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Texts on item 13 (Marine scientific research) and item 14 (Development and transfer of technology)

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Texts on item 13 (Marine scientific research) and item 14 (Development and transfer of technology)

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[23 August 1974]

I. TEXTS AGREED UPON IN THE INFORMAL MEETINGS

A. GENERAL PRINCIPLES

1. States shall endeavour to promote and facilitate the development and conduct of marine scientific research not only for their own benefit but also for the benefit of the international community in accordance with the provisions of this Convention.

2. In the conduct of marine scientific research the following general principles shall apply:

(a) Marine scientific research activities shall be conducted exclusively for peaceful purposes;

(b) Such activities shall not unduly interfere with other legitimate uses of the sea compatible with the provisions of this Convention and shall be duly respected in the course of such uses;

(c) Such activities shall comply with regulations established in conformity with the provisions of this Convention, for the preservation of the marine environment;

(d) . . .

3. Marine scientific research activities shall not form the legal basis for any claim whatsoever to any part of the marine environment or its resources.

4. *Alternative A*

Marine scientific research shall be conducted subject to the rights of coastal States within the areas under their sovereignty and/or jurisdiction.

Alternative B

Marine scientific research shall be conducted subject to the rights of coastal States as provided for in this Convention.

5. *Alternative A*

Marine scientific research shall be conducted in the international area subject to the international régime as provided for in this Convention.

Alternative B

The high seas are open to the unhampered pursuit of scientific research by all States on a basis of equality, without discrimination of any kind. Marine scientific research in the international sea-bed area shall be conducted subject to the régime of that area as provided for in this Convention.

Alternative C

Omit any such provision.

B. INTERNATIONAL AND REGIONAL CO-OPERATION FOR MARINE SCIENTIFIC RESEARCH INCLUDING EXCHANGE AND PUBLICATION OF SCIENTIFIC DATA²⁰

The co-operation envisaged in this article shall be subject to the relevant provisions of this Convention.

1. States shall, in accordance with the principle of respect for sovereignty²¹ and on the basis of mutual benefit, promote

²⁰A view was expressed that international and regional co-operation for marine scientific research should be pursued in accordance with the international régime and the competences of the International Authority as provided for in this Convention.

²¹A view was expressed that the use of the word "sovereignty" here does not imply recognition of any claims of sovereign immunity by the researching State.

international co-operation in marine scientific research for peaceful purposes.

2. States shall co-operate with one another, through the conclusion of bilateral and multilateral agreements, to create favourable conditions for the conduct of scientific research in the marine environment and to integrate the efforts by scientists in studying the essence of and the interrelations between phenomena and processes occurring in the marine environment.

3. States shall, both individually and in co-operation with other States and with competent international organizations, actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research in particular to developing countries, as well as the strengthening of the autonomous marine research capabilities of developing countries through, *inter alia*, programmes to provide adequate education and training of their technical and scientific personnel.

4. The availability to every State of information and knowledge resulting from marine scientific research shall be facilitated by effective international communication of proposed major programmes and their objectives, and by publication and dissemination of the results through international channels.

II. CONSOLIDATED ALTERNATIVE TEXTS PRESENTED TO THE CHAIRMAN ON CONDUCT AND PROMOTION OF MARINE SCIENTIFIC RESEARCH

Alternative A(a) *Right to conduct marine scientific research*

1. Coastal States have the exclusive right to conduct and regulate marine scientific research in their (. . .)²² and to authorize and regulate such research as provided for in article . . .

2. Marine scientific research in the international area²³ shall be conducted directly by the International Authority and, if appropriate, by persons, juridical or physical, through service contracts or association or through any other such means as the International Authority may determine, which shall ensure its direct and effective control at all times over such research.

(b) *Consent, participation and obligations of the coastal State*

1. Marine scientific research in the (. . .)²² of a coastal State shall not be conducted without the explicit consent of that State.

2. States and appropriate international and regional organizations as well as persons, juridical and physical, seeking consent of the coastal State to conduct marine scientific research in the area referred to in paragraph 1, shall, *inter alia*:

(i) Undertake to conduct the research exclusively for peaceful purposes;

²²A decision of the precise terms to be used here, such as economic zone, patrimonial sea, national sea or area under national jurisdiction and/or sovereignty, and continental shelf, and which do not refer to the international area, shall be adopted in the light of the decisions on the definition and nature of those terms in the Second Committee.

²³The international area referred to in this paragraph is the area with which the First Committee is concerned. With regard to the remaining international area the matter will be discussed at a later stage.

(ii) Disclose the nature and objective of the research, as well as the means to be used, including satellites and Oceanic Data Acquisition Systems (ODAS);

(iii) Indicate the precise geographical area in which the activities concerning such research are to be conducted;

(iv) State the proposed date for commencement of the activities and the period for completing the project;

(v) Give full information and particulars regarding the sponsoring institution, if any, the scientific staff and the vessels, equipment and other means to be employed, such as ODAS and remote sensing devices operating in the atmosphere or beyond;

(vi) Provide the coastal State with a detailed description of the research project which shall be kept up to date;

(vii) Include active participation or representation of the coastal State, if it so desires, in all stages of the research project;

(viii) Undertake to supply on time all raw and processed data, including the final evaluations and conclusions and samples to the coastal State;

(ix) Assist the coastal State in assessing the indications, the said data and samples and the results thereof, in such manner as that State may request;

(x) Undertake that results of scientific research shall not be published without the explicit consent of the coastal State;

(xi) Undertake to comply with all applicable environmental standards and regulations of the coastal State as well as international standards established or to be established by (insert name or names of appropriate organizations).

3. The coastal State shall have the right to supervise marine scientific research activities undertaken in the area referred to in paragraph 1, and suspend or terminate it, if that State finds that these activities are not being carried out for the declared objective or purpose of the research or are not being carried out in accordance with the provisions of these articles.

4. Participation of developing land-locked States and developing geographically disadvantaged States:

On this question proposals were submitted by the delegations of Singapore, India, Peru and Lesotho and an amendment was made by the delegation of Iran to the proposal of Singapore.

These proposals, which due to lack of time could not be considered at this session, have been given to the Chairman of the Group of 77, for circulation within the Group, with a decision by the Group that they will be considered at the subsequent session of the Conference, or in case of an intersessional meeting of the Group, at such a meeting.

5. The exercise of innocent passage and navigation does not confer on States, international organizations or other juridical or natural persons the right to undertake marine scientific research.

Alternative B

1. Marine scientific research in the economic zone shall only be conducted with the consent of the coastal State. Consent shall not normally be withheld when the State or international organization making an application to conduct such research:

- (a) Provides the coastal State with a full description of
 - (i) The nature and objectives of the research project;
 - (ii) The means to be used, including equipment and the name, tonnage, type and class of vessels;
- (iii) The precise geographical areas in which the activities are to be conducted;
- (iv) The expected date of first appearance and final departure of the research team, equipment or vessels as the case may be; and

(v) Relevant particulars concerning proposed scientific personnel and their qualifications; and

(b) Undertakes to

(i) Ensure the right of the coastal State to participate or to be represented in all phases of the research project, if it so desires;

(ii) Provide to the coastal State on an agreed basis raw and processed data and samples of materials;

(iii) Assist the coastal State in assessing the implications of the data and results; in particular, if requested, submit to the coastal State as soon as practicable after the completion of the research a report including a preliminary interpretation;

(iv) Ensure that research results are published as soon as feasible in a readily available scientific publication unless otherwise agreed;

(v) Comply with all relevant provisions of this Convention; and

(vi) Fulfil any other requirement that may be agreed upon.

2. The provisions of paragraph 1 shall apply to marine scientific research conducted by means of ODAS.²⁴

3. The provisions of paragraphs 1 and 2 shall apply with respect to applications made by natural or juridical persons, whose applications have the endorsement of a State or an international organization. In addition, the coastal State may require that such applications be made through appropriate official channels.

4. The provisions of the above paragraphs shall apply to marine scientific research concerning the continental shelf.

5. In considering an application made in accordance with paragraph 1, the coastal State shall take into account the duty of all States to promote marine scientific research for peaceful purposes.

Alternative C

I. All States, whether coastal or land-locked, as well as appropriate international organizations, have the right to conduct marine scientific research subject to the provisions of this Convention.

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II. Marine scientific research within the territorial sea established in accordance with this Convention may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and shall be answered without undue delay.

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III. 1. Marine scientific research beyond the territorial sea, in areas where a coastal State enjoys certain rights over resources in accordance with this Convention, shall be conducted by States, whether coastal or land-locked, as well as by appropriate international organizations in such a manner that these rights of coastal States are respected, for which purpose the coastal State shall:

(a) Be given at least . . . months' advance notification of the proposed research project;

(b) Be given as soon as possible a detailed description of the research project, including objectives, methods and instrumentation, locations and time schedule, and information on the research institution concerned and on the scientific staff to be employed;

²⁴The provisions of this article are not intended to apply to marine scientific research conducted by means of satellites, on which other provisions may be required, for example regarding the acquisition and dissemination of data and the transfer of technology.

(c) Be promptly informed of any major changes with regard to the description of the proposed research project;

(d) Have the right to participate directly or indirectly in the research project;

(e) Have access to all data and samples obtained in the course of the research project and be provided, at its request, with duplicable data and divisible samples;

(f) Be given assistance, at its request, in the interpretation of the results of the research project.

2. States and appropriate international organizations conducting marine scientific research in the areas referred to in paragraph 1 above shall take due account of the legitimate interests and rights of the neighbouring land-locked and other geographically disadvantaged States of the region, as provided for in this Convention, and shall notify these States of the proposed research project, as well as provide, at their request, relevant information and assistance as specified in paragraph 1 (b), (c) and (f) above. Such neighbouring land-locked and other geographically disadvantaged States shall be offered, at their request, where research facilities permit, the opportunity to participate in the proposed research project.

3. States and appropriate international organizations engaged in the conduct of marine scientific research shall ensure that the research results are published as soon as possible in readily available scientific publications and that copies of such publications are supplied directly to the coastal State and to neighbouring land-locked and other geographically disadvantaged States.

4. Disputes concerning the interpretation or application of this article shall, at the request of any party to such dispute, be settled in accordance with the procedures set out in the relevant articles of this Convention.

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IV. Marine scientific research beyond the areas specified in the articles above may be carried out by all States, whether coastal or land-locked, and by appropriate international organizations.

Note. In these articles the term "marine scientific research" means any study of and related experimental work in the marine environment, excluding industrial exploration and other activities aimed directly at the exploitation of marine resources designed to increase man's knowledge and conducted for peaceful purposes.

Alternative D

Article 1

Marine scientific research means any study of, and related experimental work in, the marine environment designed to increase man's knowledge and conducted for peaceful purposes.

Article 2

Marine scientific research within the territorial sea established in accordance with this Convention may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

Article 3

States and appropriate international organizations have freedom to carry out marine scientific research in areas where coastal States enjoy economic rights over marine resources in accordance with the provisions of this Convention, except that marine scientific research concerned with the exploration or exploitation of the living and non-living resources shall be subject to the consent of the coastal State. Requests for consent

shall be submitted well in advance and shall be answered without undue delay.

Article 4

In the international area all States, whether coastal or land-locked, and appropriate international organizations have the freedom to carry out marine scientific research related to the sea-bed subsoil and superjacent waters.

III. TEXTS SUBMITTED AS CONFERENCE ROOM PAPERS TO THE INFORMAL MEETINGS²⁵

A. DEFINITION AND OBJECTIVES OF MARINE SCIENTIFIC RESEARCH

NETHERLANDS

Marine scientific research is any study of and related experimental work in the marine environment excluding industrial exploration and other activities aimed at the direct exploitation of marine resources, designed to increase man's knowledge and conducted for peaceful purposes.

SUDAN

Marine scientific research is any study and related experimental work conducted in the interest of peace and human welfare and aimed at increasing mankind's knowledge.

SPAIN

Marine scientific research means any study and related experimental work designed to increase mankind's knowledge of the marine environment.

EGYPT

Scientific research lends itself to all investigations dealing with natural phenomena in the marine environment and the atmosphere there above, as well as to promotion of methodology for abatement of marine pollution and other abnormalities. Scientific research is contradictory to all non-peaceful aspects, and does not cover activities aimed at the direct exploitation of the marine resources.

B. LEGAL STATUS OF INSTALLATIONS FOR MARINE ENVIRONMENT RESEARCH

ARGENTINA

The emplacement of any type of scientific research installations on the continental shelf by third States or their nationals shall be subject to authorization by the coastal State, and such installations shall be under its jurisdiction.

KENYA

1. Fixed or floating scientific research installations or equipment located within the areas of national jurisdiction and/or sovereignty shall be subject to the jurisdiction of the coastal State.

2. Fixed or floating scientific research installations or equipment located in areas beyond the limits of national jurisdiction shall be operated in accordance with the international régime as provided for in this Convention.

BULGARIA, POLAND, UKRAINIAN SOVIET SOCIALIST REPUBLIC, UNION OF SOVIET SOCIALIST REPUBLICS

Fixed scientific research installations, whether standing on the ground or at anchor, and also floating stations or mobile installations established in the marine environment in accordance with the provisions of articles . . . of this Convention and other rules of international law shall be subject to the jurisdiction of the State which installed them, unless other provision is made in agreements between the State conducting the research and the coastal State which may be concluded when under

²⁵The texts were not discussed in the informal meetings.

articles . . . of this Convention, the consent of the coastal State is required for the conduct of the research.

The installations referred to in this article shall not have the status of islands or possess their own territorial waters, and their existence shall not affect the delimitation of the territorial sea, continental shelf or economic zone of the coastal State.

FRANCE

The emplacement of scientific research installations (ODAS) within the limits of national jurisdiction of a State shall require the consent of that State in the same conditions as for the conduct of scientific research.

Such installations shall be subject to the jurisdiction of the State which has emplaced them, unless otherwise agreed between the State conducting the research and the coastal State.

C. RESPONSIBILITY AND LIABILITY

BULGARIA, POLAND, UKRAINIAN SOVIET SOCIALIST REPUBLIC,
UNION OF SOVIET SOCIALIST REPUBLICS

Article 13

States shall be held internationally liable for national activity in the world ocean, irrespective of whether it is carried out by government organs or by juridical or physical persons, and for ensuring that national activities are conducted in accordance with the provisions of this Convention.

VENEZUELA

*Amendment to first paragraph of Article 13, document
A/AC.138/SC.III/L.31*

Replace the words "the world ocean, irrespective of whether it is carried out by government organs or by juridical or phy-

sical persons" by the words "areas under the jurisdiction of other States or in the international zone".

SPAIN

*Amendments to first paragraph of Article 13, document
A/AC.138/SC.III/L.31*

(a) Insert the words "international organizations" after the word "States";

(b) Insert the words "scientific research" after the words "for national activity";

(c) Replace the words "in the world ocean" by the words "in the marine environment".

CANADA²⁶

States shall be responsible for marine scientific research conducted in the marine environment by them or by their nationals, natural or juridical.

States shall be liable for damage, caused to the marine environment, including damage to other States and their environment, arising out of marine scientific research, when such damage is attributable to them. When such damage is attributable to their nationals, States undertake to provide recourse with a view to ensuring equitable compensation for the victims thereof.

²⁶Any text on marine scientific research—responsibility and liability—should be developed together with any similar provision regarding marine pollution damage and therefore this text may have to be amended or expanded upon at a later date.

DOCUMENT A/CONF.62/C.3/L.18

Norway: working paper on preservation of the marine environment

[Original: English]
[23 August 1974]

The following is suggested as a tentative draft provision on the maintenance of the natural state of the marine environment:

1. States shall not undertake or permit activities which may cause significant and extensive harmful changes in the natural state of the marine environment by the deliberate introduction therein or the transfer from one area to another thereof of species alien or new thereto. If the effects of any proposed activity could give rise to uncertainty in this respect, the State concerned shall in any event consult with interested States and appropriate international organizations prior to undertaking or permitting any such activity.

States shall take appropriate measures to guard against the accidental introduction or transfer of alien or new species, and to restore the previously existing state of the marine environment in cases where a disturbance has occurred due to any introduction or transfer of alien or new species.

2. This article shall be without prejudice to the application of the provisions of this Convention relating to the prevention of the pollution of the marine environment.

DOCUMENT A/CONF.62/C.3/L.19

Austria, Belgium, Bolivia, Botswana, Denmark, Germany (Federal Republic of), Laos, Lesotho, Liberia, Luxembourg, Nepal, Netherlands, Paraguay, Singapore, Uganda, Upper Volta and Zambia: draft articles on marine scientific research

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Note. These draft articles do not necessarily represent the final position of the sponsors on individual articles or on the

draft as a whole. Sponsorship does not prejudice their position on previous or future draft proposals.