

UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.III/L.41
16 July 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

DRAFT ARTICLES ON PREVENTION AND CONTROL OF POLLUTION IN THE
MARINE ENVIRONMENT

PRESENTED BY KENYA

NOTE: These articles should be considered as forming a part or Chapter of the
Exclusive Economic Zone Draft Articles.

PREAMBLE

(a) States Parties to this ...

Recognizing the nature and the characteristics of the marine environment,

(b) Convinced that the marine environment and the living organisms which it
supports are of vital importance to humanity;

(c) Convinced that coastal States have a particular interest and responsibility
in the management of the marine living resources;

(d) Aware that modern technology has created new marine protection and
conservation problems with far-reaching social, economic and biological
consequences;

(e) Recognizing that the capacity of the marine environment to assimilate
wastes and render them harmless and its ability to regenerate natural resources are
not unlimited;

(f) Realizing that the present knowledge of the extent or intensity of marine
pollution is incomplete and that marine pollution intensity vary among countries or
regions and the applicability of a particular standard in one country or region may
be inadequate or unsuitable in another country or region;

(g) Recognizing that States have, in accordance with the Charter of the
United Nations and the principles of international law, the sovereign rights to
exploit their resources pursuant to their environment policies and the responsibility
to ensure that activities within their jurisdiction or control do not cause damage to
the environment of other States or of areas beyond the limits of national
jurisdiction;

(h) Aware that marine pollution originates from many sources, including discharges through the atmosphere, from rivers, estuaries, outfalls and pipelines and from dumping;

(i) Convinced that it is the duty of all States to protect the marine environment by promulgating and enforcing necessary laws, individually or jointly, taking into account existing international agreements on the protection and the preservation of the marine environment, the need for elaboration of further agreement aimed at ensuring an effective approach to the protection and preservation of the marine environment;

Agree as follows:

I. DEFINITIONS

For the purpose of these articles:

(a) "Marine control pollution zone" means the marine waters within the jurisdiction and control of a coastal State.

(b) "High seas" means the maritime areas beyond the limits of national jurisdiction.

(c) "Vessels" means the crafts of any kind, self-propelled or not, that displace themselves on the surface of the water, in the water column or in the airspace above the marine environment.

(d) "Marine environment" means the area comprising the surface of the sea, the airspace above, the water column and the sea-bed beyond the high tide mark, including the living and mineral resources therein.

(e) "Conservation of the marine environment" means the aggregate of measures taken to render possible the maintenance of the natural quality and the ecological balance of the marine environment.

(f) "Marine pollution" is the introduction, directly or indirectly of substances or energy into the marine environment resulting in such deleterious effects as harm to living resources, hazard to human health, hindrance to marine activities, impairment of the quality for use of marine water and reduction of marine amenities.

II. RIGHTS OF STATES

ARTICLE I

Coastal States have a right to establish a marine pollution control zone within which they shall exercise jurisdiction to control activities for the purpose of preventing or minimizing damage to the marine environment.

ARTICLE II

The limits of the marine pollution control zone shall be fixed in nautical miles in accordance with appropriate criteria in each region and without prejudice to limits already adopted by any State within a region. The marine pollution control zone shall not in any case exceed 200 nautical miles measured from the baseline for determining the extent of the territorial sea.

ARTICLE III

The exercise of jurisdiction over the marine pollution zone shall encompass all activities carried out in the coastal State's area of jurisdiction or control.

ARTICLE IV

The establishment of a marine pollution zone shall be without prejudice to other legitimate uses of the marine environment, particularly the freedom of navigation, overflight and the freedom to lay submarine cables and pipelines.

ARTICLE V

In the event of a grave or imminent danger or threat of marine pollution originating from areas beyond coastal States marine pollution zone, the coastal State has a right to take such measures as may be necessary to prevent, mitigate or eliminate such danger or threat.

ARTICLE VI

Developing coastal States shall be granted preferential rights or treatment in the allocation of marine pollution funds and other technical aid facilities and in the utilization of the specialized services of international organizations set up for the purposes of the control of marine pollution.

III. DUTIES AND OBLIGATIONS OF STATES

ARTICLE VII

Every State has a right to exploit its resources pursuant to its environmental policies and has a common duty and responsibility in the prevention and control of pollution of the marine environment in accordance with the provisions of these articles.

ARTICLE VIII

States shall take measures, individually or jointly, to prevent pollution of the marine environment. In particular, States shall take measures to ensure that activities carried out under their jurisdiction or control do not cause pollution damage to other States, including the marine environment as a whole. In formulating marine pollution control measures, States shall take into account (a) provisions of the existing international pollution control conventions,

(b) relevant rules, standards and procedures proposed by competent international or regional organizations, (c) geographical, ecological and economic characteristics of States.

ARTICLE IX

States shall promote research with the object of acquiring more knowledge of the possible effects of marine environment pollution and for the purposes of monitoring marine pollution activities.

ARTICLE X

States shall disseminate or exchange marine pollution research findings or information freely and timely.

ARTICLE XI

States shall endeavour to adopt suitable standard systems of observation, measurement, evaluation and analysis of the effect of pollution in the marine environment.

ARTICLE XII

States shall ensure that marine pollution control measures shall not discriminate in form or fact between States or persons.

IV. CO-OPERATION AMONG STATES

ARTICLE XIII

States shall co-operate in setting up international or regional programmes to acquire knowledge for the assessment of pollutant sources, pathways, exposures and risks.

ARTICLE XIV

States shall co-operate on global or, as appropriate, on regional basis, directly or through competent international or regional organizations to elaborate or formulate, rules, standards and procedures, and action plans for the purpose of the prevention of pollution of the marine environment.

ARTICLE XV

Every State has an obligation to notify neighbouring and other States, and international or regional organizations of areas, whether within its national jurisdiction or not, it becomes aware have been polluted or are in imminent danger of being polluted.

In the case of the pollution danger being in a coastal State's marine pollution control zone, the coastal State shall terminate or minimize the danger according to its rules and regulations. For the high seas, the Authority and States concerned, in co-operation with competent international or regional

organizations, shall present to the State under whose jurisdiction or control the activities causing pollution were conducted, a demand for an immediate termination or restriction of the activities.

ARTICLE XVI

All States, and in particular the developed States, shall bilaterally or through competent international organizations accelerate the provision of scientific and technical assistance to needy countries to enable them to effectively prevent or control pollution of the marine environment.

ARTICLE XVII

The United Nations Environment Programme shall centralize and co-ordinate all information regarding all aspects of the protection, preservation and control of the marine pollution. This body, with the assistance of competent organizations such as IMCO, Joint Group of Experts on the Scientific Aspects of Marine Pollution, etc., shall:-

- (a) establish a system of monitoring, observation, measurement and evaluation of various aspects of marine pollution;
- (b) recommend international or regional measures to be adopted to protect the marine environment;
- (c) collect and disseminate marine pollution data, reports and other relevant information;
- (d) distribute marine pollution funds and other scientific and technical aid facilities to needy countries;
- (e) ...

ARTICLE XVIII

States and international or regional organizations shall co-operate in the development of international law relating to procedures for the assessment of damage, the determination of liability, the payment of compensation and the settlement of related disputes arising from damage caused in areas under national jurisdiction as well as areas beyond the national jurisdiction.

V. COMPENSATION FOR DAMAGE

ARTICLE XIX

States and international or regional organizations shall be liable for damage caused by marine pollution attributable to them in areas under the jurisdiction of other States, including the environment of other States.

ARTICLE XX

States are liable for damage by marine pollution attributable to them in areas beyond national jurisdiction or marine pollution control zone, i.e. in the high seas. The Authority to be established or competent regional or international organizations shall ensure compliance with marine pollution control measures in the high seas.

ARTICLE XXI

States undertake to provide recourse to ensure equitable compensation for the victims of the marine pollution caused by persons under their jurisdiction outside their marine control zone.

ARTICLE XXII

Following the exhaustion of local remedies or where no such are available, the State of the damaged party may present to the State having jurisdiction over the person or persons responsible for the damage in question a claim for damage caused. If no settlement of the claim is arrived at through negotiations, the States concerned shall submit the claim, at the request of either of them to arbitration or adjudication in accordance with a procedure to be determined by agreement or by a third party nominated by them.

VI. ENFORCEMENT

ARTICLE XXIII

States shall institute all necessary measures to give effect to these articles for the protection and preservation of the marine environment within the limits of their national jurisdiction or their marine pollution control zone.

ARTICLE XXIV

States shall institute all necessary measures to give effect to these articles for the protection and preservation of the marine environment in respect of the operations of: (a) vessels registered in their territory but operating beyond the limits of national jurisdiction (b) man-made structures or platforms, fixed or floating, operating in areas beyond the limits of national jurisdiction where such structures or platforms are under the control of a State

(other clauses may follow)