



IMCO

INTERNATIONAL CONFERENCE ON TONNAGE MEASUREMENT OF SHIPS, 1969

General Committee

SUMMARY RECORD OF THE THIRD MEETING

held at Church House, Westminster, London, S.W.1,
on Monday, 2 June 1969, at 10 a.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 Corr.1;
TM/CONF/6/Add.1; TM/CONF/C.1/WP.4) (continued)

Article 9 - Cancellation of Certificate (continued)

The CHAIRMAN invited one of the authors of TM/CONF/C.1/WP.4 (proposed amendment to Article 9, submitted by Denmark, Federal Republic of Germany, Israel and the Netherlands) to introduce the amendment.

Mr. BACHE (Denmark) explained that the authors of the amendment, considering the text of paragraph (2) proposed in document TM/CONF/6 to be too rigid, had drawn inspiration from observations made by the Federal Republic of Germany to make a distinction, in a third paragraph, in the case of vessels transferred to the flag of another Contracting State, because it was in the spirit of the Convention that Member States should show some confidence in one another. They had introduced the idea of the endorsement of the transferred certificate in order to avoid any possible difficulties and any delays that might occur in a port belonging to a third country.

On reflection, however, he wondered whether the formula proposed in the third paragraph ("... may be approved by the new Administration ...") did not run the risk of appearing ambiguous and whether it would not be better to say simply that the certificate should be furnished to the new Administration for endorsement.

Mr. PROSSER (UK) said he would like to see the amendment simplified. He proposed to retain paragraphs (1) and (2) of

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the original text and to modify the third paragraph of the amendment as follows:

"upon transfer of a ship to the flag of another Contracting Government, the International Tonnage Certificate (1969) shall remain in force for a period not exceeding three months. The Contracting Government of the State whose flag the ship was flying previously shall forthwith transmit a copy of the certificate and a copy of the calculations to the new Administration, to enable the latter to issue its own certificate".

Mr. HINZ (Federal Republic of Germany) thanked the representatives of Denmark and the United Kingdom for the improvements they sought to make in the proposal. He recalled that his country's observation suggested going still further, since it envisaged simply a transfer of the certificate, without the issue of a new certificate at the end of any period; but he would not press that proposal, and would support the formula put forward by Mr. Prosser. He asked, however, whether the latter would agree to add, at the end of his text, the words: "without remeasuring the ship".

Mr. PROSSER (UK) agreed to that addition.

Mr. KASBEKAR (India) also agreed that there should be no need to remeasure the ship. But he did not consider it advisable to stipulate a period of validity after transfer, since the Committee had already decided not to fix a term of validity for the certificates.

Mr. MURPHY (USA) said he would like the original paragraph (2) to be retained. He asked that paragraph (3) proposed in the amendment should be drafted as follows:

"... the International Tonnage Certificate (1969) may be revalidated by the new Administration by endorsement on the certificate."

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The questions of the duration of the term of validity and of remeasurement would thus no longer arise. The government of the country whose flag the ship would fly in the future would simply take over all responsibilities as from the time when it validated the certificate.

Mr. WIE (Norway) supported the proposal to retain the original paragraph (2). As to the new paragraph (3), his delegation was prepared to support either the text proposed by the Federal Republic of Germany or that of the United Kingdom.

Mr. KASBEKAR (India) also was in favour of retaining the original paragraph (2), but suggested that the words "whose Government is not Party to the Convention" should be added at the end. He felt that clarification was essential for the understanding of the following paragraph.

Mr. GERDES (Netherlands) supported the amendment in the form proposed by the United Kingdom representative. He felt that provision should be made for a three-months period during which no further validation of the certificate would be required.

Mr. PROSSER (UK) endorsed the comments of the United States representative. He asked that paragraph (3) should be included in the form he had himself proposed and that the original paragraph (2) should be retained with the addition of the words "... subject to the provisions of paragraph (3) hereunder".

Mr. KENNEDY (Canada), remarking that there seemed to be a contradiction between paragraphs (2) and (3) of the amendment (paragraph (2): "A certificate ... shall cease to be valid"; paragraph (3): "... the ... certificate will remain in force"), stated that he supported Mr. Prosser's latest proposal.

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Mr. HINZ (Federal Republic of Germany) thought that comment well-founded. He said he was in favour of the original paragraph (2) with the addition of the phrase suggested by Mr. Prosser. In regard to paragraph (3), he preferred the wording proposed by the United Kingdom to that suggested by the United States.

Paragraph (2) as originally drafted but with the addition of the phrase suggested by the representative of the United Kingdom, was approved by 20 votes to none.

Mr. NADZINSKI (Committee Secretary) read out the text proposed for paragraph (3):

"Upon transfer of a ship to the flag of another State whose Government is party to the Convention, the International Tonnage Certificate (1969) shall remain in force for a period not exceeding three months. Upon request, the Contracting Government of the State whose flag the ship was flying previously shall immediately transmit a copy of the certificate and a copy of the calculations to the new Administration to enable it to issue a new certificate without remeasuring the ship".

Mr. KASBEKAR (India) pointed out that the United States representative had requested the deletion of the mention of a period of three months.

Mr. PROSSER (UK) and Mr. HINZ (Federal Republic of Germany) said that they had understood that the words "upon request" no longer appeared in the final text.

Paragraph (3) as submitted by the Committee Secretary was approved by 16 votes to 4, with the deletion of the words "upon request".

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Mr. BACHE (Denmark) said he was sorry that the votes had been taken before he had had time to make certain comments on those paragraphs.

Mr. HINZ (Federal Republic of Germany) recalled that his country had proposed the addition of a new paragraph in Article 9 (see TM/CONF/6, pages 25-26). As that text was linked with the outcome of the deliberations of the Technical Committee, he reserved his position on the point.

Article 10 - Acceptance of Certificate

Mr. WIE (Norway) and Mr. GERDES (Netherlands) recalled that their countries had submitted observations on the draft of Article 10, paragraph (2) contained in Proposal A. They said they would revert to that point at the close of the Technical Committee's discussions.

Article 10, as given in TM/CONF/6, was approved by 24 votes to none.

Article 11 - Control

Paragraph (1)

Mr. GERDES (Netherlands) withdrew both the amendments to Articles 11 and 12 proposed by his country, and also its proposal to reverse the order of the Articles.

Paragraph (1) was approved by 23 votes to none.

Paragraph (2)

Mr. DARAM (France) drew attention to his delegation's proposal to replace the expression "in no case" by "in principle" (TM/CONF/6, page 30).

Mr. NIKOLIĆ (Yugoslavia) said he feared that proposal would enable Administrations to exercise arbitrarily the power given to them. He was in favour of maintaining the original text.

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Mr. SUZUKI (Japan) said he realized the French proposal had advantages from the point of view of effective control and safety of navigation. However, he could not support it since the object of the Convention was to speed up procedures, and considerable economic interests were at stake.

Mr. QUARTEY (Ghana) supported the French proposal. In point of fact, delays were sometimes inevitable - for example in the case of obstruction on the part of the ship's officers.

Mr. de MATTOS (Brazil) wondered whether the French objection was not covered by paragraph (3) of Article 11.

Mr. PROSSER (UK) supported by Mr. WIE (Norway), said he feared the conclusions that might be drawn from the French proposal, and would prefer to improve the original text by deleting the words "expense or".

Mr. GLUKHOV (USSR) was in favour of maintaining the original text of paragraph (2).

Mr. KENNEDY (Canada) said he was not happy about the use of the word "control" in the title and text of Article 11. Article 10 provided for the certificate to be accepted "for all purposes covered by" the Convention. The aim of Article 11 was not, strictly speaking, control; it was merely verification. Although the first of those two terms occurred in the other Conventions concluded under IMCO's auspices, he proposed to replace it in the present case by the word "verification".

Mr. KASBEKAR (India) suggested that the Committee should not decide on that proposal until it had completed its consideration of Article 11.

It was so decided.

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The CHAIRMAN put to the vote the French proposal to replace the words "in case" by the words "in principle".

The French proposal was rejected by 21 votes to 5.

The CHAIRMAN put to the vote the United Kingdom proposal to delete the words "expense or" from the original text of paragraph (2).

That proposal was adopted by 11 votes to 9.

Paragraph (2) was approved as amended.

Paragraph (3)

Mr. PROSSER (UK), supported by Mr. LEVY (Israel), observed that the words "of the country" should be replaced by the words "of the State".

It was so decided.

Thus amended, paragraph (3) was approved by 16 votes to none.

The CHAIRMAN invited the Committee to decide on the Canadian proposal to replace the word "control" in Article 11 by the word "verification".

Mr. de MATTOS (Brazil) and Mr. VAUGHN (Liberia) supported that proposal.

Mr. GLUKHOV (USSR) saw no objection to it.

Mr. DARAM (France) thought the word "verification" would be appropriate only in paragraph (3).

Mr. GERDES (Netherlands) did not think the use of that word made the Article any clearer. He would prefer to keep the original text.

Mr. QUARTEY (Ghana) proposed that the word "control" should be retained in the title but replaced throughout the text of the Article by the word "inspection", which seemed to him more appropriate.

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Mr. KENNEDY (Canada) approved of that solution and withdrew his original proposal.

The Ghanaian proposal was approved by 16 votes to 8.

Article 11, as amended, was approved.

Article 12 - Privileges

Article 12 was approved by 25 votes to none.

The CHAIRMAN pointed out that in TM/CONF/6, (page 33), the Netherlands had proposed adding a new article 12A, "Transitional Measures".

Mr. GERDES (Netherlands) said that that text was closely connected with decisions the plenary would have to take and suggested postponing consideration of it until later.

It was so decided.

Article 13 - Prior Treaties and Conventions

Mr. BACHE (Denmark) wondered how the provisions of Article 13 would apply, for instance, to the Paris and Geneva Treaties on inland waterways which the Netherlands representative had mentioned at the previous meeting. His delegation thought it would be useful in that connexion, to have the views of the States Parties to those Treaties.

The CHAIRMAN thought that Article 13 was very general in character and that it applied to all the existing treaties.

Mr. QUARTEY (Ghana) considered that it would therefore be more logical to replace, at the beginning of paragraph (1), the words "all other treaties" by the word "treaties".

Article 13 was approved without amendment by 24 votes to 4.

Mr. OSMAN (United Arab Republic) explained his delegation's vote on the proposed Article 13. In view of the effect its provisions might have on the existing Convention and Regulations concerning the measurement of the tonnage of ships passing through the Suez Canal, the delegation of the United Arab Republic could not accept the Article as it stood.

Article 14 - Special Rules drawn up by agreement

The CHAIRMAN drew the attention of the Committee to the proposed amendments submitted by the Governments of France and the Netherlands (page 36 of TM/CONF/6).

Mr. DARAM (France) said that, for that Article, the intention had been to take up a provision appearing in the Convention on Load Lines. However, that provision would not have at all the same meaning in the Convention under discussion, in which it would be too rigid. Moreover, the very flexible amendment procedure provided for in the present Convention made that provision superfluous.

Mr. PROSSER (UK), Mr. BIEULE (Argentina), Mr. GLUKHOV (USSR) and Mr. VAUGHN (Liberia) were in favour of the French proposal to delete Article 14.

Mr. GERDES (Netherlands) did not quite share that view. In point of fact, although Article 14 did not expressly provide for the conclusion of special agreements, Contracting Governments were not prohibited from drawing up special rules so long as they were not contrary to the purpose of the Convention and were communicated to IMCO. It was to take account of that possibility that the Netherlands delegation had proposed its amendment.

Mr. WIE (Norway) and Mr. MURPHY (USA) shared the view put forward by the Netherlands representative.

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Mr. NIKOLIC (Yugoslavia) stated that his delegation was not in favour of the text as it stood, and was prepared to support either the French proposal or the Netherlands proposal.

The CHAIRMAN put the French proposal to the vote on the understanding that, if it was rejected and if it was decided to retain Article 14, that Article would be amended as proposed by the Netherlands.

The proposal to delete Article 14 was approved by 14 votes to 12.

Article 15 - Communication of Information

The CHAIRMAN drew attention to the suggestion put forward by Sweden in TM/CONF/6, page 37.

Mr. LEVY (Israel) said he favoured the suggestion.

Mr. HINZ (Federal Republic of Germany) preferred the existing text, since the Swedish proposal would overburden the IMCO Secretariat. All that was needed was for the certificate to be translated; provision should be made for the texts of national laws and regulations to be communicated to IMCO in the national language for reference, as was already the case with the Convention for the Prevention of Pollution of the Sea by Oil.

Mr. QUARTEY (Ghana) was of the opinion that there was first a question of principle to be settled: should the texts listed under sub-paragraph (b) be communicated to Contracting Governments in the same way as the documents referred to in sub-paragraphs (a) and (c)? His delegation took the view that, even if the Committee wished to give an affirmative reply to that question, it was in any case an administrative matter, and hence it was out of place in a Convention and could be settled directly between governments and the IMCO Secretariat.

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Mr. NICHOLSON (Australia) did not favour the Swedish proposal. However, he did agree that there was some lack of uniformity in the three sub-paragraphs of Article 15 in regard to the communication of texts to Contracting Governments.

Mr. KENNEDY (Canada) supported the remarks of the representative of Ghana. To his mind, the most important point was that certificates should be communicated to governments; and so far as the texts mentioned in sub-paragraph (b) were concerned, all that was necessary was that they should be communicated to IMCO for the purposes of reference.

Mr. de MATTOS (Brazil) concurred. If absolutely necessary, the beginning of sub-paragraph (b) could be amended to read: "A summary, in one of the official languages of the Organization, of the text of the laws, decrees, ...".

Mr. VAUGHN (Liberia) stated that, for budgetary reasons, his delegation preferred the original text proposed for Article 15.

Mr. MILEWSKI (Poland) said that, while he understood the motives underlying the Swedish proposal, he would like to hear how the IMCO Secretariat felt about it.

Mr. NADEINSKI (Committee Secretary) stated that, as a rule, all documents forwarded to IMCO to be communicated to Member States were required to be in one of the official languages of the Organization. On the other hand, texts which were communicated for purposes of reference only (such, for instance, as those transmitted by virtue of the provisions of the International Convention for the Safety of Life at Sea) were not necessarily communicated in IMCO's working languages. In such cases the Secretariat could, if necessary, publish abstracts in one of the working languages giving the essential features of the texts concerned; but any Government wishing for a complete translation would defray the expense incurred.

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Mr. MILEWSKI (Poland) and Mr. HINZ (Federal Republic of Germany) said that, in the light of the information that had just been furnished, their delegations would opt for the original text.

Mr. BORG (Sweden) withdrew his suggestion and gave his support to the original text.

Mr. NICHOLSON (Australia), recalling his previous remarks, proposed that the wording of sub-paragraph (a) should be brought into line with that of sub-paragraph (b).

Mr. ADVANI (Nigeria) seconded that proposal.

The proposal was rejected by 15 votes to 8.

Article 15 was approved without amendment.

The meeting rose at 12.40 p.m.