



IMCO

INTERNATIONAL CONFERENCE ON
TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE NINTH MEETING

held at Church House, Westminster, London, S.W.1.,
on Wednesday, 11 June 1969, at 2.45 p.m.

Chairman: Mr. R. VANCRAEYNEST (Belgium)
Vice-Chairman: Mr. P. NIKOLIĆ (Yugoslavia)
Committee Secretary: Mr. V. NADEJNSKI

A list of participants is given in TM/CONF/INF.1/Rev.2 & 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) (continued)

Article 17 - Coming into Force (concluded)

Paragraph (1)

The CHAIRMAN said that the Committee had before it two proposals: the original draft, which linked the coming into force of the Convention with acceptance by the Governments of States whose combined merchant fleets constituted a certain minimum percentage of the world's gross tonnage; and the amendment proposed by France, and supported in a slightly modified form by the United Kingdom, which introduced the criterion of acceptance by a minimum number of governments, including a specified number of countries each of which possessed a total tonnage of not less than one million gross tons. He invited the Committee to decide first on the principles involved, leaving its decision on exact figures until later.

Mr. KASBEKAR (India), supported by Mr. WIE (Norway), advocated a combination of the two criteria, the number of acceptances and the percentage of world gross tonnage, whilst recognizing the need to maintain a distinction between the two concepts.

Mr. NIGOLIC (Yugoslavia) expressed his preference for the retention of the criteria of the International Convention on Load Lines which, apart from the actual figures, had been taken up by the French delegation. It was essential that the future Convention should come into force as soon as possible.

Mr. GLUKHOV (USSR) saw no need to adhere to past practice. He was inclined to favour the criterion of two-thirds of the world's tonnage, but he could accept the proposal of the representative of India to combine the percentage of world tonnage and the number of acceptances.

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Mr. NADEINSKI (Committee Secretary) suggested the following formula: "The present Convention shall come into force [] months after the date on which not less than [] Governments of States whose combined merchant fleets constitute not less than [] per cent of the gross tonnage of the world's merchant shipping ...".

Mr. MARINI (Italy) drew the Committee's attention to the written comments submitted by Denmark (TM/CONF/6, page 40), concerning the source of the statistics used and the year for which tonnage should be ascertained. He favoured the adoption of the same criteria as those used in the International Convention on Load Lines.

Mr. NICHOLSON (Australia), shared that view but expressed a preference for the version of that formula proposed by the United Kingdom.

Mr. MURPHY (USA) wondered whether it would not be better to include in the Convention an absolute figure representing a given percentage of the world's tonnage, rather than the percentage itself.

Mr. NADEINSKI (Committee Secretary) informed the Committee that IMCO had always used the statistics of Lloyd's Register of Shipping, which were published annually. According to those statistics, the world's gross tonnage at the present time stood at 194,152,000 tons.

Mr. WIE (Norway), supported by Mr. CONTOGEOGIS (Greece), disagreed with the suggestion made by the representative of the United States to substitute an absolute figure for a percentage, since that figure would of necessity vary with the future trends of world shipping.

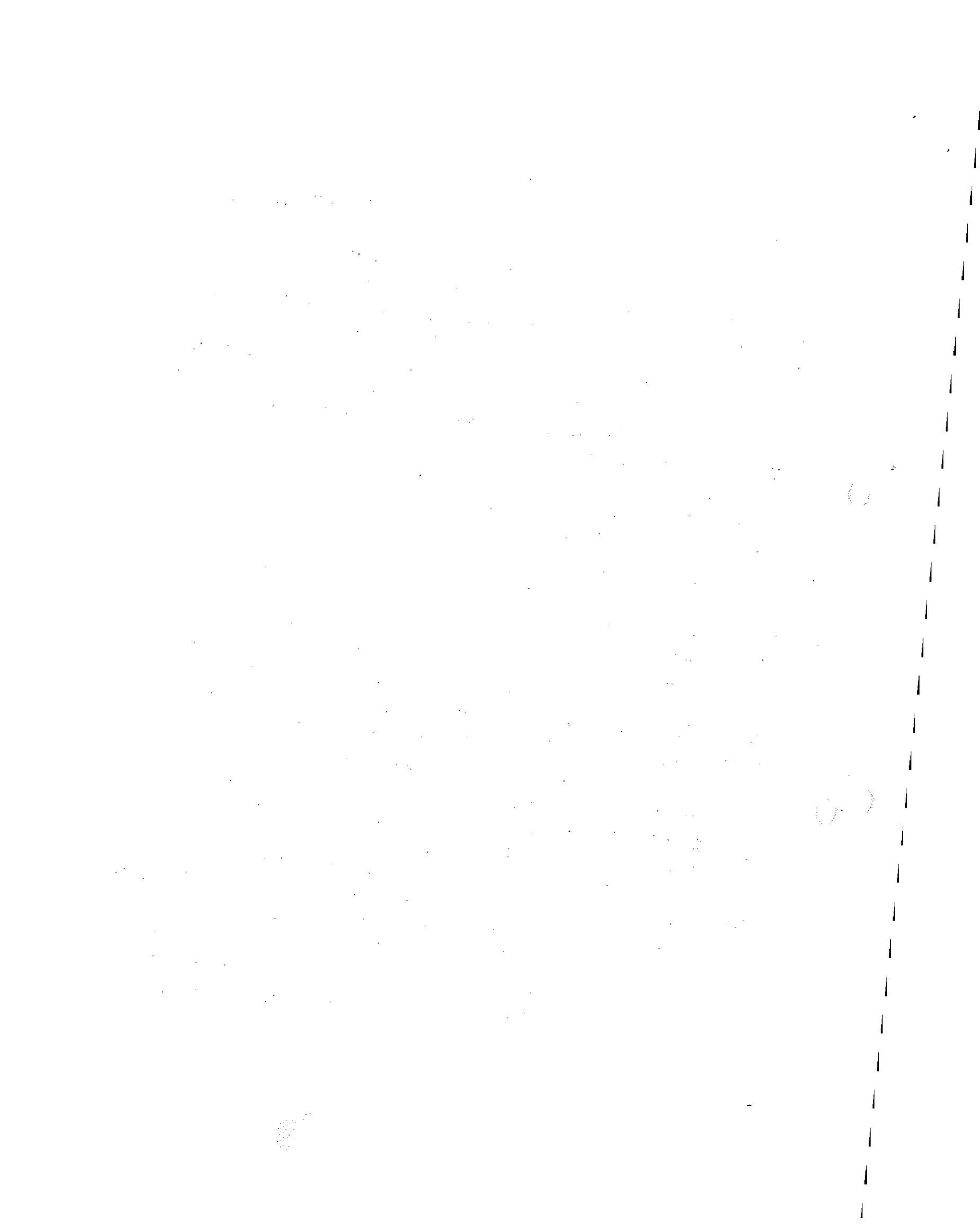
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Mr. BACHE (Denmark) thanked Mr. Nadeinski for his explanations, and expressed agreement with the representative of Norway. Referring to the Italian representative's mention of Denmark's written comment (TM/CONF/6, page 40) he explained that his delegation was not asking for the particulars in question to be embodied in the Convention. He merely wished to reiterate his delegation's view that "it should be clearly defined by means of which statistics and for which year the tonnage should be ascertained". The year in question might be the one in which the last ratification required to bring the Convention into force took place.

Mr. MADIGAN (UK) pointed out in reply to the representative of Denmark that the statistics relating to any given year did not become available until several years later. He added, for the benefit of delegations which had referred to the United Kingdom proposal, that his delegation would be prepared to accept a formula based on the following three elements: a minimum period before coming into force, a minimum number of acceptances, and a minimum percentage of the world's tonnage.

Mr. DARAM (France) thought it was essential to retain the dual criterion of number of acceptances and size of fleet. The danger in adopting tonnage alone, as the United States seemed to be advocating, was that acceptance by the five countries with the largest fleets could suffice to bring the Convention into force. In addition, the omission of coasting vessels from the Lloyd's Register statistics of merchant shipping could distort the figures and place some countries at a disadvantage.

Mr. MURPHY (USA) explained that the sole purpose of his suggestion was to avoid any reference to statistical sources.



Paragraph (2)

The CHAIRMAN stated that, in conformity with the decision which had just been taken in respect of paragraph (1), the words "three years" in the fourth line of the original draft of paragraph (2) should be replaced by "[] months".

Paragraph (2), thus amended, was approved by 29 votes to none.

Paragraphs (3) and (4)

Two consecutive votes were taken.

Paragraphs (3) and (4) were approved by 30 votes to none.

Article 17 as a whole was approved, as amended.

Article 18 - Amendments (concluded)

The CHAIRMAN recalled that the Committee had already approved those two paragraphs (1) and (2).

Paragraph (3), sub-paragraph (a)

Mr. MURPHY (USA) considered that it was quite right to approve a very simple procedure in the case of amendments which were adopted unanimously (paragraphs (1) and (2) of the Article) but that great care was necessary in the case of "amendment after consideration in the Organization" (paragraph (3)). He wondered whether, in the latter case, a procedure should not be envisaged whereby the same degree of unanimity was required as was prescribed for the coming into force of the Convention.

Mr. WIE (Norway) thought that the aim should be to make amendment of the Convention neither too easy nor too difficult. In his view, the provision proposed for paragraph (3) was satisfactory.

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Mr. GLUKHOV (USSR) drew the Committee's attention to the special character of the Convention which should take account of the economic aspects both of shipping and of ports in the various countries. The criterion of uniformity and universality could not be taken as the sole basis. When a government did not accept an amendment, recourse should be had to the current practice in respect of international multilateral agreements. That meant that the principle should be applied whereby an amendment not accepted by a government was not valid for that government in its dealings with other governments. He supported the Netherlands proposal.

Mr. NADEINSKI (Committee Secretary) pointed out that, according to sub-paragraph (d), the decision as a result of which a government would cease to be a party to the Convention had to be taken by the Assembly by a two-thirds majority, including two-thirds of the governments represented on the Maritime Safety Committee, which would represent the majority of the world's fleets. Furthermore, that decision had to be approved by two-thirds of the Contracting Governments parties to the Convention.

The Netherlands proposal to delete sub-paragraph (d) was rejected by 19 votes to 6.

Mr. GERDES (Netherlands) thought that there might perhaps be another way of meeting his delegation's wishes. It might be stated that the declaration should apply, not to an amendment of special importance, but to an amendment of such a nature as to change the content of the Convention substantially.

Mr. HINZ (Federal Republic of Germany) said that he understood the desire for objectivity which prompted the Netherlands delegation, but he thought it would in any case

be difficult to avoid an element of subjectivity in the Assembly's decision. In that respect, the original text was more realistic.

Mr. MADIGAN (UK) said that, while appreciating the arguments put forward by the Netherlands delegation, he too, thought that the text as it stood did, in practice, provide a satisfactory answer to the preoccupations expressed. It was essential to trust the Assembly, which would certainly be conscious of the need to exercise great prudence when it came to determining whether an amendment was of a sufficiently important nature in the sense of sub-paragraph (d).

Mr. PEREIRA (Brazil) remarked that the suggestion put forward by the Netherlands representative should in any case be formulated very clearly, so as to avoid creating problems for the official translations of the text of the Convention.

The CHAIRMAN noted that the second proposal of the Netherlands had not received the required support and that it was therefore not approved.

Sub-paragraph (3)(d) was approved without amendment by 21 votes to none.

Paragraph (3), sub-paragraph (e)

Mr. QUARTEY (Ghana) said he thought the aim of that sub-paragraph should be more clearly expressed. The question might be raised, for instance, whether a Contracting Government, having proposed the adoption of an amendment by unanimous acceptance, might suddenly change its mind and decide to ask for the amendment to be adopted by a conference; in that connexion the words "at any time" were particularly disturbing. Perhaps the Committee should consider the possibility of adding a provision stating that the Government responsible

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would then have to defray the cost incurred, so as to avoid additional expenses for the IMCO Secretariat.

Mr. KENNEDY (Canada) thought the sub-paragraph aimed rather at guaranteeing that nothing should prevent a government from instituting the procedure specified in paragraph 2, if it wished to do so.

Mr. NADEINSKI (Committee Secretary) explained that the provision was analogous to the one in the Convention on Load Lines, which had never given rise to any difficulties. It was pointed out, moreover, that any proposal for amendment would first be studied by the Maritime Safety Committee before being submitted by the latter to the Assembly. It would therefore be too late for a change of mind once the Assembly had been convened.

Sub-paragraph (3)(e) was approved without amendment by 25 votes to none.

Paragraph (4), sub-paragraph (a)

Mr. NICHOLSON (Australia) was in favour of deleting that sub-paragraph, as it would enable a Conference to be convened without reference to the Assembly, which was contrary to the usual procedure.

Mr. HINZ (Federal Republic of Germany) did not share that opinion, for the Conference in question was a diplomatic Conference to which all the States concerned would have to be invited, whether they were members of IMCO or not. The Convention must guarantee the possibility of setting up a sovereign body, independent of IMCO, which would be entitled to amend the Convention with or without the co-operation of the Organization.

Sub-paragraph (4)(a) was approved by 27 votes to none.

Paragraph (4), sub-paragraphs (b) and (c)

Sub-paragraphs (4)(b) and (c) were approved without dissent.

Paragraph (4), sub-paragraph (d)

The CHAIRMAN recalled that the Netherlands delegation had proposed deleting that sub-paragraph also (TM/CONF/6, page 46).

Mr. GERDES (Netherlands) said that that proposal was connected with the one concerning sub-paragraph (3)(d). In view of the decision which had just been taken concerning the latter, his delegation was withdrawing its proposal.

Sub-paragraph (4)(d) was approved by 24 votes to none.

Paragraph (5)

Mr. DARAM (France) thought Article 18 as a whole was too involved and said that his delegation would certainly seek to shorten some of its provisions when the Drafting Committee met. It therefore had no hesitation in proposing that paragraph (5) should be deleted, for the reasons set forth on page 45 of TM/CONF/6 and having regard to the fact that the Regulations would be amended more often than the Articles.

Mr. LEVY (Israel), Mr. MURPHY (USA), Mr. WIE (Norway) and Mr. GLUKHOV (USSR) supported that proposal.

Mr. GERDES (Netherlands) recalled the amendments to that paragraph which his Government had proposed and which were set out on page 47 of TM/CONF/6.

The CHAIRMAN put to the vote the French proposal to delete the whole of paragraph (5).

That proposal was approved by 22 votes to none.

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Paragraphs (6) and (7)

Paragraphs (6) and (7) were approved without dissent.

Article 18 as a whole was approved, as amended.

Article 10 - Acceptance of Certificates (continued)

Mr. WIE (Norway) recalled that his delegation had reserved the right to propose the addition to that Article of a second paragraph corresponding to the one on pages 23 and 24 of TM/CONF/4 (see paragraph 4 of TM/CONF/C.1/WP.6).

Mr. MADIGAN (UK) said that his delegation would be prepared in principle to agree to the Norwegian suggestion, which seemed at first sight to offer a formula that was both reasonable and practical.

Mr. BACHE (Denmark) wondered whether it would be possible to arrive at a provision of a general character which would cover all situations whereas, under current practice, in many cases certificates were drawn up on the basis of bilateral or multilateral agreements.

Mr. GERDES (Netherlands) said he thought the Norwegian proposal was prompted rather by administrative considerations. It was a matter of giving Administrations a period of two years in which to draw up a new International Tonnage Certificate.

Mr. DARAM (France) pointed out that the provisions of Article 13 should meet the objection raised by the representative of Denmark.

Mr. WIE (Norway) confirmed that his delegation's proposal was essentially of an administrative nature; it was for the

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Committee to decide whether it was satisfactory from the practical point of view.

The CHAIRMAN proposed that a decision on the question should be deferred until the Committee's next meeting.

It was so decided.

The meeting rose at 5.30 p.m.