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CONVENTION ON THE PREVENTION OF MARINE  
POLLUTION

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AUGUST 1, 1973.—Ordered to be printed

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Mr. PELL, from the Committee on Foreign Relations,  
submitted the following

REPORT

[To accompany Ex. C, 93-1]

The Committee on Foreign Relations, to which was referred the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, opened for signature at Washington, London, Mexico City, and Moscow on December 29, 1972, having considered the same, reports favorably thereon without reservation and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The Convention is designed to establish in each country party to the Convention a national system for regulating the ocean disposal of wastes comparable to the system provided for the United States by Title I of Public Law 92-532, the Marine Protection, Research and Sanctuaries Act of 1972.

BACKGROUND

The concept of an ocean dumping convention was first proposed in the Council on Environmental Quality's 1970 report on Ocean dumping. This recommendation was adopted by the President in his February 8, 1971 Environmental Message to Congress.

The initial U.S. draft convention was tabled in London in June, 1971, at the first session of the Stockholm Conference's Intergovernmental Working Group on Marine Pollution (IWGMP). At that time, few countries were prepared to discuss the convention, and action was deferred to the second IWGMP session held in Ottawa in November, 1971.

However, progress at this second session was seriously impaired by debates on Law-of-the-Sea and coastal state jurisdictional issues. Consequently, further sessions of the IWGMP were not scheduled.

In February 1972, twelve European nations reached a regional ocean dumping agreement covering the North Sea and the Northeast Atlantic Ocean. This so-called "Oslo Convention" contained various provisions which were incorporated into the final text of the global convention.

In view of the "Oslo Convention" and in an effort to continue the negotiations, the government of Iceland invited a number of nations to a meeting in Reykjavik in April 1972. It was at these meetings that the first complete set of draft articles were produced by an intergovernmental working group.

After a short technical meeting in London in May, 1972, these draft articles were reported to the U.N. Conference on the Human Environment held in Stockholm in June, 1972. At this Conference, a recommendation was adopted calling for an Ocean Dumping Conference to be held in London before November, 1972.

Ninety-two nations attended this Conference, eighty as participants and twelve as observers.

During the course of the Conference, the issue of coastal state jurisdiction once again threatened the success of the negotiations. A group of thirty nations, led by Canada and India, insisted that the Convention established a "pollution zone" extending somewhere between fifty to two-hundred miles from the shores of coastal states. A number of nations, including the U.S., were unwilling to sanction any extension of coastal state jurisdiction until the whole question of territorial boundaries could be universally resolved in the forthcoming Law-of-the-Sea Conference. Other countries also expressed concern that a fixed pollution zone might be utilized by certain nations as a pretext for interfering with the passage of foreign ships. This impasse was resolved by referring the jurisdictional questions to the Law-of-the-Sea Conference.

An agreed text was finally adopted on November 13, 1972. The Convention was submitted to the Senate on February 28, 1973. As of June 7, 1973, forty-three nations have signed this agreement. At the present time, no countries have filed instruments of ratification.

Implementing legislation has been submitted to the Congress in the form of S. 1351 and H.R. 5450. Hearings on S. 1351 were held before the Senate Committee on Commerce on June 12, 13, and 28, 1973. The House Committee on Merchant Marine and Fisheries conducted hearings on H.R. 5450 on June 5, 1973. As of this date, no further action has been taken on these bills.

#### PROVISIONS OF THE CONVENTION

The Convention consists of a short preamble, 21 articles and 3 annexes. The following is a detailed summary provided in Secretary Roger's February 13, 1973 letter of submittal to the President:

The Preamble to this Convention states that the marine environment is of vital importance to all people and that the best practicable means should be taken to cope with marine pollution originating from a wide variety of sources. While taking action without delay on controlling ocean pollution caused by dumping of wastes, including moving ahead with regional agreements, action in other areas of marine pollu-

tion control should be discussed. In Article I Parties pledge to promote effective marine pollution control especially through taking all practicable steps to prevent pollution of the sea caused by dumping. Under Article II, Parties will act individually according to their various capabilities and collectively in regulating ocean dumping.

Article III defines dumping as the deliberate disposal at sea of wastes or other matter except: (1) that derived from the normal operation (not dumping) of ships, which is now and will be dealt with in the Inter-Governmental Maritime Consultative Organization conventions; (2) that placed in the ocean for purposes other than disposal; and (3) that related to seabed exploration or exploitation, which is expected to be covered in agreements arising from the proposed Law of the Sea Conference. The sea is defined as all marine waters other than internal waters. Special and general permits are defined as permission granted in advance, with special permits requiring a specific application.

Article IV prohibits the dumping of any wastes listed in Annex I, requires a prior special permit for the dumping of matter listed in Annex II, and a prior general permit for the dumping of any other matter. Permits may be issued only after careful consideration of all factors listed in Annex III. Article V permits dumping of any substance when the safety of human life or of vessels at sea is endangered and, in emergencies, the issuance, after consultation with other countries likely to be affected, of a special permit for the dumping of Annex I substances when alternative disposal poses unacceptable risk relating to human health.

Each Party, under Article VI, will designate an appropriate authority to issue permits, keep records of matter dumped, and monitor, in collaboration with others, the condition of the seas for the purposes of this Convention. Permits will be issued for any matter intended for dumping loaded within the Party's territory and loaded anywhere by vessels flying a Party's flag. The organization performing the secretariat duties for the Convention will be appropriately advised by each Party of that Party's activities pursuant to the terms of the Convention.

Enforcement is the responsibility of each Party. Under Article VII, each Party shall apply required measures to its flag vessels and aircraft, all vessels and aircraft loading matter in its territory for dumping, and those under its jurisdiction engaged in dumping; each Party is to take in its territory appropriate measures to prevent and punish conduct contrary to the Convention. Naval vessels and military aircraft are exempt from the provisions of the Convention; however, each Party is to ensure the adoption of measures for these vessels that accomplish the objectives of the Convention.

Article VIII promotes regional dumping agreements consistent with this Convention and Article IX encourages support for training of personnel and for supplying necessary equipment.

The Parties agree in Article X to undertake to develop procedures for the assessment of liability and the settlement of disputes regarding dumping and in Article XI to consider at their first consultative meeting procedures for settlement of disputes concerning this Convention. In Article XII, Parties pledge to promote international measures to protect the marine environment from oil and other noxious substances, wastes from operating vessels, radioactive pollutants, chemical and biological warfare agents, and seabed activity wastes. Article XIII states that this Convention does not prejudice the law of the sea positions of any Party or the work in the United Nations Law of the Sea Conference.

Article XIV provides for the United Kingdom to call a meeting of the Parties within three months after the Convention enters into force (thirty days after the deposit of the fifteenth instrument of ratification or accession), at which time the Parties will select an existing competent organization to perform the secretariat duties under this Convention and take other appropriate action. Consultative meetings of the Parties are to be convened at least every two years. Under Article XV, amendments to this Convention become effective for Parties accepting them sixty days after two-thirds of the Parties have deposited instruments of acceptance. An amendment to an annex becomes effective for any Party immediately on notification of its acceptance, and one hundred days after approval for all other Parties except for those which before that time declare they are not able to accept the amendment at that time.

Annex I lists substances prohibited from dumping: organohalogen compounds, mercury and cadmium and their compounds; persistent plastics under certain conditions; specified oils; high-level radioactive wastes; and chemical and biological warfare agents. The list does not extend to substances rendered harmless when put in the sea or which contain only trace quantities of these substances, such as sewage sludge or dredged spoils.

Annex II lists substances requiring a special permit to be dumped: wastes containing significant amounts of certain chemicals, such as arsenic, cyanides and pesticides, acids or alkalis of beryllium or vanadium; bulky wastes which may be a serious obstacle to fishing or navigation; and medium and low-level radioactive wastes.

Regarding radioactive wastes in Annex I and II, the International Atomic Energy Agency is called upon to make appropriate recommendations available for use by the Parties.

Annex III lists factors to be considered in issuing permits: the characteristics and composition of the matter; characteristics of the dumping site and method of deposit; and certain other general considerations and conditions.

#### COMMITTEE ACTION

The Subcommittee on Oceans and International Environment held a public hearing on this Convention on July 26, 1973. The govern-

ment witness testifying in support of the Convention was Mr. John A. Busterud, Member, Council on Environmental Quality, who was accompanied by the following individuals:

Ambassador Wymberley Coerr, Adviser on Conservation Affairs, Department of State;

Mr. William Salmon, Deputy Director for Operations, Office of Environmental Affairs, Department of State;

Mr. E. U. Curtis Bohlen, Deputy Assistant Secretary for Fish and Wildlife and Parks, Department of Interior;

Mr. Richard Frank, Attorney for the Center for Law and Social Policy, representing the Environmental Defense Fund, the Natural Resources Defense Council, and the Sierra Club, also testified in favor of this Convention.

On July 31, 1973, the full Committee met in executive session, and by a voice vote, ordered the Convention reported favorably to the Senate for advice and consent to ratification. The Committee is not aware of any opposition to this Convention.

#### TEXT OF RESOLUTION OF RATIFICATION

*Resolved (Two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, opened for signature at Washington, London, Mexico City, and Moscow on December 29, 1972, (Ex. C, 93-1).

