) objected that that proposal had been lost in the course of the 35 : 22 vote against voting separately on the paragraph in question.

Mr. SEKYI (Ghana) put forward a motion to adjourn the debate on Article 9, to allow more time for consultation between countries which strongly supported the inclusion of a paragraph on similar lines.

Objections were raised by Mr. RAFFAELLI (Brazil) and Mr. del CAMPO (Uruguay) on the grounds that time was too short for receiving new instructions on a fresh proposal, by Mr. LEE (Canada), Mr. HERMAN (Panama), Mr. YTURRIAGA (Spain),

Mr. LONGE (Nigeria), Mr. OXMAN (USA) and Mr. BOYES (New Zealand) on procedural grounds, and by Mr. ARCHER (UK) on the grounds that long hours had been spent in Committee hammering out an acceptable solution on that very difficult Article, and it was on that solution that a decision must now be taken.

Mr. WISWALL (Liberia) stated that his delegation had the strongest objections to the inclusion in the present Convention of an Article from the 1954 Convention which, although it said nothing not already established in international law, would be an invitation to take unilateral action - a course totally at variance with the objectives of the Conference.

The PRESIDENT called for a roll-call vote on the Canadian proposal.

Australia, having been drawn by lot by the President, was called upon to vote first. The result of the vote was as follows.

In favour: Australia, Brazil, Canada, Ecuador, Ghana, Ireland, Kenya, New Zealand, Peru, Philippines, South Africa, Spain, Sri Lanka, Trinidad and Tobago, United Republic of Tanzania.

Against: Argentina, Belgium, Bulgaria, Byelorussian SSR, Chile, Cuba, Cyprus, Finland, France, German Democratic Republic, Federal Republic of Germany, Greece, India, Iraq, Italy, Japan, Kuwait, Liberia, Mexico, Monaco, Netherlands, Norway, Poland, Republic of Korea, Romania, Singapore, Ukrainian SSR, USSR, UK, USA, Uruguay, Venezuela.

Abstentions: Denmark, Egypt, Iceland, Indonesia, Jordan, Khmer Republic, Libyan Arab Republic, Nigeria, Panama, Portugal, Saudi Arabia, Sweden, Thailand.

Absent: Bahrain, Dominican Republic, Haiti, Hungary, Iran, Ivory Coast, Madagascar, Morocco, Switzerland, Tunisia, United Arab Emirates.

There were 15 votes in favour and 32 against, with 13 abstentions.

The proposal was not adopted, having failed to obtain the required two-thirds majority.

STATEMENTS BY DELEGATIONS

As requested by the PRESIDENT, the following statements are included in this record.

Australia (MP/CONF/WP.31)

It is for the Law of the Sea Conference to determine the nature and extent of the jurisdiction of coastal States in relation, inter alia, to the preservation of the marine environment. Article 9 was intended to define the extent, if any, to which coastal States would undertake to refrain within their jurisdiction (whatever that may now be or may in future become) from imposing more stringent standards than those embodied in the Articles and Regulations.

There was substantial agreement on this point. It was accepted in Committee that coastal States would not without good reason impose higher discharge standards; and it was agreed that only in extreme circumstances would they impose higher construction standards. Agreement in this sense was embodied in the draft Article 9 which the Committee approved and forwarded to the Plenary for consideration. Australia supported Article 9 and was prepared to limit the exercise of its jurisdiction in the way foreshadowed in that Article. More States supported the Australian view than opposed it.

In the light of the failure of Article 9 to secure the necessary two-thirds majority Australia reserves its position entirely to impose whatever conditions it may lawfully impose within its jurisdiction to protect from pollution the marine environment adjacent to Australia.

Australia cannot accept the contrary view that the failure of the text to secure the necessary two-thirds majority carries the implication that Australia may not within its jurisdiction impose more stringent standards than those embodied in the Articles and Regulations. To accept that view would mean that a minority of delegations, by voting to upset a compromise text could impose on a majority of delegations a positive obligation which the majority has made it clear that it will not accept. This is to reverse the normal rule that international obligations are assumed only if they have wide support.

Australia does not regard the deletion of Article 9 as affecting its legal position in any way.

Canada (MP/CONF/WP.34)

Questions concerning the jurisdiction of coastal States in relation to the prevention of pollution from ships, and in particular the extent of such jurisdiction, are to be determined by the Law of the Sea Conference to be convened pursuant to General Assembly Resolution 2750 C (XXV).

On the other hand, the purpose of draft Article 9 of the International Convention for the Prevention of Pollution from Ships was to define the extent, if any, to which coastal States Parties would undertake to refrain within their jurisdiction from imposing their own national standards in respect of matters to which the Convention relates.

In the absence of draft Article 9 from the final text of the Convention adopted by the Conference some Contracting States will contend that their freedom to act within their jurisdiction remains complete and unimpaired. Other States will interpret the absence of draft Article 9 or some similar provision as implying that coastal States Parties to the Convention have undertaken not to impose within their jurisdiction standards other than those embodied in the Convention; the Canadian delegation, however, rejects this latter view.

The Canadian delegation regrets that the Conference should have left unresolved so significant an area of misunderstanding. It notes with satisfaction, however, that draft Article 9 was approved by a considerable majority in Committee and only narrowly failed to secure a two-thirds majority in the Plenary session of the Conference.

In the absence of any provision restricting the powers of Contracting States to take measures within their jurisdiction in respect of matters to which the Convention relates, the Canadian delegation formally declares its view that nothing in the Convention can be construed as derogating from such powers. The Canadian delegation reserves all rights of the Government of Canada to take any and all measures within its jurisdiction for the protection of its coasts and the adjacent marine environment from pollution from ships.

Ireland (MP/CONF/WP.36)

Ireland voted against the adoption of the text of Article 9, as submitted to the Plenary by Committee I in MP/CONF/WP.17, and in favour of the amendments to that text proposed by Tanzania.

The Irish Government wishes to record that in its view nothing in the present Convention can be construed as derogating from the powers of any Contracting Party to take measures within its jurisdiction in respect of any matter to which the Convention relates.

Italy (MP/CONF/WP.32)

The Italian delegation voted against Article 9 because the text was insufficiently precise and very ambiguous.

The Convention defines special areas where discharging is subject to particularly strict conditions; these are listed in Annexes I and II. Annex I contains provisions regarding oil in the Mediterranean, the Black Sea, the Red Sea, the Gulf and the Baltic but as regards harmful chemical products, Annex II contains provisions covering the Black Sea and the Baltic only. Despite the Italian delegation's request to include the Mediterranean among the latter special areas because of the vulnerability of its waters, which was proved long ago by scientific experts and has been recognized by many international organizations, its proposal was not adopted.

Article 9 gives the impression that many countries would like to reserve to themselves the unilateral right to establish areas even more special than the special ones. Mention was generally made of waters, but some delegations had spoken of the vulnerability of extended waters which are veritable seas, in which they would reserve the right to lay down regulations, going as far as ship design and equipment. That was in complete contradiction with Article 10 and brings up for discussion the principles of maritime law which it had been decided to refer to the United Nations Conference on the new Law of the Sea.

The ambiguity of the Article on so important a matter was unacceptable to the Italian delegation.

Finally, the discussion made it clear that no delegation supporting the Article had wished to give an answer on more detailed points, including which "waters" were involved, which authorities could have contested the decision, and which scientific authorities should have decided on the parameters proposed.

Moreover, the Annexes to the Convention already laid down certain features for building new ships, and it would therefore be very odd to depart from them for reasons on which the ship-building countries could decide only when unilateral measures might already have affected them seriously.

It should be recalled that in a particularly serious case there was nothing to prevent a State from requesting establishment of a new special zone. The simpler procedure proposed for amendments, a new procedure in international law, might easily be used in such cases.

New Zealand (MP/CONF/WP.33)

The New Zealand Government is disappointed at the failure of this Conference to adopt draft Article 9 (Powers of Parties to the Convention). In so far as that Article preserved a coastal State's powers to take more stringent measures in the field of pollution control in its marine environment whilst conceding the value of international uniformity of standards in respect of ship design and equipment (except where waters are exceptionally vulnerable), the New Zealand Government considered it worthy of support.

Nonetheless it is the view of the New Zealand Government that the failure of the Conference to adopt the draft Article in no way restricts or otherwise affects its right, and that of any other State, to take within its jurisdiction more stringent measures as and when necessary in respect of any matter to which the Convention relates.

Philippines (MP/CONF/WP.37)

The Philippine Government deeply regrets the failure of this Conference to adopt draft Article 9. Because of its archipelagic nature, the Philippines is especially vulnerable to marine pollution by ships. In so far as that Article preserved a coastal State's powers to take more stringent measures in the field of pollution control in its marine environment whilst conceding the value of international uniformity of standards in respect of ship design and equipment (except where waters are exceptionally vulnerable) the Philippine Government considered it worthy of support.

It is the view of the Philippine Government that the failure of the Conference to adopt the draft Article in no way restricts or otherwise affects its right to take within its jurisdiction more stringent measures, when

necessary, in respect of any matter to which the Convention relates. The Philippines does not consider the deletion of Article 9 as affecting her inherent right as a sovereign State to enact measures for the prevention of pollution and the protection of her marine environment.

* * * *

Article 10, already adopted, is now renumbered Article 9.

Article 10 (formerly Article 11)

Mr. RAFFAELLI (Brazil) said that his delegation would vote against the renumbered Article 10. If that Article was approved, his Government would not consider itself bound by its provisions on arbitration and would not accept the provisions on negotiation envisaged therein.

Mr. LEE (Canada) said that his delegation would have to abstain in the vote on renumbered Article 10, because of the ambiguities of the Convention as a result of Article 9 having been deleted.

Mr. KOTLIAR (USSR), supported by Mr. YANKOV (Bulgaria) and Mr. KATEKA (Tanzania) proposed to amend Article 10 by deleting "upon request of any of them" and substituting "with the consent of all these Parties".

The PRESIDENT put the Soviet amendment to the vote.

The Soviet amendment was rejected by 20 votes to 22, with 14 abstentions.

The PRESIDENT put Article 10 to the vote.

Renumbered Article 10 (MP/CONF/WP.17) was adopted by 37 votes to 11, with 6 abstentions.

Mr. YTURRIAGA (Spain) recalled that a Corrigendum to MP/CONF/WP.17 had been issued, which would make it necessary to correct all the texts.

Mr. TRAIN (USA) said that he would submit a written statement on the vote on Article 10 to the Secretariat.

Adopted unanimously.

Article 11 (formerly Article 12)

Mr. TIMAGENIS (Greece), supported by Mr. ARCHER (UK), proposed to delete sub-paragraph (1)(g) as a consequential amendment to the deletion of Article 9.

The proposal was adopted.

The PRESIDENT said that the third line of paragraph (2) should now read "sub-paragraphs 1(b) to (f)" instead of "..... to (g)".

He then put Article 11, as amended, to the vote.

Renumbered Article 11 (MP/CONF/WP.17), as amended, was unanimously adopted.

Article 12 (formerly 13)

Renumbered Article 12 (MP/CONF/WP.17) was unanimously adopted.

Article 13 (formerly 14)

Mr. SASAMURA (IMCO Secretariat) drew attention to the need to fill in the dates in paragraph (1), which, in the drafting Committee's view, should be 2 November 1974 and 31 December 1974.

Mr. FAWZI (Egypt) thought that three months was sufficient for accession and proposed that the Convention should be opened for signature on 2 November 1973 and closed on 31 January 1974.

Mr. SONDAAL (Netherlands) thought that three months was too short a time and was in favour of adopting the Drafting Committee's suggestion.

Mr. GOAD (Secretary-General) said that, in view of the forthcoming Assembly of IMCO, it would take two months for the Secretariat to prepare a final text. It would therefore be possible to open the Convention for signature at any date after 31 December 1973; if delegations wished to have it open for twelve months it could be open from 1 January 1974 to 31 January 1975; alternatively, if no delegation insisted on a twelve-month period, the dates should be 15 January to 31 December 1974.

In connexion with the formula "States may become Parties to the present Convention ..." in line 3 of paragraph (1), Mr. Goad said that IMCO practice conformed in all essentials with the practice followed by the United Nations and by other organizations of the United Nations family. That practice did not call for any decision by the Secretary-General of IMCO regarding the definitive character of any political entity, since evidently the Secretary-General was unable, as an international civil servant, to enter into any political matter. Governments invited to attend conferences convened under the auspices of IMCO accepted the instruments adopted by those conferences. New Governments which became Members of the United Nations or of any of the

specialized agencies and the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice were also free to accept those instruments.

The Secretary-General of the United Nations had examined with care the question of opening multilateral instruments to acceptance by "all States" (the so-called "All States" formula), and the Conference should be made aware of his position in that matter, since it was the same as that which the Secretary-General of IMCO must assume, and which the head of each organization in the United Nations family would equally be expected to assume,

That position was that an international secretariat was not competent to decide whether any political entity was or was not a State. In that connexion he called attention to the following statement made by the Secretary-General of the United Nations to the 1258th meeting of the General Assembly of the United Nations on 18 November 1963:

"When the Secretary-General addresses an invitation or when an instrument of accession is deposited with him, he has certain duties to perform in connexion therewith. In the first place, he must ascertain that the invitation is addressed to, or the instrument emanates from, an authority entitled to become a party to the treaty in question. Furthermore, where an instrument of accession is concerned, the instrument must, inter alia, be brought to the attention of all other States concerned and the deposit of the instrument recorded in the various treaty publications of the Secretariat, provided it emanates from a proper authority. If I were to invite or to receive an instrument of accession from any such area, I would be in a position of considerable difficulty, unless the [General] Assembly gave me explicit directives on the areas coming within the "any State" formula. I would not wish to determine on my own initiative the highly political and controversial question whether or not the areas, the status of which was unclear, were States within the meaning of the provision in question. Such a determination, I believe, falls outside my competence.

In conclusion, I must therefore state that if the "any State" formula were to be adopted, I would be able to implement it only if the General Assembly provided me with the complete list of the States coming within that formula, other than those which are Members of the United Nations or the specialized agencies, or Parties to the Statute of the International Court of Justice."

That was exactly the position he, as Secretary-General of IMCO, was bound to take in respect of Article 13. If the "any State" formula were to be adopted by the Conference, he would be able to perform depositary functions only if the Conference provided him with a complete list of the States coming within that formula. Failing that, he would be obliged to request the Assembly of IMCO to provide him with specific instructions which would enable him to perform the functions required of him, without having to make the controversial and political determinations which even the Secretary-General of the United Nations considered to be outside his competence.

In the absence of specific and definitive guidance from either the Conference or the Assembly of IMCO, he would be able to perform those functions only in relation to those categories of States with which the United Nations and its related agencies had regularly dealt, namely those States which were Members of the United Nations or of any of its specialized agencies and of the IAEA, or Parties to the Statute of the International Court of Justice.

Mr. YTURRIAGA (Spain) proposed to re-word Article 13(3) as follows:

"The Secretary-General of the Organization shall inform all States which have signed the present Convention or acceded to it of any signature, or the deposit of any instrument of ratification, acceptance or accession and the date of its deposit."

Mr. CABOUAT (France) proposed, in view of the Secretary-General's statement, to amend Article 13(1) by deleting the last sentence and replacing it by the following: "Members of the Organization, of the United Nations, its specialized agencies, the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice and States invited by the Organization may become Parties to the Convention by:".

Mr. KOTLIAR (USSR) objected to that proposal, which had already been rejected by the Committee. The Secretary-General's statement should in no way alter the nature of the Convention as a universal one open to accession by all States. For the Convention to be effective it should be open to as many States as possible. He proposed to retain the wording adopted by Committee I.

Mr. TRAIN (USA) pointed out that the proceedings in Committee I did not preclude raising an item in Plenary. The present occasion was the first time that any conference held under United Nations auspices had ever adopted the

"all States" accession clause with the Secretariat of the Organization as depositary. Past practice had been to have States as depositaries. The problem was that the concern expressed by the Secretary-General of the United Nations in 1963 was still valid.

Since no delegation would wish the IMCO Secretariat to make political judgements about what constituted a State, the Secretary-General would have to consult the Assembly if any issue arose in respect of a State other than one nominally included. There was no practical difference between the present wording and the French proposal except that it clarified the necessary procedure and to that extent protected the IMCO Secretariat from any intimation that it would be expected to make a political judgement.

Mr. KATEKA (Tanzania) wished to retain the text as it stood. Times had changed and the Conference should not try to veil realities by procedural moves.

The PRESIDENT put to the vote the Egyptian proposal to insert the dates "2 November 1973 to 31 January 1974".

The proposal was rejected by 33 votes to none, with 8 abstentions.

The PRESIDENT put to the vote the French proposal to amend Article 13(1).

The amendment was rejected by 13 votes to 28, with 11 abstentions.

Renumbered Article 13 (MP/CONF/WP.17), as amended by the Spanish representative, with the dates 15 January to 31 December 1974 inserted in paragraph (1), was unanimously adopted.

Articles 14 and 15 (formerly 15 and 16)

Renumbered Articles 14 and 15 (MP/CONF/WP.17) were unanimously adopted.

Article 16 (formerly 17)

Mr. SONDAAL (Netherlands) pointed out a drafting error in Article 16(2)(f)(v), in which the words "as provided for in sub-paragraph (g)(i) below" should read ".. sub-paragraph (f)(i)".

Mr. TRAIN (USA) said that there were in fact more provisions that applied to the amendment procedure. It would be clearer to leave out the words "as provided for in sub-paragraph (f)(iii) above" in Article 16(2)(f)(iv) and "as provided for in sub-paragraph (g)(i) below" in Article 16(2)(f)(v).

Mr. ARCHER (UK) seconded that proposal.

Mr. CABOUAT (France) agreed, but thought that a new paragraph would be needed, not under (f) but under a new (g). The procedure should not be confined to acceptance but should also cover entry into force.

Mr. YTURRIAGA (Spain) agreed with the Netherlands representative that there was a mistake, but opposed the United States proposal since it would be too time-consuming to change a text already amply discussed in the Drafting Committee.

He recalled that, in accordance with MP/CONF/WP.17/Corr.1, the first line of Article 16(7) should read: "Any amendment to a Protocol or to an Annex shall ...".

Mr. CABOUAT (France) said there were two possible solutions: either the final phrases of Article 16(2)(f)(iv) and Article 16(2)(f)(v) could be deleted, as proposed by the United States representative, or the text could be left unchanged except that, in paragraph (2)(f)(iv), the existing wording should be replaced by "sub-paragraph (f)(ii) above", and in paragraph (2)(f)(v) the existing wording should be replaced by "sub-paragraph (f)(i) above".

Mr. STEEN (Sweden) proposed that, in view of the reference to Protocol 1 of the Convention in Article 16(2)(f)(iv), Protocol 1 should also be mentioned in Article 16(2)(g)(i) and similarly in (g)(ii).

Mr. YTURRIAGA (Spain) supported that proposal, which seemed to him in line with what had been agreed in the Drafting Committee.

Mr. SONDAAL (Netherlands) also supported it. As he understood it, sub-paragraph (g)(i) would then read "In the case of an amendment to an Article of the Convention, to Protocol 2, or to Protocol 1 ... etc.". Sub-paragraph (g)(ii) would read "In the case of an amendment to an Appendix to an Annex, to Protocol 1, or ... etc.".

It was so decided.

Renumbered Article 16 (MP/CONF/WP.17), as amended, was adopted by 54 votes to none, with one abstention.

Articles 18 and 19

Articles 18 and 19 (MP/CONF/WP.17) were unanimously adopted.

Article 20

Mr. KOTLIAR (USSR) introduced his delegation's proposed amendment (MP/CONF/WP.20). Russian language versions of the Convention and Protocol had already been prepared at no cost to IMCO, and would shortly be transmitted to the Secretariat.

The Soviet proposal was adopted by 83 votes to none, with 3 abstentions.

Mr. HAREIDE (Norway) pointed out that by that decision all four official languages of the Convention had now been given the status of authenticity. IMCO practice up to now had been to discriminate between the four official languages in favour of English and French, purely on practical grounds; that practice had now been discontinued, and he questioned the need to establish official translations into languages that had had no previous claims to be regarded as official languages. A good case could be made for translations of the Convention into many languages, notably Norwegian, which was spoken by a large number of seafarers; but he had no intention of pressing that case and hoped that others would be equally accommodating. He proposed that a separate vote be taken on the second sentence of Article 20, in accordance with Rule 21(a) of the Conference's Rules of Procedure, before further amendments were dealt with.

Mr. KATEKA (Tanzania) supported that proposal. Swahili, as the language spoken by 70 to 80 million people on the African continent, had a good claim to be adopted as an official IMCO language; but there was a limit to the extent to which individual groups of countries should press their own interests. The existing number of official languages should not be increased.

Mr. DAVIS (Canada) asked if the Secretariat could give any estimate of the cost to IMCO involved in the proposals regarding official languages.

Mr. GOAD (Secretary-General) said that although he could furnish no precise monetary estimates, he could give the Conference some factual information. As had been stated by the Norwegian representative, IMCO practice hitherto had been to produce authentic Convention texts only in English and French, with official translations into Russian and Spanish; but from the vote just taken he inferred it was the Conference's unanimous desire to have authentic texts also in Russian and Spanish. The Secretariat had been fortunate

in having the full co-operation of the Soviet and Spanish delegations in preparing the Russian and Spanish versions of the Final Act, which would thus be ready for signature the following day in four authentic texts. Authentic texts in Russian and Spanish of the rest of the Convention, together with the Annexes and Resolutions, would be available later.

On the question of official translations he stressed that, given the limited resources of the Secretariat, such translations would have to be made by the countries concerned, and hence the Secretariat could assume no responsibility for certifying them as official documents. The Secretariat would circulate copies of the translations, when received, to those countries that required them, and that would involve only minor expenditure for photocopying and postage. However, there would be no obligation upon the Secretariat to publish sales copies of official translations, since that would put it at a considerable financial disadvantage.

Mr. TOUKAN (Jordan) said that Arabic, a language spoken by 18 countries including the world's leading producers of petroleum, with extensive coastlines and a population totalling some 120 million, had good grounds to be adopted as one of IMCO's official languages.

Mr. BREUER (Federal Republic of Germany), referring to his delegation's proposal (MP/CONF/WP.14), said that German was also spoken by approximately 120 million people in a number of different countries. Three of those countries had considerable merchant fleets and many shipyards constructing large tankers, while two had long coastlines in areas much endangered by pollution.

Mrs. PRITCHARD (Philippines) supported the Federal German representative's proposal.

Mr. SPINELLI (Italy) said his delegation's proposal (MP/CONF/WP.15) had been put forward not on grounds of prestige but for practical reasons. If it would involve IMCO in unnecessary expenditure, however, he was willing to withdraw it.

Mr. ERTEL (Poland) supported the Italian proposal.

Mr. RAFFAELLI (Brazil) said that such a multiplicity of proposals for official translations, all of them based on different considerations, were making the debate ridiculous.

Mr. KATEKA (Tanzania) supported that view. He proposed the closure of the debate.

Mr. SONDAAL (Netherlands) supported the Tanzanian proposal.

The Vice-President took the Chair.

The PRESIDENT ruled that the debate on Article 20 was now closed.

The PRESIDENT invited the Conference to vote on the amendment proposed by the delegation of the Federal Republic of Germany (MP/CONF/WP.14).

That proposal was adopted by 22 votes to none, with 29 abstentions.

The PRESIDENT invited the Conference to vote on the amendment proposed by the Italian delegation (MP/CONF/WP.15).

That proposal was adopted by 18 votes to none, with 33 abstentions.

The PRESIDENT invited the Conference to vote on the second sentence of the Article separately, as proposed by the Norwegian delegation.

That sentence was adopted by 24 votes in favour, 6 against, with 20 abstentions.

Article 20, as amended, was unanimously adopted.

Mr. MANANSALA (Philippines) submitted the case for the proposed new Article (MP/CONF/WP.26) designed to further the promotion of technical co-operation, on behalf of the delegations of Cyprus, Jordan, Kenya, Trinidad and Tobago and the Philippines. He wished to draw attention to a correction to line 1 of the proposed new Article, namely the re-wording of "through the Organization ..." to read "shall promote, in consultation with ...".

He affirmed that several delegations were of the opinion that to be comprehensive, a treaty on marine pollution should provide for the practical implementation of highly technical and sophisticated procedures. In the view of those delegations, such implementation by developing countries was contingent on adequate support, and the matter was of such importance that it deserved to be embodied in an Article and not merely consigned to a Resolution.

Mr. YTURRIAGA (Spain) supported the proposal, subject to some clarification of line 1.

Mr. MANANSALA (Philippines) explained that the intention was to suggest that any assistance should be co-ordinated with the Executive Director of the United Nations Environment Programme.

Mr. BREUER (Federal Republic of Germany) said he would have preferred the proposal to figure as a Resolution, rather than an Article and as such to be considered the following day.

Mr. SOLOMON (Trinidad and Tobago) pointed out that the suggestion was not a new one. Similar thinking had been embodied in the Convention on the Dumping of Wastes at Sea, 1972, both as an Article and as a Resolution.

Mr. EHRMAN (Panama) suggested, with the support of Mr. Manansala (Philippines) that Spain's concern might be dispelled by amending the second line to read "assistance and co-ordination".

Mr. VASSILIADES (Cyprus) welcomed the conclusion of the present most valuable Convention as a further important step toward the complete elimination of intentional pollution of the sea by harmful substances from ships, a Convention characterized above all by highly technical scientific innovations and ingenious legal and administrative arrangements.

It should be realized, however, that the Convention carried with it many obligations of a technical nature, which it was beyond the power of countries without the necessary expertise to fulfil. For that reason he urged the Conference to give the proposal its sympathetic consideration, and to adopt the proposed new Article. He would also support the adoption of a Resolution, on similar lines; but that would be an addition to, and not a substitute for the Article.

Mr. ARCHER (UK) said that while his delegation had much sympathy with the thinking behind it, the proposal had been produced at very short notice, leaving insufficient time for governments to obtain financial clearance to support it. Admittedly, a similar provision had been included in the "Anti-Dumping" Convention, but that had not covered the very costly reception facilities mentioned in the present draft. One effect of the inclusion of non-persistent oils in Annex I would be to call for increased expenditure world-wide. The words "reception facilities" were a real source of difficulty to his delegation and, he imagined, also to others.

A second source of difficulty was the reference to the United Nations Environment Programme.

The PRESIDENT, in view of the late hour, proposed concluding the debate on the following morning.

Mrs. PRITCHARD (Philippines) reserved her right to reply when the debate resumed.

The meeting rose at 10 p.m.

TER-GOVERNMENTAL MARITIME
NSULTATIVE ORGANIZATION

MP/CONF/SR.12
1 November 1973
Original: FRENCH/ENGLISH

IMCO

FOR PARTICIPANTS ONLY

INTERNATIONAL CONFERENCE ON
MARINE POLLUTION, 1973

PROVISIONAL SUMMARY RECORD OF THE TWELFTH PLENARY MEETING
held at Church House, Westminster, London, S.W.1,
on Thursday, 1 November 1973 at 2.35 p.m.

President:	Mr. S. BHAVE (India)
Secretary-General:	Mr. Colin GOAD
Executive Secretary:	Mr. A. SAVELIEV

A list of participants is given in MP/CONF/INF.1/Rev.2

N.B. Corrections to be incorporated in the final summary record of the meeting should be submitted in writing (two copies in English or French), preferably on a copy of the provisional summary record, to the IMCO Secretariat, 104 Piccadilly, London W1V 0AE not later than 7 December 1973.

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ITEM 7 OF THE AGENDA - CONSIDERATION OF A DRAFT INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (MP/CONF/WP.17; MP/CONF/WP.17/Corr.1; MP/CONF/WP.24; MP/CONF/WP.27; MP/CONF/WP.32) (continued)

Mr. ERTEL (Poland) asked the President, under Rule 11 of the Rules of Procedure, to limit the time accorded to speakers to five minutes.

Mr. POCH (Spain) pointed out that to do so would not be fair at that stage of the debate, since many delegates had been able to express their points of view at leisure.

The PRESIDENT suggested that the time accorded to speakers should be limited after the discussion on Article 9.

It was so decided.

Mr. CADOUAT (France) was afraid that any decision on Article 9 would be ambiguous, because although a number of delegations had proposed deleting that Article, they had done so for opposing reasons. He had for that reason proposed the continuation of the debate and he thanked the representative of Tanzania for having withdrawn his motion.

The adoption of uniform regulations within the framework of the Convention would inevitably result in restricting the jurisdictional competence of States since total respect for their supreme authority would risk interfering with the freedom of international navigation.

Nevertheless, any international legislation that provided for uniform regulations, would be impossible if the principle of such limitation were rejected.

This did not mean, however, that States would have to renounce their supreme authority entirely because a certain degree of flexibility was possible, and in some cases, they could be authorized to take more stringent measures, provided that they did not impose severe constraints on ships. Article 9, however, appeared to acknowledge the right of States to take more stringent measures within their jurisdiction and did not provide for sufficiently clear limitations; the French delegation therefore considered it difficult to accept.

It seemed further that unanimity could not be achieved with respect to the rights which a State could exercise in some areas. That was a matter which demanded careful examination and the competent authority on that subject was the Law of the Sea Conference.

The Conference would strengthen the value of the Convention by deciding to delete Article 9 and in so doing would recognize that Contracting States could not take special measures within their jurisdiction and consequently go against its objectives.

Mr. POCH (Spain) stated that his delegation was prepared to support all the solutions contemplated and considered that the question should be examined objectively. The proposed text however was the outcome of long negotiations and he did not understand why the representative of the United Kingdom who was one of its main authors, had decided to vote against the Article.

Like any compromise, the text had its faults but they were minor ones yet in itself it was of cardinal importance.

It was essential to take account of States which had to deal with particularly serious difficulties, and it should be emphasized that the conditions laid down in Article 9, while seeking to respect the rights of those States, provided guarantees in view of their exceptional character and because the Parties that adopted special measures had to inform the other Parties to the Convention accordingly, through the Organization. It would be far more dangerous to delete Article 9 as coastal States might then believe they were authorized to take any restrictive measures they liked.

Unlike some delegations, he did not consider that the adoption of Article 9 would prejudice the decision taken by the Law of the Sea Conference and stressed that in any event the criteria adopted for ship construction came undeniably within the competence of the present Conference.

Finally he moved that Article 9 be put to the vote without amendments and stated that if the Conference had to decide on the proposal to delete that Article, he would vote against it.

Mr. TSIMAGENIS (Greece) considered that Article 9, approved after long discussions, represented the best possible solution. The aim of the Conference was to draw up a Convention that was acceptable to all. For that purpose, on the one hand, certain criteria had to be imposed in the matter of ship construction and, on the other hand, uniform regulations had to be adopted.

The first eight articles and the Annexes related to those criteria; Article 9 endeavoured to provide the required uniformity and the balance of the Convention.

Certainly the second sentence of paragraph (2) made exceptions possible for particularly vulnerable areas but in all fairness, the need for such exception had to be recognized. The one defect in that sentence was its failure to define the criteria whereby the vulnerable areas could be defined; however, it had the merit of laying down a principle to enable an acceptable method to be worked out at the international level.

As the representative of Australia had stressed, however the sentence was interpreted, its requirements were still exceptional; moreover compulsory arbitration provided a guarantee against abuse and, finally, it was stated in the second paragraph of Article 10 that nothing in the Convention would prejudice the decisions of the Law of the Sea Conference. Article 9 therefore provided a very satisfactory compromise.

While it could not be denied that the decisions on the law of the sea should not be prejudged, the matters relating to the main objectives of the Convention still had to be considered. The entire Convention, in fact, dealt with affairs that came under the law of the sea and if it was desired to observe that principle strictly, the task of preparing a Convention would have to be abandoned.

In conclusion the Greek delegation considered that the Conference could provide no better compromise than that proposed in Article 9, which it approved in its present form.

Mr. BREUER (Federal Republic of Germany) stressed the importance of not imposing useless obstacles on international shipping. He considered that the derogations laid down in the second sentence of paragraph (2) were too important, and the delegation of the Federal Republic of Germany had emphasized in Committee that an exception to these derogations would have to be provided by stating that the requirement did not apply to the great international routes, and it had in vain endeavoured to reach a compromise. As the second sentence was contrary to the principle established in the first sentence of paragraph (2), the delegation of the Federal Republic of Germany moved that Article 9 be deleted and proposed the adoption of the draft Resolution submitted by the delegations of Mexico and Venezuela in document MP/CONF/WP.24 with the addition of the paragraph contained in document MP/CONF/WP.27 which his delegation had submitted to the Conference.

Mr. RAVNEBJERG (Denmark) proposed an amendment to delete Article 9 and said that that amendment, being the furthest removed from the original text, should be put to the vote first.

Mr. BENDER (USA) recalled that according to Rule 22 of the Rules of Procedure "a motion is considered to be an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal". The proposal made by the representative of Denmark relating to Article 9 in its entirety could not therefore be considered as an amendment.

Mr. POCH (Spain) admitted that the representative of the United States was right and proposed that paragraphs 1 and 2 of Article 9 be deleted.

Mr. BENDER (USA) considered that such an important matter should be dealt with seriously and stressed that to delete the main point of an article was tantamount to deleting the article altogether and that the proposed amendment was therefore unacceptable.

Mr. SOLOMON (Trinidad and Tobago) expressed his delegation's doubts as to the value of the draft Article 9, which in Committee had given rise to an extremely long discussion during which many and diverse subjects had been brought up. The representative of Mexico had proposed that the article be deleted, as he considered that it introduced undue derogations into the Convention. Some delegates had proposed introducing a similar requirement to that which appeared in Article 11 of the 1954 Convention, so as to avoid possible misunderstandings. The words "more stringent measures" (paragraph (1)) had also been discussed and it had been proposed that they should be replaced by the words "special measures". The use of the expression "discharge standards" had led the Committee to ask who could define the quantities that, if discharged, would constitute an accident. There still remained the question of what scientific criteria could be adopted to define the notion of "vulnerable waters" and who was to fix such criteria.

The question of the sovereign rights of States had also been a matter of discussion. The Committee had finally agreed, through that Article, to derogate from those rights. That was inevitable as marine pollution was an international problem and had to be controlled in accordance with international rules which could only be respected if the States agreed to a reduction of their sovereign rights.

The question then arose as to whether the solutions to those problems were to be found during the present Conference or at the Conference on the Law of the Sea.

The outcome of the Law of the Sea Conference must clearly not be prejudged in the Convention under discussion; however, that Conference would not take place until April or May, it would last a certain time and take decisions which would probably enter into force five or six years later. By that time pollution of the sea by ships would not have ceased to increase. That pollution demanded immediate measures.

The delegation of Trinidad and Tobago could not say that it was satisfied with the compromise text produced by the Committee. It drew the Conference's attention to the fact that the requirements of the Convention would be of no value if they were not approved by a very large majority of participating countries.

Mr. BOYES (New Zealand) supported the comments made by the representatives of Canada, Australia and Trinidad and Tobago. He acknowledged that the Conference should not prejudge any decisions that might be taken by the Conference on the Law of the Sea. That argument however should not be rendered nonsensical by seeking to exclude from the draft Convention all things that were not exclusively technical standards; the Law of the Sea Conference should not become a kind of monster that would frighten everyone into emptying the draft Convention of all substance. Further, the object of Article 9 was not to settle real jurisdictional problems.

He recalled the position his delegation had adopted in committee, namely in favour of including in the draft Convention a provision based on Article 11 of the 1954 Convention, and the proposal submitted by the delegation of Tanzania. A compromise text could obviously not fully satisfy anyone. The

delegation of New Zealand considered, however, that it added a useful element to the Convention and reconciled quite justifiable but in many cases conflicting concerns: those respecting pollution control and those respecting States which had to take into account the interests of their fleet. Paragraph (2) in particular provided useful guidelines on the possibilities open to States whose coastal regions were more exposed to pollution. New Zealand would therefore support that article.

Mr. SEKYI (Ghana) accepted in principle the proposed text of Article 9, the result of a compromise reached after long negotiations between two sets of interests: those of the maritime powers and those of the coastal States. These contradictory preoccupations could only be reconciled by establishing minimum norms. The Conference did not appear to have succeeded thus far in reaching an agreement on the complex jurisdictional questions which had been raised; he thought it unlikely, however, that an even bigger Conference such as the Law of the Sea Conference would have more success.

The delegation of Ghana perfectly understood the difficulties of maritime and oceanic coastal States which were particularly vulnerable to marine pollution. However, it had doubts as to the wording of the second sentence in paragraph (2). Rather than giving those States freedom of action to protect themselves against pollution by unilateral decisions, it might have been preferable to state that whatever measures were taken should be based on objective criteria established at the international level. The delegation of Ghana therefore wanted a separate vote on that sentence, on which it would abstain.

The PRESIDENT summarized the proposals and amendments put forward during the discussion of that article.

The delegation of Tanzania had proposed to replace the words "more stringent measures" in the first paragraph by "special measures"; to replace in the same paragraph the words "in respect of discharge standards" by the words "in all areas to which this Convention applies"; and to delete paragraph (2).

The delegation of Tunisia had proposed adding the word "however" at the beginning of the second sentence of paragraph (2).

Mr. HAREIDE (Norway) supported Denmark's proposal to delete Article 9 completely and, if necessary, Spain's proposal to delete the first two paragraphs of the article. The arguments put forward by the delegate of the United States were not, in his opinion, convincing.

Mr. KATEKA (Tanzania), referring to the Rules of Procedure, supported the views of the representative of the United States: a proposal to delete an article did not appear to him to be in order.

The PRESIDENT asked the Conference to decide on the expediency of taking a separate vote on the second sentence of paragraph (2) following the proposal made by the Ghanaian delegation.

Mr. DAVIS Canada) said that the Conference should decide first of all on the proposed amendments which were furthest removed from the original text - in other words the Danish proposal to delete the article or, if that was unacceptable, the Spanish proposal to delete the first two paragraphs.

Mr. ADERO (Kenya) protested against the Danish proposal which would ruin everything which the Committee had been at great pains to build up. He moved that the Conference should decide first of all on the amendments submitted by Tanzania and then take a separate vote on the two sentences of paragraph (2), in accordance with Ghana's proposal, and then vote on the article as a whole.

Mr. POCH (Spain) understood that the President would not ask the Conference to decide first of all on Denmark's proposal and proposed that paragraphs (2) and (3) of Article 9 be deleted.

Miss GRANDI (Argentina) referring to Article 21(b) of the Rules of Procedure, moved that the Conference should decide on the text as a whole.

Mr. MEGRET (France) said that account could be taken of the various considerations that had been expressed, by voting successively on each paragraph of the Article and, within paragraph (2) by voting on each of the two sentences, having regard to the various amendments put forward, with respect to each of those votes.

Mr. EHRMAN (Panama) thought that the Conference should decide first of all on the Danish proposal; it would be useless to vote on the amendments if there was any risk of the amended text later being deleted.

The PRESIDENT said that in the circumstances it would be advisable to abide by the Rules of Procedure: the Conference would first of all decide on the proposed amendments, and then on Article 9 either in its entirety or by sections, according to whatever was decided, whether or not the text had been amended. If Article 9 did not obtain the required two-thirds majority in the form it would by that time have acquired, the delegations would be free to put forward new proposals.

Mr. HAREIDE (Norway) hoped that, after the Conference had decided on the amendments, should the amended Article 9 not have obtained the required two-thirds majority, the Conference might reconsider the text submitted by the Drafting Committee in document MP/CONF/WP.17 so as to be able to preserve a compromise solution patiently reached in Committee I.

Mr. POCH (Spain) withdrew his amendment; if the amended Article 9 was finally not retained, he would submit a new draft Article worded similarly to the Article 9 under consideration.

Mr. RAVNEBJERG (Denmark) maintained that it might be better for the Conference to decide first of all on the Danish proposal to delete Article 9. If that proposal were rejected by a large majority its supporters would endeavour to make the wording of Article 9 acceptable. The Danish delegation, however, would follow whichever voting procedure was upheld by the President.

The PRESIDENT put to the vote Tanzania's amendment to replace the words "more stringent" in paragraph 1 of Article 9 by the word "special".

The amendment was rejected by 35 votes to 14, with 14 abstentions.

The PRESIDENT put to the vote Tanzania's amendment to replace the words "in respect of discharge standards" in paragraph (1) of Article 9 by the words "in respect of any matter to which this Convention relates".

The amendment was rejected by 39 votes to 7 with 14 abstentions.

The PRESIDENT put to the vote Tanzania's amendment to delete paragraph 2 of Article 9.

The amendment was rejected by 34 votes to 17 with 13 abstentions.

The PRESIDENT recalled that Tunisia had moved that the word "however" should be inserted at the beginning of the second sentence of paragraph 2.

Mr. BOUSSOFFARA (Tunisia) acknowledged that it was a matter of drafting and did not insist on its being considered.

The PRESIDENT asked the Conference to decide on the voting procedures to be followed. The representative of Tanzania had proposed voting section by section.

Mr. DAVIS (Canada) recalled that his delegation had previously proposed that Article 9 be put to the vote as a whole in the form in which it had been submitted by the Drafting Committee. That proposal had priority.

Following a debate on procedure between Mr. KOTCHAR (USSR), Mr. KATEKA (Tanzania), Mr. PECH (Spain) and Mr. BRENNAN (Australia) the PRESIDENT put to the vote Tanzania's proposal that Article 9 be voted on section by section.

The proposal was rejected by 35 votes to 22 with 7 abstentions.

The PRESIDENT put Article 9 as a whole to the vote (MP/CONF/WP.17).

The PRESIDENT called for a roll-call vote. Sweden, having been drawn by lot by the President, was called upon to vote first. The result of the vote was as follows:

In favour: Sweden, Thailand, Trinidad and Tobago, Australia, Canada, Chile, Cyprus, Denmark, Egypt, Ghana, Greece, Iceland, India, Indonesia, Jordan, Liberia, New Zealand, Nigeria, Norway, Panama, Peru, Philippines, Poland, Saudi Arabia, Spain and Sri Lanka.

Against: Switzerland, United Kingdom, Tanzania, United States of America, Uruguay, Venezuela, Argentina, Belgium, Cuba, Ecuador, France, Federal Republic of Germany, Ireland, Italy, Japan, Kenya, Khmer Republic, Monaco, Netherlands, Republic of Korea, Romania and Singapore.

Abstentions: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Dominican Republic, Finland, German Democratic Republic, Iraq, Kuwait, Libyan Arab Republic, Mexico, Portugal and South Africa.

There were 29 votes in favour, 22 votes against with 14 abstentions.

Article 9 (MP/CONF/WP.17) was rejected having failed to obtain the required two-thirds majority (33 votes).

Mr. TOUKAN (Jordan) explained that his Government had instructed him to vote in favour of Article 9 with a view to defending the cleanliness of the Jordanian part of the Gulf of Aqaba. Jordan had in fact embarked upon a big tourist project in that area. All measures to prevent pollution in that area were, therefore, vital from Jordan's economic point of view.

The PRESIDENT asked the various delegations to explain their votes in writing so that they might subsequently be included in the record.

Mr. DAVIS (Canada) proposed the insertion of a new Article 9 in the place of the Article 9 that the Conference had just rejected, to read:

> "Nothing in the present Convention shall be construed as derogating from the powers of any Contracting Government to take measures within its jurisdiction in respect of any matter to which the Convention relates or as extending the jurisdiction of any Contracting Government".

The text was that of Article 11 of the 1954 Convention for the Prevention of Pollution of the Sea by Oil. Canada had put forward that same proposal at the beginning of the Conference and had been supported by many countries including Australia, Brazil, Denmark, Iceland, Indonesia, Kenya, New Zealand, Philippines, Spain, Trinidad and Tobago.

Mr. TIMAGENIS (Greece) pointed out that the main criticism raised against Article 9 as submitted by the Drafting Committee related to the second sentence of paragraph (2). The Conference could therefore have retained that part of Article 9 by cutting out the sentence objected to and by drawing up a resolution inviting the United Nations Conference on the Law of the Sea to take special measures to defend exceptionally vulnerable zones.

Mr. BRENNAN (Australia) supported Canada's proposal.

Mr. SONDAAL (Netherlands) moved that a roll-call vote be taken on the Canadian proposal.

Before putting the Canadian proposal to the vote, the PRESIDENT asked if there were any other proposals to be considered.

Mr. SAVELIEV (Executive Secretary) recalled the proposal put forward by the Greek delegation, for the maintenance of Article 9 with the exception of the second sentence of paragraph (2).

Mr. KOTLIAR (USSR) objected that that proposal had been lost in the course of the 35 : 22 vote ten minutes earlier against voting separately on the paragraph in question.

A motion to adjourn the debate on Article 9 was put forward by Mr. SEKYI (Ghana), to allow more time for consultation between countries which strongly supported the inclusion of a paragraph on similar lines.

Objections were raised by Mr. RAFFAELLI (Brazil) and Mr. del CAMPO (Uruguay) on the grounds that time was too short for receiving new instructions on a fresh proposal, by Mr. LEE (Canada), Mr. HERMAN (Panama), Mr. YTURRIAGA (Spain), Mr. LONGE (Nigeria), Mr. OXMAN (USA) and Captain BOYES (New Zealand) on procedural grounds, and by Mr. ARCHER (UK) on the grounds that long hours had been spent in Committee hammering out an acceptable solution on that very difficult Article, and it was on that solution that a decision must now be taken.

Mr. WISWALL (Liberia) stated that his delegation had the strongest objections to the inclusion in the present Convention of an Article from the 1954 Convention which, although it said nothing not already established in international law, would be an invitation to take unilateral action, a course totally at variance with the objectives of the Conference.

The PRESIDENT called for a roll-call vote on the Canadian proposal.

Australia, having been drawn by lot by the President was called upon to vote first. The result of the vote was as follows:

In favour: Australia, Brazil, Canada, Ecuador, Ghana, Ireland, Kenya, New Zealand, Peru, Philippines, South Africa, Spain, Sri Lanka, Trinidad and Tobago, United Republic of Tanzania.

Against: Argentina, Belgium, Bulgaria, Byelorussian SSR, Chile, Cuba, Cyprus, Finland, France, German Democratic Republic, Federal Republic of Germany, Greece, India, Iraq, Italy, Japan, Kuwait, Liberia, Mexico, Monaco, Netherlands, Norway, Poland, Republic of Korea, Romania, Singapore, Ukrainian SSR, USSR, UK, USA, Uruguay, Venequela.

Abstentions: Denmark, Egypt, Iceland, Indonesia, Jordan, Khmer Republic, Libyan Arab Republic, Nigeria, Panama, Portugal, Saudi Arabia, Sweden, Thailand.

Absent: Bahrain, Dominican Republic, Haiti, Hungary, Iran, Ivory Coast, Madagascar, Morocco, Switzerland, Tunisia, United Arab Emirates.

There were 15 votes in favour and 32 against with 13 abstentions.

The proposal was not adopted, having failed to obtain the required two-thirds majority.

Statements explaining their delegations' voting position on the part of Australia, Canada, Ireland, Italy, New Zealand and the Philippines are contained in the following Conference working papers respectively: WP.31, WP.34, WP.36, WP.32, WP.33 and WP.37.*

Article 11

Mr. RAFFAELLI (Brazil) said that his delegation would vote against Article 11. If that Article was approved, his Government would not consider itself bound by its provisions on arbitration and would not accept the provisions on negotiation envisaged therein.

Mr. LEE (Canada) said that his delegation would have to abstain in the vote on Article 11 because of the ambiguities of the Convention as a result of Article 9 having been deleted.

Mr. KOTLIAR (USSR), supported by Mr. YANKOV (Bulgaria) and Mr. KATEKA (Tanzania) proposed to amend Article 11 by deleting "upon request of any of them" and substituting "with the consent of all these Parties".

The PRESIDENT put to the vote the Soviet amendment.

The Soviet amendment was rejected by 20 votes to 22, with 14 abstentions.

The PRESIDENT put to the vote Article 11.

Article 11 was adopted by 37 votes to 11, with 6 abstentions.

Mr. de YTURRIAGA (Spain) recalled that a Corrigendum to MP/CONF/WP.17 had been issued, which would make it necessary to correct all the texts.

Mr. TRAIN (USA) said that he would submit a written statement on the vote on Article 11 to the Secretariat.

Article 12

Mr. TIMAGENIS (Greece), supported by Mr. ARCHER (UK), proposed to delete Article 12(1)(g) as a consequential amendment to the deletion of Article 9.

The proposal was adopted.

* The full texts of these statements will be incorporated into the Final Summary Record of the Conference.

The PRESIDENT said that the third line of Article 12(2) should now read "sub-paragraphs 1(b) to (f)" instead of "...to (g)".

He then put to the vote Article 12, as amended.

Article 12, as amended, was unanimously adopted.

Article 13

Article 13 was unanimously adopted.

Article 14

Mr. SASAMURA (Secretariat) drew attention to the need to fill in the dates in Article 14(1), which in the Drafting Committee's view should be 2 November 1974 and 31 December 1974.

Mr. FAWZI (Egypt) thought that three months was sufficient for accession and proposed that the Convention should be opened for signature on 2 November 1973 and closed on 31 January 1974.

Mr. SONDAAL (Netherlands) thought that three months was too short a time and was in favour of adopting the Drafting Committee's suggestion.

The SECRETARY-GENERAL said that in view of the forthcoming Assembly it would take two months for the Secretariat to prepare a final text. It would therefore be possible to open the Convention for signature at any date after 31 December 1973; if delegations wished to have it open for 12 months it could be open from 1 January to 31 January 1974. He suggested that, if no one insisted on a twelve-month period, the dates should be 15 January to 31 December 1974.

The SECRETARY-GENERAL, in connexion with the formula "States may become Parties to the present Convention..." in line 3 of Article 14(1), said that IMCO practice conformed in all essentials with the practice followed by the United Nations and by other organizations of the United Nations family. That practice did not call for any decision by the Secretary-General regarding the definitive character of any political entity, since evidently the Secretary-General was unable, as an international civil servant, to enter into any political matter. Governments invited to attend conferences convened

under the auspices of IMCO from time to time accepted the instruments adopted by those conferences. New Governments which became Members of the United Nations or of any of the specialized agencies and the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice were also free to accept those instruments.

The Secretary-General of the United Nations had examined with care the question of opening multilateral instruments to acceptance by "all States" (the so-called "All States" formula), and the Conference should be made aware of his position in that matter, since it was the same as that which the Secretary-General of IMCO must assume, and which the head of each organization in the United Nations family would equally be expected to assume.

That position was that an international secretariat was not competetent to decide whether any political entity was or was not a State. In that connexion he called attention to the following statement made by the Secretary-General of the United Nations to the 1258th meeting of the General Assembly of the United Nations on 18 November 1963:

"When the Secretary-General addresses an invitation or when an instrument of accession is deposited with him, he has certain duties to perform in connexion therewith. In the first place, he must ascertain that the invitation is addressed to, or the instrument emanates from, an authority entitled to become a party to the treaty in question. Furthermore, where an instrument of accession is concerned, the instrument must, inter alia, be brought to the attention of all other States concerned and the deposit of the instrument recorded in the various treaty publications of the Secretariat, provided it emanates from a proper authority. If I were to invite or to receive an instrument of accession from any such area, I would be in a position of considerable difficulty, unless the /General/ Assembly gave me explicit directives on the areas coming within the "any State" formula. I would not wish to determine on my own initiative the highly political and controversial question whether or not the areas, the status of which was unclear, were States within the meaning of the provision in question. Such a determination, I believe, falls outside my competence.

In conclusion, I must therefore state that if the "any State"formula were to be adopted, I would be able to implement it only if the General Assembly provided me with the complete list of the States coming within that formula, other than those which are Members of the United Nations or the specialized agencies, or Parties to the Statute of the International Court of Justice."

That was exactly the position he, as Secretary-General of IMCO, was bound to take in respect of draft Article 14. If the "any State" formula were to be adopted by the Conference, he would be able to perform depositary functions only if the Conference provided him with a complete list of the States coming within that formula. Failing that, he would be obliged to request the Assembly of IMCO to provide him with specific instructions which would enable him to perform the functions required of him, without having to make the controversial and political determinations which even the Secretary-General of the United Nations considered to be outside his competence.

In the absence of specific and definitive guidance from either the Conference or the Assembly of IMCO, he would be able to perform those functions only in relation to those categories of States with which the United Nations and its related agencies had regularly dealt, namely those States which were Members of the United Nations or of any of its specialized agencies and of the IAEA, or Parties to the Statute of the International Court of Justice.

Mr. de YTURRIAGA (Spain) proposed to reword Article 14(3) as follows:

"The Secretary-General of the Organization shall inform all States which have signed the present Convention or acceded to it of any signature, or the deposit of any instrument of ratification, acceptance or accession and the date of its deposit."

Mr. CABOUAT (France) proposed, in view of the Secretary-General's statement, to amend Article 14(1) by deleting the last sentence and replacing it by the following: "Members of the Organization, of the United Nations, its specialized agencies, the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice and States invited by the Organization may become Parties to the Convention by:".

Mr. KOTLIAR (USSR) objected to that proposal, which had already been rejected by the Committee. The Secretary-General's statement should in no way alter the nature of the Convention as a universal one open to accession by all States. For the Convention to be effective it should be open to as many States as possible. He proposed to retain the wording adopted by Committee I.

Mr. TRAIN (USA) pointed out that the proceedings in Committee I did not preclude raising an item in plenary. The present occasion was the first time that any conference held under United Nations auspices had ever adopted the "all States" accession clause with the Secretariat of the Organization as depositary. Past practice had been to have States as depositaries. The problem was that the concern expressed by the Secretary-General of the United Nations in 1963 was still valid.

Since no delegation would wish the IMCO Secretariat to make political judgements about what constituted a State, the Secretary-General would have to consult the Assembly if any issue arose in respect of a State other than one nominally included. There was no practical difference between the present wording and the French proposal except that it clarified the necessary procedure and to that extent protected the IMCO Secretariat from any intimation that it would be expected to make a political judgement.

Mr. KATEKA (Tanzania) wished to retain the text as it stood. Times had changed and the Conference should not try to veil realities by procedural moves.

The PRESIDENT put to the vote the Egyptian proposal to insert the dates "2 November 1973 to 31 January 1974".

The proposal was rejected by 33 votes to none, with 8 abstentions.

The PRESIDENT put to the vote the French proposal to amend Article 14(1).

The amendment was rejected by 13 votes to 28, with 11 abstentions.

Article 14, as amended by the Spanish representative, with the dates 15 January to 31 December 1974 inserted in paragraph (1) was unanimously adopted.

Articles 15 and 16

Articles 15 and 16 were unanimously adopted.

Article 17

Mr. SONDAAL (Netherlands) pointed out a drafting error in Article 17(2)(f)(v), in which the words "as provided for in sub-paragraph (g)(i) below" should read"..sub-paragraph (f)(i)".

Mr. TRAIN (USA) said that there were in fact more provisions that applied to the amendment procedure. It would be clearer to leave out the words "as provided for in sub-paragraph (f)(iii) above" in Article 17(2)(f)(iv) and "as provided for in sub-paragraph (g)(i) below" in Article 17(2)(f)(v).

Mr. ARCHER (UK) seconded that proposal,

Mr. CABOUAT (France) agreed, but thought that a new paragraph would be needed, not under (f) but under a new (g). The procedure should not be confined to acceptance but should also cover entry into force.

Mr. de YTURRIAGA (Spain) agreed with the Netherlands representative that there was a mistake, but opposed the United States proposal since it would be too time-consuming to change a text already amply discussed in the Drafting Committee.

He recalled that, in accordance with MP/CONF/WP.17 (Corr.) the first line of Article 17(7) should read: "Any amendment to a Protocol or to an Annex shall ...".

Mr. CABOUAT (France) said there were two possible solutions: either the final phrases of Article 17(2)(f)(iv) and Article 17(2)(f)(v) could be deleted, as proposed by the United States representative, or the text could be left unchanged except that, in paragraph (2)(f)(iv), the existing wording should be replaced by "sub-paragraph (f)(ii) above", and in paragraph (2)(f)(v) the existing wording should be replaced by "sub-paragraph (f)(i) above".

Mr. STEEN (Sweden) proposed that, in view of the reference to Protocol 1 of the Convention in Article 17(2)(f)(iv), Protocol 1 should also be mentioned in Article 17(2)(g)(i). Similarly, a reference to Protocol 1 should be included in Article 17(2)(g)(ii).

Mr. de YTURRIAGA (Spain) supported that proposal, which seemed to him in line with what had been agreed in the Drafting Committee.

Mr. SONDAAL (Netherlands) also supported it. As he understood it, sub-paragraph (g)(i) would then read "In the case of an amendment to an Article of the Convention, to Protocol 2, or to Protocol 1 ... etc.". Sub-paragraph (g)(ii) would read "In the case of an amendment to an Appendix to an Annex, to Protocol 1, or ... etc.".

It was so agreed.

Article 17, as amended, was adopted by 54 votes to none, with one abstention.

Articles 18 and 19

Articles 18 and 19 were unanimously adopted.

Article 20

Mr. KOTLIAR (USSR) introduced his delegation's proposed amendment (MP/CONF/WP.20). Russian language versions of the Convention and Protocol had already been prepared, at no cost to IMCO, and would shortly be transmitted to the Secretariat.

The USSR proposal was adopted by 83 votes to none, with 3 abstentions.

Mr. HAREIDE (Norway) pointed out that by that decision all four official languages of the Convention had now been given the status of authenticity. IMCO practice up to now had been to discriminate between the four official languages in favour of English and French, purely on practical grounds; that practice had now been discontinued, and he questioned the need to establish official translations into languages that had had no previous claims to be regarded as official languages. A good case could be made for translations of the Convention into many languages, notably Norwegian, which was spoken by a large number of seafarers, but he had no intention of pressing that case and hoped that others would be equally accommodating. He proposed that a separate vote be taken on the second sentence of Article 20, in accordance with Rule 21(a) of the Conference's Rules of Procedure, before further amendments were dealt with.

Mr. KATEKA (Tanzania) supported that proposal. Swahili, as the language spoken by 70 to 80 million people on the African continent, had a good claim to be adopted as an official IMCO language, but there was a limit to the extent to which individual groups of countries should press their own interests. The existing number of official languages should not be increased.

Mr. DAVIS (Canada) asked if the Secretariat could give any estimate of the cost to IMCO involved in the proposals regarding official languages.

The SECRETARY-GENERAL said that although he could give no precise monetary estimates he could give the Conference some factual information. As had been stated by the Norwegian representative, IMCO practice hitherto had been to produce authentic Convention texts only in English and French, with official translations into Russian and Spanish, but from the vote just taken he inferred it was the Conference's unanimous desire to have authentic texts also in Russian and Spanish. The Secretariat had been fortunate in having the full co-operation of the USSR and Spanish delegations in preparing the Russian and Spanish versions of the Final Act, which would thus be ready for signature the following day in four authentic texts. Authentic texts in Russian and Spanish of the rest of the Convention, together with the Annexes and Resolutions, would be available later.

On the question of official translations he stressed that, given the limited resources of the Secretariat, such translations would have to be made by the countries concerned, and hence the Secretariat could assume no responsibility for certifying them as official documents. The Secretariat would circulate copies of the translations, when received, to those countries that required them, and this would involve it in only minor expenditure (namely, costs of photocopying and postage). However, there would be no obligation upon the Secretariat to publish copies of official translations for sale, since that would put it at a considerable financial disadvantage.

Mr. TOUKAN (Jordan) said that Arabic, a language spoken by 18 countries, including the world's leading producers of petroleum, with extensive coastlines and a population totalling some 120 million, had good grounds to be adopted as one of IMCO's official languages.

Mr. BREUER (Federal Republic of Germany), referring to his delegation's proposal (MP/CONF/WP.14), said that German was also spoken by approximately 120 million people in a number of different countries. Three of those countries had considerable merchant fleets and many shipyards constructing large tankers, while two had long coastlines in areas much endangered by pollution.

Mr. de AYALA (Philippines) supported the Federal German representative's proposal.

Mr. SPINELLI (Italy) said his delegation's proposal (MP/CONF/WP.15) had been put forward not on grounds of prestige but for practical reasons. If it would involve IMCO in unnecessary expenditure, however, he was willing to withdraw it.

Mr. ERTEL (Poland) supported the Italian proposal.

Mr. RAFFAELLI (Brazil) said that such a multiplicity of proposals for official translations, all of them based on different considerations, were making the debate ridiculous.

Mr. KATEKA (Tanzania) supported that view. He proposed the closure of the debate.

Mr. SONDAAL (Netherlands) supported the Tanzanian proposal.

The Vice-President took the Chair.

The PRESIDENT ruled that the debate on Article 20 was now closed.

The PRESIDENT invited the Conference to vote on the amendment proposed by the delegation of the Federal Republic of Germany (MP/CONF/WP.14).

That proposal was adopted by 22 votes to none, with 29 abstentions.

The PRESIDENT invited the Conference to vote on the amendment proposed by the Italian delegation (MP/CONF/WP.15).

That proposal was adopted by 18 votes to none, with 33 abstentions.

The PRESIDENT invited the Conference to vote on the second sentence of the Article separately, as proposed by the Norwegian delegation.

That sentence was adopted by 24 votes in favour, 6 against, with 20 abstentions.

Article 20, as amended, was unanimously adopted.

Mr. ARAQUE (Philippines) submitted the case for the proposal contained in MP/CONF/WP.26, and designed to further the promotion of technical co-operation, on behalf of the delegations of Cyprus, Jordan, Kenya, Trinidad and Tobago and the Philippines. He wished to draw attention to a correction to line 1 of the proposed new article, namely the rewording of "through the Organization..." to read "shall promote, in consultation with...".

He affirmed that several delegations were of the opinion that to be comprehensive, a treaty on marine pollution should provide for the practical implementation of highly technical and sophisticated procedures. In the view of those delegations, such implementation by developing countries was contingent on adequate support, and the matter was of such importance that it deserved to be embodied in an Article and not merely consigned to a Resolution. The aim of that Article was not to press for free delivery to the developing countries of monitoring devices, but for a ready flow of information on techniques and products.

Mr. de YTURRIAGA (Spain) supported the proposal, subject to some clarification of line 1.

Mr. ARAQUE (Philippines) explained that the intention was to suggest that any assistance should be co-ordinated by the Executive Director of the United Nations Environment Programme.

Mr. BREUER (Federal Republic of Germany) said he would have preferred the proposal to figure as a Resolution, rather than an Article and as such to be considered the following day.

Mr. SOLOMON (Trinidad and Tobago) pointed out that the suggestion was not a new one. Similar thinking had been embodied in the Anti-Dumping Convention both as an Article and as a Resolution.

Mr. EHRMAN (Panama) suggested, with the support of Mr. OGBINAR (Philippines) that Spain's concern might be dispelled by amending the second line to read "assistance and co-ordination".

Mr. VASSILIADES (Cyprus) welcomed the conclusion of the present most valuable Convention as a further important step toward the complete elimination of intentional pollution of the sea by harmful substances from ships, a Convention characterized above all by highly technical scientific innovations and ingenious legal and administrative arrangements.

It should be realized, however, that it carried with it many obligations of a technical nature, which it was beyond the power of countries without the necessary expertise to fulfil.

For this reason he urged the Conference to give the proposal contained in WP.26 its sympathetic consideration, and to adopt the proposed new Article. He would also support the adoption of a Resolution, on similar lines, but that would be an addition to, and not a substitute for the Article.

Mr. ARCHER (UK) said that while his delegation had much sympathy with the thinking behind it, the proposal had been produced at very short notice, leaving insufficient time for Governments to obtain financial clearance to support it. Admittedly, a similar provision had been included in the Anti-Dumping Convention, but that had not covered the very costly reception facilities mentioned in the present draft.

One effect of the inclusion of non-persistent oils in Annex I would be to call for increased expenditure world-wide.

The words "reception facilities" were a real source of difficulty to his delegation and, he imagined, also to others.

A second source of difficulty was the reference to the United Nations Environment Programme.

As it was so late, the President proposed concluding the debate on the following morning.

Mrs. PRITCHARD (Philippines) reserved her right to reply when the debate resumed.

The meeting rose at 10 p.m.