



IMCO

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.