

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/C.3/L.7

Federal Republic of Germany: draft articles on enforcement of regulations concerning the protection of the marine environment against vessel-source pollution

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume III (Documents of the Conference, First and Second Sessions)*

Article 5

Nothing in these articles shall derogate from the sovereign right of a State to exploit its own resources pursuant to its environmental policies and in accordance with its duty to protect and preserve the marine environment both in its own interests and in the interests of mankind as a whole.

Article 6

The coastal State has in and throughout its economic zone (hereinafter referred to as the "zone") the rights and duties specified in these articles for the purposes of protecting and preserving the marine environment and preventing and controlling pollution.

Article 7

1. Within the zone, the coastal State shall have jurisdiction, in accordance with these articles, to establish and adopt laws and regulations and to take administrative and other measures in respect of the activities of all persons, natural and juridical, vessels, installations and other entities for the purposes set out in article 6.

2. The coastal State shall have the right to enforce in the zone laws and regulations enacted in accordance with paragraph 1 of this article.

3. (a) In respect of pollution of the marine environment from land-based sources and from installations or devices engaged in the exploration and exploitation of the natural resources of the sea-bed and subsoil, the laws and regulations of the coastal State shall take into account internationally agreed rules, standards and recommended practices and procedures.

(b) (i) In respect of ship-generated pollution, the laws and regulations of the coastal State shall conform to internationally agreed rules and standards,

(ii) Where internationally agreed rules and standards are not in existence or are inadequate to meet special circumstances, coastal States may adopt reasonable and non-discriminatory laws and regulations additional to or more stringent than the relevant internationally agreed rules and standards. However, coastal States may apply stricter design and construction standards to vessels navigating in their zones only in respect of waters where such stricter standards are rendered essential by exceptional hazards to navigation or the special vulnerability of the marine environment, in accordance with accepted scientific criteria. States which adopt measures in accordance with this subparagraph shall notify the competent international organization without delay, which shall notify all interested States about these measures.

Article 8

The coastal State shall exercise its rights and perform its duties in the zone with regard to the preservation of the marine environment without undue interference with other legitimate uses of the sea, including, subject to the provisions of this Convention, the laying of cables and pipelines.

Article 9

In the zone, ships and aircraft of all States, whether coastal or not, shall enjoy freedom of navigation and overflight subject to the exercise by the coastal State of its rights within the zone, as provided for in this Convention, with regard to the preservation of the marine environment.

(Further articles in elaboration of the zonal approach will be required, including provision for the peaceful settlement of disputes, special areas, intervention, liability, the relationship of these articles with other international conventions, and mechanisms for the establishment of rules and standards.)

DOCUMENT A/CONF.62/C.3/L.7**Federal Republic of Germany: draft articles on enforcement of regulations concerning the protection of the marine environment against vessel-source pollution**

[Original: English]
[1 August 1974]

Article 1

1. States shall ensure that ships flying their flag comply with regulations established in accordance with this Convention and shall issue for these ships certificates required or provided for in such regulations. They shall deny the right to fly their flag to ships which do not comply with such regulations.

2. A certificate issued by a State for a ship flying its flag in accordance with this Convention shall be accepted by other States and regarded for all purposes covered by this Convention as having the same validity as a certificate issued by them.

3. If a State has issued a certificate for a ship flying its flag which does not comply with the requirements of the regulations and such ship causes pollution of the marine environment, the issuing State shall be internationally responsible for damage to other States and their nationals resulting from the pollution incident and shall pay compensation accordingly, unless the pollution incident was not due to the failure to comply with the requirements.

Article 2

1. A ship required to carry a certificate is subject, while in the ports, offshore terminals or internal waters of a Con-

tracting State, to inspection by the authorities of that State. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate.

2. If there are reasonable grounds for believing that the ship has violated discharge regulations established in accordance with this Convention, such State may also inspect the ship in order to ascertain whether it has violated such regulations.

3. If the ship does not carry a valid certificate, or the inspection indicates that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate, or the ship has violated discharge regulations on the high seas, a report shall be forwarded to the flag State, which shall take appropriate action, and to the competent international organization. If the inspection indicates that the ship has violated discharge regulations within the territorial sea or internal waters of the inspecting State, the authorities of that State may institute judicial or administrative proceedings according to its national law.

Article 3

1. If a ship does not carry a valid certificate as required by the regulations established in accordance with this Convention, States may deny such ship entry to their ports or offshore terminals, or passage through their territorial sea. If there are reasonable grounds for believing that a ship does not carry a valid certificate and if, while in the territorial sea of a coastal State, it does not furnish information at the request of that State, as required under the regulations, the ship shall be deemed not to carry a valid certificate.

2. If there are reasonable grounds for believing that a ship in the territorial sea or internal waters of a coastal State has violated discharge regulations established in accordance with this Convention, the coastal State may, if necessary in order to ascertain whether the ship has violated the regulations, order a foreign merchant ship to stop and board it, and may take action, pursuant to article 2, paragraph 3, against such ship.

Article 4

1. If substantial pollution, which may reasonably be expected to result in major harmful consequences to the marine environment, has occurred on the high seas in the vicinity of the territorial seas of coastal States, and if there are reasonable grounds for believing that a foreign merchant ship encountered near the site of the pollution incident has violated discharge regulations established in accordance with this Convention, such States may, if necessary in order to ascertain whether the ship has violated the regulations, order the ship to stop and board it.

2. If the inspection indicates that the ship has violated discharge regulations, a report shall be forwarded to the flag State, which shall take appropriate action, and to the competent international organization.

Article 5

1. All possible efforts shall be made to ensure that a ship is not unduly detained or delayed. For this purpose States shall, *inter alia*, co-operate in the development and implementation of regulations and procedures to render unnecessary the stoppage or boarding, as provided for in the above articles, of a ship proceeding en route.

2. Measures taken pursuant to the above articles must not endanger ships, interfere with navigation or other legitimate uses of the sea, or create hazards to the marine environment. Ships inspected on the high seas or in innocent passage through the territorial sea must not be diverted, taken into port or arrested. If a State is entitled to institute judicial or administrative proceedings against a foreign ship, such ship may avoid arrest by bonding.

3. If a State, pursuant to article 3, denies a foreign ship entry to its ports or offshore terminals or passage through its territorial sea, or takes any action against such ship on account of a violation of discharge regulations, the State shall immediately inform the consul or diplomatic representative of the flag State.

4. If a ship is unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered.

5. Measures taken pursuant to the above articles may discriminate neither against nor among foreign ships. Regarding ships of States which are not Parties to this Convention, Contracting States shall apply the provisions of this Convention, in accordance with international law, in such a manner as to ensure that such ships are not accorded more favourable treatment.

DOCUMENT A/CONF.62/C.3/L.8

Nigeria: draft articles on the development and transfer of technology

[Original: English]
[1 August 1974]

Article 1

To insure adequate and equitable transfer of technology in accordance with the concept of the common heritage of mankind in the ocean space, States with the capacity for marine scientific research shall always and at all levels associate with personnel of developing countries.

Article 2

1. Regional scientific research centres shall be established, as suborgans of the International Sea-Bed Authority, in the developing countries.

2. The functions of such regional scientific research centres shall include:

- (a) Advanced training and education on all aspects of marine scientific research, particularly marine biology, oceanography, cartography, sea-bed mining, engineering and mineralogy;
- (b) Advanced management studies; and
- (c) Prompt publication of results of marine scientific research in readily available journals.

Article 3

1. The International Sea-Bed Authority shall ensure that adequate provisions are made in its exploration and exploitation licences and contracts with States and nationals of other States whether natural or juridical, for enterprises granted exploration and exploitation rights under such licences and con-

tracts, to take on as members of their staff under training, nationals of developing countries whether coastal, land-locked or otherwise geographically disadvantaged.

2. The International Sea-Bed Authority shall make available to any country on request blueprints and patents of plants and machinery used in the exploration and exploitation of the international area.

3. The International Sea-Bed Authority shall obtain, from any State to which it has granted the rights of exploration and exploitation of the sea-bed under licences or contracts on payment of reasonable fees or premiums, blueprints and patents of the plants and machinery used by such States or their nationals in the exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction.

4. The International Sea-Bed Authority shall ensure that adequate provisions are made by it to facilitate the acquisition by any developing State or its nationals of the necessary skills and "know-how" in any undertaking by the Authority of enterprises for exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction.

Article 4

All States are under a duty to co-operate actively with the International Sea-Bed Authority to facilitate the transfer of skills in marine scientific research and technology to developing States and their nationals.