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

DRAFT ARTICLES CONCERNING THE RIGHTS EXERCISABLE
BY COASTAL STATES FOR THE PURPOSE OF PREVENTING
MARINE POLLUTION

Submitted by France

ARTICLE 1

Coastal States shall have specific rights for the purpose of suppressing acts of pollution committed by vessels or aircraft and liable to cause damage to the economic interests of coastal States or to the interests of their tourism.

ARTICLE 2

The rights mentioned in article 1 shall be exercisable, in accordance with the provisions of this Convention, in a zone extending "... miles" from the baselines used to measure the breadth of territorial waters.

ARTICLE 3

This Convention shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Party shall ensure by the adoption of appropriate measures that vessels and aircraft in this category which belong to it, or are operated by it, act in a manner consistent with the object of this Convention.

ARTICLE 4

Coastal States may take action in the zone defined in article 2 against acts of pollution committed in contravention of the provisions of:

1. the London Convention of 29 December 1972 on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters,
2. the International Convention for the Prevention of Pollution of the Sea by Oil, 1954,
3. the London Convention for the Prevention of Pollution from Ships, 1973.

ARTICLE 5

In the event of acts of pollution being committed by vessels or aircraft in contravention of the provisions of regional agreements concluded between two or more States Parties to this Convention, the Contracting Governments shall accord to the coastal States concerned the particular rights deriving from the application of these agreements, provided that the said rights are consistent with the principles set forth in the Conventions listed in article 4. Such rights shall be exercisable only in the geographical area in which the agreements concerned are applicable.

ARTICLE 6

In the zone defined in article 2, the Contracting Governments may investigate violations, by any vessels or aircraft, of the agreements referred to in article 4.

ARTICLE 7

By virtue of such power of investigation, the competent authorities of the coastal State concerned may, if they have serious grounds for believing that a vessel or aircraft has committed a violation, exercise the following rights to the extent that it appears necessary for establishing the existence of the violation:

1. They may order the vessel to stop;
2. They may board the vessel for the purpose of preparing a report containing facts accessory to the investigation of the infringement.

Measures taken under this article must not endanger the vessel or create hazards to navigation, and must not unduly delay the vessel.

ARTICLE 8

The report prepared by the competent authorities of the coastal State concerned shall be transmitted to the State under whose authority the vessel is operating. The latter State shall treat the report as though it had been prepared by its own authorities. The report shall in particular have the same value in evidence as it would have in the State whose authorities prepared it.

ARTICLE 9

The rights accorded to the coastal States concerned shall not prevent the State under whose authority the vessel is operating from exercising, in the zone defined in article 2, the rights accorded to it under the provisions of the London Convention for the Prevention of Pollution from Ships, 1973.

However, proceedings shall be taken by the coastal State concerned in cases where:

- (a) the vessel is operating under the authority of a State which is not a Party to the above-mentioned Convention,

- (b) the flag State, although a Party to the said Convention, fails to manifest its intention to take proceedings within one month from the date on which it has been notified by the coastal State of the violations which have been committed.

ARTICLE 10

The rights accorded to coastal States under this Convention shall preclude the State under whose authority the vessel or aircraft is operating from exercising, in the zone defined in article 2, the rights accorded to it under the provisions relating to violations in the London Convention of 29 December 1972 on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters or in regional agreements on the matter.

ARTICLE 11

Where the coastal State concerned takes proceedings under article 10, it shall apply its national legislation in dealing with vessels or aircraft which are under the jurisdiction of any one of the Contracting Governments.

ARTICLE 12

For the purpose of the application of articles 10 and 11 of this Convention, in cases where dumping that requires permission is to be carried out in the zone defined in article 2, the State competent to issue the permit to dump shall give prior notification to the coastal State concerned.

ARTICLE 13

The coastal State concerned shall provide the State competent to issue the permit with information on its national legislation on dumping. This information shall be supplemented by any provisions adopted or under consideration with regard to:

- the delimitation of dumping zones established within the zone defined in article 2,
- the conditions for dumping established in the light of the results of the monitoring of the marine environment by the coastal State in the zone defined in article 2 of this Convention.

ARTICLE 14

1. Any dispute between the Contracting Parties relating to the interpretation or application of the present agreement which cannot be settled by consultation shall, at the request of any one of the Contracting Parties, be referred to an arbitral

tribunal consisting of three members. Each Contracting Party shall appoint one arbitrator and the third shall be designated by the first two members of the tribunal, but he may not be a national of either of the two Parties. The third arbitrator shall preside over the arbitral tribunal.

2. If either of the two Contracting Parties fails to appoint its arbitrator within 60 days, or if the third arbitrator has not been designated within 30 days, each of the Parties may request the Secretary-General of the United Nations Environment Programme to make the necessary appointment or appointments by selecting one or more arbitrators.