



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 Protocols as agreed by the Drafting Committee

Protocol to Article 8 (Protocol 1)

Regulations Concerning Reports on Incidents Involving Harmful Substances

Regulation 1

Duty to Report

- (1) The Master of a ship involved in an incident referred to in Regulation 3, or other person having charge of the ship, shall report the particulars of such incident without delay and to the fullest extent possible in accordance with the provisions of this Protocol.
- (2) In the event of the ship referred to in paragraph (1) of this Regulation being abandoned, or in the event of a report from such ship being incomplete or unobtainable, the owner, charterer, manager or operator of the ship, or their agents shall, to the fullest extent possible assume the obligations placed upon the Master under the provisions of this Protocol.

Regulation 2Methods of Reporting

- (1) Each report shall be made by radio whenever possible, but in any case by the fastest channels available at the time the report is made. Reports made by radio shall be given the highest possible priority.
- (2) Reports shall be directed to the appropriate officer or agency specified in paragraph (3) of Article 8.

Regulation 3When to Make Reports

The report shall be made whenever an incident involves:

- (a) a discharge permitted under the present Convention by virtue of the fact that:
 - (i) it is for the purpose of securing the safety of a ship or saving life at sea; or
 - (ii) it results from damage to the ship or its equipment; or
- (b)* a discharge of a harmful substance for the purpose of combating a specific pollution incident or for purposes of legitimate scientific research into pollution abatement or control; or
- (c) a discharge other than as permitted under the present Convention; or
- (d) the probability of a discharge referred to in sub-paragraphs (a), (b) or (c) of this Regulation.

Regulation 4Contents of Report

- (1) Each report shall contain in general:
 - (a) identity of ship;
 - (b) the time and date of the occurrence of the incident;
 - (c) the position of the ship when the incident occurred;
 - (d) the wind and sea conditions prevailing at the time of the incident; and
 - (e) relevant details respecting the condition of the ship.

* Under the present Convention, such substances may only be used with the approval of the Administration and of the Government having the jurisdiction over the waters in which the substance is discharged.

- (2) Each report shall contain, in particular:
- (a) a clear indication or description of the harmful substances involved, including if possible the correct technical names of such substances (trade names should not be used in place of the correct technical names);
 - (b) a statement or estimate of the quantities, concentrations and likely conditions of harmful substances discharged or likely to be discharged into the sea, and where relevant
 - (c) a description of the packaging and identifying marks; and if possible
 - (d) the name of the consignor, consignee or manufacturer.
- (3) Each report shall clearly indicate whether the harmful substance discharged, or likely to be discharged is oil, a noxious liquid substance, a noxious solid substance or a noxious gaseous substance and whether such substance was or is carried in bulk or contained in packaged form, freight containers, portable tanks, or road and rail tank wagons.
- (4) Each report shall be supplemented as necessary by any other relevant information requested by a recipient of the report or which the person sending the report deems appropriate.

Regulation 5

Supplementary Report

Any person who is obliged under the provisions of this Protocol to send a report shall when possible

- (a) supplement the initial report, as necessary, with information concerning further development; and
- (b) comply as fully as possible with requests from affected States for additional information concerning the incident.

Protocol to Article 11
(Protocol 2)

ARBITRATION

Article I

Arbitration procedure, unless the Parties to the dispute decide otherwise, shall be in accordance with the rules set out in this Protocol.

Article II

(1) An Arbitration Tribunal shall be established upon the request of one Party to the Convention addressed to another in application of Article 10 of the present Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.

(2) The requesting Party shall inform the Secretary-General of the Organization of the fact that it has applied for the establishment of a Tribunal, of the names of the Parties to the dispute, and of the Articles of the Convention or Regulations over which there is in its opinion disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Parties.

Article III

The Tribunal shall consist of three members: one Arbitrator nominated by each Party to the dispute and a third Arbitrator who shall be nominated by agreement between the two first named, and shall act as its Chairman.

Article IV

(1) If, at the end of a period of sixty days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of sixty days proceed to such nomination, selecting from a list of qualified persons previously drawn up by the Council of the Organization.

(2) If, within a period of sixty days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly

inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of sixty days, selecting him from the list prescribed in paragraph (1) of the present Article.

(3) The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

(4) The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.

(5) In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of sixty days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article III above, or in the absence of agreement between the members of the Tribunal within a period of sixty days of the decease or default, according to the provisions of the present Article.

Article V

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article VI

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. Half of the remuneration of the Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne by each Party. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

Article VII

Any Party to the Convention which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the Parties which have originally initiated the procedure, join in the arbitration procedure with the consent of the Tribunal.

Article VIII

Any Arbitration Tribunal established under the provisions of the present Protocol shall decide its own rules of procedure.

Article IX

(1) Decisions of the Tribunal both as to its procedure and its place of meeting and as to any question laid before it, shall be taken by majority vote of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the Chairman shall be decisive.

(2) The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:

- (a) provide the Tribunal with the necessary documents and information;
- (b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

(3) Absence or default of one Party shall not constitute an impediment to the procedure.

Article X

(1) The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period not exceeding three months. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organization. The Parties shall immediately comply with the award.

(2) Any controversy which may arise between the Parties as regards interpretation or execution of the award may be submitted by either Party for judgement to the Tribunal which made the award, or, if it is not available to another Tribunal constituted for this purpose, in the same manner as the original Tribunal.
