

Climate Engineering and the Law

REGULATION AND LIABILITY
FOR SOLAR RADIATION MANAGEMENT
AND CARBON DIOXIDE REMOVAL

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3.3.4.3. Convention on the Prohibition of Military or Any
Other Hostile Use of Environmental Modification Techniques

The Convention on the Prohibition of Military or Any Other Hostile Use of
Environmental Modification Techniques (ENMOD) was completed in 1976

in order to end the use of weather modification techniques in warfare and other hostile situations. It is now in effect through the participation of its 77 Parties, which include almost all major industrialized states.²⁷² It is highly relevant to climate engineering because its definition of “environmental modification” clearly encompasses almost all climate engineering proposals.²⁷³

Centrally, the ENMOD Parties agree “not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.”²⁷⁴ That is, prohibition requires meeting three criteria: to be military or hostile, to satisfy one of three criteria of scale, and to directly harm another ENMOD Party. The trio “widespread, long lasting or severe,” which was later used in the amendment to the London Protocol regarding marine geoengineering, is not defined in ENMOD itself but was in a nonbinding Understanding thereto. This Understanding describes them as:

“widespread”: encompassing an area on the scale of several hundred square kilometres; “long lasting”: lasting for a period of months, or approximately a season; “severe”: involving serious or significant disruption or harm to human life, natural and economic resources or other assets.²⁷⁵

The first two criteria of scale can be determined somewhat objectively, and climate engineering large-scale field research projects or implementation would most likely satisfy them. The criterion of severity, which notably is limited to life, resources, and assets, is less certain.

Simultaneously, ENMOD recognizes and is rhetorically supportive of peaceful environmental modification. The agreement explicitly “shall not hinder the use of environmental modification techniques for peaceful purposes.”²⁷⁶ Furthermore, in its Preamble, Parties recognize “that the use of environmental modification techniques for peaceful purposes could improve the interrelationship of man and nature and contribute to the preservation and improvement of the environment for the benefit of present and future generations.”²⁷⁷ To that end, Parties are to facilitate the exchange of information regarding such peaceful uses, and those Parties “in a position to do so shall contribute ... to international economic and scientific co-operation in the preservation, improvement and peaceful utilization of the environment.”²⁷⁸ If climate engineering is able to counter climate change risks, then it would be such “preservation, improvement and peaceful utilization,” and Parties with the capacity to do so are obligated to contribute to cooperation.

A challenge to the implementation and enforcement of ENMOD is its weak institutional support. It has neither a standing secretariat nor regular meetings

of its Parties. Such meetings are infrequently proposed. The ENMOD Parties have held two meetings, but declined to do so again in 2013.²⁷⁹ If the Parties were to choose to do so, a meeting could provide a potential institutional vehicle to clarify the relationship among climate engineering, international law, and the preferences of much of the international community.