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

DRAFT OCEAN SPACE TREATY

Working paper submitted by Malta

Prefatory note

1. The following draft of an ocean space treaty was presented by Dr. Arvid Pardo and is submitted by the Government of Malta as a working paper for discussion purposes.

2. The draft ocean space treaty raises a number of questions with respect to which further study is necessary and does not necessarily represent the definitive views of the Government of Malta.

3. The title used is an abbreviated title of convenience. The full title of the draft treaty is as follows: "Draft Treaty concerning the establishment of an international régime, including international machinery, for the sea-bed and ocean floor and the subsoil thereof and for its resources beyond the limits of national jurisdiction, including a precise definition of the area and also concerning a broad range of related issues, including those of the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of the coastal State), the preservation of the marine environment (including inter alia the question of pollution) and scientific research."

4. The following abbreviated titles have been used:


Article 75

All activities of exploration and exploitation of resources in International Ocean Space shall be conducted by, or on behalf of, the Institutions established in accordance with article 85 of this Convention or by a Contracting Party or group of Contracting Parties or natural or juridical persons under its or their sponsorship, subject to the general supervision and control of the Institutions established in accordance with article 85 of this Convention. 79/

Article 76

All activities of intergovernmental organizations or of international or multinational organizations or corporations in International Ocean Space are subject to the general supervision and control of the Institutions established in accordance with article 85 of this Convention. 80/

Article 77

Each Contracting Party shall bear international responsibility for national activities or for activities under its sponsorship in International Ocean Space whether such activities are carried out by governmental agencies or by non-governmental agencies or by individuals. 81/

In particular:

(a) Each Contracting Party shall take appropriate measures to ensure that those conducting activities under its authority or sponsorship comply with the provisions of this Convention; 82/

(b) Each Contracting Party shall make it an offence for those conducting activities under its authority or sponsorship in International Ocean Space to violate the provisions of this Convention. Such offences shall be punishable in accordance with the administrative or judicial procedures established by the Contracting Party sponsoring the activities. The procedures shall be notified to the International Institutions created in accordance with article 85 of this Convention; 83/

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79/ See article 13 Tansania draft statute (A/AC.138/33) and article 10, US draft convention (A/8021, annex V). The formulation in text is slightly different.

80/ Substantial modification of article 11 of draft ocean régime prepared by Mrs. E. Borgese of the Centre for Democratic Institutions, Santa Barbara, USA.

81/ Slight modification of (a) article 5 draft ocean space treaty by Sen. C. Pell, (b) article VII draft treaty on exploration and use of ocean bed by Mr. A. Danzig, (c) Article III (B9) draft ocean régime by Mrs. E. Borgese of the Centre for Democratic Institutions, Santa Barbara, U.S.A.

82/ See article 11 (1) US draft convention (A/8021, annex V) and article 14 (1) Tansania draft statute (A/AC.138/33).

83/ See article 11 (2) US draft convention (A/8021, annex V) and article 14 (2) of Tansania draft statute (A/AC.138/33).
(c) Each Contracting Party shall be responsible for maintaining public order on vessels and equipment operated by those authorized or sponsored by it and for ensuring that vessels and equipment conform to generally accepted international standards; 84/

(d) Each Contracting Party shall be responsible for damages caused by activities which it authorizes or sponsors to any other Contracting Party or its nationals or to the Institutions established in accordance with article 86 of this Convention; 85/

(e) Each Contracting Party shall be responsible to any other Contracting Party or its nationals or to the Institutions established in accordance with article 86 of this Convention for damages caused by faulty construction, deterioration or breakage of equipment or installations, such as oil storage tanks, emplaced by it in International Ocean Space; 86/

(f) A group of States acting together, pursuant to an agreement among them, shall be jointly and severally responsible under this Convention. 87/

Article 78

1. Intergovernmental organizations in International Ocean Space shall themselves bear responsibility for their activities or for activities under their sponsorship. In particular they shall:

(a) take appropriate measures to ensure that those conducting activities under their authority or sponsorship comply with the provisions of this Convention;

(b) be fully responsible for damages caused by activities which they sponsor to any Contracting Party or its nationals or to the Institutions established in accordance with article 86 of this Convention.

2. In the event of repeated and serious violations of the provisions of this Convention or of failure to pay legally assessed damages, an intergovernmental organization may be debarred, temporarily or permanently, from conducting activities in International Ocean Space. 86/

Article 79

The Institutions established in accordance with article 86 of this Convention shall bear responsibility for their activities or for activities directly sponsored by them.

84/ See article 11 (3) US draft convention (A/8021, annex V) and article 11 (3) Tanzania draft statute (A/AC.138/33). Scope of articles quoted has been somewhat expanded.

85/ See article 11 (4) of Tanzania Statute (A/AC.138/33) and article 11 (4) US draft convention (A/8021, annex V). The contents of the articles quoted have been somewhat expanded.

86/ Provisions not found in other drafts.

87/ See article 11 (5) of Tanzania draft statute (A/AC.138/33) and article 11 (4) US draft convention (A/8021, annex V).—The words "through an international organization" have been omitted.