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Draft articles considered by the Committee at its informal meetings (Articles 1-21)

Explanatory note

This document contains the texts of draft articles which are the result of the Committee's reading of part I of appendix III of the Report of Sub-Committee I of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, which deals with the status, scope and basic provisions of the régime, based on the Declaration of Principles (resolution 27/43 (XXV)). References to the comparative table (A/AC.138/L.10), to the first reading or second reading by the working group of Sub-Committee I of the sea-bed Committee, and to the introductory note have been omitted, as being unnecessary at this stage. Several foot-notes which are no longer relevant have also been omitted, while in the remaining foot-notes, references to the “working group” have been replaced by references to the Committee. Consequential and other minor editorial changes have been made.

Draft articles 1-21 are presented at this stage without the introductory note which appeared at the beginning of the report of Sub-Committee I of the sea-bed Committee, pending completion of the work of the First Committee on the other draft articles.

Wording taken from the Declaration of Principles continues to be underlined, ** while marginal notes refer to the corresponding paragraph of the Declaration. Draft article I is regarded by the Committee as having been subjected only to a first reading and hence is given a Roman numeral in accordance with the practice followed by Sub-Committee I of the sea-bed Committee.

The Committee decided not to deal, for the time being, with proposals for definition or interpretation of terms. Provision would continue to be made for an article on interpretation of terms (article "O") but the Terms to be covered and their interpretation would be added at a later stage.

*In italics in the text.

[Original: English]
[3 August 1974]
Article 17

ACCOMMODATION OF ACTIVITIES IN THE MARINE ENVIRONMENT AND IN THE AREA

1. All activities in the marine environment shall [be conducted with reasonable regard for:] [not result in any unjustifiable interference with:] the exploration of the Area and the exploitation of its resources.

2. The exploration of the Area and the exploitation of its resources shall [be conducted with reasonable regard for:] [not result in any unjustifiable interference with:] other activities in the marine environment.

Note: The Committee may wish to consider whether to include here or elsewhere in these articles a more detailed treatment of "non-interference rules" relating to such matters as prevention of interference with recognized sea-lanes and restrictions on resource exploitation in areas with a high pollution risk; see, for example, the USSR draft, articles 4, 10, 12, the United States draft, article 21, the Maltese draft, article 72, and other relevant texts.

Article 18

RESPONSIBILITY TO ENSURE OBSERVANCE OF THE INTERNATIONAL REGIME AND LIABILITY FOR DAMAGES

1. Every State shall have the responsibility to ensure that activities in the Area, including those relating to the exploration of the Area and the exploitation of its resources whether undertaken by governmental agencies, or non-governmental entities or persons under its jurisdiction, or acting on its behalf, shall be carried out in conformity with the provisions of these articles. The same responsibility applies to international organizations and their members for activities undertaken by such organizations or on their behalf. Damage caused by such activities shall entail liability, on the part of the State or international organization concerned, in respect of activities which it undertakes itself or authorizes. [A State Party to these articles shall be responsible for any damage caused to another State Party to these articles as a result of its activities on the seabed.]

2. A group of States acting together shall be jointly and severally responsible under these articles.

3. Each Contracting Party shall:
   (i) Take appropriate measures to ensure that those conducting activities under its authority or sponsorship comply with these articles;
   (ii) Make it an offence for those conducting activities under its authority or sponsorship in the Area to violate the provisions of these articles; such offences shall be punishable in accordance with administrative or judicial procedure established by the authorizing or sponsoring party;
   (iii) Be responsible for maintaining public order on manned installations and equipment operated by those authorized or sponsored by it;
   (iv) Be responsible for damages caused by activities which it authorizes or sponsors to any other Contracting Party or its nationals;
   (v) Be responsible for carrying out all measures necessary for the restoration of any damaged property or area to its condition immediately prior to such damage.

4. Every Contracting Party shall take appropriate measures to ensure that the responsibility provided for in paragraph 1 of this article shall apply mutatis mutandis to international organizations of which it is a member.

Article 19

ACCESS TO AND FROM THE AREA

Land-locked States and other geographically disadvantaged States shall have the right to [free] access to and from the Area in order to enable them to derive benefits, in accordance with the provisions of this Convention, from the Area and its resources.

Article 20

ARCHAEOLOGICAL AND HISTORICAL OBJECTS

(A)

1. Particular regard being paid to the prerogatives of the State of country of origin of cultural [or historical and archaeological] origin, all objects of archaeological and historical nature found in the Area shall be preserved or disposed of by the Authority for the benefit of the international community as a whole.

2. The recovery and disposal of wrecks and their contents more than fifty years old found in the Area shall be subject to regulation by the Authority without prejudice to the rights of the owner thereof.

or (B) Omit this provision.

Article 21

SETTLEMENT OF DISPUTES

All disputes arising out of the interpretation or application of these articles shall be settled in accordance with the provisions of article . . .

26 Although the Committee carried out a third reading of this article, it was agreed that the scope and complexity of the subject matter were such that it would be necessary for the Committee to give further detailed consideration to the issues involved at a later stage. The view was expressed that the matter needed to be examined in the light of article 1, "Who may exploit the Area?"
27 The Committee may wish to consider whether to include reference to the question of limits of liability as well as to other liability questions.