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United Nations Conference on Trade and Development

UNITED NATIONS CONFERENCE ON CONDITIONS
FOR REGISTRATION OF SHIPS

REPORT OF THE UNITED NATIONS CONFERENCE ON CONDITIONS FOR REGISTRATION OF SHIPS ON ITS THIRD PART

held at the Palais des Nations, Geneva,
from 8 to 19 July 1985

Annex I */

COMPOSITE TEXT AS AT THE CLOSE OF THE THIRD PART OF
THE CONFERENCE ON 19 JULY 1985

*/ This annex is being issued separately so that the Composite Text may be available to governments with the least possible delay.

COMPOSITE TEXT */**/

PREAMBLE

[The Contracting Parties to this Agreement], 1/

[The United Nations Conference on Conditions for Registration of Ships], 2/

Recognizing the need to promote the orderly expansion of world shipping as a whole,

Recalling General Assembly resolution 35/56 of 5 December 1980, the annex to which contains the International Development Strategy for the Third United Nations Development Decade, which called, inter alia, in paragraph 128, for an increase in the participation by developing countries in world transport of international trade,

Recalling also that according to the 1958 Geneva Convention on the High Seas and 1982 United Nations Convention on the Law of the Sea there must exist a genuine link between a ship and a flag State and conscious of the duties of the flag State to exercise effectively its jurisdiction and control over ships flying its flag in accordance with the principle of the genuine link,

Believing that to this end a flag State should have a competent and adequate maritime administration, ***/

Believing also that in order to exercise control function effectively a flag State should ensure that those who are responsible for the management and operation of a ship on its register are readily identifiable and accountable,

Believing further that measures to make persons responsible for vessels more readily identifiable and accountable could assist in the task of combating maritime fraud, a/

Reaffirming, without prejudice to this Agreement, that each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag,

*/The text reproduced in the present document is based on the Composite Text adopted by the Conference at its second part (TD/RS/CONF/15/Add.1 and Corr.1) which has been updated in the light of the work accomplished by the Conference at its third part (8-19 July 1985).

**/For the key to numbered footnotes see Appendix.

***/The Second Committee will revert to this paragraph in the light of discussions on article 4: Maritime Administration.

a/ The First Committee, except for India and Brazil, agreed to substitute the text of paragraph 5 of Article 4 "Maritime Administration" by the above text; this new preambular paragraph is to be considered by the Drafting Committee.

Prompted by the desire among sovereign States to resolve in a spirit of mutual understanding and co-operation all issues relating to the conditions for the grant of nationality to, and for the registration of ships,

Considering that nothing in this Agreement shall be deemed to prejudice any provisions in the national laws and regulations of the [Contracting] b/ Parties to this Agreement, which exceed the provisions contained herein,

[have agreed as follows:] c/

[has agreed as follows:] c/

b/ [] at the request of Group B.

c/ Depending on the introductory phrase agreed upon.

PART I

[GENERAL PROVISIONS]

[Article 1] 3/ */

DEFINITIONS

For the purposes of this Agreement:

"Ship" means any self-propelled sea-going vessel used for the international seaborne transport of goods, passengers, or both with the exception of vessels of less than 500 gross registered tons.

"Owner" or "shipowner" means, unless clearly indicated otherwise, any natural or juridical person recorded in the register of ships of the State of registration as an owner of a ship.

"State of registration" means the State in whose register of ships a ship has been entered.

"Register of ships" means the official register or registers in which particulars referred to in ... of this Agreement are recorded.

"Operator" means the owner or bareboat charterer, or any other natural or juridical person to whom the responsibilities of the owner or bareboat charterer have been formally assigned.

"Bareboat charter" means a contract for the lease of a ship, for a stipulated period of time, by virtue of which the lessee has complete possession and control of the ship, including the right to appoint the master and crew of the ship, for the duration of the lease.

"Flag State" means a State whose flag a ship flies and is entitled to fly.

Labour-supplying country means a country which provides seafarers for service on a ship flying the flag of another country. **/

NOTE: Other definitions may need to be further considered and included. In this connection, reference is made to a suggested additional definition in footnote e/ of article 4 on Maritime Administration.

[Article 2]

SCOPE OF APPLICATION

This Agreement shall apply to all ships as defined in [Article 1] above.

*/For easier reference articles in Parts I and II have been given consecutive numbers. This new numbering does not prejudice the order or the numbering of the final articles which will appear in the agreement.

**/The Drafting Committee did not complete the examination of this definition.

PART II

For the purpose of ensuring or, as the case may be, strengthening the genuine link between a State and ships flying its flag, and in order to exercise effectively its jurisdiction and control over such ships with regard to identification and accountability of shipowners and operators as well as with regard to administrative, [technical] 4/ [economic] 5/ and social matters, a flag State [should] [shall] apply [as a minimum] 6/ the provisions contained in this Agreement.

[Article 3]

GENERAL PROVISIONS CONCERNING REGISTRATION OF SHIPS

1. Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas.
2. Ships have the nationality of the State whose flag they are entitled to fly.
3. Ships shall sail under the flag of one State only.
4. No ships shall be entered in the register of ships of two or more States at a time, subject to the provisions of article ... of this Agreement and to paragraph 6 of this article. */
5. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

[Article 4] **/

MARITIME ADMINISTRATION

1. The flag State [shall] [should] have a competent and adequate maritime administration. d/
2. The flag State [shall] [should] implement applicable international rules and standards e/ concerning, in particular, the safety of ships and persons on board and the prevention of pollution of the marine environment.

*/Since it was agreed by the First Committee to delete paragraph 6 reference might need to be made to paragraph 3 of Article 11.

**/Transmitted by the Drafting committee to the Conference, reproduced from TD/RS/CONF/L.7/Add.4

d/It was proposed by Brazil and supported by China, Sri Lanka and the United Republic of Tanzania to add "located within its territory".

e/The expression "applicable international rules and standards" is acceptable to India, Brazil and Sri Lanka subject to including in the article on Definitions the following text:

"Applicable international rules and standards mean those rules and standards in conventions and other international instruments to which a State is a Contracting Party".

3. The maritime administration of the flag State [shall] [should] ensure:

(a) that ships flying the flag of such State comply with its laws and regulations concerning registration of ships and with applicable international rules and standards e/ concerning, in particular, the safety of ships and persons on board and the prevention of pollution of the marine environment;

(b) that ships flying the flag of the State are periodically surveyed by its authorized surveyors in order to ensure compliance with applicable international rules and standards e/,

(c) that ships flying the flag of such State carry on board documents, in particular, those evidencing the right to fly its flag and other valid relevant documents, including those required by international conventions to which the State of registration is a Party;

(d) the owners of ships flying the flag of such State comply with the principles of registration of ships in accordance with the laws and regulations of such State and the provisions of this Agreement.

4. The State of registration [shall] [should] require all the appropriate information necessary for full identification and accountability concerning ships flying its flag.

5. f/

[[Article 5]

PARTICIPATION BY NATIONALS IN THE MANNING AND/OR OWNERSHIP OF VESSELS g/

With respect to the provisions concerning the manning and ownership of vessels as contained in paragraphs 1 to 3 of Article 6 and paragraphs 1 and 2 of Article 8, respectively, and without prejudice to the application of any other article of this Agreement, a State of registration shall apply as mandatory either the provisions of paragraphs 1 to 3 of Article 6 or of paragraphs 1 and 2 of Article 8.]

f/ India and Brazil wished to retain the text of paragraph 5 as it appeared in document TD/RS/CONF/15/Add.1:

"The maritime administration of the State of registration mentioned will ensure also the availability of necessary information of the actual shipowner in case when claims connected with maritime fraud are raised against him.

In case when the State of registration does not ensure due access to the actual shipowner the maritime administration of the State of registration shall take necessary measures in order either to impede or prevent the occurrence of maritime fraud, or in order to enable a party concerned to be satisfied as far as claims related to maritime fraud are concerned, as the case may be."

g/ Draft article proposed by the President of the Conference. It is assumed that in conjunction with this article the expression "shall" will be used in paragraph 1 of Article 6 and in paragraph 2 of Article 8. It may also be required to start both these paragraphs with the expression "Subject to Article 5".

[Article 6]

MANNING OF VESSELS */

1. A State of registration, when implementing this Agreement, [shall] [should] observe the principle that a satisfactory part of the complement consisting of officers and crew of merchant ships flying the flag of a State of registration be nationals or persons domiciled or lawfully in permanent residence in the State of registration. h/
2. In pursuance of this goal, and in taking necessary measures, the State of registration [shall] [should] have regard to the following:
 - the availability of qualified seafarers within the State of registration,
 - multilateral or bilateral agreements or other arrangements of any nature valid and enforceable pursuant to the legislation of the State of registration,
 - sound and economically viable operation of ships.
3. The State of registration should implement the provision in paragraph 1 on a ship or company or fleet basis.
4. The State of registration, in accordance with its laws and regulations, may allow persons of other nationalities to serve on board vessels flying its flag in accordance with the relevant provisions of this Agreement.
5. In pursuance of the goal set out in paragraph 1, the State of registration should, in co-operation with shipowners, promote the education and training of its nationals or persons domiciled within its territory.
6. The State of registration shall ensure:
 - (a) that the manning of ships flying its flag is of such a level and competence as to ensure compliance with applicable international rules and standards, in particular with regard to safety at sea;
 - (b) that the terms and conditions of employment on board ships flying its flag are in conformity with the applicable international rules and standards;
 - (c) that adequate legal procedures exist for the settlement of civil disputes between seafarers employed on ships flying its flag and their employers;
 - (d) access to appropriate legal processes for national and foreign seafarers on an equal basis so that they can secure their contractual rights in their relations with their employers.

*/ Reproduced from the TD/RS/CONF/C.1/CRP.14. The First Committee may wish to transmit this text to the Drafting Committee.

h/ Bahamas reserved its position on this paragraph.

[Article 7] */

THE ROLE OF FLAG STATES IN RESPECT OF THE MANAGEMENT OF
SHIPOWNING COMPANIES AND SHIPS

1. The State of registration, before entering a ship in its register of ships, [shall] [should] ensure that the shipowning company or a subsidiary shipowning company is established and/or i/ has its principal place of business within its territory in accordance with its laws and regulations.

2. Where the shipowning company or the subsidiary shipowning company or the principal place of business of the shipowning company is not established in the flag State, the latter [shall] [should] ensure, before entering a ship in its register of ships, that there is a representative or management person who shall be a national of the flag State, or be domiciled therein. This representative or management person duly established or incorporated in the flag State, as the case may be, in accordance with its laws and regulations, and is duly empowered to act on the shipowner's behalf and account. In particular, this representative or management person should be available for any legal process and to meet the shipowner's responsibilities in accordance with laws and regulations of the State of registration.

3.i/ The State of registration [shall/should] [ensure/assure itself] k/ that the person or persons accountable for the management and operation of a ship flying its flag are in a position to meet the financial obligations that may arise from the operation of such ship. To this end the State of registration [shall/should] [ensure/assure itself] k/ that ships flying its flag are in a position to provide at all times documents evidencing that an adequate guarantee, such as appropriate insurance or any other equivalent means has been arranged to cover normally insurable risks in respect of damage to third parties. Furthermore, the State of registration [shall/should] [ensure/assure itself]k/

*/ Transmitted by the Drafting Committee to the Conference; reproduced from TD/RS/CONF/L.7/Add.4

i/ The United Republic of Tanzania reserved its position regarding the expression "and/or."

j/ Bahamas, Israel, Liberia, Panama and Vanuatu reserved their position on this paragraph.

Israel, supported by Bahamas and Liberia, proposed that this paragraph be substituted by the following text:

"[Ensure] [assure itself] that the person or persons accountable for the management and operation of a ship flying its flag are in a position to meet certain financial obligations that may arise from the operation of such ship. To this end a State [shall/should] [ensure/assure itself] that ships flying its flag are in a position to provide at all times documentation demonstrating that appropriate insurance or any other equivalent means has been arranged to cover normally insurable risks in respect of damage to third parties. Furthermore, a State [shall/should] [ensure/assure itself] that an appropriate mechanism exists to cover all the social obligations of shipowners to their crews. A State may also provide in its laws and regulations for any appropriate mechanism to that effect."

k/ The President of the Conference proposed to substitute the expressions "shall/should; ensure/assure itself" by the phrase "shall take the necessary measures to assure itself"

that an appropriate mechanism, such as a mutual fund, wage insurance, social security scheme or any other equivalent guarantee provided by a governmental agency of the State of the accountable person, whether that person is an owner or operator, exists to cover wages and related monies owed to seafarers employed on ships flying its flag in the event of default of payment by their employers. The State of registration may also provide for any other appropriate mechanism to that effect in its laws and regulations. l/

[Article 8] */

OWNERSHIP OF SHIPS

1. The flag state [shall] [should] provide in its laws and regulations for the ownership of ships flying its flag.

2. In such laws and regulations the flag State [shall] [should] include appropriate provisions for participation by its nationals as owners of the ships flying its flag m/ and for the level of such participation and they should be sufficient to permit the flag State to exercise effectively its jurisdiction and control over the ships flying its flag. n/ o/

3. Joint ventures p/

(a) States Parties to this Agreement, in conformity with their national policies, legislation and the conditions of registration of ships contained in this Agreement, should promote joint ventures between shipowners of different countries, and should, to this end, adopt appropriate arrangements, inter alia, by safeguarding contractual rights of the parties to joint ventures, to further the establishment of such joint ventures in order to develop the national shipping industry.

(b) Regional and international financial institutions and aid agencies should be invited to contribute, as appropriate, to the establishment and/or strengthening of joint ventures in shipping in developing countries, particularly in the least developed among them.

*/ Text transmitted by the Drafting Committee to the Conference; reproduced from TD/RS/CONF/L.7/Add.4.

l/ Group D reserved its position regarding this paragraph at this stage of the negotiations.

m/ Greece reserved its position regarding the phrase "as owners of the ships flying its flag", and suggested adding immediately thereafter the phrase "or in the ownership of such vessels".

n/ Liberia and Bahamas reserved their position regarding this paragraph.

o/ Israel considered that the words "they should be sufficient to permit the flag State to exercise effectively its jurisdiction and control over the ships flying its flag" should not be placed in the article on Ownership but at some other appropriate place; however it will be willing to withdraw its reservation provided article 5 is accepted.

p/ The Drafting Committee recommended that paragraph 3 should be a separate article and the appropriate place of this article in this agreement was to be considered by the Conference at a later stage.

[Article 9] */

BAREBOAT CHARTER

1. Subject to [Article ...] 5/ [the provision ...] Z/ of this Agreement and in accordance with its laws and regulations a State may grant registration and the right to fly its flag to a ship bareboat chartered-in by a charterer in that State, for the period of that charter. Such registration [shall] [should] be effected on production of evidence, indicating suspension or deletion of previous registration as regards the nationality of the ship under the former flag State and indicating particulars of any registered encumbrances. [All requirements] 1/ [All relevant provisions] 2/ [, other than ownership] 1/ [shall] [should] apply when ships on bareboat charter are so registered in the charterer's State. [States should refrain, as appropriate, from bareboat chartering vessels in from and bareboat chartering vessels out to countries not fulfilling their obligations under the present agreement.] 8/

2. A State should ensure that a ship bareboat chartered-in flying its flag, pursuant to paragraph 1 above, will be subject to its full jurisdiction and control. 9/

3. All terms and conditions, other than those specified in the previous paragraphs, relating to the bareboat charter relationship are left to the contractual disposal of the respective parties.

[Article 10]

IDENTIFICATION AND ACCOUNTABILITY **/

1. (a) The State of registration [shall] [should] enter in its register of ships, inter alia, information concerning the ship and its owner or owners. Information concerning the operator, when the owner is not the operator, should be included in the register of ships or in the official record of operators to be maintained in the office of the Registrar or be readily accessible to him, in accordance with the laws and regulations of the State of registration. The State of registration [shall] [should] issue documentation as evidence of the registration of the ship.

(b) The State of registration [shall] [should] take such measures as are necessary to ensure that the owner or owners, the operator or operators, and the person or persons r/ who can be held accountable for the management and operation of ships flying its flag can be easily identified by persons having a legitimate interest in obtaining such information.

*/ Text still under consideration in the Drafting Committee; reproduced from TD/RS/CONF/C.1/CRP.13, as agreed by the First Committee.

**/Transmitted by the Drafting Committee to the Conference; text to be referred back to the First Committee.

9/Subject to agreement on the text of paragraph 1.

r/ Subject to definition.

(c) Registers of ships should be available to those with a legitimate interest in obtaining information contained therein, in accordance with the laws and regulations of the flag State.

2. (a) A State should ensure that ships flying its flag carry documentation including information about the identity of the owner or owners, the operator or operators or the person or persons accountable for the operation of such ships, and make available such information to port State authorities.

(b) In any case where a State requires an operator of a ship flying its flag to furnish financial security, such security may be replaced by an appropriate guarantee provided by a governmental agency of the operator's country. s/

3. Log-books should be kept on all ships and retained for a reasonable period after the date of the last entry, notwithstanding any change in a ship's name, and should be available for inspection and copying by persons having a legitimate interest in obtaining such information, in accordance with the laws and regulations of the flag State. In the event of a ship being sold and its registration being changed to another State, log-books relating to the period t/ before such sale should be retained and should be available for inspection and copying by persons having a legitimate interest in obtaining such information, in accordance with the laws and regulations of the former flag State.

[4. States shall not accept on their registers any ships owned by companies which issue bearer shares.] 9/

5. A State should ensure that direct contact between owners of ships flying its flag and its government authorities is not restricted.

[Article 11]

REGISTER OF SHIPS

1. A State of registration [shall] [should] establish a register of ships flying its flag, which register [shall] [should] be maintained in a manner determined by that State and in conformity with the relevant provisions of this Agreement. Ships entitled by the laws and regulations of a State to fly its flag [shall] [should] be entered in this register in the name of the owner or owners or, where national laws and regulations so provide, the bareboat charterer.

2. */ Such register [shall] [should], inter alia, record:

- (i) the name of the ship and the previous name and registry if any;
- (ii) the place or port of registration or home port and the official number or mark of identification of the ship;

*/ Delegations might wish to reconsider this paragraph when definitions of ship, owner, operator, etc. are finalized.

s/ Group B and China suggest that subparagraph 2 (b) be deleted. The Group of 77 could accept the deletion subject to agreement on the definition of "operator".

t/ Some clarification regarding the length of period may be appropriate.

- (iii) the international call sign of the ship, if assigned;
- (iv) the name of the builders, place of build and year of building of the ship;
- (v) the description of the main technical characteristics of the ship;
- (vi) the name, address and, as appropriate, the nationality of the owner or of each of the owners and the proportion of the ship owned by each;

and, unless recorded in another public document readily accessible to the Registrar in the flag State:

- (vii) the date of deletion or suspension of the previous registration of the ship;
- (viii) the name, address and, as appropriate, the nationality of the bareboat charterer, where national laws and regulations provide for the registration of ships bareboat chartered-in;
- (ix) the particulars of any mortgages or other similar charges upon the ship as stipulated by national laws and regulations;
- (x) the name, address and, as appropriate, the nationality of the operator, when the owner or the bareboat charterer is not the operator.u/

3. Before entering a ship in its register of ships a State should assure itself that the previous registration, if any, is deleted, or in the case of a ship bareboat chartered-in, that the right to fly the flag of the former flag State is suspended or deleted. */

[Article 12]

MEASURES TO PROTECT THE INTERESTS OF LABOUR-SUPPLYING COUNTRIES v/

For the purpose of safeguarding the interests of labour-supplying countries and of minimizing labour displacement and consequent economic dislocation, if any, within these countries, particularly developing countries, as a result of the adoption of this international Agreement, [bearing in mind the appropriate time-frame], **/ urgency should be given to the implementation, inter alia, of the following measures:

*/ The words "or deleted" have been added following discussions in the First Committee.

**/ Time-frame to be decided upon.

u/Japan reserved its position on this subparagraph and suggested its deletion.

v/ Liberia reserved its position on this article.

(a) UNCTAD, UNDP and other appropriate international bodies should upon request provide assistance to labour-supplying developing countries for establishing appropriate legislation for the registration of ships and for attracting ships to their registers, taking into account this international Agreement;

(b) The ILO should upon request provide assistance to labour-supplying countries for the adoption of measures which minimize labour displacement and consequent economic dislocation, if any, within labour-supplying countries which might result from the adoption of this Agreement;

(c) Appropriate international organizations within the United Nations system should upon request provide assistance to labour-supplying countries for the education and training of their seafarers, including the provision of training and equipment facilities;

(d) Labour-supplying countries should regulate the activities of the agencies within their jurisdiction that provide seafarers for ships flying the flag of another country in order to ensure that the contractual terms offered by those agencies will prevent abuses and will contribute to the welfare of seafarers. For the protection of their seafarers, labour-supplying countries may require, inter alia, suitable security of the type as that mentioned in ... from the owners or operators of ships employing such seafarers or from other appropriate bodies;

(e) Labour-supplying developing countries may consult each other in order to harmonize as much as possible their policies concerning the conditions upon which they will supply labour in accordance with these principles and may, if necessary, harmonize their legislation in this respect;

(f) In order to create favourable conditions for any contract or arrangement that may be entered into by shipowners or operators and the trade unions of seamen or other representative seamen bodies, bilateral agreements may be concluded between flag States and labour-supplying countries concerning the employment of seafarers of those labour-supplying countries.

Proposal submitted by Panama and supported by the Group of 77

[Article 12 bis]

For the purpose of minimizing economic dislocation that might occur within countries, particularly developing countries, in the process of adapting and implementing conditions to meet the requirements established by this Agreement, the following measures could be considered:

1. UNCTAD, UNDP, IMO and other appropriate international bodies should provide, upon request, technical and financial assistance to those countries in order to formulate and implement modern and effective legislation for the development of their fleet in accordance with the provisions of this Agreement;
2. ILO and other appropriate international organizations should provide, upon request, assistance to those countries for the preparation and implementation of educational and training programmes for seafarers as may be necessary;
3. UNDP, the World Bank and other appropriate international organizations should provide, upon request, technical and financial assistance for the implementation of alternative national development plans, programmes and projects to compensate for economic dislocation which might occur.

DRAFT TEXT OF THE FINAL CLAUSES/FOLLOW-UP PROVISIONS
SUBMITTED BY THE CHAIRMAN OF THE SECOND COMMITTEE

PART III

FINAL CLAUSES w/ x/

[Article 1]

DEPOSITARY

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.y/

[Article 2]

IMPLEMENTATION

1. Each Contracting State shall take such legislative or other measures as may be necessary to implement this Agreement.z/
2. Each Contracting State shall, within appropriate times, communicate to the depositary the text of the legislative or other measures which it has taken in order to implement this Agreement.aa/

w/Group B's position regarding the texts of the final clauses is without prejudice to the final form of the Agreement bearing in mind that these texts refer to a mandatory Agreement. Consequently, Group B has submitted its own proposal for a follow-up to the Conference (see article 8 below)

x/Panama has submitted a proposal on "Final Statements".

y/Considered as accepted by all Groups depending on the type of Agreement reached.

z/Text preferred by the Group of 77 and Group D. Text proposed by the Chairman of Committee II: "Each party to this Agreement shall take such measures as may be necessary to implement this Agreement." All Groups agreed to have a provision on implementation. Group B maintains its own proposal. The Philippines consider the substance to be covered in article 4 bis.

aa/The Group of 77 accepts this provision but reserves its right to come back to it in order to specify the appropriate time-limit. Group B does not see the need for this provision and the Philippines considers this provision to be covered in article 4 bis.

3. The depository shall circulate to all Contracting Parties the texts of the legislative or other measures which have been communicated to him pursuant to paragraph 2 of this article. bb/

[Article 3]

SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION cc/

1. All States are entitled to become Contracting Parties to this Agreement under one of the following procedures:

(a) Definitive signature (not subject to ratification, acceptance or approval); or

(b) Signature subject to and followed by ratification, acceptance or approval; or

(c) Accession.

2. This Agreement shall be open for signature under paragraph 1 (a) or (b) above from to included, and shall thereafter remain open for accession.

3. Instruments of ratification, acceptance, approval and accession are to be deposited with the depository.

[Article 4]

ENTRY INTO FORCE

1. This Agreement shall enter into force 12 months after the following conditions have been met:

bb/The Group of 77 and Group D consider this provision useful. China proposes that text of legislative or other measures be communicated by the depository in the official languages of the United Nations. The Philippines feel that it could be incorporated in article 4 bis. The Chairman of Committee II proposed the wording "Upon request to Contracting Parties" instead of "All Contracting Parties".

cc/Provided such a provision is required Group B points out that the interests of regional organizations might need to be accommodated in the Agreement. Group D and the Group of 77 are doubtful whether any regional organizations exist on which are entrusted the task of registering ships. But both groups are open to discuss the issue.

(i) not less than dd/ States have, in accordance with article 3, either signed it not subject to ratification, acceptance or approval (definitive signature) or have deposited instruments of ratification, acceptance, approval or accession with the depository.ee/

(ii) a period of ff/ years has expired following the date of the adoption of this Agreement by the United Nations Conference on Conditions for Registration of Ships.

2. For each State which becomes a Contracting Party to this Agreement after the conditions for entry into force under paragraph 1 of this article have been met, the Agreement shall enter into force [six] [twelve] gg/ months after that State has become a Contracting Party. [That State shall be entitled to the Adjustment Period referred to in article 4 bis. However, the duration of the Adjustment Period for that State shall equal the difference of the total Adjustment Period provided in article 4 bis and the date of entry into force of this Agreement for that State. Any subsequent extension of the Adjustment Period provided for in paragraph 4 of article 4 bis shall fully apply to that State.]hh/ ii/

dd/The Group of 77 proposes a minimum of 40 States and reserves its position on additional criteria. Panama proposes a minimum of 40 States provided that no less than 30 States are from among those listed in Annex I of TD/RS/CONF/10/Add.1. Panama considers its proposals for entry into force requirements contained in foot-notes ee/; ff/; and gg/ as an integral one. Consequently depending on the minimum tonnage requirements agreed Panama is prepared to reconsider the need for such list of countries.

ee/In addition, Group B, Panama, Liberia and Bahamas consider minimum tonnage requirements to be absolutely essential. All four are proposing a minimum of 50 per cent of the world's gross register tonnage. On a preliminary basis Group D has no specific proposal for minimum tonnage requirements. The Group of 77 reserves its position on minimum tonnage requirements. Brazil is against any criterion based on gross register tonnage.

ff/The Philippines are in favour of nine years; Panama proposes a period of 20 years following the date on which the requirements for entry into force of the Agreement have been met.

gg/The Philippines prefer 12 months together with provisions contained in paragraph 2 of the amendments it proposed (see article 4 (2) and foot-note hh/). Panama is also in favour of 12 months.

hh/Proposal by the Philippines.

ii/Group D reserves its position on the whole of article 4 and related proposals.

New article 4 bis proposed by the Philippines

Adjustment period ii/

1. An Adjustment Period of ten (10) years, applicable to all Contracting States, shall immediately take effect upon the entry into force of this Agreement. During this Adjustment Period, Contracting States shall undertake such legislative or other measures as may be necessary so as to be in a position to implement this Agreement by the end of the Adjustment Period.

2. The Adjustment Period shall consist of two five-year phases during which:

(a) Phase I

Implementation of the provisions of this Agreement by Contracting States shall not be mandatory during the first five years of the Adjustment Period; and

(b) Phase II

Each Contracting State shall undertake gradual and progressive implementation of the provisions of this Agreement during the last five years of the Adjustment Period.

3. Full implementation by Contracting States of the provisions of this Agreement shall be mandatory at the end of the Adjustment Period, subject to the provision of paragraph 4 hereunder.

4. The Contracting States shall monitor the implementation of paragraph 2 above. Before the end of Phase II of the Adjustment Period, the Contracting States shall conduct a thorough review to determine whether the measures implemented by Contracting States during the Adjustment Period are causing dislocations in or adverse effects on their economies. Based on the findings of such a review, the Contracting Parties shall consider whether there is a need to extend the Adjustment Period.

[Article 5]

RESERVATIONS kk/

No reservations or exceptions may be made to this Agreement unless expressly permitted by other articles of this Agreement.

ii/Panama could support the concept of adjustment periods contained in article 4 bis together with the proposal for the time-frame for the entry into force proposed by the Philippines as contained in article 4 (1).

kk/The Group of 77 and Group D are in favour of retaining this provision. Liberia does not consider it necessary. China is still considering the article. Bahamas and Panama reserve their position. Group B consider this provision to be inappropriate because they believe the provisions of article 19 of the Vienna Convention on the Law of Treaties should apply.

[Article 6]

REVIEW AND AMENDMENTS

A. Amendments without a conference 11/

1. Any Contracting Party may propose one or more amendments to this Agreement by communicating the amendments to the depositary. The depositary shall circulate such amendments among the Contracting Parties, for their acceptance, and among States entitled to become Contracting Parties to this Agreement which are not Contracting Parties, for their information.
2. Each proposed amendment circulated in accordance with paragraph 1 of this article shall be deemed to have been accepted if no Contracting Party communicates an objection thereto to the depositary within six months following the date of its circulation by the depositary. If a Contracting Party communicates an objection to the proposed amendment, such amendment shall not be considered as accepted and shall not be put into effect.
3. If no objection has been communicated, the amendment shall enter into force for all Contracting Parties six months after the expiry date of the period of six months referred to in paragraph 2 of this article.

B. Amendments with a conference

1. [At the request of not less than one third of the Contracting Parties mm/ nn/ or [not later than 10 years after the entry into force of this Agreement] nn/ [Subject to the approval of the General Assembly ten (10) years after the adoption of this Agreement], oo/ the Secretary-General of the United Nations shall, after the entry into force of this Agreement, convene a review conference of the Contracting Parties for revising or amending it.
2. The Secretary-General of the United Nations shall circulate to all Contracting Parties the texts of any proposals for, or views regarding, amendments, at least three months before the opening date of the review conference.

C. Effect of amendments

1. Decisions of a review conference regarding amendments shall be taken by a two-thirds majority of the States present and voting. pp/ Amendments adopted by such a conference shall be communicated by the depositary to all the Contracting parties for acceptance and to all the States signatories of the Agreement for information.

11/The Group of 77, Group B, China and Panama do not consider this provision necessary. Group D prefers to retain it but will not insist if other groups are against it. Group D reserves its final position.

mm/Proposal by the Group of 77.

nn/Proposal by Group D. Group D is against any provisions incorporating time limits.

oo/Suggestion of Group B.

pp/Group B, Liberia, Panama and Bahamas prefer decision making on a consensus basis. Group D prefers two-thirds majority. The Group of 77 could accept two-thirds majority. China proposed an amalgamation of the two concepts, such as "consensus or upon request two-thirds majority".

2. Acceptance of amendments adopted by a review conference shall be effected by the deposit of a formal instrument to that effect with the depositary.

3. Any amendment adopted by a review conference shall enter into force only for those Contracting Parties which have accepted it, on the first day of the month following one year after its acceptance by two thirds of the Contracting Parties. For any State accepting an amendment after it has been accepted by two thirds of the Contracting Parties, the amendment shall enter into force one year after its acceptance by that State.

4. Any State which becomes a Contracting Party to this Agreement after the entry into force of an amendment shall, failing an expression of a different intention by that State:

(a) Be considered as a Party to this Agreement as amended, and

(b) Be considered as a Party to the unamended Agreement in relation to any Party to this Agreement not bound by the amendment.^{99/}

[Article 7]

DENUNCIATION ^{rr/}

1. Each Contracting Party may denounce this Agreement at any time by means of a notification in writing addressed to the depositary.

2. Such denunciation shall take effect on the expiration of one year after the notification is received by the depositary, unless a longer interval has been specified in the notification.

Proposal by Panama on [Article 7 bis]

Final statements

1. In interpreting and implementing this Agreement, no State may use economic, political or any other measures, or encourage the use of such measures, with the aim of compelling another State to waive the exercise of its sovereign rights.

2. Similarly, this Agreement shall not be interpreted in such a way as to impair the sovereign right of every State to possess, use and dispose of its entire wealth, natural resources and economic activity, as well as its paramount responsibility to promote the economic, social and cultural development of its people through the free choice of its development objectives and methods. Every State has the right to regulate and

^{99/}Article 6 (C) following the first sentence acceptable to the Group of 77, Group D and China.

^{rr/} Text accepted by the Group of 77, Group D and China.

exercise its authority over foreign investment within its national jurisdiction in accordance with its laws and rules and in conformity with its national objectives and priorities in keeping with the provisions of United Nations General Assembly resolution 3281 (XXIX).

Additional clause proposed by Belgium on behalf of the European Economic Community and its member States:

For insertion in the Final Clauses or elsewhere in the Agreement

This Agreement does not affect the rights and obligations directly or indirectly resulting from a State's membership of a regional economic integration organization. zz/

[Article 8]

AUTHENTIC TEXTS tt/

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have affixed their signatures hereunder on the dates indicated.

DONE at on in one original in the Arabic, Chinese, English, French, Russian and Spanish languages, all texts being equally authentic.

Proposal by Group B on Follow-up to the Conference uu/ vv/

The participating States,

Agreeing to implement the clauses contained in the foregoing international Agreement in order to give full effect to its result and thus to further the strengthening of the genuine link between a vessel and the flag State,

Convinced that in order to achieve the aims sought by the Conference effective exercise of jurisdiction and control in administrative, technical and social matters by the flag States over ships flying their flag constitute the genuine link between a State and ships flying its flag, ww/

ss/ Mexico and the USSR reserved their position regarding this proposal.

tt/ Agreed by all Groups.

uu/ Group B maintains that further consideration has to be on the basis of parallel texts for a mandatory or non-mandatory Agreement.

vv/ It was generally agreed in the Second Committee that the ideas contained in the Group B proposal had been examined during the discussion of the final clauses except for the concept contained in the second paragraph of the Group B proposal.

ww/ Group D considers this already reflected in the preamble. Group D and Brazil furthermore disagree with the narrow interpretation of the concept of the genuine link.

Declare their intention to pay due regard to and implement the clauses contained in the foregoing international Agreement

- unilaterally through effective exercise of jurisdiction and control,
- multilaterally through co-operation between flag and port States,

Agree that subject to the approval of the General Assembly ten (10) years after the adoption of the above international Agreement a United Nations Conference shall be convened by the Secretary-General of the United Nations for the purpose of reviewing all aspects of the international Agreement on Conditions for Registration of Ships,

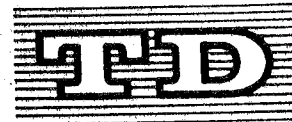
Designate that this Agreement is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, the text in each language being equally authentic,

Note that the text of this Agreement will be published in each participating State, which will disseminate it and make it known as widely as possible to all interested parties.

Appendix

Key to numbered footnotes

- 1/ Text proposed by the Group of 77, Group D and China
- 2/ Text proposed by Group B
- 3/ [] placed around the heading "Article 1", "Article 2", and so on, in the case of each such heading, at the request of Group B
- 4/ [] at the request of the Group of 77
- 5/ Text proposed by Group D
- 6/ [] at the request of China and Group B
- 7/ Text proposed by Group B and subject to the nature of the Agreement
- 8/ Text proposed by China and supported by the Group of 77
- 9/ Text proposed by the Group of 77



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UNITED NATIONS CONFERENCE ON CONDITIONS
FOR REGISTRATION OF SHIPS

REPORT OF THE UNITED NATIONS CONFERENCE ON CONDITIONS FOR REGISTRATION OF SHIPS ON ITS THIRD PART

held at the Palais des Nations, Geneva,
from 8 to 19 July 1985

Annex I

COMPOSITE TEXT AS AT THE CLOSE OF THE THIRD PART OF
THE CONFERENCE ON 19 JULY 1985

Corrigendum

Page 8, [Article 7], paragraph 2, line 1

For the subsidiary shipowning company read a subsidiary shipowning company.

Idem, line 6

After the words management person insert may be either a natural or juridical person.