



## 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~~<sup>tugs</sup> 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.