



IMCO

INTERNATIONAL CONFERENCE ON MARINE POLLUTION, 1973

SUMMARY RECORD OF THE SECOND PLENARY MEETING

held at Church House, Westminster, London, S.W.1,
on Monday, 6 October 1973, at 2.45 p.m.

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

A list of participants is given in MP/CONF/INF.1/Rev.2 or subsequent revisions, if any.

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INTRODUCTORY STATEMENTS

The PRESIDENT said that before dealing with other items on the Agenda he would give the floor to those delegations who had expressed the wish to make general statements.

Mr. SEIDENFADEN (Denmark) said that his delegation intended to participate in a positive way in efforts to reach agreement on the text of a convention acceptable to a large number of States, including those which bore the main responsibility for the prevention of pollution of the sea by ships.

The draft Convention that had been prepared by IMCO should provide an excellent basis for the Conference's deliberations, and should make it possible to achieve a satisfactory result during the time available. His Government had confined itself to proposing modest amendments of a technical nature, since it had felt that the best approach would be to find compromise solutions as the work proceeded, rather than to adopt firm positions in advance.

He hoped that the Conference's time would not be taken up by discussion of matters that came within the competence of the Conference on the Law of the Sea. Its essential task was to reach agreement on effective international rules and standards for the prevention of pollution by ships, rules which would not conflict with whatever provisions might emerge from the Conference on the Law of the Sea.

With regard to the "special area" concept, while the Convention should in general aim at universal standards that were as stringent as was practicable - and those standards should be as uniform as possible - in view of the constant growth of world trade and the consequent build-up of national fleets, the Convention should give special attention to those sea areas where the danger of pollution was most imminent and serious, such as the Baltic Sea area. In the enclosed sea of the Baltic, the biosystem was under constant threat, and even limited pollution had deadly effects. The seven nations bordering the Baltic Sea area were now working towards a regional Convention to protect the Baltic, and he hoped that it would be possible to harmonize the provisions of that Convention with the Convention now under consideration.

Other areas, such as the Mediterranean, also had special problems which should be given full consideration during the present Conference, and he suggested that the countries concerned might form working groups in which those problems could be discussed.

The Contracting Parties to the Convention would need to give careful consideration to the machinery by which the Convention's objectives were to be implemented. IMCO, as the body which had carried out the preparatory work for the Conference, and had considerable experience in the maritime field, seemed the obvious choice to fulfil that role; but the new Convention would not deal only with the safety of ships, but also with the safety of the seas. His delegation welcomed the recent decision to set up a working group with a view to establishing a Marine Environment Protection Committee, and believed that the creation of that Committee must undoubtedly influence the way in which some of the Convention Articles were formulated, notably the proposed Article 17 on amendments.

Although he hoped that the Convention would win universal acceptance by governments, the possibility had to be admitted that many IMCO Members might not fulfil their obligations under the Convention for many years. The question of the relationship between IMCO procedures and the organizational machinery foreseen by the Contracting Parties was therefore a complex one, which should be dealt with early in the Conference.

Mr. TIKHONOV (USSR) said the inter-relationship between modern technology, modern transport and modern production methods with the environment was becoming closer every year, due to the ever-increasing rate of progress in all branches of science and technology which had brought about a marked increase in world industrial production, and hence in world trade and international maritime transport, in the course of the last twenty years. However, such advances had not always been accompanied by a proper concern for the short and long-term consequences for the environment.

His Government had always recognized as one of its most important tasks the protection of the environment and the rational use of national resources, including the resources of the sea, to create the most favourable conditions for the life and health of mankind, and recent legislation passed in his country was evidence of that concern. Standards had been introduced in his country to protect water resources and to combat ocean pollution - pollution which was harmful both to marine life and to recreational facilities for the public. Recent research by Soviet scientists had shown that pollution by oil products, detergents and mercury was substantial, and extended over a wide area.

The problem of marine pollution had a global character - it was no use struggling against pollution in some areas of the world's oceans if no measures were taken against pollution in other areas. Constant migration of bodies of water transferred pollution over vast distances, irrespective of national borders or state jurisdiction. Therefore global measures at international level were needed.

The General Assembly of the United Nations had adopted important resolutions on pollution control which gave recognition to the importance of the problem, and the United Nations specialized agencies had also done valuable work. The present decade had been marked by a universal recognition of the threat of pollution. His country was prepared to participate with other countries in working towards the solution of this problem, and was now actively involved in scientific and technical collaboration with, for example, the United States of America and France.

Owing to the large volume of oil products carried by sea, shipping was responsible for a considerable degree of pollution, and IMCO had done much preparatory work on measures to combat that pollution, notably the formulation of amendments to the Oil Pollution Convention, and the exchange of information between Member countries on technical aspects of the problem. His delegation also appreciated IMCO's work in preparing the present draft Convention; he considered that Convention a most important one, and his country would make an active contribution towards establishing it.

The present draft Convention had a number of advantages over the 1954 Convention; it concerned not only oil, but other harmful substances which

had an adverse effect on the marine environment; it was more stringent in its requirements than the 1954 Convention; and it was not limited to small sea areas, but covered most of the world's oceans.

He hoped that not only the Articles, but also the technical Annexes to the Convention could be adopted by all States; but if certain States did not have the technical resources to implement the provisions of the Annexes, it might be possible to provide in the Convention for a gradual introduction of the Annexes.

The Convention should be universal in nature, and should not contravene existing international standards for safety of navigation; nor should it hamper normal maritime activities connected with navigation, fishing or scientific research. It should be open to participation by all interested States; it should not contravene the principle of self-determination of peoples. The rest of the world was looking towards IMCO to frame a Convention that would ensure the maximum protection of the marine environment, in the interests of mankind as a whole.

Mr. DAVIS (Canada) said his Government had participated in the work of IMCO since its inception, and hoped that it would continue its efforts to protect the coastal environment. IMCO now faced a two-fold challenge: on the one hand, the preservation of the marine environment, and on the other, freedom for shipping to move on the world's oceans. Those two objectives were not necessarily incompatible, but they were difficult to reconcile and presented IMCO with a formidable task.

Although IMCO Members represented individual States, he hoped that they could work together as a body rather than as defenders of particular national or commercial interests. Both at national and international level there was a growing demand for more effective legislation to deal with the problem of pollution, and he hoped that the Conference would succeed in meeting that demand by establishing global criteria and global solutions. IMCO, by developing appropriate rules and standards, could hasten the day when both flag States and coastal States could consider themselves as partners in bettering the lot of mankind.

Canada, as a coastal State, had a particular concern with shipping which could, through poor design or careless navigation, cause irreparable damage to its fisheries and shores. On the other hand, owing to its problems of transportation over considerable distances, it welcomed new developments in shipping, as long as the new ships were also safer and more efficient.

The present Conference was largely a technological one, in which many disciplines were represented. He called on delegates, in their capacity as individual experts, to strive to obtain meaningful solutions through new standards, specifications and operating regimes, leading to safer and more efficient navigation. The new Convention should be a comprehensive one, which was sound both from an economic and an environmental point of view. It should not encroach on legal problems, such as the problem of off-shore limits, which would be better dealt with by the Conference on the Law of the Sea, and it should place the accent on prevention rather than cure.

His Government would be seeking to include in the Convention provisions to ensure effective enforcement, including provisions whereby a coastal State could prosecute a vessel in its port for a violation of the Convention which had taken place outside the jurisdiction of the coastal State. It would also be seeking provisions to protect special areas of the marine environment, and would be pressing for regulations in the Annexes to cover toxic substances in addition to oil. Finally, his Government believed that there should be a procedure to permit rapid amendment to the technical Annexes.

He urged all delegates to put aside their institutional differences, and concentrate on the basic economic and technological issues involved in the establishing of the Convention.

Mr. TRAIN (USA), after speaking of the vital need for all countries to protect the oceans, welcomed the opportunity offered by the Conference to take a giant step forward in that direction. He welcomed the often-declared resolve of the international community to prevent pollution of the seas from vessel discharges and to terminate intentional oil pollution, and he thanked IMCO and the experts engaged on the preparatory work for the draft Convention.

At the same time he stressed two challenges facing the Conference: the danger of infringing on the Law of the Sea Conference by attempting to deal with questions of coastal State jurisdiction, and the need to ensure that the reasonable costs of pollution prevention were equitably borne by all who engaged in and benefited from ocean commerce.

The Convention should fulfil the three desiderata of stringent controls, enforceability and adaptability to changing circumstances, and it should be adhered to as widely as possible.

His delegation placed primary reliance on construction standards including segregating ballast through double bottoms, and on the mandatory denial of port facilities to ships not so constructed. It would also press for the observance of the deadline approved by the Stockholm Conference and would oppose any delay.

Further, believing non-persistent oils to require no less stringent regulation than persistent oils, his delegation would urge that the no-discharge zone be extended to one hundred miles and the permissible rate of discharge and fraction of total cargo be reduced.

As a further means of providing an effective system to deter violations, his delegation favoured a move away from reliance on enforcement by flag States together with the adoption of an evidenciary rule providing that visible traces of oil reasonably attributable to a ship should constitute proof, unless probative evidence was presented to the contrary; and finally compulsory arbitration.

With regard to amendments to the technical Annexes, his delegation favoured a "tacit acceptance" process, responsibility for which should be vested in the Marine Environment Protection Committee which it hoped the IMCO Assembly would shortly be creating.

He also urged States to undertake to operate their exempted vessels consistently with the purposes of the Convention.

Mr. ADERO (Kenya) also stressed the universal interest in the management of natural resources, and the far-reaching consequences of the use of modern technology.

Aware that the present state of knowledge was incomplete, his delegation recognized that a particular standard might be inadequate or unsuited to certain conditions. Nevertheless, the responsibility for ensuring that pollution did not cause damage to another State - including the enforcement of anti-dumping measures - was a heavy one, and was distinct from the question of jurisdiction covered by the Law of the Sea Conference.

Mr. STEEN (Sweden) congratulated the Organization on the far-reaching draft it had prepared, acceptance of which would represent substantial progress. At the same time, he endorsed the view expressed by Mr. Maurice Strong, that the draft did not entirely attain the goals set by the Stockholm Conference.

His delegation attached particular importance to efforts to improve the draft so as to take account of technical developments since 1969, to the need for rapid and flexible amendment procedures, and finally to the general acceptance and effective enforcement of the new Convention.

Mr. HYRJÖLÄ (Finland), speaking on behalf of the delegations of Finland, Denmark, the German Democratic Republic, the Federal Republic of Germany, the Polish People's Republic, Sweden and the Union of Soviet Socialist Republics, commented first on the Note on the Characteristics of the Baltic Sea (MP/CONF/8/7/Add.1) prepared by the Ad Hoc Working Group set up for the purpose in Helsinki in June 1973; and second, on the provisions concerning Special Areas prepared by the Coastal States of the Baltic Sea for inclusion in the new Convention.

He stressed the exceptional vulnerability to pollution of the Baltic Sea and the alarming level already reached, and he supported the wish of the States concerned to designate the Baltic Sea as a Special Area with a number of reasons which led to a greater concentration of certain pollutants in organisms of the Baltic Sea than in the true marine environment. He also pointed out how difficult it was to carry out anti-pollution operations in complex archipelagoes such as those in Finland and Sweden.

As a result, the Baltic Sea Coastal States were devising criteria for shore reception facilities beyond the level of the present draft Convention. His delegation would elaborate on the matter in the Technical Committee.

Mr. COOPER (Liberia) said that his country, which had participated fully in the preparation of the draft Convention before the Conference and which was the largest single contributor to the budget of IMCO, looked forward to active participation in the task of preventing marine pollution.

He wished to make two particular points: first, that the Convention should provide full and clear guidance to those primarily responsible for its observance - namely, the mariners and operators of the vessels to which it would apply - and secondly, that the Conference should produce a practical document which would be able to be ratified by all nations interested in the problem of marine pollution and would not merely lie on the shelf as an impractical ideal.

Mr. OPORTO (Cuba) offered his congratulations to the President on his election, and expressed his gratitude to the Secretary-General for his great efforts in organizing the Conference. He requested that the following statement be included in the record.

It was becoming apparent that IMCO must assume an indispensable role in the development of international maritime transport, aimed at the shared and rational use of the seas, by consolidating all previous agreements into the formulation of a series of rules that covered a whole range of well defined situations.

The basic principles and objectives of IMCO were none other than the establishment of the means of co-operation among Governments by introducing regulations and practices concerning technical matters of all kinds which might affect international commercial navigation, and by adopting general norms for maritime safety and navigational efficiency.

Among the provisions of the IMCO Convention, the present international Conference should bear in mind Part I, concerning the purposes of the

Organization. The last part of paragraph (a) of Article I stated that it should "encourage the general adoption of the highest practicable standards in matters concerning maritime safety and efficiency of navigation". Paragraph (b) of the same Article I also called upon it: "to encourage the removal of discrimination action and unnecessary restrictions by Governments affecting shipping engaged in international trade so as to promote the availability of shipping services to the commerce of the world without discrimination;" and paragraph (c) "To provide for the consideration of matters concerning unfair restrictive practices by shipping concerns".

Nevertheless, despite what was stated in the IMCO Convention and in other international instruments regarding the safety of navigation, the Revolutionary Government of Cuba wished to express its opinion that the provisions of the IMCO Convention had been grossly and indubitably violated by the Government of the United States of America, as could be seen as a result of the most recent incidents in the Panama Canal, a seaway free to navigation. For the North American authorities had proceeded to the arbitrary detention of the Cuban vessel "Imias", which was proceeding from Japan towards Cuba after having passed through two locks and was entering the Gatún lake in the expectation of going through the last lock to continue its voyage to Cuba. The North American authorities proceeded to detain the ship illegally, announcing their intention to place it under an embargo, in compliance with a wish expressed by a Chilean commercial undertaking.

The Revolutionary Government of Cuba hereby desired to make known its energetic protest against the vandalism committed by the United States Government in agreement with the Fascist junta which had seized power in Chile and murdered the constitutional President of that country, Salvador Allende - an act repudiated by the public opinion of the world and of the international community.

Such an attack on a ship flying the Cuban flag and, as the property of the Cuban state, enjoying immunity, was a further demonstration that the Government of Panama was fully justified in its struggle to obtain complete sovereignty over the Canal Zone.

In response to a request from the President, Mr. BUZETA (Chile) asked the President to be good enough to recall to the distinguished representative of Cuba that the present Conference was a technical one with objects quite different from the political considerations to which the Cuban delegation alluded. He also took the opportunity of protesting against the terms in which his country had been referred to in the preceding statement.

The PRESIDENT said that both statements had been noted and would be duly incorporated in the Summary Record.

The meeting rose at 4.03 p.m.

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With regard to the "special area" concept, the Convention should aim at universal standards that were as stringent as was practicable; in view of the constant growth of world trade and the consequent build-up of national fleets, those standards should be as uniform as possible. The Convention should concern itself particularly with those sea areas where the danger of pollution was most imminent and serious, such as the Baltic Sea area. In the enclosed sea of the Baltic, the biosystem was under constant threat, and even limited pollution had deadly effects. The seven nations bordering the Baltic Sea area were now working towards a regional convention to protect the Baltic, and he hoped that it would be possible to harmonize the provisions of that Convention with the Convention now under consideration. Other areas, such

as the Mediterranean, also had special problems which should be given full consideration during the present Conference, and he suggested that the countries concerned might form working groups in which those problems could be discussed.

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His government had always recognized as one of its most important tasks the protection of the environment and the best possible use of national resources, including the resources of the sea, to create the most favourable conditions for the life and health of mankind, and recent legislation passed in his country was evidence of that concern. Standards had been introduced in his country to protect water resources and to combat ocean pollution, pollution which was harmful both to marine life and to recreational facilities for the public. Recent research by Soviet scientists had shown that pollution by oil products, detergents and mercury was acute, and extended over a wide area. Because of the natural migration of bodies of water, pollution could be transferred over vast distances, and therefore global measures at international level were needed.

The General Assembly of the United Nations had passed important resolutions on pollution control which gave recognition to the importance of the problem, and the United Nations specialized agencies had also done valuable work. The present decade had been marked by a universal recognition of the threat of pollution. His country was prepared to participate with other countries in working towards the solution of this problem, and was now actively involved in scientific and technical collaboration with, for example, the United States of America and France.

Owing to the large volume of oil products carried by sea, shipping was responsible for a considerable degree of pollution, and IMCO had carried out considerable preparatory work on measures to combat that pollution, notably the formulation of amendments to the Oil Pollution Convention, and the exchange of information between Member countries on technical aspects of the problem. His delegation also appreciated IMCO's work in preparing the present draft Convention; he considered that Convention a most important one and his country would make an active contribution towards establishing it.

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The Convention should be universal in nature, and should not contravene existing international standards for safety of navigation; nor should it hamper normal maritime activities connected with fishing or scientific research. It should be open to participation by all interested States; it should not contravene the principle of self-determination of peoples. The rest of the world was looking towards IMCO to frame a Convention that would ensure the maximum protection of the marine environment, in the interests of mankind as a whole.

Mr. DAVIS (Canada) said his government had participated in the work of IMCO since its inception, and hoped that it would continue its efforts to protect the coastal environment. IMCO now faced a two-fold challenge: on the one hand, the preservation of the marine environment, and on the other, freedom for shipping to move on the world's oceans. Those two objectives were not necessarily incompatible, but they were difficult to reconcile and presented IMCO with a formidable task.

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Speaking on behalf of the delegations of Finland, Denmark, the German Democratic Republic, the Federal Republic of Germany, the Polish People's Republic, Sweden and the Union of Soviet Socialist Republics, Mr. HELANIEMI (Finland) commented first on the Note on the Characteristics of the Baltic Sea (MP/CONF/8/7/Add.1) prepared by the Ad Hoc Working Group set up for the purpose in Helsinki in June 1973; and second, on the provisions concerning Special Areas prepared by the Coastal State of the Baltic Sea for inclusion in the new Convention.

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