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IMCO

RESOLUTION A.358(IX)
adopted on 14 November 1975
AMENDMENTS TO THE IMCO CONVENTION

THE ASSEMBLY,

NOTING that the Convention on the Inter-Governmental Maritime Consultative Organization was adopted in March 1948 and entered into force in March 1958,

RECOGNIZING AND WELCOMING the increase in the size of the Organization and the important changes which have occurred in the work programme of the Organization and the methods necessary to discharge this work programme,

RECALLING the amendments to the Convention adopted from time to time in order to make the principal organs of the Organization more representative of the total membership and ensure equitable geographical representation of Member Governments on the Council,

RECOGNIZING NEVERTHELESS that after twenty-seven years, there is need to review the Convention in a comprehensive manner in the light of the way in which the Organization has performed its work,

RECALLING its Resolution A.317(ES.V) by which it decided to convene an Ad Hoc Working Group, open to all Member Governments, and charged with the mandate to study proposals on amendments to the IMCO Convention submitted by the Government of France, the comments made during the fifth extraordinary session of the Assembly and any other proposals which may be submitted to amend the IMCO Convention,

HAVING CONSIDERED the Report of the Ad Hoc Working Group, including the Working Group's recommendations on proposed amendments to the IMCO Convention,

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HAVING ADOPTED at its ninth regular session, held in London from 3 to 14 November 1975, amendments to the Convention on the Inter-Governmental Maritime Consultative Organization, the texts of which are contained in the Annex to this Resolution, consisting of

- (a) amendments to Articles 1, 3, 12, 16, 22, 24, 25, 26, 27, 29, 30, 33, 34, 38, 39, 42, 43, 52 and 55;
- (b) the addition of a new Article 32 in Part VII;
- (c) the addition of new Parts VIII and IX consisting of Articles 33 to 37 and 38 to 42;
- (d) consequential renumbering of Parts VIII to XVII;
- (e) consequential renumbering of Articles 33 to 63;
- (f) consequential changes to the references in Articles 6, 7, 8, 9, and in Articles 53, 54, 56, 58, 59 and 60 as renumbered;
- (g) a change in the title of the Convention,

REQUESTS the Secretary-General of the Organization to deposit the adopted amendments with the Secretary-General of the United Nations in accordance with Article 53 of the IMCO Convention and to receive declarations and instruments of acceptance as provided for in Article 54,

INVITES Member Governments to accept each amendment at the earliest possible date after receiving a copy thereof from the Secretary-General of the United Nations by communicating the appropriate instrument of acceptance to the Secretary-General.

ANNEX

AMENDMENTS TO THE CONVENTION ON THE INTER-GOVERNMENTAL
MARITIME CONSULTATIVE ORGANIZATION

Title of the Convention

The existing title of the Convention is replaced by the following:

CONVENTION ON THE INTERNATIONAL MARITIME ORGANIZATION

Article 1

The existing text of paragraph (a) is replaced by the following:

The purposes of the Organization are:

(a) To provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and the prevention and control of marine pollution from ships; and to deal with legal matters related to the purposes set out in this Article;

Article 3

The existing text is replaced by the following:

In order to achieve the purposes set out in Part I, the Organization shall:

(a) Subject to the provisions of Article 4, consider and make recommendations upon matters arising under Article 1(a), (b) and (c) that may be remitted to it by Members, by any organ or specialized agency of the United Nations or by any other inter-governmental organization or upon matters referred to it under Article 1(d);

(b) Provide for the drafting of conventions, agreements, or other suitable instruments, and recommend these to Governments and to inter-governmental organizations, and convene such conferences as may be necessary;

(c) Provide machinery for consultation among Members and the exchange of information among Governments;

(d) Perform functions arising in connexion with paragraphs (a), (b) and (c) of this Article, in particular those assigned to it under international instruments relating to maritime matters.

Article 12

The existing text is replaced by the following:

The Organization shall consist of an Assembly, a Council, a Maritime Safety Committee, a Legal Committee, a Marine Environment Protection Committee and such subsidiary organs as the Organization may at any time consider necessary; and a Secretariat.

Article 16

The existing text is replaced by the following:

The functions of the Assembly shall be:

- (a) To elect at each regular session from among its Members, other than Associate Members, its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) To determine its own Rules of Procedure except as otherwise provided in the Convention;
- (c) To establish any temporary or, upon recommendation of the Council, permanent subsidiary bodies it may consider to be necessary;
- (d) To elect the Members to be represented on the Council as provided in Article 18;
- (e) To receive and consider the reports of the Council, and to decide upon any question referred to it by the Council;
- (f) To approve the work programme of the Organization;
- (g) To vote the budget and determine the financial arrangements of the Organization, in accordance with Part XI;
- (h) To review the expenditures and approve the accounts of the Organization;
- (i) To perform the functions of the Organization, provided that in matters relating to Article 3(a) and (b), the Assembly shall refer such matters to the Council for formulation by it of any recommendations or instruments thereon; provided further that any recommendations or instruments submitted to the Assembly by the Council and not accepted by the Assembly shall be referred back to the Council for further consideration with such observations as the Assembly may make;

- (j) To recommend to Members for adoption regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships or amendments to such regulations and guidelines which have been referred to it;
- (k) To take decisions in regard to convening any international conference or following any other appropriate procedure for the adoption of international conventions or of amendments to any international conventions which have been developed by the Maritime Safety Committee, the Legal Committee, the Marine Environment Protection Committee, or other organs of the Organization;
- (l) To refer to the Council for consideration or decision any matters within the scope of the Organization, except that the function of making recommendations under paragraph (j) of this Article shall not be delegated.

Article 22

- (i) A new paragraph (a) is added as follows:

(a) The Council shall consider the draft work programme and budget estimates prepared by the Secretary-General in the light of the proposals of the Maritime Safety Committee, the Legal Committee, the Marine Environment Protection Committee and other organs of the Organization and, taking these into account, shall establish and submit to the Assembly the work programme and budget of the Organization, having regard to the general interest and priorities of the Organization.

- (ii) Existing paragraph (a) is renumbered as paragraph (b) and the existing text is replaced by the following:

(b) The Council shall receive the reports, proposals and recommendations of the Maritime Safety Committee, the Legal Committee and the Marine Environment Protection Committee and other organs of the Organization and shall transmit them to the Assembly and, when the Assembly is not in session, to the Members for information, together with the comments and recommendations of the Council.

- (iii) The existing paragraph (b) is renumbered as paragraph (c) and the existing text is replaced by the following:

(c) Matters within the scope of Articles 29, 34 and 39 shall be considered by the Council only after obtaining the views of the Maritime Safety Committee, the Legal Committee or the Marine Environment Protection Committee, as may be appropriate.

Article 24

The existing text is replaced by the following:

The Council shall make a report to the Assembly at each regular session on the work performed by the Organization since the previous regular session of the Assembly.

Article 25

The existing text is replaced by the following:

The Council shall submit to the Assembly financial statements of the Organization, together with the Council's comments and recommendations.

Article 26

(i) The existing text is renumbered as paragraph (a) and the Part referred to therein is changed to PART XIV.

(ii) A new paragraph (b) is added as follows:

(b) Having regard to the provisions of Part XIV and to the relations maintained with other bodies by the respective Committees under Articles 29, 34 and 39, the Council shall, between sessions of the Assembly, be responsible for relations with other organizations.

Article 27

The existing text is replaced by the following:

Between sessions of the Assembly, the Council shall perform all the functions of the Organization, except the function of making recommendations under Article 16(j). In particular, the Council shall coordinate the activities of the organs of the Organization and may make such adjustments in the work programme as are strictly necessary to ensure the efficient functioning of the Organization.

Article 29

The existing text is replaced by the following:

- (a) The Maritime Safety Committee shall consider any matter within the scope of the Organization concerned with aids to navigation, construction and equipment of vessels, manning from a safety standpoint, rules for the prevention of collisions, handling of dangerous cargoes, maritime safety procedures and requirements, hydrographic information, log-books and navigational records, marine casualty investigation salvage and rescue, and any other matters directly affecting maritime safety.
- (b) The Maritime Safety Committee shall provide machinery for performing any duties assigned to it by this Convention, the Assembly or the Council, or any duty within the scope of this Article which may be assigned to it by or under any other international instrument and accepted by the Organization.
- (c) Having regard to the provisions of Article 26, the Maritime Safety Committee, upon request by the Council or if it deems such action useful in the interests of its own work, shall maintain such close relationship with other bodies as may further the purposes of the Organization.

Article 30

The existing text is replaced by the following:

The Maritime Safety Committee shall submit to the Council:

- (a) Proposals for safety regulations or for amendments to safety regulations which the Committee has developed;
- (b) Recommendations and guidelines which the Committee has developed;
- (c) A report on the work of the Committee since the previous session of the Council.

New Article 32

A new Article 32 is added at the end of PART VII, as follows:

Notwithstanding anything to the contrary in this Convention but subject to the provisions of Article 28, the Maritime Safety Convention when exercising the functions conferred upon it by or under any international convention or other instrument, shall conform to the relevant provisions of the convention or instrument in question, particularly as regards the rules governing the procedure to be followed.

New Parts (VIII) and (IX)

New PARTS (VIII and IX) are added after the existing PART VII as follows:

PART VIII - LEGAL COMMITTEE

Article 33

The Legal Committee shall consist of all the Members.

Article 34

- (a) The Legal Committee shall consider any legal matters within the scope of the Organization.
- (b) The Legal Committee shall take all necessary steps to perform any duties assigned to it by this Convention or by the Assembly or the Council, or any duty within the scope of this Article which may be assigned to it by or under any other international instrument and accepted by the Organization.
- (c) Having regard to the provisions of Article 26, the Legal Committee, upon request by the Council or, if it deems such action useful in the interests of its own work shall maintain such close relationship with other bodies as may further the purposes of the Organization.

Article 35

The Legal Committee shall submit to the Council:

- (a) drafts of international conventions and of amendments to international conventions which the Committee has developed;
- (b) a report on the work of the Committee since the previous session of the Council.

Article 36

The Legal Committee shall meet at least once a year. It shall elect its officers once a year and shall adopt its own Rules of Procedure.

Article 37

Notwithstanding anything to the contrary in this Convention, but subject to the provisions of Article 33, the Legal Committee, when exercising the functions conferred upon it by or under any international convention or other instrument, shall conform to the relevant provisions of the convention or instrument in question, particularly as regards the rules governing the procedures to be followed.

PART IX - THE MARINE ENVIRONMENT PROTECTION COMMITTEE

Article 38

The Marine Environment Protection Committee shall consist of all the Members.

Article 39

The Marine Environment Protection Committee shall consider any matter within the scope of the Organization concerned with the prevention and control of marine pollution from ships and in particular shall:

- (a) perform such functions as are or may be conferred upon the Organization by or under international conventions for the prevention and control of marine pollution from ships, particularly with respect to the adoption and amendment of regulations or other provisions, as provided for in such conventions.;
- (b) consider appropriate measures to facilitate the enforcement of the conventions referred to in paragraph (a) above;
- (c) provide for the acquisition of scientific, technical and any other practical information on the prevention and control of marine pollution from ships for dissemination to States, in particular to developing countries and, where appropriate, make recommendations and develop guidelines;

- (d) Promote co-operation with regional organizations concerned with the prevention and control of marine pollution from ships, having regard to the provisions of Article 26;
- (e) consider and take appropriate action with respect to any other matters falling within the scope of the Organization which would contribute to the prevention and control of marine pollution from ships including co-operation on environmental matters with other international organizations, having regard to the provisions of Article 26.

Article 40

The Marine Environment Protection Committee shall submit to the Council:

- (a) proposals for regulations for the prevention and control of marine pollution from ships and for amendments to such regulations which the Committee has developed;
- (b) recommendations and guidelines which the Committee has developed;
- (c) a report on the work of the Committee since the previous session of the Council.

Article 41

The Marine Environment Protection Committee shall meet at least once a year. It shall elect its officers once a year and shall adopt its own Rules of Procedure.

Article 42

Notwithstanding anything to the contrary in this Convention, but subject to the provisions of Article 38, the Marine Environment Protection Committee, when exercising the functions conferred upon it by or under any international convention or other instrument, shall conform to the relevant provisions of the convention or instrument in question, particularly as regards the rules governing the procedures to be followed.

The existing PARTS VIII through XVII are renumbered accordingly as PARTS X through XIX.

The existing Articles 33 through 63 are renumbered accordingly as Articles 43 through 73.

Article 33 (renumbered as Article 43)

The existing text is replaced by the following:

The Secretariat shall comprise the Secretary-General and such other personnel as the Organization may require. The Secretary-General shall be the chief administrative officer of the Organization and shall, subject to the provisions of Article 23, appoint the above-mentioned personnel.

Article 34 (renumbered as Article 44)

The existing text is replaced by the following:

The Secretariat shall maintain all such records as may be necessary for the efficient discharge of the functions of the Organization and shall prepare, collect and circulate the papers, documents, agenda, minutes and information that may be required for the work of the Organization.

Article 38 (renumbered as Article 48)

The existing text is replaced by the following:

The Secretary-General shall assume any other functions which may be assigned to him by the Convention, the Assembly or the Council.

Article 39 (renumbered as Article 49)

The existing text is replaced by the following:

Each member shall bear the salary, travel and other expenses of its own delegation to the meetings held by the Organization.

Article 42 (renumbered as Article 52)

The existing text is replaced by the following:

Any Member which fails to discharge its financial obligation to the Organization within one year from the date on which it is due, shall have no vote in the Assembly, the Council, the Maritime Safety Committee, the Legal Committee or the Marine Environment Protection Committee unless the Assembly, at its discretion, waives this provision.

Article 43 (renumbered as Article 53)

The existing text is replaced by the following:

Except as otherwise provided in the Convention or in any international agreement which confers functions on the Assembly, the Council, the Maritime Safety Committee, the Legal Committee or the Marine Environment Protection Committee, the following provisions shall apply to voting in these organs:

- (a) Each Member shall have one vote.
- (b) Decisions shall be by a majority vote of the Members present and voting and, for decisions where a two-thirds majority vote is required, by a two-thirds majority vote of those present.
- (c) For the purpose of the Convention, the phrase "Members present and voting" means "Members present and casting an affirmative or negative vote". Members which abstain from voting shall be considered as not voting.

Article 52 (renumbered as Article 62)

The existing text is replaced by the following:

Texts of proposed amendments to the Convention shall be communicated by the Secretary-General to Members at least six months in advance of their consideration by the Assembly. Amendments shall be adopted by a two-thirds majority vote of the Assembly. Twelve months after its acceptance by two-thirds of the Members of the Organization, other than Associate Members, each amendment shall come into force for all Members except those which, before it comes into force, make a declaration that they do not accept the

amendment. The Assembly may by a two-thirds majority vote determine at the time of its adoption that an amendment is of such a nature that any Member which has made such a declaration and which does not accept the amendment within a period of twelve months after the amendment comes into force shall, upon the expiration of this period, cease to be a party to the Convention.

Article 55 (renumbered as Article 65)

The existing text is replaced by the following:

Any question or dispute concerning the interpretation or application of the Convention shall be referred to the Assembly for settlement, or shall be settled in such other manner as the parties to the dispute may agree. Nothing in this Article shall preclude any organ of the Organization from settling any such question or dispute that may arise during the exercise of its functions.

The Articles referred to in the following Articles are changed as follows:

Article 6: The reference to Article 57 is changed to Article 67

Article 7: The reference to Article 57 is changed to Article 67

Article 8: The reference to Article 57 is changed to Article 67

Article 9: The reference to Article 58 is changed to Article 68

Articles 53 and 54 (renumbered as Articles 63 and 64): The reference to Article 52 are changed to Article 62

Article 56 (renumbered as Article 66): The reference to Article 55 is changed to Article 65

Article 58 (renumbered as Article 68): The reference in paragraph (d) to Article 57 is changed to Article 67

Article 59 (renumbered as Article 69): The reference in paragraph (b) to Article 58 is changed to Article 68

Article 60 (renumbered as Article 70): The reference to Article 57 is changed to Article 67.
