



INTERNATIONAL CONFERENCE ON  
THE SUPPRESSION OF UNLAWFUL  
ACTS AGAINST THE SAFETY OF  
MARITIME NAVIGATION  
Rome, 1-10 March 1988

IMO

Committee of the Whole

COMMITTEE OF THE WHOLE

Record of Decisions

A ADOPTION OF THE AGENDA

1 At its first meeting, on 1 March 1988, the Committee gave consideration to the provisional agenda contained in document SUA/CONF/CW/1. It adopted the agenda contained in document SUA/CONF/CW/1/1.

B ELECTION OF THE VICE-CHAIRMEN

2 At its fifth meeting on 3 March the Committee unanimously elected Ms. R. Hussein (Malaysia) as First Vice-Chairman, His Excellency Señor Luis Solari (Peru) as Second Vice-Chairman and Citoyen S.K. Milombe (Zaire) as Third Vice-Chairman.

C 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

3 The discussions and decisions of the Committee on the draft Convention and the draft Protocol, at its first to fourteenth (1 to 9 March 1988) meetings, are summarized hereunder.

CONVENTIONPreamble

4 The Committee held a first exchange of views on the preamble of the draft Convention at its ninth meeting on 7 March. The Committee had before it proposals from the delegations of Kuwait (SUA/CONF/12), Australia, Greece, Liberia, the Netherlands, Norway (SUA/CONF/CW/WP.5), Cuba (SUA/CONF/CW/WP.10), the Federal Republic of Germany (SUA/CONF/CW/WP.11), Algeria (SUA/CONF/CW/WP.13) and Saudi Arabia (SUA/CONF/CW/WP.14). The Committee decided to refer the draft preamble, together with the proposals contained in document SUA/CONF/CW/WP.5 and 11, to the Drafting Committee for finalization. The Committee also decided to invite the President to include in his informal consultations consideration of the proposal contained in document SUA/CONF/CW/WP.13.

5 The Committee reverted to the draft preamble at its ninth and tenth meetings on 7 March. It gave further consideration to the proposals contained in document SUA/CONF/CW/WP.5, WP.11 and WP.13. The Committee decided to invite delegations to convey their viewpoints informally to the President who would take them into account in his informal negotiations.

6 At its fourteenth meeting on 9 March the Committee received a communication from the President of the Conference regarding the preamble of the draft Convention (SUA/CONF/CW/WP.40). The Committee noted and approved the proposal of the President to insert two paragraphs immediately after the sixth preambular paragraph of the draft Convention and to revise the seventh and eighth preambular paragraphs. The Committee also approved a proposal by the delegation of Liberia to add a preambular paragraph regarding crew discipline. The Committee approved the preamble of the draft Convention as a whole, as amended.

Articles 1 and 2

7 The Committee held a first exchange of views on draft articles 1 and 2 of the Convention at its second and third meetings on 2 March. The Committee had before it proposals submitted by the delegations of Malaysia (SUA/CONF/7/Rev.1), Australia (SUA/CONF/8), the Islamic Republic of Iran

(SUA/CONF/CW/WP.3) and the Netherlands (SUA/CONF/CW/WP.6). In the light of the discussions, the Committee decided to invite interested delegations to hold informal consultations and to report on the results thereof.

8 At its sixth meeting on 4 March, the Committee received an interim report on informal consultations which had taken place on article 1 of the Convention (SUA/CONF/CW/WP.18). It took note of this information and invited interested delegations to pursue their informal consultations in this respect.

9 At that same meeting, the Committee also received a report on informal consultations which had taken place on draft article 2. The Committee decided to refer the article to the Drafting Committee for finalization on the basis of the basic text and taking account of the proposal contained in document SUA/CONF/CW/WP.3. The Committee also had before it proposals submitted by the delegations of the Libyan Arab Jamahiriya (SUA/CONF/CW/WP.15) and Bulgaria and the Ukrainian SSR (SUA/CONF/CW/WP.24/Rev.1).

10 At its eighth meeting on 5 March, the Committee received a further interim report on informal consultations on article 1 (SUA/CONF/CW/WP.26). It took note of this information and invited the delegations concerned to pursue their informal consultations in this respect.

11 At its ninth meeting on 7 March the Committee received a further brief interim report on progress made in the informal consultations on article 1. The Committee took note of this information and invited the delegations concerned to pursue and finalize their informal consultations on these provisions.

12 At its eleventh meeting on 8 March, the Committee took note of the outcome of these consultations and approved draft article 1 together with the interpretations relating thereto as submitted in document SUA/CONF/CW/WP.18. The Committee noted that the reservation reported in paragraph 2 of the document had been withdrawn. The Committee referred draft article 1 to the Drafting Committee for finalization.

13 At its thirteenth meeting on 9 March, the Committee approved draft article 1 prepared by the Drafting Committee in document SUA/CONF/DC/3.

Article 3

14 The Committee gave an initial consideration to article 3 of the draft Convention at its third and fourth meetings on 2 and 3 March. The Committee had before it proposals submitted by the delegations of France (SUA/CONF/6), Malaysia (SUA/CONF/7/Rev.1), Australia (SUA/CONF/10), Kuwait (SUA/CONF/12), New Zealand (SUA/CONF/CW/WP.1), Argentina (SUA/CONF/CW/WP.2), the Islamic Republic of Iran (SUA/CONF/CW/WP.3), the Federal Republic of Germany (SUA/CONF/CW/WP.11), Saudi Arabia (SUA/CONF/CW/WP.14) and the Libyan Arab Jamahiriya (SUA/CONF/CW/WP.15).

15 At its fourth meeting, the Committee proceeded to a number of indicative votes. It decided to retain the word "unlawfully" in paragraph 1 (64 in favour, none against, 3 abstentions). It rejected a proposal to replace in paragraph 1(b), (c), (d) and (e) the word "could" by the term "is likely to" (8 in favour, 48 against, 9 abstentions). It decided to retain in paragraph 1(e) the word "seriously" (49 in favour, 13 against, 6 abstentions). The Committee also decided to replace in paragraph 1(e) and (f) the word "ships" by the term "a ship". The Committee further decided to delete in paragraph 2(a) the phrase "if that attempt is likely to endanger the safe navigation of the ship". The Committee moreover decided not to adopt a proposal to add a new paragraph 3 (SUA/CONF/CW/WP.2). In the light of these preliminary decisions, the Chairman prepared a revised text of article 3 (SUA/CONF/CW/WP.21) for examination by the Drafting Committee.

16 The Committee reverted to article 3 at its eleventh meeting on 8 March. It had before it proposals from the Governments of France (SUA/CONF/CW/WP.17) and Nicaragua (SUA/CONF/CW/WP.33). It also had before it the text of draft article 3 as revised by the Drafting Committee (SUA/CONF/DC/1). The Committee of the Whole approved in principle the text prepared by the Drafting Committee and decided to refer a number of outstanding issues to the Drafting Committee for further consideration, including the proposal contained in document SUA/CONF/CW/WP.17).

17 At its twelfth meeting on 8 March the Committee examined the revised draft article 3 as submitted by the Drafting Committee (SUA/CONF/DC/3). In an

indicative vote, the Committee of the Whole decided to insert in paragraph 2(c) a cross-reference to sub-paragraph (e) (41 in favour, 18 against, 4 abstentions). The Committee approved draft article 3 as contained in document SUA/CONF/DC/3 with this alteration.

Articles 4 and 5

18 The Committee held a first exchange of views on draft articles 4 and 5 at its first and second meetings on 1 and 2 March. The Committee had before it proposals submitted by the delegations of France (SUA/CONF/6), Australia (SUA/CONF/8), the Islamic Republic of Iran (SUA/CONF/CW/WP.3), Spain (SUA/CONF/CW/WP.4), Saudi Arabia (SUA/CONF/CW/WP.14) and the Netherlands (SUA/CONF/CW/WP.6). In the light of the discussions, the Committee invited interested delegations to hold informal consultations and to report on the result of these consultations to the Committee.

19 At its sixth meeting on 4 March, the Committee received an interim report on the informal consultations which had taken place. It took note of this information and invited the delegations concerned to pursue their informal consultations in this respect.

20 At its eighth meeting on 6 March the Committee received a report from the President on these informal consultations (SUA/CONF/CW/WP.23). The Committee noted that with the adoption of the proposed new text for article 4, article 5 would be deleted. It also noted that the proposal would involve the inclusion in the Final Act of the Conference of a statement regarding straits used for international navigation. After an exchange of views on this proposal, the Committee decided to invite the delegations concerned to hold further informal consultations, taking account of the views expressed in the Committee. The Committee also noted the proposal for a statement submitted by the delegation of Spain (SUA/CONF/CW/WP.27).

21 At its tenth meeting on 7 March the Committee received a further report on the results of the informal consultations regarding article 4 (SUA/CONF/CW/WP.32). The Committee approved the proposed new text for article 4, as well as the text of the statement regarding straits used for international navigation to be inserted in the Final Act of the Conference. The Committee decided to forward these texts to the Drafting Committee for finalization.

22 At its thirteenth meeting on 9 March, the Committee approved the text of article 4 as contained in document SUA/CONF/DC/3, with an alteration to the last part of paragraph 1.

Article 6 (Article 5 of the Convention as adopted)

23 The Committee gave consideration to draft article 6 at its sixth meeting on 4 March and decided to refer the draft article to the Drafting Committee for finalization, inviting it to take note of a proposal by the delegation of Argentina regarding the Spanish text of the article (SUA/CONF/CW/WP.2).

24 At its eleventh meeting on 8 March the Committee approved draft article 6 as contained in document SUA/CONF/DC/1.

Article 7 (Article 6 of the Convention as adopted)

25 The Committee gave initial consideration to article 7 of the draft Convention at its fifth meeting on 3 March. The Committee had before it proposals submitted by the delegations of France (SUA/CONF/6 and CW/WP.16/Rev.1), the Islamic Republic of Iran (SUA/CONF/CW/WP.3), Japan (SUA/CONF/CW/WP.8) and the Federal Republic of Germany (SUA/CONF/CW/WP.11). The Committee agreed to refer paragraph 1 of the article to the Drafting Committee for finalization.

26 At its seventh meeting on 4 March, the Committee decided to postpone consideration of a proposal by the delegation of Japan (SUA/CONF/CW/WP.19).

27 At its eighth meeting on 5 March, the Committee proceeded to a number of indicative votes. It decided to retain the text of paragraph 2(b) (52 in favour, 3 against, 3 abstentions). It also decided to retain the text of paragraph 2(c) (48 in favour, 7 against, 9 abstentions). It further decided not to include the text of paragraph 2(d) (7 in favour of inclusion, 36 against, 15 abstentions). Moreover, the Committee decided not to exclude from the Convention the obligation provided for in article 7, paragraph 3 in respect of the offences set forth in article 3, paragraph 1(e) (11 in favour of exclusion, 39 against, 8 abstentions) and in respect of the offences set forth in article 3, paragraph 1(f) (15 in favour of exclusion, 36 against, 9 abstentions).

28 The Committee noted that two delegations expressed a reservation on the Committee's decision to retain article 7, paragraph 2(c).

29 The Committee agreed to refer paragraph 2 of the article to the Drafting Committee for finalization.

30 At the same meeting the Committee gave consideration to the proposal, contained in document SUA/CONF/CW/WP.19, for a new paragraph 2bis. The Committee concluded that informal consultations should be held on this proposal before it could proceed to a decision; it, accordingly, invited interested delegations to hold such consultations and to submit a report on the results thereof.

31 The results of these consultations were submitted to the Committee at its tenth meeting on 7 March (SUA/CONF/CW/WP.31). The Committee approved the proposed text for an article 7(2bis), and forwarded it to the Drafting Committee for finalization.

32 At its twelfth meeting on 8 March, the Committee gave consideration to the text prepared by the Drafting Committee (SUA/CONF/DC/3). The Committee proceeded to two indicative votes. In respect of paragraph 1(b) it rejected a proposal to insert the phrase "for the purpose of this article" after the word "including" (4 in favour of inclusion, 60 against, 7 abstentions). In respect of paragraph 3, the Committee agreed to maintain the phrase "which has established jurisdiction" without change (55 in favour, 3 against, 10 abstentions). The Committee also had before it a proposal by the delegation of Egypt (SUA/CONF/CW/WP.35/Rev.1).

33 At its fourteenth meeting on 9 March, the Committee approved the text of article 7 prepared by the Drafting Committee in document SUA/CONF/DC/3, with some minor alterations to paragraphs 1(a), 2(b) and 3.

#### Article 8 (Article 7 of the Convention as adopted)

34 The Committee considered draft article 8 of the Convention at its sixth meeting on 4 March. The Committee had before it proposals submitted by the delegations of Argentina (SUA/CONF/CW/WP.2) and France (SUA/CONF/CW/WP.22).

The Committee decided to refer draft article 8 to the Drafting Committee for finalization, taking into account the views expressed in the Committee.

35 At its eleventh meeting on 8 March, the Committee approved the text of article 8 prepared by the Drafting Committee in documents SUA/CONF/DC/1 and DC/3.

New article 8A (Article 8 of the Convention as adopted)

36 At its sixth meeting on 4 March the Committee agreed to give consideration to the proposal to insert an additional article into the Convention which would deal with the obligation of States to accept an alleged offender who had been detained by the master of a ship. Proposals in this respect were submitted to the Committee by the delegations of France (SUA/CONF/6), Japan (SUA/CONF/CW/WP.8), Greece and Liberia (SUA/CONF/CW/WP.12) and China (SUA/CONF/CW/WP.20). The Committee concluded, in the light of the different views expressed on some aspects of these proposals, that informal consultations might produce a widely acceptable text. It, accordingly, invited interested delegations to consult on this matter and to submit a report on the outcome of these consultations.

37 At its ninth meeting on 7 March, the Committee received an interim report on these consultations (SUA/CONF/CW/WP.25). The Committee noted that consultations on this article were proceeding and agreed to await the final outcome of these consultations.

38 The results of the informal consultations were submitted to the Committee in document SUA/CONF/CW/WP.39 and were considered by the Committee at its twelfth meeting on 9 March. For paragraph 2, two alternative texts had been put forward. In an indicative vote, the Committee decided to retain the text contained in alternative I (31 in favour of alternative I, 26 in favour of alternative II). In a further indicative vote the Committee decided to retain paragraph 5 (48 in favour of retention, 7 against, 9 abstentions). The Committee then approved the text of article 8A, subject to the decision taken by the Committee as indicated.



### Article 9

39 The Committee considered draft article 9 at its sixth and seventh meetings on 4 March. In the light of the discussions the Committee referred the article to the Drafting Committee for finalization, taking into account the suggestions made during the debate.

40 At its eleventh meeting on 8 March the Committee approved the text of article 9 submitted by the Drafting Committee in document SUA/CONF/DC/1 and DC/3.

### Article 10

41 The Committee gave consideration to draft article 10 at its sixth and seventh meetings on 4 March. The Committee had before it proposals from the delegations of France in respect of the French text (SUA/CONF/6), Argentina (SUA/CONF/CW/WP.2) and Algeria (SUA/CONF/CW/WP.13). In the light of the discussions the Committee decided to refer the article to the Drafting Committee for finalization, taking into account the various views expressed during the debate. The Committee noted that one delegation reserved its position in respect of article 10, pending a decision on the final contents of article 11.

42 At the ninth meeting of the Committee on 7 March, the delegation of Algeria further clarified its proposal contained in document SUA/CONF/CW/WP.13.

43 At its eleventh meeting on 8 March, the Committee approved a text for article 10 and forwarded it to the Drafting Committee for finalization.

44 The text elaborated by the Drafting Committee (SUA/CONF/DC/1) was approved by the Committee of the Whole at its fourteenth meeting on 9 March.

### Article 11

45 The Committee held an initial exchange of views on draft article 11 at its seventh meeting on 4 March. The Committee had before it proposals submitted by the delegations of France (SUA/CONF/6), Argentina (SUA/CONF/CW/WP.2) and the Islamic Republic of Iran (SUA/CONF/CW/WP.3). In

the light of the discussion, the Committee invited interested delegations to hold informal consultations and to report the results of these consultations to the Committee.

46 At its ninth meeting on 7 March, the Committee received a report on the outcome of these consultations. In the light of the report the Committee decided to refer the article to the Drafting Committee for finalization, taking into account the proposals resulting from the informal consultations.

47 At its thirteenth meeting on 9 March, the Committee approved the text of article 11 submitted by the Drafting Committee in document SUA/CONF/DC/3 with an editorial alteration in respect of paragraph 5.

48 At its fourteenth meeting, on the same day, the Committee approved the addition of two further paragraphs to article 11. These additional paragraphs had been submitted to the Committee by the President of the Conference as a result of his informal consultations on the preamble and on article 11 (SUA/CONF/CW/WP.40).

#### Proposed new article 11A

49 At its seventh meeting on 4 March the Committee held an initial exchange of views on a proposal submitted by the delegation of Kuwait (SUA/CONF/CW/WP.7/Rev.1) to insert an additional article into the Convention which would set out certain circumstances under which a request for extradition should not be granted. The Committee concluded that this proposal required informal consultations among interested Governments before a decision was taken on it. The Committee, accordingly, invited delegations to hold such consultations and to report on the outcome of these consultations.

50 At its tenth meeting on 7 March, the Committee was informed that the informal consultations had not been able to reach agreement on a draft article. The Committee, accordingly, decided to invite the President to take up consideration of the proposed draft article in the context of his informal consultations.

51 At its fourteenth meeting on 9 March the Committee noted that the issue regarding the proposed article 11A had been resolved by the President in his informal consultations. The solution involved the insertion of two additional paragraphs in article 11.

Articles 12, 13 and 14

52 At its seventh meeting on 4 March, the Committee, noting that no further proposals had been submitted to the Conference in respect of articles 12, 13 or 14, decided to refer all three draft articles to the Drafting Committee for finalization.

53 At its ninth meeting on 7 March, the Committee was informed that two new proposals would be submitted to the Committee in respect of article 12. The Committee decided to revert to these proposals once they had been circulated.

54 At its tenth meeting on 7 March, the Committee considered two proposals concerning article 12 submitted by the delegation of Spain (SUA/CONF/CW/WP.30). The Committee approved the substance of the proposals and referred them to the Drafting Committee for finalization.

55 At its thirteenth meeting on 9 March, the Committee approved the text of article 12 as contained in document SUA/CONF/DC/3 with some alterations to both paragraphs.

56 At its eleventh meeting on 8 March, the Committee noted a proposal submitted in respect of article 13 by the delegations of Peru and Argentina (SUA/CONF/CW/WP.39) and decided to refer the proposals to the Drafting Committee for further consideration.

57 At its thirteenth meeting on 9 March, the Committee approved the texts of article 13 and 14 submitted by the Drafting Committee in document SUA/CONF/DC/1.

Article 15

58 The Committee considered draft article 15 at its ninth meeting on 7 March. It noted the proposal by Saudia Arabia regarding article 15 in SUA/CONF/CW/WP.14. This proposal had originally been submitted to the first session of the Ad Hoc Preparatory Committee on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. The Committee noted that the matters dealt with by the proposal were covered by the informal consultations being undertaken by the President. There were no other proposals in respect

of article 15 and the Committee, accordingly, agreed to refer the article to the Drafting Committee for finalization, subject to any decisions that might be taken in respect of the proposal by Saudi Arabia.

59 At its thirteenth meeting on 9 March, the Committee approved the text of article 15 as prepared by the Drafting Committee in document SUA/CONF/DC/3.

#### Proposed new article 15bis

60 At its ninth meeting on 7 March the Committee took note of a proposal by the delegation of Cuba (SUA/CONF/CW/WP.10).

#### Article 16

61 The Committee gave consideration to draft article 16 at its ninth meeting on 7 March. The Committee had before it proposals from the delegations of France (SUA/CONF/6) and the Islamic Republic of Iran (SUA/CONF/CW/WP.3). In the light of the discussions, the Committee decided to refer the article to the Drafting Committee for finalization, taking into account the various suggestions made. In respect of the proposal to add a further paragraph to the article, the Committee invited the delegations who had submitted the proposal to hold informal consultations thereon.

62 At its thirteenth meeting on 9 March, the Committee approved the text of article 16 as prepared by the Drafting Committee in document SUA/CONF/DC/3 with the additional paragraph 3 as proposed in document SUA/CONF/3 (page 10).

#### Articles 17 to 22

63 At its first meeting on 1 March, the Committee decided to refer the draft final clauses contained in articles 17 to 22 directly to the Drafting Committee for consideration and finalization.

64 At its eleventh meeting on 8 March, the Committee noted proposals submitted by the delegations of France (SUA/CONF/6), the Islamic Republic of Iran (SUA/CONF/CW/WP.3), Egypt (SUA/CONF/CW/WP.35/Rev.1) and Peru (SUA/CONF/CW/WP.36). It also took note of a proposal resulting from informal

consultations in respect of article 21 (SUA/CONF/GW/WP.31) which it referred to the Drafting Committee.

65 At its twelfth meeting on 8 March the Committee approved the texts for articles 17 to 22 as prepared by the Drafting Committee in documents SUA/CONF/DC/1 and DC/3, with minor alterations.

#### Approval of draft Convention

66 At its fourteenth meeting on 9 March the Committee of the Whole approved by consensus the text of the draft Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation.

#### PROTOCOL

67 The Committee held a first exchange of views on the draft Protocol at its second and third meetings on 2 March. The Committee had before it proposals submitted by the delegations of Malaysia (SUA/CONF/7/Rev.1), Australia (SUA/CONF/9 and 10), Kuwait (SUA/CONF/12) and the United States (SUA/CONF/GW/WP.9). In the light of the discussions, the Committee decided to invite interested delegations to hold informal consultations and to report on the results of these consultations to the Committee.

68 At its sixth meeting on 4 March, the Committee received an interim report on informal consultations which had taken place on the Protocol (SUA/CONF/GW/WP.18). The Committee took note of this information and invited interested delegations to pursue their informal consultations in this respect.

69 At its eighth meeting on 5 March, the Committee received a further interim report on informal consultations on the draft Protocol (SUA/CONF/GW/WP.26). It took note of this information and invited the delegations concerned to pursue their informal consultations in this respect.

70 At its ninth meeting on 7 March the Committee received a brief interim report on progress made in the informal consultations on the draft Protocol, in particular the draft final clauses of the Protocol. The Committee took note of this information and invited the delegations concerned to pursue and finalize their informal consultations on these provisions.

71 At its eleventh meeting on 8 March, the Committee noted the outcome of the informal consultations and approved the preamble and draft articles 1, 2, 3 and 3bis of the draft Protocol as contained in document SUA/CONF/CW/WP.34, with some alterations. The Committee agreed that article 3bis in document SUA/CONF/CW/WP.34 would be incorporated in article 1 as paragraph 3. It also approved draft article 4 as contained in document SUA/CONF/CW/WP.37 and draft articles 5, 6, 7, 8, 9 and 10 as contained in document SUA/CONF/DC.2, with some alterations. The Committee also took note of a proposal by the delegation of Egypt (SUA/CONF/CW/WP.38) concerning article 6 of the draft Protocol.

#### Approval of draft Protocol

72 At its fourteenth meeting on 9 March the Committee unanimously approved the text of the draft Protocol on the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf as contained in document SUA/CONF/DC/4.

#### D REPORT TO PLENARY

73 At its fourteenth session on 9 March the Committee of the Whole considered its report to Plenary, the draft of which was in document SUA/CONF/CW/WP.41. The Committee adopted the report with some amendments. The final report was issued as document SUA/CONF/CW/14/Rev.2.

---