

ANNEX 4

RESOLUTION MEPC.70(38)
adopted on 10 July 1996

**AMENDMENTS TO THE CODE FOR THE CONSTRUCTION AND EQUIPMENT
 OF SHIPS CARRYING DANGEROUS CHEMICALS IN BULK (BCH CODE)**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution,

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the 1973 Convention (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confers upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

RECALLING ALSO resolution MEPC.20(22) by which it adopted the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code),

NOTING FURTHER resolution MEPC.68(38), by which the Committee adopted amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code),

RECOGNIZING the need to bring the corresponding amendments into force on the date on which the amendments to the IBC Code enter into force,

HAVING CONSIDERED, at its thirty-eighth session, amendments to the BCH Code proposed and circulated in accordance with article 16(2)(a) of the MARPOL Convention,

1. ADOPTS, in accordance with article 16(2)(b) of the 1973 Convention, amendments to the BCH Code, the text of which is set out at Annex to the present resolution;
2. DETERMINES, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 1 January 1998, unless prior to the date, not less than one-third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;
3. INVITES the Parties to note that in accordance with article 16(2)(g)(ii) of the 1973 Convention the amendments shall enter into force on 1 July 1998 in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the Annex; and
5. REQUESTS FURTHER the Secretary-General to transmit to the Members of the Organization which are not Parties to the 1978 Protocol copies of the resolution and its Annex.

ANNEX

AMENDMENTS TO THE BCH CODE

- 1 New paragraph 4.18.4 is added to chapter IV as follows:

"4.18.4 In order to avoid elevated temperatures, this cargo should not be carried in deck tanks."

- 2 The cross reference between paragraphs 16.6 of the IBC Code and 4.18 of the BCH Code is replaced by the following:

IBC Code reference

BCH Code reference

16.6.1
16.6.2
16.6.3
16.6.4

4.18.1
4.18.2
4.18.3
4.18.4

ANNEX 5**STATEMENT BY THE DELEGATIONS OF BELGIUM, DENMARK, FINLAND,
THE NETHERLANDS, NORWAY AND SWEDEN ON THE CONDITIONS
FOR ENTRY INTO FORCE OF THE NEW ANNEX ON PREVENTION
OF AIR POLLUTION FROM SHIPS**

With respect to the conditions for entry into force (in particular the number of States and the % of tonnage to be represented), the delegations of Belgium, Denmark, Finland, the Netherlands, Norway and Sweden expressed the following view:

For the Annex on air pollution the usual numbers for entry into force, 15 States and 50% of tonnage do not adequately reflect the interests of states that may not have large fleets, but nevertheless seek to protect their environment and national heritage from air pollution, including air pollution from ships. It is expected that these entry into force provisions may result in a long delay before the new Annex would enter into force. A consequential risk would be unilateral actions and varying standards in different places, which are contrary to IMO's goal to achieve world-wide standards, in those cases where the standards are only applied in certain areas.

Applying the same conditions for entry into force of the Annex on air pollution as for the other Annexes of MARPOL, further fails to recognize the character of the air pollution Annex, which is completely different from the other annexes in many respects. One difference, in the view of some, that warrants the quickest possible action is that air pollution frequently affects environmental conditions that are located far from the source of pollution.

In view of these considerations, many delegations believe that it will be in the best interest of all Parties that the proposed Annex enter into force as soon as possible.

While it is acknowledged that a sufficient number of States should be in favour of regulations for air pollution by ships, there is also a need to recognize that it is not only flag States' interests that are at stake. The following conditions for entry into force would, in the opinion of the States mentioned above, reflect more fairly the various interests that are involved in regulating air pollution from ships.

Number of states:	20
Percentage of tonnage:	25

In order to underline the necessity for expeditious entry into force, it is further suggested to consider insertion of a paragraph (2) in article 6 of the Protocol. This paragraph could limit the period of time within which the entry into force should take place and failing that, state that the annex shall not enter into force. A similar provision is included in the INMARSAT Convention, which as you know, has entered into force.
