

United Nations Convention on the Law of the Sea (UN Sales No. E.94.V. 13, 1994), at 18, 37-38, 75-76, 83-84, 97-98, 134-35 & 182. National legislation is collected in UN Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea: National Legislation, Regulations and Supplementary Documents on Marine Scientific Research in Areas Under National Jurisdiction* (UN Sales No. E.89.V.9, 1989).

(52) UN Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea: Marine Scientific Research - A Guide to the Implementation of the Relevant Provisions of the United Nations Convention on the Law of the Sea* (UN Sales No. E.91.V.3, 1991) (hereinafter, UN, MSR Guide). This pamphlet also suggests standardization of the forms for seeking consent and for granting permission to conduct marine scientific research in areas of national jurisdiction.

(53) The last sentence of article 246 (3) requires coastal States to establish rules and procedures ensuring that consent will not be delayed or denied unreasonably. The UN MSR Guide states the coastal State 'should therefore respond as quickly as can reasonably be expected to requests for consent.' UN, MSR Guide I 1, at para. 52.

(54) *Ibid.*

(55) Article 249(l)(b) sets no fixed time-limits for providing the preliminary reports, final results and conclusions of the research to the coastal State. Providing even a preliminary report prior to the ship's departure is not practicable. SOONS 190. Common practice is to provide the preliminary report 30 days after completion of the field portion of the research.

(56) The UN MSR Guide states that "[all efforts should be made to supply the final results and conclusions within a reasonable period of time" noting that the "time span between the end of the cruise and the availability of the final results can vary substantially depending upon the nature of the research.' UN, MSR Guide 19, para. 92. Final reports usually take a year or longer to prepare.

(57) The coastal State has no right under the Convention to receive such data, until it is made public.

(58) Article 249(l)(e) requires the data be made internationally available, unless it is of direct significance for the exploration and exploitation of natural resources. U.S. law requires that U.S. government-funded data must become part of the public domain. CITE

(59) The Convention is silent on this question. The UN MSR Guide recommends that consideration be given to providing the coastal State with reports 'written in a language which can be read by scientists of the coastal State.' UN, MSR Guide 19, para. 93.

(60) The right to participate under article 249(l)(a) is qualified to the extent that it must be 'practicable'. The UN MSR Guide notes that, if the right to participate is to be meaningful at all, the researching State "must always reserve space for at least one coastal State scientist on board,' while recognizing only in extreme situations would that be impracticable, such as on a two- or three-man submersible. The Guide also cautions that "excessive demands should not be made'. UN, MSR Guide 16, para. 78. Consistent with the UN MSR Guide conclusion that "[the coastal State may be able to claim more than one participant only if, and to the extent that, there is space available," two scientific participants are generally permitted on board U.S. research vessels when space allows. However, there may be occasions when participation is not practical, or, conversely, when more than two may participate. Accord, Soons 189.

(61) This is not authorized by article 249.

(62) Under article 250, all communications concerning marine scientific research projects "shall be made through appropriate official channels, unless otherwise agreed.' Soons states that it is always most safe to use diplomatic channels. SOONS 193.

(63) To avoid problems the UN MSR Guide recommends also sending a copy directly to the coastal State scientists involved. UN, MSR Guide 19, para. 90. The Guide also recommends the researching State expressly inform the coastal State involved, after all results and conclusions of a research project have been provided to it, that all obligations related to a specific research project have in its opinion been fulfilled, to avoid invocation of article 246 (5) by the coastal State to withhold consent to future projects because of outstanding obligations to it from a prior research project. UN, MSR Guide 20, para. 99.

(64) The UN MSR Guide points out the need for the coastal State to have a single office to process applications for consent and be able to coordinate the request among the relevant government agencies. UN, MSR Guide 9, paras. 42, 43, 46.

(65) State Dep't Dispatch Supplement No. 1, Feb. 1995, at 53.

(66) Sen. Treaty Doc. 103-39, at IV; 6 State Dept. Dispatch Supplement No.1, Feb. 1995, at 1.

(67) Sen. Treaty Doc. 103-39, at VII; 6 State Dept. Dispatch Supplement No. 1, Feb. 1995, at 2.

(68) Sen. Treaty Doc. 103-39, at IV, X; 6 State Dept. Dispatch Supplement No. 1, Feb. 1995, at 1, 4.

(69) LOS Convention, article 297(2).

(70) *Id.*, article 246(i).

(71) See *id.*, articles 73 (2), 220(7) and 226(l)(b); cf. article 27 (3).

(72) See ROACH & SMITH, *EXCESSIVE MARITIME CLAIMS*, Chapter 1.

APPENDIX XIII. Scheduling Procedure Review

SCHEDULING PROCEDURE REVIEW

A Ship Scheduling Procedure Review Committee chaired by Rick Jahnke met 7 January 1997 to address perceived weakness in the ship scheduling process. These were

1. Information Exchange
2. Insufficient Project Tracking
- 3 . Cost Benefit Analysis
4. Timing of Science Meetings and Milestones
5. Other Factors (additional charges caused by shifting ships)

The following recommendations were presented:

1. Revise the ship-time request form
2. Develop a ship request tracking system relational data base
- 3 . Automate the procedure for PI input on preliminary schedules and schedule changes
4. Standardize procedures for all users
5. Optimize scheduling meeting and procedure times (encourage more regional communications)
6. Cost benefit analysis system
7. Variable costs should be handled by Program Managers on an individual basis

ACTION TO DATE:

Revised Electronic Ship Time Request form (work in progress).

Two parts, single page for proposals and scheduling followed by an extensive second part for cruise planning. Part one submitted with proposal, part two after funding or special request. Each request will have a backup archive file of pertinent traffic.

Posted by year to web on world chart, geographically located in pull down box.

On-line ship schedule form. Auto cruise track posted to web on world chart. All PIs automatically notified at posting and for subsequent changes.

Transit bank auto-update for no cost cruises of opportunity.

Future work. Program ship daily cost, distance and fuel use into ship track program to provide a first level cut at a cost analysis.

APPENDIX XIV. Z-Drive Status Update

- NAVSEA/NSF/ONR Study:
 - Glosten collecting operating use data on ships.
 - LIPS doing metallurgical analysis of failed Thompson upper gear (not yet received). (mailed 9/16)
 - WHOI contracted for analysis of failed Knorr lower gear.
 - Interim report due late September. Tentative meeting in Seattle 9/25.
- Spare lower units for Thompson, Revelle, Atlantis, Brown are at MARFAC SIO.
- Knorr port drive repaired/rebuilt failure analysis underway.
- Thompson upper unit gear due 17 September(13 weeks manufacturing lead time).

APPENDIX XV. Slate