

70. The question of the cost and the technical difficulties does not prove the point. Each party would decide freely whether or not, in order to inspect an event, it was prepared to make a more or less important sacrifice according to the degree of suspicion and the importance it attached to the event. If it could not, or did not wish to, carry out a real inspection, it could content itself with observation, as the United States draft allows. In fact there is no need to compare the two systems to conclude that free access is technically more difficult and costly and that the medium-sized and small countries would be unable to carry out effective surveillance. The comparison is not valid, for two reasons: first, because neither system compels any of the parties to do anything but merely authorizes them; secondly, because observation is merely a minor grade of inspection or, in other words, because all inspection involves observation.

71. The principle of free access represents a maximum. The acceptance of that principle would enable the parties, without compelling them, to graduate their reaction to a suspicious fact from doing nothing or very little to exercising fully their right to free access. That broad spectrum of possibilities covers all situations and takes into account, so to speak, all possible events. For that reason we believe it is preferable to mere observation.

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21. As regards the third related question of verification of the prohibition, the relevant provisions contained in the two drafts before us vary both in their intent and in their scope. The Soviet draft is based on the concept of reciprocity and access, and the United States draft is based on the concept of observation, consultation and co-operation. The first question that arises is: who has the right to verify compliance with the provisions of the treaty? As a result of lengthy discussions here it is now generally agreed that the concept of reciprocity in the sense of bilateral arrangements does not represent a reasonable or acceptable basis for verification, and this right should be available to all parties to the treaty without discrimination. This is not provided for in the Soviet draft but is implied in the United States draft. It is the view of my delegation that it would be necessary to state this in clear terms in the treaty.

22. The next question concerns the manner in which this right of verification is to be exercised. Clearly, mere observation, consultation and co-operation are not enough, as these three ideas contain no definite commitment to verify the observance of the provisions of the treaty. The right of observation of what is going on on the high seas or under the high seas already exists under present international law applicable to the high seas; consequently article III of the United States draft does not create any new right or obligation under the treaty. Consultation in the sense of one State making enquiries of another State is also the prevailing feature of normal intercourse between nations of the world and does not amount to an innovation for enforcing observance of the treaty.

23. As regards the undertaking to co-operate, article III(1) of the United States draft does not go beyond an undertaking "to co-operate in endeavouring to resolve the questions". It does not say what happens if the endeavour to resolve the questions, which depends entirely on the will of the suspected State, does not result in the satisfaction of the party to the treaty which had complained of an infringement of treaty provisions. Any control provision which does not ensure, with necessary safeguards, a reasonable opportunity for access to the structures and installations placed on the sea-bed would in our view be illusory. Unless such a provision were made, those States which have the capacity to make such emplacements on the sea-bed would be placed in a position of advantage and superiority as compared with all the technologically less advanced States.