



IMCO

INTERNATIONAL CONFERENCE ON
MARINE POLLUTION, 1973

Agenda item 7

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

DATES FOR APPLICATION OF THE TANK SIZE LIMITATION (REGULATION 24 OF ANNEX I)

Note by the French delegation

The French delegation begs to submit to the Conference the following comments on the Japanese proposal contained in MP/CONF/WP.6 for the substitution of the dates 1 January 1972 and 30 June 1972 for the dates 1 January 1974 and 30 June 1974 given in Regulation 24, sub-paragraph 1(b)(ii) of Annex I to the Convention.

1. Committee II discussed the matter several times in great detail, as a result of the official comments made by the French Government in MP/CONF/8/15 on the original draft.
2. Arising out of these discussions, Committee II approved the text submitted to the Plenary Conference and also approved the first draft resolution contained in MP/CONF/DR/3.
3. There is no factual evidence that shipbuilders with contracts authorized in 1972 and 1973 would dare to take the risk of backtracking and asking for their contracts to be revised in order to eliminate the clauses dealing with tank size: their immediate benefits would be very slight, if for no other reason than that the shipyards would charge for the task of revision; conversely, the value of their ship would be greatly diminished if the 1972 amendments entered into force before the cost of the vessel was completely amortized.

4. Nonetheless, the French delegation understands the fears expressed by the Japanese delegation, especially since French shipyards, like those of Japan, have contracts to build large ships, accepted in 1972 and 1973.

5. Accordingly the French delegation preferred the first draft resolution contained in MP/CONF/DR/3; the only situation in which a shipbuilder might be tempted to backtrack would plainly be that in which the present (1973) Convention was in force, and at the same time he was prepared to take a chance on the 1971 amendments not entering into force until the cost of his vessel was fully amortized.

It would seem easy to avoid such a situation by encouraging ratifications of those amendments; first, because there is no reason why a Government that was prepared to accept the 1973 Convention should not be prepared to accept the 1971 amendments, if it has not already done so, since the text of that Convention includes those amendments; secondly, because it will be very easy for Governments to take appropriate action if they in fact discover that certain owners are seeking to take advantage of differences in dates.

6. If dates earlier than the date of signature of the 1973 Convention were to be incorporated in that Convention, this would create serious difficulties, and would lead to delays in acceptance of the Convention by certain Governments. It is, in fact, not usual to impose requirements with retroactive effect, unless such requirements are of minor importance and can be complied with by ships in service without too much difficulty; indeed, should even a very small number of ships ordered after 1 January 1972 be found not to be entirely in conformity with the 1971 amendments (a matter which could only be decided by a detailed examination of each individual case, since those vessels have no certificate at present), the flag State of such ships would have great difficulty in acceding rapidly to the Convention.

7. If the dates 1 January 1972 and 30 June 1972 were to be used in the draft Convention dated 1973, it would be an explicit indication that the Conference does not believe that the 1971 amendments will enter into force within a reasonably short time. It would severely undermine confidence in the 1954 Convention, amended in 1962, and especially in the important amendments of 1969 and 1971. This must be avoided at all costs and it is highly advisable that the amended 1954 Convention be maintained in full force, since many States will continue for a long time yet to be Parties only to that Convention.