



INTERNATIONAL CONFERENCE ON  
THE SUPPRESSION OF UNLAWFUL  
ACTS AGAINST THE SAFETY OF  
MARITIME NAVIGATION -  
Agenda item 6

IMO

CONSIDERATION OF THE DRAFT CONVENTION FOR THE SUPPRESSION OF UNLAWFUL  
ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION AND THE DRAFT  
PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST  
THE SAFETY OF FIXED PLATFORMS LOCATED ON THE  
CONTINENTAL SHELF

Comments by the Government of Malaysia

A CONVENTION

Article 1

- (i) The use of the word 'permanently' on the definition of ship may possibly give rise to some problems of interpretation. For example, jack-up rigs may not 'permanently' be attached to the seabed, but are attached to the seabed but may be moved from place to place. They are however considered to be platforms.

Article 2

- (i) What would be the remedy if Government vessels or persons perpetrate any of the offences under article 3?

Article 3(1)

- (i) We would suggest that article 3(1) be redrafted to start with a general provision and to cite the listed acts as examples of acts which are likely to endanger the safe navigation of ships. This would act as a safeguard against inadvertent omission of acts not listed under article 3(1). A possible draft provision would be as follows:

- .1 Any person commits an offence if that person unlawfully and intentionally performs an act which is likely to endanger the safety of a ship and without prejudice to the generality of the foregoing provision it is an offence if any person unlawfully and intentionally:
- (a) by force or threat thereof, or any other form of intimidation seizes or exercises control over a ship; or
  - (b) performs an act of violence against a person on board a ship if that act is likely to endanger its safety; or
  - (c) destroys a ship, or causes damage to it if that act is likely to endanger its safety; or
  - (d) places or causes to be placed on a ship, substance which is likely to destroy that ship, or to cause damage to it which is likely to endanger its safety; or
  - (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation if any such act is likely to endanger the safe navigation of ships; or
  - (f) communicates information which he knows to be false, thereby endangering the safe navigation of ships;
  - (g) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (d).

- (ii) Whilst the offences listed under 3(1)(d) include any act which endangers 'safe navigation of the ship' it appears that an act which renders a ship 'incapable of navigation' seemed to have been excluded. The reasons for this are not clear.

#### Article 3(2)

- (i) The phrase qualifying 'attempts' under article 3(2)(a) appears to introduce a further test, i.e. to determine further whether or not that attempt is likely to endanger the safe navigation of the ships. A similar test is introduced in 3(2)(c). Clarification of this would be appropriate.

Article 4

- (i) The intention of the article is not clear. Some amendments may be necessary to render greater clarity to the article.

B PROTOCOL

Article 2

The comments made for article 3(1) of the Convention are valid here too. A general introductory provision should be included, followed by the listing of offences. A possible draft provision would be as follows:

- .1 Any person commits an offence if that person unlawfully and intentionally performs an act which is likely to endanger the safety of a fixed platform, and without prejudice to the generality of the foregoing provision it is an offence if any person unlawfully and intentionally:
- (a) by force or threat thereof or any other form of intimidation seizes or exercises control over a fixed platform; or
  - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or
  - (c) destroys a fixed platform, or causes damage to it if that act is likely to endanger its safety; or
  - (d) places or causes to be placed on a fixed platform, substance which is likely to destroy that fixed platform, or to cause damage to it which is likely to endanger its safety; or
  - (e) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (d).
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