

UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.III/L.15
21 July 1972

Original: ENGLISH

COMMITTEE ON THE PEACEFUL USES
OF THE SEA-BED AND THE OCEAN
FLOOR BEYOND THE LIMITS OF
NATIONAL JURISDICTION

SUB-COMMITTEE III

REPORT ON THE PREPARATORY WORK FOR THE
INTERNATIONAL CONFERENCE ON MARINE POLLUTION
TO BE CONVENED BY IMCO IN 1973

1. At its Spring session in March 1972, Sub-Committee III was informed of the decision taken by the IMCO Assembly in October 1971 that the main objective of the above mentioned Conference was the achievement by 1975 if possible but certainly by the end of the decade of the complete elimination of the wilful and intentional pollution of the sea by oil and noxious substances other than oil and the minimization of accidental spills. Sub-Committee III was also informed of the decisions of the IMCO Council concerning the basic subject matter of the Conference and of the action being taken by the technical bodies of IMCO to prepare, for consideration by the Conference, a draft "International Convention for the Prevention of Pollution of the Sea from Ships".
2. The Maritime Safety Committee, at its twenty-fifth session (20-24 March 1972), noted the progress being made by the Sub-Committee on Marine Pollution and other Sub-Committees, concerned in the preparatory work for the Conference, particularly the steps being taken to obtain further information from GESAMP on the identification and hazard rating of noxious and hazardous substances other than oil. The Committee stressed the need for this information to be made available to the technical Sub-Committees concerned by September 1972 at the latest so as to ensure that the drafting of the Convention could proceed without delay. To expedite this work, the Ad Hoc Panel of GESAMP Experts held its second session at IMCO Headquarters from 26-28 June 1972 during which it completed the hazard profile for additional 200 substances. The report of this Panel will be submitted to the fourth session of GESAMP (18-23 September 1972) for approval.
3. The Committee emphasized that the completed draft Convention(s) should be submitted in good time for consideration at its Spring session in 1973 and to facilitate the task, authorized the Sub-Committee to set up an Ad Hoc Working Group to carry out inter-sessional work during the latter half of this year.

4. The draft Convention consists of articles covering all aspects of the prevention of marine pollution from ships (with the exception of ocean dumping of shore-generated waste) and the technical Annexes in respect of:

- The prevention of pollution by oil discharged from ships.
- The prevention of pollution by bulk liquid or dry noxious substances other than oil discharged from ships (excluding the disposal of shore-generated wastes into the sea).
- The prevention of pollution relative to the design, construction and equipment of ships carrying oil.
- The prevention of pollution relative to the design, construction and equipment of ships carrying noxious substances in bulk.
- The prevention of pollution by noxious substances carried in packages or containers.
- The prevention of pollution by ship-operated sewage.
- The prevention of pollution by ship-generated garbage.

5. At its eighth session (12-16 June 1972) the Sub-Committee on Ship Design and Equipment, in consultation with members of the Sub-Committee on Marine Pollution, prepared a second draft of certain parts of the Annexes of the draft Convention on the basis of a report prepared by an Ad Hoc Working Group on Conference Preparations which had met in Genoa from 28-31 March 1972. Subsequently, the Sub-Committee on Marine Pollution, which met for its thirteenth session from 19-23 June 1972, considered and revised the draft Articles and Annexes in the light of comments submitted by Governments and interested organizations, and the results of nine specific studies made by the Sub-Committee to assess the various economic, operating and design implications of pollution problems. As a result of all this work, a second composite draft of the Convention was prepared for further consideration by an Ad Hoc Working Group which is scheduled to meet from 4-8 September 1972. This Group will take into account the conclusions reached by the Sub-Committee on Marine Pollution with respect to certain principles to be followed in the drafting of the Convention. During discussion in the Sub-Committee on Marine Pollution, numerous questions of a legal nature arose and were referred to the IMO Legal Committee for advice. The Legal Committee will consider these questions at its fifteenth session to be held from 13-17 November 1972.

6. With respect to the format of the Convention, the Sub-Committee discussed the merits and disadvantages of formulating a single composite Convention or a series of Conventions and of presenting the draft in the form of new Convention(s) or amendments to the 1954 Oil Pollution Convention. Without prejudice to the eventual format of the Convention(s) to be submitted to the Maritime Safety Committee, it was agreed, for the time being, to continue to work on the basis of a single composite Convention. It was understood, however, that the formulation of a single composite Convention was based on the assumption that it would be possible for governments to accept individual Annexes separately. The Legal Committee was requested to advise on the possibility and implication of following such a procedure.

7. A number of delegations expressed the view that it would be a serious mistake to abandon the 1954 Convention and to incorporate the oil pollution provisions as one among a number of other Annexes to a composite Convention. They feared that, among other objections, any expressed intention to terminate the existence of the 1954 Convention might well discourage further acceptances of the 1969 Amendments and thus lead to a positive reduction in new anti-oil pollution activity during the period before a composite Convention would come into force or would be generally implemented.

8. It was generally agreed that the definition of "harmful substance" and "noxious substance" should be in line with the definition of marine pollution formulated by GESAMP and generally used in other fora.

9. In considering the scope of the Convention, the Sub-Committee recognized that the juridical application of Conventions in the marine environment was a difficult problem which was under consideration in other fora, in particular the Law of the Sea Conference of the United Nations scheduled to begin in 1973. However, for the purposes of IMCO Conference, it was felt to be preferable to establish, if possible, standards which could be generally applied in all navigable waters. It was agreed that the new Convention should enter into force as quickly as possible and should contain provisions of such a nature and strength that their application, especially in coastal or territorial waters, would obviate the need for additional national regulations in such areas.

10. In considering the definition of "ship" it was agreed that off-shore drilling rigs would be subject to a Convention except in respect of pollution arising directly from sea-bed operations. In connexion with the consideration of the possible discharge criteria which would be consistent with the main objective of the Conference, some delegations considered that any discharge which gave rise to a visible sheen on the surface of the water should be accepted as prima facie evidence that the provisions of the Convention had been violated. The philosophy behind this proposal was that if a discharge of oil creates a sheen, then the burden of proof rests with the vessel to show that the discharge in fact complies with the Regulation. Although it was agreed that this provided strong incentive to develop and instal suitable devices, there were serious legal questions to be resolved. The Legal Committee was invited to consider these aspects, particularly whether the proposed philosophy of burden of proof could be included in the Convention.

11. With respect to the control of the operational discharge of noxious substances other than oil, it was agreed that the criteria to be included in the draft Convention should take account of the need for stipulating geographical limitations and other conditions which might affect the degree of hazard arising from the discharge in question. It was agreed that the provisions relating to this aspect should, if possible, be aligned with the approach used in the "Ocean Dumping" Convention.

12. Following preliminary work on the subject at its twelfth session, the Legal Committee drew up tentative guidelines on the extension of the 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties to cover pollution damage from noxious and hazardous substances other than oil. The Committee expressed the view that, on present indications, it was feasible to envisage that work on the subject could develop to enable the 1973 Conference to adopt an instrument extending the 1969 Convention to situations involving the threat of pollution from substances other than oil. The new instrument would give to coastal States the right to intervene or to take preventive action to safeguard their coasts and related interests from pollution or the threat of pollution following accidents involving cargoes which are reasonably certain to produce harmful results. This right is now available to coastal States, subject to certain qualifications, under the 1969 Convention.

13. The Committee therefore recommended to the Council to enlarge the agenda of the Conference to include consideration of such an instrument. Following Council's acceptance of this recommendation, the Legal Committee has decided to place this subject on its priority work programme and it is expected that a draft instrument will be ready for submission to Governments for their comments by the end of the first quarter of 1973.

14. The Conference will be held in London from 8 October to 2 November 1973.