CONSIDERATION OF THE DRAFT TEXT OF ANNEX I OF THE
INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, 1973

Proposed Paragraph (3) of Regulation 9 of Annex I

Submitted by the United States of America

At the Preparatory Meeting for the International Conference for
Marine Pollution, 1973, delegations unanimously agreed that it would be
desirable to include a provision facilitating enforcement of paragraphs (1) and
(2) of Regulation 9, provided that such a provision could be cast in terms
compatible with the various legal systems in contracting states. See footnote
21, page 47 of the draft text. Several versions of such a provision were
submitted by various delegations for consideration by Governments.

The United States proposes adoption of the paragraph which appears below
as the enforcement provision for Regulation 9. This proposal essentially
adopts the formulation appearing in subparagraph (1) of footnote 21 with the
addition of language to accommodate the various legal systems of contracting
states.

In Annex I, Regulation 9, insert the following as paragraph (3):

"Whenever visible traces of oil are observed on or below the surface of the
water in the vicinity of a ship or its wake, any Contracting State or States
authorized to commence proceedings under Article 4 shall promptly investigate
all relevant facts, including the wind and sea conditions and the track and
speed of the ship, bearing on the issue of whether there has been a violation of the provisions of this Regulation or Regulation 12 of the Annex. If, on the basis of the facts developed in this investigation, those visible traces can reasonably be attributed to a discharge from that ship, evidence of such traces and such facts shall, to the extent permissible under the fundamental law of that Contracting State, be sufficient to establish a violation of this Regulation or Regulation 12 of this Annex, as applicable, unless probative evidence is presented that the ship did not discharge oil or that any discharge of oil did not violate the provisions of this Regulation or Regulation 12."