

RESOLUTION A.391(X)

Adopted on 14 November 1977
Agenda item 10

**PROCEDURES FOR THE CONTROL OF DISCHARGES UNDER THE
INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION
OF THE SEA BY OIL, 1954**
(as amended in 1962 and 1969)

THE ASSEMBLY,

NOTING Article 16(i) of the Convention on the Inter-Governmental Maritime Consultative Organization concerning the functions of the Assembly,

BEING DESIROUS of ensuring that ships comply at all times with standards of safety and of prevention of pollution prescribed by Conventions in force,

RECALLING Resolution A.321(IX) by which the Assembly adopted Procedures for the Control of Ships in respect of the International Convention for the Safety of Life at Sea, 1960 and the International Convention on Load Lines, 1966,

RECALLING FURTHER that that Resolution requested the Marine Environment Protection Committee to consider whether those procedures could be extended to Conventions relating to marine pollution,

HAVING CONSIDERED the Recommendations of the Marine Environment Protection Committee that procedures for the control of discharges could be extended to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954 as amended in 1962 and 1969,

ADOPTS the guidelines for enforcement contained in the Annex to this Resolution,

NOTING WITH SATISFACTION that the 1969 Amendments to the above Convention come into force on 20 January 1978,

INVITES Member Governments and governments of State Parties to the above Convention to follow these guidelines as soon as those Amendments come into force,

REQUESTS the Marine Environment Protection Committee to continue its work on this subject with a view to extending the guidelines as appropriate, for example when new Convention standards such as those in the International Convention for the Prevention of Pollution from Ships, 1973 come into force.

ANNEX

CONTROL OF DISCHARGE VIOLATIONS UNDER THE 1954 OIL POLLUTION CONVENTION AS AMENDED IN 1969 GUIDELINES FOR ENFORCEMENT

INTRODUCTION

1. Under the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, provision is made for Contracting Governments to furnish Administrations with evidence of contravention of that Convention, with a view to enabling Administrations to take legal proceedings.
2. Since contraventions of that Convention generally take place outside the immediate control and knowledge of the Administration, it is important to ensure that there is a ready flow of information concerning alleged contraventions in order to facilitate enforcement by the Administration.
3. These guidelines suggest how the information flow may be expedited, with the purpose of achieving effective enforcement of the Convention as amended in 1969. The guidelines have been drafted in order to facilitate such enforcement, and neither represent any extension of the control procedures provided by the Convention, nor an interpretation of it.

SOURCES OF EVIDENCE OF VIOLATION

4. The 1954 Convention for the Prevention of Pollution of the Sea by Oil, as amended in 1969, prohibits the discharge of oil as defined from tankers within 50 miles of land, and also beyond 50 miles unless the ship is proceeding en route and the instantaneous rate of discharge of oil content does not exceed 60 litres per mile. The amended Convention also prohibits tankers from discharging on any ballast voyage a total of more than 1/15,000 of cargo capacity. Discharges from ships other than tankers and from tanker machinery space bilges must be made as far from land as practicable, when the ship is proceeding en route, and must have an oil content of less than 100 parts per million, and the instantaneous rate of discharge does not exceed 60 litres per mile.
5. The more stringent limitations on oil discharges of the 1969 Amendments make enforcement more feasible. Any sighting of a discharge from a tanker within 50 miles from land would be much more likely to be evidence of a contravention of the Convention and should normally be reported to the Administration for action.
6. Discharges from tankers more than 50 miles offshore are less easy to identify by mere sighting as being in contravention of the Convention. However, photographic evidence or airborne oil sensory equipment recordings, together with an early inspection of the much more detailed Oil Record Book associated with the 1969 Amendments, may be sufficient for taking appropriate measures, such as proceeding to prosecution, as may be provided by the national legislation of Contracting Governments.
7. A further source of evidence is the voluntary inspection which is normally carried out on a tanker with the prior agreement of the master, by terminal staff on arrival in the loading port. Such inspections could show that the oil retained on board was less than that which should have been obtained by observing the discharge regulations on the ballast voyage and there was substantial reason to believe that the oil had been discharged into the sea contrary to the regulations.
8. A number of oil loading terminals around the world have set up, in conjunction with their associated oil interests, schemes whereby every ship presenting to load is inspected by the oil terminal staff in relation to the tank cleaning procedure on its ballast voyage and the consequent retention of residues in its slop tank(s). As part of such schemes normally a report

is compiled giving relevant cubic capacities of the ship, the amount of tankage washed, oil quantity to be expected in the slop tanks and the oil quantity actually found there. The usual report form also invites comments from the ship's master if the slop tank actual quantities are less than the quantity to be expected. The completed report is usually signed by the oil terminal inspector and by the master of the ship. A full description of the inspection procedure and its reporting arrangements is contained in the ICS/OCIMF booklet 'Monitoring of Load-on-Top'. The background to these arrangements is set out in the Appendix.

PROCEDURE – REPORTING OF DISCHARGES

9. Article X(1) of the Convention provides for information about contraventions to the Convention to be furnished to the Flag State wheresoever the alleged contraventions may have taken place. The two main sources of such information will be:

- (a) sightings of discharges at sea by passing ships and aircraft;
- (b) evidence collected in port from the inspection of tankers and their documents.

Sightings

10. Certain coastal States have made arrangements for civil and military ships and aircraft to report spillages or discharges of oil. When the coastal State has secured sufficient evidence such as:

- Name of ship
- Flag
- Next port of call
- Location, date, time and nature of discharge
- Evidence, photographic or otherwise, of discharge

it should report the evidence to the next appropriate port of call, the Administration, and if necessary the Organization. If it is practicable to do so the master of the ship concerned shall be notified of the alleged contravention.

In-port inspection

11. Certain loading port authorities have made arrangements for oil terminal staff to report to them cases of gross contravention due to indifferent compliance with oil retention procedures which are discovered during inspection of tankers. Such information may be passed to the Administration by the authorities of the port State.

PROCEDURE – ACTION BY PORT STATES

12. On receipt of information from any source about an alleged contravention, the competent authority in the port may inspect the Oil Record Book under the procedure laid down in Article IX(5) of the Convention without delaying the ship. If such an inspection shows or confirms that an alleged contravention took place outside its jurisdiction as it is understood in the 1954 Convention, the port State should send a copy of any entry in the book, together with a certification by the master that it was a true copy, to the Administration under the procedure in Article X.

13. In loading ports where gross contraventions of the Convention are suspected by terminal staff, the findings of the inspection by the terminal staff together with any certification or comment by the master of the oil terminal's inspection findings should be sent to the Administration by the port authorities together with the evidence of the Oil Record Book.

14. Port States should, in the case of action taken under paragraph 10, inform the reporting State, and in all cases inform the Organization of the action taken under these procedures.

Action by Administration

15. On receiving information under these procedures the Administration shall take action under Article X as amended. That is to say, it should investigate the matter and, if appropriate, proceed against the master or owner of the ship, informing the reporting States and the Organization of the action it has taken and its outcome as soon as possible, and in any case within six months.

Action by the Organization

16. The reports from reporting States should be matched against those of the relevant Administrations, and summaries should be circulated at every session of the Marine Environment Protection Committee.

Jurisdiction

17. Nothing in these guidelines shall be construed as derogating from the powers of any Contracting Government to take measures within its jurisdiction in respect of any matter to which the Convention relates or as extending the jurisdiction of any Contracting Government.

APPENDIX

VOLUNTARY IN-PORT INSPECTION

1. There is reason to believe that, at present, much sea and beach pollution emanates from those crude oil tankers on their ballast voyages which make no attempt to retain tank washing and ballast changing residues, or incorrectly operate the recognized retention procedures. Such polluting discharges usually take place on the high seas where aerial or other on-the-spot surveillance cannot cover more than a minute fraction of the opportunities to make such discharges. Until the 1969 Amendments came into force, such discharges were perfectly legal provided that they took place in the non-prohibited zones. This is no longer the case and whilst it might be unrealistic to expect all such now illegal discharges to cease overnight, they will continue the longer if they occur without detection and without any sanctions against the wrong-doer.
2. With a view to controlling such discharges, which in addition to their polluting effects also represent a loss of valuable refinable oil, a number of oil loading terminals around the world have set up, in conjunction with their associated oil interests, schemes whereby every ship presenting to load is inspected by the oil terminal staff in relation to the tank cleaning procedure on its ballast voyage and the consequent retention of residues in its slop tank(s).
3. It is clear that such inspections can detect unequivocally the ship which has not attempted any retention at all. Experience to date with the inspection schemes, however, shows that evidence can also be provided where a ship performs its retention procedures badly. Because of the many variables which combine to determine the cargo residues left on a ship after discharge of the previous cargo, these inspections cannot detect marginal infringement of the Convention's effluent requirements. It is not, however, the marginal infringement which is believed to cause pollution which it is desired to eliminate. Nevertheless, the very existence of a routine inspection has been found to act as a strong and effective stimulus to increased retention efficiency on all ships which have been subject to the oil terminal inspection schemes.
4. Clearly the existence and, it is hoped, the more widespread adoption of such schemes, presents an opportunity in crude oil loading ports of an additional source of crucial self-standing evidence against the total disregard of the Convention requirements and of strong evidence of gross contravention due to carelessness or inefficiency. This latter evidence, coupled with that available from the Oil Record Book, could provide sufficient material for Contracting Governments to take appropriate action according to their national legislation.