



## IMCO

### INTERNATIONAL CONFERENCE ON MARINE POLLUTION, 1973

#### SUMMARY RECORD OF THE THIRTEENTH PLENARY MEETING

held at Church House, Westminster, London S.W.1,  
on Friday, 2 November 1973 at 11.45 a.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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REPORT OF THE CREDENTIALS COMMITTEE (MP/CONF/13/Add.1 and Add.2)(concluded)

Mr. ARAQUE (Philippines)(Chairman of the Credentials Committee) stated that credentials of the representatives of the following countries: Dominican Republic, Haiti, Hungary, Ivory Coast, Libyan Arab Republic, Tunisia and Saudi Arabia had been examined by the Committee and found to be in due and proper form. Documents accrediting the observers of Colombia, Malawi, Turkey and Yugoslavia had also been examined by the Committee and found to be in due and proper form.

The Conference took note of the Report of the Credentials Committee (MP/CONF/13/Add.1-2).

AGENDA ITEM 7 - CONSIDERATION OF A DRAFT INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS (MP/CONF/WP.26)(concluded)

Mr. TOUKAN (Jordan) duly apologized to the representative of Brazil for genuinely having misinterpreted what he had said the previous day. Fearing lest the proposal to adopt Arabic as an official language be rejected, and upset by the hurtful remarks made by the representative of a friendly country, he had not paid sufficient attention to the end of the debate, hence the misunderstanding with the representative of Brazil, whose country occupied a privileged place in Arab hearts. He hoped that Mr. Raffaelli would accept his apologies.

Mr. RAFFAELLI (Brazil) thanked Mr. Toukan for his words. Brazil was a melting pot for diverse elements and many people from Arab countries had emigrated to Brazil and made their contribution to its civilization. He recognized in the gesture of the representative of Jordan the true Arab qualities which his country had been able to appreciate throughout the centuries: courtesy, human warmth and generosity.

Proposed new Article (MP/CONF/WP.26)(concluded)

Mr. MATOV (USSR) said that his country attached great importance to technical assistance, as was proved by the aid constantly given to needy countries. It seemed, however, that the question dealt with in the document under consideration had not been considered with the representatives of the United Nations Environment Programme, and he asked if the Conference could adopt the proposed Article without prior consultation. The representative of the United Kingdom had asked that question the previous day, and had still been given no reply.

Further, the draft had been submitted late and, owing to its considerable financial repercussions, the delegation of the Soviet Union was not able to support it and would therefore abstain from voting unless otherwise instructed by his Government.

Mr. KANEKO (United Nations Environment Programme) referred to what the representative of the United Kingdom had said the previous day and emphasized that the difference between Article 9 of the Convention on the Dumping of Wastes at Sea and the draft under consideration, in respect of the co-operation of the United Nations Environment Programme, was that the Programme had not existed when the former Convention was adopted, as it had officially been created on 15 December 1972, thus one month after the adoption of the Convention. As he himself had taken part in the work of the Conference on dumping he thought he could say that if the United Nations Environment Programme had been set up earlier, it would have been referred to in Article 9.

It was not for him to give an opinion on the expediency or otherwise of adopting a proposed article or resolution, but he considered it to be his duty to say that if the Contracting Parties assumed joint responsibility for measures intended to protect the marine environment, it would also be their responsibility to co-operate with a view to promoting support for States requiring technical assistance in order to be able to discharge their obligations. It seemed it would be preferable therefore to include the proposed text in the Convention rather than in a resolution.

The United Nations Environment Programme was always prepared to assume its responsibilities and provide the necessary services to contribute to the protection of the human environment in general and the marine environment in particular.

Mrs. PRITCHARD (Philippines) stated that in spite of the pressures brought to bear by one delegation, the Philippine delegation upheld the proposal it had put forward with the support of many other countries.

She pointed out that the proposed text only required Contracting Parties to "promote" support for States in need of technical assistance, thus allowing each country to act in accordance with the resources it had available.

Moreover, the text did not give international organizations, as some feared, the sovereign right to decide on what aid was to be granted, since every organization acted in consultation with the States concerned and those States were in a position to consult the appropriate bodies.

She pointed out finally that if the document had only been distributed the previous day, her delegation was not responsible because it had been ready for some time. Moreover, there could be no claim that it could not be adopted through lack of government instruction since it was easy to consult the competent authorities by telephone.

Mr. TOUKAN (Jordan) supported the statements which had been made in favour of the proposed new Article.

Mr. DOUAY (France) approved the content of the draft under consideration and said there was no need to call to mind the position of the French Government as regards the provision of technical assistance to countries which required it.

He proposed that greater force be given to the draft text by inserting in the first line after "shall promote" the words "with a view to furthering the aims and purposes of this Convention", and in the fourth line, before the word "support" the words "preferably within the countries concerned".

He would not bring up the matter of the financial repercussions of the proposed Article for fear of raising arguments against its adoption. Any such difficulties would have to be overcome.

He preferred to draw the attention of the Conference to the legal aspect of the question. The introduction of a similar article in the Convention on dumping was perfectly justified because that Convention created a body that could assume responsibilities in respect of technical assistance. However, the draft under consideration only referred, in Article 17, to the creation of a body to revise the Convention. The proposed new Article therefore would be reduced to a declaration of intent and the legal means chosen by the authors to implement their excellent proposal would thus be ineffective. The French delegation would vote in favour of a resolution requiring the Conference to entrust the responsibility for technical assistance to the body to be set up under Article 17, but it could not decide in favour of an article which, in the absence of the appropriate body would remain a dead letter.

Mr. NHIGULA (Tanzania) supported the proposal to insert the draft of a new article in the Convention.

Mr. OXMAN (USA) recalled that the United States Government had always supported proposals similar to that under consideration and had no objection to its substance, but he wondered what the true meaning of the article would be: if it constituted a real commitment, the Minister of Finance would have to go into the matter thoroughly; if the word "promote" was only a vague term, one might ask what was the significance of the article.

In relation to the co-operation of the United Nations Environment Programme it must be emphasized on the one hand that it had been set up by the United Nations General Assembly and could be amended by a further decision by that Assembly; on the other hand it covered many services and it was not certain that the responsibilities contemplated were incumbent upon its Executive Director.

Further, Mr. Oxman did not consider that it could be said that support would be given "through the Organization" since aid programmes in that field were often bilateral programmes.

A further difficulty stemmed from the fact that technical assistance could be considered to apply to reception facilities when, according to the Convention, such facilities were to be financed by the States and were not, moreover, the only means envisaged in that connexion.

The United States delegation therefore considered that it would be difficult to include the proposed Article in the Convention, but would adopt a different position if the sense of the Article were included in a resolution on technical assistance.

Mr. SUGIHARA (Japan) supported the substance of the proposed draft.

Mr. SEKYI (Ghana) emphasized that pollution could only be eliminated with the co-operation of all countries, whether developed or developing, and those with limited resources would therefore have to count on support from the more fortunate countries.

By way of a compromise, he proposed that the draft Article should be incorporated in the Convention and reinforced with a resolution.

Mr. TOUKAN (Jordan) pointed out that a resolution would only have the significance of a wish, whereas an article would represent the first step in implementation.

Mr. DINGA (Kenya) fully approved the first part of the speech made by the representative of France and would also approve the resolution that he proposed should be drawn up, provided that it complemented an Article of the Convention. The Convention was only justified if it effectively enabled pollution to be eliminated, and the co-operation of developing countries in that fight was essential. The support they should receive could not be limited to that which could be offered to them under bilateral agreements.

It had been proposed that a resolution rather than a new Article be adopted on the pretext that it could more rapidly be implemented; but such an objection was without foundation, because there would clearly be no opposition to the anticipated application of an article relating to technical assistance.

Mr. YANKOV (Bulgaria) approved of the idea of technical assistance, which was the basis of the text under discussion - his country could also take advantage of such technical assistance in some cases. He had, however, been very alive to the arguments put forward by the French delegation. Then again, it seemed to him that the proposed text was fairly restrictive, both from the institutional point of view and from the point of view of its practical significance. Without wishing to dispute the value of the UNEP contribution, he in fact considered that all kinds of technical assistance and the ways in which it could be given (on a bilateral basis, within a regional framework, through existing organizations or even through a new body to be set up) had to be considered. Finally, for a text which did not specifically provide for obligations imposed on Contracting States, and which rather expressed desires and intentions, it would be better to have a Resolution than an Article of a Convention. The Bulgarian delegation would abstain if it were asked to vote on the inclusion of that text as an article; it would adopt another position if it were a draft resolution.

Mr. MACGILLIVRAY (Canada) stated that his delegation would approve the draft Article in the spirit which had guided the representatives of his country to approve similar provisions in the Stockholm Convention and in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. The inclusion of such a text in the very body of the Convention would enable its purposes to be pursued more quickly and more effectively.

Mr. BRENNAN (Australia) announced that in accordance with his Government's instructions he would support the proposed text, whether it was put forward in the form of an Article or of a Resolution. The Australian delegation considered that reference to the Organization or to the UNEP did not constitute a restrictive element. Australia was prepared to meet any request for assistance whether the State concerned preferred to go through IMCO, through the UNEP or any other body, or whether it preferred bilateral aid.

Some speakers had expressed fears regarding the reference to reception facilities. The Australian delegation was convinced that the States concerned solely contemplated technical assistance for the installation of those facilities, and that it was not a question of direct finance.

The Australian authorities, mindful of not limiting assistance respecting research to material and equipment, had asked their delegation to propose the following amendment: in paragraph (b) of the proposed Article, the comma and the word "research" to be deleted; a paragraph (d) to be added to read: "the promotion of research".

Mrs. PRITCHARD (Philippines) accepted that amendment on behalf of her delegation.

Mr. STAN (Romania) supported the basic idea of the proposed Article (MP/CONF/WP.26), which was very close to what had guided his own delegation in the preparation of document MP/CONF/7/1, the terms of which he recalled. In view, however, of the financial implications which would arise from the inclusion of that text in the Convention as an Article, he would prefer it to be in the form of a Resolution.

Mr. SUGIHARA (Japan) asked the President to speed up the discussion which was taking up precious time.

The PRESIDENT said he would indeed have to limit the time accorded to speakers if the discussion continued much longer.

Mr. OXMAN (USA) supported the remark made by the representative of Japan. He regretted having to go against this new proposed Article which, because of its implied political questions, was unacceptable to the United States Government. With regard to the question raised by the representative of Bulgaria, that it should be possible to consider all kinds of technical assistance and the ways



in which it could be given, he was obliged to call to mind the invariable position of the authorities of his country which considered it unacceptable to include any provisions relative to bilateral agreements in a multilateral agreement. Opposition on the part of the United States delegation could be lifted if the authors of the proposed Article were to accept the following amendments that could be put to the vote separately:

- the first line to read: "The Contracting Parties, in order to promote the furtherance of the aims and purposes of this Convention, shall, through .....";
- the second line to read: "... through the Organization and in consultation with other appropriate international bodies, including the United Nations Environment Programme .....";
- to make the present text of the article into a first paragraph and to add a second paragraph: "(2) The Organization, through the body referred to in Article .... (17 or 16, as appropriate) shall take measures to supervise the effective implementation of this Article".

Mr. LONGE (Nigeria) supported the proposed Article (ME/CONF/WP.26). The Convention would impose a fairly heavy financial burden on all participating States. It would therefore be advisable for it to contain provisions enabling States which were not in a position fully to bear that burden to request technical assistance at least. The text should therefore be voted on in the form of an Article. The Conference could perhaps also vote a Resolution in the same sense.

Mr. OXMAN (USA) in reply to a question by Mr. YANKOV (Bulgaria) stated that he very well understood the intentions of the French delegation, one of whose proposals he had used in his amendment. Indeed it was of little importance to him whether the text under discussion was voted as an Article or as a Resolution. He had only sought to improve the basis of the text in order that he should not be obliged to vote against it.

Mr. YTURRIAGA (Spain) regretted that the United States proposal had started up another discussion of which he would have liked to move the closure. He proposed that the list of speakers be closed finally and that the time accorded to each be limited.

It was so decided. The time for each speaker was limited to two minutes.

Mr. MEGRET (France) proposed the following amendment: to change the title of document MP/CONF/WP.26 as follows: "Resolution relating to technical co-operation ....".

The PRESIDENT considered that any amendment aimed at transforming an article into a resolution was out of order. The French delegation must defer its draft Resolution until any discussion which might follow the decision on the proposed Article.

Mr. SOLOMON (Trinidad and Tobago) supported the amendment put forward by the United States delegation.

Mr. VASSILIADES (Cyprus) could not accept any formula other than the insertion of the provisions relating to technical assistance as an Article of the Convention. He called for a roll-call vote.

Mr. BREUER (Federal Republic of Germany) recalled that his delegation had been the first to suggest that the provisions relating to technical assistance should be incorporated in a resolution. He had listened carefully to the various speeches, and notably that of the representative of Bulgaria. He noted that the Conference was very divided. He suggested a compromise solution which appeared to him to suit a fairly large majority: to insert a very short article in the Convention which might be worded as follows: "The Contracting Parties shall further the aims of this Convention by providing technical assistance" and to take the proposed text MP/CONF/WP.26 with all possible amendments, as a resolution.

Mr. YANKOV (Bulgaria) supported the amendment put forward by the Federal Republic of Germany.

Mr. TURKI (Tunisia) was surprised to see a number of highly industrialized countries hesitating to vote on the proposed Article when a developing country like his own, aware of its responsibilities, had not hesitated to subscribe to the Stockholm decisions, to build an oil settling tank at La Skira, to set aside from its development plan considerable sums for the treatment of sewage, to carry out tests on destroying oil slicks that threatened its beaches, to fight desertification, and when its authorities had not waited for the outcome of the Conference to give the Tunisian National Ports Department instructions that consideration should henceforth be given to the setting up of reception facilities

for residues, refuse and sewage from ships. The new text would certainly involve a number of financial obligations. Could highly industrialized countries hesitate to give their mite to those who, despite their lack of means, had already made every effort to improve the environment on what in Stockholm was called "one world"?

Mrs. PRITCHARD (Philippines) said she was happy to see that almost all the delegations approved the spirit of MP/CONF/WP.26. She could not accept the amendment put forward by the United States delegation because it would modify the spirit of the text, any more than she could accept the amendment of the Federal Republic of Germany which would strip the Article of its meaning. She accepted on the other hand the slight drafting alterations proposed by the French delegation for the French text and the amendment proposed by the Australian delegation to make another paragraph (d) to cover research. She was very happy with the suggestion made by the delegations of Ghana, Nigeria and Kenya to add to the Convention a resolution relating to technical assistance. Such a resolution would fortunately strengthen the provisions made in that connexion, provided, of course, that the terms of the new proposed article were not modified.

Some speakers had brought up legal considerations which were the cause for their misgivings over the new article. There was no need to be a jurist to know that the law had to adapt to the needs of man and not the reverse.

Mr. OXMAN (USA) in reply to the questions put by Mr. YANKOV (Bulgaria) and Mr. TIKHONOV (USSR) and having regard to the acceptance by the delegation of the Philippines of the amendment proposed by the Australian delegation, read the text which would result from his modified amendments.

"(1) The Contracting Parties, in order to promote the furtherance of the aims and purposes of this Convention, shall through the Organization and in collaboration with other appropriate international bodies, including the United Nations Environment Programme, promote support for those States which request technical assistance for:

- (a) the training of scientific and technical personnel;
- (b) the supply of necessary equipment and facilities for reception and monitoring;
- (c) no change;
- (d) the promotion of research;

preferably within the countries concerned.

(2) The Organization shall take the necessary measures for the effective application of this article".

The United States delegation would call for a separate vote on each of those two paragraphs.

Mrs. PRITCHARD (Philippines) said that the United States proposal was still unacceptable to the authors of the proposed Article, because IMCO was in no way empowered to do what would be demanded of it.

The PRESIDENT put the amendment of the Federal Republic of Germany to the proposed Article, to the vote.

The amendment of the Federal Republic of Germany was rejected by 21 votes to 19, with 19 abstentions, having failed to obtain the required two-thirds majority.

The PRESIDENT put to the vote paragraph (1) of the Article in the version proposed by the United States.

The amendment was rejected by 20 votes to 19, with 19 abstentions.

The PRESIDENT put to the vote paragraph (2) of the text proposed by the United States.

The amendment was rejected by 19 votes to 11, with 27 abstentions.

Mr. BAR (Switzerland) said that he had not voted on paragraph (2) of the United States proposal, as the ballot was superfluous since paragraph (1) had already been rejected.

The PRESIDENT read out the new draft article as it stood after the incorporation of the amendments accepted by its authors:

"Promotion of technical co-operation

The States Parties to the Convention shall, in consultation with the Organization and other international bodies, with the assistance of the Executive Director of the United Nations Environment Programme, who will be responsible for co-ordination, promote support for those States which request technical assistance for:

(a) the training of scientific and technical personnel;

- (b) the supply of necessary equipment and facilities for reception and monitoring;
- (c) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and
- (d) the promotion of research;

preferably within the countries concerned, so furthering the aims and purposes of this Convention".

The PRESIDENT put the proposed Article to the vote.

At the request of the representative of Cyprus a roll-call vote was taken. Denmark, having been drawn by lot by the President, was called upon to vote first.

In favour: Denmark, Ecuador, Egypt, Ghana, India, Indonesia, Iraq, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Liberia, Libyan Arab Republic, Mexico, Netherlands, New Zealand, Nigeria, Peru, Philippines, Romania, Saudi Arabia, Singapore, Spain, Sri Lanka, Sweden, Thailand, Trinidad and Tobago, Tunisia, Tanzania, Uruguay, Venezuela, Argentina, Australia, Brazil, Canada, Chile, Cuba and Cyprus.

Against: France, Federal Republic of Germany, Monaco, United Kingdom and United States of America.

Abstentions: Finland, German Democratic Republic, Greece, Hungary, Iceland, Ireland, Italy, Norway, Poland, Portugal, South Africa, Switzerland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic.

The Article was adopted in that form by 39 votes to 5, with 17 abstentions.

Mr. VAN DOORN (Netherlands) said that he had mistakenly voted in favour of the amendment put forward by the Federal Republic of Germany, having intended to vote against it. He had voted in favour of the United States proposal which, in his opinion, would improve the text of the Article.

Nevertheless, he had voted in favour of the proposed Article in its final form because it was a well-established principle of the Netherlands to further technical co-operation as far as it was in their power to do so.

Mr. KOTLIAR (USSR) said that the USSR was acutely aware of its obligations in the matter of technical assistance and that it always assumed them to the best of its ability. The new Article which had just been adopted, however, risked having financial repercussions on States Parties to the Convention. The Soviet delegation had not had time to ask its Government for instructions, the proposed text having been distributed not 3 days but 24 hours before being examined. The Soviet representative had therefore been forced to abstain. He was anxious to point out that the adoption of the Article by the Conference would not automatically impose any obligation on the Soviet Union, which would only provide technical assistance after studying each specific case and giving its agreement.

Mr. BREUER (Federal Republic of Germany) said that with regard to technical assistance, his country had faced all its obligations and even more. In a spirit of compromise, it had proposed a very general text capable of winning the support of the majority of delegations. Mr. Breuer had had to vote against the proposal finally put to the vote for lack of instructions.

Mr. MEGRET (France) said that France had been very much in favour of the idea behind the new article, more especially as France was one of the few developed countries which was achieving the objectives fixed by UNCTAD in the matter of technical assistance. France had nevertheless voted against the proposed article because it considered that the decision should have been taken by a resolution.

Mr. ARCHER (UK) had voted against the proposal for the reasons expressed by the Soviet and French representatives.

The PRESIDENT recalled that delegations had agreed to explain their votes in writing to the Secretariat, for inclusion in the final report.

Mr. GOAD (Secretary-General) pointed out that, for the authors of the article, it would be possible to insert the adopted article immediately before the present Article 17 of the Convention. For the sake of convenience however, he suggested that it be inserted immediately before Article 18.

It was so decided.

AGENDA ITEM 10 - ADOPTION OF THE FINAL ACT OF THE CONFERENCE AND ANY INSTRUMENTS, RECOMMENDATIONS AND RESOLUTIONS RESULTING FROM ITS WORK (MP/CONF/WP.30, MP/CONF/WP.18 and Corr.1)

Mr. GOAD (Secretary-General) pointed out that the draft Final Act (MP/CONF/WP.30) had been prepared in accordance with IMCO's usual practice.

Paragraph 13 gave a list of resolutions which, in view of the stage that the work of the Conference had reached, was possibly not exhaustive. It would be better to include a simple sentence in that paragraph indicating that the Conference had adopted a certain number of resolutions. The numbers and titles of those resolutions would then be annexed to the Final Act.

It was so decided.

Mr. GOAD (Secretary-General) said that in paragraph 14, further to the decisions taken by the Conference at its previous meeting, the square brackets in the eleventh line could be deleted, as could those in the twelfth and fourteenth lines. The thirteenth and fourteenth lines would then read: "...shall be prepared in the Arabic, German, Italian and Japanese languages". If the Conference adopted the draft Final Act, the official translations of the Protocol would have to be prepared in the same languages.

Mr. YTURRILAGA (Spain) pointed out that paragraph 12 should read as follows: "...the Conference adopted the following instruments:" deleting the references to signature and accession.

Paragraph 4 should state that the organizations in the United Nations system had sent "observers" to the Conference and not "representatives".

Mr. GOAD (Secretary-General) said that with regard to the latter point, the Secretariat had been guided by Rule 31 of the Rules of Procedure. The organizations under the United Nations system had sent representatives to the Conference with the status of observers.

The Final Act (MP/CONF/WP.30) as a whole, as amended and subject to editorial or drafting corrections, was adopted.

Consideration of the text of Protocols as agreed by the Drafting Committee (MP/CONF/WP.18 and Corr.1)

Mr. GOAD (Secretary-General) drew the attention of the Conference to a number of errors in the document. At the end of paragraph 2 of Article II of Protocol I, the

words "of the Convention" should be added. At the end of Article III (b) the words "of this Regulation" should be replaced by "of this Article". In addition, in the English version of Article VI of Protocol II, the words "Half of...." at the beginning of the second sentence should be deleted, as should "by each Party" at the end of the same sentence, the latter to be replaced by the words "equally by the Parties".

In the English text of Article IX of Protocol II, in the last sentence of paragraph 1 insert the words "the vote of" before "the Chairman".

The PRESIDENT invited the Conference to consider first of all Protocol I, namely, the Protocol to Article 8.

Mr. TRAIN (USA) supported by Mr. CALENDIA (Italy) and Mr. MEGRET (France) moved that the Protocol be put to the vote as a whole.

It was so decided.

Mr. BRENNAN (Australia) suggested changing the order of the paragraphs in Article III of that Protocol, so that paragraph (c) became paragraph (a), paragraph (a) became paragraph (b) and paragraph (b) became paragraph (c).

It was so decided.

Mr. MACGILLIVRAY (Canada) asked whether the asterisk in paragraph (c) (formerly (b)) and the accompanying footnote would be retained in the final text.

Mr. SASAMURA (IMCO Secretariat) stated that Committee II had in fact intended that the footnote should be retained in the text of the Convention.

Mr. MEGRET (France) asked whether it would not be preferable to delete from paragraph (c) the words "for the purpose of combating a specific pollution incident...", as that category of discharge was already covered in paragraph 3 of Article 2 of the Convention.

Mr. KOTLIAR (USSR) said he had thought that the footnote was to be included for the information of those delegations which had not taken part in the work of Committee II, but that it would not appear in the text of the Protocol.

Mr. TRAIN (USA) pointed out in reply to the representative of France, that if that notion of a specific pollution incident had no place in the Convention, consideration should be given as to whether or not it should be retained in the Annex. On the other hand the footnote, retained purely for information purposes, ought to be deleted in the final text of the Convention.



Mr. MATOV (USSR) supported the United States proposal to delete the asterisk and its accompanying footnote from the new paragraph (c) of Article III.

It was so decided.

Mr. SONDAAL (Netherlands) and Mr. POCH (Spain) were in favour of retaining the reference to specific pollution incidents in paragraph (c) as proposed by the representative of the United States.

Mr. MEGRET (France) also supported that proposal.

Mr. AGUIRRE (Cuba) proposed that the expression "geographical" be added after the word "position" in sub-paragraph (1)(c) of Article IV.

The text of Protocol I, as amended, was adopted as a whole.

## Protocol II

Mr. YFERRIAGA (Spain) proposed that if no delegation had any moment to make Protocol II be put to the vote immediately.

Mr. MEGRET (France) supported that proposal.

Protocol II was adopted by 48 votes to one, with 11 abstentions.

The PRESIDENT proposed that the Convention (MP/CONF/WP.17 and Corr.1), as amended, together with the Protocols (MP/CONF/WP.18 and Corr.1) be put to the vote immediately in their entirety.

Mr. MACGILLIVRAY (Canada) asked for details on the date of signature of the Convention, in the context of (renumbered) Article 13 - formerly Article 14 - as several dates had been put forward in that connexion.

Mr. GOAD (Secretary-General) said that the Conference would have to be content with signing the Final Act of the Conference.

Mr. YFERRIAGA (Spain) recalled that on Spain's proposal, it had been decided to delete from Article IX(12) the reference to signature and accession and simply say "the following instruments have been adopted". In that case, should it not be stated in Article 13 of the Convention that the Convention remained open for signature from 15 January 1974 to 31 December of the same year, and then remained open for accession.

Mr. GOAD (Secretary-General) confirmed that interpretation.

The PRESIDENT put the Convention (MP/CONF/WP.17 and Corr.1), as amended, and the Protocols (MP/CONF/WP.18 and Corr.1) to the vote.

The Convention and the Protocols were adopted by 58 votes to none, with 3 abstentions.

#### STATEMENTS BY DELEGATIONS

##### Union of Soviet Socialist Republics (MP/CONF/WP.38)

After the adoption of the Convention as a whole, the USSR delegation made the following statement explaining its vote on Article 4 and the new Article 9, to be included in the official summary records of the Conference.

"The term 'within the jurisdiction' in the context of the present Convention should be interpreted as meaning the territorial waters within 12 nautical miles".

##### Argentina (MP/CONF/WP.48)

The Argentine delegation reaffirms that the question of the content and extent of the jurisdiction of a coastal State over the waters, sea-bed and subsoil thereof adjacent to its coasts is not defined in the contractual international law in force and should be interpreted in the light of the other sources of international law, which include the practice of States. Therefore, this delegation cannot accept any interpretation which intends to limit the term "jurisdiction" to the territorial sea. It declares in this connexion that nothing in the adopted Convention affects or impairs the rights of the Argentine Republic as regards its maritime jurisdiction and its declared juridical position on this matter.

##### Australia

Australia cannot accept the interpretation placed by the delegation of the USSR on the term "within the jurisdiction of any Party" used in Article 4 since it is completely contrary to the clear provisions of Article 9.

##### Brazil, Chile, Ecuador, Peru and Uruguay (MP/CONF/WP.47)

The delegations of Brazil, Chile, Ecuador, Peru and Uruguay state again the fact that the question of the content and extent of the jurisdiction of coastal States over the waters, sea-bed and subsoil thereof adjacent to their coasts is not defined in the contractual international law in force. They affirm that this

question should be understood in the light of the practice of States, as a source of international law, and, in particular, the practice of extending the limits of the sovereignty or jurisdiction of coastal States up to 200 nautical miles from their coasts.

Canada (MP/CONF/WP.39)

The Canadian delegation cannot accept the interpretive statement by the delegation of the Union of Soviet Socialist Republics to the effect that the phrase "within the jurisdiction of any Party" in Article 4(2) refers only to the territorial sea of such party and to a maximum distance of 12 miles. In accordance with Article 9(3) of the Convention, the term "jurisdiction" is to be "construed in the light of international law in force at the time of application or interpretation of the present Convention". No rule of existing international law, in the opinion of the Canadian delegation, supports the interpretation of the term "jurisdiction" advanced by the delegation of the Union of Soviet Socialist Republics.

Italy (MP/CONF/WP.40)

The Italian delegation abstained from voting on Article 20 (renumbered Article 17). The Article was submitted 24 hours before the end of the Conference, although it contained obligations of a financial character. With regard to that particular point the Italian delegation was therefore unable to reply favourably as it would have desired.

Italy is, however, very favourably disposed towards the principle which the Article was intended to set up and, in particular, with regard to the construction of installations for the cleansing of the waters of tankers. The Italian delegation points out that the Italian authorities have already contacted the Mediterranean countries in case it should be necessary to provide technical or financial assistance for the construction of installations in the Mediterranean.

Japan (MP/CONF/WP.42)

It is the understanding of the Government of Japan that, under the international law of the sea currently in force, no coastal State is entitled to take unilateral measures applicable to foreign ships for the prevention of marine pollution within its jurisdiction other than those authorized in accordance with the relevant international rules and standards.

New Zealand (MP/CONF/WP.44)

The New Zealand delegation does not accept the statement made by the delegation of the Union of Soviet Socialist Republics to the effect that the phrase "within the jurisdiction" in the context of the present Convention is to be interpreted as meaning the "territorial waters within 12 nautical miles".

As stated in Article 9(3) of the Convention, the term "jurisdiction" is to be "construed in the light of international law in force at the time of application or interpretation of the present Convention".

It is the considered view of the New Zealand delegation that there is no existing rule in international law which restricts the interpretation of the term "jurisdiction" in the context of this Convention in the way advanced by the delegation of the USSR.

Nigeria (MP/CONF/WP.45)

In relation to Nigeria, the term "jurisdiction" as used in the International Convention for the Prevention of Pollution from Ships, 1973, will be interpreted to refer to the territorial waters of Nigeria as defined in Section 1(1) of the Territorial Waters Decree No. 5 of 1967 as amended by Section 1(1) of the Territorial Waters (Amendment) Decree No. 38 of 1971 as follows:

"The territorial waters of Nigeria shall for all purposes include every part of the open sea within 30 nautical miles of the coast of Nigeria (measured from low water mark) or of the seaward limits of inland waters".

Philippines

The Philippine delegation does not accept the statement made by the USSR delegation explaining its vote on Article 4 and the new Article 9, that "the term 'within the jurisdiction' in the context of the present Convention should be interpreted as meaning the territorial waters within 12 nautical miles".

The Philippine delegation holds the view that, in relation to the Philippines, the term "jurisdiction" in the present Convention should be interpreted in the light of the position of the Philippines with regard to her territorial waters as enunciated before appropriate United Nations bodies the archipelagic principles introduced in the Preparatory Committee for the Law of the Sea Conference and the definition of national territory in Article I Section I of the Philippine Constitution which took effect 17 January 1973 and which provides as follows:

"The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all the other territories belonging to the Philippines by historic right or legal title, including the territorial sea, the air space, the subsoil, the sea-bed, the insular shelves and the other submarine areas over which the Philippines has sovereignty or jurisdiction. The waters around, between, and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the Philippines".

As a result of a discussion between Mr. KOTILAR (USSR), Mr. RAFAELLI (Brazil), Mr. ADERO (Kenya), Mr. LEE (Canada), Mr. POCH (Spain) and Mr. BRENNAN (Australia), it was decided that written statements would be included in the final record of the meeting.

Mr. BREUER (Federal Republic of Germany) reserved the right to make a detailed statement at the Conference on the Law of the Sea.

AGENDA ITEM 8 - CONSIDERATION OF A DRAFT PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN OIL (MP/CONF/WP.23; MP/CONF/WP.19)

Mr. YANKOV (Bulgaria), Chairman of Committee IV, indicated the following editorial corrections: In Article I, paragraph 3, the references should be to paragraph 2(b); in Article IV, paragraph 1, the words "from 15 January 1974" should be inserted at the end of the penultimate line. He also reminded the Conference that draft Resolution 23 (MP/CONF/WP.29) containing a list of substances, was to be adopted in connexion with the Protocol. It would be decided on when the other draft Resolutions were taken up.

Preamble

Mr. CABOUAT (France) requested that, in the first line, the word "States" be deleted. That would bring the Preamble into line with the 1973 Convention and the Containers Convention and would enable the French Government to have a more accelerated method of signing and acceding to it, which it was anxious to do. It would mean no change of substance.

It was so decided.

The Preamble was adopted as amended.

Article I

Mr. BRENNAN (Australia) said that the 1969 Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties had resulted from an historic accident in which, by chance, the polluting substance was oil. If the substance had been other than oil, a different Convention would perhaps have been formulated. That Convention sanctioned intervention in the case of a serious incident and, in his delegation's view, that freedom to intervene should not differ from substance to substance. The 1969 Convention provided adequate safeguards of various kinds before intervention was permissible.

Paragraph 3 of Article I of the draft Protocol purported to add an additional safeguard. It was highly doubtful whether it did so, but it injected into the Protocol uncertainty where, but for its presence, there would be certainty. The paragraph did not state that a Party should have the burden of establishing that a particular substance did pose a grave and imminent danger, but that it "could reasonably pose". The danger would not have to be established as presenting the same threat as the substances referred to in sub-paragraph 2(a), but as being only "analogous". Such uncertainties deprived the paragraph of meaning. It left unclear when and how the burden was to be discharged and what the relationship was between that burden and Article III of the 1969 Convention itself.

He, therefore, proposed that there should be a separate vote on paragraph 3. His delegation would vote against it; if paragraph 3 were retained his delegation would vote against the Protocol as a whole.

Mr. MURRAY (Mexico) supported the Australian request. The subject had been thoroughly discussed in the Committee and he therefore suggested that there should be no further discussion and that the vote should be taken immediately.

Mr. WISWALL (Liberia) opposed the Australian proposal for a separate vote on Article I, paragraph 3.

Mr. KOTLIAR (USSR) said that throughout the preparatory work on the Protocol, there had been two opposing positions. One, including that of his own delegation, was that the Protocol should refer to harmful substances which were to be in an appended list. The other view, which included the Australian one, was that the Protocol should be taken to include any harmful substances. Article I represented a compromise between those points of view. It would be unwise to spoil it. The position defended by Australia had been thoroughly and lengthily discussed in the Committee and a considerable majority had rejected the Australian view.

If paragraph 3 were deleted from Article I, it would mean a radical change in the meaning of the whole Protocol and would, in his view, render it unacceptable.

The paragraph covered relations between Parties to the two instruments. It allowed certain intervention to be taken against a vessel belonging to a Party to the Protocol. If it were deleted, many States would be unable to become Parties to the Protocol and no intervention would be possible on the part of those States. The Protocol would, then, become a dead letter and would be useless.

He was opposed to a separate vote on paragraph 3 and suggested that the Article be voted on as a whole.

Mr. BRENNAN (Australia) said that Australia could not accept the view of the USSR that in the absence of a Protocol relating to intervention on the high seas in respect of substances other than oil there would be no right of intervention in the circumstances to which the Protocol relates. Australia believed that no coastal State would refrain from taking whatever action was necessary to protect areas under its jurisdiction from serious environmental damage and it believed that this right of a coastal State to intervene on the high seas to protect areas under its jurisdiction was recognized under customary international law.

Mr. CABOUAT (France) moved the closure of the debate on Article I.

Mr. BRENNAN (Australia), speaking on a point of order, said that the Soviet representative had made an observation to which he would like to reply. If the closure of the debate was carried and that would prevent him from doing so, he would like to reply before the vote on the closure.

The PRESIDENT said that would not be possible. Delegates might now only speak on the motion for closure of the debate.

Mr. RAMADAN (Egypt) seconded the motion to close the debate.

Mr. YTURRAGA (Spain) opposed the motion. It was essential to allow all points of view to be heard on that very important paragraph.

Mr. BRENNAN (Australia) also opposed the motion. Apart from the position of his delegation, it must be realized that the Protocol itself was in jeopardy. If paragraph 3 were retained, his delegation would vote against the whole Protocol and he thought others would do so too.

The motion to close the debate was adopted by 30 votes to 9, with 10 abstentions.

Mr. YTURRIAGA (Spain) said he thought that decision was a sign of irresponsibility. It might mean that many countries would not accede to the Protocol.

Mr. BRENNAN (Australia) said that he would like to reply to the Soviet representative's comments.

Mr. WISWALL (Liberia) said that, having earlier expressed a desire to speak in turn, he had tried to catch the President's eye three times as he had remarks of substance to make on Article I. If the Australian representative were allowed to reply, he would insist on making his statement.

The PRESIDENT ruled that, as the debate on the Article was closed, that extinguished the right of reply. A vote would next be taken on the Australian proposal to vote on the Article paragraph by paragraph.

Mr. DIAMANTOPOULOS (Greece) enquired whether that vote would be a matter of procedure, requiring a 50 per cent majority, or one of substance requiring a two-thirds majority.

The PRESIDENT ruled that it would be a matter of procedure.

The Australian proposal to vote on Article I paragraph by paragraph was rejected by 29 votes to 17, with 2 abstentions.

The PRESIDENT put Article I of the draft Protocol to the vote.

At the request of Mr. YTURRIAGA (Spain) a roll-call vote was taken.

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

In favour: Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Hungary, India, Iraq, Italy, Japan, Kuwait, Liberia, Nigeria, Norway, Poland, Romania, Saudi Arabia, Sweden, Switzerland, Thailand, Ukrainian SSR, USSR, United Kingdom, United States of America, Belgium, Brazil, Bulgaria, Byelorussian SSR, Denmark.

Against: Ireland, Mexico, New Zealand, Philippines, South Africa, Spain, Trinidad and Tobago, Australia, Canada, Cyprus.

Abstentions: Egypt, Iceland, Indonesia, Jordan, Kenya, Kmer Republic, Netherlands, Peru, Portugal, Venezuela, Argentina, Cuba.



Absent: Dominican Republic, Ecuador, Haiti, Iran, Ivory Coast, Libyan Arab Republic, Madagascar, Monaco, Morocco, Panama, Republic of Korea, Singapore, Sri Lanka, Tunisia, United Arab Emirates, United Republic of Tanzania, Uruguay, Bahrain, Chile.

Article I was adopted by 30 votes to 10, with 12 abstentions.

Article II

Article II was adopted by 40 votes to none, with 6 abstentions.

Article III

Article III was adopted by 39 votes to none, with 7 abstentions.

Article IV

Mr. YTURRIAGA (Spain) said that Article IV in the text before the Conference contained a double contradiction. The first, to which attention had been drawn in the Committee, was between paragraphs 1 and 4. Paragraph 1 stated that the Protocol should be open for signature by the States which had signed the Brussels 1969 Convention and by any State invited to be represented at the present Conference. Paragraph 4 stated that the Protocol might be ratified, accepted, approved or acceded to only by States which had ratified, accepted, approved or acceded to the 1969 Convention. Thus, if a State not Party to the Brussels Convention had been invited to the present Conference, it might sign the Protocol, but would be ineligible to ratify it. That would be an absurdity. His delegation could accept that the Protocol be open only to Parties to the 1969 Convention. Paragraph 4 could then be combined with paragraph 1 and itself be deleted. There was no need to distinguish between signature and ratification.

The second contradiction was between Article IV of the present Protocol and Article IX of the 1969 Convention. A State could become Party to the Convention merely by "signature without reservation as to ratification, acceptance or approval" (Article IX, 2(a)), but to become a Party to the Protocol, paragraph 4 of Article IV indicated that ratification, acceptance, approval or accession was necessary.

It had been decided that the Protocol should be related to the 1969 Convention, although many delegations had wished it to be an independent instrument. If it was to be related to the 1969 Convention, from the legal point of view the two texts should be brought into line. Moreover, the Protocol should enter into force when the Convention did.

Mr. YANKOV (Bulgaria), Chairman of Committee IV, said that the points raised by the Spanish representative had been discussed at length in the Committee. The contradiction between paragraphs 1 and 4 was merely apparent. The pragmatic purpose of Article IV, paragraph 1, was to give an opportunity to States represented at the present Conference, but which had not yet acceded to the 1969 Convention, to become a Party to the Protocol. The legal problem of whether a State or Party might be Party to the Protocol and not to the 1969 Convention had been catered for by allowing the two options indicated in paragraphs 1 and 4. The Committee had decided that they were not contradictory.

The question as to whether the Protocol should be an independent instrument had also been thoroughly discussed in the Committee, but it had been decided that the present Conference was not in a position to draft and negotiate an independent instrument.

Mr. TRAIN (USA) moved the closure of the debate on Article IV.

Mr. VALKANOV (Bulgaria) seconded the motion.

Mr. YTURRIAGA (Spain), opposing the motion for closure, said that the Chairman of Committee IV had misinterpreted him. He had not wished to reopen the question of whether a separate instrument could be negotiated.

Mr. DAVIS (Canada) opposed the motion for closure. He would have liked further discussion on the points raised by the Spanish representative. He agreed with the latter that an irresponsible attitude was being taken to the adoption of the Protocol.

It was decided to close the debate on Article IV by 30 votes to 10, with 6 abstentions.

The addition of the date proposed by the Chairman of Committee IV was adopted.

The PRESIDENT called for a roll-call vote on Article IV as amended.

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

In favour: Finland, France, Germany (Federal Republic of), Ghana, Greece, Hungary, Iceland, India, Indonesia, Iraq, Italy, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Liberia, Netherlands, Norway, Philippines, Poland, Singapore, Sweden, Switzerland, Thailand, United Kingdom, United States of America, Belgium, Brazil and Denmark.

Against: Ireland.

Abstentions: Egypt, German Democratic Republic, Mexico, New Zealand, Peru, Portugal, South Africa, Spain, Trinidad and Tobago, Ukrainian SSR, USSR, Argentina, Australia, Bulgaria, Byelorussian SSR, Canada, Chile, Cyprus.

Not taking part in the vote: Bahrain.

Absent: Dominican Republic, Ecuador, Haiti, Iran, Ivory Coast, Libyan Arab Republic, Madagascar, Monaco, Morocco, Nigeria, Panama, Republic of Korea, Romania, Saudi Arabia, Sri Lanka, Tunisia, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Cuba.

Article IV was adopted by 30 votes to one, with 18 abstentions, 1 country not taking part in the vote.

Article V

Article V was adopted by 39 votes to none, with 10 abstentions.

Article VI

Article VI was adopted by 36 votes to none, with 11 abstentions.

Article VII

Article VII was adopted by 40 votes to none, with 11 abstentions.

Article VIII

Article VIII was adopted by 40 votes to none, with 11 abstentions.

Article IX

Article IX was adopted by 38 votes to none, with 10 abstentions.

Article X

Article X was adopted by 37 votes to none, with 13 abstentions.

Article XI

Mr. YANKOV (Bulgaria), Vice-President, drew attention to the amendment to Article XI (MP/CONF/WP.19) of 31 October, regarding the inclusion of Russian as a fourth language in which the authentic text should be established.

Mr. KOTLIAR (USSR) added that the appropriate translation was now ready.

Article XI was adopted, as amended, by 43 votes to none, with 6 abstentions.

The PRESIDENT called for a vote on the Protocol as a whole.

The Protocol as a whole (MP/CONF/WP.23), as amended, was adopted by 36 votes to 10, with 6 abstentions.

AGENDA ITEM 10 - ADOPTION OF THE FINAL ACT OF THE CONFERENCE AND ANY INSTRUMENTS, RECOMMENDATIONS AND RESOLUTIONS RESULTING FROM ITS WORK  
(MP/CONF/WP.29; MP/CONF/WP.22; MP/CONF/WP.8; MP/CONF/WP.24; MP/CONF/WP.24/Add.1-2; MP/CONF/WP.27) (resumed and concluded)

Text of draft Resolutions as agreed by the Drafting Committee (MP/CONF/WP.29)

Mr. LINDENCROMA (Sweden), First Vice-President, took the chair.

#### Resolution 1

Mr. TRAIN (USA) said that his Government had already ratified the 1969 amendments, and urged all others to do so.

Mr. RAFFAELLI (Brazil) said his delegation could not support the Resolution.

There being no further comment, Resolution 1 was adopted.

#### Resolution 2

Mr. FAWZI (Egypt) said that in the opinion of his delegation, the adoption of Resolution 2 was premature, and would give an unfortunate impression that the Convention was not correct, complete or proper.

Mr. NIIGULA (Tanzania), who shared that view, saw no need to single out any one Article (e.g. 17) for special treatment.

Mr. VASSILIADES (Cyprus) also agreed.

Mr. VAN DOORN (Netherlands) considered that the Resolution was a commendable attempt to deal with an acute IMO problem, namely to ensure that machinery was provided by governments to bring amendments into force sooner than would otherwise be the case.

Mr. FAWZI (Egypt) said that his aim was not deletion, but postponement. As an alternative amendment, he proposed the addition of the words ".....and its amendments" to the heading of the Resolution.

Mr. KOTLIAR (USSR) spoke in support of the change in the heading, which he said was logical and did not affect the substance of the Resolution.

The amendment was approved.

Resolution 2 was adopted as amended by 37 votes to 3, with 10 abstentions.

### Resolution 3

Mr. STEEN (Sweden) stated that the Resolution was based on a Swedish proposal (MP/CONF/WP.22). During its consideration in Committee I, the words "towards the end of the decade" had been amended to read "as soon as possible", because at that time the year 1982 was mentioned in the definition of "new ships" in Annex I. That date had since been altered to 31 December 1979, making it both possible and desirable to speak of the end of the decade.

The use of ships with segregated ballast tanks was not the only means of eliminating pollution at sea; other methods, such as the development of a more sophisticated load-on-top system and tank washing techniques, being equally valuable. His delegation attached great importance to those activities, which should not be allowed to slacken after the present Conference.

It also considered it desirable to use the wording which accorded most closely with United Nations General Assembly Resolution 86, and felt that would be better achieved by adopting the original wording in MP/CONF/WP.22.

The Swedish proposal was supported by Mr. MADSEN (Denmark) and opposed by Mr. DREUER (Federal Republic of Germany).

The Swedish proposal was adopted.

In reply to a query from Mr. SONDAAL (Netherlands), Mr. SASAMURA (IMCO Secretariat) said that the words "other interests" in line 1 in the first operative paragraph had originally read "other parties". They had been changed because the word "parties" had a special meaning in the Convention, while "interests" could be used to describe any entity.

At the suggestion of Mr. FAWZI (Egypt), the words "other interests" were amended to read "other interested bodies".

The amendment to Resolution 3 was approved by 35 votes to 2, with 8 abstentions.

Resolution 3 was adopted, as amended, by 39 votes to one, with 4 abstentions.

Resolution 4

Resolution 4 was adopted by 37 votes to none, with 12 abstentions.

Resolution 5

Mr. HAREIDE (Norway) proposed to amend the phrase "international standards for navigational aids" to read "international performance standards for navigational aids" (second operative paragraph (a)(1), line 4).

It was so decided.

Mr. TRAIN (USA) proposed to amend the phrase "adequately covers the problem" to read "comprehensively covers the problem" (third preambular paragraph, line 1).

It was so decided.

Resolution 5 was adopted as amended.

Resolutions 6, 7 and 8

Resolutions 6, 7 and 8 were adopted without comment.

Resolution 9

Mr. BREUER (Federal Republic of Germany) proposed that the word "Organization" should read "Inter-Governmental Maritime Consultative Organization" (operative paragraph, line 1).

Resolution 9, thus amended, was adopted without further comment.

Resolution 10

Mr. ARCHER (UK), prompted by a comment from Mr. FAWZI (Egypt) to the effect that Regulation 16 was concerned with definition and not authorization, proposed to amend "permits" to read "provides for" (second preambular paragraph, line 2).

Resolution 10, thus amended, was adopted.

Resolution 11

At the request of Mr. RAFFAELLI (Brazil), a vote was taken.

Resolution 11 was adopted by 35 votes to none, with 13 abstentions.

Resolutions 12 and 13

Resolutions 12 and 13 were adopted without comment.

Resolution 14

Mr. DREUER (Federal Republic of Germany) suggested that the final words of the second operative paragraph ("INVITES.....") should be deleted.

Mr. TRAIN (USA) opposed the suggestion and argued the importance of permitting all the information which was available to come into play.

There was no support for the suggested deletion.

Resolution 14 was adopted without further comment.

Resolutions 15, 16, 17, 18 and 19

Resolutions 15, 16, 17, 18 and 19 were adopted.

Resolution 20

Resolution 20 was unanimously adopted.

Resolution 21

Mr. DREUER (Federal Republic of Germany) proposed that the first line of the operative paragraph should be deleted, so that the paragraph would then begin "URGES that Governments take appropriate action to ensure...", etc.

Resolution 21, thus amended, was adopted.

Resolution 22

Mr. KATEKA (Tanzania) proposed that the operative paragraph should be amended to read "REQUESTS the Secretary-General of the Inter-Governmental Maritime Consultative Organization to forward the International Convention for the Prevention of Pollution from Ships, 1973, and related documents, to the United Nations Conference on the Law of the Sea". The United Nations Sea-Led Committee had already sent a letter to the present Conference stating that, while it recognized the inter-relationship between the Conference's work and its own, it would not regard any decisions emanating from the Conference as binding upon it. All that the Conference could do was to submit the results of its work to the Sea-Led Committee for information. In his view, therefore, the last phrase of the operative paragraph was prejudicial, and should be deleted. However, such supporting documents as the Secretariat might consider useful to the Conference on the Law of the Sea could well be forwarded to the latter to assist it in its work.

The PRESIDENT pointed out that it might be difficult for the Secretariat to decide which of the Conference's many documents might be of use to the Law of the Sea Conference.

Mr. SOLOMON (Trinidad and Tobago) said that, while he had no objection to the addition of "and related documents", the last phrase of the paragraph was an extremely important one which had been agreed on only after extensive discussion in committee. He was therefore opposed to its deletion.

Mr. YANKOV (Dulgaria) supported that view. It was vital that the present Convention should be taken into account by the forthcoming Conference on the Law of the Sea. He appealed to the Tanzanian representative not to press his proposal.

The PRESIDENT asked if there was any support for the Tanzanian proposal.

The Tanzanian proposal, having received no support, was rejected.

Resolution 22 was adopted by 54 votes to none, with one abstention.

#### Resolution 23

The PRESIDENT pointed out that the text of the first operative paragraph, beginning "REQUESTS", should be amended to take into account decisions taken at the previous evening's meeting.

Resolution 23, thus amended, was adopted by 44 votes to none, with 6 abstentions.

Draft Resolution submitted by the Delegations of the Philippines, Kenya, Trinidad and Tobago, Iran, Indonesia, Mexico and Canada (MP/CONF/WP.8)

Mr. SOLOMON (Trinidad and Tobago) recalled that during the previous evening's discussion of a proposal to introduce into the Convention an Article on technical co-operation, the representative of the Federal Republic of Germany had pointed out that, if such an Article were to be accepted, there would be no instrument between now and the time of the Convention's entry into force whereby States would be urged to co-operate in that area. The proposed draft Resolution would be useful, therefore, in helping to promote technical co-operation through IMCO and other international bodies during the interim period.



Mr. IRENNAN (Australia) proposed that, in sub-paragraph (b) of the operative paragraph of the resolution, the words "research and" should be deleted, and a new sub-paragraph (d) added, reading "(d) the encouragement of research".

It was so decided.

Mr. SASAMURA (IMCO Secretariat) suggested that the first line of the operative paragraph should be amended to read "URGES the promotion, in consultation with IMCO and other international bodies..." to bring it into line with amendments to relevant Articles already adopted.

It was so agreed.

Mr. VASSILIADES (Cyprus) proposed the addition of a second operative paragraph, reading "FURTHER URGES Governments to initiate action in connexion with the above, without awaiting the coming into force of the Convention".

It was so decided.

The draft Resolution, as amended, was adopted by 44 votes to none, with 10 abstentions.

The PRESIDENT resumed the Chair at 4.30 p.m.

Draft Resolution proposed by the Delegations of Mexico and Venezuela (MP/CONF/WP.24; MP/CONF/WP.24/Add.1-2; MP/CONF/WP.27)

Miss FUENTES-BERAIN (Mexico) said that as co-sponsor of the Resolution her delegation had endeavoured to couch it in neutral language. Its intention was to avoid the possibility that the Convention, by the deletion of Article 9, might be interpreted as ignoring the rights of coastal States.

Her delegation could not accept the amendment proposed by Canada (MP/CONF/WP.24/Add.1), considering that the operative paragraph was not sufficiently neutral and threw the text out of balance, but it would nevertheless abstain from voting on it as a gesture of goodwill. It could, however, accept the amendments proposed by the Federal Republic of Germany (MP/CONF/WP.27) and Norway (MP/CONF/WP.24/Add.2).

Mr. YTURRIAGA (Spain) said that the Conference had now deleted Article 9, which provided for reservations with regard to the jurisdiction of coastal States. Although the draft Resolution under discussion partly remedied that omission, Article 5 still allowed a coastal State to inspect a vessel in port only for

certification purposes, and Article 6 allowed a port State to control discharges only under certain conditions. It should be made clear that, while the Convention established that coastal States had certain rights to take steps to prevent pollution, it did not imply that such States were deprived of any further rights in areas within their jurisdiction. He therefore proposed that the following text be added to the draft Resolution as a second operative paragraph: "FURTHER DECLARES that the rights exercised by a coastal State within its jurisdiction in accordance with the Convention do not preclude the existence of other rights of that State under international law".

Miss FUENTES-DERAIN (Mexico) said her delegation could accept that proposal.

Mr. DAVIS (Canada) said that as a reciprocal gesture of goodwill towards Mexico, his delegation would withdraw its proposed amendment. It would also abstain from voting on the draft Resolution (MP/CONF/WP.24), although it did not agree with the way in which it presented the issues to be decided by the Law of the Sea Conference.

Mr. ARCHER (UK) proposed that in the penultimate paragraph, beginning "CONVINCED", the word "coastal" should be deleted, and that the operative paragraph should read simply "DECLARES that the decisions of the Conference reflect a clear intention to leave that question to the Law of the Sea Conference".

Mr. BAR (Switzerland) and Mr. KOH ENG TIAN (Singapore) supported that proposal.

Mr. BRENNAN (Australia) could not accept the United Kingdom proposal. The intention of the draft Resolution had been to fill a gap left in the Convention as a result of the deletion of Article 9, but the proposal severed the last remaining threads of connexion between the Resolution and Article 9. He supported the Spanish proposal.

Mr. BREUER (Federal Republic of Germany) said that if the United Kingdom amendments were accepted he would withdraw his own delegation's proposed amendment (MP/CONF/WP.27).

Mr. RAFFAELLI (Brazil) said he could only vote in favour of the United Kingdom amendment if the second preambular paragraph of the Norwegian amendment ("MINDFUL of paragraph 2 of Article 10 of the International Convention for the Prevention of Pollution from Ships, 1973") were included in the text.

Mr. KOTLIAR (USSR) said that he found the original draft Resolution unacceptable because it related only to coastal States, whereas the Law of the Sea Conference would also cover landlocked countries. He could accept the Resolution, however, in the amended form proposed by the United Kingdom representative.

Mr. TRETIAK (Ukrainian SSR) supported that view.

Mr. HAREIDE (Norway) also preferred the United Kingdom formula. He suggested that in his own delegation's proposal for the addition of two preambular paragraphs (MP/CONF/WP.24/Add.2) the words "wherever necessary" should be added before "these international standards" in the first paragraph.

Mr. RAFFAELLI (Brazil) proposed that the Conference should vote on the draft Resolution paragraph by paragraph.

Miss FUENTES-BERAIN (Mexico) said that that would not now be necessary, since both co-sponsors of the draft Resolution had agreed to incorporate the various proposed amendments into the original text. That text would now, therefore, begin with the two preambular paragraphs proposed by Norway (MP/CONF/WP.24/Add.2), as amended. The word "coastal" in the paragraph beginning "CONVINCED" would be deleted, and the first operative paragraph would now be as proposed by the United Kingdom representative. Lastly, a second operative paragraph would be added, as proposed by the representative of Spain.

Mr. BRENNAN (Australia) said his delegation could accept the draft Resolution in that amended form.

Mr. CALEMDA (Italy) moved the closure of the debate.

Mr. CADOUAT (France) supported the motion.

Mr. GORMAN (Ireland) and Mr. BRENNAN (Australia) opposed the motion.

It was decided, by 50 votes to 6, with 2 abstentions, to close the debate on the draft Resolution.

Mr. SASAMURA (IMCO Secretariat) read out the draft Resolution incorporating the amendments accepted.

Mr. YTURRILAGA (Spain) opposed the proposal to vote on the draft Resolution paragraph by paragraph.

Having only received 7 votes in favour, the Brazilian proposal to vote on the draft Resolution paragraph by paragraph was rejected.

Draft Resolution (MP/CONF/WP.24 and MP/CONF/WP.24/Add.1-2), as amended, was adopted by 38 votes to 4, with 20 abstentions.

Draft Resolution submitted jointly by Canada, Denmark, Indonesia, Kenya, the Philippines, Sweden and Trinidad and Tobago (MP/CONF/WP.24)

Mr. TRETIAK (Ukrainian SSR) proposed two amendments. The first was to add, in the operative paragraph, after the word "Organization", the words "when necessary". The second was to delete from the third line of the operative paragraph, after the words "United Nations system", the whole of the phrase beginning with "particularly" and ending with "achieving", and to replace it by "in order to achieve". Those amendments were based on the idea that it should be left to the discretion of the IMCO Secretariat to decide which bodies it wished to consult; they would also eliminate repetitions in the text.

The proposed Ukrainian amendments were supported by the representatives of Bulgaria, Norway, Romania and Trinidad and Tobago.

The Ukrainian amendments to the draft Resolution (MP/CONF/WP.24) were adopted by 28 votes to 10, with 18 abstentions.

Draft Resolution (MP/CONF/WP.25), as amended, was adopted by 52 votes to one, with 5 abstentions.

The meeting was suspended at 5.55 p.m. and resumed at 6.00 p.m.

#### AGENDA ITEM 11 - SIGNATURE OF THE FINAL ACT OF THE CONFERENCE AND ANY INSTRUMENTS RESULTING FROM THE WORK OF THE CONFERENCE

The PRESIDENT said that delegates were now at the end of their labours and ready to sign the Final Act.

Mr. SAVELIEV (Executive Secretary) said that delegates would be called in alphabetical order of delegations. The Final Act could be signed by any member or members of the delegations at the discretion of the heads of the delegations.

The Final Act was signed by representatives of the following States:  
Argentina, Australia, Bahrain, Belgium, Brazil, Bulgaria, Byelorussian SSR, Canada, Chile, Cuba, Cyprus, Denmark, Dominican Republic, Ecuador, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of),

Ghana, Greece, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Italy, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Liberia, Malagasy Republic, Mexico, Monaco, Netherlands, New Zealand, Nigeria, Norway, Philippines, Poland, Portugal, Republic of Korea, Romania, Saudi Arabia, Singapore, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, United Republic of Tanzania, United States of America, Uruguay and Venezuela.

Mr. SAVELIEV (Executive Secretary) reported that the Final Act had been signed by 63 delegations.

#### CLOSURE OF THE CONFERENCE

The PRESIDENT said that the Conference had worked hard and had achieved very important results. It had made a good start on the road to the prevention of pollution of the seas, and he was sure that greater success would be achieved in the future.

He thanked all those who had co-operated in getting the work completed on time.

Mr. ARCHER (UK) said he felt a sense of achievement at the negotiation of a very good Convention. He paid tribute to the President for the long hours of hard work he had put in, and his fair and good-humoured decisions on the many difficult procedural points which had been raised.

He thanked the Secretary-General of IMCO and the Secretariat, the interpreters and all who had contributed to the success of the Conference.

The Conference had achieved something of importance to all mankind. The United Kingdom would be ready to sign the Convention as soon as the "book" was open.

The Conference paid tribute to the President by acclamation.

Mr. PERKOWICZ (Poland) seconded the vote of thanks proposed by the United Kingdom representative.

Mr. SUGIHARA (Japan) said that his delegation had been proud that the President of the Conference had been from an Asian country. He thanked him for his patience and strenuous efforts in overcoming the considerable difficulties which had arisen. He associated himself with the expressions of gratitude to all concerned.

Mr. FAWZI (Egypt), speaking on behalf of the Arab countries represented, also expressed his congratulations to the President on the fruitful outcome of the Conference. A Convention had been written which the world had been waiting for.

Mr. TOUKAN (Jordan) associated himself with the previous speakers. The President had shown wisdom and skill in handling the proceedings.

The PRESIDENT said that determination to achieve success had led to its achievement. He looked forward to greater achievement on the foundations laid.

He declared the Conference closed.

The meeting rose at 6.55 p.m.



## IMCO

FOR PARTICIPANTS ONLY

INTERNATIONAL CONFERENCE ON  
MARINE POLLUTION, 1973

### PROVISIONAL SUMMARY RECORD OF THE THIRTEENTH PLENARY MEETING

held at Church House, Westminster, London S.W.1,  
on Friday, 2 November 1973 at 11.45 a.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

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**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 W1A 0AE, not later than 10 December 1973.

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REPORT OF THE CREDENTIALS COMMITTEE (MP/CONF/1, Add.1 and Add.2)  
(continued)

Mr. ARAQUE (Philippines)(Chairman of the Credentials Committee) stated that Credentials of the representatives of the following countries: Dominican Republic, Haiti, Hungary, Ivory Coast, Libyan Arab Republic, Tunisia and Saudi Arabia had been examined by the Committee and found to be in due and proper form. Documents accrediting the observers of Colombia, Malawi, Turkey and Yugoslavia had also been examined by the Committee and found to be in due and proper form.

The Conference took note of Addenda 1 and 2 to the Report of the Credentials Committee.

AGENDA ITEM 7 - CONSIDERATION OF A DRAFT INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS (MP/CONF/WP.26, MP/CONF/WP.30, MP/CONF/WP.18 and Corr.)(continued)

Mr. TOUKAN (Jordan) duly apologized to the representative of Brazil for genuinely having misinterpreted what he had said the previous day. Fearing lest the proposal to adopt Arabic as an official language be rejected, and upset by the hurtful remarks made by the representative of a friendly country, he had not paid sufficient attention to the end of the debate, hence the misunderstanding with the representative of Brazil, whose country occupied a privileged place in Arab hearts. He hoped that Mr. Raffaelli would accept his apologies.

Mr. RAFFAELLI (Brazil) thanked Mr. Toukan for his words. Brazil was a melting pot for diverse elements and many people from Arab countries had emigrated to Brazil and made their contribution to its civilization. He recognized in the gesture of the representative of Jordan the true Arab qualities which his country had been able to appreciate throughout the centuries: courtesy, human warmth and generosity.

Mr. MATOV (USSR) said that his country attached great importance to technical assistance, as was proved by the aid constantly given to needy countries. It seemed, however, that the question dealt with in the document under consideration had not been considered with the representatives of the United Nations Environment

Programme, and he asked if the Conference could adopt the proposed article without prior consultation. The representative of the United Kingdom had asked that question the previous day, and had still been given no reply.

Further, the project had been submitted late and, owing to its considerable financial repercussions, the delegation of the Soviet Union was not able to support it and would therefore abstain from voting unless otherwise instructed by his government.

Mr. KANEKO (United Nations Environment Programme) referred to what the representative of the United Kingdom had said the previous day and emphasized that the difference between Article 9 of the Convention on dumping and the draft under consideration, in respect of the co-operation of the United Nations Environment Programme, was that the Programme had not existed when the Convention was adopted, as it had officially been created on 15 December 1972, thus one month after the adoption of the Convention. As he himself had taken part in the work of the Conference on dumping he thought he could say that if the United Nations Environment Programme had been set up earlier, it would have been referred to in Article 9.

It was not for him to give an opinion on the expediency or otherwise of adopting a proposed article or resolution, but he considered it to be his duty to say that if the Contracting Parties assumed joint responsibility for measures intended to protect the marine environment, it would also be their responsibility to co-operate with a view to promoting support for States requiring technical assistance in order to be able to discharge their obligations. It seemed it would be preferable therefore to include the proposed text in the Convention rather than in a resolution.

The United Nations Environment Programme was always prepared to assume its responsibilities and provide the necessary services ; contribute to the protection of the human environment in general and the marine environment in particular.

Mrs. PRITCHARD (Philippines) stated that in spite of the pressures brought to bear by one delegation, the Philippine delegation upheld the proposal it had put forward with the support of many other countries.

She pointed out that the proposed text only required Contracting Parties to "promote" support for States in need of technical assistance, thus allowing each country to act in accordance with the resources it had available.

Moreover, the text did not give international organizations, as some feared, the sovereign right to decide on what aid was to be granted, since every organization acted in consultation with the States concerned and those States were in a position to consult the appropriate bodies.

She pointed out finally that if the document had only been distributed the previous day her delegation was not responsible because it had been ready for some time. Moreover, there could be no claim that it could not be adopted through lack of government instruction since it was easy to consult the competent authorities by telephone.

Mr. TOUKAN (Jordan) supported the statements which had been made in favour of the proposed new article.

Mr. DOUAY (France) approved the content of the draft under consideration and said there was no need to call to mind the position of the French Government as regards the provision of technical assistance to countries which required it.

He proposed that greater force be given to the draft text by inserting in the first line after "shall promote" the words "with a view to furthering the aims and purposes of this Convention", and in the fourth line, before the word "support" the words "preferably within the countries concerned".

He would not bring up the matter of the financial repercussions of the proposed article for fear of raising arguments against its adoption. Any such difficulties would have to be overcome.

He preferred to draw the attention of the Conference to the legal aspect of the question. The introduction of a similar article in the Convention on dumping was perfectly justified because that Convention created a body that could assume responsibilities in respect of technical assistance. However, the draft under consideration only referred, in Article 17, to the creation of a body to revise the Convention. The proposed new article therefore

would be reduced to a declaration of intent and the legal means chosen by the authors to implement their excellent proposal would thus be ineffective. The French delegation would vote in favour of a resolution requiring the Conference to entrust the responsibility for technical assistance to the body to be set up under Article 17 but it could not decide in favour of an article which, in the absence of the appropriate body would remain a dead letter.

Mr. NHIGULA (Tanzania) supported the proposal to insert the draft of a new article in the Convention.

Mr. OXMAN (USA) recalled that the United States Government had always supported proposals similar to that under consideration and had no objection to its substance, but he wondered what the true meaning of the article would be: if it constituted a real commitment, the Minister of Finance would have to go into the matter thoroughly; if the word "promote" was only a vague term, one might ask what was the significance of the article.

In relation to the co-operation of the United Nations Environment Programme it must be emphasized on the one hand that it had been set up by the United Nations General Assembly and could be amended by a further decision by that Assembly; on the other hand it covered many services and it was not certain that the responsibilities contemplated were incumbent upon its Executive Director.

Further, Mr. Oxman did not consider that it could be said that support would be given "through the Organization" since aid programmes in that field were often bilateral programmes.

A further difficulty stemmed from the fact that technical assistance was considered as reception facilities when, according to the Convention, such facilities were to be financed by the States and were not, moreover, the only means envisaged in that connexion.

The United States delegation therefore considered that it would be difficult to include the proposed article in the Convention but would adopt a different position if it meant that a resolution on technical assistance had to be drawn up.

Mr. SUGIHARA (Japan) supported the substance of the proposed draft.

Mr. SEKYI (Ghana) emphasized that pollution could only be eliminated with the co-operation of all countries, whether developed or developing, and those with limited resources would therefore have to count on support from the more fortunate countries.

By way of a compromise he proposed that the draft article should be incorporated in the Convention and reinforced with a resolution.

Mr. TOUKAN (Jordan) pointed out that a resolution would only have the significance of a wish, whereas an article would represent the first step in implementation.

Mr. DINGA (Kenya) fully approved the first part of the speech made by the representative of France and would also approve the resolution that he proposed should be drawn up provided that it complemented an article of the Convention. The Convention was only justified if it effectively enabled pollution to be eliminated, and the co-operation of developing countries in that fight was essential. The support they should receive could not be limited to that which could be offered to them under bilateral agreements.

It had been proposed that a resolution rather than a new article be adopted on the pretext that it could more rapidly be implemented, but such an objection was without foundation because there would clearly be no opposition to the anticipated application of an article relating to technical assistance.

Mr. YANKOV (Bulgaria) approved of the idea of technical assistance, which was the basis of the text under discussion - his country could also take advantage of such technical assistance in some cases. He had, however, been very alive to the arguments put forward by the French delegation. Then again, it seemed to him that the proposed text was fairly restrictive, both from the

institutional point of view and from the point of view of its practical significance. Without wishing to dispute the value of the UNEP contribution, he in fact considered that all kinds of technical assistance and the ways in which it could be given (on a bilateral basis, within a regional framework, through existing organizations or even through a new body to be set up) had to be considered. Finally for a text which did not specifically provide for obligations imposed on Contracting States, and which rather expressed desires and intentions, it would be better to have a Resolution than an Article of a Convention. The Bulgarian delegation would abstain if it were asked to vote on the inclusion of that text as an article; it would adopt another position if it were a draft resolution.

Mr. MACGILLIVRAY (Canada) stated that his delegation would approve the draft article in the spirit which had guided the representatives of his country to approve similar provisions in the Stockholm Convention and in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. The inclusion of such a text in the very body of the Convention would enable its purposes to be pursued more quickly and more effectively.

Mr. BRENNAN (Australia) announced that in accordance with his Government's instructions he would support the proposed text, whether it was put forward in the form of an article or of a Resolution. The Australian delegation considered that reference to the Organization or to the UNEP did not constitute a restrictive element. Australia was prepared to meet any request for assistance whether the State concerned preferred to go through IMCO, through the UNEP or any other body, or whether it preferred bilateral aid.

Some speakers had expressed fears regarding the reference to reception facilities. The Australian delegation was convinced that the States concerned solely contemplated technical assistance for the installation of those facilities, and that it was not a question of direct finance.

The Australian authorities, mindful of not limiting assistance respecting research to material and equipment, had asked their delegation to propose the following amendment:

- in paragraph (b) of the proposed article, the comma and the word "research" to be deleted;

- a paragraph (d) to be added to read: "the promotion of research.";

Mrs. PRITCHARD (Philippines) accepted that amendment on behalf of her delegation.

Mr. STAN (Romania) supported the basic idea of the proposed article (MP/CONF/WP.26), which was very close to what had guided his own delegation in the preparation of document MP/CONF/7/1, the terms of which he recalled. In view, however, of the financial implications which would arise from the inclusion of that text in the Convention as an Article, he would prefer it to be in the form of a Resolution.

Mr. SUGIHARA (Japan) asked the President to speed up the discussion which was taking up precious time.

The PRESIDENT said he would indeed have to limit the time accorded to speakers if the discussion continued much longer.

Mr. OXMAN (USA) supported the remark made by the representative of Japan. He regretted having to go against this new proposed article which, because of its implied political questions, was unacceptable to the United States Government. With regard to the question raised by the representative of Bulgaria, that it should be possible to consider all kinds of technical assistance and the ways in which it could be given, he was obliged to call to mind the invariable position of the authorities of his country which considered it unacceptable to include any provisions relative to bilateral agreements in a multilateral agreement. Opposition on the part of the United States delegation could be lifted if the authors of the proposed article were to accept the following amendments that could be put to the vote separately:

- the first line to read: "The Contracting Parties, in order to promote the furtherance of the aims and purposes of this Convention, shall, through.....";

- the second line to read: "....through the Organization and in consultation with other appropriate international bodies, including the United Nations Environment Programme....."

- to make the present text of the article into a first paragraph and to add a second paragraph: "(2) The Organization, through the body referred to in article.....(17 or 16, accordingly) shall take measures to supervise the effective implementation of this Article."

Mr. LONGE (Nigeria) supported MP/CONF/WP.26. The Convention would impose a fairly heavy financial burden on all participating States. It would therefore be advisable for it to contain provisions enabling States which were not in a position fully to bear that burden to request technical assistance at least. The text should therefore be voted on in the form of an Article. The Conference could perhaps also vote a Resolution in the same sense.

Mr. OXMAN (USA) in reply to a question by Mr. YANKOV (Bulgaria) stated that he very well understood the intentions of the French delegation, one of whose proposals he had used in his amendment. Indeed it was of little importance to him whether the text under discussion was voted as an Article or as a Resolution. He had only sought to improve the basis of the text in order that he should not be obliged to vote against it.

Mr. POCH (Spain) regretted that the United States proposal had started up another discussion of which he would have liked to move the closure. He proposed that the list of speakers be closed finally and that the time accorded to each be limited.

It was so decided. The time for each speaker was limited to two minutes.

Mr. MEGRET (France) proposed the following amendment:

- to change the title of document MP/CONF/WP.26 as follows: "Resolution relating to technical co-operation...."

The PRESIDENT considered that any amendment aimed at transforming an Article into a Resolution was out of order. The French delegation must keep its draft Resolution for any discussion which might follow the decision on the proposed Article.

Mr. SOLOMON (Trinidad and Tobago) supported the amendment put forward by the United States delegation.



Mr. DEMETROPOULOS (Cyprus) could not accept any formula other than the insertion of the provisions relating to technical assistance as an Article of the Convention. He called for a roll-call vote.

Mr. BREUER (Federal Republic of Germany) recalled that his delegation had been the first to suggest that the provisions relating to technical assistance should be incorporated into a Resolution. He had listened carefully to the various speeches, and notably that of the representative of Bulgaria. He noted that the Conference was very divided. He suggested a compromise solution which to him appeared to suit a fairly large majority:

- to insert a very short article in the Convention which might be worded as follows: "The Contracting Parties shall further the aims of this Convention by providing technical assistance."

- to take the proposed text MP/CONF/WP.26 with all possible amendments, as a Resolution.

Mr. YANKOV (Bulgaria) supported the amendment put forward by the Federal Republic of Germany.

Mr. TURKI (Tunisia) was surprised to see a number of highly industrialized countries hesitating to vote on the proposed article when a developing country like his own, aware of its responsibilities, had not hesitated to subscribe to the Stockholm decisions, to build an oil filter basin at La Skira, to set aside from its development plan considerable sums for the treatment of sullage, to carry out destruction tests on oil slicks that threatened its beaches, to fight desertification, and when its authorities had not waited for the outcome of the Conference to give the Tunisian national ports department instructions that consideration should henceforth be given to the setting up of reception facilities for residues, refuse and sullage from ships. The new text would certainly involve a number of financial obligations. Could highly industrialized countries hesitate to give their mite to those who, despite their lack of means, had already made every effort to improve the environment on what in Stockholm was called "the unique land of men?"

Mrs. PRITCHARD (Philippines) said she was happy to see that almost all the delegations approved the spirit of document MP/CONF/WP.26. She could not accept the amendment put forward by the United States delegation because it would modify the spirit of the text, any more than she could accept the amendment of the Federal Republic of Germany which would strip the article of its meaning. She accepted on the other hand the slight drafting alterations proposed by the French delegation and the amendment proposed by the Australian delegation to make another paragraph (d) to cover research. She was very happy with the suggestion made by the delegations of Ghana, Nigeria and Kenya to add to the Convention a resolution relating to technical assistance. Such a resolution would fortunately strengthen the provisions made in that connexion, provided, of course, that the terms of the new proposed article were not modified.

Some speakers had brought up legal considerations which were the cause for their misgivings over the new article. There was no need to be a jurist to know that the law had to adapt to the needs of man and not the reverse.

Mr. OXMAN (USA) in reply to the questions put by Mr. YANKOV (Bulgaria) and Mr. TIKHONOV (USSR) and having regard to the acceptance by the delegation of the Philippines of the amendment proposed by the Australian delegation, read the text which would result from his modified amendments.

(1) "The Contracting Parties, in order to promote the furtherance of the aims and purposes of this Convention, shall through the Organization and in collaboration with other appropriate international bodies, including the United Nations Environment Programme, promote support for those States which request technical assistance for:

- (a) the training of scientific and technical personnel;
- (b) the supply of necessary equipment and facilities for reception and monitoring;
- (c) no change;
- (d) the promotion of research;

preferably within the countries concerned.

(2) The Organization shall take the necessary measures for the effective application of this article".

The United States delegation would call for a separate vote on each of those two paragraphs.

Mrs. PRITCHARD (Philippines) said that the United States proposal was still unacceptable to the authors of the proposed article because UNCO was in no way empowered to do what would be demanded of it.

The PRESIDENT put the amendment of the Federal Republic of Germany to the proposed article, to the vote.

The amendment of the Federal Republic of Germany was rejected by 21 votes to 19, with 19 abstentions, having failed to obtain the required two-thirds majority.

The PRESIDENT put to the vote paragraph 1 of the Article in the version proposed by the United States.

The amendment was rejected by 20 votes to 19, with 19 abstentions.

The PRESIDENT put to the vote paragraph 2 of the text proposed by the United States.

The amendment was rejected by 19 votes to 11, with 27 abstentions.

Mr. BAR (Switzerland) said that he had not voted on paragraph 2 of the United States proposal, as the ballot was superfluous since paragraph 1 had already been rejected.

The PRESIDENT read out the new draft article as it stood after the incorporation of the amendments accepted by its authors:

"Promotion of technical co-operation

The States Parties to the Convention shall, in consultation with the Organization and other international bodies, with the assistance of the Executive Director of the United Nations Environment Programme, who will be responsible for co-ordination, promote support for those States which request technical assistance for:

- (a) the training of scientific and technical personnel;
- (b) the supply of necessary equipment and facilities for reception and monitoring;
- (c) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships;
- (d) the promotion of research;

preferably within the countries concerned, so furthering the aims and purposes of this Convention".

The PRESIDENT put the proposed article to the vote.

At the request of the representative of Cyprus a roll-call vote was taken. Denmark, having been drawn by lot by the President, was called upon to vote first.

In favour: Denmark, Ecuador, Egypt, Ghana, India, Indonesia, Iraq, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Liberia, Libyan Arab Republic, Mexico, Netherlands, New Zealand, Nigeria, Peru, Philippines, Romania, Saudi Arabia, Singapore, Spain, Sri Lanka, Sweden, Thailand, Trinidad and Tobago, Tunisia, Tanzania, Uruguay, Venezuela, Argentina, Australia, Brazil, Canada, Chile, Cuba and Cyprus.

Against: Franco, Federal Republic of Germany, Monaco, United Kingdom and United States of America.

Abstentions: Finland, German Democratic Republic, Greece, Hungary, Iceland, Ireland, Italy, Norway, Poland, Portugal, South Africa, Switzerland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic.

The article was adopted in that form by 39 votes to 5, with 17 abstentions.

Mr. VAN DOORN (Netherlands) said that he had mistakenly voted in favour of the amendment put forward by the Federal Republic of Germany, having intended to vote against it. He had voted in favour of the United States proposal which in his opinion would improve the text of the article.

Nevertheless, he had voted in favour of the proposed article in its final form because it was a well-established principle of the Netherlands to further technical co-operation as far as it was in their power to do so.

Mr. KOTLIAR (USSR) said that the USSR was acutely aware of its obligations in the matter of technical assistance and that it always assumed them to the best of its ability. The new article which had just been adopted, however, risked having financial repercussions on States Parties to the Convention. The Soviet delegation had not had time to ask its Government for instructions, the proposed text having been distributed not 3 days but 24 hours before being examined. The Soviet representative had therefore been forced to abstain. He was anxious to point out that the adoption of the article by the Conference would not automatically impose any obligation on the Soviet Union, which would only provide technical assistance after studying each specific case and giving its agreement.

Mr. BREUER (Federal Republic of Germany) said that with regard to technical assistance, his country had faced all its obligations and even more. In a spirit of compromise, it had proposed a very general text capable of winning the support of the majority of delegations. Mr. Breuer had had to vote against the proposal finally put to the vote for lack of instructions.

Mr. MEGRET (France) said that France had been very much in favour of the idea behind the new article, more especially as France was one of the few developed countries which was achieving the objectives fixed by the UNICECD in the matter of technical assistance. France had nevertheless voted against the proposed article because it considered that the decision should have been taken by a resolution.

Mr. ARCHER (UK) had voted against the proposal for the reasons expressed by the Soviet representative and by the French representative.

The PRESIDENT recalled that the Conference had agreed to explain their votes in writing to the Secretariat for inclusion in the final report.

The SECRETARY-GENERAL pointed out that, for the authors of the article, it would be possible to insert the adopted article immediately before the present Article 17 of the Convention. For the sake of convenience however, he suggested that it be inserted immediately before Article 18.

It was so decided.

DRAFT FINAL ACT OF THE INTERNATIONAL CONFERENCE ON MARINE POLLUTION, 1973  
(Agenda item 10)(MP/CONF/WP.30)

The SECRETARY-GENERAL pointed out that the draft Final Act had been prepared in accordance with IMCO's usual practice.

Paragraph 13 gave a list of resolutions which in view of the stage that the work of the Conference had reached, was possibly not exhaustive. It would be better to include a simple sentence in that paragraph indicating that the Conference had adopted a certain number of resolutions. The numbers and titles of those resolutions would then be annexed to the Final Act.

It was so decided.

The SECRETARY-GENERAL said that in paragraph 14, further to the decisions taken by the Conference at its previous meeting, the square brackets in the eleventh line could be deleted, as could those in the twelfth and fourteenth lines. The thirteenth and fourteenth lines would then read: "...shall be prepared in the Arabic, German, Italian and Japanese languages". If the Conference adopted the draft Final Act, the official translations of the Protocol would have to be prepared in the same languages.

Mr. POCH (Spain) pointed out that paragraph 12 should read as follows: "...the Conference adopted the following instruments:" deleting the references to signature and accession.

Paragraph 4 should state that the organizations in the United Nations system had sent "observers" to the Conference and not "representatives".

The SECRETARY-GENERAL said that with regard to the latter point the Secretariat had been guided by Article 31 of the Rules of Procedure. The organizations under the United Nations system had sent representatives to the Conference with the status of observers.

The Final Act as a whole, as amended and subject to material or drafting corrections, was adopted.

Consideration of the text of Protocols as agreed by the Drafting Committee (MP/CONF/WP.18 and Corr.1)

The SECRETARY-GENERAL drew the attention of the members of the Conference to a number of errors in the document. At the end of paragraph 2 of Article II of Protocol I, the words "of the Convention" should be added. At the end of Article III (b) the words "of this Regulation" should be replaced by "of this Article". In addition, in the English version of Article VI of Protocol II, the words "Half of..." at the beginning of the second sentence should be deleted, as should "by each Party" at the end of the same sentence, the latter to be replaced by the words "equally by the Parties".

In the English text of Article IX of Protocol II, in the last sentence of paragraph 1 insert the words "the vote of" before "the Chairman".

The PRESIDENT invited the plenary Conference to consider first of all Protocol I, namely, the Protocol to Article 8.

Mr. TRAIN (USA) supported by Mr. CALENDI (Italy) and Mr. MEGRET (France) moved that the Protocol be put to the vote as a whole.

It was so decided.

Mr. BRENNAN (Australia) suggested changing the order of the paragraphs in Article III of that Protocol, so that paragraph (c) became paragraph (a), paragraph (a) became paragraph (b) and paragraph (b) became paragraph (c).

It was so decided.

Mr. MACGILLIVRAY (Canada) asked whether the asterisk in paragraph (c) (formerly (b)) and the accompanying footnote would be retained in the final text.

Mr. SASAMURA (Secretariat) stated that Committee II had in fact intended the footnote should be retained in the text of the Convention.

Mr. MEGRET (France) asked whether it would not be preferable to delete from paragraph (c) the words "for the purpose of combating a specific pollution incident...", as that category of discharge was already covered in paragraph 3 of Article 2 of the Convention.

Mr. KOTLIAR (USSR) said he had thought that the footnote was to be included for the information of those delegations which had not taken part in the work of Committee II, but that it would not appear in the text of the Protocol.

Mr. TRAIN (USA) pointed out in reply to the representative of France, that if that notion of a specific pollution incident had no place in the Convention, consideration should be given as to whether or not it should be retained in the Annex. On the other hand the footnote, retained purely for information purposes, ought to be deleted in the final text of the Convention.

Mr. MATOV (USSR) supported the United States proposal to delete the asterisk and its accompanying footnote from the new paragraph (c) of Article III.

It was so decided.

Mr. SONDAAL (Netherlands) and Mr. POCH (Spain) were in favour of retaining the reference to specific pollution incidents in paragraph (c) as proposed by the representative of the United States.

Mr. MEGRET (France) also supported that proposal.

Mr. AGUIRRE (Cuba) proposed that the expression "geographical" be added after the word "position" in sub-paragraph (1)(c) of Article IV.

The text of Protocol I, as amended, was adopted as a whole.

## Protocol II

Mr. POCH (Spain) proposed that if no delegation had any comment to make Protocol II be put to the vote immediately.

Mr. MEGRET (France) supported that proposal.

Protocol II was adopted by 48 votes to one, with 11 abstentions.



The PRESIDENT proposed that the Convention (MP/CONF/WP.17) and the Protocols (IP/CONF/WP.18 and Corr.1) be put to the vote immediately in their entirety.

Mr. MACGILLIVRAY (Canada) asked for details on the date of signature of the Convention, in the context of Article 14, as several dates had been put forward in that connexion.

The SECRETARY-GENERAL said that the Conference would have to be content with signing the Final Act of the Conference.

Mr. POCH (Spain) recalled that on Spain's proposal it had been decided to delete from Article IX(12) the reference to signature and accession and simply say "the following instruments have been adopted". In that case should it not be stated in Article XIV of the Convention that the Convention remained open for signature from 15 January 1974 to 31 December of the same year, and then remained open for accession.

The SECRETARY-GENERAL confirmed that interpretation.

The PRESIDENT put the Convention (MP/CONF/WP.17) and the Protocols (IP/CONF/WP.18 and Corr.1) to the vote.

The Convention and the Protocols were adopted by 58 votes to nil, with 3 abstentions.

As a result of a discussion between Mr. KOMLIAR (USSR), Mr. RAFFAELLI (Brazil), Mr. ADERO (Kenya), Mr. LEE (Canada), Mr. POCH (Spain) and Mr. BRENNAN (Australia), it was decided that written statements submitted by the following countries would be included in the final record of the meetings: Argentina, Brazil, Canada, Chile, Ecuador, Japan, Nigeria, New Zealand, Peru, Uruguay and the Union of Soviet Socialist Republics.

Mr. BREUER (Federal Republic of Germany) reserved the right to make a detailed statement at the Conference on the Law of the Sea.

AGENDA ITEM 8 - CONSIDERATION OF A DRAFT PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN OIL (MP/CONF/WP.23)

Text of Protocol agreed by the Drafting Committee

Mr. YANKOV (Bulgaria), Chairman of Committee IV, indicated the following editorial corrections: In Article 1, paragraph 3, the references should be to paragraph 2(b); in Article IV, paragraph 1, the words "from 15 January 1974" should be inserted at the end of the penultimate line. He also reminded the Conference that draft Resolution 23 in document MP/CONF/WP.29 containing a list of substances, was to be adopted in connexion with the Protocol. It would be decided on when the other draft Resolutions were taken up.

Preamble

Mr. CABOUAT (France) requested that, in the first line, the word "States" be deleted. That would bring the Preamble into line with the 1973 Convention and the Containers Convention and would enable the French Government to have a more accelerated method of signing and acceding to it, which it was anxious to do. It would mean no change of substance.

It was so decided.

The Preamble was adopted as amended.

Article I

Mr. BRENNAN (Australia) said that the 1969 Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties had resulted from an historic accident in which, by chance, the polluting substance was oil. If the substance had been other than oil, a different Convention would perhaps have been formulated. That Convention sanctioned intervention in the case of a serious incident and, in his delegation's view, that freedom to intervene should not differ from substance to substance. The 1969 Convention provided adequate safeguards of various kinds before intervention was permissible.

Paragraph 3 of Article I of the draft Protocol purported to add an additional safeguard. It was highly doubtful whether it did so, but it

injected into the Protocol uncertainty where, but for its presence, there would be certainty. The paragraph did not state that a Party should have the burden of establishing that a particular substance did pose a grave and imminent danger, but that it "could reasonably pose". The danger would not have to be established as presenting the same threat as the substances referred to in sub-paragraph 2(a), but as being only "analogous". Such uncertainties deprived the paragraph of meaning. It left unclear when and how the burden was to be discharged and what the relationship was between that burden and Article III of the 1969 Convention itself.

He, therefore, proposed that there should be a separate vote on paragraph 3. His delegation would vote against it: if paragraph 3 were retained his delegation would vote against the Protocol as a whole.

Mr. MURRAY (Mexico) supported the Australian request. The subject had been thoroughly discussed in the Committee and he therefore suggested that there should be no further discussion and that the vote should be taken immediately.

Mr. COOPER (Liberia) opposed the Australian proposal for a separate vote on Article I, paragraph 3.

Mr. KOTLIAR (USSR) said that throughout the preparatory work on the Protocol there had been two opposing positions. One, including that of his own delegation, was that the Protocol should refer to harmful substances which were to be in a list appended to it. The other view, which included the Australian one, was that the Protocol should be taken to include any harmful substances. Article I represented a compromise between those points of view. It would be unwise to spoil it. The position defended by Australia had been thoroughly and lengthily discussed in the Committee and a considerable majority had rejected the Australian view. If paragraph 3 were deleted from Article I, it would mean a radical change in the meaning of the whole Protocol and would, in his view, render it unacceptable.

The paragraph covered relations between Parties to the two instruments. It allowed certain intervention to be taken against a vessel belonging to a Party to the Protocol. If it were deleted many States would be unable to become Parties to the Protocol and no intervention would be possible on the part of those States. The Protocol would, then, become a dead letter and would be useless.

He was opposed to a separate vote on paragraph 3 and suggested that the Article be voted on as a whole.

Mr. CABOUAT (France) moved the closure of the debate on Article I.

Mr. BRENNAN (Australia), speaking on a point of order, said that the Soviet representative had made an observation to which he would like to reply. If the closure of the debate was carried and that would prevent him from doing so, he would like to reply before the vote on the closure.

The PRESIDENT said that would not be possible. Delegates might now only speak on the motion for closure of the debate.

Mr. RAMADAN (Egypt) seconded the motion to close the debate.

Mr. YTURRIAGA (Spain) opposed the motion. It was essential to allow all points of view to be heard on that very important paragraph.

Mr. BRENNAN (Australia) also opposed the motion. Apart from the position of his delegation, it must be realized that the Protocol itself was in jeopardy. If paragraph (3) were retained, his delegation would vote against the whole Protocol and he thought others would do so too.

The motion to close the debate was adopted by 30 votes to 9, with 10 abstentions.

Mr. YTURRIAGA (Spain) said he thought that decision was a sign of irresponsibility. It might mean that many delegations would not accede to the Protocol.

Mr. BRENNAN (Australia) said that he would like to reply to the Soviet representative's comments.

Mr. COOPER (Liberia) said that he had tried to catch the President's eye three times as he had remarks of substance to make on Article I. If the Australian representative were allowed to reply, he would insist on making his statement.

The PRESIDENT ruled that, as the debate on the Article was closed, that extinguished the right of reply. A vote would next be taken on the Australian proposal to vote on the Article paragraph by paragraph.

Mr. DIAMANTOPOULOS (Greece) enquired whether that vote would be a matter of procedure, requiring a 50 per cent majority, or one of substance requiring a two-thirds majority.

The PRESIDENT ruled that it would be a matter of procedure.

The Australian proposal to vote on Article I paragraph by paragraph was rejected by 29 votes to 17, with 2 abstentions.

The PRESIDENT put Article I of the draft Protocol to the vote.

At the request of Mr. YTURRIAGA (Spain) a roll-call vote was taken.

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

In favour: Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Hungary, India, Iraq, Italy, Japan, Kuwait, Liberia, Nigeria, Norway, Poland, Romania, Saudi Arabia, Sweden, Switzerland, Thailand, Ukrainian SSR, USSR, United Kingdom, United States of America, Belgium, Brazil, Bulgaria, Byelorussian SSR, Denmark.

Against: Ireland, Mexico, New Zealand, Philippines, South Africa, Spain, Trinidad and Tobago, Australia, Canada, Cyprus.

Abstentions: Egypt, Iceland, Indonesia, Jordan, Kenya, Khmer Republic, Netherlands, Peru, Portugal, Venezuela, Argentina, Cuba.

Absent: Dominican Republic, Ecuador, Haiti, Iran, Ivory Coast, Libyan Arab Republic, Madagascar, Monaco, Morocco, Panama, Republic of Korea, Singapore, Sri Lanka, Tunisia, United Arab Emirates, United Republic of Tanzania, Uruguay, Bahrain, Chile.

Article I was adopted by 30 votes to 10, with 12 abstentions.

#### Article II

Article II was adopted by 40 votes to none, with 6 abstentions.

#### Article III

Article III was adopted by 39 votes to none, with 7 abstentions.

Article IV

Mr. YTURRIAGA (Spain) said that Article IV in the text before the Conference contained a double contradiction. The first, to which attention had been drawn in the Committee, was between paragraphs 1 and 4. Paragraph 1 stated that the Protocol should be open for signature by the States which had signed the Brussels 1969 Convention and by any State invited to be represented at the present Conference. Paragraph 4 stated that the Protocol might be ratified, accepted, approved or acceded to only by States which had ratified, accepted, approved or acceded to the 1969 Convention. Thus, if a State not Party to the Brussels Convention had been invited to the present Conference, it might sign the Protocol, but would be ineligible to ratify it. That would be an absurdity. His delegation could accept that the Protocol be open only to Parties to the 1969 Convention. Paragraph 4 could then be combined with paragraph 1 and itself be deleted. There was no need to distinguish between signature and ratification.

The second contradiction was between Article IV of the present Protocol and Article IX of the Brussels Convention. A State could become Party to the Convention merely by "signature without reservation as to ratification, acceptance or approval" (Article IX, 2(a)), but to become a Party to the Protocol, paragraph 4 of Article IV indicated that ratification, acceptance, approval or accession was necessary.

It had been decided that the Protocol should be related to the 1969 Convention, although many delegates had wished it to be an independent instrument. If it was to be related to the 1969 Convention, from the legal point of view the two texts should be brought into line. Moreover, the Protocol should enter into force when the Convention did.

Mr. YANKOV (Bulgaria), Chairman of Committee IV, said that the points raised by the Spanish representative had been discussed at length in the Committee. The contradiction between paragraphs 1 and 4 was merely

apparent. The pragmatic purpose of Article IV, paragraph 1, was to give an opportunity to States represented at the present Conference, but which had not yet acceded to the 1969 Convention, to join the Protocol. The legal problem of whether a State or Party might be Party to the Protocol and not to the 1969 Convention had been catered for by allowing the two options indicated in paragraphs 1 and 4. The Committee had decided that they were not contradictory.

The question as to whether the Protocol should be an independent instrument had also been thoroughly discussed in the Committee. But it had been decided that the present Conference was not in a position to draft and negotiate an independent instrument.

Mr. TRAIN (USA) moved the closure of the debate on Article IV.

Mr. VALKANOV (Bulgaria) seconded the motion.

Mr. YTURRIAGA (Spain), opposing the motion for closure, said that the Chairman of Committee IV had misinterpreted him. He had not wished to reopen the question of whether a separate instrument could be negotiated.

Mr. DAVIS (Canada) opposed the motion for closure. He would have liked further discussion on the points raised by the Spanish representative. He agreed with the latter that an irresponsible attitude was being taken to the adoption of the Protocol.

It was decided to close the debate on Article IV by 30 votes to 10, with 6 abstentions.

The addition of the date proposed by the Chairman of Committee IV was adopted.

The PRESIDENT called for a roll-call vote on Article IV as amended.

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

In favour: Finland, France, Germany (Federal Republic of), Ghana, Greece, Hungary, Iceland, India, Indonesia, Iraq, Italy, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Liberia, Netherlands, Norway, Philippines, Poland, Singapore, Sweden, Switzerland, Thailand, United Kingdom, United States of America, Belgium, Brazil and Denmark.

Against: Ireland.

Abstentions: Egypt, German Democratic Republic, Mexico, New Zealand, Peru, Portugal, South Africa, Spain, Trinidad and Tobago, Ukrainian SSR, USSR, Argentina, Australia, Bulgaria, Byelorussian SSR, Canada, Chile, Cyprus.

Not taking part in the vote: Bahrain.

Absent: Dominican Republic, Ecuador, Haiti, Iran, Ivory Coast, Libyan Arab Republic, Madagascar, Monaco, Morocco, Nigeria, Panama, Republic of Korea, Romania, Saudi Arabia, Sri Lanka, Tunisia, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Cuba.

Article IV was adopted by 30 votes to 1, with 18 abstentions, 1 country not taking part in the vote.

#### Article V

There were no comments.

Article V was adopted by 39 votes to none, with 10 abstentions.

#### Article VI

There were no comments.

Article VI was adopted by 36 votes to none, with 11 abstentions.

#### Article VII

There were no comments.

Article VII was adopted by 40 votes to none, with 11 abstentions.



Article VIII

There were no comments.

Article VIII was adopted by 40 votes to none with 11 abstentions.

Article IX

There were no comments.

Article IX was adopted by 38 votes to none with 10 abstentions.

Article X

There were no comments.

Article X was adopted by 37 votes to none with 13 abstentions.

Article XI

Mr. YANKOV (Bulgaria), Vice-President, drew attention to the amendment to Article XI proposed in MP/CONF/WP.19 of 31 October, regarding the inclusion of Russian as a fourth language in which the authentic text should be established.

Mr. KOTLIAR (USSR) added that the appropriate translation was now ready.

Article XI was adopted as amended by 43 votes to none with six abstentions.

The PRESIDENT called for a vote on the Protocol as a whole.

The Protocol as a whole was adopted by 36 votes to 10 with 6 abstentions.

AGENDA ITEM 10 - ADOPTION OF THE FINAL ACT OF THE CONFERENCE AND ANY INSTRUMENTS, RECOMMENDATIONS AND RESOLUTIONS RESULTING FROM ITS WORK

Text of draft Resolutions as agreed by the Drafting Committee (MP/CONF/WP.29)

(Mr. LINDENCROWA in the chair).

Resolution 1

Mr. TRAIN (USA) said that his Government had already ratified the 1969 amendments, and urged all others to do so.

Mr. RAFFAELLI (Brazil) said his delegation could not support the Resolution.

There being no further comment, Resolution I was adopted.

### Resolution 2

Mr. FAWZI (Egypt) said that in the opinion of his delegation, the adoption of Resolution 2 was premature, and would give an unfortunate impression that the Convention was not correct, complete or proper.

Mr. NHIGULA (Tanzania), who shared that view, saw no need to single out any one Article (e.g. 17) for special treatment.

Mr. VASSILIADES (Cyprus) also agreed.

Mr. VAN DOORN (Netherlands) considered that the Resolution was a commendable attempt to deal with an acute IMCO problem, namely to ensure that machinery was provided by Governments to bring amendments into force sooner than would otherwise be the case.

Mr. FAWZI (Egypt) said that his aim was not deletion, but postponement. As an alternative amendment, he proposed the addition of the words "..... and its amendments" to the heading of the Resolution.

After Mr. KOTLLAR (USSR) had spoken in support of the change in the heading, which he said was logical and did not affect the substance of the Resolution, that change was agreed.

Resolution 2 was adopted as amended by 37 votes to 3 with 10 abstentions.

### Resolution 3

Mr. STEEN (Sweden) stated that the Resolution was based on a Swedish proposal. During its consideration in Committee I, the words "towards the end of the decade" had been amended to read "as soon as possible", because at that time the year 1982 was mentioned in the definition of "new ships" in Annex I. That date had since been altered to 31 December 1979, making it both possible and desirable to speak of the end of the decade.

The use of ships with segregated ballast was not the only means of eliminating pollution at sea, other methods such as the development of a more sophisticated load on top system and tank washing techniques being equally valuable. His delegation attached great importance to those activities, which should not be allowed to slacken after the present Conference.

It also considered it desirable to use the wording which accorded most closely with United Nations Assembly Resolution 86, and felt that would be better achieved by adopting the original wording, as it appeared in MP/CONF/WP.22.

The Swedish proposal was supported by Mr. MLDSEEN (Denmark) and opposed by Mr. BREUER (Federal Republic of Germany).

In reply to a query from Mr. SONDAAL (Netherlands), Mr. SASAMURA (IMCO Secretariat) said that the words "other interests" in line 1 had originally read "other parties". They had been changed because the word "parties" had a special meaning in the Convention, while "interests" could be used to describe any entity.

At the suggestion of Mr. FAWZI (Egypt), the words "other interests" were amended to read "other interested bodies".

The amendment to Resolution 3 was approved by 35 votes to 2 with 8 abstentions.

Resolution 3 was adopted, as amended, by 39 votes to 1 with 4 abstentions.

#### Resolution 4

There were no comments.

Resolution 4 was adopted by 37 votes to none with 12 abstentions.

#### Resolution 5

On a proposal from Mr. HAREIDE (Norway), it was agreed to amend the phrase "international standards for navigational aids" to read "international performance standards for navigational aids" (second operative paragraph, (a)(1), line 4).

On a proposal from Mr. TRAIN (USA), it was further agreed to amend the phrase "adequately covers the problem" to read "comprehensively covers the problem" (third preambular paragraph, line 1).

There being no further comments, Resolution 5 was adopted as amended.

#### Resolutions 6, 7 and 8

Resolutions 6, 7 and 8 were adopted were adopted without comment.

Resolution 9

On a proposal by Mr. BREUER (Federal Republic of Germany), it was agreed that the word "Organization" should read "Inter-Governmental Maritime Organization" (operative paragraph, line 1).

Resolution 9 was adopted without further comment.

Resolution 10

On a proposal by Mr. ARCHER (UK), prompted by a comment from Mr. FAWZI (Egypt) to the effect that Regulation 16 was concerned with definition and not authorization, it was agreed to amend "per units" to read "provides for" (second preambular paragraph, line 2).

Resolution 10 was adopted without further comment.

Resolution 11

At the request of Mr. RAFFAELLI (Brazil), a vote was taken.

Resolution 11 was adopted by 35 votes to none with 13 abstentions.

Resolutions 12 and 13

Resolutions 12 and 13 were adopted without comment.

Resolution 14

A suggestion by Mr. BREUER (Federal Republic of Germany) to delete the final words of the second operative paragraph ("INVITES.....") was unsupported and was opposed by Mr. TRAIN (USA), who argued the importance of permitting all the information which was available to come into play.

Resolution 14 was adopted without further comment.

Resolutions 15, 16, 17, 18 and 19.

Resolutions 15, 16, 17, 18 and 19 were adopted without comment.

Draft Resolution 20

Draft Resolution 20 was unanimously adopted.

Draft Resolution 21

Mr. BREUER (Federal Republic of Germany) proposed that the first line of the operative paragraph should be deleted, so that the paragraph would then begin "URGES that Governments take appropriate action to ensure ...", etc.

It was so agreed.

Draft Resolution 21, as amended, was adopted.

Draft Resolution 22

Mr. KATEKA (Tanzania) proposed that the operative paragraph should be amended to read "REQUESTS the Secretary-General of the Inter-Governmental Maritime Consultative Organization to forward the International Convention for the Prevention of Pollution from Ships, 1973, and related documents, to the United Nations Conference on the Law of the Sea". The United Nations Sea-Bed Committee had already sent a letter to the present Conference stating that, while it recognized the inter-relationship between the Conference's work and its own, it would not regard any decisions emanating from the Conference as binding upon it. All that the Conference could do was to submit the results of its work to the Sea-Bed Committee for information. In his view, therefore, the last phrase of the operative paragraph was prejudicial, and should be deleted. However, such supporting documents as the Secretariat might consider useful to the Conference on the Law of the Sea could well be forwarded to the latter to assist it in its work.

The PRESIDENT pointed out that it might be difficult for the Secretariat to decide which of the Conference's many documents might be of use to the Law of the Sea Conference.

Mr. SOLOMON (Trinidad and Tobago) said that, while he had no objection to the addition of "and related documents", the last phrase of the paragraph was an extremely important one which had been agreed on only after extensive discussion in committee. He was therefore opposed to its deletion.

Mr. YANKOV (Bulgaria) supported that view. It was vital that the present Convention should be taken into account by the forthcoming Conference on the Law of the Sea. He appealed to the Tanzanian representative not to press his proposal.

The PRESIDENT asked if there were any support for the Tanzanian proposal.

The Tanzanian proposal, having received no support, was rejected.

Draft Resolution 22 was adopted by 54 votes in favour, none against, with 1 abstention.

#### Draft Resolution 23

The PRESIDENT pointed out that the text of the first operative paragraph, beginning "REQUESTS", should be amended to take into account decisions taken at the previous evening's meeting.

Draft Resolution 23, as amended, was adopted by 44 votes in favour, none against, with 6 abstentions.

Draft Resolution submitted by the Delegations of the Philippines, Kenya, Trinidad and Tobago, Iran, Indonesia, Mexico and Canada (MP/CONF/WP.8)

Mr. SOLOMON (Trinidad and Tobago) recalled that during the previous evening's discussion of a proposal to introduce into the Convention an Article on technical co-operation, the representative of the Federal Republic of Germany had pointed out that, if such an Article were to be accepted, there would be no instrument between now and the time of the Convention's entry into force whereby States would be urged to co-operate in that area. The proposed draft resolution would be useful, therefore, in helping to promote technical co-operation through IMCO and other international bodies during the interim period.

Mr. BRENNAN (Australia) proposed that, in sub-paragraph (b) of the operative paragraph of the resolution, the words "research and" should be deleted, and a new sub-paragraph (d) added, reading "(d) the encouragement of research".

It was so agreed.

Mr. SASAMURA (Secretariat) suggested that the first line of the operative paragraph should be amended to read "URGES the promotion, in consultation with IMCO and other international bodies ..." to bring it into line with amendments to relevant Articles already adopted.

It was so agreed.

Mr. VASSILIADES (Cyprus) proposed the addition of a second operative paragraph, reading "FURTHER URGES Governments to initiate action in connexion with the above, without awaiting the coming into force of the Convention".

It was so agreed.

The Draft Resolution, as amended, was adopted by 44 votes in favour, none against, with 10 abstentions.

The PRESIDENT resumed the Chair at 4.30 p.m.

Draft Resolution proposed by the Delegations of Mexico and Venezuela (MP/CONF/WP.24)

Miss FUENTES-BERAIN (Mexico) said that as co-sponsor of the Resolution her delegation had endeavoured to couch it in neutral language. Its intention was to avoid the possibility that the Convention, by the deletion of Article 9, might be interpreted as ignoring the rights of coastal States.

Her delegation could not accept the amendment proposed by Canada (MP/CONF/WP.24/Add.1), considering that the operative paragraph was not sufficiently neutral and threw the text out of balance, but it would nevertheless abstain from voting on it as a gesture of goodwill. It could, however, accept the amendments proposed by the Federal Republic of Germany (MP/CONF/WP.27) and Norway (MP/CONF/WP.24/Add.2).

Mr. YTURRIAGA (Spain) said that the Conference had now deleted Article 9, which provided for reservations with regard to the jurisdiction of coastal States. Although the draft resolution under discussion partly remedied that omission, Article 5 still allowed a coastal State to inspect a vessel in port only for certification purposes, and Article 6 allowed a port State to control discharges only under certain conditions. It should be made clear that, while the Convention established that coastal States had certain rights to take steps to prevent pollution, it did not imply that such States were deprived of any further rights in areas within their jurisdiction. He therefore proposed that the following text be added to the draft resolution as a second operative paragraph: "FURTHER DECLARES that the rights exercised by a coastal State within its jurisdiction in accordance with the Convention do not preclude the existence of other rights of that State under international law".

Miss FUENTES-BERAIN (Mexico) said her delegation could accept that proposal.

Mr. DAVIS (Canada) said that as a reciprocal gesture of goodwill towards Mexico his delegation would withdraw its proposed amendment. It would also abstain from voting on draft resolution MP/CONF/WP.24, although it did not agree with the way in which it presented the issues to be decided by the Law of the Sea Conference.

Mr. ARCHER (UK) proposed that in the penultimate paragraph, beginning "CONVINCED", the word "Coastal" should be deleted, and that the operative paragraph should read simply "DECLARES that the decisions of the Conference reflect a clear intention to leave that question to the Law of the Sea Conference".

Mr. BAR (Switzerland) and Mr. KOH ENG TIAN (Singapore) supported that proposal.



Mr. BRENNAN (Australia) could not accept the United Kingdom proposal. The intention of the draft resolution had been to fill a gap left in the Convention as a result of the deletion of Article 9, but the proposal severed the last remaining threads of connexion between the Resolution and Article 9. He supported the Spanish proposal.

Dr. BREUER (Federal Republic of Germany) said that if the United Kingdom amendments were accepted he would withdraw his own delegation's proposed amendment.

Mr. RAFFAELLI (Brazil) said he could only vote in favour of the United Kingdom amendment if the second preambular paragraph of the Norwegian amendment ("MINDFUL of paragraph 2 of Article 10 of the International Convention for the Prevention of Pollution from Ships, 1973") were included in the text.

Mr. KOTLIAR (USSR) said that he found the original draft resolution unacceptable because it related only to coastal States, whereas the Law of the Sea Conference would also cover landlocked countries. He could accept the resolution, however, in the amended form proposed by the United Kingdom representative.

Mr. TRETYAK (Ukrainian SSR) supported that view.

Mr. HAREIDE (Norway) also preferred the United Kingdom formula. He suggested that in his own delegation's proposal for the addition of two preambular paragraphs (MP/CONF/WP.24/Add.2) the words "wherever necessary" should be added before "these international standards" in the first paragraph.

Mr. RAFFAELLI (Brazil) proposed that the Conference should vote on the draft resolution paragraph by paragraph.

Miss FUENTES-BERAIN (Mexico) said that that would not now be necessary, since both co-sponsors of the draft resolution had agreed to incorporate the various proposed amendments into the original text. That text would now, therefore, begin with the two preambular paragraphs proposed by Norway

(MP/CONF/WP.24/Add.2), as amended. The word "Coastal" in the paragraph beginning "CONVINCED" would be deleted, and the first operative paragraph would now be as proposed by the United Kingdom representative. Lastly, a second operative paragraph would be added, as proposed by the representative of Spain.

Mr. BRENNAN (Australia) said his delegation could accept the draft resolution in that amended form.

Mr. CALENDI (Italy) moved the closure of the debate.

Mr. CABOUAT (France) supported the motion.

Mr. GORMAN (Ireland) and Mr. BRENNAN (Australia) opposed the motion.

It was decided to close the debate on the draft resolution by 50 votes to 6, with 2 abstentions.

Mr. SASAMURA (Deputy Executive Secretary) read out the draft resolution incorporating the amendments accepted.

Mr. YTURRIAGA (Spain) opposed the proposal to vote on the draft resolution paragraph by paragraph.

Having only received 7 votes in favour, the Brazilian proposal to vote on the draft resolution paragraph by paragraph was rejected.

The draft resolution in MP/CONF/WP.24 and Add.1 and 2, as amended, was adopted by 38 votes to 4, with 20 abstentions.

Draft Resolution submitted jointly by Canada, Denmark, Indonesia, Kenya, the Philippines, Sweden and Trinidad and Tobago (IP/CONF/WP.25)

Mr. TRETIAK (Ukrainian SSR) proposed two amendments. The first was to add, in the operative paragraph, after the word "Organization", the words "when necessary". The second was to delete from the third line of the operative paragraph, after the words "United Nations system", the whole of the phrase beginning with "particularly" and ending with "achieving", and to replace it by "in order to achieve". Those amendments were based on the idea that it should be left to the discretion of the IMCO Secretariat to decide which bodies it wished to consult with. They would also eliminate repetitions in the text.

The proposed Ukrainian amendments were supported by the representatives of Bulgaria, Norway, Romania and Trinidad and Tobago.

The Ukrainian amendments to the draft resolution in MP/CONF/WP.25 were adopted by 28 votes to 10, with 18 abstentions.

The draft resolution in MP/CONF/WP.25, as amended, was adopted by 52 votes to 1, with 5 abstentions.

The meeting was suspended at 5.55 p.m. and resumed at 6.00 p.m.

AGENDA ITEM 11 - SIGNATURE OF THE FINAL ACT OF THE CONFERENCE AND ANY INSTRUMENTS RESULTING FROM THE WORK OF THE CONFERENCE

The PRESIDENT said that delegates were now at the end of their labours and ready to sign the Final Act.

Mr. SAVELIEV (Executive Secretary) said that delegates would be called in alphabetical order of delegations. The Final Act could be signed by any member or members of the delegations at the discretion of the heads of the delegations.

The Final Act was signed by representatives of the following States:  
Argentina, Australia, Bahrain, Belgium, Brazil, Bulgaria, Byelorussian SSR, Canada, Chile, Cuba, Cyprus, Denmark, Dominican Republic, Ecuador, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Italy, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Liberia, Malagasy Republic, Mexico, Monaco, Netherlands, New Zealand, Nigeria, Norway, Philippines, Poland, Portugal, Republic of Korea, Romania, Saudi Arabia, Singapore, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, and Venezuela.

Mr. SAVELIEV (Executive Secretary) reported that the Final Act had been signed by 62 delegations.

#### CLOSURE OF THE CONFERENCE

The PRESIDENT said that the Conference had worked hard and had achieved a very important result. It had made a good start on the road to the prevention of pollution of the seas and he was sure that greater success would be achieved in the future.

He thanked all those who had co-operated in getting the work completed on time.

Mr. ARCHER (UK) said he felt a sense of achievement at the negotiation of a very good convention. He paid tribute to the President for the long hours of hard work he had put in and his fair and good-humoured decisions on the many difficult procedural points which had been raised.

He thanked the Secretary-General of IMCO and the Secretariat, the interpreters and all who had contributed to the success of the Conference.

The Conference had achieved something of importance to all mankind. The United Kingdom would be ready to sign the Convention as soon as the book was open.

#### The Conference paid tribute to the President by acclamation.

Mr. PERKOWICZ (Poland) seconded the vote of thanks proposed by the United Kingdom representative.

Mr. SUGIHARA (Japan) said that his delegation had been proud that the President of the Conference had been from an Asian country. He thanked him for his patience and strenuous efforts in overcoming the considerable difficulties which had arisen. He associated himself with the expressions of gratitude to all concerned.

Mr. FAWZI (Egypt), speaking on behalf of the Arab countries represented, also expressed his congratulations to the President on the fruitful outcome of the Conference. A Convention had been written which the world had been waiting for.

Mr. TOUKAN (Jordan) associated himself with the previous speakers. The President had shown wisdom and skill in handling the proceedings.

The PRESIDENT said that determination to achieve success had led to its achievement. He looked forward to greater achievement on the foundations laid.

He declared the Conference closed.

The meeting rose at 6.55 p.m.

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