



IMCO

INTERNATIONAL CONFERENCE ON
MARINE POLLUTION, 1973
Agenda item 7

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

Text of the Preamble and Articles as agreed
by the Drafting Committee

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

THE PARTIES TO THE CONVENTION,

BEING CONSCIOUS OF THE NEED to preserve the human environment in general
and the marine environment in particular,

RECOGNIZING that deliberate, negligent or accidental release of oil and
other harmful substances from ships constitutes a serious source of pollution,

RECOGNIZING the importance of the International Convention for the
Prevention of Pollution of the Sea by Oil, 1954, as being the first multi-
lateral instrument to be concluded with the prime objective of protecting
the environment, and appreciating the significant contribution which that
Convention has made in preserving the seas and coastal environment from
pollution,

DESIRING to achieve the complete elimination of intentional pollution
of the marine environment by oil and other harmful substances and the
minimization of accidental discharge of such substances,

CONSIDERING that this object may best be achieved by establishing rules
not limited to oil pollution having a universal purport,

HAVE AGREED as follows:

Article 1

General Obligations under the Convention

- (1) The Parties to the Convention undertake to give effect to the provisions of the present Convention and those Annexes thereto by which they are bound, in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the Convention.
- (2) Unless expressly provided otherwise, a reference to the present Convention constitutes at the same time a reference to its Protocols and to the Annexes.

Article 2

Definitions

For the purposes of the present Convention, unless expressly provided otherwise:

- (1) "Regulations" means the Regulations contained in the Annexes to the present Convention.
- (2) "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the present Convention.
- (3) (a) "Discharge", in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, spilling, leaking, pumping, emitting or emptying.
(b) "Discharge" does not include:
 - (1) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter done at London on 13 November 1972; or

- (ii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or
- (iii) release of harmful substances intended to combat pollution, or* for purposes of legitimate scientific research into pollution abatement or control.

(4) "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

(5) "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.

Article 3

Application

(1) The present Convention shall apply to:

- (a) Ships entitled to fly the flag of a Party to the Convention,
and
- (b) Ships not entitled to fly the flag of a Party but which
operate under the authority of a Party.

(2) Nothing in the present Article shall be construed as derogating from or extending the sovereign rights of the Parties under international law over the sea-bed and subsoil thereof adjacent to their coasts for the purposes of exploration and exploitation of their natural resources.

* Committees II and III were of the opinion that this phrase is inconsistent with the provisions of Regulation 11(c) of Annex I and Regulation 6(c) of Annex II and should therefore be deleted.

(3) The present Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Convention.

Article 4

Violation

(1) Any violation of the requirements of the present Convention shall be prohibited and sanctions established therefor under the law of the Administration of the ship concerned wherever the violation occurs. If the Administration is informed of such a violation and is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law.

(2) Any violation of the requirements of the present Convention within the jurisdiction of any Party to the Convention shall be prohibited and sanctions shall be established therefor under the law of that Party. Whenever such a violation occurs, that Party shall either:

- (a) cause proceedings to be taken in accordance with its law, or
- (b) furnish to the Administration of the ship such information and evidence as may be in its possession that a violation has occurred.

(3) Where information or evidence with respect to any violation of the present Convention by a ship is furnished to the Administration of that ship, the Administration shall promptly inform the Party which has furnished the information or evidence, and the Organization, of the action taken.

(4) The penalties specified under the law of a Party pursuant to the present Article shall be adequate in severity to discourage violations of the present Convention and shall be equally severe irrespective of where the violations occur.

Article 5

Certificates and Special Rules on
Inspection of Ships

- (1) Subject to the provisions of paragraph (2) of the present Article a certificate issued under the authority of a Party to the Convention in accordance with the provisions of the Regulations shall be accepted by the other Parties and regarded for all purposes covered by the present Convention as having the same validity as a certificate issued by them.
- (2) A ship required to hold a certificate in accordance with the provisions of the Regulations is subject while in the ports or off-shore terminals under the jurisdiction of another Party to inspection by officers duly authorized by that Party. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate. In that case, or if the ship does not carry a valid certificate, the Party carrying out the inspection shall take such steps as will ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment. That Party may, however, grant such a ship permission to leave the port or off-shore terminal for the purpose of proceeding to the nearest appropriate repair yard available.
- (3) If a Party denies a foreign ship access to ports in its territory or to off-shore terminals under its jurisdiction or takes any action against such a ship for the reason that the ship does not comply with the provisions of the present Convention, the Party shall immediately inform the consul or diplomatic representative of the Party whose flag the ship is entitled to fly. Before denying access or taking such action the Party may request consultation with the Administration. Information shall also be given to the Administration when a ship does not carry a valid certificate in accordance with the provisions of the Regulations.
- (4) With respect to the ships of non-Parties to the Convention, Parties shall apply the requirements of the present Convention as may be necessary to ensure that there is no discrimination in favour of such ships.

Article 6Detection of Violations and Enforcement of
the Convention

- (1) Parties to the Convention shall co-operate in the detection of violations and the enforcement of the provisions of the present Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.
- (2) A ship to which the present Convention applies may, in any port or off-shore terminal of a Party be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has discharged any harmful substances in violation of the provisions of the Regulations. If an inspection indicates a violation of the Convention, a report shall be forwarded to the Administration for any appropriate action.
- (3) Any Party shall furnish to the Administration evidence, if any, that the ship has discharged harmful substances or effluents containing such substances in violation of the provisions of the Regulations. If it is practicable to do so, the competent authority of the former Party shall notify the master of the ship of the alleged violation.
- (4) Upon receiving such evidence, the Administration so informed shall investigate the matter, and may request the other Party to furnish further or better evidence of the alleged contravention. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken in accordance with its law as soon as possible. The Administration shall promptly inform the Party which has reported the alleged violation, as well as the Organization, of the action taken.

(5) A Party may also inspect a ship to which the present Convention applies when it enters the ports or off-shore terminals under its jurisdiction, if a request for an investigation is received from any Party together with sufficient evidence that the ship has discharged harmful substances or effluents containing such substances in any place. The report of such investigation shall be sent to the Party requesting it and to the Administration so that the appropriate action may be taken under the present Convention.

Article 7

Undue Delay to Ships

- (1) All possible efforts shall be made to avoid a ship being unduly detained or delayed under Articles 4, 5 and 6 of the present Convention.
- (2) When a ship is unduly detained or delayed under Articles 4, 5 and 6 of the present Convention, it shall be entitled to compensation for any loss or damage suffered.

Article 8

Reports on Incidents Involving Harmful Substances

- (1) For the purposes of the present Article an "incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance.
- (2) A report of an incident shall be made without delay to the fullest extent possible in accordance with the provisions of the Protocol to the present Article (Protocol 1).
- (3) Each Party to the Convention shall
 - (a) make all arrangements necessary for an appropriate officer or agency to receive and process all reports on incidents; and
 - (b) notify the Organization with complete details of such arrangements for circulation to other Parties and Member States of the Organization.
- (4) Whenever a Party receives a report under the provisions of the present Article, that Party shall relay the report without delay to
 - (a) the Administration of the ship involved; and
 - (b) any other State which may be affected.

(5) Each Party to the Convention undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services, to report to its authorities any incident referred to in Protocol 1. That Party shall, if it considers it appropriate, report accordingly to the Organization and to any other party concerned.

Article 9

Powers of Parties to the Convention

(1) Nothing in the present Convention shall be construed as derogating from the powers of any Party to the Convention to take more stringent measures, where specific circumstances so warrant, within its jurisdiction, in respect of discharge standards.

(2) A Party shall not, within its jurisdiction, in respect of ships to which the Convention applies other than its own ships, impose additional requirements with regard to ship design and equipment in respect of pollution control. The requirements of this paragraph do not apply to waters the particular characteristics of which, in accordance with accepted scientific criteria, render the environment exceptionally vulnerable.

(3) Parties which adopt special measures in accordance with the present Article shall notify them to the Organization without delay. The Organization shall inform Parties to the Convention about these measures.

Article 10

Other Treaties and Interpretation

(1) Upon its entry into force, the present Convention supersedes the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, as between Parties to that Convention.

(2) Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C(XKV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

(3) The term "jurisdiction" in the present Convention shall be construed in the light of international law in force at the time of application or interpretation of the present Convention.

Article 11

Settlement of Disputes

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

Article 12

Communication of Information

- (1) The Parties to the Convention undertake to communicate to the Organization:
 - (a) the text of laws, orders, decrees and regulations and other instruments which have been promulgated on the various matters within the scope of the present Convention;
 - (b) a list of non-governmental agencies which are authorized to act on their behalf in matters relating to the design, construction and equipment of ships carrying harmful substances in accordance with the provisions of the Regulations;
 - (c) a sufficient number of specimens of their certificates issued under the provisions of the Regulations;
 - (d) a list of reception facilities including their location, capacity and available facilities and other characteristics;
 - (e) official reports or summaries of official reports insofar as they show the results of the application of the present Convention;
 - (f) an annual statistical report, in a form standardized by the Organization, of penalties actually imposed for infringement of the present Convention, and
 - (g) a duly documented notification justifying the adoption of any special measures taken in accordance with Article 9(3).
- (2) The Organization shall notify Parties of the receipt of any communications under the present Article and circulate to all Parties any information communicated to it under sub-paragraphs 1(b) to (g) of the present Article.

Article 13Casualties to Ships

(1) Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the Regulations if such casualty has produced a major deleterious effect upon the marine environment.

(2) Each Party to the Convention undertakes to supply the Organization with information concerning the findings of such investigation, when it judges that such information may assist in determining what changes in the present Convention might be desirable.

Article 14Signature, Ratification, Acceptance,
Approval and Accession

(1) The present Convention shall remain open for signature at the Headquarters of the Organization [for twelve months from 1973,*] and shall thereafter remain open for accession. States may become Parties to the present Convention by:

- (a) signature without reservation as to ratification, acceptance or approval, or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval, or
- (c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

(3) The Organization shall inform all States which have signed the present Convention or acceded to it of the deposit of any new instrument and the date of its deposit. The Organization shall also inform all States which already signed the present Convention of any signature effected during the twelve months from 1973.*

* It was suggested that these words be amended to read: "from 1973 until 31 December 1974".

Article 15

Optional Annexes

- (1) A State may at the time of signing, ratifying, accepting, approving or acceding to the present Convention declare that it does not accept any one or all of Annexes III, IV and V (hereinafter referred to as "Optional Annexes") of the present Convention. Subject to the above, Parties to the Convention shall be bound by any Annex in its entirety.
- (2) A State which has declared that it is not bound by an Optional Annex may at any time accept such Annex by depositing with the Organization an instrument of the kind referred to in Article 14(2).
- (3) A State which makes a declaration under paragraph (1) of the present Article in respect of an Optional Annex and which has not subsequently accepted that Annex in accordance with paragraph (2) of the present Article shall not be under any obligation nor entitled to claim any privileges under the present Convention in respect of matters related to such Annex and all references to Parties in the present Convention shall not include that State insofar as matters related to such Annex are concerned.
- (4) The Organization shall inform the States which have signed or acceded to the present Convention of any declaration under the present Article as well as the receipt of any instrument deposited in accordance with the provisions of paragraph (2) of the present Article.

Article 16

Entry into Force

- (1) The present Convention shall enter into force twelve months after the date on which not less than 15 States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with Article 14.
- (2) An Optional Annex shall enter into force twelve months after the date on which the conditions stipulated in paragraph (1) of the present Article have been satisfied in relation to that Annex.

(3) The Organization shall inform the States which have signed the present Convention or acceded to it of the date on which it enters into force and of the date on which an Optional Annex enters into force in accordance with paragraph (2) of the present Article.

(4) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Convention or any Optional Annex after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the Convention or such Annex or three months after the date of deposit of the instrument whichever is the later date.

(5) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention or an Optional Annex entered into force, the Convention or the Optional Annex shall become effective three months after the date of deposit of the instrument.

(6) After the date on which all the conditions required under Article 17 to bring an amendment to the present Convention or an Optional Annex into force have been fulfilled, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention or Annex as amended.

Article 17

Amendments

(1) The present Convention may be amended by any of the procedures specified in the following paragraphs.

(2) Amendments after consideration by the Organization:

(a) any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by its Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration;

(b) any amendment proposed and circulated as above shall be submitted to an appropriate body by the Organization for consideration;

- (c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the appropriate body;
- (d) amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting;
- (e) if adopted in accordance with sub-paragraph (d) above, amendments shall be communicated by the Secretary-General of the Organization to all the Parties to the Convention for acceptance;
- (f) an amendment shall be deemed to have been accepted in the following circumstances:
 - (i) an amendment to an Article of the Convention shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet;
 - (ii) an amendment to an Annex to the Convention shall be deemed to have been accepted in accordance with the procedure specified in sub-paragraph (f)(iii) unless the appropriate body, at the time of its adoption, determines that the amendment shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet. Nevertheless, at any time before the entry into force of an amendment to an Annex to the Convention, a Party may notify the Secretary-General of the Organization that its express approval will be necessary before the amendment enters into force for it. The latter shall bring such notification and the date of its receipt to the notice of Parties.

- (iii) an amendment to an Appendix to an Annex to the Convention shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of its adoption, which period shall be not less than ten months, unless within that period an objection is communicated to the Organization by not less than one-third of the Parties or by the Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet whichever condition is fulfilled;
- (iv) an amendment to Protocol 1 of the Convention shall be subject to the same procedures as for the amendments to the Annexes to the Convention, as provided for in sub-paragraph (f)(iii) above;
- (v) an amendment to Protocol 2 of the Convention shall be subject to the same procedures as for the amendments to an Article of the Convention, as provided for in sub-paragraph (g)(i) below;
- (g) the amendment shall enter into force under the following conditions:
 - (i) in the case of an amendment to an Article of the Convention, to Protocol 2 or to an Annex to the Convention not under the procedure specified in sub-paragraph (f)(iii), the amendment accepted in conformity with the foregoing provisions shall enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it.
 - (ii) in the case of an amendment to an Appendix to an Annex or to an Annex to the Convention under the procedure specified in sub-paragraph (f)(iii), the amendment deemed to have been accepted in accordance with the

foregoing conditions shall enter into force six months after its acceptance for all the Parties with the exception of those which, before that date, have made a declaration that they do not accept it or a declaration under sub-paragraph (f)(ii), that their express approval is necessary.

(3) Amendment by a Conference:

- (a) Upon the request of a Party, concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to the Convention to consider amendments to the present Convention.
- (b) Every amendment adopted by such a Conference by a two-thirds majority of those present and voting of the Parties shall be communicated by the Secretary-General of the Organization to all Contracting Parties for their acceptance.
- (c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and to have entered into force in accordance with the procedures specified for that purpose in paragraph (2)(f) and (g) above.

(4) (a) In the case of an amendment to an Optional Annex, a reference in the present Article to a "Party to the Convention" shall be deemed to mean a reference to a Party bound by that Annex.

(b) Any Party which has declined to accept an amendment to an Annex shall be treated as a non-Party only for the purpose of application of that amendment.

(5) The adoption and entry into force of a new Annex shall be subject to the same procedures as for the adoption and entry into force of an amendment to an Article of the Convention.

(6) Unless expressly provided otherwise, any amendment to the present Convention made under this Article which relates to the structure of a ship shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, on or after the date on which the amendment comes into force.

(7) Any amendment to an Annex shall relate to the substance of that Annex and shall be consistent with the Articles of the present Convention.

(8) The Secretary-General of the Organization shall inform all Parties of any amendments which enter into force under the present Article, together with the date on which each such amendment enters into force.

(9) Any declaration of acceptance or of objection to an amendment under the present Article shall be notified in writing to the Secretary-General of the Organization. The latter shall bring such notification and the date of its receipt to the notice of the Parties to the Convention.

Article 18

Denunciation

(1) The present Convention or any optional Annex may be denounced by any Parties to the Convention at any time after the expiry of five years from the date on which the Convention or such Annex enters into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General of the Organization who shall inform all the other Parties of any such notification received and of the date of its receipt as well as the date on which such denunciation takes effect.

(3) A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

Article 19

Deposit and Registration

(1) The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to all States which have signed the present Convention or acceded to it.

(2) As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Article 20

Languages

The present Convention is established in a single copy in the English, French and Spanish languages, each text being equally authentic. Official translations in the Arabic, Japanese and Russian languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE AT LONDON..... 1973.
