

UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.III/L.48
10 August 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

Netherlands:

Draft Articles on the enforcement of international provisions for the prevention of
marine pollution from vessels

Article 1

1. Violation of any of the provisions of the present convention shall be prohibited under the law of the administration of the ship concerned, wherever the violation occurs.
2. Violation of any of the provisions of the present convention, any other international convention or generally accepted international rules, with regard to discharge of harmful substances or effluent containing these substances, shall, moreover, be prohibited, wherever the violation occurs, under the law of any other Contracting State, subject to the provisions of Article 2.
3. The penalties provided for under the law of a Contracting State in respect of any violation, as mentioned in paragraphs 1 and 2 above, shall be adequate in severity to discourage such violation. The penalties provided for in respect of violations outside the territorial sea of a Contracting State shall be no less severe than the penalties provided for in respect of the same infringement within its territorial sea.

Article 2

1. A Contracting State may cause proceedings to be taken when a ship to which the present Convention applies enters its ports or offshore terminals, in respect of an act prohibited under paragraph (2) of Article 1, committed by that ship, or its [owner or] master. A report of such proceedings shall be sent to the Administration of the ship.

2. For the purpose of the preceding paragraph the proceedings instituted by a Contracting State, not being the State of the Administration of the ship concerned,
 - (a) have to be commenced no later than [three] years after the act has been committed;
 - (b) shall not lead to the imposition of penalties other than fines, unless the Contracting State concerned and the State of the Administration agree otherwise.
3. Whenever a Contracting State has commenced proceedings, no other proceedings in respect of the same act may be instituted by any other Contracting State except for a Contracting State which has prosecutorial priority pursuant to paragraph (4) of this Article. In case a Contracting State having prosecutorial priority commences proceedings, the proceedings instituted by another Contracting State are suspended.
4. The prosecutorial priorities among the Contracting States are as follows:
 - (a) In case a provision requires for special precautions to be observed within a certain distance from the nearest land and the alleged violation of the requirement has been committed within the distance stipulated, the coastal State of such nearest land has prosecutorial priority over the Contracting States mentioned in the following-sub paragraphs.
 - (b) In case the alleged violation occurred within [100] nautical miles from the nearest land, the coastal State of such nearest land has prosecutorial priority over the Contracting States, mentioned in the following sub-paragraphs.
 - (c) The State of the Administration of the ship concerned has prosecutorial priority over the Contracting States mentioned in the following sub-paragraph.
 - (d) Any other Contracting State after consultation with the State of the Administration of the ship concerned.
5. A Contracting State which has commenced proceedings may transfer the prosecution to the Administration of the ship concerned. In that case the State of the Administration has, in relation to any other Contracting State, the same prosecutorial priority as the Contracting State from which it has taken over the prosecution.