



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.III/L.34
23 March 1973

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF THE
SEA-BED AND THE OCEAN FLOOR BEYOND THE
LIMITS OF NATIONAL JURISDICTION
SUB-COMMITTEE III

Malta: draft articles on scientific research

Note: These preliminary draft articles are submitted for discussion purposes only and do not necessarily reflect the final or definitive views of the Government of Malta.

The draft articles are intended for eventual inclusion in a comprehensive treaty on ocean space.

Article 1

Definition

In these articles the term scientific research means any systematic investigation, whether fundamental or applied, and related experimental work the primary aim of which is to increase knowledge of the marine environment for peaceful purposes.

The marine environment comprises the surface of the sea, the air space above, the water column and the sea-bed beyond the high tide mark, including the biosystems therein or dependent thereon.

Ocean space comprises the surface of the sea, the water column and the sea-bed beyond internal waters.

Sea-bed means (a) the floor of the sea or of the ocean and (b) the subsoil or rock underlying the sea floor or ocean floor.

General

Article 2

1. States, whether coastal or land-locked, have the right to undertake scientific research in ocean space. This right is subject to such regulation of a

general and non-discriminatory character as may be prescribed by the International Ocean Space Institutions.

2. Intergovernmental organizations and physical and juridical persons have the right to undertake scientific research in ocean space. This right is subject to such regulation of a general and non-discriminatory character as may be prescribed by the International Ocean Space Institutions.

3. Scientific research shall not form a legal basis for any jurisdictional claims with regard to ocean space or its resources.

Article 3

1. The consent of the coastal State shall be obtained in respect of scientific research conducted within a belt of sea adjacent to the coast not exceeding 12 miles in breadth.

2. In the case of scientific research conducted by surface vessels, consent of the coastal State shall not be withheld:

(a) When the request together with the research programme is submitted by a person or entity registered with the International Ocean Space Institutions six weeks before the date that it is proposed to initiate the research;

(b) When the possibility is offered to the coastal State to appoint its nationals to participate in the research;

(c) When the full data and an interpretation thereof is provided to the coastal State or when the data and a report thereon will be published by the coastal State or by the International Ocean Space Institutions;

(d) When an equitable share of the samples from the research is offered to the coastal State.

3. In the case of scientific research conducted by means of unanchored floating devices the coastal State shall not withhold its consent:

(a) When the request together with precise information on the character of the proposed research is submitted four weeks before the devices are to be introduced in the sea by a person or entity registered with the International Ocean Space Institutions;

(b) When the coastal State is given the opportunity to appoint its nationals to witness the introduction of the devices in the sea;

(c) When the devices do not constitute a danger to navigation or hamper other activities in ocean space and when they are fitted with adequate means of giving warning of their presence;

(d) When the full data obtained by the devices is provided to the coastal State or to the International Ocean Space Institutions.

4. The person or entity undertaking the research is required to comply with health, customs, police, security and pollution regulations of the coastal State generally conforming to international practice or to such international standards as may be established.
5. The coastal State shall not exercise its police and other powers in such a manner as to hamper or obstruct scientific research conducted in accordance with the provisions of paragraph 4.
6. Any Contracting Party may bring to the attention of the International Ocean Space Institutions difficulties in obtaining the consent of a coastal State with regard to proposed scientific research fulfilling all the provisions of paragraph 2 or of paragraph 3 of this article, as the case may be.

Ocean space under national jurisdiction

Article 4

1. The coastal State may construct, maintain and operate habitats, installations, equipment and fixed or movable devices for scientific purposes on or in the sea-bed of ocean space under its jurisdiction, provided that:
 - (a) No habitats, installations, equipment or devices are established where interference may be caused to the use of sea lanes necessary to international navigation;
 - (b) Appropriate safety zones, of which prompt notice must be given to the international community through the International Ocean Space Institutions, are established around such habitats, installations, equipment or devices and adequate means for giving warning of their presence are maintained;
 - (c) Any habitats, installations, equipment or devices that are abandoned or disused are entirely removed.
2. Non-compliance with the obligations referred to under paragraph 1 (a), (b) and (c) shall make the coastal State legally responsible in the event of accidents of navigation.
3. Habitats, installations, equipment or devices for scientific purposes may not be established on or in the sea-bed of ocean space under the jurisdiction of a coastal State without the latter's consent. The coastal State has the right to remove any habitats, installations, equipment or devices established without its consent on or in the sea-bed of ocean space under its jurisdiction and to keep any scientific data found.

/...

4. The coastal State has the obligation to protect habitats, installations, equipment or devices for scientific purposes established with its consent on or in the sea-bed of ocean space under its jurisdiction and to ensure that the measures referred to under paragraph 1 (a) and (b) are taken in respect of them.

Article 5

1. The coastal State may construct, maintain and operate in ocean space under its jurisdiction floating devices or installations of whatever nature for scientific purposes joined to the sea-bed, provided that:

(a) Prompt notice is given to the international community through the International Ocean Space Institutions of the location of such installations;

(b) Permanent and adequate means for giving warning of their presence are maintained;

(c) No interference is caused to sea lanes necessary to international navigation;

(d) Devices or installations that are abandoned or disused are entirely removed.

2. Non-compliance with the obligation referred to under paragraph 1 (a), (b), (c) and (d) shall make the coastal State legally responsible in the event of accidents of navigation.

3. Floating installations of whatever nature for scientific purposes joined to the sea-bed may not be established in ocean space under the jurisdiction of a coastal State without the latter's consent. The coastal State has the right to remove such installations established without its consent in ocean space under its jurisdiction and keep any scientific data found therein.

4. The coastal State has the obligation to protect floating installations for scientific purposes joined to the sea-bed established with its consent in ocean space under its jurisdiction and to ensure that the measures referred to under paragraph 1 (a) and (b) are taken in respect of them.

Article 6

1. The coastal State may maintain unanchored floating devices for scientific purposes in ocean space under its jurisdiction provided that they are fitted with adequate means of giving warning of their presence and do not constitute a danger to navigation or hamper other activities in ocean space.

2. Non-compliance with the obligations referred to under paragraph 1 shall make the coastal State legally responsible in the event of accidents or of injury to the interests of other States or to those of the international community.

3. The coastal State has the obligation to protect unanchored floating devices for scientific purposes installed with its consent in a belt of sea adjacent to its coast not exceeding 12 miles in breadth and may not interfere with or remove such devices found in other areas of ocean space subject to its jurisdiction.

Article 7

The International Maritime Court shall be competent to adjudicate disputes arising from non-compliance with the provisions of articles 3, 4, 5 and 6.

Ocean space beyond national jurisdiction

General

Article 8

1. Contracting Parties in their conduct of scientific research shall inform as soon as reasonably possible the Institutions established in accordance with article ... of this Convention of any phenomenon which they may discover that could constitute a serious danger to the life or health of persons in ocean space.

2. The Institutions shall inform as soon as reasonably possible each Contracting Party of any phenomenon of which they have knowledge which could constitute a serious danger to the life or health of persons in ocean space.

International Ocean Space Institutions

(Establishment, personality etc.)

...

Article 9

The purposes of the International Ocean Space Institutions are:

...

To encourage the scientific investigation of ocean space and the dissemination of knowledge thereon, to promote international co-operation in the conduct of scientific research therein and to strengthen the research capabilities of technologically less advanced countries;

To promote the development and the practical application of advanced technologies for the penetration of ocean space and for its peaceful use by man and to disseminate knowledge thereof;

/...

To assist Contracting Parties and their nationals in all matters relating to knowledge and development of ocean space and its resources and in particular to assist Contracting Parties to train their nationals in scientific disciplines and technologies relating to ocean space and to its peaceful uses;

...

Organs

Article 10

1. There are established as the principal organs of the International Ocean Space Institutions: an Assembly, a Council, an International Maritime Court and a Secretariat.
2. Major subsidiary organs are an Ocean Management and Development Commission, a Scientific and Technological Commission and a Legal Commission.

Assembly

(Procedure, functions and powers, etc.)

...

Article 11

The Assembly shall approve such standards and rules of a general and non-discriminatory character relating to... the conduct of scientific research... as may be recommended by the Council.

(Voting, etc.)

...

Council

Article 12

1. The Council shall consider and submit to the Assembly with its recommendations such rules of a general and non-discriminatory character, in accordance with the present Convention, relating to... the conduct of scientific research... as it may consider necessary for an effective pursuit of the purposes of the Institutions.
2. The standards and rules referred to in the preceding paragraph shall be obligatory for all users of ocean space beyond national jurisdiction two years after their adoption by the Assembly.

/...

3. Violation of the standards and rules referred to in paragraph 1 entails legal responsibility when injury is caused to the rights and interests of others. Persistent violators may be excluded from the use of ocean space beyond national jurisdiction.

Article 13

The Council shall approve the establishment of:

(a) Scientific stations, nature parks or marine preserves in ocean space beyond national jurisdiction;

...

International Maritime Court

(Establishment, jurisdiction, powers etc.)

...

Secretariat

...

Article 14

The General Secretary shall:

...

Participate in so far as possible in scientific research conducted in ocean space beyond national jurisdiction and bring the results thereof to the attention of members and associate members of the Institutions;

Administer under rules laid down by the appropriate organs of the Institutions any islands that may be transferred to the administration of the Institutions and any scientific stations, marine preserves or nature parks that may be established;

...

Scientific and Technological Commission

(Establishment and procedure; relationship with United Nations bodies)

...

Article 15

The Scientific and Technological Commission shall make suitable arrangements for consultation with institutions and organizations of scientists, technicians and technologists primarily interested in questions relating to ocean space.

/...

Article 16

1. The Scientific and Technological Commission shall promote through concerted action by members and associate members of the Institutions the conservation of the marine environment, its scientific investigation and the development of technologies for the exploration of ocean space and of its resources and for its peaceful use by man.
2. The Commission shall disseminate as widely as possible knowledge concerning the matters referred to in paragraph 1 and shall promote the effective transfer of technology in respect to these matters.
3. The Commission shall advise the Ocean Management and Development Commission on the scientific, ecological and technological aspects of licensing the exploitation of the natural resources of ocean space beyond national jurisdiction and of the investigation of its non-living resources.
4. The Commission shall be consulted on all matters within its competence by the Ocean Management and Development Commission and particularly on the scientific aspects of the matters referred to in articles ... The Commission shall advise the General Secretary on the administration of scientific stations...
- ...
5. The Commission shall decide the requirements for inscription in and removal from the register referred to in article 3, paragraphs 2 (a) and 3 (a), of the present Convention. The register shall be kept in the custody of the General Secretary and shall be open for inspection by any member or associate member of the Institutions.

Article 17

Register

1. May be inscribed in the register referred to in article 15, paragraph 5:
 - (a) States or their organs;
 - (b) Intergovernmental organizations;
 - (c) Scientific institutes and scientific organizations;
 - (d) Physical or juridical persons possessing such qualifications as may be determined by the Scientific and Technological Commission.
2. Persons or entities inscribed in the register may freely conduct scientific research in ocean space beyond a belt of sea adjacent to the coast not exceeding 12 miles in breadth in accordance with the present Convention under such general and non-discriminatory regulations as may be prescribed by the Institutions.

3. The person or entity inscribed in the register is legally responsible for damages to the environment or for injury to the legitimate rights and interests of States or to those of the international community caused in the course of scientific research in ocean space by physical or juridical persons under its sponsorship.
 4. Any member or associate member of the Institutions may bring to the attention of the Scientific and Technological Commission any instance where it believes that scientific research conducted by a person or entity inscribed in the register has caused significant damage to the marine environment or has caused injury to its legitimate rights and interests.
 5. If the Scientific and Technological Commission finds that scientific research conducted by a person or entity inscribed in the register has caused significant damage to the marine environment or injury to the legitimate rights and interests of a member or associate member, it may (a) issue a warning to the person or entity which was responsible for the research; (b) suspend the person or entity from the register for a fixed period of time not exceeding two years, or (c) remove the person or entity from the register. The action taken by the Scientific and Technological Commission may be appealed to the International Maritime Court.
-