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

Committee of the Whole
Agenda item 3

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

Proposals by the Government of the Federal Republic of Germany

1) Preamble

Observation: The preamble explicitly refers to the resolutions 40/61 of 9 December 1985 of the General Assembly of the United Nations and A.584(14) of 20 November 1985 of the Assembly of the International Maritime Organization which led to this conference.

However, the actual draft convention by its terminology covers some minor offences which are without relevance under the aforementioned resolutions. One example has already been discussed: the question of bord discipline should not enter into the convention's scope of application.

There are other cases to which the wording of the draft text could be applied but which in fact lack any similarity with the offences aimed at by the Convention. For example, according to article 3, any person commits an offence when acting unlawfully against a "ship", which, according to article 1, means a "vessel of any type whatsoever", so that the Convention could comprise even cases of "ordinary criminal violence" against very small vessels like pleasure boats.

Another example could be that of violent behaviour of passengers on ferry-boats in a manner similar to what from time to time happens in other areas of public mass transport (like railways) without having any further implications.

It is obviously not the intention of the Convention to create an international regime in this field. One way to exclude such cases could be the changing of the relevant articles (i.e. 1, 3, etc.). In the opinion of the Federal Republic of Germany, it could be sufficient under the given circumstances, to point out the underlying fundament of the Conference in the preamble.

Proposal: Insert in the preamble in the paragraph beginning with "AFFIRMING the desirability" in its second line after "unlawful acts", the words: "in the sense of the aforementioned resolutions".

2) Article 3, paragraph 1(f)

Observation: Paragraph 1(f) reflects, as regards the necessity of precise wording satisfying the requirements of penal law, a rather vague concept. It could become difficult to define the implications and meaning of an act which consists in the "communication of information", thereby comprising a lot of activities which in no way are specific for the maritime sector.

Proposal: Delete article 3, paragraph 1(f).

3) Article 7, paragraph 1(a)

The wording: "flying the flag" should refer only to cases where the ship is flying the flag legally. According to article 5 of the Convention on the High Seas (1958), and article 91 of the United Nations Convention on the Law of the Sea (1982), ships have the nationality of the State "whose flag they are entitled to fly".

Proposal: Replace, in article 7, paragraph 1(a) "flying" by "entitled to fly".