Japanese Application for Consent to Conduct Marine Scientific Research in Foreign Exclusive Economic Zones: Tendency of Each State

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Abstract
This paper qualitatively surveys tendency of duties or requests, which foreign states imposed with consent for a Japanese research organization to conduct marine scientific research (MSR) in foreign Exclusive Economic Zones (EEZ) in accordance with United Nations Convention on the Law of the Sea (UNCLOS). MSR conducted only in 1999 or later was reviewed. The most common request is for cruise reports. In terms of requests of cruise reports and data or samples, few coastal states changed. Recently, slightly fewer states request embarkation on a research vessel as a right based on UNCLOS than before. More and more states require a particular application format.

1. Introduction
According to United Nations Convention on the Law of the Sea (UNCLOS), a research state should apply for consent to conduct marine scientific research (MSR) in foreign Exclusive Economic Zones (EEZ) in advance. UNCLOS Article 249 also defines 'duty to comply with certain conditions' of research states;

1. States and competent international organizations when undertaking marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall comply with the following conditions:

(a) ensure the right of the coastal State, if it so desires, to participate or be represented in the marine scientific research project, especially on board research vessels and other craft or scientific research installations, when practicable, without payment of any remuneration to the scientists of the coastal State and without obligation to contribute towards the costs of the project;

(b) provide the coastal State, at its request, with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;

(c) undertake to provide access for the coastal State, at its request, to all data and samples derived from the marine scientific research project and likewise to furnish it with data which may be copied and samples which may be divided without detriment to their scientific value;

(d) if requested, provide the coastal State with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;

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(e) ensure, subject to paragraph 2, that the research results are made internationally available through appropriate national or international channels, as soon as practicable;

(f) inform the coastal State immediately of any major change in the research programme;

(g) unless otherwise agreed, remove the scientific research installations or equipment once the research is completed.

2. This article is without prejudice to the conditions established by the laws and regulations of the coastal State for the exercise of its discretion to grant or withhold consent pursuant to article 246, paragraph 5, including requiring prior agreement for making internationally available the research results of a project of direct significance for the exploration and exploitation of natural resources.

Thus, it is important for researchers what kinds of duty coastal states impose on a research state as well as whether coastal states withhold their consent or not. This paper reviews MSR conducted in 1999 or later.

2. Method

Consents for a Japanese research organization to undertake MSR in Foreign EEZ's in 1999 or later were surveyed not for quantitative but for qualitative analysis. Since application must be done over-half a year prior to research activities in foreign EEZ's, some applications were withdrawn due to unexpected and inevitable change in cruise plans. Even in such cases, some coastal states showed their requests before their announcement about consent. Such requests are also counted as well as requests with consent. Requests from coastal states are categorized into cruise reports, data or samples, and embarkation of participants or representatives. Some coastal states require a particular application form. This requirement is also surveyed.

3. Discussion

Table 1 shows the results of survey. More and more states require a particular application form, although 3 of them requires a form similar to FORM A "Marine Scientific Research, A Guide to the Implementation of the Relevant Provisions of the Relevant Provisions of the United Nations Convention on the Law of the Sea" (1991). In other words, they modified only a few parts of FORM A. The speculative reason they require a particular format is to match such application forms to their own bureaucratic practice to forward applications into their subordinate governmental organizations. Needless to say, governmental structures vary among states. On the contrary, it is clear that a research state must deal with more paper work, as more coastal states require a particular format, because a research state often conducts MSR in the EEZ's of plural coastal states in one cruise.

Since 1999, the most common request is for cruise reports. In terms of requests of cruise reports and data or samples, few coastal states changed. As a result, the number of demanding coastal states did not change in the survey period of this work. On the other hand, a few coastal states changed in requests of embarkation of participants or representatives. As a result, slightly fewer states request embarkation on a research vessel as a right based on UNCLOS than before. In practice, this is the most difficult request among the above-mentioned categories, because of limitation of both room available onboard and travel-related expenses. Thus, in planning a cruise, it is important to guess how many coastal states will request embarkation of how many participants or representatives. Fortunately, few
coastal states request embarkation of more than one participant or representative.

Conclusions

Since 1999, the most common request of coastal states to a research state is for cruise reports. In terms of requests of cruise reports and data or samples, few coastal states changed. Recently, slightly fewer states request embarkation on a research vessel as a right based on UNCLOS than before. More and more states require a particular application format.

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References


Table 1. Requests of coastal states to a research state since 1999. Arrows indicate trend. Asterisks indicate that the particular format is similar to FORM A in "A Guide to the Implementation of the Relevant Provisions of UNCLOS" (1991).

<table>
<thead>
<tr>
<th>Coastal States</th>
<th>Cruise Report or Publication</th>
<th>Data or Sample</th>
<th>Embarkation of Participants or Representatives</th>
<th>Particular Format</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Brunei Darussalam</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>Canada</td>
<td>-</td>
<td>-</td>
<td>- → +</td>
<td>-</td>
</tr>
<tr>
<td>Federal States of Micronesia</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>+</td>
</tr>
<tr>
<td>French Republic</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Independent State of Samoa</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>India</td>
<td>- → +</td>
<td>- → +</td>
<td>- → +</td>
<td>-</td>
</tr>
<tr>
<td>Kingdom of Tonga</td>
<td>-</td>
<td>-</td>
<td>+</td>
<td>-</td>
</tr>
<tr>
<td>Malaysia</td>
<td>+</td>
<td>-</td>
<td>+ → -</td>
<td>-</td>
</tr>
<tr>
<td>New Zealand</td>
<td>+</td>
<td>+</td>
<td>-</td>
<td>- → +*</td>
</tr>
<tr>
<td>Papua New Guinea</td>
<td>+ → -</td>
<td>+ → -</td>
<td>+ → -</td>
<td>- → +</td>
</tr>
<tr>
<td>Republic of the Fiji Islands</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Republic of Kiribati</td>
<td>-</td>
<td>+</td>
<td>+</td>
<td>- → +*</td>
</tr>
</tbody>
</table>
国立海洋研究開発機構の排他的経済水域内での海洋の科学的調査の同意申請について：
各国の傾向

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要 旨
国連海洋法条約に基づき日本の研究機関が外国の排他的経済水域内での海洋の科学的調査を実施することに同意する際に、各国が課す義務・要請の傾向を定性的に一覧した。海洋科学調査は1999年以降に実施されたもののみを調査の対象とした。最も多くの国が要請するのは報告書の提出である。報告書やデータ・サンプルの要否が変わった沿岸国はほとんどない。同調約上の権利としての乗船の要求をする国は近年は以前よりも若干減った。また、近年は独自の申請書式を指定する国が増えた。