



## 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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AGENDA ITEM 3 - CONSIDERATION AND PREPARATION OF THE DRAFT  
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.