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STATEMENT OF ADMIRAL BENDER, COMMANDANT, U. S. COAST GUARD, BEFORE THE
SENATE COMMERCE COMMITTEE

Mr. Chairman and Members of the Committee:

I am ADM C. R. Bender, Commandant, United States Coast Guard. It is a pleasure for me to appear before you today on behalf of the Coast Guard to discuss the International Conference on Marine Pollution held in London from 8 October to 2 November 1973. Judge Train and I chaired the U.S. Delegation at this Conference and I have a personal as well as a professional interest in the subject under discussion today.

I wish to endorse Judge Train's statement concerning the International Convention for the Prevention of Pollution from Ships, 1973. I feel we were more successful in achieving our position than we ever anticipated. The Convention incorporates most of the provisions the United States felt were necessary for a meaningful and effective agreement. The Coast Guard believes the Convention constitutes a substantial improvement to existing international law governing control of pollution from ships. Its provisions may well meet the goals of the Ports and Waterways Safety Act. Before we come to a definitive conclusion on this issue, however, further analysis and study are necessary. Later in this statement I will explore this subject.

In his statement, Judge Train compared the new Convention with international law now in force (1954 Convention as amended in 1962), thus illustrating

the progress which this Convention truly represents. I shall append to my statement, Mr. Chairman, a comparison of certain major features of the new Convention with those of the 1954 Convention. This comparison, we believe, amply demonstrates the significant progress achieved by the international community at the October Conference.

The Conference, in making these strides, recognized that until the new Convention enters into force, the only effective multilateral agreement on pollution prevention is the 1954 Convention. A resolution was adopted by the Conference urging nations to ratify the amendments to the 1954 Convention. I hope the Senate will expeditiously give advice and consent to the 1971 amendments to the 1954 Convention pertaining to the Great Barrier Reef and Tank Size Limitations, as they will significantly enhance protection of the environment. While implementing legislation has already been enacted, PL 93-~~19~~¹¹⁹, the statute has no effect with respect to these matters until the Amendments come into force. U. S. ratification at an early date would encourage other nations to follow suit, thus hastening the day when the Amendments and our domestic legislation will be implemented.

The Marine Pollution Convention is but one of a family of international agreements, some presently in force, which taken as a whole represent a comprehensive approach to the international regulation of shipping for the preservation of human life, the protection of property, the prevention of pollution, and the adequate compensation of the victims of marine

casualties and pollution incidents. These agreements are interrelated and should be viewed as constituting parts of an integrated whole.

I am mindful of the Congressional directive contained in the Federal Water Pollution Control Act (FWPCA) calling upon the executive branch to reach agreements with other nations with a view toward upgrading international environmental protection laws. This 1973 Convention is an agreement which fulfills that mandate to a substantial degree.

With this general insight into the broad and comprehensive nature of the 1973 Convention, I will now turn to the Ports and Waterways Safety Act of 1972, and its relationship to the Convention. As you are aware, Mr. Chairman, Section 7(C) of Title II of that Act provides for analyzing international marine environmental protection agreements with a view to the establishment of consonant domestic rules and regulations. We must now analyze this Convention, which will in all probability become the internationally accepted standard for the prevention of pollution from ships, and determine whether and to what degree it provides for the protection of U. S. waters.

In conducting this analysis we should note that the Conference, recognizing that the new Convention deals with the problem of accidental pollution only to a limited extent, adopted a Resolution recommending that the International Maritime Consultative Organization (IMCO) continue its

work with a high priority on the development of measures for the minimization of accidental spillages. This Resolution specifically cites measures regarding safe navigational procedures and traffic separation schemes, watchkeeping practices and the training and certification of seamen, provision of modern navigational and communications equipment, operational procedures during cargo transfer, maneuverability and controllability of large ships, and construction and equipment of ships carrying oil or noxious substances. This Resolution, in effect, shapes the work program of the technical committees of IMCO for the immediate future.

It is important to note that the 1973 Convention contains provisions for accelerated amendment procedures for technical annexes, a feature not included in the 1954 Convention. This feature will facilitate the timely adoption of the work product of the IMCO technical committees with respect to the measures contemplated by the Resolution just described. If we identify regulatory provisions of the Convention which are not fully adequate, the implementation of multilateral decisions through the rapid amendment process may well be the preferred method of attaining adequacy, in lieu of acting unilaterally.

In adjudging the sufficiency of the Convention in respect to the Ports and Waterways Safety Act, it must be recognized that unilateral action presents intrinsic dangers. We should avoid unilateral action which would result unnecessarily in economic disadvantage to the U. S. Merchant Marine. We should avoid unilateral action which would impede the ratification

of the Convention by other nations. And we should avoid any unilateral action which would encourage the proliferation of differing regulatory schemes imposed by individual nations. It was a central article of faith at the Conference, in abandoning inclusion of an article formally limiting unilateral action, that all nations would act responsibly in substantial conformance with the Convention provisions. Because of the recognition by other nations of the operative thrust of the Ports and Waterways Safety Act, any actions by the U. S. will be followed with great interest by other governments in formulating their policies with respect to ratification of the Convention and possible measures in response to U. S. unilateral action.

If standards are imposed on only U. S. flag vessels stricter than those standards adopted internationally, serious inequities could arise when U. S. vessels call in U. S. ports alongside foreign vessels engaged in the same trade but not subject to the same regulatory constraints. Furthermore, such an approach would not enhance the protection of the marine environment in any effective way, since the majority of sea-going vessels entering U. S. ports are under foreign flag.

At this time it is our hope that we can accept the Convention as being consistent with the interests of the United States, with the implementation of additional vessel operational controls where necessary to meet unique environmental demands. Examples of such operational controls are improved traffic management, mandatory use of sufficient tugs and improved navigation systems.

In closing, Mr. Chairman, in our preparatory work for the Conference, and during the Conference deliberations, we tried to provide for all the varying interests of the U. S. in an international agreement that would also satisfy the particular requirements of the Ports and Waterways Safety Act. In the course of negotiations, however, it was of course necessary to recognize the particular problems of other nations. Now we must assess the Convention in the light of U. S. interests and requirements. The questions which must now be studied are:

Does the Convention provide the proper balance between the environmental and economic interests of the U. S.?

If it does not, is unilateral action necessary, or should we seek and will we be satisfied with appropriate amendments to the Convention through the new rapid amendment procedure?

I will plan to report back to you on this matter prior to the initiation of proposed rulemaking procedures and subsequent public hearings.

Thank you Mr. Chairman. If there are any questions, I will be pleased to answer them.