



## IMCO

### 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.