



IMCO

INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE FIRST MEETING

held at Church House, Westminster, London, S.W.1,
on Friday, 30 May 1969, at 10.10 a.m.

Chairman: Mr. R. VANCRAEYNST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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AGENDA ITEM 1 - ELECTION OF THE CHAIRMAN AND VICE-CHAIRMAN
OF THE COMMITTEE

Mr. MILEWSKI (Poland) called for nominations for the post of Chairman of the Committee.

Mr. HINZ (Federal Republic of Germany) proposed Mr. Vancraeynest (Belgium).

Mr. VAUGHN (Liberia) supported that proposal.

Mr. Vancraeynest (Belgium) was unanimously elected Chairman.

Mr. Vancraeynest (Belgium) took the Chair.

The CHAIRMAN called for nominations for the post of Vice-Chairman.

Mr. DUBCHAK (USSR) proposed Mr. Nikolić (Yugoslavia).

Mr. CUNNINGHAM (USA) supported that proposal.

Mr. Nikolić (Yugoslavia) was unanimously elected Vice-Chairman.

AGENDA ITEM 2 - ADOPTION OF THE AGENDA (TM/CONF/C.1/1)

The Agenda was adopted without comment.

AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT
TEXT OF ARTICLES OF A CONVENTION ON
TONNAGE MEASUREMENT (TM/CONF/4 and 4/1,
TM/CONF/5 and Add.1 and 2, TM/CONF/6
and Add.1, TM/CONF/7 and TM/CONF/8)

Mr. NADEINSKI (Committee Secretary) said there were a number of different proposals for Articles of a future international convention before the Committee. Proposal A, including a set of Articles as suggested by the Maritime Safety Committee together with comments and proposals by Member Governments, was contained in TM/CONF/4, with some additional amendments to Articles 3 and 17 proposed by Israel in TM/CONF/4/1. Proposal B, comprising the identical Articles and comments

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thereon, was contained in TM/CONF/5, with additional recently received proposals for amendment in TM/CONF/5/Add.1 and Add.2. Proposal C, including the same Articles, was contained in TM/CONF/6, with additional comments by Israel in TM/CONF/6/Add.1. The draft Articles were similar under all the proposals, except that Proposals A and B differed from Proposal C with regard to Article 2(4), Article 3(3) and 3(4), Article 10 and Article 17.

Member Governments in submitting their comments had sometimes referred to Proposals A and B together and sometimes to only one of the proposals; comments would therefore be repeated where appropriate. Two further documents containing draft Articles were TM/CONF/7 (the Danish Proposal) and TM/CONF/8 (the Finnish Proposal). He suggested that the Committee might wish to proceed by taking one of the sets of draft Articles as a basis for discussion, taking into account all the relevant comments regarding those same Articles made in other documents.

The CHAIRMAN suggested that the Committee should take as a basis for its work Basic Proposal C (TM/CONF/6).

It was so decided.

Basic Proposal C for a Universal System of Tonnage Measurement (TM/CONF/6)

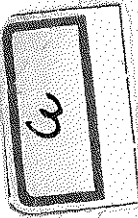
Preamble

It was decided to defer discussion of the Preamble until consideration of the Articles had been completed.

Article 1 - General Obligation under the Convention

Paragraph (1):

Paragraph (1) was approved without change.



Paragraph (2)

Mr. DARAM (France), referring to his Government's proposal on page 4 of TM/CONF/6, said that paragraph (2) served no useful purpose and should be deleted. Article 17 (Coming into Force) was sufficient to cover the coming into force of the Convention.

Mr. GERDES (Netherlands) thought that the Article could be simplified by combining paragraphs (1) and (2). The historical reason for the existence of a separate paragraph (2) was that, in former conventions, Article 1 had contained a provision that Contracting Governments should undertake legal measures (as distinct from other measures) to give effect to the Convention. He suggested that for greater clarity the phrase "... and take all legal measures which may be necessary to that end" should be added at the end of paragraph (2).

Mr. KASBEKAR (India) pointed out that draft article 1 was modelled on the corresponding Article in the 1966 Convention on Load Lines. Although paragraph (2) of the Article might seem redundant, he thought it should be retained because it made clear what were the obligations of Contracting Governments.

Mr. WIE (Norway) and Mr. BORG (Sweden) supported that view.

Mr. QUARTEY (Ghana) also thought paragraph (2) should be retained since it was essential to the sense of the Article. Whereas under paragraph (1) Contracting Governments merely undertook to give effect to the provisions of the Convention, under paragraph (2) they committed themselves to take actual practical steps to implement it.

Mr. BACHE (Denmark) agreed with the Netherlands delegation that the word "legal" should be inserted in the text of paragraph (2) to bring the Article into line with the 1966 Convention on Load Lines.

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Mr. DARAM (France) pointed out that in his country international law was held to take precedence over domestic law. If, therefore, any government undertook to give effect to a Convention, it was legally bound to take the statutory measures necessary to implement it. Paragraph (2) was accordingly unnecessary.

Mr. O'SULLIVAN (Ireland), Mr. CUNNINGHAM (USA), Mr. BIEULE (Argentina), Mr. OSMAN (United Arab Republic), Mr. SUZUKI (Japan) and Mr. DUBCHAK (USSR) supported that view.

The CHAIRMAN put to the vote the French amendment on page 4 of TM/CONF/6.

The amendment was adopted by 24 votes to 5.

Article 1, as amended, was approved.

Article 2 - Definitions

Introductory wording

The CHAIRMAN said that the English version of the introductory wording contained a typographical error, and should be corrected to read: "For the purpose of the present Convention, ...".

The introductory wording, as corrected, was approved.

Paragraphs (1) and (2)

Approved without comment.

Paragraph (3)

Mr. BIEULE (Argentina) proposed that "International Voyage" should include a voyage over water and should not be restricted to sea voyages only. That proposal was not supported.

Mr. DARAM (France) drew attention to his Government's proposal and comments (TM/CONF/6). He stressed the inadvisability of using the term "country", which had no meaning in international law.

Mr. PROSSER (UK) said that his delegation strongly urged the retention of the original text, despite the objection raised by France. It was taken from the 1960 Safety Convention and the 1966 Convention on Load Lines, and had been adopted only after lengthy discussion.

Mr. BORG (Sweden), Mr. GERDES (Netherlands), Mr. KASBEKAR (India), Mr. HINZ (Federal Republic of Germany), Mr. WIE (Norway), Mr. SUZUKI (Japan) and Mr. MILEWSKI (Poland) expressed support for the United Kingdom view.

Mr. DARAM (France) noted that many delegations preferred the original text. His Government nevertheless continued to attach great importance to its proposal.

Mr. MURPHY (USA) said that his delegation found the original wording adequate and clear. The fact that it was used in the 1960 Safety Convention and the 1966 Convention on Load Lines meant that it had already acquired some significance internationally. A change in the wording might suggest that the tonnage measurement convention differed in some way from the other two Conventions. The paragraph should therefore be left as it stood.

The CHAIRMAN invited the Committee to vote on the French proposal.

The proposal was rejected by 18 votes to 2.

Paragraph (3) was approved without change.

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Paragraphs (4) and (5)

The CHAIRMAN pointed out that paragraph (4) used the words "a ship the keel of which is laid" whereas the corresponding wording in the French amendment (TM/CONF/6), as well as in TM/CONF/4, spoke of "a ship for the construction of which a contract has been signed". There was a considerable difference between the two formulae.

Mr. UTTLEY (UK) proposed the addition of the words "for each Contracting Government" at the end of paragraph (4).

Mr. LOLONG (Indonesia) said that his delegation supported the Swedish proposal for paragraph (4) (TM/CONF/6).

Mr. von der BECKE (Argentina) suggested that the words "for the Government the flag of which is borne by that ship" should be added at the end of paragraph (4).

Mr. BACHE (Denmark) drew attention to his Government's proposal in TM/CONF/6.

Mr. KASBEKAR (India) pointed out that the definitions given in paragraphs (4) and (5) were closely connected with the topic being discussed by the Technical Committee. Further consideration of those definitions should therefore be postponed until the Technical Committee had reached some conclusions.

Mr. MURPHY (USA) said there had been many references in plenary to the extent to which the new convention should apply to existing vessels. That was another reason for postponing consideration of paragraphs (4) and (5).

Mr. GERDES (Netherlands) agreed. The definition of a new ship was a matter of great importance to the Netherlands delegation.

Mr. DUBCHAK (USSR) expressed his support for the idea of postponing the discussion on paragraphs (4) and (5). He suggested that the matter be taken up again when the plenary had reached the necessary decisions.

It was so decided

Article 3 - Application

Mr. HINZ (Federal Republic of Germany) and Mr. Kasbekar (India) said that discussion of Article 3 should be postponed, as had been done in the case of Article 2.

Mr. BACHE (Denmark) said that other elements in Article 3 could still be discussed, since they did not affect the general question of applicability to new ships.

Paragraphs (1) and (2)

Paragraph (1) was approved without change.

Paragraphs (3) and (4)

Consideration of paragraphs (3) and (4) was deferred.

Article 4 - Exceptions

Paragraph (1)

The CHAIRMAN suggested that as there was no definition of overall length either in the Articles or in the Regulations, the point might be referred to the Technical Committee. Speaking as a naval architect, he expressed a preference for the same definition as that used in the 1966 Convention on Load Lines.

Mr. DARAM (France) said that according to the French version of paragraph (1)(b), which was at variance with the English, the exception in that clause was applicable to new ships. Therefore, consideration of the clause should be postponed until the question of parameters had been settled.

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Mr. PROSSER (UK) urged the Committee to accept paragraph (1) as it stood; it was already specific enough and need not be referred to the Technical Committee.

Acceptance of the Swedish amendment (TM/CONF/6, page 14) would mean that ships of considerably larger size would be excluded from the scope of the convention.

Mr. NICHOLSON (Australia) said that paragraph (1)(b) might with advantage, be held over in case the Technical Committee proposed a displacement parameter.

Mr. WIE (Norway) said that paragraph (1)(b) was acceptable as it stood and need not be referred to the Technical Committee.

Mr. BORG (Sweden) and Mr. DUBCHAK (USSR) were in favour of referring paragraph 1(b) to the Technical Committee.

Mr. HINZ (Federal Republic of Germany) also favoured that course. If the Technical Committee recommended a displacement parameter, paragraph (1)(b) should follow closely the analagous definition in the 1966 Convention on Load Lines.

The proposal to refer paragraph (1)(b) to the Technical Committee was adopted by 21 votes to one.

Mr. NADEINSKI (Committee Secretary) reminded representatives that the Technical Committee had to conclude its work by 13 June or at latest 16 June, otherwise there would not be enough time left for drafting and discussions in the present Committee and in plenary, and preparation of the Conference's final documents.

Mr. HINZ (Federal Republic of Germany) explained that he had simply wished the Committee to hold over consideration of paragraph (1)(b) until the Technical Committee had reported on parameters to the plenary.

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The CHAIRMAN said that might be preferable, and then paragraph (1)(b) need not be referred to the Technical Committee.

Mr. KASBEKAR (India) observed that there were technical considerations at stake: hence the decision on the definition of length must be deferred. If a minimum length were inserted, it should be the same as that specified in the 1966 Convention on Load Lines.

The CHAIRMAN, speaking in his personal capacity, said that the term "overall length" did not constitute a definition. Something more precise was needed.

Mr. PROSSER (UK) said that the Committee might defer consideration of paragraph (1)(b) until the Technical Committee's recommendation concerning parameters had been submitted in plenary.

The CHAIRMAN said that it would be best not to go back on a vote already taken; accordingly paragraph (1)(b) would be referred to the Technical Committee for advice on the need to define the term "overall length" and the minimum length to be specified in that paragraph.

Paragraphs (2)(a),(b) and (c)

Mr. PROSSER (UK) said that his delegation wished to make it clear that the inclusion of paragraph (2)(c) in Article 4, in no way affected the status in international law of waters excluded from the scope of the Convention by that Article.

Paragraphs 2(a),(b) and (c) were approved.

Additional paragraph proposed by the United Kingdom

Mr. PROSSER (UK) proposed an additional paragraph for inclusion in Article 4, which could be modelled on Article 7 - "Force majeure" in the 1966 Convention on Load Lines.

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The draft Convention under consideration was intended to apply to all ships engaged on international voyages apart from the exceptions laid down in Article 4. Therefore, its provisions would apply to fishing vessels over a certain length and that was acceptable to the United Kingdom delegation. The great majority of British fishing vessels of such size did not engage on international voyages, but they did operate in distant waters and occasionally were obliged for various reasons, such as having to land a sick seaman, to enter foreign ports. His proposal was designed to remove any possible doubts as to the status of such vessels.

Mr. WIE (Norway), supporting the United Kingdom proposal, said that his Government was in the same position.

Mr. HINZ (Federal Republic of Germany) asked for the United Kingdom proposal to be circulated in writing before a final decision was taken.

It was so decided.

Article 5 - Ascertainment of tonnages

Mr. HINZ (Federal Republic of Germany) suggested that the Committee could discuss the substance of both Articles 5 and 6 by inserting square brackets around the words "gross tonnage and load displacement", wherever they occurred. It need not then postpone their consideration until the Technical Committee had arrived at a decision concerning parameters.

Mr. DARAM (France), Mr. de MATTOS (Brazil), Mr. GERDES (Netherlands) and Mr. LEVY (Israel) agreed.

Mr. KASBEKAR (India) maintained that it was necessary first for the Technical Committee to pronounce on the two fundamental issues.

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Mr. QUARTEY (Ghana) said the discussion of Articles 5 and 6 would be disjointed if such a procedure were followed.

Mr. BACHE (Denmark) favoured something on the lines of the French amendment (TM/CONF/6, page 16).

The meeting rose at 12.35 p.m.



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INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE SECOND MEETING

held at Church House, Westminster, London, S.W.1,
on Friday, 30 May 1969, at 2.45 p.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT
TEXT OF ARTICLES OF A CONVENTION ON TONNAGE
MEASUREMENT (TM/CONF/6 and Corr.1;
TM/CONF/6/Add.1; TM/CONF/C.1/WP.1)
(continued)

Article 5 - Ascertainment of Tonnages (continued)

The CHAIRMAN invited the Committee to continue its consideration of Article 5 taking the text proposed by France (TM/CONF/6, page 16) as a basis and putting the words "of gross tonnage and certified displacement" and "of gross tonnage" in square brackets.

Mr. KASBEKAR (India) had no objection to adopting that text.

Mr. GERDES (Netherlands) explained that the only purpose of the amendment proposed by the Netherlands (pages 16 and 17), in which there was a mistake in the English text, was to ensure that measurement of ships was carried out in conformity with the provisions of the Convention. He would therefore propose that a sentence to that effect be added at the beginning of the text.

The CHAIRMAN noted that there was no support for the proposal, which was therefore rejected.

Article 5 proposed by France was approved, except for the words in square brackets.

Article 6 - Issue of Certificate

Paragraph (1)

The CHAIRMAN noted that the words "gross tonnage and load displacement" should be placed between square brackets as in the case of Article 5.

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Mr. GERDES (Netherlands) recalled that his delegation had proposed (TM/CONF/6, pages 18 and 19) that use be made of the expression "International Measurement Certificate" and that the Convention should, in special cases, authorize the issue of a Special Certificate to ships flying the flag of a State whose government was not Party to the Convention. That was the current practice for countries Parties to the Oslo Convention. It could with advantage be extended to the future Convention and without danger, since the duration of the certificate would be limited. That was the aim of the new paragraph (2) proposed by the Netherlands.

Mr. NICHOLSON (Australia) agreed with the idea underlying the Netherlands proposal. International Tonnage Certificates should not be delivered to ships which were not registered in a contracting country. Perhaps in paragraph (1), after "to every ship", the words "registered in a contracting country or flying the flag of a contracting country" could be added.

Mr. VAUGHN (Liberia) considered that the expression "International Measurement Certificate" proposed by the Netherlands was more appropriate.

Mr. DARAM (France) said he would like to know what "special cases" the Netherlands had in mind. If it was a question of ships flying the flag of a State whose government was not Party to the Convention, he wondered whether the proposal would not entail a contradiction of paragraph (4) of Article 7.

Mr. GERDES (Netherlands), in reply to the Australian representative, explained that the idea was to make provision in the Convention for the issue of an international, and not a national, certificate, which would be of great importance to shipowners. He explained, with reference to the comment by

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the representative of Liberia, that the expression "International Measurement Certificate" would apply only to Proposal C and that the Committee would therefore have to await the conclusions of the Technical Committee before taking a decision on the matter. Finally, he did indeed recognize the contradiction between the new paragraph proposed by the Netherlands and paragraph (4) of Article 7 to which the representative of France had referred. But he would point out to him that the Netherlands had also submitted an amendment to that provision as well as to paragraph (4) of Article 9.

Mr. DARAM (France) considered that proposal pertinent, but thought that the special cases envisaged should consequently be specified in Article 6 or Article 7.

Mr. PROSSER (UK) thought it would be dangerous to provide in the Convention for the issue of a certificate which might be to the benefit of ships subsequently flying the flag of a State whose government was not Party to the Convention. He preferred the original text of Article 6.

Mr. NICHOLSON (Australia) shared that view in substance although he feared that there was in fact a contradiction between paragraph (1) of Article 6 and paragraph (4) of Article 7.

Mr. PROSSER (UK) did not think so. The two Articles indicated clearly the treatment that would be applied to ships.

Mr. DUBCHAK (USSR), supported by Mr. BORG (Sweden), Mr. MILEWSKI (Poland) and Mr. KASBEKAR (India) said he shared the views of the United Kingdom representative and was in favour of adopting the original text of paragraph (1) of Article 6.

Mr. DARAM (France) re-introduced an amendment which had been proposed by Mr. HINZ (Federal Republic of Germany), supported by Mr. WIE (Norway) and Mr. GERDES (Netherlands)

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but subsequently withdrawn. The amendment was to add, in paragraph (1), after "every ship" the words "flying the flag of a State whose government is a Contracting Government".

He would, however, prefer a more elegant wording which would both satisfy the Netherlands and make it possible to do away with paragraph (4) of Article 7 by supplementing the proposed amendment with the words "and to no other ships" at the end of the paragraph.

Mr. OSMAN (United Arab Republic) supported that proposal.

The CHAIRMAN observed that the Committee had not yet examined Article 7 and hence could not take a decision on a proposal entailing the deletion of paragraph (4) of that Article. He invited the Committee to take a decision on the first amendment proposed by the representative of France.

Mr. NICHOLSON (Australia) supported the proposal.

The CHAIRMAN put the French proposal to the vote.

The French proposal was rejected by 19 votes to 4.

Paragraph (1) of Article 6, as originally drafted, was approved by 22 votes to one, except for the words in square brackets.

A Netherlands proposal to insert a new paragraph (2) (TM/CONF/6, page 19) was not supported by any other delegation and was regarded as rejected.

Paragraph 2

Approved without comment.

Article 7 - Issue of certificate by another Government

Paragraph (1)

The CHAIRMAN noted that the words "gross tonnage and load displacement" should be put in square brackets.

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Mr. VAUGHN (Liberia) pointed out that the word "determine" was used in that section instead of the word "calculate", which appeared in the rest of the text.

Mr. KASBEKAR (India) said he would prefer to see the word "determine" used throughout the text.

The Committee decided to transmit those comments to the Drafting Committee.

Mr. NICHOLSON (Australia) proposed that the words "or authorize the issue" be deleted. He did not see how a Contracting Government could assume responsibility for a certificate issued by a body over which it had no control.

Mr. DARAM (France) supported the amendment put forward by Mr. Nicholson, and for the same reasons. He added that the facility offered by the expression in question would make no substantial difference, since the Administration was always fully responsible.

Mr. HINZ (Federal Republic of Germany), supported by Mr. BORG (Sweden) considered that the facility in question followed logically from the use in Article 6, paragraph (2), first sentence, of the words: "or by any person or organization duly authorized by it".

Mr. PROSSER (UK) endorsed that view and pointed out that paragraph (1) and (3) of Article 7 were interrelated.

The amendment proposed by the representative of Australia was rejected by 15 votes to 6. Paragraph (1) was approved as drafted, except for the words in square brackets.

Paragraph (2)

Mr. GERDES (Netherlands), referring back to the wording used in the corresponding paragraph in Proposal A, requested the insertion of the words: "and a copy of the calculations of the tonnages".

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Mr. PROSSER (UK) held that that idea was linked to the question of what form the certificate should take, and should be held in abeyance until the Technical Committee had put forward its proposals.

Mr. WIE (Norway) said he was in favour of the amendment, but saw no objection to waiting for the outcome of the discussions in the Technical Committee.

The CHAIRMAN suggested that the proposed phrase should be placed in square brackets.

Mr PROSSER (UK) welcomed that procedure.

Mr. BACHE (Denmark) supported by Mr. MURPHY (USA), Mr. DARAM (France), Mr. DOLCINI (Italy), Mr. BORG (Sweden) and Mr. MILEWSKI (Poland) strongly endorsed the amendment proposed by Mr. Gerdes. He pointed out that whatever parameters might be used as a basis for the data on the certificate, calculations would have to be made, and a copy of those calculations could be attached to the certificate.

The amendment proposed by the Netherlands representative was adopted unanimously by the 23 members voting.

Paragraph (2), thus amended, was approved.

Paragraph (3)

Mr. HINZ (Federal Republic of Germany) withdrew the amendment proposed by his delegation in TM/CONF/6, page 20.

Mr. OSMAN (United Arab Republic), supported by Mr. DARAM (France), proposed that the French text should be amended by the insertion of the words "de l'Etat" after the words "du Gouvernement", to bring it into line with the English text.

It was so decided.

Paragraph (3), as amended in the French version, was approved.

Supplementary Article (4-A)

The CHAIRMAN invited the Committee to consider TM/CONF/C.1/WP.1, the draft text of a supplementary Article proposed by the United Kingdom. He asked the Committee to deal only with the wording of the Article and not with its position in the Convention, which was a secondary matter that could well be left to the drafting group responsible for the final instrument.

Mr. HINZ (Federal Republic of Germany) who had been anxious to have the written text in front of him before expressing an opinion on the amendment, expressed full support for the two paragraphs proposed by the United Kingdom.

The new Article proposed by the United Kingdom was approved.

Article 8 - Form of Certificate

The CHAIRMAN recalled that the plenary Conference, in giving its instructions to the General Committee, had asked it not to deal with questions relating to the form of certificates. The Committee should therefore consider the Article but omitting Annex II, referred to in paragraph (2).

Paragraph (1)

Approved without comment.

Paragraph (2)

Mr. HINZ (Federal Republic of Germany) referring to his Government's proposed amendment to the paragraph (TM/CONF/6, page 22), suggested that it might be considered later, as it referred more specifically to Proposal C.

The CHAIRMAN suggested that Mr. Hinz's reservation should be dealt with by placing the word "each" (...of each model...) between square brackets in the English text.

It was so decided.

Paragraph (2) was approved in that form.

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Amendment
Article 9 - ~~Form~~ of certificates

The CHAIRMAN suggested that, to take account of the amendment proposed by Denmark on page 24 of TM/CONF/6, the words "gross" and "or load displacement" should be placed in square brackets.

Mr. GERDES (Netherlands) drew attention to the amendments suggested by his delegation in TM/CONF/6, pages 26 and 27. In the light of the discussion which had just taken place, his delegation would not press for the adoption of its proposal for the amendment of paragraph (2).

Mr. OVERGAAUW (Netherlands) stated that, as far as the validity of the certificate was concerned, his delegation considered it essential that ships on the high seas should be governed by provisions similar to those governing inland shipping under the terms of the 1925 Treaty of Paris and the 1966 Geneva Treaty, which provided for periods of validity of ten and fifteen years respectively. The Netherlands delegation thought it vital that ships should be remeasured after a period of 15 years.

Mr. NICHOLSON (Australia) wondered whether it would not suffice if the beginning of paragraph (1) were amended to read: "The International Measurement Certificate (1969) shall cease to be valid and be cancelled by the Administration...".

Mr. GERDES (Netherlands) endorsed that proposal, and pointed out that it resembled the proposal made by his own delegation in TM/CONF/6 (page 27). It was essential to indicate somewhere in the new Convention, as had been done in the Oslo Convention, that if at any time the ship should cease to correspond to the particulars given in the Measurement Certificate, that certificate would cease to be valid.

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The CHAIRMAN called for a vote on the amendment to paragraph (1) proposed by the representative of Australia.

That amendment was adopted by 21 votes to one.

Mr. PROSSER (UK), Mr. MURPHY (USA) and Mr. MacGILLIVRAY (Canada) stated that their delegations were opposed to the idea expressed by the representative of the Netherlands regarding the period of validity of the certificate, since in their view the certificate as defined in the Convention already contained all the requisite guarantees.

Mr. GERDES (Netherlands) explained that in his delegation's view, the essential point was to make provision for some control measurement, such as that mentioned in TM/CONF/6, paragraph 1, last sentence (page 27). After all, fifteen years was a very long time, and it was essential that the certificate could be renewed without remeasurement of the ship.

Mr. VAUGHN (Liberia) said that he shared the point of view of the United Kingdom, United States and Canadian representatives. There was no reason for choosing a period of fifteen years, rather than one of ten or five years and in any case that was a question for the Administration.

Mr. BACHE (Denmark) thought that the Netherlands proposal was of interest, but stressed that the Treaties which had been mentioned were not of the same type as the present Convention. He wondered whether representatives of Governments Parties to the 1966 Geneva Treaty could give their opinion on the question.

Mr. HINZ (Federal Republic of Germany) thought that comparison was difficult, as inland navigation and navigation on the high seas raised two quite different problems. In any case, it seemed to him that the amendment which had just been adopted to paragraph (1) rendered that second modification - which was too "interventionist" - somewhat unnecessary.

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The CHAIRMAN said that the second Netherlands amendment had not been supported and was, therefore, rejected.

Mr. EDHOLM (Sweden) drew attention to the amendment proposed by his Government, which was reproduced on page 28 of TM/CONF/6.

The CHAIRMAN said he thought that the decision just taken on paragraph (1) dealt with the subject raised in that proposal.

Mr. LEVY (Israel) thought that, in paragraph (2), it should be made clear that when a ship possessing a certificate was transferred to the flag of another State Party to the Convention, the certificate should remain valid until the State whose flag the ship was flying issued a new certificate.

Mr. HINZ (Federal Republic of Germany) said he thought the amendment proposed by his Government on page 25 of TM/CONF/6 dealt with the point which the representative of Israel had just raised, and even went a little further. Moreover, it was more in keeping with the other Articles of the Convention.

Mr. VAUGHN (Liberia) wondered what would happen if a ship being transferred to the flag of another State Party to the Convention was transferred rapidly, while the transmission of a copy of the certificate was not so speedy. As far as the Convention on Load Lines and the Convention for the Safety of Life at Sea were concerned, it was probable that the majority of Administrations cancelled the certificates when ships changed flag. But there was some doubt as to whether the same considerations applied in the case of the tonnage certificate. Perhaps the Federal Republic of Germany's proposal could be retained in principle, on condition that provision was made for a respite (of six months, for example).

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Mr. NIKOLIĆ (Yugoslavia) was opposed to any modification of the original text of paragraph (2). The certificate must be issued by the flag State and by no other; there was, therefore, no reason to specify whether that State was a Party to the Convention or not.

Mr. KASBEKAR (India) thought, on the contrary, that from the legal point of view it was important to make such a distinction. If the flag State was a Party to the Convention, by virtue of the principle of reciprocity which, incidentally, was recognized in the Convention, nothing should prevent the validity of the certificate from being accepted. The only formalities to provide for were the transmission of a copy of the certificate and of the calculations for information purposes. If the flag State was not a Party to the Convention, the certificate would immediately be cancelled by the Administration which had issued it. Paragraph (2) should provide for both those possibilities.

Mr. de MATTOS (Brazil) supported the Federal Republic of Germany's proposal and also shared the opinion expressed by the Indian representative. In the case of the transfer of a ship to the flag of another State Party to the Convention, perhaps it would be sufficient to add a note to the certificate confirming its validity.

Mr. BACHE (Denmark) also thought that it was important to distinguish between States Parties to the Convention and States which were not Parties. In the former case, it seemed pointless to issue a new certificate which would give little more information than the old one. It should be sufficient to put some sort of stamp on it, indicating the endorsement of the new State and the ship's change of name, letters of identification, etc.

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Mr. GERDES (Netherlands) supported the Federal Republic of Germany's proposed amendment to paragraph (2), which was the most satisfactory from the legal point of view and would not preclude an extension of the validity of the certificate for an appropriate period (e.g. three months).

Mr. MURPHY (USA) thought that it would be preferable to keep the original wording of paragraph (2) as it was more in conformity with the text of the Convention on Load Lines. Moreover, it should not be forgotten that the certificate not only mentioned the tonnage but also the authority responsible for the calculations; it was thus quite logical that it should cease to be valid when there was a transfer of responsibilities.

Mr. PROSSER (UK) agreed with the United States representative and said that in his opinion the provisions of Article 7 were sufficient to solve the difficulties which had been raised.

Mr. NICHOLSON (Australia) thought the question was a legal one relating to responsibility. It was unlikely that a State would desire one of its ships to hold a certificate that had been issued under the responsibility of another State. Whilst there could be inconvenience when a ship was sold to a different flag, the problem was a practical one that could be solved administratively without amendment to the Article.

Mr. DUBCHAK (USSR) agreed with the representatives of Yugoslavia and the United States in thinking that there was no need to modify the original text.

Mr. HINZ (Federal Republic of Germany) proposed that the vote on his country's proposal should be postponed until the meeting of 2 June, so as to give delegations supporting it time to consult together with a view to making the changes they considered desirable.

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Mr. EDHOLM (Sweden), Mr. ROCQUEMONT (France) and Mr. BACHE (Denmark) supported that proposal.

Mr. NADEINSKI (Committee Secretary), referring to Rule 22 of the Rules of Procedure, indicated that a motion to adjourn the debate had precedence over all other proposals.

The CHAIRMAN put the proposal to adjourn the debate to the vote.

The proposal to adjourn the debate was adopted by 17 votes to 5.

The meeting rose at 5.35 p.m.



IMCO

INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE THIRD MEETING

held at Church House, Westminster, London, S.W.1,
on Monday, 2 June 1969, at 10 a.m.

Chairman:	Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman:	Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary:	Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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MEASUREMENT (TM/CONF/6 and Corr.1;
TM/CONF/6/Add.1; TM/CONF/C.1/WP.4) (continued)

Article 9 - Cancellation of Certificate (continued)

The CHAIRMAN invited one of the authors of TM/CONF/C.1/WP.4 (proposed amendment to Article 9, submitted by Denmark, Federal Republic of Germany, Israel and the Netherlands) to introduce the amendment.

Mr. BACHE (Denmark) explained that the authors of the amendment, considering the text of paragraph (2) proposed in document TM/CONF/6 to be too rigid, had drawn inspiration from observations made by the Federal Republic of Germany to make a distinction, in a third paragraph, in the case of vessels transferred to the flag of another Contracting State, because it was in the spirit of the Convention that Member States should show some confidence in one another. They had introduced the idea of the endorsement of the transferred certificate in order to avoid any possible difficulties and any delays that might occur in a port belonging to a third country.

On reflection, however, he wondered whether the formula proposed in the third paragraph ("... may be approved by the new Administration ...") did not run the risk of appearing ambiguous and whether it would not be better to say simply that the certificate should be furnished to the new Administration for endorsement.

Mr. PROSSER (UK) said he would like to see the amendment simplified. He proposed to retain paragraphs (1) and (2) of

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the original text and to modify the third paragraph of the amendment as follows:

"upon transfer of a ship to the flag of another Contracting Government, the International Tonnage Certificate (1969) shall remain in force for a period not exceeding three months. The Contracting Government of the State whose flag the ship was flying previously shall forthwith transmit a copy of the certificate and a copy of the calculations to the new Administration, to enable the latter to issue its own certificate".

Mr. HINZ (Federal Republic of Germany) thanked the representatives of Denmark and the United Kingdom for the improvements they sought to make in the proposal. He recalled that his country's observation suggested going still further, since it envisaged simply a transfer of the certificate, without the issue of a new certificate at the end of any period; but he would not press that proposal, and would support the formula put forward by Mr. Prosser. He asked, however, whether the latter would agree to add, at the end of his text, the words: "without remeasuring the ship".

Mr. PROSSER (UK) agreed to that addition.

Mr. KASBEKAR (India) also agreed that there should be no need to remeasure the ship. But he did not consider it advisable to stipulate a period of validity after transfer, since the Committee had already decided not to fix a term of validity for the certificates.

Mr. MURPHY (USA) said he would like the original paragraph (2) to be retained. He asked that paragraph (3) proposed in the amendment should be drafted as follows:

"... the International Tonnage Certificate (1969) may be revalidated by the new Administration by endorsement on the certificate."

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The questions of the duration of the term of validity and of remeasurement would thus no longer arise. The government of the country whose flag the ship would fly in the future would simply take over all responsibilities as from the time when it validated the certificate.

Mr. WIE (Norway) supported the proposal to retain the original paragraph (2). As to the new paragraph (3), his delegation was prepared to support either the text proposed by the Federal Republic of Germany or that of the United Kingdom.

Mr. KASBEKAR (India) also was in favour of retaining the original paragraph (2), but suggested that the words "whose Government is not Party to the Convention" should be added at the end. He felt that clarification was essential for the understanding of the following paragraph.

Mr. GERDES (Netherlands) supported the amendment in the form proposed by the United Kingdom representative. He felt that provision should be made for a three-months period during which no further validation of the certificate would be required.

Mr. PROSSER (UK) endorsed the comments of the United States representative. He asked that paragraph (3) should be included in the form he had himself proposed and that the original paragraph (2) should be retained with the addition of the words "... subject to the provisions of paragraph (3) hereunder".

Mr. KENNEDY (Canada), remarking that there seemed to be a contradiction between paragraphs (2) and (3) of the amendment (paragraph (2): "A certificate ... shall cease to be valid"; paragraph (3): "... the ... certificate will remain in force"), stated that he supported Mr. Prosser's latest proposal.

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Mr. HINZ (Federal Republic of Germany) thought that comment well-founded. He said he was in favour of the original paragraph (2) with the addition of the phrase suggested by Mr. Prosser. In regard to paragraph (3), he preferred the wording proposed by the United Kingdom to that suggested by the United States.

Paragraph (2) as originally drafted but with the addition of the phrase suggested by the representative of the United Kingdom, was approved by 20 votes to none.

Mr. NADZINSKI (Committee Secretary) read out the text proposed for paragraph (3):

"Upon transfer of a ship to the flag of another State whose Government is party to the Convention, the International Tonnage Certificate (1969) shall remain in force for a period not exceeding three months. Upon request, the Contracting Government of the State whose flag the ship was flying previously shall immediately transmit a copy of the certificate and a copy of the calculations to the new Administration to enable it to issue a new certificate without remeasuring the ship".

Mr. KASBEKAR (India) pointed out that the United States representative had requested the deletion of the mention of a period of three months.

Mr. PROSSER (UK) and Mr. HINZ (Federal Republic of Germany) said that they had understood that the words "upon request" no longer appeared in the final text.

Paragraph (3) as submitted by the Committee Secretary was approved by 16 votes to 4, with the deletion of the words "upon request".

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Mr. BACHE (Denmark) said he was sorry that the votes had been taken before he had had time to make certain comments on those paragraphs.

Mr. HINZ (Federal Republic of Germany) recalled that his country had proposed the addition of a new paragraph in Article 9 (see TM/CONF/6, pages 25-26). As that text was linked with the outcome of the deliberations of the Technical Committee, he reserved his position on the point.

Article 10 - Acceptance of Certificate

Mr. WIE (Norway) and Mr. GERDES (Netherlands) recalled that their countries had submitted observations on the draft of Article 10, paragraph (2) contained in Proposal A. They said they would revert to that point at the close of the Technical Committee's discussions.

Article 10, as given in TM/CONF/6, was approved by 24 votes to none.

Article 11 - Control

Paragraph (1)

Mr. GERDES (Netherlands) withdrew both the amendments to Articles 11 and 12 proposed by his country, and also its proposal to reverse the order of the Articles.

Paragraph (1) was approved by 23 votes to none.

Paragraph (2)

Mr. DARAM (France) drew attention to his delegation's proposal to replace the expression "in no case" by "in principle" (TM/CONF/6, page 30).

Mr. NIKOLIĆ (Yugoslavia) said he feared that proposal would enable Administrations to exercise arbitrarily the power given to them. He was in favour of maintaining the original text.

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Mr. SUZUKI (Japan) said he realized the French proposal had advantages from the point of view of effective control and safety of navigation. However, he could not support it since the object of the Convention was to speed up procedures, and considerable economic interests were at stake.

Mr. QUARTEY (Ghana) supported the French proposal. In point of fact, delays were sometimes inevitable - for example in the case of obstruction on the part of the ship's officers.

Mr. de MATTOS (Brazil) wondered whether the French objection was not covered by paragraph (3) of Article 11.

Mr. PROSSER (UK) supported by Mr. WIE (Norway), said he feared the conclusions that might be drawn from the French proposal, and would prefer to improve the original text by deleting the words "expense or".

Mr. GLUKHOV (USSR) was in favour of maintaining the original text of paragraph (2).

Mr. KENNEDY (Canada) said he was not happy about the use of the word "control" in the title and text of Article 11. Article 10 provided for the certificate to be accepted "for all purposes covered by" the Convention. The aim of Article 11 was not, strictly speaking, control; it was merely verification. Although the first of those two terms occurred in the other Conventions concluded under IMCO's auspices, he proposed to replace it in the present case by the word "verification".

Mr. KASBEKAR (India) suggested that the Committee should not decide on that proposal until it had completed its consideration of Article 11.

It was so decided.

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The CHAIRMAN put to the vote the French proposal to replace the words "in case" by the words "in principle".

The French proposal was rejected by 21 votes to 5.

The CHAIRMAN put to the vote the United Kingdom proposal to delete the words "expense or" from the original text of paragraph (2).

That proposal was adopted by 11 votes to 9.

Paragraph (2) was approved as amended.

Paragraph (3)

Mr. PROSSER (UK), supported by Mr. LEVY (Israel), observed that the words "of the country" should be replaced by the words "of the State".

It was so decided.

Thus amended, paragraph (3) was approved by 16 votes to none.

The CHAIRMAN invited the Committee to decide on the Canadian proposal to replace the word "control" in Article 11 by the word "verification".

Mr. de MATTOS (Brazil) and Mr. VAUGHN (Liberia) supported that proposal.

Mr. GLUKHOV (USSR) saw no objection to it.

Mr. DARAM (France) thought the word "verification" would be appropriate only in paragraph (3).

Mr. GERDES (Netherlands) did not think the use of that word made the Article any clearer. He would prefer to keep the original text.

Mr. QUARTEY (Ghana) proposed that the word "control" should be retained in the title but replaced throughout the text of the Article by the word "inspection", which seemed to him more appropriate.

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Mr. KENNEDY (Canada) approved of that solution and withdrew his original proposal.

The Ghanaian proposal was approved by 16 votes to 8.

Article 11, as amended, was approved.

Article 12 - Privileges

Article 12 was approved by 25 votes to none.

The CHAIRMAN pointed out that in TM/CONF/6, (page 33), the Netherlands had proposed adding a new article 12A, "Transitional Measures".

Mr. GERDES (Netherlands) said that that text was closely connected with decisions the plenary would have to take and suggested postponing consideration of it until later.

It was so decided.

Article 13 - Prior Treaties and Conventions

Mr. BACHE (Denmark) wondered how the provisions of Article 13 would apply, for instance, to the Paris and Geneva Treaties on inland waterways which the Netherlands representative had mentioned at the previous meeting. His delegation thought it would be useful in that connexion, to have the views of the States Parties to those Treaties.

The CHAIRMAN thought that Article 13 was very general in character and that it applied to all the existing treaties.

Mr. QUARTEY (Ghana) considered that it would therefore be more logical to replace, at the beginning of paragraph (1), the words "all other treaties" by the word "treaties".

Article 13 was approved without amendment by 24 votes to 4.

Mr. OSMAN (United Arab Republic) explained his delegation's vote on the proposed Article 13. In view of the effect its provisions might have on the existing Convention and Regulations concerning the measurement of the tonnage of ships passing through the Suez Canal, the delegation of the United Arab Republic could not accept the Article as it stood.

Article 14 - Special Rules drawn up by agreement

The CHAIRMAN drew the attention of the Committee to the proposed amendments submitted by the Governments of France and the Netherlands (page 36 of TM/CONF/6).

Mr. DARAM (France) said that, for that Article, the intention had been to take up a provision appearing in the Convention on Load Lines. However, that provision would not have at all the same meaning in the Convention under discussion, in which it would be too rigid. Moreover, the very flexible amendment procedure provided for in the present Convention made that provision superfluous.

Mr. PROSSER (UK), Mr. BIEULE (Argentina), Mr. GLUKHOV (USSR) and Mr. VAUGHN (Liberia) were in favour of the French proposal to delete Article 14.

Mr. GERDES (Netherlands) did not quite share that view. In point of fact, although Article 14 did not expressly provide for the conclusion of special agreements, Contracting Governments were not prohibited from drawing up special rules so long as they were not contrary to the purpose of the Convention and were communicated to IMCO. It was to take account of that possibility that the Netherlands delegation had proposed its amendment.

Mr. WIE (Norway) and Mr. MURPHY (USA) shared the view put forward by the Netherlands representative.

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Mr. NIKOLIC (Yugoslavia) stated that his delegation was not in favour of the text as it stood, and was prepared to support either the French proposal or the Netherlands proposal.

The CHAIRMAN put the French proposal to the vote on the understanding that, if it was rejected and if it was decided to retain Article 14, that Article would be amended as proposed by the Netherlands.

The proposal to delete Article 14 was approved by 14 votes to 12.

Article 15 - Communication of Information

The CHAIRMAN drew attention to the suggestion put forward by Sweden in TM/CONF/6, page 37.

Mr. LEVY (Israel) said he favoured the suggestion.

Mr. HINZ (Federal Republic of Germany) preferred the existing text, since the Swedish proposal would overburden the IMCO Secretariat. All that was needed was for the certificate to be translated; provision should be made for the texts of national laws and regulations to be communicated to IMCO in the national language for reference, as was already the case with the Convention for the Prevention of Pollution of the Sea by Oil.

Mr. QUARTEY (Ghana) was of the opinion that there was first a question of principle to be settled: should the texts listed under sub-paragraph (b) be communicated to Contracting Governments in the same way as the documents referred to in sub-paragraphs (a) and (c)? His delegation took the view that, even if the Committee wished to give an affirmative reply to that question, it was in any case an administrative matter, and hence it was out of place in a Convention and could be settled directly between governments and the IMCO Secretariat.

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Mr. NICHOLSON (Australia) did not favour the Swedish proposal. However, he did agree that there was some lack of uniformity in the three sub-paragraphs of Article 15 in regard to the communication of texts to Contracting Governments.

Mr. KENNEDY (Canada) supported the remarks of the representative of Ghana. To his mind, the most important point was that certificates should be communicated to governments; and so far as the texts mentioned in sub-paragraph (b) were concerned, all that was necessary was that they should be communicated to IMCO for the purposes of reference.

Mr. de MATTOS (Brazil) concurred. If absolutely necessary, the beginning of sub-paragraph (b) could be amended to read: "A summary, in one of the official languages of the Organization, of the text of the laws, decrees, ...".

Mr. VAUGHN (Liberia) stated that, for budgetary reasons, his delegation preferred the original text proposed for Article 15.

Mr. MILEWSKI (Poland) said that, while he understood the motives underlying the Swedish proposal, he would like to hear how the IMCO Secretariat felt about it.

Mr. NADEINSKI (Committee Secretary) stated that, as a rule, all documents forwarded to IMCO to be communicated to Member States were required to be in one of the official languages of the Organization. On the other hand, texts which were communicated for purposes of reference only (such, for instance, as those transmitted by virtue of the provisions of the International Convention for the Safety of Life at Sea) were not necessarily communicated in IMCO's working languages. In such cases the Secretariat could, if necessary, publish abstracts in one of the working languages giving the essential features of the texts concerned; but any Government wishing for a complete translation would defray the expense incurred.

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Mr. MILEWSKI (Poland) and Mr. HINZ (Federal Republic of Germany) said that, in the light of the information that had just been furnished, their delegations would opt for the original text.

Mr. BORG (Sweden) withdrew his suggestion and gave his support to the original text.

Mr. NICHOLSON (Australia), recalling his previous remarks, proposed that the wording of sub-paragraph (a) should be brought into line with that of sub-paragraph (b).

Mr. ADVANI (Nigeria) seconded that proposal.

The proposal was rejected by 15 votes to 8.

Article 15 was approved without amendment.

The meeting rose at 12.40 p.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969
General Committee

SUMMARY RECORD OF THE FOURTH MEETING

held at Church House, Westminster, London, S.W.1,
on Monday, 2 June 1969, at 2.45 p.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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TEXT OF ARTICLES OF A CONVENTION ON TONNAGE
MEASUREMENT (TM/CONF/6 and Add.1;
TM/CONF/C.1/WP.2) (continued)

Article 16 - Signature, Acceptance and Accession

Paragraph (1)

The CHAIRMAN opening the discussion on Article 16 (TM/CONF/6 pages 38 and 39), drew attention to the Soviet amendment (TM/CONF/C.1/WP.2) which would make accession to the Convention open to all States.

Mr. GLUKHOV (USSR) explained that the purpose of his delegation's amendment was to open the proposed Convention on Tonnage Measurement to the participation of all States since it dealt with matters of universal interest. An international instrument of that kind should not be discriminatory and should be founded on respect for the sovereign equality of all States. His amendment would render the text more acceptable to a greater number of States.

Mr. NIKOLIĆ (Yugoslavia) supported the Soviet amendment as it complied with the letter and spirit of the United Nations Charter.

Mr. OSMAN (United Arab Republic) also supported the amendment because his Government consistently defended the principle of universality in the United Nations and in the Specialized Agencies.

Mr. BEVANS (USA) opposed the amendment which advocated the "all States formula" and introduced into the discussion a political issue which was not within IMCO's purview. The formula was unworkable, because neither IMCO nor its Secretariat was competent to determine what entities were States. The United Nations Secretary-General had made it plain that, should that

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formula be incorporated in an international convention, he would require precise instructions from the General Assembly as to which entities, not being Member States of the United Nations or of the Specialized Agencies, were or were not in fact States.

IMCO ought to use the traditional clause for international conventions negotiated under United Nations auspices and avoid the bitter and long debate that would become inevitable if the Conference attempted to impose an unconstitutional requirement upon IMCO's Secretary-General, otherwise it might fail.

Mr. DOINOV (Bulgaria) said that one of the principal merits of the proposed Convention on Tonnage Measurement was that it might introduce a new system that would be universally applied but the original text of Article 16, paragraph (1) created artificial barriers to universal participation and would thereby debar certain States with a considerable tonnage from acceding. Such a provision was incompatible with the aims of the Convention and was unrealistic. Therefore, he supported the Soviet amendment. An analagous provision had been embodied in the Safety Convention and other instruments, so it was not unusual.

Mr. SUZUKI (Japan) agreed with the United States representative. Article 16, paragraph (1) should be accepted as it stood because IMCO was a technical body and the Conference was not the proper place for examining a delicate political issue.

Mr. DARAM (France) also agreed with the United States representative.

Mr. CHU (China) supporting the United States view, said that the long-established practice in the United Nations was for participation in international conventions or agreements drawn up under its auspices to be confined to its Member States and

those of its Specialized Agencies. Article 16 should therefore be maintained without change.

Mr. MILEWSKI (Poland) observed that no objection on political grounds had been raised to a similar provision in the Safety Convention: the Soviet amendment was essential.

Mr. PAI (Korea) endorsed what had been said by the representative of the United States and Japan.

Mr. PROSSER (UK) urged the Committee to accept Article 16, paragraph (1) as it stood so as to comply with the terms of the IMCO Resolution convening the Conference. If the Soviet amendment were adopted, the Secretary-General would be placed in an extremely difficult position since he was not competent to determine which entities were States.

Mr. GERDES (Netherlands) agreed with the United States representative.

The Soviet amendment (TM/CONF/C.1/WP.2) was rejected by 19 votes to 7.

Mr. GERDES (Netherlands) drawing attention to the Netherlands amendments (TM/CONF/6, page 39), to replace the word "three" by the word "six" in paragraph (1), said that it would be more convenient for his Government for purposes of preparing the formalities required for signature to have a period of six months. It could use the accession procedure, but preferred signature.

The representatives of Italy, India, Poland, Norway, the United Arab Republic, Argentina and Japan supported the Netherlands amendment.

The Netherlands amendment to paragraph (1), was approved by 25 votes to none.

Paragraph (1), as amended, was approved by 24 votes to none.

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Paragraph (2)

Mr. DARAM (France) drew attention to the French amendments to paragraph (2) (TM/CONF/6, page 39). The first was to replace the term "the Organization" by the words "The Secretary-General of the Organization" and was less important than the second, which proposed the addition of a new third sentence at the end of paragraph (2). The purpose of the latter was to fill a gap in the original text and to cover the procedure set out in paragraph (1)(a) i.e. signature without reservation as to acceptance.

Mr. PROSSER (UK) and Mr. MURPHY (USA) supported the French amendments.

Mr. MARINI (Italy) said he was unable to support the first French amendment since, in dealing with the functions of a depositary, it was preferable to specify the name of the organization rather than its executive head. The emphasis should be on the impartial character of a depositary. The second French amendment was acceptable.

Mr. GLUKHOV (USSR) said that there was no need for the first French amendment. There was no provision in the IMCO Convention concerning the Secretary-General's functions as a depositary, and the provision in the 1966 Convention on Load Lines referred to the Organization and not to the Secretary-General.

Mr. BORG (Sweden) agreed with the Soviet representative.

Mr. QUARTEY (Ghana) pointed out that it was usual to refer to organizations rather than to their executive heads in clauses dealing with depositary functions, because of the special status in international law of international organizations.

The first French amendment would lead to difficulties if the term "the Organization" were not defined. In his opinion, the best place for that would be in the article containing definitions, i.e. Article 2. That would also make the task of interpretation easier.

Mr. BACHE (Denmark) said that the second French amendment was acceptable.

Mr. OSMAN (United Arab Republic) said that the original text was preferable to the first French amendment because the act of depositing an instrument of accession with the Organization was an important one with far-reaching legal implications.

Mr. WIE (Norway) agreed with the Italian representative. The second French amendment was acceptable.

Mr. DARAM (France) said that his delegation would not insist on its first amendment and accordingly withdrew it. However, his delegation maintained the second part of its amendment to which it attached great importance.

Baron de GERLACHE de GOMERY (Belgium) supported the second French amendment.

Mr. VAUGHN (Liberia) agreed with the representative of Ghana that the term "the Organization" would now have to be defined as meaning IMCO, since Article 14 had been dropped.

Mr. HINZ (Federal Republic of Germany) observed that a definition of "the Organization" had been inserted in the 1954 Oil Pollution Convention and the 1965 Facilitation Convention.

Mr. NADEINSKI (Committee Secretary) said that the term "the Organization" could be defined in Article 15 by using the wording of Article 14.

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Mr. GERDES (Netherlands) said that it would be neater to include the definition in Article 2, though the alternative mentioned by the Committee Secretary would also be acceptable. He had no objection to the second French amendment.

The CHAIRMAN reminded the Committee that it had still to take a decision on the second French amendment, which was to add a sentence at the end of paragraph (2) requiring the Organization to inform governments of any signature effected during the three months following the date specified in paragraph (1).

Mr. MILEWSKI (Poland) pointed out that in the proposed additional sentence "six months" should be substituted for "three months" in accordance with the decision taken earlier.

Mr. BACHE (Denmark) suggested that the final phrase of the sentence should read "from the date mentioned in paragraph (1)". The entire sentence would then read:

"The Organization shall also inform all governments which have already signed the Convention of any signature effected during the six months from the date mentioned in paragraph (1)".

The CHAIRMAN suggested that while it seemed preferable to replace "following" in the text by "from" the remainder of the proposal was essentially a drafting matter.

It was so decided.

The CHAIRMAN put to the vote the second French amendment, as further amended by the Polish and Danish representatives.

The second French amendment was adopted by 28 votes to none.

The CHAIRMAN invited views on the Ghanaian proposal to include a definition of "the Organization" in Article 2.

Mr. KENNEDY (Canada) stressed that the Ghanaian representative had touched on an important question of principle. Although it might seem a minor point, it was vital to have such terms defined if future problems of interpretation of the Convention were to be avoided.

Mr. QUARTEY (Ghana) said that since Article 14 had been deleted, it was essential either to include a definition of "the Organization" under Article 2, or to put the full name of the Organization between brackets the first time it was mentioned in the Convention.

Mr. KENNEDY (Canada) and Mr. HINZ (Federal Republic of Germany) supported that view.

The CHAIRMAN put to the vote the Ghanaian proposal to add the following definition to Article 2:

'"Organization" means the Inter-Governmental Maritime Consultative Organization".'

That proposal was adopted by 28 votes to none.

Thus amended, Article 16 was approved.

Article 17 - Coming into Force

Consideration of Article 17 was deferred.

Article 18 - Amendments

Paragraph (1)

Paragraph (1) was approved without change.

Paragraph (2)

Sub-paragraph (a)

Sub-paragraph (a) was approved without change.

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time to consider the implications of a proposed amendment. Furthermore, the second sentence was formulated in such a way as to encourage governments to acquaint the Organization with their views. Sub-paragraph (c) could be deleted.

Mr. QUARTEY (Ghana) said that he thought it was being over-optimistic to dwell on the concept of unanimous acceptance when a single rejection could quash an amendment. For the sake of shipowners, the period allowed for communicating rejections should be shortened.

Mr. WIE (Norway) agreed, and said that the period in which rejections were permitted should be shortened as much as possible. His delegation was in favour of reducing it to twelve months.

The CHAIRMAN invited the Committee to vote on the French proposal to reduce to six months the period of twelve months referred to in the first sentence.

The proposal was rejected.

The CHAIRMAN invited the Committee to vote on the proposals by the Federal Republic of Germany and France to reduce to twelve months the period of three years referred to in the second sentence.

The proposal was rejected by 15 votes to 6.

The CHAIRMAN invited the Committee to vote on the United States proposal to reduce to two years the period of three years referred to in the second sentence.

The proposal was adopted by 26 votes to none.

Mr. MENSAH (Secretariat) drew the Committee's attention to the fact that it would be advisable, owing to the uncertainty which could arise when periods were expressed in terms of years, to follow the standard United Nations practice of referring to

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months. The Committee might therefore wish to replace the words "three years" by "twenty-four months" rather than by "two years".

The Committee decided to use the words "twenty-four months".

Sub-paragraph (b), as amended, was approved.

Sub-paragraph (c)

Mr. HINZ (Federal Republic of Germany) drew attention to his Government's proposal to delete sub-paragraph (c) (TM/CONF/6).

Mr. DARAM (France) said that the provision was illogical and should be deleted.

Mr. VAUGHN (Liberia) said that the sub-paragraph was inconsistent with the terms of sub-paragraph (b). He agreed that it should be deleted.

Mr. GERDES (Netherlands) said that in view of the contents of sub-paragraph (b), the provision was indeed superfluous.

The CHAIRMAN put to the vote on the proposal by the Federal Republic of Germany to delete sub-paragraph (c).

The proposal was adopted by 19 votes to none.

Sub-paragraph (c) was deleted.

Paragraphs (3), (4) and (5)

Mr. MURPHY (USA) suggested that the discussion of paragraphs (3), (4) and (5) should be deferred until agreement had been reached on the coming into force procedure for the Convention, since the considerations which applied in that respect might also affect the question of the amendment procedures to be set up under Article 18. The point had not arisen in connexion with paragraph (2), which dealt with unanimous acceptance; but it was certainly relevant in the case of the other amendment procedures.

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Mr. VAUGHN (Liberia) and Mr. SUZUKI (Japan) supported the United States suggestion.

Mr. GLUKHOV (USSR) said that he did not think there was any particular relationship between the coming into force procedure for the Convention and the amendment procedures, although he would have no objection to deferring consideration of paragraphs (3), (4) and (5).

Mr. DARAM (France) endorsed the suggestion that the discussion of paragraphs (3), (4) and (5) should be postponed. He wished, however, to point out that the existence of a special procedure for the amendment of the annexes to the Convention seemed to conflict with the statement in Article 1 that the annexes were an integral part of the Convention. In any case, the general amendment procedure for the Convention was sufficient; there was no need for a special procedure for the annexes.

Mr. WIE (Norway) agreed that the special provisions in paragraph (5) were unnecessary. His delegation would agree to their deletion.

Mr. PROSSER (UK) and Mr. SUZUKI (Japan) supported the suggestion to defer the consideration of paragraphs (3), (4) and (5). Both pointed out, however, that they would be opposed to the deletion of paragraph (5).

Mr. de MATTOS (Brazil) said that he took the French view about the contradiction implicit in the existence of special provisions for amendment of the annexes. He thought that view was further supported by the provision in the second sentence of Article 1.

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Mr. GERDES (Netherlands) said that he did not think the question of amendment procedures depended on the kind of tonnage measurement system proposed by the Technical Committee, and so his delegation did not feel it essential for the discussion to be postponed, although it would not oppose the idea. He wished, however, to stress the importance of having a simplified procedure for amending the provisions of the annexes.

Mr. BACHE (Denmark) agreed that a simplified amendment procedure was needed for the annexes. He did not think the provisions of Article 1 precluded the establishment of special treatment for the annexes.

It was decided to defer consideration of paragraphs (3), (4) and (5).

The meeting rose at 5.30 p.m.



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INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE FIFTH MEETING

held at Church House, Westminster, London, S.W.1,
on Wednesday, 4 June 1969, at 10.15 a.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADELSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT TEXT
OF ARTICLES OF A CONVENTION ON TONNAGE MEASUREMENT
(TM/CONF/6 and Add.1) (continued)

Article 19 - Denunciation

Article 19 was approved without opposition.

Article 20 - Territories

Paragraph (1), Sub-paragraph (a)

Mr. MURPHY (USA) observed that the procedure governing the application of a treaty to a territory varied from one State to another. In the United States, for instance, the Constitution conferred all powers in that matter on Congress. The inclusion in the Convention of a clause providing for consultation with the authorities of the territory concerned would be contrary to the distribution of authority under the United States Constitution. He therefore proposed to make the original text of sub-paragraph (a) less rigid by replacing the words "consult with such territory in an endeavour to extend" by the words "take such measures as may be appropriate to extend ... to that territory".

Mr. VAUGHN (Liberia) said he was prepared to support that amendment.

Mr. OSMAN (United Arab Republic) was in favour of retaining the Original text of such-paragraph (a). When a government responsible for the international relations of a territory wished to extend the application of a treaty to such territory, it was the duty of the government to consult the authorities of that territory.

Mr. NICHOLSON (Australia) and Mr. de MATTOS (Brazil) supported the amendment proposed by the United States.

Mr. GLUKHOV (USSR) and Mr. BACHE (Denmark) agreed with the opinion of the representative of the United Arab Republic.

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Mr. GERDES (Netherlands) stated that his Government always consulted the authorities of a territory for whose international relations it was responsible before extending the application of a convention to such territory. He would however be willing to support the United States proposed amendment, provided that it could be added to the existing draft.

Mr. PROSSER (UK) supported the United States proposal, which had the merit of introducing great flexibility.

Mr. BEVANS (USA), in reply to Mr. KENNEDY (Canada), said that the United States authorities had so far encountered no difficulties in applying either the Convention for the Prevention of Pollution of the Sea by Oil or the Load Line Convention, both of which contained a clause similar to the one his delegation was opposing in the proposed Article 20 of the future Convention. However, those authorities would prefer the clause in question to be amended since it was inconsistent with the distribution of authority under the United States Constitution. He mentioned the example of Puerto Rico, which enjoyed considerable economic autonomy, more particularly in financial matters, but had none at all in regard to the application of treaties on other subjects, a matter which rested within the competence of the two Houses of Congress.

Mr. OSMAN (United Arab Republic) repeated his objections to the United States proposal. He pointed out that the original text of sub-paragraph (a) took into account the system applicable to territories for which the United Nations was the administering authority, whereby the authorities of such territories were consulted before the application of a treaty was extended to them.

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Nevertheless, he understood the reasons underlying the United States position and accordingly proposed a compromise solution whereby the text of the initial draft could be retained with the addition, after "consult with such territory", of the words "or take such measures as may be appropriate".

Mr. DARAM (France) supported that proposal, which he said he had himself been on the point of putting forward.

Mr. MURPHY (USA) thanked the representative of the United Arab Republic for his suggestion, which he was pleased to support.

The amendment proposed by the representative of the United Arab Republic was adopted.

Paragraph (1)(a) of Article 20 was approved by 24 votes to none.

Paragraph (1)(b), and paragraphs (2) and (3)

Paragraph (1)(b) and paragraphs (2) and (3) of Article 20 were approved without opposition.

Articles 21 - Registration and 22 - Languages

Mr. DARAM (France), noting that paragraph (1) of Article 21 dealt with the procedure for deposit, considered that it had nothing to do with "registration" which was the title of the Article; hence the amendments to Articles 21 and 22 submitted by his delegation (TM/CONF/6, pages 57 and 58), the main object of which was to transfer the first paragraph of Article 21 to Article 22.

Mr. PROSSER (UK) Mr. GERDES (Netherlands) and Mr. BIEULE (Argentina) supported that proposal.

The amendment to Article 21 submitted by the French delegation was approved by 27 votes to none.

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The CHAIRMAN noted that the adoption of that amendment entailed logically the adoption of the French delegation's proposals concerning Article 22 (subject to the replacement of the term "the Secretary-General" by "the Organization", pursuant to the decisions taken earlier).

Mr. KASBEKAR (India) said he preferred the original wording of paragraph (1) of Article 21 to that proposed by the French delegation for Article 22, paragraph (1).

Mr. NICHOLSON (Australia) drew attention to a discrepancy between the text adopted for Article 21, which referred to "the Secretary-General", and that proposed for Article 22, which referred to "the Organization".

The CHAIRMAN said he would bring that point to the notice of the Drafting Committee. He pointed out that the wording of Article 21, paragraph (1) was identical with that of the corresponding passage in the Convention on Load Lines.

Mr. HINZ (Federal Republic of Germany) thought it advisable to depart as little as possible from the wording of previous conventions. In view of the considerations put forward earlier concerning the terms "Organization" and "Secretary-General", he thought it was with the Organization that the text of the Convention should be deposited, and that it was for the Secretary-General to transmit copies thereof to Governments.

Mr. BORG (Sweden), Mr. GERDES (Netherlands) and Mr. WIE (Norway) concurred.

Mr. DARAM (France) said his main intention had been to alter the positioning of the paragraphs in the Articles; he had no very marked preference in regard to the actual wording of the paragraphs but thought it advisable to keep to that of previous conventions.

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Mr. QUARTEY (Ghana) agreed that in fact the French proposal affected only the position of the paragraphs and not their substance.

Mr. HINZ (Federal Republic of Germany) reminded the Committee of the chronological order of procedure: deposit, establishment in the various languages, registration. He therefore proposed that Articles 21 and 22 should be interchanged, without any amendment to their wording.

Mr. PROSSER (UK), supported by Mr. NIKOLIC (Yugoslavia), stated a preference for the retention of the existing order of the Articles, subject to the amendments proposed by the French delegation.

Mr. MURPHY (USA) did not think the matter of much importance. He saw the logic of Mr. Hinz's argument but considered it preferable, for the sake of ease of reference to the Convention, to keep to the usual practice.

Mr. MENSAH (Secretariat) said in reply to a question from Mr. KENNEDY (Canada), that he agreed with the comments of Mr. Hinz concerning the chronological order of the procedures followed.

Mr. GLUKHOV (USSR) said he thought logic, observance of chronological order and the various points of view expressed could all be reconciled in the following proposal: Article 21, Deposit and Registration; Article 22, Languages.

That proposal was supported by Mr. MARINI (Italy) and Mr. HINZ (Federal Republic of Germany).

The Soviet amendment was adopted by 26 votes to none.

Mr. NADELSKI (Executive Secretary) summed up the discussion as follows: the Committee had decided in favour of

- an Article 21, entitled "Deposit and Registration", consisting of two paragraphs;

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- an Article 22, entitled "Languages", embodying the original wording of Article 22 in Proposal C;

but the wording of the two paragraphs of Article 21 called for further clarification.

Mr. DARAM (France) said he thought there could be no doubts on the matter. The first paragraph (Deposit) would consist of paragraph (1) of the original draft of Article 21, and the second paragraph (Registration), of the French delegation's amendment which had been approved.

It was so decided.

The second paragraph of Article 22 was approved.

Articles 21 and 22, thus amended, were approved.

The CHAIRMAN suggested that the Committee should return to the various items which had been left in abeyance.

Preamble (concluded)

The preamble was approved without change.

Article 2 - Definitions (continued)

The CHAIRMAN recalled that agreement had not been reached on the definitions in paragraphs (4) and (5).

Mr. QUARTEY (Ghana) said that the Committee should also decide whether it wished the definitions to be placed in alphabetical order.

The CHAIRMAN said he thought that was the usual practice, but added that account would have to be taken of the new definition of the term "Organization" and of the definition of the "length of the ship", which might possibly be added.

Mr. WIE (Norway), Mr. MURPHY (USA), Mr. DARAM (France) and Mr. GLUKHOV (USSR) were in favour of deferring the decision on those two paragraphs pending any supplementary information that might be supplied by the Technical Committee.

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Mr. KASBEKAR (India) said that, in view of the indications supplied the previous day by the Technical Committee on the subject of existing ships, he saw no need to defer the decision; but he would not press for an immediate resumption of the discussion.

Mr. QUARTEY (Ghana) thought that if the Committee decided to defer the decision it should so inform the Technical Committee.

Mr. PROSSER (UK) did not wish to oppose deferment of the decision although he saw no need for it, but he stressed that the General Committee should itself decide on the final form of any definitions still to be dealt with when the discussions in the Technical Committee were sufficiently advanced.

Mr. WIE (Norway) and Mr. HINZ (Federal Republic of Germany) also thought that the Committee should remain responsible for drawing up the definitions, but they favoured the postponement of the decision on paragraphs (4) and (5).

Mr. QUARTEY (Ghana) said that the important point was to ensure that the Technical Committee should be informed that the Committee was awaiting certain information from it, without which it could not reach a decision.

The decision on the definitions given in paragraphs (4) and (5) was deferred until later.

Article 3 - Application (continued)

Mr. HINZ (Federal Republic of Germany), Mr. MURPHY (USA) and Mr. GERDES (Netherlands) considered that the decision on paragraphs (3) and (4) of the Article was linked with the decision to be taken on paragraphs (4) and (5) of Article 2, and that it, too, should therefore be deferred.

It was so decided.

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Article 4 - Exceptions (continued)

The decision on sub-paragraph (b) of paragraph (1) was also deferred.

Article 12A

Mr. GERDES (Netherlands) said that the observations which his delegation had made on Article 3 applied to the discussion of the new Article 12A proposed by his delegation.

The discussion on a new Article 12A was deferred.

Article 17 - Coming into Force (continued)

Mr. PROSSER (UK) and Mr. GERDES (Netherlands) considered that the substance of Article 17 was basic to the problem and that, just as in the case of Article 3, no decision could be taken until the results of the Technical Committee's discussions were known.

Further consideration of Article 17 was deferred.

Article 18 - Amendments (continued)

Mr. MURPHY (USA) and Mr. HINZ (Federal Republic of Germany) pointed out that paragraphs (3), (4) and (5) were intrinsically linked with the provisions of Article 17.

The decision on Article 18 was deferred.

Mr. KASBEKAR (India) suggested that the Committee should request the Technical Committee to inform it immediately of any decisions taken concerning existing ships and the length of ships; if that was done, it would be able to continue its work without having to await the Technical Committee's Report.

The CHAIRMAN undertook to acquaint the Chairman of the Technical Committee with the wishes of the General Committee.

Mr. MURPHY (USA) recalled the instructions which the Conference had, at its last plenary, given to the General Committee, and which appeared in paragraph (3) (page 2) of TM/CONF/WP.5. It would be advisable to fix a date, so that the members of the Committee would have time to prepare for the discussion on the item.

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Mr. KENNEDY (Canada) recalled the amendment proposed by the delegations of Norway and the Netherlands, according to which a new paragraph based on Proposal A would be added to Article 10.

Mr. WIE (Norway) and Mr. GERDES (Netherlands) recalled the statement they had made on that subject at the third meeting of the Committee, (TM/CONF/C.1/SR.3, page 7).

The meeting rose at 12.10 p.m.



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INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE SIXTH MEETING

held at Church House, Westminster, London, S.W.1.,
on Friday, 6 June 1969 at 9.30 a.m.

Chairman:	Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman:	Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary:	Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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AGENDA ITEM 6 - ANY OTHER MATTERS REFERRED TO THE COMMITTEE:

Consideration of proposed definitions of gross and net tonnage submitted by the United States (TM/CONF/C.1/2; TM/CONF/WP.5)

The CHAIRMAN drew the Committee's attention to the proposed definitions of gross and net tonnage (TM/CONF/C.1/2) submitted by the United States delegation with a view to implementing the Conference's instructions (TM/CONF/WP.5) to the General Committee to prepare a draft recommendation expressing the Conference's understanding of the uses of tonnages. He invited the authors of TM/CONF/C.1/2 to comment on that document.

Mr. MURPHY (USA) recalled that, on 3 June, the Conference in a plenary session had considered it advisable to define its objective in drawing up certain parameters, so as to leave users in no doubt about the intentions of the authors of the Convention. The document prepared by his delegation aimed at providing the information that was desirable if the Conference's work was to be correctly interpreted and its results satisfactorily applied. In the view of the United States delegation, the paper might serve as a basis for a general discussion which would reveal the reactions of the countries represented at the Conference and lead to the preparation of a text which would perhaps come closer to meeting their wishes, and would be submitted to the Conference at a plenary meeting. Since the draft text of Articles 10 and 11 provided for the automatic acceptance by the authorities of the Contracting Countries of the certificates drawn up in accordance with the new formulae, it was essential to make quite clear to all concerned the meaning of the parameters on which those certificates were based and the way in which they were expected to be applied.

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Mr. DARAM (France) was of the opinion - and his view, moreover, was in conformity with the instructions of the plenary Conference - that the explanatory text should take the form of a recommendation annexed to the Final Act of the Conference and not of an addition to Article 2 of the Convention. The aim of the Conference was indeed to draw up an international treaty which would serve as a tool; it could only make recommendations as to the uses of that tool, uses which it hoped would be as numerous and as extensive as possible.

As for the text itself, the French delegation thought it was too rigid and wished to see it made more flexible. To apply it in its existing form might necessitate modification of some national laws, which might cause the countries in question to hesitate to ratify the Convention. Moreover, had the words: "charges", "taxes", "dues" and "tolls" the same meaning in all the countries taking part in the Conference?

Mr. KASBEKAR (India) supported the French representative's first comment; the text should take the form of a recommendation to be expressed in the Preamble to the Final Act or in an Annex, but not as provisions to be included in Article 2.

In general, he approved of the definitions proposed by the United States delegation, but did not fully understand subparagraph 6(c). It seemed to him that the calculation of all charges should be made on the basis of net tonnage.

Mr. PROSSER (UK) considered that the document proposed by the United States representative was a very useful basis for discussion. As did the previous speakers, he considered it more advisable and more in conformity with the Conference's instructions that the definitions should be the subject of a recommendation annexed to the Final Act rather than an integral part of an Article.

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In the same spirit, and so as to lessen the somewhat rigid nature of the text submitted, he proposed saying, in each of the two paragraphs, that gross (or net) tonnage "should be accepted as ..." and not that it "meant"; adding in sub-paragraph 6(b) the word "relevant" before the words "conventions and regulations"; and, in paragraph 7, deleting sub-paragraphs (a) (b) and (c) and stating merely: "... the fixing of taxes".

Mr. GERDES (Netherlands) welcoming the discussion which he considered very timely, recalled the Conference's precise instructions which called for a "recommendation" and supported the views expressed by the representatives of France and the United Kingdom.

Mr. LEVY (Israel) wholeheartedly supported the United Kingdom representative's proposals.

Mr. KENNEDY (Canada) said that, although he had at first been surprised by the form in which TM/CONF/C.1/2 had been drawn up, he had been reassured by the explanations given by the United States representative. He welcomed the discussion which, in his opinion, must not stray from the idea of making merely recommendations. He fully understood the concern felt by some States, which feared that a failure to state exactly how the parameters fixed by the Conference were to be used, would lead to abuse. However, he believed those fears to be largely without foundation, seeing that the said parameters would automatically be used fairly and from the standpoint of their technical value. He instanced his own country, where consumer associations would not fail to exert pressure on the Government if the port authorities sought to fix dues at an unreasonable level which would weigh heavily on imported produce.

He concluded that the proposed definitions should be studied as a recommendation, and in the spirit of the Preamble to the Convention.

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Mr. MILEWSKI (Poland) endorsed the proposals of the United Kingdom representative.

Mr. DUBCHAK (USSR) considered that, prior to any consideration of the substance of the document, the Committee ought first to decide whether the text was to be embodied in the Convention or included in an annex as a recommendation. His delegation favoured the latter course.

Mr. WIE (Norway) wholly approved the spirit in which the Conference in plenary session had expressed its wish to explain the decisions it had taken. In the main, he agreed with Mr. Kennedy's observations: the more equitable and practical the parameters agreed on by the Conference, the more widely implemented the Convention would be. He remarked that, in Norway, gross tonnage was currently used for the calculation of most charges and dues. He would not wish his country to be placed in a difficult position if, faithfully applying clauses relating to the use of net tonnage, it was to find that many other countries were not carrying out the provisions of the Convention. In that connexion, he recalled the unfortunate precedent of the decisions taken on the tonnage mark scheme.

Mr. SUZUKI (Japan) considered it essential to keep net tonnage as a parameter, having regard to the way in which current procedures varied from country to country. He agreed with the views expressed by the representatives of France and the United Kingdom. Definitions of the use to be made of parameters should remain sufficiently flexible and should take the form of a recommendation. His Government was convinced that it was net tonnage which best expressed the revenue-earning capacity of the ship, and that the best way to calculate it was to measure passenger spaces and certain cargo spaces.

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For the time being it was difficult to make a thorough study of the proposal by the United States, given the stage reached in the work of the Technical Committee. He pointed out that the main object of the Conference was to standardize tonnage measurement systems by drawing up a Convention which would be accepted by a large number of countries. In that spirit, and considering the great delicacy of the questions raised by some of the items - the one under discussion and also, for instance, Articles 3, 4, 17 and 18 - he hoped delegations would continue to exchange views until they reached compromise solutions which could be more widely accepted.

Mr. HINZ (Federal Republic of Germany) considered that, at the present stage of the Conference's work, the Committee could hardly go beyond a very general discussion of the United States document. He felt that, in accordance with the instructions of the plenary, there could be no question of presenting the document in any form other than that of recommendations. How could one expect to incorporate in one or two paragraphs of an article provisions which were so important that their mandatory nature might make some States hesitate to ratify? Many governments did not at present have the legal means to impose specific taxation arrangements on the port authorities of their countries, nor did they wish to have them.

The best way of ensuring widespread implementation of the Convention was undoubtedly to draw up useful parameters.

Mr. PROSSER (UK) stated that his country's Government and Parliament did not possess the necessary powers to impose on port authorities procedures such as those envisaged in the United States document. That was why he was anxious to see them adopted as recommendations and not as articles of the Convention with mandatory effects.

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The CHAIRMAN said that most of the speakers had stressed the advisability of following exactly the instructions of the plenary, which had envisaged recommendations and not provisions incorporated in the text of the Convention.

Mr. MURPHY (USA) welcomed the discussion, which his delegation had in fact hoped to provoke when proposing its text. He agreed that the instructions given by the Conference had referred to recommendations, but he pointed out that those instructions were not the outcome of a formal decision taken on the basis of a vote. It was the United States delegation which had in fact taken the initiative; what it had had in mind was a text which was more binding than a recommendation. That was why it had felt free to frame the text in the form which it deemed to be the most effective. His concern for precision had been increased by the information given on the general trend of the procedures followed by port authorities, which were gradually changing over from net tonnage to gross tonnage, and on the application of the open shelter-deck concept exclusively to net tonnage in respect of new ships. It was important that users should know the exact intentions of the authors of the Convention.

He would repeat that his delegation did not ask for an immediate decision on the form or on the substance of its draft. Its main concern was to ascertain the views of the countries represented at the Conference.

Mr. BEVANS (USA) stressed that the question of uniformity must be continually borne in mind. It was for the sake of uniformity that Articles 10 and 11 imposed certain obligations on the Contracting States. If, as he had heard it said at the plenary and at the present meeting, certain States were not prepared to insist on port authorities respecting the certificate, one might wonder what was the point of drawing up a convention.

Mr. KENNEDY (Canada) said that he well understood the concern expressed by the two representatives of the United States, but recalled that at no time had there been any question of making uniformity of application of the chosen parameters an objective. It was clear that, if they were realistic, the parameters would be applied automatically. The increasing trend at the present time towards the use of gross tonnage for calculating taxes and dues stemmed from the fact that net tonnage no longer bore any relation to reality. Hence the unit of measurement chosen would have to be sufficiently reasonable for port authorities to be induced to use it in preference to any other parameter.

Mr. PROSSER (UK) asked the United States representative whether, in his country, port charges and other dues were controlled by the executive or legislature.

Mr. BEVANS (USA) replied that such was not the case at the present time, but that measures would be taken to secure such control if the formula proposed by his delegation was accepted.

In devising that formula, the United States delegation had sought to take due account of the concepts contained by implication in Articles 10 and 11, and had based its proposals directly on the provisions of the Convention for the Safety of Life at Sea and the Convention on Load Lines, which envisaged the possibility of submitting the ship to a complete inspection. The use to which the certificate could be put should be made clear, and a recommendation would hardly be sufficient.

Mr. MURPHY (USA) pointed out that the expression "to provide a basis for" which had been used in paragraphs 6 and 7 of the American proposal should, in his opinion, provide all the flexibility desirable. It was true that dues were sometimes calculated on the basis of values other than tonnage; but if

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the Convention succeeded in producing a definition of gross and net tonnage which was acceptable to governments, it would be necessary to provide for the means of implementing the system in a uniform manner and to prevent port authorities from using other values.

Mr. WIE (Norway) approved of the principle defended by the United States representatives, which aimed at providing all government signatories to the Convention with the means of compelling port authorities to carry out the provisions of Article 2.

Mr. VAUGHN (Liberia) also supported that view. It seemed illogical to define parameters without giving any indication of the objective that it was hoped to reach by the use of those parameters.

Mr. BACHE (Denmark) stressed that it was essential to maintain a certain flexibility, particularly as far as passenger ships were concerned. As had been suggested at the meetings of the Technical Committee, there were various ways in which such flexibility could be achieved: for instance, special arrangements, not necessarily linked to tonnage, could be entered into between the ports and passenger ships.

Mr. HINZ (Federal Republic of Germany) returned to a point raised by Mr. Bevans. According to the latter, Articles 10 and 11 would be meaningless if port authorities were not obliged to accept the certificate as a basis for the assessment of harbour dues. However, even if the Convention did not contain provisions obliging port authorities to use the chosen parameters as the basis of their calculations, it was important to ensure that, if they decided to do so, they should then be obliged to accept the certificate and should not be able to proceed to measure the ship again. The question was, then, whether port authorities

would or would not use the parameters chosen. At the present time the unit chosen throughout almost the whole world was either gross or net tonnage; it was thus obvious that the parameters which the Conference was trying to define would indeed correspond to reality.

Mr. GERDES (Netherlands) said he was sympathetic to the arguments put forward by the two United States representatives. From a more juridical point of view, he wished to make two comments on the aims of the Convention. The main aim should be a uniform system; the Netherlands delegation did not think that the aim of the discussion had ever been to ensure the legal protection of economic interests - a thing which it would be very difficult to achieve. Even if they succeeded in defining that concept, it would be impossible to define a standard on the basis of which it could be calculated. It was true that in conventions concerning shipowners' liabilities, for example, net tonnage was generally used as a parameter for limiting liability for possible damages; but that would not imply that tonnages were specially determined in their interests. Defining the use of gross or net tonnage by limiting the purposes would never be possible, since the use of either gross or net tonnage was left to the interests concerned. As the Canadian representative had said, if the definition of a satisfactory parameter was achieved, then - and only then - would uniformity be possible and it would be achieved automatically.

As far as the implementation of the Convention was concerned, the Netherlands Government was firmly opposed to the idea of compelling port authorities, as that would be contrary to the autonomy of ports.

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Mr. PROSSER (UK) said that he understood the logic of Mr. Bevans' reasoning but was afraid that, if his arguments were accepted, there would be a danger of governments postponing ratification of the Convention until they were in a position to compel port authorities to observe its provisions, and that was a situation which should obviously be avoided. If the United States delegation insisted that its proposed definitions should appear in Article 2, perhaps a distinction could be made between that part of the proposal which defined gross tonnage and net tonnage which might then appear in Article 2, and that part which dealt with the uses of tonnage which could be included as a recommendation outside the actual Convention.

Mr. DARAM (France) explained that for his delegation the question was simpler, as the formula proposed by the United States tallied with the legal obligations which existed in France, where an annual tax was calculated on the basis of gross tonnage while port charges and dues were levied on the basis of net tonnage. The French delegation's objections in regard to the proposal, therefore, were not made because it was out of line with French national legislation, but as a matter of principle. In his view, the problem was wrongly posed, since the use to which the Convention was put would of itself sanction the definitions which the United States proposal sought to introduce: if the parameter was simple and reasonable and enabled ships to be easily and fairly compared, its use would spread rapidly and automatically. If on the contrary the parameters chosen were too complex, shipowners and shipbuilders would find loop-holes and turn to other parameters, and the situation would be exactly the same as at present.

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Mr. MURPHY (USA) said he would like more time to think over all that had been said; he therefore proposed that the item under discussion be reconsidered at a later stage. He also stressed the advisability of changing the existing wording of Articles 10 and 11, the provisions of which were linked to the content of his delegation's proposal.

Mr. KENNEDY (Canada) wondered whether, rather than trying to define concepts of gross and net tonnage, it might not be better to speak of "tonnage" in a more general fashion, indicating that it was calculated in such a way as to provide a basis for the different calculations referred to in paragraphs 6 and 7, sub-paragraphs (a), (b) and (c) of the United States proposal. In that way, the main features of the proposal could be adopted, while the differing views which had been brought to light in the course of the debate would be taken into account. According to whether the Committee decided to include some such text in Article 2 or in a recommendation, the words "tonnage shall be accepted" or "tonnage should be accepted" would be used.

It was decided to defer consideration of Agenda item 6.

AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT TEXT
OF ARTICLES OF A CONVENTION ON TONNAGE
MEASUREMENT (TM/CONF/6 AND TM/CONF/C.2/WP.12)
(continued)

Article 4 - Ascertainment of Tonnages (concluded)

The CHAIRMAN drew the attention of delegates to TM/CONF/C.2/WP.12 in which the Technical Committee set out the results of its deliberations concerning the length of ships, the definition of which was to be identical with that contained in the International Convention on Load Lines, 1966.

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The General Committee would no doubt wish to amend paragraph (1)(b) of Article 4 of the Convention (TM/CONF/6, page 14) in order to take account of the Technical Committee's decision (TM/CONF/C.2/WP.12, page 1, paragraph 2(ii)).

It was so decided.

Mr. MURPHY (USA) pointed out that if the definition of length were to be completely identical with that contained in the International Convention on Load Lines, paragraph (1)(b) of Article 4 should be amended to read as follows: "ships of which overall length is less than 15 metres or 49 feet."

The CHAIRMAN stated that that would be done.

Article 4 as a whole was approved.

Article 2 - Definitions (continued)

The CHAIRMAN said that in order to take account of the Technical Committee's decisions, the Committee should add the definition of length set out in paragraph 2(ii) of TM/CONF/C.2/WP.12.

Mr. NADEINSKI (Committee Secretary) drew attention to a purely drafting amendment to be made to the English version only.

The CHAIRMAN, in reply to a question by Mr. MURPHY (United States), said that the Technical Committee had stated in paragraph 3 of its interim report (TM/CONF/C.2/WP.12) that it might be necessary to define moulded depth.

Paragraph (4)

The CHAIRMAN said that the definition of "new ships" in the original draft was identical to that in the 1966 Convention on Load Lines. France and Sweden had submitted amendments proposing that the date of reference should be the date of the signing of the building contract and not the date of the laying of the keel, which, in the light of technological advances, was probably no longer a suitable criterion.

Mr. VAUGHN (Liberia) pointed out that it was not essential to abide by the definition in the 1966 Convention which was prompted by safety considerations that did not apply in the present case. From the point of view of the application of regulations for tonnage measurement, on the other hand, the order stage was more important than the construction stage. He also reminded members that consideration of Article 17 had been postponed, so that the question of entry into force had not been decided. He was not sure that the proposed period of six months would be sufficient.

Mr. PROSSER (UK) thought the most important thing was that shipbuilders should have sufficient warning of the new regulations. In that respect, the original draft presented no difficulties from the practical point of view, because the date of the coming into force of the Convention would be universally known. He therefore advocated the adoption of the original text.

Mr. DARAM (France) stood by his delegation's proposal.

Mr. WIE (Norway) said he would have preferred a more specific definition as follows: "'new ship' means a ship which is delivered by its builders, taken over by the owners, and for which a valid International Tonnage Certificate (1969) is issued on or after the date of coming into force of the present Convention". However, he was prepared to support the original draft.

Mr. KASBEKAR (India), Mr. OSMAN (United Arab Republic), Mr. GLUKHOV (USSR) and Mr. SUZUKI (Japan) concurred with the United Kingdom representative in favouring the adoption of the original draft, which reproduced the definition used in the Load Line Convention.

Mr. MILEWSKI (Poland) agreed, adding that the laying of the keel did, in fact, denote the start of the construction of the ship.

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Mr. GERDES (Netherlands) also supported the views of the United Kingdom representative and observed that the words "for each Contracting Government", which figured in the 1966 Convention, should be added at the end of paragraph (4) of the draft article.

The CHAIRMAN noted that there was no support for the amendment proposed by France, and that Norway was prepared to accept the views of the majority.

He put to the vote the text of paragraph (4) as it appeared in the original draft, with the addition of the words "for each Contracting Government".

Paragraph (4), thus amended, was approved by 29 votes to one.

Paragraph (5)

Paragraph (5) was approved unopposed.

Article 3 - Application (continued)

The CHAIRMAN opened the discussion on paragraphs (3) and (4), consideration of which had been adjourned.

Mr. QUARTEY (Ghana) said that the terms "gross tonnage" and "net tonnage" were used too vaguely in the Convention in general. Those concepts should be well defined.

Mr. GERDES (Netherlands), supported by Mr. SUZUKI (Japan) and Mr. WIE (Norway) urged the Committee to defer once again the examination of paragraphs (3) and (4) of Article 3 until the Technical Committee had reached a firmer decision on the substance of the questions.

Mr. DARAM (France) was also in favour of deferring the discussion. The amendment proposed by France (TM/CONF/6, page 10) dealing with new ships changing nationality, the special economic situation of existing ships and the definition of the concept of

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"structural alteration or modification", depended entirely on the decisions which would be taken by the Technical Committee.

Mr. PROSSER (UK) was ready to agree to postponing any decision on paragraphs (3) and (4) of Article 3. As, however, the discussion on the United States proposal on the use of tonnages (TM/CONF/C.1/2) had proved valuable, he would propose that the Committee should proceed immediately to an exchange of views on the two fundamental points, namely, methods of application to existing ships and coming into force.

Mr. VAUGHN (Liberia) supported that proposal.

It was so decided.

Mr. PROSSER (UK) considered that the two problems - existing ships (Article 3) and coming into force (Article 17) should be considered together. On the one hand, it was essential that the Convention should only come into force when ratified by States which represented a clear majority not only of participants in the Conference but also of world tonnage. On the other hand, a number of difficulties which arose from the situation in regard to existing ships would be eliminated if it were made clear that the new regulations would not apply to those ships for a fairly long time. Those two conditions would both be fulfilled if the Convention came into force, say, two years after the date on which twenty or twenty-five States, fifteen of which each had a tonnage of at least one million tons, had ratified the Convention and if it applied to existing ships after a certain number of years.

Mr. HINZ (Federal Republic of Germany) supported the views of the United Kingdom representative. He referred to the amendment put forward by his delegation (TM/CONF/6, page 9) which proposed that the period during which existing ships would have the right to retain their previous tonnages should be limited to about twenty-five years.

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Mr. MURPHY (USA) thought that it was essential and possible to arrive at a tonnage measurement system under which values as close as possible to existing tonnages would be obtained, so that the economic balance of the shipping industry would be upset as little as possible. Such a solution would have three advantages: it would facilitate and speed up the coming into force of the Convention; it would secure the support of States representing both the majority of participants and the majority of world tonnage; and it would enable the Convention to be applied to all ships, new and existing, whereas any solution envisaging a different treatment might give rise to confusion in both cases.

Mr. DARAM (France) referred to the declaration which appeared in that connexion in paragraph 3 of the first report of the Technical Committee to the Conference (TM/CONF/C.2/4). If, as a result, the Committee decided upon a formula which made it possible for the new values to be brought close to the existing values, it would then also be possible to bring closer together the dates of entry into force of provisions applicable to the two types of ships.

Mr. GLUKHOV (USSR) said his position was similar to that of the United States representatives.

Mr. PROSSER (UK) welcomed the interesting discussion. The crux of the matter was that the adoption of a tonnage measurement system which was radically different from the existing provisions carried the assumption that its application would be postponed for a long time in the case of existing ships. If the opinion prevailed that the new system should be applied speedily to those ships, a less revolutionary solution would have to be adopted. It would be useful to find out more about the attitudes of the delegations in that respect.

The discussion of Article 3 was adjourned.

The meeting rose at 12.40 p.m.



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28 January 1970

ENGLISH ONLY

IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE SEVENTH MEETING

held at Church House, Westminster, London, S.W.1.,
on Tuesday, 10 June 1969, at 2.45 p.m.

Corrigendum

Page 5: The speech attributed to Mr. BACHE (Denmark) should
read as follows:

"Mr. BACHE (Denmark) also noted that at the stage
reached, it was impossible to let commercial capacity be
illustrated by net tonnage; he cited tugs as an example."



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Chairman:	Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman:	Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary:	Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 & Corr.1

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AGENDA ITEM 6 - ANY OTHER MATTERS REFERRED TO THE COMMITTEE:
CONSIDERATION OF PROPOSED DEFINITIONS OF
GROSS AND NET TONNAGE SUBMITTED BY THE
UNITED STATES (TM/CONF/C.1/2-4) (continued)

The CHAIRMAN proposed that the Committee should resume discussion of the proposed definitions of gross and net tonnage submitted by the United States (TM/CONF/C.1/2). He drew attention to two new documents on the question submitted respectively by the United Kingdom (TM/CONF/C.1/3) and by Canada, the Federal Republic of Germany, Israel and the Netherlands (TM/CONF/C.1/4).

Mr. MURPHY (USA) said that, in the light of the discussion which had taken place at the General Committee's previous meeting and after studying the document submitted by the United Kingdom, the United States delegation was prepared to accept the latter's new formula. It would make it possible to give, in general terms in the body of the Convention, an idea of what was understood by gross tonnage and net tonnage and it would set out in greater detail, in a separate recommendation, the use which should be made of the two concepts. That new text seemed preferable to the one proposed in TM/CONF/C.1/4.

Mr. WIE (Norway) said that his delegation also was in favour of the text proposed by the United Kingdom.

Mr. SUZUKI (Japan) said that, for the reasons he had given at the Committee's previous meeting, his delegation also could agree in principle with the United Kingdom proposal; but he would express some reservations concerning the wording of paragraph 2 for, in his opinion, the provisions of the recommendation should not apply to existing ships.

Mr. DARAM (France) also thought that the first paragraph in TM/CONF/C.1/3 concerning the definitions was acceptable, but he made a few reservations regarding the recommendation in

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paragraph 2. Firstly, so far as the wording was concerned, the word "doit" - which, moreover, was not an accurate translation of the English "should" - ought to be avoided in a recommendation. Secondly, the reference to the calculation of charges had been made in the same form in respect of both gross tonnage and net tonnage, but that contradicted the wording in the original proposal. Further, the text proposed by the United Kingdom for the recommendation should be studied in conjunction with the text proposed in TM/CONF/C.1/4.

Mr. GERDES (Netherlands) said that his delegation also was in favour of including definitions of gross tonnage and net tonnage in the Convention, and of making a separate recommendation stating the purposes for which those parameters would be used. However, it was of the opinion that the Committee should examine the content of the definitions and of the recommendation very carefully, and, in that connexion, his delegation would have some criticisms to make of the United Kingdom proposal.

Mr. KENNEDY (Canada) shared the Netherlands representative's point of view, more particularly in regard to the definition of net tonnage and the content of the recommendation.

The CHAIRMAN proposed voting first on the principle of including the definitions in question in an Article of the Convention and adopting a separate recommendation.

That principle was adopted by 26 votes to none.

TM/CONF/C.1/3 - paragraph (1)(a)

The definition contained in paragraph (1)(a) was approved.

Paragraph (1)(b)

Mr. HINZ (Federal Republic of Germany) said his delegation thought that the expression "commercial capacity" gave rise to certain objections both because it was too vague and because it

was out of place in the context of the Convention. If really necessary, it would be better to speak of "carrying capacity".

Mr. GERDES (Netherlands) stressed that the Technical Committee's discussions had not so far led to a definition of net tonnage, nor of commercial capacity, nor of carrying capacity. It might therefore seem paradoxical for the General Committee to persist in attempting to define those concepts. In the opinion of the Netherlands delegation, it would be better to abandon the concept of net tonnage, and that would make the various proposals under consideration superfluous.

Mr. BACHE (Denmark) also noted that at the stage reached, it was impossible to let commercial capacity be illustrated by net tonnage; he cited ~~two boats~~^{tugs} as an example

Mr. DARAM (France) was not in favour of simply eliminating the documents before the Committee. The Technical Committee's discussions had, however, proved that commercial capacity could depend on various factors; if, therefore, the definition proposed by the United Kingdom was adopted, the Committee would find itself compelled to define a second concept which was not much clearer than that of net tonnage.

Mr. KENNEDY (Canada) recalled that, fundamentally, it was the concept of measurement which was at the heart of the proposed Convention and not that of the use of any units of measurement which might be chosen; that was why the Technical Committee had endeavoured to define a parameter based on purely technical considerations. An attempt was being made to define also a parameter concerned with considerations of an economic nature, so as to avoid excessive upheavals in the maritime transport industry. It might be wondered whether the two objectives were compatible. In any case, the definition of net tonnage proposed by the United Kingdom did not seem to provide a satisfactory answer to those considerations of an economic character.

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Mr. PROSSER (UK) recalled that, at the beginning of the discussion of the proposal submitted by the United States (TM/CONF/C.1/2), the United Kingdom delegation had not taken up any very firm position on the question. It was merely to give form to the ideas which had appeared during the discussion that it had submitted a written draft making a distinction between the definitions which should appear in the Convention and a recommendation concerning the use made of tonnages. In that draft, the definition of net tonnage had been taken over from the original American proposal. The United Kingdom delegation would therefore raise no objection if the expression "commercial capacity" were replaced by any other term which would take account of considerations of an economic character.

Mr. MURPHY (USA) said that he would not be opposed a priori to the use of some such expression as "carrying capacity" for, in his view, the question was not so much one of finding an absolutely exact term as of defining a method which would meet the needs of the case. In that respect, it seemed to him that the expression "relative commercial capacity" used in the American proposal better described the fact that the aim was to find figures clearly indicating the different types of ships and their dimensions and enabling the volume of ships to be measured in relation to what they were supposed to carry, whereas the expression "commercial capacity" had been the subject of objections at the plenary and elsewhere, perhaps because, in a sense, it could be synonymous with deadweight capacity. In any case, in answer to the Netherlands representative's statement, the United States delegation considered that the Technical Committee's discussions had indeed shown the need for a clearer definition of the concepts of gross tonnage and net tonnage.

Mr. MILEWSKI (Poland) recognized that, so far as the definitions were concerned, the concept of net tonnage defined by the United Kingdom was quite satisfactory in regard to the economic aspect of the problem, whereas the concept of gross tonnage was satisfactory in regard to its technical aspect. In that respect, the Polish delegation could support the United Kingdom proposal.

Mr. GERDES (Netherlands) said he might be prepared to accept the text proposed for sub-paragraph (b) if the word "commercial" were deleted.

Mr. NICHOLSON (Australia) thought, on the contrary, that the expression "commercial utilization" of a ship could perhaps be used instead of "capacity".

Mr. MARINI (Italy) said he would be in favour of the expression "capacity for utilization".

Mr. BACHE (Denmark) wondered whether the definition might not be made less rigid by saying: "(b) Net tonnage means primarily...".

Mr. HINZ (Federal Republic of Germany) considered it would be preferable to know more about the meaning which the Technical Committee intended to give to the second parameter. He proposed therefore, that the United Kingdom definition of net tonnage should be retained since it had been accepted in principle, but that for the time being it should be placed in square brackets.

Mr. PROSSER (UK) saw no objection to that proposal but thought that, when the Technical Committee's discussion had been concluded, it would doubtless be found necessary to remove the brackets.

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The CHAIRMAN asked whether the Committee was prepared to accept the proposal of the Federal Republic of Germany.

The proposal was accepted.

Paragraph 2

The CHAIRMAN confirmed that, to comply with the French representative's observation, the word "doit" which appeared several times in that paragraph would be replaced by a more accurate translation of the English word "should".

Mr. HINZ (Federal Republic of Germany), co-sponsor of TM/CONF/C.1/4 stated that, in accordance with Rule 34 of the Rules of Procedure of the Conference, he could not object to a vote being taken on the United Kingdom proposal without that document being examined.

Mr. GERDES (Netherlands), likewise a co-sponsor of the document, considered that parts of it might prove very useful in the discussion and that the text proposed in Annex II would make it possible to adopt a recommendation which both gave a clear idea of the main purposes of tonnage and protected users' interests. It was true that both gross tonnage and net tonnage were currently being used as a basis for some calculations, but that was not to say that the governments or other parties concerned did not wish to transpose the use of those parameters. It was therefore essential that the way in which use was to be made of the parameters should be left to their discretion, and any stipulation to the effect that gross tonnage was to be used for some calculations and net tonnage for others must be avoided.

Consequently, the Netherlands delegation considered that the text given in Annex II to TM/CONF/C.1/4 (with a slight amendment consisting of adding the words "inter alia" at the end of the first sentence) should replace the second paragraph of the United Kingdom proposal.

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Mr. PROSSER (UK) explained that, in his delegation's view, it was essentially a matter of achieving a balance between first, the unanimous wish to have a recommendation on the use of tonnages, second, the desire not to adopt anything which might prevent certain countries from ratifying the Convention and third, the need to arrive at a text which retained a certain degree of flexibility and was at the same time sufficiently precise. Despite the arguments advanced by the Netherlands representative, the United Kingdom delegation did indeed feel that the text proposed in Annex II to TM/CONF/C.1/4 lacked flexibility.

Mr. KENNEDY (Canada) one of the sponsors of the proposal submitted in TM/CONF/C.1/4 stated that it was an attempt at a compromise. The United Kingdom delegation's text (TM/CONF/C.1/3) was at once too precise and not sufficiently clear, particular in regard to the calculation of charges and dues (sub-paragraph (b) and the last sentence in paragraph 2).

Mr. MUENCH (Israel) also preferred the more general wording of TM/CONF/C.1/4 for reasons which his delegation had given in writing (TM/CONF/3/Add.1, page 5): namely, that the future Convention would serve only to determine one or two parameters but would in no way relate to the calculation of the dues collected.

Mr. DARAM (France) supported the views of the representative of Israel and said that he was in favour of the proposal in TM/CONF/C.1/4. He recalled that, according to the preamble which had been approved, the purpose of the Convention was to "establish uniform principles and rules with respect to the determination of tonnage" (TM/CONF/C.1/WP.6). In any event, sub-paragraph (b) and the last sentence in paragraph 2 of the United Kingdom proposal were not clear.

Mr. PROSSER (UK) explained that sub-paragraph (b) was intended to refer inter alia to pilotage dues.

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Mr. MURPHY (USA) recalled the reasons which had prompted the original proposal (TM/CONF/C.1/2). First, when the Conference decided to retain two parameters, gross tonnage and net tonnage, it became necessary to define those two concepts by explaining the differences between them. Secondly, bearing in mind the wish which had been expressed not to disrupt the economic balance of the world shipping industry, the decision taken by the Conference not to apply the shelter-deck concept to gross tonnage was acceptable only on condition that it would not entail any important changes in the uses which would be made of tonnages. Hence, there was a need to define those uses, preferably in the Convention. Nevertheless the United States delegation had agreed to include in the Articles merely the definitions of the two tonnages and to state in a recommendation how the Conference intended those concepts to be used.

Mr. KENNEDY (Canada) understood the reasons underlying the comments made by the United States representative. In his view, however, shipowners could not but benefit from a system which would ensure that the same standards would be used for the next ten or twenty years. Even if the change-over to a new conception of tonnage raised problems for some countries, it would nevertheless be as beneficial to all those who had a merchant fleet as it would to port authorities.

Mr. HINZ (Federal Republic of Germany) said that he too, had listened with interest to the remarks of the United States representative; but, in his opinion, it was clear that the purpose of the Conference was strictly technical, to the exclusion of considerations of an economic character. However, not being completely opposed to the adoption of a recommendation, he had joined the sponsors of the proposal submitted in TM/CONF/C.1/4 because, contrary to what the United Kingdom representative thought, it was more flexible than his proposal.

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Mr. MURPHY (USA) feared that, if the uses to be made of the Convention were not clearly stated, there would be a risk that they might vary greatly from country to country. Moreover, it was not true that the Convention was purely technical in character; it would indeed affect the interests of shipowners. It would doubtless be best to defer any decision on that point.

Mr. PROSSER (UK) remarked that the two proposals before the Committee differed on two points. That of the United Kingdom provided for separate definitions for gross tonnage and net tonnage and remained vague as to the uses to which they were to be put, while the other proposal made no distinction between those two concepts but contained a detailed list of their uses. The United Kingdom delegation would willingly agree to have no recommendation on that matter; but if there had to be one, it could not accept the text submitted in TM/CONF/C.1/4. It would no doubt be best to adjourn the discussion as the United States representative had proposed.

Mr. MILEWSKI (Poland) recalled that, at the beginning of the Conference, the United Kingdom delegation had stated that it was tradition alone that justified the retention of the net tonnage parameter. It was an anachronism, but Poland was prepared to accept it in the hope that it would disappear in the course of the next few years. That was why it preferred the text of Annex II to TM/CONF/C.1/4 to that of paragraph 2 of the United Kingdom proposal.

Mr. GERDES (Netherlands) explained that the list of uses contained in that annex was in no way restrictive and that the text had all the flexibility required. He pointed out to the United States representative that the two concepts of gross tonnage and net tonnage were in fact both applied in many uses which there was no need to specify.

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Mr. MADEINSKI (Committee Secretary) feared that if the text of the recommendation did not include particulars similar to those contained in the United Kingdom proposal, it would be very difficult to answer people who asked whether gross tonnage was still to be accepted as a parameter in the relevant Conventions, especially in the International Convention for the Safety of Life at Sea.

Mr. MURPHY (USA) fully agreed on the need to include the particulars concerned. It was his intention to prepare a further draft, inviting governments, port authorities and other authorities which levied dues to give the fullest consideration to the definitions of gross and net tonnage and to take them into account in deciding how to use the two concepts.

The discussion of the proposed definitions and recommendation was adjourned.

AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT
TEXT OF ARTICLES OF A CONVENTION ON TONNAGE
MEASUREMENT (TM/CONF/6) (continued)

Article 3 - Application (continued)

Paragraphs (3) and (4) (continued)

Mr. MILEWSKI (Poland), supported by Mr. WIE (Norway) said he was in favour of the proposal submitted by the Federal Republic of Germany and Sweden (TM/CONF.6 pages 8 and 12) to insert a new sub-paragraph (b) in paragraph 3, reading as follows: "existing ships if the owner so requests".

Mr. SUZUKI (Japan) fully concurred. He added that he would prefer no specific mention to be made in the Convention of the duration of the transitional period.

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Mr. GERDES (Netherlands) suggested reverting to the question when the Technical Committee had completed its work. If the new tonnages proved to be close to existing values, there would be no purpose in making the Convention apply to existing ships, except upon the owner's request. In regard to paragraph (3)(b), he favoured the adoption of the wording advocated by the Federal Republic of Germany, but with the deletion of the words "which affect their gross tonnage".

Mr. PROSSER (UK) suggested that the passage should be amended to read "would cause at least a 10 per cent variation in their gross tonnage". In regard to the suggestion of the Federal Republic of Germany for the maintenance of present tonnages in respect of existing ships for a period ending a given number of years after the coming into force of the Convention, he pointed out that it would necessitate the simultaneous examination of Article 17. The problem would be of less importance if the prospect of achieving parity between the old and the new tonnages did not seem so remote. In practice, differences of up to 15 per cent either way were to be expected, and it was therefore essential to allow for an adequate though not excessive transitional period. He proposed that the Convention should come into force two years after the date on which Governments of States whose combined merchant fleets constituted not less than two-thirds of the gross tonnage of the world's merchant shipping had signed it. Existing ships would be able to keep their present tonnages for a period of, say, seven years, which would make a total of about fifteen years as advocated by France. Finally, he would like to see a study made of those ships which changed their nationality.

Mr. HINZ (Federal Republic of Germany) suggested deferring such an investigation until later.

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Mr. WIE (Norway) agreed with the views of the representative of the Federal Republic of Germany; the General Committee should await the Report of the Technical Committee before taking a final decision. Like the representative of the United Kingdom, he considered that Articles 3 and 17 were closely linked.

In regard to Article 3, paragraph (3), he favoured the adoption of the wording given in TM/CONF/C.1/WP.8.

Mr. GERDES (Netherlands) likewise felt that Articles 3 and 17 should be considered together.

Mr. DARAM (France) said he was in partial agreement with the opinion expressed by the representative of the Federal Republic of Germany, but he must point out that, if the regulations were made to apply to existing ships, a system of dual taxation which would be inconvenient for port authorities would be perpetuated. In regard to the transitional period, obviously it could be curtailed if the Technical Committee decided that the new tonnages should be similar to the old.

Summing up the discussion, the CHAIRMAN stated that there appeared to be a preliminary consensus in favour of applying the Regulations in Annex I to new ships, to existing ships if the owner so requested, and to ships which underwent alterations or modifications of a major character.

Mr. DARAM (France) asked whether the omission from the Chairman's list of ships which came under the flag of a signatory Government by change of nationality was intentional.

The CHAIRMAN replied that the Committee could return to that item later.

Mr. PROSSER (UK) agreed.

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Mr. NICHOLSON (Australia) drew the Committee's attention to Article 9, which differed from the proposed text in regard to the nature of alterations.

Mr. DARAM (France) proposed that the text suggested by the Federal Republic of Germany should be amended to take account of the wording suggested by the French delegation for Article 3, paragraph 3(a).

Mr. NICHOLSON (Australia) endorsed that suggestion.

Mr. PROSSER (UK) while not objecting to it, wondered whether the change was really necessary.

Mr. MURPHY (USA) supported by Mr. SUZUKI (Japan) considered that the amendment was not necessary, having regard to the definition of the expression "new ship" given in Article 2.

Mr. de JONG (Netherlands), Mr. HINZ (Federal Republic of Germany) and Mr. WIE (Norway) asked for an explanation of the French proposal.

Mr. DARAM (France) explained that a signatory Government would not be able to apply the new tonnage measurement system to a ship regarded as new if that ship could claim to be classed in another category.

Mr. MUENCH (Israel) added that the problem hinged on the difference between the dates of coming into force in different countries. If a ship flying the flag of a signatory State was purchased by a country which had not signed the Convention, it would be penalized under the terms of the French amendment.

Mr. de JONG (Netherlands) agreed with that view. The difficulty lay in the fact that it was intended to add the words "for each Contracting Government" to Article 2, paragraph 4. It would be better to delete those words and to adopt the wording proposed by the Federal Republic of Germany.

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Mr. HINZ (Federal Republic of Germany) considered that if the wording suggested by Sweden were adopted, it would be essential to state whether the ship had been built in a country whose Government had signed the Convention.

The CHAIRMAN suggested adjourning the remainder of the discussion until the following day.

The meeting rose at 5.40 p.m.



IMCO

INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE EIGHTH MEETING

held at Church House, Westminster, London, S.W.1,
on Wednesday, 11 June 1969 at 9.45 a.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE
DRAFT TEXT OF ARTICLES OF A CONVENTION
ON TONNAGE MEASUREMENT (TM/CONF/4;
TM/CONF/6; TM/CONF/C.1/WP.8) (continued)

Article 3 - Application (continued)

Paragraphs (3) and (4) (continued)

The CHAIRMAN drew attention to the Norwegian proposal (TM/CONF/C.1/WP.8) which contained an amendment to paragraph (3) as well as a proposal for an additional paragraph (5).

The Committee might first take up the French amendment (TM/CONF/6; page 10) to paragraph (3)(a).

Mr. DARAM (France) said that the purpose of the amendment was explained in the right-hand column. His Government was anxious that the new Convention should not be retrograde. If the amendment were not incorporated in the text, a "new ship" under the definition in Article 2 which an owner wished to sell, say at the end of five years, to another country, would be treated as "existing" if the second country had not yet ratified the Convention at the time when the building contract for the ship in question had been signed.

Mr. WIE (Norway) said that having heard the foregoing explanation he could support the amendment.

Mr. HINZ (Federal Republic of Germany) said that the French amendment was essential in view of the definition of a "new ship" now agreed in Article 2, paragraph (4).

Mr. KENNEDY (Canada) agreed with the previous speaker.

Mr. PROSSER (UK) said that having reconsidered the French amendment, the fears he had expressed at the previous meeting about its implications, were evidently unfounded. If the Committee maintained its decision to insert the words "for each

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Contracting Government" in Article 2, paragraph (4), the French amendment to Article 3, paragraph (3)(a) was acceptable, provided that the word "Contracting" were substituted for the word "Signatory".

Mr. GERDES (Netherlands) said that as his delegation had indicated at the previous meeting, it did not favour the French amendment because of the problems that would arise in respect of countries which ratified the Convention after it had entered into force. The amendment might place such countries in an advantageous position. There should be a single standard for defining "new" ships up to the time of entry into force of the Convention.

The CHAIRMAN put to the vote the French amendment to paragraph (3)(a) with the substitution of the word "Contracting" for the word "Signatory".

The amendment was approved by 19 votes to none.

Mr. PROSSER (UK) said that the wording just agreed for paragraphs (3)(a) was not quite specific enough and might cause practical difficulties. The French amendment (TM/CONF/6; page 10) to paragraph (3)(c), was not entirely satisfactory, and he proposed a simpler alternative which might read: "existing ships which undergo alterations or modifications that cause at least a 10 per cent variation in their gross tonnage".

The representatives of the Federal Republic of Germany, France, Norway and India supported the United Kingdom amendment.

Mr. GERDES (Netherlands) drew attention to his Government's comment on the point; it preferred the wording of analogous provisions in other international conventions. There was no need to require re-measurement after only slight modifications. In any event, it would be difficult to establish only slight changes by means of inspection, and major structural alterations requiring

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re-measurement would always have to be subjected to inspection. Therefore, the words "which affect their gross tonnage" were not only superfluous but also imprecise, because it was not clear whether they referred to the old or the new system.

Mr. MURPHY (USA) said that his delegation had no strong views but believed practical difficulties might arise in a clause as specific as that suggested by the United Kingdom representative. Did the 10 per cent refer to gross tonnage under the old or under the new system? A more general provision would be preferable so as to leave latitude to Administrations. The re-measurement might have to be calculated under the new system and would in any case need to be carried out by them.

Mr. KASBEKAR (India) agreed with the previous speaker, and considered it preferable, instead of referring to an actual percentage, to stipulate that if the alterations were of a "major character" the Regulations in Annex I would apply.

Mr. BACHE (Denmark) agreed with the Netherlands representative.

Mr. GLUKHOV (USSR) said that paragraph (3)(c) should be very general: the Norwegian wording (TM/CONF/C.1/WP.8) for paragraph (3)(b) would be acceptable.

Mr. DARAM (France) warned the Committee against leaving the wording too vague lest that give rise to argument as to whether alterations or modifications were of a major character or not.

Mr. NICHOLSON (Australia) favoured the United Kingdom amendment. The words "a major character" defined nothing. A 10 per cent increase could not refer to new tonnages and must in the context mean a 10 per cent increase in existing gross tonnages.

Mr. WIE (Norway) said that the views of administrations might differ; hence the United Kingdom amendment would be improved by the insertion of the word "existing" before the words "gross tonnage".

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Mr. BORG (Sweden) agreed.

Mr. PROSSER (UK) accepted the Norwegian representative's suggestion which might render the wording more precise. Practical difficulties were inescapable whatever way the clause was drafted, but they were likely to be greater if it were too general.

Mr. MURPHY (USA) said that the problem might have to be re-examined in the light of the decisions taken on Article 17 (Coming into Force).

The United Kingdom amendment, as amended, was approved by 23 votes to none.

The CHAIRMAN opened the discussion on the wording proposed by Norway (TM/CONF/C.1/WP.8) for paragraph (3)(c) which read "existing ships if the owner so requests".

Mr. HINZ (Federal Republic of Germany) and Mr. MILEWSKI (Poland) supported the proposal.

The proposal was approved by 24 votes to none.

The CHAIRMAN invited the Committee to comment on paragraph (4).

Mr. GERDES (Netherlands) favoured the original text (TM/CONF/6; page 9), but a reference to the new paragraph (3)(c) would now need to be inserted in the opening proviso.

Mr. KASBEKAR (India) agreed with the previous speaker.

Mr. HINZ (Federal Republic of Germany), drawing attention to his Government's amendment (TM/CONF/6; page 9), said that its purpose was explained in the right-hand column. The suggested figure of 25 years had been put in square brackets and could be discussed, but it would be unwise not to determine a period at all, thus allowing existing ships to retain their present tonnages for their whole life-span.

Mr. DARAM (France) supported the amendment but pointed out that the length of the period could not be decided yet. The French Government had proposed deleting paragraph (4) altogether because it seemed superfluous since the conditions under which the Regulations would not apply were indicated in paragraph (3)(b).

Mr. WIE (Norway) said that his delegation could accept paragraph (4) as it stood. He could not comment on the proposal by the Federal Republic of Germany and more particularly on the period of time before the outcome of the discussions in the Technical Committee were known.

Mr. BACHE (Denmark) favoured the idea of a time-limit.

Mr. GERDES (Netherlands) said that if the Conference reached agreement on new parameters of measurement as close as possible to existing ones, there would be no need for specifying a time-limit. If the average life of a ship was about 20 years, why stipulate that after that period it would need to be re-measured?

Mr. PROSSER (UK) said that his delegation attached considerable importance to the question of how existing ships were to be treated in the Convention, and considered that the new requirements should not apply to them for a considerable period.

The number of years to be inserted in paragraph (4) could not yet be decided but some fairly long period, say 15 years, bearing in mind the provisions concerning entry into force would make the Convention easier to enforce.

Mr. SUZUKI (Japan) and Mr. BORG (Sweden) agreed with the Norwegian representative.

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Mr. GLUKHOV (USSR) said that the discussion was somewhat academic in the absence of the Technical Committee's Report. Once that became available, the General Committee could return to the question of a time-limit which might prove to be a minor one. Clearly, the General Committee would have to review some of its decisions as to application in the light of the parameters finally chosen, particularly if they resulted in tonnages close to those of existing systems.

Mr. MURPHY (USA) said that the final answer to the problem of how existing ships should be treated depended to some extent on the decisions to be taken by the Technical Committee. The General Committee had just approved a provision whereby an owner could request that the Regulations contained in Annex I be applied to an existing ship. Port authorities might suspect a lack of fair play if owners availed themselves of that provision in every case in which they stood to benefit by doing so. However, should such suspicion arise, they would feel less concern on the point if owners were only permitted to exercise the option for a short period. The Committee should therefore make the transitional period for existing ships as brief as possible.

Mr. KASBEKAR (India) said that from the legal point of view, no convention should be retroactive. The position of existing ships should be protected and there should be no limit to the period for which the option provided by the new sub-paragraph (c) was available.

The CHAIRMAN, speaking as the representative of Belgium, said that if existing ships were allowed to retain their old tonnages for a very long time, owners might be tempted to keep them in service longer than was desirable for ships of their age.

Mr. GERDES (Netherlands) noted that support had been expressed for the idea that there should be no limitation of the period for which existing ships could retain their old tonnages. However, the new measurement system elaborated by the Conference might result in tonnages which differed substantially from the present ones, in which case port authorities would be very concerned about what treatment had been laid down for existing ships. If, on the other hand, the new system gave figures very close to the existing ones, they would have less reason for concern.

Mr. NICHOLSON (Australia) agreed that it would help port authorities if a limit was set on the transitional period for existing ships, because even if the new tonnages were exactly the same as the old, port authorities would still prefer to work on the basis of an international tonnage certificate rather than a national one. He therefore supported the principle expressed in paragraph (3)(b) of the French proposal.

Mr. DARAM (France) said that the French Ministry of Economy and Finance was responsible for collecting port dues on behalf of French port authorities. The existence of separate tonnage measurement systems for old and new ships would oblige the Ministry to establish two different rates of tax in order to ensure that both old and new ships bore an equal burden. That would considerably complicate its daily task. His delegation was therefore in favour of the shortest possible period of exemption for existing ships.

The CHAIRMAN noted that there had been considerable support for the idea that the Committee should take a decision on the principle of including in the Convention a provision stipulating a period of time after which it would apply to existing ships. He therefore invited the Committee to vote on that principle.

The principle was approved by 24 votes to 4.

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The CHAIRMAN said that two courses were open to the Committee for giving effect to the principle it had just endorsed. One was to approve the proposal of the Federal Republic of Germany (TM/CONF/6), in which case an amendment to paragraph (4) was involved; the other was to follow the French proposal (TM/CONF/6), in which case paragraph (4) would be deleted and paragraph (3) would be amended to include the wording suggested in sub-paragraph (b) of the French proposal.

Mr. HINZ (Federal Republic of Germany), noting that there was no difference in substance between the two proposals, said that his delegation was prepared to withdraw its proposal in favour of the French proposal.

The CHAIRMAN said that it was clearly the general wish to defer a decision on the length of the exemption period for existing ships. That being so, the Committee would probably wish to consider sub-paragraph (b) of the French proposal assuming that the words "fifteen years" were replaced by square brackets.

It was so decided.

The CHAIRMAN invited the Committee to vote on the proposal to include in paragraph (3) the words "existing ships, [] after the date on which the Convention comes into force".

The proposal was adopted by 28 votes to none.

Mr. PROSSER (UK) said that he wished to revert to the question of existing vessels changing flag. He proposed that Article 3(3), or possibly 3(4), should include a provision to the effect that the Regulations contained in Annex I would apply to existing vessels on transfer to the flag of a Contracting Government. He was aware that such a provision might affect the secondhand

ship market. Nevertheless, it was a legal requirement in the United Kingdom that any ship coming on to the British Register should be re-measured. His Government would continue to re-measure such vessels whether or not the prospective Convention included a provision along the lines he had suggested; but in the absence of such a provision it might be difficult to decide whether a vessel should be re-measured under the new system or the old.

Mr. HINZ (Federal Republic of Germany) said that he saw no reason for distinguishing between existing ships which remained under the same flag and existing ships which changed flag. Owners might suffer commercially if an existing ship were re-measured under the new system.

Mr. WIE (Norway) agreed with the representative of the Federal Republic of Germany and said that he opposed the United Kingdom proposal.

Mr. BACHE (Denmark) drew the Committee's attention to the new paragraph (3) it had included in Article 9. Under that paragraph, the International Tonnage Certificate (1969) could remain in force for a period not exceeding three months. The question whether re-measurement was necessary would then be a domestic matter for the Contracting Government concerned.

Mr. GERDES (Netherlands) said that he too opposed the United Kingdom proposal. He thought the point was covered by the wording which the Committee had approved for Article 3(3)(a).

Mr. KASBEKAR (India) agreed that no new provision was necessary. The suggested provision would in any case be incompatible with the establishment of a transitional period for existing ships.

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Mr. MURPHY (USA) said that he had doubts about the inclusion of a provision dealing with the position of existing ships which changed flag. In any case, the question was linked with the length of time for which existing ships should be allowed to retain their old tonnages, a point on which the Committee had deferred a decision.

Mr. PROSSER (UK) said that he did not think the point could be solved by reference to either Article 9(3) or Article 3(3)(a). He wished to make it clear that his proposal concerned the transfer of an existing ship from any flag to the flag of a Contracting Government.

Mr. KENNEDY (Canada) said that under Article 3(3)(a), as approved by the Committee, the Regulations contained in Annex I were to apply to "new ships", including those which come under the flag of a Contracting Government by change of nationality". He thought that the new measurement system could equally well be applied to an existing ship transferred from the flag of a non-Contracting Government to that of a Contracting Government. He was therefore inclined to support the United Kingdom proposal.

Mr. HINZ (Federal Republic of Germany) said that he did not think that existing ships should have to be re-measured under the new system on change of flag, irrespective of whether they were transferred from the flag of a Contracting Government or that of a non-Contracting Government. However, the problem could not be settled until the length of the exemption period had been decided.

Mr. NICHOLSON (Australia) agreed. He said that the clause proposed by the United Kingdom would be unnecessary if a short exemption period was decided on, although the position would be different otherwise.

Mr. MURPHY (USA) supported the Australian view.

Mr. PROSSER (UK) said that it was unlikely that the transitional period decided on by the Committee would be sufficiently short to dispose of the problem.

It was decided to defer discussion of the United Kingdom proposal.

The CHAIRMAN drew the Committee's attention to the proposal by Norway to add a new paragraph (5) to Article 3 (TM/CONF/C.1/WP.8, paragraph 2).

Mr. WIE (Norway) said that the aim of his delegation's proposal was to prevent shipowners reverting to the old rules to re-measure existing ships which had already been measured by the new rules. Although such a provision might seem unnecessary he thought it wise to make the Convention completely clear on that point.

Mr. PROSSER (UK) supported the Norwegian proposal. He suggested that in line 3 of paragraph 2 the words "shall not subsequently" should be substituted for "may not at a later stage".

Mr. KASBEKAR (India) also supported the proposal.

Mr. DARAM (France) thought that the additional paragraph was unnecessary since the point it made was already covered by paragraph (3)(c) adopted earlier.

Mr. HINZ (Federal Republic of Germany) shared that view. There could be no return to the old regulations for an owner who had opted to have an existing ship measured by the new.

Mr. QUARTEY (Ghana) also thought the proposed paragraph would be superfluous, particularly if it was decided to make the new Regulations applicable to existing ships after a relatively short period of time, such as five years.

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Mr. KENNEDY (Canada) drew attention to the difficulty that would arise if an existing ship that had already been measured according to the new rules, at the owner's request, by the authorities of a Contracting Government, was transferred to the flag of a non-contracting Government and re-measured according to the old rules, and finally re-transferred to the flag of another Contracting Government. In his view such a ship would be considered as an existing ship rather than as a new ship, and the owner would again have a choice between the old and new regulations. There was some merit in a proposal designed to prevent that possibility.

Mr. DARAM (France) disagreed: he thought such a ship should be considered as a new ship, as defined under Article 2.

Mr. QUARTEY (Ghana) thought the fundamental question was which of the owners was to be considered the new owner, and, as such, entitled to ask for re-measurement.

Mr. NICHOLSON (Australia) supported the Norwegian proposal.

The CHAIRMAN invited the Committee to vote on the Norwegian proposal.

The proposal was adopted by 16 votes to 7.

Article 17 - Coming into Force (continued)

The CHAIRMAN pointed out that there were two proposals relating to Article 17 before the Committee, that of Basic Proposal A (TM/CONF/4) and that of Basic Proposal C (TM/CONF/6). The main difference between the two was that the former provided for entry into force of the Convention after signature by a certain number of Governments of States with at least one million tons of merchant shipping, and the latter for entry into

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force after signature by Governments to States whose combined fleets constituted a certain percentage of the world's merchant shipping.

Mr. WIE (Norway) withdrew his delegation's proposal in favour of the original draft text set out on pages 40-42 of TM/CONF/6. After studying the problem his delegation had decided that percentage of gross tonnage was the better parameter.

Mr. PROSSER (UK) said his delegation had originally suggested that entry into force be contingent upon acceptance by two thirds of the Governments concerned, including those with two-thirds of the tonnage of world shipping, but now felt that that might cause difficulties. He favoured the French version of paragraph (1) set out on pages 40 - 41 of TM/CONF/6, with the following amendments: in line 2, "two years" to be substituted for "six months"; in line 4, "twenty-five" to be substituted for "fifteen"; and in line 5 "fifteen" to be substituted for "ten".

Mr. DARAM (France) said his delegation could agree to modify the figures mentioned if that were the wish of the majority.

Mr. MURPHY (USA) made a plea for time to study the implications of the United Kingdom suggestion. His delegation was generally in favour of entry into force after acceptance by a substantial number of States representing a substantial percentage of the world's tonnage; but any specific decision on the question should be deferred until a later meeting.

Mr. GERDES (Netherlands) pointed out that his delegation's proposed text (pages 41 - 42 of TM/CONF/6) had the advantage of being in line with that of the corresponding provision in the Safety and Load Line Conventions. It also met the need to have the largest possible percentage of the world's fleet covered by the Convention. He could agree to two of the figures suggested

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in the French proposal, namely "... fifteen governments of States including ten each with not less than ..." etc., but wished the period for entry into force to remain as twelve months after signature.

Mr. ITO (Japan) agreed that it was desirable for the Convention to come into force after as short a time as possible, though owners would need a certain period of adjustment. He felt strongly that the Convention should be acceptable to as many States as possible, including a high proportion of States with large fleets. His delegation could support the United Kingdom proposal in principle, but shared the United States view that more time was needed for study of its implications.

Mr. DARAM (France) explained that the figure of fifteen governments (in line 4 of his delegation's proposal) was intended to represent approximately half the average number of those who, by voting in the plenary, had indicated an active interest in the subjects under discussion. Similarly, the figure of ten (line 5 of his delegation's proposal) represented approximately half the number of countries with a fleet of one million gross tons.

Mr. PROSSER (UK) said that his delegation had proposed a period of two years for entry into force after signature because it felt that a shorter period would cause administrative difficulties. He entirely shared the Norwegian view that entry into force should be contingent on **acceptance** by two-thirds of the governments concerned, those governments between them having two-thirds of the world's tonnage; the figures he had proposed corresponded to that proportion.

Mr. KASBEKAR (India) preferred the French proposal, because it provided for wider application of the Convention than the proposal based on acceptance by governments representing 80 per cent of the world's merchant fleet.

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Mr. GLUKHOV (USSR) pointed out that the present Convention was substantially different from those previously concluded under IMCO's auspices because its entry into force related to several concepts: a time-limit, a certain number of States, and a certain percentage of the world's fleets. A decision on the first concept was entirely dependent on whether the Technical Committee chose a system of measurement as close as possible to the existing system or a new system. As for the other two concepts, his delegation was convinced that the Convention should have the widest possible application, and therefore favoured acceptance by States with a two-thirds proportion of gross tonnage of world shipping as a basic criterion.

Mr. HINZ (Federal Republic of Germany) favoured a time limit of three years, which would give Administrations more time to get accustomed to applying the new system. He thought the United Kingdom figure of fifteen States with not less than one million gross tons of shipping represented far too small a proportion of the world's fleet, and preferred twenty-five. He supported the Soviet view that the basic criterion should be acceptance by countries with a 60-80 per cent share in the world's merchant fleet.

Mr. MUHEIM (Switzerland) supported the Netherlands proposal on pages 41-42 of TM/CONF/6, which had the advantages of following the solution adopted in other Conventions of which IMCO was depositary, and of avoiding too long a waiting period before entry into force.

Baron de GERLACHE de GOMERY (Belgium) favoured a time-limit of one year or even two years, and a figure of fifteen governments as in the original French proposal, though he could accept the United Kingdom suggestion to raise that figure to twenty-five.

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Mr. WIE (Norway) shared the views expressed by the representatives of the Soviet Union and the Federal Republic of Germany. It was vital that the Convention should be accepted by a large majority of States with substantial merchant fleets if it were not to share the fate of the Oslo Convention.

Mr. BORG (Sweden) also endorsed those views but maintained his preference for a two-year time-limit.

Mr. PROSSER (UK) said he was willing for the figures in his proposal to be expressed in terms of percentage if that were the wish of the Committee; he did not agree, however, that 15 governments, each with not less than one million gross tons of shipping, represented too small a proportion of the world's fleets. He asked if the Secretariat could give guidance as to its past experience in the matter.

Mr. NADEINSKI (Executive Secretary) warned that the Committee was already behind in its work; it should finalize consideration of the Articles that day if the Drafting Committee were to be able to start work on them the following day with a view to preparing the Convention for acceptance by 20 June. The Committee needed only to agree in principle, and not in detail on the actual figures involved.

As far as the Secretariat was concerned, there would be no difficulty if the Convention referred either to a number of States or to a percentage of world gross tonnage, but to refer to a percentage of States might cause problems. The Regulations for Preventing Collisions at Sea had used a "substantial majority" of States as a criterion; the Maritime Safety Committee had interpreted that as implying 60-70 per cent of world gross tonnage.

The meeting rose at 12.40 p.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE NINTH MEETING

held at Church House, Westminster, London, S.W.1.,
on Wednesday, 11 June 1969, at 2.45 p.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEJNSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 & Corr.1.

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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT
TEXT OF ARTICLES OF A CONVENTION ON TONNAGE
MEASUREMENT (TM/CONF/6) (continued)

Article 17 - Coming into Force (concluded)

Paragraph (1)

The CHAIRMAN said that the Committee had before it two proposals: the original draft, which linked the coming into force of the Convention with acceptance by the Governments of States whose combined merchant fleets constituted a certain minimum percentage of the world's gross tonnage; and the amendment proposed by France, and supported in a slightly modified form by the United Kingdom, which introduced the criterion of acceptance by a minimum number of governments, including a specified number of countries each of which possessed a total tonnage of not less than one million gross tons. He invited the Committee to decide first on the principles involved, leaving its decision on exact figures until later.

Mr. KASBEKAR (India), supported by Mr. WIE (Norway), advocated a combination of the two criteria, the number of acceptances and the percentage of world gross tonnage, whilst recognizing the need to maintain a distinction between the two concepts.

Mr. NIGOLIC (Yugoslavia) expressed his preference for the retention of the criteria of the International Convention on Load Lines which, apart from the actual figures, had been taken up by the French delegation. It was essential that the future Convention should come into force as soon as possible.

Mr. GLUKHOV (USSR) saw no need to adhere to past practice. He was inclined to favour the criterion of two-thirds of the world's tonnage, but he could accept the proposal of the representative of India to combine the percentage of world tonnage and the number of acceptances.

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Mr. NADEINSKI (Committee Secretary) suggested the following formula: "The present Convention shall come into force [] months after the date on which not less than [] Governments of States whose combined merchant fleets constitute not less than [] per cent of the gross tonnage of the world's merchant shipping ...".

Mr. MARINI (Italy) drew the Committee's attention to the written comments submitted by Denmark (TM/CONF/6, page 40), concerning the source of the statistics used and the year for which tonnage should be ascertained. He favoured the adoption of the same criteria as those used in the International Convention on Load Lines.

Mr. NICHOLSON (Australia), shared that view but expressed a preference for the version of that formula proposed by the United Kingdom.

Mr. MURPHY (USA) wondered whether it would not be better to include in the Convention an absolute figure representing a given percentage of the world's tonnage, rather than the percentage itself.

Mr. NADEINSKI (Committee Secretary) informed the Committee that IMCO had always used the statistics of Lloyd's Register of Shipping, which were published annually. According to those statistics, the world's gross tonnage at the present time stood at 194,152,000 tons.

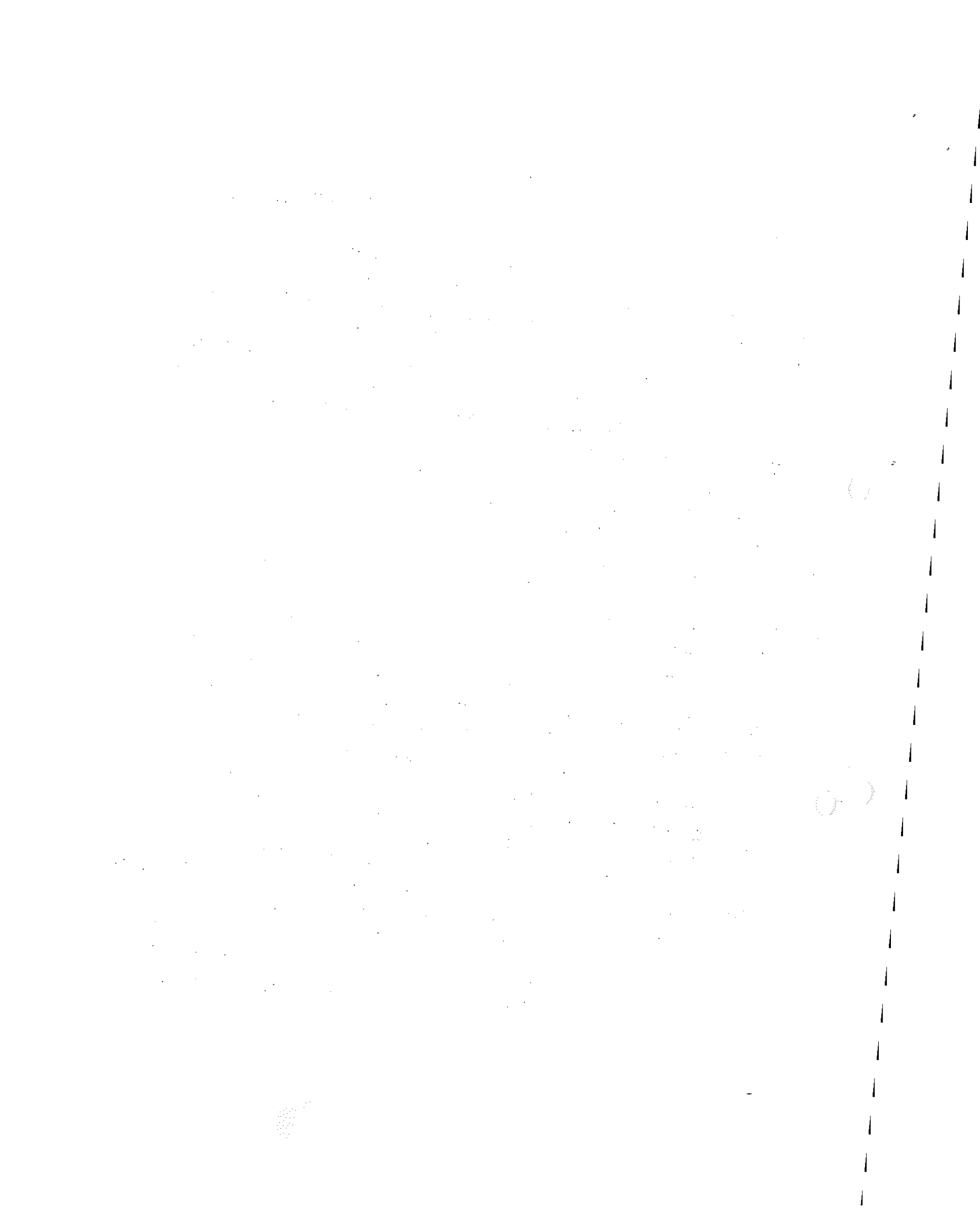
Mr. WIE (Norway), supported by Mr. CONTOGEOGORGIS (Greece), disagreed with the suggestion made by the representative of the United States to substitute an absolute figure for a percentage, since that figure would of necessity vary with the future trends of world shipping.

Mr. BACHE (Denmark) thanked Mr. Nadeinski for his explanations, and expressed agreement with the representative of Norway. Referring to the Italian representative's mention of Denmark's written comment (TM/CONF/6, page 40) he explained that his delegation was not asking for the particulars in question to be embodied in the Convention. He merely wished to reiterate his delegation's view that "it should be clearly defined by means of which statistics and for which year the tonnage should be ascertained". The year in question might be the one in which the last ratification required to bring the Convention into force took place.

Mr. MADIGAN (UK) pointed out in reply to the representative of Denmark that the statistics relating to any given year did not become available until several years later. He added, for the benefit of delegations which had referred to the United Kingdom proposal, that his delegation would be prepared to accept a formula based on the following three elements: a minimum period before coming into force, a minimum number of acceptances, and a minimum percentage of the world's tonnage.

Mr. DARAM (France) thought it was essential to retain the dual criterion of number of acceptances and size of fleet. The danger in adopting tonnage alone, as the United States seemed to be advocating, was that acceptance by the five countries with the largest fleets could suffice to bring the Convention into force. In addition, the omission of coasting vessels from the Lloyd's Register statistics of merchant shipping could distort the figures and place some countries at a disadvantage.

Mr. MURPHY (USA) explained that the sole purpose of his suggestion was to avoid any reference to statistical sources.



Paragraph (2)

The CHAIRMAN stated that, in conformity with the decision which had just been taken in respect of paragraph (1), the words "three years" in the fourth line of the original draft of paragraph (2) should be replaced by "[] months".

Paragraph (2), thus amended, was approved by 29 votes to none.

Paragraphs (3) and (4)

Two consecutive votes were taken.

Paragraphs (3) and (4) were approved by 30 votes to none.

Article 17 as a whole was approved, as amended.

Article 18 - Amendments (concluded)

The CHAIRMAN recalled that the Committee had already approved those two paragraphs (1) and (2).

Paragraph (3), sub-paragraph (a)

Mr. MURPHY (USA) considered that it was quite right to approve a very simple procedure in the case of amendments which were adopted unanimously (paragraphs (1) and (2) of the Article) but that great care was necessary in the case of "amendment after consideration in the Organization" (paragraph (3)). He wondered whether, in the latter case, a procedure should not be envisaged whereby the same degree of unanimity was required as was prescribed for the coming into force of the Convention.

Mr. WIE (Norway) thought that the aim should be to make amendment of the Convention neither too easy nor too difficult. In his view, the provision proposed for paragraph (3) was satisfactory.

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Mr. GLUKHOV (USSR) drew the Committee's attention to the special character of the Convention which should take account of the economic aspects both of shipping and of ports in the various countries. The criterion of uniformity and universality could not be taken as the sole basis. When a government did not accept an amendment, recourse should be had to the current practice in respect of international multilateral agreements. That meant that the principle should be applied whereby an amendment not accepted by a government was not valid for that government in its dealings with other governments. He supported the Netherlands proposal.

Mr. NADEINSKI (Committee Secretary) pointed out that, according to sub-paragraph (d), the decision as a result of which a government would cease to be a party to the Convention had to be taken by the Assembly by a two-thirds majority, including two-thirds of the governments represented on the Maritime Safety Committee, which would represent the majority of the world's fleets. Furthermore, that decision had to be approved by two-thirds of the Contracting Governments parties to the Convention.

The Netherlands proposal to delete sub-paragraph (d) was rejected by 19 votes to 6.

Mr. GERDES (Netherlands) thought that there might perhaps be another way of meeting his delegation's wishes. It might be stated that the declaration should apply, not to an amendment of special importance, but to an amendment of such a nature as to change the content of the Convention substantially.

Mr. HINZ (Federal Republic of Germany) said that he understood the desire for objectivity which prompted the Netherlands delegation, but he thought it would in any case

be difficult to avoid an element of subjectivity in the Assembly's decision. In that respect, the original text was more realistic.

Mr. MADIGAN (UK) said that, while appreciating the arguments put forward by the Netherlands delegation, he too, thought that the text as it stood did, in practice, provide a satisfactory answer to the preoccupations expressed. It was essential to trust the Assembly, which would certainly be conscious of the need to exercise great prudence when it came to determining whether an amendment was of a sufficiently important nature in the sense of sub-paragraph (d).

Mr. PEREIRA (Brazil) remarked that the suggestion put forward by the Netherlands representative should in any case be formulated very clearly, so as to avoid creating problems for the official translations of the text of the Convention.

The CHAIRMAN noted that the second proposal of the Netherlands had not received the required support and that it was therefore not approved.

Sub-paragraph (3)(d) was approved without amendment by 21 votes to none.

Paragraph (3), sub-paragraph (e)

Mr. QUARTEY (Ghana) said he thought the aim of that sub-paragraph should be more clearly expressed. The question might be raised, for instance, whether a Contracting Government, having proposed the adoption of an amendment by unanimous acceptance, might suddenly change its mind and decide to ask for the amendment to be adopted by a conference; in that connexion the words "at any time" were particularly disturbing. Perhaps the Committee should consider the possibility of adding a provision stating that the Government responsible

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would then have to defray the cost incurred, so as to avoid additional expenses for the IMCO Secretariat.

Mr. KENNEDY (Canada) thought the sub-paragraph aimed rather at guaranteeing that nothing should prevent a government from instituting the procedure specified in paragraph 2, if it wished to do so.

Mr. NADEINSKI (Committee Secretary) explained that the provision was analogous to the one in the Convention on Load Lines, which had never given rise to any difficulties. It was pointed out, moreover, that any proposal for amendment would first be studied by the Maritime Safety Committee before being submitted by the latter to the Assembly. It would therefore be too late for a change of mind once the Assembly had been convened.

Sub-paragraph (3)(e) was approved without amendment by 25 votes to none.

Paragraph (4), sub-paragraph (a)

Mr. NICHOLSON (Australia) was in favour of deleting that sub-paragraph, as it would enable a Conference to be convened without reference to the Assembly, which was contrary to the usual procedure.

Mr. HINZ (Federal Republic of Germany) did not share that opinion, for the Conference in question was a diplomatic Conference to which all the States concerned would have to be invited, whether they were members of IMCO or not. The Convention must guarantee the possibility of setting up a sovereign body, independent of IMCO, which would be entitled to amend the Convention with or without the co-operation of the Organization.

Sub-paragraph (4)(a) was approved by 27 votes to none.

Paragraph (4), sub-paragraphs (b) and (c)

Sub-paragraphs (4)(b) and (c) were approved without dissent.

Paragraph (4), sub-paragraph (d)

The CHAIRMAN recalled that the Netherlands delegation had proposed deleting that sub-paragraph also (TM/CONF/6, page 46).

Mr. GERDES (Netherlands) said that that proposal was connected with the one concerning sub-paragraph (3)(d). In view of the decision which had just been taken concerning the latter, his delegation was withdrawing its proposal.

Sub-paragraph (4)(d) was approved by 24 votes to none.

Paragraph (5)

Mr. DARAM (France) thought Article 18 as a whole was too involved and said that his delegation would certainly seek to shorten some of its provisions when the Drafting Committee met. It therefore had no hesitation in proposing that paragraph (5) should be deleted, for the reasons set forth on page 45 of TM/CONF/6 and having regard to the fact that the Regulations would be amended more often than the Articles.

Mr. LEVY (Israel), Mr. MURPHY (USA), Mr. WIE (Norway) and Mr. GLUKHOV (USSR) supported that proposal.

Mr. GERDES (Netherlands) recalled the amendments to that paragraph which his Government had proposed and which were set out on page 47 of TM/CONF/6.

The CHAIRMAN put to the vote the French proposal to delete the whole of paragraph (5).

That proposal was approved by 22 votes to none.

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Paragraphs (6) and (7)

Paragraphs (6) and (7) were approved without dissent.

Article 18 as a whole was approved, as amended.

Article 10 - Acceptance of Certificates (continued)

Mr. WIE (Norway) recalled that his delegation had reserved the right to propose the addition to that Article of a second paragraph corresponding to the one on pages 23 and 24 of TM/CONF/4 (see paragraph 4 of TM/CONF/C.1/WP.6).

Mr. MADIGAN (UK) said that his delegation would be prepared in principle to agree to the Norwegian suggestion, which seemed at first sight to offer a formula that was both reasonable and practical.

Mr. BACHE (Denmark) wondered whether it would be possible to arrive at a provision of a general character which would cover all situations whereas, under current practice, in many cases certificates were drawn up on the basis of bilateral or multilateral agreements.

Mr. GERDES (Netherlands) said he thought the Norwegian proposal was prompted rather by administrative considerations. It was a matter of giving Administrations a period of two years in which to draw up a new International Tonnage Certificate.

Mr. DARAM (France) pointed out that the provisions of Article 13 should meet the objection raised by the representative of Denmark.

Mr. WIE (Norway) confirmed that his delegation's proposal was essentially of an administrative nature; it was for the

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Committee to decide whether it was satisfactory from the practical point of view.

The CHAIRMAN proposed that a decision on the question should be deferred until the Committee's next meeting.

It was so decided.

The meeting rose at 5.30 p.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969
General Committee

SUMMARY RECORD OF THE TENTH MEETING

held at Church House, Westminster, London, S.W.1,
on Thursday, 12 June 1969, at 10.10 a.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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TEXT OF ARTICLES OF A CONVENTION ON TONNAGE
MEASUREMENT (TM/CONF/6; TM/CONF/C.1/WP.9;
TM/CONF/C.1/WP.11; TM/CONF/C.2/WP.34)
(continued)

Article 10 (continued)

The CHAIRMAN reminded the Committee that it had still to take a decision on the Norwegian proposal to add to Article 10 a second paragraph corresponding to that set out on pages 23-24 of TM/CONF/4.

Mr. GERDES (Netherlands) said that after consideration his delegation had decided that it could no longer support the proposal.

Mr. UTTLEY (UK) said his delegation had also, upon reflection, concluded that the proposed addition was unnecessary.

Mr. FLEISCHER (Norway) said that in view of the lack of support from the Committee his delegation was willing to withdraw its proposal.

TM/CONF/C.1/WP.9

Mr. BEVANS (USA) said that TM/CONF/C.1/WP.9 contained a new version of the United States recommendation regarding the uses of gross and net tonnage, expressed simply and in general terms. It emphasized that the Conference wished to give guidance to users of gross and net tonnage with a view to facilitating application of the Convention, and indicated the desirability of taking into account current practice when selecting a parameter in order to cause as little economic disruption to world shipping as possible. He pointed out that the first sentence of the Recommendation was to be deleted.

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Mr. GERDES (Netherlands), Mr. FLEISCHER (Norway), Mr. KASBEKAR (India), Mr. SUZUKI (Japan) and Mr. PROSSER (UK) supported the proposed Recommendation.

Mr. DARAM (France) said his delegation could also support it, on condition that in line 7, page 2 of the French text, the words "prennent en considération" were substituted for "s'interrogent sur".

Baron de GERLACHE de GOMERY (Belgium) supported the proposed recommendation with the same reservation.

Mr. NICHOLSON (Australia) pointed out that since regulations in fact formed part of conventions, the phrase "conventions and legislation" would be preferable to "conventions and regulations". He further pointed out that tonnage was used by authorities for other purposes than calculating charges: it was used, for example, in estimating limitation of shipowners' liability.

Mr. KENNEDY (Canada) did not think the text of the recommendation implied that the use of tonnage by authorities for other purposes than charges was omitted from its scope.

Mr. PROSSER (UK) shared that view.

Mr. BEVANS (USA) suggested that it would meet the first Australian point if the word "laws" was added after "conventions" in the first sentence (the original first sentence having been deleted).

Mr. DARAM (France) did not favour the use of the word "laws", which might be understood to refer to domestic legislation.

Mr. MARINI (Italy) felt a point of substance was involved. As he understood it, the aim of the recommendation was in fact to urge governments to take any necessary measures to achieve consistency between the Convention and their own domestic legislation in regard to gross and net tonnage.

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Mr. NICHOLSON (Australia) shared that view.

Mr. BACHE (Denmark) suggested that to emphasize the difference between international and national legislation, the word "national" should be inserted before "regulations" in the first sentence.

Mr. MARINI (Italy) asked whether the phrase between square brackets "commercial capacity" had been used in order to bring the Recommendation into line with the wording of Article 2.

Mr. BEVANS (USA) pointed out that by deleting the first sentence of the original draft his delegation had divorced the recommendation entirely from Article 2; it now related to the Convention as a whole and not to any particular Article. He confirmed that "laws" implied national legislation. He stressed that the proposed text was only a recommendation, intended as guidance for Contracting Governments and national authorities; his delegation could agree to modify the wording so long as the substance was retained.

The CHAIRMAN invited the Committee to vote on the United States proposed Recommendation (TM/CONF/C.1/WP.9), with the original first sentence deleted and the word "laws" inserted after "conventions" in the following sentence.

The Recommendation was adopted by 23 votes to none.

TM/CONF/C.2/WP.34

The CHAIRMAN drew the Committee's attention to TM/CONF/C.2/WP.34, the text of a regulation concerning the change from closed to open shelter-deck condition prepared by the Technical Committee. The General Committee was required to decide whether the regulation should be transferred, as a whole or in part, to the Articles of the Convention and, if it so decided, to provide the text to be included in the Articles. He invited comments.

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Mr. QUARTEY (Ghana) thought more discretion should be left to Administrations where changes of net tonnage were concerned. It was not practicable to legislate for every possible circumstance that might lead an owner to change the net tonnage of his ship, and he did not think Administrations should be bound by the detailed provisions set out in paragraph (3) and the exceptions listed under sub-paragraphs (i) to (iv).

Mr. GERDES (Netherlands) pointed out that the provisions of the Convention were equally valid internationally whether they came under the heading of the Regulations or of the Articles. Since the determination of tonnage was dealt with in the Regulations, there should be no objection to including the proposed text there.

Mr. MUENCH (Israel) said that, as a naval architect, he was puzzled by the meaning of the word "real" in paragraph 3(ii). Concerning paragraph 34(ii), he suggested that it might be appropriate for the Committee to bring the text in line with that of paragraph (1) of Article 10 (page 6 of TM/CONF/C.1/WP.11), since both provisions appeared to have the same intention.

Mr. NADEINSKI (Committee Secretary) pointed out that the Articles of the Convention covered legal and administrative arrangements; the general provisions included provisions covering the issue of certificates. Since a change of net tonnage involved a change of certificate, it would seem logical to include some reference to it in the appropriate Article. He recalled that the same problem had arisen at the Load Line Conference, when it had been decided to transfer to the Articles a number of general provisions that had been in the Regulations.

Mr. BEVANS (USA) said he too was disturbed at the use of the word "real" which he felt might cause legal difficulties. He thought that the provision under discussion was best left in the Regulations, where it would be less likely to be overlooked by those responsible for applying the Convention. To include it among the Articles would disrupt the structure of the Convention as a whole.

Mr. FLEISCHER (Norway) supported that view.

Mr. HINZ (Federal Republic of Germany) agreed with the two previous speakers. The proposed Regulation 5 dealt with highly technical matters and applied, moreover, only to a limited number of cases; it would be wrong to include it in the Articles, which were more general in scope.

Mr. DARAM (France) agreed. He shared the United States dislike of the word "real", which he felt suggested a possibility of abuse by implying changes of ownership that were not genuine.

Mr. VAUGHN (Liberia) also objected to that word. He was familiar with the phrase "change in beneficial ownership", but realized that change of trade might not necessarily mean a change of beneficial ownership. To use the phrase "real change of ownership" did not, however, solve the difficulty.

Mr. GLUKHOV (USSR) agreed that the proposed Regulation was too detailed and technical to be included in the Articles; a better place for it would be in the Annex. The word "real" in paragraph (3)(ii) should be referred back to the Technical Committee for reconsideration and possible deletion.

Mr. MUENCH (Israel) also thought the text belonged in the Regulations, but thought some reference should be made

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to it in the Article relating to validity of certificates in order to make fully clear that change of tonnage necessitated the issue of a new certificate.

Mr. KASBEKAR (India) and Mr. MARINI (Italy) shared that view.

Mr. BACHE (Denmark) explained that the word "real" in paragraph (3)(ii) of the text put forward by the Technical Committee for Regulation 5 (TM/CONF/C.2/WP.34) was meant to exclude the case where a shipping company formed a company within a group of independent companies under common management, as illustrated - for example - by the same funnel mark, and where a ship was transferred from one of the companies to another. It was virtually impossible to find wording satisfactory to lawyers to cover the point.

Mr. GERDES (Netherlands) said that in that case the word "real" was superfluous.

Mr. VAUGHN (Liberia) agreed that the word "real" must be dropped. Administrations issuing the certificates would not be in a position to determine whether a change in ownership had been real or not.

Mr. NICHOLSON (Australia) observed that, as paragraph (3) provided for a twelve-month time lag which was a comparatively short period, paragraph (3)(ii) could be dropped altogether without such an omission being unduly burdensome for shipowners.

Mr. KASBEKAR (India) favoured the deletion of the word "real" because it was for the Administrations themselves to ascertain whether or not there had been a genuine registered transfer of ownership. The point was important for purposes of determining liability.

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Mr. VAUGHN (Liberia) pointed out that a time lag of twelve months might be too long for a buyer needing a ship quickly.

Mr. KENNEDY (Canada) said that Article 10 might be regarded as incomplete; but as the clauses in Regulation 5 were, on the whole, technical in character, it would be more convenient for Administrations to leave them among the Regulations.

The word "real" would have to be dropped from paragraph (3)(ii) because the purpose of that clause was to try and eliminate, or at least reduce, a practice which had made the "delta" mark scheme so unsatisfactory for port authorities. Indeed, the whole clause, if retained, might give results as equally undesirable as that scheme.

Mr. MUENCH (Israel) said that after an informal discussion between the Italian delegation and his own, they had concluded that the only Article that would be affected by the new Regulation 5, paragraph (3) would be Article 10 on the Cancellation of Certificate. The Technical Committee had not yet decided on what should be the variable parameter; so for the time being, he proposed that in Article 10, paragraph (1) of the text agreed by the General Committee (TM/CONF/C.1/WP.11), the words "construction or capacity" be replaced by the words "construction, capacity, load line or draught".

Mr. QUARTEY (Ghana) proposed that the time lag in Regulation 5, paragraph (3) be reduced to six months. The proposed period of twelve months was far too long and would encourage an undesirable contrivance of the kind that the Canadian representative had mentioned. The clause would certainly impose hardship on shipowners operating along the west coast of Africa.

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Mr. TORKILDSEN (Norway) and Mr. KASBEKAR (India) supported the proposal by Ghana.

Mr. OLAYINKA (Nigeria) also supported the proposal because of the fluctuations in the carrying capacity of vessels trading in seasonal areas.

The CHAIRMAN said that the period specified in Regulation 5, paragraph (3) had been fully discussed in the Technical Committee, so the question should not be re-opened in the General Committee at that stage. Delegations could always revert to it in plenary meeting. Accordingly, he invited representatives to confine their comments to the Israeli Proposal.

Mr. HINZ (Federal Republic of Germany) said that he could agree as to the substance of the Israeli representative's argument but could not accept his proposed amendment because Article 10, paragraph (1) specified the conditions when an International Tonnage Certificate would be automatically cancelled. A new paragraph (4) would have to be added to that Article stipulating that, if a new certificate had been issued upon a change in net tonnage, in accordance with the provisions of Regulation 5, the old certificate ought to be withdrawn by the Administration.

Mr. NADEINSKI (Committee Secretary) reminded the Committee that it was already behind schedule. Final approval of the draft Articles must be completed by Monday 16 June to give time for the plenary to finish its work by 20 June, so that the final texts could be prepared.

Mr. MARINI (Italy) observed that the Israeli representative had sought to meet the point made by the Secretary earlier in the discussion. The proposal by the representative of the Federal Republic of Germany would affect the general structure of Article 10. The new text of Regulation 5 now made a reference to the load line of a ship or draught necessary in Article 10, paragraph (1). However, the words to be inserted in square brackets would have to be left in abeyance pending the Technical Committee's decision on parameters.

Mr. UTTLEY (UK) said that the proposal made by the representative of the Federal Republic of Germany might unduly complicate matters. Perhaps his point could be met by inserting the words "gross or net tonnage" in the square brackets left blank in the text of Article 10, paragraph 1, on the assumption that those would be the parameters decided upon by the Technical Committee.

Mr. DARAM (France) emphasized that Article 10, paragraph 1 should be as general as possible. Detailed rules ought to be in the Regulations.

Mr. HINZ (Federal Republic of Germany) pointed out that the clause in Article 10, paragraph (1) in fact dealt with the misuse of certificates, whereas the clauses in Regulation 5 were intended to set out in orderly fashion the processes to be followed if load lines or permitted draught were altered and the methods by which Administrations would determine for how long the old tonnages would apply. An assigned load line or permitted draught could not be altered without a change of certificate, and it would be impracticable to require three different certificates over the twelve-month period.

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Mr. GERDES (Netherlands) said that it was obvious that a new certificate should be issued whenever a change of tonnage took place. He was therefore sympathetic towards the Israeli proposal, although he appreciated the point made by the representative of the Federal Republic of Germany. A possible solution to the problem would be to complete Article 10(1) by inserting the words suggested by the United Kingdom representative which, in his opinion, covered the cases of change of load line and draught, and would therefore accommodate both the Israeli and Federal German points of view. That solution would be acceptable to his delegation, but it could also agree to the Israeli proposal as it stood.

Mr. DARAM (France) proposed that the wording of Article 10(1) should be amended to the effect that: "An International Tonnage Certificate (1969) shall cease to be valid and shall be cancelled by the Administration if a change of gross or net tonnage takes place upon the conditions laid down in this Convention or its Annexes."

Mr. MUENCH (Israel) said that although the Israeli and Italian delegations welcomed the intention behind the French proposal, they could not agree with the way in which it was formulated. It could be construed as pointing primarily to Regulation 5(3); if it did, it was too limited in scope, because that provision covered only one set of circumstances in which a vessel's tonnage had to be changed. The purpose of his own delegation's proposal for Article 10(1) was to introduce a provision stipulating all the circumstances in which a change of tonnage had to take place. The French proposal was worded too vaguely to achieve that purpose.

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Mr. HINZ (Federal Republic of Germany) said that the French proposal was worded so broadly that it could be taken as a basis for invalidating virtually any tonnage certificate. Article 10 should be left as it was; he was opposed to amending it in any way that implied a reference to Regulation 5, which was purely for the guidance of ship measurement authorities in the determination of tonnages. He doubted in fact whether there was any relationship between Regulation 5 and Article 10.

Mr. MARINI (Italy) said that in his view Regulation 5 and Article 10 were related.

Mr. VAUGHN (Liberia) agreed with the representative of the Federal Republic of Germany that it would be difficult to accept the Israeli proposal on account of the twelve-month period of inapplicability stipulated in Regulation 5(3). He thought that the substance of the Israeli proposal would be catered for if the words "alterations incapacity" in Article 10(1) were construed as including alterations in load line or draught. That interpretation seemed possible.

Mr. KENNEDY (Canada) noted that the opposition of the Federal German and Liberian delegations to the Israeli proposal arose from the exception represented by the twelve-month period laid down in Regulation 5(3). The difficulty might therefore be solved by adding the words "subject to any exceptions provided in the Regulations annexed" after the word "Administration" in Article 10(1). He proposed that the paragraph be amended accordingly.

Mr. QUARTEY (Ghana) agreed with the representative of the Federal Republic of Germany that Article 10 and Regulation 5 were unrelated. The former concerned the invalidation of a certificate when certain physical alterations took place, whereas the latter covered a different kind of operation such as the

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conversion of a vessel from the open shelter-deck type to the closed shelter-deck type.

Mr. BEVANS (USA) said that he also took the view that Article 10 and Regulation 5 should not be regarded as inter-dependent. Regulation 5 simply prevented an owner from obtaining a new tonnage certificate for twelve months, whereas Article 10 was concerned with the circumstances in which a certificate was to be cancelled.

Mr. GERDES (Netherlands) welcomed the Canadian suggestion. It was a compromise which preserved the advantages of the Israeli proposal while disposing of the objection raised by the Federal Republic of Germany.

Mr. DARAM (France) withdrew his delegation's proposal.

Mr. HINZ (Federal Republic of Germany) accepted the Canadian proposal as a satisfactory means of reconciling his delegation's point of view with that of the Israeli delegation.

Mr. VAUGHN (Liberia) agreed with the previous speaker. He suggested that, in the interests of accuracy, the Israeli proposal should be amended to provide for the addition of the words "assigned load line or permitted draught" after the word "capacity," in Article 10(1) instead of the words "load line or draught".

It was so decided.

The CHAIRMAN invited the Committee to approve wording for Article 10, paragraph (1), reading: "An International Tonnage Certificate (1969) shall cease to be valid and shall be cancelled by the Administration, subject to any exceptions provided in the Regulations annexed, if alterations have taken place in the arrangements, construction, capacity, assigned load line or permitted draught of the ship such as would necessitate a change of [.....]".

The Chairman's proposed wording for Article 10(1) was approved by 27 votes to none.

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In reply to a question put by Mr. GERDES (Netherlands), Mr. NADEINSKI (Committee Secretary) said that all the Articles approved by the Committee would be perused and, if necessary, modified by the Drafting Committee. The General Committee would then re-examine them to ensure that the Drafting Committee had not made any changes of substance, after which the Articles would be considered by the plenary.

The texts of the Regulations, Final Act and any Recommendations would be subject to the same procedure.

The meeting rose at 1 p.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969
General Committee

SUMMARY RECORD OF THE ELEVENTH MEETING

held at Church House, Westminster, London, S.W.1,
on Friday, 13 June 1969, at 9.10 a.m.

Chairman: Mr. P. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 & Corr.1.

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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT
TEXT OF ARTICLES OF A CONVENTION ON TONNAGE
MEASUREMENT (TM/CONF/6; TM/CONF/C.1/WP.11;
TM/CONF/C.2/WP.34) (continued)

TM/CONF/C.2/WP.34 (continued)

The CHAIRMAN drew the Committee's attention to sub-paragraphs (i) to (iv) of Regulation 5(3). He suggested that the Committee comment separately on the different sub-paragraphs and take them up in the order (i), (iii), (ii) and (iv).

It was so decided.

Sub-paragraph (i)

No comments.

Sub-paragraph (iii)

The CHAIRMAN drew attention to the fact that sub-paragraph (iii) might be intended to refer to the same kind of alterations or modifications as Article 3(3)(b). He suggested that the Committee might consider that possibility, and the related question of whether the two texts should be brought into line.

Mr. NADJINSKI (Committee Secretary) pointed out that the Technical Committee had, since the preparation of TM/CONF/C.2/WP.34, decided that net tonnage should be based on certain volumes. That decision might entail revision of the sub-paragraph at present under discussion.

Mr. KENNEDY (Canada) said that, on the basis of the text before the Committee, he was strongly in favour of the wording of the Regulation being brought into line with that of the Article.

Mr. NICHOLSON (Australia) and Mr. KASBEKAR (India) supported the Canadian view.

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Mr. WIE (Norway) said that another reason for not insisting on identical wording was that in sub-paragraph (iii) it was a question of net tonnage, whereas in the Article it was a question of gross tonnage.

Mr. BEVANS (USA) said that he had heard no objection to the wording of sub-paragraph (iii). The Committee should therefore express approval of it.

Mr. MARINI (Italy) suggested that the Committee should refer the matter to the Technical Committee for reconsideration in the light of the latter's decision on the method of determining net tonnage, with a request that the Technical Committee examine the whole question in the light of Article 3(3)(b).

Mr. MUENCH (Israel) proposed that the Technical Committee be asked to reconsider sub-paragraph (iii) with a view to deciding whether it should be brought into line with Article 3(3)(b) or whether, for particular reasons, the two texts should continue to be differently worded.

It was so decided.

Sub-paragraph (ii)

Mr. KENNEDY (Canada) said that the length of the period stipulated in Regulation 5(3) might need consideration in connexion with sub-paragraph (ii). The question of time was relevant in the case of a change of ownership where no change of flag was involved. He suggested that the Committee should discuss the time limit as well as the wording of the sub-paragraph itself.

It was so decided.

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Mr. DARAM (France) proposed that sub-paragraph (ii) should be deleted. It represented an incentive to shipping companies to consolidate with a view to facilitating inter-group transfers for the purpose of obtaining reduced net tonnages. That would have adverse repercussions on port authorities' income and on ships' crews, who might find themselves deprived of employment because of a change of ownership. But his proposal in no way aimed at discouraging genuine mergers between shipping companies in the interests of more rational management and greater economy.

Mr. NICHOLSON (Australia), Mr. GLUKHOV (USSR), Mr. GERDES (Netherlands) and Mr. FILA (Poland) supported the French proposal.

Mr. KASBEKAR (India) said that sub-paragraph (ii) should be retained, although the word "real" was of no significance and could well be deleted. Since the legislation of most countries provided for transfers of ownership, it could safely be left to Administrations to decide what was meant by change of ownership. Changes of ownership would take place anyway, and the same facilities should be available to an owner making a bona fide purchase of a ship which remained under the same flag as to the new owner of a vessel which was transferred to another flag.

The question of time was a commercial and not a technical point, and it was therefore proper for the Committee to consider it. What was permitted after twelve months could equally well be permitted after six months. A reduction in the period of delay to six months would meet the needs of countries possessing fleets in which frequent changes were necessary from one type of shelter-deck condition to another. He therefore proposed that the word "twelve" in Regulation (5)3 be replaced by the word "six".

Mr. QUARTEY (Ghana), MR. WIE (Norway), Mr. BORG (Sweden) and Mr. OLAYINKA (Nigeria) endorsed the views expressed by the Indian representative and supported his proposal.

Mr. MARINI (Italy) said that he thought that the Committee was competent to make changes of form such as the deletion of the word "real", but not a change of substance of the kind involved in the deletion of the whole sub-paragraph. All it could do in that connexion was to refer the matter to the Technical Committee for reconsideration.

Mr. MUENCH (Israel) said that his delegation shared the views expressed by the French representative. Port authorities might be suspicious of the whole Convention if it permitted rapid conversion procedures. He agreed with the Italian representative about the extent of the Committee's competence.

Mr. VAUGHN (Liberia) said that he agreed with the Italian and Indian representatives and supported the Indian proposal. The French approach failed to recognize the economic factor involved in the sale of vessels. There was little likelihood of abuse as the result of the inclusion of sub-paragraph (ii) in the Convention.

Mr. QUARTEY (Ghana) said that he shared the Italian view of the Committee's competence. On the substance of the matter, it was up to Administrations to discover whether or not a change of ownership was real. He suggested that the Technical Committee should be asked to include in the Regulation a proviso which, by leaving the matter to Administrations' discretion, would prevent any abuse of sub-paragraph (ii). That would be preferable to deleting the sub-paragraph, which would have the effect of penalizing bona fide new owners and artificial new owners indiscriminately.

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Mr. DOINOV (Bulgaria) supported the French proposal and said that the deletion of sub-paragraph (ii) was within the Committee's competence. The retention of the sub-paragraph would amount to discrimination in favour of bigger shipowners.

Mr. HINZ (Federal Republic of Germany) said that he too considered that national Administrations were best placed to distinguish between a bona fide and an artificial change of ownership. The word "real" should therefore be deleted.

Mr. KENNEDY (Canada) said that a matter of substance was involved, not a technical point. It was very much the concern of the Committee to evolve not merely a Convention which was acceptable to the Conference but an instrument which IMCO could display to all concerned as the embodiment of the fundamental principles which the Conference was convened to express. Sub-paragraph (ii) was an inducement to the development of companies of convenience. The plenary had reached a tentative decision that steps should be taken to prevent the abuse of any provisions included in the Convention for the benefit of shelter-deck vessels. A very real principle was involved, and the Committee should not hesitate to defend it.

Mr. VAUGHN (Liberia) said that he thought the possibility of abuse was being over-emphasized. The Committee must be wary of elaborating a Convention which gave undue consideration to port authorities and neglected the legitimate interests of shipowners. They were entitled to some profit from the sale and operation of their vessels.

Mr. BORG (Sweden) said that he was opposed to the deletion of the entire sub-paragraph, although he could agree to the removal of the word "real", because a new owner must have the right to decide under what load line his vessel was to sail.

Mr. BEVANS (USA) said that the matter was one for the General Committee to decide. His delegation recognized the problem of artificial changes of ownership. That type of abuse should be discouraged, and the twelve-month period of delay was a satisfactory method of doing so. To leave the matter to the discretion of Administrations was not sufficient, because they would find it difficult to decide what was a real change of ownership. He did not think that the existence of a twelve-month period of delay would represent a hardship to shipowners. His delegation was therefore opposed to any reduction in the length of that period and it supported the proposal to delete sub-paragraph (ii).

Mr. MADIGAN (UK) agreed with the views expressed by the United States representative. Sub-paragraph (ii) should be deleted and the time limit of twelve months retained. The existence of a shorter period of delay would mean that changes could be made too frequently. He hoped that there was no question of acceptance of the proposal to delete sub-paragraph (ii) being conditional upon agreement to a reduction in the period of delay.

Mr. QUARTEY (Ghana) stressed that there was no intention that the deletion of sub-paragraph (ii) should be tied to the reduction of the time-limit in question from twelve months to six months; the two points were not related. The term "seldom" was a relative one. Some ships, such as shelter-deckers, were specially built to utilize the facilities existing under the present tonnage regulations; and since the Ghanaian fleet consisted entirely of shelter-deckers, engaged in seasonal trade, his delegation was particularly interested in the question. In his view, a reduction to six months would do no

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harm at all. As far as other ships were concerned, alterations were in fact seldom made, but for shelter-deckers they were a matter of business.

Mr. GERDES (Netherlands) fully agreed with the United Kingdom representative that the twelve-month time-limit should be retained. The Conference had decided that there should be a period after which the switch from higher to lower tonnage would become applicable, though the number of months had not been specified; he felt, however, that six months was not sufficient for port and harbour authorities to make the necessary calculations on which to base charges. It was most important for those authorities to have a clear view of the parameters of the ships for which dues were to be assessed.

Mr. KASBEKAR (India) said that his proposal to reduce the twelve-month time-limit to six months was not intended to compensate for the deletion of sub-paragraph (ii). He had made the proposal for economic reasons, because a twelve-month period would not suit certain types of ship. The word "real" in sub-paragraph (ii) was the difficulty, because it was an obstacle to providing exemption in cases of change of ownership; his proposal for a reduction of the time-limit to six months would serve the purpose originally intended in that sub-paragraph.

Mr. QUARTEY (Ghana) disagreed with the Netherlands representative that port authorities would have difficulties regarding charges of tonnage; only two sets of tonnages were required, and it was already normal for two to be produced in the case of shelter-deckers. The only problem lay with Administrations, which would have the task of issuing new certificates.

Mr. SUZUKI (Japan) agreed with the United Kingdom representative that the period of twelve months should be retained and that sub-paragraph (ii) should be deleted.

The CHAIRMAN pointed out that the Rules of Procedure required the Committee to vote first on the proposal furthest removed in substance from the original text. He accordingly invited the Committee to vote on the French proposal that sub-paragraph (3)(ii) should be deleted.

The French proposal was adopted by 15 votes to 11.

The CHAIRMAN next invited the Committee to vote on the Indian proposal to reduce the time-limit specified in line 10 of paragraph (3) from twelve months to six months.

The Indian proposal was rejected by 17 votes to 7.

Sub-paragraph (iv)

Mr. KASBEKAR (India) suggested that in sub-paragraph 3(iv) the phrase "such, for example, as the pilgrim trade" should be deleted, as the pilgrim trade was of very limited extent and duration. He pointed out that the question was being considered by the ad hoc Sub-Committee on Revision of Simla Rules set up by the Maritime Safety Committee.

Mr. QUARTEY (Ghana) thought the phrase could be retained; it was only intended as an example of one kind of special trade in which passenger ships might be employed.

Mr. MADIGAN (UK), in reply to a question from the Australian representative, said the clause had been inserted into sub-paragraph (3)(iv) by the Technical Committee at the express request of the Indian representative, who had felt that that form of words was best fitted to cover the consideration being given elsewhere in IMCO to rules for ships engaged in special trades. The clause therefore represented the precise intention of the Technical Committee and should be retained.

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Mr. MUENCH (Israel) agreed, adding that the clause had been modelled on a similar exemption clause in the 1960 Safety Convention.

Mr. KASBEKAR (India) withdrew his proposal.

The CHAIRMAN said the Committee had now completed its consideration of TM/CONF/C.2/WP.34 in accordance with the request from the Technical Committee set out in paragraph 2(a) - (c) of that document. It had not found it necessary to recommend that any part of the Regulation be transferred to the Articles. He suggested that the Secretariat be asked to report the Committee's decision concerning sub-paragraph (3)(ii) of the Regulation to the Technical Committee.

It was so decided.

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Article 8

Mr. DARAM (France) drew attention to his delegation's proposal for amendment of Article 8 (page 22 of TM/CONF/6). The text adopted by the Committee for that Article left certain problems unsolved, because at the time it had been discussed the Committee had not known what the Technical Committee's decisions would be. He was concerned that the main purpose of the French amendment, which was to make it possible for Administrations to ensure that charges levied either on the basis of the old or of the new figures were identical, should be taken into account when the Drafting Committee came to consider Annex II.

The CHAIRMAN said the French representative's intervention would be included in the Summary Record.

Article 10 - Cancellation of Certificate

Mr. MADIGAN (UK) proposed reopening discussion of paragraph (3) of Article 10, the provision covering transfer of a ship to the flag of another Contracting Government. He strongly supported the spirit of that provision but felt it would lead to difficulties in practice, since as it stood it was mandatory and required the old certificate to remain in force for three months, whereas a new owner might quite properly wish to have the tonnage changed. He suggested that the phrase "or until the Administration issues another International Tonnage Certificate (1969) to replace it, whichever is the earlier" should be added at the end of the first sentence.

Mr. GERDES (Netherlands), Mr. NICHOLSON (Australia) and Mr. MILEWSKI (Poland) supported that suggestion.

Mr. WIE (Norway) thought that the point would be covered if the word "may" was substituted for "will" in line 3 of paragraph (3).

Mr. MADIGAN (UK) did not think that would be sufficient, because the intent was to oblige the new Contracting Government to accept the old tonnage certificate until, within three months, a new certificate was issued giving either the same set of tonnages or a different set of tonnages if the circumstances of the ship permitted it. The Convention did in fact provide for tonnages to be changed immediately on transfer in certain countries.

Mr. HINZ (Federal Republic of Germany) shared that view. As co-sponsor of the original paragraph (3), he recalled that the intention had been to benefit the owner by not having the old certificate cease to be valid on transfer, and by making it possible to obtain a more advantageous International Tonnage Certificate immediately. He suggested that the proposed addition be referred to the Drafting Committee.

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Mr. KASBEKAR (India) preferred the paragraph to remain unchanged.

Mr. BACHE (Denmark) pointed out that while the phrase "will remain in force" might have legal validity, in practice a ship would probably have to wait several months in port where a transfer of flag had taken place before obtaining a new certificate. He suggested that it would avoid costly delays for owners if provision was made for entering a provisional declaration on the old certificate to the effect that the ship had been transferred to another flag.

Mr. NADEINSKI (Committee Secretary) drew the Committee's attention to the fact that, according to the Rules of Procedure, it was required to take a formal decision to re-open discussion on a question that had already been decided.

The CHAIRMAN invited the Committee to vote on the United Kingdom proposal to re-open discussion of Article 10.

The United Kingdom Proposal was adopted by 21 votes to none.

The CHAIRMAN invited the Committee to vote on the United Kingdom amendment to Article 10(3).

The United Kingdom amendment was adopted by 21 votes to none.

The meeting rose at 11 a.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969
General Committee

SUMMARY RECORD OF THE TWELFTH MEETING

held at Church House, Westminster, London, S.W.1,
on Monday, 16 June 1969, at 10.10 a.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE
DRAFT TEXT OF ARTICLES OF A CONVENTION
ON TONNAGE MEASUREMENT (TM/CONF/C.3/1,
TM/CONF/C.1/WP.14 and WP.15) (continued)

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The CHAIRMAN suggested that the Committee examine the Drafting Committee's text article by article. In particular, the words and expressions placed between square brackets had to be decided. Every effort should be made to avoid, as far as possible, engaging in any further discussion of points which had already been settled. In any case, in accordance with Rule 26 of the Rules of Procedure of the Conference, a two-thirds majority was required before the General Committee could reconsider any of its decisions.

Preamble; Article 1 - General Obligations under the Convention

The Preamble and Article 1 were approved without objection.

Article 2 - Definitions

Paragraphs (1), (2) and (3)

The paragraphs were approved without objection.

Paragraph (4)

Mr. MADIGAN (UK), Chairman of the Drafting Committee, explained that that Committee had placed the word "overall" in brackets at the request of a few of its members who had thought that, having regard to the discussions in the Technical Committee, it might be better to use the term "moulded".

Mr. MURPHY (USA) and Mr. PROSSER (UK) considered that the word "overall" was a general term that was quite appropriate in the case in point.

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The CHAIRMAN proposed that the brackets around the word "overall" should be removed.

It was so decided.

Paragraph (4) was approved.

Paragraph (5)

Mr. MARINI (Italy) recalled that he had proposed that the expression "commerical capacity" should be replaced by "useful capacity", which was more appropriate in a convention of a technical and not a commercial character. He wished to repeat his proposal.

Mr. DARAM (France) endorsed the proposal. Discussion in the plenary and in the Technical Committee had shown that the use of the concept of "commercial capacity" was open to objection since that concept varied with other factors, such as the ship's speed.

Mr. HINZ (Federal Republic of Germany) likewise supported the Italian proposal.

Mr. NICHOLSON (Australia) did not think the expression "useful capacity" was satisfactory.

The CHAIRMAN put the Italian proposal to the vote.

The Italian proposal was adopted by 12 votes to 5.

Paragraph (5), thus amended, was approved.

Paragraph (6)

Mr. GERDES (Netherlands) introduced his proposed amendment (TM/CONF/C.1/WP.15) concerning the former paragraph (7), which had become paragraph (6) in the text approved by the Drafting Committee. Having reviewed the definitions in the general context of the Convention and being anxious to ensure uniformity of measurement in the future, the Netherlands

delegation proposed that the words "for each Contracting Government" should be deleted. There was a danger that that provision might act as an inducement to States to delay adherence to the Convention.

Mr. PROSSER (UK) seconded the Netherlands proposal.

Mr. DARAM (France) observed that the Netherlands representative's objection no longer held good since the text which had been proposed by France had been included in Article 3, paragraph (2), sub-paragraph (a).

Mr. WIE (Norway) agreed with that interpretation. However, he would not oppose the deletion of the words to which the Netherlands representative objected.

It was decided by 20 votes to none to re-examine the definition of "new ship" in paragraph (6).

The Netherlands proposal to delete the words "for each Contracting Government" was approved by 15 votes to 3.

Mr. BACHE (Denmark) asked the Chairman of the Drafting Committee whether that Committee had considered transferring to the definition of "new ship" the last phrase in Article 3, paragraph (2), sub-paragraph (a).

Mr. MADIGAN (UK), Chairman of the Drafting Committee, thought that point fell rather within the province of Article 3.

Mr. HINZ (Federal Republic of Germany) considered that the phrase in question would be out of place in Article 2.

Paragraph (6), thus amended, was approved.

Paragraphs (7), (8) and (9)

These paragraphs were approved without objection.

Article 2, thus amended, was approved.

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Article 3 - Application

Paragraph (1)

Paragraph (1) was approved without objection.

Paragraph (2)

Mr. GERDES (Netherlands) asked why the Drafting Committee had replaced the expression "The Regulations contained in Annex I" (TM/CONF/C.1/WP.11) by the words "The present Convention".

Mr. MADIGAN (UK), Chairman of the Drafting Committee explained that, after having made a careful study of the matter, that Committee had taken the view that there was no need to make a distinction between the Regulations in the Annex and the Articles. It had felt that the General Committee had in fact intended that both the Regulations and the Articles should apply to the ships concerned.

Mr. GERDES (Netherlands) referred to the precedent established by the Convention on Load Lines (Article 4). It seemed to him that the idea had been to exclude existing ships, not from the application of the Convention, but only from that of the tonnage regulations.

Mr. KASBEKAR (India) said that he was convinced by the explanation given by the Chairman of the Drafting Committee. The expression "the present Convention" was the more appropriate.

Mr. HINZ (Federal Republic of Germany) asked whether it was quite clear that paragraphs (1) and (2) of Article 3 were not mutually exclusive.

Mr. MADIGAN (UK), Chairman of the Drafting Committee, observed that the provisions of Article 3 should always be interpreted with due regard to the exceptions specified in Article 4. He did not think that there could be any ambiguity whatsoever as to the type of ships concerned.

Sub-paragraph (a)

Mr. MADIGAN (UK), speaking on behalf of his delegation, drew the Committee's attention to the desirability of revising the wording of that sub-paragraph in the interests of conformity with the rest of the text. The addition of the words "including those which come under the flag of a Contracting Government by change of nationality", very rightly approved by the Committee on the proposal of the French delegation, had lost its importance because of the amendment which had been made in the definition of new ships. Should not that phrase be deleted, even if doing so entailed the incorporation of additional clarification in paragraph (3) of the same Article? The Committee might perhaps refer that question back to the Drafting Committee.

The CHAIRMAN considered that the Committee would save time by settling that question itself and at once.

Mr. DARAM (France) thought the existing wording was very clear. The added words ("including those which come under the flag ...") could apply only to new ships.

Mr. GERDES (Netherlands) thought that the Committee should itself settle the matter. He approved Mr. Madigan's suggestion. The new definition of "new ship" given in Article 2, paragraph (6) rendered unnecessary the clause which had been introduced into Article 3, paragraph (2), sub-paragraph (a).

Mr. NADEINSKI (Committee Secretary) pointed out that when the General Committee had first examined that question, it had envisaged the case of a transfer of a ship to the flag of a non-Contracting State as well as to that of a Contracting State. The amendments made to Article 2 did not cover the former case.

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Mr. HINZ (Federal Republic of Germany) thought that there was no longer any need for the clause introduced into paragraph (2)(a), since the Committee had corrected the definition of "new ship" by deleting the words "for each Contracting Government" in Article 2, paragraph (6).

The Committee decided by 15 votes to 1 to delete the words "including those which come under the flag of a Contracting Government by change of nationality".

Sub-paragraph (b)

Mr. WIE (Norway) considered that the criterion of an alteration of 10 per cent of the gross tonnage was scarcely applicable in practice. It would be better to leave the decision to the competent Administration.

Mr. GERDES (Netherlands) shared that view.

Mr. MARINI (Italy) recalled that the Technical Committee had dealt with the question of alterations in its Regulation 5. The Regulations and the Articles should be brought fully into harmony.

Mr. MILEWSKI (Poland) feared that the discussion would become very prolonged and confused if decisions taken earlier were again called into question.

By 15 votes to 5, the Committee decided to re-examine sub-paragraph (b).

Mr. WIE (Norway) proposed that sub-paragraph (b) should be redrafted to read: "(b) existing ships which undergo alterations or modifications which the Administration considers as an important variation of their existing gross tonnage".

Mr. GERDES (Netherlands) and Mr. CONTOGEOGRIS (Greece) supported that amendment.

Mr. DARAM (France) feared that the freedom accorded to the Administration to assess the fundamental character of the alterations might give rise to disparities which would stand in the way of the satisfactory application of the Convention.

Mr. BACHE (Denmark) supported the amendment. However, he did not think that there was any need to refer specifically to the Administration which, unless otherwise stated, was quite naturally responsible for doing whatever was necessary to ensure the application of the Convention.

Mr. PROSSER (UK) recalled that the existing text had been adopted on the initiative of his delegation. But, having regard to the discussion in the Technical Committee, he would raise no objection to Mr. Wie's amendment, which accorded with the spirit in which that Committee had drawn up the Regulations.

The amendment proposed Norway was adopted by 16 votes to 8.

Sub-paragraph (c)

Sub-paragraph (c) was approved without objection.

Sub-paragraph (d)

Mr. PROSSER (UK) proposed awaiting the discussion on Article 17 (Coming into force) before filling in the blank in square brackets.

Mr. GERDES (Netherlands) and Mr. MILEWSKI (Poland) endorsed that proposal.

It was so decided.

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Mr. PROSSER (UK) introduced the amendment proposed by his delegation (TM/CONF/C.1/WP.14) to the former paragraph (3), which had become paragraph (2). That amendment would consist of the addition of the following phrase to sub-paragraph (d):

"except that such ships, apart from those mentioned in (b) and (c) of this paragraph, shall retain their then existing tonnages for the purpose of the application to them of relevant requirements under other International Conventions."

The aim was to reduce to a minimum any disruption of the economic balance of the shipping industry.

Mr. KASBEKAR (India) seconded that proposal.

It was decided by 21 votes to none to consider the United Kingdom Proposal.

Mr. MURPHY (USA) proposed inserting the word "existing" between the words "other" and "International".

Mr. PROSSER (UK) accepted that modification.

Mr. DARAM (France) proposed the following wording:

"except that such ships, apart from those mentioned in (b) and (c) of this paragraph, shall retain their then existing tonnages for the purposes of the application to them of the provisions of other existing International Conventions."

Mr. OSMAN (United Arab Republic) seconded that proposal.

The United Kingdom amendment, thus amended, was approved by 22 votes to none.

Paragraph (2) as amended was approved.

Paragraph (3)

Paragraph (3) was approved without objection.

Article 4 - Exceptions

Mr. CONTOGEOGRIS (Greece) proposed the addition of a sub-paragraph (c) to paragraph (1), stipulating that the Convention did not apply to ships which normally plied between ports of their own country and only occasionally undertook voyages abroad. He had in mind more particularly pleasure yachts.

Mr. GERDES (Netherlands) pointed out that the Committee had already considered that case, more especially in connexion with Article 5.

Mr. KASBEKAR (India) was of the opinion that national legislation could perfectly well deal with the problems raised by cases such as the representative of Greece had in mind.

There being no support for the amendment proposed by the representative of Greece, it was considered to be rejected.

Article 4 was approved.

Article 5 - Force Majeure

Article 5 was approved without objection.

Article 6 - Determination of tonnages

Mr. DARAM (FRANCE) proposed redrafting the heading in the French version to read: "Détermination des jauges" (previously "Détermination de la jauge").

It was so decided.

The two sets of square brackets round "gross and net tonnages" were removed.

Article 6, as amended, was approved.

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Article 7 - Issue of Certificates

Mr. MADIGAN (UK) said that the article "the" should be inserted in the English version of paragraph (1) before the words "gross and net tonnages".

In addition, speaking as Chairman of the Drafting Committee, he informed the Committee that in Articles 7, 9 and 11, it had been decided to leave certain words between square brackets, pending knowledge of the Technical Committee's decision on the form of the certificate or certificates.

Mr. NADEINSKI (Committee Secretary) stated that, so far as he knew, the Technical Committee had decided that there would be only one certificate.

Mr. DARAM (France) suggested that, in that case, the heading of Article 7 in the French text should be amended accordingly, so that it would be in the singular.

The CHAIRMAN proposed that Article 7 should be approved with the two amendments proposed, and with the removal of the square brackets hitherto retained.

Article 7, as amended, was approved without objection.

Article 8 - Issue of Certificates by another Government

Paragraph (1)

The square brackets were removed in line 2.

Paragraph 1, as amended, was approved without objection.

Paragraph (2)

Baron de GERLACHE de GOMERY (Belgium), seconded by Mr. DARAM (France), pointed out that to bring the French text into line with the English, the words "la jauge" printed between brackets in the last line should be replaced by "les jauges".

It was so decided.

The square brackets in line 2 (line 3 of the French text) were removed.

Mr. MADIGAN (UK) wondered whether it might not be better to await the outcome of the Technical Committee's discussion before approving the paragraph as a whole.

The CHAIRMAN said that the Secretariat would take account of the decisions of the Technical Committee.

Paragraph (2) was approved without objection.

Paragraph (3)

Mr. MADIGAN (UK) stated that, in the English version of Article 11, the Drafting Committee had decided to substitute the word "validity" for the word "force". Logic required that the same change should be made in paragraph (3) of Article 8.

Paragraph (3), thus amended, was approved without objection.

Paragraph (4)

Paragraph (4) was approved without objection.

Article 8, as amended, was approved.

Article 9 - Form of Certificate

Article 9 was approved without objection; the letter "s" and the square brackets around it being removed in all cases.

Article 10 - Cancellation of Certificate

The heading of the Article was altered to the singular in the French version.

Paragraph (1)

Mr. MURPHY (USA) said he was afraid that, as drafted, the paragraph might entail the cancellation of a certificate in cases where the situation could have been remedied in some simpler way.

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He instanced a ship carrying unauthorized cargo, when it would be easier to remove the cargo than to issue a new certificate. To overcome that disadvantage, his delegation proposed to replace the words "shall be cancelled" in line 3 by the words "may be cancelled".

Mr. CONTOGEOORGIS (Greece) and Mr. NICHOLSON (Australia) supported that proposal.

Mr. QUARTEY (Ghana) suggested that the point raised by the United States delegation would be better met by substituting another word for the word "arrangement" in line 5.

Mr. DARAM (France) opposed the proposal made by the United States representative since, from the legal standpoint, it would be at variance with the provisions approved for Article 3, paragraph 2(b).

Mr. HINZ (Federal Republic of Germany) did not think that the case mentioned by the United States representative really came within the terms of Article 10. That Article was in fact concerned solely with the permanent structural features of the ship and had nothing to do with the cargo.

Mr. GERDES (Netherlands) considered that, even in the case mentioned, the Administration should be able to cancel the certificate if, for example, the ship declined to abandon its unauthorized cargo. The requirement prescribed in that paragraph should therefore be retained.

The CHAIRMAN called for a vote on the suggestion that the terms of paragraph (1) should be reconsidered.

That suggestion was rejected by 12 votes to 11.

Mr. MADIGAN (UK) said that the Drafting Committee had taken the view that in regard to the passage left blank at the end of

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the paragraph, the directives given by the General Committee were not sufficiently precise and that it was for that Committee to take a decision.

The CHAIRMAN proposed that the square brackets, should be removed and that paragraph (1) should end with the words "a change of gross or net tonnage".

That proposal was adopted without objection.

Paragraph (1), as amended, was approved without objection.

Paragraph (2)

Paragraph (2) was approved without objection.

Paragraph (3)

Following on an exchange of views between Mr. GERDES (Netherlands) and Mr. MADIGAN (UK), Mr. NADEINSKI (Committee Secretary) explained that the wording used for that paragraph in TM/CONF/C.3/1 was based on a version which the General Committee had already revised (TM/CONF/C.1/WP.13).

Paragraph (3) was approved without objection.

Article 10, as amended, was approved without objection.

The meeting rose at 12.40 p.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE THIRTEENTH MEETING

held at Church House, Westminster, London, S.W.1,
on Monday, 16 June 1969, at 3.00 p.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 & Corr.1.

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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE
DRAFT TEXT OF ARTICLES OF A CONVENTION
ON TONNAGE MEASUREMENT (TM/CONF/C.3/1)
(concluded)

Article 11 - Acceptance of Certificate

The CHAIRMAN commented that in view of the discussion at that morning's meeting the letter "s" within square brackets in the title and first line of the Article should be deleted.

It was so decided.

Mr. GERDES (Netherlands) proposed that discussion of Article 11 should be re-opened, and drew attention to a point that was of importance for his country: provision should be made for verification of certificates issued before the coming into force of the Convention which would prove that a ship was in fact an existing ship. He accordingly proposed the addition of a new sentence: "Tonnage certificates of ships which under the Articles of this Convention are existing ships shall be provided with a stamp and a statement issued by the national authorities indicating that the ship is an existing ship".

Mr. CONTOGEOGRIS (Greece) thought the addition unnecessary; the certificate mentioned the date on which the ship was built, and that would indicate whether it was a new or an existing ship.

The CHAIRMAN pointed out that since there had been no support for the Netherlands proposal discussion of Article 11 could not be re-opened.

Article 11, as amended by the deletion of "s", was approved.

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Article 12 - Control

Paragraph (1)

Mr. MADIGAN (UK), speaking as Chairman of the Drafting Committee, drew attention to a difficulty that had arisen in that Committee over the use of the two words "control" and "inspection" in the text of Article 12, particularly in view of the French concern that the word "contrôle" should be used throughout in the French text. The Drafting Committee had felt some hesitation in agreeing to the use of two different words in the English text where only one was used in the French, since control was a delicate matter affecting relations between Contracting Governments and it was important to avoid misunderstandings.

Mr. MARINI (Italy) thought there was no reason why the word "inspection" could not be used both in the French and English texts, as well as the word "control". Since in French "contrôle" implied an end and "inspection" a means to that end, the French text could use "contrôle" in the heading of the Article and "inspection" in the body of it.

Mr. KASBEKAR (India) agreed. There was nothing illogical in the use of the two words; the only difficulty had lain in finding a French equivalent, but the Italian representative had indicated a solution.

Mr. DARAM (France) said that on the contrary it seemed to him illogical not to use the same word in the body of the Article as in the heading. In French "inspection" implied a general examination with a view to exercising control, whereas "contrôle" was an altogether different and much more specific operation. It was most important as far as the French text was concerned to make clear which of the two was meant.

Mr. QUARTEY (Ghana) recalled that it had been agreed in the Drafting Committee that the basic intent of the Article was to provide for inspection of the ship to see that the certificates

carried were the right ones, and not to provide for control in the strict sense, since the ship was in fact controlled by the State whose flag it was flying.

Mr. GERDES (Netherlands) agreed that "inspection" was the appropriate word for the English text. He suggested that the title should be expanded to read "Inspection in Foreign Harbours".

Mr. MADIGAN (UK) suggested that the various objections could be met if the phrase "control by means of" were added after the word "to" in paragraph (1), line 2 (English text).

Mr. MARINI (Italy) supported the United Kingdom suggestion.

Mr. DARAM (France) said that that phrase would cause difficulties in the French text.

Mr. QUARTEY (Ghana) suggested that the title of the Article be amended to read "Verification of Certificate" since that was the actual purpose of the inspection.

Mr. GERDES (Netherlands) said that would not solve the problem of what kind of inspection or verification was meant.

The CHAIRMAN pointed out that the title of the Article had no legal validity; it was the text of the Article itself that was binding. He therefore proposed that in the English text the word "Inspection" be substituted for "Control" as the title of the Article, to bring it into line with the text that followed.

It was so decided.

Paragraph (1) was approved.

Paragraph (2)

Approved without comment.

Paragraph (3)

Mr. HINZ (Federal Republic of Germany) pointed out that for the sake of consistency the words "International Tonnage

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Certificate (1969)" should be substituted for "Tonnage Certificate" in line 2.

Thus amended, Article 12 was approved as a whole.

Articles 13 - 15

Approved without comment.

Article 16 - Signature, Acceptance and Accession

It was decided to insert the date "23 June 1969" in the blank spaces in line 2 of paragraph (1) and in line 8 of paragraph (2).

Article 16 was approved as amended.

Article 17 - Coming into Force

Paragraph (1)

The CHAIRMAN recalled that the United Kingdom representative had asked for Article 17 to be considered together with Article 3(2)(d).

Mr. WIE (Norway) proposed that "thirty-six" be inserted in the space between square brackets in line 1.

Mr. CONTOGEOORGIS (Greece) and Mr. KASBEKAR (India) supported that proposal.

Mr. MILEWSKI (Poland) proposed a period of twelve months, in view of the need for the Convention to come into force as soon as possible.

Mr. GLUKHOV (USSR) agreed. The provisions of the Convention made it possible for both owners and Administrations to take the necessary measures to enforce it much more quickly than if entirely new tonnage certificates had had to be prepared, particularly since those provisions would relate largely to new ships.

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Mr. PROSSER (UK) supported by Mr. SUZUKI (Japan), Mr. BACHE (Denmark) and Mr. HINZ (Federal Republic of Germany) proposed a period of twenty-four months.

The CHAIRMAN put to the vote the Norwegian proposal to insert the word "thirty-six" in line 1.

The Norwegian proposal was rejected by 14 votes to 6.

The CHAIRMAN put to the vote the Polish proposal to insert the word "twelve" in line 1.

The Polish proposal was rejected by 19 votes to 5.

The CHAIRMAN put to the vote the United Kingdom proposal to insert the word "twenty-four" in line 1.

The United Kingdom proposal was adopted by 25 votes to none.

The CHAIRMAN invited the Committee to express an opinion as to how the expressions "merchant fleets" and "World's merchant shipping" should be interpreted.

Mr. KASBEKAR (India) pointed out that the Committee Secretary had informed the Committee (TM/CONF/C.1/SR.9, page 4) that IMCO had always used the Lloyd's Register of Shipping statistics as its source of tonnage figures for national merchant fleets and the world's merchant shipping. He thought the Organization should follow that practice in connexion with the tonnages to be calculated under Article 17(1).

Mr. DARAM (France) asked whether the Lloyd's Register of Shipping statistics included coastwise vessels and vessels used on the North American Great Lakes.

Mr. NADEINSKI (Committee Secretary) said that the figures for the United States and Canadian fleets given in Lloyd's Register of Shipping Statistical Tables for 1968 included vessels

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registered at ports on the Great Lakes.

The Committee approved the use by the Organization of the figures given in Lloyd's Register of Shipping Statistical Tables, for the purpose of determining tonnages under Article 17(1) of the prospective Convention.

Mr. GLUKHOV (USSR) proposed that the square brackets in the second and fourth lines should be replaced by the words "twenty-five" and "sixty" respectively.

Mr. CONTOGEOORGIS (Greece) proposed that the figures in question should read "twenty-five" and "eighty" respectively.

Mr. MILEWSKI (Poland) supported the Soviet proposal and said that the insertion of the lower percentage would result in the Convention being implemented more quickly.

Mr. PROSSER (UK) said that his delegation had always taken the view that the new Convention should not come into force until it had been accepted by States representing a majority of the world's tonnage. He therefore proposed that the figures in question should be "twenty-five" and "sixty-five" respectively.

Mr. GERDES (Netherlands) proposed the insertion of the figures "twenty" and "fifty-five" respectively.

Mr. WIE (Norway), Mr. KASBEKAR (India), Mr. SUZUKI (Japan), Mr. MURPHY (USA) and Mr. MARINI (Italy) said that they supported the United Kingdom proposal.

Mr. GLUKHOV (USSR) withdrew his delegation's proposal concerning the figure "sixty" in favour of the United Kingdom proposal to insert the figure "sixty-five".

The CHAIRMAN noted that the Greek and Netherlands proposals had not been supported. He put the United Kingdom proposal to the vote.

The proposal was adopted by 26 votes to none.

The CHAIRMAN suggested that the Committee delete the square brackets round the figure "16" in the seventh line.

Paragraph (1), thus amended, was approved.

Paragraph (2)

The CHAIRMAN suggested that the Committee replace the square brackets in the third line by the word "twenty-four", as a consequence of its decision regarding the first line of paragraph (1).

Paragraph (2), thus amended, was approved.

Paragraph (3)

Approved without comment.

Paragraph (4)

The CHAIRMAN suggested that the Committee delete the square brackets round the figure "18" in the fifth line.

Paragraph (4), thus amended, was approved.

Article 17 was approved as amended.

Articles 18 - 21

Approved without comment.

Article 22 - Languages final paragraphs

Mr. BILOA TANG (Cameroon) said that in the French version the words "les deux textes etant également authentiques", which had recently been adopted by the United Nations Conference on the Law of Treaties for the text of the Vienna Convention on the Law of Treaties, would be preferable to the words "les deux textes faisant également foi".

It was decided to retain the wording proposed by the Drafting Committee.

Article 22 was approved without amendment.

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Mr. DARAM (France) said that, from the point of view of presentation, a substantial space should be left between the paragraph commencing "The present Convention" and the testimonium clause.

The CHAIRMAN said that that point would be taken care of when the text was retyped. He suggested that the Committee insert the words "this twenty-third day of June 1969" after the words "DONE at London".

It was so decided.

Article 3, paragraph (2)(d) (concluded)

The CHAIRMAN invited the Committee to take a decision on the figure to be inserted.

Mr. CONTOGEOORGIS (Greece) said that the new Convention should not apply to existing ships at all. The owners of those ships would suffer considerable economic harm, and there would be substantial technical difficulties when it came to measuring existing ships. Consequently, both shipowners and Administrations would find themselves faced with a serious situation as a result of the application of the prospective Convention to existing ships. Since it had been decided that the new Convention was to apply to them, the period of time to elapse before it did so must be as long as possible, in order to forestall such situations. He therefore proposed that the square brackets be replaced by the words "twenty-five".

Mr. SUZUKI (Japan) said that his delegation was in broad agreement with the views expressed by the Greek representative. He realized that the owners of existing ships and Administrations might share those views, but he felt that due-charging authorities would wish the period in question to be a short one. He hoped that the various interests involved could be reconciled, but he nevertheless wished to express his support for the Greek Proposal.

Mr. DARAM (France) said that the proposal to delay the application of the prospective Convention to existing ships for twenty-five years meant that it would be unlikely to apply to existing ships at all, since the vast majority of them would probably have been scrapped before the end of that period. He realized that a problem existed, and thought it could be solved by stipulating a period of fifteen years. Existing ships would be technically obsolete by then and alterations in their tonnages would be unlikely to cause economic upheavals. He therefore proposed the replacement of the square brackets by the word "fifteen".

Mr. HINZ (Federal Republic of Germany) supported the French proposal.

Viscount SIMON (IAPH) said that he wished to remind the Committee of the Resolution which his Association had adopted at its Melbourne Conference stressing the importance of the application of the new tonnage measurement rules to all vessels. He now realized that that was an idle hope. There were practical reasons for keeping the transitional period as short as possible. The existence of two parallel tonnage measurement systems made it difficult for port authorities to assess in advance the proportion of new to existing vessels in the total number of ships that would call at their ports. If the new overall tonnage figure was higher than the existing figure, new ships would contribute more than their fair share. The shorter the transitional period for existing ships, the quicker the time would come when all ships were charged on the same basis.

Mr. DOINOV (Bulgaria) endorsed the views expressed by the previous speaker. A certain period was necessary to enable owners and others to prepare for the implementation of the new system to existing ships. He therefore proposed that the square brackets should be replaced by the word "five".

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Mr. PROSSER (UK) said that his delegation had always thought that the date on which the new Convention should begin to apply to existing ships was a very vital question. The negotiation of a simpler and improved tonnage measurement system had only been possible on the understanding that the owners of existing vessels would have adequate time in which to prepare for the changeover. The stipulation of an adequate period would be conducive to the economic welfare of the shipping industry. On the other hand, the interests of due-charging authorities had to be considered, as the Observer for the International Association of Ports and Harbours had pointed out. The United Kingdom had always thought, and continued to think that a fifteen-year transitional period would be appropriate; however, in the light of the decision which the Committee had taken that the new Convention should come into force twenty-four months after the date specified in Article 17(1), and bearing in mind that that date would be some time after the date on which the Convention was opened for signature, the United Kingdom would be satisfied with a transitional period of twelve years. He therefore proposed that the square brackets be replaced by the word "twelve".

Mr. WIE (Norway) said that a fairly long period was necessary. He therefore supported the Greek proposal.

Mr. MUHEIM (Switzerland) said that, in the interests of due-charging authorities, the co-existence of two tonnage measurement systems for too long a period ought to be avoided. His delegation therefore supported the Bulgarian proposal.

Mr. GLUKHOV (USSR) said that his delegation endorsed the views expressed by the Observer for the International Association of Ports and Harbours. It was therefore in favour of the Bulgarian proposal.

Mr. QUARTEY (Ghana) said that the Conference had laid considerable emphasis on the need to avoid placing any parties to the shipping industry in economic difficulties. In pursuance of that principle, it was trying to evolve a new tonnage measurement system which would result in tonnages as close as possible to the existing tonnages. In addition, the Committee had, in Article 3(2)(c) given owners an option to request that the new Convention be applied to existing ships. The purpose of those moves was to reduce the number of ships which would ultimately be involved in economic difficulties when the changeover occurred. Those factors should be taken into consideration in deciding on the length of the transitional period.

Mr. MacGILLIVRAY (Canada) said that particular attention should be paid to the problems of due-charging authorities. His delegation was in favour of the shortest possible period during which the two systems would operate side by side. It preferred the Bulgarian proposal to the United Kingdom suggestion.

Mr. GERDES (Netherlands) said that the Committee should bear in mind that the new Convention would include several provisions which had been introduced in order to guarantee the economic future of many existing ships. His delegation was therefore opposed to any stipulation which would entail a change of tonnage detrimental to their interests. Consequently, it supported the Greek proposal.

Mr. MILEWSKI (Poland) supported the Bulgarian proposal.

Mr. MARINI (Italy) supported the United Kingdom proposal.

Mr. MURPHY (USA) said that he was in favour of a five-year period as being the most equitable solution in the face of conflicting interests. His delegation continued to think that if the new system of measurement were as close as possible to the existing one, it should be applied to existing ships within

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a relatively short period. Such a provision would also be more fair for port authorities and those responsible for determining dues.

Mr. DARAM (France) withdrew his proposal in favour of that made by the United Kingdom.

Mr. HINZ (Federal Republic of Germany) said that in that case he would support the United Kingdom proposal.

The CHAIRMAN ruled the discussion closed, and put to the vote the Greek proposal that the figure "twenty-five" be inserted in square brackets in Article 3, paragraph (2)(d).

The proposal was rejected by 17 votes to 6.

The Bulgarian proposal to insert the figure "five" was rejected by 18 votes to 10.

The United Kingdom proposal to insert the figure "twelve" was approved by 25 votes to none.

Article 3 was approved as amended.

Recommendation on uses of gross and net tonnages

The CHAIRMAN invited the Committee to consider the recommendation on uses of gross and net tonnages submitted by the Drafting Committee (TM/CONF/C.3/1, Annex, Page 17).

Mr. GERDES (Netherlands) proposed the deletion of the words "relating to the overall tonnage or commercial capacity of merchant fleets", in the first sentence, as they were unnecessary.

Mr. MARINI (Italy) said he could support the amendment; but the title and text would then have to be modified so as to refer solely to gross tonnages, otherwise the wording would be ambiguous.

Mr. HINZ (Federal Republic of Germany) said that the Netherlands amendment evaded the issue. The text under consideration was much less stringent than the one originally discussed, and if retained at all should at least be explicit. The wording in the second square bracket should be "useful capacity" so as to conform to that approved for paragraph (5) in Article 2 containing the definitions.

Mr. PROSSER (UK) said that he could support the Netherlands amendment or the wording suggested by the Drafting Committee, except that the word "useful" was not very satisfactory. The word "functional" would have been better.

Mr. HINZ (Federal Republic of Germany) and Mr. NICHOLSON (Australia) agreed that the word "functional" was preferable.

Mr. MURPHY (USA) proposed that the wording should follow that approved in Article 2, paragraphs (4) and (5). To the best of his recollection, the General Committee had agreed on the term "useful capacity" in the latter paragraph.

Mr. CONTOGEOORGIS (Greece) considered that the term "earning" was preferable to "useful" because there were spaces in ships other than cargo and passengers spaces which were not taken into account for purposes of calculating net tonnage.

Mr. QUARTEY (Ghana) said that the word "useful" was inappropriate in the context and should be replaced by the word "earning" or "operational".

Mr. GERDES (Netherlands) agreed with the United States representative.

The CHAIRMAN put to the vote the United States proposal that the same wording be used in the first sentence of the recommendation as that used in Article 2, paragraphs (4) and (5).

The proposal was approved by 29 votes to none.

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The CHAIRMAN put to the vote the proposal by several delegations that the decision to insert the word "useful" in Article 2, paragraph (5) be reconsidered.

The proposal was rejected, 13 votes being cast in favour and 13 against.

Mr. KASBEKAR (India) proposed the substitution of the word "ships" for the word "fleets" at the end of the first sentence in the recommendation.

Mr. MARINI (Italy) supported the amendment.

The amendment was approved.

Mr. MADIGAN (UK), Chairman of the Drafting Committee, said that the words "of ships" should be inserted at the end of the title of the International Convention on Tonnage Measurement. They had been omitted by mistake.

TM/CONF/C.3/1 as a whole was approved, as amended.

Mr. NADEINSKI (Committee Secretary), referring to the Technical Committee's paper (TM/CONF/C.2/WP.41), concerning Regulations 5 and 8, said that the General Committee might postpone consideration of Regulation 8 and refer the Technical Committee's suggested text direct to the Drafting Committee. The text could then be reviewed on 18 June when all the Regulations were being examined.

It was so decided.

Danish proposal

Mr. BACHE (Denmark) said that his delegation wished to submit for the Committee's consideration a proposal similar to one put forward by the French delegation recommending that Administrations, when issuing tonnage certificates, should

indicate what the new tonnage would be when the system became applicable. In that way, port authorities would obtain comparable data for judging the practical effects that the new system would have for different types of ships.

Mr. CONTOGEOORGIS (Greece) pointed out that the matter had been discussed by the Technical Committee at the end of the previous week, and an overwhelming majority had pronounced in favour of one figure only being stated on the Certificate.

Mr. DARAM (France) supported the Danish proposal: such a clause was necessary for comparative purposes and in order to establish whether a dual system of port dues would be necessary for new ships on the one hand and existing ships on the other.

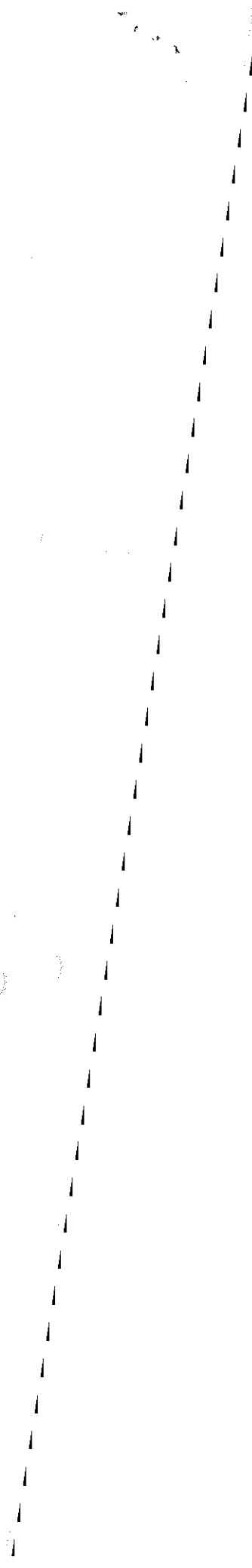
The CHAIRMAN said that the text of the Danish proposal would be circulated the following day and could be discussed on 18 June.

It was so decided.

The meeting rose at 5.45 p.m.

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TM/CONF/C.1/SR.14
25 November 1969

Original: FRENCH

IMCO

INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE FOURTEENTH MEETING

held at Church House, Westminster, London, S.W.1,
on Tuesday, 17 June 1969, at 10 a.m.

Chairman:	Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman:	Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary:	Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 & Corr.1.

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(a) Draft Recommendation on the uniform interpretation of definition of terms.	
(b) Draft Recommendation on adaptation of the Convention.	

AGENDA ITEM 5 - EXAMINATION OF THE DRAFT TEXT OF THE FINAL
ACT OF THE CONFERENCE (TM/CONF/C.3/2)

TM/CONF/C.3/2

Paragraph 1

Mr. GERDES (Netherlands) thought the expression "maritime transport" somewhat restrictive. The Convention would also cover ships such as fishing vessels. Would it not be better to speak of "shipping industries"?

Baron de GERLACHE de GOMERY (Belgium) supported that proposal.

Mr. PROSSER (UK) said that he did not object to the amendment suggested by the representative of the Netherlands, but felt that the term "maritime transport" was more general than "shipping industries".

Mr. GERDES (Netherlands) suggested the term "maritime activities".

Mr. NADEINSKI (Committee Secretary) reminded the Committee that the Final Act was to be prepared in four languages. It would be advisable for the French-speaking, Spanish-speaking and Russian-speaking representatives to reflect on the best way of translating the expressions proposed.

Mr. BIEULE (Argentina) was in favour of the expression "actividad maritima".

Mr. DARAM (France) remarked that the proposal by the Netherlands representative would give rise to drafting difficulties. He further pointed out that the movements of fishing vessels hardly came within the definition of "international voyages" given in Article 2 of the Convention.

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Mr. HINZ (Federal Republic of Germany) considered that the expression "shipping industries" placed too much stress on the economic aspect of the question, and that the word "activity" was too general. He preferred "maritime transport", an expression which rendered the desired meaning fairly well and was in current use in IMCO conventions.

Mr. GLUKHOV (USSR) was in favour of retaining the existing text.

Mr. GERDES (Netherlands), replying to Mr. Daran, said that fishing vessels sometimes made voyages which came within the definition of "international voyages". Moreover, the Convention was important in relation to port activities which were not exactly covered by the term "maritime transport".

Mr. BARDARSON (Iceland) said he preferred the original wording. Even fishing vessels when on international voyages were engaged in maritime transport, carrying fish from one country to another.

The amendment proposed by the Netherlands representative was rejected by 22 votes to 7.

Paragraphs 2 - 11

Approved with no objections.

Paragraph 12

Mr. DARAM (France) thought that paragraph should give the subjects of the recommendations.

The CHAIRMAN observed that the corresponding paragraph in the Final Act of the Convention on Load Lines did not include any list of recommendations. They were, however, listed in the 1962 International Convention on the Prevention of Pollution of the Sea by Oil.

Mr. DARAM (France) pointed out that such a list appeared also in the Final Act of the 1965 Convention on Facilitation of International Maritime Traffic.

Mr. BACHE (Denmark) supported the French delegation's proposal.

Mr. PROSSER (UK) said that, on that point, which he considered of minor importance, he would prefer to adopt the view taken, doubtless with full knowledge of the facts, by the Drafting Committee.

The French proposal was approved by 5 votes to 1.

The CHAIRMAN thought the Committee might leave it to Mr. Nadeinski to prepare a text which would meet the wishes of the French delegation.

It was so decided.

Paragraph 13 and the final clauses

Paragraph 13 and the final clauses were approved without objection.

The draft Final Act, as a whole and as amended, was approved.

AGENDA ITEM 6 - ANY OTHER MATTERS REFERRED TO THE COMMITTEE
(continued):

(a) DRAFT RECOMMENDATION ON THE UNIFORM
INTERPRETATION OF DEFINITION OF TERMS
(TM/CONF/C.3/3)

(b) DRAFT RECOMMENDATION ON ADAPTATION OF THE
CONVENTION (TM/CONF/C.1/WP.16)

TM/CONF/C.3/3

Mr. NICHOLSON (Australia), supported by Mr. KASBEKAR (India) said he feared that it was not clear from the text that the International Convention on Tonnage Measurement was included amongst the Conventions referred to in the penultimate line.

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Mr. PROSSER (UK), supported by Mr. MacGILLIVRAY (Canada) said that, in his view, the text was in no way ambiguous. The expression "such conventions" covered the Convention on Tonnage Measurement just as it did "other conventions".

Mr. NICHOLSON (Australia) said he was satisfied with that explanation.

The draft recommendation was approved without objection.

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Mr. BACHE (Denmark), commenting on his delegation's draft recommendation on the Adaptation of the Convention, said that it was intended to facilitate the application of the Convention by enabling the authorities responsible for taxation, during the transitional period, to gain a better understanding of the new system and to adjust their charges in accordance with the information given in the certificates, which would reveal the divergencies - at times considerable - between the old and the new tonnage figures.

Mr. KASBEKAR (India) feared that the entry of two different tonnage values in the same certificate might prove to be somewhat confusing for the port authorities and be to the detriment of owners of existing ships.

Mr. DARAM (France) supported the Danish proposal. The entry of two sets of tonnages on the certificate would make it possible to adapt charges during the transitional period, and to avoid penalizing new ships. It was an equitable measure which would be to the advantage both of port authorities and of the shipping industry.

Mr. PROSSER (UK) was inclined to agree with the representative of India. The effect of the Danish proposal would, in fact, be to apply to existing ships a measure which the Technical Committee had rejected for new ships (TM/CONF/C.2/WP.41, paragraph 8). That measure would be a source of needless confusion and complications.

Mr. CONTOGEOORGIS (Greece), Mr. GLUKHOV (USSR), Mr. SUZUKI (Japan), Mr. FILA (Poland) and Mr. MARINI (Italy) concurred in that view.

Mr. HINZ (Federal Republic of Germany) said that he also failed to see the purpose of the Danish proposal, unless it was to inform port authorities of the results that would follow from the application of the new Regulations. If they wished to obtain such information, those authorities would do better to enquire of their tonnage measurement administrative departments.

Mr. BACHE (Denmark) thought nevertheless that his proposal would provide a useful instrument of comparison. The fact that two sets of tonnage measurements were entered would show everyone concerned that the purpose of the Convention was indeed to introduce a formula giving results as close as possible to existing values. The confusion to which various speakers had referred was taken care of by the stipulation in the draft recommendation that the information on new tonnages should be clearly separated from the rest of the certificate - e.g. in a separate "box" with a title warning that the tonnages were not yet in force.

Mr. OMAR (United Arab Republic) supported the Danish proposal, which should lighten the task of port authorities.

Mr. DARAM (France) did not think there was any real danger of confusion. Furthermore, he would remind the United Kingdom representative that the decision of the Technical Committee did not bind the General Committee, the latter being both competent and sovereign.

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Mr. WIE (Norway) said he understood the considerations which prompted the representative of Denmark. Nevertheless, he considered that it was sufficient to enter only one set of tonnages on the certificate. In that way difficulties such as had been encountered in implementing the tonnage mark system would be obviated.

Mr. KLEINBLOESEM (Netherlands) unreservedly supported the Danish proposal. He drew the attention of the representative of the Federal Republic of Germany to the fact that every port received ships of all nationalities, and that it would be pointless for port authorities to ask their Administrations for information relating to ships flying the flags of other States. He also reminded the Committee of the comment made in the Technical Committee by the Director of the port of Bordeaux, to the effect that the port authorities would protect their own interests by applying higher rates if they considered that the particulars supplied to them were insufficient.

Mr. QUARTEY (Ghana) said he failed to grasp the purport of the Danish proposal and did not see why shipowners should be compelled to bear the additional costs entailed by a second measurement.

The Danish proposal was rejected by 23 votes to 8.

The meeting rose at 11.05 a.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969
General Committee

SUMMARY RECORD OF THE FIFTEENTH MEETING

held at Church House, Westminster, London, S.W.1,
on Wednesday, 18 June 1969, at 9.45 a.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 & Corr.1.

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AGENDA ITEM 6 - ANY OTHER MATTERS REFERRED TO THE COMMITTEE
(concluded): RECOMMENDATION ON ACCEPTANCE
OF THE CONVENTION (TM/CONF/6)

The CHAIRMAN drew the Committee's attention to the text of a Recommendation on the acceptance of the prospective Convention (TM/CONF/6, page 129). He said that the text should be corrected by the addition of the words "of ships" after the word "measurement".

Mr. de JONG (Netherlands) said that Governments which became Parties to the prospective Convention could not be expected to denounce prior treaties, conventions and arrangements in respect of existing ships. The Oslo Convention was an example of an instrument which could not be denounced as long as there were existing ships.

Mr. OSMAN (United Arab Republic) said that the proposed Recommendation affected a convention and arrangements concerning the tonnage of ships passing through the Suez Canal. His country could not denounce that convention or the arrangements.

Mr. MURPHY (USA) agreed that the part of the proposed Recommendation objected to by the previous speakers could be a source of difficulty. He thought the question of prior treaties was adequately covered by Article 14 of the prospective Convention. His delegation therefore proposed that the Recommendation should end at the word "possible" and that the remainder of the text should be deleted.

Mr. PROSSER (UK) supported the United States proposal.

Mr. BACHE (Denmark) said that the provisions of Article 14 would safeguard the status of existing ships.

The CHAIRMAN put the United States proposal to the vote.

The proposal was adopted by 26 votes to none.

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The CHAIRMAN said that the full text of the Recommendation, as corrected and amended, read:

"The Conference recommends that Governments should accept the International Convention on Tonnage Measurement of Ships, 1969, at as early a date as possible".

The text of the Recommendation, as read out by the Chairman, was approved.

The CHAIRMAN said that the Committee should approve a title for the Recommendation. It had been suggested that the title should read: "Acceptance of the International Convention on Tonnage Measurement of Ships, 1969".

The title read out by the Chairman was approved.

AGENDA ITEM 4 - EXAMINATION OF THE TEXT OF REGULATIONS AS WELL AS RECOMMENDATIONS AND RESOLUTIONS PREPARED BY THE TECHNICAL COMMITTEE (TM/CONF/C.3/4; TM/CONF/C.1/7).

Text of Regulations (TM/CONF/C.3/4)

The CHAIRMAN invited the Committee to consider the text approved by the Drafting Committee. He reminded the Committee that its terms of reference precluded the discussion of anything but the legal and administrative aspects of the Regulations.

Mr. MADJGAN (UK), Chairman of the Drafting Committee, enumerated various editorial changes which he thought should be made in the text of the Regulations. Firstly, throughout the Regulations, Arabic numerals should replace Roman numerals for the numbering of the Appendices.

Secondly, several changes were necessary in Regulation 2: in the seventh line of paragraph (4)(b)(i)(1), the words "the line of the opening of the space" should be added after the

word "at" and in the eighth line the letter "s" should be deleted from the word "Figures"; in the fourth line of paragraph (4)(b)(i)(2), the word "then" should be deleted; in paragraph (4)(b)(ii), the bracket needed to be closed in the last line; in paragraph (4)(b)(iii), a comma was required after the word "only" in the sixth line; and in paragraph (6) the word "enclosed" should be inserted before the word "spaces" in the second line. Thirdly, in Regulation 4(1)(iii), the word "or" needed to be inserted between the opening of the bracket and the word "as" in the line relating to the coefficient K_2 . Lastly, in Appendix 1, Figure 2 was to be headed "Reg.2(4)(b)(i)(2)".

The changes enumerated by the Chairman of the Drafting Committee were approved.

The CHAIRMAN invited the Committee to consider the modified text regulation by regulation.

Regulation 1

Approved without comment.

Regulation 2

Paragraphs (1)-(3)

Approved without comment.

Paragraph (4)

Sub-paragraph (a)

Mr. OVERGAAUW (Netherlands) proposed that the words "or by fixed or portable partitions or bulkheads" in the first sentence should be placed after the word "coverings" instead of at the end of the sentence.

Mr. CONTOGEOGIS (Greece) supported the Netherlands proposal.

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Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, said that the change proposed by the Netherlands did not result in a thoroughly satisfactory text. He proposed that the first sentence of the sub-paragraph should read: "Enclosed spaces are all those spaces which are bounded by the ship's hull, by fixed or portable partitions or bulkheads or by decks or coverings other than permanent or moveable awnings".

Mr. PROHASKA (Denmark) pointed out that the wording proposed by Mr. Spinelli would define enclosed spaces in undimensional terms, which was an impossibility.

Mr. OVERGAAUW (Netherlands) said that the objection raised by the Danish representative could be overcome by replacing the third "or" in Mr. Spinelli's wording by a comma. If that was done, his delegation would withdraw its proposal. He suggested that Mr. Spinelli's proposal be amended in that way.

It was so decided.

Mr. OVERGAAUW (Netherlands) withdrew his delegation's proposal.

The CHAIRMAN put Mr. Spinelli's proposal, as amended, to the vote.

The proposal was adopted by 29 votes to none.

Sub-paragraph (a), as amended, was approved.

Sub-paragraph (b)

Introductory wording

Mr. GLUKHOV (USSR) said that in the third line of the introductory wording, the words "and shall not therefore be included" had been omitted after the words "as enclosed". He thought the omission was due to a typing error and proposed that the words in question should be reinstated.

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, supported the Soviet proposal.

The Soviet proposal was approved.

A discussion took place between Mr. de JONG (Netherlands), Mr. MURPHY (USA), Mr. HINZ (Federal Republic of Germany), Mr. PROHASKA (Denmark) and Mr. GUPTA (India), in which considerable doubt was expressed as to whether the wording of sub-paragraph (b) correctly reflected the balance which the Technical Committee had intended to establish between the various conditions stipulated in the introductory wording.

Mr. ROCQUEMONT (France) said that it had been the Technical Committee's intention that the conditions introduced by the words "unless" and "provided" should be parallel conditions. He therefore proposed that the words "unless they are" be replaced by the words "provided that they are not".

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, and Mr. de JONG (Netherlands) supported the French proposal.

The CHAIRMAN put the French proposal to the vote.

The proposal was adopted by 28 votes to none.

Mr. ROCQUEMONT (France) observed that the text approved by the Committee for the introductory wording to (4)(b), was still not completely in line with the wording used in the figures in Appendix 1 and in the draft certificate itself. His delegation therefore intended to submit a new draft of that paragraph for consideration by the Conference.

Sub-subparagraph (i)(1)

Mr. GLUKHOV (USSR) proposed that the first reference in parenthesis to Figure I in Appendix 1, at the end of the first sentence should be deleted, and the second sentence be placed immediately after the first to form one whole paragraph.

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Mr. MURPHY (USA) supported the proposal.

Sub-subparagraph (i)(1), as amended, was approved.

Sub-subparagraph (i)(2)

Approved without comment.

Sub-subparagraph (i)(3)

Mr. HABACHI (Observer for the Suez Canal Authority) drew attention to Figure 6 (Appendix 1), to which reference was made in that paragraph. Referring to the construction indicated in the middle of the deck, he pointed out that, according to the Suez Canal regulations, a hatch could not invalidate the open space unless it was higher than half the height of the superstructure to the side, wherever it was placed within that space. Since the normal height for a hatch was 3 feet 6 inches, he considered that inclusion of the word 'hatch' in Figure 6 was misleading and suggested that the central construction in the diagram should be labelled "Erection" only.

With regard to Annex II (page 15 of TM/CONF/C.3/4), he noted that although the Technical Committee had originally intended that the date of construction of the ship be recorded in the draft certificate, that reference had not finally been made in the proposed text. Since the data provided, in certain cases, the only means of distinguishing between two vessels of the same name, he suggested that it should be re-inserted in the certificate.

Mr. WILSON (UK), replying to the first point raised by Mr. Habachi, explained that Figure 6 of Appendix 1 was intended to illustrate the case where a hatch or erection was within a distance less than half the breadth of any adjacent side-to-side erection. Such a construction would, he believed, be taken to 'close' the entrance to the superstructure and thus invalidate

the open space. His delegation would not object to deletion of the words "Hatch or" in Figure 6, provided that the text of paragraph (4)(6)(i)(3) was amended in some way to make it clear that the hatch could not be in line with the opening in the side-to-side erection nor partially within the side-to-side erection.

The CHAIRMAN ruled that since there was no formal proposal on the issue, there could be no further discussion.

Sub-subparagraph (i)(3) was approved without change.

Sub-subparagraph (ii)

Mr. GRUNER (Finland) observed that in the seventh line, the phrase "the open space between the top of the rails" was geometrically imprecise and proposed that "open space" be changed to "vertical distance".

Sub-subparagraph (ii), thus amended, was approved.

Sub-paragraphs (iii) and (iv)

Approved without comment.

Sub-paragraph (v)

Mr. de JONG (Netherlands) pointed out that the wording was ambiguous. He understood that the sub-paragraph was intended to apply to corridors, but it appeared from the text that a large opening or recess of any width could invalidate the space. He therefore suggested that a limitation of 1.5 metres should be fixed for the width of the recess, and proposed the following opening to the paragraph "A recess with a width not greater than 1.5 metres in the bulkhead of an erection... etc."

The matter was left for discussion by the Conference.

Sub-paragraph (v) was approved without change.

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Paragraph (5)

Approved without comment.

Paragraph (6)

Mr. PROHASKA (Denmark) introduced TM/CONF/C.1/7 and explained that his delegation had submitted the two definitions of cargo spaces contained therein to draw attention to the fact that ambiguities could occur in the interpretation of paragraph (6). He proposed, firstly, that the last part of the first sentence, as modified, after "discharged from the ship", should be deleted, because the reference to "spaces included in the computation of gross tonnage" was superfluous.

His delegation nevertheless preferred that the whole of the paragraph be redrafted to take account of spaces where cargo was not stowed, but was handled or treated in some way; such spaces might be of considerable size and importance in the case of such vessels as refrigerated ships, tankers, fish factory ships and whalers, cattle ships, car ferries and ore carriers.

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, observed that the problem raised by the Danish delegation had been discussed at length both in the Technical Committee and its Working Group. The changes proposed undoubtedly constituted a matter of substance. Surely the Danish representative's objection to the Drafting Committee's text was exaggerated since, as far as passenger ships were concerned, the result of his amendment would be that the first term in the net tonnage formula would be 0.25 GT.

Speaking on behalf of his delegation, he stated that the Drafting Committee's text should be left unchanged.

Mr. PRIVALOV (USSR) said that although he understood the Danish representative's desire to devise a more precise definition of cargo spaces his suggestion would lead to grave complications.

For example, supposing Alternative I were chosen, owners of refrigerated ships might choose to install cooler-ducts between decks which would have an adverse effect on construction methods. Similarly, he feared that practical problems would arise over the inclusion of a reference to partitions, machinery and apparatus for the treatment of cargo. Cases when such apparatus was placed in the hold would be rare because of the effect that would have on cargo description.

Again, should Alternative I be approved, problems would arise in respect of fish factory ships and ore carriers, because of the difficulty of establishing a satisfactory definition of factory decks in fish factory ships where fish would be processed for carriage as cargo, or conveyors in ore carriers. Such spaces could not be regarded as holds. It was also difficult to achieve a satisfactory definition of machinery and apparatus, as experience had demonstrated in the application of existing regulations.

The Conference had rightly aimed at simplicity in the wording of the Regulations, and the Drafting Committee's text for paragraph (6) was satisfactory for the time being. At a later stage, improvements or more detailed clauses could be considered, as had been done in the case of the Safety Convention and the 1966 International Convention on Load Lines.

The Danish suggestions were not comprehensive enough to cover all contingencies, and if approved would destroy the agreement already reached on some extremely intricate problems.

He had no objection to the addition at the end of paragraph (6) of the words "by the letters CS".

Mr. ROCQUEMONT (France) said that the Danish representative's paper (TM/CONF/C.1/7) had confirmed his doubts about paragraph (6). The definition of cargo spaces in the Drafting Committee's text

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was somewhat unsatisfactory, and it was desirable to devise something more precise. Admittedly, the Drafting Committee had followed the Technical Committee's instructions, but the text ought to be expanded by examples that should not be limitative, so as to illustrate what was meant. The addition of the words "by the letters CS" at the end of the paragraph was acceptable provided that the letters chosen were appropriate in both English and French.

Mr. MURPHY (USA) said that the main problems raised in the Danish paper had been exhaustively discussed in the Technical Committee and its Working Group, and were covered in Regulation 6. Accordingly, he agreed with the Technical Committee's Chairman that the suggested changes were of a substantive nature. The Drafting Committee's text should be approved as it stood.

Mr. OVERGAAUW (Netherlands) supported the Danish representative's suggestions to amplify paragraph (6), as that would make for greater clarity and render Regulation 6 easier to apply.

Mr. WILSON (UK) endorsed the Soviet representative's statement. Acceptance of the Danish suggestions would require re-consideration of the K_2 factor in the net tonnage formula which had been based on moulded volumes. It was extremely difficult to arrive at a satisfactory definition of cargo spaces, and the result achieved after long discussion was the best in the circumstances. The Danish suggestion would greatly complicate matters.

Mr. RUSSEL (South Africa) said that he was in favour of greater precision in the text of paragraph (6). It gave no indication as to how bilges, tank tops or open floors should be treated for purposes of measurement.

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Mr. PROHASKA (Denmark) reiterated that unless the words "provided that such spaces have been included in the computation of gross tonnage" were deleted the Drafting Committee's text could only create confusion, since enclosed spaces were always included in computing gross tonnage.

As for the permanent marking, he proposed that the letters CM be used, since they would be appropriate both in English and in French.

Mr. FLEISCHER (Norway) agreed with the Technical Committee's Chairman: the Drafting Committee's text was satisfactory as it stood. A perusal of Regulation 6 would indicate how the proviso at the end of paragraph (6) was to be interpreted, i.e. it was intended to cover containers.

Mr. ERIKSSON (Sweden) said that the text of paragraph (6) and of Regulation 6 might be clear to members of the Technical and Drafting Committees, but the meaning might not necessarily be clear to ship surveyors at some future date. Perhaps a brief explanatory memorandum might be prepared summarizing the foregoing discussion.

Mr. PROHASKA (Denmark) observed that in any event empty containers could not be regarded as enclosed spaces. He withdrew the two alternative texts put forward for discussion in his paper (TM/CONF/C.1/7) for purposes of achieving a clearer definition. However, he maintained his proposal to delete the proviso at the end of the first sentence in the Drafting Committee's text and to add the words "by the letters CM" at the end of the second sentence.

Mr. NOZIGLIA (Argentina) said that a point should be taken into account: such cargoes as fodder were consumed but not discharged from the ship.

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Mr. ROCQUEMONT (France) emphasized the need to retain the proviso in the first sentence of the Drafting Committee's text. It would then be clear that containers on deck had not been overlooked.

Mr. PROHASKA (Denmark) said that he fully agreed with what had been said by the Argentine representative; the words "which is to be discharged from the ship" were totally superfluous and should be dropped.

The CHAIRMAN pointed out that there seemed to be no support for the Danish representative's modified amendment. That being so, he presumed that the General Committee wished to approve the Drafting Committee's text unchanged, except for the insertion of the word "enclosed" before the words "spaces appropriated" in the first sentence, which had been omitted from the text in error.

It was so decided.

Paragraph (6) was approved with that amendment.

Paragraph (7)

Mr. QUARTEY (Ghana) questioned whether the word "conditions" should be used in the plural.

Mr. NADEINSKI (Committee Secretary) explained that exactly the same wording had been used in Regulation 3, paragraph (12) of the 1966 International Convention on Load Lines.

Paragraph (7) was approved without change.

Regulation 2, as a whole and as amended, was approved.

Regulation 3

Regulation 3 was approved without change.

The meeting rose at 12.25 p.m.



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE SIXTEENTH MEETING
held at Church House, Westminster, London, S.W.1,
on Wednesday, 18 June, 1969, at 2.40 p.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEINSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 and Corr.1.

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AGENDA ITEM 4 - EXAMINATION OF THE TEXT OF REGULATIONS AS
WELL AS RECOMMENDATIONS AND RESOLUTIONS
PREPARED BY THE TECHNICAL COMMITTEE
(TM/CONF/C.3/4) (concluded)

Regulation 5

Paragraphs (1) and (2)

Approved without comment.

Paragraph (3)

Mr. MADIGAN (UK) said his delegation considered the procedure outlined in paragraph (3) (to which the Drafting Committee had drawn attention on page 1 of its report), to be excessively cumbersome. In their view, it would be more satisfactory to omit the provision for the issue of an "intermediate" Certificate so that there would be no change of certificate until the expiry of the twelve-month period, when a new Certificate would be issued bearing the actual gross and net tonnages. The United Kingdom delegation therefore proposed the deletion of the words "a new International Tonnage Certificate (1969) shall be issued, but the value of the net tonnage shown in that Certificate shall be identical with that shown in the previous Certificate" in lines 8 - 11 of paragraph (3), and their replacement by a new sentence reading as follows: "The net tonnage so determined shall not be incorporated in a new International Tonnage Certificate (1969) for that ship until twelve months ...". The word "previous" in line 12 of the same paragraph would then be replaced by the word "current".

Mr. GUPTA (India) and Mr. GLUKHOV (USSR) supported that proposal.

Mr. MADIGAN (UK), replying to Mr. ERIKSSON (Sweden) said that the proposed amendment would apply only to net tonnage. A new Certificate would have to be issued if the gross tonnage was altered.

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Mr. ROCQUEMONT (France) enquired what Certificate the ship would carry during the interim period under the United Kingdom proposal - the old or the new.

Mr. MADIGAN (UK) explained that under his delegation's proposal, the original Certificate would continue in force until the expiry of the twelve-month period. It was true that during that period the characteristics shown on page 2 of the Certificate would not correspond exactly with the net tonnage indicated on page 1, but the same objection could be raised in regard to the intermediate Certificate proposed in the original document.

Mr. MUENCH (Israel) suggested that the intention of the United Kingdom proposal could be made clearer by modifying the amendment to read: "A new International Tonnage Certificate (1969) incorporating the net tonnage so determined shall not be issued until twelve months ...".

Mr. ROCQUEMONT (France) agreed that the wording proposed by the representative of Israel made the proposal clear. Nevertheless, the French delegation considered that difficulties might arise during the interim period. To obviate those difficulties, it would be wise to provide a space on the original Certificate in which the Administration could indicate that the characteristics of the ship had been modified.

Mr. MADIGAN (UK) pointed out that there was already a space for remarks on page 2 of the draft Certificate; Administrations could use that space in the way suggested by Mr. Rocquemont.

Mr. CHRISTIANSEN (Norway) strongly supported the United Kingdom proposal, as amended by the representative of Israel, particularly in view of the provisions of Article 12(3), which stated that any discrepancy between the Certificate and

the actual characteristics of the ship must be reported.

Mr. MADIGAN (UK) said he could accept the amendment to his delegation's proposal suggested by the representative of Israel.

The United Kingdom proposal, as amended, was adopted.

Mr. ROCQUEMONT (France) suggested that lines 3 to 5 of paragraph (3) were superfluous, in view of the fact that draught (d) was already included in the characteristics of the ship mentioned in line 1.

Mr. MURRAY SMITH (UK) said it appeared at first glance that the French proposal might permit a passenger ship to change its draught frequently without incurring the time penalty. If that was the case, the United Kingdom delegation would oppose the suggestion.

Mr. PROHASKA (Denmark) considered that the apprehensions expressed by Mr. Murray Smith were unjustified. The Danish delegation supported the French proposal.

Mr. E. SPINELLI (Italy), Chairman of the Technical Committee, said that the Technical Committee had thought it advisable to underline the point concerning a change of trade in the case of passenger ships. He could see no objection to the retention of the phrase in question.

Mr. ROCQUEMONT (France) withdrew his proposal.

Paragraph (3), as amended was approved.

Regulation 5, as a whole and as amended, was approved.

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Regulation 6.

Paragraph (1)

Mr. PROHASKA (Denmark) said he considered it illogical that the volume of a wooden ship should be calculated to the outer surface of the shell, whereas the volume of a metal ship was to be calculated to the inner side of the shell. He wondered whether that provision had not in fact been intended to apply at a time when displacement was envisaged as the criterion for net tonnage.

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, suggested that the paragraph should be amended to allow for the measurement of cargo space to the inner surface of the ship in the case of wooden ships.

Mr. MURRAY SMITH (UK) agreed with the previous speaker.

Mr. ERIKSSON (Sweden) said it was his impression that the Technical Committee had agreed that moulded volume should be used in the case of cargo space as well as in the case of total volume.

The CHAIRMAN enquired whether the Committee wished to reconsider the substance of the paragraph.

It was decided, by a large majority, to approve paragraph (1) without change.

Paragraphs (2) and (3)

Approved without comment.

Regulation 6 was approved.

Regulation 7

Approved without comment.

Appendix 1

Approved without comment.

Appendix 2

Mr. ROCQUEMONT (France) pointed out that in the French version, the decimal point should be replaced by a comma throughout.

The CHAIRMAN said that that would be done.

Appendix 2 was approved, as modified in the French version.

Annex II (Draft Tonnage Certificate)

Mr. MADIGAN (UK), Chairman of the Drafting Committee, drew attention to the note on page 2 of TM/CONF/C.3/4. He explained that the Drafting Committee had been unable to find any cogent reason for requiring the insertion of the date on which the keel had been laid or on which alterations had been carried out.

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, said that a majority of the members of the working group which had prepared the draft Certificate had been in favour of including a space for the insertion of that date.

Mr. ROCQUEMONT (France) considered that the Drafting Committee was not empowered to make a substantive change of that nature.

The CHAIRMAN said he personally agreed with the previous speaker.

Mr. MADIGAN (UK), Chairman of the Drafting Committee, said that, as it appeared to be the view of the General Committee that a matter of substance was involved, he would propose the restoration of the date "box".

It was so decided.

Mr. BACHE (Denmark) proposed that some means should be found of indicating that page 2 also formed part of the document.

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Mr. GUPTA (India), supporting the proposal, suggested that a note in brackets should be inserted on page 1, after the headings "GROSS TONNAGE" and "NET TONNAGE", to the effect that details would be found on the following page.

Mr. OMAR (United Arab Republic) pointed out that page 2 did not contain the full information required for calculating gross and net tonnage: the Technical Committee had decided that the location, but not the volume, of the spaces should be indicated.

Mr. NICHOLSON (Australia) said that he would prefer the form to be left as it was. Australia, for instance, might want to print the whole certificate on one side of the page.

Mr. MILEWSKI (Poland) agreed with the Australian representative.

During a discussion in which a number of suggestions were made, Mr. DARAM (France) said that a reference to page 2 was needed on page 1 because signature of the certificate involved responsibility for the information contained in the certificate.

Mr. CHRISTIANSEN (Norway) said that the certificate was merely a model; its presentation was a matter for the countries using it.

The CHAIRMAN put to the vote the proposal to insert on page 1 a reference to page 2.

The proposal was rejected by 15 votes to 8.

Mr. HINZ (Federal Republic of Germany) questioned the need for two signatures on the certificate. The second signature seemed meaningless.

The CHAIRMAN explained that the certificate had been prepared on the model of the International Load Line Certificate (page 128 of the 1966 Load Line Convention).

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Mr. DARAM (France) agreed with the representative of the Federal Republic of Germany, and proposed the deletion of the last three lines on page 1.

Mr. WIE (Norway) pointed out that there would not necessarily be two signatures, in view of the words: "and/or (seal of issuing authority)" under the space for the first signature.

Mr. OVERGAAUW (Netherlands) and Mr. DARAM (France) concurred.

Mr. GUPTA (India) suggested that the second signature should be retained, with a suitable note to provide for the case of signature by an official of a government other than the one named.

Mr. NICHOLSON (Australia) thought that that might give rise to legal problems at a later stage.

The CHAIRMAN asked whether, in view of the comment by the Norwegian representative, the Committee accepted Annex II, with the amendments agreed upon earlier.

It was so decided.

Annex II was approved as amended.

Regulation 4

Mr. PROHASKA (Denmark) proposed the following amendments to paragraph (1): the semicolon at the end of the first sentence should be replaced by a comma; the next phrase should be amended to read: "in which formula"; and the first word on page 9 should be replaced by the words: "and in which".

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, and Mr. MUENCH (Israel) supported the amendments.

Regulation 4, thus amended, was approved.

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Regulation 8: Penalties (page 2 of TM/CONF/C.3/4)

The CHAIRMAN invited the Chairman of the Drafting Committee to state the position taken up by that Committee with regard to Regulation 8, concerning the penalties that might possibly be provided for in the event of cargoes being discovered in non-open spaces.

Mr. GLUKHOV (USSR), speaking in his capacity as Vice-Chairman of the Drafting Committee, said that, in view of the Technical Committee's feeling that a provision on the lines of Regulation 8 should be included in the Articles rather than in the Regulations, the Drafting Committee had not wished to prejudge the decision of the General Committee. The Drafting Committee's own view was that no such clause should be included either in the Regulations or in the Articles, on the ground that it might give rise to practical difficulties at the diplomatic level. However, it was not for the Drafting Committee to take a decision on that point. It was for the General Committee to state whether it wished a draft recommendation to be drawn up and, if so, whether it wished to instruct the Drafting Committee to prepare one.

Mr. MURPHY (USA) recalled his delegation's position, which was that it considered that the wording of Article 1 sufficed to give Governments the necessary weapons, and that it was not desirable to include a clause relating to penalties either in the Regulations or in the Articles.

Mr. HINZ (Federal Republic of Germany) shared the view expressed by Mr. Murphy.

The CHAIRMAN took note of the fact that there appeared to be general agreement in that sense.

Regulation 5 (Change of net tonnage) (resumed)

Mr. ROCQUEMONT (France) reminded the Committee that it had previously held in abeyance the question of the manner in which a change of net tonnage should be shown on the Tonnage Certificate.

The CHAIRMAN suggested that it might be enough if the space left blank on the tonnage certificate were used to enter the necessary particulars during the transitional period.

Mr. ROCQUEMONT (France) urged that the problem should be explicitly solved in one way or another, either by means of a footnote to page 1 of the Tonnage Certificate or preferably by the inclusion of a suitable provision in the Regulations.

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, saw no point in mentioning a reduction in net tonnage. A shipowner who was unable to use certain spaces for a given period after the tonnage certificate had been changed, was in the same situation as if he were not using his ship to its load line. In that event, there was no need for an intervention by the authorities.

Mr. ROCQUEMONT (France) thought, on the contrary, that any lack of clarity should be avoided in the case of inspection. In the absence of any mention, the condition of the ship did not correspond to the entries made on the Tonnage Certificate and that was regrettable.

Mr. L. SPINELLI (Italy), Chairman of the Technical Committee, still thought that, although it was natural to indicate a modification which entailed an increase in net tonnage, there was no need to mention one which entailed a reduction.

Mr. PROHASKA (Denmark) observed that some modifications might have the effect of increasing gross tonnage and decreasing net tonnage. In such cases the issue of a provisional certificate was essential.

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Mr. MURPHY (USA) recognized that such cases might arise, but they would be very rare. He supported Mr. Spinelli's views, and thought that no mention was required.

The CHAIRMAN noted that there was no support for the French proposal and that consequently there was no need to continue the discussion.

Mr. BACHE (Denmark) was anxious to know, before the Committee rose, whether a standing committee would be made responsible, if not for interpreting the Regulations of the Convention in course of preparation, at least for recording such difficulties of implementation as might emerge in practice and for taking action thereon. That had been done in the case of the Oslo Convention, (vide the Netherlands' comments in TM/CONF/3, page 34), and it would be useful to envisage similar provisions within the framework of IMCO. When delegations returned home and had to digest what the Committee had voted upon, many loose ends would doubtless be found which it would be natural to submit to such an international body. Mr. Bache also recalled, in that connexion, the Swedish representative's comments, during the Committee's fifteenth meeting, on a possible explanatory memorandum for the guidance of ship surveyors.

Mr. NADEINSKI (Committee Secretary) stated that, since nothing to that effect had been included either in the Articles of the Convention or in the Recommendations, no such arrangement had been made. The same question had arisen after the signature of the Load Lines Convention, and IMCO had instructed the Maritime Safety Committee to deal with any problems that might result from the implementation of that Convention. If the Convention on Tonnage Measurement so required, similar action might be taken.

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The CHAIRMAN announced that the General Committee had completed its work in the time allotted to it. He wished to express his thanks to the members of the General Committee and to IMCO.

Mr. KASBEKAR (India) expressed gratification at the efficient way in which the work had been conducted, thanks to the spirit of understanding shown by the great historic sea-going nations. He thanked the Chairman and the members of the General Committee, as well as all the delegations and IMCO, whose efficiency had been remarkable.

Mr. DUBCHAK (USSR) associated his delegation with the thanks addressed to the Chairman and to the Secretary-General of IMCO.

Mr. MURPHY (USA) added his thanks to those which had just been expressed.

The meeting rose at 5.25 p.m.