



INTERNATIONAL CONFERENCE ON  
SAFETY OF LIFE AT SEA, 1974  
Committee I  
Agenda item 2

IMCO

CONSIDERATION OF THE DRAFT TEXT OF ARTICLES OF THE  
INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT  
SEA, 1974

Comments on Article IX

Submitted by the Japanese Delegation

1. The Japanese delegation fully agrees with the philosophy behind draft Article IX that:

- (a) the Maritime Safety Committee should be the appropriate body to consider proposed amendments to the SOLAS Convention; and
- (b) when adopting amendments, all and only Contracting Governments, whether or not they are IMCO Members, should have the right to vote.

2. The Delegation cannot, however, accept the idea that the adoption of amendments should be made in "a Committee of Contracting Governments", which is a different body from the Maritime Safety Committee. Such a procedure would give rise to many complex legal and administrative problems, such as are mentioned in the following:

- (1) What is the legal status of "a Committee of Contracting Governments"? Is it a subsidiary organ under Article 12 of the IMCO Convention, or a conference convened under Article 3(b), or a machinery for consultation among Governments under Article 3(c), or an organ outside IMCO?

- (2) What is the relationship between the Maritime Safety Committee and "a Committee of Contracting Governments"?
- (3) Who should decide to convene a meeting of this Committee - Assembly, The Maritime Safety Committee or the Secretary-General?
- (4) Should invitations to the meeting of the Committee of Contracting Governments be issued separately from the invitations to the meeting of the Maritime Safety Committee?
- (5) Should Contracting Governments submit their credentials for this Committee in addition to those for the Maritime Safety Committee?
- (6) What rules of procedure should be applied to this Committee, such as quorum, chairman, representation by observers? Certainly the Rules of Procedure of the Maritime Safety Committee cannot be applied because of different voting procedures.
- (7) Who would bear the expense of holding meetings of this Committee - IMCO or Contracting Governments?
- (8) What will be the difference between "a Committee of Contracting Governments" and a Conference of Contracting Governments convened under paragraph 3 of Article IX?

3. Unless the above questions are clarified, it is not possible for the Japanese delegation to accept the idea of "a Committee of Contracting Governments". The Delegation is of the firm opinion that the Maritime Safety Committee should be the adopting body of amendments to the SOLAS Convention and that means should be found to enable the Maritime Safety Committee to operate under different voting procedures when adopting amendments.

4. With this in view the Japanese delegation submitted to the fifth Extraordinary session of the IMCO Assembly proposals for amendments to Article 43 of the IMCO Convention, which are contained in A/ES.V/5/1, in order to achieve the above objective. Due to the late submission of the proposals and to the limited time available for the extraordinary session, the Assembly decided to postpone the proposals to the ninth regular session of the Assembly.

5. To that session of the Assembly the Japanese delegation also submitted a draft resolution, as an interim measure pending the entry into force of amendments to Article 43 of the IMCO Convention. The draft resolution contained in A/ES.V/5/1/Add.1 was so designed that the Assembly, in accordance with Article 55 of the IMCO Convention, interprets the voting rules of the IMCO Convention in such a way that nothing in the IMCO Convention shall prevent the Maritime Safety Committee from following the rules of procedure as provided in a convention of which IMCO is the depositary, when the Maritime Safety Committee performs functions conferred upon it by such a convention, in particular voting rights of States represented in the Maritime Safety Committee when adopting amendments to the convention.

6. In the view of the Japanese delegation such an interpretation should be possible under Article 29(b) of the IMCO Convention, since the Maritime Safety Committee, when adopting amendments, is considered as a machinery assigned to it by the convention in question, rather than as an IMCO organ performing duties under Article 29(a). A similar decision was in fact taken by the Assembly at its eighth session with regard to the voting rights of non-IMCO Member States. (Resolution A.294(VIII)).

7. In the Assembly, there appeared to be a general agreement with the principle of the draft resolution proposed by the Japanese Delegation. However, due to insufficient time available to some delegations to consult their Governments on this question, the Assembly decided to defer consideration of the draft Resolution to its ninth regular session.

8. In the light of the above the Japanese delegation proposes that:

- (a) draft Article IX should be so amended that amendments shall be adopted in the Maritime Safety Committee by a two-thirds majority of Contracting Governments present and voting; and
- (b) the Conference should recommend to the Assembly that it should adopt at its ninth regular session a Resolution to interpret the IMCO Convention in such a way that the Committee, when performing functions conferred upon it by a convention, can follow the voting procedures as provided for in the convention.

9. The Japanese delegation fully realizes that the interpretation of the IMCO Convention is the prerogative of the IMCO Assembly and not the SOLAS Conference. The delegation believes, however, that in the light of discussions made during its fifth Extraordinary session the Assembly would consider the matter sympathetically and respond to the recommendation of the Conference in a favourable manner.

10. The text of amendments to Article IX to incorporate the above proposals shown at Annex I, and the text of the draft resolution of the Conference to the above effect set out at Annex II, are submitted herewith for consideration by the Conference. (The above redraft of Article IX does not include comments by the Japanese delegation on other aspects of Article IX).

ANNEX I

Article IX

2. Amendments within the Organization:

- (a) - (c) [No change].
- (d) amendments shall be adopted by a two-thirds majority of the Contracting Governments present and voting in the Maritime Safety Committee;
- (e) [No change].
- (f) an amendment shall be deemed to have been accepted in the following circumstances:
  - (i) [no change].

Alternative I

- (ii) an amendment to the Annex to the Convention shall be deemed to have been accepted in accordance with the procedure specified in sub-paragraph (f)(iii) unless the Maritime Safety Committee at the time of its adoption, determines by a two-thirds majority of Contracting Governments present and voting that the amendment shall be deemed to have been accepted in accordance with the procedures specified in sub-paragraph (f)(i).

[Nevertheless, at any time before the entry into force of an amendment to the Annex to the Convention, a Contracting Government may notify 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 the Contracting Governments];

Alternative II<sup>2/</sup>

- (ii) An amendment to the Annex shall be deemed to have been accepted at the end of a period of not less than one year, or at the end of a longer period if determined by a two-thirds majority of the Contracting Governments present and voting in the Maritime Safety Committee at the time of its adoption, unless within that period not less than one-third of the Contracting Governments, or Contracting Governments 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 first fulfilled, notify the Organization that they object to the amendment.
- (ii-bis) Any Contracting Government may, before the date set for acceptance, give notice to the Organization that it exempts itself from giving effect to the amendment for a period not exceeding two years from the date of entry into force of that amendment; provided that the effect of any such notification shall not be to extend the period for which a Government may delay

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<sup>2/</sup> The text of sub-paragraphs (ii) and (ii-bis) was inserted by the Maritime Safety Committee.

giving effect to an amendment beyond three years from the date on which the amendment is notified to Contracting Governments for acceptance, unless decided otherwise by a two-thirds majority of the Contracting Governments present and voting in the Maritime Safety Committee at the time of its adoption.

- (iii) An amendment to an Appendix shall be deemed to have been accepted at the end of a period of ten months or at the end of a longer period if determined by a two-thirds majority of the Contracting Governments present and voting in the Maritime Safety Committee at the time of its adoption, unless within that period an objection is communicated to the Organization by not less than one-third of the Contracting Governments or by the Contracting Governments 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;

(g) [no change].

3 - 7 [no change].

[8. The Maritime Safety Committee, by a two-thirds majority of the Contracting Governments present and voting, may determine at the time of its adoption that an amendment to the Annex is of such an important nature that if any Contracting Government makes a declaration before the date of its entry into force that it does not accept the amendment and does not accept the amendment within a period of [X] months after it enters into force, [the other Contracting Governments shall not be under an obligation to extend to that Government the benefits of the present Convention] [that Contracting Government, upon the expiry of this period, shall cease to be party to the present Convention]. Such determination shall be subject to the condition that objection to it is not communicated to the Organization by at least one-third of the Contracting Governments prior to the entry into force of the amendment.]

ANNEX II

Draft Resolution

VOTING RIGHTS IN THE MARITIME SAFETY  
COMMITTEE FOR THE ADOPTION OF AMENDMENTS

THE CONFERENCE,

RECALLING that one of the main objectives of the Conference is to incorporate improved amendment procedures in a new Convention to replace the International Convention for the Safety of Life at Sea, 1960,

HAVING CONCLUDED the International Convention for the Safety of Life at Sea, 1974 to replace the 1960 Convention,

BEING SATISFIED with the provisions of Article IX of the 1974 Convention that amendments to the Convention shall be adopted by a two-thirds majority of Contracting Governments present and voting in the Maritime Safety Committee,

NOTING that the Assembly of the Inter-Governmental Maritime Consultative Organization at its fifth extraordinary session decided by Resolution A.317(ES.V) that the Organization should pursue studies on proposals for amendments to the IMCO Convention in order, inter alia, that the Maritime Safety Committee could follow voting procedures as provided for in a convention when exercising functions conferred upon it by such a convention,

RECOGNIZING that the interpretation of the IMCO Convention is the prerogative of the Assembly of the Organization in accordance with Article 55 of that Convention,

RECOMMENDS the Assembly that it give favourable consideration to the interpretation of the IMCO Convention to enable the Maritime Safety Committee to follow voting procedures for adopting amendments to the 1974 Safety Convention as provided for in Article IX thereof.

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