

**THE UNITED NATIONS  
CONVENTION ON THE LAW OF  
THE SEA (UNCLOS) AND  
MARINE SCIENTIFIC  
RESEARCH:  
Malaysian Perspective**

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# OUTLINE OF PRESENTATION

- History: Management of Marine Scientific Research
- History: Geneva Convention 1958 on MSR
- UNCLOS: Part XIII - Marine Scientific Research
- Part XIII and Zones of Jurisdiction
- Gaps in Part XIII Implementations
- Emerging Issues
- Conclusion

# MANAGEMENT OF MARINE SCIENTIFIC RESEARCH (MSR)

- Marine scientific research is at the core of ocean discovery to explore new theories and findings about ocean system and its marine resource.
- Before 19th century, the deep ocean was virtual unknown and unreachable environment until the first MSR by the Royal Navy corvette *HMS Challenger* (1872-1976).

# MANAGEMENT OF MARINE SCIENTIFIC RESEARCH (MSR)

- This great expedition that visited every continent around the globe including Antarctica and contributed earlier knowledge on chemical, physical and biological environments of the ocean.

# MANAGEMENT OF MARINE SCIENTIFIC RESEARCH (MSR)

- **In present days, knowledge on ocean is important in;**
  - a. understanding the world climate variability.**
  - b. mapping maritime boundaries for the benefit of coastal States sovereignty**
  - c. exploring and exploiting living and non-living marine resources for energy, medicines and other use.**
  - d. managing a sustainable fisheries through fisheries-related research**
  - e. understanding and conserving marine biological diversity**

# GENEVA CONVENTION 1958 ON MSR

- Realizing the importance of ocean research, international community agreed to the introduction of a legal regime for the proper conduct of MSR in continental shelf

# GENEVA CONVENTION 1958 ON MSR

- **Article 5 (8) of the Geneva Convention on Continental Shelf**

**“ The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal States shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published. ”**

# GENEVA CONVENTION 1958 ON MSR

- The 1958 Geneva Convention on Continental Shelf is the basis for the new regime contained in 1982 United Nations Convention on the Law of the Sea (UNCLOS).



# UNCLOS: Part XIII - Marine Scientific Research

- In Section 1 of Part XIII, articles 238 and 239 give all States the right to conduct marine scientific research subject to the rights and duties of other States and to **promote and facilitate the development and conduct of marine scientific research.**

# UNCLOS: Part XIII - Marine Scientific Research

- Article 243 in Section 2 deals with the requirements on **international cooperation** by creating “favorable conditions for the conduct of marine scientific research in the marine environment and to integrate the efforts of scientists in studying the essence of phenomena and processes occurring in the marine environment and the interrelations between them.”

# Part XIII and Zones of Jurisdiction

Maritimes zones of jurisdiction comprises of;

1. Internal waters
2. Territorial sea
3. Contiguous zone
4. Exclusive Economic Zone
5. Continental shelf
6. High Seas

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# Part XIII and Zones of Jurisdiction

- Articles 245 and 246 deal with the conduct of MSR in territorial sea, EEZ and continental shelf with the consent of the coastal States.
- Paragraph 3 in Article 246 recognizes the role of international cooperation in MSR within EEZ and continental shelf. However, the right of the coastal State is not absolute since the regime provides a balance of interest between the rights of the coastal states and the rights of the international scientific community.

# Malaysia and MSR

- **Ministry of Foreign Affairs coordinates the process at approving MSR applications from foreign state bodies and international organizations. This is achieved through consultation with relevant Ministries and technical agencies.**
- **All MSR application are submitted at least six month in advance of the commencement of the research proposal through diplomatic channel. The present procedure for foreign application is divided into two categories;**
  - 1. Institution - via the Ministry of Foreign Affairs**
  - 2. Individual (e.g. post graduate studies)- via the Economic Planning Unit**

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# Malaysia and MSR

- The National Oceanography Directorate (NOD) is presently establishing procedure for evaluating MSR through a national marine science research committee.

# GAPS IN PART XIII IMPLEMENTATIONS

- In general Malaysia has complied with most of the provision in Part XIII in her conduct of marine mineral resource exploitation and living marine resource research. However, gap remain in the implementation of Part XIII. This is;

# GAP IN PART XIII IMPLEMENTATIONS

Malaysia's present capacity in marine scientific research limited her ability to develop and transfer marine science and technology knowledge. This however should be seen as opportunities to gain knowledge and expertise from other countries.



# EMERGING ISSUES

- 1. Bioprospecting** - this term refers to the search for valuable compounds in nature, e.g. the active molecules with the potential for the use in drugs development. Because of the enormous economic potential of drug development, bioprospecting is a potentially enriching and rewarding areas. However, legal and ethical principles for this have not yet been fully explicated. In Malaysia where coastal and marine ecosystems especially the coral reef areas harbor tremendous potential for biotechnology development, the question of regulating bioprospecting will become a major issue in MSR management in the future.

# EMERGING ISSUES

## 2. Research on climate change and global warming

Since Malaysia has its limitation in this research, it should gain expertise from other countries.

Therefore Malaysian scientists should be included as active participants in the MSR research by foreign states rather than just designated as observer or coordinator.

# EMERGING ISSUES

## 3. Introduction of alien species from ballast water

This is a problem which is fast gaining notoriety as a major threat to marine and coastal biodiversity. The threat of alien and exotic species to the environment has spurred research and regulatory effort worldwide.

# CONCLUSION

- Part XIII of UNCLOS is important for the management of MSR. This pertains to two particular issues:
  - I. Development of national capacity in MSR
  - II. The governing of relationship between two countries and international bodies involved in MSR

# CONCLUSION

- **In many ways, Malaysia has made progress in implementing the provisions of Part XIII of UNCLOS. However, two major gaps remain;**
  - 1. In order to promote the transfer of marine science and technological knowledge, Malaysian scientist should actively participate in the international cooperation of MSR.**
  - 2. Rules, regulation and legislation in MSR should also be established as a tool in conservation of the national marine resources in the light of development in bioprospecting and threats such as the introduction of alien species through ballast water issues.**