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**INTERGOVERNMENTAL OCEANOGRAPHIC COMMISSION**  
(of UNESCO)

**SUMMARY REPORT OF THE FIRST SESSION OF THE OPEN-ENDED  
INTERSESSIONAL WORKING GROUP ON IOC'S POSSIBLE ROLE IN RELATION  
TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (IOC-LOS)**

Paris, 13-15 May 1996

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## **1. OPENING**

The First Session of the Open-ended Intersessional Working Group on IOC's Possible Role in Relation to the United Nations Convention on the Law of the Sea (IOC-LOS) was opened in UNESCO, Paris, at 9:30 on 13 May 1996, by Dr Gunnar Kullenberg, the Executive Secretary of IOC. He welcomed all the participants on behalf of the Organization and himself. He emphasized the impact of UNCLOS on the work of the international organizations and the importance to respond to the needs of the Convention. He recalled the decision of the Eighteenth Session of the IOC Assembly to establish an open-ended intersessional working group to study the explicit and implicit role of IOC in relation to the UN Convention on the Law of the Sea and hoped that the Working Group would come up with some specific recommendations which will be presented to the forthcoming sessions of the IOC Executive Council and Assembly.

Dr Kullenberg then proposed Prof. A. H. A. Soons to be the Chair of the meeting following a consultation with the Chairman of IOC, Mr Geoffrey Holland. The Working Group welcomed the proposal and confirmed Prof. Soons as the Chair.

## **2. ADMINISTRATIVE ARRANGEMENTS**

### **2.1 DESIGNATION OF THE RAPPORTEUR**

Consultations suggested that the Group did not consider it necessary to identify and designate a Rapporteur.

### **2.2 ADOPTION OF AGENDA**

Mr Haiqing Li, the Technical Secretary for the meeting, introduced this Agenda Item, referring to document IOC/WG-LOS-I/1 prov. The Group adopted the proposed Agenda for the meeting without any change, which is attached as Annex I.

### **2.3 DOCUMENTATION**

The Technical Secretary introduced this Agenda Item, referring particularly to documents IOC/WG-LOS-I/4 prov. and IOC/WG-LOS-I/5 prov. He informed the meeting that a new document IOC/WG-LOS-I/6 Add. 1 was added to the list of documents. He also thanked Mrs de Marffy from the United Nations Division for Ocean Affairs and the Law of the Sea for her efforts to bring the finalized version of the table on the role of the competent international organizations under UNCLOS, as well as other useful background documents to the meeting. The List of Participants is attached as Annex II.

### **2.4 CONDUCT OF THE SESSION**

The Chairman made a proposal on the conduct of the session. The basis for the discussion would be document IOC/WG-LOS-I/6: A Synthesis on IOC Possible Role and Responsibilities under UN Convention on the Law of the Sea. The Group agreed on this proposal as well as the time table for the session.

The Delegate of Turkey made a statement that the participation of Turkey in this meeting can in no way be interpreted as acceptance of the UNCLOS by the Turkish

Government. The Delegates of Chile and Peru also provided statements on their Governments' positions with regard to IOC's role in relation to UNCLOS, which were distributed during the meeting.

**3. EXAMINATION OF UNCLOS PROVISIONS THAT MAY HAVE EXPLICIT RELEVANCE TO IOC**

The result of the deliberations under Agenda Items 3 and 4 is reflected in Table 1: IOC's Role in Relation to UNCLOS, which forms an integral part of this Report.

The Group examined the document IOC/WG-LOS-I/6, and concurred with the IOC's role and responsibilities explicitly mentioned under UNCLOS, as presented in Part 1 of Table 1: Provisions Which Explicitly Mention IOC.

**4. EXAMINATION OF UNCLOS PROVISIONS THAT MAY HAVE IMPLICIT RELEVANCE TO IOC**

The Group carefully examined the UNCLOS provisions that may have implicit relevance to IOC based on the document IOC/WG-LOS-I/6, and agreed on the IOC's role in this respect as a competent international organization in marine scientific research, as presented in Part 2 of Table 1: Provisions Which Provide a Basis for An IOC Role.

**5. RECOMMENDATIONS ON POSSIBLE IOC'S ROLE AND RESPONSIBILITIES IN RELATION TO UNCLOS**

The Group examined the following important issues as a result of discussion under Agenda Items 3 and 4, with conclusions and recommendations.

**a. IOC present activities relevant to the Law of the Sea but not based on UNCLOS Provisions**

The Working Group recommended that several programme activities of the IOC in relation to research, observation, and capacity building can inherently provide input to the efforts of Member States who are also States parties to UNCLOS to exercise their rights and fulfill their obligations under UNCLOS. These programmes are evolving as main elements of the IOC mandate and provide scientific inputs, information, data and capacity to Member States and other competent international organizations cooperating with IOC. Thus, in this respect the IOC can act as a body for consultation and provision of information also in context of UNCLOS if Member States so wish. Several of these activities are also part of joint global programmes like the WCRP, IGBP, (GLOBEC, LOICZ, JGOFS), GOOS and GCOS. The GIPME programme is also jointly sponsored by IOC, UNEP, IMO and partly IAEA. The OSLR programme deals with research on marine living resources, harmful algal blooms and supports the LMR module of GOOS. The OSNLR deals with non-living resources. The IODE is an operational programme addressing major needs with respect to data exchange, retrieval and management.

The capacity building actions are part of all the IOC programmes and also constitute a separate programme in order to ensure that national and regional needs can be properly addressed.

The regional perspective is covered through IOC regional subsidiary bodies, two Sub-commissions (IOCARIBE and WESTPAC), with regional secretariat support, and 5 regional

sub-committees. In addition, cooperative programme arrangements have been established in regions not covered by these subsidiary bodies, e.g. the south-western part of the Atlantic and the south-east Pacific.

Through the IOC participation in UN system-wide mechanisms like GESAMP, ACC Sub-Committee on Oceans and Coastal Areas and ICSPRO, coordination is achieved and duplications avoided. As a specific example of cooperation in this context, the IOC could assist the Scientific Group of the London Convention 1972 in the development and updating of scientific guidelines on dumping, particularly in the light of the probable adoption of a 1996 Protocol to the Convention. This work could be done within GESAMP. Another example is the cooperation as has been requested by IMO and UNEP in studying the dynamics and impact of the foreign species to ecosystem and biodiversity and provide scientific information for management.

The IOC Medium Term Strategy (Annex VI of Report of the Eighteenth Session of the IOC Assembly, June 1995) endeavors to relate the IOC programmes to major issues. The relevance of the IOC programmes for several international agreements, e.g. resulting from UNCED as well as UNCLOS is also referred to.

The Working Group in reviewing the working document (IOC/WG-LOS-I/6) noted several articles of UNCLOS in the context of which the on-going IOC programmes can provide support to efforts of Member States and other organizations. However, the Working Group also recognized that UNCLOS may imply the need to strengthen some of the programmes of IOC.

The Working Group also noted that it would not be appropriate to present this situation as if these programmes are driven by UNCLOS provisions. On the other hand the Working Group stressed that the considerable experiences and results obtained through the IOC programmes should be properly used in support of UNCLOS implementations and related actions of Member States. The Working Group suggested that the Executive Council give consideration to how IOC can best achieve this goal. This should help ensure that the relevant IOC programmes and actions are not overlooked in relation to the UNCLOS-related work. Any duplication of work by international organizations should of course be prevented. This can to a degree be ensured through the existing cooperation and coordination mechanisms referred to above, but can also be pursued through direct inter-secretariat contacts and consultations. The Working Group suggested that the cooperation between UN-DOALOS and IOC should be reported specifically to the Assembly under the relevant agenda item.

The Working Group also emphasized that Training, Education and Mutual Assistance (TEMA) as an inherent part of capacity development is a priority of the IOC. It can as such contribute considerably towards helping States parties to the Convention to fulfill their obligations and exercise their rights in the context of the Convention. One aim of this action is to help ensure that scientific information, understanding, observations and data can be shared by all for the benefit of all States and peaceful uses and sustainable development of the ocean. As a competent international organization the IOC should be conceived by Member States as a mechanism which can help produce the required information and capacity basis for overall implementation of UNCLOS. The Working Group recalled the UNESCO-IOC Comprehensive Plan for a Major Assistance Programme to Enhance the Marine Science Capabilities of Developing Countries prepared by the IOC. The Working Group suggested that the constituted

Group of Experts on TEMA should also address issues of UNCLOS within the mandate of IOC.

The Working Group stressed the importance of GOOS for IOC as a whole, and suggested that the relevant UNCLOS aspects and issues should also be considered in the context of the GOOS development. Explicit reference was made to the GOOS Health of the Ocean module as an important future monitoring activity to evaluate biological effects of pollution, as a particular example.

Specific examples of on-going or planned activities include:

- (i) capacity development of coastal area studies, e.g. in Western Indian Ocean;
  - (ii) development of regional GOOS-components in WESTPAC (NEAR-GOOS), and IOCARIBE;
  - (iii) training courses and workshops on international oceanographic data retrieval, archiving, management and exchange;
  - (iv) regional GOOS capacity building workshops;
  - (v) studies of oceans and climate, and ocean role in CO<sub>2</sub> balance;
  - (vi) establishment of observations and monitoring of oceans and coastal areas as part of GOOS in GLOSS, DBCP, IGOSS.
- b. Issues of liability/responsibility of competent international organizations actually conducting MSR and settlement of disputes to which an international organization conducting MSR is a party**

It was concluded by the Working Group that these are new issues derived from the entry into force of the UN Convention on the Law of the Sea, which raise complex legal questions. However, IOC, as a marine scientific body, is not the appropriate forum to address these issues and there is not an urgent need to address them at present. Nonetheless, IOC may wish to clarify these issues in the future, together with other international organizations, when the need arises.

**c. Establishment of criteria and guidelines for ascertaining the nature and implications of MSR**

It was concluded by the Working Group that IOC, as a competent international organization in marine scientific research, has a role to play in assisting the Member States to establish general criteria and guidelines as provided for in Article 251 in ascertaining the nature and implications of marine scientific research, including the marine scientific research in the exclusive economic zone and on the continental shelf.

For this purpose it is essential to obtain information on State practice regarding these criteria. This issue is addressed in the next item.

**d. IOC acting as a depository of national legislation/rules/administrative practices and making such information available to Member States**

Though it was recognized that IOC has a role to play in this respect, it was noted that UN-DOALOS has already been collecting and publishing national legislation with regard to marine scientific research, and to some extent, is also doing analysis of State practice, in light

of the mandate entrusted to it by the UN General Assembly, and IOC should avoid duplication of efforts. However, IOC could, through the ICSPRO mechanism, help UN-DOALOS reach the marine scientific community for the collection of necessary information, and help the scientific community get access to the information published by the former.

The importance of this function was stressed in connection with the previous item.

**e. IOC regional bodies to promote projects on national legislation/rule/ administrative practices**

The Working Group took note of a Report on the Implementation of the Marine Scientific Research Regime in the South Pacific, prepared under the auspices of the South Pacific Forum Fisheries Agency and SOPAC (Report no. FFA Report 95/14) as a positive example as to how international organizations may help coastal States in formulating national legislation, rules and administrative practices. The Working Group took note of this Report and concluded that the IOC regional subsidiary bodies may make similar efforts if they so decide through the appropriate mechanism.

**f. ODAS: a study on the actual need of drafting an international instrument**

The Working Group noted that the status of ODAS is an issue which has been addressed over a long time. The preparatory work for an international instrument was suspended during UNCLOS-III. Taking into consideration that the use of ODAS has substantially increased and is expected to continue to increase there may now be a need for a legal instrument. IOC has an important role to play in this connection which is not necessary derived from UNCLOS. At present, the draft agreement on ODAS has been transmitted, through IOC, to ICSPRO. The Working Group concluded that this is a policy decision and it is up to IOC and IMO to decide whether this issue should be revisited taking into consideration the actual needs of the marine scientific community.

**g. Article 247: lay down procedures to be followed within international organizations to invoke Article 247 in future cases**

The Working Group recognized that the general procedure for obtaining consent for conducting marine scientific projects undertaken by or under the auspices of international organization for States parties to UNCLOS is already in place in Article 247 of the Convention. However, if IOC and its regional subsidiary bodies are to properly put it into practice, IOC should define specific rules and procedures to be followed.

Given the sensitiveness of the issue, it was felt by the Working Group that this issue should be handled with special care with due regard to the rights of the coastal States, and in this context, attention was drawn to the implications of the approval of IOC with regard to a project for an IOC Member State who is not a party to UNCLOS.

**6. FUTURE WORK OF THE WORKING GROUP**

The Working Group felt that, by the adoption of this Summary Report of the meeting, it had completed its work under its terms of reference given by the Eighteenth Session of the IOC Assembly.

**7. ADOPTION OF THE SUMMARY REPORT**

The Working Group adopted the Summary Report of the meeting, which will be distributed by the Executive Secretary IOC to the Member States at least three months prior to the Twenty-ninth Session of the IOC Executive Council.

**8. CLOSURE**

The First Session of the Open-ended Intersessional Working Group of IOC's Possible Role in Relation to UNCLOS was closed by the Chair at 13:30 hours on 15 May 1996.

**TABLE 1**

**IOC'S ROLE IN RELATION TO UNCLOS**

**1. PROVISIONS WHICH EXPLICITLY MENTION IOC**

| Article(s)          | Subject  | IOC Role/Responsibilities   |
|---------------------|--|---|
| 3 (2) of Annex II   | Commission on Limits of Continental Shelf (established under Article 76 (8) of UNCLOS)   | upon express request from CLCS IOC should assist the Commission through exchange of scientific and technical information. IOC may cooperate with IHO and other competent international organizations in this respect. |
| 2 (2) of Annex VIII | Special Arbitral Tribunal (Article 287 1 (d) and Annex VIII of UNCLOS)<br><br>Experts in compulsory procedures entailing binding decisions (Article 289 of UNCLOS) | draw up and maintain a list of experts in the field of marine scientific research who can serve as arbitrators. The list is circulated to the members of the UN by UN Secretariat.                                    |

## 2. PROVISIONS WHICH PROVIDE A BASIS FOR AN IOC ROLE

### 2.1 PROVISIONS ON MARINE SCIENTIFIC RESEARCH

IOC as a competent international organization in marine scientific research under UNCLOS.

| Article(s) | Subject                                     | IOC Role/Responsibilities   |
|------------|---|---|
| 238        | Right to conduct marine scientific research | IOC enjoys the general right to conduct marine scientific research, subject to the rights and duties of States as provided for in UNCLOS.   |
| 239        | Promotion of marine scientific research     | IOC has a general responsibility to promote and facilitate the development and conduct of marine scientific research.   |
| 242 (1)    | Promotion of international cooperation      | IOC should promote international cooperation in marine scientific research for peaceful purposes.   |
| 243        | Creation of favorable conditions            | IOC should, through conclusion of bilateral and multilateral agreements, cooperate with States and other competent international organizations to create favorable conditions for marine scientific research. |

| Article(s) | Subject  | IOC Role/Responsibilities   |
|------------|--|---|
| 244        | Publication and dissemination of information and knowledge                       | IOC should actively promote the dissemination and flow of marine scientific information and knowledge.  |
| 247        | MSR projects undertaken by or/ under the auspices of international organizations | IOC could help establish clear procedures in order to avoid misunderstandings with due regard to the rights of coastal States. It would be advisable to specify expressly in the text of the decision by the organization as regards the undertaking of the project that it is approved under this article. (ref . to para 5 g of this Report). |
| 251        | General criteria and guidelines  | IOC could assist States in establishing general criteria and guidelines for ascertaining the nature and implications of MSR (ref. to para 5 c of this Report).  |
| 262        | Scientific research installations or equipment in the marine environment         | IOC, in cooperation with IMO, could take actions related to the identification of markings and warning signals in the light of these provisions and the decisions of IMO (IMO resolution A.50 (III) and its Annex).   |

## 2.2 PROVISIONS AS REGARDS DEVELOPMENT OF MARINE SCIENCE AND TECHNOLOGY

| Article(s)  | Subject   | IOC Role/Responsibilities   |
|-------------|---|---|
| 266 and 268 | Promotion of the development and transfer of marine technology  | IOC has statutory responsibility to promote cooperation among Member States in the development and transfer of marine science and marine technology through further strengthening its TEMA and capacity building programme.   |
| 269 and 270 | Measures to achieve the basic objectives of technology transfer and ways and means of international cooperation in this respect | IOC should support States, and respond to the request of States, in taking specific actions in developing a programme on promotion of marine technology within the fields of IOC competence. This may be achieved through expansion of the existing TEMA programme, technical assistance in particular, both at the global and regional levels, taking advantage of IOC's regional subsidiary bodies and other regional oceanographic cooperative arrangements. |
| 271         | Guidelines, criteria and standards  | IOC at the request of Member States could strengthen its technical assistance through establishing generally accepted guidelines, criteria and standards for transfer of marine technology.   |
| 272 and 278 | Coordination and cooperation among international programmes and organizations   | IOC should cooperate and coordinate with other international organizations and programmes in promoting transfer of marine technology.   |
| 273         | Cooperation with international organizations and the Authority  | IOC, at the request of Member States, shall encourage and facilitate the transfer of skills and marine technology with regard to activities in the Area.  |

| <b>Article(s)</b> | <b>Subject</b>                    | <b>IOC Role/Responsibilities</b>   |
|-------------------|-----------------------------------|--|
| 275               | Establishment of national centres | IOC could assist the developing Member States in establishing and strengthening marine scientific and technological research centres.  |
| 276 and 277       | Establishment of regional centres | IOC could strengthen its regional cooperation through its regional subsidiary bodies, through establishing regional marine scientific and technological research centres, and the establishment and strengthening of networks of national centres under IOC's various programmes as part of capacity building. |

2.3 PROVISIONS ON MSR AND OCEAN SERVICES FOR THE MANAGEMENT AND RATIONAL USE OF MARINE LIVING AND NON-LIVING RESOURCES

| Article(s)   | Subject  | IOC Role/Responsibilities   |
|--|--|---|
| 61 (2), last sentence  | Conservation of living resources in EEZ  | IOC could, if need be, at the request of coastal States, cooperate with other competent international organizations (e.g. through its OSLR programme), to help identify the best scientific evidence, for the conservation and management of marine living resources.   |
| 123 (d)  | Cooperation of States bordering enclosed or semi-enclosed seas                     | When invited by the coastal States, IOC, through its regional subsidiary bodies, could coordinate with other regional organizations' efforts in management, conservation, exploration of the living resources of the sea.   |
| 143 (3) (b) and (c) and Section 1, paragraph 5 (h) of the Annex to Agreement Relating to the Implementation of Part XI of UNCLOS | MSR in the international seabed area   | IOC could, at the request of the International Sea-Bed Authority, assist it in developing its marine scientific research and provide scientific advice to the Authority. IOC could also cooperate with the Authority in disseminating results of research and analysis. |
| 163 (13) and 169 and Section 1, paragraph (4), of the Annex to the Agreement Relating to the Implementation of Part XI of UNCLOS | Consultation and cooperation with international and non-governmental organizations | IOC could, on request, consult with the Legal and Technical Commission (when performing the functions of the Economic Planning Commission) of the Authority in the fields where IOC has competence.   |

2.4 PROVISIONS OF MSR AND OCEAN SERVICES IN THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

| Article(s)  | Subject   | IOC Role/Responsibilities  |
|-------------|---|--|
| 200         | Studies, research programmes and exchange of information and data | IOC, e.g. through its GIPME programme, could strengthen its efforts in promoting studies, undertaking scientific research and encourage the exchange of scientific, technical information and data acquired both at the global and regional levels.  |
| 201         | Scientific criteria for regulations                               | IOC could, e.g. through its GIPME programme, assist coastal States and other competent international organizations in establishing appropriate scientific criteria for the purpose of formulating rules, standards and recommended practices and procedures.<br>(cf. also Art. 197, 207 (4), 208 (5), 210 (4), 211 (1) and 212 (3)). |
| 202 and 203 | Scientific and technical assistance to developing countries       | IOC could, e.g. through its GIPME and TEMA programmes, continue to provide scientific and technical assistance to developing countries and strengthen capacity building in these countries. Measures should be taken to ensure preferential treatment to be given to the developing countries.                                       |
| 204 (1)     | Monitoring of the risk or effects of pollution                    | IOC, through its GIPME/MARPOLMON programme, as well as its GOOS initiative, could continue its efforts in marine pollution monitoring and the establishment of pollution monitoring networks both on global and regional levels, partly as inherent elements of GOOS.  |
| 205         | Publication of reports  | IOC should continue to publish and make available scientific and technical reports on the monitoring of risks or effects of pollution.   |



ANNEX I

**AGENDA**

- 1. OPENING**
- 2. ADMINISTRATIVE ARRANGEMENTS**
  - 2.1.1 DESIGNATION OF THE RAPPORTEUR
  - 2.1.2 ADOPTION OF AGENDA
  - 2.1.3 DOCUMENTATION
  - 2.1.4 CONDUCT OF THE SESSION
- 3. EXAMINATION OF UNCLOS PROVISIONS THAT MAY HAVE EXPLICIT RELEVANCE TO IOC**
- 4. EXAMINATION OF UNCLOS PROVISIONS THAT MAY HAVE IMPLICIT RELEVANCE TO IOC**
- 5. RECOMMENDATIONS ON POSSIBLE IOC'S ROLE AND RESPONSIBILITIES IN RELATION TO UNCLOS**
- 6. FUTURE WORK OF THE WORKING GROUP**
- 7. ADOPTION OF THE SUMMARY REPORT**
- 8. CLOSURE**



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