

large scale or its threat. The first is the right of a coastal State to intervene when a casualty occurs on the high seas which causes, or might cause, pollution. The second is the determination of the burden of liability—with all its attendant complexities—for the consequences of such a casualty. The Legal Committee is also likely, in the near future, to consider legal problems relating to marine pollution from noxious or hazardous cargo other than oil.

(ii) *International Maritime Committee (Comite' Maritime International)*: The subject of third party liability in the matter of oil pollution on the High Seas (the problem of the *Torrey Canyon*) was considered by the General Assembly of IMC, held in Tokyo from 30 March to 5 April 1969.

(iii) *International Chamber of Shipping*: The ICS has continued to cooperate with other international organizations including IMCO in regard to measures to prevent the recurrence of incidents like that involving the *Torrey Canyon*. It is seeking to insure that no national legislation which might complicate the situation is enacted while the whole question is under international consideration.

PART XXV

Sanitation

105. The existing legislation on this subject is as follows:

- (i) Pan-American Sanitary Code, Havana, November 14, 1924,¹⁸⁷ adopted at the Havana Conference of 1924.
- (ii) International Sanitary Convention, Paris, 1926, providing for measures for prevention of the spread of diseases on account of international shipping.

¹⁸⁷. *Ibid.*, at p. 851.

(iii) International Convention for Mutual Protection Against Dengue Fever, Athens, July 25, 1934.¹⁸⁸

(iv) International Sanitary Regulations, Geneva, 1951,¹⁸⁹ adopted through the efforts of World Health Organization (WHO). The Regulations were amended in 1955, 1956 and 1961.

106. In collaboration with the bodies responsible for the technical inspection and classification of vessels of countries cooperating under the Agreement of December 15, 1961, agreed resolutions on sanitary conditions on board merchant ships were drafted by the CMEA, and were recommended by it for application to new designs of ships for use in intra-CMEA trade. The regulations lay down standard for sanitary and other conditions in seamen's quarters (living quarters, mess rooms, conveniences, etc.).

PART XXVI

Labour matters

107. The existing legislation on labour matters in the field of shipping is set out in foot-note 8, to the present note. The conventions and recommendations set out in the said foot-note were adopted by the International Labour Organization (ILO), in order to advance the cause of social justice by establishing international labour standards in the field of shipping. These conventions and recommendations deal with the multifarious aspects of the interest of seamen, such as, employment of seamen; their certificates of competency and qualifications and identity documents; wages; hours of work on board ship and manning; training; recruitment; social security; welfare of seafarers; crew accommodation on board ship; food and catering; articles of agreements; holidays; and the like. The conventions are the legal instruments binding on the

¹⁸⁸. *Ibid.*, at p. 871.

¹⁸⁹. *Ibid.*, at p. 783.

States which have ratified them, while recommendations are essentially guides for national action."¹⁹⁰ The Conventions and Recommendations taken together form a body of international standards which is currently known as the "International Seafarers' Code" and their provisions have been included in the relevant legislation of most of the maritime countries.

108. (i) The International Labour Conference has also adopted five conventions relating to fishermen and two relating to dockers. The ILO is also concerned with the implementation of the Brussels Convention on the Treatment of Venereal Diseases among Seamen, of December 1, 1924.¹⁹¹

(ii) In cooperation with F.A.O. and I.L.O. the IMCO is compiling a "Code of Safety for Fishermen and Fishing Vessels". Part A of the Code, consisting of two parts, is "Code of Safety and Health Practice for Shippers and Crew".

190. Dr. T. K. Thommen : UNCTAD Doc. TD/32/Rev. 1.

191. *British Shipping Laws*, Vol. 8, at p. 1037.

III. SUMMARY RECORD OF DISCUSSIONS HELD AT THE ELEVENTH SESSION, A C C R A

The topic of *International Legislation on Shipping* was on the agenda of the Eleventh Session of the Committee for a preliminary discussion only. The subject was discussed at the sixth and tenth meetings held on 26th and 29th January, 1970, respectively.

Initiating the discussion in the sixth meeting the Delegate of INDIA broadly indicated the scope of the work of the UNCTAD and the UNCITRAL on the topic and suggested that the Committee should make its recommendations to the aforesaid U.N. bodies. Among the important topics, he said, which were under the consideration of the UNCTAD were Bills of Lading, Charter Parties and Marine Insurance, and he felt that it would be useful to examine some of these topics although it would be difficult to do all at the same time.

The Delegate of PAKISTAN made a general statement on the topic indicating the progress made by the two U.N. bodies and stated that a review of international legislation on shipping was important from the viewpoint of developing countries as several countries considered that the high cost of shipment was a major factor in their balance of payments difficulties. He pointed out that the major topics which needed study were Bills of Lading, Charter Parties, General Average, Marine Insurance and Shipping Practice and general conventions and suggested that the Committee should coordinate its work with the efforts of the U.N. bodies concerned, but at the same time it should make its own contribution in the field having regard

to the special needs and requirements of the continents of Asia and Africa.

The Delegate of GHANA said that it could be legitimately presumed that the earlier conventions or international legislation on shipping were formulated by the developed countries to protect the interests of their shipping companies and consequently there was a need for the injection of fair and more equitable principles into the existing legislation and also for the formulation of new rules which will be mutually advantageous not only to the developed and developing nations but also to the shipowner and the shipper. He felt that the time had come to take a fresh look at some of the accepted but older conventions dealing with the liabilities of carriers in the Bills of Lading. He also supported the proposal that the Committee should fully cooperate with the U. N. bodies dealing with this topic. He suggested examination of five topics: carriage of goods and shipping documents, Bills of Lading, Charter Parties, Marine Insurance, General Average and containers and unitized cargoes.

The Delegate of JAPAN said that out of the many aspects of shipping legislation, the developing countries were mainly concerned with the economic and commercial aspects of international shipping, namely Charter Parties, Marine Insurance, General Average and Bills of Lading, because they felt that existing conventions on these aspects of international shipping were more favourable to the shipowner than to the shipper. He pointed out that his Delegation would approach the problem not only from the shipowner's point of view, but also from that of the shipper. He suggested that the Committee should take up this topic only after some clear direction on the scope and method of work was given by the UNCTAD and the UNCITRAL. He added that the Secretariat of the Committee should keep the Committee informed of the progress made on the subject by the U.N. bodies from time to time.

The Delegate of CEYLON stated that the international shipping legislation was a matter of great concern to the developing countries of Asia and Africa, and that the existing legislation was weighted heavily in favour of shipowners as against ship-users. He recalled the work done by the UNCTAD which had taken up the following topics in order of priority, namely: Bills of Lading, Charter Parties, General Average, Marine Insurance and economic and commercial aspects of international legislation and practices in the field of shipping. He felt that although the long term work of the Committee should be to review the entire subject, it would be advisable for a start that the Committee should concentrate on a few topics which were already before the Working Group of UNCTAD.

At the conclusion of the aforesaid preliminary discussion, it was decided to set up a Sub-Committee consisting of four persons to indicate the topics which should be studied by the Committee. The Chairman of the Sub-Committee made an oral statement in the tenth meeting held on 29th January 1970 wherein he said that it was essential to arrange for the maintenance of harmony between the UNCTAD and UNCITRAL in their study of the subject of shipping. He suggested that the first topic which the Committee might take up was the question of Bills of Lading. As to how the Committee should consider this subject, he felt, that this would have to be reviewed from time to time having regard to the progress made in the UNCTAD and the UNCITRAL. The Committee accepted the suggestions of the Chairman of the Sub-Committee.