



IMCO

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INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT, 1969
Technical Committee

PROVISIONAL SUMMARY RECORD OF THE TWENTY-SECOND MEETING

held at Church House, Westminster, London, S.W.1,
on Friday, 13 June 1969, at 2.40 p.m.

Chairman: Mr. F. SPINELLI (Italy)
Secretary: Mr. Y. SASAMURA

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

N.B. Corrections to be incorporated in the final summary record of the meeting should be submitted in writing (two copies in French or English), preferably on the provisional summary record, to the Documents Officer, Committee Room 2 and after the Conference to the IMCO Secretariat, 22 Berners Street, London, W.1, not later than 8 July 1969.

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AGENDA ITEM 4 - CONSIDERATION AND PREPARATION OF PROPOSED
TECHNICAL REGULATIONS ON TONNAGE MEASUREMENT
AND TONNAGE CERTIFICATES (TM/CONF/6;
TM/CONF/C.2/WP.37 and WP.38; TM/CONF/C.1/WP.11
and Add.1) (continued)

International Tonnage Certificate (continued)

Mr. OLSEN (Norway) said that, although it had some sympathy with France's views, his delegation was wholly opposed to the idea of embodying two sets of figures in the tonnage certificate. Existing ships should continue to operate until expiry date. under the national tonnage certificates in force, and the owner should have the option of requesting re-measurement according to the new regulations.

The CHAIRMAN agreed that existing ships, including those of the open/closed shelter-deck type, should continue to use the national certificates, with maintenance of the privileges enjoyed under bilateral agreements. The point at issue was whether the Working Group on the Tonnage Certificate should concern itself solely with new ships or should make provision in the certificate also for existing ships that might be re-measured according to the new regulations.

Mr. FOTIADIS (Greece) said that the main obstacle to unification in tonnage measurement had been the difficulty of evolving a system that would give figures closely approximate to present tonnages. That obstacle had now been removed and the justification seemed to be slight for embodying two sets of figures in the tonnage certificate, representing the tonnages as calculated under the existing and under the new rules. Double work would be involved for the administration and, where the services of the classification societies had to be called upon, possibly double charges on the owner. He was therefore against the

idea of introducing such a complication and was likewise opposed to the suggestions that sketches and details of all calculations involved should be attached to the certificate. Since such requirements were not considered necessary in the more important matter of freeboard, he failed to see why they should be insisted on for tonnage measurement.

Mr. FILIPPOVICH (USSR) said his delegation considered that the certificate to be drafted should be intended only for new ships and that, for existing ships, the certificates in force should continue to be used. It was inconceivable that, throughout the transitional period, measurement according to both the new and the old regulations should be required for new ships, particularly since the new system was designed to give closely approximate figures. Double work of the kind was unjustifiable.

Mr. ROCQUEMONT (France) said that all were agreed that existing ships should continue to navigate under the tonnage certificate already in force.

On the second point at issue, he could appreciate the arguments adduced but was still apprehensive of the effect on relations between port authorities and ship-owners of showing for new ships only the tonnages as calculated under the new regulations; for if that were done, the port authorities would be obliged to apply the new tonnages immediately and, in the absence of adequate proof of the equity of the new system, might well be tempted to increase charges. His delegation's proposal was designed to preclude any such development by providing comparative figures for a specified period of time, thus allowing the port authorities a free decision on the date of application of the new tonnages.

Mr. SOLDA (Italy) said that his delegation subscribed to the views expressed by Norway concerning the certificate for existing ships.

As to the French proposal, he would point out that once a country had decided to ratify the Convention, it should be prepared to adhere to the new regulations laid down and not ask for perpetuation of the rules now in force.

Mr. MILCH (Israel) also endorsed the Norwegian stand.

The Committee might be interested to hear the views of the port authorities of his country regarding the matter raised by France. Their opinion was that the tonnage certificates issued to new ships should embody only the figures assigned under new regulations, for otherwise the way might be opened to abuses or misconstruction. Moreover, it was not the business of tonnage measurement authorities to provide ports with statistics; the port authorities could obtain such data for themselves.

The CHAIRMAN noted the general agreement that existing ships should continue to operate under the national tonnage certificates. With a view to advancing the work, he suggested that the Working Group on the Tonnage Certificate be instructed to proceed on the assumption that the certificate would embody one set of figures only; and that the question raised by France should be referred to the General Committee, as one possibly outside the Technical Committee's terms of reference.

Mr. MURPHY (USA) endorsed that procedure. His delegation would support the idea that the certificate for new ships should include only the tonnages deriving from the Convention. The point raised by France, being of broad import, should be referred to the General Committee; he could already foresee difficulties in reconciling the provisions of Regulation 3 with those of Article 13.

Mr. SASAMURA (Committee Secretary) informed the Committee that the General Committee had already dealt with the matter of the certificate for existing ships; hence, there was no need for a decision on that point.

Mr. VANCRAEYNEST (Belgium) said his delegation considered that new ships should certainly be issued with an international certificate according to the Convention regulations. The General Committee had decided that the regulations should apply to existing ships after the expiry of a time limit. In the interim, they would obviously have to operate under the existing certificate. To facilitate the changeover, it was thought that Governments might be invited to have measurements made under both the old and the new systems, for the information of the port authorities.

It was decided that the Working Group on Tonnage Measurement should be instructed to prepare a certificate embodying one set of figures only.

Mr. ROCQUEMONT (France) said his delegation wished to be recorded as opposing the decision just taken. On the question of competence, he considered the matter at issue to be essentially a technical one, the implications of which could be properly understood only by the members of the Technical Committee. It was noteworthy that the standard deviation found in all the exercises undertaken was of the order of 6 per cent, a magnitude obviously justifying his delegation's position.

Mr. KHABUR (USSR) pointed out the technical calculations involved in determining tonnages according to both the old and the new systems would represent a considerable amount of work. In any case, owners would probably prefer to retain the certificates in force, as a known factor in face of the unknown.

Mr. SOLDA (Italy) considered that the matter was outside the competence of the Technical Committee. Nevertheless, it had to be considered and one way out might be for the Conference to recommend that tonnages should be determined in accordance with the new regulations prior to the date of entry into force of the Convention, in order to have comparative data available.

Mr. GRUNER (Finland) pointed out that ship design would be based on the new system once the Convention came into force; and accordingly there would be no basis for obtaining comparative measurements.

The CHAIRMAN put to the vote the question whether the certificate for new ships should embody one set of tonnage figures only, calculated according to the regulations laid down in the Convention, or two sets calculated according to the old and the new rules.

There were 30 votes in favour of one set of figures only.

There were 3 votes in favour of two sets.

The CHAIRMAN said he assumed the Committee was agreeable to the question raised by France being referred to the General Committee.

It was so agreed.

Mr. HABACHI (Observer for the Suez Canal Authority) said that, in any event, ships passing through the Suez and Panama Canals would still have to carry two documents on board, as at present. Secondly, every State was legally empowered to check the documents presented, and his reason for asking for the inclusion of the detailed calculations was that his Authority wished to check the tonnages inscribed in the certificate.

Second draft of regulations for determining gross and net tonnages of ships (TM/CONF/C.2/WP.37) (continued)

Regulation 3: Gross Tonnage

The CHAIRMAN noted that it had been agreed that the ship's funnel was an enclosed space, to be included in the total volume; the case of masts, cranes, etc. could be left to individual port authorities to decide.

The wording of Regulation 3 was approved without change.

Regulation 4: Net Tonnage

Paragraph 1

The CHAIRMAN pointed out that a number of corrections would have to be made to the formula, including introduction of an N_2 term and re-definition of several of the symbols, when the Working Group had completed its task.

He recapitulated that it had been agreed that $(N + N_1 + N_2)$ equalled the total number of passengers as indicated in the ship's international certificate.

Mr. OLSEN (Denmark) suggested that, since some passenger ships operated solely in home waters and thus had only a national certificate, it would be preferable to refer to "the number of passengers as indicated in the ship's certificate".

It was so agreed.

Discussion on paragraph (1) was adjourned until the Working Group had issued a further report.

Paragraph (2)

The wording of paragraph (2) was approved without comment.

Paragraph (3)

Discussion on paragraph (3) was adjourned until the Working Group had issued a further report.

Paragraph (4)

Discussion on paragraph (4) was adjourned until the Working Group had issued a further report.

Discussion on Regulation 4 was adjourned.

Regulation 5: Change of Net Tonnage

Paragraph (1)

Mr. ROCQUEMONT (France) noted that the text had been studied by the Working Group at a time when it was thought to make net tonnage a simple function of displacement to the summer load line; since then, however, it had been agreed that net tonnage would be a function of two factors, displacement and cargo space volume. He drew attention therefore to the fact that account should be taken also of changes in cargo space volume, for instance for ships changing from one type of cargo to another.

Mr. CUNNINGHAM (USA) pointed out that in the case of an ore carrier which changed to carrying grain, the draught would remain about the same and the net tonnage would increase. For such ships operating in the Panama Canal, for instance, it was therefore necessary to permit a reduction in net tonnage if and when they subsequently reverted to the ore trade within a reasonable time, to enable them to continue to operate economically.

Mr. DE JONG (Netherlands) observed that the factors of change in cargo space volume and change in passenger number should also be introduced into paragraph (3).

Mr. ROCQUEMONT (France) agreed. In reply to the US delegation, he pointed out that it had been agreed that for all types of convertible ship, changes in load line, draught, etc. resulting in decreases in net tonnage should not be permitted within less than one year intervals.

He suggested the following wording as a guideline to a redraft of paragraph (3): "When for any reason the features of a ship used for the calculation of tonnage are modified, a new certificate shall be issued; the tonnage value shown on the certificate shall not, however, be reduced until twelve months have elapsed from the issue of the preceding certificate.

Mr. MURRAY SMITH (UK) said that while his delegation appreciated the special problem of ships effecting regular conversions from one cargo to another, it nevertheless agreed with the French delegation that it would be too complex a task to create a special category of ship to be exempt from the one-year rule, which had in any case been agreed upon in Plenary Session.

Mr. SIMPSON (Liberia), Mr. CHRISTIANSEN (Norway), Mr. ERIKSSON (Sweden) and Mr. FOTIADIS (Greece), supported the view put forward by the United States delegation.

Mr. BONN (Canada), Mr. OLSEN (Denmark) and Mr. BORG (Sweden) supported the view put forward by the delegations of France and the United Kingdom.

Mr. MURPHY (USA) said that although his delegation was not truly in favour of the one year interval applied to all types of vessel, it was nevertheless, willing to accept a text for paragraph (3) along the lines proposed by the French delegation.

Mr. ROCQUEMONT (France) thanked the United States delegation for its cooperation and pointed out that in his draft wording for paragraph (3) he had used the word "tonnage", without specifying gross or net; he felt that further discussion on that point was called for.

The CHAIRMAN proposed that the concept of change in passenger number be appropriately introduced into Regulation 5.

It was so agreed.

Regulation 6: Calculation of volumes and displacement

Regulation 6 was approved without comment.

Regulation 7: Measurement and Calculation

Regulation 7 was approved without comment.

Regulation 8: Penalties

The CHAIRMAN drew attention to the fact that Regulation 8 had to be considered in relation to Regulation 5(3)(ii); if that latter were to be eliminated, as the General Committee might decide, then the phrase "or a real change in the ownership of the ship" would have to be deleted from Regulation 8(1).

Mr. MURPHY (USA) noted that the case of shipowners carrying cargo in spaces not designated as cargo spaces paragraph (2) was in general penalized heavily by the various national regulations governing implementation of international Conventions, rather than by the Conventions themselves.

Mr. BORG (Sweden) agreed with the United States delegation; it was in any case a matter for the General Committee to decide.

Mr. NOZIGLIA (Argentina), while agreeing that the question should be referred to the General Committee, said that it would be necessary to specify the means by which penalties under Regulation 8 would be imposed in cases of infringement in countries other than the country of issue of the tonnage certificate.

Mr. DE JONG (Netherlands) wondered who would certify that there had been an infringement and who would alter the tonnage certificate. It should be borne in mind that an infringement could be discovered in a country that was not a party to the Convention. In view of the time required to change a ship's capacity, he suggested that the duration of the penalty should be extended to, say three or five years. It should not, however, be imposed for the lifetime of the ship.

The CHAIRMAN drew attention to the provisions of Article 12(3). He agreed that it might be necessary to refer the matter to the General Committee; but before doing so the Committee should decide if there were still any technical problems.

Mr. WILSON (UK) said it was obvious that a penalty would have to be imposed for infringement of the regulations. The problem was the duration of the penalty. Too short a period would be no deterrent.

Mr. GUPTA (India) while agreeing entirely with the Chairman and the UK representative, said that the USA representative had made a valid point. He suggested that Regulation 8 should be modified so as to exclude the word "penalty" but to specify that ships infringing the regulation should not qualify for the relevant deductions for tonnage.

Mr. MURPHY (USA) said that he, too, considered that the problem should be dealt with by the General Committee. Part of the problem was covered by Article 1, whereby Contracting Governments undertook to implement the provisions of the Convention. Action on infringement was an enforcement problem and hence the responsibility of Governments.

Mr. SOLDA (Italy) asked if he was correct in thinking that carriage in a closed space of goods that could be carried in an open space would be an infringement; but that the temporary closing of an open space - for example against bad weather - would not be an infringement provided nothing were carried in the space.

Mr. ROCQUEMONT (France) said that the Italian representative's question concerned the nature of an infringement. The other problem was the penalty. International conventions did not normally stipulate penalties; they were a problem of enforcement for the Government of the flag country.

In the present case, as in the Convention on the Prevention of Oil Pollution, it was necessary to define the nature of an infringement by stating what was authorized and what was prohibited. He suggested that Regulation 8(2) should state that cargo should not be carried in closed spaces not included in the net tonnage calculation; and that Regulation 8(1) should state that in the event of any alteration in the structure of the ship, whereby space hitherto excluded from the gross tonnage was put to a condition which did not permit such exclusion, such space should be included in the gross tonnage.

The question of penalties should be left to the General Committee.

Mr. CONTOGEOORGIS (Greece) said that he entirely agreed with the US representative.

The CHAIRMAN said that, with the addition of the word "use", the agreed new version of Article 10(1)(TM/CONF/C.1/WP.11/Add.1) would cover both the nature of an infringement and the penalty. He suggested that the General Committee should be requested to incorporate the addition.

Mr. KING (Kuwait) said that if Article 12, on control, could be made to cover the problem of cargo spaces, there would be no need to specify penalties, since under paragraph (3) non-compliance with the tonnage certificate would be notified to the Government of the Flag State.

Mr. CHRISTIANSEN (Norway) said that the Italian representative's questions might give rise to problems. For example, would a hatchway covered by a tarpaulin constitute a closed space?

The CHAIRMAN asked if the Committee considered that Article 10(1) amended as he had suggested would be comprehensive enough to render Regulation 8 unnecessary.

Mr. WILSON (UK) thought that the amended Article would not be adequate because it did not state what would happen to a ship whose Tonnage Certificate was no longer valid.

Mr. MUENCH (Israel) said that the Chairman's proposed text was adequate and went as far as was permissible in an international convention. There was still, however, the problem of the duration of the penalty.

Mr. CHRISTIANSEN (Norway) pointed out that a ship deprived of a valid Tonnage Certificate in a country other than its country of origin would be unable to proceed.

Mr. BECKWITH (Liberia) agreed with the representative of Kuwait that the problem was one of control. A possible solution would be a requirement for the marking of open spaces, similar to the requirement for marking cargo spaces in Regulation 2(5)

Mr. PEREIRA (Brazil) suggested that the difficulty referred to by the UK representative might be solved if it were provided that the penalty should be decided by the administration concerned.

Mr. WILSON (UK) said that penalties imposed at the port where infringements were discovered would be meaningless. Since port penalties would probably be reflected in harbour dues, which might be small, the profit on the extra cargo would make the risk of discovery worthwhile for the owner.

Mr. NOZIGLIA (Argentina) agreed with the UK representative. He suggested that the authorities in the country where the infringement occurred should notify the authorities in the country of issue of the ship's certificate so that they could take the necessary action.

Mr. WILSON (UK) suggested a penalty clause which could be applied by administrations but which did not define the penalty.

The CHAIRMAN suggested that Regulation 8 should be deleted and that the Committee should recommend the General Committee to include a reference to the use of space in Article 10(1); and to add a sentence to the effect that the certificate should be cancelled or an adequate penalty should be imposed by the administration of the State whose flag the ship was flying.

Mr. GUPTA (India) said that the solution was not entirely acceptable. If the matter were left to the General Committee, it might be suggested that action could be taken by the country of infringement, by the State whose flag the ship was flying, or by both countries.

As to the cancellation of the certificate, in his experience nothing would stop a ship from sailing to another port even if it had no certificate.

The CHAIRMAN asked if the Committee agreed that the provision should appear in an article and that Regulation 8 should be deleted.

It was so agreed.

The CHAIRMAN asked whether the Committee agreed that the list in Article 10(1) (TM/CONF/C.1/WP.11/Add.1) should include the words: "use of space".

It was so agreed.

The CHAIRMAN asked if the Committee wished to draw the General Committee's attention to the fact that some members were not satisfied with Article 10(1) and considered that it should include a reference to possible penalties, without specifying them, to be imposed by the country in which an infringement was discovered, or by the country whose flag the ship was flying, or by both countries.

It was so agreed.

Mr. KENNEDY (Canada) expressed concern at the deletion of Regulation 8 without reference to the General Committee. The Regulation was closely related to Regulation 2, especially paragraph (3), concerning closed spaces. The Committee was dealing with the spaces which owners were privileged to have deducted under the measurement scheme. It was not dealing with penalties. He hoped that the General Committee would be permitted to use Regulation 8 in its work.

The CHAIRMAN proposed that the General Committee's attention should be drawn to the Committee's views on the possibility of abuse of privileges in the regulations, and that the General Committee should be requested to consider measures to prevent such abuse. Regulation 8 could be used as technical background information.

It was so agreed.

Mr. ROCQUEMONT (France) supported the proposal. He suggested that consideration should be given to the number of passengers as well as to the use of space, since it might be important, particularly in its bearing on such matters as the number of lifeboats needed.

It was so agreed.

Mr. WILSON (UK) introducing document TM/CONF/C.2/WP.39, pointed out that the changes incorporated in the new text had all been made in response to observations put forward during the morning session in regard to Regulation 2(3), except for the last paragraph (Measurement of Cargo Spaces, page 3,) which covered a new point.

Mr. KING (Kuwait) drew attention to a typing error. In the third line of (i)(3) the word "inclusion" should be replaced by "exclusion".

Mr. ROCQUEMONT (France) questioned the appropriateness of the word "these" in the sixth line of (b) on page 1, since it concerned openings which had not previously been referred to in that paragraph.

Mr. WILSON (UK), replying to Mr. SIMPSON (Liberia) and Mr. ROCQUEMONT (France), pointed out another typing error. In the third line on page 3 "inspection" should be replaced by "irrespective".

He thought that his delegation would be able to supply figures corresponding to those regulations fairly quickly.

Mr. SIMPSON (Liberia) said that the second sentence of the last paragraph appeared to contradict the principle of moulded measurement which had been adopted.

The CHAIRMAN, quoting the case of tankers, pointed out that the wording used in the second sentence might have unfair effects. He proposed that the words "or the open floors, as the case may be" be deleted.

Mr. WILSON (UK) explained that the Drafting Group had in fact been anxious to adopt a precise wording in order to avoid interpretations which might have unfair effects, but he had been won over by the Chairman's argument and he would accept the proposed deletion.

Mr. KENNEDY (Canada) pointed out that the details given in the second sentence of the paragraph on measurement might have an influence on ship construction.

The CHAIRMAN, agreeing, said that it would have a bad influence, because it would militate against the use of double bottoms just where they were most necessary.

Mr. GUPTA (India) thought it unnecessary to go into all the details of measurement. It would be enough to say that moulded measurement should be employed.

The CHAIRMAN thought the Committee could not avoid the problem, which would have to be solved sooner or later. He also pointed out that, following the deletion to which Mr. Wilson had agreed, the difference between the new text and that of Regulation 6 was reduced to the question of cargo hold bilges. Was there really any justification for the provision referring to them?

Mr. WILSON (UK) thought that the main thing was to try to simplify the calculations: the use of coefficients could help there.

Mr. CUNNINGHAM (USA) supported that suggestion. Since the principle of moulded measurement had been accepted, it was pointless and perhaps misguided to enter into too great detail.

The CHAIRMAN observed that if the formula of one or several coefficients were adopted, some factors would be taken into account and not others, and he would like to know if that was in fact the intention of the authors of the proposal.

Mr. CUNNINGHAM (USA) replied that the idea was indeed to choose a coefficient applicable to different types of ship, in view of the fact that different concepts such as "solid ceiling" and "insulation" were basically fairly similar.

The CHAIRMAN concluded that, in that case, Regulation 6 was sufficient as it stood, subject to the possible insertion of a phrase which might be worded as follows "whatever the fitting of insulation or the like".

Mr. KING (Kuwait) referred to a comment made earlier by the Canadian delegate, emphasizing its aptness.

The CHAIRMAN reiterated his suggestion of keeping the wording of Regulation 6, subject to the insertion of a generally worded formula.

Mr. SIMPSON (Liberia) supported the Chairman's suggestion and pointed out that if the superstructures were measured, measurements should also be taken to the outside of boundary bulkheads.

Mr. CUNNINGHAM (USA) was not sure that the term "boundary bulkheads" was clear. For example, how was it to be interpreted in the case of a metallic double bottom?

The CHAIRMAN suggested the choice of an equivalent term such as "boundary plating".

Mr. ROCQUEMONT (France) asked whether the term "boundary bulkheads" applied in container ships to the thin plating enclosures and whether the definition would have the effect of excluding the portion between the grooves and the thin plating.

The CHAIRMAN read out Regulation 6 with the proposed addition.

Mr. WILSON (UK) pointed out an ambiguity in the use of the expression "any other material".

The CHAIRMAN wondered whether it would not be necessary to mention the deck and emphasized the question of wooden decks.

Mr. WILSON (UK) suggested the term: "the inner side of the structural surfaces."

The CHAIRMAN stressed the importance of the thickness of the wood in wooden ships.

Mr. LEIBENFROST (Yugoslavia) supported the Chairman's comments concerning wooden ships.

The CHAIRMAN read out a revised version of Regulation 6 based on the various comments put forward. Paragraph (1) read as follows:

"(1) All volumes and displacement included in the calculation of gross and net tonnages, irrespective of the fitting of insulation or the like, shall be measured to the inner side of the shell or structural bulkheads in ships constructed of metal, and the outer surface of the shell or structural bulkheads in ships constructed of any other material."

The CHAIRMAN read out a draft recommendation on the definitions of terms, worded as follows: "The Conference, recognizing that the definitions of certain terms used in the International Convention on Tonnage Measurement of Ships, 1969, such as 'length' and 'passenger', are identical to those contained in other conventions of which the Organization is depositary, recommends that Contracting Governments should take steps to ensure that identical definitions of terms used in such conventions should be interpreted in a uniform and consistent manner." (TM/CONF/C.2/WP.24)

The Committee gave its approval to that recommendation.

The meeting rose at 6.25 p.m.