



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

DRAFT CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST
THE SAFETY OF MARITIME NAVIGATION

Prepared by the Ad Hoc Preparatory Committee on
the Suppression of Unlawful Acts Against
the Safety of Maritime Navigation

The States Parties to this Convention,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

RECOGNIZING in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

DEEPLY CONCERNED about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

CONSIDERING that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in the safety of maritime navigation,

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community as a whole,

BEING CONVINCED of the urgent need to develop international co-operation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

RECALLING resolution 40/61 of 9 December 1985, of the General Assembly of the United Nations in which, inter alia, the International Maritime Organization was invited "to study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures",

RECALLING FURTHER resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of Measures to Prevent Unlawful Acts which Threaten the Safety of Ships and the Security of their Passengers and Crews,

AFFIRMING the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction, of the Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

AFFIRMING FURTHER that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

RECOGNIZING the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law,

HAVE AGREED as follows:

Article 1

For the purposes of this Convention, "ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.

Article 2

1 This Convention shall not apply to:

- (a) a warship or a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or
- (b) a ship which has been withdrawn from navigation or laid up.

2 Nothing in this Convention shall affect the immunities of warships and other Government ships operated for non-commercial purposes.

Article 3

1 Any person commits an offence if that 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 the safe navigation of the ship; or
- (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of the ship; or
- (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of the ship; 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^{1/}
- (f) communicates information which he knows to be false, thereby endangering the safe navigation of ships; or^{1/}

^{1/} Subparagraphs (e) and (f) are to be reviewed in light of the text finally agreed for article 4.

(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 (f).

2 Any person also commits an offence if that person:

- (a) attempts to commit any of the offences set forth in paragraph 1 if that attempt is likely to endanger the safe navigation of the ship; or
- (b) abets the commission of any such offence perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
- (c) threatens to commit any of the offences set forth in paragraph 1, subparagraphs (b) and (c), if that threat is likely to endanger the safe navigation of the ship.

Article 4

1 This Convention shall apply if the ship is navigating in waters beyond the outer or lateral limits of the territorial sea of the flag State or its schedule includes navigation in those waters.

2 In cases where the Convention does not apply pursuant to paragraph 1, it shall nevertheless apply, with the exception of articles 13, 14 and 15, if the offender or the alleged offender is found in a State Party other than the flag State.

Article 5

1 A State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto declare that it shall not apply the Convention where the ship is navigating in internal waters and its schedule does not include navigation beyond the outer or lateral limits of the territorial sea.

2 A State may at the time of signature or ratification, acceptance or approval of the Convention or accession thereto declare that it shall apply

the Convention where the ship is navigating in straits used for international navigation in cases not covered by article 4, paragraph 1. finally agreed for article 4.

3 Any State which has made a declaration in accordance with paragraph 1 or 2 may at any time withdraw that declaration by notification to the Secretary-General of the International Maritime Organization (hereinafter referred to as the Secretary-General).

Article 6

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

Article 7

1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:

- (a) against or on board a ship flying the flag of the State at the time the offence is committed; or
- (b) in the territory of that State, or inside the outer or lateral limits of its territorial sea; or
- (c) by a national of that State.

2 A State Party may also establish its jurisdiction over any such offence when:

- (a) it is committed by a stateless person whose habitual residence is in that State;
- (b) during its commission a national of that State is seized, threatened, injured or killed;
- (c) it is committed in an attempt to compel that State to do or abstain from doing any act; or

[(d) the demise-charterer in possession of the ship concerned in the offence [is a national of that State and] has its principal place of business in that State.]

3 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

4 This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 8

1 Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceeding to be instituted.

2 Such State shall immediately make a preliminary enquiry into the facts, in accordance with its own legislation.

3 Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

(a) communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(b) be visited by a representative of that State.

4 The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5 When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 7, paragraph 1 and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 9

Nothing in this Convention shall be construed as affecting in any way the existing rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

Article 10

1 The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 7 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2 Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

Article 11

1 The offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2 If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State shall consider this Convention as a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State.

3 States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 3 as extraditable offences subject to the conditions provided by the law of the requested State.

4 If circumstances require, the offences set forth in article 3 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

5 A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 7 and which decides not to prosecute shall, in selecting the State to which the offender or the alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

Article 12

1 States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3, including the supply of the evidence at their disposal necessary for the proceedings.

2 States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 13

1 States Parties shall co-operate in the prevention of the offences set forth in article 3, particularly by:

- (a) taking all practicable measures to prevent preparation in their respective territories for the commission of those offences within or outside their territories;
- (b) exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 3.

2 When, due to the commission of an offence set forth in article 3, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

Article 14

Any State Party having reason to believe that an offence set forth in article 3 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States establishing jurisdiction in accordance with article 7.

Article 15

1 Each State Party shall, in accordance with its national law, provide to the Secretary-General as promptly as possible, any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to article 13, paragraph 2;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

2 The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the proceedings to the Secretary-General.

3 The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to members of the International Maritime Organization (hereinafter referred to as the Organization), to the other States concerned, and to the appropriate international intergovernmental organizations.

Article 16

1 Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2 Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3 Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General.

Article 17

1 This Convention shall be open for signature by all States at the Headquarters of the Organization from ... to ...^{1/} and shall thereafter remain open for accession. States may become Parties to this Convention by:

- (a) signature without reservation as to ratification, acceptance or approval; or

1/ The Committee suggests that the Convention remain open for signature for one year.

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

2 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 18^{1/}

1 This Convention shall enter into force ninety days following the date on which fifteen States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

Article 19

1 This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

1/ This article was approved by the Committee subject to further discussion as to the number of States required to bring the Convention into force.

Article 20

1 A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2 The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3 Any instrument of ratification, acceptance, approval or accession, deposited after the date of the entry into force of an amendment to this Convention, shall be deemed to apply to the Convention as amended, unless a contrary intention is expressed in the instrument.^{2/}

Article 21

1 This Convention shall be deposited with the Secretary-General.

2 The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of the entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;

^{2/} The view was expressed in the Committee that the words "unless a contrary intention is expressed in the instrument" should be given further consideration.

- (iv) the receipt of any declaration or notification made under articles 5 and 16;
- (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3 As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 22

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

DONE AT this day of one thousand nine hundred and eighty-eight.

W/6930E