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Agenda item 7

IMCO

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

Comments on the proposed amendments to the Articles
of the 1960 Safety Convention

Submitted by France

The following comments are in continuation of and complementary to the observations of the Government of France (SOLAS/CONF/6) and take account in particular of the comments of the United Kingdom included in that document.

Article IX, paragraph 2(f)

Alternative I, first sub-paragraph

Although the 1973 Convention for the Prevention of Pollution from Ships - as regards amendments to an Annex to the Convention - provides for express acceptance instead of the new tacit acceptance procedure upon a decision of the adopting body at the time of adoption of amendments, it does not seem to be desirable to offer this choice in the case of the present Convention, particularly for provisions which are of an undeniably technical nature. To do so would be contrary to the avowed objective, which is to substitute the more rapid tacit acceptance procedure for the express procedure as far as these provisions are concerned.

Indeed, this possibility could be deleted since the only procedure for amendments to the Annex to the Convention is that of tacit acceptance.

On the other hand, the provisions of Chapter I of the Annex, which do not deal with technical matters requiring accelerated amendment procedures, could be subject to the express acceptance procedure.

Second sub-paragraph

The provision placed within square brackets enables each Contracting State to set aside the tacit acceptance procedure for amendments to the Annex to the Convention. This would have the disadvantage of undoubtedly delaying the entry into force of amendments to the Annex in these States; thus, the amendments would, for a long period, only apply to a small number of States, which would not enable advantage to be taken of the simplified procedure of tacit acceptance which is so desirable as far as the Annex is concerned.

Furthermore, notification by a government that an amendment requires its express approval has the effect of reducing the number of States which are deemed to have accepted the amendment by the tacit acceptance method. In the view of the French Government the result would be, according to the procedure stipulated in sub-paragraph (f)(ii), that this notification ought, in the absence of express approval by the State concerned, to be considered as an objection. The effect would be to increase the number of States opposing the amendment.

In these circumstances, acceptance of this amendment would be rendered more difficult.

Alternative II

The new wording for the whole of paragraph (f) proposed by the United Kingdom (SOLAS/CONF/6, Annex) seems to be satisfactory.

Sub-paragraph (ii)

The text allows for tacit acceptance after a period of more than a year as well as a shorter period. In general terms however, the French Government considers that a period of one year should be the minimum; nevertheless, as far as SOLAS is concerned, it would be desirable for this period to be reduced to six months but this special minimum time limit should be laid down in the Convention.

The new British alternative does not mention the appendices, and it is desirable that the same procedure should apply to them.

Sub-paragraph (iii)

The text does not enable the two-thirds majority of the Contracting Governments to remove the possibility for a State to delay the entry into force of an amendment as far as it is concerned, but merely to change the period during which entry into force of the amendment can be delayed as far as that State is concerned. This new proposal, which introduces a sufficient degree of flexibility, can be supported.

x x x

Article IX, 8

The French Government has always opposed the procedure regarding an "amendment of such an important nature" which is contrary to the principle of the sovereignty of States and does not correspond to the provisions of Article 40, 4 of the Vienna Convention on the Law of Treaties, which reflect the current state of international law on this point.
